

CHARTER

City of Lebanon, Oregon

PREAMBLE

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

Be it enacted by the people of the City of Lebanon, Linn County, State of Oregon:

CHAPTER I NAME AND BOUNDARIES

Section 1. Title of Enactment.

This enactment may be referred to as the City of Lebanon Charter of 2004.

Section 2. Name of City.

The Municipality of Lebanon, Linn County, State of Oregon, shall continue to be a municipal corporation with the name City of Lebanon.

Section 3. Boundaries.

The City shall include all territory encompassed by its boundaries as they now exist or hereafter are modified by voters, by the Council, or by any other agency with legal power to modify them. The Recorder shall keep at City Hall at least two certified copies of this Charter in each of which he/she shall maintain an accurate, up-to-date map designating the boundaries of the city.

CHAPTER II POWERS

Section 4. Powers of the City.

The City shall have all powers which the Constitutions, statutes, and common law of the United States of America and of the State of Oregon expressly or impliedly grant or allow municipalities as fully as though this Charter specifically enumerated each of those powers.

Section 5. Construction of Charter.

In this Charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the City would have if the particular power were not mentioned. The Charter shall be liberally

construed to the end that the City may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the Constitution of the State of Oregon. As used herein, the singular shall include the plural and the plural the singular, the masculine and neuter shall each include the masculine and feminine and neuter, as the content requires.

CHAPTER III FORM OF GOVERNMENT

Section 6. Where Powers Vested.

Except as this Charter provides otherwise, all powers of the City shall be vested in the Council.

Section 7. Council.

The Council shall be composed of a Mayor elected from the City at large, and six Councilors nominated and elected by precinct.

Section 8. Members of the City Council.

The Mayor and Councilors in office at the time this Charter is adopted shall continue in office, each until the end of his/her term of office as fixed by the Charter of the City in effect at the time this Charter is adopted. At each biennial general election after this Charter takes effect, three Councilors shall be elected, each for a term of four years.

Section 9. Mayor.

At each biennial general election a Mayor shall be elected for a term of two years.

Section 10. Other Officers.

Additional officers of the City shall be a City Recorder, a City Attorney, a City Administrator, and in the discretion of the Council, a Municipal Judge and whatever other officers the Council deems necessary. The Municipal Judge, the City Attorney, and the City Administrator shall be appointed by the Council and be responsible to it and the other additional officers shall be appointed by the City Administrator and be responsible to him/her. The Council, as needs dictate, may appoint one or more pro tem Municipal Judges to serve such term as the Council provides.

Section 11. Salaries.

The compensation for the services of each City officer and employee classification shall fall within the salary range fixed by the Council for that particular position.

Section 12. Qualifications of Elected Officers.

No person shall be eligible for an elective office of the City unless at the time of that person's election or appointment that person is a qualified elector within the meaning of the Constitution of the State of Oregon; has resided in the City continuously during the six months immediately preceding the election or appointment. No person who is an employee of the City of Lebanon, nor is a spouse or immediate family member of a city staff member or seated elected officer, shall be eligible to serve as a member of the City Council. The Council shall be

final judge of the qualifications and election of its own members subject, however, to review by a Court of competent jurisdiction.

CHAPTER IV COUNCIL

Section 13. Meetings.

The Council shall hold a regular meeting at least once each month in the City at a time and at a place which it designates. It shall adopt rules for the government of its members and proceedings. The Mayor upon his/her own motion may, or at the request of three Councilors, shall call a special meeting of the Council by giving notice thereof as required by state law.

Section 14. Quorum.

A majority of members of the Council shall constitute a quorum for its business, but a smaller number may meet and compel the attendance of absent members in a manner provided by ordinance. Any elected officers present shall be counted for purposes of establishing a quorum.

Section 15. Journal.

The Council shall cause a journal of its proceedings to be kept. Upon the request of any member, the ayes and nays upon any question before it shall be taken by name and a record of the vote entered in the journal.

Section 16. Proceedings to be Public.

No action by the Council shall have legal effect unless the motion for the action and the vote by which it is disposed of takes place at proceedings open to the public.

Section 17. Mayor's Functions at Council Meetings.

The Mayor shall be chairperson of the Council and preside over its deliberations. He/she shall have a vote on all questions or issues resulting in a tie vote of those members present and voting. He/she shall have authority to preserve order, enforce the rules of the Council, and determine the order of business under the rules of the Council and shall co-sign all orders on the treasury with the City Recorder.

Section 18. President of the Council.

At its first meeting after this Charter takes effect, and thereafter at its first meeting of each odd-numbered year, the Council shall elect a president from its membership. In the Mayor's absence from a Council meeting, the president shall preside. Whenever the Mayor is unable to perform the functions of his/her office, the president shall act as Mayor, shall have all the powers of the Mayor, including the authority to co-sign all orders on the treasury with the City Recorder.

