



CITY OF NEWBERG

CHARTER

**CITY OF NEWBERG
414 E. FIRST ST.
P.O. BOX 970
NEWBERG, OREGON 97132
(503) 538-9421**

**Approved November 7, 2006
Enacted January 1, 2007
Amended November 7, 2017
Amended May 16, 2023**

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. May 16, 2006 the voters approved an amendment to the Charter providing the Mayor become a voting member of the Council and the term change from two (2) years to four (4) years. The 1982 Charter was revised in November, 2006, providing an all inclusive update and inclusion of Orders for quasi-judicial authority. The Newberg Charter was amended by referral on November 7, 2017 adding a section on limiting property tax. On May 16, 2023 the voters approved an amendment to the Charter that limits the use of City support on temporary housing located near schools or without a public vote.

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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. Unless mandated by state law, annexation, delayed or otherwise, to the City of Newberg, may only be approved by a majority of the voters. 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, 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) 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.

(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 must 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 must 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 to the beginning of the first odd numbered year after adoption. At every other general election after the adoption, a mayor shall 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 other 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, while in office, 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 councilors for the proper administration of all city business. The city manager will assist the mayor and councilors in the development of city policies, and carry out policies established by ordinances, resolutions, and orders.
- (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 council about the needs of the city;
 - (3) Administer and enforce all city ordinances, resolutions, orders, 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, as part of its adoption of the annual city budget. The council shall establish a procedure for implementing the compensation of its members.

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 written objections 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. Use of Public Parks. Notwithstanding any other provisions of this charter, all areas now or hereafter dedicated to the city 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, unless approved by a prior vote of the electorate, except that the council, after a public hearing, may permit a portion of a city park to be used for public improvements as long as such use does not significantly impact the park's viability.

Section 42. Debt. City indebtedness may not exceed debt limits imposed by state law. A charter amendment is not required to authorize city indebtedness.

Section 43. Ordinance Continuation. All ordinances consistent with this charter in force when it takes effect remain in effect until amended or repealed.

Section 44. Repeal. All charter provisions adopted before this charter takes effect are repealed.

Section 45. 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 46. Time of Effect. This charter takes effect January 1, 2007. This charter was amended November 7, 2017 and May 16, 2023.

Section 47. Property Tax Limitation. The purpose of this Section is to reduce the ad valorem property tax rate authorized to be levied by the City to reflect the amount the City will no longer spend on fire, emergency medical and ambulance services if the City is within the Tualatin Valley Fire and Rescue District (District).

(a) Except as provided in subsection (b) the City Council is prohibited from levying more than \$2.50 of the City's permanent ad valorem property tax rate against any property within the District.

(b) Commencing with fiscal year 2019/2020, and each year thereafter, the City Council may increase the tax rate limit established under subsection (a) by 3% of the prior year's limit. Council also may levy in excess of the limit specified in subsection (a), as increased under this subsection, if authorized by a measure approved by the voters.

(c) This Section shall apply commencing with the City's 2018/19 fiscal year and continue in effect as long as the City remains within the boundaries of the District.

(d) A local option or bond levy approved by the voters will neither be affected by, nor affect, this Section.

Section 48. Use of City Resources for Homeless Encampments.

(a) City resources may not be used to subsidize the construction or operation of a homeless encampment located within 1500 feet of a Newberg school.

(b) City resources may not be used to subsidize the construction or operation of a homeless encampment unless approved by a Voter Authorization Measure subject to the following conditions:

(1) The Voter Authorization Measure allowing the use of city resources for a specific homeless encampment must be in the form of a City ballot measure approved by a majority of votes at a primary or general election.

(2) The ballot title of the Voter Authorization Measure must identify the location or proposed location of the homeless encampment using the physical address(es) of associated property and list the distance between the encampment and the three closest Newberg schools.

(3) The ballot title of a Voter Authorization Measure must identify the maximum total value of the city resources that may be authorized to support a specific homeless encampment. Duration of an encampment's authorization may not exceed the time period proposed under the measure and may not exceed ten years.

(c) Definitions. As used in this Section:

(1) "City resources" means the specific allocation of monies or property, over which the City exercises discretion, that could be allocated for uses other than homeless encampments, or, any significant allocations of city staff time, equipment and/or supplies with an aggregate

value of \$25,000 or more during a single budget year. The limitations on the use of “city resources” within this section do not apply to the use or delivery of any emergency or public safety services, the delivery of other services to any person camping at least 1500 feet from a school, the conduct of routine city operations that impose obligations upon or provide incidental benefits to an existing homeless encampment or to a proposed homeless encampment, or to any costs arising from an election for a Voter Authorization Measure.

(2) “Homeless encampment” means any property approved for use as an outdoor living space where tents, yurts, automobiles, recreational vehicles, or any housing structures lacking a foundation or modern indoor plumbing facilities used for transitional housing more than 90 days, or any section of public right of way where camping is allowed for purposes of temporary housing. This definition shall not apply to any properties or structures used to house persons physically displaced by fire, flood, natural disaster, or any other temporary, non-recurring emergency.

(3) “Newberg school” means the grounds and buildings regularly and primarily used by any educational institution that offers at least six months of onsite curricula for the advancement of thirty or more K-12 students toward an Oregon diploma operating within Newberg city limits. If a Newberg school commences operations after an election for a Voter Authorization Measure is called, or after such measure is enacted by voters, that school’s proximity shall not preempt the election called nor prohibit the use of city resources so approved for a homeless encampment.

(d) Any ballot measure submitted for authorization under this section must comply with state law. If information required by this measure cannot be lawfully included within the ballot title of a measure, it shall be included in the explanatory statement for the measure or by written notice mailed to every voter no more than one week prior to mailing of ballots.

(e) The district attorney or any city taxpayer may file suit to enforce these provisions against any public official who expends, or authorizes the expense of, moneys in excess of the amounts authorized by voters or for purposes not so authorized. A prevailing claimant may recoup, on behalf of the City, misspent moneys from any public official found to be personally responsible for unauthorized expenditures. Consistent with ORS 30.285, the City shall defend all public officers from any such suit, however, no city resources may be used to indemnify a public official from liability for any expenditure constituting malfeasance in office, or willful or wanton neglect of duty.

If any portion of this section is held to be unenforceable as a matter of law by a court of competent jurisdiction, it shall be severed only to the degree necessary to correct the deficiency and shall not alter the remaining provisions.