City of Sherwood Oregon

Home of the Tualatin River National Wildlife Refuge

City Charter Review Committee

(Established Resolution 2013-055)

City of Sherwood Oregon

Home of the Tualatin River National Wildlife Refuge

AGENDA

Charter Review Committee
December 5, 2013

6:30 pm Meeting

Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140

MEETING PREPARATION

1. **Introductions (City Manager Joseph Gall)**
2. **Review resolution and process to form committee (City Manager Gall)**
3. **Review of meeting packet materials (City Manager Gall)**
4. **Review meeting calendar and referral process and timelines (City Recorder Sylvia Murphy)**
5. **Review of City Council Priorities (Council President Linda Henderson)**
6. **Selection of Chair (City Manager Gall)**

REGULAR MEETING

1. **Call to order (Chair)**
2. **Roll call (Chair/Staff)**
3. **Ratify selection of Chair (Chair/Staff)**
4. **Selection of Vice-chair (Chair)**
5. *** Discussion on process that committee wants to consider utilizing in reviewing charter (Chair)**
6. *** Discussion on what committee will need from staff (Chair)**
7. *** Decision on upcoming meeting schedule (all)**
8. **Adjourn**

Notes: Names in parentheses () indicate person leading the agenda item
* Items marked with an asterisks are suggested agenda items.

PREAMBLE

We, the voters of Sherwood, Oregon exercise our power to the fullest extent possible under the Oregon Constitution and laws of the state, and enact this Home Rule Charter.

Chapter I

NAMES AND BOUNDARIES

Section 1. Title. This charter may be referred to as the 2005 Sherwood City Charter.

Section 2. Name. The City of Sherwood, Oregon, continues as a municipal corporation with the name City of Sherwood.

Section 3. Boundaries. The city includes all territory within its boundaries as they now exist or are legally modified. Unless required by state law, annexations may only take effect with the approval of city voters. The city recorder will maintain as a public record an accurate and current description of the boundaries.

Chapter II

POWERS

Section 4. Powers. The city has all powers that the constitutions, statutes and common law of the United States and Oregon expressly or impliedly grant or allow the city, as fully as though this charter specifically stated each of those powers.

Section 5. Construction. The charter will be liberally construed so that the city may exercise fully all powers possible under this charter and under United States and Oregon law.

Section 6. Distribution. The Oregon Constitution reserves initiative and referendum powers as to all municipal legislation to city voters. This charter vests all other city powers in the council except as the charter otherwise provides. The council has legislative, administrative and quasi-judicial authority. The council exercises legislative authority by ordinance, administrative authority by resolution, and quasi-judicial authority by order. The council may not delegate its authority to adopt ordinances. The council appoints members of commissions, board and committees established by ordinance or resolution.

Chapter III

COUNCIL

Section 7. Council. The council consists of a mayor and six councilors nominated and elected from the city by position

Section 8. Mayor. The mayor presides over and facilitates council meetings, preserves order, enforces council rules, and determines the order of business under council rules. The mayor is a voting member of the council. The mayor must sign all records of council decisions. The mayor serves as the political head of the city government.

Section 9. Council President. At its first meeting each year, the council must elect a president from its membership. The president presides in the absence of the mayor and acts as mayor when the mayor is unable to perform duties.

Section 10. Rules. The council must by resolution adopt rules to govern its meetings.

Section 11. Meetings. The council must meet at least once a month at a time and place designated by its rules, and may meet at other times in accordance with council rules.

Section 12. Quorum. A majority of the council members is a quorum to conduct business, but a smaller number may meet and compel attendance of absent members as prescribed by council rules.

Section 13. Vote Required. The express approval of a majority of a quorum of the council is necessary for any council decision, except when this charter requires approval by a majority of the council.

Section 14. Record. A record of council meetings must be kept in a manner prescribed by the council rules.

Chapter IV

LEGISLATIVE AUTHORITY

Section 15. Ordinances. The council will exercise its legislative authority by adopting ordinances. The enacting clause for all ordinances must state "The City of Sherwood ordains as follows:"

Section 16. Ordinance Adoption.

(a) Adoption of an ordinance requires approval by a majority of the council at one meeting provided the proposed ordinance is available in writing to the public at least one week before the meeting.

(b) Any substantive amendment to a proposed ordinance must be read aloud or made available in writing to the public before the council adopts the ordinance at that meeting.

(c) After the adoption of an ordinance, the vote of each member must be entered into the council minutes.

(d) After adoption of an ordinance, the city recorder must endorse it with the date of adoption and the recorder's name and title. The city recorder must submit the ordinance to the mayor for approval. If the mayor approves the ordinance, the mayor must sign and date it.

(e) If the mayor vetoes the ordinance, the mayor must return it to the city recorder with written reasons for his veto within 10 days of receipt of the ordinance. If the ordinance is not so returned, it takes effect as if approved.

(f) At the first council meeting after veto by the mayor, the council will consider the reasons of the mayor and again vote on the ordinance. If four councilors vote to adopt the ordinance, it will take effect.

Section 17. Effective Date of Ordinances. Ordinances normally take effect on the 30th day after adoption and approval by the mayor, or adoption after veto by the mayor, or on a later day provided in the ordinance. An ordinance adopted by all councilors may take effect as soon as adopted, or other date less than 30 days after adoption if it contains an emergency clause, and is not subject to veto by the mayor.

Chapter V

ADMINISTRATIVE AUTHORITY

Section 18. Resolutions. The council will normally exercise its administrative authority by approving resolutions. The approving clause for resolutions may state "The City of Sherwood resolves as follows:"

Section 19. Resolution Approval.

(a) Approval of a resolution or any other council administrative decision requires approval by the council at one meeting.

(b) Any substantive amendment to a resolution must be read aloud or made available in writing to the public before the council adopts the resolution at a meeting.

(c) After approval of a resolution or other administrative decision, the vote of each member must be entered into the council minutes.

(d) After approval of a resolution, the city recorder must endorse it with the date of approval and the recorder's name and title.

Section 20. Effective Date of Resolutions. Resolutions and other administrative decisions take effect on the date of approval, or on a later day provided in the resolutions.

Chapter VI

QUASI-JUDICIAL AUTHORITY

Section 21. Orders. The council will normally exercise its quasi-judicial authority by approving orders. The approving clause for orders may state "The City of Sherwood orders as follows:"

Section 22. Order Approval.

(a) Approval of an order or any other council quasi-judicial decision requires approval by the council at one meeting.

(b) Any substantive amendment to an order must be read aloud or made available in writing to the public at the meeting before the council adopts the order.

(c) After approval of an order or other council quasi-judicial decision, the vote of each member must be entered in the council minutes.

(d) After approval of an order, the city recorder must endorse it with the date of approval and the recorder's name and title.

Section 23. Effective Date of Orders. Orders and other quasi-judicial decisions take effect on the date of final approval, or on a later day provided in the order.

Chapter VII

ELECTIONS

Section 24. Councilors. At each general election after the adoption, three councilors will be elected for four-year terms by position. The terms of councilors in office when this charter is adopted are the terms for which they were elected.

Section 25. Mayor. At every other general election after the adoption, a mayor will be elected for a two-year term. The mayor in office when this charter is adopted is the term for which the mayor was elected.

Section 26. State Law. City elections must conform to state law except as this charter or ordinances provide otherwise. All elections for city offices must be nonpartisan.

Section 27. Qualifications.

(a) The mayor and each councilor must be a qualified elector under state law, and reside within the city for at least one year immediately before election or appointment to office.

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

(c) Neither the mayor, nor a councilor may be employed by the city.

(d) The council is the final judge of the election and qualifications of its members.

Section 28. Nominations. The council must adopt an ordinance prescribing the manner for a person to be nominated to run for mayor or a city councilor position.

Section 29. Terms. The term of an officer elected at a general election begins at the first council meeting of the year immediately after the election, and continues until the successor qualifies and assumes the office.

Section 30. Oath. The mayor and each councilor must swear or affirm to faithfully perform the duties of the office and support the constitutions and laws of the United States and Oregon.

Section 31. Vacancies. The mayor or a council office becomes vacant:

(a) Upon the incumbent's:
- (1) Death,
- (2) Adjudicated incompetence, or
- (3) Recall from the office.

(b) Upon declaration by the council after the incumbent's:
- (1) Failure to qualify for the office within 10 days of the time the term of office is to begin,
- (2) Absence from the city for 45 days without council consent, or from three consecutive regular council meetings,
- (3) Ceasing to reside in the city,
- (4) Ceasing to be a qualified elector under state law,
- (5) Conviction of a public offense punishable by loss of liberty,
- (6) Resignation from the office, or
- (7) Removal under Section 33(i).

Section 32. Filling Vacancies. A mayor or councilor vacancy will be filled by an election if 13 months or more remain in the office term. The election will be held at the next available election date to fill the vacancy for the remainder of the term. A mayor or councilor vacancy may be filled by appointment by a majority of the remaining council members. The appointee's term of office runs from appointment until the vacancy is filled by election or until expiration of the term of office if no election is required to fill the vacancy.

Chapter VIII

APPOINTIVE OFFICERS

Section 33. City Manager.

(a) The office of city manager is established as the administrative head of the city government. The city manager is responsible to the mayor and council for the proper administration of all city business. The city manager will assist the mayor and council in the development of city policies, and carry out policies established by ordinances and resolutions.

(b) A majority of the council must appoint and may remove the manager. The appointment must be made without regard to political considerations and solely on the basis of education and experience in competencies and practices of local government management.

(c) The manager need not reside in the city.

(d) The manager may be appointed for a definite or an indefinite term, and may be removed at any time by a majority of the council. The council must fill the office by appointment as soon as practicable after the vacancy occurs.

(e) The manager must:

(1) Attend all council meetings unless excused by the mayor or council;
(2) Make reports and recommendations to the mayor and council about the needs of the city;
(3) Administer and enforce all city ordinances, resolutions, franchises, leases, contracts, permits, and other city decisions;
(4) Appoint, supervise and remove city employees;
(5) Organize city departments and administrative structure;
(6) Prepare and administer the annual city budget;
(7) Administer city utilities and property;
(8) Encourage and support regional and intergovernmental cooperation;
(9) Promote cooperation among the council, staff and citizens in developing city policies, and building a sense of community;
(10) Perform other duties as directed by the council;
(11) Delegate duties, but remain responsible for acts of all subordinates.

(f) The manager has no authority over the council or over the judicial functions of the municipal judge.

(g) The manager and other employees designated by the council may sit at council meetings but have no vote. The manager may take part in all council discussions.

(h) When the manager is temporarily disabled from acting as manager or when the office becomes vacant, the council must appoint a manager pro tem. The manager pro tem has the authority and duties of manager, except that a pro tem manager may appoint or remove employees only with council approval.

(i) No council member may directly or indirectly attempt to coerce the manager or a candidate for the office of manager in the appointment or removal of any city employee, or in administrative decisions. Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing. In council meetings, councilors may discuss or suggest anything with the manager relating to city business.

(j) The manager may not serve as city recorder or city recorder pro tem.

Section 34. City Recorder.

(a) The office of city recorder is established as the council clerk, city custodian of records and city elections official. The recorder must attend all council meetings unless excused by the mayor or council.

(b) A majority of the council must appoint and may remove the recorder. The appointment must be made without regard to political considerations and solely on the basis of education and experience.

(c) When the recorder is temporarily disabled from acting as recorder or when the office becomes vacant, the council must appoint a recorder pro tem. The recorder pro tem has the authority and duties of recorder.

Section 35. City Attorney. The office of city attorney is established as the chief legal officer of the city government. A majority of the council must appoint and may remove the attorney. The attorney must appoint and supervise, and may remove any office employees.

Section 36. Municipal Court and Judge.

(a) A majority of the council may appoint and remove a municipal judge. A municipal judge will hold court in the city at such place as the council directs. The court will be known as the Sherwood Municipal Court.

(b) All proceedings of this court will conform to state laws governing justices of the peace and justice courts.

(c) All areas within the city and areas outside the city as permitted by state law are within the territorial jurisdiction of the court.

(d) The municipal court has jurisdiction over every offense created by city ordinance. The court may enforce forfeitures and other penalties created by such ordinances. The court also has jurisdiction under state law unless limited by city ordinance.

(e) The municipal judge may:
(1) Render judgments and impose sanctions on persons and property;
(2) Order the arrest of anyone accused of an offense against the city;
(3) Commit to jail or admit to bail anyone accused of a city offense;
(4) Issue and compel obedience to subpoenas;
(5) Compel witnesses to appear and testify and jurors to serve for trials before the court;
(6) Penalize contempt of court;
(7) Issue processes necessary to enforce judgments and orders of the court;
(8) Issue search warrants; and
(9) Perform other judicial and quasi-judicial functions assigned by ordinance.

(f) The council may appoint and may remove municipal judges pro tem.

(g) The council may transfer some or all of the functions of the municipal court to an appropriate state court.

Chapter IX

PERSONNEL

Section 37. Compensation. The council must authorize the compensation of city appointive officers and employees as part of its approval of the annual city budget. The mayor and councilors may be reimbursed for actual expenses.

Section 38. Merit Systems. The council by resolution will determine the rules governing recruitment, selection, promotion, transfer, demotion, suspension, layoff, and dismissal of city employees based on merit and fitness.

Chapter X

PUBLIC IMPROVEMENTS

Section 39 Procedure. The council may by ordinance provide for procedures governing the making, altering, vacating, or abandoning of a public improvement. A proposed public improvement may be suspended for one year upon remonstrance by owners of the real property to be specially assessed for the improvement. The number of owners necessary to suspend the action will be determined by ordinance.

Section 40. Special Assessments. The procedure for levying, collecting and enforcing special assessments for public improvements or other services charged against real property will be governed by ordinance.

Chapter XI

MISCELLANEOUS PROVISIONS

Section 41. Debt. City indebtedness may not exceed debt limits imposed by state law. A charter amendment is not required to authorize city indebtedness.

Section 42. Solid Waste Incinerators. The operation of solid waste incinerators for any commercial, industrial, or institutional purpose is prohibited in the city. This applies to solid waste defined by ORS 459.005(24), and includes infectious wastes defined by ORS 459.386(2). This prohibition does not apply to otherwise lawful furnaces, incinerators, or stoves burning wood or wood-based products, petroleum products, natural gas, or to other fuels or materials not defined as solid waste, to yard debris burning, or to small-scale specialized incinerators utilizing solid waste produced as a byproduct on-site and used only for energy recovery purposes. Such small-scale incinerators are only exempt from this prohibition if they are ancillary to a city permitted or conditional use, and may not utilize infectious wastes or any fuels derived form infectious wastes. This prohibition does not apply to solid waste incinerators lawfully permitted to operate before September 5, 1990, but does apply to any expansion, alteration or modification of such uses or applicable permits. (Approved by voters November 6, 1990)

Section 43. Willamette River Drinking Water. Use of Willamette River water as a residential drinking water source within the city is prohibited except when such use has been previously approved by a majority vote of the city's electors. (Approved by voters November 2001)

Section 44. Ordinance Continuation. All ordinances consistent with this charter in force when it takes effect remain in effect until amended or repealed.

Section 45. Repeal. All charter provisions adopted before this charter takes effect are repealed.

Section 46. Severability. The terms of this charter are severable. If any provision is held invalid by a court, the invalidity does not affect any other part of the charter.

Section 47. Time of Effect. This charter takes effect July 1, 2005.

RESOLUTION 2005-008

A RESOLUTION CALLING FOR AN ELECTION IN THE CITY OF SHERWOOD ON MAY 17, 2005 TO SUBMIT A NEW HOME RULE CHARTER TO CITY VOTERS

The City Council of the City of Sherwood finds:

a. The current City of Sherwood Home Rule Charter was approved by the voters and took effect July 1, 1984. It was amended by the voters at the May 16, 2000, the November 7, 2000 and the November 6, 2001 elections.

b. The 1984 charter is wordy, long and outdated. Many provisions of the current charter do not meet present needs of the City, and some provisions conflict with best government practices.

c. The League of Oregon Cities (LOC) published a new model charter for cities in January 2004. This model is shorter, easier to read, and legally updated. Its provisions better meet City needs, and facilitate best government practices.

d. The Sherwood city council has reviewed the 2004 LOC model charter made changes and adapted it to meet the present and future needs of the City. The council has continued the charter provisions added by City voters in 2000 and 2001.

e. It is in the best interest of the City to submit to the voters a new City of Sherwood Home Rule Charter.

THE CITY COUNCIL FOR THE CITY OF SHERWOOD RESOLVES:

Section 1. An election is called for the City of Sherwood, Washington County, Oregon for the purpose of submitting to City voters the new home rule charter attached as Exhibit A to this resolution.

Section 2. Tuesday, May 17, 2005 is designated as the date for holding the election for voting on the measure.

Section 3. The election will be conducted by the Washington County Elections Department.

Section 4. The precincts for this election will include all of the territory within the corporate limits of the City of Sherwood.

Section 5. The ballot title will read as follows:

CAPTION: CITY OF SHERWOOD HOME RULE CHARTER

QUESTION: Shall the City of Sherwood adopt a new home rule charter?

SUMMARY: This measure would replace the current city charter with a new one. The city council believes the new charter would improve city government.

The Oregon Constitution gives city voters the right to adopt charters. Charters grant legal authority to cities and set duties. Sherwood voters adopted the current charter in 1984.

In 2004 the League of Oregon Cities adopted a new model charter. The model more clearly defines the legal authority of the city council. It sets the duties of a city manager. The model charter is shorter and easier to read than the current charter. The city council adapted the model charter to better meet the present and future needs of the City. The council has retained the amendments added by City voters in 2000 and 2001.

Section 6. The city recorder is authorized to submit an impartial explanatory statement for the Washington County voters' pamphlet on behalf of the City.

Section 7. The city recorder will publish the ballot title as provided by state law.

Section 8. This resolution is effective upon it adoption by the city council.

PASSED AND APPROVED this 1st day of March, 2005

Keith S. Mays
Mayor

ATTEST:

C. L. Wiley
City Recorder

PUBLIC RECORDS & MEETINGS

JULY 2013

Beery, Elsner & Hammond, LLP
1750 SW Harbor Way, Suite 380
Portland, OR 97201
503. 226.7191
www.gov-law.com

Dec 5, 2013
Date

City Charter Review Comm.
Gov. Body

Mtg. Prep 4
Agenda Item

B
Exhibit #

TABLE OF CONTENTS

Page

1. Introduction..... 4

2. Right to Inspect..... 4

3. Bodies Subject to the Law..... 4

   A. Public Bodies..... 4

   B. Private Bodies..... 4

4. Records Covered..... 5

5. Inspecting and Obtaining Public Records..... 6

6. Public Records Exempt from Disclosure..... 6

   A. Nature of Exemptions..... 6

   B. Conditional and Unconditional Exemptions..... 7

   C. "Public Interest in Disclosure..... 7

7. Destruction of Public Records..... 8

8. Public Meetings Policy..... 8

   A. Public Body Decisions..... 9

   B. Recommendations to Public Bodies..... 9

9. Meetings Subject to the Law..... 9

   A. Quorum Requirements..... 9

   B. Meetings and Social Gatherings..... 10

   C. Electronic Communication..... 10

10. Legal Requirements..... 10

   A. Notice..... 10

   B. Accessibility to Persons with Disabilities..... 12

C. Public Attendance..... 13

D. Control of Meetings..... 13

E. Voting..... 13

F. Minutes and Recordkeeping..... 14

11. Executive (Closed) Sessions..... 14

A. Permissible Purposes..... 14

B. Final Decision Prohibition..... .15

C. Method of Convening..... 15

D. Media Representation..... 15

E. Other Persons Attendance..... 16

1. Introduction

The Public Records Law (ORS 192.410 to 192.505) and the Public Meetings Law (ORS 192.610 to 192.690) were enacted in 1973. They established state policy that the public is entitled to know how governments operate. The written record of public business is available, with some important exceptions, to any person. Almost all deliberations and decisions of public bodies are open to attendance by interested persons. The Laws have been amended many times at subsequent legislative sessions.

