

B E N T O N C O U N T Y

C H A R T E R

ADOPTED NOVEMBER, 1972

EFFECTIVE JANUARY, 1973

AMENDED NOVEMBER, 1974

AMENDED MAY, 1986

AMENDED NOVEMBER, 1986

AMENDED MAY, 1988

AMENDED MARCH, 1992

AMENDED May, 1996

AMENDED November, 2003

HOME RULE CHARTER OF BENTON COUNTY, OREGON

PREAMBLE

We, the people of Benton County, Oregon, in order to avail ourselves of self-determination in county affairs to the fullest extent permissible under the constitution and laws of the state, by this Charter confer upon the County the following powers, subject it to the following restrictions, and prescribe for it the following procedures and governmental structure:

CHAPTER I

NAME, NATURE, BOUNDARIES, COUNTY SEAT

Section 1. Name. The name of the County as it operates under this Charter shall continue to be Benton County.

Section 2. Nature and Legal Capacity. From the time that this Charter takes effect the County shall continue to be:

- (1) an agency of the state; and
- (2) a body politic and corporate.

Section 3. *[Deleted by Charter Amendment, May 1988.]*

Section 4. County Seat. The seat of government of the County as it operates under this Charter shall be in the City of Corvallis.

CHAPTER II

POWERS

Section 5. General Grant of Powers. Except as this Charter provides to the contrary, the County shall have authority over matters of county concern to the fullest extent granted or allowed by the law of the United States and of the State of Oregon, as fully as if each power comprised in that general authority were specifically granted by this Charter.

Section 6. Construction of Powers. The Charter shall be liberally construed to the end that, within the limits imposed by the Charter and by the law of the United States and of the State of Oregon, the County shall have all powers necessary or convenient for the conduct of its affairs, including all powers that counties may assume under the statutes of the state and under the provisions of the state constitution concerning county home rule. The powers shall be construed to be continuing powers. In this Charter no mention of a particular power or enumeration of similar powers shall be construed to be exclusive or to restrict the authority that the County would have if the particular power were not mentioned or the similar powers not enumerated.

CHAPTER III

BOARD OF COUNTY COMMISSIONERS

Section 7. Membership, Election, and Tenure. (1) The Board of County Commissioners, hereinafter called "the Board," shall consist of three county commissioners.

(2) Each commissioner shall be elected to a numbered position from the County at large for a four year term.

(3) Two commissioners shall be elected at each presidential election and one commissioner at each intervening general November election.

(4) In 1974, a commissioner shall be elected to position number 1. In 1976, commissioners shall be elected to positions number 2 and 3.

Section 8. Board Chair. (1) At its first regular meeting each year the Board shall designate one of its members as its Chair and one as its Vice-Chair for that year.

(2) The Chair shall:

(a) preside over the meetings of the Board;

(b) have a vote on all questions before the Board; and

(c) have authority to:

(A) preserve order at Board meetings;

(B) enforce the rules of the Board; and

(C) determine the order of Board business under rules of the Board.

Section 9. Full-Time Responsibility of Commissioners. While serving as a member of the Board, a county commissioner shall devote full time to his or her office.

Section 10. Quorum. A majority of the commissioners in office shall constitute a quorum for the Board's business.

Section 11. Meetings. (1) The Board shall adopt rules governing its meetings.

(2) The rules may prescribe one or more modes of compelling the attendance of commissioners at Board meetings.

(3) The Board shall meet regularly in a public place in the County at least twice each month at times and places designated by order or resolution.

(4) The Board may meet specially on call of the Chair or a majority of the commissioners in office, provided written notice of the meeting is received personally by or delivered at the residence of each member at least twenty-four hours before the time of the meeting.

(5) Board action has legal effect only if the motion for the action and the vote by which the motion is approved or rejected take place at proceedings open to the public.

