

ORDINANCE NO. 92-0-495

AN ORDINANCE CALLING FOR AN ELECTION OF THE REGISTERED VOTERS OF THE CITY OF BROOKINGS, CURRY COUNTY, OREGON, TO VOTE UPON THE QUESTION OF ENACTING AND ADOPTING THE CITY OF BROOKINGS CHARTER OF 1993, AND DECLARING AN EMERGENCY.

Sections:

- Section 1. Proposal for Submission to Voters for Adoption.**
- Section 2. Ballot Title.**
- Section 3. Conduct of the Election.**
- Section 4. Emergency clause.**

The City of Brookings ordains as follows:

Section 1. Proposal for Submission to Voters for Adoption. The City of Brookings Charter of 1993, attached hereto as Exhibit "A", and incorporated herein by this reference, is hereby proposed for submission to the legal voters of the City of Brookings for adoption or rejection at an election to be held November 3, 1992.

Section 2. Ballot Title. The caption, question and summary for the ballot title shall be as set forth in the attached Exhibit "B", incorporated herein by this reference.

Section 3. Conduct of the Election. An election is hereby called to be held in the City of Brookings, Curry County, Oregon, for the purpose of submitting to the legal voters of the City of Brookings, a measure as specified in Section 1 of this Ordinance. The open hours of the polls for the receipt of ballots, the polling places and other procedural matters concerning the conduct of the election shall be as designated by Curry County, Oregon election officials.

Section 4. Emergency clause. The time element is such that this Ordinance must be in full force and effect upon its passage in order to call and provide for an election herein within the time required by law. Based thereon, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect immediately upon its passage.

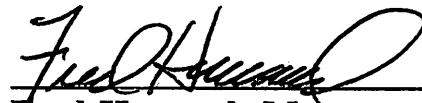
First Reading: August 10, 1992

Second Reading: August 10, 1992

Passage: August 10, 1992

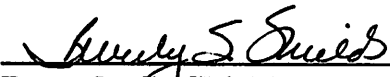
Effective Date: August 10, 1992

Signed by me in authentication of its passage this 10th day of August, 1992.



Fred Hummel, Mayor

ATTEST:



Beverly S. Shields, Recorder

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EXHIBIT "A"

CITY OF BROOKINGS
CHARTER OF 1993

BROOKINGS CITY CHARTER

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PREAMBLE

We, the people of Brookings, Oregon, in order to avail ourselves of self-determination in municipal affairs to the fullest extent now or hereafter possible under the constitutions and laws of the United States and the State of Oregon, through this charter confer upon the city the following powers, subject it to the following restrictions, prescribe for it the following procedures and governmental structure, and repeal all previous charter provisions of the city, except as provided in Chapter X, Section 37.

CHAPTER I.

NAMES AND BOUNDARIES

Section 1. **Title of Charter.** This charter may be referred to as the 1992 Brookings Charter.

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

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 the city's records 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. **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. All powers are continuing unless a specific grant of power clearly indicates the contrary.

Section 6. **Distribution of powers.** Except as this charter prescribes otherwise and as the Oregon Constitution reserves municipal legislative power to the voters of the city, all powers of the city are vested in the council.

CHAPTER III

FORM OF GOVERNMENT

Section 7. **Council.** The council consists of a mayor and four councilors nominated and 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. **Councilors.** The term of office of a councilor in office when this charter is adopted is the term of office for which the councilor has been elected before adoption of the charter (or is elected at the time of the adoption). At each general election after the adoption, two councilors shall be elected, each for a four-year term.

Section 9. **Mayor.** The term of office of the most recently elected mayor at the time this charter takes effect begins at the first council meeting of the year 1993. At the general election of the year 1994 and at each subsequent general election, a mayor shall be elected for a two-year term, whose term of office shall commence at the first council meeting in January immediately following such general election.

Section 10. **Terms of office.** The term of office of an elective officer who is elected at a general election begins at the first council meeting of the calendar year immediately after the election and continues until the successor to the office assumes the office.

Section 11. **Appointive Offices.** A majority of the council shall appoint and may remove a city manager, municipal judge, city attorney and city recorder. A majority of the council may:

- (1) Create, abolish, and combine additional appointive offices and,
- (2) Except as the majority prescribes otherwise, fill such offices by appointment and vacate them by removal.

CHAPTER IV

COUNCIL

Section 12. **Rules.** The council shall, by ordinance, prescribe rules to govern its meetings and proceedings.

Section 13. **Meetings.** The council shall meet in the city regularly at least once a month at a time and place designated by council's rules, and may meet at other times in accordance with the rules.

