

City

of

**NYSSA
OREGON**

CITY CHARTER

CITY CHARTER

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AN ACT

To enact a new charter for the city of Nyssa, in Malheur County, state of Oregon; and to repeal all acts and parts of acts in conflict therewith.

Be it enacted by the city of Nyssa, in Malheur County, state of Oregon:

CHAPTER I

NAME, BOUNDARIES, POWERS, AND GENERAL PROVISIONS

Section 1. NAME AND BOUNDARIES. The city of Nyssa, in Malheur County, state of Oregon, shall, upon the taking effect of this charter, continue to be a municipal corporation under the name of the city of Nyssa, with boundaries as follows:

Beginning at a point where the eastern boundary of the Oregon Short Line Railroad right of way intersects the north line of the South half of the Northeast quarter of Section 32, Township 19, South of Range 47 E.W.M., and thence running in a southwesterly direction along the said eastern boundary of the Oregon Short Line Railroad right of way to a point where said right of way intersects the southern line of the Northwest quarter of the Southeast quarter of Section 32, Township 19, South of Range 47 E.W.M.; running thence due west along the south line of said Northwest quarter of the Southeast quarter of Section 32 to the Southwest corner of the Northwest quarter of the Southwest quarter of said Section 32; thence running due north along the west boundary of said Section 32 and of Section 29 to the Northwest corner of the Southwest quarter of the Southwest quarter of Section 29, Township 19, South of Range 47 E.W.M.; running thence due east to the Southwest corner of the Northeast quarter of the Southwest quarter of said Section 29; thence due North to the Northwest corner of the Northeast quarter of the Southwest quarter of said Section 29; running thence due east along the east and west center section line to a point which is the eastern boundary line of the Oregon Short Line Railroad right of way; thence running in a southwesterly direction along the eastern boundary line of said Railroad right of way to a point where the said right of way intersects the west line of the Northeast quarter of the Northeast quarter of Section 32, Township 19 South, Range 47 E.W.M.; thence running due south along the west line of said Northeast quarter of the Northeast quarter of said Section 32 to a point where said line intersects the north line of Ehrgood Avenue; thence running due east along the said north line of Ehrgood Avenue to the western boundary of Snake River; thence running in a southeasterly direction along Snake River to a point where said boundary intersects the south line of Lot one (1) of Section 33, Township 19 South, Range 47 E.W.M.; thence running due west along the southern line of the

North half of the Northeast quarter of Section 32, Township 19 South, Range 47 E.W.M., to place of beginning.

Section 2. **POWERS OF THE CITY.** Subject only to limitations provided in this charter, the city shall have all rights, powers, privileges, and immunities now or hereafter granted, either expressly or by implication, to municipalities by the constitution, statutes, and the common law of the state, as fully as though each of such rights, powers, privileges, and immunities was specifically stated in this charter.

The enumeration of or reference to particular rights, powers, privileges, and immunities in this charter shall not be construed to be exclusive. The charter shall be construed liberally to the end that the city may have all necessary powers for the conduct of its municipal affairs, as contemplated by the municipal home rule provisions of the constitution and laws of the state. All rights, powers, privileges and immunities of the city shall be exercised in the manner prescribed in this charter, or, if the manner be not prescribed in this charter, then in the manner provided by ordinance or resolution of the council.

CHAPTER II

FORM OF GOVERNMENT

Section 3. **COUNCIL AND MAYOR.** Except as otherwise provided in this charter all powers of the city shall be vested in a council of seven members nominated and elected from the city at large.

At each biennial general election four councilmen shall be elected. The one receiving the lowest number of votes shall hold office for two years, and the other three shall hold office for four years. Tie votes shall be determined by lot.

At its first meeting after each biennial general election the council shall choose from its membership a chairman, who shall be mayor. The mayor's term of office shall be two years.

The mayor and councilmen in office and elected to office at the time of adoption of this charter shall continue in office as councilmen, and forthwith shall appoint two more councilmen, and shall have the powers and duties provided in this act. The mayor and two councilmen receiving the greatest number of votes at the election shall hold office for four years, and the other two elected councilmen and the two appointed councilmen shall hold office for two years.

Section 4. **MANAGER AND MUNICIPAL JUDGE.** The council shall appoint and keep in office a city manager and a municipal judge, both of whom shall hold

office subject to the discretion of the council and may be removed by the council with or without cause.

Section 5. OTHER CITY OFFICERS AND EMPLOYEES. The city manager shall appoint a recorder, a treasurer, an attorney, a chief of police, a fire chief, a health officer, and such other officers and employees of the city as the council deems necessary, and may remove any of them at any time with or without cause. The council by resolution may require any officer to perform the duties of two or more offices.

