

Burns Municipal Code

CHARTER OF THE CITY OF BURNS, OREGON

PREAMBLE

We, the people of Burns, Oregon, in order to avail ourselves of self-determination in municipal affairs to the fullest extent now or hereafter possible under the constitutions and laws of the United States and the State of Oregon, through this charter confer upon the City the following powers, subject it to the following restrictions, prescribe for it the following procedures and governmental structure, and repeal all previous charter provisions of the City.

Chapter I NAMES AND BOUNDARIES

Section 1.1 Title of Charter.

This charter may be referred to as the 1996 Burns Charter.

Section 1.2 Name of City.

The City of Burns, Oregon, continues under this charter to be a municipal corporation with the name, City of Burns.

Section 1.3 Boundaries.

The City includes all territory within its boundaries as they now exist or hereafter are modified pursuant to State law. The custodian of the City's records shall keep an accurate, current description of the boundaries and make a copy of it available for public inspection during regular City office hours.

Chapter II POWERS

Section 2.1 Powers of the City.

The City has all powers that the constitutions, statutes and common law of the United States and of this State, now or hereafter expressly or impliedly grant or allow the City, as fully as though this charter specifically enumerated each of those powers.

Section 2.2 Construction of Powers.

In this charter, no specification of a power is exclusive or restricts authority that the City would have if the power were not specified. The charter shall be liberally construed, so that the City may exercise fully all its powers possible under this charter and under United State and Oregon law. All powers are continuing unless a specific grant of power clearly indicates the contrary.

Section 2.3 Form of Government.

The City of Burns shall have a Council/Manager form of government. Legislative authority shall reside in the Council. Administrative functions shall be carried out by a City Manager.

Section 2.4 Distribution of Powers.

Except as this charter prescribes otherwise and as the Oregon Constitution reserves municipal legislative power to the voters of the City, all powers of the City are vested in the Council.

Chapter III FORM OF GOVERNMENT

Section 3.1 Council.

The Council consists of a Mayor and Six Councilors nominated and elected from the City at large. Councilors will be elected for a term of four years.

Section 3.2 Councilors.

Burns Municipal Code

The term of office of a councilor, in office when this charter is adopted, is the term of office for which the councilor has been elected before adoption of the charter.

Section 3.3 Mayor.

The present Mayor shall serve the remainder of the term and at the general election of the year 1996 and every four years thereafter a Mayor shall be elected.

Section 3.4 Terms of Office.

The term of office of an elective officer, who is elected at a general election, begins at the first council meeting of the year immediately after the election and continues until the successor to the office assumes the office.

Chapter IV COUNCIL

Section 4.1 Rules.

The Council shall, by ordinance, prescribe rules to govern its meetings and proceedings.

Section 4.2 Meetings.

The Council shall meet in the City regularly at least once a month, at a time and place designated by Council's rules and may meet at other times in accordance with the rules.

Section 4.3 Quorum.

A quorum is a majority of the entire membership of the Council. A quorum is required to conduct business, however, a smaller number may meet and request the attendance of absent members in a manner provided by ordinance.

Section 4.4 Record of Proceedings.

The Council shall cause a record of its proceedings to be kept in accordance with State law.

Section 4.5 Mayor's Functions at Council Meetings.

The Mayor shall be Chair of the Council and preside over its deliberations; shall have a vote on all questions before it; shall have the authority to preserve order, enforce the rules of the Council, determine the order of business, appoint committees and sign all ordinances.

Section 4.6 Council President.

At the first meeting of each odd-numbered year the Council shall elect a President from its membership. In the Mayor's absence, from a Council meeting, the President shall preside. whenever the Mayor is unable to perform the functions of office the President shall act as mayor.

Section 4.7 Vote Required.

Except as this charter otherwise provides, the concurrence of a majority of members of the Council voting, when a quorum of the Council is present, shall decide any question before it. No Council member present at a Council meeting shall abstain from voting without first stating reasons. in detail at the meeting.

Section 4.8 Vacancies/Occurrence.

The office of a member of the Council becomes vacant:

(4.8.1) Upon the incumbents's:

- (a) Death,
- (b) Adjudicated incompetence,
- (c) Recall from the office.

