

**Chapter C**

**CHARTER**

**CITY OF LEBANON, NEW HAMPSHIRE**

**CHAPTER 419**

**AN ACT TO ESTABLISH THE CITY OF LEBANON**

Be it enacted by the Senate and House of Representatives in General Court convened:



I  
**THE CITY ESTABLISHED**

**§ C419:1. Establishment.**

The inhabitants of the town of Lebanon, in the county of Grafton, shall continue to be a body corporate and politic, under the name of the "City of Lebanon."

**§ C419:2. Transfer of Property, Special Districts Abolished.**

All existing property and assets now of said town of Lebanon and all precincts and districts within said town including Lebanon Center Fire precinct, Lebanon Water Works, and West Lebanon Village Fire District shall be vested in said city under the provisions of this chapter. Lebanon Center Fire Precinct, Lebanon Water Works and West Lebanon Village Fire District are hereby abolished. All bonded indebtedness of the Lebanon Center Fire Precinct existing at the time of the adoption of this charter shall be reassessed upon residents living within the bounds of said former precinct until at which time all indebtedness shall be removed. Method and duration of assessment shall be determined by the city council. All bonded indebtedness of the Lebanon Water Works existing at the time of adoption of this charter shall be reassessed upon residents living within the bounds of said former Lebanon Water Works until at which time all indebtedness shall be removed. Method and duration of assessment shall be determined by the city council. All bonded indebtedness of the West Lebanon Fire and Water District at the time of the adoption of this charter shall be reassessed upon the residents living within the bounds of said former district until at which time all indebtedness shall be removed. Method and duration of assessment shall be determined by the city council.

**§ C419:3. School District. [Amended 12-3-1968]**

The school district of the town of Lebanon as presently constituted shall be a body corporate and politic and shall have all the powers and shall be subject to the same obligations and duties as are conferred or imposed upon town school districts by the statutes of the state of New Hampshire, in such case made and provided. However, the school district and the city manager provided for under this charter are hereby authorized to enter into such voluntary agreements for cooperative purchasing and the maintenance of buildings as may be desirable to effect economies and promote efficiency.



## II ELECTIONS

### **§ C419:4. Wards Defined. [Amended 3-8-1977; 6-17-1992; 3-8-2005; 3-13-2012<sup>1</sup>]**

The City of Lebanon shall consist of three wards. All wards shall be composed of contiguous and compact territory, as nearly equal in population as possible, and such ward lines are to follow easily identifiable physical features such as streets, railroad tracks, surface waters or power lines.

At least as often as each recurring federal census, the City Council shall review the ward boundaries and, if necessary to comply with a Constitutional requirement to equalize populations, shall, by ordinance, make adjustments to the City's ward boundaries. A public hearing on the proposed ward boundaries shall be held not more than 30 days before adoption by the City Council, at such time and place as the City Council shall determine. Notice of the public hearing shall be published at least 10 days in advance of the hearing by the City Clerk.

Until passage of an ordinance for future realignment of the City's ward boundaries, ward lines shall remain as approved by the voters of Lebanon on March 13, 2012. Notwithstanding any changes in the ward boundaries, the City and Ward officers serving in office, or elected to office, at the time of passage of this amendment shall continue in said offices until the end of the terms for which they were elected.

The three wards shall be divided as follows:

WARD 1 shall consist of all that land in said City of Lebanon beginning at the southwest corner of the Lebanon-Plainfield line; thence easterly along said boundary to Hibbard Brook; thence northerly along said brook until its western tributary meets Poverty Lane; thence northerly along said road to the intersection of Slayton Hill Road, thence northeasterly along Slayton Hill Road to the intersection of Farnum Hill Road; thence westerly along said road until it meets Old Kings Highway; thence northwesterly along said road until it intersects with power transmission lines; thence northwesterly along said power lines until it intersects another set of power lines; thence turning ninety (90) degrees and continuing northeasterly along the latter power lines until it meets the Hanover/Lebanon boundary; thence westerly along the Lebanon-Hanover line until it meets the New Hampshire-Vermont boundary; thence southerly along said boundary to the point of beginning.

WARD 2 shall consist of all that land in said City of Lebanon north of the Lebanon-Plainfield town line beginning at the Lebanon-Enfield line at the intersection of Interstate 89; thence northwesterly along I-89 until it meets Dartmouth College Highway; thence westerly along Dartmouth College Highway until it intersects with Laplante Road; thence southerly along Laplante Road until intersects with Meriden Road (Rt 120); thence northerly along said center line until it merges with School Street; thence continuing along the center line of School Street; to the center line of Prospect Street; thence easterly along said center line to the center line of Elm Street; thence northerly along said center line to the center line of Bank Street; thence westerly along said center line to the center line of East Park Street; thence northerly along said center

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1. Editor's Note: This amendment was adopted by voters on the 3-13-2012, to become effective 5-1-2012.

line to the center line of North Park Street; thence westerly along said center line; and through the Lebanon Mall until it merges with Hanover Street; thence northerly along the center line of Hanover Street to the center line of I-89; thence continuing northerly along Hanover Street Extension to the intersection of Heater Road, thence northerly along Mt. Support Road until the intersection of Rt 120; thence northerly to the Lebanon-Hanover boundary; thence westerly along said boundary to where it meets eastern boundary of Ward 1; thence easterly along the boundary of Ward 1 to the point of beginning.