Section 12. Record of Proceedings. The Board shall cause a public record of its proceedings to be kept. Upon the request of a member of the Board that the individual votes on a question before the Board be recorded, the votes shall be so recorded. The final votes on all ordinances before the Board shall be so recorded.

Section 13. Vote Necessary for Board Action. Except as this Charter provides to the contrary, the concurrence of a majority of the members of the Board shall be necessary to decide any question before the Board.

Section 14. Ordinances. (1) The ordaining clause of an ordinance adopted by the Board and not referred to the voters shall read, "The Board of County Commissioners of Benton County ordains as follows:." The ordaining clause of an ordinance referred to the voters shall read, "The people of Benton County ordain as follows:."

(2) Except as this section provides to the contrary, before adoption an ordinance shall be fully and distinctly read into the record at a regular meeting of the Board on two different days at least thirteen days apart. The Board may direct that either or both of the readings be by title only:

(a) if a copy of the ordinance is provided for each member of the Board when the ordinance is introduced; and

(b) if, throughout the business hours after the ordinance is introduced and before it is adopted, a copy of it is available for public inspection in the office of the Board.

An ordinance adopted after being read by title only may have no legal effect if any section incorporating a substantial change in the ordinance as introduced is not read fully and distinctly into the record at a regular meeting of the Board at least thirteen days prior to the adoption of the ordinance.

(3) Upon adoption of an ordinance by the Board, the ordinance shall be signed by:

(a) the Chair of the Board, and

(b) the person serving as recording secretary of the Board at the session at which the Board approves the ordinance. This person shall also indicate the date of adoption. *[Amended by Charter Amendment March, 1992]*

(4) Unless an ordinance specifies a later date of effect, its effective date shall be as follows:

(a) if the Board adopts it in the exercise of the police power and for the purpose of meeting an emergency, it may take effect immediately upon being so adopted;

(b) if it is a non-emergency ordinance not referred to the voters, it shall take effect on the thirtieth day after it is adopted; and

(c) if it is adopted by the voters, it shall take effect immediately upon being so adopted.

(5) An ordinance enacted by the Board for the purpose of meeting an emergency may be introduced, read once, and put on its final passage at a single meeting by a unanimous vote of all members of the Board present at the meeting, and may take effect immediately upon being so approved. Such an ordinance shall stand repealed on the sixty-first day following its enactment and may not be re-enacted consecutively.

Section 15. Recording, Codification, Printing. (1) Each ordinance shall be given a serial number which, together with the date of adoption and the designation of the adopting authority, shall be entered in a properly indexed book kept for that purpose and made available to the public.

(2) Within three years after the adoption of this Charter, the Board of County Commissioners shall cause all County ordinances to be codified. Such a codification shall be subject to annual review and revision to assure its accuracy and completeness. The updated code shall be furnished to all County officers and made available for sale to the public.

CHAPTER IV

ADMINISTRATION

Section 16. Administrative Departments. (1) For purposes of carrying out the policies of the County and administering its affairs, the following administrative departments are hereby established and shall, except as the Board prescribes to the contrary within the limitations of this Charter, have the following functions:

(a) *[Deleted by Charter Amendment, May 1988]*

(b) *[Deleted by Charter Amendment, May 1988]*

(c) *[Deleted by Charter Amendment, May 1988]*

(d) *[Deleted by Charter Amendment, May 1988]*

(e) the Department of Law Enforcement, which shall have the functions of the Sheriff, except the functions of the Sheriff regarding the collection of taxes; and

(2) On or before July 1, 1973, the Board shall take whatever action is necessary to place in operation the departments established by this section. *[Amended by Charter Amendments, November 1976 and November 2003];*

Section 17. Elective Administrative Officers. (1) The elective administrative officers of the County shall include, in addition to the county commissioners, the Sheriff.

(2) The Sheriff shall have charge of the Department of Law Enforcement. The term of office for Sheriff shall be four years. The office of Sheriff shall be non-partisan.

