

CITY OF YACHATS

RESOLUTION NO. 2012-01-01

A RESOLUTION REFERRING A MEASURE ASKING SHALL THE VOTERS OF YACHATS APPROVE A NEW CITY CHARTER AND CERTIFYING THE BALLOT TITLE AND EXPLANATORY STATEMENT AND FILING THEM WITH THE CITY RECORDER TO BE SUBMITTED TO THE VOTERS AT THE MAY 15, 2012 STATEWIDE ELECTION

WHEREAS, Prior voter approval is required for adoption of a City Charter; and

WHEREAS, The City Council of Yachats desires to update the City Charter for the City of Yachats and has chosen to base the proposed update on the Model Charter for Oregon Cities as developed by the League of Oregon Cities; and

WHEREAS, The city attorney has prepared the ballot title incorporated in Section 2 of this Resolution as required by the City Code;

NOW THEREFORE, the City of Yachats resolves as follows:

SECTION 1 PROPOSED AMENDMENT

The Council hereby refers to the voters of the City a proposed City Charter, marked as "Exhibit A" attached hereto and incorporated by reference herein.

A memo explaining the changes made and the rationale for each is marked "Exhibit B" and is attached hereto and incorporated by reference herein.

The Council hereby adopts the explanatory statement marked as "Exhibit C," attached hereto and incorporated herein.

Upon approval by the voters, the revised Charter shall be effective July 1, 2012 and all previous charter provisions shall be repealed.

SECTION 2 BALLOT TITLE

CAPTION: PROPOSED REVISIONS TO CITY OF YACHATS CITY CHARTER

QUESTION: SHALL THE VOTERS OF THE CITY OF YACHATS APPROVE A REVISED CITY CHARTER REFERRED TO THE VOTERS BY CITY COUNCIL

STATEMENT: CITY COUNCIL IS PROPOSING A CHARTER REVISION BASED ON THE LEAGUE OF OREGON CITIES' MODEL CHARTER FOR VOTER APPROVAL. IF ADOPTED BY THE VOTERS, THE NEW CHARTER WILL GO INTO EFFECT ON JULY 1, 2012. THE PROPOSED CHARTER WOULD DESIGNATE THE MAYOR AS ADMINISTRATIVE HEAD OF THE CITY,

CLARIFYING THE MAYOR HAS THE AUTHORITY TO ACT AS CITY ADMINISTRATOR. THE PROPOSED CHARTER AMENDS CHAPTER VII, SECTION 25 TO CHANGE THE MAYOR'S TERM OF OFFICE FROM TWO YEARS TO FOUR YEARS. CHANGES IN CHAPTER VIII OF THE PROPOSED CHARTER WOULD DEFINE THE ROLES OF THE CITY ATTORNEY, MUNICIPAL COURT AND MUNICIPAL JUDGE AND THE METHOD FOR ESTABLISHING THE COURT AND APPOINTING THOSE OFFICERS. THE PROPOSED CHARTER WOULD ELIMINATE THE REQUIREMENT FOR PRE-APPROVAL BY VOTERS OF THE PURCHASE OR SALE OF CITY PROPERTY. ALL FINAL CITY COUNCIL DECISIONS REGARDING THE PURCHASE OR SALE OF CITY PROPERTY WOULD STILL BE MADE IN AN OPEN PUBLIC MEETING AND THE VOTERS WOULD CONTINUE TO APPROVE GENERAL OBLIGATION BONDS OR PROPERTY TAX LEVY.

SECTION 3. The Council hereby certifies the adopted ballot title and explanatory statement and files those documents with the City Recorder.

SECTION 4. The City Recorder/Election Officer is hereby instructed to file the ballot title with the County Clerk for inclusion on the ballot at the same time as the May 15, 2012 regular Statewide primary election, and to take all other actions necessary and proper to place the proposed Charter on the May 15, 2012 ballot.

PASSED AND ADOPTED by the City Council of the City of Yachats on this 12th day of January, 2012.

APPROVED by the Mayor this 12th day of January, 2012.

