

R E S O L U T I O N   N O. 386

BE IT RESOLVED by the Council of the City of Albany, Oregon, that the following be submitted to the legal voters of the City of Albany as a new charter at the regular general election to be held November 6, 1956. The complete text of the charter is as follows:

A CHARTER

To provide for the government of the City of Albany, Linn County, Oregon: and to repeal all charter provisions of the city enacted prior to the time that this charter takes effect.

Be it enacted by the people of the City of Albany, Linn County, Oregon:

CHAPTER I  
NAME AND BOUNDARIES

Section 1: TITLE OF ENACTMENT. This enactment may be referred to as the Albany Charter of 1956.

Section 2: NAME OF CITY. The city of Albany, Linn County, Oregon, shall continue to be a municipal corporation with the name "City of Albany."

Section 3: BOUNDARIES. The city shall include all territory bound by a line: Beginning at the intersection of the center line of the Willamette River channel and the western boundary line, extended northerly, of Tract No. 1, of Bryant's Tracts, as designated and described upon the plat of said Bryant's Tracts on file and of record in the office of the County Recorder of Linn County, Oregon;

thence Southerly along said extended boundary line of Tract No. 1, Bryant's Tracts, to the South bank of the Willamette River and continuing Southerly on the West boundary line of Tract No. 1, Bryant's Tracts, to the center of the Calapooia River;

thence meandering Westerly up the Center line of the Calapooia River and to the East line of Umatilla Street extended Northerly;

thence Southerly along the extension of the East line of Umatilla Street to the Northwest corner of Block 40, City of Albany, and continuing Southerly along the East line of Umatilla Street to a point which intersects the South right-of-way line of the Oregon Electric Railroad extended Easterly;

thence Westerly along the South right-of-way line of the Oregon Electric Railroad to the West line of the Masonic Cemetary property;

thence Southerly along the West line of said property to the Southwest corner thereof;

thence Easterly along the South line of the Masonic Cemetary property to a point which intersects the East line of Gale Street extended Northerly;

thence Southerly along said extended line and the East line of Gale Street to the Northwest corner of Lot 8, Block 13, Hazelwood Addition;

thence Westerly along the North line of Hazelwood Addition to the Northwest corner of Lot 8, Block 14;

thence Southerly, along the East line of Hop Street to the Northwest corner of Lot 4, Block 13, Hazelwood Addition;

thence Westerly along the South line of 15th Avenue to the Northwest corner of Lot 4, Block 30, Hazelwood Addition;

thence Southerly along the East line of Bonney Street to the Southwest corner of Lot 5, Block 29, Hazelwood Addition;

thence Westerly along the North line of 17th Avenue to the Southeast corner of Lot 8, Block 31, Hazelwood Addition;

thence Southerly on the East line of Block 31, Hazelwood Addition extended to a point on the North line of Lot 5, Block 28, Hazelwood Addition;

thence Westerly along the North line of Lot 5, Block 28, Hazelwood Addition to the Northwest corner thereof;

thence Southerly along the West line of Lot 5, Block 28, Hazelwood Addition to the Southwest corner;

thence Easterly along the South line of Hazelwood Addition to a point on the South line of Lot 3, Block 7, Hazelwood Addition, said point being the most Southerly Southeast corner of Hazelwood Addition;

thence Northeasterly along the South line of Blocks 7 and 6, Hazelwood Addition, to the Southeast corner of Lot 2, Block 6, Hazelwood Addition;

thence Easterly to the Southwest corner of Block 1, Albany Heights Addition;

thence Southerly along the East line of Broadway Street to the North line of 27th Avenue;

thence Easterly along the North line of 27th Avenue to the Southeast corner of Donation Land Claim No. 84, T. 11 S., R. 4 W., of Willamette Meridian;

thence S. 89° 42' East 8.50 feet to the Northeast corner of Fir Oaks Addition revised to the City of Albany, Linn County, Oregon;

thence South 14° 12' East 198.19 feet to the Southeast corner of Tract 31 of said Addition;

