MODEL

League of Oregon Cities

Model Charter for Oregon Cities

NINTH EDITION

December 2025

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FOREWORD

This is the Ninth Edition of the Model Charter for Oregon Cities. It is the fourth published by the League of Oregon Cities. The 2025 version contains two primary amendments in response to recent litigation trends. The first is clarification on what constitutes a quorum when filling vacant council positions.[1] The second is amending language relating to the removal of a council member for coercing or attempting to coerce the city manager in certain administrative decisions.[2] Both updates are in direct response to lawsuits filed against cities in recent years that challenged similar provisions in the charters subject to the litigation.

Previous minor updates were made in consultation with the NCL Model City Charter, Ninth Edition (2021).[3] Previous versions were published by the Bureau of Governmental Research and Service at the University of Oregon.[4]

The purpose of the Model Charter is to serve as a guide for charter drafting by city officials and citizens by providing a foundation for meeting different needs and policy choices about city government structure. It is not intended for submission to community voters without discussion. Each city that undertakes charter revision or the preparation of a new charter must consider provisions and procedures that best serve its unique community.

The format continues as one document. All models prior to 1988 had two separate versions: one for the mayor-council form of government and one for the council-manager form of government. Language for the council-manager form is now presented in the text. Except for the city manager Section 8.1, this model is useful for cities without a city manager. Alternative mayor-council language is included in the footnotes. Additionally, the National Civic League (NCL) Model City Charter, Ninth Edition (2021), provides for options for mayor-council cities in Appendix A.

[1] *See* Section 7.9.

[2] Further discussion on this provision may be found in the fn on page 12 below.

[3] https://www.nationalcivicleague.org/wp-content/uploads/2021/12/Model-City-Charter—9th-Edition.pdf.

[4] The first Oregon Model Charter was published in 1947. Revisions were published in 1951, 1959, 1967, 1988, 2004, and 2018.

PREAMBLE

We, the voters of _____, Oregon exercise our power to the fullest extent possible under the Oregon Constitution and laws of the state and enact this Home Rule Charter.[5]

Section I
NAMES AND BOUNDARIES

Section 1.1. Titles. This charter may be referred to as the 20__ _____ Charter.[6]

Section 1.2. Names. The City of _____, Oregon, continues[7] as a municipal corporation with the name City of _____.[8]

Section 1.3. Boundaries. The city includes all territory within its boundaries as they now exist or are legally modified. The city will maintain as a public record an accurate and current description of the boundaries.

Section II
POWERS

Section 2.1. Powers. The city has all powers that the constitutions, statutes, and common law of the United States and Oregon expressly or impliedly grant[9] or allow[10] the city, as fully as though this charter specifically enumerated each of those powers.[11]

Section 2.2. Construction. The charter will be liberally construed[12] so that the city may exercise fully all powers possible under this charter and under United States and Oregon law. The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention

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[5] This uses the "voters" language of Article XI, Section 2 of the Oregon Constitution and makes clear the intent to use all the home rule power.

[6] Insert the year the charter is adopted and the city name. For convenience, this may be used as the charter's short title.

[7] The continuity of a city's existence is not broken by the adoption of a new charter.

[8] If this section changes the name of the city, it may read: "The municipal corporation previously known as the City of _____ continues under this charter as a municipal corporation with the name 'City of _____.'"

[9] The city home rule amendments to the Oregon Constitution reserve powers to city voters. Oregon Constitution, Article XI, Section 2 (1906, 1910). The Oregon Supreme Court has said that the amendments are a "continuous offer" of "all powers properly belonging to municipal government." *Robertson v. City of Portland*, 77 Or 121, 127 (1915). The offer is conditional. City voters may accept the offer by adopting charter terms. This general grant of power accepts the offer completely.

[10] The US Constitution does not mention cities but does not restrict city actions. The Oregon Constitution imposes some restrictions but also authorizes city actions. Federal and state statutes impose many requirements and restrictions on cities but still authorize or allow them a wide range of action. "Allow" in this section is intended to provide a basis for city authority to act even though the city cannot identify clear statutory authority for the city action. It assumes the authority is municipal in nature and not prohibited by federal or state law.

[11] Appendix A discusses the legal basis for general grants of authority.

[12] This requirement that the charter be liberally construed is intended to negate the effect of a rule of strict construction of city charters known as Dillon's Rule.

of particular powers in the charter shall not be construed as limiting in any way the general power granted in this article.[13] This Charter's interpretation shall be examined in its entirety.

