

CITY CHARTER

McMINNVILLE CHARTER OF 1971

To provide for the government of the City of McMinnville, Yamhill County, State of Oregon; and to repeal all charter provisions of the city enacted prior to the time that this charter takes effect, except those herein retained.

Be it enacted by the people of the City of McMinnville, Yamhill County, State of Oregon:

CHAPTER I

NAME AND BOUNDARIES

Section 1. TITLE OF ENACTMENT. This enactment may be referred to as the McMinnville Charter of 1971.

Section 2. NAME OF CITY. The City of McMinnville, Yamhill County, State of Oregon, shall continue to be a municipal corporation with the name "City of McMinnville."

Section 3. BOUNDARIES. The city shall include all territory encompassed by its boundaries as they now exist or hereafter are modified by a majority of voters. Unless mandated by State Law, any annexation, delayed or otherwise, to the City of McMinnville may only be approved by a prior majority vote among the electorate. (Ballot Measure 36-32, May 21, 1996).

CHAPTER II

POWERS

Section 4. POWERS OF THE CITY. The city shall have all the rights, powers, privileges, and immunities which the constitutions, statutes, and common law of the United States and of this state expressly or impliedly grant or allow municipalities, including those rights, powers, privileges, and immunities which a city can exercise upon specifically accepting them or upon being granted the power to exercise them by the people of the city or the legislature of the state, as fully as though this charter expressly stated each of those rights, powers, privileges, and immunities, and as though each of them had been specifically accepted by the city or granted to it by the people of the city or by the legislature of the state. The powers contained herein from previously enacted charter shall be deemed a part of the powers of the city. The city is further empowered to

assess, levy, and collect taxes of all types for any and all lawful municipal purposes.

Section 5. CONSTRUCTION OF THE CHARTER. In this charter no mention of a particular power, right, privilege, or immunity shall be construed to be exclusive or to restrict the scope of all powers, rights, privileges, or immunities which the city would have if the particular power was not mentioned. The charter shall be liberally construed to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to the laws and to the municipal home-rule provisions of the constitution of the State of Oregon.

Section 6. EXERCISE OF POWERS. All rights, powers, privileges, and immunities of the city shall be exercised in the manner prescribed in this charter, or, if the manner be not prescribed in this charter, then in the manner provided by ordinance or resolution of the council or the laws of the State of Oregon.

Chapter III

FORM OF GOVERNMENT

Section 7. POWER IN WHOM VESTED. The power and authority given to the municipal corporation of the City of McMinnville by this charter is vested in the mayor and council, and their successors in office, to be exercised in the manner hereinafter provided.

Section 8. COUNCIL. The council shall consist of six members, two from each ward of the city, and they shall hold office for the term of four years and until their successors are elected and qualified, and the elective term of such councilmen shall be so arranged that one councilman shall be elected from each ward of said city at each general biennial election. The official term of the Mayor shall be four years.

Section 9. COUNCILMEN. The councilmen in office at the time this charter is adopted shall continue in office, each until the end of his term of office as fixed by the charter of the city in effect at the time this charter is adopted. At each biennial general election after this charter takes effect, three councilmen shall be elected, each for a term of four years.

Section 10. MAYOR. At the next biennial general election after this charter takes effect, a mayor shall be elected for a term of four years, and at each alternate general election thereafter.

Section 11. APPOINTED ADMINISTRATIVE OFFICERS. Additional officers of the city shall be a municipal judge, a city recorder, a

city manager, a city attorney, a director of public works, a chief of police, a fire chief, a treasurer, and such other officers as the council deems necessary. Each of these officers shall be appointed and may be renewed by a majority of the council. The council may designate any appointive officer to supervise any other appointive officer except the municipal judge in the exercise of his judicial functions. (Res. No. 1978-47 §3(a)).

Section 12. SALARIES. The compensation for the services of each city officer and employee shall be the amount fixed by the council.