thence South 89° 42' East, parallel with the South line of George Cline D.L.C. No. 84, if extended Easterly, to the East right-of-way line of the Pacific Highway;

thence Southerly along said right-of-way line to a point North 0° 54½' West 1,711.04 feet and North 88° 54½' East 66.0 feet from the Northwest corner of the Truett Davis D.L.C. No. 38 in said Township and Range;

thence North 88° 54½' East 400.0 feet;

thence South 0° 54½' East 260.5 feet;

thence South 88° 54½' West 40.0 feet;

thence South 0° 54½' East 283.0 feet;

thence North 88° 54½' East to the West right-of-way line of the Southern Pacific Railroad;

thence North 0° 02' West along said right-of-way 1,095.5 feet to a point 50.0 feet South of the South line of South Albany Addition;

thence South 89° 00' West, Parallel to the South line of said South Albany Addition, to the West right-of-way line of the aforementioned Pacific Highway;

thence Northerly along said highway to the South line of Houck's Addition to the City of Albany;

thence Westerly to the Southwest corner of said Houck's Addition;

thence Northerly to the Northwest corner of said Houck's Addition;

thence Easterly along the North line of Houck's Addition to the Northeast corner of said Houck's Addition which is the West line of Elm Street;

thence Northerly along the West line of Elm Street to the intersection thereof with the North line of 21st Avenue extended Westerly;

thence Easterly along the North line of 21st Avenue extended to the Southwest corner of Lot 7, Block 4, Schultz Front Addition, Linn County, Oregon, and continuing Easterly along the North line of 21st Avenue to the West line of Pacific Highway 99E;

thence Northeasterly along the West line of Pacific Highway 99E to the North line of Queen Avenue;

thence Easterly along the North line of Queen Avenue to the intersection thereof with the East line of Block 4, Goltra Park Addition, Linn County, Oregon, extended Northerly;

thence South 1° 30' East along the East line of Block 4, Goltra Park Addition extended to the Northeast corner of said Block 4, Goltra Park Addition, and continuing South 1° 30' East, a distance of 2,059.56 feet to the Southwest corner of School District No. 5 property;

thence North 88° E 375.54 feet to the Southeast corner of School District No. 5 property and continuing Easterly to the Northwest corner of Block 9, Hollywood Acres, Linn County;