2. Right to Inspect

Under ORS 192.420, "every person" has a right to inspect any non-exempt public record. Any natural person or any corporation, partnership, firm or association has this right. The identity, motive and need of persons requesting access to public records are irrelevant unless an exemption from disclosure allows consideration of those factors. Interested persons, news media representatives, people seeking access for personal gain, busybodies on fishing expeditions, persons seeking to embarrass government agencies, and scientific researchers all have equal footing. *See MacEwan v. Holm,* 226 Or 27 (1961). The identity and motive of the person seeking a specific public record may be relevant in determining if a record is exempt from disclosure under a conditional exemption. ORS 192.501 conditionally exempts certain records from disclosure "unless the public interest requires disclosure in the particular instance." Many exemptions in ORS 192.502 require balancing privacy rights, governmental interests, and other confidentiality policies against the public interest in disclosure. The identity of the requestor and the use to be made of the record may be relevant in determining the weight of the public interest in disclosure. ORS 192.420(2) places an additional requirement on a person who is a party to civil litigation or has filed notice under ORS 30.275(5)(a). When such a person makes a request for a public record the person knows relates to the litigation or notice, the person must submit the request to the custodian and the attorney for the public body at the same time.

3. Bodies Subject to the Law

A. Public Bodies

The Public Records Law applies to any public body in the state. ORS 192.410(3) defines "public body" to include every state officer, agency, department, division, bureau, board and commission; every county and county governing body, school district, special district, municipal corporation, and any board, department, commission, council, or agency thereof; and any other public agency of this state. Thus, all state and local government bodies are subject to the records law, including "public corporations" such as the Oregon State Bar, the SAIF Corporation, and the Oregon Health Sciences University. *State ex rel Frohnmayer v. Oregon State Bar,* 307 Or 304 (1989), and *Frohnmayer v. SAIF,* 294 Or 570 (1983).

B. Private Bodies

In Marks v. McKenzie High School Fact-Finding Team, 319 Or 451 (1994), the Oregon Supreme Court determined that a group selected by a private association of school administrators

and charged by a public school district board with investigating and making recommendations about high school operations was not a "public body" within the meaning of public records law. However, in that case the Oregon Supreme Court held that if a private entity is the "functional equivalent" of a public body, the Public Records Law could apply to it. The court set forth several factors to assist with determining whether a private entity is the functional equivalent of a public body, which included:

- the entity's origin (was it created by government or was it created independently?);
- the nature of the function(s) assigned and performed by the entity (are these functions traditionally performed by government or are they commonly performed by a private entity?);
- the scope of the authority granted to and exercised by the entity (does it have the authority to make binding decisions or only to make recommendations to a public body?);
- the nature and level of any governmental financial and nonfinancial support;
- the scope of governmental control over the entity;
- the status of the entity's officers and employees (are they public employees?).

4. Records Covered

The definition of "public records" and the ORS 192.420 policy statement make it clear that the records law applies to all government records of any kind. The 2011 legislature (HB 2244) expanded the ORS 192.005(5) definition of "public record" to include "any information" prepared, owned, used or retained by a city, relating to an activity, transaction or function of the city, or necessary to satisfy fiscal, legal, administrative or historical policies, requirements or needs of the city. Public records are no longer limited to "documents" and need not be prepared by the city. Records prepared outside government "owned, used or retained" by the city, are within the scope of the records law. For example, letters written to the city, retained and used by the city are public records. However, a document prepared by a private entity does not become a public record merely because a public official reviews the document in the course of official business. The 2011 amendments confirm that unrecorded spoken communications are not public records.

Materials prepared and owned by a private company do not become "public records" when they are in temporary custody of a public official for purpose of preliminary review. Public records include any "writing" containing information relating to the conduct of public business. ORS 192.410(4). "Writing" is broadly defined by ORS 192.410(6) to include handwriting, typewriting, printing, photographing and every means of recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, files, facsimiles or electronic recordings. "Writing" thus includes information stored on computer tape, microfiche, photographs, films, tape or videotape recordings and virtually any other method of recording information. The city uses electronic mail (e-mail) for communications. E-mail is a public record. Even after e-mail messages are "deleted" from individual computer accounts, they generally continue to exist on computer back-up tapes that are also public records. The city must make non-exempt e-mail available for inspection and copying. Note that the Public

Records Law does not require the city to *create* public records. This is especially important for computer-stored data. Although the data in computer programs and printouts generated for use by the city are public records, the city is not obligated to perform specific computer runs or manipulate computer data in a requested manner.

5. Inspecting and Obtaining Public Records

Under the records law, the "custodian" of the public records has the duty to make non-exempt public records available for inspection and copying. The legislature has defined "custodian" as a public body mandated to create, maintain, care for or control the records. ORS 192.410(1). However, the public body that has custody of a public record as an agent for another public body is not the custodian, unless the record is not otherwise available. When the city is a custodian of public records received from another public body, it should consult with the other public body to determine whether the records may be exempt from disclosure. *See* ORS 192.502(10). The 2007 legislature amended ORS 192.440 to assure more timely disclosure to interested parties by requiring a response to requests as soon as practible and without unreasonable delay.

As of January 1, 2008, all public bodies must make available to the public a written procedure for submitting the requests, including at least one person and address to which it can be delivered along with the methods that will be used to calculate the fees charged.

The city may delay action on a public record disclosure request to consult with the city attorney. It is reasonable for a record custodian to obtain legal advice before responding to an extensive public record disclosure request when compliance could disrupt operations. It is also reasonable for a records custodian to consult with the city attorney about disclosure of documents that appear to be exempt, in whole or in part, from disclosure requirements under law. Consultation with the city attorney should not be used to merely delay or frustrate the inspection process.

6. Public Records Exempt from Disclosure

A. Nature of Exemptions

The records law is primarily a *disclosure* law not a confidentiality law. Exemptions are limited in nature and scope because state policy favors public access to government records. When the city denies a records inspection request, it has the burden of proving that the record information is exempt from disclosure. Oregon courts interpret the records law exemptions *narrowly*, and the courts "presume" that exemptions do not apply.

Even though information may meet the test to qualify for exemption from disclosure, it does not necessarily mean that the city is prohibited from disclosing the information. In most cases, exemptions do not prohibit disclosure, and the city has discretion to disclose record information that qualifies for exemption under the law. In only rare cases may the city say, "This record is exempt from disclosure under the records law, and therefore we may not disclose it."

There are a few instances where a government is barred from disclosing information that is exempt from inspection under the records law. ORS 192.445 *prohibits* a public body from disclosing a home address or personal telephone number if the requirements of that section are met. The "catch-all" exemption in ORS 192.502(9) incorporates into the records law some other statutes that prohibit public release of certain types of information such as income tax information. In addition, the federal law exemption in ORS 192.502(8) incorporates some federal laws that bar public dissemination of certain types of records, such as student record information under 20 USC 1232. Release of personal privacy information exempt under ORS 192.502(2) is likely to result in claims against the city. The city attorney should be consulted before such information is disclosed.

B. Conditional and Unconditional Exemptions

The exemptions under ORS 192.501 are all *conditional*; they exempt certain types of information from disclosure "unless the public interest requires disclosure in the particular instance." Several ORS 192.502 exemptions are conditioned on the extent to which governmental and private interests in confidentiality outweigh the public interest in disclosure. Conditional exemptions require the city to balance carefully confidentiality interests against public disclosure interests. No balancing is required with regard to information covered by "unconditional" exemptions. The legislature has already balanced the competing interests and concluded that confidentiality interests outweigh public disclosure interests as a matter of law.

In the application of conditional exemptions, the identity of the requestor and the circumstances of the request are irrelevant to the determination of whether the information fits within the category of the exemption. Circumstances of a particular request become relevant only if the requested information fits into an "unconditional" exemption category.

The 2011 legislature (SB 437) amended ORS 192.502(17)(a) to make records, communications and information submitted to the cities by applicants for investment funds, grants, loans, services or economic development moneys, support or assistance exempt from disclosure.

C. "Public Interest in Disclosure"

The public record law does not define "public interest in disclosure." However, the Oregon Court of Appeals stated, "The Public Records Law expresses the legislature's view that members of the public are entitled to information that will facilitate their understanding of how public business is conducted." *Guard Publishing Co. v. Lane County School District,* 96 Or App at 468-69. It previously characterized the public interest in disclosure as "the right of the citizens to monitor what elected and appointed officials are doing on the job." *Jensen v. Schiffman,* 24 Or App 11, 17 (1976). The public's right to monitor public employees includes the right to inspect records of alleged misuse and theft of public property by public employees. *Oregonian Publishing Co. v. Portland School District*, 329 Or 393 (1999). The term "public" means that the "focus is on the effect of the disclosure in general, not disclosure to a particular person at a particular time." *Morrison v. School District No. 48*, 53 Or App 148, 156 (1981).

7. Destruction of Public Records

State laws and regulations govern the retention and destruction of public records. ORS 192.001 to 192.170. In order to comply with these laws, public employees and officials are required to identify public records and determine their retention period; retain records in compliance with records retention schedules promulgated by the State Archivist; and destroy those records that are non-public records and those that have reached their retention period. For purposes of the record retention and destruction laws, "public record" includes correspondence, including email, but excludes extra copies of a document preserved only for convenience. ORS 192.005(5)(d). Even public records exempt from disclosure are subject to the retention schedules. See Appendix C.

It is important to follow these requirements as state law makes it a crime to knowingly destroy, conceal, remove or falsely alter a public record. ORS 162.305.

8. Public Meetings Policy

The Oregon policy of open decision-making is established by ORS 192.620:

> The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made. It is the intent of ORS 192.610 to 192.690 that decisions of governing bodies are arrived at openly.

The Public Meetings Law applies to not only the state, but also the cities, counties and special districts despite any conflicts with their charters, ordinances or other rules. Cities, counties and other public bodies may impose greater requirements than those of the law by their charters, ordinances, administrative rules or bylaws.

The Public Meetings Law applies to meetings of the "governing body of a public body." ORS 192.630(1). A "public body" is the state, any regional council, county, city or district, or any municipal or public corporation or any board, department, commission, council, bureau, committee, subcommittee or advisory group or any other agency thereof. ORS 192.610(4). If two or more members of any public body have "the authority to make decisions for or recommendations to a public body on policy or administration," they are a "governing body" for purposes of the meetings law. ORS 192.610(3).

Thus, the city council (council), and citizen advisory commissions and committees are "governing bodies." A subcommittee of a commission or committee can also be a "governing body" if it is authorized to make decisions for or to advise the council.

A. Public Body Decisions

A committee or commission that has authority to make decisions for the city on "policy or administration" is a governing body. ORS 192.610(3). A subcommittee that has authority only to gather information for the full council, commission or committee is not a governing body. However, if the subcommittee has the authority to take action on a city issue of policy or administration, then it is a governing body under the meetings law.

B. Recommendations to a Public Body

An advisory committee, subcommittee, task force or other official group that has authority to make recommendations to the public body on policy or administration also is a governing body. ORS 192.610(3).

"Public body" does not include the city manager or other individual city officials. For example, an advisory committee appointed by the city manager is *not* a governing body subject to the law if the advisory committee reports only to the appointing official. However, if the individual official lacks authority to act on the advisory group's recommendations, and must pass those recommendations unchanged to the council, then the meetings law applies to the advisory group.

If an advisory body is created by a public body to advise the it, the fact that its members are all private citizens is irrelevant. The meetings law applies to private citizens, employees and others without decision-making authority when they serve on a group that is authorized to advise the public body.

9. Meetings Subject to the Law

The Public Meetings Law defines a meeting as the convening of any of the "governing bodies" described above "for which a quorum is required in order to make a decision or to deliberate toward a decision *on any matter.*" ORS 192.610(5) (emphasis added).

A. Quorum Requirements

The meetings law does not define "Quorum." Quorum is defined as a majority of the public body. .

A gathering of less than a quorum is not a meeting under the meetings law. The law applies to committees, subcommittees and other advisory groups that are charged by the public body with making recommendations. The recommendations must be the result of formal votes taken at meetings at which a quorum was present.

Staff meetings are not subject to the meetings law because they are not "governing bodies" and quorums are not required. ORS 192.610(3). Similarly, the law does not apply to individuals who are authorized to make recommendations. However, if staff meets with a quorum of the council or a city commission, committee or subcommittee to discuss matters of

"policy or administration," or to clarify a decision or direction for staff, the meeting is within the scope of the law. ORS 192.610(5).

B. Meetings and Social Gatherings

The Public Meetings Law applies to all public body meetings for which a quorum is required to make a decision or deliberate toward a decision on any matter. Even meetings for the sole purpose of gathering information upon which to base a future decision or recommendation are covered. Hence, information gathering and investigative activities of a city body are subject to the law.

If a quorum of the governing body gathers to discuss matters outside its jurisdiction, the "meeting" is not legal under the meetings law. Jurisdiction is determined by examining the authority granted to a particular governing body and any ordinances, resolutions or directives governing that authority.

The law does not cover purely social meetings of council or committee members. In *Harris v. Nordquist*, 96 Or 19 (1989), the court concluded that social gatherings at which school board members sometimes discussed "what's going on at the school" did not violate the meetings law. The *purpose* of the meeting determines if the law applies. However, a purpose to deliberate on any matter of policy may arise *during* a social gathering and lead to a violation. When a quorum is present, members should avoid any discussions of official business during social gatherings. Some citizens may see social gatherings as a subterfuge for avoiding the law.

C. Electronic Communication

The Public Meetings Law expressly applies to telephonic conference calls and "other electronic communication" meetings of governing bodies. ORS 192.670(1). Notice and an opportunity for public access must be provided when meetings are conducted by electronic means. For non-executive session meetings, the public must be provided at least one place to listen to the meeting by speakers or other devices. ORS 192.670(2). Special accommodations may be necessary to provide accessibility for persons with disabilities. The media must be provided such access for electronic executive sessions, unless the executive session is held under a statutory provision permitting its exclusion.

Communications between and among members of a public body on electronically linked personal computers and social media may be subject to the meetings law.

10. Legal Requirements

A. Notice

The Public Meetings Law requires public notice of the time and place of meetings. This requirement applies to regular, special and emergency meetings. ORS 192.640. The public notice requirements apply to *any* "meetings" of the governing body, and committees,

subcommittees and advisory committees. Regular meeting notice must be *reasonably calculated* to give actual notice of the time and place of the meeting "to interested persons including news media that have requested notice." ORS 192.640(1). Notice must be given to persons and media that have stated in writing that they wish to be notified of every meeting.

If the meeting will consist of only an executive session, notice still must be given to members of the public body, the general public and news media that have requested notice. The notice must also state the specific legal section authorizing the executive session. ORS 192.640(2).

To help satisfy the accessibility requirements of ORS 192.630(5) and the Americans with Disabilities Act, the notice may provide the name of a person and telephone number (including TDD number) at the city to contact to request an interpreter for the hearing impaired or for other communication aids.

The notice for each meeting must "include a list of the principal subjects anticipated to be considered at the meeting." ORS 192.640(1). The list should be specific enough to permit members of the public to recognize the matters in which they are interested; ordinarily this can be met by distribution of an agenda. The agenda need not go into detail about subjects scheduled for discussion or action, but should be sufficiently descriptive so interested persons can understand agenda topics.

The meetings law does not require the description of every proposed item of business in the notice. The law requires a reasonable effort to inform the public and interested persons of the nature of the more important matters ("principal subjects") coming before the body. The public body may consider additional "principal subjects" arising too late to be included in the notice. The listing of principal subjects "shall not limit the ability of the governing body to consider additional subjects." ORS 192.640(1).

The purpose of meeting notice is two-fold: general notice to the public at large and *actual* notices to specifically interested persons.

i. Regularly Scheduled Meetings: News media requesting notice *must* be given notice. Paid advertising is *not* required. If the city is aware of persons having a special interest in a particular action, those persons generally should be notified. This is not required if such notification would be unduly cumbersome or expensive.

ii. Special Meetings: At least 24 hours' notice is required for special meetings. This may be accomplished by press releases or phone calls to the media. The city should make reasonable attempts to notify interested persons either by mail or telephone. News media requesting notice must be notified.

iii. Emergency Meetings: An emergency meeting is a special meeting called on less than 24 hours' notice. An "actual emergency" must exist, and the minutes must describe the emergency justifying less than 24 hours' notice. ORS 192.640(3). The public body must identify and describe in the minutes the reason the meeting could not be delayed to allow at

least 24 hours' notice. The law requires that "such notice as is appropriate to the circumstances" be given for emergency meetings. The city must attempt to contact the media and other interested persons to inform them of the meeting. Generally, such contacts are made by telephone.

The Oregon Court of Appeals stated in *Oregon Association of Classified Employees v. Salem-Keizer*, 95 Or App 28 (1989) that it will closely scrutinize any claim of an "actual emergency." The "emergency" must relate to the matter to be discussed at the emergency meeting. An actual emergency on one matter does not "justify a public body's emergency treatment of all business coming before it at approximately the same time." 95 Or App at 32. Nor does the convenience or inconvenience of members of the public body provide justification for an emergency meeting.

iv. Space and Location: Public bodies should consider the probable public attendance and meet where there is sufficient room for the expected attendance. If the regular meeting room is adequate for usual attendance, the public body is not required to seek larger quarters for a meeting that unexpectedly attracts an overflow crowd.

v. Geographic Location: Meetings of the council and other city bodies must be held within the city boundaries. ORS 192.630(4). A joint meeting with two or more governing bodies must be held within the geographic boundaries of the area over which one of those bodies has jurisdiction, or at the nearest practical location. This does not apply in the case of an actual emergency requiring immediate action. Additionally, the law permits public bodies to hold "training sessions" outside their jurisdiction, so long as no deliberation toward a decision is involved.

vi. Nondiscriminatory Site: Public bodies may hold public meetings in private places such as restaurants or residences, if *fully* adequate notice is given of the location so interested persons may attend, and if *fully* adequate arrangements are made for their convenient attendance. Municipal bodies may not meet at a place where discrimination based on race, creed, color, sex, age, national origin or disability is practiced. ORS 192.630(3). The Americans with Disabilities Act, 42 USC 12131 *et seq.*, prohibits discrimination against persons with disabilities by public entities, and by places of public accommodation for meeting sites owned by private entities.

B. Accessibility to Persons with Disabilities

ORS 192.630(5)(a) states:

> It is discrimination on the basis of disability for a governing body of a public body to meet in a place inaccessible to persons with disabilities, or, upon request of a person who is deaf or hard of hearing, to fail to make a good faith effort to have an interpreter for persons who are deaf or hard of hearing provided at a regularly scheduled meeting.

This statute imposes two requirements. First, public meetings must be held in places accessible to individuals with mobility and other impairments. Second, there must be a good faith effort to provide an interpreter for hearing impaired persons.

C. Public Attendance

The meetings law is a public attendance law, not a public participation law. Meetings are open to the public except for closed meetings specifically authorized. ORS 192.630. *The right of public attendance guaranteed by the Public Meetings Law does not include the right to participate by public testimony or comment.*

Other statutes, rules, charters, ordinances, resolutions, and bylaws outside the meetings law may require the council and other city bodies to hear public testimony or comment on certain matters. In circumstances where such requirements do not apply, the public body may conduct a meeting without public participation.

D. Control of Meetings

The presiding officer of any meeting has inherent authority to keep order and to impose any reasonable restrictions necessary for the efficient and orderly conduct of a meeting. If public participation is part of the meeting, the presiding officer may regulate the order and length of appearances and limit appearances to presentations of relevant points. Any person who fails to comply with reasonable rules of conduct and who causes an actual disturbance may be asked or required to leave and upon failure to do so becomes a trespasser. *State v. Marbet,* 32 Or App 67 (1978).

This authority extends to control over equipment such as cameras, tape recorders and microphones, but only to the extent of reasonable regulation. Members of the public may not be prohibited from unobtrusively recording the proceedings of a public meeting. The criminal law prohibition against electronically recording conversations without the consent of a participant does not apply to recording "public or semipublic meetings such as hearing before government or quasi-government bodies." ORS 165.540(6)(a).

E. Voting

All official actions by a public body must be taken by public vote. The vote of each member must be recorded. ORS 192.650(1)(c). Written ballots may be used, but each ballot must identify the member voting and the vote must be announced. *Secret ballots are prohibited.*

The failure to record a vote is not itself a ground for reversing a decision. Without a showing that the failure to record a vote was related to a manipulation of the vote, a court will presume that public officials lawfully performed their duties. *Gilmore v. Board of Psychologist Examiners,* 81 Or App 321, 324 (1986).

F. Minutes and Recordkeeping

ORS 192.650 requires that a sound, video or digital recording or the taking of written minutes be taken at all meetings, except for executive sessions. Meeting minutes shall include at least the following:

i. Members of the governing body present;
ii. Motions, proposals, ordinances, resolutions, orders and measures proposed and their disposition;
iii. Results of all votes and the vote of each member by name;
iv. The substance of any discussion on any matter; and
v. Subject to the Public Records Law (ORS 192.410 to 192.505), a reference to any document discussed at the meeting. This reference does not change the status of the document under the Public Records Law.

