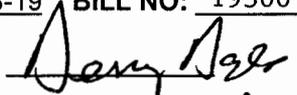


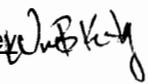
**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** Review of the Beaverton Charter  
of 1981

**FOR AGENDA OF:** 12-03-19 **BILL NO:** 19300

**MAYOR'S APPROVAL:** 

**DEPARTMENT OF ORIGIN:** City Attorney 

**DATE SUBMITTED:** 11-26-19

**CLEARANCES:** Mayor's Office 

**PROCEEDING:** Work Session

**EXHIBITS:** Draft Charter

**BUDGET IMPACT**

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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**RECOMMENDED ACTION:**

Hold a work session to continue to review the Beaverton Charter of 1981.

**HISTORICAL PERSPECTIVE:**

A city charter is like a constitution. Both are foundational documents that set out the principles, structures, and process of government. Article XI, section 2, of the Oregon Constitution grants "the legal voters of every city and town ... [the] power to enact and amend their municipal charter, subject to the Constitution and criminal laws of the State of Oregon." Beaverton voters enacted the city's current charter in November 1980 and subsequently amended the charter once, in 2008, when voters amended section 44 the charter relating to urban renewal.

The Beaverton Charter provides for a mayor-council form of government. The system is characterized by having an executive mayor who is elected by the voters, and a separately elected legislative city council. The mayor has substantial administrative authority over the city and its departments. To assist in managing the city, the Beaverton Charter requires the mayor to appoint a chief administrative officer who "is the principle managerial aide to the mayor and shall perform such duties as may be assigned by the mayor."

**INFORMATION FOR CONSIDERATION:**

This charter review work session will be facilitated by Jim Johnson, Senior Project Manager with the National Policy Consensus Center of Portland State University. The meeting's focus will be on the draft charter prepared by staff following the council's last work session on November 5, 2019. Background materials were previously included as exhibits to agenda bill 19266 (September 3 council meeting), agenda bill 19232 (September 10 council meeting), and agenda bill 19242 (October 1 council meeting).

[DRAFT]  
The Beaverton Charter of 20\_\_

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**PREAMBLE**

We, the voters of the City of Beaverton, Oregon, exercise our power to the fullest extent possible under the constitution and laws of the State of Oregon and enact this home rule charter.

**Article 1<sup>1</sup>**

**Names and Boundaries**

- 1.1 **Titles.** This enactment may be referred to as the Beaverton Charter of 20\_\_.
- 1.2 **Name.** The City of Beaverton, Oregon, continues as a municipal corporation with the name City of Beaverton.<sup>2</sup>
- 1.3 **Boundaries.** The city includes all territory within its boundaries as they now exist or are legally modified in the future.

**Article 2<sup>3</sup>**

**Powers**

- 2.1 **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.
- 2.2 **Construction.** This charter is liberally construed so that the city may exercise fully all powers possible under this charter and under United States and Oregon law.
- 2.3 **Where Powers Vest.**<sup>4</sup> All powers of the city are vested in the city council, except as otherwise provided by law<sup>5</sup> or this charter.

**Article 3<sup>6</sup>**

**Form of Government**

[This Article Intentionally Left Blank]

**Article 4<sup>7</sup>**

**Council**

- 4.1 **Composition.** The council is comprised of a mayor and six councilors nominated and elected from the city at large.

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<sup>1</sup> Editorial changes were made to Article 1, but no substantive changes.

<sup>2</sup> The continuation of the city as the city of Beaverton is intended to assign all rights and delegate all duties by operation of law from the old to the new. Specific transitional matters are also addressed in Article 10 of this charter.

<sup>3</sup> Editorial changes were made to Article 2, but no substantive changes.

<sup>4</sup> Revised and relocated; formerly found at Chapter III, section 6.

<sup>5</sup> The phrase "by law" includes the Oregon Constitution. No mention is made in this charter of the initiative or referendum powers reserved to the qualified voters of every city in Article IV, section 1(5) of the Oregon Constitution, or the recall power held by electors over every public officer under Article II, section 18 of the Oregon Constitution. No city charter can deny these powers to city electors.

