

RESOLUTION NO. CCCXXV (325)

A RESOLUTION CALLING AND MAKING PROVISIONS FOR AN ELECTION TO ENACT  
A NEW CITY CHARTER FOR A COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT.

WHEREAS, the Canby City Council at a regular meeting thereof on July 15, 1974, authorized the Mayor to appoint a Charter Revision Committee composed of one councilperson, one member of the Planning Commission, one member of the Canby Utility Board, the City Attorney, and three citizens at large, for the purpose of studying the City Charter for necessary revisions or for recommendations on the enactment of a new City Charter; and

WHEREAS, the Charter Revision Committee, as authorized (hereinafter referred to as "the committee") was appointed by the Honorable Mayor Paul N. Roth and thereafter started to function and carry out its assigned duties; and

WHEREAS, the committee met regularly for two years and irregularly thereafter for several years and then resumed regular meetings on October 5, 1981, as a "Charter Review Committee" under direction of the Honorable Robert A. Swayze, Mayor. The Charter Review Committee and its predecessor committee pursued a review and study of the City's Charter and model charters prepared by the League of Oregon Cities and charters of other Oregon cities of sizes and populations comparable to Canby. At the conclusion of its work said committee made a written report to the Honorable Robert A. Swayze, Mayor, and members of the Canby City Council, dated January 6, 1982, and enclosed with it a final draft for a new City Charter for a Council-Administrator form of government. The City Council subsequently reviewed that draft, met with the Charter Review Committee, authorized a few changes, and directed that the question of enacting a new city charter be submitted to the electors of the city of Canby at the general election on Tuesday, November 2, 1982; and

WHEREAS, the final draft of a proposed new Canby City Charter for a Council-Administrator form of Government includes certain provisions of the current charter but it also makes several significant changes and the total product as finally completed will provide the City of Canby with a modern charter of simplicity, brevity and understandability which will more adequately empower the governmental authorities to administer its local affairs and the Canby City Council unanimously recommends to the electors of the City of Canby that the proposed new charter be enacted at the election hereby called for that purpose; and a copy of the proposed

new charter is attached hereto and by its attachment and this reference is expressly made a part of this resolution, NOW, THEREFORE,

1) BE IT RESOLVED that a new charter election be and it is hereby called to be held in and for the City of Canby, Clackamas County, State of Oregon, at the City's general election on Tuesday, November 2, 1982, between the hours of 8:00 o'clock A.M. and 8:00 o'clock P.M. Pacific Standard Time, for the purpose of submitting to the qualified legal voters of said City pursuant to the City's Initiative and Referendum Ordinance No. 380, and the general election laws of this state, the question of approving or not a new city charter as approved by this resolution and according to the attached copy and to become effective January 1, 1983.

2) BE IT FURTHER RESOLVED that the City Recorder be and she hereby is directed to prepare a notice of said election and to have such notice published in the Canby Herald, a newspaper of general circulation published in the City of Canby, once each week for two (2) successive weeks. The first publication to be not less than 15 days before the general election at which said charter is to be voted on; and also to post notice of said election at each of the polling places and also in six (6) other public places in the city at least ten (10) days prior to said election. The notice to be published in the Canby Herald shall include the question which is submitted to the voters, the time, place, and purpose of the election, and a brief explanation of the proposed new charter as compared with the current charter, but such notice need not contain the full text of the proposed new charter.

3) BE IT FURTHER RESOLVED that the following is the form of the official ballot, ballot number and title for this measure, except that the ballot number may be changed in order to conform to the County Elections Department numbering method for a punch card ballot:

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ELECTION FOR NEW CITY CHARTER

FOR

CITY OF CANBY, OREGON

November 2, 1982

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SUBMITTED TO THE VOTERS BY THE COMMON COUNCIL

QUESTION: Shall the City enact a new Charter to establish a Council/Administrator government and regain control of the water system?

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The voters shall place a cross (X) or a check mark (✓) in the box to indicate the choice or punch the appropriate answer if a punch card ballot is used.

Vote YES or NO.

102 ☐ YES, I vote in favor of the new Charter.


103 ☐ NO, I vote against the new Charter.

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4) BE IT FURTHER RESOLVED that the City Recorder be and she is hereby directed to certify said ballot measure to the Clackamas County Elections Office, which is hereby requested to conduct said election in each of the voting precincts for the City of Canby, and at the regularly established polling places and in accordance with the general election laws of the state of Oregon; and that upon the conclusion of said election it certify the results thereof to the Canby City Council.