Section 14. **Quorum.** A majority of the council constitutes a quorum for its business.

Section 15. **Record of Proceedings.** A record of council proceedings shall be kept and authenticated in a manner prescribed by the council.

Section 16. **Mayor's Functions at Council Meetings.**

- (1) When present at council meetings the mayor shall:
 - (a) Preside over deliberations of the council,
 - (b) Preserve order,
 - (c) Enforce council rules, and
 - (d) Determine the order of business under the rules.
- (2) Notwithstanding subsection (1) of this section, the mayor may temporarily cease to chair a council meeting and delegate the functions described in subsection (1) to the council president or, in the president's absence, to another council member.
- (3) The mayor is a voting member of the council.

Section 17. **Council President.**

- (1) At its first meeting after this charter takes effect and at its first meeting of each odd-numbered year, the council shall appoint a president from its councilors.

(2) Except in voting on questions before the council, the president shall function as mayor when the mayor is:

- (a) Absent from a council meeting, or
- (b) Unable to function as mayor.

Section 18. **Vote Required.** Except as Section 31 of this charter prescribes otherwise, the express concurrence of a majority of the council members present and constituting a quorum is necessary to decide affirmatively a question before the council.

Section 19. **Vacancies: Occurrence.** The office of a member of the council becomes vacant:

(1) Upon the incumbent's:

- (a) Death,
- (b) Adjudicated incompetence, or
- (c) Recall from office; or

(2) Upon declaration by the council of the vacancy in case of the incumbent's:

- (a) Failure, following election or appointment to the office, to qualify for the office within ten days after the time for his or her term of office to begin,
- (b) Absence from the city for 30 days without notifying the council or from all meetings of the council within a 65-day period.
- (c) Ceasing to reside in the city,
- (d) Ceasing to be a qualified elector under state law,
- (e) Conviction of a felony crime, a misdemeanor involving moral turpitude or any other offense pertaining to the public office.
- (f) Resignation from the office.

Section 20. Vacancies: Filling. A vacancy in the council shall be filled within 60 days by:

- (1) Appointment by a majority of the council;**

- (2) Special election when the number of vacancies in the council exceeds the number of members holding office.**

The terms of office of those appointed or elected run from the time of their qualifying for office after appointment or election and until expiration of the terms of their predecessors who have left the offices vacant.

CHAPTER V

POWERS AND DUTIES OF OFFICERS

Section 21. **Mayor.** The mayor shall appoint the committees in adherence to the rules of the council. The mayor shall sign all approved records of proceedings of the council and countersign all checks and vouchers. The mayor shall have no veto power and shall sign all ordinances passed by the council within three days after their passing. Upon the approval of the council, the mayor shall endorse all bonds of city officers and all bonds for licenses, contracts, and proposals.

Section 22. **City Manager.**

- (1) The city manager is the administrative head of the city government.
- (2) A majority of the council shall appoint and may remove the city manager. The appointment shall be without regard to political considerations and solely on the basis of administrative qualifications.
- (3) The city manager shall be appointed for an indefinite term and may be removed by the council at its pleasure. Within six consecutive months after a vacancy occurs in the office, the council shall fill the vacancy by appointment.
- (4) The duties of the city manager shall be established by ordinance.
- (5) The city manager and other personnel whom the council designates may sit with the council but may not vote on questions before it. The city manager may take part in all council discussions.
- (6) When the city manager is absent from the city or disabled from acting as city manager, or when the office of city manager becomes vacant, the council shall appoint a city manager pro tem, who has the powers and duties of city manager, except that the city manager pro tem may appoint or remove personnel only with approval of the council. No person may be city manager pro tem more than six consecutive months.

CHAPTER VI

PERSONNEL

Section 23. Qualifications.

- (1) An elective city officer shall be a qualified elector under the state constitution and shall have resided in the city during the 12 months immediately before being elected or appointed to the office. In this subsection "city" means area inside the city limits at the time of the election or appointment.**
- (2) No person may be a candidate at a single election for more than one elective city office.**
- (3) An elective officer may be employed in a city position that is substantially volunteer in nature. Whether the position is so may be decided by the municipal court upon the request of the city council.**
- (4) Except as subsection (3) of this section provides to the contrary, the council is the final judge of the election and qualifications of its members.**
- (5) The qualifications of appointive officers of the city are whatever the council prescribes or authorizes.**

Section 24. Compensation.

