

# WINSTON CITY CHARTER

Effective January 1, 2011

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## CHARTER OF THE CITY OF WINSTON, OREGON PREAMBLE

We, the people of Winston, 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 the 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

#### NAMES AND BOUNDARIES

Section 1. Title of Charter. This charter may be referred to as the 2011 Winston Charter.

Section 2. Name of City. The city of Winston, Oregon continues under this charter to be a municipal corporation with the name City of Winston.

Section 3. Boundaries. The city includes all territory within its boundaries as they now exist or hereafter are modified pursuant to state law. The custodian of the city's records shall keep an accurate, current description of the boundaries and make a copy of it available for public inspection in the city during regular city office hours.

### CHAPTER II

#### POWERS

Section 4. Powers of the City. The City has all powers that the constitutions, statutes and common law of the United States and of the state of Oregon 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 Powers. In this charter, no specification of a power is exclusive

or restricts authority that the city would have if the power were not specified. The charter shall be liberally construed, so that the city may exercise fully all its powers possible under this charter and under United States and Oregon law. All powers are continuing unless a specific grant of power clearly indicates the contrary.

### CHAPTER III

#### FORM OF GOVERNMENT

##### Section 6. Distribution of Power.

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.

Section 7. Council. The council consists of a mayor nominated and elected at large and four councilors, nominated and elected by wards with boundaries fixed by ordinance. In case of one or more vacancies in the council, the council shall consist of the council members whose offices are not vacant. There shall be two wards. Two councilors shall be nominated and elected from each of the two wards. To qualify for council office, each councilor shall reside in the ward from which he or she is nominated and elected and shall continue to reside in such ward throughout the term of his or her office.

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The ward boundaries in effect at the time of adoption of this charter shall remain in effect until changed by ordinance. Within three months after an official census or census estimate indicates that the boundaries deny equal protection of the laws, the council shall rectify the boundaries so as to accord equal protection of the laws.

Section 8. Councilors. The term of office of a councilor in office or elected to office when this charter is adopted is the term of office for which the councilor has been elected or appointed before adoption of the charter or for which the councilor is elected at the time of adoption of the charter.

At each general election after the adoption, one councilor shall be elected from each ward, each for a four-year term to replace those councilors whose

terms expire at the end of that year.

Section 9. Mayor. The term of office of the mayor in office when this charter is adopted continues until the beginning of the first odd-numbered year after that time. At the general election when this charter is adopted and at each subsequent general election, a mayor shall be elected for a two-year term.

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 and continues until the successor to the office assumes the office.

Section 11. Appointive Offices. A majority of the council shall appoint and may remove a city manager. The majority may:

- (1) Create, abolish and combine additional appointive offices and,
- (2) Except as the majority prescribes otherwise, fill such offices by appointment and vacate them by removal.

#### CHAPTER IV COUNCIL

Section 12. Rules. The council shall prescribe rules to govern its meetings and proceedings.

Section 13. Meetings. The council shall meet in the city regularly at least once a month at a time and place designated by the council's rules, and may meet at other times in accordance with the rules.

Section 14. Quorum. A majority of the council constitutes a quorum for its business, but a smaller number of the council may meet and compel attendance of absent councilors as prescribed by council rules. Electronic attendance is allowed in accordance with state law.

Section 15. Record of Proceedings. A record of council proceedings shall be kept and authenticated in accordance with state law.

Section 16. Mayor's Functions at Council Meetings.

- (1) When present at council meetings the mayor shall:
  - (a) Preside over the deliberations of the council,
  - (b) Preserve order,
  - (c) Enforce council rules, and

(d) Determine the order of business under the rules.

(2) Notwithstanding subsection (1) of this section, the mayor may temporarily cease to chair a council meeting and delegate the functions described in subsection (1) to another council member.

(3) The mayor is a voting member of the council.

Section 17. Council President.

(1) At its first meeting after this charter takes effect and at its first meeting of each odd-numbered year, the council shall elect a president from its councilors.

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(2) The President shall function as mayor when the mayor is:

(a) absent from a council meeting, or

(b) unable to function as mayor.

(c) When functioning as mayor the president shall have just one vote as usual.

Section 18. Vote Required. Except as this charter otherwise provides, the express concurrence of a majority of the council members and constituting a quorum is necessary to decide affirmatively a question before the council.

## CHAPTER V

### POWERS AND DUTIES OF OFFICERS

Section 19. Mayor. The mayor shall, with the consent of the council, appoint:

(1) Members of committees established by Ordinance or council rules, and,

(2) Other persons required by the council to be so appointed.

Section 20. Municipal Court & Judge.

