

ORDINANCE NO. 49

An Ordinance to provide for the holding of a special election to be held on the 26th day of July, 1949, to submit to the legal voters of the Town of Dundee, for their adoption or rejection, a new charter proposed by the Town council and declaring an emergency, the people of the Town of Dundee do ordain as follows:

1. A special election shall be, and hereby is, called to be held on the 26th day of July, 1949, between the legal voting hours of said date, at which election there shall be submitted to the legal voters of the Town of Dundee, for their adoption or rejection, the following proposed Charter Submitted to the Voters by the Council:

CHARTER SUBMITTED TO THE VOTERS BY THE COUNCIL

An Act

Enacting a charter for the Town of Dundee, Yamhill County, Oregon, and repealing all former charters of the town.

Be it enacted by the Town of Dundee, Yamhill County, Oregon:

Chapter I

NAME, BOUNDARIES, AND GENERAL PROVISIONS

Section 1. NAME. The Town of Dundee, Yamhill County, Oregon, shall continue to be a municipal corporation but the name of this town hereinafter shall be and it hereinafter shall be referred to as the "City of Dundee."

Section 2. BOUNDARIES. The boundaries of the city shall be as follows:

The corporate limits of the city of Dundee shall be as follows, to-wit: Commencing at the northeast corner of the Jacob Shuck donation land claim, in sections twenty-five, twenty-six, thirty-five, thirty-six, in township three south, range three west of Willamette Meridian, in Yamhill County, Oregon, thence west two hundred and three (203) rods; thence south ninety-six and one-half (96 $\frac{1}{2}$) rods to the southeast corner of block twenty-one (21) in Dundee Orchard Homes number one; thence east forty rods and fifteen feet to northeast corner of block twenty-five of Dundee Orchard Homes number one; thence south two hundred and twenty-three rods along the west line of Alder Street in Dundee Orchard Homes number one to a stake twenty feet south of the southeast corner of block sixty-four in Dundee Orchard Homes number one; thence east to southeast corner of the J. Shuck donation land claim; thence north three hundred and twenty rods to the place of beginning.

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of the city consistent with this charter and in force when it takes effect shall remain in effect until amended or repealed.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. EXISTING RIGHTS AND LIABILITIES CONTINUED. No right or liability of

the city shall be impaired or discharged by adoption of this charter, except as this charter otherwise provides.

Chapter II

POWERS

Section 5. POWERS OF THE CITY. The city shall have all the rights, powers, privileges, and immunities which the constitutions, statutes, and common law of the United States and of this state expressly or impliedly grant or allow municipalities, as fully as though this charter expressly stated each of those rights, powers, privileges, and immunities.

Section 5 a. MAXIMUM FINE AND IMPRISONMENT. The city council may provide for the punishment of a violation of any ordinance of the city by a fine not exceeding two hundred fifty dollars (\$250.00) or ninety (90) days imprisonment in jail or both, and for working any person sentenced to such imprisonment upon city projects during the term thereof, and to provide for the punishment of those who refuse to work when so ordered.

Section 6. ENUMERATION OF POWERS NOT EXCLUSIVE. In this charter no enumeration of or reference to particular right, powers privileges, or immunities shall be construed to be exclusive.

Section 7. EXERCISE OF POWER. The city's exercise of a right, power, privilege, or immunity, where not prescribed by the constitution or law, shall be in the manner prescribed in this charter, or, where not prescribed by constitution, law, or this charter, then in the manner prescribed by ordinance or resolution of the council.

Chapter III

FORM OF GOVERNMENT

Section 8. FORM OF GOVERNMENT. The government and powers of the city shall be vested in a council and mayor.

Section 9. COUNCIL. The council shall be composed of four councilmen elected at large. The term of office of each councilman in office when this charter is adopted shall continue until the beginning of the first odd-numbered year after that time. At the first biennial general election after this charter is adopted four councilmen shall be elected. Of the four, the two receiving the two highest numbers of votes shall each hold office for four years and the two remaining shall each hold office for two years. At each subsequent biennial general election two councilmen shall be elected, each for a term of four years.

Section 10. MAYOR. At each regular city election a mayor shall be elected. He shall serve a term of two years and until his successor is elected and qualified.

Section 11. OTHER OFFICERS. Additional officers of the city shall be a municipal judge, a recorder, a treasurer, a police chief, a fire chief, and such other officers whom the council deems necessary. These officers shall be appointed by the mayor with the approval of the council, and before taking office shall each give a bond for their faithful discharge of their duties to be approved by the council and in an amount which may be set by the council. The amount of the bond at any time may be increased by the order of the council. By resolution the council may combine any of these officers. By resolution the council may also provide that any person whom it designates may supervise any appointive officer except the municipal judge in the exercise of his judicial functions.