thence Southerly along the West line of Hollywood Acres to the North line of 27th Avenue;  
 thence Westerly along the North line of 27th Avenue to the East line of the Hiram Smead D.L.C. No. 53;  
 thence Southerly along the East line of the Hiram Smead D.L.C. No. 53 to the Southeast corner of said D.L.C.;  
 thence Southerly along the East line of the Truett Davis D.L.C. No. 54 130 feet;  
 thence Easterly to a point on the Westerly line of Rodgers Acres extended to a point South  $1^{\circ} 38'$  East 160 feet from the Southwest corner of Lot 34, First Addition to Rodgers Acres;  
 thence Northerly along the West line of the First Addition to Rodgers Acres to the Northeast corner of the Second Addition to Rodgers Acres;  
 thence Easterly along the South line of the Southern Addition to Morningside Tracts to the Southeast corner of said Tracts;  
 thence Northerly along the East line of said Tracts and continuing Northerly along the East line of Morningside Tracts to the Northeast corner of Morningside Tracts;  
 thence Westerly along the North line of Morningside Tracts to the Southeast corner of Lot 16, Block 4, Birky and Beam Addition to Hollywood Acres, Linn County, Oregon;  
 thence Northerly along the East line of Birky and Beam Addition to Hollywood Acres, and extending Northerly on the same course to a point which intersects the North line of Queen Avenue;  
 thence Easterly along the North line of Queen Avenue to the West line of Oak Street;  
 thence Northerly along the West line of Oak Street to the South line of 9th Avenue;  
 thence Easterly along the South line of 9th Avenue extended to the West line of Geary Street;  
 thence Southerly along the West line of Geary Street to the intersection with the South line of St. James Park Addition, Linn County, Oregon, extended Westerly;  
 thence Easterly along the South line of St. James Park Addition extended to the Southwest corner of St. James Park Addition and continuing Easterly to the West line of Chicago Street;  
 thence Southerly along the West line of Chicago Street a distance of 129.88 feet;  
 thence South  $89^{\circ} 46'$  East 276.4 feet;  
 thence North  $72^{\circ} 32'$  East 4.7 feet;  
 thence North  $1^{\circ} 10'$  West 128.7 feet to the Southeast Corner of St. James Park Addition and continuing on the same course along the East line of St. James Park Addition, and continuing Northerly on the same course to the North line of the Santiam Highway;  
 thence Southeasterly along the North line of the Santiam Highway to the West line of Waverly Drive;  
 thence Northerly along the West line of Waverly Drive to the Westerly extension of the original centerline of South Division Street in Glenndorr Tracts;  
 thence Northeasterly along the original centerline of said South Division Street 485.00 feet, more or less to the Northwesterly extension of the North line of Block 1, Glenndorr Tracts;  
 thence Southeasterly along the North lines of Blocks 1 and 2 of said Glenndorr Tracts 605 feet, more or less, to the Northeast corner of said Block 2;  
 thence Southwesterly 200 feet to the Southeast corner of Lot 8 in said Block 2;  
 thence Southeasterly 240 feet to the Northeast corner of Lot 5, in Block 3 of said Glenndorr Tracts.  
 thence South  $19^{\circ} 21'$  West along the East line of said Lot 5 a distance of 102.8 feet;  
 thence South  $83^{\circ} 03'$  East 466.0 feet;  
 thence North  $88^{\circ} 21'$  East 450.0 feet;  
 thence North  $1^{\circ} 39'$  West 135.0 feet to a point North  $70^{\circ} 39'$  West 10.7 feet, South  $1^{\circ} 39'$  East 596.4 feet and South  $88^{\circ} 21'$  West 664.0 feet from the original Southeast corner of Block 13, Glenndorr Tracts;  
 thence North  $88^{\circ} 21'$  East 120 feet;  
 thence North  $1^{\circ} 39'$  West 727.7 feet to a point South  $19^{\circ} 24'$  West 50.0 feet from the original North line of Jesse Street in Glenndorr Tracts;  
 thence South  $70^{\circ} 39'$  East parallel to said Jesse Street 582 feet to the West line of the State Secondary Highway;  
 thence North  $1^{\circ} 39'$  West 53.1 feet;

thence North 70° 39' West along the Southerly line of said Block 214.87 feet to a 3/4" iron bolt;  
thence North 19° 21' East 211.92 feet;  
thence South 81° 32' East 126.62 feet to the West line of the aforementioned State Secondary Highway;  
thence North 1° 39' West along said highway 60.95 feet to a 3/4" iron bolt;  
thence North 89° 32' West 113.76 feet to a 3/4" iron bolt;  
thence North 70° 39' West 40.71 feet to a 3/4" iron rod;  
thence North 1° 39' West 127.41 feet to a 3/4" iron bolt;  
thence North 82° 39' East 150.8 feet to a 3/4" iron bolt on the West line of said State Secondary Highway;  
thence North 1° 39' West along the West line of said highway 211.67 feet to a 3/4" iron bolt on the Southerly line extended Easterly of Tract 1 of Agee's Glenndorr Tracts, Linn County;  
thence Southwesterly to the Southeast corner of Agee's Glenndorr Tracts;  
thence Northerly along the West line of side of the said highway to a point 25 feet Westerly of the Northeast corner of the Anderson Cox D.L.C. No. 49, in T. 11 S., R. 3 W. of the Willamette Meridian;  
thence Westerly along the North line of said D.L.C. 175 feet more or less to the Southwesterly line of Highway 99E;  
thence Southeasterly along said Highway 99E right-of-way to the West line of Waverly Drive;  
thence Northerly along the West line of Waverly Drive to the Northeast corner of Block 4, Motley's Addition, Linn County, and continuing Northerly on the same course to a point which intersects the North line of the Old Pacific Highway;  
thence Easterly along the North line of the Old Pacific Highway to the West line of D.L.C. No. 49, in T. 11 S., R. 3 W. of the Willamette Meridian;  
thence Northerly along the West line of said D.L.C. No. 49 and continuing Northerly on the same course to the North line of River Avenue;  
thence Westerly along the North line of River Avenue and continuing Westerly on the same course to the center line of the Willamette River channel;  
thence meandering Westerly up the center line of the Willamette River channel to the point of beginning.