(3) Every elected county officer shall devote full time to his or her office. *[Amended by Charter Amendments, May 1986, November 1986 and November 2003.]*

Section 18. Appointive Administrative Officers and Employees. Except as this Charter provides to the contrary:

(1) each administrative department of the County shall include whatever offices and positions the Board establishes in the department;

(2) all administrative officers and employees of the County other than elective administrative officers shall be appointed by the Board or pursuant to its authority; and

(3) the functions of each administrative officer and employee of the County shall be whatever functions the Board prescribes except as required by law.

(4) Board of Commissioner inquiries, directives or disagreements regarding property valuation and/or assessment determinations may be referred by the Assessor to the State of Oregon Department of Revenue for resolution and/or review. [Amended by Charter Amendment November 2003]

Section 19. Changes in Administrative Departments. (1) Except as this Charter provides to the contrary, the Board may:

- (a) establish additional administrative departments;
- (b) combine any two or more administrative departments into a single such department;
- (c) separate departments so combined;
- (d) abolish any administrative department; and
- (e) prescribe the functions of any department.

(2) In the department of law enforcement, any action to combine the department with another administrative department of the County, any action to abolish the department, or any action to take from it any of its functions, may have no legal effect until approved by either:

- (a) the head of the department, or
- (b) the legal voters of the County at a regular or special election.

However, in the event of misconduct of the Sheriff or reasonably related to the Sheriff's ability to perform his or her official duties, the Board of Commissioners shall have the authority to assume control over said department upon a unanimous vote of the Board of Commissioners at a public meeting. The vote shall be supported by written findings of fact and a statement of the extent and length of time of control which will be exercised by the Commissioners.

(3) A function of a county officer or agency prescribed by state law, but not allocated to any county officer or agency by this Charter, shall be allocated to whatever department of the County the Board determines. [Amended by Charter Amendments May, 1996 and November 2003]

CHAPTER V

PERSONNEL

Section 20. Qualification.

(1) The following are qualifications for the position of:

(a) Benton County Commissioner:

A) Be a citizen of the United States at the time of taking office and thereafter, for the length of time in office;

B) Be a resident of Benton County for at least one year prior to the time of filing for office and thereafter, for the length of time in office;

C) Be a registered voter of Benton County at the time of taking office and thereafter, for the length of time in office; and

D) Be at least 21 years of age at the time of taking office.

(b) Benton County Sheriff:

A) Be a citizen of the United States at the time of taking office and thereafter, for the length of time in office;

B) Be a resident of the state of Oregon for at least one year prior to the time of filing for office;

C) Be a registered voter of Benton County at the time of taking office and thereafter, for the length of time in office;

D) Be at least 21 years of age at the time of taking office;

E) Have at least four years of full-time law enforcement experience, or at least two years of post-high school education at the time of filing for office;

F) Have no criminal convictions which would keep the person from being certified at the time of filing for office and thereafter, for the length of time in office; and

G) Have a written determination of eligibility from the Board on Public Safety Standards and Training at the time of filing for election or re-election, file it with the Director of Records and Elections/Elections Division of Benton County no later than the time of filing, and maintain it thereafter, for the length of time in office.

(2) To qualify for an appointive office or position of the County a person shall have whatever qualifications the Board prescribes for the office or position. *[Amended by Charter Amendments March, 1992, May, 1996 and November 2003]*

Section 21. Vacancies in Office. (1) An elective office shall be deemed vacant before the expiration of the term if:

(a) the incumbent dies, resigns, or is removed;

(b) the incumbent ceases to be a resident of the County;

(c) the incumbent is convicted of a felony or other offense pertinent to the office, or of unlawful destruction of public records;

(d) the incumbent refuses or neglects to take the oath of office, or to file the oath of office with the Director of Records and Elections;

(e) the election or the appointment of the incumbent is declared void by a competent tribunal;

(f) the incumbent is found by a competent tribunal to be mentally incapable of performing the duties of the office;

(g) the incumbent ceases to possess any qualifications required for election or appointment to office; or

(h) the person elected or appointed to the office fails to qualify for the office within ten days after the time the term of office is to begin.