Section 12. QUALIFICATIONS OF OFFICERS. No person shall be eligible to an elective office in the city unless at the time of his election he is a qualified voter of the state and has resided within the city for one year immediately preceding his election.

Chapter IV

THE COUNCIL

Section 13. COUNCIL MEETINGS. The council shall provide a time and place for its regular meetings and adopt rules and regulations for the government of its members and proceedings. It shall meet regularly at least once each month. The mayor, either upon his own motion or upon the request of three or more members of the council, may call a special meeting of the council for any time by giving notice of the meeting to all members of the council then in the city. Special meetings of the council may also be held by common consent of all the members of the council.

Section 14. QUORUM. A majority of the members of the council shall constitute a quorum to do business, but a less number may meet and compel attendance of the absent members in a manner provided by ordinance. The mayor shall be deemed a councilman for the purpose of constituting a quorum.

Section 15. JOURNAL. The council shall keep a journal of its proceedings, and, upon the request of the mayor or one of its members, the ayes and nays upon a question before it shall be taken and a record of the vote entered in the journal.

Section 16. MEETINGS TO BE PUBLIC. The deliberations and proceedings of the council shall be public.

Section 17. MAYOR'S DUTIES AT COUNCIL MEETINGS. The mayor shall be the presiding officer of the council. He shall vote. He shall have authority to preserve order, enforce the rules of the council, and determine the order of business under the rules of the council.

Section 18. PRESIDENT OF THE COUNCIL. At its first meeting after the adoption of this charter and thereafter at its first meeting of each succeeding year the council by ballot shall elect a president from its membership. In the mayor's absence from a council meeting the president shall preside. Whenever the mayor is unable, on account of absence, illness, or other cause, to perform the functions of his office, the president of the council shall act as mayor.

Section 19. ABSENCE OF RECORDER. The mayor shall have the power to appoint a recorder in the absence of that person on account of illness, absence or other cause.

CHAPTER V

POWERS AND DUTIES OF CITY OFFICERS

Section 20. MAYOR. The mayor shall be the executive officer of the city and shall exercise a careful supervision over its general affairs. He shall appoint the committees provided for under the rules of the council or otherwise and by appointment shall fill all vacancies in committees of the council from that body. He shall sign all approved proceedings of the council, and countersign all orders on the city treasurer. He shall have no veto power, and shall sign all ordinances passed by the city council within three days after their passage. He shall sign all writings authorized by this charter, the laws of the state, or the council. He shall approve, with the consent of the council, all official bonds and bonds for licenses, contracts, and proposals. With the consent of the council he shall have power to remove or suspend any appointive officer or public employe of the city for any cause which he deems sufficient, and shall state the cause in the order of removal or suspension.

Section 21. MUNICIPAL JUDGE. The municipal judge shall be the judicial officer of the city. He shall hold within the city a court known as the municipal court for

the city of Dundee, Yamhill County, Oregon, Except on non-judicial days, the court shall be open for the transaction of judicial business, as prescribed by the laws of the state. The jurisdiction of the court shall be the city. The municipal judge shall exercise original and exclusive jurisdiction of all crimes and offenses defined and made punishable by an ordinance of the city, and of all actions brought to recover or enforce forfeitures of penalties defined or authorized by an ordinance of the city. The municipal judge shall have authority to issue process for the arrest of persons accused of an offense against the ordinances of the city, to commit such persons to jail or admit them to bail pending trial, to issue subpoenas, to compel witnesses to appear and testify before him on trial of any cause before him, to compel obedience to such subpoenas, to issue any process necessary to carry into effect the judgments of the municipal court, and to punish witnesses and others for contempt of the court. When not governed by ordinance 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. Trials in the municipal court of cases of violation of city ordinances shall be had without jury.

Section 22. RECORDER. The recorder shall be ex officio clerk of the council, attend all the meetings of the council, and keep an accurate record of its proceedings in a book provided for that purpose. In his absence from a council meeting the council shall appoint a clerk of the council pro tempore, who, while acting in that capacity, shall have all the authority of the recorder. The recorder shall countersign all writings authorized by this charter, the council, or the law of the state.

Chapter VI

ELECTIONS

Section 23. REGULAR CITY ELECTIONS. Regular city elections shall be held at the same time and places as general biennial elections for state and county officers. At each regular city election all elective officers to be elected at that time and all matters submitted to the electors at that time shall be voted upon.

Section 24. SPECIAL ELECTIONS. By resolution the council may call and provide for special elections.

