

Copy for use
in City Hall

A CHARTER

TO PROVIDE FOR THE GOVERNMENT OF THE CITY OF GARIBALDI, TILLAMOOK COUNTY, OREGON; AND TO REPEAL ALL CHARTER PROVISIONS OF THE CITY ENACTED PRIOR TO THE TIME THAT THIS CHARTER IS ENACTED.

THE CITY OF GARIBALDI DOES ORDAIN AS FOLLOWS:
CHAPTER I NAMES AND BOUNDARIES

Section 1. TITLE OF ENACTMENT. This enactment may be referred to as the Garibaldi Charter of 1948.

Section 2. NAME OF CITY. The City of Garibaldi, Tillamook County, Oregon, shall continue to be a municipal corporation, with the name "City of Garibaldi."

Section 3. BOUNDARIES. The City shall include all territory bounded by a line--

Beginning at the Northwest corner of Section 21 Township 1 North Range 10 West, W. M. and running thence East on Section line 20 chs. to NE corner of NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 21 Township 1 North Range 10 West, W. M.; running thence North 20 chs. to Northwest corner of SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 16 Township 1 North Range 10 West, W. M.; thence East on 1/16 Section line 60 chs. to NE corner of SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 16 Township 1 North Range 10 West, W.M.; thence South on Section line to Northeast corner of Section 21 Township 1 North Range 10 West, W. M.; thence East on Section line 40 chs. to 1/4 corner between Sections 15 and 22 Township 1 North Range 10 West, W.M; thence South 60 chs. on 1/4 Section line to Southeast corner of NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 22 Township 1 North Range 10 West, W.M.; thence West on 1/6 line extended 120 chs. more or less, to a point on the Section line between Sections 20 and 21 extended South; thence North 60 chs. following the Section line between Sections 20 and 21 to the place of beginning.

CHAPTER II

POWERS

Section 4. POWERS OF THE CITY. The city shall have all powers which the constitutions, statutes, and common law of the United States and of this state expressly or impliedly grant or allow municipalities or which can be granted thereunder, as fully as though this charter specifically enumerated each of those powers.

Section 5. CONSTRUCTION OF CHARTER. In this charter no mentions of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power was not mentioned. The charter shall be liberally construed, to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs. Including all powers that cities may assume pursuant to the laws and to the municipal home-rule provisions of the constitution of the state.

CHAPTER III

FORM OF GOVERNMENT

Section 6. WHERE POWERS VESTED. Except as this charter provides otherwise, all powers of the city shall be vested in the council.

Section 7. COUNCIL. The council shall be composed of a mayor and four councilmen elected from the city at large.

Section 8. COUNCILMEN. 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 the charter is adopted five councilmen shall be elected. Of the five the three receiving the three highest numbers of votes shall each hold office for four years and the two receiving the next two highest numbers of votes shall each hold office for two years. At the next biennial general election two councilmen shall be elected to serve for four years and at the succeeding biennial general election three councilmen shall be elected to serve four years; thereafter and at all subsequent elections this sequence and procedure shall be followed in electing councilmen. At all elections the candidates receiving the highest number of votes shall be deemed to be elected.

Section 9. MAYOR. At its first meeting or each odd-numbered year the council shall choose from its membership a chairman who shall be mayor. The mayor's term of office shall be 2 years.

Section 10. OTHER OFFICERS. Additional officers of the city shall be a recorder, treasurer and such other officers as the council deems necessary. Each of these officers shall be appointed and may be removed by the mayor with the consent of the council. The council may combine any two or more appointive city offices and may designate any appointive officer to supervise any other appointive officer except the municipal judge in the exercise of his judicial functions.

Section 11. SALARIES. The compensation for the services of each city officer and employee shall be whatever amount the council fixes.

Section 12. QUALIFICATIONS: OF OFFICERS. No person shall be eligible to fill an elective office of the city unless at the time of his election he is a qualified voter within the meaning of the state constitution, and has resided in the city ^(Council) one year immediately preceding the election.

