

## 2002 CITY OF BANDON CHARTER

### Chapter I NAME AND BOUNDARIES

**Section 1. Title of Charter.** This charter may be referred to as the 2002 City of Bandon Charter.

**Section 2. Name of City.** The City of Bandon, Oregon continues under this charter to be a municipal corporation with the name City of Bandon.

**Section 3. Boundaries.** The City includes all territory within its boundaries as they now exist or hereafter are modified pursuant to state law. The city recorder shall keep an accurate, current description of the boundaries and make a copy of it available for public inspection in the city during regular city office hours.

### 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. Distribution of Power.** 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.

**Section 6. 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 States and Oregon law, including all powers the Oregon State Constitution provides for Municipal Home Rule. All powers are continuing unless a specific grant of power clearly indicates the contrary.

### Chapter III FORM OF GOVERNMENT

**Section 7. Council.** The Council consists of six Councilors nominated and elected from the City at large.

**Section 8. Councilors.** Councilors serve a term of four years. Three councilors are elected at each biennial general election. The three candidates receiving the highest number of votes are elected councilors for the ensuing term.

**Section 9. Mayor.** At each biennial general election a Mayor is nominated and elected by the voters of the City at large for a term of two years.

**Section 10. Qualifications of Elected Officials.** A person is eligible for an elective office of the City if he or she is a qualified elector within the meaning of the State Constitution. The elector must have resided in the city during the twelve months immediately preceding the election and maintain his or her residency in the City of Bandon during the term of office. The Council is the final judge of the qualifications and election of its own members.

**Section 11. Commencement of Term of Office.** The term of office of a person elected at a regular City election commences at the first Council meeting of the new year immediately following the election and continues until the successor assumes the office.

**Section 12. Oath of Office.** Before entering upon the duties of the office, the Mayor and each Councilor takes an oath affirming (1) support of the Constitution and laws of the United States and the State of Oregon, and the Charter and Municipal Code of the City of Bandon, and (2) that he or she will faithfully perform the duties of the office.

## Chapter IV COUNCIL

**Section 13. Rules of the Council.** The council prescribes rules, by resolution, to govern its meetings and proceedings.

**Section 14. Interference in Administration.** No member of the Council shall directly or indirectly, by suggestion or otherwise, attempt to influence or coerce the Manager in the making of any appointment or removal of any officer or employee or in the purchase of supplies; or attempt to exact any promise relative to any appointment from any candidate for Manager; or discuss directly or indirectly with the City Manager the matter of specific appointments of any City office or employment. A violation of the foregoing provisions of this section shall forfeit the office of the offending member of the Council. Nothing in this section shall be construed, however, as prohibiting the Council, while in open session, from fully and freely discussing with or suggesting to the Manager anything pertaining to City affairs or the interests of the City. The council is the final judge for determining when a violation of this section has occurred.

**Section 15. Quorum.** Four members of the Council, shall constitute a quorum for its business, but a smaller number may meet and compel the attendance of absent members.

**Section 16. Vote Required.** The concurrence of a majority of the members of the Council, providing it shall not be less than three, is necessary to decide any question before the Council.

**Section 17. Mayor's Duties.** The Mayor presides over all Council deliberations and votes only in the event of a tie. The Mayor has no veto power. The Mayor has the authority to preserve order, enforce the Rules of the Council, and determine the order of business. With the exception of the Planning Commission, the Mayor appoints committee members, subject to ratification by the Council. The Mayor performs such other duties as designated by the Council through the Rules of the Council.

**Section 18. Council President.** At its first meeting of each odd-numbered year, the Council, elects a President from its membership. Whenever the Mayor is unable to perform the function of office,

the President acts as Mayor. In the Mayor's absence from a Council meeting, the President presides. When presiding over a Council meeting, the Council President shall not vote, except on ordinances and in the event of a tie.

## Chapter V VACANCIES IN OFFICE

**Section 19. Vacancies: Occurrence.** An office shall be deemed vacant upon the incumbent's death; adjudicated incompetence; the conviction of a felony; other offense pertaining to the office including release of Executive Session material; unlawful destruction of public records; resignation; recall from office; 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 the term of office to commence; failure to file an annual Statement of Economic Interest with the Oregon Government Standards and Practices Commission; or in the case of a Mayor or Councilor, upon his or her absence from the City for 45 days without the consent of the Council or upon the Mayor's or Councilor's absence from meetings of the Council for 45 days without like consent; and upon a declaration by the Council of the vacancy.

**Section 20. Filling of Vacancies.** A vacancy in the council is filled by appointment by a majority vote of the remaining members of the council. The appointee's term of office begins immediately upon appointment and continues throughout the unexpired term of the predecessor. During the temporary disability of any councilor or during a councilor's absence temporarily for more than 45 days, the office may be filled pro tem in the manner provided for filling vacancies in office permanently.