Section 13. QUALIFICATIONS OF ELECTIVE OFFICERS. No person shall be elected to, appointed to, or retained in an elective office of the city unless he is a qualified elector within the meaning of the state constitution and a resident of the city for twelve months immediately preceding his nomination. In addition to these qualifications, no person shall be elected to, appointed to, or retained in the office of council member unless he resides in the ward from which he is elected or appointed. 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. (Res. No. 1978-47 §3(b)).

Section 13A. WARDS. The city shall be divided by ordinance into three geographical areas representing as near as practical the same number of electors. Whenever the ward boundaries are reapportioned to comply with this section, the council members in office at that time shall not lose their qualification for office by reason of the boundary change and shall continue in office for the remainder of their terms unless otherwise disqualified. (Res. No. 1978-47 §3(c)).

Chapter IV

COUNCIL

Section 14. MEETINGS. The council shall hold a regular meeting at least once each month in the city at a time and place which it designates. It shall adopt rules for the government of its members and proceedings. The mayor upon his motion may, or at the request of three members of the council shall, by giving notice thereof to all members of the council then in the city, call a special meeting of the council for a time not earlier than 24 hours nor later than 96 hours after the notice is given. Special meetings of the council may also be held at any time by the common consent of all members of the council. Notice of all meetings held by the council shall be consistent with notice requirements for public meetings. (Res. No. 1978-47 §4(a)).

Section 15. 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 provided by ordinance.

Section 16. RECORDS. The council shall cause minutes of its proceedings to be kept. Upon the request of any of its members, the ayes and nays upon any question before it shall be taken, and a record of the vote entered in the minutes. The council shall determine the manner in which withdrawals shall be made from the respective funds.

Section 17. PROCEEDINGS 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 proceedings open to the public.

Section 18. MAYOR'S FUNCTIONS AT COUNCIL MEETINGS. The mayor shall be chairman of the council and preside over its deliberations. He shall have authority to preserve order, enforce the rules of the council, and determine the order of business under the rules of the council. He shall have a vote on all questions before the council in order to resolve a tie vote of the council members. (Res. No. 1978-47 §4(b)).

Section 19. PRESIDENT OF THE COUNCIL. At its first meeting after this charter takes effect and thereafter at its 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 over the council. Whenever the mayor is unable to perform the functions of his office the president shall act as mayor, preside over council deliberations, have authority to preserve order, enforce the rules of the council, determine the order, determine the order of business under the rules of the council, and continue to vote as a councilman. (Res. No 1978-47 §4(c)).

Section 20. VOTE REQUIRED. Except as this charter otherwise provides, the concurrence of a majority of the members of the council present at a council meeting shall be necessary to decide any question before the council.

Chapter V

POWERS AND DUTIES OF OFFICERS

Section 21. MAYOR. The mayor shall appoint the committees provided by the rules of the council. After the council approves a bond for a city officer or a bond for a license, contract, or proposal, the mayor shall endorse the bond.

Within twenty-four hours after the adjournment of any council meeting, the city recorder shall present to the mayor all ordinances passed and adopted at the meeting. The mayor within five days of

receipt of an ordinance shall return it to the city recorder with or without the approval, or with his veto. If an ordinance is vetoed, the mayor shall attach a written statement explaining the reasons for his veto. Ordinances vetoed by the mayor shall be considered at the next meeting of the council, and the council may pass the ordinance over the veto by the affirmative vote of four of its members. The effective date of an ordinance passed over the mayor's veto shall not be less than fifteen days after the date of final passage.

Section 22. CITY MANAGER. The city manager shall have general supervision of the administrative affairs of the city and general control over all nonelective officers and employees of the city excepting those of the Water and Light Department and municipal judge, and shall perform such other duties as may be prescribed by the council. Before taking office, he shall give a bond in such amount and with such surety as may be approved by the council. The premiums on such bond shall be paid by the city.

