



CITY OF
**West
Linn**

WEST LINN CHARTER

******* AS ENGROSSED BY MEASURE 3-552 PER RESOLUTION 2019-13 *******

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PREAMBLE

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

Chapter I NAME AND BOUNDARIES

Section 1. Title of Charter.

This Charter may be referred to as the 1994 West Linn Charter.

Section 2. Name of City.

The City of West Linn, Oregon, continues under this Charter to be a municipal corporation with the name of the City of West Linn.

Section 3. Boundaries & Annexations.

Unless mandated by state law, the City of West Linn shall not annex any territory, by delayed annexation or otherwise, without the approval of a majority vote among the City's electorate.

[Deleted 09-17-13; NOTE: This pertained to voter approval for annexation of land outside the Metropolitan Service District Urban Growth Boundary.] (Amended 5-19-98 [effective 6-18-98 – Ordinance 1419])

At least two copies of this Charter and an accurate, up-to-date description of City boundaries shall be kept at City Hall. The copies and descriptions shall be available for public inspection at any time during regular office hours of the City Hall.

Chapter II POWERS

Section 4. Powers of the City.

The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers.

Section 5. Construction of the Charter.

In this Charter the mention of a particular power shall not be construed to be exclusive or to restrict the scope of the powers which the City would have if the particular power were not mentioned. The Charter shall be liberally construed to the end that the City may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to the State laws and to the municipal home rule provisions of the State Constitution.

Section 6. Distribution of Powers.

Except as this Charter prescribes otherwise and as the Oregon Constitution reserves municipal legislative power to the voters of the City, all powers of the City are vested in the Council.

Chapter III FORM OF GOVERNMENT

Section 7. Council.

The Council shall be composed of a Mayor and four Councilors nominated and elected from the City at large. (Amended 05-16-06)

Section 8. Councilors.

(a) For the 2002 general election and subsequent general elections in even numbered years, the ballot shall include a single list of candidates for council seats. Electors may vote for up to the same number of candidates as there are seats open. The candidates receiving the greatest number of votes shall be elected to fill open seats for expired terms. (Amended 11-07-00)

(b) At the general election in 2008 and every even-numbered year thereafter, two Councilors shall be elected. (Amended 05-20-08)

(c) At the general election in 2006, the ballot shall include a single list of candidates for the four Councilor seats. The Councilor candidates receiving the largest and second-largest number of votes in the 2006 elections shall be elected as Councilors for four-year terms. The Councilor candidates receiving the third- and fourth-largest number of votes in the 2006 election shall be elected to two-year terms. Electors may vote for up to four Council candidates in the 2006 election. At each general election in even-numbered years after 2006, the ballot shall include a single list of candidates for the two Councilor seats that will become vacant due to term expiration. In general elections after 2006, the Councilor candidates receiving the largest and second-largest number of votes shall be elected for four-year terms, and electors may vote for up to two Council candidates. (Repealed 11-04-97; amended 11-07-00; amended 05-16-06)

8 (d) The Council may retain legal advisors as it deems prudent. The legal advisors shall report to and serve at the discretion of the Council.

(d) [Deleted 11-07-00; NOTE: This pertained to official position numbers.]

(e) [Deleted 05-16-06; NOTE: This pertained to Council liaisons to City departments.]

(f) [Deleted 09-17-13; NOTE: This pertained to Council legal advisors.]

Section 9. Mayor.

(a) [Repealed 11-04-97; NOTE: This pertained to primary election requirement.]

(b) Mayors shall be elected for four-year terms beginning at the 2008 general election. (Amended 05-20-08)

Section 10. Terms of Office.

The term of office of an elective officer who is elected at a general election begins at the first Council meeting of the year immediately after the election, unless otherwise specified, and continues until the successor to the office assumes the office. (Amended 11-04-97)

Section 11. Salaries.

The compensation for the services of each City officer, employee, Council member and Mayor shall be the amount fixed by the Council. As of January 1, 2009, this amount shall not exceed \$4,000 annually for each Councilor and \$6,400 annually for the Mayor. This maximum amount shall be adjusted for inflation annually based upon the Consumer Price Index for the Portland Metropolitan Area. (Amended 05-20-08)

Section 12. Qualifications.