5) BE IT FURTHER RESOLVED that the City Recorder be and she is hereby directed to publish a facsimile of the City's official ballot for this measure in one issue of the Canby Herald, a newspaper of general circulation printed and published in the City of Canby, and such publication to be made according to the requirements of ORS 254.205, i.e., not later than the fourth (4th) day nor before the fifteenth (15th) day before said election.

ADOPTED by the Canby City Council at a regular meeting thereof this 6th day of October, 1982.

  
Robert A. Swayze, Mayor

ATTEST:

  
Marilyn K. Berkett, City Recorder Pro Tem.

# CHARTER OF THE CITY OF CANBY

## A CHARTER

To provide for the government of the City of Canby, Clackamas 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 Canby, Clackamas County, Oregon:

## CHAPTER I

### NAMES AND BOUNDARIES

Section 1: TITLE OF ENACTMENT. This enactment may be referred to as the City of Canby Charter of 1983.

Section 2: NAME OF CITY. The municipality of Canby, Clackamas County, Oregon, shall continue to be a municipal corporation with the name "City of Canby."

Section 3: 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 at the City Hall at least two copies of this Charter in each of which shall be maintained an accurate, up-to-date description of the boundaries. The copies and descriptions shall be available for public inspection at any time during regular office hours of the Recorder.

## CHAPTER II

### POWERS

Section 1: POWERS OF THE CITY. The City shall have all powers which the Constitutions, statutes and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers.

Section 2: CONSTRUCTION OF CHARTER. In this Charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the City would have if this particular power were 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 State laws and the municipal home rule provisions of the State Constitution.

Section 3: POWER TO LICENSE, TAX AND REGULATE. The City Council shall have power to license, tax and regulate for the purpose of City revenue, all businesses, callings, trades, employments and professions as the Council may require to be licensed, and which are not prohibited by the laws of the State of Oregon.

Section 4: INITIATIVE AND REFERENDUM POWERS. The power to enact or amend the Charter of the City of Canby and all other rights guaranteed to the people of this City under the Initiative and Referendum Provisions of Section 1-a, Article IV of the Constitution of the State of Oregon are hereby reserved and guaranteed to the people of the City of Canby by this Charter, and the Council shall provide the method of carrying into effect the initiative and referendum power of the people.

### CHAPTER III

#### FORM OF GOVERNMENT

Section 1: WHERE POWERS VESTED. Except as this Charter provides otherwise, all powers of the City shall be vested in the Council.

Section 2: COUNCIL. The Council shall be composed of six Councilmembers elected from the City at large.

Section 3: COUNCILMEMBERS. The Councilmembers in office at the time this Charter takes effect shall continue in office, until the end of their term 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 Councilmembers shall be elected, each for a term of four years; and at each biennial general election the number of Councilmembers required to fill vacancies pursuant to Chapter VII, Section 2, of this Charter shall also be elected.

Section 4: MAYOR. At each biennial general election a Mayor shall be elected for a term of two years.

Section 5: ADMINISTRATOR, JUDGE, CITY ATTORNEY, CITY RECORDER, CITY TREASURER AND OTHER OFFICERS. Additional officers of the City shall be a City Administrator, Municipal Judge, City Attorney, City Recorder and City

Treasurer, each of whom the Council shall appoint, and such other officers as the Council deems necessary. Appointed officers shall hold their office during the pleasure of the Council or until their successors are appointed and qualified. Appointed officers are subject to removal at any time by the Council with or without cause and may be suspended in accordance with the provisions of Chapter V, Section 2(c)(3). The duties of all officers not defined in this Charter may be prescribed by the Council. The Council may combine any two or more appointive offices.

Section 6: SALARIES. The compensation for the services of each City officer and employee shall be the amount fixed by the Council.

Section 7: QUALIFICATIONS OF OFFICERS. No person shall be eligible for an elective office of the City unless at the time of election such person is a qualified elector within the meaning of the State Constitution and has resided in the City during the 12 months immediately preceding the election. The Council shall be final judge of the qualifications and election of its own members.

