

CITY OF SALEM

CHARTER

Sections

- | | | | |
|-----|---|-----|---|
| 1. | Title of Charter | 33. | Employee Records |
| 2. | Name of City | 34. | Creation of New Positions and Classifications of Positions |
| 3. | Boundaries | 35. | Examinations |
| 4. | Powers of City | 36. | Eligible Lists |
| 5. | Construction of Powers | 37. | Certification of Candidates |
| 6. | Distribution of Powers | 38. | Appointments and Probationary Period |
| 7. | Council | 39. | Leaves of Absence |
| 8. | Councilors | 40. | Disciplinary Action |
| 9. | Mayor | 41. | Appeals, Investigations, and Hearings from Disciplinary Actions; Enforcement of Act and Rules |
| 10. | Terms of Office | 42. | Commission Findings on Disciplinary Appeals |
| 11. | Appointive Offices | 43. | Prohibited Activity |
| 12. | Rules | 44. | Political Activity |
| 13. | Meetings | 45. | Punishment for Violation of Act |
| 14. | Quorum | 46. | Commissioners to Carry Over |
| 15. | Record of Proceedings | 47. | Incumbents to Carry Over |
| 16. | Mayor's Functions at Council Meetings | 48. | State Law |
| 17. | Council President | 49. | Nominations |
| 18. | Vote Required | 50. | Ordaining Clause |
| 19. | Vacancies: Occurrence | 51. | Passage by Council |
| 20. | Vacancies: Filling | 52. | Effective Date |
| 21. | Councilor's Interest in Contracts with City | 53. | Urban Renewal Revenue Bonds |
| 22. | Mayor | 54. | Prohibition on Participation in Hotel and Convention Center |
| 23. | City Manager | 55. | Regional Shopping Center |
| 24. | Municipal Court and Judge | 56. | Transient Occupancy Tax |
| 25. | Qualifications | 57. | Continuation of Ordinances |
| 26. | Compensation | 58. | Repeal |
| 27. | Merit System | 59. | Severability |
| 28. | General Purpose | 60. | Time of Effect |
| 29. | Definitions | 61. | Voter Approval of Annexations |
| 30. | Subject Employees | 62. | Ethical Standards for Decision-Making |
| 31. | Civil Service Commission; Qualifications, Appointment, Term of Office, and Meetings of Civil Service Commission | | |
| 32. | Responsibility of the Civil Service Commission | | |

PREAMBLE

We, the people of Salem, 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 it to the following restrictions, prescribe for it the following procedures and governmental structure, and repeal all previous charter provisions of the city except as provided in Section 58 of this charter.

Chapter I

NAMES AND BOUNDARIES

Section 1. Title of Charter. This charter may be referred to as the 1996 Salem Charter.

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

Section 3. Boundaries. The city includes all territory within its boundaries as they now exist or hereafter are modified pursuant to state law. An accurate, current description of the boundaries shall be available for public inspection in the city hall 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 this state now or hereafter expressly or impliedly 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 to the end that the city has and may exercise fully all powers necessary or convenient for the conduct of its affairs, including all 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.

Section 6. Distribution of Powers. Except as this charter prescribes otherwise and as the Oregon Constitution reserves municipal legislative power to the voters of the city, all powers of the city are vested in the council.

Chapter III

FORM OF GOVERNMENT

Section 7. Council. The council consists of a mayor and one councilor representing each ward. There shall be eight wards.

Section 8. Councilors. The term of office of a councilor in 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. At each general election after the adoption, four councilors shall be elected, each for a four-year term.

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 each subsequent general election, a mayor shall be elected for a two-year term.

Section 10. Terms of Office. The term of office of a mayor or councilor 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. Appointive offices of the city are the city manager and such other appointive offices as are created by ordinance. The council appoints the city manager, who holds office during the pleasure of the council. The city manager appoints all other appointive officers, who hold office at the pleasure of the city manager.

Chapter IV

COUNCIL

Section 12. Rules.

- (1) The council shall prescribe rules to govern its meetings and proceedings.
- (2) No rule shall be suspended without the concurrence of two-thirds of the members present, except that unanimous consent of the members present shall be required to suspend a rule requiring unanimous consent for council action.
- (3) No rule shall be adopted or amended without giving at least ten days' notice and the concurrence of two-thirds of the members present.

Section 13. Meetings. The council shall meet in the city regularly at least twice a month at a time and place which it designates, and may meet at other times in accordance with the council 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.

Section 15. Record of Proceedings. A record of council proceedings shall be kept and authenticated.

Section 16. Mayor's Functions at Council Meetings.