<sup>6</sup> Revised and relocated all sections formerly found in Chapter III.

<sup>7</sup> Removed section 15 (Proceedings to be Public) as redundant. The subject matter of that section is fully addressed by state law.

4.2 **Mayor.** Except as otherwise provided in this charter, the mayor is the political head of the government of the city. The mayor is a voting member of the council and has no veto authority. In exercising these powers, the mayor must:

- (a) Devote the mayor's entire time to the discharge of the mayor's official duties and, except when circumstances necessitate otherwise, attend all meetings of the council.
- (b) Preside over and facilitate council meetings, preserve order, enforce council rules, and determine the order of business under council rules.
- (c) Sign the authorized writings and records of council decisions.<sup>8</sup>
- (d) Join the council in the annual review of the performance of the city manager.
- (e) With the city manager, lead the council in the development of long-term goals for the city and strategies to implement those goals.
- (f) Consistent with council direction, lead, represent, encourage, and support federal, state, and local intergovernmental cooperation, partnerships, and collaborations while not excluding councilor participation.
- (g) Annually report to the council as to the affairs and needs of the city and such legislation, policies, or measures the mayor deems necessary or desirable.
- (h) With the consent of the council, appoint and remove members of boards, commissions, and committees established by ordinance or resolution. Unless waived by a majority vote of the entire council, a member of any committee, board, or commission must be a resident of the city. An appointment or removal made by the mayor to any board, commission, or committee does not take effect unless a majority of the members of the entire council confirm the appointment or removal or the council fails to act upon an appointment or removal within 15 calendar days after the council's notice of the mayor's action.
- (i) Have such other lawful powers and duties as may be conferred or imposed by ordinance or resolution of the city, provided that the mayor may not direct or order any employee or official of the city, including the city manager, and must act with council, as a body, to direct the city manager.

4.3 **Council President.** At its first meeting each calendar year, the council must elect a councilor to serve as the council president. The president presides in the absence of the mayor and acts as mayor when the mayor is unable to perform duties.

4.4 **Rules and Meetings.** The council must determine its own rules and order of business. The council must meet at least once a month at a time and place designated by its rules, and it may meet at other times in accordance with its rules and Oregon law.

4.5 **Quorum.** A majority of the members of the council is a quorum to conduct business, but a smaller number may meet and compel attendance of the absent members in a manner provided by ordinance. In the event of a vacancy due to death, resignation, loss of contact during a state or federal state of emergency within the city, the quorum is reduced accordingly. Every member of the council who is present must be counted for the purpose of constituting a quorum, even if the member does not vote on one or more issues.<sup>9</sup>

4.6 **Record.** A record of council meetings must be kept in a manner prescribed by the council rules and Oregon law.

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<sup>8</sup> If the decision is made to empower the mayor to veto or require reconsideration of an ordinance, this section should be amended.

<sup>9</sup> The abstention or recusal of the mayor or a councilor on a particular matter does not result in a reduced quorum.

4.7 **Voting.** Except as otherwise provided in this charter, the express approval of a majority of the members of the council present and voting is necessary for any council decision.

4.8 **Compensation.** The council may determine the compensation of the mayor and councilors, but no change<sup>10</sup> in compensation is effective for the mayor or councilors in office when the decision is made. Changes to compensation will be phased in<sup>11</sup> as the mayor and each councilor's current term in office expires.<sup>12</sup>

## Article 5

### Powers and Duties of City Officers

5.1 **City Manager.** The office of city manager is established as the administrative head of the city government. The city manager is responsible to the council for the proper administration of all city business. The city manager will assist the council in the development of city policies and carry out policies established by ordinances, resolutions, and orders.<sup>13</sup>