Section 23. MUNICIPAL JUDGE. The municipal judge shall be the judicial officer of the city. If available, the municipal judge shall be a member of the Oregon State Bar in good standing or have a legal background or training satisfactory to the council. He shall hold within the city a court known as the municipal court for the City of McMinnville, Yamhill 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 crimes and offenses defined and made punishable by ordinances of the city and of all actions brought to recover or enforce forfeitures of penalties defined or authorized by ordinances of the city. He 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 to bail pending trial, to issue subpoenas, to compel witnesses to appear and testify in court on the trial of any cause before him, to compel obedience to such subpoenas, to issue any process necessary to carry into effect the judgments 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 city ordinance shall be governed by the applicable general laws of the state governing justices of the peace and justice courts.

Section 24. RECORDER. The 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. 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 25. REGULAR ELECTIONS. Regular city elections shall be held at the same time and place as the general state elections, in accordance with applicable state election laws. The recorder, pursuant to directions from the council, shall give at least 10 days notice of each regular and special city election by publishing notice thereof in a newspaper in general circulation throughout the city. The notice shall state the officers to be elected, the ballot title of each measure to be voted upon, and the time and place of the election. (Res. No. 1978-47 §5(a)).

Section 26. SPECIAL ELECTIONS. The council shall provide the time, manner, and means for holding any special election. The recorder shall give at least ten days notice of each special election in the manner provided by the action of the council ordering the election.

Section 27. REGULATION OF ELECTIONS. Except as this charter 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 all city elections, recounts of the returns therefrom, and contests thereof.

Section 28. CANVASS OF RETURNS. In all elections held in conjunction with state and county elections, the state laws governing the filing of returns by the county clerk shall apply. The certified election results of the county clerk may be approved by the council in lieu of a canvass by the council in any election held in conjunction with a state or county election. In each special city election the returns therefrom shall be filed with the recorder on the day following, and not later than 5 days after the election, the council shall meet and canvass the returns. The results of all elections shall be made a matter of record of the proceedings of the council. The record shall contain a statement of the total number of votes cast at each election, the votes cast for each person and for and against each proposition, the name of each person elected to office, the office to which he has been elected, and a reference to each measure enacted or approved. Immediately after the canvass is completed, the recorder shall make and sign a certificate of election of each person elected and deliver the certificate to him within 1 day after the canvass. A certificate so made and delivered shall be prima facie evidence of the truth of the statements contained in it. (Res. No. 1978-47 §5(b)).

Section 29. 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 30/31. OATH OF OFFICE AND COMMENCEMENT OF ELECTIVE TERM. The term of office of a person elected in accordance with this charter

shall commence the first of the year immediately following the election and upon the elected candidate taking an oath or affirmation that said officer will support the constitution and laws of the United States and the State of Oregon and will faithfully perform the duties of the office. The oath or affirmation shall be administered at the first council meeting conducted in the year immediately following the election at which the elected officer is present. An incumbent shall continue in office until said oath or affirmation is administered. (Res. No. 1978-47 §5(c)).

Section 32. NOMINATIONS. Any qualified person may be nominated for an elective city office. Nominations shall be by petition specifying the position sought in a form prescribed by the council. Such petition shall be signed by not fewer than 50 electors from the ward in which the council person is a candidate and from the entire city for a candidate seeking the office of mayor. No elector shall sign more than one petition for each vacant position. If he does so, his signature shall be valid only on the first petition filed for the office.

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 has been made in his 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 one instrument at a time which is in accordance with the election laws set by the State of Oregon. 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 5 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 nomination, and such person shall file with the recorder his written acceptance of nomination in such form as the council may require, within 5 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. (Res. No. 1978-47 §5(d)).

Chapter VII

VACANCIES IN OFFICE

Section 33. WHAT CREATES VACANCY. An office shall be deemed vacant upon the incumbent's death; adjudicated incompetence, conviction of a felony, other defense pertaining to his office, or unlawful destruction of public records; resignation; recall from office; 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 term of office to commence; or in the case of a mayor or councilman, upon his absence from the city for 60 days without the consent of the council or upon his absence from meetings of the council for 90 days without like consent, and upon a declaration by the council of the vacancy.