- (1) When present at council meeting the mayor shall:
 - (a) Preside over 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 year, the council shall appoint a president from its councilors.

(2) Except in voting on questions before the council, the president shall function as mayor when the mayor is:

- (a) Absent from a council meeting, or
- (b) Unable to function as mayor.

Section 18. Vote Required. Except as sections 12, 20, 23, 24 and 51 of this charter prescribe otherwise, the express concurrence of a majority of the council members present and constituting a quorum is necessary to decide affirmatively a question before the council.

Section 19. Vacancies: Occurrence. The office of a member of the council becomes vacant:

(1) Upon the incumbent's:

- (a) Death,
- (b) Adjudicated incapacity, or
- (c) Recall from 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 ten 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 in the case of the mayor,
- (d) Ceasing to reside in the ward represented by the incumbent, in the case of a councilor, except that ceasing to reside in a ward due to a change in ward boundaries during a term of office shall not be grounds for declaring a vacancy during that term,
- (e) Ceasing to be a qualified elector under state law,
- (f) Conviction of a public offense punishable by loss of liberty, or
- (g) Resignation from the office.

Section 20. Vacancies: Filling.

(1) Except when, at the time a vacancy occurs, there is more than one year to the next primary election, a vacancy in the council shall be filled by appointment by a majority of the council. 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.

(2) When, at the time a vacancy occurs, there is more than one year to the next primary election, the vacancy shall be filled at a special election at the next available date. Those persons presenting nominating petitions as required by ordinance shall be placed on the ballot, and the person receiving the highest number of votes shall be elected for the unexpired term of the predecessor who has left the office vacant.

Chapter V

POWERS AND DUTIES OF OFFICERS

Section 21. Councilor's Interest in Contracts with City.

(1) No member of the council shall participate in any decision or deliberation of the council or other city committee, advisory body, officer, or employee respecting any contract in which that council member has any interest if the expenses of that contract are to be paid out of the city treasury or the funds of any

agency of the city. No member of the council shall engage in any activity which may reasonably be taken as attempting to influence city or agency action to further any interest such council member has in the award, administration or enforcement of any contract if the expenses of that contract are to be paid out of the city treasury or the funds of any agency of the city.

(2) Any contract with respect to which any member of the council violates section (1) of this section is voidable at the discretion of the council; provided, however, that the contractor shall be compensated for the reasonable value of work performed and expenses that were necessarily incurred and cannot be avoided, if such work and expenses were done and incurred before the council member's prohibited activity.

(3) Any council member who violates section (1) of this section shall, upon conviction before the council after public hearing, be punished by expulsion from the council upon a majority vote thereof.

Section 22. Mayor. The mayor shall appoint:

- (1) Members of committees, and
- (2) Members of boards or commissions if so provided by ordinance or this charter.

Section 23. City Manager.

(1) The city 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 administrative and management qualifications.

(3) 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 year has elapsed following the expiration of the person's council term.

(4) 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.

(5) The manager shall be appointed for an indefinite term and may be removed by the council at its pleasure. When a vacancy occurs in the office, the council shall fill the vacancy by appointment as expeditiously as possible.

(6) The manager or designee of 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, discipline and remove appointive personnel;
- (f) Supervise and control appointive personnel in their service to the city;
- (g) Organize and reorganize the departmental structure of city government;
- (h) Prepare and transmit to the council an annual city budget;
- (i) Supervise city contracts;
- (j) Supervise operation of all city-owned public utilities and property; and
- (k) Perform other duties as the council prescribes consistent with this charter.

(7) The manager may not control:

- (a) The council; or
- (b) The municipal judge in the judge's judicial functions.

(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 for a substantial period of time as determined by the council or disabled from acting as manager, or when the office of manager becomes vacant and until a manager is appointed under subsection (5) of this section, the council shall appoint a manager pro tem, who has the powers and duties of manager.

(10) Except in council meeting, no council member may directly or indirectly, by suggestion or otherwise, attempt to influence the manager or a candidate for the office of manager in the appointment, discipline, or removal of personnel or in decisions regarding city property or contracts. A violator of this prohibition may be removed from office by a court of competent jurisdiction. In council meeting, members of the council may discuss with, or suggest to, the manager anything pertinent to city affairs.

Section 24. Municipal Court and Judge.

(1) The municipal judge shall be an elective officer of the city. The municipal judge shall hold, within the city a court known as the Municipal Court for the City of Salem, Oregon.

(2) The municipal judge shall have jurisdiction and power like a justice of the peace within the limits of the city.

(3) 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.

(4) 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.