(a) A candidate for City office shall be a qualified elector under the State Constitution and shall have resided in the City during the twelve months immediately before being elected or appointed to the office. "City" means the area inside the City limits at the time of the election or appointment. Elected City officers, subsequent to their election or appointment, shall continue to be residents of the City during their entire term of office.

(b) No person may be a candidate at a single election for more than one elective City office.

(c) An elected officer may be employed in a City position that is substantially volunteer in nature. Whether the position is so may be decided by the Municipal Court or in some other manner, whichever the Council prescribes.

(d) Except as subsection (c) of this section provides to the contrary, the Council is the final judge of the election and qualifications of its members.

(e) The qualifications of appointed officers of the City are as the Council prescribes or authorizes.

Chapter IV COUNCIL

Section 13. Meetings.

The Council shall hold a regular meeting at least once each month in the City at a time and at a place which it designates. It shall adopt rules for the government of its members and proceedings. The Mayor upon the Mayor's own motion may, or, at the request of two members of the Council, shall by giving notice thereof to all members of the Council then in the City, call a special meeting for the Council. Public notice shall be given as required by State law. Special meetings of the Council may also be held at any time by common consent of all members of the Council.

Section 14. Quorum.

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

Section 15. Record of Proceedings.

The Council shall cause a record 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 entered in the record.

Section 16. Proceedings to be Public.

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

Section 17. Mayor's Functions at Council Meetings.

The Mayor shall preside over Council deliberations and shall have a vote on all questions before the Council. The Mayor shall preserve order, enforce the rules of the Council, and determine the order of business under the rules of the Council.

Section 18. President of the Council.

At the first meeting of each 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. Whenever the Mayor is unable to perform the functions of the office, the President shall act as Mayor.

Section 19. Vote Required.

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

Section 20. Communication with City Departments.

The Council shall adopt rules governing communications between departments of the City and individual Council members.

Section 21. Appointment and Evaluation of City Manager.

(a) The Council shall appoint a City Manager for a term specified by contract and may remove the City Manager at its discretion.

(b) The Council shall provide a mechanism for public input at least annually into the evaluation of the City Manager's performance and shall consider such public input in its evaluation of the performance and tenure of the City Manager.

Section 21A. No Interference with Personnel or Public Contracting.

No City Council member may directly or indirectly, by suggestion, or otherwise, attempt to interfere, influence, or coerce the City Manager in the award of a public contract or the hiring, discipline, or termination of any personnel. This shall not prevent a City Council member from providing input to the City Manager relating to City business or the performance of an employee or department. (Added 09-17-13; Amended 11-07-17))

Chapter V
POWERS AND DUTIES OF OFFICERS

Section 22. Mayor.

The Mayor shall:

(a) Sign all records of proceedings approved by the Council.

(b) Have no veto power.

(c) Sign all ordinances passed by the Council. Failure of the Mayor or the President of the Council to sign an ordinance shall not invalidate it.

(d) Endorse the bond after the Council approves a bond of a City officer or a bond for license, contract or proposal.

(e) [Deleted 05-16-06; NOTE: This pertained to Council liaisons to City departments.]

(f) Appoint, with the approval of the Council, the boards, commissions and committees provided by the rules of the Council. Members of the Planning Commission and Budget Committee shall have a minimum of six months

residency in the City prior to appointment, unless otherwise provided by State law, and shall meet attendance requirements as set by ordinance.

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 the City Manager's executive and administrative qualifications. Before taking office, the City Manager shall give a bond in such amount and with surety as may be approved by the Council. The premiums on such bond shall be paid by the City.

(b) **Residency.** It is the desire of the people of West Linn, but not a requirement, that the City Manager live in the City during the term of his or her employment.

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

(1) The City Manager shall devote his or her entire working time to the discharge of his or her 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, make reports annually, or more frequently if requested by the Council, of all the 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 City Manager shall designate a custodian of records and such other officers and employees as required, 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 City Manager shall have no control, however, over **the office of City Attorney or** the strictly judicial activities of the Municipal Judge.

(4) The City Manager shall ensure that all expenditures of public funds, including the purchase of goods and services, are made in accordance with City policies, State budget and public contract law, and generally accepted financial management practices. (Amended 9-19-95)

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

Section 23A. City Attorney.

The office of city attorney is established as the chief legal officer of the City. The city attorney shall be appointed and removed by a majority of all incumbent members of the Council. (Added 09-17-13)

Section 24. Municipal Judge.

