

ORDINANCE 2022-738

AN ORDINANCE SUBMITTING PROPOSED AMENDMENTS TO THE CHARTER OF THE CITY OF CARLTON TO THE VOTERS OF THE CITY OF CARLTON.

WHEREAS, the City of Carlton (“City”) originally approved and adopted the current iteration of the Charter for the City of Carlton on July 1, 2006 (“Charter”); and

WHEREAS, the City Council and City staff have found several provisions of the Charter to be outdated or invalidated by legislation over the last 16 years; and

WHEREAS, the City Council met in the regular meeting on May 3, 2022 and the Budget Committee meeting on May 9, 2022 to consider staff recommendations on changing the Charter to more closely align with the Model Code provided by the League of Oregon Cities and to remove unneeded provisions, improve clarity, and define roles and powers of the City more clearly; and

WHEREAS, the City Council agrees with the recommendations of Staff and the League of Oregon Cities Model Code and deems it necessary and desirable to amend the Charter to improve readability, clarity, and to update provisions and procedures stated in the Charter; and

WHEREAS, the Carlton Municipal Code Section 1.04.010 requires that any amendment of the Charter be proposed and submitted to the legal voters of the City by ordinance of the council and do not become effective until approved by a majority of the votes cast thereon.

NOW THEREFORE, BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF CARLTON, OREGON, AS FOLLOWS:

Section 1. That the amendments to the Charter of the City of Carlton, Oregon, attached hereto as Exhibit A, be proposed and submitted to the voters of the City of Carlton for approval as a measure for consideration by Carlton voters in the biennial general election happening on November 8, 2022.

Section 2. The Election will be conducted by the Yamhill County Elections Department.

Section 3. The Ballot title to appear on the ballot shall be:

CAPTION

“Amends Carlton’s Charter to update, reformat, and clarify provisions.”

QUESTION

“Shall the Carlton Charter be amended to improve readability, clarity, and update outdated provisions?”

SUMMARY

“This measure amends the Carlton Charter and replaces much of the current Charter language with language from the League of Oregon Cities Model Charter with additional editing by the City Council. The Mayor-Council form and the elected office functions of Carlton’s government will not be changed by this Charter Amendment, and both Mayor and Councilors will continue to be elected positions.

The Model Charter language is more consistent with Oregon law and contains concise, flexible and simplified language on City authority, vesting of power, exercise of power, and authority of City officers. The substance of the Charter is kept substantially the same, with a small handful of substantial changes from the current Carlton Charter which include, clarifying Carlton’s home rule status; defining the City’s legislative, administrative and judicial authority; delegating employee administration tasks to the City Manager; defining the City Attorney position; linking employee compensation discussion to budget discussions; requiring Council consent to mayoral appointments; and removing language from the current Charter regarding Torts that is already covered by Oregon law.”

Section 4.

The explanatory statement certified and filed by the City Council for submission in the Yamhill County Voters’ Pamphlet on behalf of the City shall be as follows:

EXPLANATORY STATEMENT:

“If approved, this measure would enact a new home rule charter for the City of Carlton. The new charter would replace the current charter that was adopted by Carlton voters in 2006. The proposed charter is based on the League of Oregon Cities (“LOC”) Model Charter and work of the City Council and City staff editing the LOC Model Charter. The City Council approved the new charter for submission to City voters.

The Oregon Constitution gives city voters the right to adopt home rule charters. A charter grants legal authority to a city government and defines the roles and responsibilities of city officials.

The proposed Charter continues to include current Carlton charter policies and practices including existing charter provisions unique and important to Carlton. The new charter more clearly defines the legal authority of the City Council, Mayor, and City Manager.

The City Council believes the new charter will better meet the current and future needs of the City. The proposed charter is easier to read and use than the current charter and is consistent with state law.”

Section 5. The City Manager and City Recorder shall take all steps on behalf of the City as necessary to carry out the intent and purposes of this Ordinance in compliance with state and local law, including but not limited to publishing the ballot title as provided by state law, publishing

notice of the measure as required by Chapter 1.04 of the City of Carlton Municipal Code and filing this measure with Yamhill County Elections Division.

Section 6. This ordinance being necessary for the peace, health and safety of the City, an emergency is hereby declared, and this ordinance is effective immediately upon adoption by the City Council.

