

Council accepts comments on agenda items during the meeting. Please fill out a form and identify the items you wish to speak on and hand this to the Recording Secretary prior to the meeting, if possible. Otherwise, please fill out the form prior to the agenda item you wish to speak on and turn it in to the Recording Secretary. (The exception is formal land use hearings, which requires a specific public hearing process. The agenda items will be identified at the meeting.)

CITY OF NEWBERG
SPECIAL MEETING OF THE CITY COUNCIL
COUNCIL AGENDA
JANUARY 23, 2006
6:00 P.M. MEETING
PUBLIC SAFETY BUILDING - TRAINING ROOM

- I. **CALL MEETING TO ORDER***
- II. **ROLL CALL**
- III. ***PLEDGE OF ALLEGIANCE***

PUBLIC MEETING SECTION

- IV. **PUBLIC COMMENTS**
(30 minutes maximum which may be extended at the Mayor or President's discretion; an opportunity to speak for 3 minutes but no more than 5 minutes per speaker allowed)
- V. **CONSENT CALENDAR**
- VI. **PUBLIC HEARING**
 - 1. Public Hearing to consider City Charter recommendations from the Charter Review Subcommittee.
Legislative Hearing

BUSINESS MEETING SECTION

- VII. **NEW BUSINESS**
- VIII. **CONTINUED BUSINESS**
- IX. **EXECUTIVE SESSION**
- X. **ADJOURNMENT**

ACCOMMODATION OF PHYSICAL IMPAIRMENTS: In order to accommodate persons with physical impairments, please notify the City Manager's office of any special physical or language accommodations you may need as far in advance of the meeting as possible and no later than 48 hours prior to the meeting. To request these arrangements, please contact Norma Alley, Deputy City Recorder, at (503) 537-1283.

*The Mayor reserves the right to change the order of items to be considered by the Council at their meeting.

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REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: 2006, January 13

Ordinance ___ Resolution ___ Motion ___ Information **XX**
No. No.

Date Submitted: January 13, 2006
SUBJECT: Ad-hoc Subcommittee's review of
the City Charter and recommendations.

Contact Person (Preparer) for this
Motion: **Terry Mahr, City Attorney**

Dept.: **Legal**

File No.:
(If applicable)

RECOMMENDATION:

Ad-hoc Subcommittee of the Council to review the City Charter recommends Council revise the Charter to take advantage of the new League of Oregon Cities Model Charter published in 2004 and place the recommended Charter before the voters at the May 2006 election on Tuesday, May 16. Filing deadline for the ballot measure is March 16, 2006 and the Council will need to take action on the matter no later than the regular meeting on March 6, 2006, unless they wish to call a special meeting. The Committee addressed a number of issues and would recommend the Council have public hearings to consider public input .

BACKGROUND:

1. The Newberg City Charter of 1893 was substantially revised in 1982 at which time the Mayor/Council/Manager form of government was established.
2. The Charter was amended by initiative, most notably establishing vote on all annexations, nominating City Council members by district, and changing the membership from eight to six members.
3. In 2004 the League of Oregon Cities published a new model charter.
4. In 2005 the City Council appointed an ad-hoc subcommittee to review the new LOC Model Charter with the City's Charter and make a recommendation to the Council.
5. The Subcommittee compared the Model Charter with Newberg's present Charter and recommends the new revised charter to take advantage of the improvements set out in the Model Charter. These improvements generally provide for division of the Council's powers to clearly separate legislative, administrative, and quasi-judicial. Further, the charter takes full advantage of the general grants of power provided for in State law. The revised charter moves the Mayor to a voting member of the Council and a four-year term. There are other changes, which will be discussed in the presentation.

6. The Subcommittee considered the unique provisions of the Newberg Charter provided by the initiative. The subcommittee recommends maintaining vote on annexation, district nomination for Council members, and six Council members.
7. There are other changes that might be of concern to the Council or the public. The Committee recommends the Council listen to input from its members and the public concerning those issues, before making a final decision. This matter should go to the May election and, if passed, would be in effect for the November general election.

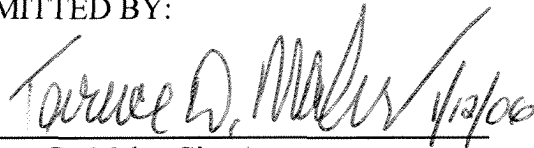
FISCAL IMPACT:

Not applicable.

STRATEGIC ASSESSMENT:

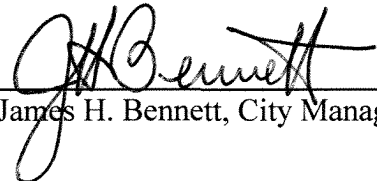
The revision would take advantage of the improvements set out in the LOC Model Charter. The City in the past has used the Model Charter as a guideline for establishing its charter. The new charter will provide for a more efficient running of the City.

SUBMITTED BY:



Terrence D. Mahr, City Attorney

APPROVED BY:



James H. Bennett, City Manager



REVISED
CITY OF
NEWBERG
CHARTER

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Draft 1/13/06

PREAMBLE

We, the voters of Newberg, Oregon exercise our power to the fullest extent possible under the Oregon Constitution and laws of the state, and enact this Home Rule Charter.

Chapter I

REVISION CLAUSE; NAME AND BOUNDARIES

Section 1. Revision Clause. The sections of the Charter have been revised as hereafter indicated.

Section 2. Title. This charter may be referred to as the 2006 Newberg Charter.

Section 3. Name. The City of Newberg, Oregon, continues as a municipal corporation with the name City of Newberg.

Section 4. Boundaries. The city includes all territory within its boundaries as they now exist or are legally modified by a majority of the voters. Unless mandated by state law, annexation, delayed or otherwise, to the City of Newberg, may only be approved by a prior majority vote among the electorate. The city will maintain as a public record an accurate and current description of the boundaries.

Chapter II

POWERS

Section 5. Powers. The city has all powers that the constitutions, statutes and common law of the United States and Oregon expressly or impliedly grant or allow the city, as fully as though this charter specifically enumerated each of those powers.

Section 6. Construction. The charter will be liberally construed so that the city may exercise fully all powers possible under this charter and under United States and Oregon law.

Section 7. Distribution. The Oregon Constitution reserves initiative and referendum powers as to all municipal legislation to city voters. This charter vests all other city powers in the council except as the charter otherwise provides. The council has legislative, administrative and quasi-judicial authority. The council exercises legislative authority by ordinance, administrative authority by resolution, and quasi-judicial authority by order. The council may not delegate its authority to adopt ordinances.

Chapter III

COUNCIL

Section 8. Council. The council consists of a mayor nominated and elected from the city at large, and six councilors nominated from districts and elected from the city at large.

Section 9. Mayor. The mayor presides over and facilitates council meetings, preserves order, enforces council rules, and determines the order of business under council rules. The mayor is a voting member of the council and has no veto authority. With the consent of council, the mayor appoints members of commissions and committees established by ordinance or resolution. The mayor must sign all records of council decisions. The mayor serves as the political head of the city government.

Section 10. Council President. At its first meeting each year, the council must elect a president from its membership. The president presides in the absence of the mayor and acts as mayor when the mayor is unable to perform duties.

Section 11. Rules. The council must by resolution adopt council rules to govern its meetings.

Section 12. Meetings. The council must meet at least once a month at a time and place designated in the council rules, and may meet at other times in accordance with council rules.

Section 13. Quorum. A majority of the council members is a quorum to conduct business, but a smaller number may meet and compel attendance of absent members as prescribed by council rules.

Section 14. Vote Required. The express approval of a majority of a quorum of the council is necessary for any council decision, except when this charter requires approval by a majority of the council.

Section 15. Record. A record of council meetings must be kept in a manner prescribed by the council rules.

Chapter IV

LEGISLATIVE AUTHORITY

Section 16. Ordinances. The council will exercise its legislative authority by adopting ordinances. The enacting clause for all ordinances must state “The City of Newberg ordains as follows:”.

Section 17. Ordinance Adoption.

(a) Except as authorized by subsection (b), adoption of an ordinance shall before being put upon its final passage, be fully and distinctly read in open council meeting.

(b) The reading may be by title only if no council member present at the meeting requests to have the ordinance read in full, provided the proposed ordinance is available in writing to the public at least one week before the meeting.

(c) Any substantive amendment to a proposed ordinance must be read aloud or made available in writing to the public before the council adopts that ordinance at that meeting.

(d) After the adoption of an ordinance, the vote of each member must be entered into the council minutes.

(e) After adoption of an ordinance, the city custodian of records must endorse it with the date of adoption and the custodian's name and title.

Section 18. Effective Date of Ordinances. Ordinances normally take effect on the 30th day after adoption, or on a later day provided in the ordinance. An ordinance may take effect as soon as adopted or other date less than 30 days after adoption if it contains an emergency clause.

Chapter V

ADMINISTRATIVE AUTHORITY

Section 19. Resolutions. The council will normally exercise its administrative authority by approving resolutions. The approving clause for resolutions may state "The City of Newberg resolves as follows:".

Section 20. Resolution Approval.

(a) Approval of a resolution or any other council administrative decision requires approval by the council at one meeting.

(b) Any substantive amendment to a resolution must be read aloud or made available in writing to the public before the council adopts the resolution at that meeting.

(c) After approval of a resolution or other administrative decision, the vote of each member must be entered into the council minutes.

(d) After approval of a resolution, the city custodian of records must endorse it with the date of approval and the custodian's name and title.

Section 21. Effective Date of Resolutions. Resolutions and other administrative decisions take effect on the date of approval, or on a later day provided in the resolution.

Chapter VI

QUASI-JUDICIAL AUTHORITY

Section 22. Orders. The council will normally exercise its quasi-judicial authority by approving orders. The approving clause for orders may state "The City of Newberg orders as follows:".

Section 23. Order Approval.

(a) Approval of an order or any other council quasi-judicial decision requires approval by the council at one meeting.

(b) Any substantive amendment to an order must be read aloud or made available in writing to the public at the meeting before the council adopts the order.

(c) After approval of an order or other council quasi-judicial decision, the vote of each member must be entered in the council minutes.

(d) After approval of an order, the city custodian of records must endorse it with the date of approval and the custodian's name and title.

Section 24 Effective Date of Orders. Orders and other quasi-judicial decisions take effect on the date of final approval, or on a later day provided in the order.

Chapter VII ELECTIONS

Section 25. Councilors. The term of a councilor in office when this charter is adopted is the term for which the councilor was elected. At each general election after the adoption, three councilors will be elected for four-year terms.

Section 26. Mayor. The term of the mayor in office when this charter is adopted continues until the beginning of the first odd-numbered year after adoption. At every other general election after the adoption, a mayor will be elected for a four-year term.

Section 27. State Law. City elections must conform to state law except as this charter or ordinances provide otherwise. All elections for city offices must be nonpartisan.

Section 28. Qualifications.

