

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** Review Draft Beaverton Charter of 2021 and Review Draft Resolution Referring to Voters a Measure Proposing a New City Charter

**FOR AGENDA OF:** 02-04-20 **BILL NO:** 20038

**MAYOR'S APPROVAL:** 

**DEPARTMENT OF ORIGIN:** City Attorney *W. Skye*

**DATE SUBMITTED:** 01-29-20

**CLEARANCES:** Mayor's Office 

**PROCEEDING:** WORK SESSION

**EXHIBITS:** 1. Draft Charter  
2. Resolution (without exhibit)

**BUDGET IMPACT**

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

**RECOMMENDED ACTION:**

Hold a work session to decide: 1) what term limits, if any, should be included in the new charter, and 2) whether to direct staff to prepare a ballot title and resolution referring the new city charter to voters.

**HISTORICAL PERSPECTIVE:**

The Beaverton City Council met at a series of Council work sessions and public hearings held during open public meetings over the past months. Based on those work sessions and hearings, the Council is prepared to consider whether to submit to the voters of Beaverton a ballot measure proposing a new city charter. If adopted, the new charter would change the city's form of government and effect other changes, including:

- The mayor would no longer be the city's administrative head. Instead, the city council would appoint a full-time city manager to oversee the city's day-to-day operations.
- The council would expand from five members to seven members: six part-time city councilors and one full-time mayor with voting privileges. The council would serve as the city's governing body and be responsible for the city's legislative functions. In addition to serving on the council, the mayor would serve as the city's chief elected official.
- All council positions would remain nonpartisan and elected at-large by Beaverton voters. The councilors and the mayor would be limited to three four-year terms in office for their respective positions.
- The new charter would no longer use gender-exclusive references as are found in the city's current charter.

A complete copy of the proposed new charter is set out in the attached Resolution as Exhibit A.

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**INFORMATION FOR CONSIDERATION:**

The governing body of a city may refer a measure to city electors and prepare the ballot title for the measure. ORS 250.285(1). The form of the ballot title must consist of (a) a caption of not more than 10 words which reasonably identifies the subject of the measure; (b) a question of not more than 20 words which plainly phrases the chief purpose of the measure so that an affirmative response to the question corresponds to an affirmative vote on the measure; and (c) a concise and impartial statement of not more than 175 words summarizing the measure and its major effect. ORS 250.035(1).

If the Council decides to refer the ballot title and resolution, the resolution for the ballot title would be placed on the Council's February 11 meeting agenda for adoption. If the Council adopts a referral resolution, the next step would be for staff to draft an explanatory statement of this measure. By law, the statement cannot exceed 500 words. The draft explanatory statement will be presented to Council for its consideration and approval at a future Council meeting. The ballot title and explanatory statement must be adopted and filed with the County by March 19, 2020, to be included in the City and County's voters' pamphlets for the May primary election.

**The Beaverton Charter of 2021<sup>1</sup>**

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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>2</sup>**

**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.<sup>3</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>4</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.

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

<sup>2</sup> Compared to the city’s current charter, editorial changes were made to Article 1, but no substantive changes.

<sup>3</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 would be addressed separately in any measure referred to voters asking whether to adopt this charter.

<sup>4</sup> Compared to the city’s current charter, editorial changes were made to Article 2 of B, but no substantive changes.

2.3 **Where Powers Vest.** 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

### Council

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

- (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 must conduct an annual review of the performance of the city manager.
- (c) 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.
- (d) 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.<sup>6</sup>
- (e) A majority of the entire council must appoint and remove the city attorney.<sup>7</sup>
- (f) 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.<sup>8</sup>
- (g) A majority of the entire council must appoint and remove the city auditor.<sup>9</sup>
- (h) A minimum of five affirmative votes is required to censure or discipline a council member.

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<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> 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.

<sup>7</sup> The title "city attorney" can apply to a natural person or an entity, such as a firm.

<sup>8</sup> This language does not require the council to appoint pro-tempore judges.

<sup>9</sup> The title "city auditor" can apply to a natural person or an entity, such as a firm.