**Section 20A. Filling a Mayoral Vacancy.** The Council President shall serve as mayor for the unexpired term of the vacated position. (Election of Sept. 21, 2004)

## Chapter VI POWERS AND DUTIES OF OFFICERS

**Section 21. Officers.** Officers of the city shall be the City Manager, City Attorney, City Recorder, Treasurer and Municipal Judge. Officers of the city shall be appointed by the council which has the authority to modify the appointment process by ordinance.

**Section 22. Compensation.** Compensation for the services of each city officer and employee is fixed by the council.

**Section 23. Oath of Office.** Before entering upon the duties of the office, each officer shall take an oath affirming (1) support of the Constitution and laws of the United States and the State of Oregon, and the Charter and Municipal Code of the City of Bandon and, (2) that he or she will faithfully perform the duties of the office.

**Section 24. City Manager.** The City Manager is the administrative head of the government of the City. The manager is chosen by the Council without regard to political considerations and solely with reference to his or her executive and administrative qualifications. The City Manager is appointed for an indefinite term and may be removed at the pleasure of the Council. The City Manager

normally holds the office of Treasurer of the City. The Manager need not be a resident of the City or of the State at the time of appointment, but as soon as practicable thereafter shall become, and during tenure remain, a resident of the City. Neither the Manager's spouse nor any person related to the Manager or the Manager's spouse by consanguinity or affinity within the third degree may hold any appointive office or employment with the City. Upon any vacancy occurring in the office of city manager, the council at its next meeting shall adopt a resolution of its intention to appoint another city manager within six months. Before taking office, the Manager shall give a bond in such amount and with such surety as may be approved by the Council. A blanket bond, if provided, may satisfy this requirement. The premiums on such bond shall be paid by the City.

**Section 25. City Manager Pro Tem.** Whenever the manager is absent from the City, is temporarily disabled from acting as manager, or whenever the office becomes vacant, the council may appoint a manager pro tem, who shall possess the powers and assume the duties of the manager. No manager pro tem, however, may appoint or remove a city officer or employee except with the approval of two-thirds of the members of the council. A manager pro tem holding the position after six months shall have extensions approved by the council on a month-to-month basis.

**Section 26. Municipal Judge.** The Municipal Judge is the judicial officer of the City and holds within the City a court known as the Municipal Court for the City of Bandon, Coos County, Oregon. The council or its designee may appoint a municipal judge pro tem for a term of office set by the council.

**Section 27. Municipal Court.** The municipal court has jurisdiction over every offense that the Municipal Code makes punishable. The court may enforce forfeitures and other penalties that such Code prescribes. Proceedings of the court shall conform to the general laws of this state governing justices of the peace and justice courts. The functions of the municipal court may be fulfilled by a state court when so appointed and designated by the council.

**Section 28. Recorder.** The Recorder serves ex officio as clerk of the Council, attends all its meetings unless excused therefrom by the mayor, and keeps an accurate record of its proceedings. 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 has all the authority and duties of the Recorder.

## Chapter VII ELECTIONS

**Section 29. Regular Elections.** Regular City elections are held at the same times and places as biennial general State elections, in accordance with applicable State Election Laws. The Recorder serves as Elections Officer of the city and gives notice of the election as required by statute or the Municipal Code.

**Section 30. Special Elections.** The Council provides, by resolution, the time, manner and means for holding special elections pursuant to applicable statutes or the Municipal Code.

**Section 31. Regulation of Elections.** Except as this Charter or the Municipal Code provides

otherwise the general laws of the State shall apply to the conduct of all City elections.

**Section 32. Nominations.** A qualified elector who has resided in the City of Bandon during the twelve months immediately preceding an election may be nominated for an elective office to be filled at the election. The nomination shall be by a petition that specifies the office sought and shall be on approved candidate filing forms. The petition shall be signed by not fewer than 25 electors of the City of Bandon.

**Section 33. Tie Votes.** In the event of a tie vote for candidates for an elective office, the successful candidate is determined in a manner prescribed by resolution.

**Section 34. Canvass of Returns.** The results of all elections are entered in the record of proceedings of the council. The entry states the total number of votes cast at the election, the votes cast for each person, and votes for and against each proposition, the name of each person elected to office, the office to which elected, and reference to each measure enacted or approved. After the canvass is completed, the Recorder makes and signs a certificate of election for all persons elected and delivers the certificate prior to their taking the oath of office. A certificate so made and delivered shall be prima facie evidence of the truth of the statements contained in it.

## Chapter VIII ORDINANCES

**Section 35. Ordaining Clause.** The ordaining clause of all changes to the Municipal Code hereafter enacted shall be, "The City of Bandon ordains as follows:"

**Section 36. Adoption by Council.** Every ordinance of the Council shall be read fully and distinctly in open Council meeting on two different days, except that an ordinance may be enacted at a single meeting of the Council by unanimous vote of all Councilors upon being read first in full and then by title only.