(a) The mayor and each councilor must be a qualified elector under state law, and reside within the city for at least one year immediately before election or appointment to office. For the purpose of this section, city shall mean any area included in the corporate limits as of the date of the election.

(b) The city shall be divided into six geographical areas representing as near as practical, the same number of electors. When this charter section is adopted, the current six city district boundaries shall be the six district boundaries. The districts shall be reapportioned thereafter whenever the United States census is taken and within a reasonable time after the data is available, or when the city so orders. Whenever the districts are reapportioned, the councilor in office shall not lose their qualification for office by reason of the boundary change for the remainder of their term, unless otherwise disqualified. In addition to the other qualifications, the councilor must have and maintain their residence in the district from which they were nominated during the term of their office, except as provided for in reapportionment.

(c) Neither the mayor nor a councilor may be employed by the city, unless the employment is substantially volunteer in nature. The municipal judge shall make the determination of whether employment is substantially volunteer.

(d) No person may be a candidate at a single election for more than one city office.

(e) Except as provided in subsection (c) of this section, the council is the final judge of the election and qualifications of its members.

Section 29. Nominations. The council must adopt an ordinance prescribing the manner for a person to be nominated to run for mayor or a city councilor position.

Section 30. Terms. The term of an officer elected at a general election begins at the first council meeting of the year immediately after the election, and continues until the successor qualifies and assumes the office.

Section 31. Oath. The mayor and each councilor must swear or affirm to faithfully perform the duties of the office, support the constitutions and laws of the United States and Oregon, and the ordinances and charter of the city.

Section 32. Vacancies: The mayor or a council office becomes vacant:

(a) Upon the incumbent's:

- (1) Death,
- (2) Adjudicated incompetence, or
- (3) Recall from the office.

(b) Upon declaration by the council after the incumbent's:

- (1) Failure to qualify for the office within 10 days of the time the term of office is to begin,
- (2) Absence from the city for 30 days or from all council meetings within a 60-day period, without council consent,
- (3) Ceasing to reside in the city,
- (4) Ceasing to reside within the district from which the councilor was nominated, except as provided for in reapportionment; however, the councilor shall remain in office until such time as the vacancy is filled, but in no event shall the time exceed 120 days.
- (5) Ceasing to be a qualified elector under state law,
- (6) Conviction of a public offense punishable by loss of liberty,
- (7) Resignation from the office, or
- (8) Removal under Section 34(i).

Section 33. Filling Vacancies. A mayor or councilor vacancy will be filled by appointment by a majority of the remaining council members. The appointee's term of office runs from appointment until expiration of the term of office of the last person elected to that office.

Chapter VIII

APPOINTIVE OFFICERS

Section 34. City Manager.

- (a) The office of city manager is established as the administrative head of the city government. The city manager is responsible to the mayor and council for the proper administration of all city business. The city manager will assist the mayor and council in the development of city policies, and carry out policies established by ordinances and resolutions.
- (b) A majority of the council must appoint and may remove the manager. The appointment must be made without regard to political considerations and solely on the basis of education and experience in competencies and practices of local government management.
- (c) The manager need not reside in the city or the state at the time of appointment.
- (d) The manager may be appointed for a definite or an indefinite term, and may be removed at any time by a majority of the council. The council must fill the office by appointment as soon as practicable after the vacancy occurs.
- (e) The manager must:
- (1) Attend all council meetings unless excused by the mayor or council;
 - (2) Make reports and recommendations to the mayor and council about the needs of the city;
 - (3) Administer and enforce all city ordinances, resolutions, franchises, leases, contracts, permits, and other city decisions;
 - (4) Appoint, supervise and remove city employees;
 - (5) Organize city departments and administrative structure;
 - (6) Prepare and administer the annual city budget;
 - (7) Administer city utilities and property;
 - (8) Encourage and support regional and intergovernmental cooperation;
 - (9) Promote cooperation among the council, staff and citizens in developing city policies, and building a sense of community;
 - (10) Perform other duties as directed by the council;
 - (11) Delegate duties, but remain responsible for acts of all subordinates.
- (f) The manager has no authority over the council, city attorney, or the judicial functions of the municipal judge.
- (g) The manager, the city attorney, and other employees designated by the council may sit at council meetings but have no vote. The manager may take part in all council discussions.
- (h) When the manager is temporarily disabled from acting as manager or when the office of manager becomes vacant, the council must appoint a manager pro tem. The manager pro tem has the authority and duties of manager, except that a pro tem manager may appoint or remove employees only with council approval.

(i) No council member may directly or indirectly attempt to coerce the manager or a candidate for the office of manager in the appointment or removal of any city employee, or in administrative decisions regarding city property or contracts. Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing. In council meetings, councilors may discuss or suggest anything with the manager relating to city business.

Section 35. City Attorney. The office of city attorney is established as the chief legal officer of the city government. A majority of the council must appoint and may remove the attorney. The attorney must appoint and supervise, and may remove any city attorney's office employees.

Section 36. Municipal Court and Judge.

(a) A majority of the council may appoint and remove a municipal judge. A municipal judge will hold court in the city at such place as the council directs. The court will be known as the Municipal Court.

(b) All proceedings of this court will conform to state laws governing justices of the peace and justice courts.

(c) All areas within the city and areas outside the city as permitted by state law are within the territorial jurisdiction of the court.

(d) The municipal court has jurisdiction over every offense created by city ordinance. The court may enforce forfeitures and other penalties created by such ordinances. The court also has jurisdiction under state law unless limited by city ordinance.

(e) The municipal judge may:

- (1) Render judgments and impose sanctions on persons and property;
- (2) Order the arrest of anyone accused of an offense against the city;
- (3) Commit to jail or admit to bail anyone accused of a city offense;
- (4) Issue and compel obedience to subpoenas;
- (5) Compel witnesses to appear and testify and jurors to serve for trials before the court;
- (6) Penalize contempt of court;
- (7) Issue processes necessary to enforce judgments and orders of the court;
- (8) Issue search warrants; and
- (9) Perform other judicial and quasi-judicial functions assigned by ordinance.

(f) The council may appoint and may remove municipal judges pro tem.

(g) The council may transfer some or all of the functions of the municipal court to an appropriate state court.

Chapter IX
PERSONNEL

Section 37. Compensation. The council must authorize the compensation of city employees and city officers, including council members and the mayor, as part of its adoption of the annual city budget. The Council shall establish a procedure for implementing the compensation of its members and the mayor.

Section 38. Merit Systems. The council by resolution will determine the rules governing recruitment, selection, promotion, transfer, demotion, suspension, layoff, and dismissal of city employees based on merit and fitness.

Chapter X PUBLIC IMPROVEMENTS

Section 39. Procedure. The council may by ordinance provide for procedures governing the making, altering, vacating, or abandoning of a public improvement. A proposed public improvement may be suspended for six months upon remonstrance by owners of the real property to be specially assessed for the improvement. The number of owners necessary to suspend the action will be determined by ordinance.

Section 40. Special Assessments. The procedure for levying, collecting and enforcing special assessments for public improvements or other services charged against real property will be governed by ordinance.

Chapter XI MISCELLANEOUS PROVISIONS

Section 41. Debt. City indebtedness may not exceed debt limits imposed by state law. A charter amendment is not required to authorize city indebtedness.

Section 42. Ordinance Continuation. All ordinances consistent with this charter in force when it takes effect remain in effect until amended or repealed.

Section 43. Repeal. All charter provisions adopted before this charter takes effect are repealed.

Section 44. Severability. The terms of this charter are severable. If any provision is held invalid by a court, the invalidity does not affect any other part of the charter.

Section 45. Time of Effect. This charter takes effect _____, 20____.



CURRENT
CITY OF
NEWBERG
CHARTER

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CHARTER

Approved November 2, 1982
Amended and Approved May 21, 1996 and on November 3, 1998
by the voters of the City of Newberg

CHARTER

Section

Chapter I. Revision Clause; Name and Boundaries

1. Revision clause
2. Name
3. Boundaries

Chapter II. Powers

4. Powers of the City
5. Construction of Charter
6. Exercise of power

Chapter III. Form of Government

7. Where powers vested
8. Council
9. Council members
11. Tie votes
12. Other officers
13. Salaries
14. Qualification of officers, districts and conflicts of interest

Chapter IV. Council

15. Meetings
16. Quorum
17. Journal
18. Meetings to be public
19. Mayor's functions at Council meetings
20. President of the Council
21. Vote required

Chapter V. Powers and Duties of Officers

22. Mayor
23. City Manager
24. Municipal Judge
25. City Recorder

Chapter VI. Elections

26. Regular elections
27. Notice of regular elections
28. Special elections
29. Regulation of elections
30. Canvass of returns
31. Commencement of terms of office
32. Oath of office
33. Nominations

Chapter VII. Vacancies in Office

34. Vacancy
35. Filling of vacancies

Chapter VIII. Ordinances

36. Enacting clause
37. Introduction, reading and passage
38. Effective date of ordinances

Chapter IX. Public Improvements

39. Condemnation
40. Acquisition and disposition of property
41. Improvements
42. Special assessments

Chapter X. Hospitals, Infirmaries or Clinics

- 43.
- 44.
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- 46.
- 47.
- 48.

Chapter XI. Miscellaneous Provisions

- 49. Energy utilities
- 50. Liability for injury
- 51. Business license tax
- 52. Highways and roads
- 53. Debt limit
- 54. Use of public parks
- 55. Continuation of rights and liabilities
- 56. Outstanding bond and other provisions of prior Charter retained
- 57. Existing ordinances continued
- 58 - 69 Reserved for expansion
- 70. Time Charter amendment effective

HISTORY

An act incorporating the town of Newberg, in Yamhill County, State of Oregon, was filed with the Office of the Secretary of State on February 21, 1889. An act incorporating the City of Newberg and repealing the act incorporating the town of Newberg, Yamhill County, State of Oregon, was filed in the Office of the Secretary of State on February 10, 1893. The Newberg Charter of 1893 was revised in 1950. The Newberg Charter of 1893 was substantially revised in 1982 and was approved by the people in November 1982. The revision provided for the Mayor/Council /Manager form of government. It took effect on January 1, 1983. The Newberg Charter was amended by an initiative on May 21, 1996. It provided for a vote on all annexations and electing the City Council from districts.

***CHAPTER I. REVISION CLAUSE;
NAME AND BOUNDARIES***

SECTION 1. REVISION CLAUSE.

The sections of the Charter have been revised as hereafter indicated.

2001 S-1 Repl.

SECTION 2. NAME.

The City of Newberg, Yamhill County, Oregon shall continue to be a municipal corporation with the name "Newberg".

SECTION 3. BOUNDARIES.