#### CHAPTER IV

##### COUNCIL

Section 1: MEETINGS. The Council shall hold a regular meeting in the City at least once each month at a time and place which it designates. It shall adopt rules for the government of its members and proceedings. The Mayor 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 and public notice to all interested persons, call a special meeting of the Council for a time not earlier than twenty-four nor later than forty-eight hours after the notice is given. Special meetings of the Council may also be held at any time by the common consent of all the members of the Council and after twenty-four hours reasonable notice to the public. Emergency meetings of the Council may be called by the Mayor, or the President of the Council in the absence of the Mayor, for an actual emergency, and notice thereof shall be given by telephone calls to the press and interested persons.

Section 2: QUORUM AND CONTROL OF CONDUCT. A majority of the 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 the manner provided by Ordinance. The Council may reprimand any member for disorderly conduct at any meeting or for refusing or neglecting to attend any regular meeting without sufficient excuse therefor, and may, by unanimous vote of all other Council members, expel a member for good cause.

Section 3: RECORD OF PROCEEDINGS. The Council shall cause a record 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 entered in the record.

Section 4: 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 5: MAYOR'S FUNCTIONS AT COUNCIL MEETINGS. The Mayor shall be chairperson of the Council and preside over its deliberations and shall have no vote on any questions before it except in the case of tie. The Mayor shall have authority to preserve order, enforce the rules of the Council and determine the order of business under the rules of the Council.

Section 6: 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 by vote shall elect a President from its membership. In the Mayor's absence from a Council meeting, the President shall preside over it. Whenever the Mayor is unable to perform the functions of the office, the President shall act as Mayor.

Section 7: VOTE REQUIRED. Except as this Charter otherwise provides, the concurrence of a majority of the members of the Council present at a Council meeting at which a quorum is present shall be necessary to decide any question before the Council.

Section 8: SUPERVISION OF CITY EMPLOYEES. Neither the Council nor any of its members shall give orders or directives to any subordinate or City employee, other than Department heads, either publicly or privately, except to and through the City Administrator.

## CHAPTER V.

### POWERS AND DUTIES OF OFFICERS AND PROFESSIONAL CONTRACTORS

Section 1: MAYOR. The Mayor shall appoint the committees provided by the rules of the Council; and shall sign all records of proceedings approved by the Council. The Mayor shall have no veto power and he, or in his absence, the President of the Council, shall sign all Ordinances passed by the Council within five 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 2: CITY ADMINISTRATOR.

(a) Qualifications. The City Administrator shall be the administrative head of the government of the City and shall be appointed by the Council without regard to political considerations and solely with reference to executive and administrative qualifications. A City Administrator need not be a resident of the City of Canby or the State at the time of appointment, but promptly thereafter shall become and remain a resident of the City during the term of the office. Before taking office, the City Administrator 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.

(b) Term. The Administrator shall be appointed for an indefinite term and may be removed at the pleasure of the Council.

(c) Powers and Duties. The powers and duties of the Administrator shall be as follows:

- (1) Devote full time to the discharge of official duties, attend all meetings of the Council unless excused therefrom by the Council or the Mayor, keep the Council advised at all times of the affairs and needs of the City, and make reports annually, or more frequently if requested by the Council, of all the affairs and departments of the City.
- (2) See that all Ordinances are enforced and that the provisions of all franchises, leases, contracts, permits and privileges granted by the City are observed.
- (3) Hire or remove all City employees and have general supervision and control over them and their work with power to transfer an employee from one department to another. The Administrator shall supervise the departments to the end of obtaining the utmost efficiency in each of them. He shall have the power to suspend an appointed City Officer pending review and final action of the Council.



- (4) Act as purchasing agent for all departments of the City.
- (5) Be responsible for preparing and submitting to the Budget Committee the annual budget estimates and such reports as that body requests.
- (6) Supervise the operation of all public utilities owned and operated by the City excepting the electric utility department for which the Canby Electric Board has exclusive jurisdiction, control and management as provided in the following Chapter X. The City Administrator shall have general supervision over all City property.
- (7) Perform such other duties as may be prescribed from time to time by the Council.

Section 3. CITY RECORDER. The City Recorder shall attend all meetings of the Council unless excused therefrom by the council, keep an accurate record of its proceedings in a book provided for that purpose, file and keep all books, papers, records and other documents connected with business of the Council, or which may be the property of the City. Such officer shall issue all licenses authorized by City ordinances upon payment of the required license fee and keep a register showing to whom, for what, and the period for which the license is issued. The books and accounts of the City Recorder shall be open to inspection of any interested person. In case of absences from office or attendance at Council meetings, the Mayor shall appoint a Recorder pro-tem who, while acting in that capacity shall have all the authority and duties of the City Recorder.