Section 6. SALARIES. The council shall fix the compensation of all city officers and employees.

Section 7. BONDS OF OFFICERS, EMPLOYEES, AND CONTRACTORS. If the council requires, every or any person appointed to office or place of public employment in the city, or entering into a contract with the city shall give the city a bond for the faithful performance of his duties or contract; provided, that the manager shall give a bond as required in section 24.

CHAPTER III

ELECTIONS

Section 8. REGULAR ELECTIONS. Regular city elections shall be held at the same time and places as regular state elections in accordance with the applicable state election laws. The election officers and precincts for such elections shall be the same as for the regular state elections.

The recorder, under the direction of the council, shall give at least ten days' notice of each regular city election by posting notice in three public places in each voting precinct stating the officers to be elected, the measures to be voted upon, and the time and place of the election.

Section 9. SPECIAL ELECTIONS. The council, by resolution or ordinance, may order a special election and provide the time, manner, and means for holding it. At least ten days' notice shall be given of each special election.

Section 10. REGULATION OF ELECTIONS. The council may make regulations consistent with this charter and the laws of the state for the conduct of elections, the prevention of frauds in elections, and the recount of ballots in case of doubt or fraud.

Section 11. QUALIFICATIONS OF ELECTORS. No person shall vote at any city election unless he be a qualified elector of the state and a resident of the city for at least thirty days next preceding the election.

Section 12. CANVASS OF ELECTION RETURNS. On or before noon of the day following each city election the election returns shall be filed with the recorder and not later than five days after the election the council shall meet and canvass the returns. In all elections held in conjunction with state and county elections the state laws governing the filing of returns by the county clerk and the canvassing of those returns shall apply. 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 or proposition, the name of each person elected to office, the office to which he was elected, and a reference to each measure enacted or approved. Immediately after the completion of the canvass 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 primary evidence of the facts which it states; but the council shall be the final judge of the qualifications and election of its own members, subject, however, to review by any court of competent jurisdiction.

Section 13. COMMENCEMENT OF TERMS OF OFFICE. The term of office of each person elected to office at any regular city election shall commence on the first Monday in January following the election. But in case of an election or appointment to fill an existing vacancy in office the person elected shall enter upon his office immediately.

Section 14. OATH OF OFFICE. Each officer, before entering upon the duties of his office, shall take an oath that he will support the constitution and laws of the United States and of the state of Oregon, and that he will faithfully perform the duties of his office.

Section 15. NOMINATIONS. Any qualified elector who has resided in the city for at least six months prior to the time of nomination may be nominated for the council. The name of such an elector shall be printed upon the ballot whenever a petition and a written acceptance of nomination as hereinafter is prescribed shall have been filed in his behalf with the recorder. Such petition shall be signed by not less than ten nor more than twenty electors. No elector shall sign more than one such petition, and if he does so, his signature shall be void as to the petition or petitions last filed. The signatures of the nomination petition need not all be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulator thereof, stating the number of signers of such paper and 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 there shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify the same. The form of the nomination petition shall be substantially as follows:

We, the undersigned, electors of the city of Nyssa, hereby nominate _____ whose residence is _____ for the office of councilman, to be voted for at the election to be held in the city of Nyssa, on the ____ day of _____ 19____; and we individually certify that we are qualified to vote for a candidate for the offices named, and that we have not signed any other nomination petition for that office.

Name _____

Street and number _____
(with space for additional signatures).

State of Oregon)
County of Malheur) ss.

_____, being duly sworn, deposes and says that his address is _____ Street and that he is the circulator of the foregoing paper containing signatures, and that the signatures appended thereto were made in his presence and are the signatures of the persons whose names they purport to be.

Signature of circulator.

Subscribed and sworn to before me this ____ day of _____
19__.

(Notary Public or other officer authorized to administer oaths).

This petition is filed by _____ whose address is _____
Street.

All nomination papers comprising a petition shall be assembled and filed with the recorder as one instrument, not earlier than ninety days nor later than thirty 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 of a nomination petition the recorder shall notify the candidate and the person who filed such petition whether or not it is found to be signed by the required number of qualified voters. If a petition is found insufficient, the recorder immediately shall return it to the person who filed it with a

statement certifying wherein the petition is found insufficient. Within the regular time allowed for the filing of 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 if within five days after notification to him by the recorder he shall have filed with the recorder a written acceptance of the nomination in the following form:

Acceptance of Nomination

I hereby accept the nomination for the council and agree to serve if elected.

Signature of candidate.

