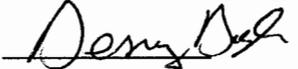


AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Review of the Beaverton Charter
of 1981

FOR AGENDA OF: 01-07-20 **BILL NO:** 20009

MAYOR'S APPROVAL: 

DEPARTMENT OF ORIGIN: City Attorney 

DATE SUBMITTED: 12-20-19

CLEARANCES: Mayor's Office 

PROCEEDING: Action Item

EXHIBITS: Draft Charter

BUDGET IMPACT

EXPENDITURE REQUIRED	AMOUNT BUDGETED	APPROPRIATION REQUIRED
\$0	\$0	\$0

RECOMMENDED ACTION:

Review the attached draft city charter, which--if approved by city voters--would replace Beaverton's current charter. If appropriate, set one or more dates for public hearings regarding the draft charter.

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.

Beaverton's current 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:

A series of Council work sessions held during public meetings over the past months has resulted in the attached draft of a new city charter, which--if approved by city voters--would replace Beaverton's current charter. The mayor and city council will review and make comments and suggestions regarding the attached draft charter and, if appropriate, set one or more dates for public hearings regarding the draft charter.

The Beaverton Charter of 2021¹

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 1²

Names and Boundaries

- 1.1 **Titles.** This enactment may be referred to as the Beaverton Charter of 2021.
- 1.2 **Name.** The City of Beaverton, Oregon, continues as a municipal corporation with the name City of Beaverton.³
- 1.3 **Boundaries.** The city includes all territory within its boundaries as they now exist or are legally modified in the future.

Article 2⁴

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.** All powers of the city are vested in the city council, except as otherwise provided by law⁵ or this charter.

Article 3⁶

Council

- 3.1 **Council Composition and Powers.**⁷ The council is comprised of a mayor and six councilors nominated and elected from the city at large.

¹ 2021 would be the year the charter becomes operative if approved by voters at the May 2020 Primary Election.

² Editorial changes were made to Article 1, but no substantive changes.

³ 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 8 of this charter.

⁴ Editorial changes were made to Article 2, but no substantive changes.

⁵ 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.

- (a) A majority of the entire council must appoint and remove the city manager. The council may appoint a city 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 or removal of the city manager must be made without regard to political considerations and solely on the basis of matters relating to or arising out of the city manager's demonstrated skill, knowledge, experience, performance, and conduct in local government management.
- (c) When the city manager is temporarily disabled from acting as city manager or when the office of the city manager becomes vacant, the council must appoint a city manager pro tempore. The city manager pro tempore has the authority and duties of city manager, except that a pro tempore city manager may appoint or remove direct reports to the city manager only with council approval.⁸
- (d) A majority of the entire council must appoint and remove the city attorney.
- (e) A majority of the entire council must appoint and remove a municipal judge and designate one municipal judge to serve as the court's presiding judge.
- (f) A majority of the entire council must appoint and remove the city auditor.
- (g) A majority of the entire council may censure or discipline a council member.
- (h) A majority of the entire council may remove a council member pursuant to 3.10.
- (i) A majority of the entire council may authorize hiring council support staff.
- (j) The council may determine the compensation⁹ of the mayor and councilors, but no change¹⁰ in compensation is effective for the mayor or councilors in office when the decision is made. The changes in compensation take effect¹¹ at the start of the term following the end of the term of each council member in office when the determination was made.¹²

3.2 **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.¹³

⁸ The exception on the power of the city manager pro tempore relating to appointing or removing employees essentially would limit the city manager pro tempore's authority relating to hiring or firing department heads.

⁹ "Compensation" includes base salary and any other benefits.

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

¹¹ Changes in compensation "will take effect" on different dates on account that councilors have staggered terms. The change in compensation could take effect two years later for some councilors compared to other councilors.

¹² 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.

¹³ At its December 17 work session, the council discussed adding a provision to allow the council president to sign in the mayor's absence; however, this sentence already allows the council president to complete all enumerated duties when the mayor is absent.

3.3 **Mayor.** Except as otherwise provided in this charter, the mayor is the full-time official head of the city for political, ceremonial, emergency management, and military purposes. The mayor is a voting council member and has no veto authority.