The corporate limits of the City of Newberg shall include all territory encompassed by its boundaries as they now exist or hereafter are modified by a majority of the voters. Unless mandated by State Law, annexation, delayed or otherwise, to the City of Newberg, may only be approved by a prior majority vote among the electorate. The City Recorder shall keep in the office at City Hall at least two copies of this Charter in each of which the City Recorder shall maintain an accurate, up-to-date description of the boundaries. The copies and descriptions shall be available for public inspection at any time during regular office hours of the City Recorder. (As amended by initiative measure voted on May 21, 1996)

CHAPTER II. POWERS**SECTION 4. POWERS OF THE CITY.**

The City shall have all the rights, powers, privileges and immunities which the constitutions, statutes, and common law of the United States and of this state expressly or implied grant or allow municipalities, including those rights, powers, privileges and immunities which a City can exercise upon specifically accepting them or upon being granted the power to exercise them by the people of the City or the legislature of the state, as fully as though this Charter expressly stated each of those rights, powers, privileges and immunities, and as though each of them had been specifically accepted by the City or granted to it by the people of the City or by the legislature of the State.

The following shall be deemed a part of the powers conferred upon the City by this Charter:

(1) *Property.* To acquire property within or without the corporate limits of the City for any City purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation; and to sell, lease, mortgage, hold, manage and control such property as the interests of the City require.

(2) *Indebtedness.* To borrow money within the limits prescribed by general laws.

(3) *Public services.* To purchase, hire, construct, own, maintain and operate or lease local public utilities as herein defined, but only after having first obtained the consent of a majority of the qualified electors of the City to do so; except as provided in Subdivisions A-G, of Section 49 of this Charter; to furnish all local public services, either within or without the corporate limits of the City; to provide for a public library; to acquire, by condemnation or otherwise, within or without the corporate limits, property necessary for any such purposes, subject to restrictions imposed by general laws for the protection of other communities; and to grant local public utility franchises, and to regulate the exercise of such franchises. The term "public utilities" as used in this Charter shall mean and include, but not be limited to, any plant, equipment or organization used or intended to be used to produce, transmit, deliver or furnish heat, light, water, power, transportation, communications, sewerage or sewage treatment or garbage services, or any or all of them, directly or indirectly, to or for the public.

(4) *Bonds.* To issue and sell bonds on the security, in whole or in part, of any excess property owned by the City or of any public utility owned by the City or of the revenues thereof, or of both; including, in the case of a public utility, as herein defined, if deemed desirable by the City, a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate the utility.

(5) *Police, licensing and taxing power.* To adopt and enforce within the corporate limits of the City local police, sanitary and other similar regulations not in conflict with the general laws; and to license, tax and regulate for the purpose of City revenue all such businesses, callings, occupations, trades, and employments as the City Council may

require to be licensed or taxed, and as are not prohibited by the laws of Oregon, including taxation of admissions to places of entertainment or amusement.

SECTION 5. CONSTRUCTION OF CHARTER.

In this Charter no enumeration or reference to particular rights, powers, privileges or immunities shall be construed to be exclusive or to restrict the scope of the rights, powers, privileges or immunities which the City would have if the particular right, power, privilege or immunity was not mentioned. This Charter shall be liberally construed to the end that the City shall have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to the laws and to the municipal home-rule provisions of the constitution of the state.

SECTION 6. EXERCISE OF POWER.

The manner in which the City shall exercise a right, power, privilege or immunity, where not prescribed by this Charter, shall be in the manner prescribed by ordinance; and where not prescribed by this Charter or by ordinance, then in the manner prescribed by the statutes of the State of Oregon.

CHAPTER III. FORM OF GOVERNMENT

SECTION 7. WHERE POWERS VESTED.

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

SECTION 8. COUNCIL.

The Council shall be composed of six Council members nominated by districts within which they reside and elected by the City at large. (As amended by initiative measure voted on May 21, 1996)

SECTION 9. COUNCIL MEMBERS.

The terms of office of each Council member in office, when this Charter section is adopted shall continue for their full elected term. At each subsequent biennial general election, three Council members, one from each district, shall be elected, each for a term of four years. (As amended by initiative measure voted on May 21, 1996.)

SECTION 10. MAYOR.

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

SECTION 11. TIE VOTES.

In the event of a tie in the vote cast for the candidates for an elective office under this Charter, the successful candidate shall be determined by drawing lots. The City Recorder or his or her designate shall prepare lots consisting of slips of paper each containing the name of one candidate involved in a tie vote. The Recorder or designate shall fold each slip separately and place the same in a receptacle and shall cause the City Chief of Police or his or her designate to draw therefrom one slip of paper. The candidate whose name is on that slip of paper shall be deemed elected.

SECTION 12. OTHER OFFICERS.

Additional officers of the City shall be a City Manager, and may be Municipal Judge, City Attorney to provide or assist in providing legal advice and representation to the City, and other officers as the Council deems necessary. Each of these officers shall be appointed and may be removed by the Mayor with the consent of the Council. By resolution, the Council may combine any of these offices. By resolution, the Council may also provide that any person whom it designates may supervise any appointive officer, except the City Manager, City Attorney and the Municipal Judge in the exercise of the Municipal Judge's judicial functions.

SECTION 13. SALARIES.

The compensation for the services of each City officer and employee shall be whatever amount the Council fixes. No increase in the compensation of Council members, however, shall take effect until the first of the odd-numbered year immediately following the first biennial general election after the increase is ordered.

SECTION 14. QUALIFICATION OF OFFICERS, DISTRICTS AND CONFLICTS OF INTEREST.

(As amended by initiative measure voted on May 21, 1996.)

(a) *Qualifications of Officers.* No person shall be eligible to fill an elective office of the City unless at the time of the election such person is a qualified voter within the meaning of the state constitution and resided in the City for at least one year immediately preceding the election. For the purposes of this section, City shall mean any area included in the corporate limits as of the date of the election.

(b) *Districts.* The City shall be divided into six geographical areas representing as near as practical, the same number of electors. When this Charter section is adopted, the current six City precinct boundaries shall be the six district boundaries. The districts shall be reapportioned thereafter whenever the United States census is taken and within a reasonable time after the data is available, or when the City so orders. Whenever the districts are reapportioned, the Council member in office, shall not lose their qualification for office by reason of the boundary change for the remainder of their term, unless otherwise disqualified. In addition to the other qualifications, the Council member must have and maintain their residence in the district from which they were nominated during the term of their office, except as provided for in reapportionment.

(c) *Conflicts of Interest.* In order to avoid conflicts of interest and to provide a fully effective office holder, a person is ineligible to hold elective office of the City if employed by the City unless the employment is substantially volunteer in nature. The

determination of whether employment is substantially volunteer shall be made by the Municipal Judge. For all other matters under this section the Council shall be final judge of the qualifications and election of its own members.

(Complete Section amended by initiative measure voted on May 21, 1996)

CHAPTER IV. COUNCIL

SECTION 15. MEETINGS.

The Council shall hold a regular meeting at least once each month at a time and at a place in the City which it designates, and shall adopt rules for the government of its members and proceedings. The Mayor upon the Mayor's own motion may, or at the request of four members of the Council shall, by giving notice thereof to all members of the Council then in the City, call a special meeting of the Council for a time not earlier than three nor later than 48 hours after the notice is given.

SECTION 16. QUORUM.

A majority of the members of the Council shall constitute a quorum for it to do business, but a smaller number may meet and compel the attendance of absent members in a manner provided by ordinance.

SECTION 17. JOURNAL.

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

SECTION 18. MEETINGS 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 19. MAYOR'S FUNCTIONS AT COUNCIL MEETINGS.

The Mayor shall chair the Council and preside over its deliberations. The Mayor is not entitled to vote except in the case of a tie vote of the members of the Council present and voting. The Mayor shall have authority to preserve order, enforce the rules of the Council and determine the order of business under the rules of the Council.

SECTION 20. PRESIDENT OF THE COUNCIL.

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 over it. When the Mayor is unable, on account of absence, illness or other causes to perform the functions of the Mayor's office, the president of the Council shall act as Mayor.

SECTION 21. VOTE REQUIRED.

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

CHAPTER V. POWERS AND DUTIES OF OFFICERS

SECTION 22. MAYOR.

The Mayor shall appoint the committees provided for under the rules of the Council. The Mayor shall sign all approved records and proceedings of the Council and countersign all orders on the treasury. The Mayor shall have no veto power and shall sign all ordinances passed by the Council within three days

after their passage. Upon the approval of the Council, the Mayor shall endorse all bonds of officers of the City and all bonds for licenses, contracts and proposals.

SECTION 23. CITY MANAGER.

(a) *Qualifications.* The City Manager shall be the administrative head of the government of the City. The City Manager shall be chosen by the Council without regard to political considerations and solely with reference to executive and administrative qualifications. The Manager need not be a resident of the City or of the state at the time of appointment. Before taking office, the Manager shall give a bond in such amount or with such surety as may be approved by the Council. The premiums on such bond shall be paid by the City.

(b) *Term.* The Manager shall be appointed for an indefinite term and may be removed at the pleasure of the Council. Upon any vacancy occurring in the office of Manager after the first appointment pursuant to this Charter, the Council at its next meeting shall adopt a resolution of its intention to appoint another manager. Not later than six months after adopting the resolution, the Council shall appoint a manager to fill the vacancy.

(c) *Powers and Duties.* The powers and duties of the Manager shall be as follows:

(1) The Manager shall devote full-time to the discharge of the Manager's 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 affairs and departments of the City.

(2) The City Manager 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) The Manager shall designate a City Recorder and shall appoint and may remove

appointive City officers and employees except as this Charter otherwise provides, and shall have general supervision and control over them and their work with power to transfer an employee from one department to another. The City Manager shall supervise the departments to the end of obtaining the utmost efficiency in each of them. The Manager shall have no control, however, over the Council, over the Mayor, over the City Attorney, or over the judicial activities of the Municipal Judge.

(4) The Manager shall act as purchasing agent for all departments of the City. All purchases shall be made by requisition signed by the Manager or his designate.

(5) The Manager shall be responsible for preparing and submitting to the Budget Committee the annual budget estimates and such reports as that body requests.

(6) The Manager shall supervise the operation of all public utilities owned and operated by the City and shall have general supervision over all City property.

(d) *Seats at Council Meetings.* The Manager 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 Manager may take part in all Council discussions.

(e) *Manager Pro Tem.* Whenever the Manager is absent from the City, is temporarily disabled from acting as Manager, or whenever the office becomes vacant, the Council shall appoint a Manager pro tem, who shall possess the powers and duties of the Manager. No Manager pro tem, however, may appoint or remove a City officer or employee except with the approval of three-fourths of the members of the Council. No Manager pro tem shall hold the position as such for more than six months, and no appointment of a Manager pro tem shall be consecutively renewed.

(f) *Ineligible Persons.* Neither the Manager's spouse nor any person related to the Manager or the Manager's spouse by consanguinity or affinity within

the third degree may hold any appointive office or employment with the City.

SECTION 24. MUNICIPAL JUDGE.