(4.8.2) Upon declaration by the Council of the vacancy in case of the incumbent's:

- (a) Failure, following election or appointment to the office, to qualify for the office within ten

Burns Municipal Code

days after the time for the term of office to begin,

- (b) Absence from the City for 30 days without the Council's consent or from all meetings of the Council within a 45 day period,
- (c) Ceasing to reside in the City,
- (d) Ceasing to be a qualified elector under State law,
- (e) Conviction of a public offense punishable by loss of liberty,
- (f) Resignation from the office.

Section 4.9 Vacancies/Filling.

A vacancy in the Council shall be filled by appointment of the Council. The appointee's term of office runs from the time of qualifying for the office after the appointment and until expiration of the term of the predecessor who has left the office vacant. During a council member's disability, to serve on the Council or during a member's absence from the City, a majority of the other Council Members may by appointment fill the vacancy pro tem.

Chapter V POWERS AND DUTIES OF OFFICERS

Section 5.1 City Manager.

(5.1.1) The City Manager is the administrative head of the City Government.

(5.1.2) A majority of the Council shall appoint and may remove the Manager. The appointment shall be without regard to political considerations and solely on the basis of administrative qualifications.

(5.1.3) The Manager need not reside in the City or the State when appointed.

(5.1.4) Upon accepting the appointment the manager shall furnish the City a bond in an amount and with a surety approved by the Council. The City shall pay the bond premium.

(5.1.5) The manager shall be appointed for a definite or an indefinite term and may be removed by the Council at its pleasure. Within six consecutive months after a vacancy occurs in the office the Council shall fill the vacancy by appointment.

(5.1.6) The manager shall:

- (a) Attend all Council meetings unless excused by the Council or Mayor;
- (b) Keep the Council advised of the affairs and needs of the City;
- (c) See that the provisions of all ordinances are administered to the satisfaction of the Council;
- (d) See that all terms of franchises, leases, contracts, permits and privileges granted by the City are fulfilled;

(e) Appoint, discipline and remove appointive personnel, except, appointees of the Mayor of Council;

(f) Supervise and control the manager's appointees in their service to the City;

(g) Organize and reorganize the departmental structure of City Government;

(h) Prepare and transmit to the council an annual City Budget;

(i) Supervise City Contracts;

(j) Supervise operation of all City-owned public utilities and property;

(k) Perform other duties, as the Council prescribes, consistent with this charter.

(5.1.7) The Manager may not control:

- (a) The Council;
- (b) The Municipal Judge in the Judge's judicial functions;
- (c) Except as the Council authorizes, appointive personnel of the City whom the Manager does not appoint.

(5.1.8) The manager and other personnel whom the Council designates, may sit with the Council, but may not vote on questions before it. The Manager may take part in all Council discussions.

(5.1.9) When the manager is absent from the City or disabled from acting as manager or when the office of Manager becomes vacant, the council shall appoint a Manager Pro Tem, who has the powers and duties of Manager, except, that the Manager Pro Tem may appoint or remove personnel only with

Burns Municipal Code

approval of the Council. No person may be Manager Pro Tem more than six consecutive months.

(5.1.10) Except in Council meeting no Council member may directly or indirectly, by suggestion or otherwise, attempt to coerce the manager or a candidate for the office of Manager in the appointment, discipline, removal of personnel or in decisions regarding City property and contracts. A violator of this prohibition may be removed from office by a court of competent jurisdiction. In Council meeting, members of the Council may discuss with or suggest to the manager, anything pertinent to City affairs.

Section 5.2 Municipal Court and Judge.

(5.2.1) If the Council creates the office of municipal Judge and fills it by appointment the appointee shall hold, within the City at a place and times that the Council specifies, a court known as the Municipal Court for the city of Burns, Harney County, Oregon.

(5.2.2) Except as this charter or City ordinance prescribes to the contrary, proceedings of the court shall conform to general laws of this State governing Justices of the Peace and Justice Courts.

(5.2.3) All area within the City and to the extent provided by State law, area outside the City, is within the territorial jurisdiction of the court.

(5.2.4) The Municipal court has original jurisdiction over every offense that an ordinance of the City makes punishable. The court may enforce forfeitures and other penalties that such ordinances prescribe.