(a) In exercising the powers of the mayor, the mayor must:

- (1) Attend all meetings of the council, except when circumstances necessitate otherwise.¹⁴
- (2) Preside over and facilitate council meetings, preserve order, enforce council rules, and determine the order of business under council rules.
- (3) Sign the authorized writings and records of council decisions.¹⁵
- (4) Join the council in the annual review of the performance of the city manager.
- (5) Work with the city manager to lead the council in the development and implementation of short and long-term goals for the city.
- (6) Work together with city manager and councilors to define roles and responsibilities of individual councilors on intergovernmental issues.
- (7) 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.
- (8) With the consent of the council, appoint and remove members of boards, commissions, and committees established by ordinance or resolution. An appointment or removal made by the mayor to any board, commission, or committee does not take effect unless a majority of the entire council confirms 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.

(b) In exercising the powers of the mayor, the mayor may:¹⁶

- (1) Engage in other employment, business, or activities unless the council determines that the outside employment, business, or activities interfere with the mayor's performance or ability to meet the needs of the city, in which instance the mayor must terminate or curtail the outside employment, business, or activities.¹⁷
- (2) Hire support staff.
- (3) Have other lawful powers and duties that are 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

3.4 **No Interference.** No council member may directly or indirectly attempt to coerce the city manager or a candidate for the office of city manager in executing the city manager's

¹⁴ Outside employment of the mayor now separately addressed in subsection (b)(1) of this section.

¹⁵ This is covered in Section 3.2.

¹⁶ After the December 17 work session, subsections (i) and (j) were moved to create a new subsection for actions the mayor "may" take.

¹⁷ This charter allows for outside employment, provided it does not interfere with mayor's work for the city. Council may order the mayor to terminate or reduce outside work if the outside work does interfere. If mayor does not follow the order, the remedy is likely for the voters to determine unless section 5.8 (Vacancies in Office) is amended to allow for council-mandated removal of the mayor from office.

powers and duties. In council meetings, council members may discuss or suggest anything with the city manager relating to city business.

3.5 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.

3.6 Quorum. A majority of the council members is a quorum to conduct business, but a smaller number may meet and compel attendance of the absent council 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 council member who is present must be counted for the purpose of constituting a quorum, even if the council member does not vote on one or more issues.¹⁸

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

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

3.9 Representing the City. When taking a position on a city issue outside of a council meeting, a council member must express the majority position of the city council, but may also express the individual's personal opinion on the issue.¹⁹

3.10 Removal from Office. In addition to censure and discipline, the council may remove a council member after notice and an opportunity to be heard if a majority of the entire council determines that the council member:

- (a) is convicted of a crime punishable by a term of imprisonment;
- (b) Fails to participate in at least one council meeting within a 60-day period without notifying the council;²⁰
- (c) Fails to qualify for the office within 30 days of the scheduled date of assuming office;
- (d) Coerces the city manager in violation of Section 3.4.

Article 4

Powers and Duties of City Officers

4.1 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.

- (a) The city 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.

¹⁸ The abstention or recusal of the mayor or a councilor on a particular matter does not result in a reduced quorum.

¹⁹ This option was added at the request of the council at the December 17 work session, and a similar provision was added to the City Manager's obligations.

²⁰ If there were circumstances that precluded a councilor from participating for a period of time, such as for a reason that would be covered by protected leave, notifying the council would allow for the absence. The council can further specify in its rules situations that require notice if it chooses to.

(b) The city manager must:

- (1) Provide high quality professional management and leadership to city government.
- (2) Assist the council in the development of city policies and carry out policies established by ordinances, resolutions, and orders.²¹
- (3) Attend all council meetings unless excused by the council president.
- (4) Make reports and recommendations to the council about the needs of the city.
- (5) Administer and enforce all city ordinances, resolutions, franchises, leases, contracts, permits, codes, and other city decisions.
- (6) 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.
- (7) Organize city departments and administrative structure, other than the legal services function of the office of the city attorney.
- (8) Prepare and administer the annual city budget.
- (9) Administer city utilities and property.
- (10) Consistent with council direction and in cooperation with the mayor, encourage regional and intergovernmental cooperation.
- (11) Involve the council in the: 1) development and implementation of short and long-term goals for the city, 2) the short and long-term agenda process, and 3) development of budget principles and priorities.
- (12) Promote cooperation among the mayor, council, staff, and residents in developing city policies and building a sense of community.
- (13) Perform other duties as directed by the council.
- (14) Delegate duties but remain responsible for actions of all subordinates.
- (15) Permit conversation between council members and city staff, to include suggestions, opinions, and information, with the understanding that no individual council member shall give orders to the city manager or to any city staff member.
- (16) Express the majority position of the city council when taking a position on a city issue, but may also at the same time, express the city manager's personal opinion on the issue.²²

4.2 City Attorney. The office of city attorney is established and remains and continues as the chief legal officer of the city government. 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.