Section 2.3. Distribution. The Oregon Constitution reserves initiative and referendum powers as to all municipal legislation to city voters.[14] This charter vests all other city powers in the council except as the charter otherwise provides. The council has legislative, administrative, and quasi-judicial 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.[15]

Section III
CITY COUNCIL

Section 3.1. General Powers and Duties. All powers of the city shall be vested in the city council, except as otherwise provided by law or this charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.[16]

Section 3.2. Council. The council consists of a mayor[17] and six councilors[18] nominated and elected from the city at large.[19]

Section 3.3. Mayor. The mayor presides over and facilitates council meetings, preserves order,

[13] This clause encourages courts to interpret the powers of the city as broadly as possible and discourages restrictive interpretations of general powers statement in § 2.1. If the charter enumerates powers, this section may prevent courts from interpreting the list of specific powers as evidencing intent to exclude other or broader powers.

[14] Oregon Constitution, Article IV, Section 1, Subsection (5).

[15] While part of federal and state government structures, separation of powers is rarely found in cities. The council has powers analogous to those of the three branches of the federal government and the three departments of the Oregon government. The context, substance and form of council decisions determine the nature of the power exercised. Only the council may adopt ordinances and exercise its legislative authority. Only its legislative authority is subject to voter initiative and referendum. The council may, by ordinance, delegate its administrative and quasi-judicial authority.

[16] An enumeration of specific powers in this article will not enlarge the powers of the council and may operate to diminish them if utilized by the courts in a restrictive interpretation.

[17] Although some charters provide that the mayor is not a member of the council, this model recommends that the council include the mayor as a member. This means that the mayor participates in and votes on matters before the council as do other council members. Section 3.3 states that the mayor is a voting member of the council. If the mayor is not to have a council vote, then section 3.2 should state that the council consists of a specified number of councilors elected from the city at large.

[18] Some Oregon cities have five-member councils. If the council is to have five members, "six" needs to be changed to "four." A city may want a larger council of nine members or more. If so, "six" needs to be changed accordingly. NCL Model Charter suggests council composition to range from five to nine members, with larger cities contemplating additional members to assure equitable representation. Cities with significant differences in/conflicts among ethnic, racial, or economic groups should consider which equitable representation of city's population to promote sound governance and avoid legal challenges under the Federal Voting Rights Act.

[19] Most Oregon cities nominate and elect councilors at large. Some nominate and elect councilors by district or ward. A third option is to nominate by district and elect at large. If there are districts, then the district boundaries must be specified. The most efficient way of doing this is by ordinance. For that purpose, this section could read: "The council consists of a mayor nominated and elected at large, and six councilors nominated and elected by districts with the boundaries fixed by ordinance." District boundaries must be periodically adjusted to meet equal protection requirements. Most charters that provide for election of councilors by district also require as a qualification that each councilor reside in the district the councilor represents and continue to so reside for the term of office.

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.[20]

a) With the consent of the council, the mayor appoints members of commissions and committees established by ordinance or resolution.

b) The mayor must sign all records of council decisions.[21]

c) The mayor serves as the political head of the city government but shall have no administrative duties.[22]

Section 3.4. 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 3.5. Rules. The council must by resolution adopt rules to govern its meetings.[23, 24]

Section 3.6. 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 and laws of the state of Oregon.

Section 3.7. Quorum. Except as specifically addressed here and in Section 7.9, a majority of the council members is a quorum to conduct business.[25] In the event of an absence, a smaller number may meet and compel attendance of absent members as prescribed by council rules.[26] In the event of a vacancy due to resignation or other events, the quorum is reduced accordingly solely for the purpose to make necessary appointment(s) to reach the required quorum as outlined in Section 7.9.[27]

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[20] Some charters permit the mayor to vote only to break a tie. If the mayor's vote is to be so limited, this section needs to be changed accordingly.

[21] The council may assign by ordinance or council rules additional duties to the mayor for authenticating ordinances, resolutions, orders, and other council documents.

[22] This section adds facilitator and political leader to enhance the role of the mayor. It makes specific the apparent and inherent authority of the office of mayor. It also parallels the administrative authority of city manager in Section 8.1. It follows the example of the National Civic League (NCL) Model Charter (2011), Eighth Edition, and the NCL Model Charter (2021), Ninth Edition.

[23] Council meetings must comply with the requirements of the Oregon Public Meetings Law. ORS 192.610 –192.710. Council rules should be considered administrative and adopted by resolution. They are easier to keep updated and less formal than if adopted by ordinance. Also, they are not subject to initiative and referendum.

[24] The League has published a set of Model Rules of Procedure for Council Meetings available at: https://www.orcities.org/download_file/604/1852.

[25] A majority is more than half of the council. For a seven-member council, a quorum is four or more.

[26] For example, council rules may state that the members present may order a city police officer to find and bring an absent member to the meeting. The rules may also provide a penalty for the absent member.

[27] This language is an example of a voting requirement that is separate from the quorum requirement and is important if the charter is judicially examined for governance purposes. The purpose of this separate voting requirement is to prescribe a process that addresses the scenario of when a council has insufficient council members to support council operations and to avoid judicial adjudication and/or county intervention.