WARD 3 shall consist of all that land in said City of Lebanon north of the Lebanon-Enfield town line beginning at the center line of Interstate 89; thence northerly along said Lebanon-Enfield boundary to the Lebanon-Hanover town line; thence westerly along said line until it meets the northeast boundary of Ward 2; thence southerly along the easterly boundary of Ward 2 to the point of beginning.

(Ward lines changed by Lebanon City Council on September 15, 1982, June 17, 1992, and March 8, 2005 and March 13, 2012)

**§ C419:5. Representatives to General Court. [Amended 11-2-1971, effective 4-1-1972]**

Representatives to the general court from the city of Lebanon shall be elected at large.

**§ C419:6. City Election. [Amended 3-14-1978; 3-11-1997]**

The city election shall be held annually on the same date as may be required by statute for the annual election of Lebanon School District Officers, or, if none, on the second Tuesday of March. The polls shall be open not earlier than six o'clock in the forenoon of the day of the election nor later than eight o'clock in the evening, and shall be open not less than four hours on a schedule as the City Council shall determine at least thirty days prior to said election.

**§ C419:7. Members of the Council. [Amended 11-6-1973]**

The council consists of nine members, each with a two year term. One member shall be elected annually from each ward by the voters in the ward. One member shall be elected from the city at large in odd numbered years and two members shall be elected from the city at large in even numbered years. The term of office begins on the third Wednesday after the city election at which the member is elected, and ends two years from the date the term begins.

**§ C419:8. Ward Officials. [Amended 3-14-1978]**

Each ward shall at municipal elections choose by ballot a moderator, clerk and three supervisors of the checklist who shall hold office for two years and until their successors are elected and qualified. Said supervisors shall perform all the duties required by law of selectmen of wards in cities and of supervisors of checklists in towns, and for all purposes requiring such officers shall be considered and be the selectmen of their wards. No other selectmen shall be chosen. No person shall continue to perform as a ward official whose name appears on the ballot for an office other than that of a ward official.

**§ C419:9. Ward Checklists.**

The selectmen of the town of Lebanon shall within fourteen days from the date of adoption of this act appoint a moderator, clerk and three supervisors of the checklist and four inspectors of election for each ward, which officers shall be residents of their respective wards. Said supervisors shall act as and be selectmen of their respective wards for the purpose of calling the first ward meeting, and shall call said meeting according to law. They shall seasonably prepare checklists for their respective wards and perform all duties respecting the same required by law. The supervisors of the checklist in each ward shall fix the polling place therein and give notice thereof.

**§ C419:10. Preparation of Ballots. [Amended 3-4-1976]**

The city clerk shall prepare the ballots to be used at the municipal elections in form as nearly like the ones used in state biennial elections as the requirements of this charter permit. The ballot shall contain the names in alphabetical order without party designation of all who file with the city clerk as candidates for councilor. Such filing shall take place not before nine o'clock in the morning of the forty-second day before the election nor later than five o'clock in the afternoon of the twenty-eighth day before the election. Candidates shall pay the city clerk a fee of one dollar except those on whose behalf a petition shall have been filed by at least fifty qualified voters. No name shall be printed on the ballot by reason of such petition unless consent thereto is endorsed on the petition by the candidate himself at the time that the petition is filed. Below the list of names of candidates for councilor there shall be as many blank spaces as there are councilors to be elected. The city clerk shall have the same powers and duties with preference to municipal elections as has the secretary of state with preference to general elections so far as such powers and duties are not inconsistent herewith. In the first instance, the town clerk shall have the same duties and powers as are given under this charter to the city clerk.

**§ C419:11. Qualifications of Voters. [Amended 3-4-1976]**

Persons who would be qualified voters in a biennial election if held on the day of such municipal election shall be qualified voters therein. Municipal elections thereunder shall be deemed elections within the meaning of all general statutes, penal and otherwise, and said statutes shall apply to municipal elections so far as consistent with this chapter.

**§ C419:11a. Absentee Voting. [Amended 3-8-1977]**

Any legal voter of the city of Lebanon who is absent from the city on the day of any regular or special municipal election, or who, by reason of physical disability, is unable to vote in person at said election, may vote at said election by so-called absentee ballot. The provisions of state law, so far as applicable hereto and not inconsistent herewith, shall apply to such absentee voting in the city, provided that the city clerk shall prepare the forms and ballots for such voting and said clerk shall also prepare the required instructions.