Attest:

Ronald R. Brean, Mayor

Nancy Batchelder, City Recorder

Chapter 99.01 - Charter

Section 99.01.010 Charter.

Preamble

We, the voters of Yachats, Oregon exercise our power to the fullest extent possible under the Oregon Constitution and laws of the state, and enact this Home Rule Charter.

Chapter I - Names And Boundaries

Section 1. Title. This charter may be referred to as the ~~2005~~ [2012](#) Yachats Charter.

Section 2. Name. The City of Yachats, Oregon, continues as a municipal corporation with the name "City of Yachats."

Section 3. Boundaries. The city includes all territory within its boundaries as they now exist or are legally modified by a majority of the voters of the City of Yachats at an election, or as otherwise legally modified. The city will maintain as a public record an accurate and current description of the boundaries.

Chapter II - Powers

Section 4. Powers. The city has all powers that the constitutions, statutes and common law of the United States and Oregon expressly or impliedly grant or allow the city, as fully as though this charter specifically enumerated each of those powers.

Section 5. Construction. The charter will be liberally construed so that the city may exercise fully all powers possible under this charter and under United States and Oregon law.

Section 6. Distribution. The Oregon Constitution reserves initiative and referendum powers as to all municipal legislation to city voters. This charter vests all other city powers in the council except as the charter otherwise provides. The council has legislative, administrative and quasijudicial authority. The council exercises legislative authority by ordinance, administrative authority by resolution, and quasi-judicial authority by order. The council may not delegate its authority to adopt ordinances.

Chapter III - Council

Section 7. Council. The council consists of a mayor and four councilors nominated and elected from the city at large.

Section 8. Mayor. The mayor presides over and facilitates council meetings, preserves order, enforces council rules, and determines the order of business under council rules. The mayor is a voting member of the council and has no veto authority. With the consent of council, the mayor appoints members of commissions and committees established by ordinance or resolution. The mayor must sign all records of council decisions. The mayor serves as the political [and administrative](#) head of the city government.

Section 9. Council President. At its first meeting each year, the council must elect a president from its membership. The president presides in the absence of the mayor and acts as mayor when the mayor is unable to perform duties.

Section 10. Rules. The council must by resolution adopt rules to govern its meetings.

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Section 11. Meetings. The council must meet at least once a month at a time and place designated by its rules, and may meet at other times in accordance with the rules.

Section 12. Quorum. A majority of the council members is a quorum to conduct business, but a smaller number may meet and compel attendance of absent members as prescribed by council rules.

Section 13. Vote Required. The express approval of a majority of a quorum of the council is necessary for any council decision, except when this charter requires approval by a majority of the council.

Section 14. Record. A record of council meetings must be kept in a manner prescribed by the council rules.

Chapter IV - Legislative Authority

Section 15. Ordinances. The council will exercise its legislative authority by adopting ordinances. The enacting clause for all ordinances must state "The City of Yachats ordains as follows:".

Section 16. Ordinance Adoption.

(a) Except as authorized by subsection (b), adoption of an ordinance requires approval by a majority of the council at two meetings.

(b) The council may adopt an ordinance at a single meeting by the unanimous approval of at least a quorum of the council, provided the proposed ordinance is available in writing to the public at least one week before the meeting.

(c) Any substantive amendment to a proposed ordinance must be read aloud or made available in writing to the public before the council adopts the ordinance at that meeting.

(d) After the adoption of an ordinance, the vote of each member must be entered into the council minutes.

(e) After adoption of an ordinance, the city custodian of records must endorse it with the date of adoption and the custodian's name and title.

Section 17. Effective Date of Ordinances. Ordinances normally take effect on the 30th day after adoption, or on a later day provided in the ordinance. An ordinance may take effect as soon as adopted or other date less than 30 days after adoption if it contains an emergency clause.

Chapter V - Administrative Authority

Section 18. Resolutions. The council will normally exercise its administrative authority by approving resolutions. The approving clause for resolutions may state "The City of Yachats resolves as follows:".