EXCEPTING:

Beginning at the Northwest corner of Lot 27 of Waverly Fruit Farm in T. 11 S., R. 3 W. of the Willamette Meridian in Linn County, said point being on the West line of the Anderson Cox D.L.C. No. 49 in said township and range;  
thence North 88° 21' East along the North line of said Lot 27, a distance of 174.0 feet to a 1/2" iron bolt;  
thence South 1° 25' East parallel with the West line of said D.L.C. No. 49 a distance of 70.0 feet to a 1/2" iron bolt;  
thence South 88° 21' West parallel with the North line of the aforementioned Lot, a distance of 174.0 feet to the West line of D.L.C. No. 49;  
thence North 1° 25' West 70.0 feet to the place of beginning.

AND:

Beginning at a point which is 33 feet South along the West line of Waverly Drive from the South line of Highway 99E, said point being West of the Northwest corner of the Albany Brick and Tile property;  
thence Easterly along the North line of said property and the extension of the North line 857.16 feet to the Northeast corner of said property;  
thence Southerly along the East line of said property 615.88 feet to the South line of said property;  
thence Westerly along the South line of said property and the extension thereof 864.29 feet to the West line of Waverly Drive;  
thence Northerly along the West line of Waverly Drive to the point of beginning.

AND:

Beginning at a point which is 838.88 feet South of the South line of Highway 99E on the West line of Waverly Drive;  
thence Easterly 204 feet;  
thence Southerly 100 feet;  
thence Westerly 204 feet to the West line of Waverly Drive;  
thence Northerly along the West line of Waverly Drive to the point of beginning.

Section 4: POWERS OF THE CITY. The city shall have all powers which the constitutions, statutes and common law of the United States and of this state expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

Section 5: CONSTRUCTION OF CHARTER. In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state constitution.

### CHAPTER III FORM OF GOVERNMENT

Section 6: WHERE POWERS VESTED. Except as this charter provides otherwise, all powers of the city shall be vested in the council

Section 7: COUNCIL. The council shall be composed of a mayor and six councilmen. The mayor shall be elected from the city at large. The councilmen shall be elected two from each ward. The city shall be divided into three wards bounded and designated by ordinance.

Section 8: COUNCILMEN. The councilmen receiving the highest number of votes in each ward at the election at which this charter is adopted shall serve for four years. The councilman receiving the next highest number of votes in each ward shall hold office for two years. At each subsequent biennial general election, one councilman shall be elected from each ward for a term of four years.

Section 9: MAYOR. At each biennial general election a mayor shall be elected for a term of two years.

Section 10: MANAGER AND MUNICIPAL JUDGE. The offices of city manager and municipal judge are hereby created. The council shall fill each of these offices by appointment.

Section 11: OTHER OFFICERS AND EMPLOYEES. The appointive offices of city recorder, city attorney, police chief, fire chief, city engineer, parks and recreation director and street superintendent are hereby created. Any requirement that an appointive officer shall fill two or more appointive offices may be effected only by the council.

Section 12: SALARIES. The compensation for the services of each city officer and employees shall be the amount fixed by the council

Section 13: QUALIFICATIONS OF OFFICERS. No person shall be eligible for an elective office of the city unless at the time of his election he is a qualified elector within the meaning of the state constitution and has resided in the city during the twelve months immediately preceding the election, and in the ward he represents for a period of ninety days. The council shall be final judge of the qualifications and election of its own members, subject, however, to review by a court of competent jurisdiction.

### CHAPTER IV COUNCIL

Section 14: MEETINGS. The council shall hold a regular meeting at least twice each month at a time and at a place in the city which it designates. It shall adopt rules for the government of its members and proceedings. The mayor upon his own motion may, or at the request of three members of the council shall, by giving notice thereof to all members of the council then in the city, call a

special meeting of the council for a time not earlier than three nor later than forty-eight hours after the notice is given. Special meetings of the council may also be held any time by the common consent of all members of the council.