Whenever the Council shall find a need to authorize a member of the Council to act as Mayor in the absence of the Mayor and the president of the Council, it may by motion authorize another member to act as Mayor.

Section 19. Vote Required.

Except as this Charter otherwise provides, the concurrence of a majority of the members of the Council present and voting at a Council meeting shall be necessary to decide any question before the Council.

CHAPTER V POWERS AND DUTIES OF OFFICERS

Section 20. Mayor.

The Mayor shall appoint those committee members provided by City ordinance or the rules of the Council. He/she shall sign all approved records of the proceedings of the Council. He/she shall have no veto power and shall sign all ordinances passed by the Council. After the Council approves a bond of a City officer or a bond for a license, contract, or proposal, the Mayor shall endorse the bond.

Section 21. City Administrator.

The following provisions shall apply to the office of the City Administrator:

- (a) **Qualifications.** The City Administrator shall be the administrative head of the government of the City. He/she shall be chosen by the Council without regard to political considerations and solely with reference to his/her executive and administrative qualifications. He/she need not be a resident of the City or of the State at the time of his/her appointment but within six months thereafter, unless said requirement is modified by the City Council, shall become and during his/her tenure remain a resident of the city. Before taking office, he/she shall give a bond in such amount and with such surety as may be approved by the Council. The premiums on such bond shall be paid by the City.
- (b) **Term.** The City Administrator shall be appointed at will for such time as the Council in its sole discretion shall deem appropriate and may be removed by an affirmative vote of not less than four members of the Council.
- (c) **Powers and Duties.** The powers and duties of the City Administrator shall be as follows:
 - (1) He/she shall devote his/her entire time to the discharge of official duties, attend all meetings of the Council unless excused therefrom by the Council or the Mayor, keep the Council advised at all times of the affairs and needs of the City, and make reports annually, or more frequently if requested by the Council, of all the affairs and departments of the City.
 - (2) He/she shall see that all ordinances are enforced and that the provisions of all franchises, leases, contracts, permits, and privileges granted by the City are observed.
 - (3) He/she shall appoint or remove all other appointive officers and employees of the City, except the Municipal Judge and the City Attorney, and shall have general supervision and control over them and their work, with power to transfer employees from one department to another or to eliminate appointive offices or positions except that prior to the appointment or removal of a department head, or a significant revision of the City's organizational structure or staffing, the Administrator shall review the matter with the Council. He/she shall supervise the departments to the end of obtaining the utmost efficiency in each of them. He/she shall have no control, however, over the Council or over the judicial activities of the Municipal Judge.
 - (4) He/she shall supervise City contracts and purchases.

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- (5) He/she or his/her designee shall be the City Budget Officer and shall be responsible for preparing and submitting to the budget committee the annual budget estimates and such reports as that body requests.
 - (6) He/she shall supervise the operation of all public utilities owned and operated by the City and shall have general supervision over all City property.
 - (7) In the absence of the City Recorder, the City Administrator shall have the power to co-sign all orders on the treasury with the Mayor, the acting Mayor or other authorized representative of the Council.
 - (d) Seats at Council Meetings. The City Administrator and such other officers as the Council designates shall be entitled to sit with the Council, but shall have no vote on questions before it. The City Administrator may take part in all Council discussions.
 - (e) **City Administrator Pro Tem.** In case of the Administrator's absence from the City, temporary disability to act as City Administrator, discharge by the Council, or resignation, the Council shall appoint a City Administrator Pro Tem who shall possess the powers and duties of the City Administrator. No City Administrator Pro Tem may appoint or remove a City officer or employee, except with the approval of five members of the Council.
 - (f) **Ineligible Persons.** No person related to the City Administrator or his/her spouse by consanguinity or affinity within the third degree, nor the spouse, shall hold any appointive office or employment with the City.

Section 22. Municipal Judge.

If the Common Council of the City of Lebanon decides to maintain a Municipal Court and Municipal Judge, the Judge shall hold within the City a Court known as the Municipal Court of the City of Lebanon, Linn County, State of Oregon. The Court shall be open for the transaction of judicial business at times specified by the Council. All areas within the City shall be within the territorial jurisdiction of the Court. The Municipal Judge shall exercise jurisdiction of all crimes and offenses defined and made punishable by ordinances of the City and the law actions brought to recover or enforce forfeitures or penalties defined or authorized by ordinances of the City. The Judge shall have authority to issue process for the arrest of any person accused of an offense against any ordinance of the City, to commit any such person to jail or admit that person to bail pending trial, to issue subpoenas, to compel witnesses to appear and testify in Court on the trial of any cause before the Judge, to compel obedience to such subpoenas, to issue any process necessary to carry into effect the judgments of the Court, and to punish witnesses and others for Contempt of Court. When not governed by ordinances or this Charter, all proceedings in the Municipal Court for the violation of a City ordinance shall be governed by the applicable general laws of the State of Oregon governing Justices of the Peace and Justice Courts.