Minutes need not be a verbatim transcript, and the meeting does not have to be recorded unless otherwise required by law. The minutes must be a true reflection of the matters discussed at the meeting and the views of the participants. ORS 192.650(1).

The public body must prepare minutes and have them available within a "reasonable time after the meeting." ORS 192.650(1). After minutes are prepared, they are public records subject to disclosure under the Public Records Law. They may not be withheld from the public merely because they have not yet been approved. If minutes have not been approved, they may be so identified.

Executive session minutes may be kept in the form of a tape recording rather than written minutes. ORS 192.650(2). No transcription of executive session minutes must be made unless otherwise required by law. If disclosure of material in the minutes would be inconsistent with the purpose of the executive session that was held under ORS 192.660, the material may be withheld from disclosure. ORS 192.650(2).

The media has no right to the minutes or tapes of executive sessions greater than that of the general public.

11. Executive (Closed) Sessions

A. Permissible Purposes

Public bodies may meet in executive sessions only in specified situations. ORS 192.660. An "executive session" is defined as "any meeting or part of a meeting of governing body that is *closed* to certain persons for deliberation on certain matters." ORS 192.610(2) (emphasis added).

The public body may hold an open session even when the law permits it to hold an executive session. A public body is authorized to hold closed sessions regarding the following subjects:

- Labor Negotiator Consultations;
- Real Property Transactions;
- Exempt Public Records;
- Legal Counsel;
- City Employees; and
- Labor Negotiations.

B. Final Decision Prohibition

ORS 192.660(6) states: "No executive session may be held for the purpose of taking any final action or making any final decision." The public body may reach a consensus in executive session. The purpose of the "final decision" requirement is to allow the public to know the *results* of the discussions. Taking a formal vote in open session satisfies that requirement, even if the public vote merely confirms a decision made informally in closed session.

C. Method of Convening

An executive session may be called during a regular, special or emergency meeting for which notice has already been given in accordance with ORS 192.640. The person presiding at the meeting must announce the statutory authority for the executive session before going into closed session. ORS 192.660(1). When a meeting that will be solely an executive session is called, the statutory authority for the executive session must be set forth in addition to notice requirements for any other meeting.

D. Media Representation

The Public Meeting Law expressly provides that representatives of the news media *shall be allowed* to attend all executive sessions except for sessions involving deliberations with persons designated to carry on labor negotiations, *Barker v. City of Portland*, 67 Or App 23 (1984).

As stated above, the public bodies may consult with their attorney about pending litigation or litigation likely to be filed. The public body may exclude any member of the media from such a meeting if the member is a party to the litigation to be discussed or is an employee, agent or contractor of a new media organization that is a party to the litigation. ORS 192.660(5).

The public body may require the non-disclosure of specified information that is the subject of the executive session. ORS 192.660(4). The presiding officer should make the specification. Absent a specification, the entire proceedings may be reported and the purpose of the executive session may be frustrated. The media may discuss the statutory grounds justifying the executive session.

The meetings law contains no sanction to enforce the requirement that a news representative not disclose specified information. Penalties may raise freedom of press and speech questions. The Attorney General has concluded, "'enforcement'... depends upon cooperation between public officials and the media." AGM 146.

Reporters have no obligation to refrain from disclosing information obtained at an executive session if the public body fails to specify that certain information is not for publication. Reporters may, but are not required to, inquire whether a public body's failure to specify was an oversight. Reporters are under no obligation to keep confidential any information the reporter independently gathers as the result of leads obtained in executive session. Reporters may disclose matters discussed in executive session that are not properly within the scope of announced statutory authorization of executive sessions.

The public body may request a news medium not to assign a particular representative to cover its meetings if the representative has irresponsibly violated a clearly valid nondisclosure requirement. That representative may be barred from future executive sessions because the meeting law purposes will be met by allowing attendance of another representative, and representatives from other news media.

E. Other Persons Attendance

The public body may permit others to attend executive sessions. Generally, executive sessions are closed to all except members of the public body, their staff, their attorney, persons reporting on the subject of the executive session or otherwise involved, and news media representatives. However, the law does not prohibit the public body from permitting other persons to attend.

Last day for	March 11	May 20	September 16	November 4
County Elections Official to Publish				
→ notice of district board election (ORS 255.075)	November 30	February 8	June 7	July 17
! Regular district elections are generally held in May of odd numbered years. Districts should contact the county elections official of the county in which the district's administrative office is located for election information.				
District Candidates to file with County Elections Official				
→ verified signatures or $10 filing fee (ORS 255.235)	January 9	March 11	July 17	August 26
County or City Governing Body to file with Local Elections Official:				
→ ballot title for publication of notice **or** → referral text for drafting of ballot title	December 20	February 28	June 27	August 15
Local Governing Body to file with County Elections Official:				
Form SEL 801 Notice of Measure Election - County	January 9	March 20	July 17	September 4
ℹ Form may only be filed upon completion of the ballot title challenge process				
Form SEL 802 Notice of Measure Election - City	January 9	March 20	July 17	September 4
ℹ Form may only be filed upon completion of the ballot title challenge process.				
and				
Statement of Candidates- City				
Deadline is set by charter, ordinance and/or statute.				
Form SEL 803 Notice of Measure Election – District	January 9	March 20	July 17	September 4
! May not be filed until after the deadline for the immediately preceding election has passed.				
ℹ The County Elections Official publishes notice of election in the next available edition of newspaper in electoral district unless otherwise required by charter, ordinance and/or statute.				
The ballot title process including publication of receipt of ballot title and challenge process may occur after the filing deadline.				
Filing Candidate Statements with the County Elections Official:				
→ for inclusion in county voters' pamphlet if the candidate files candidacy with County Elections Official.	January 13	March 13	July 21	August 28
→ for inclusion in county voters' pamphlet if the candidate files candidacy with governing body other than county clerk	January 13	March 24	July 21	September 8
Filing Measure Arguments with the County Elections Official:				
→ for inclusion in county voters' pamphlet	January 13	March 24	July 21	September 8

ℹ For resubmitted measures the deadline is September 18; the measure argument filing deadline is September 22, if the county includes the resubmitted measure in the county voters' pamphlet.

Dec 5, 2013
Date

City Charter Review Comm
Gov. Body

Rev. 07/13

Htg. Prep 4
Agenda Item

C
Exhibit #

City of Sherwood Oregon

Home of the Tualatin River National Wildlife Refuge

RESOLUTION 2013-055

A RESOLUTION CREATING THE CITY CHARTER REVIEW COMMITTEE

WHEREAS, the City Charter for the City of Sherwood is the equivalent to the constitution for the city; and

WHEREAS, the City Charter was last comprehensively reviewed via Resolution 2005-008 in March 2005;

WHEREAS, the voters of Sherwood adopted the current City Charter on May 17, 2005; and

WHEREAS, the City Council met on February 9, 2013 for their annual Goal Setting Session and discussed the formation of a City Charter Review Committee; and

WHEREAS, the City Council desires to establish a City Charter Review Committee to evaluate the existing City Charter and to determine if the charter should be updated or changed;

NOW THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. A City Charter Review Committee is hereby established for the purpose of advising the City Council on proposed changes to the City Charter and the possible referral of said changes to City voters at a future 2014 election.

Section 2. The Committee will consist of nine members appointed by the City Council. The committee will be comprised of one member from each City Board and Commission, selected by the majority of said Board or Commission; The City Boards and Commissions include Planning Commission, Parks and Recreation Advisory Board, Library Advisory Board, Cultural Arts Commission, SURPAC and the citizen members of the Budget Committee. The additional three members of the Committee will be citizens at large. All members shall be qualified electors under state law, and reside within the city for at least one year before appointment to the committee.

Dec 5, 2013
Date

City Charter Review Comm.
Gov. Body

Mtg. Prep 2
Agenda Item

D
Exhibit #

Section 3. The Committee is an official public body governed by Oregon Public Meeting Law and other applicable statutes. Minutes shall be kept of all committee meetings in accordance with applicable law.

Section 4. If the Committee determines changes to the City Charter are warranted, it shall recommend draft amendments to the existing charter for review by the City Council to place on the ballot for the voters of Sherwood.

Section 5. The Committee shall be subject to, and shall follow, to the greatest extent feasible, the attached document, Exhibit A, entitled "Expectations of the Charter Review Committee".

Section 6. The Committee shall terminate at the time charter amendments are voted on by the people of Sherwood, unless the Committee determines changes are not warranted. In such case, the Committee shall terminate when it makes such report to the City Council.

Section 7. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 15th day of October 2013.

Bill Middleton, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder

Expectations of the City Charter Review Committee

"Membership on a charter review committee is accepting responsibility for leadership in the most important single civic effort that any community can undertake. The duty of leadership is to find the highest attainable level of improvement, not just a token advance. Statesmanlike compromise is simply a means to this end."
Guide for Charter Commission, National League of Cities

Purpose

The primary function of the City Charter Review Committee is to review the existing City Charter to determine if it will adequately serve the Sherwood community into the future. If necessary, the committee will recommend draft amendments to the City Charter for the City of Sherwood. The proposed charter amendments will ultimately be reviewed by the City Council for placement on the ballot for the voters of Sherwood.

The committee must be impartial, non-biased, and free of any perceived political gain and may approach the task in whatever means results in a document that best serves the citizens of Sherwood. In addition to adhering to the Oregon Public Meetings law, the committee will strive to include the community beyond the requirements of the law. The City Council encourages the committee to seek opportunities to educate the community about the process and purpose of a charter review, the importance of a city charter and to solicit community input.

It is our experience that undertakings of this scope are best achieved within a set timeline during which the committee members are focused on achieving the task in a timely manner. Stretching a task over a period of many months can result in a committee that loses focus, interest and drive, and a drop in attendance. As such, the City Council requests that the committee develop a timeline so that the proposed amendments can be placed on the earliest possible ballot in 2014.

Membership

The committee will be comprised of nine voting members: six members from each of the city's boards and commissions and three at-large citizens. A liaison from the City Council will be selected and will serve as a non-voting member. At the first meeting of the committee, a chair will be selected from the membership. The City Manager will serve as the primary city staff person and will attend all meetings acting in an advisory role.

Council Expectations

The Council expects the committee to follow proper decorum and be civil at all times the committee is operating. Committee members serve at the discretion of the Council and may be removed by vote of a majority of Council.

Council may decide to focus the committee on certain items which they feel are of community importance. Communication to Council will be through the committee liaison or through joint work sessions if Council feels they are necessary.

Operating Policies and Procedures

Regular Meetings

1. The committee will meet twice per month to expedite their work unless changed by a majority of the committee at a regular meeting. Due to scheduling of normal City Council meetings and other board/commission meetings, it is recommended that Thursday evening is the most logical weeknight for this committee to meet. The goal is for the committee to begin their regular meetings in November 2013.
2. Regular meetings of the committee will occur in the Council chambers (Community Room) so that they may be televised and taped.
3. The committee will consider written and oral testimony offered during the charter review process. Public testimony will only occur during the Community Comments agenda item and be limited to four minutes per speaker. Public testimony may, on occasion, be taken on specific agenda items when specifically noted on the agenda. The Committee will determine when public testimony is appropriate.

Attendance, Quorum

1. Due to the tight timeframe of the committee's work, attendance by committee members is very important to the success of this effort. Members unable to attend shall notify the City Manager by phone or email in advance of the regular meeting.
2. A quorum of at least six committee members must be present to conduct business at any meeting.

Motions

1. The committee chair will strive to reach consensus of the committee whenever possible.
2. Motions shall be clearly and concisely stated.
3. Motions that do not receive a second die
4. Items that have been acted on may not be brought forward again without consent of a majority of the committee.
5. Motions on recommendations of changes to the Charter constitute tentative approval of such changes by the committee pending approval of the final report to the City Council.
6. Motions shall be considered approved when the majority of the quorum votes in favor of a moved and seconded motion.

Final Report

1. The committee chair or selected committee member will prepare a final report with recommendations to City Council and present it at a meeting to be determined by City Council.
2. The final report will be balanced and represent the majority opinions of the committee.
3. The final report will be reviewed by the entire committee and approved by motion prior to being submitted to Council.
4. The motion approving the final report must be approved by six committee members.

City of Sherwood Oregon

Home of the Tualatin River National Wildlife Refuge

RESOLUTION 2013-061

A RESOLUTION APPOINTING MEMBERS TO THE CHARTER REVIEW COMMITTEE

WHEREAS, the City Council adopted Resolution 2013-055 at their October 15, 2013 meeting to create a Charter Review Committee; and

WHEREAS, Resolution 2013-055 specified that the committee will be comprised of nine members appointed by the City Council, with one member from each of the City's boards and commissions and three Citizen-at-large members; and

WHEREAS, each of the six city boards and commissions selected a representative to serve on the Charter Review Committee; and

WHEREAS, the City Council solicited applications for the three Citizen-at-large members and received seven applications prior to the November 1, 2013 deadline; and

WHEREAS, the applications were reviewed by a selection committee consisting of Council President Linda Henderson, Councilor Bill Butterfield and Councilor Dave Grant; and

WHEREAS, the selection committee selected three Citizen-at-large members to serve on the Charter Review Committee; and

WHEREAS, the selection committee selected an alternate Citizen-at-large member in case one of the three regular members are unable to serve or to complete their service on the Charter Review Committee; and

WHEREAS, each of the City's boards and commissions will replace their respective representative on the Charter Review Committee if their representative is unable to serve or to complete their service on the Charter Review Committee.

NOW THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. The following citizens are selected to serve on the Charter Review Committee:

Citizen-at-Large Members:
Jennifer Kuiper
Pat Allen
Bob Silverforb
Renee Brouse, Alternate

Dec 5, 2013
Date

City Charter Review Comm.
Gov. Body

Htg. Prep 2
Agenda Item

E
Exhibit #

City Boards and Commissions Members:
Beth Cooke, Sherwood Planning Commission
Brian Stecher, Parks and Recreation Advisory Committee
Jack Hoffbuhr, Library Advisory Board
Alyse Vordermark, Cultural Arts Commission
Charles Harbick, SURPAC
Neil Shannon, Sherwood Budget Committee

Section 2: This Committee is considered a temporary, ad hoc committee.

Section 3: This Resolution shall be in effect upon its approval and adoption.

Duly passed by the City Council this 19th day of November 2013.

Bill Middleton, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder

CHARTER

City of Tualatin, Oregon

Chapter I - Names and Boundaries

1. Title of Enactment.
2. Name of City.
3. Boundaries.

Chapter II - Powers

4. Powers of the City.
5. Construction of Charter.

Chapter III - Form of Government

6. Where Powers Vested.
7. Council.
8. Councilors.
8a. Assignment of Council Positions.
9. Mayor.
10. Other Officers.
11. Salaries.
12. Qualifications of Officers.

Chapter IV - Council

13. Meetings.
14. Quorum.
15. Journal.
16. Proceedings to Be Public.
17. Mayor's Functions at Council Meetings.
18. President of the Council.
19. Vote Required.

Chapter V - Powers and Duties of Officers

20 Mayor.
20a. City Manager.
21. Municipal Judge.
22. Recorder.

Chapter VI - Elections

23. Elections. [Sections 23 through 28 repealed and replaced by Charter amendment adopted at general election held November 4, 1986].
29. Commencement of Terms of Office.
30. Oath of Office.
31. Nominations.

Chapter VII - Vacancies in Office

32. What Creates Vacancy.
33. Filling of Vacancies.

Chapter VIII - Ordinances

34. Enacting Clause.
35. Mode of Enactment.
36. When Ordinances Shall Take Effect.

Chapter IX - Public Improvements

37. Condemnation.
38. Improvements.
39. Special Assessments.
40. Public Contracts.

Chapter X - Miscellaneous Provisions

41. Debt Limit.
41a. Amendments.
42. Torts.
43. Existing Ordinances Continued.
44. Repeal of Previously Enacted Provision.
45. Time of Effect of Charter.
46. Willamette Water – Vote Required.

Chapter XI Protection of City Owned Parks and Open Spaces

47. Purpose.
48. Definitions
49. Approval by Voters.
50. Parks Designated.
51. Later Acquired and Expanded Parks.

Dec 5, 2013	City Charter Review COMM.
Date	Gov. Body
Mtg. Prep 3	F
Agenda Item	Exhibit #

CHARTER

To provide for the government of the City of Tualatin, Washington County, Oregon; and to repeal all Charter provisions of the City enacted to the time that this Charter takes effect.

Be it enacted by the people of the City of Tualatin, Washington County, Oregon:

CHAPTER I NAMES AND BOUNDARIES

Section 1. Title of Enactment.

This enactment may be referred to as the "City of Tualatin Charter of 1967."

Section 2 Name of City.

The municipality of City of Tualatin, Washington County, Oregon, shall continue to be a municipal corporation with the name "City of Tualatin, Oregon."

Section 3. Boundaries.

The City shall include all territory encompassed by its boundaries as they now exist or hereafter are modified by voters, by the Council, or by any other agency with legal power to modify them. The Recorder shall keep in the Recorder's Office at the City Hall at least two copies of this Charter and maintain in each copy an accurate, up-to-date description of the boundaries. The copies and descriptions shall be available for public inspection at any time during regular office hours of the Recorder. [Charter Amendment adopted at a general primary election held May 15, 1990.]

CHAPTER II POWERS

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 constructed 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. [Amended by Ord. 964-96, § 2, June 24, 1996; Ord. 1026-99, § 2, Aug. 9, 1999; Ord. 1103-02, 03/25/2002.]

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. [Charter Amendment adopted at a general primary election held May 15, 1990.]

Section 7. Council.

The Council shall be composed of a Mayor and six Councilors elected from the City at large. [Charter Amendment adopted at a general primary election held May 15, 1990.]

Section 8. Councilors.

The term of each Councilor in office when this Charter is adopted shall continue until January 1, 1969. At the 1968 biennial general election, six Councilors shall be elected. Of the six, the three receiving the three highest numbers of votes shall each hold office for four years, and the three receiving the next three highest votes shall each hold office for two years. At each subsequent biennial general election, three Councilors shall be elected, each for a term of four years, and at each biennial general

election the number of Councilors to be elected to fill vacancies pursuant to Section 33 of this Charter shall be elected. [Charter Amendment adopted at a general primary election held May 15, 1990.]

Section 8a. Assignment of Council Positions.

Councilors shall be assigned numbered positions, one through six. A person seeking office on the Council shall specify which Council position they are seeking by number. A person may run for no more than a single Council position during any one election. The person receiving the highest number of votes for each position shall be elected. This amendment shall first apply during the general biennial election in 1990. [Charter Amendment adopted at a general primary election held May 15, 1990.]

Section 9. Mayor.

The present Mayor shall serve the remainder of the term and at the general election of the year 1990 and every four years thereafter a mayor shall be elected. [Charter Amendment adopted at a general primary election held May 15, 1990.]

Section 10. Other Officers.

Additional officers of the City shall be a Municipal Judge, a Recorder, and such other officer as the Council deems necessary. Each of these officers shall be appointed and may be removed by the Mayor with the consent of the Council. The Council may combine any two or more appointive City offices. The Council may designate any appointive officer to supervise any other appointive officer, except the Municipal Judge in the exercise of judicial functions. [Charter Amendment adopted at a general primary election held May 15, 1990.]

Section 11. Salaries.

The compensation for the services of each City officer and employee shall be the amount fixed by the Council.

Section 12. Qualifications of Officers.

No person shall be eligible for an elective office of the City unless at the time of election that person is qualified elector within the meaning of the state constitution and has resided in the City during the 12 months immediately preceding the election. Such elected officer shall remain a resident of the City during the term of office. 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. [Charter Amendment adopted at a general primary election held May 23, 1978, and a general primary election held May 15, 1990.]

CHAPTER IV COUNCIL

Section 13. Meetings.

The Council shall hold a regular meeting at least once a month in the City at a time and a place which is designated. It shall adopt rules for the government of its members and proceedings. The Mayor upon his or her 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 in accordance with procedures prescribed by the state law and general ordinance. Special meetings of the Council may also be held by the common consent of all the members of the Council in accordance with procedures prescribed by state law and general ordinance. [Charter Amendment adopted at a general primary election held November 4, 1986, and a general primary election held May 15, 1990.]

Section 14. Quorum.

Three Councilors and the Mayor or Mayor pro tem shall constitute a quorum for its business, but a small number may meet and compel the attendance of absent members in a manner provided by ordinance. [Charter Amendment adopted at a general primary election held May 15, 1990.]