Section 34. FILLING OF VACANCIES. When a vacancy in an elective city office occurs, a temporary replacement shall be appointed by a majority vote of the council. The term of office of the temporary replacement shall begin immediately upon his appointment and continue until a permanent replacement is elected at the next general election, but said election shall not occur less than 60 days after the office has been declared vacant or an individual appointed by the council. The newly elected council person shall take office at the first regular meeting of the council occurring subsequent to the election. The term of office of the elected replacement shall be the unexpired term of the elected predecessor. (Res. No. 1978-47 §6(a)).

Chapter VIII

ORDINANCES

Section 35. ENACTING CLAUSE. The enacting clause of all ordinances hereafter enacted shall be, "The City of McMinnville ordains as follows:"

Section 36. 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 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 title only (a) if no council member present at the meeting requests to have the ordinance read in full or (b) if a copy of the ordinance is provided for each council member 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 the city hall and two other public places in the city; and(ii) advertisement in a newspaper of general circulation in the city. 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 final vote on an ordinance, the ayes and nays of the members shall be taken and recorded in the journal.

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

Section 37. 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 IMPROVEMENT

Section 38. CONDEMNATION. Any necessity of taking property for the city by condemnation for the water system or electrical generation and distribution system shall be determined by the Water and Light Commission pursuant to Chapter X of this charter. Any necessity of taking property for any other purposes 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 39. IMPROVEMENTS. The procedures for making, altering, vacating, or abandoning a public improvement shall be governed by the general ordinance or, to the extend not so governed, by the applicable general laws of the state. Action on any proposed public improvement, except a sidewalk or 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 property to be specially assessed therefor. For the purpose of this section "owner" shall mean the record holder of a legal title to the land, except that, if there is a purchaser of the land according to a recorded land sale contract 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 40. SPECIAL ASSESSMENT. 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 41. BIDS. A contract in excess of \$5,000 for a public improvement to be made by a private contractor shall be let to the lowest responsible bidder for the contract and shall be done in accordance with plans and specifications approved by the council. (Res. No. 1978-47 §7(a)).

Chapter X

WATER AND LIGHT COMMISSION

The Water and Light Commission is continued in existence.

Section 42. MEMBERSHIP AND QUALIFICATIONS. The mayor of the City of McMinnville shall ex officio be a member of the Water and Light Commission. In case of the absence of the mayor from the city, or his complete disability or disqualification to act, then during such absence, disqualification or disability, the president of the council shall ex officio act in place of the mayor as a member of the Water and Light Commission. In addition to the mayor, there shall be four members of the Water and Light Commission appointed by the mayor for a term of four years, whose appointments shall severally be approved by the council before any new commissioner shall enter upon the discharge of the duties of his office. The four commissioners in office at the date of the adoption of this provision shall serve out their respective terms, subject to removal as hereinafter provided. In case of a vacancy caused by death, removal or resignation, the mayor shall appoint a successor to fill such vacancy for the balance of the term, which appointment also shall be subject to confirmation by the council.

Section 43. REMOVAL OF COMMISSIONERS. The mayor, with the consent of the council, may remove any member of the Water and Light Commission for cause. No commissioner shall be removed, except upon written charges filed by the mayor with the clerk of the Water and Light Commission, a copy of which shall be served upon such

commissioner. A copy of such charges shall also be filed with the recorder of the City of McMinnville and brought before the council, together with the order of the mayor removing any such commissioner; and the question of whether or not such removal shall be sustained by the council shall be submitted to the council as any other city business is submitted to and considered by the council, and the question shall thereupon be submitted to the council in the following form:

"Shall the action of the mayor in removing _____, a member of the Water and Light Commission of the City of McMinnville, be sustained?"

If the majority of the membership of the city council shall vote in the affirmative, said removal shall be sustained, and said commissioner shall thereupon be out of office; otherwise, said removal shall not be sustained and said commissioner shall remain in office for the balance of his term, except in the case of death, disqualification or removal as herein provide.