(2) The office of county commissioner shall be deemed vacant before the expiration of a term if:

(a) the commissioner is absent from the County for thirty days without the consent of the other two commissioners, or absent from meetings of the Board of County Commissioners for sixty days without like consent; and

(b) the Board declares a vacancy. *[Amended by Charter Amendment, May 1988.]*

Section 22. Filling of Vacancies.

(1) Appointed.

A vacancy in an appointive office of the County shall be filled by the Board or pursuant to its authority.

(2) Temporary Vacancies.

During the temporary disability of any elective officer or his or her absence from the County temporarily for any reason, his or her office may be filled pro tem by the Board.

(3) Permanent Vacancies in the Office of the Sheriff.

(a) If the term of office expires:

(A) two years or more after the vacancy occurs, then a person shall be elected to fill the vacancy for the remainder of the term of office. The special election shall be held on the first election day (as provided by State law) occurring at least ninety days following the vacancy. Except as otherwise provided, any person qualified pursuant to Section 20 of this Charter may be a candidate for the position. The Board shall prescribe by ordinance the procedures by which candidates may be nominated and elected. During the period between the occurrence of the vacancy and the election of a replacement, the office may be filled pro tem by the Board within thirty days of the occurrence of the vacancy.

(B) less than two years after the vacancy occurs, then the Board shall appoint a person to fill the vacancy for the remainder of the term of office. The Board shall appoint a qualified person to the vacancy from among the applications received as a result of the published notice. The Board shall fill a vacancy in as short a time as practicable. This appointment shall be for the term specified in (3)(a)(A) or (B).

(b) The Board shall publish notice of a vacancy to be filled by appointment or election (pursuant to (3)(a)(A) and (B)) in a newspaper of general circulation in the County. This notice shall request qualified individuals to apply to fill the vacancy by filing an application with the Board.

(4) Permanent Vacancies on the Board of County Commissioners.

(a) If a single vacancy occurs on the Board of County Commissioners:

(A) More than thirty (30) days before the primary election filing deadline in the second year of a four-year term of office it shall be filled at the general election from candidates selected by election at the primary election.

(B) The incumbent Board members shall publish notice of the vacancy in a newspaper of general circulation in the County. This notice shall request qualified individuals to apply by filing an application with the Board. The application shall contain a notice to the applicant setting out the provisions of Section 22(4)(a)(D), along with a notice to the applicant that the applicant should contact the central committee (or equivalent) of the appropriate political party concerning placement on the list provided by that central committee (or equivalent). A list of all applicants shall be compiled to be used in the event that the party central committee (or

equivalent) fails to provide a list to the Board in a timely fashion.

(C) Regardless of the date of the vacancy, the Board shall appoint an interim commissioner. The interim commissioner must be a member of the same major political party as the commissioner last elected to that position at the time of election. If the commissioner last elected to the vacant office was not affiliated with a major political party, then the interim commissioner may have any political affiliation.

(D) Within thirty (30) days of the occurrence of the vacancy, the county central committee (or equivalent) of this major political party shall prepare and submit to the incumbent commissioners a list of not less than three (3) nor more than five (5) eligible candidates. The incumbent commissioners shall select an interim commissioner from that list. If the county central committee (or equivalent) fails to provide such a list, the incumbent commissioners may select any qualified member of the appropriate political party who has complied with section (4) (a) (B) above.

(b) If two vacancies exist on the Board at the same time, the Governor of the State of Oregon shall appoint one interim commissioner from the appropriate political party. If all of the offices of the Board are vacant at the same time, the Governor of the State of Oregon shall appoint two interim commissioners from the appropriate political parties. In either instance, the two commissioners shall appoint a commissioner to fill the remaining vacancy in accordance with the procedures set forth in Section 22(4) (a) .