Section 19. Resolution Approval.

(a) Approval of a resolution or any other council administrative decision requires approval by the council at one meeting.

(b) Any substantive amendment to a resolution must be read aloud or made available in writing to the public before the council adopts the resolution at that meeting.

(c) After approval of a resolution or other administrative decision, the vote of each member must be entered into the council minutes.

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(d) After approval of a resolution, the city custodian of records must endorse it with the date of approval and the custodian's name and title.

Section 20. Effective Date of Resolutions. Resolutions and other administrative decisions take effect on the date of approval, or on a later day provided in the resolution.

Chapter VI - Quasi-Judicial Authority

Section 21. Orders. The council will normally exercise its quasi-judicial authority by approving orders. The approving clause for orders may state "The City of Yachats" orders as follows:".

Section 22. Order Approval.

(a) Approval of an order or any other council quasi-judicial decision requires approval by the council at one meeting.

(b) Any substantive amendment to an order must be read aloud or made available in writing to the public at the meeting before the council adopts the order.

(c) After approval of an order or other council quasi-judicial decision, the vote of each member must be entered in the council minutes.

(d) After approval of an order, the city custodian of records must endorse it with the date of approval and the custodian's name and title.

Section 23. Effective Date of Orders. Orders and other quasi-judicial decisions take effect on the date of final approval, or on a later day provided in the order.

Chapter VII - Elections

Section 24. Councilors. The term of a councilor in office when this charter is adopted is the term for which the councilor was elected. At each general election after the adoption, two councilors will be elected for four- year terms.

Section 25. Mayor. The term of the mayor in office when this charter is adopted continues until the beginning of the first odd- numbered year after adoption. At each general election after the adoption, a mayor will be elected for a ~~two~~four-year term.

Section 26. State Law. City elections must conform to state law except as this charter or ordinances provide otherwise. All elections for city offices must be nonpartisan.

Section 27. Qualifications.

(a) The mayor and each councilor must be a qualified elector under state law, and reside within the city for at least one year immediately before election or appointment to office.

(b) No person may be a candidate at a single election for more than one city office.

(c) Neither the mayor nor a councilor may be employed by the city.

(d) The council is the final judge of the election and qualifications of its members.

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Section 28. Nominations. The council must adopt an ordinance prescribing the manner for a person to be nominated to run for mayor or a city councilor position.

Section 29. Terms. The term of an officer elected at a general election begins at the first council meeting of the year immediately after the election, and continues until the successor qualifies and assumes the office.

Section 30. Oath. The mayor and each councilor must swear or affirm to faithfully perform the duties of the office and support the constitutions and laws of the United States and Oregon.

Section 31. Vacancies: The mayor or a council office becomes vacant:

(a) Upon the incumbent's:

- (1) Death,
- (2) Adjudicated incompetence, or
- (3) Recall from the office.

(b) Upon declaration by the council after the incumbent's:

- (1) Failure to qualify for the office within 10 days of the time the term of office is to begin,
- (2) Absence from the city for 30 days without council consent, or from all council meetings within a 60-day period,
- (3) Ceasing to reside in the city,
- (4) Ceasing to be a qualified elector under state law,
- (5) Conviction of a public offense punishable by loss of liberty, or
- (6) Resignation from the office,

Section 32. Filling Vacancies. A mayor or councilor vacancy will be filled by appointment by a majority of the remaining council members. The appointee's term of office runs from appointment until expiration of the term of office of the last person elected to that office. If a disability prevents a council member from attending council meetings or a member is absence from the city, a majority of the council may appoint a councilor pro tem.

Chapter VIII – Appointive Officers

Section 33. City Attorney. A majority of the council may appoint or remove a City Attorney who will serve as the chief legal officer of the city government.

Section 34. Municipal Court and Judge.