Section 25. NOTICE OF ELECTIONS. The recorder, under the direction of the council, shall give at least ten days' notice of each city election by posting the notice in three public places in each precinct in the city or by publishing the notice twice in a newspaper of general circulation in the city. The notice shall state the officers to be elected at the election, the measures to be voted on at the election, and the time and places of election.

Section 26. QUALIFICATIONS OF ELECTORS. Every legal voter of the state who has been a resident of the city for ninety days immediately preceding the election shall be entitled to vote at a city election.

Section 27. CANVASS OF ELECTION RETURNS. By noon of the day following a city election the returns of the election shall be filed with the recorder, and within ten days after the election the recorder and at least one member of the council shall meet and canvass the returns. In all elections held in conjunction with state and county elections the state law governing the filing and canvassing of returns shall apply. The results of each election shall be entered in the journal of the council. The recorder shall state the number of votes cast for and against each measure, the names of the officers elected, and the measures enacted or approved. The votes shall be resolved by lot wherever necessary.

Section 28. CERTIFICATE OF ELECTION. Immediately after completion of the canvass

the recorder shall issue a certificate of election to each person elected. The certificate shall be prima facie evidence of the facts which it states, but the council shall be the final judge of the qualifications and election of its own members, subject, however, to review by a court of competent jurisdiction. Contested elections shall be determined according to the state law regulating proceedings in contested elections of county officers.

Section 29. COMMENCEMENT OF TERMS OF OFFICE. The term of each elective officer chosen at a regular city election shall commence at the time of the first regular meeting in January immediately following the election. In case of an election or appointment to fill a vacancy in an office, the person elected or appointed shall enter upon his office immediately.

Section 30. OATH OF OFFICE. Every officer, upon entering office, shall take or file with the recorder an oath or affirmation that he will support the constitution and laws of the United States and of this state and the charter and ordinances of the city of Dundee, and that he will perform the duties of his office to the best of his ability.

Section 31. NOMINATIONS. The council shall provide by ordinance the mode for nominating elective officers.

Chapter VII

VACANCIES IN OFFICE

Section 32. WHEN OFFICE IS VACANT. An officer shall be deemed vacant when the incumbent dies, is adjudged insane, is convicted of a felony, resigns, moves from the city, is absent from the city for a period of thirty days without the consent of the council, ceases to possess the qualifications necessary for the office, or when the person elected or appointed fails to qualify therefor on or before the day his term of office commences. In addition to the above causes, the office of mayor or councilman shall be deemed vacant if the incumbent has been absent from council meetings for a period of sixty days without the consent of the council.

Section 33. FILLING OF VACANCIES. Vacancies in office shall be filled by appointment of the council, and the appointee shall serve the unexpired term of his predecessor. Within twenty-four hours after his appointment an officer appointed to fill a vacancy must qualify for the office as in case of an officer elected, and in case he fails to qualify so, he shall be deemed to have declined the office and the office shall be deemed vacant.

Chapter VIII

ORDINANCES

Section 34. ENACTING CLAUSE. The enacting clause for all ordinances shall be, "The city of Dundee does ordain as follows."

Section 35. INTRODUCTION, READING, AND PASSAGE. Every ordinance shall be fully and distinctly read in open council meeting on two different days previous to being put upon its final passage, but any ordinance may be introduced, read twice, once in full and once by title, and put on its final passage at a single meeting by a unanimous vote of all members of the council present at the meeting. Upon the final vote the ayes and nays of the members of the council shall be taken and recorded in the journal. If the ordinance passes, the recorder shall so endorse it, with the date and his name and title of office, and the mayor shall within three days thereafter sign the ordinance with the date, his name, and the title of this office.

Section 36. WHEN ORDINANCES TAKE EFFECT. Each ordinance passed by the council

shall take effect on the thirtieth day after it has been signed by the mayor, but when the council desires, or in case of an emergency, an ordinance may provide a different time when it is to take effect, or that it is to take effect immediately.

Chapter IX

PUBLIC IMPROVEMENTS

Section 37. CONDEMNATION. The city shall have power to acquire by purchase, gift, devise, or condemnation any property either within or without its corporate boundaries for any municipal purpose, for the purpose of protecting, preserving, or facilitating any improvement, for the purpose of bringing about such development of property along or in the vicinity of an improvement as will make the development harmonious with and adjusted to the improvement, or for any combination of such purposes. The city shall also have power to acquire by condemnation property in excess of that needed for the actual improvement and to sell or lease the excess with such building and use restrictions and conditions as will tend to make its development harmonious with and adjusted to adjacent public improvements. The city shall have power to provide for the payment of any part or all of the cost of land or other property acquired for public use, of the cost of constructing, reconstructing, repairing, operating, or maintaining any structure or work in the nature of a public facility or improvement, including a public utility, and of the cost of any other public work or service by levying and collecting assessments upon the property specially benefited thereby.

