



RESOLUTION 2011-063

A RESOLUTION REFERRING TO THE VOTERS OF SHERWOOD A PROPOSED REVISION OF THE CITY CHARTER

The City Council of the City of Sherwood finds:

- a. The current City of Sherwood Home Rule Charter was approved by the voters and took effect July 1, 2005. It was amended by the voters at the May 16, 2000, the November 7, 2000 and the November 6, 2001 elections.
- b. Certain provisions in the 2005 charter are unclear, obsolete or unnecessary. Other provisions of the current charter do not meet present needs of the City, and some provisions conflict with best government practices.
- c. The Sherwood city council held a work session on July 26, 2011 and reviewed the 2005 City Charter, made certain changes to update and clarify the language and adapted it to meet the present and future needs of the City. The council has continued certain charter provisions added by City voters in 2000 and 2001 including the requirement for voter approval of annexation to the city.
- d. It is in the best interest of the City to submit to the voters a new City of Sherwood Home Rule Charter.

THE CITY COUNCIL FOR THE CITY OF SHERWOOD RESOLVES:

- Section 1.** An election is called for the City of Sherwood, Washington County, Oregon for the purpose of submitting to City voters the new home rule charter attached as Exhibit A to this resolution.
- Section 2.** Tuesday, November 8, 2011 is designated as the date for holding the election for voting on the measure.
- Section 3.** The election will be conducted by the Washington County Elections Department.
- Section 4.** The precincts for this election will include all of the territory within the corporate limits of the City of Sherwood.

Section 5. The ballot title will read as follows:

CAPTION: REVISIONS TO CITY OF SHERWOOD HOME RULE CHARTER

QUESTION: Shall the City of Sherwood adopt certain revisions to update the city home rule charter?

SUMMARY: This measure would update the current city charter to remove obsolete provisions, clarify other provisions and reflect standard municipal organization and practices. The city council believes the charter revisions will improve city government.

The Oregon Constitution gives city voters the right to adopt, amend and revise a charter. The charter grants legal authority to the city and sets duties. Sherwood voters adopted the current charter in 2005.

The proposed revision authorizes the mayor to appoint members of certain boards and commissions with council approval; deletes the requirement that the council be elected by position; deletes the mayor's authority to veto city legislation; requires the mayor's signature on city council decisions; establishes a four-year term for the mayor; prohibits mayor and councilors from holding another elected office; clarifies process for filling council vacancy; requires municipal court judge to be a member of Oregon State bar; deletes obsolete provision regarding personnel rules and compensation; deletes obsolete provision regarding use of Willamette River water; takes effect January 1, 2012. The proposed revision retains provisions unique to Sherwood including voter approval for annexation.

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

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

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

PASSED AND APPROVED this 2nd day of August, 2011


Keith S. Mays, Mayor

ATTEST:


Sylvia Murphy, CMC, City Recorder

PREAMBLE

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

Chapter I

NAMES AND BOUNDARIES

Section 1. Title. This charter may be referred to as the 2012 Sherwood City Charter.

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

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

Chapter II

POWERS

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

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

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

Chapter III

COUNCIL

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

Section 8. Mayor. The mayor presides over and facilitates council meetings, preserves order, enforces council rules, and determines the order of business under council rules. The mayor is a voting member of the council. The mayor must sign all records of council decisions. The mayor, with the consent of council, appoints members of commissions, boards and committees established by ordinance or resolution, who shall serve at the pleasure of the council. The mayor serves as the political head of the city government.

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

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

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

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

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

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

Chapter IV

LEGISLATIVE AUTHORITY

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

Section 16. Ordinance Adoption.

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

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

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

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

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

Chapter V

ADMINISTRATIVE AUTHORITY

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

Section 19. Resolution Approval.

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

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

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

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

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

Chapter VI

QUASI-JUDICIAL AUTHORITY

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

Section 22. Order Approval.

- (a) Approval of an order or any other council quasi-judicial decision requires approval by the council at one meeting.
- (b) Any substantive amendment to an order must be read aloud or made available in writing to the public at the meeting before the council adopts the order.
- (c) After approval of an order or other council quasi-judicial decision, the vote of each member must be entered in the council minutes.
- (d) After approval of an order, the mayor must sign and the city recorder must endorse it with the date of approval and the recorder's name and title.