Section 15. Journal.

The Council shall cause a journal of its proceedings to be kept. Upon 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 16. Proceedings to Be Public.

No action by the Council shall have legal effect unless the motion for the action and the vote by which it is disposed of take place at proceedings open to the public.

Section 17. Mayor's Functions at Council Meetings.

The Mayor shall be chair of the Council and preside over its deliberations. The Mayor shall have a vote on all questions before the Council and authority to preserve the order, enforce the rules of the Council, and determine the order of business under the rules of the Council. [Charter Amendment adopted at a general primary election held May 15, 1990.]

Section 18. 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 by ballot shall elect a president from its membership. In the Mayor's absence from a Council meeting, the president shall preside over it as Mayor pro tem. Whenever the Mayor is unable to perform the functions of office, the president shall act as mayor. [Charter Amendment adopted at a general primary election held November 4, 1986, and a general primary election held May 15, 1990.]

Section 19. Vote Required.

Except as this Charter otherwise provides, the concurrence of a majority of the members of the Council present at a Council meeting shall be necessary to decide any question before the Council.

CHAPTER V POWERS AND DUTIES OF OFFICERS

Section 20. Mayor.

The Mayor shall appoint the committees provided by the rules of the Council and sign all approved records of proceedings of the Council. The Mayor shall have no veto power and shall sign all ordinance passed by the Council within three days after their passing. After the Council approves a bond of a City officer or a bond for a license, contract, or proposal, the Mayor shall endorse the bond. [Charter Amendment adopted at a general primary election held May 15, 1990.]

Section 20a. City Manager.

(a) Qualifications. The City Manager shall be the administrative head of the government of the City. The Manager shall be chosen by the Council without regard to political considerations and solely with reference to executive and administrative qualifications. The Manager need not be a resident of the City or of the State at the time of the appointment, but shall promptly thereafter become and remain a resident of the City. [Charter Amendment adopted at a general primary election held November 4, 1986.]

(b) Term. The Manager shall be appointed for an indefinite term and may be removed at the pleasure of the Council.

(c) Powers and Duties. The Manager shall:

(1) Devote his or her entire time to the discharge of official duties, attend all meetings of the Council unless excused therefrom by the Council or the Mayor, keep 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) 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) Appoint and may remove appointive City officers and employees except as this Charter otherwise provides, and shall have general supervision and control over them and their work with power to transfer an employee from one department to another. The Manager shall supervise the departments to the end of obtaining the utmost efficiency in each of them but shall have no control over the judicial activities of the Municipal Judge.

(4) Be responsible for preparing and submitting to the Budget Committee the annual budget estimates and such reports as the body requests.

(5) Supervise the operation of all public utilities owned and operated by the City and shall have general supervision over all City property. [Charter Amendment adopted at a general primary election held November 6, 1984, and a general primary election held May 15, 1990.]

Section 21. Municipal Judge.

The Municipal Judge shall be the judicial officer of the City and hold within the City a court known as the "municipal court of the City of Tualatin, Washington 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. The Municipal Judge 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 to release on bail pending trial, to issue subpoenas, to compel obedience to such subpoenas, to issue any process necessary to carry into effect the judgments of the court, and to punish witnesses and others for contempt of court. When not governed by ordinance or 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 may, in addition to appointing the Municipal Judge, appoint such pro tem judges as it considers necessary, to hold office at the pleasure of the Council. [Charter Amendment adopted at a general primary election held November 4, 1986, and a general primary election held May 15, 1990.]

Section 22. 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 a Council meeting, the Mayor shall appoint a clerk of the Council pro tem who, while acting in that capacity, shall have the authority and duties of the Recorder.

CHAPTER VI ELECTIONS.

Section 23. Elections.

Except as this Charter provides otherwise, and the Council provides otherwise by ordinance, the general laws of the state of Oregon shall apply to the conduct of City elections. [Sections 23 through 28 repealed and replaced by Charter amendment adopted at general election held November 4, 1986.].

Section 29. Commencement of Terms of Office.

The term of office of a person elected at a regular City election shall commence the first of the year immediately following the election.

Section 30. Oath of Office.

Before entering upon the duties of office, each officer shall take an oath or shall affirm support for the constitutions and laws of the United States and of Oregon and promise to faithfully perform the duties of office. [Charter Amendment adopted at a general primary election held May 15, 1990.]

Section 31. Nominations.

A qualified elector who shall have resided in the City during the 12 months immediately preceding the election may be nominated for an elective City position. Nomination shall be by petition specifying the position sought in a form prescribed by state law. Such petition shall be signed by not fewer than 10 electors. No elector shall sign more than one petition for each vacant position. If the elector does so, the signature shall be valid only on the first sufficient petition filed for the position. The signatures to a nomination petition need not all be appended to one paper, but to each separate paper of the petition shall be attached an affidavit of the circulator thereof, indicating the number of signers of the paper and stating that each signature appended thereto was made in the circulator's presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the signer's place of residence, identified by its street and number or other sufficient description. All nomination papers comprising a petition shall be assembled and filed with the Recorder as one instrument not earlier than 120 nor later than 70 days before the election. The Recorder shall make a record of the exact time at which each petition is filed and shall take and preserve the name and address of the person by whom it is filed. If the petition is not signed by the required number of qualified electors, the Recorder shall notify the candidate and the person who filed the petition within five days after the filing. If the petition is insufficient in any other particular, the Recorder shall return it immediately to the person who filed it, certifying in writing wherein the petition is insufficient. Such deficient petition may be amended and filed again as a new petition, or a substitute petition for the same candidate may be filed, within the regular time for filing nomination petitions. The Recorder shall notify an eligible person of the nomination, and such person shall file with the Recorder the written acceptance of nomination within five days of notification of nomination. Upon receipt of such acceptance of nomination, the Recorder shall cause the nominee's name to be printed on the ballots. The petition of nomination for a successful candidate at an election shall be preserved in the office of the Recorder until the term of office for which the candidate is elected expires. . [Charter Amendment adopted at a general primary election held May 23, 1978 and Charter amendment adopted at a general election held November 4, 1986, and a general primary election held May 15, 1990.]

CHAPTER VII VACANCIES IN OFFICE.

Section 32. What Creates Vacancy.

An office shall be deemed vacant upon the incumbent's death; adjudicated incompetence; conviction of a felony, other offense pertaining to official duties or unlawful destruction of public records; resignation; recall from office; or ceasing to possess qualifications for the office; upon the failure of the person elected or appointed to the office to qualify therefore within 10 days after the term of office is to commence; or in the case of the mayor or councilor, upon absence from the City for 30 days without the consent of the Council or upon absence from meetings of the Council for 60 days without like consent, and upon a declaration

by the Council of the vacancy. [Charter Amendment adopted at a general primary election held May 15, 1990.]

Section 33. Filling of Vacancies.

Vacancies in elective offices in the city shall be filled by appointment by a majority of the incumbent members of the Council. The appointee's term shall begin immediately upon appointment and shall continue until the beginning of the year following the next general biennial election and the successor for the unexpired term shall be chosen at the next general biennial election after said appointment. During the temporary disability of any officer or during the absence temporarily from the City for any cause, the office may be filled pro tem in any manner provided for filling vacancies in office permanently. [Charter Amendment adopted at a general election held November 7, 1978, and a general primary election held May 15, 1990.]

Section 34. Enacting Clause.

The enacting clause of all ordinances hereafter enacted shall be, "The City of Tualatin ordains as follows:"

Section 35. Mode of Enactment.

(1) Except as this section provides to the contrary, every ordinance of the Council shall, before being put upon its final passage, be read fully and distinctly in open Council meeting on two different days.

(2) Except s this section provides the contrary, an ordinance may be enacted at a single meeting of the Council by unanimous vote of all Council members present, upon being read first in full and then by title.

(3) Any of the readings may be by title only,

(a) if no Council member present at the meeting requests to have the ordinance read in full; or

(b) if a copy of the ordinance is provided for each Council member, and a copy is available for public inspection in the office of the City Recorder not later than five days before the first reading of the ordinance and notice of its availability is given forthwith upon the filing, by

(i) written notice posted at the City Center; or

(ii) advertisement in a newspaper of general circulation in the City.

An ordinance enacted after being read by title alone may have no legal effect if it differs substantially from its terms as it was thus filed prior to such reading, unless each section incorporating such a difference is read fully and distinctly in open Council meeting as finally amended prior to being approved by the Council. [Charter Amendment adopted at a general primary election held November 4, 1986.]

(4) Upon the final vote on an ordinance, the ayes and nays of the members shall be taken and recorded in the journal.

(5) Upon the enactment of any ordinance, the Recorder shall sign it with the date of its passage and his or her name and title of office, and within three days thereafter the Mayor shall sign it with the date of his or her signature, name, and the title of office. [Charter Amendment adopted at a general primary election held May 15, 1990.]

Section 36. When Ordinances Shall Take Effect.

An ordinance enacted by the Council shall take effect on the thirtieth day after its enactment. 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 37. 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 38. Improvements.

The procedure for making, altering, vacating or abandoning a public improvement shall be governed by general ordinance or, to the extent not so governed, by the applicable general laws of the state. Action on any proposed public improvement, except a sidewalk or except an improvement unanimously declared by the Council to be needed at once because of an emergency, shall be suspended for six months upon a remonstrance thereto by the owners of two-thirds of the property to be specifically assessed therefore. 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 the City Recorder, the said purchaser shall be deemed the "owner".

Section 39. Special Assessments.

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

Section 40. Public Contracts.

Public contracts for materials, equipment and services shall be in accordance with requirements of applicable general laws of the state and to the extent not so governed in accordance with regulations adopted by the Council. [Charter Amendment adopted at a general primary election held November 4, 1986.]

CHAPTER X MISCELLANEOUS PROVISIONS.

Section 41. Debt Limit.

Except as authorized by state law, the City shall not issue and sell general obligation bonds unless authorized by consent of a majority of the voters at an election. All City officials and employees who create or officially approve any indebtedness contrary to this provision shall be jointly and severally liable for the excess. [Charter Amendment adopted at a general primary election held November 4, 1986.]

Section 41a. Amendments.

(a) The City Council of the City of Tualatin, Washington County, Oregon, is hereby authorized, empowered and directed to issue and sell general obligation bonds in the sum or sums not to exceed $200, 000. Said bonds are to be issued for the purpose of providing funds with which to acquire, construct, reconstruct, alter, enlarge, renew, replace, operate and maintain the City water distribution and the City sewage collection system. Said bonds shall bear interest at the rate not to exceed six percent per annum and shall be issued in amounts and on such dates as the City Council may determine; provided, that no bonds issued hereunder shall bear a maturity date exceeding 25 years from the date of issuance. [Charter Amendment adopted at a general primary election held August 16, 1968.]

(b) The debt limitations as contained in the Charter of the City of Tualatin shall not apply to the bonds hereby authorized, nor shall any other provisions and limitations in said Charter apply. [Charter Amendment adopted at a general primary election held August 16, 1968.]

(c) The City Council of the City of Tualatin, Oregon, is hereby authorized, empowered and directed to issue and sell general obligation bonds in the sum or sums not to exceed $300, 000 and to levy and ad valorem property tax to retire said bonded indebtedness. Said bonds are to be issued for the purpose of providing funds to ac-

quire and construct a City water reservoir system. Said bonds shall bear interest not to exceed a net effective rate of seven percent per annum and shall be issued in amounts and on such dates as the City Council may determine; provided, that no bonds issued hereunder shall bear a maturity date exceeding 25 years from the date of issuance. [Charter Amendment adopted at a special election held March 23, 1971.]

(d) The debt limitations as contained in the Chart of the City of Tualatin shall not apply to the bonds hereby authorized, nor shall any other provisions and limitations in said Charter apply. [Charter Amendment adopted at a special election held March 23, 1971.]

(e) The authority of the City Council to issue and sell general obligation bonds under Subsection (c) above is subject to the City entering into a grant agreement with the United States Department of Housing and Urban Development for the receipt of a sum not less than $300,000 from said Department of Housing and Urban Development. [Charter Amendment adopted at a special election held March 23, 1971.]

(f) The City Council is hereby authorized, empowered and directed to purchase real estate by land sale contract to be used for park purposes and in connection with the City Community Center and incur indebtedness therefore in an amount not to exceed $47,500 in addition to interest thereon. The real property shall be paid for out of government and private matching funds and shall not be paid for by local property taxation. [Charter Amendment adopted at a special election held September 11, 1973.]

(g) The City Council is hereby authorized and empowered by ordinance to impose and levy a tax not exceeding five percent on gross amounts of money, credit or other things of value paid to or received for lodging by the owner or operator of any hotel, motel, apartment or lodging house, mobile home or trailer park or court, or any other place in the City where space designed or intended for lodging occupancy is rented by any person or persons for any period less than monthly. This tax shall not apply to hospitals, convalescent or nursing homes or public institutions, or permanent occupancy as defined by ordinance. The tax imposed shall be collected by the owner or operator of the rental space, in addition to the rental charge at the time of payment of rent. City revenues from such taxes shall be credited to the general fund of the City and used for general City purposes, as the Council may find appropriate. [Charter Amendment adopted at a special election held September 11, 1973.]

Section 42. Torts.

In no event shall the City be liable in damages for any injury to person, a damage to property, or a death for an amount greater than that authorized by applicable state law. The claimant shall provide the City with notice as required by state law. [Charter Amendment adopted at a general primary election held November 4, 1986.]

Section 43. 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 44. Repeal of Previously Enacted Provision.

All Charter provisions of the City enacted prior to the time that this Charter takes effect are hereby repealed.

Section 45. Time of Effect of Charter.

This Charter shall take effect July 1, 1967.

Section 46. Willamette Water – Vote Required.

The City of Tualatin shall not use Willamette River water as a drinking water source for its citizens unless the following

question is submitted to the voters and is approved by the affirmative majority (greater than 50%) of the total number of legal votes cast on such measure and entitled to be counted thereon. The question shall read: "Shall treated Willamette River water be used as drinking water by the citizens of Tualatin?" The vote shall take place after the effective date of this amendment. [Charter Amendment adopted at a general primary election held May 21, 2002.]

CHAPTER XI PROTECTION OF CITY OWNED PARKS AND OPEN SPACES.

Section 47. Purpose.

The purpose of this Chapter XI of the Charter is to prevent the transfer, sale, vacation or major change in use of city parks without first obtaining an approving vote of the legal voters of this city; to preserve the natural beauty, ecological integrity and recreational value of the city's parks form incompatible and non-park development; to protect the public park uses and purposes for which city parks are established, acquired or dedicated, and to prevent conversion or development of parks or parts thereof to nonpark or incompatible uses. [Charter Amendment adopted at a special election held March 8, 2011].

Section 48. Definitions.

The following definitions apply to this Chapter XI.

(a) The "city" means the City of Tualatin, its city council, city departments and city employees acting within their official capacities.

(b) A "major change" is a change in use of a park, or part thereof, from a recreation or preservation use to non-park use unrelated to public recreation or preservation. "Major change" includes the development of roads, bridges, utility facilities, parking lots and buildings in a city park that are unrelated to the park uses for which the park was established, acquired or dedicated.

(c) "Parks" are parcels of real property owned by or dedicated to the City of Tualatin for purposes of public recreation, preservation of open space, riparian greenway, natural wildlife or other habitat values, or the preservation of historic or cultural resources. The term "park" encompasses all such properties owned by or dedicated to the city whether held in fee or as an easement.

(d) To "vacate" park property, or a portion thereof, means to dispose of land owned by or dedicated to the city through the procedures of ORS chapter 271 or comparable procedures in city code or ordinance. [Charter Amendment adopted at a special election held March 8, 2011].

Section 49. Approval by Voters.

The city shall not do, or allow to be done by others, any of the following listed acts with regard to any city park or part thereof without first obtaining approval of the legal voters of the city:

(a) To sell, lease or otherwise transfer city park property,

(b) To vacate or otherwise change the ownership or legal status of any city park, or part thereof, except that the city may grant easements for underground utilities and uses that do not cause or constitute a major change in use of the park or some part thereof.

(c) To cause, undertake or allow any development or construction in a city park that causes a major change in the use of the park or some part thereof.

(d) To construct or allow to be constructed or expanded in a city park any street, road, parking lot or permanent above ground structure, including buildings, power

lines, motor vehicle or utility bridges and power lines, other than streets, roads, parking lots or structures needed to serve primarily the purposes for which the park was established, including park maintenance and operations. In no event shall below ground structures or buried utilities be allowed in a city park without an approving vote of the legal voters if the below ground structure or buried utility affects or limits above-ground park uses. Any street, road, parking lot or above ground structures existing in a city park on the date of adoption of this Chapter that do not comply with its provisions, are excepted from its requirements, but any subsequent additions or alterations thereto must comply with this Section.

This section is not intended to prevent or require an approving vote to allow temporary structures, tents, shelters and the like to be erected in a city park for commercial or non-recreational or preservation uses so long as these temporary structures are erected and used in conjunction with a community based event or park use of the park. Furthermore, this section is not intended to control or override adopted park management and operations that do not otherwise constitute or cause a major change in the use of the park or part thereof. [Charter Amendment adopted at a special election held March 8, 2011].

Section 50. Parks Designated.

The following city parks, natural areas and greenways, in their current configuration and size and as may be enlarged subsequently, are city parks as defined herein and are subject to the provisions of this Chapter XI.

Parks:

Atfalati Park	6600 SW Sagert Street
Brown's Ferry Park	5855 SW Nyberg Lane
Ibach Park	10455 SW Ibach Street
Jurgens Park	17255 SW Jurgens Avenue
Lafky Park	9655 SW Siletz Drive
Little Woodrose Nature Park	21045 SW 90th Avenue
Saarinen Wayside Park	20535 SW 86th Avenue
Stoneridge Park	19489 SW 68th Avenue
Sweek Pond Natural Area Park	8700 SW Sweek Drive
Tualatin Commons	8325 SW Nyberg Street
Tualatin Commons Park	7880 SW Nyberg Street
Tualatin Community Park	8515 SW Tualatin Road

Natural Areas:
Johnnie and William Koller Wetland
Victoria Woods Natural Area
Sweek Woods Natural Area
Sequoia Ridge Natural Area
Hedges Creek Natural Area

Greenways:
Chieftain/Dakota Greenway
Hedges Creek Greenway
Hi-West Estates Greenway
Indian Meadows Greenway
Nyberg Creek Greenway
Nyberg Creek (South) Greenway
Saum Creek Greenway
Shaniko Greenway
Tualatin River Greenway

[Charter Amendment adopted at a special election held March 8, 2011].

Section 51. Later Acquired and Expanded Parks.

Existing parks may be expanded and additional parks may be created, acquired, dedicated or designated by the city for park purposes. Whenever any real property is designated as a city park, it shall be subject to all of the provisions of this chapter XI, except that the city's initial acquisition of a parcel of real estate may include portions of property and improvements that are not appropriate or intended for city park purposes. Nothing in this Chapter shall prevent or require an approving vote to dispose of non-park portions of such a property that is acquired for park purposes, so long as the city disposes of the non-park portion(s) within two years of acquisition or dedication of the larger property. [Charter Amendment adopted at a special election held March 8, 2011].

City of West Linn

CHARTER

Adopted by a Vote of the People
May 17, 1994

Amended by a Vote of the People
September 19, 1995
November 7, 1995
September 17, 1996
November 4, 1997
May 19, 1998
May 18, 1999
November 7, 2000
November 6, 2001
May 16, 2006
May 20, 2008
May 15, 2012

Dec 5, 2013
Date

City Charter Review Comm
Gov. Body

Mtg. Prep 3
Agenda Item

G
Exhibit #

WEST LINN CHARTER

CHAPTER I - NAME AND BOUNDARIES

Section 1. Title of Charter.
2. Name of City.
3. Boundaries & Annexations.

CHAPTER II - POWERS

Section 4. Powers of the City.
5. Construction of the Charter.
6. Distribution of Powers.

CHAPTER III - FORM OF GOVERNMENT

Section 7. Council.
8. Councilors.
9. Mayor.
10. Terms of Office.
11. Salaries.
12. Qualifications.

CHAPTER IV - COUNCIL

Section 13. Meetings.
14. Quorum.
15. Record of Proceedings.
16. Proceedings to be Public.
17. Mayor's Functions at Council Meetings.
18. President of the Council.
19. Vote Required.
20. Communication with City Departments.
21. Appointment and Evaluation of City Manager.

CHAPTER V - POWERS AND DUTIES OF OFFICERS

Section 22. Mayor.
23. City Manager.
24. Municipal Judge.