**§ C419:12. Procedure.**

The qualified voters in each ward, at said election, shall give in to the moderator their votes which shall be received, sorted, counted and declared, and the ward clerk shall

make a true and certified copy of the record of the votes and said record, certified also by a majority of the supervisors and the moderator, shall be delivered by the ward clerk to the city clerk within twenty-four hours after the meeting.

**§ C419:13. Ballots Preservation.**

All the ballots cast at a municipal election shall be kept by the city clerk sealed for two months, and may be opened during said two months after a request for a recount by any candidate voted for at the election at which they were cast, upon order of any court or the city council.

**§ C419:14. Canvass. [Amended 3-4-1976]**

The city council shall meet on the Thursday following the election to canvass the votes. The city clerk shall lay before the council the record of votes received in each ward for each person voted for on the ballots. The council shall examine the record of votes, and it shall declare the persons having the largest number of votes to be elected as councilors and shall cause them to be notified of their election.

**§ C419:15. Recounts and Contested Elections. [Amended 3-14-1978]**

Upon request of any candidate for an elective office made within seven days after the canvass, the council shall recount the ballots cast in the election and hear and determine any contest on the ground of fraud or misconduct therein. Decisions of the council in cases of contested elections shall be final. Tie votes for any elective office shall be resolved by lot in the manner that the council may determine. In cases arising under this section the council shall have the power to subpoena witnesses and compel the production of all pertinent books, records and papers. Any amendment to the Charter which is carried or lost by 1% or less of the vote shall be subject to an automatic recount.



### III Administration

#### **§ C419:16. The Council. [Amended 3-4-1976; 3-8-1977]**

The entire administration of all fiscal, prudential and municipal affairs of the City of Lebanon shall, except as otherwise provided, be vested in a City Council of nine Councilors, elected as provided in Section 7. Vacancies occurring in the office of councilor at any time after the election of a candidate thereto, and from a failure to elect thereto, shall be filled by the remaining councilors, who, by majority vote and within thirty days, shall appoint some qualified person to fill the vacant seat until the next municipal election, at which time a councilor shall be elected to fill the unexpired term. The office of any ward council member shall be deemed vacant if he/she takes up residence in any ward other than the one from which he was elected. The city clerk shall act as clerk of council.

#### **§ C419:17. Mayor. [Amended 11-6-1973]**

Each year the council shall elect one of its members mayor at its first meeting after the terms of office of the newly elected members begin. A majority vote of all members of the council is necessary for election of the mayor. The mayor shall preside at council meetings and he or she may speak and vote at those meetings. The mayor shall be head of the city for all ceremonial purposes. The mayor and council voting as a unit, neither with a veto over the other, shall make appointments of members of the Lebanon Housing Authority and the Zoning Board of Adjustment. All other administrative duties prescribed by the general statutes shall be exercised by the manager. Nothing in this section shall be construed to take away from the manager his or her power to appoint all administrative officers listed in Section 32 of this chapter, or his or her power to appoint a member of the personnel advisory board under Section 53 of this chapter, or his or her power to appoint an administrative official of the city to the Planning Board, or his or her general power to appoint any administrative officers authorized under any ordinance. Each year the council shall elect from its members an assistant mayor who shall act as mayor during the absence or disability of the mayor, and if a vacancy occurs, shall become mayor for the completion of the unexpired term.

#### **§ C419:18. Qualifications. [Amended 3-4-1976]**

Any person may be a candidate for election as councilor provided he or she is a duly qualified voter in the city and has been a resident of the city for at least two years immediately preceding the election. No person in default to the city shall be eligible for election to the council.

#### **§ C419:19. Compensation. [Amended 3-4-1976]**

No councilor, shall, while in office, receive any pay or compensation of any sort, either as councilor or for any other personal services rendered for the benefit of the city, or be employed by the city, or any department or branch thereof, for any compensation, excepting that this provision shall not apply to compensation of call members of the fire department.

**§ C419:20. Dealings Of Council With City. [Amended 3-4-1976]**

No councilor, or other official of the city, shall sell to or buy from the city any goods or commodities while in office other than by open competitive public bid.

**§ C419:21. Meetings. [Amended 3-14-1978 and 3-10-1998]**

All meetings of the council shall be public and in compliance with the New Hampshire Right-to-Know Law, RSA Chapter 91:A. Nonpublic sessions may be held only as permitted under RSA Chapter 91:A. Regular meetings shall be held on such day of each month at such time as the council shall, from time to time, by ordinance or resolutions direct, and at such other times as are required by this charter. Special meetings may be had upon notice delivered to each councilor by the city clerk at the request of the mayor, the manager or a majority of the councilors. The council shall establish its own rules. A majority of the council shall constitute a quorum for the transaction of business.