(5) The municipal court has original jurisdiction over every offense that an ordinance of the city makes punishable. The court may enforce forfeitures and other penalties that such ordinances prescribe.

(6) 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;

(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.

(7) The council may, upon recommendation of the municipal judge, appoint municipal judges pro tem for terms of office not to exceed two years set by the municipal judge or the council.

(8) The term of office of the municipal judge in office when this charter is adopted is the term of office for which the municipal judge has been elected before adoption of the charter. At the 1998 November election, and every fourth year thereafter, a municipal judge shall be elected for a term of four years.

(9) Except when, at the time a vacancy in the office of municipal judge occurs, there is more than one year to the next primary election, the vacancy shall be filled by appointment by a majority of the council. The appointee's term of office runs from the time of his or her qualifying for office after the appointment and until expiration of the term of the predecessor who has left the office vacant. During the municipal judge's disability to serve as a municipal judge or during the municipal judge's absence from the city, a majority of the council may by appointment fill the vacancy pro tem.

(10) When, at the time a vacancy in the office of the municipal judge occurs, there is more than one year to the next primary election, the vacancy shall be filled at a special election at the next available date. Those persons presenting nominating petitions as required by ordinance shall be placed on the ballot, and the person receiving the highest number of votes shall be elected for the unexpired term of the predecessor who has left the office vacant.

Chapter VI

PERSONNEL

Section 25. Qualifications.

(1) An elective city 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. In addition, a councilor shall have resided in the ward the councilor represents during the 12 months immediately before being elected or appointed to the office.

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

(3) No city officer or employee who receives compensation from the city shall hold a city elective office other than the office of municipal judge. No person who holds the office of municipal judge shall hold other city office.

(4) 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 city manager prescribes or authorizes, except as provided by ordinance.

Section 26. Compensation. The mayor and councilors shall receive no compensation for their services. The council shall prescribe the compensation of all other city officers. The council may prescribe a plan for reimbursing city personnel for expenses that they incur in serving the city.

Section 27. Merit System. Subject to all collective bargaining agreements between the city and one or more groups of its employees, the council or the city manager as provided by ordinance shall approve rules governing recruitment, selection, promotion, transfer, discipline, demotion, suspension, layoff, and dismissal of city employees, all of which shall be based on merit and fitness.

Section 28. General Purpose. The purpose of sections 28 through 48 of this charter is to provide for a Civil Service System of Personnel Administration for the Fire Service of the City of Salem.

Section 29. Definitions. As used in sections 28 through 48 of this charter, unless the context requires otherwise:

(1) "Appointing Authority" means the Chief of the Fire Department.

(2) "Appointment" includes all means of selecting, appointing, or employing any person to hold any office, place, position, or employment subject to sections 28 through 48 of this charter.

(3) "Career Status" means the status of a person who has successfully completed a probationary period.

(4) "City" means the City of Salem.

(5) "Chief Examiner" means the individual designated by the City Manager.

(6) "Commission" means the Civil Service Commission created under Section 31 of this charter.

(7) "Commissioner" means a member of the Civil Service Commission.

(8) "Fire Service" means those uniform positions in the Salem Fire Department, except for the Fire Chief and Division Chiefs.

(9) "Uniform positions" includes those positions who are directly involved in fire fighting, emergency medical services, fire prevention, fire inspection and training.

Section 30. Subject Employees. The classified Civil Service of the City shall include uniform positions of the Fire Service as defined in section 29 of this charter. In the event a question arises as to whether or not a position or type of work is subject to the provisions of sections 28 through 48 of this charter, the council, after giving due consideration to the recommendations of the Appointing Authority,

the City Manager, the Commission and employee representatives shall determine if the position or type of work shall be included in or excluded from the classified Civil Service of the City.

Section 31. Civil Service Commission; Qualifications, Appointment, Term of Office, and Meetings of Civil Service Commission.

(1) There is hereby created a Civil Service Commission composed of three members appointed by the mayor with approval of the council.

(2) The term of office of such Commissioners shall be three years, or until their successors are appointed and qualified, and each shall serve without compensation. In the event a Commissioner is unable to complete a term of office, a replacement shall be appointed for the remainder of the term. No Commissioner shall serve more than two consecutive terms.

(3) No member of the Commission shall hold any other public office, place, position or employment with the City. No person shall be appointed a member of the Commission who is not a citizen of the United States and a resident of the City. The persons appointed shall be known to believe in the principles of the Civil Service.

(4) Any member of the Commission may be removed from office by the Council for incompetency, conflict of interest, dereliction of duty or malfeasance in office, or other good cause after notice in writing of the charges against the member and an opportunity to be heard on such charges before the council.

