

# CHARTER

## MILL CITY CHARTER OF 1996

### Chapter I

#### Name and Boundaries

##### Section 1 Title of Enactment.

This enactment may be referred to as the Mill City Charter of 1996.

##### Section 2 Name of City.

The municipality of Mill City, Linn and Marion counties, Oregon, shall continue to be a municipal corporation with the name of "Mill City."

##### Section 3 Boundaries.

The city shall include all territory encompassed by its boundaries as they now exist or hereafter are modified by voters, by the council, or by any other agency with legal power to modify them. The recorder shall keep in his/her office at the city hall at least two copies of this charter in each of which he/she shall maintain an accurate, up-to-date description of the boundaries. The copies and descriptions shall be available for public inspection at any time during regular office hours of the recorder.

### Chapter II

#### Powers

##### Section 4 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 5 Construction of Charter.

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 to the end that the city has and may exercise fully all powers necessary or convenient for the conduct of its affairs, including all powers possible under this charter and under United States and Oregon law. All powers are continuing unless a specific grant of power clearly indicates the contrary.

##### Section 6 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 7 Council.

The council shall be composed of a Mayor and five councilors elected from the city at large.

#### Section 8 Councilors.

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 or appointed before or at the time of adoption of the charter. At each biennial general election held thereafter, two and three councilors respectively shall be elected, each for a four-year term.

#### Section 9 Mayor.

The mayor in office when this charter is adopted shall continue to hold office until and including the first meeting of January 1997. At each regular general biennial election held hereafter, a mayor shall be elected for a term of two years.

#### Section 10 Terms of Office.

The term of office of a mayor or councilor 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.

#### Section 11 Other Officers and Salaries.

Additional officers of the city shall be a municipal judge, city recorder and such other officers as the council deems necessary. Each of these officers shall be appointed and may be removed by the mayor with the majority vote of the council. The council may combine any two or more appointive city offices. The council may designate any appointive officer to supervise any other appointive officer except the municipal judge in the exercise of his/her judicial functions. The compensation for the services of each city officer and employee shall be the amount fixed by the council.

#### Section 12 Qualifications of Officers.

No person shall be eligible for the office of mayor or councilor of the city unless at the time of election that person is a qualified elector within the meaning of the state constitution and has resided in the city during the twelve (12) months immediately preceding the election or appointment. The council shall be final judge of the qualifications and election of its own members, subject, however, to review by a court of competent jurisdiction.

## Chapter IV

## Council

### Section 13 Rules.

- (1) The council shall prescribe rules to govern its meetings and proceedings.
- (2) No rules shall be suspended without the concurrence of two-thirds of the members.
- (3) No rule shall be adopted or amended without giving at least ten (10) days' notice and the concurrence of two-thirds of the members.
- (4) The City Council shall prescribe other rules as deemed necessary.

### Section 14 Meetings.

The council shall meet in the city regularly at least twice a month at a time and place which it designates, and may meet at other times in accordance with the council rules as per Oregon Revised Statutes and public meeting law.

### Section 15 Quorum.

A majority of the council constitutes a quorum for its business, but a smaller number of the council may meet and compel attendance of absent councilors as prescribed by council rules.

### Section 16 Record of Proceedings.

A record of council proceedings shall be kept and authenticated and such records shall be available to the public unless said records are exempt from disclosure to the public pursuant to State Law.

### Section 17 Mayor's Function at Council Meetings.

- (1) When present at council meeting the mayor shall:
  - (a) Preside over deliberations of the council,
  - (b) Preserve order,
  - (c) Enforce council rules, and
  - (d) Determine the order of business under the Council rules.
- (2) The Mayor is a voting member of the council.

### Section 18 Council President.

- (1) At its first meeting after this charter takes effect and at its first meeting of each odd-numbered year, the council shall appoint a president from its councilors.
- (2) Except in voting on questions before the council, the president shall function as mayor when the mayor is:
  - (a) Absent from a council meeting, or
  - (b) Unable to function as mayor.

### Section 19 Vote required.

Except as this charter otherwise provides, the express concurrence of a majority of the council members is necessary to decide a question before the council.

Section 20 Vacancies: Occurrence.

The office of a member of the council becomes vacant:

- (1) Upon the incumbents's:
  - (a) Death,
  - (b) Adjudicated incapacity, or
  - (c) Recall from office; or
  - (d) Conviction of a Felony.
- (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 (10) days after the time for his or her term of office to begin,
  - (b) Absence from the city for thirty (30) days without notifying the council or from all meetings of the council within a sixty (60) day period without the consent of council,
  - (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, or
  - (f) Resignation from the office.

