

OFFICE OF THE CITY CLERK

MEMORANDUM

DATE: October 16, 2019

TO: The Honorable Mayor & City Council

FROM: Sandra L. Allard, City Clerk

RE: **Citizens' Initiative Petition**

On Tuesday, October 15th the City received a Citizens' Initiative Petition from Kathleen Beckett, serving as Chair of the Petitioner's Committee. The Petition includes the application for the Petitioner's Committee, the affidavit of qualifications, sample question and explanation which proposes to become the subject of the initiative petition. The City Manager forwarded a copy of this petition to you on October 16th. This memo is to outline the process for Citizens' Initiative Petitions per City Charter Section C419:23a-b and City Code, Chapter 89, Initiative Petitions (copies of these sections are attached).

- Within two working days of receipt of the above City Clerks submits sample question and explanation to the Attorney for the city for review and comment with regard to whether or not the sample question and explanation are sufficiently clear and are in the appropriate form.
- Legal review shall be in writing and delivered to the City Clerk within ten working days.
- Within two working days thereafter, the Clerk shall provide a copy of the legal comments to the Petitioners' Committee.
- The Petitioners' Committee will have the option of accepting or declining the recommendations and suggestions of the Attorney for the city but must indicate in writing to the City Clerk its decision within two working days.
- After the filing of the question, the substantive language of the question will not be changed except upon a petition for a new Petitioners' Committee being filed. Minor textual changes can be made by the City Clerk as required to clarify the question, provided that the Petitioners' Committee first has an opportunity to review and accept proposed textual changes.
- City Clerk then prepares and delivers Petition Forms for Committee within five working days of the date on which the Clerk receives written notification from the Petitioners'

Committee as to whether it has accepted or declined the written recommendations of the Attorney for the city.

- All petition forms must be filed with the City Clerk no later than December 21, 2019.
- Within five working days after the filing of the petitions by the Petitioners' Committee the City Clerk shall certify or refuse to certify in writing that the requisite number of signatures necessary to comply have been obtained.
- The City clerk shall deliver a copy of the certificate or the refusal to certify to the Petitioners' Committee. If refused, the appeal process is outlined in City Code, Chapter 89-10.
- If the City Clerk determines that the requisite number of signatures has been obtain on a petition, the petition is then placed on a City Council agenda within 14 days of that determination.
- Within 20 days from the date of receipt of the City Clerk's certification at such Council meeting, the City Council shall schedule and hold a public hearing, with seven days' notice, and shall decide whether or not to pass the initiative without alteration.
- If the City Council decides not to pass the initiative or decides to pass the initiative but with substantive alterations, or takes no action whatsoever, then the City Council shall cause the original certified initiative petition question and the brief explanation or synopsis to be placed on the ballot at the next municipal election.
- If a majority of the qualified voters voting on any proposed question shall vote in favor thereof, the amendment by initiative shall become effective on the first day of the succeeding municipal year.

**PETITION TO CONSTITUTE A PETITIONERS' COMMITTEE FOR THE PURPOSE OF FILING A
PETITION PERSUANT TO CITY CODE, CHAPTER 89, INITIATIVE PETITIONS AND
CITY CHARTER SECTIONS 419:23a OR 419:23b.**

The undersigned petition to the Lebanon City Clerk for permission to act as a Petitioners' Committee for the purpose of circulating a petition and obtaining the necessary signatures to file an initiative petition under (check one):

RECEIVED

City Charter Section 419:23a (Binding)

OCT 15 2019

City Charter Section 419:23b (Non-Binding)

CITY CLERK'S OFFICE

An affidavit is attached to this petition together with a copy of the sample petition and these items are incorporated into this petition by reference.

Judith R. Bush Judith R. Bush 10/15/19
Name Signature Date
14 Mack Avenue West Lebanon NH 03784
Address

LINDSAY DEARBORN Lindsay Dearborn 10-15-19
Name Signature Date
503 Poverty Lane, Lebanon NH 03766
Address

Christina Haidari Christina Haidari 10-15-19
Name Signature Date
22 Blueberry Hill Lebanon NH
Address

Susan K Johnson Susan K Johnson 10-15-19
Name Signature Date
20 Perley Ave Lebanon NH
Address

BALLOT QUESTION

Shall the City Council of Lebanon enact a Welcoming Lebanon Ordinance, working with community members whose lives are most directly impacted by immigration policy and enforcement actions, in order to protect civil liberties, promote tolerance, and provide equal protection under the law to all persons in the City regardless of race, ethnicity, language, religion, citizenship or immigration status as follows:

No person in the City of Lebanon shall be profiled, targeted, detained, or questioned based on race, ethnicity, language, religion, or immigration status.