Section 38. 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 ordinance or the applicable general laws of Oregon in the absence of ordinance. The council may assess upon the abutting, adjacent and contiguous or other specially benefited lots or lands within the city all or any part of the entire cost and expenses connected with any improvement or service which the council may declare conducive to the public health, convenience or general welfare, by any of the following methods:

1. By a percentage of the tax value of the property assessed.
2. In proportion to the benefits which may result from the improvement.
3. By the front foot of the property bounding and abutting upon the improvement.
4. By any other method now or hereafter declared legal by the laws of Oregon.

Section 39. BIDS FOR PUBLIC IMPROVEMENTS. The procedure for supplying water, making street, sidewalk, sewer, and any other public improvements and for vacating, altering, or abandoning streets and other public improvements shall be governed by ordinance or the applicable general laws of Oregon in the absence of ordinances.

Chapter X

MISCELLANEOUS PROVISIONS

Section 40. DEBT LIMIT. Except by consent of the voters, the city's voluntary floating indebtedness shall not exceed \$7,500.00 nor its bonded indebtedness \$7,500.00 at any one time; and the council may borrow money for the use and pledge the credit of the city, or both; and may provide for the issuance of bonds of the city and designate the manner and time of payment thereof, and the interest thereon within the limits of law and as above stipulated. For 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. All city officials and employees who create or officially approve any indebtedness in excess of these limitations shall be jointly and severally liable for the excess.

Section 41. DAMAGE SUITS. The city shall in no event be liable in damages for an injury to person or property caused by a defect or dangerous place in a sidewalk, crosswalk, street, alley, sewer, public ground, public building, drain, gutter, ditch, or way, unless prior to the injury the city has written notice of the defect or dangerous place, and a reasonable time after the notice in which to remove or repair the defect or dangerous place. In no case shall more than \$100 be recovered as damages from the city for such an accident or injury.

No action shall be maintained against the city for damages growing out of such an accident or injury unless the claimant within thirty days after sustaining the injury or damages gives to the council written notice stating:

- (1) When, where, and the circumstances under which the accident or injury occurred;
- (2) His claim for compensation for the injury or damages; and
- (3) The amount of compensation of relief demanded.

The city shall not be liable for the injury or damage until thirty days have elapsed after the presentation of the notice to the council.

Section 42. WATER. The council shall have the authority to provide water for the city, and to this end may make all necessary contracts in the manner and form said council deems expedient.

Section 43. REPEAL OF PREVIOUSLY ENACTED PROVISIONS. All charter provisions and charter amendments of the city enacted prior to the time that this charter takes effect are hereby repealed.

Section 44. CONSTITUTIONALITY. Should any part, provision, or section of this charter be invalid or unconstitutional for any reason, it is hereby expressly provided that all other parts, provisions and sections hereof shall not be deemed affected thereby, nor the validity thereof impaired.

Section 45. EMERGENCY CLAUSE. In order to better preserve the public health, safety and general welfare of the citizens of Dundee, Oregon, an emergency is hereby declared to exist, and this charter shall be in full force and effect immediately upon its approval by the qualified voters of the city at an election called for that purpose held upon the 26th day of July, 1949.

2. The city hall in the Town of Dundee is hereby designated as the polling place for the special election and the following named persons are hereby designated and appointed as and for the judges and clerks of said election: _____

_____, Judges,

_____, Clerks. The following shall be the form of

the ballot title of said proposed charter:

101 CHARTER SUBMITTED TO THE VOTERS BY THE COUNCIL

An Act

Enacting a new charter for the Town of Dundee and repealing all former charters of the Town of Dundee and providing for an increase to \$7,500.00 the amount of voluntary floating indebtedness that the town may incur; providing for the appointment of a Municipal Judge, Recorder, Treasurer, Police Chief and a Fire Chief; to increase the maximum fine and penalty that may be imposed for violation of a municipal

ordinance to \$250.00 or ninety days imprisonment; and a general modernizing of the Charter of the Town of Dundee.

101 Charter _____ YES

102 Charter _____ NO

3. The Recorder shall, in addition to the requirements now provided by Ordinance, give notice of this special election by posting a copy of this Ordinance in three conspicuous places in said town for at least twenty days preceeding said special election.

Passed by the Council this 15th day of June, 1949.

Approved by the Mayor this 22nd day of June, 1949.



Mayor.

A T T E S T



Recorder.