(5) Two members of the Commission shall constitute a quorum, and the votes of any two Commissioners concurring shall be sufficient for decision in all matters and transactions under sections 28 through 48 of this charter, unless otherwise specifically provided.

(6) The Commission shall elect one of its members as chair at the first meeting following July 1 of each year.

(7) The Commission shall hold a regular public meeting at least once a month, and may hold such additional meetings as may be required in the proper discharge of their duties.

Section 32. Responsibility of the Civil Service Commission.

(1) The Civil Service Commission shall be responsible for the administration of the Civil Service System. The Chief Examiner shall assist the Commission in the administration of this system and keep the records of the Commission.

(2) The Commission shall make suitable rules and regulations not inconsistent with sections 28 through 48 of this charter to carry out the provisions thereof. The rules and regulations shall include, but not be limited to, providing in detail the manner in which examinations shall be held and appointments, promotions, transfers, reinstatements, suspensions, and discharges shall be made. Such rules and regulations may be changed from time to time and, together with all changes, shall be made available for public inspection. Notice of proposed rule changes shall be posted in the Fire Department for two weeks prior to action by the Commission.

Section 33. Employee Records. Employee records shall be maintained in accordance with the appropriate state law.

Section 34. Creation of New Positions and Classifications of Positions.

(1) All positions subject to sections 28 through 48 of this charter shall be created by the council and the council shall fix the compensation of all Civil Service positions; the Council shall provide for the classification of all positions in the Civil Service. The classifications shall be based upon the functions of the positions. The classifications may, from time to time be amended, added to, consolidated, or abolished.

(2) The Commission may submit recommendations concerning the creation of Civil Service positions and the classification of positions in the Fire Service.

Section 35. Examinations.

(1) Except as otherwise expressly provided in sections 28 through 48 of this charter, the appointment and promotion of persons to Civil Service positions shall be made solely upon merit, efficiency, and fitness which shall be ascertained by competitive examinations among qualified personnel.

(2) Examinations shall be given only to persons who possess such qualifications as to age, health, education, experience, and citizenship as are prescribed by the Commission.

(3) The Commission shall in its rules and regulations adopt minimum length of service requirements for promotion.

(4) Competitive examinations shall be held to ascertain the fitness of applicants for positions in the Civil Service. Examinations shall be given as necessary to meet the staffing requirements of the Fire Service. Notice of title, salary, and qualifications of each classification open for examination shall be posted in at least three public places, including the Fire Department, in the city for not less than two weeks prior to the closing date.

(5) The Chief Examiner shall supervise all examinations and shall designate the persons who shall act as examiners at any examination.

(6) Examinations shall be practical in character and shall relate only to those matters which fairly test the relative fitness of persons examined to discharge the duties of the positions for which they are applicants.

(7) No question in any examination shall relate to partisan political or religious preference, affiliation, or opinion.

Section 36. Eligible Lists.

(1) Eligible lists of all persons whose general average standing upon examinations is not less than a minimum passing grade shall be maintained and prepared by the Chief Examiner. Such persons shall take rank upon the register, as candidates, in the order of their relative standing as determined by examinations. Candidates of equal standing shall take rank upon the register according to the order in which their applications were filed.

(2) Entrance eligible lists shall be kept in effect for 12 months and may be extended for an additional six months at a time to a maximum of 24 months with the approval of the Appointing Authority and Chief Examiner, from the effective date thereof. In the event entrance lists are augmented or open continuous examinations are held, each candidate shall remain on the appropriate eligible list for a period of 12 months.

(3) Promotion eligible lists shall be kept in effect for 24 months unless exhausted or depleted. No promotion eligible list shall be augmented.

(4) The Commission, if it deems advisable for the good of the service, may cancel an eligible list.

(5) The various eligible lists provided for by this act shall contain the following persons:

(a) Entrance eligible lists shall contain those qualified candidates who are seeking entrance into the Fire Service.

(b) Promotion eligible lists shall contain those qualified candidates who are presently in the Fire Service and are seeking advancement.

(c) Layoff eligible lists shall contain those persons who have held career status and have been laid off or demoted from positions because of a reduction in force. The order of the names of such persons shall be in inverse order of their layoff.

(d) Reemployment eligible lists shall contain the names of employees who have resigned from the Fire Service in good standing provided they have requested re-employment within one year after the effective date of their resignation, the Appointing Authority approves re-employment, the employee meets the minimum requirements for the position including the appropriate certifications, and has previously held that position after the completion of probation.

