

**AN ORDINANCE OF ALBANY, LINN AND BENTON COUNTIES, OREGON, CALLING FOR AN ELECTION TO SUBMIT TO THE ELECTORS OF THE CITY THE QUESTION OF REVISING THE CITY OF ALBANY CITY CHARTER.**

WHEREAS, the City Council of the City of Albany reviewed the City Charter at their September 24, 2007, and their January 7, 2008, City Council Work Sessions; and

WHEREAS, at that review they noted several revisions and changes that were needed to bring the Charter into compliance with current legal and procedural practices; and

WHEREAS, the City Council of the City of Albany supports the value of continuing to provide quality services to the citizens of the city;

NOW THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1. Date of Election. An election with the question set forth in Section 2 of this ordinance shall be submitted in the manner prescribed herein to the legal voters residing within the City of Albany, on the 19<sup>th</sup> day of May 2009.

Section 2. Form of Question. Shall Albany adopt a Charter updating language and procedures and removing sections that have been superseded by state law?

Section 3. Project Description. Generally the proposed changes include an explanation of gender specific language, incorporation of the Oregon Open Meetings Act, clarification of appointments to City Commissions, designation of a City Manager Pro Tem, adoption of applicable state law and city ordinances regarding purchasing, filling of vacancies in elective offices of the city, and the reading and passing of ordinances. A complete text of the proposed changes are attached as Exhibit "A" and are available on the City website at [www.cityofalbany.net](http://www.cityofalbany.net), City Hall, the Downtown Library, and the Main Library.

Section 4. Hours of Election. The election shall be conducted as a mail in election.

Section 5. Notice of Election. Notice of the election shall be given by the County Clerks and City Elections Officer, as provided in the general election laws of the State of Oregon and the Charter of the City of Albany.

Section 6. Ballot Form The City Attorney shall cause to be delivered to the City Elections Officer a Notice of Election and Ballot Title in substantially the form attached hereto as Exhibit "B".

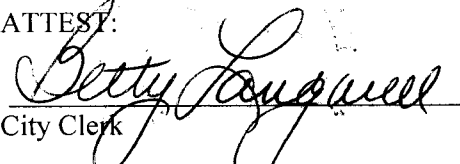
Section 7. Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the city of Albany, Oregon, an emergency is hereby declared to exist. This ordinance will be in full force and effect immediately upon passage by the Council and approval by the Mayor.

Passed by Council: February 11, 2009

Approved by the Mayor: February 11, 2009

Effective Date: February 11, 2009

  
\_\_\_\_\_  
Mayor

ATTEST:  
  
\_\_\_\_\_  
City Clerk

**EXHIBIT "A"**  
**CHAPTER I**  
**NAME AND BOUNDARIES**

**Section 1 Title of Enactment.**

This enactment may be referred to as the Albany Charter of 1956.

**Section 2 Name of City.**

The City of Albany, Linn and Benton Counties, Oregon, shall continue to be a municipal corporation with the name "City of Albany."

**Section 3 Boundaries<sup>1</sup>**

**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 expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of these powers.

**Section 5 Construction of Charter.**

In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the City would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the City may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state law and to the municipal home rule provisions of the state constitution.

**CHAPTER II**  
**FORM OF GOVERNMENT**

**Section 6 Where Powers Vested.**

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

**Section 7 Council.**

The council shall be composed of a mayor and six ~~(6) councilmen~~ **councilors**. The mayor shall be elected from the City at large. The ~~councilmen~~ **councilors** shall be elected two **(2)** from each ward. The City shall be divided into three **(3)** wards bounded and designated by ordinance.

**Section 8 ~~Councilmen~~ Councilors.**

The ~~councilman~~ **Councilor** receiving the highest number of votes in each ward at the election at which this charter is adopted shall serve for four **(4)** years. The ~~councilman~~ **councilor** receiving the next highest number of votes in each ward shall hold office for two **(2)** years. At each subsequent biennial general election, one ~~councilman~~ **councilor** shall be elected from each ward for a term of four **(4)** years.