Section 4: CITY TREASURER. The City Treasurer shall receive all moneys that come to the City by taxation or otherwise, and keep the same in separate funds as may be directed by ordinance and pay out the same as provided by this Charter or ordinance, or resolution of the Council; and at the end of the each quarter make out and present to the Council a fair and accurate itemization of the receipts and disbursements of the various City funds during the quarter; and at the end of the fiscal year present a statement, the same being a summary of the quarterly statements, which shall be published in some newspaper having a general circulation in the City and also post such statement in three conspicuous places in the City. The books and accounts of the City Treasurer shall be open to inspection of any interested person. The City Treasurer shall post a corporate surety bond in such amount as may be

required by the Council and to be approved by the Council before assuming the duties of such office; and the City shall pay the premium on such bond.

Section 5: AUTHORITY TO CONTRACT FOR PROFESSIONAL SERVICES. The council shall have authority to contract for the professional services of a Municipal Judge, City Attorney, City Engineer, Public Accountant, City Planner, Medical Examiner or others whose professional skills, training and knowledge may be required at any time or from time to time for the administration of City affairs and municipal government. Such contractee shall not be deemed to be an officer or employee of the City and contracts for their respective services shall not be subject to any public bidding requirements. The duties and responsibilities of such persons engaged for their professional skills, knowledge and ability shall be specified in their respective contracts with the City but the contracts for the services of the following persons shall include the following particular duties, services and responsibilities:

(a) Municipal Judge. The Municipal Judge shall hold within the City a Court known as the Municipal Court for the City of Canby, Clackamas County, Oregon. 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 and made punishable by Ordinances of the City and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by Ordinances of the City. The Municipal Judge 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 to bail pending trial, to issue Subpoenas, to compel witnesses to appear and testify in Court on the trial of any cause, 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 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, except that the Municipal Court shall not exercise any civil jurisdiction.

(b) City Attorney. The City Attorney is a legal advisor of the officials of the City of Canby and shall be appointed by the Council. It shall be the duty of such Attorney to attend all regular Council meetings and such special meeting as may be required unless excused therefrom by the Council. The City Attorney shall attend to all suits, actions at law and all matters and things in which the City of Canby may be legally interested. The City Attorney, or a deputy appointed by him, shall prosecute in the Municipal Court all offenders violating any City Ordinances or for the violation of all other laws under which the Municipal Court has jurisdiction.

## CHAPTER VI

### ELECTIONS

Section 1. REGULAR ELECTIONS. Regular City elections shall be held at the same times and places as biennial general State elections, in accordance with applicable State election laws. In addition to any notice required to be given by State election laws, the Recorder, pursuant to directions from the Council, shall give at least ten days' notice of each regular City election by posting notice thereof at a conspicuous place in the City Hall and in at least one public place in each voting precinct of the City. The notice shall state, at least, the officers to be elected, the ballot title of each measure to be voted upon, and the time and place of the election.

Section 2. 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 3. REGULATION OF ELECTIONS. Except as this Charter provides otherwise and as the Council provides otherwise by Resolutions or 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 4. 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. In all City elections the returns therefrom shall be filed with the Recorder and canvassed by the City Council

at the regular Council meeting following the filing of returns by the County Elections Department. The results of all elections shall be entered in the record of the proceedings of the Council. The entry shall state the total number of votes cast at the 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 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 for each person elected and deliver the Certificate to such person. A certificate so made and delivered shall be prima facie evidence of the truth of the statements contained in it.

Section 5. 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 6. COMMENCEMENT OF TERMS OF OFFICE. The term of office of a person elected at a regular City election shall commence immediately after the first regular council meeting after the first of the year following the election.

Section 7. OATH OF OFFICE. Before entering upon the duties of the office, each officer shall take an oath or shall affirm support of the Constitutions and laws of the United States, the State of Oregon and the City of Canby and to faithfully perform the duties of the office.