CHAPTER IV COUNCIL

Section 13. MEETINGS. The council shall hold a regular meeting at least once each month at a time and at a place in the city which it designates and shall adopt rules for the government of its members and proceedings. The mayor upon his own motion may, or at the request of ~~three~~ members of the council shall by giving written notice thereof to all members of the council then in the city, call a special meeting of the council for a time not earlier than 12 nor later than 48 hours after the notice is given.

Section 14. QUORUM. A majority of the members of the council shall constitute a quorum for it to do business.

Section 15. JOURNAL. The council shall cause a journal of its proceedings to be kept. Upon the request of any of its members the ayes and nays upon any question before it shall be taken and a record of the vote entered in the journal.

Section 16. MEETINGS TO BE PUBLIC. All deliberations and proceedings of the Council shall be public; provided that the council may discuss and consider matters of public importance as a committee of the whole, in which event all persons not members of the council or officers of the town may be excluded from the committee room.

Section 17. MAYOR'S FUNCTIONS AT COUNCIL MEETINGS. The mayor shall be chairman of the council and preside over its deliberations, and he shall have a vote on any question before the council. He shall have authority to preserve order and enforce the rules of the council.

Section 18. PRESIDENT PRO TEM OF THE COUNCIL. In absence of the mayor the council shall elect one of its members to be president pro tem, and such selection shall be shown in the minutes. The president pro tem shall assume all of the prerogatives of the mayor during the mayor's absence.

Section 19. VOTE REQUIRED. Except as this charter otherwise provides, the concurrence of a majority of the members of the council present at a council meeting shall be necessary to decide any question before the council.

CHAPTER V POWERS AND DUTIES OF OFFICERS

Section 20. MAYOR. The mayor shall appoint the committees provided for under the rules of the council. He shall sign all approved records of proceedings of the council. He shall have no veto power and shall sign all ordinances passed by the council. Upon the approval of the council he shall endorse all bonds of officers of the city and all bonds for licenses, contracts, and proposals.

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 Garibaldi, Tillamook County, Oregon. Except on nonjudicial days, the court shall be open for the transaction of judicial business. All area within the city shall be within the territorial jurisdiction of the court. The municipal judge shall exercise original and exclusive jurisdiction of all crimes and offenses defined and made punishable by ordinances of the city and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by an ordinance of the city. He shall have authority to issue process for the arrest of any person accused of an offense against the ordinances of the city, to commit any such person to jail or admit him to bail pending trial, to issue subpoenas, to compel witnesses to appear and testify in court on the 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 court, and to punish witnesses and others for contempt of the court. When not governed by ordinances or this charter, all proceedings in the municipal court for the violation of a city ordinance shall be governed by the applicable general laws of the state governing justices of the peace and justice courts. Trials in the municipal court of cases for violation of city ordinances shall be had without juries.

Section 22. RECORDER. The recorder shall serve as municipal judge and ex officio as clerk of the council, attend all its meetings unless excused therefrom by the council, keep an accurate record of its proceedings in a book provided for that purpose, and sign all orders on the treasury. In his absence from a council meeting the mayor shall appoint a clerk of the council pro tem, who, while acting in that capacity, shall have all the authority and duties of the recorder.

CHAPTER VI.

ELECTIONS

Section 23. REGULAR ELECTIONS. Regular city elections shall be held at the same times and places as biennial general state elections, in accordance with the applicable state election laws.

Section 24. NOTICE OF REGULAR ELECTIONS. The recorder, pursuant to directions from the council, shall give at least ten days' notice of each regular city election by posting notice thereof at a conspicuous place in the city hall and in one public place in each voting precinct of the city. The notice shall state the officers to be elected at, the ballot title of each measure to be voted upon, and the time and place of, the election.

Section 25. SPECIAL ELECTIONS. The council shall provide the times, manner, and means for holding any special election. The recorder shall give at least ten days' notice of each special election in the manner provided by the action of the council ordering the election.