Section 3.8. Vote Required. The express[28] approval of a majority of a quorum of the council is necessary for any council decision,[29] except when this charter requires approval by a majority of the council.[30] The voting requirement to fill council member vacancies, if there is less than a majority of council member remaining, is separate from the quorum requirement required to conduct all remaining city business unless otherwise stated.

Section 3.9. Record. A record of council meetings must be kept in a manner prescribed by the council rules and the laws of the state of Oregon.[31]

Section IV
LEGISLATIVE AUTHORITY[32]

Section 4.1. Ordinances. The council will exercise its legislative authority by adopting ordinances. The enacting clause for all ordinances must state "The City of _____ ordains as follows:"

Section 4.2. Ordinance Adoption.

a) Except as authorized by subsection (b), adoption of an ordinance requires approval by a majority of the council at two meetings.[33]

b) The council may adopt an ordinance at a single meeting by the unanimous approval of at least a

[28] "Express" is used here to clarify the effect of abstention from voting. At common law abstention from voting was regarded as concurrence with the decision. Thus, the concurrence could be either affirmative or negative depending on how the majority voted on a decision. "Express" is intended to make clear that an abstention from voting on a question may not contribute to answering the question affirmatively—it amounts to a "no" vote. Use of the word "express" means that no vote less than a majority of a quorum may decide affirmatively a question before the council.

[29] A "decision" is any action taken by council vote. This includes votes on formal documents such as ordinances, resolutions, orders and contracts. It also includes votes to direct city staff, and other questions and motions before the council. Unless the charter provides otherwise, the council may act affirmatively through less than a majority of its positions. A seven-member council thus may act through three councilors; its quorum is four. A five-member council may so act through two members; its quorum is three. A question may be decided negatively by fewer councilors than required to decide it affirmatively. For example, a 2 to 2 vote or a 2 to 1 vote when the quorum is four councilors, and one councilor is absent.

[30] Some charter sections require a vote of a majority of the council to make certain decisions. In this model, they are Sections 4.2(a), 7.9, 8.1(b)(d), 8.2 and 8.3(a). Section 4.2(b) requires a unanimous vote of at least a council quorum to adopt an ordinance at one meeting.

[31] The Oregon Public Meetings Law, ORS 192.650 *et seq.*, requires cities to provide for sound, video, digital recording or the taking of written minutes. This section provides an independent requirement for council records and authorizes the council to adopt requirements in addition to those of state law.

[32] The most significant power granted to cities is the authority to adopt legislation. Legislation is local law that applies throughout a city. Legislative authority is properly exercised in the form of ordinances. City charters traditionally prescribe specific requirements for adoption of ordinances, and no provisions for approval of resolutions (administrative) or orders (quasi-judicial). Only using ordinances for legislation and using other forms for non-legislative decisions makes clear which council actions are subject to referendum. Oregon Constitution, Article IV, Section 1(5) gives voters initiative and referendum powers over "municipal legislation."

[33] Under Section 3.7, the majority of the council membership must be present at the time a decision is made. If there is one or more unfilled council vacancy, the majority is calculated on the temporarily diminished membership. However, action by a majority of a quorum (e.g., three votes when quorum of four is present) is insufficient to enact an ordinance under this section. *See* fn 31 above.

quorum of the council,[34] 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 4.3. Effective Date of Ordinances. Ordinances normally take effect thirty days 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 thirty days after adoption if it contains an emergency clause.[35]

Section V
ADMINISTRATIVE AUTHORITY[36]

Section 5.1. Resolutions. The council will normally exercise its administrative authority by approving resolutions.[37] The approving clause for resolutions may state "The City of _____ resolves as follows:"

Section 5.2. Resolution Approval.

a) Approval of a resolution or any other council administrative decision requires approval by the

[34] This section requires the presence of at least four councilors and a unanimous vote to adopt an ordinance at one meeting when there is a seven-member council. The presence of three councilors and a unanimous vote is required when the council has five members.

[35] Ordinances containing an emergency clause take effect immediately and are not subject to referendum. Legislation may not take effect when it is subject to referendum. Procedures for city initiative and referendum are found in ORS 250.255 to 250.355 and city ordinances. Emergency clauses are legislative and not subject to judicial review. *Kadderly v. City of Portland*, 44 Or 118 (1904). City use of an emergency clause preventing a referendum on the ordinance is not subject to federal court review as a violation of civil rights. *Stone v. City of Prescott*, 173 F3d 1172 (9th Cir 1999).

[36] Councils formally exercise their administrative authority in the form of resolutions. Administrative decisions normally implement requirements of city ordinances and state statutes. Examples include city budgets, budget amendments, financial transfers, public contracts, fees and charges, council rules, and city personnel rules. Administrative decisions often are "internal" and relate to the city government. City charters traditionally prescribe specific requirements for adoption of ordinances (legislative) and include no provisions for approval of resolutions (administrative). This model suggests that charters specifically recognize council resolutions as the proper form for the exercise of its administrative authority. Use of this form for non-legislative decisions makes clear which council actions are subject to referendum. Oregon Constitution, Article IV, Section 1(5) gives voters initiative and referendum powers over "municipal legislation", but not municipal administration.

