

## **CHARTER**



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### CHARTER OF THE CITY OF WILLAMINA, OREGON:

To provide for the government of the City of Willamina, Yamhill/Polk Counties, Oregon: And to repeal all charter provisions of the city enacted prior to the time this charter takes effect.

#### Chapter V: Powers and Duties of Officers

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Be it enacted by the people of the City of Willamina, Yamhill/Polk Counties, Oregon:

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### CHAPTER I

#### NAME AND BOUNDARIES

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27. Vacancies: Occurrence

#### Section 1: Title of Enactment

This enactment may be referred to as the Willamina City Charter of 1993.

Section 2: Name of City

The City of Willamina, Yamhill/Polk Counties, Oregon, shall continue to be a municipal corporation with the name City of Willamina.

Section 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 city records shall keep at least two accurate up-to-date descriptions of the boundaries, to be kept in separate locations. A copy shall be available for public inspection in the City Hall, during regular city office hours.

## CHAPTER II

### POWERS

Section 4: Powers of the City

The city has all powers which the constitution, statutes and common law of the United States and of this State expressly and/or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

Section 5: Construction of Charter Powers

In this charter, no mention of a particular power is exclusive or restricts the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city has all powers necessary or convenient for the conduct of its municipal affairs, including all powers that a city may assume pursuant to state laws and to the municipal home rule provisions of the state constitution.

## CHAPTER III

### FORM OF GOVERNMENT

Section 6: Distribution of Powers

Except as this charter provides 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 city council.

Section 7: Council

The council consists of a Mayor and six (6) councilors elected from the city at large, or, in case of one or more vacancies in the council, the council members whose offices are not vacant.

Section 8: Council Members

Members of the council shall be elected for a term of four (4) years. Three council members shall be elected at each biennial general November election. The term of office for a council member elected at a biennial general November election, and qualified, shall begin at the first regular council meeting of the calendar year immediately after the election and continue until the first regular meeting of the calendar year following the next biennial election. 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 adoption of the charter.

Section 9: Mayor

A mayor shall be elected for a term of two (2) years. The mayor shall be elected at each biennial general November election. The term of office for the mayor elected at the biennial general November election, and qualified, shall begin at the first regular council meeting of the calendar year immediately after the election and continue until the first regular meeting of the calendar year following the next biennial election. The term of office of the Mayor in office when this charter is adopted is the term of office for which the Mayor has been elected or appointed before adoption of the charter.

Section 10: Other Officers

A majority of the council may create, abolish and combine appointed city offices and, except as the majority prescribes otherwise, may fill such offices by appointment and vacate them by removal.

Section 11: Compensation

The council shall prescribe the compensation to be received by the council, mayor and other officers and employees.

Section 12: Qualifications of Elective Officers

No person is eligible for an elective office of the city unless at the time of the officer's election, the officer is a qualified elector within the meaning of the state constitution, is a resident of the city and has been a resident of the city during the twelve months immediately preceding the election. No person shall hold an elective office of the city if the person is an employee of the city. The council is the final judge of the qualifications and election of its own members. No person may be a candidate at a single election for more than one elective office of the city.

## CHAPTER IV

### CITY COUNCIL

#### Section 13: Meetings

The council shall hold a regular meeting at least once each month in the city at the time and place which it designates. It shall adopt rules for the government of its members and proceedings. The mayor or three council members may call special meetings of the council by giving written notice to all members of the council then in the city. Special meetings may be held at any time by the common consent of all members of the council at any regular meeting. Meetings shall be held in accordance with applicable state law.

#### Section 14: Quorum

A majority of members of the council shall constitute a quorum for its business, but a smaller number may meet and compel the attendance of absent members in a manner prescribed by council.

#### Section 15: Record of Proceedings

A record of council proceedings shall be kept and authenticated in a manner prescribed by council.

#### Section 16: Proceedings to be Public

Except as state law provides otherwise, the deliberations and proceedings of the council shall be public.

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

When present at council meetings the mayor shall:

1. Preside over deliberations of the council,
2. Preserve order,
3. Enforce council rules, and
4. Determine the order of business under the rules

The mayor shall vote only to break a tie.