- (i) A minimum number of five affirmative votes is required to remove a council member pursuant to 3.10.
- (j) A majority of the entire council may appoint and remove council support staff.
- (k) The council must determine the compensation<sup>10</sup> of the mayor and councilors, but no change<sup>11</sup> in compensation is effective for the mayor or councilors in office when the decision is made. The changes in compensation take effect<sup>12</sup> at the start of the term following the end of the term of each council member in office when the determination was made.<sup>13</sup>

**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 or unavailable to perform duties.<sup>14</sup>

**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.<sup>15</sup>
  - (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.<sup>16</sup>
  - (4) Work with the city manager and councilors to develop and implement short and long-term goals for the city.
  - (5) Work with the city manager and councilors to define roles and responsibilities of individual councilors on intergovernmental issues.

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<sup>10</sup> “Compensation” includes base salary and any other benefits.

<sup>11</sup> “Change” includes increases and decreases in compensation – *i.e.*, whether to the private financial benefit or detriment of the public official.

<sup>12</sup> Since council members have staggered terms, changes in compensation “will take effect” on different dates. The change in compensation could take effect two years later for some council members compared to others.

<sup>13</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”).

<sup>14</sup> 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.

<sup>15</sup> Outside employment of the mayor is addressed in subsection (b)(1) of this section.

<sup>16</sup> If the mayor is unable or unavailable to sign, the council president is authorized to sign in lieu of the mayor. See Section 3.2.

- (6) Annually report to the community, and as needed to council, as to the affairs and needs of the city and such legislation, policies, or measures the mayor deems necessary or desirable.
  - (7) 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 the 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.<sup>17</sup>
- (b) In exercising the powers of the mayor, the mayor may:<sup>18</sup>
- (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.<sup>19</sup>
  - (2) Hire support staff.
  - (3) Have other lawful powers and duties that are conferred or imposed by ordinance or resolution of the city.
- (c) The mayor must not direct or order any employee or official of the city, including 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 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 law. In the event of a vacancy due to death, resignation, or loss of contact during a state or federal state of emergency within the city, the quorum is reduced accordingly. Every

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<sup>17</sup> A majority of the council members present and voting is sufficient to confirm the appointment or removal of a board, commission, or committee member. The mayor is a council member and is allowed to vote on the matter.

<sup>18</sup> After the December 17 work session, former subsections (i) and (j) were moved to create a new subsection for actions the mayor "may" take.

<sup>19</sup> This charter allows for the mayor's 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 could entail council censure or other discipline of the mayor.

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.<sup>20</sup>

**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.<sup>21</sup>

**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 minimum of five members of the council determines that the council member:

- (a) Is convicted of a crime punishable by a term of imprisonment;
- (b) Has violated any applicable rule of governmental ethics;<sup>22</sup>
- (c) Fails to participate in at least one council meeting within a 60-day period without notifying the council;<sup>23</sup>
- (d) Fails to qualify for the office within 30 days of the scheduled date of assuming office;
- (e) 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:

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<sup>20</sup> The abstention or recusal of the mayor or a councilor on a particular matter does not result in a reduced quorum.

<sup>21</sup> 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.

<sup>22</sup> At the January 14 council meeting, council requested the draft charter include a provision to this effect. Presently, ORS chapter 244 relating to government ethics applies to the mayor and each councilor. Among other things, the chapter regulates how public officials lobby, receive gifts, use their office, hire or work alongside relatives, and resolve conflicts of interests.

<sup>23</sup> If there were circumstances that precluded a council member from participating for a period of time, such as for a reason that would be covered by protected leave, notifying the council likely would allow for the absence. The council can further specify in its rules situations that require notice if it chooses to.

- (1) The mayor,
  - (2) The councilors,
  - (3) The support staff of the mayor or council,
  - (4) The city attorney,
  - (5) The auditor,
  - (6) The municipal judges,
  - (7) The judicial functions of the municipal judges, or
  - (8) The legal services functions of the city attorneys.
- (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.<sup>24</sup>
  - (3) Attend all council meetings unless excused by the mayor.
  - (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 over which the city manager has authority.
  - (7) Organize departments and administrative structure over which the city manager has authority.
  - (8) Propose and administer the 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 development and implementation of short and long-term goals for the city; the short and long-term agenda process; and the 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.

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<sup>24</sup> This makes the city manager responsible for carrying out city policy adopted by council ordinance, resolution, or order.

- (16) Express the majority position of the city council when taking a position on a city issue, but may at the same time, express the city manager's personal opinion on the issue.<sup>25</sup>

**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.

**4.3 Municipal Court and Judges.** The Municipal Court of the City of Beaverton, Washington County, Oregon, is established and remains and continues 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.
- (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.<sup>26</sup>
- (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.