Section 21 Filling of Vacancies.

When less than two years is remaining on the term of office, the vacancy shall be filled by appointment by the mayor and approved by a majority vote of the council. The appointee's term of office runs from the time of his or her qualifying for the office after the appointment and until expiration of the term of the predecessor who has left the office vacant.

When more than two years is remaining on the term of office, the vacancy shall be filled pro tem by appointment by the mayor and approved by a majority vote of the council until the next general election. The position shall than be placed on the ballot. The term of office shall begin at the first meeting of the year after the election and run until the expiration of the original term of office.

A public notice advertising the vacancy must be posted at least ten (10) days prior to filling the vacancy. All candidates to fill any vacancies on the council must be a qualified elector and must have resided in the city for the previous twelve (12) months.

Chapter V

Powers and Duties of Officers

Section 22 Mayor.

Committees designated by the council shall be appointed by the mayor with a majority vote of council. The mayor shall sign all approved records of proceedings of the council. The mayor shall have no veto power and shall sign all ordinances passed by the council within three days from the date of their enactment. After the council approves a bond of a city officer or a bond for a license, contract, or proposal, the mayor shall endorse the bond within three days.

Section 23 Municipal Judge.

The municipal judge shall be the judicial officer of the city. The municipal judge shall hold within the city a court known as the Municipal Court for the city of Mill City, Linn and Marion Counties, Oregon. The court shall be open for the transaction of judicial business at times specified by the council. All area within the city shall be within the territorial jurisdiction of the court.

The municipal judge shall exercise original and exclusive jurisdiction of all crimes and offenses defined and made punishable by ordinances of the city and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by ordinances by the city.

The municipal judge shall have authority to issue process for the arrest of any person accused of an offense against the ordinances of the city, to commit any such person to jail or admit said person to bail pending trial, to issue subpoenas, to compel witnesses to appear and testify in court on the trial of any cause before the judge, to compel obedience to such subpoenas, to issue any process necessary to carry into effect the judgements of the court, and to punish witnesses and others for contempt of the court. When not governed by ordinances or this charter, all proceedings in the municipal court for the violation of a city ordinance shall be governed by the applicable general laws of the state governing justices of the peace and justice courts.

#### Section 24 City Recorder.

The city recorder shall serve ex officio as clerk of the council, attend all its meetings unless excused therefrom by the council, and keep an accurate record of its proceedings. The city recorder shall sign and the mayor countersign all orders on the treasury and all records of proceedings. In the city recorder's absence from a council meeting, the mayor shall appoint a clerk of the council pro tem approved by a majority vote of the council who, while acting in that capacity, shall have all the authority and duties of the city recorder.

### Chapter VI

#### Elections

#### Section 25 State Law.

Except as this charter prescribes to the contrary, a city election shall conform to the applicable state laws.

#### Section 26 Tie Votes.

In the event of a tie vote for candidates for an elective office, the successful candidate shall be determined by a public drawing of lots in a manner prescribed by the council.

#### Section 27 Commencement of Terms of Office.

The term of office of a person elected at a regular city election shall commence the first council meeting of the year immediately following the election.

#### Section 28 Oath of Office.

Before entering upon the duties of their office, officers shall take an oath or shall affirm to support the constitutions and laws of the United States, the State of Oregon, the charter and general ordinances of the City of Mill City, and to faithfully perform the duties of the office.

#### Section 29 Nominations.

A qualified elector who shall have resided in the city during the twelve (12) months immediately preceding the election may be nominated for an elective city position.

Nomination shall be by petition specifying the position sought in a form prescribed by the council. Such petition shall be signed by not fewer than twenty (20) electors. No elector shall sign more than one petition for each vacant position. If he/she does so, his/her signature shall be valid only on the first sufficient petition filed for the position. The signature to a nomination petition need not all be appended to one paper, but to each separate paper of the petition shall be attached an affidavit of the circulator thereof, indicating the number of signers of the paper and stating that each signature appended thereto was made in his/her presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the signer's place of residence, identified by its street and number or other sufficient description.

All nomination papers comprising a petition shall be assembled and filed with the recorder as required by state and county laws or regulations. The recorder shall make a record of the exact time at which each petition is filed and shall take and preserve the name and address of the person by who it is filed.

If the petition is not signed by the required number of qualified electors, the recorder shall notify the candidate and the person who filed the petition within five days after the filing. If the petition is insufficient in any other particular, the recorder shall return it immediately to the person who filed it, certifying in writing wherein the petition is insufficient. Such deficient petition may be amended and filed again as a new petition, or a substitute petition for the same candidate may be filed, within the regular time for filing nomination petitions.