Section 15: QUORUM. Four members of the council shall constitute a quorum for its business, but a smaller number may meet and compel the attendance of absent members in a manner provided by ordinance.

Section 16: JOURNAL. The council shall cause a journal of its proceedings to be kept. Upon the request of any of its members, the ayes and nays upon any question before it shall be taken, and a record of the vote entered in the journal.

Section 17: MEETINGS TO BE PUBLIC. All deliberations and proceedings of the council shall be public.

Section 18: MAYOR'S FUNCTIONS AT COUNCIL MEETINGS. The mayor shall be chairman of the council and preside over its deliberations. He shall have authority to preserve order, enforce the rules of the council and determine the order of business under the rules of the council. He shall have no vote, except in case of a tie vote of the councilmen then voting.

Section 19: PRESIDENT OF THE COUNCIL. At its first meeting, after this charter takes effect and thereafter at its first meeting of each odd-numbered year, the council shall elect a president from its membership. In the Mayor's absence from the council meeting, the president shall preside over it. Whenever the mayor is unable to perform the functions of his office,, the president shall act as mayor. The president shall not lose his vote by reason of assuming the duties of the mayor.

Section 20: VOTE REQUIRED. Except as this charter otherwise provides, the concurrence of four of the members of the council shall be necessary to decide any question before the council.

#### CHAPTER V POWERS AND DUTIES OF OFFICERS

Section 21: MAYOR. The mayor shall appoint the committees provided by the rules of the council. He shall sign all approved records of proceedings of the council, except in the case of a veto as herinafter provided.

Section 22: CITY MANAGER. (a) Qualifications: The city manager shall be the administrative head of the government of the city. He shall be chosen by the council without regard to political considerations and solely with reference to his executive and administrative qualifications. He need not be a resident of the city or of the state at the time of his appointment. (b) Term: The manager shall be appointed for an indefinite term and may be removed at the pleasure of the council. Not later than four months after a vacancy occurs, the council shall appoint a manager to fill the vacancy. (c) Powers and Duties: The powers and duties of the manager shall be as follows:

- (1) He shall devote his entire time to the discharge of his official duties, attend all meetings of the council unless excused therefrom by the council, keep the council advised at all times of the affairs and needs of the city, and make reports annually, or more frequently, if requested by the council, of all the affairs and departments of the city.
- (2) He shall see that all ordinances are enforced and that the provisions of all franchises, leases, contracts, permits and privileges granted by the city are observed.
- (3) He shall appoint and may remove appointive city officers and employees

except as this charter may otherwise provide with the approval of the council as to the appointive officers and he shall have general supervision and control over them and their work. He shall have the power to transfer an employce from one department to another, with the exception of those hereafter classified under civil service. He shall supervise the departments to the end of obtaining the utmost efficiency in each of them. He shall have no control, however, over the council or over the judicial activities of the municipal judge.

- (4) He shall act as purchasing agent for all departments of the city. All purchases shall be made by requisition signed by him. On all purchases over \$500.00 the city manager shall request bids be submitted and the contract awarded to the lowest responsible bidder, unless the council deems bids impracticable.
- (5) He shall be responsible for preparing and submitting to the budget committee the annual budget estimates and such reports as the body requests.
- (6) He shall have general supervision over all city property.

(d) Seats at Council Meetings: The manager and such other officers as the council designates shall be entitled to sit with the council but shall have no vote on questions before it. The manager may take part in all council discussions.

(e) Manager Pro Tem: In case of the manager's absence from the city, temporary disability to act as manager, discharge by the council, or resignation, the council shall appoint a manager to work pro tem, who shall possess the powers and duties of the manager. No manager pro tem, however, may appoint or remove a city officer or employee except with the approval of four of the members of the council. No manager pro tem shall hold his position as such for more than four months, and no appointment of a manager pro tem shall be renewed.