No person in the City of Lebanon shall be questioned by an Agent or Agency of the City regarding citizenship or immigration status.

No person's Citizenship or immigration status shall be disclosed by any City of Lebanon Agent or Agency.

No Agent or Agency shall condition the provision of City of Lebanon benefits, opportunities, or services on matters related to citizenship or immigration status unless required to do so by statute, federal regulation, or court decision.

No Agent or Agency of the City of Lebanon, including Law Enforcement, shall aid or participate in Civil Immigration enforcement actions.

Any Agent or Agency aware of a Federal immigration authority's presence in the City shall act to inform residents of the city of that presence as quickly as possible through any channels available to the City.

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CITY CLERK'S OFFICE

To: Lebanon's City Attorney
October 15, 2019

The Petitioners' Committee For the Purpose of Filing a Petition Pursuant to City Code 89, Initiative Petitions is submitting two petitions for your review. The preferred petition asks the voters to decide if the City Council shall enact a specific ordinance.

BALLOT QUESTION

Shall the City Council of Lebanon enact the following Welcoming Lebanon Ordinance in order to protect civil liberties, promote tolerance, and provide equal protection under the law to all persons in the City regardless of race, ethnicity, language, religion, citizenship or immigration status?

The request that voters vote for a specific ordinance appears to make sense given 89:12.

89:12 Action By Voters

If the majority of qualified voters voting on any proposed question shall vote in favor thereof, the amendment by initiative shall become effective on the first day of the succeeding municipal year.

and City Charter Sections 419:23a

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, the same shall thereafter go into effect on the first day of the next succeeding municipal year.

However, it has been recommended that our ballot question and explanation should be in the form of a request that voters approve the City Council enacting an ordinance.

For this reason, we are submitting a second Ballot Question and Explanation

"Shall the City Council of Lebanon enact a Welcoming Lebanon Ordinance, working with community members whose lives are most directly impacted by immigration policy and enforcement actions, in order to protect civil liberties, promote tolerance, and provide equal protection under the law to all persons in the City regardless of race, ethnicity, language, religion, citizenship or immigration status..."

Respectfully Submitted,



Kathleen Beckett, Chair
Petitioners' Committee

BALLOT QUESTION

Shall the City Council of Lebanon enact the following Welcoming Lebanon Ordinance in order to protect civil liberties, promote tolerance, and provide equal protection under the law to all persons in the City regardless of race, ethnicity, language, religion, citizenship or immigration status?

ORDINANCE

Purpose and intent

The purpose of this Ordinance is to establish the City's procedures concerning immigration status and enforcement of federal civil immigration laws. This Ordinance builds on the City of Lebanon's "Resolution for Inclusiveness" proclaimed by the City Council on June 20, 2018.

The cooperation of all persons, citizens and non-citizens, regardless of immigration status, is essential to achieve the City of Lebanon's goals of protecting life and property, preventing crime and resolving problems. Assistance from a person, whether documented or not, who is a victim of, or a witness to, a crime is important to promoting the safety of all its residents.

Due to the City's limited resources; the complexity of immigration laws; the clear need to foster the trust of and cooperation from the public, including members of the immigrant communities; and to effectuate the City's goals, we find that there is a need to articulate guidelines regarding the communications and enforcement relationship between the City and the federal government.

Provisions:

1. No person in the City of Lebanon shall be profiled, targeted, detained, or questioned based on race, ethnicity, language, religion, or immigration status.
2. No person in the City of Lebanon shall be questioned by an Agent or Agency of the City regarding citizenship or immigration status.
3. No person's citizenship or immigration status shall be disclosed by any City of Lebanon Agent or Agency.
4. No Agent or Agency shall condition the provision of City of Lebanon benefits, opportunities, or services on matters related to citizenship or immigration status unless required to do so by statute, federal regulation, or court decision.
5. No Agent or Agency of the City of Lebanon, including Law Enforcement, shall aid or participate in Civil Immigration enforcement actions.
6. Any Agent or Agency aware of a Federal immigration authority's presence in the City shall act to inform residents of the city of that presence through any channels available to the City.