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<sup>25</sup> This option was added at the request of the council at the December 17 work session.

<sup>26</sup> 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.

4.5 **Compensation.** The council must authorize the compensation<sup>27</sup> of city officers and employees pursuant to the city budget process.<sup>28</sup>

## Article 5

### Elections

5.1 **City Elections.** City elections must conform to state law, unless this charter or city ordinances provide otherwise.<sup>29</sup> All elections for city offices are nonpartisan.

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.<sup>30</sup>

5.3 **Eligibility.** 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.<sup>31</sup> 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.<sup>32</sup>

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<sup>27</sup> Compensation includes base salary and any other benefits. See footnote 10.

<sup>28</sup> As part of the budget process, council would continue to approve FTE counts and pay classifications. Council would not participate in hiring or managing employees other than those who by charter report directly to council.

<sup>29</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>30</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>31</sup> 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.”

<sup>32</sup> Election disputes that can be addressed by a trial court under state law would not be handled by the council.

5.4 **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.<sup>33</sup>

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.<sup>34</sup> The oath must be administered and attested to by a notary public or other person duly authorized to administer oaths.<sup>35</sup> The oath may be taken up to 30 days prior to the scheduled date of assuming office.<sup>36</sup>

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.<sup>37</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>38</sup> A mayor may serve no more than three consecutively-elected four-year terms.<sup>39</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>40</sup> If a mayor or a councilor is appointed or elected for a

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<sup>33</sup> If, for example, three council members stood for re-election unopposed, no city voters' pamphlet would be prepared on account of the three races.

<sup>34</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>35</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>36</sup> The 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.

<sup>37</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>38</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 5.9.

<sup>39</sup> Time in office as an appointed mayor or councilor is included in the term limit calculation if the time in office following the appointment is three years or more.

<sup>40</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. Also, as currently drafted,

term that is less than three 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.**<sup>41</sup> The mayor or a council office becomes vacant upon the mayor or councilor's:<sup>42</sup>

- (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; or<sup>43</sup>
- (f) Removal from office pursuant to Section 3.10.

**5.9 Filling Vacancies.**<sup>44</sup> Vacancies must be filled as follows:

- (a) If less than one year<sup>45</sup> remains in the term of the person who held that vacant office, the council may fill the vacancy 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 year<sup>46</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, council may fill the vacancy 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.<sup>47</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

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any gap in service would allow the termed-out councilor or mayor to be appointed. Moreover, a termed out mayor may immediately run for a councilor position, and a termed out councilor may immediately run for mayor.

<sup>41</sup> 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.

<sup>42</sup> Use of the term "upon" in subsection (a) means the vacancy occurs on the day of the listed event.

<sup>43</sup> See note 30 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>44</sup> This section is derived from the city's existing charter.

<sup>45</sup> Could be reduced to 8 months, but probably not less.

<sup>46</sup> Could be reduced to 8 months, but probably not less.

<sup>47</sup> The office could remain vacant instead of appointing a short-term interim councilor.

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) Read the ordinance by title only and announce the public hearing date at a council meeting;
- (c) Publish, in accordance with applicable law, the title of the ordinance in a written meeting agenda for a subsequent meeting;
- (d) Hold a public hearing at a subsequent meeting;
- (e) Move to adopt the ordinance at the same meeting the public hearing is held or at a subsequent meeting; and
- (f) 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 seven 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 and process as the council determines to be necessary under the circumstances.

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.<sup>48 49</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 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.<sup>50</sup>

## 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.<sup>51</sup>

**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 board shall not be comprised exclusively of council members.<sup>52</sup>

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

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<sup>48</sup> Pursuant to Section 3.2, the council president will sign ordinances when the mayor is unable or unavailable.

<sup>49</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>50</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>51</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 has been included in the Beaverton Charter for decades and has seldom, if ever, been exercised.

<sup>52</sup> This section's wording is consistent with the current charter provision but is not identical to it.

## Article 8

### General Provisions<sup>53</sup>

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]**

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<sup>53</sup> 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 that would propose the 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.

**The following four 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.**

**NOTE:** The language for this section is to be determined. Four options have been identified for consideration regarding how term limits could be implemented.

**Option 1** – The charter does not impose term limits. To implement this option Section 5.7 in the charter is removed.

**Option 2** – The charter does impose term limits in Section 5.7. All elected officials currently in office would be treated as having served up to two terms towards the maximum of three terms allowed under the new charter. However, regardless of the number of prior terms served, an elected official that runs for office in 2020 and wins the 2020 election will be able to take office and serve the complete term.