The Municipal Judge, when appointed, shall be the judicial officer of the City and shall hold within the City a court known as the Municipal Court for the City of Newberg, Yamhill County, Oregon. Except on non-judicial days, the court shall be open for the transaction of judicial business. All areas within the City shall be within the territorial jurisdiction of the court. The Municipal Judge shall exercise original and exclusive jurisdiction of all crimes and offenses defined and made punishable by ordinances of the City, and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by an ordinance of the City. The Municipal Judge shall have authority to issue process for the arrest of any person accused of an offense against the ordinances of the City, to commit any such person to jail or admit 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 judgements of the court, and to punish witnesses and others for contempt of the 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 governing justices of the peace and justice courts, provided, however, that the rights to appeal from the decisions of said Municipal Court shall not be restricted by ordinance. Trials in the Municipal Court of cases for violation of City ordinances shall be had without juries.

SECTION 25. CITY RECORDER.

The City Recorder shall serve ex officio as clerk of the Council, attend all its meetings unless excused therefrom by the Mayor, keep an accurate record of its proceedings in a book provided for that purpose, and have authority to sign all orders on the treasury.

In the Recorder's absence from the Council meeting, the Mayor shall appoint a clerk of the Council pro tem, who, while acting in that capacity, shall perform the duties of the Recorder.

CHAPTER VI. ELECTIONS

SECTION 26. REGULAR ELECTIONS.

Regular City elections shall be held at the same times and places as biennial general state elections, in accordance with the applicable state election laws. The City Recorder shall give such notice to the county elections officer as required by the applicable state election laws.

SECTION 27. NOTICE OF REGULAR ELECTIONS.

The Recorder, pursuant to directions from the Council, shall give such notice as required by state law. The notice shall state the officers to be elected at, the ballot title of each measure to be voted upon, and the time and place of the election.

SECTION 28. SPECIAL ELECTIONS.

The Council shall provide the times, manner and means for holding any special election. The Recorder shall give at least 10 days notice of each special election in the manner provided by the action of the Council ordering the election.

SECTION 29. REGULATION OF ELECTIONS.

Except as this Charter provides otherwise and as the Council provides otherwise by ordinances relating to elections, the general laws of the state shall apply to the conduct of all City elections, recounts of the returns therefrom and contests thereof.

SECTION 30. CANVASS OF RETURNS.

In all elections held in conjunction with state and county elections, the state laws governing the filing of returns by the county clerk shall apply. On or before noon of the second day following each special City election, the returns therefrom shall be filed with the Recorder; and not later than five days after the election, the Council shall meet and canvass the returns. 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 and for and against each proposition, the name of each person elected to office, the office to which he has been elected and a reference to each measure enacted and approved. Immediately after the canvass is completed, 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 prima facie evidence of the truth of the statements contained in it, except that the Council shall be the final judge of the qualifications and election of its own members.

SECTION 31. COMMENCEMENT OF TERMS OF OFFICE.

The term of office of a person elected to an office at a regular City election shall commence on the first day of the year immediately following the election.

SECTION 32. OATH OF OFFICE.

Before entering upon the duties of office, each officer shall take an oath supporting the constitution and laws of the United States and of Oregon and the ordinances of the City and promising faithfully to perform the duties of office.

SECTION 33. NOMINATIONS.

The Council shall provide by ordinance the method for nominating elective officers.

CHAPTER VII. VACANCIES IN OFFICE**SECTION 34. VACANCY.**

An office shall be deemed vacant upon the incumbent's death, incompetence, conviction of a felony, resignation or recall or upon the incumbent's ceasing to possess the qualifications necessary for the office; or upon the failure of the person elected or appointed to an office to qualify therefor within three days after the time for the term of office to commence; and in the case of Mayor or Councilman, upon the absence from meetings from the Council for 60 days or absence from the City for 30 days without consent of the Council; or in the case of an appointive officer, upon removal from office.

SECTION 35. FILLING OF VACANCIES.

Vacancies in elective offices of the City shall be filled by appointment by a majority of the entire membership of the Council. The appointee's term of office shall begin immediately upon appointment and shall continue throughout the unexpired term. During the temporary disability of any officer or during absence temporarily from the City for any cause, the office may be filled pro tem, in the manner provided for filling vacancies in office permanently.

CHAPTER VIII. ORDINANCES**SECTION 36. ENACTING CLAUSE.**

The enacting clause of all ordinances hereafter enacted by the Council shall be "The City of Newberg ordains as follows:".

SECTION 37. INTRODUCTION, READING AND PASSAGE.

(A) Except as the second paragraph of this section provides to the contrary, every ordinance of the Council shall, before being put upon its final passage, be fully and distinctly read in open Council meeting.

(B) The reading may be by title only if no Council member present at the meeting requests to have the ordinance read in full or if a copy of the ordinance is provided for each Council member and three copies are provided for public inspection in the office of the City Recorder no later than one week before the reading of the ordinance and if notice of their availability is given forthwith upon the filing, by written notice posted at City Hall. An ordinance enacted after being read by title alone may have no legal effect if it differs substantially from its terms as it was thus filed prior to such reading, unless each section incorporating such a difference is read fully and distinctly in open Council meeting as finally amended prior to being approved by the Council.

(C) Upon the final vote on an ordinance, the ayes and nays of the members shall be taken and entered in the record of proceedings. The concurrence of a majority of the entire membership of the Council shall be required for the passage of an ordinance; except, in the case of a tie vote of the entire membership of the Council, the Mayor shall vote upon an ordinance to break the tie, and the Mayor's vote shall be counted as the vote of a member in that case. (As amended by Council referral voted on November 3, 1998.)

(D) Upon enactment of an ordinance the Recorder shall sign it with the date of its passage and the Recorder's name and title of office, and within three days thereafter the Mayor shall sign it with the date of signature, name and title of office.

SECTION 38. EFFECTIVE DATE OF ORDINANCES.

An ordinance enacted by the Council shall take effect on the 30th 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, or at any time therein specified.

CHAPTER IX. PUBLIC IMPROVEMENTS

SECTION 39. CONDEMNATION.

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

SECTION 40. ACQUISITION AND DISPOSITION OF PROPERTY.

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 protecting, preserving or facilitating any improvement, for the purpose of bringing about such development of property along or in the vicinity of an improvement as will make the development harmonious with and adjusted to the improvement, or for any combination of such purposes. The City shall also have power to acquire by condemnation property in excess of that needed for the actual improvement, and to sell or lease the excess with such building and use restrictions and conditions as will tend to make its development harmonious with and adjusted to adjacent public improvements. The City shall have power to provide for the payment of any part or all of the cost of land or other property acquired for public use, of the cost of constructing, reconstructing, repairing, operating or maintaining any structure or work in the nature of a public facility or improvement, including a public utility, and of the cost of any other public work or service by levying and collecting assessments upon the property specially benefitted thereby.

SECTION 41. IMPROVEMENTS.

The procedure for making street, sidewalk, sewer and other public improvements and for establishing, vacating, altering or abandoning streets and other public improvements shall be governed by ordinance or the applicable general laws of the state in the absence of ordinance.

SECTION 42. SPECIAL ASSESSMENTS.

The procedure for determining the amounts of special assessments, their apportionment to various parcels of property and the property upon which they are to be levied; for giving notices to property owners and other interested parties; for hearings on and levy of the assessments; for creating and enforcing assessment liens; and for taking any other action relating to the assessments shall be governed by the applicable laws of the state relating to special assessments or by general ordinances enacted by the Council.

***CHAPTER X. HOSPITALS,
INFIRMARIES OR CLINICS***

SECTION 43.

The City of Newberg is authorized and empowered to own, acquire, complete, construct, improve, equip, supply, operate, maintain and repair, lease and rent any and all hospitals, infirmaries or clinics necessary or convenient for the care and housing, treatment, comfort and welfare of inhabitants of said City who are sick or injured or suffering from physical or mental ills or diseases, and to provide for the departments of obstetrics, pediatrics and geriatrics and such other departments and services as may be determined to be necessary for the prevention of ills and diseases and for training and instruction of persons in all matters appertaining to the foregoing. The City of Newberg is further hereby authorized to admit, care for and treat in any and all of the establishments and facilities in this section described persons who are not inhabitants of said City, when

such establishments and facilities have available space that is not needed for the accommodation of inhabitants of said City.

SECTION 44.

The City of Newberg is authorized and empowered to acquire, establish, construct, operate, maintain, manage or lease training schools and housing for nurses and other persons engaged in the operation of the establishments and facilities in this chapter described, and to provide for and conduct scientific studies, research and experiments relative to the prevention, care and treatment of diseases, injuries, illnesses and other mental and physical conditions hereinabove referred to, publishing and disseminating literature and information relative thereto. The City of Newberg is hereby authorized and empowered to provide generally for the comfort and welfare of all such nurses and other employees or trainees and to issue diplomas and certificates of proficiency evidencing the qualifications of such persons when appropriate.

SECTION 45.

The City of Newberg is authorized and empowered to provide for the management and operation of all such hospitals, infirmaries and clinics or other establishments or facilities as are described in Section 43 of this chapter, either by it's officers, agents and employees or by leasing the same to other persons, firms or corporations or by agency or management contracts or in such other manner or manners as the Council of the City of Newberg shall see fit. The City of Newberg may also, for the purposes of carrying out the provisions of this section and this Charter, appoint a City Hospital Commission whose powers and duties shall be established by ordinance. The City of Newberg is authorized and empowered to contract with the United States, any state or states, any other governmental unit or municipal corporation, or with any private person, firm or corporation for the purposes in this chapter set forth.

SECTION 46.

The City of Newberg is authorized and empowered to sell the services and related materials and conveniences described in Section 43 of this chapter; to fix rates and charges for the same and for any materials, supplies or other matters appertaining thereto or furnished therewith; and to charge and collect the same in any manner authorized by law. The Council of the City of Newberg is further authorized to provide for the payment of all expenses, costs and charges arising from any of the operations, activities and facilities in this chapter described, including maintenance, improvements and repairs and reserves therefor and for depreciation, either from the income therefrom or from the proceeds of any bond issue or other loan to said City or from any other funds of said City or from general taxation, and to borrow money or pledge the credit of said City for such purposes.

SECTION 47.

The City of Newberg is authorized and empowered to receive and accept donations and gifts of money or property or both for the purposes in this chapter set forth.

SECTION 48.

The City of Newberg is authorized and empowered to do any or all things necessary or convenient to carry out the provisions and purposes of this act.

CHAPTER XI. MISCELLANEOUS PROVISIONS

SECTION 49. ENERGY UTILITIES.

(a) The City of Newberg is authorized and empowered to own, acquire, develop, construct, equip, operate and maintain either within or without the statutory or corporate limits of said City, in whole or in part, any and all works, plants and systems

necessary or pertinent to the generation and/or distribution of electrical energy for the use and benefit of the people of said City and vicinity thereof, and for profit.

(b) The City of Newberg is authorized and empowered to control, use, generate, transmit, distribute, sell and/or dispose of electrical energy.