ADOPTED by the City Council of the City of Carlton, Oregon, on July 5, 2022, by the following votes:


AYES: Watkins, Ward-Mullen, Erickson, Brandao, Rhoads, Skipper

NAYS: 0

ABSENT: 0

ABSTAIN: 0

APPROVED and signed by the Mayor on July 5, 2022.


Linda Watkins, Mayor

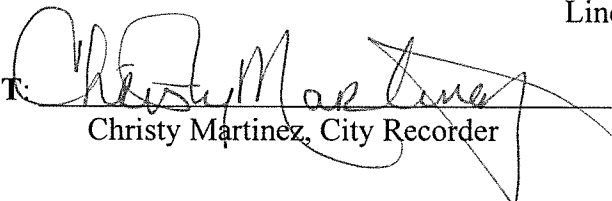
ATTEST: 
Christy Martinez, City Recorder

EXHIBIT A
[Charter of the City of Carlton]
PREAMBLE

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

Section I
NAMES AND BOUNDARIES

Section 1.1. Titles.

This enactment may be referred to as the Carlton Charter of 2022.

Section 1.2. Names.

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

Section 1.3. Boundaries. The city includes all territory within its boundaries as they now exist or are legally modified. The city will maintain as a public record an accurate and current description of the boundaries.

Section II
POWERS

Section 2.1. 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 2.2. 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 2.3. 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.

Section III
COUNCIL

Section 3.1. Council. The council consists of a mayor and six councilors elected from the city at large.

Section 3.2. Mayor. The mayor presides over and facilitates council meetings, preserves order, enforces council rules, and determines the order of business under council rules. The mayor is a voting member of the council and has no veto authority.

a) With the consent of council, the mayor appoints members of commissions and

committees established.

- b) The mayor must sign all records of council decisions.
- c) The mayor serves as the political head of the city government.

Section 3.3. 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 3.4. Rules. The council must by resolution adopt rules to govern its meetings.

Section 3.5. Meetings. The council must meet at least once a month at a time and place designated by its rules, and may meet at other times in accordance with the rules and laws of the state of Oregon.

Section 3.6. Quorum. A majority of the council members is a quorum to conduct business. In the event of a vacancy due to resignation or other events, the quorum is reduced accordingly. In the event of an absence, a smaller number may meet and compel attendance of absent members as prescribed by council rules.

Section 3.7. 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 3.8. Record. A record of council meetings must be kept in a manner prescribed by the council rules and the laws of the state of Oregon.

Section IV LEGISLATIVE AUTHORITY

Section 4.1. Ordinances. The council will exercise its legislative authority by adopting ordinances. The enacting clause for all ordinances must state "The City of Carlton ordains as follows:".

Section 4.2. Ordinance Adoption.

- a) Any of the readings may be by title only (a) if no council member present at the meeting requests to have the ordinance read in full or (b) if a copy of the ordinance is provided for each council member and three copies are provided for public inspection in the office of the city recorder or City Web Site not later than one week before the first reading of the ordinance and notice of their availability is given forthwith upon the filing, by (i) written notice posted at the city hall and one other public place in the city or (ii) advertisement in a newspaper of general circulation in the city. An ordinance enacted after being read by title only shall have no legal effect if it differs substantially from its terms as it was thus filed prior to such reading, unless each section incorporating a difference is read fully and distinctly in open council meeting as finally amended prior to being approved by the council.
- b) Except as authorized by subsection (c), adoption of an ordinance requires approval by a majority of the council at two meetings.

- c) The council may adopt an ordinance at a single meeting by the unanimous approval of at least a quorum of the council, provided the proposed ordinance is available in writing to the public at least one week before the meeting.
- d) Any substantive amendment to a proposed ordinance must be read aloud or made available in writing to the public before the council adopts the ordinance at that meeting.
- e) After the adoption of an ordinance, the vote of each member must be entered into the council minutes.
- f) 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 4.3. 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.

Section V ADMINISTRATIVE AUTHORITY

Section 5.1. Resolutions. The council will normally exercise its administrative authority by approving resolutions. The approving clause for resolutions may state "The City of Carlton resolves as follows:"

Section 5.2. 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 5.3. 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.