**Option 3** – The charter does impose term limits in Section 5.7. All elected officials currently in office would have all previous terms served apply towards the maximum of three terms allowed under the new charter. Any elected official that has served three terms or more as either a mayor or a councilor by the end of 2020 will be term limited out for that office. However, regardless of the number of prior terms served, an elected official that runs for office in 2020 and wins the 2020 election will be able to take office and serve the complete term, ending on December 31, 2024.

**Option 4** – The charter does impose term limits in Section 5.7. All elected officials currently in office would have all previous terms served apply towards the maximum of three terms allowed under the new charter. Any elected official that has served three terms or more as either a mayor or a councilor by the end of 2020 will be term limited out for that office. However, if an elected official that runs for office in 2020 and wins the 2020 election has already served three terms or more, the elected official will be prohibited from taking office on January 1, 2021. To prohibit an elected official that runs for office in 2020 from taking office on January 1, 2021, a prohibition must be added to the charter, and the charter must state that term limits are applied retroactively.

**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.<sup>54</sup>

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<sup>54</sup> 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.

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION REFERRING TO THE VOTERS OF BEAVERTON A MEASURE PROPOSING A NEW CITY CHARTER, ADOPTING A BALLOT TITLE, AND AUTHORIZING RELATED MATTERS**

**Whereas**, Beaverton's current city charter provides for a mayor-council form of government with an elected full-time mayor serving as the administrative head of the city; and

**Whereas**, the Beaverton City Council met several times in open public meetings to review the city's current charter and receive public feedback; and

**Whereas**, based on the foregoing, the Council determined to submit to the voters of Beaverton a ballot measure proposing a new city charter that provides for a council-manager form of government and makes other changes; now, therefore,

**BE IT RESOLVED BY THE CITY COUNCIL OF BEAVERTON, OREGON:**

**Section 1.** The Council refers to the  [DATE] , election a measure proposing a new city charter to the voters of Beaverton.

**Section 2.** The Council adopts the following ballot title for the referral:

**CAPTION:  
ADOPTS NEW BEAVERTON CHARTER**

**QUESTION:**  
Shall the city of Beaverton adopt a new charter to replace its current city charter?

**SUMMARY:**  
If adopted, this measure would provide a new charter for the city. The new charter would change the city's form of government. The mayor would no longer be the city's administrative head. Instead, the city council would appoint a full-time city manager to oversee the city's day-to-day operations.

The new charter would make other changes as well. The council would expand from five to seven members: six part-time city councilors and one full-time mayor. The council would serve as the city's governing body and be responsible for the city's legislative functions. In addition to serving on the council, the mayor would serve as the city's chief elected official.

All council positions would be nonpartisan and elected at-large by Beaverton voters. The councilors and the mayor

would be limited to three four-year terms in office for their respective positions.

Beaverton's current charter uses gender-exclusive references. The proposed charter contains no gender-exclusive references.

Complete copies of the proposed charter showing all changes are available from the city recorder's office and at [www.BeavertonOregon.gov](http://www.BeavertonOregon.gov).

**Section 3.** The ballot title adopted by this resolution shall be filed with the city elections officer. The city attorney and the city elections officer are jointly and severally authorized and directed to take all necessary steps for and on behalf of the city to effectuate this resolution, including by providing public notice and submitting required materials to the county and city elections officers so as to cause the measure to appear on the ballot for the   [DATE]  , election and to otherwise carry out the intent and purpose of this resolution.

**Section 4.** The council authorizes and directs the city attorney to draft an impartial, simple and understandable statement of 500 words or less explaining this measure and its effect. The council shall review and, at its discretion, revise the draft explanatory statement and adopt by resolution the final form of the explanatory statement for publication in the City and County voters' pamphlets for the,   [DATE]   election.

**Section 5.** The proposed charter that is the subject of this referral is set forth in full in the attached Exhibit A.

**Section 6.** This resolution takes effect immediately upon passage.

Adopted by the City Council this \_\_\_\_\_ day of \_\_\_\_\_ 202\_.

Approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_ 202\_.

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Attest:

Approved:

\_\_\_\_\_  
Catherine Jansen, City Recorder

\_\_\_\_\_  
Denny Doyle, Mayor

**DRAFT**