(f) Interference in Administration and Elections: No member of the council shall directly or indirectly, by suggestion or otherwise, attempt to influence or coerce the manager in the making of any appointment or removal of any officer or employee or in the purchase of supplies. Neither the manager nor person in the employ of the city shall take part in securing or contributing any money toward the nomination or election of any candidate for municipal office.

(g) Ineligible Persons: No persons related to the manager or his spouse, by consanguinity or affinity within the third degree, or the spouse shall hold any appointive office or employment with the city. 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 term for which he was elected or appointed.

Section 23: MUNICIPAL JUDGE. The municipal judge shall be the judicial officer of the city. He shall hold within the city a court known as the Municipal Court of the City of Albany, Linn County, Oregon. The court shall be open for the transaction of judicial business at times specified by the council. All area within the city shall be within the territorial jurisdiction of the court. The municipal judge shall exercise original and exclusive jurisdiction of all crimes and offenses defined and made punishable by ordinances of the city and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by ordinances of the city. He shall have authority to issue process for the arrest of any person accused of an offense against the ordinances of the city, to commit any such person to jail or admit him to bail pending trial, to issue subpoenas, to compel obedience to such subpoenas, to issue any process necessary to carry into effect the judgements of the court, and to punish

witnesses and others for contempt of the court. When not governed by ordinances, of this charter, all proceedings in the municipal court for the violation of a city ordinance shall be governed by the applicable general laws of the state governing justices of the peace and justice courts. The council shall provide by ordinance the method of selection and payment of juries.

Section 24: RECORDER. The recorder shall serve ex officio as clerk of the council, attend all its meetings unless excused therefrom by the council, keep an accurate record of its proceedings in a book provided for that purpose, and sign all orders on the treasury. In the recorder's absence from council meeting, the mayor shall appoint a clerk of the council pro tem who, while acting in that capacity, shall have all the authority and duties of the recorder.

Section 25: CIVIL SERVICE. The fire department and the police department, other than the chief's thereof, and such other employees of the city as the council may determine shall be under classified civil service. The council shall establish, by ordinance, a Civil Service Commission, composed of three members, which shall promulgate rules and regulations for classified civil service and administer the same to the end that appointment and advancement in the departments will be based on ability and service and discharge only upon cause shown. Those employees holding appointments under existing civil service shall retain their same or similar rank, tenure and benefits in effect at the time of the adoption of this charter.

#### CHAPTER VI ELECTIONS

Section 26: REGULAR ELECTIONS. Regular city elections shall be held at the same times and places as the biennial general state elections in accordance with applicable state election laws.

Section 27: NOTICE OF REGULAR ELECTIONS. The recorder, pursuant to directions from the council, shall give at least ten days notice of each regular city election by posting notice thereof at a conspicuous place in the city hall and by publications in a newspaper of general circulation published in the city. The notice shall state the officers to be elected, the ballot title of each measure to be voted upon, and the time and place of the election.

Section 28: SPECIAL ELECTIONS. The council shall provide the time, manner and means for holding any special election. The recorder shall give at least ten days notice of each special election in the manner provided by the action of the council ordering the election. Notice of such election to be given in the same manner as a regular election.

Section 29: REGULATION OF ELECTIONS. Except as this charter provides otherwise and as the council provides otherwise by ordinances relating to elections, the general laws of the state shall apply to the conduct of all city elections, recounts of the returns therefrom and contests thereof.

Section 30: CANVASS OF RETURNS. In all elections held in conjunction with state and county elections, the state laws governing the filing of returns by the county clerk shall apply. In each special city election the returns therefrom shall be filed with the recorder on or before noon of the day following and not later than five days after the election the council shall meet and canvass the returns. The results of all elections shall be made a matter of record in the journal of the proceedings of the council. It shall contain a statement of the total number of votes cast at each election, the votes cast for each person elected to office, the office to which he has been elected and a reference to each measure enacted or approved. Immediately after the canvass is completed, the recorder shall make and sign a certificate of election of each person elected and deliver the certificate to him within one day after the canvass. A certificate so made and delivered shall be prima facie evidence of the truth of the statements contained in it.