**§ C419:22. Ordinances. [Amended 3-8-1977]**

Municipal legislation shall be by ordinance. Each ordinance shall be identified by a number and a short title. The enacting clause shall be "The City of Lebanon ordains" and the effective date of each ordinance shall be specified in it. All ordinances shall be recorded in full uniformly and permanently by the city clerk and each ordinance so recorded shall be authenticated by the signature of the mayor and the city clerk. Each ordinance shall be reviewed by the city council every five years, and revised where determined necessary. Ordinances shall be published and compiled in such manner and at such time as the council shall determine.

**§ C419:23. General Powers.**

The city council created by this act shall, except as here in otherwise provided, have all the powers and do and perform in reference to each other or otherwise, all the duties which mayors, boards of aldermen and common councils of cities and selectmen of towns are by law authorized or required to do and perform, either separately or otherwise, except insofar as such powers or duties are inconsistent with other provisions of this charter or with powers or duties specifically transferred to the manager, and all provisions of statutes pertaining to the duties or powers of aldermen or common councils, separately or otherwise, shall be construed to apply to said city council, except insofar as a contrary intention appears in this act or insofar as they may be inconsistent with other provisions of this charter or with powers or duties specifically transferred to the manager.

**§ C419:23a. Citizens Binding Initiative. [Adopted 11-2-1982, effective 1-1-1983]**

Citizens may propose a measure with an initiative petition signed by qualified voters equal in number to ten percent of the votes cast in the last gubernatorial election. When said petition is complete, as certified by the city clerk to have met the above requirements, said proposed measure, shall be submitted to the city council requesting the city council to pass proposed measure without alteration; if said proposed measure be not passed without alteration within twenty days after the date of the Clerk's certification, then such proposed measure without alteration shall be submitted by the city council to the vote of qualified voters at the next municipal election. If a majority of the qualified

voters voting on any proposed measure, and which falls within the lawful rights and powers of the city, shall vote in favor thereof, same shall thereafter go into effect on the first day of the next succeeding municipal year.

**§ C419:23b. Citizens Non-binding Initiative. [Amended 3-13-1984, effective 9:1984]**

In lieu of proposing a binding initiative, citizens may propose a non-binding measure providing they file a petition signed by qualified voters equal in number to 10 percent of the votes cast in the last gubernatorial election. If a majority of the qualified voters voting on any non-binding measure shall vote in favor thereof, then such vote shall constitute an advisory opinion to the city council. The provision of any ordinance passed by the city council dealing with binding initiative petitions shall also apply to non-binding initiative petitions.

**§ C419:24. Salaries.**

The city council of the City of Lebanon is hereby empowered to fix a scale of salaries to be paid to all officials and agents of the City of Lebanon in accordance with the provisions of Section 52 in this Charter.

**§ C419:25. Procedure To Fix Salaries. [Amended 3-14-1978]**

No ordinance of said city council relating to a scale of salaries as above set forth shall be valid until it has had three separate presentations in said council, only one presentation at any meeting of said council, and shall have received the votes of at least two-thirds of all members elected to said council upon its final passage.

**§ C419:26. Manager. [Amended 3-8-1977]**

The city council shall appoint an officer of the City of Lebanon who shall have the title of city manager and who shall have the powers and duties hereinafter provided. He shall be appointed for an indefinite term by the votes of two-thirds of the members of the council.

**§ C419:27. Qualifications. [Amended 3-8-1977]**

The manager shall be chosen solely on the basis of his executive and administrative qualifications but he need not be a resident of the city or state at the time of his appointment. During his tenure of office he shall reside within the city. No person who has within three years held elective or appointive office in the City of Lebanon shall be chosen manager.

**§ C419:28. Removal. [Amended 3-14-1978]**

The manager may be removed by a two-thirds vote of the members of the council as herein provided. At least 90 days before the proposed removal of the manager, the council shall adopt a resolution stating its intention to remove him and the reasons therefor, a copy of which shall be served forthwith on the manager who may, within ten days, demand a public hearing in which event the manager shall not be removed until such public hearing has been held. Upon or after passage of such resolution, the council

may suspend him from duty, but his pay shall continue until his removal. In case of such a suspension, the council may appoint an acting manager to serve at the pleasure of the council for not more than 90 days. If the manager chooses to leave the city's employ of his own volition, he shall notify the council at least 90 days before his planned departure. The action of the council in removing the manager shall be final.

**§ C419:29. Non-interference By The Council. [Amended 11-4-1986, effective 1-1-1987]**

Neither the council nor any of its members shall direct or request the appointment of any person to office or employment, or his removal therefrom by the manager or any of the administrative officers except that the council shall have the power to appoint and remove the board of adjustment. In addition to appointing a council representative to the planning board, the council shall, by majority vote, appoint members of the planning board upon nomination by the city manager. However, members of the council may state objections to the appointment of any person proposed by the manager as provided in Section 31 of this Charter. Neither the council nor any member thereof shall give orders to any of the administrative officers either publicly or privately. Any violation of the provisions of this section by a councilor shall be a misdemeanor, a conviction of which shall constitute immediate forfeiture of office.