Section 8. NOMINATIONS. A qualified elector who has resided in the City for 12 months immediately 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 50 electors. No elector shall sign more than one Petition for each office to be filled at the election. If he or she does so, the signature shall be valid only on the first sufficient Petition filed for the office. The signatures to a nomination Petition need not be all 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 the presence of the

circulator 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 street and number. All nomination papers comprising a Petition shall be assembled and filed with the Recorder as one instrument not less than 75 days before the election. 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 five 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 time for filing nomination Petitions. The Recorder shall notify an eligible person of nomination, and that person shall have five days immediately after the date of notification in which to file with the Recorder written acceptance of nomination, in such form as the Council may require. The Recorder shall then 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.

## CHAPTER VII

### VACANCIES IN OFFICE

Section 1. WHAT CREATES VACANCY. An office shall be deemed vacant upon the incumbent's death, adjudicated incompetence, conviction of a felony or other offense pertaining to the office, unlawful destruction of public records, resignation, recall from office, ceasing to possess the qualifications for the office, failure of a person elected or appointed to an office to qualify therefor within ten days after the term of office commences, or in the case of a Mayor or Councilmember, upon their absence from the City for 30 days without the consent of the Council or because of absence from

meetings of the Council for 60 days without like consent, and upon a declaration by the Council of the vacancy.

Section 2. FILLING OF VACANCIES. Vacant elective offices in the City shall be filled by appointment by a majority vote of the Council. The appointee's term shall begin immediately upon the appointment and shall continue until the beginning of the year following the next general biennial election and until a successor is elected and qualified. The successor for the unexpired term shall be elected at the next general biennial election after said appointment. During the temporary disability of any elected officer or during their absence temporarily from the City for any cause, the offices may be filled pro tem in the manner provided for the filling of vacancies in office permanently.

## CHAPTER VIII

### ORDINANCES

Section 1. ENACTING CLAUSE. The enacting clause of all ordinances hereafter enacted by the Council shall be, "THE CITY OF CANBY ORDAINS AS FOLLOWS:"

Section 2. MODE OF ENACTMENT. All ordinances shall be read at two meetings of the Council. If approved by the Council the first reading may be by title only and brief outline covering the purpose of the ordinance. The second reading may be by title only unless any person present requests to have the ordinance or any part thereof read in full. Immediately following the first reading of a proposed ordinance, it shall be signed and published by the Recorder at least once at full length in a newspaper published in Canby; provided, however, that the Council may order instead that the proposed ordinance be posted in three public and conspicuous places in said City for a period of five (5) days prior to the passage of said ordinance. Whenever the Council proposes to take final action on any proposed ordinance at a special meeting, notice thereof, giving the time of such meeting, shall be published or posted along with the ordinance. In any event, before final action has been taken on any proposed ordinance, there shall be filed by or with the Recorder proof by Affidavit of the publication or posting of the proposed ordinance.

Section 3. REQUIREMENT TO PASS ORDINANCES. It shall require the majority vote of all members of the Council as then constituted to pass an ordinance on its final reading.

Section 4. WHEN ORDINANCES TAKE EFFECT. An ordinance enacted by the Council shall take effect on the 30th day after its enactment; however, when the Council deems it advisable, an ordinance may provide a different time for it to take effect, and, in case of emergency, it may take effect immediately.

Section 5. RECORDING VOTE AND SIGNING ORDINANCE. Upon the final vote on an ordinance, the ayes and nays of the members shall be taken and entered in the record of the proceedings and also on the ordinance. Upon enactment of the ordinance, the Mayor shall sign it with the date of its final passage and it shall be attested by the signature of the Recorder.

## CHAPTER IX

### PUBLIC IMPROVEMENTS

Section 1. 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.

Section 2. IMPROVEMENTS. The procedure for making, altering, repairing, 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 improvement, except a sidewalk or other improvement unanimously declared by the Council to be needed at once because of an emergency, shall be suspended for six months upon a remonstrance thereto by the owners of two-thirds of the land to be specially assessed therefor. In this Section, "owner" shall mean the record holder of legal title, or where land is being purchased under a recorded land sale contract or unrecorded contract verified to the Recorder in writing by the record holding of legal title to the land, the purchaser shall be deemed the "owner."

Section 3. 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 Ordinances.

Section 4. BIDS. A contract in excess of \$15,000 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.