(a) The Municipal Judge shall be elected for a term of four years and shall be a judicial officer of the City. The Municipal Judge holding office at the time of adoption of this Charter shall hold his or her office for the balance of the term for which he or she was elected or appointed and until his or her successor is elected and qualified. The Municipal Judge shall be a member of good standing of the Oregon State Bar during his or her entire term of office. Disbarment shall be a basis for removal from office by the Council. Should the office be vacant:

(1) If less than one year remains in the term of the person who held that vacant office, the vacancy shall be filled by appointment by a majority vote of the Council members. The appointee shall serve the remainder of the unexpired term.

(2) If one or more years remain in the term of the person who held that vacant office, the vacancy shall be filled at the next available May or November election. The person elected shall serve the remainder of the unexpired term. A majority of the Council members shall fill the vacancy by appointment for an interim period until a special election may be held to fill the remainder of the unexpired term. (Amended 09-17-13)

(b) The Municipal Court Judge shall hold at a place and time that the Council may specify, a court known as the Municipal Court for the City of West Linn, Clackamas County, Oregon.

(c) Except as this Charter or City ordinance prescribes to the contrary, procedures of the court shall conform to the general laws of this State governing municipal courts, justices of the peace and justice courts.

(d) All areas within the City and, to the extent provided by State law, area outside the City, are within the territorial jurisdiction of the Court.

(e) The Municipal Court has original jurisdiction over every offense that an ordinance of the City makes punishable. The Court may enforce forfeitures and other penalties that such ordinances prescribe. The powers of the Municipal Judge shall include, but are not limited to:

(1) Rendering judgments and, for enforcing them, imposing sanctions on persons and property within the Court's territorial jurisdiction;

(2) Ordering the arrest of anyone accused of an offense against the City;

(3) Committing to jail or admitting to bail anyone accused of such an offense;

(4) Issuing and compelling obedience to subpoenas;

(5) Compelling witnesses to appear and testify and jurors to serve in the trial of matters before the Court;

(6) Penalizing contempt of court;

(7) Issuing process necessary to effectuate judgments and orders of the Court;

(8) Issuing search warrants;

(9) Performing other judicial and quasi-judicial functions prescribed by ordinance.

(f) The Municipal Judge may appoint Municipal Judges *pro tem* who shall meet the same qualifications as the Municipal Judge except that they are not required to reside within the City limits. (Amended 05-20-08)

Chapter VI ELECTIONS

Section 25. Regular Elections.

Regular City elections shall be held at the same times and places as biennial general elections. (Amended 11-04-97)

Section 26. State Law.

Except as this Charter, or a City ordinance prescribes to the contrary, a City election shall conform to State law applicable to the election.

Section 27. Tie Votes.

In the event of a tie vote for candidates for an elective office, the tie shall be broken by a public drawing of lots in a manner prescribed by the Council.
(Amended 11-04-97)

Section 28. Oath of Office.

Before entering upon the duties of the office, each officer shall take an oath or shall affirm that the officer will support the constitutions and laws of the United States and of Oregon and that the officer will faithfully perform the duties of the office.

Section 29. Candidacy and Nominations.

The Council shall provide by ordinance the mode for nominating elective officers, provided any qualified person may be nominated by filing a petition signed by 25 legal voters of the City, or by filing with the City a declaration of his or her candidacy on forms provided by the City. A filing fee may be provided by ordinance for candidates filing by means other than petition as provided above.

Chapter VII VACANCIES IN OFFICE

Section 30. Vacancies: Occurrence.

The office of a member of the Council becomes vacant:

- (a) Upon the incumbent's:
 - (1) Death;
 - (2) Adjudicated incompetence; or
 - (3) Recall from the office; or
- (b) Upon declaration by the Council of the vacancy in case of the incumbent's:
 - (1) Failure, following election or appointment to the office, to qualify for the office within ten days after the time for the term of office to begin;
 - (2) Absence from the City for 30 days without the Council's consent or from all meetings of the Council within a 60-day period;

- (3) Ceasing to reside in the City;
- (4) Ceasing to be a qualified elector under State law;
- (5) Conviction of a public offense punishable by loss of liberty; or
- (6) Resignation from the office.

Section 31. Vacancies: Filling.