- (a) A majority of the council may appoint and remove a municipal judge. A municipal judge will hold court in the city at such place as the council directs. The court will be known as the Municipal Court.
- (b) All proceedings of this court will conform to state laws governing justices of the peace and justice courts.
- (c) All areas within the city and areas outside the city as permitted by state law are within the territorial jurisdiction of the court.
- (d) The municipal court has jurisdiction over every offense created by city ordinance. The court may enforce forfeitures and other penalties created by such ordinances. The court also has jurisdiction under state law unless limited by city ordinance.
- (e) The municipal judge may:
 - 1) Render judgments and impose sanctions on persons and property;
 - 2) Order the arrest of anyone accused of an offense against the city;

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- 3) Commit to jail or admit to bail anyone accused of a city offense;
 - 4) Issue and compel obedience to subpoenas
 - 5) Compel witnesses to appear and testify and jurors to serve for trials before the court;
 - 6) Penalize contempt of court;
 - 7) Issue processes necessary to enforce judgments and orders of the court;
 - 8) Issue search warrants; and
 - 9) Perform other judicial and quasi-judicial functions assigned by ordinance.
- (f) The council may appoint and may remove municipal judges pro tem.
- (g) The council may transfer some or all of the functions of the municipal court to an appropriate state court.

Section 35. Other Appointive Officers. Additional officers as the Council deems necessary shall be appointed and may be removed by a majority vote of the entire Council.

Chapter ~~VIII~~ IX - Personnel

~~Section 33. Appointive Officers. Additional officers as the Council deems necessary shall be appointed and may be removed by a majority vote of the entire Council.~~

Section ~~34~~36. Compensation. The council must authorize the compensation of city officers and employees as part of its approval of the annual city budget.

Section ~~35~~37. Merit Systems. The council by resolution will determine the rules governing recruitment, selection, promotion, transfer, demotion, suspension, layoff, and dismissal of city employees based on merit and fitness.

Chapter ~~IX~~ X – Public Improvements

Section ~~38~~6. Procedure. The council may by ordinance provide for procedures governing the making, altering, vacating, or abandoning of a public improvement. A proposed public improvement may be suspended for six months upon remonstrance by owners of the real property to be specially assessed for the improvement. The number of owners necessary to suspend the action will be determined by ordinance.

Section ~~39~~7. Special Assessments. The procedure for levying, collecting and enforcing special assessments for public improvements or other services charged against real property will be governed by ordinance

Chapter XI – Miscellaneous Provisions

Section ~~40~~38. Debt. City indebtedness may not exceed debt limits imposed by state law. A charter amendment is not required to authorize city indebtedness.

~~Section 39. Purchase and Sale of City Real Property. No fee simple title to real property shall be purchased nor shall fee simple title to property owned by the City be sold or otherwise transferred in its entirety without prior voter approval at an election.~~

Section ~~41~~0. Ordinance Continuation. All ordinances consistent with this charter in force when it takes effect remain in effect until amended or repealed.

Section ~~42~~2. Repeal. All charter provisions adopted before this charter takes effect are repealed.

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- | Section 4~~3~~². Severability. The terms of this charter are severable. If any provision is held to be invalid by a court, the invalidity does not affect any other part of the charter.

- | Section 4~~4~~³. Time of Effect. This charter takes effect ~~February 1, 2005~~July 1, 2012.

CHANGES PROPOSED IN DRAFT CHARTER FOR MAY 15, 2012 ELECTION

Chapter III – Council, Section 8 – Mayor

Proposed Language:

Section 8. Mayor. The mayor presides over and facilitates council meetings, preserves order, enforces council rules, and determines the order of business under council rules. The mayor is a voting member of the council and has no veto authority. With the consent of council, the mayor appoints members of commissions and committees established by ordinance or resolution. The mayor must sign all records of council decisions. The mayor serves as the political and administrative head of the city government.

Change Made:

Adds the designation of administrative head of the city government.

Rationale:

The City of Yachats does not have a City Manager, the Mayor often acts in the capacity, with tasks such as:

- Supervise and advise City Department Heads
- Work with outside agencies and organizations on behalf of the City
- Make decisions on daily operations based on the Ordinances, Resolutions, contracts and policies established and authorized by City Council.