Section 37. Certification of Candidates. Whenever an appointing authority desires to fill a vacancy in any position in the Civil Service, the appointing authority shall notify the Chief Examiner. The Chief Examiner shall thereupon certify to the Appointing Authority:

(1) If the vacancy be in a promotive position, the Chief Examiner shall certify first from the layoff list, then from the promotion eligible list the name of the candidate standing highest upon the appropriate eligible list. When more than one vacancy is to be filled, the number of names submitted shall equal the number of vacancies.

(2) If the vacancy be in an entrance position, the Chief Examiner shall certify first from the layoff eligible list, then from the re-employment eligible list or entrance eligible list. The number of names certified from the layoff and re-employment or entrance eligible list shall equal the number of vacancies. The Chief Examiner shall certify no more than five for each vacancy to be filled.

Section 38. Appointments and Probationary Period.

(1) The Appointing Authority shall appoint certified candidate(s) to the vacant position.

(2) Candidates appointed from other than the layoff eligible list shall serve a probationary period of six full calendar months. The Appointing Authority may, with the concurrence of the Chief Examiner, extend an employee's probationary period for a specified time not to exceed an additional three months.

(3) The Commission may adopt rules or procedures whereby the Appointing Authority may request an extension of the probationary period for candidates appointed to entrance positions.

(4) The Commission shall adopt procedures and criteria whereby an Appointing Authority may reject the names of candidates certified to an entrance position.

(5) The Commission shall adopt procedures whereby candidates on the eligible list may waive appointment or have their names temporarily withdrawn from the eligible list.

(6) If any candidate appointed on a probationary appointment is not discharged during the period of probation, the appointment will be considered permanent and shall be accorded career status.

(7) When there is no candidate upon an eligible list from which a position may be filled, the appointment authority may, with the consent of the Commission, fill such position by a provisional appointment. Provisional appointments shall be valid only until there are available candidates on the appropriate eligible list. Examinations shall be given within 90 days from which to fill vacancies filled by provisional appointment.

(8) In the event that there are no qualified career employees applying for a promotional examination, the Appointing Authority may request to establish a list by an open competitive examination in which the general public may apply. If open to the public, only those persons meeting the minimum qualifications for the classification will be considered.

Section 39. Leaves of Absence. Leave of absence shall be approved by the Appointing Authority.

Section 40. Disciplinary Action.

(1) Any action which reflects discredit upon the Fire Service or is a hindrance to the effective performance of city functions, shall be considered cause for disciplinary action. Cause for disciplinary action may also include misconduct, inefficiency, incompetency, insubordination, indolence, malfeasance, the willful giving of false information or withholding information with intent to deceive when making application, or willful violation of published departmental or City rules, sections 28 through 48 of this charter, or rules and regulations of the Commission. No person shall be dismissed, demoted, suspended without pay or deprived of special privileges for partisan political, racial, or religious reasons.

(2) Disciplinary action may consist of dismissal, demotion, suspension without pay, withdrawal of special privileges, written reprimand or oral reprimand.

(3) No person subject to this act who has attained career status under this act shall be dismissed, demoted, suspended without pay or deprived of special privileges except for cause, and then only upon the signed written accusation of the Appointing Authority. A written statement of the accusation shall be served forthwith upon the accused.

(4) If the person on probation is a new appointee, the Appointing Authority may take disciplinary action against that person without regard to sections 41 and 42 of this charter.

(5) If a person has been appointed to a position in a higher classification on probation and fails to qualify for the position in the higher classification within the probationary period, the person shall not lose status in the lower classification from which such promotion was made, but shall be reinstated in such lower classification.

Section 41. Appeals, Investigations, and Hearings from Disciplinary Actions; Enforcement of Act and Rules.

(1) Any employee who has attained career status who has been dismissed, demoted, suspended without pay or deprived of special privileges may, within ten days, file with the Chief Examiner a signed, written appeal for a hearing before the Commission; the Chief Examiner shall schedule a hearing at a date and time approved by the Commission. The employee shall be notified within 30 days as to the date and time of hearing. The hearing shall be held as expeditiously as possible. The employee may appear without a representative or be represented by counsel, or by the employee's union representative. The hearing shall be confined to the determination of the question of whether the disciplinary action was made in good faith for cause.

(2) When any citizen of the City, or any person subject to Civil Service alleges in a certified petition that an abuse or abuses of the provisions of sections 28 through 48 of this charter or rules and regulations of the Commission exist, the Commission shall:

- (a) Investigate the enforcement and effect of sections 28 through 48 of this charter and the rules and regulations of the Commission;
- (b) Ascertain whether sections 28 through 48 of this charter or the rules and regulations are being violated;
- (c) Where violations are found to exist, the Commission shall take such action as necessary to enforce compliance.