(c) The City of Newberg is authorized and empowered or contract with the United States, with any state or states, or political subdivisions thereof, or with any political subdivision of this state, or with any private person or corporation for the purchase of electrical energy for use, transmission, distribution, sale and/or disposal thereof.

(d) The City of Newberg is authorized and empowered to acquire, construct, lease, maintain and/or operate, separately or in conjunction with the United States, with any state or states, or political subdivision thereof, or with any political subdivision of this state, or with any private person or corporation, transmission and distribution lines.

(e) The City of Newberg is authorized and empowered to fix rates and charges for the sale and/or disposal of electric energy.

(f) The City of Newberg is authorized and empowered to issue, sell and otherwise dispose of either public utility certificates, general obligation, limited obligation or self-liquidating bonds of said City, after approval thereof by a majority of the legal voters of said City voting thereon at any general or special election called for said purpose, in order to provide funds to carry out the provisions of this act.

(g) The City of Newberg is authorized and empowered to do any and all things necessary or convenient to carry out the provisions of this act.

SECTION 50. LIABILITY FOR INJURY.

The City of Newberg shall not in any event be liable in damages to any person for any injury caused by any defect or dangerous place at or in any sidewalk, crosswalk, street or alley, bridges, public

grounds, public buildings, sewer, drain, gutter or way, unless said City shall have had actual notice of such defect or dangerous place and had 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 \$500.00 be recovered as damages from the City for such accident or injury.

SECTION 51. BUSINESS LICENSE TAX.

No person paying a license to the City of Newberg in order to carry on any business or a vocation within the City limits for which a license is required by this act or by any ordinance shall be required to pay a license tax to the county authorities of Yamhill County, Oregon for the same purpose; and the City shall have exclusive control of all licenses; and no part of the income derived therefrom shall go to said county.

SECTION 52. HIGHWAYS AND ROADS.

The City of Newberg as created by this act, shall have full power to lay out, open, work, change, and control all the highways and roads within the corporate limits thereof; and the power and authority given by the general laws of the State of Oregon to the County Court of Yamhill County to divide said county into road districts, to appoint road supervisors, to lay out and work highways, and to levy a tax upon all taxable property of said county to be used in building and improving the public or county roads shall not apply or extend to the territory within the limits of said City of Newberg; but said territory and the inhabitants thereof are hereby excepted out of the jurisdiction of said court upon said subject.

SECTION 53. DEBT LIMIT.

Except by consent of the voters, the City's voluntary floating indebtedness shall not exceed a sum equal to 1 per cent of the current assessed valuation of taxable property within the corporate limits of the City. For purposes of calculating the limitation, however, the legally authorized debt of the City in

existence at the time this Charter takes effect shall not be considered. All City officials and employees who create or officially approve any indebtedness in excess of this limitation shall be jointly and severally liable for the excess.

SECTION 54. USE OF PUBLIC PARKS.

Notwithstanding any other provisions of this Charter, all areas now or hereafter dedicated to or used for public park purposes are reserved forever to the use of the public; and no such area shall be sold or otherwise disposed of, or used for other than public park and recreation purposes, without prior approval thereof by a majority of the votes cast thereon by the people of the City.

SECTION 55. CONTINUATION OF RIGHTS AND LIABILITIES.

No right or liability of the City existing at the time this Charter takes effect shall be impaired or discharged by passage of this act, except as this act otherwise provides.

SECTION 56. OUTSTANDING BOND AND OTHER PROVISIONS OF PRIOR CHARTER RETAINED.

All outstanding general obligation bonds of Newberg shall continue to be general obligations of Newberg, though not otherwise mentioned herein; and the Council shall, each year, at the time of making the annual tax levy for City purposes, include in such levy a sum sufficient to pay the interest due on such outstanding bonds and to retire the principal amounts thereof as the same mature. The following Subsections A through J and any subsections added in the future shall be automatically deleted from this Charter when the principal and interest of said bond issues are paid in full and the bonds retired.

A. Water Reservoir Bonds.

1. Bonds in the amount of \$491,000 were approved by special election held on February 20,

1960. These bonds were retired in their entirety on April 1, 1984.

B. *Sewage Treatment Plant Bonds.*

1. Bonds in the amount of \$262,000 were approved by special election held on February 20, 1960. These bonds were retired in their entirety on April 1, 1984.

C. *Swimming Pool Bonds.*

1. Bonds in the amount of \$38,000 were approved by special election held on February 20, 1960. These bonds were retired in their entirety on April 1, 1984.

D. *Newberg City Hall Bonds.*

1. Bonds in the amount of \$125,000 were approved by general election held on November 5, 1968. These bonds were retired in their entirety on May 1, 1983.

E. *Sewer Improvement Bonds.*

1. Bonds in the amount of \$700,000 were approved by special election held on December 9, 1969. These bonds were retired in their entirety on September 1, 1985.

F. *Water Improvement Bonds.*

1. Bonds in the amount of \$700,000 were approved by special election held on December 9, 1969. These bonds were retired in their entirety on September 1, 1985.

G. *Sewer Improvement Bonds.*

1. Bonds in the amount of \$900,000 were approved by special election held on February 20, 1960. These bonds were retired in their entirety on April 1, 1984.

H. *Hospital Improvement Bonds.*

1. Bonds in the amount of \$3,400,000 were approved by special election held on May 22,

1979. These bonds were retired in their entirety on June 30, 1994.

I. *Public Library of the City of Newberg Bonds.*

1. For the purpose of procuring funds in amount sufficient to provide and pay for the construction and installation of improvements, additions, and expansion of the public library of the City of Newberg, Oregon, and for all other purposes necessary or desirable in order to carry out the purposes above set forth, the Council of the City of Newberg is hereby authorized and empowered to issue and dispose of general obligation bonds of said City in the sum of \$967,428, in denominations of \$5,000 dollars each, bearing interest at the lawful rate per annum.

2. The purchaser or purchasers of said bonds shall in no way be required to see to the proper application of the purchase money therefor.

3. The Council shall each year, at the time of making the annual tax levy for City purposes, make a special additional levy of a sum sufficient to pay interest on outstanding bonds of this issue and to retire the principal thereof at maturity.

4. The City of Newberg is hereby authorized and empowered to do any and all things necessary or convenient to carry out the provisions of this act.

(As added by special election held November 8, 1983.)

J. *Sewage Treatment Plant of the City of Newberg Bonds.*

1. For the purpose of procuring local funds in an amount sufficient to provide the local match to grant funds to pay for the construction and installation of a new sewage treatment plant and associated improvements, additions, conversion of existing plant to a flow equalization facility, placement of necessary mains, pump stations, gravity sewer, force mains and outfall relating to a new sewage treatment plant of the City of Newberg, Oregon, and for all other purposes necessary or desirable in order to carry out the purposes above set forth, the City Council is hereby

authorized and empowered to issue and dispose of general obligation bonds of said City in the sum of \$9,100,000, in denominations of \$5,000 each bearing interest at the lawful rate per annum.

2. The purchaser or purchasers of said bonds shall in no way be required to see to the proper application of the purchase money therefor.

3. The Council shall each year, at the time of making the annual tax levy for City purposes, make a special additional levy of a sum sufficient to pay interest on outstanding bonds of this issue and to retire the principal thereof at maturity.

4. The City of Newberg is hereby authorized and empowered to do any and all things necessary or convenient to carry out the provisions of this act.

(As added by general election held on May 15, 1985.)

SECTION 57. EXISTING ORDINANCES CONTINUED.

All ordinances of the City consistent with this Charter and in force when it takes effect shall remain in effect until amended or repealed.

SECTIONS 58 THROUGH 69 RESERVED FOR EXPANSION.

SECTION 70. TIME CHARTER AMENDMENT EFFECTIVE.

This act amending the Charter of Newberg of February 10, 1893, as amended, shall take effect on January 1, 1983.

(Further amended by the vote of the people on May 21, 1996).

NEWBERG CITY COUNCIL MEETING INFORMATION

DATE of Meeting: 1/23/06

Prepared by: Norma Alley

Councilors	Roll Call	Res/Ord # <i>Motion</i> Topic: <i>Acceptance</i>	Res/Ord. # Topic:	Res/Ord # Topic:	Res/Ord # Topic:	Res/Ord # Topic:	Res/Ord # Topic:	Res/Ord # Topic:	Res/Ord # Topic:	Res/Ord # Topic:
STEWART, Bob, Mayor	X									
ANDREWS, Bob	X	<i>YES 1</i>								
BOYES, Mike	X	<i>YES 2</i>								
CURRIER, Roger	X	<i>No</i>								
NELSON, Dawn	X	<i>YES</i>								
McBRIDE, Mike	X	<i>YES</i>								
SOPPE, Robert	X	<i>No</i>								
ROLL CALL VOTES		YES: <u>4</u> NO: <u>2</u> Absent: <u>0</u> Abstain: <u>0</u>	YES: ____ NO: ____ Absent: ____ Abstain: ____	YES: ____ NO: ____ Absent: ____ Abstain: ____	YES: ____ NO: ____ Absent: ____ Abstain: ____	YES: ____ NO: ____ Absent: ____ Abstain: ____	YES: ____ NO: ____ Absent: ____ Abstain: ____	YES: ____ NO: ____ Absent: ____ Abstain: ____	YES: ____ NO: ____ Absent: ____ Abstain: ____	YES: ____ NO: ____ Absent: ____ Abstain: ____
Department:										
CHANGES: (Yes/No)		<i>YES</i>								

RECORDING SECRETARY:

- Route COPY of this completed sheet to applicable departments for processing of Res. & Ord. and to Accounting Clerk.
- Route COPIES of Public Comment Registration Sheets to respective Departments for noticing/their file.
- Route materials/overheads received at meeting: (1) Original(s) to Deputy City Recorder for packet; (2) Copy of applicable materials to Dept. for their file.
- Route labeled Audio tape(s) to Library (ATTN: Sandi Schmidt) except Executive Session tapes gets routed to the Deputy City Recorder.

CITY DEPARTMENTS: WITHIN 48 HOURS - Route to City Mgr. for Signature (verify changes, if any):

- IF ANY CHANGES, CORRECTIONS ARE TO BE MADE BY DEPARTMENT ORIGINATING DOCUMENT.
- Regardless of prior path/file name from your Department, **Rename Document:** (Sample: Ord2471.doc) or (Res2039.doc).
- E-mail FINAL Res. & Ord. (including RCA and Attachments) to the Deputy City Recorder as an attachment.
- Print final Resolutions/Ordinances and attachments on bond paper (excluding RCA).
- IF NOT ADOPTED, route hard copy and e-mail to Deputy City Recorder w/ following notation PRINTED ON TOP - "FAILED TO PASS (DATE)".
- Route to Deputy City Recorder for collection of signatures.

DEPUTY CITY RECORDER: * Route signed copies of documents to respective departments; * Place originals of Res. & Ord. in City Vault & Index appropriately; * Transfer FINAL Res./Ord. into appropriate City Recorder Computer Directory.