[37] The preferred method for the council to exercise its administrative authority is by resolution. However, "normally" is used in this sentence to allow the council to approve contracts and other documents, give direction to the city manager, city attorney, and city employees, and make other administrative decisions by approving a motion without adopting a resolution.

council at one meeting.[38]

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.

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 5.3. 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.[39]

Section VI
QUASI-JUDICIAL AUTHORITY[40]

Section 6.1. Orders. The council will normally exercise its quasi-judicial authority by approving orders. The approving clause for orders may state "The City of _____ orders as follows:"

Section 6.2. Order Approval.

a) Approval of an order or any other council quasi-judicial decision requires approval by the council at one meeting.[41]

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.

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[38] Under Section 3.7, the majority of the council membership must be present at the time a decision is made. If there is one or more unfilled council vacancy, the majority is of the temporarily diminished membership. Action by a majority of a quorum (e.g. three votes when quorum of four is present) is sufficient to approve a resolution under this section. *See* fn 26 above.

[39] ORS 221.310(3) applies to cities of 2,000 or more. It provides that a resolution may take effect any time after passage by the city council. The resolution must state the resolution effective date in a separate section.

[40] Quasi-judicial authority is normally exercised in the form of orders. Under this authority, the council holds hearings and is required to make decisions. The most common examples are land use matters and nuisance proceedings. City charters traditionally prescribe specific requirements for adoption of ordinances (legislative) and include no provisions for adoption of orders (quasi-judicial). This model suggests that charters specifically recognize council orders as the proper form for the exercise of quasi-judicial authority. Use of this form for non-legislative decisions helps make clear which council actions are subject to referendum. Oregon Constitution, Article IV, Section 1(5) gives voters initiative and referendum powers over "municipal legislation," but not municipal quasi-judicial decisions.

[41] Under Section 3.7, the majority of the council membership must be present at the time a decision is made. If there is one or more unfilled council vacancy, the majority is of the temporarily diminished membership. Action by a majority of a quorum (e.g. three votes when quorum of four is present) is sufficient to approve an order under this section. *See* fn 28 above.

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 6.3. 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.

Section VII
ELECTIONS

Section 7.1. Councilors. The term of a councilor in office when this charter is adopted is the term for which the councilor was elected.[42] At each general election after the adoption, three councilors will be elected[43] for four-year terms.[44]

Section 7.2. 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 every other general election after the adoption, a mayor will be elected for a four-year term.[45]

Section 7.3. 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.[46]

Section 7.4. 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.[47]

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

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[42] This sentence anticipates the charter vote at a primary or special election. If the charter vote is at a general election, the words "or is elected at the time of adoption" should be added.

[43] Oregon Constitution, Article II, Section 14a requires cities to hold their regular elections for officers at the same time as the general biennial elections for state and county officers are held. ORS 254.035 implements this provision. ORS 254.056 states that general elections are held on the first Tuesday after the first Monday in November of even-numbered years. It further states that primary elections may be held on the third Tuesday in May of even-numbered years.

[44] This language assumes that adoption of the charter will not affect the council size or terms of office. It does provide a transition from the city government before charter adoption to the city government under the charter.

[45] A four-year term for the mayor 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. It may also be necessary to change "first" to "second" in the first sentence. A mayor elected to a four-year term when this charter provision is adopted would serve until the beginning of the second odd-numbered year after adoption. If the mayor is to have a two-year term, the second sentence of this section needs to be changed. The mayor is appointed from the council by the councilors under the Incorporation Act, ORS 221.130. If this is to continue under the charter, then the second sentence of Section 7.2 needs to be replaced by the sentence: "At the first meeting of the council in each odd-numbered year, the council must appoint one of its members to serve as mayor for a term of two years." If the mayor is appointed from the council, the council should have an odd number of members, and Section 3.1 should be changed.

[46] The last sentence of this section makes specific the Oregon tradition that local government elections are non-partisan. This provision is included in the county model home rule charter and county charters. It is also consistent with the NCL Model Charter (2011), Eighth Edition, and Ninth Edition (2021).