Further explanation of the above Provisions:

1. No Law Enforcement Agent, or other Agent or Agency of the City of Lebanon, or any informants or volunteers assisting their efforts shall profile, target, detain, collect or retain information, or question any person on the basis of race, ethnicity, language, religion, citizenship or immigration status.
2. No Agent or Agency of the City of Lebanon shall request information about or otherwise investigate or assist in the investigation of the citizenship or immigration status of any person in the City of Lebanon. Notwithstanding this provision, the City Council may investigate and inquire about immigration status when relevant to potential or actual litigation or an administrative proceeding in which the City is or may be a party.

3. No Agent or Agency shall disclose information regarding the Citizenship or immigration status of any person unless required to do so by legal process or such disclosure has been authorized in writing by the individual to whom such information pertains, or if such individual is a minor or is otherwise not legally competent, by the individual's parent or guardian. This section shall not apply when such information sharing is necessary to an ongoing investigation of a felony, for which there is probable cause, and the investigation is unrelated to the enforcement of federal civil immigration law.
4. Where presentation of a New Hampshire driver's license or identification card is accepted as adequate evidence of identity, presentation of a photo identity document issued by the person's nation of origin, such as a driver's license, passport, or matricula consular (consulate-issued document), shall be accepted and shall not subject the person to a higher level of scrutiny or different treatment than if the person had provided a New Hampshire driver's license or identification card, except that this subsection shall not apply to the completion of the federally mandated I-9 forms.
5. An Agent or Agency is authorized to communicate with Federal immigration authorities in order to determine whether any matter involves enforcement based solely on a violation of a civil immigration law. No Agent or Agency shall
 - a. arrest, detain, or continue to detain a person based solely on suspected or actual civil immigration violation.
 - b. arrest, detain, or continue to detain a person on an Administrative warrant or upon an Immigration detainer based solely on a violation of immigration law.
 - c. accept requests by Federal immigration authorities to support or assist in operations that are for civil immigration enforcement.
 - d. permit Federal immigration authorities access to a person being detained by, or in the custody of, the Agent or Agency.
 - e. permit Federal immigration authorities use of agency facilities for investigative interviews or other investigative purpose.
 - f. respond to Federal immigration authorities' inquiries or share information about an individual with Federal immigration authorities. Such information includes but is not limited to the individual's custody status, release date/time, court dates, whereabouts, residence, employment, identification numbers, appearance, telephone number, and familial relations. For the purpose of aiding an individual who may qualify for a U, S, or T Visa, information may be shared if such disclosure has been authorized in writing by the individual to whom such information pertains.
6. If any Agent or Agency becomes aware of a Federal immigration authority's presence in the City for the purposes of questioning, detaining or gathering immigration status information from any person or persons, or other enforcement action, the Agent or Agency shall immediately act to inform residents of the city of that presence through any reasonable means and channels available to the City, such as LebAlert and other media.

Severability

If any provision, clause, section, part, or application of this chapter to any person or circumstance is declared invalid by any court of competent jurisdiction, such invalidity shall not affect, impair, or invalidate the remainder hereof or its application to any other person or circumstance. It is hereby declared that the legislative intent of the City Council that this Ordinance would have been adopted had such invalid provision, clause, section, part or application not been included herein.



Notice to Voters City of Lebanon, NH

The following instructions for placing questions (non-binding and binding) on the municipal ballot are hereby established by the City Clerk in reference to City Charter Chapters 419:23a, 419:23b and City Code, Chapter 89.