- (1) The council shall prescribe the compensation of city officers. The council may prescribe a plan for reimbursing city personnel for expenses that they incur in serving the city.**
- (2) No establishment of compensation of the mayor or councilors, or increase in such compensation once established, may take effect, however, until the first of the odd-numbered year immediately following the first general election after the increase is authorized.**

Section 25. **Merit System.** Subject to council approval and to all collective bargaining agreements between the city and one or more groups of its employees, the city manager shall prescribe rules governing recruitment, selection, promotion, transfer, demotion, suspension, layoff, and dismissal of city employees, all of which shall be based on merit and fitness.

Section 26. **Political Contributions.** No person shall attempt to or actually coerce, command or require any appointed city official or employee to influence or give money, service or anything of value to promote or oppose any political committee, the nomination or election of a candidate, the adoption of a measure, or the recall of a member of the council.

Section 27. **Oath.** 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 and the charter and ordinances of the city of Brookings.

CHAPTER VII

ELECTIONS

Section 28. **State Law.** 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 29. **Nominations.** A qualified elector who shall have resided in the city during the 12 months immediately preceding the election or the appointment may be nominated for an elective city office. Nomination petitions shall be in the form and filed in the manner and within the time prescribed by general ordinance. The custodian of city records 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.

CHAPTER VIII

ORDINANCES

Section 30. Ordaining clause. The ordaining clause of an ordinance shall be "The city of Brookings ordains as follows:".

Section 31. Adoption by Council.

- (1) An ordinance shall be fully and distinctly read in open council meeting on two different days before being adopted by the council, except that:**
 - (a) The council may adopt an ordinance at a single meeting by the express unanimous votes of all council members present and entitled to vote, provided the ordinance is read first in full and then by title.**
 - (b) Any reading of an ordinance may be by title only if no council member or member of the public present at the reading requests that the ordinance be read in full, and at least one week before the reading:**
 - (i) A copy of the ordinance is provided for each councilor;**
 - (ii) Three copies of the ordinance are available for public inspection in the office of the custodian of city records;**
 - (iii) Notice of their availability is given by written notice posted at the city hall and two other public places in the city; and,**
 - (iv) Notice of the proposed action is given to the local media for publication.**

- (v) **An ordinance read by title only which differs from its terms as it was filed and noticed prior to the reading shall have all the differing terms and changes read fully and distinctly in open council meeting before the council adopts the ordinance.**
- (2) **Upon the adoption of an ordinance, the ayes and nays of the council members shall be entered in the record of council proceedings.**
- (3) **After adoption of an ordinance and upon its being signed by the mayor, the custodian of city records shall endorse it with its date of adoption and the endorser's name and title of office.**

Section 32. Effective date. A nonemergency ordinance takes effect on the thirtieth day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as adopted.

CHAPTER IX

PUBLIC IMPROVEMENTS

Section 33. **Procedures for Public 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 applicable state law.

Section 34. **Special Assessments.** The procedure for fixing, levying, and collecting special assessments against real property for public improvements or other public services shall be governed by general ordinance.

CHAPTER X

MISCELLANEOUS PROVISIONS

Section 35. **Debt.** The city's indebtedness may not exceed debt limits imposed by state law. A city officer or employee who creates or officially approves indebtedness in excess of this limitation is jointly and severally liable for the excess. A charter amendment is not required to authorize city indebtedness.

Section 36. **Continuation of Ordinances.** Insofar as consistent with this charter, and until amended or repealed, all ordinances in force when the charter takes effect retain the effect they have at that time.

Section 37. **Repeal.** All charter provisions adopted before this charter takes effect, with the exception of Chapter 16, "Water Intake Relocation", Chapter 17, "Wastewater Treatment Plant Facilities Plan", and Chapter 18, "Wastewater Treatment Plant and Sludge Facilities", if adopted by the electors at the November 3, 1992 General Election, which shall become Chapters 11, 12 and 13 respectively, of this charter, are hereby repealed.

Section 38. **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.

Section 39. **Time of Effect.** This charter shall take effect on the first day of January _____, 19 93

EXHIBIT "B"

CAPTION

Enactment of a new Brookings City Charter.

QUESTION

Shall Brookings enact the City of Brookings Charter of 1993, replacing the Charter of 1954?

SUMMARY

The purpose of this measure is to enact a new city charter. This would replace the Charter from 1954. It provides updated methods for City Government operations. New methods for filling Council vacancies. New rules for employee selection, transfer and promotion based on merit and fitness. It establishes the City Manager position in the Charter. Ordinances may be adopted by reading title only under certain specific conditions. Eliminates two-thirds remonstrance requirement from Charter. It contains other new and updated provisions.