

SHERWOOD CHARTER REVIEW ISSUES

Key: = possible housekeeping items; = most important issues in the opinion of the City Attorney; = unnecessary issues in the opinion of the City Attorney

Charter	Comments
<p>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.</p>	
<p>Chapter I - NAMES AND BOUNDARIES Section 1. - Title, Effective Date and Review. This charter shall be referred to as the Sherwood City Charter and takes effect January 1, 2015. This charter shall be reviewed at least every six years, with the appointment of a charter review committee by the City council. (Res. No. 2014-077, § 1, 12-16-2014; Res. 05-008 § 1 (part))</p>	
<p>Section 2. - Name. The City of Sherwood, Oregon, continues as a municipal corporation with the name City of Sherwood. (Res. 05-008 § 1 (part))</p>	
<p>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. (Res. 05-008 § 1 (part))</p>	<p>Council Suggestion: Consider adding a voter approval requirement for requesting expansions of the Urban Growth Boundary in excess of 100 acres.</p>
<p>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. (Res. 05-008 § 1 (part))</p>	
<p>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. (Res. 05-008 § 1 (part))</p>	
<p>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</p>	<p>Council Suggestion: Consider adding language regarding citizen initiatives to amend the Charter.</p>

<p>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. (Res. 05-008 § 1 (part))</p>	<p>Council Suggestion: Consider adding details regarding the appointment process, e.g., nomination by board/commission/committee, Mayor, or Council; final approval by Council.</p>
<p>Chapter III - COUNCIL Section 7. - Council. The council consists of a mayor and six councilors nominated and elected from the City. A majority of the council may cause an item to be added to the agenda of a future meeting. (Res. No. 2014-077, § 1, 12-16-2014; Res. No. 2014-048, § 1, 7-15-2014; Res. 05-008 § 1 (part))</p>	<p>Council Suggestion: Consider adding authority for a specified number of Councilors to call a meeting.</p> <p>Council Suggestion: Consider stating that the agenda creation procedures will be specified in Council Rules.</p> <p>Council Suggestion: Consider adding language stating that a number of members of Council that is less than a majority may cause an item to be added to the agenda (before and during meeting).</p> <p>Council Suggestion: Consider adding language stating that only a majority of Council may remove items from the agenda when those items were added by Council.</p> <p>Staff Suggestion: Consider removing “nominated and.”</p> <p>Staff Suggestion: Consider reorganizing language between this section and Section 11.</p>
<p>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. (Res. 05-008 § 1 (part))</p>	<p>Council Suggestion: Consider clarifying how order is preserved when the Mayor is the subject of disorder.</p> <p>Council Suggestion: Consider defining “political head of the city government” and clarifying scope.</p>
<p>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. (Res. 05-008 § 1 (part))</p>	
<p>Section 10. - Rules. In January after each general election, the council must by resolution adopt council rules. (Res. No. 2014-048, § 1, 7-15-2014; Res. 05-008 § 1 (part))</p>	<p>Council Suggestion: Consider clarifying that the Charter prevails over Council Rules.</p> <p>Council Suggestion: Consider whether some enforcement mechanism for Council Rules should be established in the Charter.</p>
<p>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. The council shall afford an opportunity for general public comment at each regular meeting. (Res. No. 2014-048, § 1, 7-15-2014; Res. 05-008 § 1 (part))</p>	<p>Council Suggestion: Consider defining the criteria for emergency meetings (beyond state law requirements).</p> <p>Council Suggestion: Consider requiring public comment at all meetings. Or, on any ordinance or resolution in regular, special, and emergency meetings.</p>

<p>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. (Res. 05-008 § 1 (part))</p>	<p>Council Suggestion: Consider clarifying quorum, like in Council Rules (50% plus 1 of the currently serving members of Council).</p> <p>Council Suggestion: Consider clarifying the process and meaning of “compel.”</p>
<p>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. (Res. 05-008 § 1 (part))</p>	
<p>Section 14. - Record. A record of council meetings must be kept in a manner prescribed by the council rules. (Res. 05-008 § 1 (part))</p>	<p>Staff Suggestion: Consider adding language stating that the record is also kept in a manner prescribed by Oregon Public Records and Meetings Law.</p>
<p>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:" (Res. 05-008 § 1 (part))</p>	<p>Council Suggestion: Consider clarifying that the Charter prevails over ordinances.</p>
<p>Section 16. - Ordinance Adoption. (a) Except as this provision provides otherwise, adoption of an ordinance requires reading of the proposed ordinance by title at two separate meetings separated by at least six days, and approval by a majority of council, which approval may occur at the meeting at which the second reading is conducted or a subsequent meeting. (1) The text of the proposed ordinance shall be posted and available to the public on the City's website at least six days in advance of each meeting at which the ordinance will be read or considered pursuant to this section. (2) At each meeting that the ordinance is read or considered pursuant to this section, the title of the ordinance shall be read and public comments shall be accepted, prior to any vote of the council on adoption. (3) An ordinance may be adopted at a single meeting of the council by unanimous vote of all sitting councilors on the question upon being read by title twice. (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</p>	<p>Council Suggestion: Consider whether six days is sufficient.</p> <p>Council Suggestion: Consider removing “substantive.” (Staff note: This language also appears in Sections 19 and 22.)</p>