[47] Courts have consistently invalidated residency qualifications of more than 12 months.

c) Neither the mayor nor a councilor may be employed by the city.[48]

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

Section 7.5. 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.[49]

Section 7.6. 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.[50]

Section 7.7. 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 7.8. Vacancies. The mayor or a council office becomes vacant:

a) Upon the incumbent's:

    1) Death;

    2) Adjudicated incompetence;[51] or

    3) Recall from the office.[52]

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;[53]

[48] This prohibition is intended to avoid certain conflicts of interest in city service. It bars full-time or part-time employees from serving as mayor or councilor. It does not, however, prevent the mayor or a councilor from receiving reimbursement of expenses for services.
[49] This model charter does not prescribe a nominating procedure. It allows flexibility by requiring that an ordinance govern the nominating process.
[50] These words allow for a successor to be appointed as well as elected and require that the successor meet the necessary qualifications for the office at the time of election or appointment. Some charters have provisions limiting the number of terms or years that a citizen may serve in an elected office. NLC Model Charter does not restrict reelection to subsequent terms as it restricts the voters' opportunity to keep in office council members of whom they approve.
[51] "Adjudicated incompetence" means inability or unfitness to manage one's affairs because of mental condition determined in a court proceeding.
[52] Recall of elective officers is governed by Oregon Constitution, Article II, Section 18 and ORS 249.865 to ORS 249.877.
[53] Section 7.4 requires each member to be a qualified voter and resident of the city. Under Section 7.8(b)(3)(4), moving outside the city or allowing voter registration to lapse permits the council to declare a council position vacant.

4) Ceasing to be a qualified elector under state law;

5) Conviction of a misdemeanor or felony crime; or

6) Resignation from the office.

Section 7.9. Filling Vacancies. A mayor or councilor vacancy shall be filled by appointment by a majority of the remaining council members.[54] Notwithstanding the quorum requirement set forth in Section 3.7, if at any time council membership is reduced to less than ____[*insert number based on total council membership required for majority*], the remaining members may, by majority action, appoint additional members to raise the membership to _____ [*insert majority council number*].[55] As little as a single council member may constitute a majority for purposes of filling vacant council seat(s), if all other council seats are vacant. 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 absent from the city, a majority of the council may appoint a councilor pro tem.[56]

Section VIII
APPOINTIVE OFFICERS

Section 8.1. City Manager.

a) The office of city manager is established as the administrative head of the city government.[57] The city manager is responsible to the mayor and council for the proper administration of all city business. The city manager will assist the mayor and council in the development of city policies and carry out policies established by ordinances and resolutions.[58]

b) A majority of the council must appoint and may remove the manager. The appointment must be made without regard to political considerations and solely on the basis of education and experience in competencies and practices of local government management.[59]

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[54] Normally a single vacancy is filled at one time. This section permits the council to fill multiple vacancies at the same time. Most vacancies are created in positions filled by election. However, this section also applies to appointments to fill vacancies created in positions previously filled by an appointee to the council.

[55] The clause provides clear voting/quorum requirement for filling vacancies by council action if the membership falls below the quorum otherwise required for council action as set forth in Section 3.7.

[56] A member's disability under this section is usually temporary. If the disability is permanent, it often results in the resignation of the disabled member. A permanent disability does not create a vacancy unless the member resigns. However, the council may appoint a pro tem councilor, and the appointment may continue until a successor to the disabled member is elected and takes office.

[57] The city manager exercises the administrative authority delegated by the city charter and the city council. The manager and the council both exercise administrative authority. Only the council may exercise legislative authority.

[58] This gives the manager a role in policy development consistent with the NCL Model Charter (2011), Eighth Edition and Ninth Edition (2021). It makes the manager responsible for carrying out city policy adopted by council resolution or ordinance.

[59] This Section adds more specific qualifications for city manager consistent with the NCL Model Charter (2011), Eighth Edition and Ninth Edition (2021).

c) The manager need not reside in the city.[60]

d) The manager may be appointed for a definite or an indefinite term and may be removed at any time by a majority of the council. The council must fill the office by appointment as soon as practicable after the vacancy occurs.

e) The manager must:

1) Attend all council meetings unless excused by the mayor or council;

2) Make reports and recommendations to the mayor and council about the needs of the city;

3) Administer and enforce all city ordinances, resolutions, franchises, leases, contracts, permits and other city decisions;

4) Appoint, supervise, and remove city employees; [61]

5) Organize city departments and administrative structure;

6) Prepare and administer the annual city budget;

7) Administer city utilities and property;

8) Encourage and support regional and intergovernmental cooperation;

9) Promote cooperation among the council, staff and citizens in developing city policies and building a sense of community; [62]

10) Perform other duties as directed by the council; and

11) Delegate duties but remain responsible for actions of all subordinates.

f) The manager has no authority over the council or over the judicial functions of the municipal judge. [63]

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[60] If the city wants the charter to require the manager to live in the city, the following may be added: "but must become and remain a resident of the city while manager." In the alternative, if a residency requirement is desired but is not practicable due to a housing shortage or other condition, the following may be added: "but must live within 30 miles of the city." Either requirement can be imposed more flexibly by ordinance or contract.

[61] Note that the manager appoints, supervises and removes city employees. The council appoints, supervises and removes city officers.

[62] Subsections (8) and (9) of this section add provisions that update the charter by recognizing the increasing importance of regional and intergovernmental issues, and the participatory nature of policy development. They are consistent with the NCL Model Charter (2011), Eighth Edition, and Ninth Edition (2021).