Section 44. QUALIFICATIONS OF COMMISSIONERS. No person shall be appointed to the Water and Light Commission, or retain any such office, who does not fulfill the following requirements: He must be a citizen and resident of the City of McMinnville for at least one year, and a legal voter, and shall not have a financial interest adverse to the interests of the City of McMinnville in any manners over which the Water and Light Commission has jurisdiction. (Res. No. 1978-47 §8(a)).

Section 45. ORGANIZATION OF COMMISSION. The Water and Light Commission shall, at its first meeting in January in each year, elect from among the four appointed members thereof, a chairman, and shall also elect a clerk of the commission. At all meetings attended by the mayor he shall preside and in his absence, the president of the council shall preside. In case neither the mayor nor the president of the council is present at any meeting of the Water and Light Commission, the chairman shall preside, and if the chairman is also absent, then a chairman pro tem shall be appointed by the members present.

The Clerk of the Commission shall sign all minutes of all meetings, together with the officer who has presided at such meeting.

Section 46. EXECUTION OF CONTRACTS AND HANDLING OF FUNDS. All contracts and documents on behalf of the Water and Light Commission shall be signed by the mayor, or in case of his absence, disqualification, or disability, then by the president of the council, and shall be attested by the clerk of the commission. All funds coming under the jurisdiction of the Water and Light Commission shall be paid to the clerk of the commission, and a complete book account thereof shall be kept by the clerk of the commission, or employees of the commission under his direction. Said funds shall be paid by the

clerk of the commission to the city treasurer, who also shall keep a book account of all such funds.

Section 47. CLERK. The clerk of the Water and Light Commission shall serve during the pleasure of the Commission, and be subject to removal at any time and for any reason.

Before entering upon the duties of the office of clerk of the commission, the clerk shall take and file with the recorder of the City of McMinnville an oath of office to support and defend the constitutions and laws of the United States and of the State of Oregon, and faithfully to perform the duties of the office of clerk of the Water and Light Commission of the City of McMinnville, according to law, and shall also execute with a surety, satisfactory to the Water and Light Commission, and undertaking running for the benefit of the City of McMinnville for the faithful discharge of the duties and his office, and accounting for and paying over all money and property coming into his possession, which official undertaking shall be in such amount and upon such form as shall be required by the Water and Light Commission, and shall be signed by a surety company authorized to do a surety business in the State of Oregon, and shall be filed with the mayor.

Section 48. QUORUM. Three members of the commission shall constitute a quorum for the transaction of all business.

Section 49. MEETINGS. The Water and Light Commission shall hold a regular meeting at least once each month at a time and place to be fixed and publicly announced. Special meetings may be convened at any time upon such call and the giving of appropriate notice not less than 24 hours nor later than 96 hours after said meeting has been duly called and required notice given. Special meetings of the Water and Light Commission may also be held at the time by the common consent of all the members of the Water and Light Commission. Notice of all meetings held by the Water and Light Commission shall be consistent with notice requirements for public meetings. (Res. No. 1978-47 §8(b)).

Section 50. COMPENSATION. The Water and Light Commission shall have the authority to fix the compensation of the clerk and other employees of the Water and Light Commission and change same from time to time. Said Commission shall have the authority to employ a general manager and such superintendents, attorneys, bookkeepers, laborers, mechanics and other employees, as may be determined, and fix the compensation thereof, and discharge the same at pleasure, and for any reason.

Section 51. POWER OF COMMISSION. The Water and Light Commission shall have charge of the water works and the lighting plants of the city located within or without the city. Said commission shall have power and authority for and in behalf of the City of McMinnville to construct, erect, maintain, rebuild, repair or enlarge, manage,

operate, and control the water plant and electric light plants and system and to change the same and to that end to construct or purchase, keep, conduct, repair, rebuild, enlarge, and maintain water works and electric generating plants and system with all necessary plants or facilities of a character and capacity sufficient to furnish to the City of McMinnville and to the inhabitants thereof, as well as to other places and people desiring such service, whether within or without the corporate limits of the city, with such water and electric energy as may be called for, or required by any consumer, with the right reserved at all times to the City of McMinnville, acting through the Water and Light Commission, to withhold enlarging the plant and facilities within or without the City, or to extend the same, according to the sole judgment and discretion of said commission.