Section 26. REGULATION OF ELECTIONS. Except as this charter provides otherwise and as the council provides otherwise by ordinances relating to elections, the general laws of the state shall apply to the conduct of all city elections, recounts of the returns therefrom, and contests thereof.

Section 27. CANVASS OF RETURNS. In all elections held in conjunction with state and county elections the state laws governing the filing of returns by the county clerk shall apply. On or before noon of the day following each special city election the returns therefrom shall be filed with the recorder and not later than five days after the election the council shall meet and canvass the returns. The results of all elections shall be made a matter of record in the journal of the proceedings of

the council, which shall contain a statement of the total number of votes cast at each election, the votes cast for each person and for and against each proposition, the name of each person elected to office, the office to which he has been elected, and a reference to each measure enacted or approved. Immediately after the canvass is completed the recorder shall make and sign a certificate of election of each person elected and deliver the certificate to him within one day after the canvass. A certificate so made and delivered shall be prima facie evidence of the truth of the statements contained in it, except that the council shall be the final judge of the qualifications and election of its own members, subject, however, to review by any court of competent jurisdiction.

Section 28. COMMENCEMENT OF TERMS OF OFFICE. The term of office of a person elected to an office at a regular city election shall commence the first of the year immediately following the election unless otherwise provided herein.

Section 29. OATH OF OFFICE. Before entering upon the duties of his office each officer shall take an oath that he will support the constitutions and laws of the United States and of Oregon and that he will faithfully perform the duties of his office.

Section 30. NOMINATIONS. Any qualified elector may be nominated to be a candidate for election to the council, if he has resided in the city for one year immediately preceding the time that his name is submitted to the voters. The name of such an elector shall be printed upon the ballot whenever a petition and a written acceptance of nomination, both in substantially such form as the council prescribes, have been filed in his behalf with the recorder. Such a petition shall be signed by not fewer than 20 electors. No elector shall sign more than

one such petition for the same office. If he signs two or more of them for the same office, his signature shall be valid only on the first petition filed. The signatures to a nomination petition need not all be appended to one paper, but to each separate paper of the petition shall be attached an affidavit of the circulator thereof, indicating the number of signers of the paper and stating that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer, identified by its street and number or other description sufficient to identify it. All nomination papers comprising a petition shall be assembled and filed with the recorder as one instrument not earlier than 90 nor later than 30 days before the election. The recorder shall make a record of the exact time at which each petition is filed and shall take and preserve the name and address of the person by whom it is filed. Within five days after the filing the recorder shall notify the candidate and the person who filed the petition whether or not it is found to be signed by the required number of qualified electors. If it is found insufficient, the recorder shall return it immediately to the person who filed it, with a statement certifying wherein the petition is insufficient. Within the regular time allowed for the filing of nomination petitions such a petition may be amended and filed again as a new petition, or a different petition may be filed for the same candidate. Any eligible person placed in nomination as hereinbefore provided shall have his name printed on the ballots for the election if, within five days after notification to him by the recorder of the nomination, an acceptance of nomination is filed with the recorder on his behalf. The

nomination petition for a successful candidate for election to the council shall be preserved in the office of the recorder until the expiration of the term of office for which the candidate is elected.

CHAPTER VII

VACANCIES IN OFFICE

Section 51. WHAT CREATES VACANCY. An office shall be deemed vacant upon the incumbent's death, incompetence, conviction of a felony, resignation, or absence from the city for 30 days without the consent of the council in the case of mayor or councilman; upon the incumbent's ceasing to possess the qualifications necessary for his office; or upon the failure of the person elected or appointed to an office to qualify therefor within three days after the time for his term of office to commence; and in the case of mayor or councilman, upon his absence from meetings of the council for 60 days without the consent of the council.

Section 52. FILLING OF VACANCIES. Vacancies in elective offices of the city shall be filled by appointment by a majority of the entire membership of the council. The appointee's term of office shall begin immediately upon his appointment and shall continue until the next general election at which his successor is elected.

