

## **The Mosier 2010 Charter**

### **PREAMBLE**

We, the people of Mosier, Oregon, in order to avail ourselves of self-determination in municipal affairs to the fullest extent now or hereafter possible under the constitutions and laws of the United States and the State of Oregon, through this charter confer upon the City the following powers, subject it to the following restrictions, prescribe for it the following procedures and governmental structure and repeal all previous charter provisions of the City.

### **Chapter I**

#### **NAMES AND BOUNDARIES**

**Section 1. Title of Charter.** This Charter may be referred to as the 2010 Mosier Charter.

**Section 2. Name of City.** The City of Mosier, Oregon, continues under this Charter to be a municipal corporation with the name City of Mosier.

**Section 3. Boundaries.**

(1) The City includes all territory within its boundaries as they now exist or hereafter are modified pursuant to the provisions of this Charter and State law. The custodian of the City's records shall keep an accurate, current description of the boundaries and make a copy of it available for public inspection in the City during regular City office hours.

(2) Annexations to the City shall follow the procedures prescribed in State law for annexations.

### **Chapter II**

#### **POWERS**

**Section 4. Powers of the City.** The City has all powers that the constitutions, statutes, and common law of the United States and of this State now or hereafter expressly or impliedly grant or allow the City, as fully as though this Charter specifically enumerated each of those powers.

**Section 5. Construction of Powers.** In this Charter, no specification of a power is exclusive or restricts authority that the City would have if the power were not specified. The Charter shall be liberally construed, so that the City may exercise fully all its powers possible under this Charter and under United States and Oregon law. All powers are continuing unless a specific grant of power clearly indicates the contrary.

**Section 6. Distribution of Powers.** Except as this Charter prescribes otherwise and as the Oregon Constitution reserves municipal legislative power to the voters of the City, all powers of the City are vested in the Council.

### **Chapter III FORM OF GOVERNMENT**

**Section 7. Council.** The Council consists of a Mayor and six Councilors nominated and elected from the City at large. In the event that there are one or more vacancies in the Council, the Council consists of those members whose offices are not vacant.

**Section 8. Councilors.** The term of office of a Councilor in office when this Charter is adopted is the term of office for which the Councilor has been elected before adoption of the Charter (or is elected at the time of the adoption). At each general election after the adoption, three Councilors shall be elected, each for a 4-year term.

**Section 9. Mayor.** The term of office of the Mayor in office when this Charter is adopted is the term of office for which the Mayor has been elected before adoption of the Charter (or is elected at the time of the adoption). At each general election after the adoption the Mayor shall be elected for a 2 year term.

**Section 10. Terms of Office.** The term of office of an elective officer who is elected at a general election begins at the first Council meeting of the year immediately after the election and continues until a successor to the office assumes the office.

**Section 11. Appointive Officers.** Additional officers of the City may include a City Manager and Municipal Judge and shall include a City Attorney and City Recorder. Each appointive officer shall be appointed by the Mayor, subject to the consent of a majority of the incumbent members of the Council. Appointed officers may be removed by the Mayor with a concurring vote of a majority of the incumbent members of the Council. The Municipal Judge shall not be subject in judicial functions to supervision by any other officer.

**Section 12. Establishment of Council Committees.** The Council may establish committees and commissions to provide advice to the Council on any issues within the Council's purview. The operation of such committees and commissions shall be subject to the same open meeting rules as the Council.

## **Chapter IV COUNCIL**

**Section 13. Rules.** The Council shall, by ordinance, prescribe rules to govern its meetings and proceedings.

**Section 14. Meetings.** The Council shall meet in the City regularly at least once a month at a time and place designated by Council rules and may meet at other times in accordance with those rules.

**Section 15. Quorum.** A majority of the non-vacant Council positions constitutes a quorum for its business, but a smaller number of the Council may meet and compel attendance of absent Councilors as prescribed by Council rules.

**Section 16. Record of Proceedings.** A record of Council proceedings shall be kept and authenticated in a manner prescribed by the Council.