For the purposes of carrying into effect the provisions of this charter, said commission may acquire by purchase, condemnation or otherwise, for and on behalf of said city, and own and possess in the name of the city, such real estate and interest in real estate and personal property within and without the city limits of said city, as in the judgment of the commission may be deemed necessary or convenient.

In carrying on the management of said water and light system, said commission may, in enlarging the same, exercise its own judgment having in view the present and future requirements of said system, its customers present and prospective, within and without the corporate limits.

Power is also given to said commission to furnish electric energy for any useful purpose, and at any place or places. Said commission shall also have the power to construct such pole lines, transmission lines, and other devices within or without the corporate limits, as shall be necessary to carry out the powers herein granted, and may construct or otherwise acquire such buildings, power plants, dynamos, and other instrumentalities as may be necessary, convenient, or desirable to the complete equipment, enlargement, reconstruction, maintenance, and operation of a complete electric light or other lighting system.

The commission may contract with any individual, company, corporation, public or private utility, and the United States of America, through the Bonneville Administrator, or other agency, for the purchase of such electric power and energy as may be desirable and resell the same to the customers of the City of McMinnville in such manner and on such terms as said commission may prescribe. The commission may contract to sell electric power and energy to any individual, company, corporation, public or private utility as may be desirable in such manner and on such terms as said commission may prescribe. (Res. No. 1978-47 §8(c)).

Section 52. POWER TO CONDEMN. The Water and Light Commission shall have power to acquire by purchase, or otherwise, or by condemnation proceedings in the name of the City of McMinnville, all rights of way over the land of other persons or other property which may be necessary or convenient for dams, reservoirs, reserves, water sheds, pipe lines, electric lines, or other purpose for said water system and electric light system, whether within or without the corporate limits of said city; and said commission shall also have the power to extinguish all riparian rights which would otherwise interfere with the establishment and use of said water system or electric system. Where condemnation proceedings are necessary to acquire such property and rights, said proceedings shall be instituted by the commission in the name of the City of McMinnville as plaintiff, and shall be conducted in accordance with the provisions of the laws of the State of Oregon respecting condemnation proceedings by cities and other municipalities of the State of Oregon.

Section 53. POWER TO MAKE RULES. Said Water and Light Commission is hereby given the power and authority:

1. To make all needed rules and regulations for the conduct and management of the business delegated to said commission.

2. To establish rates for the use and consumption of water and electric energy furnished and sold by said commission.

3. To provide for the payment of water and electric rates, and to shut off such water and electric energy from any customer for nonpayment of rates, or for the violation of any rule or regulation established by the commission.

4. To do any other act or make any regulations necessary and convenient for the conduct of the business delegated to said commission, and for the due execution of the power and authority given said commission by this charter and not contrary to law.

Section 54. WARRANT INDEBTEDNESS. In order that said Water and Light Commission may carry on and control the business delegated to it by this charter, the Water and Light Commission is authorized to execute its warrants upon the city treasurer of the City of McMinnville, drawn on the water and lights funds in said treasury in excess of the current cash on hand, but not in an amount exceeding one half of the estimated annual income from the water and light department of said city. Warrants so drawn in excess of the cash on hand in the water and light funds shall be endorsed by the city treasurer "Not paid for want of funds," and shall bear interest not exceeding six percent (6%) per annum from the date of such endorsement until the date of payment, and shall be paid for the current receipts of said water and light department, and such warrant indebtedness shall not be considered or construed within the limitations of this charter respecting the municipal debt.