Date filed _____

The petition of each person nominated to be a member of the council shall be preserved by the recorder until the expiration of the term of office for which he has been nominated.

CHAPTER IV

VACANCIES

Section 16. VACANCIES IN OFFICE GENERALLY. An office shall be deemed vacant upon the incumbent's death, incompetence, conviction of a felony, resignation, removal from the city or absence from the city for a period of thirty days without the consent of the council in the case of the mayor, manager, municipal judge or councilman, or without the consent of the manager in case of officers appointed by the manager; upon the incumbent's ceasing to possess the qualifications necessary for office; or upon the failure of the person elected or appointed to an office to qualify therefor on or before the day his term of office commences and in case of the mayor or a councilman, upon his absence from meetings of the council for 60 days without the consent of the council.

Section 17. MANNER IN WHICH VACANCIES SHALL BE FILLED. Vacancies in office filled by election or by appointment by the council shall be filled by appointment by the council at any regular or special meeting, and the person so appointed shall serve the full unexpired term and until his successor is chosen and qualified; provided, that a majority vote of the whole membership of the council shall be necessary to fill a vacancy in the

office of mayor. Vacancies in offices filled by appointment by the manager shall be filled by appointment by the manager. An officer appointed to fill a vacancy shall within twenty-four hours after his appointment qualify for the office, and unless he does so the office shall be considered vacant. During the temporary absence of any officer from the city for any cause his office may be filled temporarily in the manner provided for filling vacancies in office.

CHAPTER V

THE COUNCIL

Section 18. **COUNCIL MEETINGS.** The council shall provide for the time and place of its regular meetings and adopt rules and regulations for the government of its members and proceedings. It shall hold at least one regular meeting each month. Special meetings of the council may be called by the mayor, either upon his own motion or upon the request of at least three members of the council, and held at any time, upon verbal or written notice to all of the members of the council then in the city. Special meetings of the council also may be held by the common consent of all members of the council.

Section 19. **QUORUM.** Four members of the council shall constitute a quorum to do business, but a smaller number may meet and adjourn from time to time to compel the attendance of absent members in the manner provided by ordinance. The council shall keep a journal of its proceedings, and on the call of two members shall cause the yeas and nays to be taken and entered in the journal upon any question before it except a motion to adjourn. The proceedings of the council shall be public.

Section 20. **MAYOR'S DUTIES AT COUNCIL MEETINGS.** The mayor shall be chairman of the council and shall preside over its deliberations. He shall have authority to preserve order, enforce the rules of the council, and determine the order of business, subject to the rules of the council. He may vote as a councilman.

Section 21. **PRESIDENT PRO TEM.** In the absence of the mayor the council shall elect one of its members to be president pro tem.

Section 22. **VOTE REQUIRED.** The concurrence of a majority of a quorum shall be required to determine any matter before the council.

CHAPTER VI

POWERS AND DUTIES OF THE CITY OFFICERS

Section 23. MAYOR. The mayor shall appoint the various committees provided for under the rules of the council or otherwise and shall fill all vacancies in committees of the council from that body. He shall sign all ordinances and written resolutions and orders approved by the council, and countersign all orders on the city treasurer. He shall have no veto power and shall sign all ordinances passed by the council within three days after their passage. He shall sign all instruments and writings authorized by this charter, the laws of the state, or the council.

Section 24. MANAGER.

(a) Qualifications. The manager shall be the administrative head of the city government. He shall be chosen by the council without regard to political consideration and solely with reference to his executive and administrative qualifications. He need not be a resident of the state at the time of his appointment, but promptly thereafter he shall become and thereafter remain, during his term of office, an actual resident of the city.

(b) Term. The manager shall be appointed for an indefinite term, but may be removed at the pleasure of a majority of the council. Upon any vacancy occurring in the office of manager subsequent to the first appointment hereunder, the council shall, at its next meeting, adopt a resolution of its intention to appoint a manager. No such appointment shall be made until at least four weeks elapse after the resolution is adopted. The council shall appoint a manager within four months after the time of adoption of the resolution of intention. This provision, however, shall not affect the appointment of a manager pro tem as herein provided.

(c) Powers And Duties. The powers and duties of the manager shall be:

(1) To see that all ordinances are enforced.

(2) To appoint all heads of departments and other city officers and employees and remove them at pleasure, and to have general supervision and control over them except as otherwise may be provided in this charter. All such appointments shall be made upon the basis of merit and fitness alone.

(3) To see that the provisions of all franchises, leases, contracts, permits, and privileges granted by the city are fully observed, and to report to the city council any violation thereof.

(4) To attend all meetings of the council unless excused therefrom by three councilmen or by the mayor.