**Section 9 Mayor.**

At each biennial general election, a mayor shall be elected for a term of two **(2)** years.

**Section 10 Manager and Municipal Judge.**

The offices of city manager and municipal judge are hereby created. The council shall fill each of these offices by appointment.

**Section 11 Other Officers and Employees.**

The title of appointive officers of the City of Albany shall be as designated by the council. Any requirement that an appointive officer shall fill two **(2)** or more appointive offices may be effected only by the council. (Amended by vote of the electors November 8, 1966.)

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<sup>1</sup> Code reviser's note: The current boundaries are on file and available in the office of the City Clerk.  
G:\City Clerk\Current Elections\Charter Measure May 2009\2009 Charter election ord.doc

### **Section 12 Salaries.**

The compensation for the services of each city officer and employees shall be the amount fixed by the council.

### **Section 13 Qualifications of Officers.**

No person shall be eligible for an elective office of the City unless at the time of ~~his~~ **the person** election ~~he~~ **the person** is a qualified elector within the meaning of the state constitution and has resided within the city limits during the twelve **(12)** months immediately preceding the election, and in the ward ~~he~~ **the person** represents for a period of ninety **(90)** days. The council shall be final judge of the qualifications and election of its own members, subject, however, to review by a court of competent jurisdiction.

## **CHAPTER III COUNCIL**

### **Section 14 Meetings.**

The council shall hold a regular meeting at least twice each month at a time and at a place in the City which it designates. It shall adopt rules for the government of its members and proceedings. ~~The mayor, upon his own motion,~~ **A motion by the mayor** may or at the request of three **(3)** members of the council, ~~shall,~~ by giving notice thereof to all members of the council then in the City, **may** call a special meeting of the council for a time not earlier than three **(3)** nor later than forty-eight **(48)** hours after the notice is given. Special meetings of the council may also be held at any time by the common consent of all members of the council.

### **Section 15 Quorum.**

Four **(4)** 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 16 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 a record of the vote entered in the journal.

### **Section 17 Meetings To Be Public.**

~~All deliberations and proceedings of the council shall be public.~~ **All meetings shall be held in accordance with the Oregon Public Meetings Law.**

### **Section 18 Mayor's Functions at Council Meetings.**

The mayor shall be chairman of the council and preside over its deliberations. ~~He~~ **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. ~~He~~ **The mayor** shall have no vote, except in case of a tie vote of the ~~councilmen~~ **councilors** then voting.

### **Section 19 President of the Council.**

At its first meeting, after this charter takes effect and thereafter at its first meeting of each odd-numbered year, the council shall elect a president from its membership. In the mayor's absence from the council meeting, the president shall preside over it. Whenever the mayor is unable to perform the functions of ~~his~~ **the mayor's** office, the president shall act as mayor. The president shall not lose ~~his~~ **any voting rights** by reason of assuming the duties of the mayor.

### **Section 20 Vote Required.**

Except as this charter otherwise provides, the concurrence of four **(4)** of the members of the council shall be necessary to decide any question before the council.

**CHAPTER IV  
POWERS AND DUTIES OF OFFICERS**

**Section 21 Mayor.**

The mayor shall appoint the committees provided by the rules of the council. ~~He~~ **The mayor** shall sign all approved records of proceedings of the council, except in the case of a vote as hereinafter provided. **Unless a different procedure/policy is adopted by resolution or ordinance or unless state law requires otherwise, the mayor shall have exclusive discretion to nominate individuals to serve on City Boards and Commissions subject to ratification by the Council.**