Section VI QUASI-JUDICIAL AUTHORITY

Section 6.1. Orders. The council will normally exercise its quasi-judicial authority by approving orders. The approving clause for orders may state "The City of Carlton orders as follows:"

Section 6.2. 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 6.3. 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.

Section VII ELECTIONS

Section 7.1. 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 7.2. Mayor. The term of the mayor in office when this charter is adopted continues until the beginning of the first odd-numbered year after adoption. At every other general election after the adoption, a mayor will be elected for a two-year term.

Section 7.3. 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 7.4. 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.
- b) No person may be a candidate at a single election for more than one city office.
- c) Neither the mayor nor a councilor may be employed by the city.
- d) The council is the final judge of the election and qualifications of its members.

Section 7.5. 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 7.6. 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 7.7. Oath. The mayor and each councilor must swear or affirm to faithfully perform the duties of the office and support the constitutions and laws of the United States and Oregon.

Section 7.8. Vacancies. The mayor or a council office becomes vacant:

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

- b) Upon declaration by the council after the incumbent's:
 - 1) Failure to qualify for the office within 10 days of the time the term of office is to begin;
 - 2) Absence from the city for 30 days without council consent, or from all council meetings 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 misdemeanor or felony crime;
 - 6) Resignation from the office; or
 - 7) Removal under Section 8.1(i).

Section 7.9. Filling Vacancies.

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

**Section VIII
APPOINTIVE OFFICERS**

Section 8.1. City Manager.

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

- b) A majority of the council must appoint and may remove the manager. The appointment must be made without regard to political considerations and solely on the basis of education and experience in competencies and practices of local government management.

- c) The manager need not reside in the city.
 - d) The manager may be appointed for a definite or an indefinite term, and may be removed at any time by a majority of the council. The council must fill the office by appointment as soon as practicable after the vacancy occurs.
 - e) The manager must:
 - 1) Attend all council meetings unless excused by the mayor or council;
 - 2) Make reports and recommendations to the mayor and council about the needs of the city;
 - 3) Administer and enforce all city ordinances, resolutions, franchises, leases, contracts, permits and other city decisions;
 - 4) Appoint, supervise and remove city employees;
 - 5) Organize city departments and administrative structure;
 - 6) Prepare and administer the annual city budget;
 - 7) Administer city utilities and property;
 - 8) Encourage and support regional and intergovernmental cooperation;
 - 9) Promote cooperation among the council, staff and citizens in developing city policies and building a sense of community;
 - 10) Perform other duties as directed by the council; and
 - 11) Delegate duties, but remain responsible for actions of all subordinates.
 - f) The manager has no authority over the council or over the judicial functions of the municipal judge.
 - g) The manager 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 the 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.
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Section 8.2. City Attorney. The 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.

Section 8.3. 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.

**Section IX
PERSONNEL**

Section 9.1. Compensation. The council must authorize the compensation of city officers and employees as part of its approval of the annual city budget.

Section 9.2. Merit Systems. The council will adopt personnel policies by Resolution or Ordinance.

**Section X
PUBLIC IMPROVEMENTS**

Section 10.1. Procedure. The council may by ordinance provide for procedures governing the making, altering, vacating, or abandoning of a public improvement. A proposed public improvement may be suspended for six months upon remonstrance by owners of the real property to be specially assessed for the improvement. The number of owners necessary to suspend the action will be determined by ordinance.

Section 10.2. 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.

Section 10.3 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 XI
MISCELLANEOUS PROVISIONS**

Section 11.1. Debt. City indebtedness may not exceed debt limits imposed by state law. A charter amendment is not required to authorize city indebtedness.

Section 11.2. Ordinance Continuation.

All ordinances of the city consistent with this charter and in force when it takes effect shall remain in effect until amended or repeal.

Section 11.3. Repeal.

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

Section 11.4 Continuation of rights and liabilities.

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

Section 11.5 Outstanding bonds and existing levies.

All outstanding general obligation bonds of Carlton shall continue to be the general obligations of the city according to the terms therein, and any existing serial levies for any purpose shall continue in the form adopted.

Section 11.6. 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 11.7. Time of Effect.

This charter shall take effect January 1, 2023.