

**MERRILL, OREGON
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To provide for the government of the City of Merrill, Klamath County, Oregon; and to repeal all charter provisions of the City enacted prior to the time that this charter takes effect.

Be it enacted by the people of the City of Merrill, Klamath County, Oregon:

Chapter I. Name and Boundaries

Section 1. Title of Enactment.

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

Section 2. Name of City.

The municipality of the City of Merrill, Klamath County, Oregon, shall continue to be a municipal corporation with the name "City of Merrill."

Section 3. Purpose.

The inhabitants of the city of Merrill, Klamath County, State of Oregon, and their successors within the limits hereinafter prescribed, are hereby created and established a body politic and incorporate and declared to be a municipal corporation by the name and style of the City of Merrill, and by that name shall have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended in all courts of justice, and all actions, suits, or proceedings whatever. May purchase, hold and receive property, both real and personal, within said city for public buildings, public works, and city improvements. May lease, sell, or dispose of the same for the benefit of the city. May purchase, lease, hold and receive property, both real and personal, beyond the city limits to be used for city parks, cemeteries for burial purposes, for the establishment of a hospital for the reception of persons afflicted with contagious or other diseases, for work houses or houses of correction, for powder house and the erection of water-works to supply city and its inhabitants with water, and for purposes to supply the city and its habitants with lights, and may control, lease, sell or dispose of the same at any time for the benefit of the city.

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Section 4. Property.

All, Property belonging to or invested on the City of Merrill as before created, established, and bounded or every kind and nature, shall, on the passage of this bill by the people of Merrill, become the property of and be invested in the City of Merrill, as created, established and bounded by this act, and the City of Merrill may control, lease, sell or dispose of the same for the benefit of the city.

Section 5. 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 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 business hours of the recorder.

Chapter II. Powers

Section 6. Power of the City.

The City shall have all power which the constitutions, statues, and common law of the United States and of this sate expressly or impliedly grant or allow municipalities, as fully as through this charter specifically enumerated each of those powers.

Section 7. Construction of Charter.

IN this charter no mention of a particular power shall be constructed to be exclusive or to restrict the scope of the powers which the City would have if the particular power were not mentioned. The charter shall be liberally constructed to the end that the City may have all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state constitution.

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Chapter III. Form of Government

Section 8. Where powers Vested.

Except as this charter provides otherwise, all powers of the City shall be vested in the council.

Section 9. Council

The council consists of a mayor and four (4) councilors nominated and elected from the at large or, in case of one or more vacancies in the council, the council members whose offices are not vacant.

Section 10. Council Members.

The term of office of a counselor in office when this chapter is adopted is the term of office for which the councilor had been elected before adoption of the charter. At each general election after the adoption (2) two councilors shall be elected, each for a four (4) year term.

Section 11. Mayor.

The term of office for the mayor in office when this charter is adopted continues until the beginning of the first odd numbered year after that. At each subsequent general election, a mayor shall be elected for a four (4) year term.

Section 12. Term of Officers.

The term of the office of an elective officer who is elected at a general election begins at the first meeting of the council in the month of January following the election and continues until the successor to the office assumes the office.

Section 13. Other Officers.

Additional officers of the City shall be municipal judge, a 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 consent 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.

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Section 14. Salaries

The compensation for the services of each city officer and employee shall be the amount fixed by the council.

Section 15. Qualifications of Officers.

No person shall be eligible for an elective office of the City unless at the time of election this person is a qualified elector within the meaning of the state constitution and has resided in the City during the ninety days immediately preceding the election. The Council shall be final judge of the qualifications and election of its own members.

Chapter IV. Council

Section 16. Meeting.

The council shall hold a regular meeting at least one each month in the City at a time and at a place which it designates. It shall adopt rules for the government of its member and proceedings.

Section 17. Quorum.

A majority of the incumbent 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 provided by ordinance.

Section 17. Record of Proceedings.

The council shall cause a record of its proceedings to be kept.

Section 19. Proceeding to be Public.