(3) The Commission may upon its own initiative make any investigation which it deems advisable to enable them to carry out the provisions of this act.

(4) In the course of an investigation, the Commission, designated Commissioner, or Chief Examiner shall have the power to administer oaths, subpoena witnesses and compel the production of books, papers, documents, and accounts pertinent to the investigation.

(5) The Commission may cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil suits and actions.

(6) Oaths administered and subpoenas issued hereunder shall have the same force and effect as the oaths administered by the Municipal Judge of the City of Salem in a judicial capacity.

(7) The failure upon the part of any person so subpoenaed to comply with the subpoena's provisions shall be deemed a violation punishable under section 45 of this charter.

(8) All hearings and investigations before the Commission are governed by this section and by the rules and regulations adopted by the Commission; and in the conduct thereof, the Commission is not bound by the technical rules of evidence.

(9) No informality in any hearing or investigation or in the manner of taking testimony shall invalidate any order, decision, rule, or regulation made, approved, or confirmed by the Commission.

(10) The Commission may conduct any civil suit or action which may be necessary for the proper enforcement of sections 28 through 48 of this charter and rules and regulations of the Commission. The Commission shall be represented by the City Attorney or the City Attorney's assistant in such suits or actions.

Section 42. Commission Findings on Disciplinary Appeals. After a hearing, the Commission may affirm, disaffirm or modify the action taken by the Appointing Authority. If the Commission disaffirms the dismissal or suspension of an employee, reinstatement shall be retroactive and entitle the employee to pay or compensation and special privileges from the time of the action of the Appointing Authority. If the

Commission modifies the action taken by an Appointing Authority, reinstatement may be retroactive and may entitle the employee to pay or compensation or special privileges from the time of the action of the Appointing Authority. The action of the Commission shall be certified in writing to the Appointing Authority and immediately enforced by it.

Section 43. Prohibited Activity. No person shall:

- (1) Alone or in cooperation with one or more persons defeat, deceive, or obstruct any person in respect to the person's right of examination;
- (2) Falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined, registered, or certified pursuant to this act, or aid in so doing, or make any false representation concerning the same or concerning the person examined;
- (3) Furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person to be examined or certified;
- (4) Impersonate another or permit or aid in any manner another to impersonate the person in connection with any examination, application or request to be examined.

Section 44. Political Activity. No employee subject to sections 28 through 48 of this charter shall be a candidate for an elective office of the City.

Section 45. Punishment for Violation of Act. The council shall enact suitable ordinances to carry into effect the provisions of sections 28 through 48 of this charter, including providing for the punishment by fine and imprisonment of persons who may violate any such provisions.

Section 46. Commissioners to Carry Over. The terms of office of the Commissioners in office when this charter is adopted are the terms for which they have been appointed before adoption of the charter.

Section 47. Incumbents to Carry Over. Employees holding positions in the classified Civil Service herein immediately prior to adoption of this charter shall be continued in their respective positions without further examination, until separated from their positions as provided for herein. Nothing herein shall preclude the reclassification as provided by this charter of any position held by any such incumbent. Nothing herein shall permit employees to be subject to the Civil Service provisions of this charter unless they are uniform employees of the Fire Service.

Chapter VII

ELECTIONS

Section 48. 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 49. Nominations. A person may be nominated in a manner prescribed by general ordinance to run for an elective office of the city. All elective offices of the city shall be nonpartisan.

Chapter VIII

ORDINANCES

Section 50. Ordaining Clause. The ordaining clause of an ordinance shall be "The City of Salem ordains as follows:"

Section 51. Passage by Council.

(1) Except as subsection (2) of this section allows adoption at a single meeting, an ordinance shall be read by title in open council meeting on two different days before being passed by council.

(2) The council may pass an ordinance at a single meeting by the express unanimous votes of all council members present.

(3) At least five affirmative votes shall be necessary to pass an ordinance bill.

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

(5) After passage of an ordinance, the custodian of city records shall attest it with its date of passage and the custodian's name and title of office.