- (a) A majority of the council must appoint and may remove the manager. The council may appoint a manager for a definite or an indefinite term. The council must fill the office of city manager by appointment as soon as practicable after a vacancy occurs.
- (b) The council's appointment and any removal of the manager must be made without regard to political considerations and solely on the basis of education and demonstrated skill and experience in competencies and practices of local government management.
- (c) The manager need not reside in the city.<sup>14</sup>
- (d) The manager has no authority over the mayor, councilors, city attorney, auditor, or municipal judges, or over the judicial functions of the municipal judges or the legal services functions of the city attorneys. The manager must:
  1. Attend all council meetings unless excused by the council president.
  2. Make reports and recommendations to the council about the needs of the city.
  3. Administer and enforce all city ordinances, resolutions, franchises, leases, contracts, permits, codes, and other city decisions.
  4. Determine the personnel rules and practices of the city and appoint, supervise, and remove all city employees, except for the mayor, councilors, city attorney, auditor, and municipal judges.

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<sup>10</sup> "Change" includes increases and decreases in compensation – *i.e.*, whether to the private financial benefit or detriment of the public official.

<sup>11</sup> "Phased in" on account that councilors have staggered terms. The change could take effect two years later for some councilors compared to other councilors.

<sup>12</sup> Consistent with Oregon Government Ethics Commission staff advisory opinions 14S-002 and 19-001 and similar to the twenty-seventh amendment to the US Constitution ("No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened"). The section could be revised to require the mayor to refrain from participating in matters related to mayor compensation to avoid conflicts of interest and allow the change in mayor compensation to take effect during the mayor's current term in office.

<sup>13</sup> This makes the manager responsible for carrying out city policy adopted by council ordinance, resolution, or order.

<sup>14</sup> If the city wants the charter to require the manager to live in the city, the following may be added: "but must become and remain a resident of the city while manager." In the alternative, if a residency requirement is desired but is not practicable due to a housing shortage or other condition (such as irregular city boundaries), the following may be added: "but must live within 30 miles of the city." Either requirement can be imposed more flexibly by ordinance or contract. Consider whether residency required for city attorney and judges, too.

5. Organize city departments and administrative structure, other than the legal services function of the office of the city attorney.
6. Prepare and administer the annual city budget.
7. Administer city utilities and property.
8. With the mayor, encourage 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 actions of all subordinates.

5.2 **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 city attorney. The city attorney appoints, supervises, and may remove any employees who work in and for the city attorney's office. The city attorney must be a member in good standing of the bar of the state of Oregon.

5.3 **Municipal Court and Judges.** The municipal court of the City of Beaverton, Washington County, Oregon, is established to operate as a municipal court.

- (a) All areas within the city and areas outside the city as permitted by state law are within the territorial jurisdiction of the court. The municipal court has subject matter jurisdiction over every offense created by city ordinance and to the fullest extent allowed by law over all misdemeanors and violations defined and made punishable under state law, unless limited by city ordinance. The court may enforce forfeitures and other penalties created by such ordinances. The court shall be open for the transaction of business at times and locations specified by council resolution.
- (b) All municipal judges must be a member in good standing of the bar of the state of Oregon. A municipal judge may render judgments and impose sanctions on persons and property; order the arrest of anyone accused of an offense against the city; commit to jail or admit to bail anyone accused of a city offense; issue and compel obedience to subpoenas; compel witnesses to appear and testify and jurors to serve for trials before the court; penalize contempt of court; issue processes necessary to enforce judgments and orders of the court; issue search warrants; and perform other judicial and quasi-judicial functions as allowed by law. A majority of the council may appoint and remove a municipal judge and designate one municipal judge to serve as the court's presiding judge. The presiding judge exercises general administrative supervision over the municipal court and its other judges, has authority over the dockets and assignment of cases, and contracts for services of all judges *pro tem*.

5.4 **Auditor.** The city council must provide for an independent annual audit of all city accounts and may provide for more frequent audits and such other audit duties as the council deems necessary. The auditor must be duly licensed to practice as an auditor under the state municipal audit law.<sup>15</sup>

5.5 **Compensation.** The council must authorize the compensation of city officers and employees as part of its approval of the annual city budget.