1. Prior to filing any initiative petition, an application must be filed by at least five citizens who are registered voters in the city requesting that they constitute a Petitioners' Committee. Affidavits must be signed by all Petitioners' Committee members certifying that:
 - a. They are registered voters.
 - b. They understand and agree to abide by the City Clerk's instructions.
 - c. They will collect signature of registered voters only, which will include addresses and ward numbers.
 - d. They will account for all petitions, signed and unsigned, lost or misplaced, to the City Clerk by December 21, 2019.
2. Before accepting a Petitioners' Committee application, the Committee shall submit a sample question to the City Clerk which it proposes to become the subject of the initiative procedure. Each petition shall be limited to a single subject.
3. Numbered petition forms will be provided to the Committee within five working days of the date on which the Clerk receives written notification from the Petitioners' Committee as to whether it has accepted or declined the written recommendations of the Attorney for the city.
4. Petitioners' Committee may appoint additional people to circulate petitions, provided names and addresses are furnished to the City Clerk. A letter of authority shall then be issued by the City Clerk.
5. All Petition forms (signed and unsigned) shall be filed with the City Clerk by December 21, 2019 (prior to the municipal election at which the question will appear on the ballot). Within 5 working days of receiving the petition forms, the City Clerk shall certify or refuse to certify that the requisite number of signatures of voters necessary to

comply with Charter provisions (10% of the votes cast in the last gubernatorial election) have been obtained.

6. The City Clerk shall deliver a copy of the certificate or the refusal to certify to the Petitioners' Committee within the five-working day period.
7. Upon the issuance of a certificate of compliance, the City Clerk shall submit the petition to the City Council within 14 days.
8. Within 20 days of receipt, the City Council shall schedule and hold a public hearing and shall decide whether or not to pass the initiative without alteration.

*City of Lebanon, NH
Wednesday, October 16, 2019*

Chapter 89. Initiative Petitions

[HISTORY: Adopted by the City Council of the City of Lebanon 11-28-1990 by Ord. No. 48; effective 12-21-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Enactment of ordinances — See Ch. 115.

§ 89-1. Purpose.

The purpose of this chapter is to enact procedures to be followed when citizens file initiative petitions pursuant to § C419:23(a), Citizens Binding Initiative, and § C419:23(b), Citizens Nonbinding Initiative, of the City Charter. This chapter shall not apply to the amendment or revision of the City Charter, which shall be done in compliance with the provisions of RSA Chapter 49-B (Home Rule Municipal Charters).

§ 89-2. Authority for regulations.

These regulations are adopted pursuant to the authority vested in City Councils under the police power and under the provisions set forth in RSA 44:3, which permit the City Council to administer the prudential and municipal affairs of the city.

§ 89-3. Application for Petitioners' Committee.

Prior to filing any initiative petition, an application must be filed by at least five citizens who are registered voters in the city requesting that they constitute a Petitioners' Committee.

- A. No less than five citizens may serve on the Petitioners' Committee, but more than five may serve upon request.
- B. Members of the Petitioners' Committee shall sign an affidavit certifying that they are qualified voters in the City of Lebanon, that they have read and understand the instructions furnished by the City Clerk for circulating initiative petitions and agree to abide by these instructions, and that they will circulate and obtain signatures on the petitions of only registered voters within the city. In addition, the affidavit shall include the name and address of the Chairperson of the Petitioners' Committee to whom all notices to the Committee shall be sent.
- C. Applications requesting the establishment of a Petitioners' Committee for the purpose of filing an initiative petition may be filed only between September 1 and October 31 of any year for the municipal election to be held on the second Tuesday of March of the following year.

§ 89-4. Filing of sample question and explanation.

In addition to the application and affidavit, before a Petitioners' Committee application can be accepted, the Committee must file with the City Clerk a sample question which it proposes to become the subject of the initiative procedure.

- A. Explanation of question. The sample question shall include a brief statement of explanation as to what is the effect of the question. The brief statement explanation or a synopsis thereof shall appear along with the question on the ballot.
- B. Legal review. The City Clerk shall within two working days of receiving the sample question and explanation submit both to the Attorney for the city for review and comment with regard to whether or not the sample question and explanation are sufficiently clear and are in the appropriate form.
 - (1) The legal review shall be in writing and delivered to the Clerk within 10 working days.
 - (2) The Clerk shall within two working days thereafter provide a copy of the legal comments to the Petitioners' Committee.
 - (3) The Petitioners' Committee will have the option of accepting or declining the recommendations and suggestions of the Attorney for the city, but must indicate in writing to the Clerk its decision within two working days.
- C. Minor textual changes. After the filing of the question, the substantive language of the question will not be changed except upon a petition for a new Petitioners' Committee being filed. Notwithstanding, the City Clerk may make such minor textual changes to the question as may be required to clarify the question, provided that the Petitioners' Committee first has an opportunity to review and accept the proposed textual change.