### **Section 17. Mayor's Functions at Council Meetings.**

- (1) When present at Council meetings the Mayor shall:
  - (a) Preside over deliberations of the Council,
  - (b) Preserve order,
  - (c) Enforce Council rules, and
  - (d) Determine the order of business under the rules.
- (2) Notwithstanding subsection (1) of this section, the Mayor may temporarily cease to chair a Council meeting and delegate the functions described in subsection (1) to another Council member.
- (3) The Mayor is a voting member of the Council on all matters.

### **Section 18. Council President.**

- (1) At its first meeting after this Charter takes effect and at its first meeting of each odd-numbered year, the Council shall appoint a president from its Councilors.
- (2) The president shall function as Mayor when the Mayor is absent from a Council meeting or unable to function as Mayor.

**Section 19. Vote Required.** Except as sections 11, 20, 22 and 34 of this Charter prescribe otherwise, the express concurrence of a majority of the Council members present and qualified to participate is necessary to decide affirmatively a question before the Council.

**Section 20. Vacancies: Occurrence.** The office of a member of the Council becomes vacant:

- (1) Upon the incumbent's:
  - (a) Death,
  - (b) Adjudicated incompetence, or
  - (c) Recall from the office; or
- (2) Upon declaration by the Council of the vacancy in case of the incumbent's:
  - (a) Failure, following election or appointment to the office, to qualify for the office within ten days after the time for his or her term of office is to begin,
  - (b) Absence from the City for 30 days without the Council's consent or from all meetings of the Council within a 60-day period,
  - (c) Ceasing to reside in the City,
  - (d) Ceasing to be a qualified elector under State law,
  - (e) Conviction of a public offense punishable by loss of liberty, or
  - (f) Resignation from the office.

**Section 21. Vacancies: Filling.** A vacancy in the Council shall be filled by appointment by a majority of the Council. The appointee's term of office runs from the time of his or her qualifying for the office, after the appointment, until expiration of the term of the predecessor who left the office vacant. During a Council member's disability to serve on the Council or during a member's absence from the City, a majority of the other Council members may by appointment fill the vacancy pro tem.

## **Chapter V POWERS AND DUTIES OF OFFICERS**

**Section 22. Mayor.** The Mayor shall be responsible for the appointment and removal of:

- (1) Members of committees established by the Council, and
- (2) Other persons required by the Council to be so appointed.

**Section 23. City Manager.** The City Council may create the office of City Manager, in which

case, the position shall be governed by this section.

- (1) The City Manager is the administrative head of the City government.
- (2) The City Manager shall be appointed by the Mayor and confirmed by a majority of the Council. The appointment shall be without regard to political considerations and based solely on administrative qualifications.
- (3) The manager need not reside in the City or the State when appointed.
- (4) Upon accepting the appointment, the manager shall furnish the City a bond in an amount and with a surety approved by the Council. The City shall pay the bond premium.
- (5) The manager shall be appointed for a definite or an indefinite term and may only be removed by the Mayor with a concurring vote of a majority of the Council.
- (6) The manager's duties shall be to:
  - (a) Attend all Council meetings unless excused by the Council or Mayor;
  - (b) Keep the Council advised of the affairs and needs of the City;
  - (c) See that the provisions of all ordinances are administered to the satisfaction of the council;
  - (d) See that all terms of franchises, leases, contracts, permits, and privileges granted by the City are fulfilled;
  - (e) Appoint, discipline and remove appointive personnel, except appointees made by the Mayor or Council;
  - (f) Supervise and control the manager's appointees in their service to the City;
  - (g) Organize and reorganize the departmental structure of City government;
  - (h) Prepare and transmit to the Council an annual City budget;
  - (i) Supervise City contracts;
  - (j) Supervise operation of all City-owned public utilities and property; and
  - (k) Perform other duties as the Council prescribes consistently with this Charter.
- (7) The manager may not control:
  - (a) The Council;
  - (b) The Municipal Judge in the judge's judicial functions; or,
  - (c) Except as the Council authorizes, appointive personnel of the City whom the manager does not appoint.
- (8) The manager and other personnel whom the Council designates may sit with the Council

but may not vote on questions before it. The manager may take part in all Council discussions.

(9) When the manager is absent from the City or unable to act as manager, or when the office of manager becomes vacant, the Council shall appoint a manager pro tem, who has the powers and duties of manager, except that the manager pro tem may appoint or remove personnel only with approval of the Council. No person may be manager pro tem for longer than six consecutive months.