(a) If less than one year remains in the term of the person who held that vacant office, the vacancy shall be filled by appointment by a majority vote of the remaining Council members. The appointee shall serve the remainder of the unexpired term.

(b) If one or more years remain in the term of the person who held that vacant office, the vacancy shall be filled at the next available May or November election. The person elected shall serve the remainder of the unexpired term. A majority of the remaining Council members shall fill the vacancy by appointment for an interim period until a special election may be held to fill the remainder of the unexpired term. (Amended 09-17-13)

(c) During a Council member's disability to serve on the Council or during a member's absence from the City, a majority of the remaining Council members may by appointment fill the vacancy *pro tem*.

Chapter VIII
ORDINANCES

Section 32. Enacting Clause.

The enacting clause of all ordinances hereinafter enacted shall be "The City of West Linn ordains as follows:"

Section 33. Mode of Enactment.

(a) Except as paragraphs (b) and (c) of this section provide to the contrary, every ordinance of the Council shall, before being put upon its final passage, be read fully and distinctly in open Council meeting on two different days.

(b) Except as paragraph (c) of this section provides to the contrary, an ordinance may be enacted at a single meeting of the Council by unanimous vote of the Council members present, upon being read first in full and then by title.

(c) Any of the readings 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 at the City offices not later than one week before the first reading of the ordinance, and if notice of their availability is given forthwith upon the filing, by written notice posted at City Hall and two other public places in the City or by advertisement in a newspaper of general circulation in the City. An ordinance enacted after first 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.

(d) Upon the final vote on an ordinance, the ayes and nays of the members shall be taken and entered in the record of proceedings.

(e) Upon the enactment of an ordinance the custodian of records shall sign it with the date of its passage and the endorser's name and title of office and thereafter the Mayor, or President of the Council acting pursuant to Section 18 of this Charter, shall sign it with the date of its passage and the endorser's name and title of office. Failure of the Mayor or the President of the Council to sign it shall not invalidate it.

Section 34. When Ordinance Takes Effect.

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 date for it to take effect, and in case of an emergency, then it shall include in the ordinance a statement of explanation regarding the basis for the declaration of emergency.

Chapter IX PUBLIC IMPROVEMENTS

Section 35. 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 shall be devoted.

Section 36. Procedure.

The procedure for making, altering, vacating, or abandoning a public improvement shall be governed by general ordinance or, to the extent not so governed, by the applicable general laws of the State. Action on any proposed public improvement, except a sidewalk or except an improvement unanimously declared by the Council to be needed at once because of an emergency, shall be suspended for six months upon a remonstrance thereto by the owners of two-thirds of the land to be specifically assessed therefor. In this section "owner" shall

mean a record holder of legal title or, where land is being purchased under a land sale contract recorded or verified to the custodian of records in writing by the record holder of legal title to the land, the purchaser shall be deemed the "owner."

Section 37. Special Assessments.

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

Chapter X MISCELLANEOUS PROVISIONS

Section 38. Debt Limit.

Except by consent of the voters, the City's voluntary floating indebtedness shall not exceed debt limits imposed by State law. 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 excess.

Section 39. Garbage Burner Restriction.

No municipal or commercial garbage burning facilities within two miles of schools in West Linn shall discharge cancer causing agents, lead or mercury. The City is authorized to take any legal action necessary to enforce this prohibition.

Section 40. 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.

Section 41. Repeal of Previously Enacted Provisions.

All Charter provisions of the City enacted prior to the time that this Charter takes effect are hereby repealed.

Section 42. Time of Effect of Charter.

This Charter shall take effect 30 days after its approval by the voters of the City of West Linn.

Section 43. Severability.

The terms of this Charter are severable. If a part of the Charter is held invalid, that invalidity does not affect another part of the Charter, except as logical relation between the two parts requires.

Section 44. Voter Approval of Utility Rates.

No "utility rate increase" may exceed 5% in any calendar year without first receiving voter approval. The City Council may increase utility rates by a percentage of no more than 5% in any calendar year after having considered a recommendation from the Utility Advisory Board for the percentage increase, if one is received. For the purposes of this section a "utility rate increase" is the cost increase paid to the City by a user of the sanitary sewer, storm sewer and water systems above the rate paid on June 18, 1999, excluding the component of a sewer rate increase that is a pass through of an increase in charges paid by the City for sewage treatment. The utility rate for each system shall be considered separately. The provisions of this section shall be implemented by ordinance of the Council. (Amended 5-18-99 [effective 7-1-99 – Ordinance 1436])

Section 45. Utility Advisory Board.