§ 89-5. Preparation and delivery of petition forms.

The petition forms shall be prepared by the City Clerk and returned to the Petitioners' Committee within five working days of the date on which the Clerk receives written notification from the Petitioners' Committee as to whether it has accepted or declined the written recommendations of the Attorney for the city. The petitions shall bear a number in the upper right-hand section. Each petition given out shall be numbered consecutively. Each member of the Petitioners' Committee shall be responsible for the numbered petitions which they are given. All persons signing the petition shall give their address and ward. Failure to provide this information may result in a signature on the petition being disqualified.

§ 89-6. Additional persons circulating petitions.

- A. The Petitioners' Committee may appoint additional individuals who are registered voters of the city to circulate a petition, provided that the names of these individuals and their addresses are furnished to the City Clerk prior to their circulating a petition.
- B. When the names and addresses of these individual circulators are given to the City Clerk, the City Clerk shall within seven working days verify that the individuals are registered voters of the city and issue a letter of authority indicating that the additional individuals may circulate and obtain names on the initiative petition.

§ 89-7. Deadline for filing petitions with City Clerk.

All initiative petitions, including those not used, shall be filed with the City Clerk not later than December 21 of any year for a question which is to appear on the ballot at the annual municipal election held on the second Tuesday of March of the following year.

§ 89-8. City Clerk's certification or refusal to certify.

- A. Within five working days after the filing of the petitions by the Petitioners' Committee, the City Clerk shall certify or refuse to certify in writing that the requisite number of signatures of voters necessary to comply with the provisions of §§ C419:23(a) and C419:23(b) of the City Charter have been obtained.
- B. The Clerk shall deliver a copy of the certificate or the refusal to certify to the Petitioners' Committee within the five-working-day period.

§ 89-9. Appeal procedure if Clerk refuses to certify petition.

- A. If the City Clerk refuses to certify the petition, the Petitioners' Committee or any member of the Petitioners' Committee may appeal the City Clerk's ruling to the City Council within two working days of the receipt of the written refusal to certify.
- B. Within 14 days after an appeal is filed with the City Council by the Petitioners' Committee, the City Council shall hold a public hearing, with seven days notice by publication, on such appeal and shall decide whether or not to certify the petition.
- C. All parties shall be given an opportunity to present evidence to the City Council at the hearing.
- D. The City Council's decision on this issue shall be final, and there shall be no further appeal available to the objecting party, except as may be permitted by law.

§ 89-10. Certification of petition by Clerk; placement on Council meeting agenda; public hearing.

- A. If the City Clerk determines that the requisite number of signatures has been obtained on a petition, the City Clerk shall cause the initiative petition to be placed on the agenda for a City Council meeting to be held within 14 days of that determination.
- B. At the City Council meeting referred to in Subsection **A** above, the City Clerk shall deliver the certification to the Council that all requirements of this chapter and of the Charter have been met. Within 20 days from the date of receipt of the City Clerk's certification at such Council meeting, the City Council shall schedule and hold a public hearing, with seven days' notice, and shall decide whether or not to pass the initiative without alteration.
- C. If the City Council certifies a petition after an appeal as provided for under § **89-9**, the petition shall be considered to have been presented to the Council at that Council meeting as complete and the twenty-day period described in Subsection **B** above shall run from that Council meeting.

§ 89-11. Action by City Council to place initiative on the ballot.

If the City Council decides not to pass the initiative, or decides to pass the initiative but with substantive alterations, or takes no action whatsoever, then the City Council shall cause the original certified initiative petition question and the brief explanation or synopsis to be placed on the ballot at the next municipal election.

§ 89-12. Action by voters.

If a majority of the qualified voters voting on any proposed question shall vote in favor thereof, the amendment by initiative shall become effective on the first day of the succeeding municipal year.

§ 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.