#### Section 18: Council President

At its first meeting of each odd-numbered year, the council shall elect a council president from its membership. The president shall function as mayor when the mayor is absent from a council meeting, or unable to function as mayor. The president, when acting as Mayor, shall vote only to break a tie.

#### Section 19: Vote Required

Except as this charter prescribes otherwise, the express concurrence of a majority of the council

members present and constituting a quorum is necessary to decide a question before the council.

## CHAPTER V

### POWERS AND DUTIES OF OFFICERS

#### Section 20: Mayor

The mayor shall appoint the committees and chairman of each committee provided by the rules of the council. The mayor may sign all approved records of proceedings of the council and counter sign all orders on the treasury. The mayor shall have no veto power and shall sign all ordinances passed by the council within five days after their passage. Upon the approval of the council, all bonds of city officers and all bonds for licenses, contracts and proposals shall be endorsed by the mayor.

#### Section 21: Municipal Court and Judge

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 time that the council specifies, a court known as the Municipal Court of the City of Willamina, Yamhill/Polk Counties, Oregon.

Except as this charter or city ordinances prescribe to the contrary, proceedings of the court shall conform to the general laws of this state governing justices of the peace and justice courts.

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.

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.

The Municipal Judge may:

1. Render judgements and, for enforcing them, impose sanctions on persons and property within the court's territorial jurisdictions;
2. Order the arrest of anyone accused of an offense against the city;
3. Commit to jail or admit to bail anyone accused of such an offense;
4. Issue and compel obedience to subpoenas;

5. Compel witnesses to appear and testify and jurors to serve in the trial of matters before the court;
6. Penalize contempt of court;
7. Issue process necessary to effectuate judgements and orders of the court;
8. Issue search warrants; and
9. Perform other judicial and quasi-judicial functions prescribed by ordinance.

The council may authorize the Municipal Judge to appoint municipal judges pro-tem for terms of office set by the judge or the council. Notwithstanding this section, the council may transfer some or all of the functions of the municipal court to an appropriate state court.

Section 22: Recorder

If the council creates the office of City Recorder and fills it by appointment, the appointee shall serve ex-officio as secretary to the council, attend all council meetings unless excused by the council or mayor; keep an accurate record of its proceedings, and sign all orders on the treasury. In the recorder's absence from a council meeting, the mayor shall appoint a clerk of the council pro-tem, who shall have all the duties of the recorder.

The recorder shall:

1. Keep the council advised of the affairs and needs of the city;
2. See that the provisions of all ordinances are administered to the satisfaction of the council;
3. See that all terms of franchises, leases, contracts, permits and privileges granted by the city are fulfilled;
4. Prepare and transmit to the council an annual city budget;
5. Supervise city contracts;
6. Perform other duties as the council prescribes consistent with this charter.

## CHAPTER VI

### ELECTIONS

Section 23: Elections

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 24: Votes

The person receiving the greatest number of votes cast for any of the candidates for the office of mayor at the election at which the office is filled is elected to the office of mayor. The three persons receiving the greatest number of votes cast for any of the candidates for the office of councilor at the election at which the office is filled are elected to the office of councilor. In the event of a tie vote, the successful candidate shall be determined by a public drawing of lots in a manner prescribed by the council.

Section 25: Oath of Office

Before assuming city office, an officer shall take an oath or shall affirm that he or she will faithfully perform the duties of the office and support the constitution and laws of the United States and of the State of Oregon.

Section 26: Nominations

A qualified elector who has resided in the city during the twelve months immediately preceding an election may apply for a place on the ballot in the manner prescribed by ordinance.

***Editor's note:***

*Nomination procedures, see § 34.01 of this code*  
CHAPTER VII

## VACANCIES IN OFFICE

Section 27: Vacancies: Occurrence

The office of a member of the council becomes vacant:

1. Upon the incumbent's
  - A. Death;
  - B. Adjudicated incompetence;
  - C. Recall from the office; or
2. Upon declaration of the council of the vacancy in case of the incumbent's:
  - A. Failure, following election or appointment to qualify for the office within ten (10) days after the time for the 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 60 day period;
  - C. Ceasing to reside in the city;
  - D. Ceasing to be a qualified elector under state law;
  - E. Conviction of a criminal offense; or
  - F. Resignation from the office.