[63] Municipal judges have administrative duties incidental to their judicial functions such as record keeping and accounting for certain funds. These administrative duties may be supervised by the city manager.

g) The manager and other employees designated by the council may sit at council meetings but have no vote. The manager may take part in all council discussions.

h) When the manager is temporarily disabled from acting as manager or when the office of the manager becomes vacant, the council must appoint a manager pro tem. The manager pro tem has the authority and duties of manager, except that a pro tem manager may appoint or remove employees only with council approval.

i) In order to protect the fundamental form of government chosen by the voters, guard the power of the council as a body, defend against corruption, ensure transparency, and preserve the separation of authority set forth in this Charter between the manager's administrative authority and the council's general powers, no council member may actually coerce or attempt to coerce the manager or a candidate for the office of manager in the appointment or removal of any city employee, or in administrative decisions regarding city property or contracts. A violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing. This prohibition does not apply in publicly noticed meetings, including but not limited to council or committee meetings, executive sessions, and work sessions. [64]

Section 8.2. City Attorney. The office of city attorney is established as the chief legal officer of the city government. A majority of the council must appoint and may remove the attorney. The attorney may appoint, supervise, and may remove any employees who work in and for the city attorney's office.[65]

Section 8.3. 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.

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[64] As noted in the Foreword, this language has been modified from previous versions of this model charter in response to recent litigation. A city should consult legal counsel prior to removing a council member from office for violating this provision in light of the decision in *Ellis v. City of Corvallis*, No 6:24-cv-00205-AA(D Or Jan 10, 2025), which involved a charter provision on this subject, albeit with significant differences in language. This provision has effects beyond removal from office, however. In *Still v. Benton*, 251 Or 463(1968), the court found that the mayor did not act within the scope of his authority when he pressured the manager to discharge the police chief, in violation of a similar charter provision. As a result, the court awarded the police chief punitive, as well as general damages. Lastly, it should be noted that inclusion of this provision does not affect the ability of a council member to obtain information from the manager or other city employees. Council members have at least as much right to public records as other members of the public under the Oregon Public Records Law, ORS 192.405 to 192.505.

[65] If a city attorney office is established by the charter, it is independent of the wishes of the council or manager. This language places office employees under the supervision of the attorney rather than the manager. The charter could establish the office and provide for appointment by the manager. If not created by charter, the city attorney office may be created by ordinance. The ordinance may provide for city attorney appointment by the council or manager. Attorney duties may be assigned by ordinance and contract.

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.[66]

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.[67]

Section IX
PERSONNEL

Section 9.1. Compensation. The council must authorize the compensation of city officers and employees as part of its approval of the annual city budget.[68]

[66] ORS 221.339 gives municipal courts jurisdiction over violations and misdemeanors committed or triable in the city. Municipal courts do not have jurisdiction over felonies or designated drug-related misdemeanors as defined in ORS 423.478. The section provides that jurisdiction over misdemeanors may be limited by city ordinance.
[67] ORS 51.035.
[68] ORS 294.388(5) requires that the budget list the salary for each officer and employee. If councilors are to receive no compensation for their services to the city, the following may be added to this section: "However, no councilor may receive compensation for serving in that capacity." This prohibition does not prevent reimbursement for expenses.

Section 9.2. Merit Systems. The council[69] by resolution will determine the rules governing recruitment, selection, promotion, transfer, demotion, suspension, layoff, and dismissal of city employees based on merit and fitness.[70]

Section X
PUBLIC IMPROVEMENTS

Section 10.1. Procedure. The council may by ordinance provide for procedures governing the making, altering, vacating, or abandoning of a public improvement.[71] 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 10.2. 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.

Section XI
MISCELLANEOUS PROVISIONS

Section 11.1. Debt. City indebtedness may not exceed debt limits imposed by state law.[72] A charter amendment is not required to authorize city indebtedness.

Section 11.2. Ordinance Continuation. All ordinances consistent with this charter in force when it takes effect remain in effect until amended or repealed.

Section 11.3. Repeal. All charter provisions adopted before this charter takes effect are repealed.[73]

Section 11.4. Severability. The terms of this charter are severable. If any provision is held invalid by a court, the invalidity does not affect any other part of the charter.

Section 11.5. Time of Effect. This charter takes effect _____, 20___.

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[69] If there is a city manager, the manager may be substituted for the council. Rules adopted by the manager may be made subject to council approval. The council may also delegate authority to the city manager or city administrator to adopt rules.

[70] "Merit and fitness" allows wide discretion in the interpretation and application of personnel rules and practices.

[71] Few procedures applicable to cities appear in state statute. ORS 223.387 to ORS 223.401 apply to assessments for local improvements. ORS 223.805 to ORS 223.845 relate to city motor vehicle parking facilities. ORS 271.080 to ORS 271.230 apply to vacation of certain public property.