PREAMBLE

We, the voters of Newberg, Oregon exercise our power to the fullest extent possible under the Oregon Constitution and laws of the state, and enact this Home Rule Charter.



January 23, 2006

1

Introduction to



Charter Revision

2

General Grants of Authority and Elimination of Redundant Specific Grants

◆ **Example:**

- Powers are set out in one sentence.
- The present charter has one paragraph with five sub-paragraphs.



Offers and Acceptance

- ◆ The language is a general acceptance of all offers of power by the State.



"Allowed"

- ◆ The City can exercise powers of municipal nature, which are not specifically prohibited and may not be delegated to them.



Chapter I Boundaries

- ◆ This is quite similar to our present Charter except the City maintained vote by annexation.

Chapter I
Revision clause; Name and Boundaries

- ◆ **Section 1. Revision Clause.** The sections of the Charter have been revised as hereafter indicated.
- ◆ **Section 2. Title.** This charter may be referred to as the 2006 Newberg Charter.
- ◆ **Section 3. Name.** The City of Newberg, Oregon, continues as a municipal corporation with the name City of Newberg.

7

Chapter I (cont'd)
Revision clause; Name and Boundaries

- ◆ **Section 4. Boundaries.** The city includes all territory within its boundaries as they now exist or are legally modified by a majority of the voters. Unless mandated by state law, annexation, delayed or otherwise, to the City of Newberg, may only be approved by a prior majority vote among the electorate. The city will maintain as a public record an accurate and current description of the boundaries.

8

Chapter II
Powers

- ◆ General grant of authority.
- ◆ Construction of Charter.
 - Simple language that allows the City the most broad grants of authority.
 - Example:
 - Present Charter does this in 97 words; The new model Charter does it in 26 words.
 - Distribution:
 - This sets out the organization of the City indicating that all powers are with the council, unless specifically authorized somewhere else.

Chapter II Powers

◆ **Distribution:** *(cont'd)*

- Appoint: Initiative and Referendum.
- Establishing "Form" for each exercise of power
 - Legislative, Administrative, and Quasi-judicial
- **NOTE:** This will require some changes in city procedures and forms.
- **Example:**
 - Zone changes (quasi-judicial) by order, not ordinance.
 - Hearings on appeal by planning commission by order, not resolution if quasi-judicial.
 - The City will also need to review Planning Commission procedures as well.

Chapter II Powers

◆ **Section 5. Powers.** The city has all powers that the constitutions, statutes and common law of the United States and Oregon expressly or impliedly grant or allow the city, as fully as though this charter specifically enumerated each of those powers.

◆ **Section 6. Construction.** The charter will be liberally construed so that the city may exercise fully all powers possible under this charter and under United States and Oregon law.

11

Chapter II *(cont'd)* Powers

◆ **Section 7. Distribution.** The Oregon Constitution reserves initiative and referendum powers as to all municipal legislation to city voters. This charter vests all other city powers in the council except as the charter otherwise provides. The council has legislative, administrative and quasi-judicial authority. The council exercises legislative authority by ordinance, administrative authority by resolution, and quasi-judicial authority by order. The council may not delegate its authority to adopt ordinances.

12

Chapter III Council

- ◆ The Council is the Mayor and six Councilors.
- ◆ The Mayor votes and presides at the meetings and is counted as part of the quorum.
- ◆ Mayor appoints with consent of council, both for commissions and committees.
- ◆ Council President is re-elected each year.

Chapter III Council

◆ **Section 8. Council.** The council consists of a mayor nominated and elected from the city at large, and six councilors nominated from districts and elected from the city at large.

14

Chapter III *(cont'd)* Council

◆ **Section 9. Mayor.** The mayor presides over and facilitates council meetings, preserves order, enforces council rules, and determines the order of business under council rules. The mayor is a voting member of the council and has no veto authority. With the consent of council, the mayor appoints members of commissions and committees established by ordinance or resolution. The mayor must sign all records of council decisions. The mayor serves as the political head of the city government.

15

Chapter III (cont'd)
Council

◆ **Section 10. Council President.** At its first meeting each year, the council must elect a president from its membership. The president presides in the absence of the mayor and acts as mayor when the mayor is unable to perform duties.

◆ **Section 11. Rules.** The council must by resolution adopt rules to govern its meetings and other council business.

Chapter III (cont'd)
Council

◆ **Section 12. Meetings.** The council must meet at least once a month at a time and place designated by its rules, and may meet at other times in accordance with the rules.

◆ **Section 13. Quorum.** A majority of the council members is a quorum to conduct business, but a smaller number may meet and compel attendance of absent members as prescribed by council rules.

Chapter III (cont'd)
Council

◆ **Section 14. Vote Required.** The express approval of a majority of a quorum of the council is necessary for any council decision, except when this charter requires approval by a majority of the council.

◆ **Section 15. Record.** A record of council meetings must be kept in a manner prescribed by the council rules.

Chapter IV
Legislative Authority

◆ Maintained the present provision of passing an ordinance with "One reading by title only."

Chapter IV
Legislative Authority

◆ **Section 16. Ordinances.** The council will exercise its legislative authority by adopting ordinances. The enacting clause for all ordinances must state "The City of Newberg ordains as follows:".

20

Chapter IV *(cont'd)*
Legislative Authority

◆ **Section 17. Ordinance Adoption.**

- (a) Except as authorized by subsection (b), adoption of an ordinance shall before being put upon its final passage, be fully and distinctly read in open council meeting.
- (b) The reading may be by title only if no council member present at the meeting requests to have the ordinance read in full, provided the proposed ordinance is available in writing to the public at least one week before the meeting.
- (c) Any substantive amendment to a proposed ordinance must be read aloud or made available in writing to the public before the council adopts that ordinance at that meeting.

21

Chapter IV *(cont'd)*
Legislative Authority

◆ **Section 17. Ordinance Adoption.**

- (d) After the adoption of an ordinance, the vote of each member must be entered into the council minutes.
- (e) After adoption of an ordinance, the city custodian of records must endorse it with the date of adoption and the custodian's name and title.

22

Chapter IV *(cont'd)*
Legislative Authority

◆ **Section 18. Effective Date of Ordinances.** Ordinances normally take effect on the 30th day after adoption, or on a later day provided in the ordinance. An ordinance may take effect as soon as adopted or other date less than 30 days after adoption if it contains an emergency clause.

23

Chapter V
Administrative Authority

◆ No Change

Chapter V
Administrative Authority

◆ **Section 19. Resolutions.** The council will normally exercise its administrative authority by approving resolutions. The approving clause for resolutions may state "The City of Newberg resolves as follows:".

25

Chapter V
Administrative Authority (cont'd)

◆ **Section 20. Resolution Approval.**

- (a) Approval of a resolution or any other council administrative decision requires approval by the council at one meeting.
- (b) Any substantive amendment to a resolution must be read aloud or made available in writing to the public before the council adopts the resolution at that meeting.
- (c) After approval of a resolution or other administrative decision, the vote of each member must be entered into the council minutes.
- (d) After approval of a resolution, the city custodian of records must endorse it with the date of approval and the custodian's name and title.

26

Chapter V
Administrative Authority (cont'd)

◆ **Section 21. Effective Date of Resolutions.** Resolutions and other administrative decisions take effect on the date of approval, or on a later day provided in the resolution.

27

Chapter VI Quasi-Judicial Authority

- ◆ New concept with orders.
- ◆ Protects City for not being subject to initiative and referendum.
- ◆ Review of Council decision by LUBA or writ of review.

Chapter VI Quasi-Judicial Authority

- ◆ **Section 22. Orders.** The council will normally exercise its quasi-judicial authority by approving orders. The approving clause for orders may state "The City of Newberg orders as follows:".

29

Chapter VI Quasi-Judicial Authority *(cont'd)*

- ◆ **Section 23. Order Approval.**
 - (a) Approval of an order or any other council quasi-judicial decision requires approval by the council at one meeting.
 - (b) Any substantive amendment to an order must be read aloud or made available in writing to the public at the meeting before the council adopts the order.
 - (c) After approval of an order or other council quasi-judicial decision, the vote of each member must be entered in the council minutes.
 - (d) After approval of an order, the city custodian of records must endorse it with the date of approval and the custodian's name and title.

30

Chapter VI *(cont'd)*
Quasi-Judicial Authority

- ◆ **Section 24 Effective Date of Orders.**
Orders and other quasi-judicial decisions take effect on the date of final approval or on a later day provided in the order.

31

Chapter VII
Elections

- ◆ Councilors maintain district and same number of Councilors (6).
- ◆ Mayor changed to a four (4) year term.
- ◆ Qualifications same as before.
- ◆ Prohibits employment, either full or part-time, but made special allowance to voluntary employment
 - Comes from the Volunteer Fire Department

Chapter VII
Elections *(cont'd)*

- ◆ Prohibition against employment does not prevent reimbursement for expenses, but could prevent payment of sums, which would clearly be compensation.

Chapter VII
Elections

◆ **Section 25. Councilors.** The term of a councilor in office when this charter is adopted is the term for which the councilor was elected. At each general election after the adoption, three councilors will be elected for four-year terms.

34

Chapter VII
Elections *(cont'd)*

◆ **Section 26. Mayor.** The term of the mayor in office when this charter is adopted continues until the beginning of the first odd-numbered year after adoption. At every other general election after the adoption, a mayor will be elected for a four-year term.

35

Chapter VII
Elections *(cont'd)*

◆ **Section 27. State Law.** City elections must conform to state law except as this charter or ordinances provide otherwise. All elections for city offices must be nonpartisan.

36

Chapter VII
Elections *(cont'd)*

◆ **Section 28. Qualifications.**

- (a) The mayor and each councilor must be a qualified elector under state law, and reside within the city for at least one year immediately before election or appointment to office. For the purpose of this section, city shall mean any area included in the corporate limits as of the date of the election.

37

Chapter VII
Elections *(cont'd)*

◆ **Section 28. Qualifications.** *(cont'd)*

- (b) The city shall be divided into six geographical areas representing as near as practical, the same number of electors. When this charter section is adopted, the current six city district boundaries shall be the six district boundaries. The districts shall be reapportioned thereafter whenever the United States census is taken and within a reasonable time after the data is available, or when the city so orders. Whenever the districts are reapportioned, the councilor in office, shall not lose their qualification for office by reason of the boundary change for the remainder of their term, unless otherwise disqualified. In addition to the other qualifications, the councilor must have and maintain their residence in the district from which they were nominated during the term of their office, except as provided for in reapportionment.

38

Chapter VII
Elections *(cont'd)*

◆ **Section 28. Qualifications.** *(cont'd)*

- (c) Neither the mayor nor a councilor may be employed by the city, unless the employment is substantially volunteer in nature. The municipal judge shall make the determination of whether employment is substantially volunteer.

39

Chapter VII
Elections *(cont'd)*

◆ **Section 28. Qualifications.** *(cont'd)*

- (d) No person may be a candidate at a single election for more than one city office.
- (e) Except as provided in subsection (c) of this section, the council is the final judge of the election and qualifications of its members.