Section 28: Vacancies: Filling

A vacancy in the council shall be filled by appointment by a majority 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. During a council member's absence from the city, a majority of the other council members may, by appointment, fill the vacancy pro-tem.

CHAPTER VIII

ORDINANCES

Section 29: Ordaining Clause

The ordaining clause of an ordinance shall be:

"The City of Willamina, Oregon ordains as follows:"

Section 30: Adoption by Council

1. Except as subsection (2) of this section allows adoption at a single meeting and subsection (3) of this section allows reading by title only, an ordinance shall be fully and distinctly read in open council meeting on two different days before being adopted by council.

2. Except as subsection (3) of this section allows reading by title only, the council may adopt an ordinance at a single meeting by the express unanimous vote of all council members present, provided the ordinance is read first in full and then by title.

3. A reading of an ordinance may be by title only if:

A. No council member present at the reading requests, that the ordinance be read in full or

B. At least one week before the reading:

(1) A copy of the ordinance is provided for each council member,

(2) Three copies of the ordinance are available for public inspection in the office of the custodian of city records, and;

(3) Notice of their availability is given by written notice posted at the city hall and two other public places in the city.

4. An ordinance read by title only has no legal effect if it differs substantially from its terms as it was

filed

prior to the reading unless each section so differing is read fully and distinctly in open council meeting before the council adopts the ordinance.

5. Upon the adoption of an ordinance, the ayes and nays of the council members shall be entered in the record of council proceedings.

6. After adoption of an ordinance, the custodian of city records and the mayor shall endorse it with its date of adoption and the endorsers' names and titles of office.

Section 31: 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, it may take effect immediately.

CHAPTER IX

PUBLIC IMPROVEMENTS

Section 32: Improvements

The procedure for making, altering, vacating or abandoning a public improvement shall be governed by ordinance, or the applicable general laws of the state. Action on any proposed public improvement, except an improvement unanimously 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 land to be specially assessed therefor. In this section, "owner" shall mean the record holder of legal title or where land is being purchased under a land sale contract recorded in writing by the record holder of legal title to the land, the purchaser shall be deemed the "owner."

Section 33: 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 ordinance.

CHAPTER X

MISCELLANEOUS PROVISIONS

Section 34: Debt

The city's indebtedness shall not exceed debt limits imposed by state law.

Section 35: 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 36: Repeal of Previously Enacted Provisions

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

Section 37: Procedure for Amendment

Amendments to this charter may be made by procedures as specified under applicable state election laws.

Section 38: Time of Effect

This charter takes effect immediately upon its approval by a majority of the voters of the city.

Section 39: 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.



## APPENDIX

### LEGAL REFERENCES

This reference list is to be used as a brief guide to laws referred to in the charter. It is not to be construed as complete listing of all pertinent Constitutional, State, Federal and/or case law pertaining to the subjects named.

<i>Section</i>	<i>Subject</i>	<i>Legal Reference</i>
Section 3	Boundaries	O.R.S. 222.460 to 222.750
Sections 4, 5, 6	Powers	Or. Const., art. IV, sec 1(5); art. XI, sec.2 O.R.S. 221.410(1)
Section 12	Qualifications	Or. Const., art II, sec.2
Section 13	Meetings	O.R.S. 192.610 to 192.710
Section 16	Proceedings to be public	O.R.S. 192.660
Section 21	Municipal Court and Judge	O.R.S. 224.140, O.R.S. 226.010, O.R.S. 448.295, O.R.S. 836.205, O.R.S. 3.132, O.R.S. 51.035
Section 23	Elections	Or. Const., art II O.R.S. Chapters 246 to 260
Section 32	Improvements	O.R.S. Chapters 223 and 271
Section 34	Debt limit	O.R.S. Chapters 287 to 288 O.R.S. 223.295
Section 37	Amendment	Or. Const., art II O.R.S. Chapters 246 to 260