<p>the mayor approves the ordinance, the mayor must sign and date it.</p> <p>(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.</p> <p>(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.</p> <p>(g) After July 1, 2015, any ordinance, resolution or order approved by a majority of the City Council that imposes a new city tax, charge, or fee and/or increases by more than two percent annually any city utility tax, charge, or fee including but not limited to water charges, sewer and surface water charges, and street utility fees that are imposed on residential properties occupied by owners and/or occupants within the City of Sherwood boundaries, shall not be effective unless ratified by a majority vote of the City's qualified electors voting in an election where at least 50 percent of the registered voters cast a ballot, or the election is a general election in an even-numbered year.</p> <p>(Res. No. 2016-073, § 1, 12-2-16; Res. No. 2016-043, § 1, 7-19-2016; Res. No. 2014-077, § 1, 12-16-2014; Res. 05-008 § 1 (part))</p>	<p>Council Suggestion: Consider removing the Mayor's veto power. (Note: this would require changes in other parts of the Charter as well, e.g. other parts of Section 16, parts of Section 17.)</p> <p>Council Suggestion: Consider expanding the number of elections where double majority requirement does not apply.</p>
<p>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.</p> <p>(Res. 05-008 § 1 (part))</p>	
<p>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:"</p> <p>(Res. 05-008 § 1 (part))</p>	<p>Council Suggestion: Consider clarifying that the Charter prevails over Resolutions.</p> <p>Staff Suggestion: Consider changing "may" to "must" to be consistent with other Charter language (e.g. regarding ordinances).</p>
<p>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.</p>	

<p>(c) After approval of a resolution or other administrative decision, the vote of each member must be entered into the council minutes.</p> <p>(d) After approval of a resolution, the city recorder must endorse it with the date of approval and the recorder's name and title.</p> <p>(Res. 05-008 § 1 (part))</p>	
<p>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.</p> <p>(Res. 05-008 § 1 (part))</p>	
<p>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:"</p> <p>(Res. 05-008 § 1 (part))</p>	<p>Council Suggestion: Consider clarifying that the Charter prevails over Orders.</p> <p>Staff Suggestion: Consider changing "may" to "must" to be consistent with other Charter language (e.g. regarding ordinances).</p>
<p>Section 22. - Order Approval. (a) Approval of an order or any other council quasi-judicial decision requires approval by the council at one meeting.</p> <p>(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.</p> <p>(c) After approval of an order or other council quasi-judicial decision, the vote of each member must be entered in the council minutes.</p> <p>(d) After approval of an order, the city recorder must endorse it with the date of approval and the recorder's name and title.</p> <p>(Res. 05-008 § 1 (part))</p>	
<p>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.</p> <p>(Res. 05-008 § 1 (part))</p>	
<p>Chapter VII - ELECTIONS Section 24. - Councilors. At each general election, three councilors will be elected for four-year terms. No councilor shall serve on the council more than three consecutive terms.</p> <p>(Res. No. 2014-048, § 1, 7-15-2014; Res. 05-008 § 1 (part))</p>	<p>Council Suggestion: Consider whether term limits should be consistent between Mayor and Council.</p>
<p>Section 25. - Mayor. At each general election, a mayor will be elected for a two-year term.</p> <p>(Res. No. 2014-048, § 1, 7-15-2014; Res. 05-008 § 1 (part))</p>	<p>Council Suggestion: Consider whether term limits should be consistent between Mayor and Council.</p>
<p>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.</p> <p>(Res. 05-008 § 1 (part))</p>	

<p>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. (Res. 05-008 § 1 (part))</p>	<p>Council Suggestion: Consider defining “reside.”</p> <p>Staff Suggestion: Consider clarifying subsection (d).</p>
<p>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. (Res. 05-008 § 1 (part))</p>	
<p>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 irrespective of any applicable term limit. (Res. No. 2014-048, § 1, 7-15-2014; Res. 05-008 § 1 (part))</p>	
<p>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. (Res. 05-008 § 1 (part))</p>	
<p>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. (4) An election to a different City 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 all meetings in 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) Resignation from the office, or (7) Removal under Section 33(i). (Res. No. 2014-048, § 1, 7-15-2014; Res. 05-008 § 1 (part))</p>	<p>Council Suggestion: Consider defining “reside.”</p> <p>Staff Suggestion: Consider limiting to conviction of a felony.</p>
<p>Section 32. - Filling Vacancies. A mayor or councilor vacancy will be filled by an election if 13 months or more remain in the office</p>	