(5) To act as purchasing agent for all departments of the city. All purchases shall be made by requisition signed by the manager.

(6) To examine or cause to be examined, without notice, the official conduct of any officer, assistant, deputy, clerk, or employee in any of the departments of the city government, except the council.

(7) To keep the council advised as to the needs of the city.

(8) To prepare and submit to the budget committee the annual budget estimate and such reports as may be required by that body.

(9) To submit to the council an annual report of all departments of the city and such other reports as the council may require.

(10) To prepare or cause to be prepared plans and specifications for work coming under his supervision which the council orders, and to provide such plans and specifications in sufficient number and in ample time to give full opportunity for all contractors who desire to bid thereon to do so.

(11) To have control, subject to such ordinances as may from time to time be adopted, of all public utilities owned or operated by the city.

(12) To have general supervision over all city property and its use by the public or city employees.

(13) To devote his entire time to the discharge of his official duties.

(14) To appoint such advisory boards as he may deem desirable to advise or assist him in his work; provided, the members of such boards shall receive no compensation.

(15) To perform such other duties as may be required by this charter, or the council may require of him.

(16) From time to time, in order to facilitate the prompt, economical and efficient dispatch of city business, to organize the work of the departments under his control, to assign assistants, deputies, and employees from any office or department of the city government to perform work or service in connection with any other office or department thereof, or to work in more than one of said offices or departments; provided, that no such change shall affect the powers or duties of any elective officer of the city.

(d) Seats At Council Meetings. The manager and such other officers of the city as may be designated by vote of the council shall be entitled to seats with the council, but shall have no vote therein. The manager shall have the right to take part in the discussion of all matters coming before the council.

(e) Manager Pro Tem. In case of the absence of the manager from the city, or his temporary disability to act as manager, the council shall appoint a manager pro tem who shall possess the powers and discharge the duties of the manager during such absences or disability only; provided, however, that a manager pro tem shall have no authority to appoint or remove any city officer or employees except with the approval of five members of the council. No manager pro tem shall hold his position for more than four months. No appointment of a manager pro tem shall be renewed.

(f) Interference In Administration. No member of the council shall in any manner, directly or indirectly, by suggestion or otherwise, attempt to influence or coerce the manager in making any appointment or removal, or the purchase of supplies, or attempt to exact any promise relative to any appointment from any candidate for manager, or discuss, directly or indirectly, with any such candidate, the matter of appointments to any city office or employment. Any violation of the foregoing provisions of this section shall work a forfeiture of the office of the offending member of the council, who may be removed therefrom by the council or by any court of competent jurisdiction; provided, however, that nothing herein contained shall be construed as prohibiting the council, while in open session, discussing with or suggesting to the manager fully and freely, anything pertaining to city affairs and for the best interest of the city. Neither the manager nor any person in the employ of the city shall take any part in securing or shall contribute any money toward, the nomination or election of any candidate for a municipal office.

(g) Ineligible Persons. No person related to the manager by consanguinity or affinity within the third degree shall hold an appointive office or employment with the city.

Section 25. MUNICIPAL JUDGE. The municipal judge shall be the judicial officer of the city. He shall be appointed and hold office during the pleasure of the council. He shall hold a court within the city which shall be known as the municipal court for the city of Nyssa, Malheur County, state of Oregon. The court shall be open for transaction of judicial business except on nonjudicial days, as prescribed by the laws of the state. The municipal judge shall have original jurisdiction of all offenses defined and made punishable by ordinances of the city, and of all actions brought to recover or enforce forfeitures of penalties defined or authorized by any ordinance of the city. In all cases before the municipal court, trial shall be had without the intervention of a jury.

Section 26. OTHER OFFICERS. The council shall fix the powers and duties of all appointive officers other than those provided for in this chapter.

CHAPTER VII

ORDINANCES

Section 27. ENACTING CLAUSE. The enacting clause of all ordinances hereafter passed shall be "The city of Nyssa does ordain".

Section 28. INTRODUCTION, READING AND PASSAGE. Every ordinance shall be fully and distinctly read in open council meeting on three different days previous to being put upon its final passage; provided, however, that any ordinance may be introduced and read the first time at any meeting, and upon a unanimous vote of all of the members of the council may be read a second time in full and placed upon its final passage at a meeting held on a separate and successive day. Upon the final vote the yeas and nays of the members shall be taken and recorded in the journal. If the ordinance passes the recorder shall so endorse it, with the date and his name and title of office, and the mayor within three days of the passage shall sign the ordinance with the date and his name and title of office.