(c) If the incumbent commissioners fail to appoint an interim commissioner within sixty (60) days of the occurrence of the vacancy, or if the gubernatorial appointment and the incumbent commissioner, or the gubernatorial appointments, fail to appoint a replacement within sixty (60) days of the gubernatorial appointment(s), the issue shall be placed before the Governor of the State of Oregon who shall appoint any qualified member of the appropriate political party.

(d) Any interim commissioners shall serve the remainder of the term of office or until the elected replacement takes office.

(5) In this section:

(a) "Appropriate political party" shall mean the party with which the vacating official was affiliated at the time of election, or any political party if the vacating official was not affiliated with a major political party at the time of election;

(b) "Incumbent" shall mean the elected official(s) still in office;

(c) "Major political party" shall have the definition given by the Oregon Revised Statutes;

(d) "Term of office" shall mean the term of office of the last person elected to the office which has become vacant.
[Amended by Charter Amendments, May 1988, March, 1992, May, 1996 and November 2003]

Section 23. Compensation. The salary or wage of a county officer or employee shall be fixed by the Board, except that the salaries of the commissioners shall be fixed by the public members of the budget committee.

CHAPTER VI

INTERGOVERNMENTAL RELATIONS

Section 24. Intergovernmental Relations. The Board may, on such terms as it deems in the best interests of the County, arrange by contract:

(1) for one or more functions of the County to be performed in cooperation with one or more units of local government in the County or one or more other counties or both;

(2) for one or more functions of the County to be transferred to and performed by one or more units of local government in the County; and

(3) for the County to assume one or more functions of one or more units of local government in the County, provided any function thus assumed is a matter of County concern.

CHAPTER VII

ELECTIONS

Section 25. *[Deleted by Charter Amendment, May 1988.]*

Section 26. *[Deleted by Charter Amendment, May 1988.]*

Section 27. *[Deleted by Charter Amendment, May 1988.]*

Section 28. Charter Amendment and Repeal. (1) This Charter may be amended or repealed by the voters of the County at:

(a) a regular election, or

(b) a special election called by the Board.

(2) An initiative petition to submit a Charter amendment or repeal to the voters shall be filed with the Department of Records and Elections at least ninety days before the election at which the measure is to come before the voters.

(3) The number of signatures of registered voters required on a petition to amend this Charter shall be eight per cent of the total number of voters of the County who voted for the office of Governor of the state in the last general election at which this office was filled for a four year term.

(4) The number of signatures of registered voters required on a petition to repeal this Charter shall be fifteen per cent of the total number of voters of the County who voted for the office of Governor of the state in the last general election at which this office was filled for a four year term.

(5) An ordinance to refer a Charter amendment or repeal to the voters shall be enacted at least sixty days before the election at which the measure is to come before the voters.

(6) Every five (5) years, or as otherwise determined by the Board of County Commissioners, the Board of County Commissioners shall appoint a Charter Review Committee of five citizen members to review the Home Rule Charter and its operation. If any amendments to the Charter are deemed necessary or prudent by the Committee, it shall recommend such amendments to the Board of County Commissioners. Within sixty days, the Board of Commissioners shall consider the recommendations of the Committee at a regular meeting. The Board may place all, part, or none of the Committee's recommendations on the ballot pursuant to the requirements of this section. *[Amended by Charter Amendments, November 1974, May 1986 and November 2003.]*

CHAPTER VIII

TRANSITIONAL PROVISIONS

Section 29. [Deleted by Charter Amendment November 2003.]

Section 30. [Deleted by Charter Amendment November 2003.]

Section 31. Existing Legislation Continued. All legislation of the County

(1) consistent with this Charter; and

(2) in force when it takes effect;

shall remain in effect until amended or repealed.

Section 32. Effective Date. This Charter shall take effect on the first Monday in January 1973.