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THE

LAWS OF OREGON,

AND THE

RESOLUTIONS AND MEMORIALS

OF THE

FIFTEENTH REGULAR SESSION

OF THE

LEGISLATIVE ASSEMBLY THEREOF.

1889.



SALEM, OREGON:
FRANK C. BAKER, STATE PRINTER.
1889.

AN ACT

To Incorporate the Town of Woodburn, in Marion County, Oregon.

Be it enacted by the Legislative Assembly of the State of Oregon:

ARTICLE I.

Section 1. That the inhabitants of the town of Woodburn, Marion county, State of Oregon, and their successors, within the limits hereinafter prescribed or ordered by the legislative assembly, are hereby created and established a body politic and corporate by the name and style of the town of Woodburn, and by that style shall have perpetual succession, the right to sue and be sued, defend and be defended in all courts in this State; to purchase, lease, receive and hold property, both real and personal, and dispose of the same for the common benefit; to have and to use a seal, and to alter the same at pleasure.

Section 2. The corporate limits of said town of Woodburn shall be as follows: Commencing in Ben. Brown's lane three chains west of Mrs. L. C. Walker's lot; thence in a straight line, nearly south, to the intersection of the Oregon & California railroad with the north boundary of the donation land claim of Peter Raymond and wife; thence in a straight line to the intersection of the narrow gauge railroad with the old stage road from Ashland to Portland; thence N. $33^{\circ} 20'$ E. in the middle of the said stage road to its intersection with the north boundary of the donation land claim of Eli Cooley and wife; thence in a straight line to the intersection of the O. & C. railroad with the east boundary of the donation land claim of George Leasure and wife; thence in a straight line to the intersection of the Boone's ferry road with the north boundary of the last said Leasure land claim; thence in a straight line to the beginning.

Section 3. There shall be elected as hereinafter provided, a board of five councilmen, a recorder, a marshal and a treasurer, who shall each hold their respective offices of the term of one year, or until their successors are elected and qualified.

Section 4. The qualification of an elector shall be that of an elector for the precinct officers, and that he shall also be a *bona fide* resident within the corporate limits of the town at least thirty days preceding the election at which he offers to vote.

Section 5. All officers authorized by this charter shall be elected

annually, on the first Monday in April in each year, and all vacancies shall be filled by appointment by the board of councilmen, except as hereinafter provided.

Section 6. The power and authority given to the municipal authority of the town of Woodburn by this Act is vested in the common council and their successors in office, to be exercised in the manner hereinafter prescribed, and no person shall be eligible to the office of councilman unless he be an owner of real estate within said town, and a qualified elector therein; all other elective officers shall be qualified electors.

Section 7. The council shall designate the place for holding the election, and shall appoint three judges and two clerks of election; and the recorder, under the directions of the council, shall give ten days' notice by posting written or printed notices in three public places in said town, of each general election, particularly describing the time thereof, the officers to be elected, the place of holding the election and the names of the judges and clerks appointed to conduct the same; *provided*, that no election shall be held in any bar room, tippling house or saloon, and all such houses shall be closed during any annual or special election.

Section 8. All elections shall be held from nine o'clock in the morning until twelve o'clock at noon, and from one o'clock in the afternoon to five o'clock in the evening of the same day. If any judge of election fails to attend and serve at the proper time the voters present may elect another in his place, and if any clerk fails to attend and serve at the proper time the judges of election may appoint another in his place.

Section 9. On the fourth day after the election the recorder shall call to his aid a notary public and justice of the peace of said county, and they three shall canvass the returns of the election with all convenient dispatch; and when the same is completed a written statement of the canvass shall be made and signed by the canvassers, or a majority of them, and filed with the recorder; such statement must contain the whole number of votes given at such election, the number given for any person for any office, and the names of the persons elected, and to what office.

Section 10. Immediately after the completion of the canvass the recorder must make and sign a certificate of election for each person declared thereby to be elected, and deliver the same to him on demand; and such certificate of election is primary evidence of the facts therein stated; but the council must determine in case of a contest between two or more persons, and in case of a tie must decide it by lot; all cases of contest, however, being subject to revision on appeal to the circuit court.

Section 11. All laws of this State regulating and governing general elections and proceed[ings], and matters incidental thereto, shall apply to and govern elections under this, except as herein otherwise provided.

Section 12. The council is hereby authorized to fill all vacancies in any office that may occur, and a majority vote of the council shall be necessary to fill said vacancy; and all officers of the said corporation shall be liable to be removed at any time by the council for misfeasance or incompetency in office; and any officer neglecting or refusing to perform his duties, or absenting himself without leave for thirty days, the city council shall declare his office vacant, and appoint some other person, properly qualified, to fill his place, in the same manner as if elected.