(1) If the council creates the office of municipal judge and fills it by appointment, the appointee shall hold, within the city at a place and time that the council specifies, a court known as the Municipal Court for the city of Winston, Douglas County, Oregon.

(2) Except as this charter or city ordinance prescribes to the contrary, proceedings of the court shall conform to general laws of this state governing justices of the peace and justice courts.

(3) All area within the city and, to the extent provided by state law, area outside the city is within the territorial jurisdiction of the court.

(4) The municipal court has original jurisdiction over every offense that an ordinance of the city, or applicable state law, makes punishable. The court may enforce forfeitures and other penalties that such ordinances or laws prescribe.

(5) The municipal judge may:

(a) Render judgments and, for enforcing them, impose sanctions on persons and property within the court's territorial jurisdiction;

(b) Order the arrest of anyone accused of an offense against the city or state;

(c) Commit to jail or admit to bail anyone accused of such an offense;

(d) Issue and compel obedience to subpoenas;

(e) Compel witnesses to appear and testify and jurors to serve in the trial of matters before the court;

(f) Penalize contempt of court;

(g) Issue process necessary to effectuate judgments and orders of the court;

(h) Issue search warrants; and

(i) Perform other judicial and quasi-judicial functions prescribed by ordinance or state law.

(6) The council may authorize the municipal judge to appoint municipal judges pro tem for terms of office set by the judge or the council.

(7) Notwithstanding this section, the council may transfer some or all of the functions of the municipal court to an appropriate state court.

#### Section 21. Manager.

(1) The manager is the administrative head of the city government.

(2) A majority of the council shall appoint and may remove the manager.

The appointment shall be without regard to political considerations and solely on the basis of executive and administrative qualifications.

(3) The manager need not reside in the city or

the state when appointed, but promptly thereafter shall become, and during his or her tenure of office remain, a resident of the city.

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(4) Upon accepting the appointment, the manager shall furnish the city a bond in an amount and with a surety approved by the council. The city shall pay the bond premium.

(5) The manager shall be appointed for a definite or an indefinite term and may be removed by the council at its pleasure. As soon as is practicable after a vacancy occurs in the office, the council shall fill the vacancy by appointment.

(6) The manager shall:

(a) Attend all council meetings unless excused by the council or mayor;

(b) Keep the council advised of the affairs and needs of the city;

(c) See that the provisions of all ordinances are administered to the satisfaction of the council;

(d) See that all terms of franchises, leases, contracts, permits and privileges granted by the city are fulfilled;

(e) Appoint, supervise and remove all employees of the city in accordance with adopted personnel rules and union contracts,

(f) Organize and reorganize the departmental structure of city government;

(g) Prepare and transmit to the council an annual city budget;

(h) Act as purchasing agent for the city subject to expenditure limitations established by ordinance and state law;

(i) Supervise city contracts;

(j) Supervise operation of all city owned public utilities and property; and

(k) Perform other duties as the council prescribes consistently with this charter.

(7) The manager may not control:

(a) The council;

(b) The municipal judge in the judge's judicial functions; or,

(c) Except as the council authorizes, appointive offices of the city whom the manager does not appoint.

(8) The manager and other personnel whom the council designates may sit with the council, but may

not vote on questions before it. The manager may take part in all council discussions.

(9) When the manager is absent from the city, the manager shall name an acting manager in their absence. 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 the manager pro tem may appoint and remove personnel only with the approval of the council.

(10) 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 decision 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.

## CHAPTER VI PERSONNEL

### Section 22. Qualifications.

(1) An elective officer shall be a qualified elector under the state constitution and shall have resided in the city during the 12 months immediately before being elected or appointed to the office. In this subsection "city" means area inside the city limits at the time of the election or appointment.

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

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(3) An elective officer may be employed in a city position that is substantially volunteer in nature.

(4) Except as subsection (3) of this section provides to the contrary, the council is the final judge of the election and qualifications of its members.

(5) The qualifications of appointive officers of the city are whatever the council prescribes or authorizes, except as this charter provides to the contrary regarding the manager's qualifications.

Section 23. Reimbursement. The council shall prescribe a plan for reimbursing city personnel, including employees, and elected and appointed personnel, for expenses that they incur in serving the city. No elected personnel, however, may receive compensation for serving in that capacity.

Section 24. Compensation and Merit System.

The council shall prescribe a schedule of salaries and compensation for employees. Subject to all collective bargaining agreements between the city and one or more groups of its employees, the city council shall prescribe rules governing recruitment, selection, promotion, transfer, demotion, suspension, layoff and dismissal of city employees, all of which shall be based on merit and fitness.