(10) Except in Council meetings, no Council member may directly or indirectly, by suggestion or otherwise, attempt to influence the manager or a candidate for the office of manager in the appointment, discipline, or removal of personnel or in decisions regarding City property or contracts. A violator of this prohibition may be removed from office by a court of competent jurisdiction. In Council meetings, members of the Council may discuss with, or suggest to, the manager anything pertinent to City affairs.

**Section 24. Municipal Court and Judge.** The City Council may create and fill by appointment the office of Municipal Court Judge, in which case, the position shall be governed by this section.

(1) The Municipal Judge shall hold, within the City at a place and times that the Council specifies, a court known as the Municipal Court for the City of Mosier, Wasco County, Oregon.

(2) Except as this Charter or City ordinance prescribes to the contrary, proceedings of the court shall conform to general laws of this State governing justices of the peace and justice courts.

(3) All area within the City and, to the extent provided by State law, area outside the City is within the territorial jurisdiction of the court.

(4) The municipal court has nonexclusive jurisdiction over every offense that an ordinance of the City makes punishable. The court may enforce forfeitures and other penalties that such ordinances prescribe.

(5) The Municipal Judge may:

- (a) Render judgments and, for enforcing them, impose sanctions on persons and property within the court's territorial jurisdiction;
- (b) Order the arrest of anyone accused of an offense against the City;
- (c) Commit to jail or admit to bail anyone accused of such an offense;

- (d) Issue and compel obedience to subpoenas;
- (e) Compel witnesses to appear and testify and jurors to serve in the trial of matters before the court;
- (f) Penalize contempt of court;
- (g) Issue process necessary to effectuate judgments and orders of the court;
- (h) Issue search warrants; and
- (i) Perform other judicial and quasi-judicial functions prescribed by ordinance.

(6) The Council may authorize the Municipal Judge to appoint municipal judges pro tem for terms of office set by the judge or the Council.

(7) Notwithstanding this section, the Council may transfer some or all of the functions of the municipal court to an appropriate State court, a code enforcement hearings officer or any other decision maker as may be prescribed by general ordinance or State law.

**Section 25. City Recorder.** The City shall have a City Recorder, who shall be appointed by the Mayor and confirmed by a majority of the Council, and may be removed in the same manner. The City Recorder shall keep the official records of the City, maintain the record of all Council meetings, authenticate all ordinances and resolutions, and perform any other duty required by State law or prescribed by the Council.

**Section 26. City Attorney.** The City shall have a City Attorney, who shall be appointed by the Mayor and confirmed by a majority of the Council, and may be removed in the same manner. The City Attorney shall provide legal advice to the Council and to all City officers in their official capacities and shall represent the City in legal proceedings. The City may engage additional or other attorneys as needed.

## **Chapter VI CITY OFFICIALS**

### **Section 27. Qualifications.**

(1) An elective City officer shall be a qualified elector under the State constitution and shall have resided in the City during the twelve months immediately before being elected or appointed to the office. In this subsection City” means area inside the City limits at the time of the election or appointment.

(2) No person may be a candidate at a single election for more than one elective City office.

(3) An elective officer may be employed in a City position that is substantially volunteer in nature. Whether the position is substantially volunteer in nature may be decided by the

municipal court or in some other manner as the Council may prescribe.

(4) Except as subsection (3) of this section provides to the contrary, the Council is the final judge of the election and qualifications of its members.

(5) The qualifications of appointive officers of the City are whatever the Council prescribes or authorizes.

(6) The Mayor shall prescribe the qualifications for City employees that are neither elected nor appointed officers provided for in this Charter. Compensation for such City employees shall be established by the Mayor, subject to budget approval by the Council.

**Section 28. Compensation.** The Council shall prescribe the compensation of City officers. The Council may prescribe a plan for reimbursing City officers and employees for expenses that they incur in serving the City.

**Section 29. Political Rights.** By ordinance or resolution the Council may affirm the rights of City employees to participate in political activities and may limit those activities to the extent necessary for orderly and effective operation of the City government.

**Section 30. Oath.** Before assuming City office, all elected and appointed City officers shall take an oath or shall affirm that he or she will faithfully perform the duties of the office and support the Constitution and laws of the United States and the State of Oregon.