A Utility Advisory Board (UAB) is hereby established. The Utility Advisory Board shall make recommendations to the City Council concerning rates for water. These recommendations shall pertain to those legislative matters to be decided by the City Council concerning or affecting rates, such as master facility plans and service levels as they relate to rates. The Utility Advisory Board may also make recommendations regarding such other City-owned utilities as the City Council from time to time may determine. Appointment, terms of office, vacancies and removal, meetings and other organizational matters for the Utility Advisory Board shall be provided for by ordinance of the City Council. (Amended 9-17-96)

Chapter XI

USE AND DISPOSITION OF CITY OWNED REAL ESTATE

Section 46. Park and Open Space.

(a) The City shall not engage in the lease, sale, exchange or nonauthorized use of City owned park or open space without first receiving voter approval for such lease, sale, exchange or nonauthorized use. Such approval shall consist of a majority of votes cast at a regularly scheduled election in favor of a specific proposal for a lease, sale, exchange or nonauthorized use of City owned park or open space.

Each proposal must be voted on separately; however, multiple proposals may be placed on the ballot on the same election day. Each proposal shall include only a single property, except for proposals which include an exchange contractually linking two or more properties.

(b) For the purposes of this section the term "nonauthorized use" shall have the following meanings: (1) A nonauthorized use for a City owned park shall be the siting or construction of facilities that are not directly required for the park's use.

Only facilities directly necessary for the park's use shall be considered authorized. Uses that shall be specifically considered to be nonauthorized in connection with parks are: water reservoirs, water tanks, telecommunication towers, residential housing, City offices, commercial buildings, parking facilities (excepting that parking needed for the use of the park) and roads (except as needed for park access). (2) A nonauthorized use for a City owned open space shall be the siting or construction of facilities that are not directly required for the maintenance of the open space or use of said open space as open space. Only facilities directly necessary for the use of open space shall be considered authorized. Uses that shall be specifically considered to be nonauthorized in connection with open space are: water reservoirs, water tanks, telecommunication towers, residential housing, City offices, or commercial buildings. (3) The nonauthorized use designation shall be understood to exempt temporary constructions authorized by the West Linn Parks Department for picnics, fairs, sports events, parades and community and neighborhood celebrations. (4) Uses that are in existence as of the effective date of this section shall not be considered nonauthorized uses.

(c) For the purposes of the above section the term "open space" shall be defined as City-owned real estate identified in documents adopted or accepted by the City Council or authorized City official as "open space," "green space," "wetland," "drainageway," (excluding city owned roadside drainage swales), "wildlife habitat" and "stream corridor." Property with the above designations that is not owned by the City shall be exempt from the provisions of this section.

(d) This section shall apply to all City-owned park or open space as of the adoption of this section, as well as all park and open space coming into the City's ownership after the adoption of this section. Within 60 days of City acquisition of real property the City Council shall determine the appropriate designation of the property for the purposes of this Charter section. Within 90 days of adoption of this section the City Council will adopt existing property into the appropriate designation. The City will create and maintain an inventory of City-owned parks and open spaces, including, but not limited to, appropriate designations, location and size.

(e) The intent of this Charter section is that City-owned park and open space shall be preserved for recreational use and environmental preservation and enhancement and not used for other purposes or sold or exchanged without the approval of the registered voters of the City of West Linn.

(f) This section shall take effect 15 calendar days after the voter approval of this section.

(g) City-owned property designated 'park' or 'open space' pursuant to this Chapter XI, Section 46, and specifically to (d) above, shall not have such designation removed by the City without first receiving voter approval. Such approval shall consist of a majority of votes cast at a regularly scheduled election in favor of a specific proposal to remove such designation. Each proposal shall be limited to a single property, and shall be voted on separately; however, multiple proposals may be placed on the ballot for the same election day.

The express intent of this section is to preclude the possibility that the protections afforded City-owned property designated 'park' or 'open space' might have such protection removed by the redesignation of such property, without voter approval, and thereby potentially allow the lease, sale, exchange or nonauthorized use of such property without voter approval, and as a consequence, acting to circumvent the intended protections of this chapter. (Amended 05-15-12; amended 11-06-01 [effective 11-21-01])