Section 5. MUNICIPAL SEWER SYSTEM. The City shall continue to own and operate a municipal sewer system and in addition to the other methods provided by Charter, the Council may, when in its discretion it is deemed advisable, provide by Ordinance for the construction or re-construction either by contract or City construction method or the combination of both and for the maintenance, extension, operation or enlargement of sewers, sewer systems, pumping stations, sewage treatment or disposal plant, together with all appurtenances necessary, useful or convenient for the collection, treatment and disposal of sewage and for such purposes may acquire by gift, purchase, grant or condemnation, the necessary lands and rights of way therefor, either within or without the corporate limits of the City of Canby, all or any part of the foregoing being hereinafter referred to as the facilities. The City Council may construct or re-construct that part of the foregoing facilities consisting of a treatment plant, outfall sewers, trunk sewers, main sewers and pumping plants as an entire unit or as separate units in order to continue to provide the City of Canby with a basic sanitary sewage system; and the Council may provide that the same or that part so constructed will be paid for by all of the residents of the City or property owners therein regardless of whether their property is to be actually connected with or presently served by said systems or units.

## CHAPTER X

### UTILITIES

Section 1. UTILITY DEPARTMENTS: There is hereby created a utility department of electric service of the City of Canby and a utility department of water service of the City of Canby. Each department shall be responsible for the development, production, purchase and distribution of all water or electric revenue producing utilities of the City.



Section 2: WATER DEPARTMENT: The City Council shall have jurisdiction, control and management of the Water Department and all of its operations and facilities. The City Council shall have all the powers and duties necessary to construct, acquire, expand and operate the water system, and to do any and all acts or things that are necessary, convenient or desirable in order to operate, maintain, enlarge, extend, preserve and promote an orderly, economical and businesslike administration of the Water Department. The City Council may assign or delegate all or a portion of its powers and duties over the Water Department to the Electric Board; provided, however, that the City Council shall retain ultimate jurisdiction, control and management of the Water Department and its operations and facilities.

Section 3: ELECTRIC BOARD: There is hereby created the Canby Electric Board of the City (hereinafter referred to as the Board), which shall have exclusive jurisdiction, control and management of the Electric Department and all its operations and facilities. The Board shall have all the powers and duties possessed by the City to construct, acquire, expand and operate the electric system, and to do any and all acts or things that are necessary, convenient or desirable in order to operate, maintain, enlarge, extend, preserve and promote an orderly, economical and businesslike administration of the electric system. The Board shall operate as a separate unit of City government and except as provided in this Charter, both the Board and the Electric Department shall be free from the jurisdiction, direction and control of other City Officers and of the City Council. The Board may sue and be sued in its own name. All damage claims arising from the operation of the Board and the Electric Department shall be the responsibility of and be liquidated by the Board.

Section 4. ORGANIZATION OF THE CANBY ELECTRIC BOARD:

(a) Number and Qualification of Board Members: There shall be five (5) members of the Canby Electric Board appointed by the Mayor and confirmed by a majority of the Canby City Council. They shall hold office until their successors are appointed and qualified. They are subject to removal at any time by the Mayor and with the approval of a majority of the Council members with or without cause and with or without notice. At the first Council

meeting after the first of the next month after this Charter takes effect, two (2) Board Members shall be appointed to serve terms of three years, two (2) shall be appointed to serve terms of two years and one (1) shall be appointed to serve a term of one year. Their successors shall be appointed for terms of three years. No Board member may serve more than two (2) successive terms. No person shall be eligible for appointment as a Board member or entitled to hold such office unless at the time of appointment and continuing thereafter, such person is a qualified elector within the meaning of the State Constitution and has resided in the City of Canby during the six months immediately preceding appointment and continues to reside in the City for the term of the appointment. The City Council shall be the final judge of the qualifications and appointments of Board members, but no Councilmember or Mayor (during their term of office) shall be eligible to appointment as a member of that Board.

(b) Vacancies. Vacancies shall be filled for the unexpired term by the Council. No vacancy in the Board shall impair the right of remaining Board members to exercise all the powers of the Board and transact its business.

(c) Compensation. The compensation for the services of each Board member shall be whatever amount the Board fixes.

(d) Organization of the Board. Within ten (10) days after their appointment and at its first meeting in January each year thereafter, the Board members shall elect one of their number as Chairperson. If the Chairperson is absent at any meeting, a Pro Tem shall be appointed by the members present. The Chairperson shall preside over all meetings of the Board and in doing so, shall, so far as possible, follow Roberts Rules of Order. The Chairperson shall, with the approval of the Board, sign all Resolutions and Orders of the Board and all notes, contracts, deeds, mortgages, bonds and other agreements of the Board. No action shall be taken by the Board except by the affirmative vote of the majority of the members.