**§ C419:30. Powers And Duties Of Manager. [Amended 3-14-1978]**

The city manager shall be the chief executive and administrative officer of the city government, and shall carry out the policies laid down by the city council. He shall be responsible to the city council for the proper administration of all affairs of the city, except the school department, but including the preservation of the public health, the public safety of all citizens and their property and management of all municipally owned utilities and be in responsible charge of the maintenance, care, construction or otherwise of all streets, highways, bridges, sewers, parks, playgrounds, buildings and all other municipally owned structures. He shall keep the council informed of the condition and needs of the city and shall make such reports as may be required by law, this charter or ordinance, or may be requested by the council, and such other reports and recommendations as he may deem advisable, and perform such other duties as may be prescribed by this charter, or required of him by ordinance or resolution of the council not inconsistent with this charter. He shall have and perform such other powers and duties not inconsistent with the provisions of this charter as are or here after may be conferred or imposed upon him by municipal ordinance or upon mayors of cities by general law. He shall have the right to take part in the discussion of all matters coming before the council but not the right to vote.

**§ C419:31. Power To Appoint And Remove.**

The manager shall have the power to appoint and remove, subject to the provisions of this charter, all officers and employees in the administrative service of the city; but the manager may authorize the head of a certain department or office responsible to him to appoint and remove subordinates in such department or office. It shall be the duty of the manager to furnish the council in writing with the identity of any person whom he proposes to appoint as the head of any department or office at least ten days prior to the date on which the appointment is to be made. If the council has any objection to

the person proposed by the manager for appointment, it shall certify its objections to the manager in writing within said ten day period. All appointments shall be without definite term unless for provisional, temporary or emergency service not to exceed the maximum periods which may be prescribed by the rules and regulations of the merit plan.

**§ C419:32. Certain Officers. [Amended 3-8-1977 and 11-14-1986, effective 1-1-1987]**

The manager shall appoint a city clerk, fiscal account clerk for the department of finance assessor or assessors, treasurer, tax collector, fire chief, police chief, health officer, civil defense director, and such other officers as he deems necessary to administer all departments which the council shall establish, which departments shall replace all existing departments, boards and commissions, except as herein specifically accepted. The duties of any two or more such officers may be combined in one officer except that the office of fiscal account clerk for the department of finance shall not be combined with the office of the treasurer. The powers and duties of these officers and heads of departments so appointed shall include those prescribed by state law, by this charter or by ordinance.

**§ C419:33. Administrative Departments. [Amended 3-8-1977]**

The first manager under this charter shall draft and submit to the council within six months after assuming office an ordinance dividing the administrative service of the city into departments, divisions and bureaus and defining the functions and duties of each. After the adoption of the ordinance, upon recommendation of the manager, the council by ordinance may create, consolidate, or abolish departments, divisions and bureaus of the city and define or alter their functions and duties. Such ordinance shall be known as the "Administrative Code." Each officer shall have supervision and control of his department and the employees therein and shall have power to prescribe rules and regulations, not inconsistent with general law, this charter, the administrative code and the rules and regulations of the merit plan.

**§ C419:34. Commissions.**

All commissions as constituted and existing at the time of the adoption of this charter shall continue to exist hereunder until such time as they may be consolidated or abolished pursuant to Section 33 above, but their authority as previously prescribed by law or ordinance is hereby repealed and hereafter they shall serve only in an advisory capacity to the council in matters of policy affecting their respective jurisdiction and to the manager in matters of administration relating thereto.

**§ C419:35. Purchasing Procedure.**

The administrative code shall establish purchasing and contract procedure including the assignment of all responsibility for purchases to a single person, the combination of purchasing of similar articles for different departments and purchasing by competitive bids whenever practical.

**§ C419:36. Municipal Year.**

The fiscal and budget year of the city shall begin on the first day of January unless

another date shall be fixed by ordinance.

**§ C419:37. Financial Control. [Amended 3-8-1977]**

The department of finances shall maintain accounting control over the finances of the city, make financial reports and perform such other duties as may be required by the administrative code. No bill against the city shall be approved by the city manager until the department of finance has audited and approved the same and certified that said bill was lawfully contracted, that the prices charged for all goods and materials are reasonable, that the goods or materials were actually received by the city and that it is in favor of a person legally entitled to receive payment for the same.

**§ C419:38. False Certification, Penalty. [Amended 3-8-1977]**

If the Department of Finance or any member thereof provided for under Section 37 above, shall knowingly make a false certification in any case provided for in Section 37 or approve any bill when the appropriation, as provided for in Sections 42 and 43 of this chapter, for which the same should be paid is exhausted, such false certification shall constitute a misdemeanor, and he shall be fined not exceeding two hundred dollars or imprisoned not exceeding six months or both.