All judicial jurisdiction, authority, power, functions and duties of the Municipal Court of the City of Lebanon and the Judge thereof, with respect to all or any violations of the Charter or ordinances of the City may be performed by the regular and pro tempore Judge of a state court as and when the Common Council of the City of Lebanon may from time to time decide.

Section 23. City Recorder.

The City Recorder shall serve ex officio as Clerk of the Council, attend all its meetings unless excused therefrom by the Council, and keep an accurate record of its proceedings in a book provided for that purpose. He/she shall co-sign all orders on the treasury with the Mayor.

CHAPTER VI ELECTIONS

Section 24. Regular Elections.

Regular City elections shall be held at the same times and places as biennial general State of Oregon elections, and shall be conducted in accordance with applicable State of Oregon election laws.

Section 25. Special Elections.

Special elections shall be held as provided by the Council and shall be conducted in accordance with applicable State of Oregon election laws.

Section 26. Regulation of Elections.

The general laws of the State of Oregon shall apply to the conduct of all City elections, recounts of the returns therefrom, and contest thereof, except in those cases where the Council has the power to provide otherwise either through this Charter or by ordinance, and has so exercised this power either in the Charter or by ordinance.

Section 27. Canvass of Returns/Certification of Results.

In all elections, the State of Oregon laws governing the canvassing, filing and certification of returns shall apply. The results of each election including a statement of the total number of votes cast, the votes cast for each person and for and against each proposition, the name of each person elected to office, the office to which he/she has been elected, and a reference to each measure enacted or approved shall be recorded in the journal of the proceedings of the Council not later than 45 days after all regular or special election.

Section 28. Tie Votes.

In the event of a tie vote for candidates for an elective office, the successful candidate shall be determined by a public drawing of lots.

Section 29. Commencement of Terms of Office.

The term of office of a person elected at a regular City election shall commence at the first City Council meeting after the first of the calendar year immediately following the election. Until such time as the Mayor-elect or Councilor-elect is sworn into office, the incumbent Mayor or Councilor shall continue in office.

Section 30. Oath of Office.

Before entering upon the duties of his/her office, each officer shall take an oath or shall affirm that he/she will support the Constitutions and laws of the United States of America and of the State of Oregon and will faithfully perform the duties of his/her office.

Section 31. Nominations.

Any person qualified, as provided in Section 12, hereof, may be nominated for an elective City position. The nominating procedure shall be in accordance with applicable State of Oregon election laws and, except for Mayor, shall be by precinct of residency as hereinafter set forth and said precincts, which will be three in number, are defined and designated in area as follows:

Pioneer Precinct (Ward #2), which will include all of that area within the City limits which lies more or less northerly of Oak Street to the northernmost boundary of the city limits, except for that portion that lies southerly of Sherman Street and east of Main Street. The Santiam Precinct (Ward #3), which will include all of that area within the City limits, which lies more or less easterly of Main Street and southerly of Sherman Street to the southern and easternmost boundaries of the City limits. Oak Creek Precinct (Ward #1), which will include all of that area within the City limits, which lies more or less southerly of Oak Street and more or less westerly of Main Street to the southerly and westerly boundaries of the city limits. The City Council may, by ordinance, adjust the boundaries of these precincts to provide a reasonable equity of population.

Voters, duly registered and residing within the City limits of Lebanon, shall be allowed to vote at large for Mayor. Those voters shall be allowed to vote by precinct of residence for those nominated to represent that precinct.

Section 32. Election of Nominees.

The mayoral candidate with the most votes shall win the position of mayor. The candidate in each precinct with the most votes shall win a position on the City Council. In the event that there are no candidates from a precinct, the vacancy shall be filled upon the seating of the members elected in a regular or special election and in accordance with Section 34.

CHAPTER VII VACANCIES IN OFFICE

Section 33. What Creates a Vacancy.

An office shall be deemed vacant upon the incumbent's death, adjudicated incompetence, conviction of a felony, other offense punishable by loss of liberty pertaining to his/her office, or unlawful destruction of public records, resignation, recall from office, the lack of a qualified candidate during a regular election, or ceasing to possess the qualifications for the office. The office of Mayor or Councilman shall be deemed vacant upon his/her absence from the City for more than 60 days without the consent of the Council, and upon a declaration by the Council of the vacancy.