40

Chapter VII
Elections *(cont'd)*

◆ **Section 29. Nominations.** The council must adopt an ordinance prescribing the manner for a person to be nominated to run for mayor or a city councilor position.

◆ **Section 30. Terms.** The term of an officer elected at a general election begins at the first council meeting of the year immediately after the election, and continues until the successor qualifies and assumes the office.

41

Chapter VII
Elections *(cont'd)*

◆ **Section 31. Oath.** The mayor and each councilor must swear or affirm to faithfully perform the duties of the office, support the constitutions and laws of the United States and Oregon, and the ordinances and charter of the city.

42

Chapter VII Elections *(cont'd)*

◆ Vacancies are divided into two categories based on an event or requiring a declaration.

◆ Changes:

- 10-days v. 3-days
- "Public offense punishable by loss of liberty" rather than "conviction by felony."
 - Council has to declare.
- Provides for Councilor Pro-tem.

Chapter VII Elections *(cont'd)*

◆ **Section 32. Vacancies:** The mayor or a council office becomes vacant:

- (a) Upon the incumbent's:
 - (1) Death,
 - (2) Adjudicated incompetence, or
 - (3) Recall from the office.

44

Chapter VII Elections *(cont'd)*

◆ **Section 32. Vacancies:** *(cont'd)*

- (b) Upon declaration by the council after the incumbent's:
 - (1) Failure to qualify for the office within 10 days of the time the term of office is to begin,
 - (2) Absence from the city for 30 days without council consent, or from all council meetings within a 60-day period,
 - (3) Ceasing to reside in the city,
 - (4) Ceasing to reside within the district from which the councilor was nominated, except as provided for in reappointment; however, the councilor shall remain in office until such time as the vacancy is filled, but in no event, shall the time exceed 120 days.
 - (5) Ceasing to be a qualified elector under state law,
 - (6) Conviction of a public offense punishable by loss of liberty,
 - (7) Resignation from the office, or
 - (8) Removal under Section 34(i).

45

Chapter VII
Elections *(cont'd)*

- ◆ **Section 33. Filling Vacancies.** A mayor or councilor vacancy will be filled by appointment by a majority of the remaining council members. The appointee's term of office runs from appointment until expiration of the term of office of the last person elected to that office. If a disability prevents a council member from attending council meetings or a member is absent from the city, a majority of the council may appoint a councilor pro tem.

46

Chapter VIII
City Manager

- ◆ Appointed by the majority of the Council.
- ◆ Hiring and separation of all employees but not appointed officers.
- ◆ Does not have to be resident at time of appointment but leaves the Council the option of requiring it during employment.

Chapter VIII
City Manager *(cont'd)*

- ◆ Appointment of pro-tem giving more latitude.
 - No six month deadline.
 - Does not require appointment when manager is "absent" from City.
- ◆ Specific prohibition against interference with City Manager.
 - However, states that anything can be asked at Council meetings.

Chapter VIII
Appointive Officers

◆ **Section 34. City Manager.**

- (a) The office of city manager is established as the administrative head of the city government. The city manager is responsible to the mayor and council for the proper administration of all city business. The city manager will assist the mayor and council in the development of city policies, and carry out policies established by ordinances and resolutions.

49

Chapter VIII
Appointive Officers (cont'd)

◆ **Section 34. City Manager. (cont'd)**

- (b) A majority of the council must appoint and may remove the manager. The appointment must be made without regard to political considerations and solely on the basis of education and experience in competencies and practices of local government management.
- (c) The manager need not reside in the city or the state at the time of appointment.

50

Chapter VIII
Appointive Officers (cont'd)

◆ **Section 34. City Manager. (cont'd)**

- (d) The manager may be appointed for a definite or an indefinite term, and may be removed at any time by a majority of the council. The council must fill the office by appointment as soon as practicable after the vacancy occurs.

51

Chapter VIII
Appointive Officers *(cont'd)*

◆ **Section 34. City Manager.** *(cont'd)*

- (e) The manager must:
 - (1) Attend all council meetings unless excused by the mayor or council;
 - (2) Make reports and recommendations to the mayor and council about the needs of the city;
 - (3) Administer and enforce all city ordinances, resolutions, franchises, leases, contracts, permits, and other city decisions;
 - (4) Appoint, supervise and remove city employees;
 - (5) Organize city departments and administrative structure;

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Chapter VIII
Appointive Officers *(cont'd)*

◆ **Section 34. City Manager.**

- (e) The manager must: *(cont'd)*
 - (6) Prepare and administer the annual city budget;
 - (7) Administer city utilities and property;
 - (8) Encourage and support regional and intergovernmental cooperation;
 - (9) Promote cooperation among the council, staff and citizens in developing city policies, and building a sense of community;
 - (10) Perform other duties as directed by the council;
 - (11) Delegate duties, but remain responsible for acts of all subordinates.

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Chapter VIII
Appointive Officers *(cont'd)*

◆ **Section 34. City Manager.** *(cont'd)*

- (f) The manager has no authority over the council, city attorney, or the judicial functions of the municipal judge.
- (g) The manager, the city attorney, and other employees designated by the council may sit at council meetings but have no vote. The manager may take part in all council discussions.

54

Chapter VIII
Appointive Officers *(cont'd)*

◆ **Section 34. City Manager.** *(cont'd)*

- (h) When the manager is temporarily disabled from acting as manager or when the office of manager becomes vacant, the council must appoint a manager pro tem. The manager pro tem has the authority and duties of manager, except that a pro tem manager may appoint or remove employees only with council approval.

55

Chapter VIII
Appointive Officers *(cont'd)*

◆ **Section 34. City Manager.** *(cont'd)*

- (i) No council member may directly or indirectly attempt to coerce the manager or a candidate for the office of manager in the appointment or removal of any city employee, or in administrative decisions regarding city property or contracts. Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing. In council meetings, councilors may discuss or suggest anything with the manager relating to city business.

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Chapter VIII *(cont'd)*
City Attorney

- ◆ Changed to give authority of City Attorney over "office employees."
- ◆ Adds "Sitting at table," which has been the general practice.
- ◆ Adds "No supervision by City Manager" as indicated in the present charter.
- ◆ Can be asked at Council meetings.

Chapter VIII
Appointive Officers *(cont'd)*

◆ **Section 35. City Attorney.** The office of city attorney is established as the chief legal officer of the city government. A majority of the council must appoint and may remove the attorney. The attorney must appoint and supervise, and may remove any *city attorney's* office employees.

58

Chapter VIII
Appointive Officers *(cont'd)*

◆ **Section 36. Municipal Court and Judge.**

- (a) A majority of the council may appoint and remove a municipal judge. A municipal judge will hold court in the city at such place as the council directs. The court will be known as the Municipal Court.
- (b) All proceedings of this court will conform to state laws governing justices of the peace and justice courts.

59

Chapter VIII
Appointive Officers *(cont'd)*

◆ **Section 36. Municipal Court and Judge.** *(cont'd)*

- (c) All areas within the city and areas outside the city as permitted by state law are within the territorial jurisdiction of the court.
- (d) The municipal court has jurisdiction over every offense created by city ordinance. The court may enforce forfeitures and other penalties created by such ordinances. The court also has jurisdiction under state law unless limited by city ordinance.

60

Chapter VIII
Appointive Officers *(cont'd)*

◆ **Section 36. Municipal Court and Judge.** *(cont'd)*

- (e) The municipal judge may:
 - (1) Render judgments and impose sanctions on persons and property;
 - (2) Order the arrest of anyone accused of an offense against the city;
 - (3) Commit to jail or admit to bail anyone accused of a city offense;
 - (4) Issue and compel obedience to subpoenas;
 - (5) Compel witnesses to appear and testify and jurors to serve for trials before the court;
 - (6) Penalize contempt of court;
 - (7) Issue processes necessary to enforce judgments and orders of the court;
 - (8) Issue search warrants; and
 - (9) Perform other judicial and quasi-judicial functions assigned by ordinance.

61

Chapter VIII
Appointive Officers *(cont'd)*

◆ **Section 36. Municipal Court and Judge.** *(cont'd)*

- (f) The council may appoint and may remove municipal judges pro tem.
- (g) The council may transfer some or all of the functions of the municipal court to an appropriate state court.

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Chapter IX
Personnel

◆ No Change

Chapter IX Personnel

◆ **Section 37. Compensation.** The council must authorize the compensation of *city employees and city officers, including council members and the mayor, as part of its adoption of the annual city budget. The Council shall establish a procedure for implementing the compensation of its members and the mayor.*

◆ **Section 38. Merit Systems.** The council by resolution will determine the rules governing recruitment, selection, promotion, transfer, demotion, suspension, layoff, and dismissal of city employees based on merit and fitness.

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Chapter X Public Improvements

◆ Leaves most all procedures etc. to ordinances/Code.

◆ Does not spell out any of the specific authority, as it did in the previous Charter by relying upon general grants of authority.

Chapter X Public Improvements

◆ **Section 39. Procedure.** The council may by ordinance provide for procedures governing the making, altering, vacating, or abandoning of a public improvement. A proposed public improvement may be suspended for six months upon remonstrance by owners of the real property to be specially assessed for the improvement. The number of owners necessary to suspend the action will be determined by ordinance.

66

Chapter X
Public Improvements *(cont'd)*

◆ **Section 40. Special Assessments.**
The procedure for levying, collecting and enforcing special assessments for public improvements or other services charged against real property will be governed by ordinance.

67

Chapter XI
Miscellaneous Provisions

◆ Only difference in model charter is that the City adds "The public parks provision," which we added by initiative.

- This could be a problem.

Chapter XI
Miscellaneous Provisions

◆ **Section 41. Debt.** City indebtedness may not exceed debt limits imposed by state law. A charter amendment is not required to authorize city indebtedness.

69

Chapter XI
Miscellaneous Provisions *(cont'd)*

~~◆ **Section 42. Use of Public Parks.** Notwithstanding any other provisions of this charter, all areas now or hereafter dedicated to or used for public park purposes are reserved forever to the use of the public, and no such area shall be sold or otherwise disposed of or used for other than public park and recreation purposes, without prior approval thereof by a majority of the votes cast thereon by the people of the city.~~

70

Chapter XI
Miscellaneous Provisions *(cont'd)*

◆ **Section 42. Ordinance Continuation.** All ordinances consistent with this charter in force when it takes effect remain in effect until amended or repealed.

◆ **Section 43. Repeal.** All charter provisions adopted before this charter takes effect are repealed.

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Chapter XI
Miscellaneous Provisions *(cont'd)*

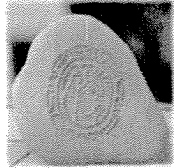
◆ **Section 44 Severability.** The terms of this charter are severable. If any provision is held invalid by a court, the invalidity does not affect any other part of the charter.

◆ **Section 45. Time of Effect.** This charter takes effect _____, 20__.

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Note from the Charter Task Force . . .