Chapter VII - Elections

Proposed Language:

Section 25. Mayor. The term of the mayor in office when this charter is adopted continues until the beginning of the first odd- numbered year after adoption. At each general election after the adoption, a mayor will be elected for a ~~two~~ four-year term.

Change Made:

Changes the Mayor’s term from two years to four years.

Rationale:

A four-year term and four-year staggered terms for an even number of councilors gives the voters an opportunity to vote for a majority of the council positions at every other general election. Changing from two to four years provides more time for a newly elected official to learn the job, provides more continuity and stability.

Chapter VIII – Appointive Officers

Proposed Language:

Section 33. City Attorney. A majority of the council may appoint or remove a City Attorney who will serve as the chief legal officer of the city government.

Section 34. Municipal Court and Judge.

- (a) A majority of the council may appoint and remove a municipal judge. A municipal judge will hold court in the city at such place as the council directs. The court will be known as the Municipal Court.
- (b) All proceedings of this court will conform to state laws governing justices of the peace and justice courts.
- (c) All areas within the city and areas outside the city as permitted by state law are within the territorial jurisdiction of the court.
- (d) The municipal court has jurisdiction over every offense created by city ordinance. The court may enforce forfeitures and other penalties created by such ordinances. The court also has jurisdiction under state law unless limited by city ordinance.
- (e) The municipal judge may:
 - 1. Render judgments and impose sanctions on persons and property;
 - 2. Order the arrest of anyone accused of an offense against the city;
 - 3. Commit to jail or admit to bail anyone accused of a city offense;
 - 4. Issue and compel obedience to subpoenas
 - 5. Compel witnesses to appear and testify and jurors to serve for trials before the court;
 - 6. Penalize contempt of court;
 - 7. Issue processes necessary to enforce judgments and orders of the court;
 - 8. Issue search warrants; and
 - 9. Perform other judicial and quasi-judicial functions assigned by ordinance.
- (f) The council may appoint and may remove municipal judges pro tem.
- (g) The council may transfer some or all of the functions of the municipal court to an appropriate state court.

Change Made:

Sections added to clearly define the roles of the City Attorney, Municipal Court and the Judge and the method for establishing and/or appointing those Officers

Rationale:

The current Charter is silent on the City Attorney, Municipal Court and Judge.

Chapter VIII – Personnel

Proposed Language:

Chapter ~~VIII IX~~ – Personnel

~~Section 35. Other Appointive Officers. Additional officers as the Council deems necessary shall be appointed and may be removed by a majority vote of the entire Council.~~

Change Made:

Section removed to new Chapter VIII – Appointive Officers

Rationale:

All sections dealing with appointive officers should be contained in the same chapter.

Section 39 – Purchase and Sale of City Real Property

Proposed Language:

~~Section 39. Purchase and Sale of City Real Property. No fee simple title to real property shall be purchased nor shall fee simple title to property owned by the City be sold or otherwise transferred in its entirety without prior voter approval at an election.~~

Change Made:

The entire section is stricken.

Rationale:

The requirement for pre-approved voter approval for the purchase and/or sale of City property reduces the City Council's ability to act in the best interests of the citizens in a timely manner, to negotiate for the best purchase price or to take advantage of opportunities. All City Council decisions must be made by a vote of the Council in an open public meeting. The City Council cannot purchase land if the funds are not available. Pre-approval for real estate transactions is not included in any other city charter in the State.

Other changes:

Sections 34 through 44 are renumbered because of the changes made to Chapter VIII. Chapters originally numbered VIII and IX were renumbered for the same reason.