**§ C419:39. Unauthorized Payment, Penalty. [Amended 3-8-1977]**

If the disbursing officer of the city shall pay out any money from the city treasury except on order of the city manager after approval by the department of finance, such unauthorized payment shall constitute a misdemeanor and he shall be fined not exceeding two hundred dollars or imprisoned not exceeding six months, or both, and shall be personally bound to refund to the city any sum so paid.

**§ C419:40. Budget Procedure. [Amended 3-14-1978]**

At such time as may be requested by the manager or specified by the administrative code, each officer or director of a department shall submit an itemized estimate of expenditures for the next fiscal year for the departments or activities under his control. The manager shall submit the proposed budget to the council no later than October 31, annually.

**§ C419:41. Budget Hearing.**

A public hearing on the budget shall be held before its final adoption by the council, at such time and place as the council shall direct, and notice of such public hearing together with a summary of the budget as submitted shall be printed in a newspaper published or circulated locally, once a week in two successive calendar weeks, the last publication being at least seven days, including the day of publication, before the public hearing.

**§ C419:42. Date Of Final Adoption. [Amended 3-14-1978]**

The budget shall be finally adopted no later than December 31, annually. Should the council take no final action on or prior to such day, the budget as submitted by the city manager shall be deemed to have been finally adopted by the council.

**§ C419:43. Appropriations After Budget Is Adopted.**

No appropriations shall be made for any purpose not included in the annual budget as adopted unless voted by two-thirds majority of the council after a public hearing held to discuss said appropriation, and notice of such public hearing shall be printed in a newspaper published or circulated locally, once a week in two successive calendar weeks, the last publication being at least seven days including the day of publication before the public hearing. The council shall by resolution designate the source of any money so appropriated.

**§ C419:44. Budget Control.**

At the beginning of each quarterly period during the fiscal year and more often if required by the council, the manager shall submit to the council data showing the relation between the estimated and actual income and expenses to date, together with outstanding indebtedness and estimated future expenses and if it shall appear that the income is less than anticipated, the council or manager may reduce the appropriation, for any item or items, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the cash income. The manager may provide for monthly or quarterly allotments of appropriations to departments, funds or agencies under such rules as he shall prescribe.

**§ C419:45. Transfer Of Appropriations. [Amended 3-14-1978]**

After the budget has been adopted, no money shall be drawn from the treasury of the city, nor shall any obligation for the expenditure of money be incurred, except pursuant to a budget appropriation unless there shall be a specific additional appropriation therefor. The head of any department with the written approval of the manager, may transfer any unencumbered balance or any portion thereof from one fund or agency within his department to another fund or agency within his department. The manager, with the approval of the council, may transfer any unencumbered appropriation balance or any portion thereof from one department to another.

**§ C419:46. Depository. [Amended 3-14-1978]**

The council shall designate the depository or depositories for the city funds. The council may provide for such security for the city deposits as it may deem necessary except that personal surety bonds shall not be deemed proper security.

**§ C419:47. Independent Audit. [Amended 3-14-1978]**

An independent audit shall be made of all accounts of the city government at least annually and more frequently if deemed necessary by the council. Such audit shall be made by certified public accountants experienced in municipal accounting or a public accountant licensed by the state of New Hampshire under RSA 309:A:8<sup>2</sup> to conduct its annual audit. An abstract of the results of such an audit shall be made public. An independent audit shall also be made by an independent auditing firm as required above to make an annual audit of all trust funds established within the city. An annual report of the city's business shall be made available.

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2. Editor's Note: Repealed. See now RSA 309:B.

**§ C419:48. Official Bonds.**

Any city officer elected or appointed by authority of this charter may be required by the council to give a bond to be approved by the city solicitor for the faithful performance of the duties of his office but the manager and all officers receiving or disbursing city funds shall be so bonded. All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the city. Such bonds shall be filed with the city clerk.

**§ C419:49. Borrowing Procedure.**

Subject to the applicable provisions of state law and the rules and regulations provided by ordinance in the administrative code, the council, by resolution, may authorize the borrowing of money for any purpose within the scope of the powers vested in the city and the issuance of bonds of the city or other evidence of indebtedness therefor, and may pledge the full faith, credit and resources of the city for the payment of the obligations created thereby. Except in the case of borrowing in anticipation of taxes, borrowing for a term exceeding one year or in an amount of twenty thousand dollars or more shall be authorized by the council only after a public hearing held to discuss such borrowing, and notice of such public hearing shall be printed in a newspaper published or circulated locally, once a week in two successive calendar weeks, the last publication being at least seven days including the day of publication before the public hearing. In no event shall the term of such bonds exceed the limitations imposed by state law.