- ◆ These changes are not set in stone.
- ◆ This is a first look to change to the LOC model.



- **Charter Work**
- **Council Work**
- **Election**



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Charter Work

- ◆ **Task Force Committee Work**
 - 20 Weeks


- ◆ **Complete**
 - Presented to Council on January 23, 2006

**THANK YOU
Charter Task Force!!**

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Council Work

- ◆ **Deliberations**
 - 3 Meetings – 2006
 - ◆ February 6th
 - ◆ February 21st
 - March 6th


2006

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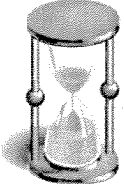
Election

- ◆ **Filing Deadline** 
 - Day B-4 St. Patrick's Day
 - ◆ March 16, 2006
- ◆ **Election Day**
 - ◆ May 16, 2006 ◆

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Thank you for your Time!!

**Any Further Questions
or Concerns?**



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Survey of Neighboring Cities Re: A Voting Mayor?

January 23, 2006

CITY	IS MAYOR A VOTING MEMBER OF THE COUNCIL?		Term	COMMENTS
	YES	NO		
Ashland		Tie only		Advantage: Mayor has appearance of fairness
Beaverton		Tie only		Has veto power
Bend	X		4 years	Full member of Council, appointed 4 year member. Council appoints one of its members as mayor every two years.
Brewer, Jim				It would be interesting to know if any cities with mayors who may vote also follow parliamentary procedures that seem to encourage the Chair not to vote unless the vote will determine the outcome. Mayors in our client cities that have the right to vote seem to assume they must vote on all issues, but some have liked the idea that they are not required to vote.
Carlton	X			Currently amending their charter to grant the mayor a vote on all matters.
Corvallis		Tie only	4 years	9 council members
Eugene		Tie only		Has veto power on ordinances. 8 Councilors
Hood River	X			Advantages : Our Charter requires the affirmative vote of four to pass; therefore, the extra voting body sometimes allows us to get business done when we have less than a full Council present (7 members; 5 is a quorum)
Keizer	X		2 years	6 other councilors. Haven't seen any problems, the current mayor is very even handed in the procedure/presiding role
Klamath Falls		Tie only		Mayor can lead meeting with less fear of being accused of "structuring" the proceedings to favor his/her particular voting preference.
Lincoln City	X			No apparent disadvantages
McMinnville		X		"Gives aura of irreproachability"
Medford		Tie only		
Newport	X			Seems appropriate Mayor vote, since he/she is essentially a Council member and participant in Council business
Portland	X			
Salem/Coos Bay	X (Both)		2 years	If full member, has all rights, including making motions, participating in debate, etc. Likes 2 year term better (just seems like a good length)

City Council Meeting
 Date: January 23, 2006
 Re: Charter
 No: _____

Survey of Neighboring Cities Re: A Voting Mayor?

January 23, 2006

CITY	IS MAYOR A VOTING MEMBER OF THE COUNCIL?		Term	COMMENTS
	YES	NO		
Springfield		Tie only		Possibly gives the mayor a broader perspective and keeps him/her from being so sensitive to particular interest voices. Tie breaking Mayor makes it possible to take action in difficult political decisions.
Stapleton		Tie only		Mayor has veto power. By having the Mayor a full voting member, he becomes a super councilor who gets to vote and if the vote doesn't go the way the mayor wants, he/she can veto. Not a wise position. I see no reason to make them a voting member.
Minor, Chris (Newport Law)				Agree it gives the mayor at least a created "appearance" of impartiality. However, hard to believe the mayor won't have an impact (furthering his/her position) through control of the proceedings.
Tualatin	X			Having the mayor vote means that mayor can't espouse a position publicly that he or she won't actually support.
Wilsonville	X			Full voting rights with 5 person Council including mayor. Set up this way since 1968.
Woodburn		Tie only	2 years	Mayor has veto power
Yamhill	X			



Total: 12 Yes 10 No

PART I: LEGAL AUTHORITY

§ 1 Overview

All governments in the United States derive their authority from some legal source – such as a constitution, a statute, or a charter. Through the Oregon Constitution, the people in Oregon granted broad powers to the state government. Pursuant to these broad powers, the Legislature has created state agencies and local governments (such as counties, school districts, fire districts, and irrigation districts). When the Legislature created these governmental entities, the Legislature also specified what powers the entities could possess. Thus, for most local governments in Oregon, it is the Legislature that determines how the governments are established, what procedures they must follow, what powers they can exercise, and what actions they can take.

Cities are different from other forms of local government. Although the people granted the state government significant powers, the people reserved to themselves the authority to grant power directly to their city governments. Article XI, section 2 of the Oregon Constitution reserves to local voters the power to adopt a city charter, in which the people can structure their city government and grant powers directly to that city government. The city charter cannot authorize a city to take action that violates the U.S. Constitution, the Oregon Constitution, or federal or state statutes. But unless federal or state law prohibits a city from exercising some power or taking some action, a city may do so if authorized by the city charter. Occasionally, even if a charter does not authorize an action, a state statute nevertheless may authorize that action.

In other words, a city council can take any action it desires so long as three conditions are met. First, the action must be authorized (by charter or statute); this issue is discussed in Part I of this document. Second, the council must comply with procedural requirements established by city charter, local code, and state law; these procedural requirements are discussed in Part II. Third, the action must not be preempted by federal or state law (*i.e.*, constitution or statute); limitations upon city action are discussed in Part III. In Parts IV and V, we summarize issues related to liability – both city and personal liability – and how to effectively and efficiently use your city attorney.

§ 2 City Charter

Article XI, section 2 of the Oregon Constitution authorizes a city's voters to adopt and amend a city charter. The city charter is similar to a constitution. Like a constitution, your charter may (1) create and structure your city government (for example, creating a city council, city manager, municipal court judge); (2) empower your city government (by granting certain powers to the city council, the city manager/administrator and the municipal court judge); and (3) limit your city government (prohibiting certain actions, such as adopting an ordinance without two readings at two separate meetings).

There are two basic types of city charters: those which contain a “general grant of powers” and those with “enumerated powers.”

§ 2.1 General Grant

Most city charters contain a “general grant” of power, such as the following: “The city has all powers that the constitution or laws of the United States or of this state expressly or impliedly grant or allow cities, as fully as if the charter specifically stated each of those powers.” Such a provision generally authorizes the city government to take any action which is not prohibited by the U.S. Constitution, the Oregon Constitution, or federal or state law.

§ 2.2 Enumerated Powers

Charters which lack a general grant of powers have “enumerated powers.” This type of charter will list each specific power granted by the voters to their city government, often including more than 100 separate powers and authorized functions. These specific grants will include such powers as the power to tax, to levy assessments, to sue and be sued, to hold property, to employ assistants, to enter into contracts, and to license businesses. For cities with charters containing enumerated powers, a city council cannot take any action unless the council can identify a specific power in the charter authorizing that action.

§ 3 Statutory Powers

Occasionally, the Legislature will grant to cities specific powers. For example, ORS 223.005 grants to every incorporated city the power to condemn property. For some cities, these statutorily granted powers may merely duplicate powers granted by a city charter. For other cities, these statutory powers will supplement the powers authorized by an enumerated powers charter. For some cities, these statutory powers may allow a city to take an action which the charter actually prohibits. For example, ORS 287.003 states that “[n]otwithstanding any other provision of law, including the city charter,” a city with a certain population may issue certain types of debt. Consequently, even if your city charter does not authorize you to exercise a certain power (or, goes further by prohibiting the council from exercising that power), you still may be able to take an action if authorized by state statute.

§ 4 Summary of Limitations on City Powers

Even where authorized by city charter, a city may not be able to take certain actions if those actions violate the U.S. Constitution, the Oregon Constitution, or federal or state statutes. Listed below are some of the more common federal and state provisions which have prohibited Oregon cities from exercising powers otherwise authorized by city charter. In Part III of this document, we discuss in more detail some of the most significant limitations imposed by state statute.

§ 4.1 U.S. Constitution

- 1st Amendment - free speech
- 5th Amendment - takings clause
- 14th Amendment - due process clause

§ 4.2 Federal Statutes

Environmental Laws
Civil Rights Laws
Fair Housing Act
Anti-trust Laws
Telecommunications Act of 1996
Fair Labor Standards Act

§ 4.3 Oregon Constitution

Property Tax Limitations (such as Measure 5 and Measure 50)
Oregon “Bill of Rights” (Article I)
Initiative and Referendum (Article IV, § 1)

§ 4.4 State Statutes

Public Records - ORS 192.410 *et seq*
Public Meetings - ORS 192.610 *et seq*
Land Use - ORS Chapter 197
Annexations - ORS 199 and 222
Cities - ORS Chapter 221
Public Improvements - ORS 223
Ethics - ORS Chapter 244
Elections - ORS 250.255 *et seq*
Street Vacations - ORS Chapter 271
Public Contracts - ORS Chapter 279
Public Budget Law - ORS Chapter 294
Criminal Laws, Civil Forfeiture, and many others

PART II: STRUCTURE AND PROCESS

§ 5 Types of City Government

There are four basic types of city government in Oregon. The most popular are the “council/manager” and “weak mayor” forms of government. Other forms of government include “commission” and “strong mayor.”

§ 5.1 Council/Manager

The council/manager form of municipal government was originally formulated by the National Short Ballot Organization (NSBO), in 1911. The mission of the NSBO was to make government more responsible by reducing the number of elective offices. The NSBO adopted the

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List of Recommended Changes

Removed:

- Chapter II – Powers. All concurred at the Oct. meeting.
- Section 25. City Recorder. Automatic change with Model Charter at the Aug. meeting.
- Chapter X. Hospitals, Infirmaries or Clinics. All concurred at Sept. meeting.
- Section 50. Liability for Injury. All concurred at the Oct. meeting.
- Section 54. Use of Public Parks. All concurred at the Dec. meeting to recommend removing the language and if there was no public concern then it would be put on the voter's pamphlet with a draft ordinance for language on use of public parks.

Added:

- Section 13. Salaries. All concurred at the Nov. meeting to add "Mayor."
- Section 34. Vacancy. All concurred at the Oct. meeting to add "if a position becomes vacant due to a member moving out of their district, the current Councilor may stay in that position until a new member is appointed, but not to exceed 120 days."

Changed:

- Section 10. Mayor position being a four-year term from a two-year term. All concurred at the Sept. meeting.
- Section 19. Mayor becoming a voting member. Votes: Yes (McBride & Andrews)/No (Soppe) at the Sept. meeting.
- Section 30. Canvas of Returns to be rewritten to be consistent with the language in the State law. All concurred at the Oct. meeting.

Action with no change:

- Eliminate districts. Votes: Yes (McBride)/No (Soppe & Andrews) at the Oct. meeting.
- Addition of at-large member and a seventh district. Votes: Yes (Andrews/McBride)/No (Soppe) to recommend to Council no addition of an at-large member and adding another district at the Nov. meeting.