Section 31: TIE VOTES. In the event of a tie vote for candidates for an elective office, the successful candidate shall be determined by a public drawing of lots in a manner prescribed by the council.



Section 32: COMMENCEMENT OF TERMS OF OFFICE. The term of office of a person elected at a regular city election shall commence the first day of the year immediately following the election.

Section 33: OATH OF OFFICE. Before entering upon the duties of his office, each officer shall take an oath or shall affirm that he will support the constitutions and laws of the United States and of Oregon and that he will faithfully perform the duties of his office.

Section 34: NOMINATIONS. The council shall provide by ordinance the mode for nominating elective officers.

#### CHAPTER VII VACANCIES IN OFFICE

Section 35: WHAT CREATES VACANCY. An office shall be deemed vacant upon the incumbents death, adjudicated incompetence, conviction of a felony, resignation, or recall from office; upon the incumbents ceasing to possess the qualifications necessary for his office; or upon the failure of the person elected or appointed to an office to qualify therefore within three days after the time for his term of office to commence; and in the case of mayor or councilman upon his absence from the city for 30 days or upon his absence from meetings of the council for 60 days without the consent of the council and upon a declaration by the council of the vacancy.

Section 36: FILLING OF VACANCIES. Vacancies in elective offices of the city shall be filled by appointment by a majority of the entire membership of the council. The appointee's term of office shall begin immediately upon his appointment and shall continue throughout the unexpired term of his predecessor. During the temporary disability of any officer or during his absence temporarily from the city for any cause, his office may be filled pro tem in the manner provided for filling vacancies in office permanently.

#### CHAPTER VIII ORDINANCES

Section 37: ENACTING CLAUSE. The enacting clause of all ordinances hereafter enacted shall be, "The people of the City of Albany do ordain as follows:"

Section 38: INTRODUCTION, READING AND PASSAGE. Every ordinance of the council shall be fully and distinctly read in open council meeting on two different days previous to being put upon its final passage. Any ordinances, however, may be introduced, read twice, once in full and once by title, and put on its final passage at a single meeting by a unanimous vote of all members of the council. Upon the final vote on an ordinance, the ayes and nays of the members of the council shall be taken and recorded in the journal. If the ordinance passes, the recorder shall sign it with the date of its passage and his name and title of office, and within three days thereafter, the mayor shall sign it with the date, his name and the title of his office, or veto the same as hereinafter provided in Section 39.

Section 39: VETO. If the mayor does not approve of the ordinance, he must file his reasons in writing with the recorder within three days after its passage by the council. At the first meeting of the council after veto, the recorder shall read the message from the mayor. Such ordinances shall then be put upon its passage again and if five members of the council vote in the affirmative it shall become a law without approval by the mayor. If the mayor fails to sign an ordinance within three days after passage, and does not file his written veto to the same, such ordinance shall become law as if he had approved it.

Section 40: WHEN ORDINANCES TAKE EFFECT. An ordinance enacted by the council shall take effect on the thirtieth day after its approval by the mayor or passage over veto. When the council deems it advisable, however, an ordinance may provide a later time for it to take effect, and in case of an emergency, it may take effect immediately.

CHAPTER IX  
PUBLIC IMPROVEMENTS

Section 41: CONDEMNATION. Any necessity of taking property for the city by condemnation shall be determined by the council and declared by a resolution of the council describing the property and stating the uses to which it shall be devoted.

Section 42: IMPROVEMENTS. The procedure for making, altering, vacating, or abandoning a public improvement shall be governed by the applicable general laws of the state. A remonstrance by the owners of two-thirds of the property to be specially assessed for a proposed public improvement shall suspend action regarding the improvements for six months. For the purpose of this section "owner" shall mean the record holder of legal title to the land, except that if there is a purchaser of the land according to a recorded land sale contract or according to a verified writing by the record holder of legal title to the land filed with city recorder, the said purchaser shall be deemed the "owner."

Section 43: SPECIAL ASSESSMENTS. The procedure for levying collecting and enforcing the payment of special assessments for public improvements or any other services to be charged against real property shall be governed by general ordinance.