[72] Bancroft bonds may not "exceed .03 of the latest true cash valuation of the city." ORS 223.295(1).

[73] It may be necessary to continue unusual charter provisions such as bond approvals, special levies or annexations.

APPENDIX A

GENERAL GRANTS OF POWER

The first version of the Model Charter for Oregon Cities was published in 1947. It was drafted to confer powers on cities in general terms rather than by a detailed enumeration of specific powers. All subsequent revisions have continued this practice.

Since about 1910, a city charter has been viewed as a city constitution. For this reason, city powers have generally been stated in general, comprehensive terms. The charter should deal only with the basic, broad fundamentals of city government. The charter should be as concise as possible, and adaptable to changing conditions to avoid the need for frequent amendment.

Most Oregon cities have charters that grant authority for their activities under general grants of powers. In 1934, Huntington adopted a general powers charter quite similar to the 1947 model charter. Since then, almost all Oregon cities have adopted charters that resemble this model.

The Oregon Incorporation Act (now ORS 224.010-221.100) provides that cities without a home rule charter have comprehensive power and need no grants of specific powers.

A general grant of power allows a city to assume extraterritorial powers granted by statute and conditioned upon the existence of charter authority. ORS 225.020 authorizes a city to own and operate utilities outside city limits if its charter allows it such power. *Kassel v. City of Salem*, construes this section and states that Salem's charter "accepts this offer [of extramural powers] in broad terms." 34 Or App 739 (1978). These broad terms were more specific than the general grant of powers in the model. No city with a general grant has been challenged in its exercise of the power offered by ORS 225.020.

Constitutional Grants in General Terms

The 1906 home rule amendments to the Oregon Constitution empower "the legal voters of every city * * * to enact and amend their municipal charter, subject to the Constitution and criminal laws of the State."[a] They also empower "the qualified voters of each municipality" to exercise the powers of initiative and referendum "as to all local, special and municipal legislation of every character in or for their municipality[.]"[b] These grants of power are general in terms.

Specific Power Derived from General Grants

Courts have often held that a general grant of power confers a particular power not specified in the grant. Such specific powers include the following:

1) To regulate amusement devices.[c]

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[a] Or. Const. Art. XI, Section 2.
[b] Or. Const. Art. IV, Section 1a (1906), Section 1(5) (1968).
[c] *Terry v. City of Portland*, 204 Or 478 (1955); 33 Or Op Atty Gen 174 (1967).

2) To levy special assessments.[d]
3) To develop a program of free parking using tax revenues.[e]
4) To govern labor relations with public employees.[f]
5) To license certain businesses or occupations.[g]
6) To levy license taxes for revenue.[h]
7) To provide police protection.[i]
8) To control disposal of refuse.[j]
9) To regulate the storage of gasoline and kerosene.[k]
10) To control streets.[l]
11) To levy taxes in the form of licenses.[m]
12) To adopt taxes on sales and incomes.[n]
13) To supply water.[o]
14) To impose registration and license fees.[p]
15) To impose fees and regulatory requirements on telecommunications providers.[q]

[d] *Paget v. City of Pendleton*, 219 Or 253 (1959).
[e] *Jarvill v. City of Eugene*, 289 Or 157 (1980), *US cert den*, 449 US 1013 (1980). Although the majority opinion in this case relies on a specific grant of power stemming from a 1973 amendment to the Eugene city charter, this charter has been repealed. At the court of appeals level, the majority opinion relied on the general grant of power in the 1976 revised city charter to explain the city's ability to levy taxes. "In those cases, it was held that a general grant of powers in a city charter, like that contained in the Eugene charter, carries with it the power to impose revenue taxes." 40 Or App 185, 198-99 (1979).
[f] *Beaverton v. International Assoc. of Firefighters*, 20 Or App 293 (1975).
[g] *Davidson Baking Co. v. Jenkins,* 216 Or 51 (1959).
[h] *City of Idanha v. Consumers Power, Inc*. 8 Or App 551 (1972), *aff'd*, 13 Or App 431 (1973).
[i] *City of East Portland v. County of Multnomah*, 6 Or 62, 64 (1876).
[j] *Dunn v. Gray*, 238 Or 71 (1964); *City of Tigard v. Werner*, 15 Or App 335 (1973).
[k] Cf. *Leathers v. City of Burns*, 251 Or 206 (1968).
[l] *City of East Portland v. County of Multnomah*, 6 Or 62, 64 (1876).
[m] *City of Idanha v. Consumers Power, Inc*. 8 Or App 551 (1972), *aff'd* 13 Or App 431 (1973).
[n] *City of Idanha v. Consumers Power, Inc*. 8 Or App 551 (1972), *aff'd* 13 Or App 431 (1973).
[o] *Paget v. City of Pendleton*, 219 Or 253 (1959).
[p] *AT & T Communications v. City of Eugene,* 177 Or App 379 (2001), *rev den,* 334 Or 491 (2002). The court held that a general power charter gave the city power to impose registration and license fees. The court relied on *Multnomah Kennel Club v. Department of Revenue,* 295 Or 279 (1983), a case that involved a general power county home rule charter that provided authority to impose a business income tax.
[q] *Sprint Spectrum v. City of Eugene,* 177 Or App 417 (2001), *rev den*, 334 Or 491 (2002). The court found that home rule authority includes the taxation of businesses that conduct business within city boundaries.