IV  
**MERIT PLAN**

**§ C419:50. Merit Plan – Appointments.**

Appointments and promotions to all positions in the service of the city shall be made solely on the basis of merit and only after examination of the applicant's fitness so far as practicable examination shall be competitive.

**§ C419:51. Rules and Regulations. [Amended 3-8-1977]**

The first manager under this charter shall draft and submit to the council within three months after assuming office a set of rules and regulations, which shall become effective one month after its submission unless vetoed by the council within that period, providing for the establishment of a merit system personnel administration and for the implementation of such portions of that system as are prescribed by this charter. The rules and regulations shall include provisions with regard to classification, compensation, selection, training, promotion, discipline, vacations and any other matters necessary to the maintenance of efficient service and the improvement of working conditions. The rules and regulations shall continue in force subject to amendments submitted from time to time by the manager which shall become effective one month after their submission unless vetoed by the council within that period.

**§ C419:52. Compensation.**

The compensation of all officers and employees not fixed by this charter shall be fixed in the rules and regulations of the merit plan by a schedule of pay which include a minimum and maximum and such intermediate rates as may be deemed desirable for each class of position provided for in said rules and regulations and which shall be enacted in the form of an ordinance as provided for in said rules and regulations and which shall be enacted in the form of an ordinance as provided in Sections 24 and 25. In increasing or decreasing items in the city budget, the council shall not increase or decrease any individual salary item but shall act solely with respect to total salaries in the various departments of the city.

**§ C419:53. Personnel Advisory Board. [Amended 3-8-1977]**

There is hereby established a personnel advisory board of three citizens holding no other political office and appointed, one member by the manager, one by the council, and the third by these two appointees. In the first instance only, the member appointed by the manager shall serve for one year, the member appointed by the council for two years and the third member for three years, in each case beginning on the date of appointment; the term of all succeeding members shall be for three years beginning on the expiration of the term each succeeds. It shall be the duty of the personnel advisory board to study the broad problems of personnel policy and administration, to advise the council concerning the personnel policies of the city and the manager regarding the administration of the merit plan.

**§ C419:53a. The Grievance Board. [Amended 3-8-1977]**

There is also hereby established the Grievance Board of the City of Lebanon whose duty

shall be to hear appeals of any employees aggrieved as to their status or condition of their employment. The Grievance Board shall consist of three members: one member shall be appointed by the city council, one member shall be appointed by the employee association, group or union from which the aggrieved employee may come, and the third member shall be appointed by the first two appointees. The member appointed by the city council shall serve for a two year term. The other two members will be appointed at the time of a request for a specific grievance hearing. In case of an unavailability to serve by any member during any grievance procedure, a replacement will be chosen for the term of that procedure in the same manner as the original holder of the appointment.

**§ C419:54. Certification Of Compensation.**

No compensation shall be paid without Certification by the manager, or such officer as he may direct, that the recipients are employed by the city and that their rates of compensation comply with the pay schedule provided for in Section 52. If such officer approves payments not in conformity therewith, he and his surety shall be liable for the amount of such payments.

**§ C419:55. Taxpayers Remedy.**

A taxpayer may maintain a civil action to restrain payment of compensation to persons unlawfully appointed or employed or to recover for the city any sums paid contrary to the provisions of this charter.

V  
**SPECIAL ASSESSMENTS**

**§ C419:57. Special Assessments – Council Resolutions.**

The council shall have power to determine that the whole or any part of the expense of any public improvement shall be defrayed by special assessments upon the property especially benefited and shall so declare by resolution. Such resolution shall state the estimated cost of the improvement, what proportion of the cost thereof shall be paid by special assessments, and what part, if any, shall be a general obligation of the city, the number of installments in which special assessments may be paid, and shall designate the districts or land and premises upon which special assessments shall be levied.

**§ C419:58. Procedure Fixed By Ordinance.**

The council shall prescribe by general ordinance complete special assessment procedure concerning plans and the specifications, estimate of costs, notice and hearing, the making of the special assessment roll and correction of errors, the collection of special assessments, and any other matters concerning the making of improvements by the special assessment method.



VI  
**MISCELLANEOUS PROVISIONS**

**§ C419:59. Oath Of Office. [Amended 3-14-1978]**

Every person elected or appointed to any city office or city board, before entering upon the duties of his office shall take and subscribe to an oath of office as provided by law which shall be filed and kept in the office of the city clerk.

**§ C419:60. Notice Of Election Or Appointment.**

Written notice of election or by appointment of any city officer shall be mailed to him at his address by the city clerk within forty-eight hours after the appointment is made or the vote canvassed. If within ten days from the date of the notice, such officer has not filed with the city clerk a written notice of acceptance of such election or appointment and shall not take, subscribe to, and file with the city clerk an oath of office, such neglect shall be deemed a refusal to serve and the office shall thereupon be deemed vacant, unless the council shall extend the time in which such officer may qualify.