Section 34. Filling of Vacancies.

Vacancies in elective offices in the City shall be filled through appointment by a majority of the incumbent members of the Council. The Council shall first attempt to fill the vacancy with a qualified elector from the precinct having the vacancy. If the vacancy remains after 60 days, the Council shall fill the position with a qualified elector from the City at large. The appointed member shall then serve the balance of the term of the position being filled. During the temporary disability of any officer, as determined in the sole discretion of the City Council, or during his/her temporary absence from the City for any cause, his/her office may be filled pro tem in the manner provided for filling vacancies in the office permanently.

CHAPTER VIII ORDINANCES

Section 35. Enacting Clause.

The enacting clause of all ordinances hereafter enacted shall be "The City of Lebanon ordains as follows:"

Section 36. Mode of Enactment.

- (1) An ordinance of the Council shall, before being put upon, its final passage, be read fully and distinctly in open Council meeting and shall receive the affirmative votes of a majority of all Council members present.
- (2) The reading may be by title only (a) if no Council member present at the meeting requests to have the ordinance read in full or (b) if a copy of the ordinance is provided for each Council member and copies are provided for public inspection.
- (3) Upon the enactment of an ordinance the City Recorder shall sign it with the date of its passage and his/her name and title of office, and the Mayor shall sign it with the date of his/her signature, name and the title of office.

Section 37. When Ordinances Take Effect; Review of Ordinances.

An ordinance enacted by the Council shall take effect on the thirtieth day after its enactment. When the Council deems it advisable, however, an ordinance may provide a later time for it to take effect, and in case of an emergency, it may take effect immediately.

CHAPTER IX PUBLIC IMPROVEMENTS

Section 38. Condemnation.

Any necessity of taking property for the City by condemnation shall be determined by the Council and declared by a resolution or ordinance of the Council describing the property and stating the uses to which it shall be devoted.

Section 39. Improvements.

The procedure for alterations, vacations, or abandonments or making a public improvement shall be governed by general ordinance or, to the extent not so governed, by the applicable general laws of the State of Oregon.

Improvements needed at once due to an emergency shall be approved by a majority of a quorum of the Council.

Section 40. Special Assessments.

The procedure for levying, collecting, and enforcing the payment of special assessments for public improvements or other services to be charged against real property shall be governed by general ordinance.

Section 41. Bids for Public Improvements.

Contracts for public improvements in an amount greater than \$75,000, or such other amount recommended in the Oregon Attorney General's contracting guidelines, shall be let to the lowest responsible bidder for the contract and shall be done in accordance with plans and specifications approved by the Council, provided, however, that the Council shall have the right to reject any and all bids.

CHAPTER X MISCELLANEOUS PROVISIONS

Section 42. Torts.

The City's tort liability shall be limited as provided by the laws of the State of Oregon.

Section 43. Effect of Charter.

All City of Lebanon ordinances, resolutions, rules, regulations, motions, rates, and fees in force and in effect at the time this City of Lebanon Charter of 2004 becomes effective shall thereafter remain in full force and effect until amended or repealed.

No contract right, privilege, license, obligation or liability, whether vested or contingent, shall be lost, discharged or impaired by the enactment of this City of Lebanon Charter of 2004.

All rights and property, both real and personal, including but not limited to all parks, public grounds and buildings now vested in or belonging to the City of Lebanon shall continue to be the right and property of the City of Lebanon.

Any person holding an appointed or elected office or position of the City of Lebanon which is consistent with the provisions of this amended Charter shall continue in such office or position after the enactment of this amended Charter until the end of the term for which they shall have been elected or appointed, and until their successor shall have been elected or appointed and qualified subject to all applicable laws and regulations relating thereto.

All sections of any previous Charter or parts thereof pertaining to the issuance and sale of bonds and any sale of whose bonds remain outstanding or unissued shall remain in full force and effect after the enactment of this Charter.

Section 44. Repeal.

Except as otherwise provided in this Charter all of the provisions of all previous charters of the City of Lebanon are hereby repealed.

Section 45. Amendment.

This charter may be amended, or a new charter enacted by majority vote of the legal voters of the city. Said propositions may be proposed and submitted to voters by council resolution or by initiative of the people. Any amendments so enacted by the people will be effective 30 days upon certification of the election, unless an emergency clause is made part of the amendment.

Section 46. Severability.

If any provision of this Charter or the application thereof, to any person or circumstances, is held invalid, the remainder of this Charter, and the application of all provisions thereof to any other persons or circumstances, shall not be affected thereby, and to this end the provisions of this Charter are declared to be severable.

Section 47. Time of Effect of Charter.

This Charter shall take effect January 1, 2004.