(e) Quorum. Three (3) Board members shall constitute a quorum.

(f) Secretary-Clerk. The Board shall appoint and fix the compensation of a Secretary-Clerk who is not a member of the Board and who shall serve at the pleasure of the Board and is subject to removal at any time and for any

reason. Before entering upon the duties of the office, the Secretary Clerk shall post a bond in such amount and with such surety or sureties as the Board may approve and to assure the faithful performance of duties. The Secretary-Clerk shall attend all meetings of the Board unless excused therefrom by the Board, keep an accurate record of its proceedings in a book provided for that purpose, sign the approved minutes of its meetings and may, with approval of the Board, sign or co-sign checks for disbursements of funds.

(g) Meetings. The Board shall hold a regular meeting at least once a month at a time and place to be fixed by the Board. Special meetings may be called by the Chairperson of the Board, or by two members of the Board. Notice of all meetings shall be given by the Secretary-Clerk in the manner and for the time required for public meetings by ORS 192.640. All regular or special meetings of the Board shall be open to the public.

Section 5. ORGANIZATION OF THE ELECTRIC DEPARTMENT:

(a) Employees. The Canby Electric Board shall have the authority to employ a General Manager and such supervisors, bookkeepers, attorneys, laborers, mechanics and other employees, as may be determined, and fix compensation thereof, and discharge the same at pleasure, and for any reason.

(b) Compensation. The Board shall have the authority to fix compensation of the Clerk and other employees of the Board and change the same from time to time.

Section 6. POWERS AND DUTIES OF THE CANBY ELECTRIC BOARD:

(a) Real Estate and Contracts. The Board, in the efficient and economical operation of the Electric Department, both inside and outside the City limits may:

- (1) purchase and sell electric power and energy and services to public and private corporations and to other consumers;
- (2) construct plants, transmission lines and other facilities;
- (3) purchase real estate and franchises in its name; and
- (4) enter into all contracts, leases and agreements in furtherance thereof.

(b) Extension of Services. The Board may adopt regulations governing extension of services of the Electric Department both inside and outside the City limits. The regulations shall provide the conditions under which the

extensions shall be made to render them compensatory and shall provide that each extension project shall, when completed, become the property of the Electric Department whether on public or private property. The Board may provide for the form of refunds where advances by the persons benefited are necessary to make extensions compensatory.

(c) Joint Operations with Others. The Board may contract with any public or private corporation or any individual, both inside and outside the City limits:

- (1) for the joint use of poles and other property belonging either to the Electric Department or to the other contracting party or jointly to both parties; and
- (2) for the joint acquisition of real property and franchises and the joint financing, construction and operation of plants, transmission lines and other facilities, whereby any property acquired may become the property of both the Electric Department and the other contracting party,
- (3) for the purchase of energy.

(d) Eminent Domain. The Board may enter upon any land or water for the purpose of making surveys and may exercise the right of eminent domain on behalf of the City whenever public necessity or convenience requires.

(e) Use of Thoroughfares for Utility Installations. The Electric Board may use the ground over, under or along any road, railroad, highway, street, sidewalk, thoroughfare or alley in the operation of the Electric Department, but shall in all cases and subject to the applicable general regulation of the City, cause the surface of the public way to be restored in its usual condition.

(f) Rates. The Board shall fix rates to be charged for electricity sold and services rendered by the Electric Department. Rates shall be fair, reasonable and compensatory and shall be uniform for all consumers within the same class, but different rate schedules may be applied to different classes of consumers as determined by the Board. Rates shall be sufficient to pay all operating and maintenance costs of the Electric Department and its operations and all bond interest and bond redemption costs. The Board may require reasonable deposits for security for payment of charges for electric services and may provide for the return of deposits when satisfactory consumer credit has been established. Any proposed

change in rates and the notice of a public hearing thereon shall be advertised once a week for two successive weeks in a newspaper having a general circulation in the City of Canby. Such notice shall state the proposed rate change, the reasons therefor and the time and place of the public hearing which shall be held within ten (10) days after the last publication of such notice. At the public hearing the Board shall discuss the matter and consider any objections or recommendations. The Board is not bound, however, by any public remonstrances or objections to its proposed rate change.

(g) Authority for Expenditures. No money shall be drawn from the funds of the Department nor shall any obligation for the expenditure of money be incurred except as authorized by the Board. No claim against the Department shall be paid unless evidenced by a voucher approved by the General Manager or by some other employee designated by him.