## **Chapter VII ELECTIONS**

**Section 31. State Law.** Except as this Charter or a City ordinance prescribes to the contrary, a City election shall conform to applicable State laws.

**Section 32. Nominations.** A person may be nominated in a manner prescribed by general ordinance to run for an elective office of the City.

## **Chapter VIII ORDINANCES**

**Section 33. Ordaining Clause.** The ordaining clause of an ordinance shall be “The City of Mosier ordains as follows:”

**Section 34. Adoption by Council.**

(1) Except as subsection (2) of this section allows adoption at a single meeting and subsection (3) of this section allows reading by title only, an ordinance shall be fully and distinctly read in open Council meeting on two different days before being adopted by the Council.

(2) Except as subsection (3) of this section allows reading by title only, the Council may adopt an ordinance at a single meeting by the express unanimous votes of all Council members present, provided the ordinance is read first in full and then by title.

(3) A reading of an ordinance may be by title only if:

- (a) No Council member present at the reading requests that the ordinance be read in full or
- (b) At least four days before the reading:
  - (i) A copy of the ordinance is provided for each Council member,
  - (ii) Three copies of the ordinance are available for public inspection in the office of the custodian of City records, and
  - (iii) Notice of their availability is given by written notice posted at the City Hall.

(4) An ordinance read by title only has no legal effect if it differs substantially from its terms as it was filed prior to the reading unless each section so differing is read fully and distinctly in open Council meeting before the Council adopts the ordinance.

(5) Upon the adoption of an ordinance, the ayes and nays of the Council members shall be entered in the record of Council proceedings.

(6) After adoption of an ordinance, the custodian of City records shall endorse it with its date of adoption and the endorser's name and title of office.

**Section 35. Effective Date.** A nonemergency ordinance takes effect on the thirtieth day after its adoption or on a later day as the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as it is adopted.

## **Chapter IX PUBLIC IMPROVEMENTS**

**Section 36. Procedure.** The procedure for making, altering, vacating, or abandoning a public improvement or public real property shall be governed by general ordinance or, to the extent not so governed, by applicable state law.

**Section 37. Condemnation.** Any necessity of taking property for a public purpose by the City by condemnation shall be determined by the Council and declared by a resolution of the Council, describing the property and slating the public purpose to which it shall be devoted.

**Section 38. Improvements.** The procedure for making, altering, vacating, or abandoning a public improvement shall be governed by general ordinance or, to the extent not so governed, by the applicable general laws of the State. Formation of a local improvement district, except an improvement unanimously declared by the Council to be needed at once because of an emergency, shall be suspended for six months upon a remonstrance thereto by the owners of two-thirds of the property to be specially assessed therefore. For the purpose of this section, "owner" shall mean the recorded holder of legal title to the land, except that if there is a purchaser of the land according to a recorded land sale contract, or according to verified writing by the record holder of legal title to the land filed with the City Recorder, the purchaser shall be deemed the "owner."

**Section 39. Special Assessments.** The procedure for fixing, levying, collecting and enforcing the payment of special assessments against real property for public improvements or public services shall be governed by general ordinance or, to the extent not so governed, by applicable State law.

**Section 40. Procurement.** A contract for a public improvement, goods or services to be made or provided by a private contractor shall be awarded in compliance with rules and procedures adopted by ordinance, consistent with the State of Oregon public contracting laws applicable to local governments.

## **Chapter X MISCELLANEOUS PROVISIONS**

**Section 41. Debt.** The City's indebtedness may not exceed debt limits imposed by State law. A City officer or employee who creates or officially approves indebtedness in excess of this limitation is jointly and severally liable for the excess. A Charter amendment is not required to authorize City indebtedness.

**Section 42. Continuation of Ordinances.** Insofar as consistent with this Charter, and until amended or repealed, all ordinances in force when the Charter takes effect shall retain the effect they have at that time.

**Section 43. Repeal.** All Charters and Charter provisions adopted before this Charter takes effect are hereby repealed.

**Section 44. Severability.** The terms of this Charter are severable. If a part of the Charter is held invalid, that invalidity does not affect another part of the Charter, except as the logical relation between the two parts requires.

**Section 45. Effective Date.** This Charter takes effect November 17, 2010 as presented to Council on that date.