Section 13. The council must provide for the time and place of its regular meetings, at any of which it may adjourn to the next regular meeting, or to some specified time prior thereto; and it may be convened by the president of the council at any time upon not less than one day's notice to each member of the council at that time present in the town. A majority of the members of the council shall constitute a quorum to do business. The council may adopt rules for the government of its members and its proceedings, and it may punish any member for disorderly and improper conduct at any meeting, or for refusing or neglecting to attend any regular meeting without sufficient excuse therefor, and it may by a four-fifths vote, expel a member.

Section 14. On the third Monday of April next following any general election of said town, there must be a regular meeting of the council, and such meeting is appointed by this Act; and the council shall at said meeting proceed to organize by electing one of their number president for the year at any meeting of the council. The concurrence of a majority of a quorum is a sufficient majority to determine any question or matter other than the final passage of an ordinance and the appointment or removal of an officer.

Section 15. The council has power and authority within the limits of the corporation:

1. To make by-laws and ordinances not repugnant to the laws of the State or of the United States.
2. To assess, levy and collect taxes not to exceed two mills on the dollar per annum upon all property which is taxable for county or State purposes; and to levy and collect a poll tax of not less than one dollar nor more than two dollars upon each legal voter within said town each year, who is not exempt from paying a poll tax under the laws of this State.
3. To establish hospitals; prevent and remove nuisances; to

provide water for the use of the town; to license, tax and regulate auctioneers, taverns, ordinaries, hawkers, peddlers, brokers, hackneys, carriages, wagons, carts, drays, omnibuses, and fix their rates of travel.

4. To license, tax, regulate and prohibit bar rooms, billiard tables, pool tables, pigeon-hole tables, bowling alleys and drinking shops, theaters and other shows, exhibitions and other amusements; also to prohibit bawdy houses, gaming and gambling houses; *provided*, that a license for a saloon or place where spirituous or malt liquors are sold in less quantities than one quart shall not be less than three hundred dollars, or for a billiard or pool table not less than fifty dollars; *provided*, that no license for the sale [of] spirituous, vinous or malt liquors shall be issued for a sum less than is prescribed by the general laws of the State for the license of the sale of spirituous, vinous or malt liquors in force at the time of the issuance of such license.

5. To establish fire companies and provide for the prevention and extinguishment of fires, to appoint fire wardens and property guards and prescribe their duties; to compel by ordinances any person present to aid in the extinguishment of fires or for the preservation of property exposed to danger in times of fire, and to make such other regulations as may be necessary on such occasions.

6. To provide for and maintain both a day or night police, and to provide for the restraint, support and employment of vagrants and paupers.

7. To provide by ordinance for the summary closing of all places, houses or rooms where opium is smoked.

8. To remove all obstructions from the public highways, streets, side and crosswalks, alleys, gutters and sewers, and to provide for the construction, repair and cleaning of the same.

9. To oblige all persons in the city jail who may be imprisoned for vagrancy or for violating any city ordinance, to work on the public streets under the control and direction of the street commissioner or marshal, and, if need be, secure said prisoner with ball and chain while working or on the streets for that purpose.

10. To provide for the collection and disbursing of all moneys to which the town may become entitled, or which may be assessed or authorized to be collected for town purposes within the limits of the same; and the council is hereby authorized and empowered to enforce the collection of any general or special tax, levied in pursuance of this Act, and may authorize the issue of warrants, and may levy upon both the real and personal property, whether the same be exempt from execution or not, of delinquent tax payers within the town, and cause the same to be sold under such rules and

regulations as the council shall establish, to satisfy such warrant and fees of officers and all other expenses and costs attending such levy and sale.

11. The council is hereby authorized and empowered to lay out, establish, vacate, widen, extend and open streets and alleys, and parts of streets and alleys, in said town, and to take, sell and appropriate private property for that purpose; and to establish or alter the grade of any street or part thereof, and to improve the sidewalks, pavements, streets and parts of streets within the corporate limits, and to take, sell and appropriate private property for that purpose, making full or partial improvements thereof, and to establish a system of sewerage and construct and repair drains and sewers; and the council is hereby expressly empowered to determine and provide by ordinance for everything necessary and convenient in order to exercise the authority herein granted, and it is hereby made the duty of the council to pass ordinances regulating the sale and redemption of said real property.