**Section 22 City Manager.**

- a) **Qualifications.** The city manager shall be the administrative head of the government of the City. ~~He~~ **The manager** shall be chosen by the council without regard to political considerations and solely with reference to ~~his~~ **that person's** executive and administrative qualifications. ~~He~~ **A candidate for manager** need not be a resident of the City or state at the time of ~~his~~ appointment.
- b) **Term.** The manager shall be appointed for an indefinite term and may be removed at the pleasure of the council. ~~Not later than four months after a vacancy occurs, the council shall appoint a manager to fill the vacancy.~~ **Within thirty (30) days after a vacancy occurs, the Council shall appoint a Manager Pro Tem to temporarily fill the vacancy in the City Manager position pending a regular appointment.**
- c) **Powers and Duties.** The powers and duties of the manager shall be as follows:
- (1) ~~He~~ **The manager's entire time** shall be devoted ~~his entire time~~ to the discharge of his official duties, attending all meetings of the council, unless excused there from by the council, keeping the council advised at all times of the affairs and needs of the City, and making reports annually, or more frequently, if requested by the council of all the affairs and departments of the City.
  - (2) ~~He~~ **The 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) ~~He~~ **The manager** shall appoint and may remove appointive city officers and employees, except as this charter may otherwise provide with the approval of the council as to the appointive officers and ~~he~~ shall have general supervision and control over them and their work. ~~He~~ **The manager** shall have the power to transfer an employee from one department to another, ~~with the exception of those hereafter classified under civil service.~~ **He **The manager** shall supervise the departments to the end of obtaining the utmost efficiency in each of them. ~~He~~ **The manager** shall have no control, however, over the council or over the judicial activities of the municipal judge.**
  - (4) ~~He~~ **The manager** shall act as purchasing agent for all departments of the City. ~~All purchases shall be made pursuant to those requirements and regulations as shall be set forth in Ordinance adopted by the city council. (Ord. 4483, 1-27-1982; Res. 2331, 6-9-1982)~~ **Purchases shall be made in accordance with applicable state law and City ordinances.**
  - (5) ~~He~~ **The manager** shall be responsible for preparing and submitting to the budget committee the annual budget estimates and such reports as the body requests.
  - (6) ~~He~~ **The manager** 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.** In case of the manager's absence from the City, temporary disability to act as manager, discharge by the council, or resignation, the council shall appoint a manager to work 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 four (4) of the members of the council. ~~No manager pro tem shall hold his position as such for more than four months, and no appointment of a manager pro tem shall be renewed.~~
- f) **Interference in Administration and Elections.** No member of the council shall directly or indirectly, by suggestion or otherwise, attempt to influence or coerce the manager in the making of any appointment or removal of any officer or employee or in the purchase of supplies. ~~Neither~~ **The manager nor person in the employ of the City** shall **not** take part in securing or contributing any money toward the nomination or election of any candidate for municipal office.

g) **Ineligible Persons.** No persons related to the manager or ~~his~~ **the manager's** spouse, by consanguinity or affinity within the third degree, or the spouse shall hold ~~any appointive office or~~ employment with the City **unless required under the terms of a collective bargaining agreement.**

No person elected or appointed to membership on the council shall, subsequent to such election or appointment be eligible for appointment as city manager until one **(1)** year has elapsed following the expiration of the term for which ~~he~~ **the councilor** was elected or appointed.

### **Section 23 Municipal Judge.**

The municipal judge shall be the judicial officer of the City. ~~He~~ **The judge** shall hold within the City a court known as the Municipal Court of the City of Albany, Linn County, Oregon. The court shall be open for the transaction of judicial business at times specified by the council. All area 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 ordinances of the City. ~~He~~ **The 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 ~~him~~ **the defendant** to bail pending trial, to issue subpoenas, to compel obedience to such subpoenas, to issue any process necessary to carry into effect the judgments of the court, and to punish witnesses and others for contempt of 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. The council shall provide by ordinance the method of selection and payment of juries.