## Article 6 Elections

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<sup>15</sup> Similar to existing city charter; updated consistent with NCL model charter section 5.11.

6.1 **City Elections.** City elections must conform to state law, unless this charter or city ordinances provide otherwise.<sup>16</sup> All elections for city offices must be nonpartisan.

6.2 **Qualification of Electors.** Every person who is a resident of the city and who qualifies as a legal voter under state law may vote in city elections.<sup>17</sup>

6.3 **Eligibility.** The mayor and each councilor must be a qualified elector under state law and reside within the city for at least six months immediately before election or appointment to office. A person, after taking office, must remain a resident of the city and qualified elector of the state to continue to hold office. No person may be a candidate at a single election for more than one city office. The council is the final judge of the election and qualifications of its members.

6.4 **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.

6.5 **Voters' Pamphlet.** All candidacies and measures submitted to the voters of the city in a primary, general, or special election must be publicized by a voters' pamphlet published by the city in accordance with city ordinance. No voters' pamphlet will be prepared for any election for which no city measure is submitted to the voters and not more than one person has filed or been nominated for any city office.<sup>18</sup>

6.6 **Oath.** The mayor and each councilor must subscribe and swear or affirm an oath to the effect that the person will faithfully discharge to the best of the person's ability the duties of the office being assumed and will support the constitutions and laws of the United States and the State of Oregon and the charter and ordinances of the City of Beaverton.<sup>19</sup> The oath must be administered and attested to by a notary public or other person duly authorized to administer oaths.<sup>20</sup> The oath may be taken up to ten days prior to the scheduled date of assuming office.<sup>21</sup>

6.7 **Terms.** After January 1, 2020, council positions one, two, and five will be elected every four years starting with the 2022 general election and the mayor and council positions three, four, and six

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<sup>16</sup> Oregon Constitution, Article II, section 14a ("Time of holding elections in incorporated cities and towns") requires cities to hold their regular elections for officers at the same time as the general biennial elections for state and county officers are held. ORS 254.035 implements this provision. ORS 254.056 states that general elections are held on the first Tuesday after the first Monday in November of even-numbered years. It further states that primary elections may be held on the third Tuesday in May of even-numbered years.

<sup>17</sup> The State of Oregon defines a legal voter as an "elector." See ORS chapter 247. An elector is "an individual qualified to vote under Article II, section 2, Oregon Constitution" (which provides in relevant part: "Every citizen of the United States is entitled to vote in all elections not otherwise provided for by this Constitution if such citizen: (a) Is 18 years of age or older; (b) Has resided in this state during the six months immediately preceding the election, except that provision may be made by law to permit a person who has resided in this state less than 30 days immediately preceding the election, but who is otherwise qualified under this subsection, to vote in the election for candidates for nomination or election for President or Vice President of the United States or elector of President and Vice President of the United States; and (c) Is registered not less than 20 calendar days immediately preceding any election in the manner provided by law.")

<sup>18</sup> No substantive changes compared to existing section 30 A of current city charter.

<sup>19</sup> Oregon does not require public employees or elected officials to take an oath before assuming office. This section could be omitted from the charter in whole or in part or relocated to a city ordinance.

<sup>20</sup> In addition to a notary public, ORS 44.320, authorizes the following persons to administer an oath of office: judge, justice of the peace, court clerk, and certified shorthand reporter.

<sup>21</sup> The ten day grace period is borrowed from the Washington State, but may be unnecessary. If a person fails to take a required oath, Oregon recognizes the "*de facto* officer" doctrine. A *de facto* officer is one who "has the possession of an office and performs the duties thereof under color of right, without being actually qualified in law so to act." *Smith v. City of Jefferson*, 75 Or. 179, 187 (1915). The official actions of a *de facto* officer have the same legal effect as the official actions of a duly qualified officer.

will be elected every four years starting at the 2024 general election.<sup>22</sup> The mayor and each councilor's term of office is four years and commences on the first day of January after the election to office.<sup>23</sup> A mayor may serve no more than three consecutively-elected four-year terms.<sup>24</sup> A councilor may serve no more than three consecutively-elected four-year terms; the limit applies even if one or more of the consecutive terms is served in different numbered council positions.<sup>25</sup>