Section 25. Political Rights. By ordinance the council may affirm the right of city personnel to participate in political activities and may limit those activities to the extent necessary for orderly and effective operation of the city government; except to the extent that those rights are protected by statutory and constitutional law.

## CHAPTER VII

### ELECTIONS

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. Oath. Before assuming city office, an officer shall take an oath or shall affirm that he or she will faithfully perform the duties of the office and support the constitution and laws of the United States and of the state of Oregon.

Section 28. Nominations. A person may be nominated in a manner prescribed by general ordinance or state law to run for an elective office of the city.

Section 29. Vacancies; Occurrence. The office of a member of the council becomes vacant:

(1) Upon the incumbent's:

- (a) Death, or
- (b) Adjudicated incompetence, or
- (c) Recall from the office; or

(2) Upon declaration by the council of the vacancy in case of the incumbent's:

- (a) Failure, following election or appointment to the office, to qualify for the office within 10 days after the time for his or her term of office to begin,
- (b) Absence from the city for 30 days without

the council's consent or from all meetings of the council within a 60-day period,  
(c) Ceasing to reside in the city, or in the required ward, if applicable,  
(d) Ceasing to be a qualified elector under state law,  
(e) Conviction of a public offense punishable by loss of liberty, or

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(f) Resignation from the office.

Section 30. Vacancies; Filling. A vacancy in the council shall be filled by appointment by a majority of the council within 60 days of the date the office becomes vacant. The appointee's term of office runs from the time of his or her qualifying for the office after the appointment and until expiration of the term of the predecessor who has left the office vacant. During a council member's disability to serve on the council or during a member's absence from the city, a majority of the other council members may by appointment fill the vacancy pro tem.

#### CHAPTER VIII

#### ORDINANCES

Section 31. Ordaining Clause. The ordaining clause of an ordinance shall be "The City of Winston ordains as follows:".

Section 32. Adoption by Council.

(1) Except as subsection (2) of this section allows adoption at a single meeting and subsection (3) of this section allows reading by title only, an ordinance shall be fully and distinctly read in open council meeting on two different days before being adopted by the council.

(2) Except as subsection (3) of this section allows reading by title only, the council may adopt an ordinance at a single meeting by the express unanimous votes of all council members present, provided the ordinance is read first in full and then by title.

(3) A reading of an ordinance may be by title only if:

(a) No council member present at the reading requests that the ordinance be read in full and

(b) At least two business days before

the reading:

(i) A copy of the ordinance is provided for each council member,

(ii) Copies of the ordinance are available for public inspection in the office of the custodian of city records, and

(iii) Notice of their availability is given by written notice posted at the city hall.

(4) An ordinance read by title only has no legal effect if it differs substantially from its terms as it was filed prior to the reading unless each section so differing is read fully and distinctly in open council meeting before the council adopts the ordinance.

(5) Upon adoption of an ordinance, the ayes and nays of the council members shall be entered in the record of council proceedings.

(6) Within three business days of adoption of an ordinance, the presiding officer shall sign it and the custodian of city records shall endorse it with its date of adoption and endorser's name and title of office.

Section 33. Effective Date. A non-emergency ordinance takes effect on the thirtieth day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as adopted.

## CHAPTER IX

### PUBLIC IMPROVEMENTS

Section 34. Procedure.

(1) 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 applicable state law. Proposed action on a public improvement that is not declared by two-thirds of the council present to be needed at once because of an emergency shall be suspended for six months upon remonstrance by owners of a majority of the property to be specially assessed for the improvement. A second such remonstrance suspends the action only with the consent of the council.

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(2) In this section "owner" means the record holder of legal title or, as to land being purchased under a land sale contract that is

recorded or verified in writing by the record holder of legal title, the purchaser.

Section 35. Special Assessments. The procedure for fixing, levying and collecting special assessments against real property for public improvements or other public services shall be governed by general ordinance.

#### CHAPTER X

#### MISCELLANEOUS PROVISIONS

Section 36. Debt. The city's indebtedness may not exceed debt limits imposed by state law. A city officer or employee who creates or officially approves indebtedness in excess of this limitation is jointly and severally liable for the excess. A charter amendment is not required to authorize city indebtedness.

Section 37. Continuation of Ordinances. Insofar as consistent with this charter, and until amended or repealed, all ordinances in force when the charter takes effect retain the effect they have at that time.

Section 38. Repeal. All charter provisions adopted before this charter takes effect are hereby repealed.

Section 39. 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 the logical relation between the two parts requires.

Section 40. Time of Effect. This charter takes effect January 1, 2011.