Section 44: BANCROFT BONDING ACT. The laws of the State of Oregon known as the Bancroft Bonding Act, now designated as 223.205 O.R.S., shall apply to the City of Albany.

Section 45: BIDS. A contract in excess of \$500.00 for a public improvement to be made by a private contractor shall be let to the lowest responsible bidder for the contract and shall be done in accordance with plans and specifications approved by the council.

CHAPTER X  
MISCELLANEOUS PROVISIONS

Section 46: DEBT LIMIT. Except by consent of the voters, the city's voluntary floating indebtedness shall not exceed \$100,000.00: nor its bonded indebtedness \$100,000.00 at any one time. For the purposes of calculating the limitation, however, the legally authorized debt of the city in existence at the time this charter takes effect shall not be considered. All city officials and employees who create or officially approve any indebtedness in excess of this limitation shall be jointly and severally liable for the excess.

Section 47: TORTS. In no event, shall the city be liable in damages to any person for an injury to person or property caused by a defect or dangerous place in a sidewalk, crosswalk, street, alley, sewer, public ground, public building, drain, gutter, ditch or way, unless the city has had actual notice prior to the injury that the defect or dangerous place existed and has had a reasonable time thereafter in which to repair or remove it. No action shall be maintained against the city for damages growing out of such injury unless the claimant first gives written notice to the council within 90 days after injury is sustained, stating specifically the time when, the place where and the circumstances under which it was sustained, and that he will claim damages therefore of the city in an amount which he specifies. But in no event shall the action be started until 30 days have elapsed after the presentation of this notice to the council.

Section 48: PARKS AND RECREATION. The council shall provide a continuing levy not exceeding two mills per dollar assessed for the purpose of providing for the management and operation of civic recreational and community activities, including the acquiring of property and facilities. The limitations imposed by Art. XI, Sec. 2, Oregon Constitution shall not apply in this levy. The council shall provide, by ordinance, a board for the administration of this section.

Section 49: EXISTING ORDINANCES CONTINUED. All ordinances of the city consistent with this charter and in force when it takes effect shall remain in effect until amended or repealed.

Section 50: REPEAL OF PREVIOUSLY ENACTED PROVISIONS. All Charter provisions of the city enacted prior to the time that this charter takes effect are hereby repealed.

Section 51: TIME OF EFFECT OF CHARTER. This charter shall take effect January 1, 1957.

The ballot title of the measure shall be as follows:

"Shall The New Charter Be Adopted?"

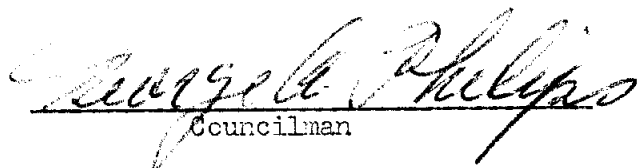
The summary of the measure that shall appear with the title shall be as follows:

"A new city charter is submitted to the record voters of the City of Albany by council resolution passed on August 22, 1956. The proposed charter provides for the powers of the council, a council manager form of government, the selection of ~~six~~ (6) councilmen, two (2) from each ward on staggered terms, describing the powers and duties of certain city officials, a municipal court, trial by jury, civil service for members of the Fire and Police Department and floating and bonded indebtedness of \$100,000.00, unless otherwise consented by the voters."

The City Recorder is hereby directed to certify the said measure to the County Clerk of Linn County not more than seventy (70) nor less than sixty-five (65) days before the general election by transmitting a certified duplicate to the said County Clerk by registered mail. The City Recorder is further directed to post a certified duplicate copy of the measure in his office for a like length of time prior to the general election.

The City Recorder is further directed to prepare a pamphlet containing a true copy of the ballot title and the text of the measure and a complete text of the proposed charter and mail a copy thereof to each voter in the city whose address he may have not later than the fifth day before the day of the election at which the said measure is to be voted upon. Preceding such act shall be a statement that the same will be submitted to the legal voters at a regular election on November 6, 1956.

Passed and unanimously adopted this 22nd day of August, 1956.

  
Councilman