### **Section 24 Recorder Clerk of the Council.**

The City ~~recorder~~ Clerk shall serve ex officio as clerk of the council, attend all its meetings, unless excused there from by the council **and** keep an accurate record of its proceedings in a book provided for that purpose. ~~and sign all orders on the treasury.~~ In the City ~~recorder's~~ Clerk's absence from the council meeting, the ~~mayor shall appoint a clerk of the council pro tem who, while acting in that capacity,~~ **Deputy City Clerk** shall have all the authority and duties of the ~~recorder~~ City Clerk.

### **Section 25 Civil Service.**

~~The Fire Department and the Police Department, other than the chiefs thereof, and such other employees of the City, as the council may determine, shall be under classified civil service. The council shall establish, by ordinance, a Civil Service Commission, composed of three members, which shall promulgate rules and regulations for classified civil service and administer the same to the end that appointment and advancement in the departments will be based on ability and service and discharge only upon cause shown. Those employees holding appointments under existing civil service shall retain their same and similar rank, tenure and benefits in effect at the time of the adoption of this charter.~~

## **CHAPTER V ELECTIONS**

### **Section 26 25 Regular Elections.**

Regular City elections shall be held at the same times and places as the biennial general state elections in accordance with applicable state election laws.

### **Section 27 26 Notice of Regular Elections.**

The ~~recorder~~ City Clerk, pursuant to directions from the council, shall give at least ten (10) days notice of each regular City election by posting notice thereof at a conspicuous place in the City Hall and by publication in a newspaper of general circulation published in the City. The notice shall state the officers to be elected, the ballot title of each measure to be voted upon, and the time and place of the election.

### **Section 28 27 Special Elections.**

The council shall provide the time, manner and means for holding any special election. The ~~recorder~~ City Clerk shall give at least ten (10) days notice of each special election in the manner provided by the action of the council ordering the election. Notice of such election to be given in the same manner as a regular election.

### **Section 29 28 Regulation of Elections.**

Except as this charter provided 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 there from and contests thereof.

### **Section 30 29 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. In each special City election the returns there from shall be filed with the ~~recorder~~ **City Clerk** on or before noon of the day following and not later than five (5) 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. It shall contain a statement of the total number of votes cast at each election, the votes cast for each person elected to office, the office to which **each** has been elected and a reference to each measure enacted or approved. Immediately after the canvass is completed, the ~~recorder~~ **City Clerk** shall make and sign a certificate of election of each person elected and deliver the certificate to him within one (1) day after the canvass. A certificate so made and delivered shall be prima facie evidence of the truth of the statements contained in it.

### **Section 31 30 Tie Votes.**

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

### **Section 32 31 Commencement of Terms of Office.**

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

### **Section 33 32 Oath of Office.**

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

### **Section 34 33 Nominations.**

The council shall provide by ordinance the mode for nominating elective officers.

## **CHAPTER VI VACANCIES IN OFFICE**

### **Section 35 34 What Creates Vacancy.**

An office shall be deemed vacant upon the incumbent's death, adjudicated incompetence, conviction of a felony, resignation, or recall from office; upon the incumbent's ceasing to possess the qualifications necessary for ~~his~~ **the** office; or upon the failure of the person elected or appointed to an office to qualify therefore within three (3) days after the time for ~~his~~ **the** term of office to commence; and in the case of mayor or ~~councilman~~ **councilor**, upon ~~his~~ absence from the City for thirty (30) days or ~~upon his~~ absence from meetings of the council for sixty (60) days without the consent of the council and upon a declaration by the council of the vacancy.

### **Section 36 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, **including the Mayor**. The appointee's term of office shall begin immediately upon ~~his~~ appointment and shall continue throughout the unexpired term of ~~his~~ **the** predecessor. During the temporary disability of any officer or during ~~his~~ **that officer's** absence temporarily from the City for any cause, ~~his~~ **the** office may be filled pro tem in the manner provided for filling vacancies in office permanently.