²¹ This makes the city manager responsible for carrying out city policy adopted by council ordinance, resolution, or order.

²² This option was added at the request of the council at the December 17 work session.

4.3 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 members in good standing of the bar of the state of Oregon. The presiding judge exercises general supervision over the judicial functions of the municipal court and its judges and has authority over the dockets and assignment of cases. The council may assign other duties to the presiding judge.²³
- (c) 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.

4.4 Auditor. The city council must provide for an independent, annual financial audit of all city accounts and may provide for more frequent audits and such other audits and studies as the council deems appropriate. The auditor or firm conducting a financial audit must be duly licensed to practice as an auditor under state law.

4.5 Compensation. The council must authorize the compensation of city officers and employees pursuant to the city budget process.

Article 5 Elections

5.1 City Elections. City elections must conform to state law, unless this charter or city ordinances provide otherwise.²⁴ All elections for city offices are nonpartisan.

²³ At the December 17 work session, the Council discussed the possibility of granting some authority to the presiding judge to participate in the selection and supervision of pro tempore judges. This language allows the council to assign any additional duties through any mechanism it deems appropriate. For example, the Council could approve a job description for the presiding judge that includes supervision of pro tempore judges or any other duties it chooses.

²⁴ 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

5.2 **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 a city election.²⁵

5.3 **Eligibility.** The each council member 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.²⁶ 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. Except when a state trial court has jurisdiction over the matter, the council is the final judge of the election and eligibility of its members.²⁷5.4 **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.

5.5 **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.²⁸

5.6 **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.²⁹ The oath must be administered and attested to by a notary public or other person duly authorized to administer oaths.³⁰ The oath may be taken up to ten days prior to the scheduled date of assuming office.³¹

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.

²⁵ 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.")

²⁶ At its December 17 work session the council asked staff to consider specifying when the residency requirement is measured for state officials. Article IV, Section 8, of the Oregon Constitution states that: "a person may not be a Senator or Representative if the person at the time of election: (A) Is not a citizen of the United States; and (B) Has not been for one year next preceding the election an inhabitant of the district from which the Senator or Representative may be chosen."

²⁷ Election disputes that can be addressed by a trial court under state law would not be handled by the council.

²⁸ No substantive changes compared to existing section 30 A of current city charter. If, for example, three council members stood for re-election unopposed, no city voters' pamphlet would be prepared on account of the three races.

²⁹ 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.

³⁰ 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.

³¹ 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

5.7 **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 will be elected every four years starting at the 2024 general election.³² 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.³³ A mayor may serve no more than three consecutively-elected four-year terms.³⁴ 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.³⁵ If a mayor or a councilor is appointed or elected for a term that is less than four years, the partial term does not count as a term; in addition to the partial term, a mayor or a councilor may also serve three consecutively-elected four-year terms.

5.8 **Vacancies in Office.**³⁶ The mayor or a council office becomes vacant upon the mayor or councilor’s:³⁷

- (a) Death;
- (b) Resignation from the office;
- (c) Recall from office;
- (d) Ceasing to reside in the city;
- (e) Ceasing to be a qualified elector under state law; or³⁸
- (f) Removal from office pursuant to Section 3.10.

5.9 **Filling Vacancies.**³⁹ Vacancies must be filled as follows:

- (a) If less than one year⁴⁰ remains in the term of the person who held that vacant office, the vacancy must be filled by majority vote of the remaining council members, and the appointee will serve the unexpired term of the predecessor to the office; or
- (b) If one year⁴¹ 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

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.

³² 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).

³³ 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 5.9.

³⁴ Time in office as an appointed mayor is not included in the term limit calculation.

³⁵ 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. Also, as currently drafted, any gap in service would allow the termed-out councilor or mayor to be appointed.

³⁶ Grounds listed in 5.8 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.

³⁷ Use of the term "upon" in subsection (a) means the vacancy occurs on the day of the listed event.

³⁸ 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.

³⁹ This section is derived from the city’s existing charter.

⁴⁰ Could be reduced to 8 months, but probably not less.