Ballot Title Caption: SHALL THE VOTERS OF THE CITY OF YACHATS APPROVE A REVISED CITY CHARTER REFERRED TO THE VOTERS BY CITY COUNCIL

Measure Number: _____ Word Total (500 Maximum): 411

A COMMITTEE OF THE CITY COUNCIL OF YACHATS REVIEWED THE CURRENT CITY CHARTER AND RECOMMENDED TO COUNCIL THAT A REVISED CHARTER BASED ON THE LEAGUE OF OREGON CITIES' MODEL CHARTER FOR OREGON CITIES BE PLACED ON THE BALLOT FOR VOTER APPROVAL. IF ADOPTED BY THE VOTERS AT THIS ELECTION, THE NEW CHARTER WILL GO INTO EFFECT ON JULY 1, 2012. A CHANGE IN CHAPTER III, SECTION 8 OF THE PROPOSED CHARTER ADDS TO THE MAYOR'S DESCRIPTION THE DESIGNATION OF ADMINISTRATIVE HEAD OF THE CITY GOVERNMENT, MAKING SPECIFIC THE AUTHORITY OF THE OFFICE OF MAYOR TO ACT AS ADMINISTRATOR WITH TASKS SUCH AS SUPERVISION OF STAFF AND MAKING DECISIONS ON DAILY OPERATIONS BASED ON THE ORDINANCES, RESOLUTIONS, CONTRACTS AND POLICIES ESTABLISHED AND AUTHORIZED BY CITY COUNCIL. CHAPTER VII, SECTION 25 OF THE PROPOSED CHARTER WOULD CHANGE THE MAYOR'S TERM OF OFFICE FROM TWO YEARS TO FOUR YEARS. A FOUR-YEAR MAYORAL TERM IN ADDITION TO THE FOUR-YEAR STAGGERED TERMS FOR AN EVEN NUMBER OF COUNCILORS GIVES THE VOTERS AN OPPORTUNITY TO VOTE FOR A MAJORITY OF THE COUNCIL POSITIONS AT EVERY OTHER GENERAL ELECTION. CHANGING FROM TWO TO FOUR YEARS WOULD PROVIDE MORE TIME FOR A NEWLY ELECTED OFFICIAL TO LEARN THE JOB AND WOULD PROVIDE CONTINUITY IN CITY LEADERSHIP. CHANGES IN CHAPTER VIII OF THE PROPOSED CHARTER DEFINE THE ROLES OF THE CITY ATTORNEY, MUNICIPAL COURT AND MUNICIPAL JUDGE AND THE METHOD FOR COURT OPERATIONS AND APPOINTING OFFICERS. THE CURRENT CHARTER IS SILENT ON THESE MATTERS. THE PROPOSED CHARTER WOULD ALSO ELIMINATE THE REQUIREMENT FOR PRE-APPROVAL BY THE VOTERS FOR THE PURCHASE AND/OR SALE OF CITY PROPERTY. THE PROPOSED CHARTER WOULD ALLOW THE CITY COUNCIL TO MAKE DECISIONS ON THE PURCHASE OR SALE OF REAL PROPERTY IN THE BEST INTEREST OF THE CITY IN A TIMELY MANNER AND NEGOTIATE FOR THE BEST PRICE. ALL FINAL DECISIONS MADE BY CITY COUNCIL WOULD STILL BE MADE IN AN OPEN PUBLIC MEETING AND THE VOTERS WOULD STILL NEED TO APPROVE ANY ADDITIONAL GENERAL OBLIGATION BONDS ISSUED TO FUND ANY PURCHASE. THIS CHANGE FOLLOWS THE LEAGUE OF OREGON CITIES MODEL CHARTER. THE PROPOSED REVISED CITY CHARTER WAS DISCUSSED AT PUBLIC MEETINGS HELD ON NOVEMBER 7, 2011 AND DECEMBER 8, 2011. ALL PROPOSED CHANGES WERE OUTLINED IN THE RESOLUTION CITY COUNCIL ADOPTED ON JANUARY 12, 2012 APPROVING THE BALLOT TITLE AND THIS EXPLANATORY STATEMENT AND REFERRING THE PROPOSED CHARTER TO THE VOTERS. THE PROPOSED CHARTER AND THE DOCUMENTS EXPLAINING THE CHANGES WERE MADE AVAILABLE FOR PUBLIC REVIEW.

Person responsible for the content of the Explanatory Statement:

Nancy Batchelder

Signed: _____

City of Yachats