## CHAPTER VII ORDINANCES

### Section ~~37~~ **36 Enacting Clause.**

The enacting clause of all ordinances hereafter enacted shall be, "The people of the City of Albany do ordain as follows:"

### Section ~~38~~ **37 Introduction, Reading and Passage.**

(1) ~~Except as subsection (3) of this section provides for reading by title only and except as subsection (2) of this section provides for immediate adoption of emergency measures,~~ an ordinance, before being adopted, shall be ~~fully and distinctly~~ read in open council meeting **in title only and may then be read a second time in title only on two (2) days.**

(2) ~~Except as subsection (3) of this section provides for reading by title only, an ordinance necessary to meet an emergency may, upon being read in full and then by title, be adopted at a single meeting of the council by a unanimous vote of all councilors present.~~

(3) ~~(2)~~ A reading of any ordinance for purposes of adoption may be by title only if

a. ~~If no councilor present at the meeting requests that the ordinance be read in full. or,~~

b. ~~If for one week prior to the reading a copy of the ordinance is provided to each councilor, and copies are available for public inspection at the office of the city manager during regular office hours, and notice of their availability is posted at the City Hall or published once in a newspaper of general circulation in the City. (Ord. 4483, 1-27-1982; Res. 2231, 6-9-1982)~~

### Section ~~39~~ **38 Veto.**

If the mayor does not approve the ordinance, ~~he must file his~~ **the reasons for the veto must be filed** in writing with the ~~recorder~~ **City Clerk** within three (3) days after its ~~passage~~ **the ordinance is passed** by the council. At the first meeting of the council after veto, the recorder shall read the message from the mayor. Such ordinances shall then be put upon its passage again and if five (5) members of the council vote in the affirmative, it shall become a law without approval of the mayor. If the mayor fails to sign an ordinance within three (3) days after passage, and does not file ~~his~~ **a** written veto to the same, such ordinance shall become law as if ~~he~~ **the mayor** had approved it.

### Section ~~40~~ **39 When Ordinances Take Effect.**

An ordinance enacted by the council shall take effect on the 30th day after its approval by the mayor or passage over veto. When the council deems it advisable, however, an ordinance may provide a later time for it to take effect, and in case of an emergency, it may take effect immediately.

## CHAPTER VIII PUBLIC IMPROVEMENTS

### Section ~~41~~ **40 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 ~~42~~ **41 Improvements.**

The procedure for making, altering, vacating, or abandoning a public improvement shall be governed by the applicable general laws of the state. A remonstrance by the owners of two-thirds (2/3) of the property to be specially assessed for a proposed public improvement shall suspend action regarding the improvements for six (6) months. For the purpose of this section "owner" shall mean the record holder of legal title to the land, except that if there is a purchaser of the land according to a verified writing by the record holder of legal title to the land filed with the city recorder, the said purchaser shall be deemed the "owner".

### Section ~~43~~ **42 Special Assessments.**

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

#### **Section 44 43 Bancroft Bonding Act.**

The laws of the State of Oregon known as the Bancroft Bonding Act, now designated as Sec. 223.205 O.R.S., shall apply to the City of Albany.

#### **Section 45 Bids.**

~~A contract in excess of \$500.00 for a public improvement to be made by a private contractor shall be let to the lowest responsible bidder for the contract and shall be done in accordance with plans and specifications approved by the council.~~

### **CHAPTER IX MISCELLANEOUS PROVISIONS**

#### **Section 46 44 Debt Limit.**

Except by consent of the voters, the City's voluntary floating indebtedness shall ~~not exceed \$100,000.00; nor its bonded indebtedness \$100,000.00 at any one time~~ **conform with state law**. For the 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 47 Torts.**

~~In no event shall the City be liable in damages to any person for an injury to person or property caused by a defect or dangerous place in a sidewalk, crosswalk, street, alley, sewer, public ground, public building, drain, gutter, ditch or way, unless the City has had actual notice prior to the injury that the defect or dangerous place existed and has had a reasonable time thereafter in which to repair or remove it. No action shall be maintained against the City for damages growing out of such injury, unless claimant first gives written notice to the council within ninety (90) days after injury is sustained, stating specifically the time when, the place where, and the circumstances under which it was sustained, and that he will claim damages therefor of the City in an amount which he specified. But in no event shall the action be started until thirty (30) days have elapsed after the presentation of this notice to the council.~~