CHAPTER VI - ELECTIONS

Section 25. Regular Elections.
26. State Law.
27. Tie Votes.
28. Oath of Office.
29. Candidacy and Nominations.

CHAPTER VII - VACANCIES IN OFFICE

Section 30. Vacancies: Occurrence.
31. Vacancies: Filling.

CHAPTER VIII - ORDINANCES

Section 32. Enacting Clause.
33. Mode of Enactment.
34. When Ordinance Takes Effect.

CHAPTER IX - PUBLIC IMPROVEMENTS

Section 35. Condemnation.
36. Procedure.
37. Special Assessments.

CHAPTER X - MISCELLANEOUS PROVISIONS

Section 38. Debt Limit.
39. Garbage Burner Restriction.
40. Existing Ordinances Continued.
41. Repeal of Previously Enacted Provisions.
42. Time of Effect of Charter.
43. Severability.
44. Water Rates.
45. Utility Advisory Board.

CHAPTER XI - USE AND DISPOSITION OF CITY OWNED REAL ESTATE

Section 46. Park and Open Space

1994 WEST LINN CHARTER

As Adopted by a Vote of the People
May 17, 1994
And Amended by a Vote of the People
September 19, 1995
November 7, 1995
September 17, 1996
November 4, 1997
May 19, 1998
May 18, 1999
November 7, 2000
November 6, 2001
May 16, 2006
May 20, 2008
May 15, 2012
* * * *

PREAMBLE

We, the people of West Linn, Oregon, in order to avail ourselves of self-determination in municipal affairs to the fullest extent now or hereafter possible under the constitutions and laws of the United States and State of Oregon, through this Charter confer upon the City the following powers, subject to the following restrictions, prescribe for it the following procedures and governmental structure, and repeal all previous Charter provisions of the City.

Chapter 1

NAME AND BOUNDARIES

Section 1. Title of Charter.
This Charter may be referred to as the 1994 West Linn Charter.

Section 2. Name of City.
The City of West Linn, Oregon, continues under this Charter to be a municipal corporation with the name of the City of West Linn.

Section 3. Boundaries & Annexations.
Unless mandated by state law, the City of West Linn shall not annex any territory, by delayed annexation or otherwise, without the approval of a majority vote among the City's electorate.

As to annexations initiated after May 19, 1998, unless mandated by state law or the land is needed for public facilities, the City shall not initiate or support an annexation, delayed or otherwise, of land that was outside the Metropolitan Service District Urban Growth Boundary as of May 19, 1998, without first obtaining approval of the voters of West Linn

in an election. Public facilities include but are not limited to schools, senior centers, roads, police and fire stations, parks, swim centers, and public water, sewer and storm drainage facilities. (Amended 5-19-98 [effective 6-18-98 - Ordinance 1419])

At least two copies of this Charter and an accurate, up-to-date description of City boundaries shall be kept at City Hall. The copies and descriptions shall be available for public inspection at any time during regular office hours of the City Hall.

Chapter II

POWERS

Section 4. Powers of the City.
The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers.

Section 5. Construction of the Charter.
In this Charter the mention of a particular power shall not 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 the State laws and to the municipal home rule provisions of the State Constitution.

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

Chapter III

FORM OF GOVERNMENT

Section 7. Council.
The Council shall be composed of a Mayor and four Councilors nominated and elected from the City at large. (Amended 05-16-06)

Section 8. Councilors.
(a) For the 2002 general election and subsequent general elections in even numbered years, the ballot shall include a single list of candidates for council seats. Electors may vote for up to the same number of candidates as there are seats open. The candidates receiving the greatest number of votes shall be elected to fill open seats for expired terms. (Amended 11-07-00)

(b) At the general election in 2008 and every even-numbered year thereafter, two Councilors shall be elected. (Amended 05-20-08)

(c) At the general election in 2006, the ballot shall include a single list of candidates for the four Councilor seats. The Councilor candidates receiving the largest and second-largest number of votes in the 2006 elections shall be elected as Councilors for four-year terms. The Councilor candidates receiving the third- and fourth-largest number of votes in the 2006 election shall be elected to two-year terms. Electors may vote for up to four Council candidates in the 2006 election. At each general election in even-numbered years after 2006, the ballot shall include a single list of candidates for the two Councilor seats that will become vacant due to term expiration. In general elections after 2006, the Councilor candidates receiving the largest and second-largest number of votes shall be elected for four-year terms, and electors may vote for up to two Council candidates. (Repealed 11-04-97; amended 11-07-00; amended 05-16-06)

(d) [Deleted 11-07-00; NOTE: This pertained to official position numbers.]

(e) [Deleted 05-16-06; NOTE: This pertained to Council liaisons to City departments.]

(f) The Council may retain legal advisors as it deems prudent. The legal advisors shall report to and serve at the discretion of the Council.

Section 9. Mayor.
(a) [Repealed 11-04-97; NOTE: This pertained to primary election requirement.]

(b) Mayors shall be elected for four-year terms beginning at the 2008 general election. (Amended 05-20-08)

Section 10. Terms of Office.
The term of office of an elective officer who is elected at a general election begins at the first Council meeting of the year immediately after the election, unless otherwise specified, and continues until the successor to the office assumes the office. (Amended 11-04-97)

Section 11. Salaries.
The compensation for the services of each City officer, employee, Council member and Mayor shall be the amount fixed by the Council. As of January 1, 2009, this amount shall not exceed $4,000 annually for each Councilor and $6,400 annually for the Mayor. This maximum amount shall be adjusted for inflation annually based upon the Consumer Price Index for the Portland Metropolitan Area. (Amended 05-20-08)

Section 12. Qualifications.
(a) A candidate for City office shall be a qualified elector under the State Constitution and shall have resided in the City during the twelve months immediately before being elected or appointed to the office. "City" means the area inside the City limits at the time of the election or appointment. Elected City officers, subsequent to their election or appointment, shall continue to be residents of the City during their entire term of office.

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

(c) An elected officer may be employed in a City position that is substantially volunteer in nature. Whether the position is so may be decided by the Municipal Court or in some other manner, whichever the Council prescribes.

(d) Except as subsection (c) of this section provides to the contrary, the Council is the final judge of the election and qualifications of its members.

(e) The qualifications of appointed officers of the City are as the Council prescribes or authorizes.

Chapter IV

COUNCIL

Section 13. Meetings.
The Council shall hold a regular meeting at least once each month in the City at a time and at a place which it designates. It shall adopt rules for the government of its members and proceedings. The Mayor upon the Mayor's own motion may, or, at the request of two members of the Council, shall by giving notice thereof to all members of the Council then in the City, call a special meeting for the Council. Public notice shall be given as required by State law. Special meetings of the Council may also be held at any time by common consent of all members of the Council.

Section 14. Quorum.
A majority of 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 15. Record of Proceedings.
The Council shall cause a record 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 entered in the record.

Section 16. Proceedings to be Public.
No action by the Council shall have legal effect unless the motion for the action and vote by which it is disposed of take place at proceedings open to the public.

Section 17. Mayor's Functions at Council Meetings.
The Mayor shall preside over Council deliberations and shall have a vote on all questions before the Council. The Mayor shall preserve order, enforce the rules of the Council, and determine the order of business under the rules of the Council.

Section 18. President of the Council.
At the first meeting of each year, the Council shall elect a President from its membership. In the Mayor's absence from a Council meeting, the President shall preside over it. Whenever the Mayor is unable to perform the functions of the office, the President shall act as Mayor.

Section 19. Vote Required.
Except as this Charter otherwise provides, the concurrence of a majority of the Council members present at a Council meeting shall be necessary to decide any question before the Council.

Section 20. Communication with City Departments.
The Council shall adopt rules governing communications between departments of the City and individual Council members.

Section 21. Appointment and Evaluation of City Manager.
(a) The Council shall appoint a City Manager for a term specified by contract and may remove the City Manager at its discretion.

(b) The Council shall provide a mechanism for public input at least annually into the evaluation of the City Manager's performance and shall consider such public input in its evaluation of the performance and tenure of the City Manager.

Chapter V

POWERS AND DUTIES OF OFFICERS

Section 22. Mayor.
The Mayor shall:

(a) Sign all records of proceedings approved by the Council.

(b) Have no veto power.

(c) Sign all ordinances passed by the Council. Failure of the Mayor or the President of the Council to sign an ordinance shall not invalidate it.

(d) Endorse the bond after the Council approves a bond of a City officer or a bond for license, contract or proposal.

(e) [Deleted 05-16-06; NOTE: This pertained to Council liaisons to City departments.]

(f) Appoint, with the approval of the Council, the boards, commissions and committees provided by the rules of the Council. Members of the Planning Commission and Budget Committee shall have a minimum of six months residency in the City prior to appointment, unless otherwise provided by State law, and shall meet attendance requirements as set by ordinance.

Section 23. City Manager.
(a) Qualifications. The City Manager shall be the administrative head of the government of the City. The City Manager shall be chosen by the Council without regard to political considerations and solely with reference to the City Manager's executive and administrative qualifications. Before taking office, the City Manager shall give a bond in such amount and with surety as may be approved by the Council. The premiums on such bond shall be paid by the City.

(b) Residency. It is the desire of the people of West Linn, but not a requirement, that the City Manager live in the City during the term of his or her employment.

(c) Powers and Duties. The powers and duties of the City Manager shall be as follows:

(1) The City Manager shall devote his or her entire working time to the discharge of his or her official duties, attend all meetings of the Council unless excused therefrom by the Council or the Mayor, keep the Council advised at all times of the affairs and needs of the City, make reports annually, or more frequently if requested by the Council, of all the affairs and departments of the City.

(2) The City Manager 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) The City Manager shall designate a custodian of records and such other officers and employees as required, and shall appoint and may remove appointive City officers and employees except as this Charter otherwise provides, and shall have general supervision and control over them and their work with power to transfer an employee from one department to another. The City Manager shall supervise the departments to the end of obtaining the utmost efficiency in each of them. The City Manager shall have no control, however, over the strictly judicial activities of the Municipal Judge.

(4) The City Manager shall ensure that all expenditures of public funds, including the purchase of goods and services, are made in accordance with City policies, State budget and public contract law, and generally accepted financial management practices. (Amended 9-19-95)

(5) The City Manager shall be responsible for preparing and submitting to the Budget Committee the annual budget estimates and such reports as that body requests.

(6) The City Manager shall supervise the operation of all public utilities owned and operated by the City and shall have a general supervision over all City property.

Section 24. Municipal Judge.

(a) The Municipal Judge shall be elected for a term of four years and shall be a judicial officer of the City. The Municipal Judge holding office at the time of adoption of this Charter shall hold his or her office for the balance of the term for which he or she was elected or appointed and until his or her successor is elected and qualified. The Municipal Judge shall be a member of good standing of the Oregon State Bar during his or her entire term of office. Disbarment shall be a basis for removal from office by the Council. Should the office be vacant:

(1) If less than one year remains in the term of the person who held that vacant office, the vacancy shall be filled by appointment by a majority vote of the Council members. The appointee shall serve the remainder of the unexpired term.

(2) If one or more years remain in the term of the person who held that vacant office, the vacancy shall be filled at a special election at the next available date. The person elected shall serve the remainder of the

unexpired term. A majority of the Council members shall fill the vacancy by appointment for an interim period until a special election may be held to fill the remainder of the unexpired term.

(b) The Municipal Court Judge shall hold at a place and time that the Council may specify, a court known as the Municipal Court for the City of West Linn, Clackamas County, Oregon.

(c) Except as this Charter of City ordinance prescribes to the contrary, procedures of the court shall conform to the general laws of this State governing municipal courts, justices of the peace and justice courts.

(d) All areas within the City and, to the extent provided by State law, area outside the City, are within the territorial jurisdiction of the Court.

(e) The Municipal Court has original jurisdiction over every offense that an ordinance of the City makes punishable. The Court may enforce forfeitures and other penalties that such ordinances prescribe. The powers of the Municipal Judge shall include, but are not limited to:

(1) Rendering judgments and, for enforcing them, imposing sanctions on persons and property within the Court's territorial jurisdiction;

(2) Ordering the arrest of anyone accused of an offense against the City;

(3) Committing to jail or admitting to bail anyone accused of such an offense;

(4) Issuing and compelling obedience to subpoenas;

(5) Compelling witnesses to appear and testify and jurors to serve in the trial of matters before the Court;

(6) Penalizing contempt of court;

(7) Issuing process necessary to effectuate judgments and orders of the Court;

(8) Issuing search warrants;

(9) Performing other judicial and quasi-judicial functions prescribed by ordinance.

(f) The Municipal Judge may appoint Municipal Judges *pro tem* who shall meet the same qualifications as the Municipal Judge except that they are not required to reside within the City limits. (Amended 05-20-08)

Chapter VI

ELECTIONS

Section 25. Regular Elections.
Regular City elections shall be held at the same times and places as biennial general elections. (Amended 11-04-97)

Section 26. State Law.
Except as this Charter, or a City ordinance prescribes to the contrary, a City election shall conform to State law applicable to the election.

Section 27. Tie Votes.
In the event of a tie vote for candidates for an elective office, the tie shall be broken by a public drawing of lots in a manner prescribed by the Council. (Amended 11-04-97)

Section 28. Oath of Office.
Before entering upon the duties of the office, each officer shall take an oath or shall affirm that the officer will support the constitutions and laws of the United States and of Oregon and that the officer will faithfully perform the duties of the office.

Section 29. Candidacy and Nominations.
The Council shall provide by ordinance the mode for nominating elective officers, provided any qualified person may be nominated by filing a petition signed by 25 legal voters of the City, or by filing with the City a declaration of his or her candidacy on forms provided by the City. A filing fee may be provided by ordinance for candidates filing by means other than petition as provided above.

Chapter VII

VACANCIES IN OFFICE

Section 30. Vacancies: Occurrence.
The office of a member of the Council becomes vacant:

(a) Upon the incumbent's:

(1) Death;

(2) Adjudicated incompetence; or

(3) Recall from the office; or

(b) Upon declaration by the Council of the vacancy in case of the incumbent's:

(1) Failure, following election or appointment to the office, to qualify for the office within ten days after the time for the term of office to begin;

(2) Absence from the City for 30 days without the Council's consent or from all meetings of the Council within a 60-day period;

(3) Ceasing to reside in the City;

(4) Ceasing to be a qualified elector under State law;

(5) Conviction of a public offense punishable by loss of liberty; or

(6) Resignation from the office.

Section 31. Vacancies: Filling.
(a) If less than one year remains in the term of the person who held that vacant office, the vacancy shall be filled by appointment by a majority vote of the remaining Council members. The appointee shall serve the remainder of the unexpired term.

(b) If one or more years remain in the term of the person who held that vacant office, the vacancy shall be filled at a special election at the next available date. The person elected shall serve the remainder of the unexpired term. A majority of the remaining Council members shall fill the vacancy by appointment for an interim period until a special election may be held to fill the remainder of the unexpired term.

(c) During a Council member's disability to serve on the Council or during a member's absence from the City, a majority of the remaining Council members may by appointment fill the vacancy *pro tem*.

Chapter VIII

ORDINANCES

Section 32. Enacting Clause.
The enacting clause of all ordinances hereinafter enacted shall be "The City of West Linn ordains as follows:"

Section 33. Mode of Enactment.
(a) Except as paragraphs (b) and (c) of this section provide to the contrary, every ordinance of the Council shall, before being put upon its final passage, be read fully and distinctly in open Council meeting on two different days.

(b) Except as paragraph (c) of this section provides to the contrary, an ordinance may be enacted at a single meeting of the Council by unanimous vote of the Council members present, upon being read first in full and then by title.

(c) Any of the readings may be by title only if no Council member present at the meeting requests to have the ordinance read in full or if a copy of the ordinance is provided for each Council member and three copies are provided for public inspection at the City offices not later than one week before the first reading of the ordinance, and if notice of their availability is given forthwith upon the filing, by written notice posted at City Hall and two other public places in the City or by advertisement in a newspaper of general circulation in the City. An ordinance enacted after first being read by title alone may have no legal effect if it differs substantially from its terms as it was thus filed prior to such reading unless each section incorporating such a difference is read fully and

distinctly in open Council meeting as finally amended prior to being approved by the Council.

(d) Upon the final vote on an ordinance, the ayes and nays of the members shall be taken and entered in the record of proceedings.

(e) Upon the enactment of an ordinance the custodian of records shall sign it with the date of its passage and the endorser's name and title of office and thereafter the Mayor, or President of the Council acting pursuant to Section 18 of this Charter, shall sign it with the date of its passage and the endorser's name and title of office. Failure of the Mayor or the President of the Council to sign it shall not invalidate it.

Section 34. When Ordinance Takes Effect.
An ordinance enacted by the Council shall take effect on the 30th day after its enactment. When the Council deems it advisable, however, an ordinance may provide a later date for it to take effect, and in case of an emergency, then it shall include in the ordinance a statement of explanation regarding the basis for the declaration of emergency.

Chapter IX

PUBLIC IMPROVEMENTS

Section 35. 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 36. Procedure.
The procedure for making, altering, vacating, or abandoning a public improvement shall be governed by general ordinance or, to the extent not so governed, by the applicable general laws of the State. Action on any proposed public improvement, except a sidewalk or except an improvement unanimously declared by the Council to be needed at once because of an emergency, shall be suspended for six months upon a remonstrance thereto by the owners of two-thirds of the land to be specifically assessed therefor. In this section "owner" shall mean a record holder of legal title or, where land is being purchased under a land sale contract recorded or verified to the custodian of records in writing by the record holder of legal title to the land, the purchaser shall be deemed the "owner."

Section 37. Special Assessments.
The procedure for levying, collection and enforcing the payment of special assessments for public improvements or other services to be charged against real property shall be governed by general ordinance.

Chapter X
MISCELLANEOUS PROVISIONS

Section 38. Debt Limit.
Except by consent of the voters, the City's voluntary floating indebtedness shall not exceed debt limits imposed by State law. For 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 excess.

Section 39. Garbage Burner Restriction.
No municipal or commercial garbage burning facilities within two miles of schools in West Linn shall discharge cancer causing agents, lead or mercury. The City is authorized to take any legal action necessary to enforce this prohibition.

Section 40. 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 41. 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 42. Time of Effect of Charter.
This Charter shall take effect 30 days after its approval by the voters of the City of West Linn.

Section 43. Severability.
The terms of this Charter are severable. If a part of the Charter is held invalid, that invalidity does not affect another part of the Charter, except as logical relation between the two parts requires.

Section 44. Voter Approval of Utility Rates.
No "utility rate increase" may exceed 5% in any calendar year without first receiving voter approval. The City Council may increase utility rates by a percentage of no more than 5% in any calendar year after having considered a recommendation from the Utility Advisory Board for the percentage increase, if one is received. For the purposes of this section a "utility rate increase" is the cost increase paid to the City by a user of the sanitary sewer, storm sewer and water systems above the rate paid on June 18, 1999, excluding the component of a sewer rate increase that is a pass through of an increase in charges paid by the City for sewage treatment. The utility rate for each system shall be considered separately. The provisions of this section shall be implemented by ordinance of the Council. (Amended by vote 5-18-99 [effective 7-1-99 - Ordinance 1436])

Section 45. Utility Advisory Board.
A Utility Advisory Board (UAB) is hereby established. The Utility Advisory Board shall make recommendations to the City Council concerning rates for water. These recommendations shall pertain to those legislative matters to be decided by the City Council concerning or affecting rates, such as master facility plans and service levels as they relate to rates. The Utility Advisory Board may also make recommendations

regarding such other City-owned utilities as the City Council from time to time may determine. Appointment, terms of office, vacancies and removal, meetings and other organizational matters for the Utility Advisory Board shall be provided for by ordinance of the City Council. (Amended 9-17-96)

Chapter XI
USE AND DISPOSITION OF CITY OWNED REAL ESTATE

Section 46. Park and Open Space.

(a) The City shall not engage in the lease, sale, exchange or nonauthorized use of City owned park or open space without first receiving voter approval for such lease, sale, exchange or nonauthorized use. Such approval shall consist of a majority of votes cast at a regularly scheduled election in favor of a specific proposal for a lease, sale, exchange or nonauthorized use of City owned park or open space.

Each proposal must be voted on separately; however, multiple proposals may be placed on the ballot on the same election day. Each proposal shall include only a single property, except for proposals which include an exchange contractually linking two or more properties.