(5.2.5) The Municipal Judge may:

(a) Render judgments and for enforcing them, impose sanctions on persons and property, within the court's territorial jurisdiction;

(b) Order the arrest of anyone accused of an offense against the City;

(c) Commit to jail or admit to bail anyone accused of such an offense;

(d) Issue and compel obedience to subpoenas;

(e) Compel witnesses to appear and testify and jurors to serve in the trial of matters before the court;

(f) Penalize contempt of court;

(g) Issue process necessary to effectuate judgments and orders of the court;

(h) Issue search warrants;

(i) Perform other judicial and quasi-judicial functions prescribed by ordinance.

(5.2.6) The Council may authorize the municipal Judge to appoint Municipal Judges Pro Tem for terms of office set by the Judge or the Council.

(5.2.7) Notwithstanding this section, the Council may transfer some or all of the functions of the municipal Court to an appropriate State Court.

Chapter VI PERSONNEL

Section 6.1 Qualifications.

(6.1.1) An elective City Officer shall be a qualified elector under the state Constitution, shall be 21 years of age and shall have resided in the City during the 12 months immediately before being elected or appointed to the office. In this subsection, "City", means area inside the City limits at the time of the election or appointment.

(6.1.2) No person may be a candidate at a single election for more than one elective City office.

(6.1.3) An elective officer may serve in a City position that is volunteer in nature. whether the position is so may be decided by the Council.

(6.1.4) The Council is the final judge of the election and qualifications of its members.

(6.1.5) The qualifications of appointive officers of the City are whatever the Council prescribes or authorizes.

Section 6.2 Compensation.

The Council shall prescribe the compensation of City Officers. The council may prescribe a plan for reimbursing City personnel for expenses that they incur in serving the City.

Burns Municipal Code

Section 6.3 Oath.

Before assuming City Office, an officer shall take an oath, shall affirm that they will faithfully perform the duties of the office and support the Constitution and Laws of the United States and of the State of Oregon.

Chapter VII ELECTIONS

Section 7.1 State Law.

Except as this charter or-a City Ordinance prescribes to the contrary, a City election shall conform to State law applicable to the election.

Section 7.2 Nominations.

A person may be nominated in a manner prescribed by general ordinance to run for an elective office of the City.

Chapter VIII ORDINANCES

Section 8.1 Enacting Clause.

The enacting clause of all ordinances hereafter enacted shall be substantially as follows; "The City of Burns ordains as follows:".

Section 8.2 Introduction, Reading and Adoption.

Introduction, reading adoption of an ordinance shall be in accordance with State statutes and the rules of the Council.

Section 8.3 When Ordinances Take Effect.

An ordinance enacted by the council shall take effect on the thirtieth (30th) calendar day after its enactment. When the Council deems it advisable, an ordinance may provide a later effective date. If the situation necessitates the immediate preservation of the public peace, health and safety of the residents of the City of Burns, the ordinance may take effect upon adoption by vote of two-thirds of the quorum present at the vote.

Chapter IX PUBLIC IMPROVEMENTS

Section 9.1 Improvements.

The procedure for making, altering or abandoning a public improvement shall be governed by general ordinance to the extent not so governed by the applicable general laws of the State.

Section 9.2 Special Assessments.

The procedure for levying, collecting and enforcing the payment of special assessments for public improvements and other services to be charged against real property, shall be governed by general ordinance.

Section 9.3 Fees and Charges.

The City shall have authority to assess fees and charges for water, sewer and other public facilities and services as are allowed by ordinance and State Law. Such fees and charges may be enforced as liens on property as provided by ordinance.

Chapter X MISCELLANEOUS PROVISIONS

Burns Municipal Code

Section 10.1 Debt.

The City's indebtedness may not exceed debt limits imposed by State Law. A City Officer or employee who creates or officially approves indebtedness in excess of this limitation, is jointly and severally liable for the excess. A charter amendment is not required to authorize City indebtedness.

Section 10.2 Continuation of Ordinances.

Insofar as consistent with this charter and until amended or repealed, all ordinances in force when the charter takes effect retain the effect they have at that time.

Section 10.3 Repeal.

All charter provisions adopted before this charter takes effect are hereby repealed.

Section 10.4 Severability.

The terms of this charter are severable. If a part of the charter is held invalid, that invalidity does not affect another part of the charter except as the logical relation between the two parts requires.

Section 10.5 Time of Effect.

The voters, of the City of Burns, approved this charter on March 12, 1996. This charter takes effect April 1, 1996.