(h) Bond Issues. The Board may authorize the sale and issuance of revenue bonds necessary to finance the acquisition, construction, reconstruction, improvements and extensions of the utility system. The Board has the power to provide funding for any operational, maintenance or expansion of existing facilities. A vote of the registered voters will be required for any exploration, construction or development of energy sources over the amount of that department's gross revenues for the preceding fiscal year.

(i) Short Term Loans. The Board may borrow money for periods not to exceed five (5) years and may issue negotiable notes, payable from the revenues of the Electric Department, as evidence of the loans. Total loans outstanding at any one time for the Electric Department shall not exceed fifty percent (50%) of that department's gross revenue for the preceding fiscal year.

(j) No Power to Tax. The Board shall have no power or authority to levy ad valorem taxes on any taxable property; however, the City Council may, when in its judgment it is deemed necessary or advisable, levy such taxes for the use and benefit of said Board or for the joint use and benefit of the City and said Board.

Section 7. ANNUAL ACCOUNTING AND BUDGET. The Canby Electric Board shall prepare a budget for each fiscal year and file a copy of such budget with the City Council prior to July 1. The Board shall make an annual accounting to

show the financial condition of the Electric Department prepared according to generally accepted public utility accounting principles, and file a copy of the same with the City Council each year.

Section 8. GENERAL PROVISIONS.

(a) Disposition of Public Utilities. The Canby Electric Board shall have no authority to cease to operate or to sell, lease or abandon, or in any other way dispose of the electric utility system and department controlled by it, without the prior express written approval of the City Council and the approving vote of a majority of the votes cast by the registered voters of the City at a general or special election called by the Council and held for that purpose.

(b) Existing Obligation. Contracts, obligations and bond issues relating to the electric utility system of the City legally incurred, approved or authorized prior to the taking effect of this Charter provision shall not be impaired and shall be binding upon the Board insofar as they apply to the Electric Utility Department.

CHAPTER XI

MISCELLANEOUS PROVISIONS

Section 1. DEBT LIMIT. Except for bonds heretofore or hereafter authorized, the City's voluntary floating indebtedness shall not exceed \$100,000.00. For the 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, and all bonds of the City heretofore issued and unpaid at the time this Charter takes effect shall remain and continue to be the obligation of the City of Canby until the same are paid. 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 2. TORTS.

(a) In no event shall the City be liable in damages for an injury to persons, damage to property, or a death caused by a defect or dangerous condition in a street, alley, sewer, public ground, public building, drain gutter, ditch, public site or facility unless the City has had actual notice

prior to the injury, damage or death that the defect or condition existed and the City has had a reasonable time thereafter in which to repair or remove it. In no case against the City shall more than \$1,000.00 be recovered as damages for injury, damages or death resulting from such a defect or dangerous condition. No action shall be maintained against the City for damages growing out of such injury, damage or death unless the claimant first gives written notice to the Council within thirty days after the injury, damage or death is sustained, stating specifically the time when, the place where and the circumstances under which it was sustained, and that damages may be claimed against the City in a specified amount. But in no event shall the action be started until thirty days have elapsed after the presentation of this notice to the Council.

(b) No recourse shall be had against the City for damages or loss to person or property suffered or sustained by reason of the defective condition of any sidewalk.

(c) It shall be the duty of all persons owning lots or land which have sidewalks abutting the same to maintain and keep and repair said sidewalks and not permit the same to become or remain a dangerous or unsafe condition. Any owner of lots or lands who neglects to promptly comply with the provisions of this section shall be answerable to any person injured by such negligence.

Section 3. 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 4. CONTRACTUAL OBLIGATIONS. Except gifts of money to the City for specified purposes, expenditures of sums not budgeted and expenditures of budgeted funds for a single purchase or contract in excess of \$15,000.00 shall be authorized by an Ordinance; and the City shall not be bound by any Contract unless the same is in writing and signed by the Mayor and attested by the Recorder in behalf of the City.

Section 5. 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 6. SEPARABILITY OF PROVISIONS. The Sections and Subsections of this Charter are declared to be separable; and in the event that any one or more Sections, Subsections or parts of this Charter are declared unconstitutional, it shall not affect the validity of other provisions of the Charter.

Section 7. TIME OF EFFECT OF CHARTER. This Charter shall take effect January 1, 1983.