No action by the council shall have legal effect unless the motion for the action and the vote by which it is disposed of take place at the proceedings open to the public.

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Section 12. Mayor's Functions at Council Meetings.

The mayor shall be chairmen of the council and preside over its deliberations. He/she shall cast a vote only in case of a tie. He/she shall have authority to preserve order, enforce the rules of the council, and determine the order of business under the rules of council.

Section 21. Mayor Pro Tem.

At its first meeting after this charter takes affect and thereafter at it first meeting of each odd numbered year, the council shall elect a mayor pro tem from its membership. In the Mayor's absence from a council meeting, the mayor pro tem shall preside over it. Whenever the mayor is unable to perform the function of his/her office, the mayor pro tem shall act as mayor.

Section 22. Vote Required

Except as this charter otherwise provides, the concurrence of a majority of a quorum present at a council meeting shall be necessary to decide any question before the council.

Chapter V. Powers and Duties of Officers

Section 23. Mayor

The mayor shall appoint the committees provided by the rules of the council. He/she shall sign all records of proceedings approved by the council. He/she shall sign all ordinances passed by the council within three days after their passage. 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.

Section 24. Municipal Judge.

The municipal judge shall be the judicial office of the City. He/she shall hold within the City a court known as the municipal court for the City of Merrill, Klamath County, 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 offenses defined or authorized by ordinances of the City. He/she 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 him/her to bail pending trial, to issue subpoenas, to compel witness to appear and testify

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in court on the trial of any cause before him/her, to compel obedience to such subpoenas, to issue any process necessary to carry into effect the judgement 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.

Notwithstanding this section or section 10 of this charter, the council may provide for the transfer of powers and duties of the municipal court to appropriate court of the State of Oregon.

Section 25. Recorder.

The recorder shall serve ex official as secretary to the council, attend all its meeting unless excused their form by the council, keep an accurate record of its proceedings and maintain the city records. In the recorder's absence from a council meeting, the mayor shall appoint a clerk of the council pro tem who, while acting in that capacity, shall have all the authority and duties of the recorder.

Chapter VI. Elections

Section 26. Regulation of Elections

Except as this chapter provides otherwise and as the council provides otherwise by ordinances relating to elections, the general laws of the state shall apply to the conduct of ally city elections, recounts of the returns therefrom, and contests thereof.

Section 27. Tie Votes.

In the event of 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 28. Commencements 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.

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Section 29. Oath of Office

Before entering upon the duties of his/her office, each officer shall take an oath or shall affirm that he/she will support the constitutions and laws of the United States and of Oregon and that he/she will faithfully perform the duties of his/her office.

Section 30. Nominations.

A qualified elector who has resided in the City during the 90 days preceding an election may be nominated for an elective city office to be filled at the election. The nomination shall be by a petition that specifies the office sought and shall be in a form prescribed by the council. The petition shall be signed by not fewer than 20 electors. No elector shall sign more than one petition for each office to be filed at the election. If he/she does so, his/her signature shall be valid only on the first sufficient petition filed for the office. The signatures to nominate a 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. Opposite each signature shall be stated the signer's place of residence, identified by its street and number or other sufficient designation. All nomination papers comprising a petition shall be assembled and filed with the recorder as one instrument not earlier than 120 nor later than 90 days before the election or 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 whom 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 ten 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. The 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 filing time for filing nomination petitions. The recorder shall notify an eligible person of his/her nomination, and that 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 the 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.

As an alternative to a nomination petition, a qualified elector may be nominated by filing an affidavit of nomination with the recorder and paying a filing fee of \$10.00.

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Chapter VII. Vacancies in Office

Section 31. What Creates Vacancy.

An office shall be deemed vacant upon the incumbent's death; adjudicated incompetence; conviction of a felony, other offense pertaining to his/her office, or unlawful destruction of public records; resignation, recall from office; removal of residency from the City; or ceasing to possess the qualifications for the office; upon the failure of the person elected or appointed to the office to qualify therefor within ten days after the time for his/her term of office to commence; or in a case of a mayor or council member, upon his/her absence from the City for 30 days without the consent of the council or upon his/her absence from the meetings of the council for 60 days without like consent, and upon a declaration by the council of the vacancy.