**§ C419:61. Vacancy Defined.**

In addition to other provisions of this charter, a vacancy shall be deemed to exist in any office when an officer dies, resigns, is removed from office, is convicted of a felony, is physically incapacitated, or is judicially declared to be mentally incompetent.

**§ C419:62. Disqualification of Councilor, Board Member or Employee. [Amended 3-18-1988, effective 1-1-1989]**

A person who has, or within twelve months preceding had, a direct personal and pecuniary interest in a matter pending before the Council, any Board or department of the City shall be disqualified from participation, voting or acting on such matter, as a councilor, board member, or employee. Such person must at all times physically remove himself/herself from any and all consideration of that matter. Any person who is disqualified as provided herein and demands to participate, vote or act on such matter may be removed only by order of the Superior Court on petition by any person.

**§ C419:63. Private Use Of Public Property.**

No officer or employee shall devote any city property or labor to private use except as may be provided by law or ordinance.

**§ C419:64. Use Of Streets By Public Utilities.**

Every public utility shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges, and public places as shall arise from its use thereof, and shall protect and save the city harmless from all damages arising from said use.

**§ C419:65. Liability For Discharge.**

The removal in accordance with this charter with or without cause of a person elected or appointed or otherwise chosen for a fixed term shall give no right of action for breach of

contract, or otherwise.

**§ C419:67. Public Records. [Amended 3-10-1998]**

All books of account, in relation to the receipt holding or disbursement of money of the city kept by any official of the city, shall be paid for by the city, shall remain the property of the city, and shall be turned over to the city clerk whenever the keeper of the books of account retires from the office. All books pertaining to city affairs kept by the city manager, city clerk, or any other elective or appointive officer of the city shall be kept in the city buildings in their proper places and shall not be removed therefrom without an order of court or a vote of the city council first had and obtained. All books and accounts of any official of the city and all records of the city council and any committee thereof shall at all times in business hours be open to the inspection of any citizen of the city, except that the council may vote to withhold minutes of proceedings of a nonpublic session only in accordance with the New Hampshire Right-to Know Law, RSA Chapter 91-A.

**§ C419:68. Trust Funds.**

Trust funds of the City of Lebanon, except where otherwise provided by the instrument creating such trust, shall continue to be kept separate and apart from all other funds and shall remain in the hands of the trustees of trust funds, one of whom shall be appointed by the mayor each year for a term of three years. Said trustees shall invest such funds in securities legal for investment by savings banks of this state.

**§ C419:69. Saving Clause.**

All special legislation pertaining to water precincts, fire precincts and fire districts shall be hereby repealed, including the following acts of the general court: 1943, Chapter 298; 1941 Chapter 306; 1907, Chapters 191 and 247; 1887, Chapter 223; 1873, Volume 65, Page 155; 1868, Volume 60, Page 95. All ordinances and by-laws of the town of Lebanon pertaining to fire or water districts shall be repealed. All special legislation now in force relating to sewers, registration and elections, borrowing money, issuing bonds or refunding same, is hereby continued in force insofar as it is not inconsistent with the provisions of this charter, the powers thereby given to the town of Lebanon or any board or commission thereof being vested in the City of Lebanon, subject, however, to all the provisions of this charter. All special legislation relative to the government of cities shall remain in force in the city so far as the same can be applied consistently with the interests and purposes of this charter, but shall be deemed superseded as to this city so far as inconsistent herewith.

**§ C419:70. Saving Clause Municipal Legislation.**

All ordinances and by-laws of the town of Lebanon or its selectmen shall continue in force until altered or repealed, except where a contrary intent herein appears.

**§ C419:73. Repeal Or Amendment.**

No section or provision of this charter may be repealed or amended unless the act making such repeal or amendment refers specifically to this charter and to the sections or provisions so repealed.

**§ C419:73a. Violations. [Adopted 11-7-1967]**

Any person who violates any provision of this charter, unless otherwise provided, shall be fined not exceeding five hundred dollars or imprisoned not exceeding ninety days, or both. The council may provide in any city ordinance that any person who violates that ordinance shall be fined not exceeding five hundred dollars or imprisoned not exceeding ninety days, or both.

**§ C419:74. Separability Clause.**

The sections of this charter and the parts thereof to any person or circumstance, shall be held invalid, the remainder thereof or the application of such invalid portions to other persons or circumstances shall not be affected thereby.

Adopted: July 17, 1957

Amended:

November 7, 1967

December 3, 1968

November 2, 1971

November 6, 1973

March 4, 1976

March 8, 1977

March 14, 1978

March 10, 1981

November 2, 1982

March 13, 1984

November 4, 1986

March 8, 1988

June 17, 1992

March 11, 1997

March 10, 1998

March 8, 2005

March 13, 2012