#### **Section 48 Parks and Recreation.**

~~The council shall provide a continuing levy not exceeding two (2) mills per dollar assessed for the purpose of providing for the management and operation of civic recreational and community activities, including the acquiring of property and facilities. The limitations imposed by Article XI, Section 2, Oregon Constitution shall not apply in this levy. The council shall provide, by ordinance, a board for the administration of this section.~~

#### **Section 49 45 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 50 46 Repeal of Previously Enacted Provision.**

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

#### **Section 51 47 Time of Effect of Charter.**

This charter shall take effect January 1, 1957.

#### **Section 52 City Hall Construction — Sale of Bonds.**

~~The mayor and the council of the City of Albany are authorized to issue and sell general obligation bonds of the City to provide funds to purchase property and remodel and refurbish the same for use as a city hall and public rest rooms in an amount not to exceed \$149,000.00. (Amended by vote of the electors August 26, 1964.)~~

#### **Section 53 Sewer Construction — Sale of Bonds.**

~~The mayor and the council of the City of Albany are authorized to issue and sell general obligation bonds of the City to provide funds to construct an interceptor sewer, pumping plant, sewage treatment plants, including primary and secondary treatment and such necessary connection sewers, main sewers and storm~~



sewers as are necessary in an amount not to exceed the aggregate sum of \$1,300,000.00. (Amended by vote of the electors November 8, 1966.)

#### **Section 54 48 Annexation Procedure.**

The City of Albany is hereby authorized to apply those provisions of Oregon Revised Statutes Section 222.850 to Section 222.915 to proceedings in the city of Albany and to annex territory there under as provided and particularly as the same pertains to annexation of areas which are a danger to public health.

The corporate limits of the City shall include all territory encompassed by its boundaries as they now exist or hereafter are modified as provided herein: unless mandated by State Law, annexation (delayed or otherwise) to the City of Albany may only be approved by a prior majority vote among the electorate. (Amended by vote of the electors March 10, 1998; November 5, 1968.)

#### **Section 55 Prohibit Minority Status for Homosexuals.**

~~(1) The City of Albany, including its Council and elected or appointed officers, shall not make, pass, adopt, or enforce any ordinance, rule, regulation, policy or resolution that extends minority status, affirmative action, quotas, special class status, or any similar concepts, based on homosexuality or which establishes any categorical provisions such as "sexual orientation," "sexual preference," or any similar provision which includes homosexuality.~~

~~(2) City funds shall not be expended to promote homosexuality or express approval of homosexual behavior.~~

~~(3) This Section shall not be construed to deny any Citizen, based on perceived or actual private lawful sexual practices, any City services, licenses, or approvals otherwise due or available.~~

~~(4) This Section shall not be construed to limit public libraries from providing materials for adults which address homosexuality.~~

~~(5) Subsection (1) of this Section shall not nullify or be construed to nullify any city, state, or federal civil rights protections based on race, religion, color, sex, marital status, familial status, national origin, age or disability. Neither shall Subsection (1) be construed to abrogate, abridge, impede, or otherwise diminish the holding, enjoyment, or exercise of any rights guaranteed to Citizens by the Constitution of the State of Oregon or the Constitution of the United States.~~

~~(6) Subsection (1) of this Section shall not be construed to forbid the adoption of provisions prohibiting employment decisions based on factors not directly related to employment. If such a provision is adopted, it is the intent of the People that lawful private sexual behavior, or rumor, perception, or knowledge of a person's lawful private sexual behavior, are factors not directly related to employment. If such a provision is adopted, it is the intent of the People that personal expression, conversation or any other free expression concerning private lawful sexual behavior shall also be considered factors not directly related to employment unless such actions disrupt the workplace.~~