12. To tax, regulate or prohibit animals, including dogs, from running at large within the corporate limits.

13. To appoint a street commissioner and attorney, and prescribe their duties and fix their compensation.

14. To impose, collect and appropriate fines, forfeitures and penalties for the violation of any ordinance, but no fine so imposed shall exceed one hundred dollars, and imprisonment shall in no case be imposed for a longer term than thirty days.

15. To provide for the survey of the blocks and streets of the town, and for making and establishing the boundary lines of such blocks and streets, and for the naming of the streets and blocks.

16. To open, lay out, establish, widen or extend a street or alley, and to provide by ordinance for the time and manner of closing the same.

17. To establish and regulate the fees and compensation of all officers of said town, except when otherwise provided by law.

18. To exercise such other and further powers and authority as may be given to the council elsewhere in this Act.

Section 15. The recorder is the judicial officer of the corporation, and shall hold a court therein whenever necessary. He is also made the auditor and clerk of the council, and to him must be presented all claims and accounts against the town. He shall keep accurate minutes of all the proceedings of the council, and a correct record of all judicial business by him transacted. It is his duty also to file every paper presented to him officially, and to take charge of and safely keep all the papers and records of the corporation and

the poll books and ballots, whether received or rejected, of any and every election held in pursuance of this Act.

Section 16. The recorder shall have jurisdiction of all crimes and offences defined and made punishable by any ordinance of the town, and of all actions brought to recover or enforce any forfeiture or penalty declared or given by any such ordinance. He has the authority and jurisdiction of a justice of the peace for the county of Marion within the corporate limits of Woodburn, in both civil and criminal matters, and in all proceedings in his court, whether sitting as justice of the peace or as recorder, he shall be governed and regulated by the general law of this State applicable to justices of the peace and to justices' courts in like or similar cases.

Section 17. The recorder must keep books of account, showing therein all sums appropriated, the date thereof, and out of what fund payable, the date and amount of all orders or warrants drawn thereon and to whom payable, and all such other matters and things as may be prescribed by ordinance, or be proper or necessary to a correct understanding of the finances of the town. He must issue all licenses authorized by ordinance, upon delivery to him of the receipt of the treasurer for the amount of money required for such license; *provided*, that in such cases as the council, by the provisions of this Act or any ordinance, are or shall be required to make special order, license shall be issued only on such order.

Section 18. The recorder's name, whether acting as recorder, auditor, or clerk of the council, is "Recorder of the town of Woodburn," and he is authorized to administer any oath authorized or required to be taken by any law of this State or by any ordinance of this town.

Section 19. The marshal shall be conservator of the peace, and in addition to the authority vested in him by any ordinance of the town of Woodburn, shall have authority and jurisdiction of a constable within the corporate limits, and shall discharge the same according to the statutes of this State pertaining to constables; he shall arrest all persons guilty of a breach of the peace or any violation of any town ordinance, and take them before the recorder for trial; he shall collect all fines and delinquent licenses and taxes in the same manner as collection of county taxes in this State are collected and enforced, and shall pay all money collected by him over to the city treasurer, taking duplicate receipts for the same, one of which he shall file with the recorder.

Section 20. It shall be the duty of the marshal to supervise all property of the town, and to prevent the loss and destruction thereof. He shall attend all meetings of the council, and perform the duties of sergeant-at-arms to said body, and shall perform such other

duties as may be imposed upon him by ordinance. He shall make a quarterly report to the council of all business by him transacted, and a statement of all public moneys received by him during said time, and the disposition made thereof.

Section 21. The treasurer shall receive and safely keep all money that shall come into his hands belonging to the town of Woodburn, and pay the same out upon the warrant or order signed by the president of the council and recorder, and shall keep a correct account of the receipts and disbursements, and at all times keep his book open to the inspection of the council, and at the expiration of his term of office shall turn over to his successor all moneys, books and papers belonging to his said office. He shall, upon the receipt of any and all money, credit the amount received to the proper fund and shall not under any circumstances whatever apply any special fund to the payment of any warrant or order not drawn on the same; and he generally shall perform any and all duties that may be required of him by any ordinance of the town.

Section 22. The council is hereby authorized and empowered to pass ordinances regulating and defining the further duties of the recorder, marshal and treasurer, and to define the duties of the street commissioner, attorney or any of their appointed officers or agents, and to fix and determine the compensation of any and all officers.

Section 23. No claim against the town shall be paid until it is audited and allowed by the council, and then the treasurer shall pay it only upon a warrant drawn upon him and signed by the recorder and president of the council.