Section 55. ANNUAL ESTIMATE REPORT. The commission shall annually before the first day of July make a written estimate of the probable expense of maintaining and conducting the water plant and electric light system during the next ensuing year including the cost of any contemplated alterations, improvements, additions, or extensions, together with the probable amount necessary for the redemption of any unpaid warrants, together with the interest thereon, as well as the amount required for the payment of interest and maturing principal on any outstanding water and light bonds of the City of McMinnville; and shall thereupon ascertain and prescribe, as nearly as can be conveniently done, a water rate and electric current rate for such ensuing year, which will create a fund at least sufficient to meet all of said requirements, and in addition thereto the commission may include a further amount sufficient to create such fund as in the judgment of the commission may be desirable in the event of any contemplated additions, improvements, or extensions to such plants.

Section 56. ANNUAL REPORT OF RECEIPTS AND DISBURSEMENTS. The Water and Light Commission shall annually make a statement in duplicate containing a detailed report of its receipts and disbursements. The same, when so made, shall be signed by its chairman and attested by the clerk, and one copy thereof shall be filed with the recorder and the other filed with the clerk of the commission, and shall be preserved by and remain on file in each of said offices as public documents subject to inspection by all citizens of the City of McMinnville, and as a part of said report the commission shall include an inventory or statement of all the property, implements, and materials in its possession or control pertaining to the water works and the electric system, together with the condition and approximate value thereof

Section 57. CUSTODY OF PROPERTY AND BOOKS. The Water and Light Commission of the City of McMinnville shall be custodian of said water plant and electric system and of all property pertaining thereto, together with all books, papers, and accounts relating thereto, except that the oath of office of the clerk of said commission shall be filed with the recorder and the official bonds of said clerk, city treasurer, and the general manager shall be filed with the mayor of said city.

Section 58. BOND OF CITY TREASURER. The city treasurer of the City of McMinnville, as custodian of the water and light funds of said city, shall give such bond in addition to the bond now required for the other funds of said city in his possession as the commission shall require.

Section 59. DUTIES OF CITY TREASURER. All of the water and light funds of said city shall be kept by the city treasurer separate and apart from the other funds of the city, the water fund to be kept as one fund, and the light fund as another fund. The Water and Light

Commission shall determine the manner in which withdrawals shall be made from the respective funds under its jurisdiction.

Section 60. BOND OF GENERAL MANAGER. The general manager shall give an official undertaking running for the benefit of the City of McMinnville, in such amount and form as shall be required by the Water and Light Commission, to the effect that the general manager will account for, pay over, and deliver all money and property belonging to the City of McMinnville, which may come into his possession. Such undertaking shall be executed by a surety company authorized to do a surety business in the State of Oregon and shall be filed with the mayor.

The premium on the official bonds of the general manager, the clerk of the Water and Light Commission, and the bond of the city treasurer given in connection with the water and light funds shall be paid from the funds under the jurisdiction of the Water and Light Commission.

Section 61. FLUORIDATION. The Water and Light Commission of the City of McMinnville, Oregon, is hereby authorized and directed to provide the means for and proceed with the addition of appropriate amounts of fluorides to the municipal water supply of the City of McMinnville, Oregon. The equipment to be used by the Water and Light Commission for the above purposed and the method of distribution of fluorides shall be at all times subject to the regulations of the Oregon State Board of Health.

Section 61A. PUBLIC HEARINGS. The Water and Light Commission shall not establish or change its rate for either the use or consumption of water or electrical energy without first advertising and holding a public hearing. (Res. No. 1978-47 §8(d)).

Chapter XI

MISCELLANEOUS PROVISIONS

Section 62. BOARDS AND COMMISSIONS. The Water and Light Commission is continued in existence in accordance with this charter. All other boards and commissions are continued in existence at the pleasure of the council. The name, membership, powers, and duties of such boards and commissions shall be provided by ordinance.

Section 63. FIRE DEPARTMENT. The McMinnville Fire Department, consisting of voluntary and/or paid firemen, is continued in existence. The appointment of the fire chief shall also be approved by the fire department. The organization of the fire department, the executive committee thereof, the powers, and the duties thereof shall be provided by ordinances.

