

MARION COUNTY
Home Rule Charter Initiative
Frequently Asked Questions (FAQ)

County Organization: General Law And Home Rule Provisions

1. How is Marion County currently organized?

Marion County is organized as a General Law County (ORS 203.035). General Law counties are given authority to enact ordinances involving matters of county concern, either through adoption by the board of commissioners (or county court) or approved by the voters. These ordinances are local law in the county. Twenty-seven counties operate under state General Law: *Baker, Clackamas, Columbia, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Lincoln, Linn, Malheur, Marion, Morrow, Polk, Sherman, Tillamook, Union, Wallowa, Wasco, Wheeler, and Yamhill.*

2. Do all General Law counties have three county commissioners?

No, eight rural General Law counties have a county court with a county judge and two commissioners. A county judge may or may not have judicial functions and serves as the chair of the county court for the entire term of office. A county judge position may be partisan or non-partisan. General Law counties with a county court form of government are: *Crook, Gilliam, Grant, Harney, Malheur, Morrow, Sherman and Wheeler.* Most General Law counties have abolished the office of county judge in lieu of a third commissioner position.

In other General Law counties, there are five commissioners. In 1985, the Oregon legislature changed the statutes to allow for the electorate to “change the mode of selection of elective county officers...” to increase the number of commissioners and to create non-partisan elections without adopting a home rule charter. In 2007, Clackamas County voters approved an ordinance that used the 1985 provision to change their county structure from three to five commissioners and to make the commissioner positions nonpartisan. County boards of commissioners in Yamhill and Douglas Counties are also nonpartisan as well as the positions of county judge in Crook, Gilliam and Harney Counties.

3. What is a Home Rule Charter?

In 1958, Oregon Constitution Article VI, § 10 was enacted, which gives counties the option of adopting home rule charters to specify the organization of county government and to control the selection of officers. A charter may also include other provisions over matters of county concern. Like ordinances, a home rule charter is local law, but a charter can only be adopted, amended or repealed through an election process.

4. How many counties in Oregon currently operate under a Home Rule Charter?

Of Oregon's 36 counties, 9 operate under a Home Rule Charter: *Benton, Clatsop, Hood River, Jackson, Josephine, Lane, Multnomah, Umatilla, and Washington*. Jackson and Benton elect partisan commissioners; Clatsop, Hood River, Josephine, Lane, Multnomah, Umatilla and Washington counties elect non-partisan commissioners.

5. How are Home Rule Charters established?

A Home Rule Charter can be established in two ways: 1) A county governing body can establish a charter committee composed of county residents to study and draft a Home Rule Charter; 2) One or more individuals may file an initiative petition. The current Marion County Home Rule Charter proposal is by initiative petition. In either case, an election must be held and the electorate of the county must vote on whether to adopt the Home Rule Charter proposal.

6. What is required to amend or change a Home Rule Charter?

Home Rule charters are amended by voter approval only. Placing an amendment(s) on the ballot can be done through a measure referred by the Board of Commissioners on its own or from a Charter Review Committee, or by initiative petition. In the proposed Home Rule Charter, future changes to the Home Rule Charter require 8% of voters' signatures on a petition and eliminating the Home Rule Charter once approved by the voters would require 15% of voters' signatures to get on the ballot.

7. What has been Marion County's history with establishing a Home Rule Charter?

Proposed Home Rule Charters have been referred to Marion County voters three times, in 1964, 1974 and 1982, but did not pass. In 2001, the Marion County Board of Commissioners convened a review of Home Rule Charter versus General Law structures. After the review, the board decided to retain the General Law structure for Marion County.

Role of County Commissioners

1. What is the role of a Board of County Commissioners in Oregon?

The Board of Commissioners is the elected representative of all persons residing in a county. The board sets policy for the administration of county government. In fact, the board is responsible for all three branches of county government: legislative, executive, and quasi-judicial. Board sessions are held each Wednesday morning for official action to adopt ordinances, resolutions and orders pertaining to county policy, operations, and administration and to provide opportunities for public input.

2. What are the roles of city council members in Oregon?

City council members likewise set policy for city government, adopting ordinances, resolutions and orders. City councils also act in quasi-judicial roles in land use

proceedings. However, city councils are not responsible for executive functions, which are instead governed by mayors and, in some cities, city managers.

3. In Marion County, commissioners serve “at large.” What does this mean?

At large means that all residents of the county vote for all candidates. Each commissioner is elected to represent the interests of all areas of the county. Commissioners are responsible for knowledge of the various issues affecting the entire county.

4. How does an at-large structure differ from commissioners elected by district?

The proposed Home Rule Charter creates five districts where each district elects its own commissioner. Five of the nine counties with Home Rule Charters have commissioners elected from districts: Clatsop, Hood River, Lane, Multnomah, and Washington.

Other Elected Officials Affected By The Proposed Initiative

1. The measure being proposed would delete the position of Treasurer as an elected office. How will this affect Marion County?