(b) For the purposes of this section the term "nonauthorized use" shall have the following meanings: (1) A nonauthorized use for a City owned park shall be the siting or construction of facilities that are not directly required for the park's use. Only facilities directly necessary for the park's use shall be considered authorized. Uses that shall be specifically considered to be nonauthorized in connection with parks are: water reservoirs, water tanks, telecommunication towers, residential housing, City offices, commercial buildings, parking facilities (excepting that parking needed for the use of the park) and roads (except as needed for park access). (2) A nonauthorized use for a City owned open space shall be the siting or construction of facilities that are not directly required for the maintenance of the open space or use of said open space as open space. Only facilities directly necessary for the use of open space shall be considered authorized. Uses that shall be specifically considered to be nonauthorized in connection with open space are: water reservoirs, water tanks, telecommunication towers, residential housing, City offices, or commercial buildings. (3) The nonauthorized use designation shall be understood to exempt temporary constructions authorized by the West Linn Parks Department for picnics, fairs, sports events, parades and community and neighborhood celebrations. (4) Uses that are in existence as of the effective date of this section shall not be considered nonauthorized uses.

(c) For the purposes of the above section the term "open space" shall be defined as City-owned real estate identified in documents adopted or accepted by the City Council or authorized City official as "open space," "green space," "wetland," "drainageway," (excluding city owned roadside drainage swales), "wildlife habitat" and "stream corridor." Property with the above designations that is not owned by the City shall be exempt from the provisions of this section.

(d) This section shall apply to all City-owned park or open space as of the adoption of this section, as well as all park and open space coming into the City's ownership after the adoption of this section. Within 60 days of City acquisition of real property the City

Council shall determine the appropriate designation of the property for the purposes of this Charter section. Within 90 days of adoption of this section the City Council will adopt existing property into the appropriate designation. The City will create and maintain an inventory of City-owned parks and open spaces, including, but not limited to, appropriate designations, location and size.

(e) The intent of this Charter section is that City-owned park and open space shall be preserved for recreational use and environmental preservation and enhancement and not used for other purposes or sold or exchanged without the approval of the registered voters of the City of West Linn.

(f) This section shall take effect 15 calendar days after the voter approval of this section. (Amended 11-06-01 [effective 11-21-01]).

(g) City-owned property designated 'park' or 'open space' pursuant to this Chapter XI, Section 46, and specifically to (d) above, shall not have such designation removed by the City without first receiving voter approval. Such approval shall consist of a majority of votes cast at a regularly scheduled election in favor of a specific proposal to remove such designation. Each proposal shall be limited to a single property, and shall be voted on separtately; however, multiple proposals may be placed on the ballot for the same election day.

The express intent of this section is to preclude the possibility that the protections afforded City-owned property designated 'park' or 'open space' might have such protection removed by the redesignation of such property, without voter approval, and thereby potentially allow the lease, sale, exchange or nonauthorized use of such property without voter approval, and as a consequence, acting to circumvent the intended protections of this chapter. (Amended 2-13-12 [effective 5-15-12])

CITY OF NEWBERG

CHARTER

CITY OF NEWBERG
414 E. FIRST ST.
P.O. BOX 970
NEWBERG, OREGON 97132
(503) 538-9421

Approved November 7, 2006
Enacted January 1, 2007

Dec 5, 2013
Date

City Charter Review COMM.
Gov. Body

Mtg. Prep 3
Agenda Item

H
Exhibit #

HISTORY

An act incorporating the town of Newberg, in Yamhill County, State of Oregon, was filed with the Office of the Secretary of State on February 21, 1889. An act incorporating the City of Newberg and repealing the act incorporating the town of Newberg, Yamhill County, State of Oregon, was filed in the Office of the Secretary of State on February 10, 1893. The Newberg Charter of 1893 was revised in 1950. The Newberg Charter of 1893 was substantially revised in 1982 and was approved by the people in November 1982. The revision provided for the Mayor/Council /Manager form of government. It took effect on January 1, 1983. The Newberg Charter was amended by an initiative on May 21, 1996. It provided for a vote on all annexations and electing the City Council from districts. May 16, 2006 the voters approved an amendment to the Charter providing the Mayor become a voting member of the Council and the term change from two (2) years to four (4) years. The 1982 Charter was revised in November, 2006, providing an all inclusive update and inclusion of Orders for quasi-judicial authority.

Table of Contents

CHAPTER I REVISION CLAUSE; NAME AND BOUNDARIES

Section 1. Revision Clause ..... Page 3
Section 2. Title ..... Page 3
Section 3. Name ..... Page 3
Section 4. Boundaries ..... Page 3

CHAPTER II POWERS

Section 5. Powers ..... Page 3
Section 6. Construction ..... Page 3
Section 7. Distribution ..... Page 3

CHAPTER III COUNCIL

Section 8. Council ..... Page 4
Section 9. Mayor ..... Page 4
Section 10. Council President ..... Page 4
Section 11. Rules ..... Page 4
Section 12. Meetings ..... Page 4
Section 13. Quorum ..... Page 4
Section 14. Vote Required ..... Page 4
Section 15. Record.

CHAPTER IV LEGISLATIVE AUTHORITY

Section 16. Ordinances ..... Page 4
Section 17. Ordinance Adoption ..... Page 4
Section 18. Effective Date of Ordinances ..... Page 5

CHAPTER V ADMINISTRATIVE AUTHORITY

Section 19. Resolutions ..... Page 5
Section 20. Resolution Approval ..... Page 5
Section 21. Effective Date of Resolutions ..... Page 5

CHAPTER VI QUASI-JUDICIAL AUTHORITY

Section 22. Orders ..... Page 5
Section 23. Order Approval ..... Page 5
Section 24. Effective Date of Orders ..... Page 6

CHAPTER VII ELECTIONS

Section 25. Councilors ..... Page 6
Section 26. Mayor ..... Page 6
Section 27. State Law ..... Page 6
Section 28. Qualifications ..... Page 6
Section 29. Nominations ..... Page 7
Section 30. Terms ..... Page 7

Section 31. Oath ..... Page 7
Section 32. Vacancies ..... Page 7
Section 33. Filling Vacancies ..... Page 7

CHAPTER VIII APPOINTIVE OFFICERS
Section 34. City Manager ..... Page 8
Section 35. City Attorney ..... Page 9
Section 36. Municipal Court and Judge ..... Page 9

CHAPTER IX PERSONNEL
Section 37. Compensation ..... Page 10
Section 38. Merit Systems ..... Page 10

CHAPTER X PUBLIC IMPROVEMENTS
Section 39. Procedure ..... Page 10
Section 40. Special Assessments ..... Page 10

CHAPTER XI MISCELLANEOUS PROVISIONS
Section 41. Debt ..... Page 10
Section 42. Use of Public Parks ..... Page 10
Section 43. Ordinance Continuation ..... Page 10
Section 44. Repeal ..... Page 10
Section 45. Severability ..... Page 10
Section 46. Time of Effect ..... Page 10

PREAMBLE

We, the voters of Newberg, Oregon exercise our power to the fullest extent possible under the Oregon Constitution and laws of the state, and enact this Home Rule Charter.

Chapter I

REVISION CLAUSE; NAME AND BOUNDARIES

Section 1. Revision Clause. The sections of the Charter have been revised as hereafter indicated.

Section 2. Title. This charter may be referred to as the 2006 Newberg Charter.

Section 3. Name. The City of Newberg, Oregon, continues as a municipal corporation with the name City of Newberg.

Section 4. Boundaries. The city includes all territory within its boundaries as they now exist or are legally modified. Unless mandated by state law, annexation, delayed or otherwise, to the City of Newberg, may only be approved by a majority of the voters. The city will maintain as a public record an accurate and current description of the boundaries.

Chapter II

POWERS

Section 5. Powers. The city has all powers that the constitutions, statutes and common law of the United States and Oregon expressly or impliedly grant or allow the city, as fully as though this charter specifically enumerated each of those powers.

Section 6. Construction. The charter will be liberally construed so that the city may exercise fully all powers possible under this charter and under United States and Oregon law.

Section 7. Distribution. The Oregon Constitution reserves initiative and referendum powers as to all municipal legislation to city voters. This charter vests all other city powers in the council except as the charter otherwise provides. The council has legislative, administrative and quasi-judicial authority. The council exercises legislative authority by ordinance, administrative authority by resolution, and quasi-judicial authority by order. The council may not delegate its authority to adopt ordinances.

Chapter III

COUNCIL

Section 8. Council. The council consists of a mayor nominated and elected from the city at large, and six councilors nominated from districts and elected from the city at large.

Section 9. Mayor. The mayor presides over and facilitates council meetings, preserves order, and determines the order of business under council rules. The mayor is a voting member of the council and has no veto authority. With the consent of council, the mayor appoints members of commissions and committees established by ordinance or resolution. The mayor must sign all records of council decisions. The mayor serves as the political head of the city government.

Section 10. Council President. At its first meeting each year, the council must elect a president from its membership. The president presides in the absence of the mayor and acts as mayor when the mayor is unable to perform duties.

Section 11. Rules. The council must by resolution adopt council rules to govern its meetings.

Section 12. Meetings. The council must meet at least once a month at a time and place designated in the council rules, and may meet at other times in accordance with council rules.

Section 13. Quorum. A majority of the council members is a quorum to conduct business, but a smaller number may meet and compel attendance of absent members as prescribed by council rules.

Section 14. Vote Required. The express approval of a majority of a quorum of the council is necessary for any council decision, except when this charter requires approval by a majority of the council.

Section 15. Record. A record of council meetings must be kept in a manner prescribed by the council rules.

Chapter IV

LEGISLATIVE AUTHORITY

Section 16. Ordinances. The council will exercise its legislative authority by adopting ordinances. The enacting clause for all ordinances must state "The City of Newberg ordains as follows:".

Section 17. Ordinance Adoption.

(a) Except as authorized by subsection (b), adoption of an ordinance shall, before being put upon its final passage, be fully and distinctly read in open council meeting.

(b) The reading may be by title only if no council member present at the meeting requests to have the ordinance read in full, provided the proposed ordinance is available in writing to the public at least one week before the meeting.

(c) Any substantive amendment to a proposed ordinance must be read aloud or made available in writing to the public before the council adopts that ordinance at that meeting.

(d) Upon the final vote on an ordinance, the ayes and nays of the members shall be taken and entered in the record of proceedings. The concurrence of a majority of the entire membership of the council shall be required for the passage of an ordinance.

(e) After adoption of an ordinance, the city custodian of records must endorse it with the date of adoption and the custodian's name and title.

Section 18. Effective Date of Ordinances. Ordinances normally take effect on the 30th day after adoption, or on a later day provided in the ordinance. An ordinance may take effect as soon as adopted or other date less than 30 days after adoption if it contains an emergency clause.

Chapter V

ADMINISTRATIVE AUTHORITY

Section 19. Resolutions. The council will normally exercise its administrative authority by approving resolutions. The approving clause for resolutions must state "The City of Newberg resolves as follows:".

Section 20. Resolution Approval.

(a) Approval of a resolution or any other council administrative decision requires approval by the council at one meeting.

(b) Any substantive amendment to a resolution must be read aloud or made available in writing to the public before the council adopts the resolution at that meeting.

(c) After approval of a resolution or other administrative decision, the vote of each member must be entered into the council minutes.

(d) After approval of a resolution, the city custodian of records must endorse it with the date of approval and the custodian's name and title.

Section 21. Effective Date of Resolutions. Resolutions and other administrative decisions take effect on the date of approval, or on a later day provided in the resolution.

Chapter VI

QUASI-JUDICIAL AUTHORITY

Section 22. Orders. The council will normally exercise its quasi-judicial authority by approving orders. The approving clause for orders must state "The City of Newberg orders as follows:".

Section 23. Order Approval.

(a) Approval of an order or any other council quasi-judicial decision requires approval by the council at one meeting.

(b) Any substantive amendment to an order must be read aloud or made available in writing to the public at the meeting before the council adopts the order.

(c) After approval of an order or other council quasi-judicial decision, the vote of each member must be entered in the council minutes.

(d) After approval of an order, the city custodian of records must endorse it with the date of approval and the custodian's name and title.

Section 24 Effective Date of Orders. Orders and other quasi-judicial decisions take effect on the date of final approval, or on a later day provided in the order.

Chapter VII
ELECTIONS

Section 25. Councilors. The term of a councilor in office when this charter is adopted is the term for which the councilor was elected. At each general election after the adoption, three councilors will be elected for four-year terms.

Section 26. Mayor. The term of the mayor in office when this charter is adopted continues to the beginning of the first odd numbered year after adoption. At every other general election after the adoption, a mayor shall be elected for a four-year term.

Section 27. State Law. City elections must conform to state law except as this charter or ordinances provide otherwise. All elections for city offices must be nonpartisan.

Section 28. Qualifications.

(a) The mayor and each councilor must be a qualified elector under state law, and reside within the city for at least one year immediately before election or appointment to office. For the purpose of this section, city shall mean any area included in the corporate limits as of the date of the election.

(b) The city shall be divided into six geographical areas representing as near as practical, the same number of electors. When this charter section is adopted, the current six city district boundaries shall be the six district boundaries. The districts shall be reapportioned thereafter whenever the United States Census is taken and within a reasonable time after the data is available, or when the city so orders. Whenever the districts are reapportioned, the councilor in office shall not lose their qualification for office by reason of the boundary change for the remainder of their term, unless otherwise disqualified. In addition to the other qualifications, the councilor must have and maintain their residence in the district from which they were nominated during the term of their office, except as provided for in reapportionment.

(c) Neither the mayor nor a councilor may be employed by the city, unless the employment is substantially volunteer in nature. The municipal judge shall make the determination of whether employment is substantially volunteer.

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

(e) Except as provided in subsection (c) of this section, the council is the final judge of the election and qualifications of its members.

Section 29. Nominations. The council must adopt an ordinance prescribing the manner for a person to be nominated to run for mayor or a city councilor position.

Section 30. Terms. The term of an officer elected at a general election begins at the first council meeting of the year immediately after the election, and continues until the successor qualifies and assumes the office.

Section 31. Oath. The mayor and each councilor must swear or affirm to faithfully perform the duties of the office, support the constitutions and laws of the United States and Oregon, and the ordinances and charter of the city.

Section 32. Vacancies: The mayor or other council office becomes vacant:

(a) Upon the incumbent's:
(1) Death,
(2) Adjudicated incompetence, or
(3) Recall from the office.

(b) Upon declaration by the council after the incumbent's:
(1) Failure to qualify for the office within 10 days of the time the term of office is to begin,
(2) Absence from the city for 30 days or from all council meetings within a 60-day period, without council consent,
(3) Ceasing to reside in the city,
(4) Ceasing to reside within the district from which the councilor was nominated, except as provided for in reapportionment; however, the councilor shall remain in office until such time as the vacancy is filled, but in no event shall the time exceed 120 days.
(5) Ceasing to be a qualified elector under state law,
(6) Conviction, while in office, of a public offense punishable by loss of liberty,
(7) Resignation from the office, or
(8) Removal under Section 34(i).

Section 33. Filling Vacancies. A mayor or councilor vacancy will be filled by appointment by a majority of the remaining council members. The appointee's term of office runs from appointment until expiration of the term of office of the last person elected to that office.

Chapter VIII
APPOINTIVE OFFICERS

Section 34. City Manager.

(a) The office of city manager is established as the administrative head of the city government. The city manager is responsible to the mayor and councilors for the proper administration of all city business. The city manager will assist the mayor and councilors in the development of city policies, and carry out policies established by ordinances, resolutions, and orders.

(b) A majority of the council must appoint and may remove the manager. The appointment must be made without regard to political considerations and solely on the basis of education and experience in competencies and practices of local government management.

(c) The manager need not reside in the city or the state at the time of appointment.

(d) The manager may be appointed for a definite or an indefinite term, and may be removed at any time by a majority of the council. The council must fill the office by appointment as soon as practicable after the vacancy occurs.

(e) The manager must:

(1) Attend all council meetings unless excused by the mayor or council;
(2) Make reports and recommendations to the council about the needs of the city;
(3) Administer and enforce all city ordinances, resolutions, orders, franchises, leases, contracts, permits, and other city decisions;
(4) Appoint, supervise and remove city employees;
(5) Organize city departments and administrative structure;
(6) Prepare and administer the annual city budget;
(7) Administer city utilities and property;
(8) Encourage and support regional and intergovernmental cooperation;
(9) Promote cooperation among the council, staff and citizens in developing city policies, and building a sense of community;
(10) Perform other duties as directed by the council;
(11) Delegate duties, but remain responsible for acts of all subordinates.

(f) The manager has no authority over the council, city attorney, or the judicial functions of the municipal judge.

(g) The manager, the city attorney, and other employees designated by the council may sit at council meetings but have no vote. The manager may take part in all council discussions.

(h) When the manager is temporarily disabled from acting as manager or when the office of manager becomes vacant, the council must appoint a manager pro tem. The manager pro tem has the authority and duties of manager, except that a pro tem manager may appoint or remove employees only with council approval.

(i) No council member may directly or indirectly attempt to coerce the manager or a candidate for the office of manager in the appointment or removal of any city employee, or in administrative decisions regarding city property or contracts. Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing. In council meetings, councilors may discuss or suggest anything with the manager relating to city business.

Section 35. City Attorney. The office of city attorney is established as the chief legal officer of the city government. A majority of the council must appoint and may remove the attorney. The attorney must appoint and supervise, and may remove any city attorney's office employees.

Section 36. Municipal Court and Judge.

(a) A majority of the council may appoint and remove a municipal judge. A municipal judge will hold court in the city at such place as the council directs. The court will be known as the Municipal Court.

(b) All proceedings of this court will conform to state laws governing justices of the peace and justice courts.

(c) All areas within the city and areas outside the city as permitted by state law are within the territorial jurisdiction of the court.

(d) The municipal court has jurisdiction over every offense created by city ordinance. The court may enforce forfeitures and other penalties created by such ordinances. The court also has jurisdiction under state law unless limited by city ordinance.

(e) The municipal judge may:
(1) Render judgments and impose sanctions on persons and property;
(2) Order the arrest of anyone accused of an offense against the city;
(3) Commit to jail or admit to bail anyone accused of a city offense;
(4) Issue and compel obedience to subpoenas;
(5) Compel witnesses to appear and testify and jurors to serve for trials before the court;
(6) Penalize contempt of court;
(7) Issue processes necessary to enforce judgments and orders of the court;
(8) Issue search warrants; and
(9) Perform other judicial and quasi-judicial functions assigned by ordinance.

(f) The council may appoint and may remove municipal judges pro tem.

(g) The council may transfer some or all of the functions of the municipal court to an appropriate state court.

Chapter IX

PERSONNEL

Section 37. Compensation. The council must authorize the compensation of city employees and city officers, including council members, as part of its adoption of the annual city budget. The council shall establish a procedure for implementing the compensation of its members.

Section 38. Merit Systems. The council by resolution will determine the rules governing recruitment, selection, promotion, transfer, demotion, suspension, layoff, and dismissal of city employees based on merit and fitness.

Chapter X

PUBLIC IMPROVEMENTS

Section 39. Procedure. The council may by ordinance provide for procedures governing the making, altering, vacating, or abandoning of a public improvement. A proposed public improvement may be suspended for six months upon written objections by owners of the real property to be specially assessed for the improvement. The number of owners necessary to suspend the action will be determined by ordinance.

Section 40. Special Assessments. The procedure for levying, collecting and enforcing special assessments for public improvements or other services charged against real property will be governed by ordinance.

Chapter XI

MISCELLANEOUS PROVISIONS

Section 41. Use of Public Parks. Notwithstanding any other provisions of this charter, all areas now or hereafter dedicated to the city for public park purposes are reserved forever to the use of the public; and no such area shall be sold or otherwise disposed of, or used for other than public park and recreation purposes, unless approved by a prior vote of the electorate, except that the council, after a public hearing, may permit a portion of a city park to be used for public improvements as long as such use does not significantly impact the park's viability.

Section 42. Debt. City indebtedness may not exceed debt limits imposed by state law. A charter amendment is not required to authorize city indebtedness.

Section 43. Ordinance Continuation. All ordinances consistent with this charter in force when it takes effect remain in effect until amended or repealed.

Section 44. Repeal. All charter provisions adopted before this charter takes effect are repealed.

Section 45. Severability. The terms of this charter are severable. If any provision is held invalid by a court, the invalidity does not affect any other part of the charter.

Section 46. Time of Effect. This charter takes effect January 1, 2007.

CHARTER OF THE CITY OF WILSONVILLE

To provide for the government of the City of Wilsonville, Clackamas and Washington Counties, Oregon; and to repeal all Charter provisions the city enacted prior to the time this Charter takes effect.