Section 64. DEBT LIMIT. Except by consent of the voters, the city's voluntary floating indebtedness shall not exceed \$100,000.00 at any one time. For purposes of calculating the limitation, however, the legally authorized debt of the city shall not be considered. 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 65. TORTS. The provisions of Sections 30.260 to 30.000 (inclusive), Oregon Revised Statutes, as amended, shall govern and apply in connection with all claims against the city for alleged torts.

Section 66. 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 67. CONTINUATION OF RIGHT AND LIABILITIES. No right or liability of the city existing at the time this charter takes effect shall be impaired or discharged by the adoption and enactment of this charter, except as this charter otherwise provides.

Section 68. BONDED INDEBTEDNESS. All outstanding general obligation bonds of the city shall continue to be general obligations of the city, though not specifically mentioned herein, and the council shall each year, at the time of making the annual tax levy for city purposes, include in such levy sums sufficient to be used jointly with other revenues, to pay the interest due on such outstanding bonds and to retire the principal thereof at maturity.

Section 69. REPEAL OF PREVIOUSLY ENACTED PROVISIONS. All charter provisions of the city enacted prior to the time that this charter takes effect, except as herein otherwise provided; are hereby repealed.

Section 70. PROVISIONS OF PRIOR CHARTER RETAINED. The following provisions of prior charter are hereby retained:

(a) Authorizing Special Tax Levy for Firemen's Compensation. The council may by ordinances prescribe such compensation for the officers and members of the fire department as may be just and reasonable; and in order to create a fund with which to pay such officers and members of the fire department for their services, the council shall have power and authority at the time of making the annual tax levy for municipal purposes to specially and additionally levy annually such an amount necessary for this purpose, but not to exceed three mills on each and every dollar's assessed valuation of taxable property in said city. Such levy shall be in addition to and in excess of the constitutional six (6) per cent limitation upon the city's tax levy. Said fund when so created shall not be used for any other purpose than that for which the same is by this section

provided. (Adopted by the people at a general primary election May 21, 1948.)

(b) Authorizing Special Tax Levy for Fire Equipment. It shall be the duty of the council to appropriate from time to time such sums of money as may be necessary to keep the present apparatus of the fire department in perfect working order and to add thereto engines, hose, hose carriages, and other necessary apparatus whenever the same may be required. It may also at such time as conditions may require appropriate such sums of money as may be necessary to build and furnish engine houses for the accommodation of said equipment. In order to create a fund with which to purchase new fire equipment and maintain the same, the council shall have power municipal purposes to specially and additionally levy annually such an amount necessary for this purpose, but not to exceed one-half mill each and every dollar's assessed valuation of taxable property in said city. Such levy shall be in addition to and in excess of the constitutional six percent (6%) limitation upon the citizens' tax levy. Said fund when so created shall not be used for any other purpose than that for which the same is created by this section. (Adopted by the people at a general election, November 4, 1952)

(c) Authorizing Special Tax Levy for Park Betterment. The council shall have power and authority to levy annually upon all the assessed valuation of the taxable property of the city a special tax not exceeding two mills for park betterment purposes, and such levy shall be in addition to and in excess of the constitutional six (6) percent limitation upon the city's tax levy, all of which shall be paid over to the treasurer and by him transferred to an account kept by him to be designated as the Park Betterment Fund, and each year as the taxes are levied and collected under the provisions of this section, and all moneys collected for rent of the municipal park grounds or received from donations for other park betterment purposes to said Park Betterment Fund. (Adopted by the people at a general primary election May 21, 1948)

Section 71. TIME OF EFFECT OF CHARTER. This charter shall take effect January 1, 1971.

Section 72. AMENDMENTS. Amendments to the charter may be proposed and submitted to the legal voters and qualified electors of the city by resolution of the council, but such proposed amendment shall be filed with the recorder for submission not later than 20 days before the election at which the same is to be voted upon, and no charter amendment shall become effective until it is approved by a majority of the votes cast thereon by the legal voters of the city.

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