Section 52. 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

MISCELLANEOUS PROVISIONS

Section 53. Urban Renewal Revenue Bonds. The council may, for the purpose of assisting in the planning or the undertaking and carrying out of an urban renewal or redevelopment project, issue from time to time revenue bonds of the City of Salem, to be paid to the extent permitted, or to be permitted by law, solely from the following sources:

(1) revenues from an urban renewal or redevelopment project; or

(2) from the sales of property involved in an urban renewal or redevelopment project; or

(3) from tax revenues attributable to the increased valuation of improvements existing or subsequently constructed on property in an urban renewal or redevelopment project; or

(4) from tax revenues exceeding a specified level within such project to the extent that such is permitted by law; or

(5) from any combination of such methods of repayment; and to that end, the council may, to the extent permitted or to be permitted by law, pledge such tax revenues or other revenues, as hereinbefore mentioned; provided, however, that not more than \$5 million face value of such revenue bonds shall be outstanding at any one time. Such bonds shall be issued by the council in accordance with the procedures established by law and as the council may prescribe by ordinance, and shall bear the facsimile signatures of the mayor and director of finance and be known as "Urban Renewal Bonds or Redevelopment Bonds."

Section 54. Prohibition on Participation in Hotel and Convention Center.

(1) As used in this section:

(a) "Hotel" means a property, however owned, in which rooms or suites of rooms generally are rented as transient lodgings.

(b) "Transient lodging" means a room or suite of rooms which is occupied not as a principal residence:

(A) By persons for periods of less than 30 consecutive days; or

(B) With which the services normally offered by hotels, including, but not limited to, daily or bi-daily maid and linen service, a front desk and a telephone switchboard, are provided, regardless of the length of occupancy of the person.

(c) "Convention Center" means a property composed of a collection of meeting rooms designed to attract individuals living outside Marion County and the geographically contiguous counties, or designed to accommodate groups larger than could reasonably be expected to be generated by such counties.

(d) "Riverfront Property" means the City-owned land within the region bordered on the West by the Willamette River, on the East by Front Street, on the North by the Marion Street Bridge, and on the South by Pringle Creek.

(2) The council shall not contribute, trade, lease, loan, pledge or in any way transfer money, or property obtained directly or indirectly with money provided by this section, nor shall it provide any in-kind contributions including but not limited to staff assistance, office supplies, and postage costs funded by money provided by this section, to assist in any way construction or operation of a hotel or convention center within the boundaries of the Riverfront property.

(3) Notwithstanding any authority, express or implied, granted by any other section of this charter or by any ordinance adopted by the City of Salem, the restrictions contained in Subsection 2 of this section apply to all public funds and in-kind contributions controlled by the council regardless of the source of such funds or services.

Section 55. Regional Shopping Center. The council shall enact no ordinance or enter into any intergovernmental agreement which prohibits the construction of a regional shopping center of less than one million square feet of leasable space outside the central business district. Any existing land use, comprehensive plan, ordinance, zoning provision, and intergovernmental agreement that currently prohibits said construction shall be void.

Section 56. Transient Occupancy Tax. Any tax on the privilege of occupying a room or rooms in a hotel inn, tourist home or house, motel, or other transient lodging space and occupying space in mobile home or trailer parks for transient rentals shall not exceed nine percent of the rent charged by the operator. Revenues from such a tax shall be used for:

- (1) Enhancement and beautification of vehicular and pedestrian entrance-ways to the city;
- (2) Urban beautification generally;
- (3) Improvements to or operation of major tourist attraction or cultural facilities;
- (4) Activities performed directly by the city or through contracts which promote use of Salem for conventions, conferences, seminars or for general tourism. (As amended by a vote of the people on May 18, 1999, Ballot Measure 24-27)

Section 57. Continuation of Ordinances. Insofar as consistent with this charter, and until amended or re-pealed, all ordinances in force when the charter takes effect retain the effect they have at that time.

Section 58. Repeal. All charter provisions adopted before this charter takes effect are hereby repealed, save and except that portion of Section 8 of the 1899 charter, as amended by a vote of the people on May 17, 1946 (Ordinance 3680), pertaining to the jurisdiction and power of the municipal judge which is reproduced as Section 24(2) of this charter.

Section 59. 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 60. Time of Effect. This charter takes effect July 1, 1996. (Revised Charter approved by a vote of the people on May 21, 1996, Ballot Measure 24-65)

Section 61. Voter Approval of Annexations. Annexations, including delayed annexations to the city, must be approved by the voters of the city except when annexation contracts were signed before this charter amendment, or when annexations are necessitated by failing septic systems or health hazards, or when annexations are mandated by state law. (Approved by a vote of the people on May 16, 2000, Ballot Measure 24-34)

Section 62. Ethical Standards for Decision-Making.