#### **Article 7<sup>26</sup>** **Vacancies in Office**

- 7.1 **Vacancies.**<sup>27</sup> The mayor or a council office becomes vacant:
- (a) Upon the incumbent's:<sup>28</sup>
    - (1) Death;
    - (2) Resignation from the office;
    - (3) Recall from office;
    - (4) Assuming another elected office;
    - (5) Ceasing to reside in the city;
    - (6) Ceasing to be a qualified elector under state law; or<sup>29</sup>
    - (7) Conviction of a felony.<sup>30</sup>
  - (b) Upon declaration by the council after the incumbent's:<sup>31</sup>
    - (1) Incarceration;
    - (2) Absence from all council meetings within a 60-day period;
    - (3) Failing to qualify for the office within 10 days of the time the term of office is to begin;

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<sup>22</sup> The general election is the election held "on the first Tuesday after the first Monday in November of each even-numbered year." ORS 254.056(1).

<sup>23</sup> The wording makes it irrelevant whether the person is elected at the primary or general election. Special elections to fill vacancies are dealt with specifically under section 7.2.

<sup>24</sup> Time in office as an appointed mayor is not included in the term limit calculation.

<sup>25</sup> As drafted, a councilor who holds a numbered council position cannot run for another numbered council position and avoid application of the three consecutively-elected four-year term limit. Time in office as an appointed councilor is not included in the term limit calculation.

<sup>26</sup> Article 7 should be merged into Article 6.

<sup>27</sup> This section modifies section 7.8 of the LOC Model Charter. Subsection (a) are automatic grounds for declaring an office vacant. The events are intended to be easily established, without much opportunity for factual disputes. The events could equally justify the removal of either a councilor or a mayor. Subsection (b) are discretionary grounds for declaring an office vacant. Whether the authority of a council to declare the office of an elected mayor vacant is appropriate should be considered once a preferred form of government and official roles and responsibilities are settled. The section should also be reviewed if councilors are elected in districts rather than at large to resolve what consequence moving from a district has on continuing in office.

<sup>28</sup> Use of the term "upon" in subsection (a) means the vacancy occurs on the day of the listed event. The use of "...the incumbent's..." includes both mayor and councilors.

<sup>29</sup> See note 3 for a full definition of "a qualified elector under state law." Essentially, a person who is age 18 or older, duly registered to vote, and an Oregon resident during the six months immediately preceding the election.

<sup>30</sup> Further discussion about the practical application of this standard is needed. Alternatives may be to include misdemeanors or limit to the conviction of a criminal statutory offense which involved abuse of one's official position.

<sup>31</sup> Similar to subsection (a), use of the term "upon" in subsection (b) means the vacancy occurs on the day of the council declaration. Declaration would be made upon majority vote of council. Does the person who is subject of the declaration vote? This construction does not address the issue. If subsection (b) is to only apply to councilors, the use of "...the incumbent's..." should be changed to "...a councilor's...."

- (4) Removal under Section \_\_\_\_\_.<sup>32</sup>
- 7.2 **Filling Vacancies.**<sup>33</sup> Vacancies must be filled as follows:
- (a) If less than one year<sup>34</sup> remains in the term of the person who held that vacant office, the vacancy must be filled by majority vote of the remaining members of the council, and the appointee will serve the unexpired term of the predecessor to the office; or
  - (b) If one year<sup>35</sup> or more remains in the term of the person who held the vacant office or if for any reason the office is not filled and no person takes office when the term of office otherwise would have commenced, the vacancy must be filled by majority vote of the remaining members of the council, and the appointee will serve as an interim city councilor until a successor to the office is duly elected and is qualified to take office.<sup>36</sup>
  - (c) The election to fill the vacancy for the unexpired term of office must be held at the election that is next available pursuant to state law which occurs no sooner than the one hundred twentieth day after the date upon which the vacancy occurred. At the election, the person elected must receive a majority of the votes cast for all candidates for the office. If no candidate receives a majority, then a run-off election between the two candidates receiving the highest number of votes must be held at the election that is next available pursuant to state law. The term of office for a person elected to fill a vacancy for an unexpired term of office commences upon the certification of the election.