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

Chapter VII

ELECTIONS

Section 24. Councilors. A councilor serves a four-year term. Three councilors will be elected at each general election. The terms of councilors in office when this revised charter is adopted (2011) are the terms for which they were elected.

Section 25. Mayor. The mayor serves a four-year term. The mayor shall be elected at every other general election beginning with the 2012 general election. The term of the mayor in office when this charter revision is adopted is the term for which the mayor was elected.

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

Section 27. Qualifications.

- (a) The mayor and each councilor must be a qualified elector under state law, and reside within the city for at least one year immediately before election or appointment to office.
- (b) A person may not be a candidate at a single election for more than one city office.
- (c) The mayor and councilors may not be employed by the city.
- (d) The mayor and councilors may not hold another state or local government elected office.
- (e) The council is the final judge of the election and qualifications of its members.

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

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

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

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

(a) Upon the incumbent's:

- (1) Death,
- (2) Adjudicated incompetence, or
- (3) Recall from the office.

(b) Upon declaration by the council after the incumbent's:

- (1) Failure to qualify for the office within 10 days of the time the term of office is to begin,
- (2) Absence from the city for 45 days without council consent, or from three consecutive regular council meetings,
- (3) Ceasing to reside in the city,
- (4) Ceasing to be a qualified elector under state law,
- (5) Conviction of a public offense punishable by loss of liberty,
- (6) Resignation from the office,
- (7) Removal under Section 33(h), or
- (8) Assumption of another state or local government elected office.

Section 32. Filling Vacancies. A mayor or councilor vacancy will be filled by an election if 25 months or more remain in the term of office. The election will be held at the next regularly-scheduled May or November election date to fill the vacancy for the remainder of the term. If a mayor or councilor vacancy is filled by appointment, the appointment shall be made by a majority of the remaining council members. The appointee's term of office runs from appointment until the vacancy is filled by election or until expiration of the term of office if no election is required to fill the vacancy. If a disability or other circumstance prevents a councilor from attending council meetings, a majority of the council may appoint a councilor pro tem.

Chapter VIII

APPOINTIVE OFFICERS

Section 33. City Manager.

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

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

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

(d) The manager must:

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

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

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

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

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

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

Section 34. City Recorder.

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

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

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

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

Section 36. Municipal Court and Judge.

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

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

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

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

(e) The municipal judge may:

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

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

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

Chapter IX

PUBLIC IMPROVEMENTS

Section 37 Procedure. The council may by ordinance provide for procedures governing the making, altering, vacating, or abandoning of a public improvement. A proposed public improvement may be suspended for one year upon remonstrance by owners of the real property to be specially assessed for the improvement. The number of owners necessary to suspend the action will be determined by ordinance.

Section 38 Special Assessments. The procedure for levying, collecting and enforcing special assessments for public improvements or other services charged against real property will be governed by ordinance.

Chapter X

MISCELLANEOUS PROVISIONS

Section 39. Debt. City indebtedness may not exceed debt limits imposed by state law. A charter amendment is not required to authorize city indebtedness.

Section 40. Solid Waste Incinerators. The operation of solid waste incinerators for any commercial, industrial, or institutional purpose is prohibited in the city. This applies to solid waste defined by ORS 459.005(24), and includes infectious wastes defined by ORS 459.386(2). This prohibition does not apply to otherwise lawful furnaces, incinerators, or stoves burning wood or wood-based products, petroleum products, natural gas, or to other fuels or materials not defined as solid waste, to yard debris burning, or to small-scale specialized incinerators utilizing solid waste produced as a byproduct on-site and used only for energy recovery purposes. Such small-scale incinerators are only exempt from this prohibition if they are ancillary to a city permitted or conditional use, and may not utilize infectious wastes or any fuels derived from infectious wastes. This prohibition does not apply to solid waste incinerators lawfully permitted to operate before September 5, 1990, but does apply to any expansion, alteration or modification of such uses or applicable permits. (Approved by voters May 2000)

Section 41. Ordinance Continuation. All ordinances consistent with this charter in force when it takes effect remain in effect until amended or repealed.

Section 42. Repeal. All charter provisions adopted before this charter takes effect are repealed.

Section 43. Severability. The terms of this charter are severable. If any provision is held invalid by a court, the invalidity does not affect any other part of the charter.

Section 44. Time of Effect. This charter as revised takes effect January 1, 2012.