Be it enacted by the people of the City of Wilsonville, Clackamas and Washington Counties, Oregon

CHAPTER I
NAME AND BOUNDARIES

Section 1. **TITLE OF ENACTMENT.** This enactment may be referred to as the Wilsonville Charter of 1987 and shall become effective January 1, 1987.

Section 2. **NAME OF CITY.** The City of Wilsonville, Clackamas and Washington Counties, Oregon, shall continue to be a municipal corporation with the name, "City of Wilsonville".

Section 3. **BOUNDARIES.** The city shall include all territory encompassed by its boundaries as they now exist or are hereafter modified pursuant to law. The City Recorder shall keep an accurate, up-to-date description of the boundaries and make copies of this charter and boundary descriptions available for public inspection.

CHAPTER II
POWERS

Section 4. **POWERS OF THE CITY.** The city shall have all powers that the constitutions, statutes and common law of the United States and of this state expressly or impliedly [sic] 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 this 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 are vested in the Council; the elected officers of the city.

Section 7. **COUNCIL.** The Council shall be composed of a Mayor and four Councilors elected from the city at large.

Section 8. **COUNCILORS.** Councilors in office at the time this charter takes effect shall continue in office until the end of the present term of office of each. At each biennial general election after this charter takes effect, two Councilors shall be elected, each for a term of four years.

Section 9. **MAYOR.** At the biennial general election held in 1988, and every fourth year thereafter, a Mayor shall be elected for a term of four years. The term of Mayor elected at the 1986 general election shall continue until January 1, 1989.

Section 10. **APPOINTIVE OFFICERS.** Additional officers of the city shall be a City Manager, City Attorney and Municipal Judge and other officers and the Council deems necessary. The Council shall appoint and may remove any of these officers by a majority vote of all incumbent members of the Council. In judicial functions, the Municipal Judge shall not be subject to supervisory by any other officer.

Section 11. **SALARIES.** The compensation for the service of each city officer and employee shall be the amount fixed by the Council.

Section 12. **QUALIFICATIONS OF ELECTED 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. No person shall hold an elected office of the city if the person is an employee of the city. The Council shall be the final judge of the qualifications and election of its own members.

CHAPTER IV
CITY COUNCIL

Section 13. **MEETINGS.** The Council shall hold a regular meeting at least once each month in the city at a time and place with it designates. It shall adopt rules for the government of its members and proceedings. The Mayor or three Council members may call special meetings of the Council. Special meetings may also be held at any time by the common consent of a quorum of all members of the Council at any regular meeting.

Section 14. **RECORDS OF PROCEEDINGS.** The Council shall cause a record of its proceedings to be kept.

Section 15. **QUORUM.** A majority of the incumbent members of the Council shall constitute a quorum for its business.

Section 16. **PROCEEDINGS TO BE PUBLIC.** No action by the Council shall have legal effect unless the motion for the action and the vote by which it is disposed of take place at proceedings open to the public.

Section 17. **MAYOR'S FUNCTIONS AT COUNCIL MEETINGS.** The Mayor shall preside over Council deliberations and shall have a vote on all questions before the Council. The Mayor shall preserve order, enforce the rules of the Council, and determine the order of business under the rules of the Council.

Section 18. **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 a Council meeting, the president shall preside over it. Whenever the council determines that the Mayor is unable to perform the functions of the office, the president shall act as Mayor.

Section 19. **VOTE REQUIRED.** Except as this charter otherwise provides, the concurrence of a majority of members of the Council voting when a quorum of the Council is present shall decide any questions before it.

CHAPTER V

POWERS AND DUTIES OF OFFICERS

Section 20. **MAYOR.** The Mayor shall appoint the Council committees provided by the rules of the Council. The Mayor shall sign all records of proceedings approved by the Council. The Mayor shall have no veto power and shall sign all ordinances passed by the Council within three days after their passage. After the Council approves a bond of a city officer or a bond for a license, contract or proposal, the Mayor shall endorse the bond.

Section 21. **CITY MANAGER.** (a) Qualifications. The City Manager shall be the administrative head of the government of the city. The City Manager shall be chosen by the Council without regard to political considerations and solely with reference to executive and administrative qualifications. The manager need not be a resident of the city or of the state at the time of appointment.

(b) Terms. The manager shall be appointed for an indefinite term and may be removed at the pleasure of the Council. Upon any vacancy occurring in the office of manager after the first appointment pursuant to this charter, the Council at its next meeting shall adopt a resolution of its intention to appoint another manager. Not later than six months after adopting the resolution, 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) The manager shall devote full-time to the discharge of the manager's official duties, attend all meetings of the Council unless excused therefrom by the Council or the Mayor, 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) The City Manager 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) The manager shall designate a City Recorder and shall appoint and may remove appointive city officers and employees except as this charter

otherwise provides, and shall have general supervision and control over them and their work with power to transfer an employee from one department to another. The city Manager shall organize and supervise the departments to the end of obtaining the utmost efficiency in each of them. The manager shall have no control, however, over the Council, over the Mayor, over the City Attorney, or over the judicial activities of the Municipal Judge.

(4) The manager shall act as purchasing agent for all departments of the city. All purchases shall be made by requisition signed by the manager or his designate.

(5) The manager shall be responsible for preparing and submitting to the budget committee the annual budget estimates and such reports as that body requests.

(6) The manager shall supervise the operation of all public utilities owned and operated by the city and 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 discussion.

(e) Manager Pro Tem. Whenever the manager is absent from the city, is temporarily disabled from acting as manager, or whenever the office becomes vacant, the Council shall appoint a manager 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 the Council. No manager pro tem shall hold the position as such for more than six months, and no appointment of a manager pro tem shall be consecutively renewed.

Section 22. **MUNICIPAL JUDGE**. The Municipal Judge shall be the judicial officer of the city. The judge shall hold within the city, a court known as the municipal court for the City of Wilsonville, Clackamas and Washington Counties, Oregon. The court shall be open for the transaction of judicial business at times specified by the Council. All areas within the city shall be within the territorial jurisdiction of the court. The municipal judge shall exercise

original and exclusive jurisdiction of all offenses defined or authorized by ordinances of the city. The judge 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 to bail pending trail, to issue subpoenas, to compel witnesses to appear and testify in court on the trial of any cause before the judge, to compel obedience to such subpoenas, to issue any process necessary to carry into effect the judgments of the court, and to punish witnesses and others for contempt of court. When not governed by ordinances or 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.

Notwithstanding this section or section 10 of this charter, the Council may provide for the transfer of powers and duties of the municipal court to the appropriate district court of the State of Oregon.

Section 23. **CITY RECORDER.** The City Recorder shall serve ex officio as clerk of the Council, attend all its meetings unless excused therefrom by the Council and keep an accurate record of its proceedings. In the Recorder's absence from a 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.

CHAPTER VI
ELECTIONS

Section 24. **REGULATION OF ELECTIONS GENERALLY.** Except as this charter provides otherwise and as the Council provides otherwise by ordinance, the general laws of the state shall apply to city elections.

Section 25. **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 26. **COMMENCEMENT OF TERMS OF OFFICE.** The term of office of a person elected to a city office at a regular city election commences on January 1st of the year immediately following the election.

Section 27. **OATH OF OFFICE.** Before commencing the duties of elective office, each officer shall take an oath or shall affirm faithful performance of the duties of the office and support for the constitutions and laws of the United States and the State of Oregon.

Section 28. **NOMINATIONS.** A qualified elector who shall have resided in the city during the 12 months immediately preceding the election may be nominated for an elective city position. Nomination shall be by petition specifying the position sought in a form prescribed by the Council. Such petition shall be signed by not fewer than 20 electors. Nomination petitions shall be in the form and filed in the manner and within the time prescribed by ordinance and state law. The City Recorder shall make a record of the exact time at which each petition is filed and shall take and preserve the name and address of the person by whom it is filed.

CHAPTER VII
VACANCIES IN OFFICE

Section 29. **VACANCY.** An office shall be deemed vacant upon the incumbent's death, adjudicated incompetence, conviction of a felony, resignation or recall or upon the incumbent's ceasing to possess the qualifications necessary for the office; or upon the failure of the person elected or appointed to an office to qualify therefor within ten days after the time for the term of office to commence; and in the case of Mayor or Councilor, upon the absence from meetings from the Council for 60 days or absence from the city for 30 days without consent of the Council; and upon a declaration by the Council of the vacancy.

Section 30. **FILLING OF VACANCIES.** Vacancies in elective offices of the city shall be filled by appointment by a majority of the incumbent membership of the Council. The appointee's terms of office shall begin immediately upon appointment and shall continue until the first day of January following the next biennial election; and if the term of office does not then expire, the remainder thereof shall be filled by election at such biennial election. During the temporary disability of any officer or during the absence temporarily from the city for any cause, the office may be filled pro tem, in the manner provided for filing vacancies in office permanently.

CHAPTER VIII
ORDINANCES

Section 31. **ENACTING CLAUSE.** The enacting clause of all ordinances hereafter enacted shall be "The City of Wilsonville Ordains as Follows".

Section 32. **MODE OF ENACTMENT.** (1) Except as subsection (2) and (3) provides to the contrary, every ordinance of the Council shall, before being put upon its final passage, be read fully and distinctly in open Council meeting on two different days.

(2) Except as sub-section (3) provides to the contrary, an ordinance may be enacted at a single meeting of the Council by unanimous vote of all incumbent Council members, upon being read first in full and then by title.

(3) Any of the readings may be by title only (a) if no Council member present at the meeting requests to have the ordinance read in full; or (b) if a copy of the ordinance is provided for each Council member and a copy is provided for public inspection in the office of the City Recorder not later than one week before the first reading of the ordinance and notice of their availability is given forthwith upon the filing by written notice posted in the City Hall and two other public places in the city; or advertisement in a newspaper of general circulation in the city. An ordinance enacted after being read by title alone may have no legal effect if it differs substantially from its terms as it was thus filed prior to such reading, unless each section incorporating such a difference is read fully and distinctly in open Council meeting as finally amended prior to being approved by the Council.

(4) Upon the final vote on an ordinance, the ayes and nays of the members shall be taken and entered into the record of proceedings.

(5) Upon the enactment of any ordinance, the City Recorder shall sign it with the date of its passage and the Recorder's name and title of office, and within three days thereafter the Mayor shall sign it with the date of signature, name and the title of office.

Section 23. **WHEN ORDINANCES SHALL TAKE EFFECT.** An ordinance enacted by the Council shall take effect on the thirtieth day after its enactment. When the Council deems it advisable, however, an ordinance may provide a later time for it to take effect, and in case of emergency, it may take effect immediately.

CHAPTER IX
PUBLIC IMPROVEMENTS

Section 34. **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. All such proceedings shall be in accordance with existing state laws pertaining to condemnation.

Section 35. **IMPROVEMENTS.** The procedure for making, altering, vacating or abandoning a public improvement shall be governed by ordinance or, to the extent not so governed, by the applicable general laws of the State of Oregon.

Section 36 **SPECIAL ASSESSMENTS.** The procedure for levying, collecting, and enforcing the payment of special assessments for public improvements or other services to be charged against real property shall be governed by ordinance or to the extent not so governed, by the applicable general laws of the State of Oregon.

Section 37. **PUBLIC CONTRACTING.** Except as authorized by Oregon Public Contracting law or general ordinance, all city contracts shall be based on competitive bids.

CHAPTER X
MISCELLANEOUS PROVISIONS

Section 38. **DEBT LIMIT.** Except by consent of the voters, the city's voluntary floated indebtedness shall not exceed ten percent of the current budget, nor its bonded indebtedness exceed that as may be set by Oregon law. For 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 39. **TORTS.** In no event shall the city be liable in damages except as provided by Oregon law.

Section 40. **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 41. **REPEAL OF PREVIOUSLY ENACTED PROVISIONS.** All charter provisions of the city enacted prior to the time that this charger takes effect are hereby repealed except those charter amendments giving authority for the issuance of general obligation bonds which shall remain in full force and effect.

Section 42. **TIME OF EFFECT OF CHARTER.** This charter shall take effect January 1, 1987.

Section 43. **USE OF WILLAMETTE RIVER.** The City of Wilsonville shall not use Willamette River water as a drinking water source for its citizens unless the question of so using the Willamette River water as a drinking water source has received the affirmative majority of the total number of legal votes cast on such measure and entitled to be counted thereon. *[Section 43 is a Charter Amendment voted upon and approved by a majority of the qualified voters of the City of Wilsonville in a special election September 20, 1999.]*

Section 44. **REQUIRES VOTER APPROVAL BEFORE CITY EXPENDS RESOURCES TO CONSTRUCT ANY NEW CITY HALL BUILDING.** The city shall not expend resources on the construction of a new City Hall Building without first obtaining approval of a majority of voters casting ballots during a regularly scheduled City election. A regularly scheduled city election shall be defined as the general election held on the first Tuesday after the first Monday of November in even numbered years or such special election called by the City council for a statutorily scheduled county election date in March, May, September or November. Any ballot proposal seeking such approval must include the total cost of completing the construction project in its title caption. The total cost of construction must be detailed in a proposal summary and shall include principal construction costs, infrastructure costs, the commercially zoned market value of any land acquired or appropriated for the project, the maximum cost of paying interest on any bonded indebtedness attached to the project, and an

estimate of any other costs necessary to complete the project. The term 'City Hall Building' includes any significant structure housing one or more chief administrative functions of the city." Spending necessary to determine costs is not restricted. *[Section 44 is a Charter Amendment voted upon and approved by a majority of the qualified voters of the City of Wilsonville in a regular election held November 5, 2002.]*

Amended September 1999, Section 43.
Amended November 2002, Section 44.
Amended November 2004, Section 44 to clarify 'regularly scheduled election'

CITY OF HAPPY VALLEY
CITY CHARTER

PREAMBLE

We, the voters of Happy Valley, Oregon exercise our power to the fullest extent possible under the Oregon Constitution and laws of the state, and enact this Home Rule Charter.

Chapter I

NAMES AND BOUNDARIES

Section 1. Title. This charter may be referred to as the 2009 City of Happy Valley Charter.

Section 2. Name. The City of Happy Valley, Oregon, continues as a municipal corporation with the name City of Happy Valley.

Section 3. Boundaries. The city includes all territory within its boundaries as they now exist or are legally modified. The city will maintain an accurate and current description of the boundaries as a public record.

Chapter II

POWERS

Section 4. Powers. The city has all powers that the constitutions, statutes and common law of the United States and Oregon expressly or impliedly grant or allow the city, as fully as though this charter specifically enumerated each of those powers.

Section 5. Construction. The charter will be liberally construed so that the city may exercise fully all powers possible under this charter and under United States and Oregon law.

Section 6. Distribution. The Oregon Constitution reserves initiative and referendum powers as to all municipal legislation to city voters. This charter vests all other city powers in the council except as the charter otherwise provides. The council has legislative, administrative and quasi-judicial authority. The council exercises legislative authority by ordinance, administrative authority by resolution, and quasi-judicial authority by order. The council may not delegate its authority to adopt ordinances.

Dec 5, 2013	City Charter Review COMM.
Date	Gov. Body
Mtg. Prep 3	J
Agenda Item	Exhibit #

Chapter III

COUNCIL

Section 7. Council. The council consists of a mayor and four councilors nominated and elected by the city at large.

Section 8. Mayor.

(a) The mayor presides over and facilitates council meetings, preserves order, enforces council procedures, and determines the order of council business.

(b) With the consent of council, the mayor appoints members of commissions and committees established by ordinance or resolution.

(c) The mayor must sign all records of council decisions.

(d) The mayor serves as the political head of the city government.

Section 9. Council President. At its first meeting of each odd numbered year, the council must elect a president from its membership. The president presides in the absence of the mayor and acts as mayor when the mayor is unable to perform duties.

Section 10. Rules. The council must by resolution adopt rules to govern its meetings.

Section 11. Meetings. The council must meet at least once a month at a time and place designated by its rules, and may meet at other times in accordance with the rules.

Section 12. Quorum. The mayor and two councilors or three councilors is a quorum to conduct business, but a smaller number may meet and compel attendance of absent members as prescribed by rule.

Section 13. Vote Required. The express approval of a majority of a quorum of the council is necessary for any council decision, except when this charter requires approval by a majority of the council.

Section 14. Record. A record of council meetings must be kept in a manner prescribed by rule.

Chapter IV

LEGISLATIVE AUTHORITY

Section 15. Ordinances. The council will exercise its legislative authority by adopting ordinances. The enacting clause for all ordinances must state "The City of Happy Valley ordains as follows:"

Section 16. Ordinance Adoption.

(a) Except as authorized by subsection (b), the council must adopt an ordinance with the approval of a majority of the council at two meetings.

(b) The council may adopt an ordinance at a single meeting by the unanimous approval of at least three members of the council, provided the proposed ordinance is available to the public at least one week before the meeting.

(c) Any substantive amendment to a proposed ordinance must be read aloud or made available to the public before the council adopts the ordinance at that meeting.

(d) After the adoption of an ordinance, the vote of each member must be entered into the council minutes.

(e) After adoption of an ordinance, the city recorder must attest to the adoption and the date of adoption.

Section 17. Effective Date of Ordinances. Ordinances normally take effect on the 30th day after adoption, or on a later day provided in the ordinance. An ordinance may take effect as soon as adopted or other date less than 30 days after adoption if it contains an emergency clause.

Chapter V

COUNCIL ADMINISTRATIVE AUTHORITY

Section 18. Resolutions. The council will normally exercise its administrative authority by approving resolutions. The approving clause for resolutions may state "The City of Happy Valley resolves as follows:"

Section 19. Resolution Approval.

(a) A resolution or any other council administrative decision may be approved by the council at one meeting.

(b) Any substantive amendment to a resolution must be read aloud or made available to the public before the council adopts the resolution at that meeting.

(c) After approval of a resolution or other administrative decision, the vote of each member must be entered into the council minutes.

(d) After approval of a resolution, the mayor must sign it and the city recorder must attest to the date of approval.

Section 20. Effective Date of Resolutions. Resolutions and other administrative decisions take effect on the date of approval, or on a later day provided in the resolution.

Chapter VI

QUASI-JUDICIAL AUTHORITY

Section 21. Orders. The council will normally exercise its quasi-judicial authority by approving orders. The approving clause for orders may state "The City of Happy Valley orders as follows:"

Section 22. Order Approval.

(a) An order or any other council quasi-judicial decision may be approved by the council at one meeting.

(b) Any substantive amendment to an order must be read aloud or made available to the public at the meeting before the council adopts the order.

(c) After approval of an order or other council quasi-judicial decision, the vote of each member must be entered in the council minutes.

(d) After approval of an order, the mayor must sign it and the city recorder must attest to the date of approval.

Section 23. Effective Date of Orders. Orders and other quasi-judicial decisions take effect on the date of final approval, or on a later day provided in the order or by ordinance.

Chapter VII

ELECTIONS

Section 24. Councilors. At each general election after the adoption of this charter, two councilors will be elected for four-year terms by position. The terms of councilors in office when this charter is adopted are the terms for which they were elected.

Section 25. Mayor. At every general election after the adoption of this charter, a mayor will be elected for a four-year term. The term of the mayor in office when this charter is adopted is the term for which the mayor was elected.

Section 26. State Law. City elections must conform to state law except as this charter or ordinances provide otherwise. All elections for city offices must be nonpartisan.

Section 27. Qualifications.

(a) To hold a city elective position, each person must be a qualified elector under state law, and reside within the city for at least one year immediately before election or appointment to office.

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

(c) Neither the mayor nor a councilor may be employed by the city.

(d) The council is the final judge of the election and qualifications of its members.

Section 28. Nominations.
The council must prescribe by ordinance other procedures for the nomination and election of persons for city elective positions.

Section 29. Terms. The term of an officer elected at a general election begins at the first council meeting of the calendar year immediately after the election, and continues until the successor qualifies and assumes the office.

Section 30. Oath. To hold a city elective position each person must swear or affirm to faithfully perform the duties of the office and support the constitutions and laws of the United States and Oregon.

Section 31. Vacancies: A city elective position becomes vacant:

(a) Upon the incumbent's:
   (1) Death,
   (2) Adjudicated incompetence, or
   (3) Recall from the office.

(b) Upon declaration by the council after the incumbent's:
   (1) Failure to qualify for the office within 10 days of the time the term of office is to begin,
   (2) Absence from the city for 30 days without council consent, or from all council meetings within a 60-day period,
   (3) Ceasing to reside in the city,
   (4) Ceasing to be a qualified elector under state law,
   (5) Conviction of a public offense punishable by loss of liberty,
   (6) Assuming another elected office,

(7) Resignation from the office, or
(8) Removal under Section 33(h).