<p>term or by appointment of the majority of the council within 45 days if less than 13 months remain. 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 shall 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. (Res. No. 2014-048, § 1, 7-15-2014; Res. 05-008 § 1 (part))</p>	
<p>Chapter VIII - APPOINTIVE OFFICERS Section 33. - City Manager.</p> <p>(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.</p> <p>(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.</p> <p>(c) The manager need not reside in the city.</p> <p>(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.</p> <p>(e) The manager must:</p> <ol style="list-style-type: none"> (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. <p>(f) The manager has no authority over the council or over the judicial functions of the municipal judge.</p>	<p>Council Suggestion: Consider clarifying that removal is at the discretion of Council.</p> <p>Council Suggestion: Consider whether education, experience, and competence should be three separate items.</p> <p>Council Suggestion: Consider clarifying that “regional and intergovernmental cooperation” must be aligned with Council policies, goals, and objectives.</p>

<p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(j) The manager may not serve as city recorder or city recorder pro tem. (Res. 05-008 § 1 (part))</p>	
<p>Section 34. - City Recorder.</p> <p>(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 City Manager.</p> <p>(b) The City Manager 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.</p> <p>(c) When the recorder is temporarily disabled from acting as recorder or when the office becomes vacant, the City Manager must appoint a recorder pro tem. The recorder pro tem has the authority and duties of the recorder. (Res. No. 2016-073, § 1, 12-2-16; Res. 05-008 § 1 (part))</p>	
<p>Section 35. - City Attorney.</p> <p>The office of city attorney is established as the chief legal counsel of the city government. The City attorney shall be either an employee of the City or a firm under a written contract approved by the council. A majority of the council must appoint and may remove the attorney or contracted firm. If the attorney is an employee of the City, the attorney must appoint and supervise, and may remove any city attorney office employees. (Res. No. 2014-077, § 1, 12-16-2014; Res. 05-008 § 1 (part))</p>	
<p>Section 36. - Municipal Court and Judge.</p> <p>(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</p>	

<p>directs. The court will be known as the Sherwood Municipal Court.</p> <p>(b) All proceedings of this court will conform to state laws governing justices of the peace and justice courts.</p> <p>(c) All areas within the city and areas outside the city as permitted by state law are within the territorial jurisdiction of the court.</p> <p>(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.</p> <p>(e) The municipal judge may:</p> <ol style="list-style-type: none"> (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. <p>(f) The council may appoint and may remove municipal judges pro tem.</p> <p>(g) The council may transfer some or all of the functions of the municipal court to an appropriate state court.</p> <p>(Res. 05-008 § 1 (part))</p>	
<p>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 shall not be compensated but may be reimbursed for actual and reasonable expenses. (Res. No. 2014-077, § 1, 12-16-2014; Res. 05-008 § 1 (part))</p>	<p>Staff Suggestion: Consider defining “reasonable.”</p>
<p>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. (Res. 05-008 § 1 (part))</p>	<p>Staff Suggestion: Consider removing “based on merit and fitness,” clarifying whether Council needs to approve Employee Handbook, etc.</p>
<p>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</p>	<p>Council Suggestion: Consider the purpose of this section.</p>

<p>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. (Res. 05-008 § 1 (part))</p>	
<p>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. (Res. 05-008 § 1 (part))</p>	
<p>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. (Res. 05-008 § 1 (part))</p>	
<p>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 from 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. (Res. 05-008 § 1 (part))</p>	<p>Council Suggestion: Consider defining “solid waste” rather than relying on the State’s definition, in case it changes.</p>
<p>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. (Res. 05-008 § 1 (part))</p>	<p>Staff Suggestion: Consider eliminating this section.</p>
<p>Section 44. - Ordinance Continuation. All ordinances consistent with this charter in force when it takes effect remain in effect until amended or repealed. (Res. 05-008 § 1 (part))</p>	
<p>Section 45. - Repeal. All charter provisions adopted before this charter takes effect are repealed. (Res. 05-008 § 1 (part))</p>	

<p>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. (Res. 05-008 § 1 (part))</p>	
<p>Section 47. - Reserved. Editor's note— Res. No. 2014-077, § 1, adopted December 16, 2014, amended the Code by repealing former § 47, which pertained to time of effect, and derived from Res. 05-008.</p>	
<p>General Issues (not specific to existing section)</p>	<p>Staff Suggestion: Consider clarifying and bringing consistency to language regarding number of affirmative votes required for certain actions (e.g. Sections 7, 13, 16, 17, 32, and possibly 19 and 22).</p> <p>Citizen Suggestion: Consider adding language regarding disposition of City assets.</p>