Section 24. No member of the council shall, during the period for which he is elected, be interested in any contract, the expenses of which are to be paid out of the town treasury.

Section 25. Within five days from the enactment of any ordinance, a copy thereof shall be posted in three of the most public places in said town or published in a newspaper published in said town, and no ordinance shall take effect in less than ten days after its passage. The council shall be the final judges as to whether proper notice has been given in any and all cases where notices are required to be given by this Act or any ordinance of the town. All meetings of the council shall be public, and at least once a year a statement of the financial affairs of the town shall be made out in full by the council and filed in the office of the recorder for public inspection.

Section 26. The council shall not in any manner create any debt or municipal liability which shall, singly or in the aggregate, exceed two hundred dollars; *provided*, that nothing herein contained

shall be construed so as to prevent the council from contracting for any amount for which it has the cash to pay down at the time contract is made.

Section 27. The enacting clause of every ordinance shall be: "The people of the town of Woodburn do ordain as follows:" And every ordinance to be valid must receive the affirmative vote of at least three councilmen, whose names must be entered in the journal.

Section 28. All officers elected or appointed under this Act, before entering upon the duties of their office, must take and file with the recorder an oath of office to the following effect, viz.: "I, A B, do solemnly swear (or affirm) that I will support the constitution of the United States and of the State of Oregon, and that I will, to the best of my ability, faithfully perform the duties of the office of the town of Woodburn, during my continuance thereto, so help me God." If the person affirms, instead of the last clause, there must be added: "And this I promise under the pains and penalties of perjury."

Section 29. No person paying a license to the town of Woodburn in order to carry on any business or avocation within the corporate limits, for which license is required by this Act or by any ordinance, shall be required to pay a license tax to the county authorities of Marion county for the same purpose.

Section 30. No license to set up, open or establish a grog shop, tippling house, bar room, saloon or other place where spirituous, vinous or malt liquors are sold by the drink or given away or sold to be drank on the premises, shall be issued except upon petition to the council, signed by a majority of the resident citizens of the town over twenty-one years of age, and the fact of majority shall be determined by an examination of a list obtained by the recorder for the purpose. All petitions of this character shall be kept posted up in the recorder's office and also in the council room for public inspection and reference, but no license shall issue for a longer time than six months.

Section 31. All warrants issued by the recorder by virtue of the provision of this Act or of any ordinances shall run in the name of the town of Woodburn.

Section 32. The council shall by ordinance fix the amount of the official undertaking of each and every officer of the town who may be required by ordinance to execute and file an official undertaking; *provided*, that there be not less than two sureties upon each and every such undertaking.

Section 33. The council is hereby empowered to adopt its own rules and regulations in reference to raising revenue by taxation, as hereinbefore provided and limited. It shall provide for the selling

of property to pay delinquent taxes, and for the redemption thereof, and for everything necessary and convenient to levy, assess and collect taxes.

Section 34. The first election under this Act shall be held at the said town of Woodburn, commencing at 9 o'clock A. M. and ending at 4 o'clock P. M., on the first Monday in April, 1889. The inspectors or judges of said first election shall be F. M. Cormack, J. M. Poorman and W. B. Fout, who shall cause five days' previous notice to be given by posting three notices in conspicuous places in said town, and they shall select clerks of election, give certificates to the successful candidates, and deliver the poll books and tickets to the recorder elect.

Section 35. Inasmuch as the town of Woodburn is situated at the junction of the Oregon & California railroad with the narrow gauge of the Oregonian Railway Company (Limited), and is a thriving town much in need of local government, this Act shall take effect from and after its approval by the Governor.

Filed in the office of the Secretary of State February 20, 1889.

AN ACT

To Incorporate the City of Athena, in Umatilla County, Oregon, and to Define the Powers thereof.

Be it enacted by the Legislative Assembly of the State of Oregon:

INCORPORATION AND BOUNDARIES.

Section 1. The inhabitants of the city of Athena, in Umatilla county, Oregon, within the limits hereinafter set forth, shall be and they are hereby constituted a body politic and corporate in fact and in law and declared to be a municipal corporation by the name and style of the "City of Athena," and by such name shall contract and be contracted with, sue and be sued, implead and be impleaded, defend and be defended in all courts of justice and in all actions, suits and proceedings whatsoever; may purchase, lease, hold and receive property, real and personal, within said city, for public buildings, public works, school purposes, streets and city improvements; to sell, lease or otherwise dispose of the same for the common benefit of the city; to borrow and loan money; to have and use a seal and alter the same at pleasure.