(1) In order to ensure public confidence in the impartiality of elected or appointed city officials, the following ethical standards for decision-making are hereby adopted. Any elected or appointed city official, who participates as a decision-maker in any decision that is made at a public hearing and that is reasonably likely to result in a pecuniary benefit to any person or entity, must disclose any and all of the following, if applicable:

(a) any past or present business relationships, within the last four (4) years, and family relationships, if any, between the elected or appointed official and one or more of the persons or entities, or a representative of one of such persons or entities, who or which participates in the decision-making process; and

(b) any direct and indirect campaign contributions or gifts given to the elected or appointed official that:

(A) Are from one or more of the persons or entities, or a representative of one of such persons or entities, who or which participates in the decision-making process; and

(B) Total \$501.00 or more during the preceding two (2) years, respecting the Mayor, or the preceding four (4) years for all other elected or appointed officials; and

(C) Are known or should have been known to the elected or appointed official.

(c) For the purpose of subsection (b) above, an "indirect campaign contribution" is "given to the elected or appointed official" when one or more of the persons or entities, or a representative of one of the persons or entities, who or which participates in the decision-making process, or an opponent of the action being requested, makes a contribution to other persons or entities, who or which then makes a direct campaign contribution to the elected official, and the relationship between the contributor, the public official, and the intervening persons or entities is such that it creates the appearance of an effort to avoid this Section in the mind of a reasonable person.

(2) If any of the material facts set forth in subsection (1) exists, then:

(a) The official must disclose on the record such relationship, contribution, or gift at the commencement of each public hearing.

(b) All persons and entities participating in the decision-making process shall also disclose on the record the facts of any relationships, contributions, or gifts that require disclosure or recusal under this Section. However, failure to make these disclosures does not obviate the responsibility of public officials to disclose such relationships, contributions, or gifts that require disclosure.

(3) As used in this Section:

(a) "family relationship" means the relationship between the elected or appointed official and the official's spouse, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, cousin, stepparent, stepchild, grandparent or grandchild;

(b) "representative" means a person who represents a person or entity, who or which participates in the decision-making process, including, but not limited to, an attorney, planning consultant, expert witness, or employee;

(c) "business relationship" includes employer, employee, partnerships, contractor, lessor, lessee, current and prospective parties to contracts and professional representation or acting as another's agent or any other business relationship which a reasonable person would conclude raises ethical concerns under these provisions.

(d) "gift" is defined as set forth in ORS 244.020(8), excluding the exceptions listed therein; the meaning of a "gift" does not include voluntary work of the nature that is not required to be disclosed under laws on Contributions and Expenditure Reports.

(4) Unless absolutely necessary to render an effective decision, no elected or appointed city official shall participate as a decision-maker in any decision that is made at a public hearing and that is reasonably likely to result in a pecuniary benefit to any person or entity, if the business relationships, the family relationships, the campaign contributions, or the gifts disclosed in accordance with subsection (1) above would create the appearance of bias or impropriety in the mind of a reasonable person. If the

elected or appointed city official's action is absolutely necessary in order to render an effective decision, then such elected or appointed official shall participate in the decision-making process after disclosure, notwithstanding this subsection. When two or more officials have recused themselves as a result of these provisions, and at least one additional official's participation is absolutely required in order to render an effective decision, then all such recused officials may participate, provided the required disclosures are made.

(5) Notwithstanding subsections (1), (2), (3) and (4) above, unless participation is prohibited under ORS chapter 244 or SRC Chapter 12, an elected or appointed official may participate, including by voting, in the making of a decision that is made at a public hearing and that is reasonably likely to result in a pecuniary benefit to any person or entity if all persons participating in the proceeding expressly waive any objection to participation by an official whose recusal is required under subsection (4), hereinabove. When a reasonable person would conclude that campaign contributions were made or disclosed or waivers granted or withheld in order to manipulate the composition of the voting members of a decision-making body, then the decision-makers shall participate or recuse themselves as necessary to achieve the purpose of public confidence in the high ethical standards for government officials. The basis for their recusal or participation under this subsection shall be disclosed and made a part of the record of the decision.

(6) Parties to a public hearing decision-making process in this City have an important and substantial right to a decision made in compliance with these ethical standards. A violation of subsections (1), (2)(a) or (4), above, would prejudice the substantial rights of the parties to the proceeding. Any appropriate court, agency, board or commission with jurisdiction to review the decision, when presented with a timely appeal, should rule accordingly.

(7) Any court, agency, board or commission, required to apply these provisions upon appeal, shall interpret the words of these provisions in ways that set the highest ethical standards for officials governed by its provisions.

(8) If any phrase, clause, section, part or application of this Section is declared unconstitutional or otherwise unenforceable by a court of competent jurisdiction, the remaining phrases, clauses, sections, parts and applications shall remain in full force and effect. (Approved by a vote of the people on May 21, 2002, Ballot Measure 24-78)