(a) An ordinance may be read by title only if a copy has been provided to each Councilor and copies are available for public inspection.

(b) Upon the enactment of an ordinance, the City Recorder signs it, with the date of its passage and his or her title of office.

**Section 37. Effective Date.** An ordinance takes effect on the thirtieth day after its enactment by the council. When the council deems it advisable, an ordinance may provide a later effective date and, if the council declares an emergency, it may take effect immediately.

## Chapter IX PUBLIC IMPROVEMENTS

**Section 38. Procedure.** The procedure for making, altering, vacating, or abandoning a public improvement is governed by the Municipal Code or, to the extent not so governed, by the applicable state law.

**Section 39. Condemnation.** Any necessity of taking property for the City by condemnation is 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 40. Special Assessments.** The procedure for levying, collecting, and enforcing the payment of special assessments for public improvements or other public services to be charged against real property is governed by the Municipal Code.

## Chapter X MISCELLANEOUS PROVISIONS

**Section 41. Existing Municipal Code.** All sections of the Municipal Code consistent with this Charter, and in force when it takes effect, remain in effect until amended or repealed.

**Section 42. 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 43. Separability of Provisions.** The sections and subsections of this Charter are declared to be separable, and in the event any one or more sections, subsections, or parts thereof are declared unconstitutional, it shall not affect the validity of other provision of this Charter.

**Section 44. Time of Effect of Charter.** This Charter shall take effect immediately upon certification of the November 5, 2002 election.

**Section 45. Parkway.** The City Council shall not approve, nor take any action which would consent to, construction of a parkway on Highway 101 in Bandon. "Parkway" is defined for purposes of this section as a divided highway with travel lanes separated by a continuous raised or painted center median strip that limits left hand turn access. (As added by election held March 23, 1993, by a vote of 618 Yes to 473 No.)

**Section 46. Limits on Water Rates Established** Except by consent of the voters, any increase in water rates in excess of rates in effect on September 1, 1994, are hereby revoked. (As added by election held September 19, 1995, by a vote of 615 Yes to 357 No.)

**Section 47. Limits on Sewer Rates Established.** Except by consent of the voters, any increase in sewer rates in excess of rates in effect on September 1, 1994, are hereby revoked. (As added by election held September 19, 1995, by a vote of 620 Yes to 354 No.)

**Section 48. Voter Approval Required for New Taxes or Fees.** Except by consent of the voters, the City Council shall not impose any new tax or new user fee, nor increase any tax, utility rate, user fee or other charge exceeding taxes, rates, fees and charges in effect on February 13, 1995. Except by consent of the voters any new tax or new user fee, and any increase in taxes, utility rates, fees and charges exceeding those in effect on February 13, 1995 are hereby revoked. The City Council retains authority to increase electric utility rates to cover the cost of rate increases charged to the City of Bandon by Bonneville Power Administration or other like electric providers and to raise taxes as allowed by the Oregon Constitution. (As added by election held September 19, 1995, by a vote of 618 Yes to 349 No.)

**Section 49. Establishment of Fees.** The Council has the power and authority, subject to the provisions, limitations and restrictions contained in this Charter, to establish and regulate the following fees:

(a) **Planning Application Fees** which require property owners, builders and developers to pay the costs for reviewing and processing their applications for planning approval of proposed development projects. (As added by election held March 12, 1996, by a vote of 624 Yes to 472 No.)

(b) **Engineering Review Fees** which require property owners, builders and developers to pay the costs for engineering review of their proposed development projects. (As added by election held March 12, 1996, by a vote of 623 Yes to 472 No.)

(c) **Document Fees** which require persons who request documents, records, or research to pay the costs for providing that information and work. (As added by election held March 12, 1996, by a vote of 653 Yes to 441 No.)

(d) **Gorse Abatement Fees** which require property owners to pay the costs for removing gorse and obnoxious vegetation from their property. (As added by election held March 12, 1996, by a vote of 653 Yes to 417 No.)

(e) **City Facility Rental Fees** which require the renters of City facilities to pay the operating, maintenance, and replacement costs. (As added by election held March 12, 1996, by a vote of 592 Yes to 465 No.)

(f) **City Equipment Rental Fees** which require the users of City equipment to pay the operating, maintenance, and replacement costs. (As added by election held March 12, 1996, by a vote of 670 Yes to 392 No.)

(g) **City Project Fees** which require an individual requesting utilization of City labor, materials, and equipment on a project to pay the labor, materials, equipment and overhead costs. (As added by election held March 12, 1996, by a vote of 619 Yes to 443 No.)

(h) **Public Works Permit Fees** which require individuals who undertake projects in City streets or rights of way to pay deposits and fees to cover the costs of issuing Public Works Permits, and for repairing streets and rights of way if their excavation or work has caused damage. (As added by election held March 12, 1996, by a vote of 602 Yes to 462 No.)