APPENDIX B

PROVISIONS NOT INCLUDED IN THE MODEL CHARTER

This model charter omits many provisions contained in city charters granted by the Oregon Legislature prior to 1906, and charters adopted soon after the 1906 home rule amendments took effect. A general grant of powers replaced specific grants of authority. Subjects and procedures covered by state statutes are generally no longer included in charters. The model charter also omits provisions better left to adoption by ordinance.

Annexation Procedure

An Oregon city may not assume extramural power under its home rule charter unless authorized by state statute.[91] City power under the home rule amendments is only intramural in character.[92] A city may only exercise extramural power delegated by the Legislature.[93] A home rule charter may provide a procedure for the intramural aspects of annexation, such as the manner of acceptance of the annexation by the city. The model charter contains no provision relating to annexation of territory to a city because state statutes control annexation procedures.

Elections

Elections in Oregon are generally under the control of the Secretary of State. The conduct of elections is governed by ORS Chapter 254. Many duties relating to the conduct of elections are delegated to county clerks. Time of elections, wording of ballot titles, printing of ballots and fixing of precinct boundaries are examples of matters governed by state law. City initiative and referendum requirements and process are found in ORS Chapter 250. Therefore, the model charter contains no sections relating to elections in general. Sections 7.2 and 7.5 do authorize the council to govern certain election matters by ordinance.

Subjects Covered by State Law

This model charter contains no provisions on several other subjects covered by state law:

Budgeting.....ORS 294.305 to 294.565
Public contracts……..ORS Chapters 279A, 279B and 279C
Assessments bonding and lien enforcement...ORS 223.205 to 223.295 and 223.505 to 223.650
Tort liability……ORS 30.260 to 30.300

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[91] *Thurber v. Henderson*, 63 Or 410, 415-16 (1912); *State ex rel Mullins v. Port of Astoria*, 79 Or 1, 19-20 (1916); *Morsman v. City of Madras*, 203 Or App 546 (2006) (holding that the state has the authority to decide whether residents of an area subject to annexation get to vote on the annexation); and *Costco Wholesale Corp. v. City of Beaverton*, 343 Or 18, 25 (2007) (stating that cities lack "inherent home-rule authority to impose * * * obligations on those outside their borders.").

[92] *Kiernan v. City of Portland*, 57 Or 454, 464 (1910); *State ex rel Mullins v. Port of Astoria*, 79 Or 1, 18-19 (1916); *Curtis v. Tillamook City*, 88 Or 443, 454-55 (1918).

[93] *Couch v. Marvin*, 67 Or 341 (1913); *McBee v. Town of Springfield*, 58 Or 459 (1911); *Landess v. City Cottage Grove*, 64 Or 155 (1913).

Debt limitations……..ORS 223.295
Ethics……..ORS Chapter 244
Public meetings and records……...ORS 192.311 to 192.710
Land use planning and regulation……...ORS Chapters 92, 197, 197A and 227
Street vacation……ORS 271.080 to 271.230
Condemnation…… ORS Chapter 35; 223.005 to 223.105, 226.310 to 226.380 and 227.300.
Collective bargaining…….ORS 243.650 to 243.782
Public Employee's Retirement System……..ORS Chapter 238 and 238A

Other Subjects

The model charter contains no provisions on a number of other subjects that may be covered as well or better by ordinance. Such subjects include council rules, personnel rules, procedures for local improvements, levying and collecting special assessments and city commissions and committees.

Municipal Judge as Ex Officio Justice of the Peace

Some Oregon charters enacted as special legislative acts prior to 1906 provide that the municipal judge has the jurisdiction and authority of an ex officio justice of the peace. This model charter contains no such provision. A home rule charter may not grant such authority to a municipal judge; such authority may only be granted by state statute.

The decision in *In re Application of Boalt*[94] suggests that once a municipal judge is given the jurisdiction and authority of an ex officio justice of the peace by a special legislative act, it continues regardless of a subsequent home rule charter. It may be withdrawn by the Legislature. A city in this situation may retain its charter provisions conferring jurisdiction and authority of an ex officio justice of the peace on its municipal judge by enacting its new charter as an amendment to its former legislative charter. A municipal judge may continue to exercise this authority under this Supreme Court decision.

[94] 123 Or 1 (1927).