Section 29. WHEN ORDINANCES TAKE EFFECT AND PUBLICATION THEREOF. Each ordinance passed by the council shall take effect on the thirtieth day after its passage; provided, that when the council deems it expedient, or in case of an emergency, an ordinance may provide a different time when it shall take effect, or that it shall take effect immediately. All ordinances shall be posted for ten days after passage in three or more conspicuous places in the city.

CHAPTER VIII

PUBLIC IMPROVEMENTS

Section 30. **POWER OF CONDEMNATION AND PURCHASE.** 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: (a) protecting, preserving, and facilitating an improvement, or (b) bringing about such development of property along or in the vicinity of an improvement as will make such development harmonious with and adjusted to the improvement, or (c) any combination of such purposes; to acquire by condemnation property in excess of that needed for the actual improvement and to sell or lease such excess property with building and use restrictions and conditions to make its development harmonious with and adjusted to adjacent public improvements. The necessity for taking of any property by the city shall be determined by the council and shall be declared by a resolution which shall describe such property as nearly as may be and stating the use to which it is to be devoted. The city shall have power to provide for the payment of all or any part of the cost of land or other property acquired for public use, of the construction, reconstruction, repair, operation, or maintenance of any structure or work in the nature of a public facility or improvement, including a public utility, and of any other public work or service, by levying and collecting special assessments upon property specially benefited.

Section 31. **SPECIAL ASSESSMENT.** The method and procedure for determining the amount of assessments, the allocation and apportionment of the amount of the assessments, and the boundary and location of the property, lots, district, or area to be assessed; for the making and approval of the plans and specification; for the notices to property owners and other interested parties; for the hearings, for the composition, organization, and procedure of boards of revision or appraisal; for the levy of the assessments; for the creation of a lien; and for any and all other determinations, steps, measures, resolutions, ordinances and actions in relation to the assessments shall be governed either by: (a) the provisions of the special assessment statutes of the state, or (b) the provisions of a general ordinance setting forth such method and procedure, which general ordinance may be enacted by the council, and shall be subject to amendment or repeal.

Section 32. **IMPROVEMENTS.** Street, sewer, sidewalk, and such other improvements as may be deemed necessary by the council may be made on the motion of the council or on petition of a majority of the property owners interested. Remonstrance by two-thirds of the front footage of

property owners concerned by the proposed improvement shall operate to defeat such motion or petition and the same may not again be considered by the council for a period of six months thereafter.

CHAPTER IX

MISCELLANEOUS PROVISIONS

Section 33. **EXISTING ORDINANCES CONTINUED.** All ordinances and regulations heretofore passed by the city, and in force when this charter takes effect, if not inconsistent with it, shall remain in full force after it takes effect; and until they are amended or repealed by the council.

Section 34. **CITY TO RETAIN RIGHTS AND BE SUBJECT TO LIABILITIES IN EXISTENCE AT THE TIME THIS CHARTER TAKES EFFECT.** All rights, powers, privileges, and immunities vested in the city and all liabilities which it has incurred under the special charter enacted by the legislative assembly at its 22nd regular session in the year 1903, and acts amendatory thereof, and laws of the state, shall not be impaired or discharged by adoption of this charter, except as this charter otherwise provides.

Section 35. **LIMITATION ON INDEBTEDNESS.** Unless authorized by the voters of the city the council shall not contract a voluntary indebtedness of the city in excess of \$5,000 for general city purposes and the council shall not contract an indebtedness in excess of the sum of \$5,000 for the maintenance and operation of its municipal utilities.

Members of the council and any other city official or employee who authorizes or creates or officially approves any such indebtedness in excess of the limitation shall be jointly and severally liable for the amount of the excess.

Section 36. **DAMAGE SUITS.** The city, in any event, shall not be liable in damages to any person for the injury to person or property caused in any manner by any defect or dangerous place at or in any sidewalk, crosswalk, street, alley, defective sewer, public grounds, public buildings, drain, gutter, ditch, or way, unless the city shall have had actual notice of such defect or dangerous place, and a reasonable time thereafter in which to repair or remove such defect or dangerous place before the happening of such accident or injury, and in no case shall more than \$100 be recovered as damages from the city for any such accident or injury.

No action shall be maintained against the city for damages growing out of such an accident or injury unless: (1) the claimant first gives written notice to the council within thirty days of the occurrence of the injury or damage stating: (a) the time when, the specific place where, and the circumstances under which the same occurred; (b) that he will claim damages of the city for the accident, injury, or damage; and (c) the amount of compensation or other relief demanded; and (2) thirty days have elapsed since the presentation of such notice to the council.

Section 37. REPEALING CLAUSE. All acts and parts of acts in conflict with this charter hereby are repealed.