~~(7) This Section shall be an explicit and necessary restriction and limitation upon the authority of the Council.~~

~~(8) It shall be considered that it is the intent of the People in enacting this Section that if any part thereof is held unconstitutional by a court of competent jurisdiction, the remaining parts shall be held in full force and effect. This Section shall be in all parts self-executing. (Added by the vote of the electors on May 17, 1994.)~~

Note: Section 55 has been declared invalid and unenforceable by order of Linn County, Oregon Circuit Court Judge Jackson Frost by order dated October 6, 1995.

## **EXHIBIT “B”**

### **CAPTION: (10 Words)**

Adopts Revised Albany City Charter (5)

### **QUESTION: (20 Words)**

Shall Albany adopt a Charter updating language and procedures and removing sections that have been superseded by state law? (19)

### **SUMMARY: (175 Words)**

This measure revises the Albany City Charter. The Albany City Charter serves as the City’s Constitution that outlines the form, functions, responsibilities and authority of municipal government. Albany was incorporated in 1864. Its Charter has been revised several times in intervening years to remain current. In early 2007, the Mayor and City Council asked the City Attorney and City Manager’s staff to review the existing charter for compliance with the Oregon Constitution, laws and court decisions. Staff incorporated recommendations from a 1993 review conducted by legal counsel for the League of Oregon Cities and subsequent review and recommendations from the Albany Finance Director and City Clerk. The resulting document retains much of the 1956 City Charter and the Council-Manager form of government.

The changes proposed in this ballot measure retain the Council-Manager form of government; acknowledge the annexation of North Albany; eliminate several sections that no longer apply, have been superseded by Oregon law, or are otherwise invalid; codify current practices; and render all language gender-neutral. (169)

## Ballot Measure Language Revised City Charter

**Caption:** Adopts Revised Albany City Charter (5)

**Question:** Shall Albany adopt a Charter updating language and procedures and removing sections that have been superseded by state law? (19)

**Statement:** The Albany City Charter serves as the City's Constitution that outlines the form, functions, responsibilities and authority of municipal government. Albany was incorporated in 1864. Its Charter has been revised several times in intervening years, most recently in 1956, to remain current. The changes proposed in this ballot measure retains the Council-Manager form of government; acknowledges the annexation of North Albany; eliminates several sections that no longer apply, have been superseded by Oregon law, or are otherwise invalid; codifies current practices; and renders all language gender-neutral. (86)

**Explanatory Statement:**

This measure revises the Albany City Charter. In early 2007, the Mayor and City Council asked the City Attorney and City Manager's staff to review the existing charter for compliance with the Oregon Constitution, laws and court decisions. Staff incorporated recommendations from a 1993 review conducted by legal counsel for the League of Oregon Cities and subsequent review and recommendations from the Albany Finance Director and City Clerk.

The resulting document retains much of the 1956 City Charter and the Council-Manager form of government.

New language would codify a current practice, authorized by Council resolution, of adopting ordinances by reading them a first time in title only during open Council meetings, followed by a second reading at the same meeting by unanimous vote of all Councilors present.

The revisions acknowledge changes such as the annexation of North Albany, and the Charter now reflects that the City of Albany is in both Linn and Benton counties. Its language has been rendered gender-neutral.

References to the City Recorder have been changed to "City Clerk" to more clearly reflect the record-keeping and archiving duties of that position.

Sections dealing with tort claims and the Parks & Recreation levy are removed; they have been superseded by state law. A section dealing with bids for public improvements has been removed since the City has adopted Oregon purchasing rules. Sections relating to bonds for the construction of City Hall and sewer facilities no longer apply. (239)

The proposed charter eliminates a 1994 citizen-initiated amendment prohibiting minority status for homosexuals. The section was declared invalid and unenforceable in 1995.