## **Article 8 Ordinances**

8.1 **Ordaining Clause.** The council exercises its legislative authority by adopting ordinances. The enacting clause for all ordinances must state "The City of Beaverton ordains as follows:".

8.2 **Adoption by Council.** Except as this charter otherwise provides, the council may not adopt an ordinance at a meeting unless:

- (a) the ordinance has been read by title at a previous meeting of the council;
- (b) the title of the ordinance is included in a written agenda of the meeting at which the ordinance is adopted;
- (c) the agenda of the meeting at which the ordinance is adopted has been published in accordance with applicable law;
- (d) copies of the ordinance are available for public inspection at least 48 hours before the meeting at which the ordinance is adopted; and

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<sup>32</sup> The missing reference is to a section of the LOC Model Charter that provides that "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." Inclusion of the subsection will need to be reconsidered once mayor, council and city manager roles and responsibilities are settled.

<sup>33</sup> This section is derived from the city's existing charter.

<sup>34</sup> Could be reduced to 8 months, but probably not less.

<sup>35</sup> Could be reduced to 8 months, but probably not less. Confirm subsections (a) and (b) complement each other.

<sup>36</sup> The office could remain vacant instead of appointing a short-term interim councilor.

(e) at the meeting at which the ordinance is adopted, the ordinance is read by title before it is adopted.

**8.3 Immediate Adoption.** The council may adopt an ordinance at a single meeting by the unanimous approval of the members of the council present and voting on the matter, provided the proposed ordinance is available in writing to the public at least five days before the meeting.

**8.4 Amendment to Proposed Ordinance.** 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.

**8.5 Record of Vote.** After the adoption of an ordinance:

(a) the mayor must sign the ordinance.<sup>37</sup>

(b) the city recorder must attest to the adoption and date of adoption of the ordinance and enter into the council minutes the vote of each member of the council regarding the adoption of the ordinance.

**8.6 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 on another date less than 30 days after adoption if it contains an emergency clause.<sup>38</sup>

### Article 9<sup>39</sup>

#### Public Improvements; Urban Renewal; Debt

**9.1 Public Improvements.** The council must order the making of a public improvement upon petition of the owners of 60% of the area of the real property that would be subject to special assessments for the cost of the improvement.<sup>40</sup>

**9.2 Urban Renewal.** The council shall not approve any urban renewal plan unless approved by a majority vote in the City of Beaverton at a general or primary election. Further, any urban renewal agency shall not be comprised exclusively of members of the council.<sup>41</sup>

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<sup>37</sup> In lieu of giving the mayor veto power over legislation, some council-city manager forms of government allow the mayor the power to require the council to reconsider an ordinance if the mayor does not endorse it. That process is described in these steps: If the mayor approves the ordinance, the mayor must sign and date it. If the mayor requires reconsideration of the ordinance, the mayor must return it to the recorder with written reasons for reconsideration within ten days of receipt of the ordinance. If the ordinance is not so returned, it takes effect as if approved. At the first council meeting after demand for reconsideration by the mayor, the councilors will consider the reasons of the mayor and again vote on the ordinance. If at least a majority of all councilors vote to adopt the ordinance, it will take effect. (Note: the number of votes comprised of "a majority of all councilors" is not necessarily the same number of votes as "a majority of those councilors present and voting.")

<sup>38</sup> If the mayor is given veto or reconsideration powers over ordinances, this section would need to be revised to accommodate the change. Sherwood and Hillsboro charters provide examples.

<sup>39</sup> Relocated existing section 40 (Limitation on Indebtedness) and section 44 (Limitations on Powers of the Governing Body of the City of Beaverton in Regards to Urban Renewal) to this Article. Removed section 39 (Bids for Public Contracts) because the subject matter of that section is fully addressed by state law.