Section 32. Filing of Vacancies.

Vacant elective offices of the City shall be filled by appointment by the mayor and approved by a majority of the incumbent council members. The appointee's term shall begin immediately upon his/her appointment and shall continue until the beginning of the year following the next general biennial election after said appointment. During the temporary disability of any officer or during his/her absence temporarily from the City for any cause, his/her office may be filled pro tem in the manner provided for filling vacancies in office permanently.

Chapter VIII. Ordinances

Section 33. Enacting Clause.

The enacting clause of all ordinances hereafter enacted shall be, "The City of Merrill Ordains as follows:"

Section 34. Mode of Enactment.

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

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(2) Except as the third paragraph of this section provides to the contrary, an ordinance may be enacted at a single meeting of the council by 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 the title only if the council member present at the meeting requests to have the ordinance read in full or if a copy of the ordinance is provided for public inspection in the office of the city recorder not later than one week before the first reading of the ordinance and if notice of their availability is given forthwith upon the filing, by written notice posted at the city hall and two other public places in the city or by advertisement in a newspaper of general circulation on the City. An ordinance enacted after being read by title alone may have no legal effect if it differs substantially from its term as it was thus filed prior to such reading, unless each section incorporating such a difference is read fully and distinctly in open Council meetings as finally amended prior to being approved by the council.

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

(5) Upon 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 35. 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 any emergency, it may take effect immediately.

Chapter IX. Public Improvements

Section 36. 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.

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Section 37. Improvements

The procedure for making, altering, vacating, or abandoning a public improvement 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 improvements, except a sidewalk or except an improvement unanimously declared by council to be needed at once because of an emergency, shall be suspended for six months upon a challenge 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 or verified to the recorder in writing by the record holder of legal title to the land, the purchaser shall be deemed the "owner."

Section 38. 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.

Section 39. Contracts.

All contracts shall be in accord with State Public Contract laws and rules or established by the City Council. The City of Merrill shall not be bound by any contract or in any way liable thereon unless the same is authorized by ordinance and made in writing and by order of the council, signed by the mayor or recorder on behalf of the city; but an ordinance or resolution may authorize any officer or city agent of the city; naming him, to bind the city without a contract in writing for the payment of any sum not exceeding the sum of \$100.00.

Chapter X. Miscellaneous Provisions

Section 40. Debt Limit

Except by consent of the voters, the City's voluntary floating indebtedness shall be in accordance with state law. For purposes of calculating the limitation, however, the legally authorized debt of the City in existence at the time this charter takes effect shall not be considered.

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Section 41. Revenue Bonds.

The City Council may, by ordinance, authorize the issuance and sale of revenue bonds to provide funds with which to acquire, construct, equip or improve revenue producing public purpose facilities. Such bonds shall be secured solely from the unobligated revenues produced by the facility, or similar facilities, and by, in the discretion of the City Council, mortgage or similar encumbrance upon the facility and shall not be payable in any manner from taxes. The ordinance authorizing such issuances and sale shall be subject to referendum.

Section 42. 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 43. 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 44. Time of Effect of Charter.

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

Section 45. Procedures 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.

Section 46. Amendment of Charter

This charter may also be amended by proposal therefor under the initiative provisions or Oregon statutes by a petition duly signed by the appropriate number of qualified electors.

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Section 47. City Property.

All books, papers, records, deeds, patents, monies, and accounts now in the possession of the officers of the City of Merrill as incorporated by any former act or acts shall be transferred to and become the property of the City of Merrill, as incorporated by this act and charter; and the municipal corporation created and incorporated by this act and charter shall pay all debts, warrants and liabilities and execute all obligations and trust of the municipal corporation created by any former acts or acts and designated as the City of Merrill,, or of any amendments thereof.

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