The recorder shall notify an eligible person of his/her nomination, and such person shall file with the recorder his/her written acceptance of nomination, in such form as the council may require, within five days of notification of nomination.

Upon receipt of such acceptance of nomination, the recorder shall cause the nominee's name to be printed on the ballots. The petition of nomination for a successful candidate at an election shall be preserved in the office of the recorder until the term of office for which the candidate is elected expires.

## Chapter VII

### Ordinances

#### Section 30 Enacting Clauses.

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

### Section 31 Mode of Enactment.

(1) Except as this section provides to the contrary, every ordinance of the council shall, before being put upon its final passage, be read fully and distinctly in open council meeting on two different days.

(2) Except as this section provides to the contrary, an emergency ordinance may be enacted at a single meeting of the council by a unanimous vote of all council members present, upon being read first in full and then by title.

(3) Any of the readings may be by title only:

(a) If no one person present at the meeting requests to have the ordinance read in full, or

(b) If a copy of the ordinance is provided for each councilor and three copies are provided for public inspection in the office of the city recorder not later than one week before the first reading of the ordinance and notice of their availability is given forthwith upon the filing by:

(i) Written notice posted at city hall and three other public places in the city, or

(ii) Advertisement in a newspaper of general circulation in the city at least ten (10) days prior to the first reading.

An ordinance enacted after being read by title alone may have no legal effect if it differs substantially from its terms as it was thus filed prior to such reading, unless each section incorporating such a difference is read fully and distinctly in open council meeting as finally amended prior to being approved by the council.

(4) Upon the enactment of an ordinance, the ayes and nays of the members shall be taken and entered in the record of proceedings.

(5) Upon the enactment of an ordinance the recorder shall sign it with the date of its passage and his/her name and title of office, and within three days thereafter the mayor shall sign it with the date of his/her signature, his/her name, and the title of his/her office.

### Section 32. When Ordinances Take Effect.

An ordinance enacted by the council shall take effect on the thirtieth day after its enactment. When the council deems it advisable, however, an ordinance may provide a later time for it to take effect and, in case of an emergency, as interpreted by Oregon Revised Statute, it may take effect immediately.

## Chapter VII

### Public Improvements

#### Section 33 Condemnation.

Any necessity of taking property for the city by condemnation shall be determined by the council and declared by a resolution of the council describing the property and stating the uses to which it shall be devoted.

#### Section 34 Improvements.

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

Action on any proposed public improvement, except a sidewalk or except an improvement un-animously declared by the council to be needed at once because of an emergency, shall be suspended for six months upon a remonstrance thereto by the owners of two-thirds of the property to be special-ly assessed therefor. For the purpose of this section “owner” shall mean the record holder of legal title to the land, except that if there is a purchaser of the land according to a recorded land sale con-tract or according to a verified writing by the record holder of legal title to the land filed with the city recorder, the said purchaser shall be deemed the “owner”.

#### Section 35 Special Assessments.

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

#### Section 36 Contracts.

All city contracts shall be subject to state law applicable to public municipal contracts.

### Chapter IX

#### Miscellaneous Provisions

#### Section 37 Debt Limit.

The city shall not incur debt unless the indebtedness is authorized by Oregon Revised Statutes or is approved by a majority of the electors of the city voting on the question of incurring the debt. All city officials and employees who create or officially approve any indebtedness in excess of this limitation shall be jointly and severally liable for the excess.

#### Section 38 Utility Funds.

Funds and assessments, including but not limited to all user fees, deposited into the water and sewer funds shall be used exclusively for the maintenance, operation and improvement of the city’s water and sewer systems.

#### Section 39 Existing Ordinances Continued.

All ordinances of the city consistent with this charter and in force when it takes effect shall remain in effect until amended or repealed.

#### Section 40 Repeal of Previously Enacted Provision.

All charter provisions of the city enacted prior to the time that this charter takes effect are hereby repealed.

Section 41 Time and Effect of Charter.

This charter shall take effect, if approved by the voters, five days following the official canvas of votes cast at the November 5, 1996 election.

Section 42 Procedure for Amendment.

Amendments to this charter may be proposed by the city council by resolution duly adopted at any regular meeting of the council, and when so adopted, the same shall be submitted to a vote of the legal voters of the city upon the date of any general election in the State of Oregon which may be held after giving notice as provided in this charter. This charter may also be amended by proposal therefor under the initiative provisions of Oregon Revised Statutes by a petition duly signed by the appropriate number of qualified electors.