The Treasurer is the statutory cash custodian for Marion County. The Treasurer's office works to minimize the risk to public funds through cash handling training and audits. The Treasurer is responsible for the proper receipting of all monies flowing through the county and is responsible for the distribution of taxes and the interest earned on those monies to the 109 taxing districts in Marion County. The Marion County treasurer is the investment manager for the county, investing funds in accordance with the county's investment policy and assuring that adequate cash is available to meet the obligations of the county. These duties would still have to be performed and have to be assigned to a different person or position. In some home rule counties, appointed financial staff conducts the duties of the county treasurer.

2. How are the Justices of the Peace affected by the proposed measure?

The Marion County Justice Courts hear minor traffic offenses, some misdemeanors and small civil claims (\$5,000 or less). In addition, each Justice Court hears cases relating to violations of county ordinances, such as charges of excessive noise. These courts are the county equivalent of municipal courts, which exist in larger cities such as the City of Salem. The two elected Justices of the Peace conduct business in three locations: East Salem, Stayton, and Woodburn. The proposed charter lists the Justices of Peace as appointive offices. These offices are currently elective.

NOTE: This provision appears to be void under Oregon Constitution Article VI, Section 10, which says “Except as expressly provided by general law, a county charter shall not affect the selection, tenure, compensation, powers or duties prescribed by law for judges in their judicial capacity, for justices of the peace or for district attorneys.” If it were found to be invalid, then under the severability provision of the proposed charter, this provision would not be enforceable.

Administrative Issues

1. How would the proposed charter change how the county conducts business?

Currently, the Board of Commissioners meets weekly to conduct public business. Capital Community Television (CCTV) televises the meetings for residents living in the Salem-Keizer area. Board sessions are also broadcast on public access stations in outlying areas of Marion County. In addition, all of the past board sessions and budget committee meetings since 2003 may be viewed on CCTV's Internet site at www.cctvsalem.org. The Board of Commissioners holds additional public meetings, such as Management Update and work sessions, to manage the administrative affairs of the county. On average, the Board of Commissioners holds 12-16 public meetings per month to effectively conduct county business. The Board of Commissioners also holds periodic evening meetings with city councils on major topics impacting the county and cities. The proposed measure states that the Board of Commissioners would generally meet twice each month.

Cost Issues

1. What would be the compensation for the county commissioners under the proposed charter?

For the first year that the proposed charter would be in effect, the proposal states that the salaries and benefits paid to commissioners will not exceed that of fiscal year 2009-2010. Some proponents of the proposed charter have stated that salary and benefits of the current three commissioners will be shared among five commissioners. An alternative reading of the text is that the charter would limit first year salary and benefits of each individual commissioner to the 2009-2010 level of compensation. The actual words of the proposed charter do not say that the five elected commissioners will share or split the combined salaries and benefits of the current three.

After the first year, the proposed charter states that the salary and benefits for the five commissioners will be determined by the board itself after receiving recommendations from a compensation committee.

2. How is the compensation set currently for the Marion County Board of Commissioners?

Currently, state statutes direct the Board of Commissioners to appoint a Compensation Board to prepare an annual analysis of all county elected officials' salaries. The Compensation Board looks at elected officials' salaries in similar sized counties and generally recommends salaries within the average comparable salary level. Any change in the compensation of an elected official requires budget committee approval.

The proposed charter would require a second, separate compensation commission, appointed by the county clerk, for the specific purpose of making recommendations on commissioner salaries.

3. What other costs would be associated with adding two new commissioners?

Costs include taxes and benefits attached to the two additional commissioners, office space, computers and equipment, and furniture and supplies, along with other expenses associated with doing the job such as insurance, support staff and membership fees as well as, reimbursement for expenses incurred when conducting county business for the two additional commissioners.

Changes In County Government Under The Initiative Petition

1. Increases the number of commissioners – from 3 to 5.
2. Changes the nature of political representation - from partisan to non-partisan.
3. Changes the constituency that is represented – from three commissioners representing all residents within the county and elected at-large to five commissioners representing five individual districts.
4. Changes the number of regular Board of Commissioners’ formal board sessions from one a week to generally twice a month.
5. Alters the Board of Commissioners’ regular business meetings - from 9:00 am every week on Wednesday morning to one morning meeting and one evening meeting per month.
6. Establishes additional County Clerk responsibilities to include:
 - a. Apportionment of county commissioner districts, and
 - b. Appointment of a compensation commission to recommend salaries for the county commissioners. Remaining elected officials’ salaries continue to be recommended by the county compensation committee required by statute.
7. Elimination of Treasurer as an elected office.
8. The Assessor position must be a registered appraiser and meet other statutory requirements for this position. The charter initiative does not address this.
9. Changes the Justice of the Peace positions from elected to appointed. NOTE: this provision appears to be void under Oregon Constitution Article VI, Section 10.

The Initiative Process

1. Petition signature gathering requires signatures in the amount of 6% of votes cast in Marion County for all candidates for governor in last election. Based on the 2006 election, the number of signatures needed is 5,828.
2. Chief petitioners must certify no later than each anniversary date of approval to circulate (July 14, 2009) that the initiative is still active.
3. Once the required (or more than required) signatures are obtained, the petition is presented to the county clerk for verification of signatures.
4. The county clerk verifies the signatures.
5. The charter would be put on next available election no sooner than the 90th day after the initiative is filed for signature verification with the county clerk.
6. If approved, this charter includes a transitional provision stating that the charter is effective on the 60th day following adoption by the voters.