Section 32. Filling Vacancies. A vacant city elective position will be filled by appointment by a majority of the remaining councilors. The appointee's term of office runs from appointment until expiration of the term of office of the last person elected to that office. If a disability prevents a councilor from attending council meetings, a majority of the council may appoint a councilor pro tem.

Chapter VIII

APPOINTIVE OFFICERS

Section 33. City Manager.

(a) The office of city manager is established as the chief administrative officer of the city government. The city manager is responsible to the mayor and council for the proper administration of all city business. The city manager will assist the mayor and council in the development of city policies, and carry out policies established by ordinances and resolutions.

(b) A majority of the council must appoint and may remove the manager. The appointment must be made without regard to political considerations and solely based on education and experience with local government management.

(c) The manager may be appointed for a definite or an indefinite term, and may be removed at any time by a majority of the council. The council must fill the office by appointment as soon as practicable after the vacancy occurs.

(d) The manager must:
(1) Attend all council meetings unless excused by the mayor or council;
(2) Make reports and recommendations to the mayor and council about the needs of the city;
(3) Administer and enforce all city ordinances, resolutions, franchises, leases, contracts, permits, and other city decisions;
(4) Appoint, supervise and remove city employees;
(5) Organize city departments and administrative structure;
(6) Prepare and administer the annual city budget;
(7) Administer city utilities and property;
(8) Encourage and support regional and intergovernmental cooperation;
(9) Promote cooperation among the council, staff and citizens in developing city policies, and building a sense of community;
(10) Perform other duties as directed by the council;
(11) Delegate duties, but remain responsible for acts of all subordinates.

(e) The manager has no authority over the mayor or council or over the judicial functions of the municipal judge.

(f) The manager and other employees designated by the council may sit at council meetings but have no vote. The manager may take part in all council discussions.

(g) When the manager is temporarily disabled from acting as manager or when the office becomes vacant, the council must appoint a manager pro tem. The manager pro tem has the authority and duties of manager, except that a pro tem manager may appoint or remove employees only with council approval.

(h) Neither the mayor nor a councilor may attempt directly or indirectly to coerce the manager or a candidate for the office of manager in the appointment or removal of any city employee, or in administrative decisions. Violation of this prohibition is grounds for removal from office by four councilors after a public hearing. In council meetings, the mayor and councilors may discuss or suggest any topic with the manager relating to city employees or administrative matters.

Section 34. City Attorney. The office of city attorney is established as the chief legal officer of the city government. A majority of the mayor and councilors must appoint and may remove the attorney.

Section 35. Municipal Court and Judge.

(a) A majority of the council may appoint and remove a municipal judge. The municipal judge will hold court in the city at such place as the council directs. The court will be known as the municipal court. The municipal judge must be admitted to practice in the Supreme Court of Oregon.

(b) All proceedings of this court will conform to state laws governing justices of the peace and justice courts.

(c) All areas within the city and areas outside the city as permitted by state law are within the territorial jurisdiction of the court.

(d) The municipal court has jurisdiction over every offense created by city ordinance. The court may enforce forfeitures and other penalties created by such ordinances. The court also has jurisdiction under state law unless limited by city ordinance.

(e) The municipal judge may:
(1) Render judgments and impose sanctions on persons and property;
(2) Order the arrest of anyone accused of an offense against the city;
(3) Commit to jail or admit to bail anyone accused of a city offense;
(4) Issue and compel obedience to subpoenas;
(5) Compel witnesses to appear and testify and jurors to serve for trials;
(6) Penalize contempt of court;
(7) Issue processes necessary to enforce judgments and orders of the court;
(8) Issue search warrants; and
(9) Perform other judicial and quasi-judicial functions assigned by ordinance.

(f) The council may appoint and may remove municipal judges pro tem.

(g) The council may transfer some or all of the functions of the municipal court to an appropriate state court.

Chapter IX

PUBLIC IMPROVEMENTS

Section 36 Procedure. The council must provide by ordinance for procedures governing the making, altering, vacating, or abandoning of a public improvement. A proposed public improvement may be suspended for six months upon remonstrance by the owners of real property to be specially assessed for the improvement. The numbers of owners necessary to suspend the action must be determined by ordinance.

Section 37. Special Assessments. The procedure for levying, collecting and enforcing special assessments for public improvements or other services charged against real property must be governed by ordinance.

Chapter X

MISCELLANEOUS PROVISIONS

Section 38. Debt. City indebtedness may not exceed debt limits imposed by state law. A charter amendment is not required to authorize city indebtedness.

Section 39. Ordinance Continuation. All ordinances consistent with this charter in force when it takes effect remain in effect until amended or repealed.

Section 40. Repeal. All charter provisions adopted before this charter takes effect are repealed.

Section 41. Severability. The terms of this charter are severable. If any provision is held invalid by a court, the invalidity does not affect any other part of the charter.

Section 42. Time of Effect. This charter takes effect January 1, 2009.

city of forest grove

2009 CHARTER

PREAMBLE

We, the voters of Forest Grove, Oregon exercise our power to the fullest extent possible under the Oregon Constitution and laws of the State, and enact this Home Rule Charter.

Adopted May 19, 2009, Special Election
Resolution No. 2009-47

Dec 5, 2013
Date

City Charter Review Comm.
Gov. Body

Mtg. Prep 3
Agenda Item

K
Exhibit #

TABLE OF CONTENTS

CHAPTER I **4**
NAME AND BOUNDARIES 4
SECTION 1. TITLE 4
SECTION 2. NAME 4
SECTION 3. BOUNDARIES 4
CHAPTER II **5**
POWERS 5
SECTION 4. POWERS 5
SECTION 5. CONSTRUCTION 5
SECTION 6. DISTRIBUTION 5
CHAPTER III **6**
COUNCIL 6
SECTION 7. COUNCIL 6
SECTION 8. MAYOR 6
SECTION 9. COUNCIL PRESIDENT 6
SECTION 10. COUNCIL RULES 6
SECTION 11. MEETINGS 6
SECTION 12. QUORUM 6
SECTION 13. VOTE REQUIRED 6
SECTION 14. RECORD 6
CHAPTER IV **7**
LEGISLATIVE AUTHORITY 7
SECTION 15. ORDINANCES 7
SECTION 16. ORDINANCE ENACTMENT 7
SECTION 17. EFFECTIVE DATE 7
CHAPTER V **8**
ADMINISTRATIVE AUTHORITY 8
SECTION 18. RESOLUTIONS 8
SECTION 19. RESOLUTION ADOPTION 8
SECTION 20. EFFECTIVE DATE 8
CHAPTER VI **9**
QUASI-JUDICIAL AUTHORITY 9
SECTION 21. ORDERS 9
SECTION 22. ORDER ADOPTION 9
SECTION 23. EFFECTIVE DATE 9
CHAPTER VII **10**
ELECTIONS 10
SECTION 24. COUNCILORS 10
SECTION 25. MAYOR 10
SECTION 26. STATE LAW 10
SECTION 27. QUALIFICATIONS 10
SECTION 28. NOMINATIONS 10
SECTION 29. TERMS 11

TABLE OF CONTENTS

SECTION 30. OATH 11
SECTION 31. VACANCIES 11
SECTION 32. FILLING VACANCIES 11
CHAPTER VIII 12
APPOINTIVE OFFICERS 12
SECTION 33. CITY MANAGER 12
SECTION 34. CITY ATTORNEY 13
SECTION 35. MUNICIPAL COURT AND JUDGE 13
CHAPTER IX 15
PERSONNEL 15
SECTION 36. PERSONNEL RULES. 15
CHAPTER X 16
MISCELLANEOUS PROVISIONS 16
SECTION 37. CITY AUDIT 16
SECTION 38. DEBT 16
SECTION 39. ORDINANCE CONTINUATION 16
SECTION 40. REPEAL 16
SECTION 41. SEVERABILITY 16
SECTION 42. TIME OF EFFECT 16

CHAPTER I

NAME AND BOUNDARIES

SECTION 1. TITLE This Charter may be referred to as the 2009 City of Forest Grove Charter.

SECTION 2. NAME The City of Forest Grove, Washington County, Oregon continues as a municipal corporation with the name City of Forest Grove.

SECTION 3. BOUNDARIES The City includes all territory within its boundaries as they now exist or are legally modified. The City will maintain as a public record an accurate and current description of its boundaries.

CHAPTER II

POWERS

SECTION 4. POWERS The City has all powers that the constitutions, statutes and common law of the United States and State of Oregon expressly or impliedly grant or allow the City, as fully as though this Charter specifically enumerated each of those powers.

SECTION 5. CONSTRUCTION This Charter will be liberally construed so that the City may exercise fully all powers possible under this Charter and under United States and Oregon law.

SECTION 6. DISTRIBUTION The Oregon Constitution reserves initiative and referendum powers as to all municipal legislation to City voters. This Charter vests all other City powers in the Council, except as the Charter otherwise provides. The Council has legislative, administrative, and quasi-judicial authority. The Council exercises legislative authority by ordinance, administrative authority by resolution, and quasi-judicial authority by order. The Council may not delegate its authority to adopt ordinances.

CHAPTER III

COUNCIL

SECTION 7. COUNCIL The Council consists of a Mayor and six Councilors nominated and elected from the City at large.

SECTION 8. MAYOR

(a) The Mayor presides over and facilitates Council meetings, preserves order, enforces Council rules, and determines the order of business under Council rules.
(b) The Mayor is a voting member of the Council and has no veto authority.
(c) The Mayor, with the consent of Council, appoints members of boards, commissions and committees established by ordinance or resolution.
(d) The Mayor must sign all records of Council decisions.
(e) The Mayor serves as the political head of the City government.

SECTION 9. COUNCIL PRESIDENT At its first meeting each year, the Council must elect a President from its membership. The President presides in the absence of the Mayor and acts as Mayor when the Mayor is unable to perform duties.

SECTION 10. COUNCIL RULES The Council must adopt by resolution rules to govern its meetings and proceedings.

SECTION 11. MEETINGS The Council must meet at least once a month at a time and place designated by Council rules, and may meet at other times in accordance with the Council rules.

SECTION 12. QUORUM A majority of the Council members is a quorum to conduct business, but a smaller number may meet and compel attendance of absent members as prescribed by Council rules.

SECTION 13. VOTE REQUIRED The express approval of a majority of a quorum of the Council is necessary for any Council decision, except when this Charter requires approval by a majority of the Council.

SECTION 14. RECORD A record of Council meetings must be kept in a manner prescribed by the Council rules.

CHAPTER IV

LEGISLATIVE AUTHORITY

SECTION 15. ORDINANCES The Council will exercise its legislative authority by adopting ordinances. The enacting clause for all ordinances must state "The City of Forest Grove ordains as follows:"

SECTION 16. ORDINANCE ENACTMENT

(a) Except as authorized by subsection (b), enactment of an ordinance requires approval by a majority of the Council at two meetings.

(b) The Council may enact an ordinance at a single meeting by unanimous approval by at least five members, provided the proposed ordinance is available to the public at least seven days before the meeting as prescribed by Council rules.

(c) Any substantive amendment to a proposed ordinance must be read aloud before the Council enacts the ordinance.

(d) After the enactment of an ordinance, the vote of each member must be entered into the Council minutes.

(e) After enactment of an ordinance and signature by the Mayor, the City Recorder must attest to the ordinance by name, title, and date of enactment.

SECTION 17. EFFECTIVE DATE Ordinances take effect on the 30th day after enactment, or on a later day provided in the ordinance. An ordinance may take effect as soon as enacted or other date less than 30 days after enactment if the ordinance contains an emergency clause.

CHAPTER V

ADMINISTRATIVE AUTHORITY

SECTION 18. RESOLUTIONS The Council will normally exercise its administrative authority by adopting resolutions. The adopting clause for all resolutions must state "The City of Forest Grove resolves as follows:"

SECTION 19. RESOLUTION ADOPTION

(a) Adoption of a resolution or any other Council administrative decision requires approval by the Council at one meeting.

(b) Any substantive amendment to a resolution must be read aloud before the Council adopts the resolution.

(c) After adoption of a resolution or other administrative decision, the vote of each member must be entered into the Council minutes.

(d) After adoption of a resolution and signature by the Mayor, the City Recorder must attest to the resolution by name, title, and date of adoption.

SECTION 20. EFFECTIVE DATE Resolutions and other administrative decisions take effect on the date of adoption, or on a later day provided in the resolution.

CHAPTER VI

QUASI-JUDICIAL AUTHORITY

SECTION 21. ORDERS The Council will normally exercise its quasi-judicial authority by adopting orders. The adopting clause for all orders must state "The City of Forest Grove orders as follows:"

SECTION 22. ORDER ADOPTION

(a) Adoption of an order or any other Council quasi-judicial decision requires approval by the Council at one meeting.

(b) Any substantive amendment to an order must be read aloud before the Council adopts the order.

(c) After adoption of an order or other Council quasi-judicial decision, the vote of each member must be entered in the Council minutes.

(d) After adoption of an order and signature by the Mayor, the City Recorder must attest to the order by name, title, and date of adoption

SECTION 23. EFFECTIVE DATE Orders and other quasi-judicial decisions take effect on the date of final adoption, or on a later day provided in the order.

CHAPTER VII

ELECTIONS

SECTION 24. COUNCILORS At each general election after adoption of this Charter, three Councilors will be elected for four-year terms. The term of a Councilor in office when this Charter is adopted is the term for which the Councilor was elected.

SECTION 25. MAYOR At the 2010 general election and every other general election thereafter, a Mayor will be elected for a four-year term. The term of the Mayor in office when this Charter is adopted is the term for which the Mayor was elected.

SECTION 26. STATE LAW City elections must conform to State law, except as this Charter or ordinances provide otherwise. All elections for City offices must be nonpartisan.

SECTION 27. QUALIFICATIONS

(a) The Mayor and each Councilor must be a qualified elector under State law, and reside within the City for at least one year immediately before election or appointment to office.

(b) No person may be a candidate at a single election for more than one City office.

(c) Neither the Mayor nor a Councilor may be employed by the City.

(d) The Council is the final judge of the election and qualifications of its members.

SECTION 28. NOMINATIONS The Council must adopt an ordinance prescribing the manner for a person to be nominated to run for Mayor or a Councilor position.

SECTION 29. TERMS The term of an officer elected at a general election begins at the first Council meeting immediately after the election is certified by county elections officials, and continues until the successor qualifies and assumes the office.

SECTION 30. OATH The Mayor and each Councilor must swear or affirm to faithfully perform the duties of the office and support the constitutions and laws of the United States and State of Oregon, and the Charter, ordinances and resolutions of the City.

SECTION 31. VACANCIES The Mayor or a Councilor office becomes vacant:

(a) Upon the incumbent's:
  (1) Death,
  (2) Adjudicated incompetence, or
  (3) Recall from the office.

(b) Upon declaration by the Council after the incumbent's:
  (1) Failure to qualify for the office within 10 days prior to the time the term of office is to begin,
  (2) Absence from the City for 30 days or from all Council meetings within a 45-day period, without Council consent,
  (3) Ceasing to reside in the City,
  (4) Ceasing to be a qualified elector under State law,
  (5) Conviction of a public offense punishable by loss of liberty,
  (6) Resignation from the office, or
  (7) Violation of Section 33(i).

SECTION 32. FILLING VACANCIES A Mayor or Councilor vacancy will be filled by appointment by a majority of the remaining Council members. The term of office for the appointee runs from appointment until expiration of the term of office of the last person elected to that office. If a disability prevents a Council member from attending Council meetings or a member is absent from the City, a majority of the Council may appoint a Councilor pro tem.

CHAPTER VIII

APPOINTIVE OFFICERS

SECTION 33. CITY MANAGER

(a) The office of City Manager is established as the administrative head of the City government. The Manager is responsible to the Mayor and Council for the proper administration of all City business. The Manager will assist the Mayor and Council in the development of City policies and carry out policies established by ordinances and resolutions.

(b) A majority of the Council may appoint and may remove the Manager. The appointment must be made without regard to political considerations and be solely on the basis of education and experience in competencies and practices of local government management.

(c) The Manager need not reside in the City at the time of employment, but must within six months become and remain a resident of the City while appointed as Manager. A majority of the Council may modify the contract to extend the time to comply.

(d) The Manager is appointed for a definite or an indefinite term, and may be removed at any time by a majority of the Council. The Council must fill the office by appointment as soon as practicable after a vacancy occurs.

(e) The Manager must:
- (1) Attend all Council meetings unless excused by the Mayor or Council;
- (2) Make reports and recommendations to the Mayor and Council about the needs of the City;
- (3) Administer and enforce all City ordinances, resolutions, franchises, leases, contracts, permits, and other City decisions;
- (4) Appoint, supervise, and remove City employees;
- (5) Organize City departments and administrative structure;
- (6) Prepare and administer the annual City budget;
- (7) Administer City utilities and property;
- (8) Encourage and support regional and intergovernmental cooperation;
- (9) Promote cooperation among the Council, staff and residents in developing City policies, and building a sense of community;
- (10) Perform other duties as directed by the Council; and
- (11) Delegate duties, but remain responsible for acts of all subordinates.

(f) The Manager has no authority over the Council or over the judicial functions of the Municipal Judge.

(g) The Manager and others designated by the Council may sit at Council meetings but have no vote. The Manager may take part in all Council discussions.

(h) When the Manager is temporarily disabled from acting as Manager or when the office becomes vacant, the Council must appoint a Manager pro tem as prescribed by Council rules. The Manager pro tem has the authority and duties of Manager, except that a Manager pro tem may not appoint or remove employees without Council approval

(i) No Council member may directly or indirectly attempt to coerce the Manager or a candidate for that office in the appointment or removal of any City employee, or in administrative decisions regarding City property or contracts. Violation of this prohibition is grounds for removal from office by a majority of the Council after a public hearing. In Council meetings, Council members may discuss or suggest anything with the Manager relating to City business.

SECTION 34. CITY ATTORNEY The City Attorney is appointed by the Council as the chief legal officer of the City. A majority of the Council will appoint and may remove the Attorney.

SECTION 35. MUNICIPAL COURT AND JUDGE

(a) A majority of the Council may appoint and may remove a Municipal Judge. A Municipal Judge will hold court in the City at such place as the Council directs. The court will be known as the "Municipal Court of the City of Forest Grove".

(b) All proceedings of this Court will conform to State laws governing justices of the peace and justice courts.

(c) All areas within the City and areas outside the City as permitted by State law are within the territorial jurisdiction of the Court.

(d) The Court has jurisdiction over every offense created by City ordinance. The Court may enforce forfeitures and other penalties created by ordinances. The Court also has jurisdiction under State law unless limited by City ordinance.

(e) The Municipal Judge may:

(1) Render judgments and impose sanctions on persons and property;
(2) Order the arrest of anyone accused of an offense against the City;
(3) Commit to jail or admit to bail anyone accused of a City offense;
(4) Issue and compel obedience to subpoenas;
(5) Compel witnesses to appear and testify and jurors to serve for trials before the Court;
(6) Penalize contempt of Court;
(7) Issue processes necessary to enforce judgments and orders of the Court;
(8) Issue search warrants; and
(9) Perform other judicial and quasi-judicial functions assigned by ordinance.

(f) The Council may appoint and may remove Municipal Judge pro tems.

(g) The Council may transfer some or all of the functions of the Municipal Court to a State court.

CHAPTER IX

PERSONNEL

SECTION 36. PERSONNEL RULES. The Council by resolution will adopt the rules governing recruitment, selection, promotion, transfer, demotion, suspension, layoff, and dismissal of City employees based on merit and fitness.

CHAPTER X

MISCELLANEOUS PROVISIONS

SECTION 37. CITY AUDIT The Council by resolution will approve contracts for annual audits of City accounts and fiscal affairs as required by State law.

SECTION 38. DEBT City indebtedness may not exceed debt limits imposed by State law. A Charter amendment is not required to authorize City indebtedness.

SECTION 39. ORDINANCE CONTINUATION All ordinances consistent with this Charter in force when it takes effect remain in effect until amended or repealed.

SECTION 40. REPEAL All Charter provisions adopted before this Charter takes effect are repealed.

SECTION 41. SEVERABILITY The terms of this Charter are severable. If any provision is held invalid by a court, the invalidity does not affect any other term of the Charter.

SECTION 42. TIME OF EFFECT This Charter takes effect July 1, 2009.