<sup>40</sup> As written, this section is not required but may be an appropriate policy to include in a charter. Hillsboro has a similar provision. The balance of Beaverton's existing charter provision on public improvements is not required. Two of the existing provisions provide that ordinances will address certain matters. There's little value in such provisions being in a charter, other than to direct readers to look at city ordinances for information about a given topic. The other provision allows residents a limited ability to remonstrate against some public improvements. There is no requirement to include such a provision in a city charter in Oregon. The provision as been included in the Beaverton Charter for decades and has seldom, if ever, been exercised.

<sup>41</sup> This section's wording is consistent with the current charter provision but is not identical to it.

9.3 **Debt.** City indebtedness may not exceed debt limits imposed by state law.<sup>42</sup>

## **Article 10 Transition**

10.1 **Ordinance Continuation.** All ordinances and other enactments consistent with this charter and in force when this charter takes effect remain in effect until amended or repealed.

10.2 **Pending Matters.** All rights, claims, causes of actions, duties, contracts, and legal administrative proceedings that exist when this charter takes effect continue and are unimpaired by this charter, except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on or dealt with by the city department, office, or agency appropriate under this charter.

10.3 **Offices.** The municipal court and the office of the city attorney shall remain and continue.

10.4 **Terms.** The term of the mayor or any councilor in office when this charter takes effect is the term for which the mayor or councilor was elected.<sup>43</sup> The term of the mayor or any councilor elected to a four-year term of office to begin on the first day of January 2020 is four years. The mayor and every councilor in office on the first day of January 2020 is deemed to have been elected to a first term of office<sup>44</sup> for purposes of calculating any applicable term limit pursuant to this charter.

10.5 **Compensation.** The compensation of the mayor and each councilor when this charter takes effect must continue in effect until changed in accordance with the provisions of this charter.

10.6 **New Council Position.** The city must hold an election the same day as the 2020 general election to fill the sixth councilor position. The person elected to council position six will serve a four-year term of office to begin on the first day of January following the election and receive the same compensation as other councilors.<sup>45</sup>

## **Article 11<sup>46</sup> General Provisions**

11.1 **Severability.** The terms of this charter are severable. If any provision of this charter is held invalid by a court, the invalidity does not affect the validity of the remaining parts of the charter.

11.2 **Time of Effect.** This charter takes effect 30 days after the day on which it is approved by a majority of voters, and except as otherwise provided is operative January 1, 2021. The city may take any action before this charter's operative date that is necessary to enable the city on or after the operative date to exercise all duties, functions, and powers conferred on the city by this charter.

11.3 **Saving Clause.** All charter provisions adopted before this charter takes effect continue in force and effect until repealed.

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<sup>42</sup> This section is based on the LOC model charter. The LOC model charter also recommends a statement that "a charter amendment is not required to authorize city indebtedness." Gresham's charter includes a variation of this: "Approval by the voters of city indebtedness need not be in the form of a charter amendment." Subject to reconsideration in later drafts based on further research, the provision is being omitted from this draft of the charter.

<sup>43</sup> Assumes charter adopted in 2019 at the primary election. The effective date of the charter would then be 30 days after the primary election date. The operative date of the charter would be January 1, 2020. Thus, if the charter is adopted, the mayor and councilors in office in 2019 finish out their terms under the current charter. If election date is not the 2019 primary, revisit the timing set out in this section.

<sup>44</sup> The number of deemed-served terms-of-office can be adjusted by position, if desired.

<sup>45</sup> Assumes adoption of the charter in May 2019. If a city holds a special election on a date other than the primary election or general election, it must bear the expense of the election. ORS 254.046.

<sup>46</sup> Removed sections 42 (Initiative and Referendum) and 43 (Zone Changes) as redundant. The subject matter of those sections is fully addressed by state law.

11.4 **Repeal.** All charter provisions adopted before this charter takes effect are repealed when this charter becomes operative on January 1, 2020.

[END OF CHARTER]