During the temporary disability of any officer or during his absence temporarily from the city for any cause, his office may be filled pro tem, in the manner provided for filling vacancies in office permanently.

CHAPTER VIII

ORDINANCES

Section 53. ENACTING CLAUSE. The enacting clause of all ordinances hereafter enacted by the council shall be, "The City of Garibaldi does ordain as follows:"

Section 34. 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. Any ordinance, however, may be introduced, read twice, one 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 on any ordinance the eyes and nays of the members of the council shall be taken and recorded in the journal. If the ordinance passes, the recorder shall endorse it with the date of its passage and his name and title of office, and within three days thereafter the mayor shall sign it with the date, his name, and the title of his office.

Section 35. WHEN ORDINANCES TAKE EFFECT. An ordinance enacted by the council shall take effect on the thirtieth day after its enactment. When the council deems it advisable, however, an ordinance may provide a later time for it to take effect and, in case of an emergency, it may take effect immediately.

CHAPTER IX

PUBLIC IMPROVEMENTS

Section 36. CONDEMNATION. Any necessity of taking property for the city by condemnation shall be determined by the council and declared by a resolution of the council describing the property and stating the uses to which it is to be devoted.

Section 37. ACQUISITION AND DISPOSITION OF PROPERTY. 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, operation, 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. IMR OVERMENTS. Street, sewer, sidewalk, and such other public improvements as the council deems necessary may be undertaken on the motion of the council or on petition of the owners of two-thirds of the property to benefit specially from the improvements. A reconstrance of the owners of two-thirds of the frontage of the property to be specially affected by such an improvement shall defeat such a motion or petition, in which event no further action to effect the improvement shall be taken for six months.

Section 39. SPECIAL ASSESSMENTS. The procedure for determining the amounts of special assessments, their apportionment to various parcels of property, and the property upon which they are to be levied; for giving notices to property owners and other interested parties; for hearings on and levy of the assessments; for creating and enforcing assessments liens; and for taking any other action relating to the assessments shall be governed by the applicable laws of the state relating to special assessments or by general ordinances enacted by the council.

Section 40. BIDS. A contract in excess of \$500 for a public improvement to be made by a private contractor shall be let to the lowest responsible bidder for the contract and shall be done in accordance with plans and specifications approved by the council.

CHAPTER X

MISCELLANEOUS PROVISIONS

Section 41. DEBT LIMIT. Except by consent of the voters, the city's voluntary floating indebtedness shall not exceed ~~\$ 6000.00~~ 40000.00 at any one time. For the purposes of calculating the limitation, however, the legally authorized debt of the city in existence at the time this charter takes effect shall not be considered. All city officials and employes who create or officially approve any indebtedness in excess of these limitations shall be jointly and severally liable for the excess.

Section 42. TORTS. In no event shall the city be liable in damages to any person 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 the city has had actual notice prior to the injury that the defect or dangerous place existed and a reasonable time thereafter in which to repair or remove it. In no case shall more than \$500 be recovered as damages for an injury resulting from such a defect or dangerous place. No action shall be maintained against the city for damages growing out of such an injury unless the claimant first gives written notice to the council within 30 days after the injury is sustained, stating specifically the time when, the place where, and the circumstances under which it was sustained; and

that he will claim damages therefor of the city in an amount which he specifies. Nor shall the action be maintained unless 30 days have elapsed after the presentation of this notice to the council.

Section 43. 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 44. REPEAL OF PREVIOUSLY ENACTED PROVISIONS. All charter provisions of the city enacted prior to the time that this charter takes effect are hereby repealed.

Section 45. TIME OF EFFECT OF CHARTER. This charter shall take effect February 19, 1948.

Approved by the people of the City of Garibaldi, at a Special Election, held on the 18th, Day of February, 1948.

Signed *E. S. Fessler*

E. S. Fessler.
Mayor.

Attest,

B. J. Groth
B. J. Groth
City Recorder.