⁴¹ Could be reduced to 8 months, but probably not less.

the term of office otherwise would have commenced, the vacancy must be filled by majority vote of the remaining council members, 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.⁴²

- (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 6 Ordinances

6.1 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:”.

6.2 Adoption. Except as otherwise provided in this charter, the council must do the following to adopt an ordinance:

- (a) Publish a draft of the proposed ordinance for public inspection at least seven days before a public hearing on the proposed ordinance;
- (b) conduct first reading of the ordinance by reading only the title of the ordinance at a council meeting;
- (c) after first reading is complete:
 - 1. publish, in accordance with applicable law, the title of the ordinance in a written meeting agenda for a second council meeting to consider adopting the ordinance;
 - 2. hold a public hearing if one is required by law; and
 - 3. conduct a second reading of the ordinance by reading only the title of the ordinance at the council meeting; and
- (d) vote whether to adopt the ordinance.

6.3 Immediate Adoption. The council may adopt an ordinance at a single meeting by the unanimous approval of the council members present and voting on the matter, provided the proposed ordinance is available in writing to the public at least five days before the meeting, unless there is an emergency. With the consent of the councilors present, the council may adopt an ordinance to address the emergency with such abbreviated notice of the ordinance and council meeting as the council determines to be necessary under the circumstances.

⁴² The office could remain vacant instead of appointing a short-term interim councilor.

6.4 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.

6.5 Record of Vote. After the adoption of an ordinance:

(a) the mayor must sign the ordinance.⁴³

(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 council member regarding the adoption of the ordinance.

6.6 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.⁴⁴

Article 7

Public Improvements; Urban Renewal; Debt

7.1 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.⁴⁵

7.2 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 council members.⁴⁶

7.3 Debt. City indebtedness may not exceed debt limits imposed by state law.

Article 8

General Provisions⁴⁷

⁴³ 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.")

⁴⁴ 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.

⁴⁵ 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 has been included in the Beaverton Charter for decades and has seldom, if ever, been exercised.

⁴⁶ This section's wording is consistent with the current charter provision but is not identical to it.

⁴⁷ Retitled Article 8 "General Provisions." Retained sections 8.1 and 8.2. Deleted section 8.3 because the substance of that section is now captured in sections 4.2 (city attorney) and 4.3 (municipal court and judges). Moved the remaining sections (8.4, 8.5, and 8.6) outside of the charter, yet still included in the measure proposing the

8.1 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.

8.2 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.

8.3 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.

8.4 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.

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

8.6 Repeal. All charter provisions adopted before this charter takes effect are repealed when this charter becomes operative on January 1, 2021.

[END OF CHARTER]

The following three provisions that relate to the transition from the old charter to a new charter would be placed in a separate section of the measure proposing adoption of a new charter:

A. **Terms.** For the mayor and any councilor elected prior to January 1, 2019, the mayor and councilor will complete the four-year term for which the mayor or councilor was elected.⁴⁸ The term of the mayor or any councilor elected to a four-year term of office to begin on the first day of January 2021 is four years. Each councilor or mayor in office on January 1, 2021, who was elected to one or more four-year terms of office and completed one or more four-year terms of office prior to January 1, 2021, will be deemed as having completed two four-year terms for purposes of calculating any applicable term limit pursuant to this charter.⁴⁹

OPTION: Replace the last sentence with the following language: *“Each councilor or mayor in office on January 1, 2021, that was elected to one four-year term of office prior to January 1, 2020, will be deemed as having completed one four-year term for purposes of calculating any applicable term limit pursuant to*

adoption of a new charter. If the measure passes and the charter is adopted, the transitional sections will be effective but will not be codified.

⁴⁸ Assumes charter adopted in 2020 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, 2021. Thus, if the charter is adopted, the mayor and councilors in office in 2020 finish out their terms they were elected to under the current charter. If election date is not the 2020 primary, revisit the timing set out in this section.

⁴⁹ For example, a mayor or councilor that completed three four-year terms prior to January 1, 2021, will be deemed as having completed two four-year terms pursuant to this charter.

this charter. Each councilor or mayor in office on January 1, 2021, that was elected to two or more four-year terms of office prior to January 1, 2020, will be deemed as having completed two four-year terms for purposes of calculating any applicable term limit pursuant to this charter.”

B. 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.

C. 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.⁵⁰

⁵⁰ Assumes adoption of the charter in May 2020. 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.