

CITY OF SHERWOOD, OREGON

ORDINANCE NO. 800

AN ORDINANCE PROVIDING FOR A SPECIAL CITY ELECTION TO BE HELD IN THE CITY OF SHERWOOD, OREGON, May 15, 1984, IN CONJUNCTION WITH THE STATE PRIMARY ELECTION, FOR THE PURPOSE OF SUBMITTING TO THE LEGAL VOTERS OF THE CITY OF SHERWOOD, OREGON THE QUESTION OF ADOPTION OF A REVISED CITY CHARTER

WHEREAS, the Sherwood Charter Review Committee has reviewed the existing city charter enacted in 1924 and amended repeatedly over the years, and that committee has recommended to the City Council for adoption a substantially revised draft charter; and

WHEREAS, the City Council has studied and further revised said recommended draft charter and finds that this simplified, more readable revised charter should be adopted and that it is necessary to submit said revised charter to the legal voters of the City of Sherwood; now, therefore,

THE CITY OF SHERWOOD DOES ORDAIN AS FOLLOWS:

Section 1. It is necessary and in the best interests of the people of the City of Sherwood that there be submitted to the legal voters of the city, at the regular statewide primary election to be held throughout the state, including all voting precincts within the city, on Tuesday, May 15, 1984, the proposition hereinafter stated with respect to adoption of a revised city charter.

Section 2. The proposed revised city charter, a copy of which is attached hereto as Exhibit A and by this reference incorporated herein, is hereby adopted, approved, and authorized for submission to the legal voters of the city.

Section 3. The question of approving or rejecting the adoption of the charter as set forth in Exhibit A shall be submitted to the legal voters of the City of Sherwood at the primary election of May 15, 1984 in accordance with the applicable election laws of the State of Oregon, for which purpose the following ballot title, number, and form in which the question shall be printed upon the official ballot is prescribed:

Submitted to the qualified voters by the Sherwood City Council

CAPTION

ADOPTION OF A REVISED SHERWOOD CITY CHARTER

QUESTION

Shall the proposed revised Sherwood City Charter be adopted?

PURPOSE

The purpose of this proposal is to repeal the provisions of the existing city charter, replace it with a revised, simplified, more readable charter providing for a city council-city manager form of city government, and other revisions, to become effective July 1, _____, 1984 if approved by the voters. Copies of the proposed new charter, as referred to the voters by city ordinance No. 800 are available upon request at Sherwood City Hall.

Section 4: In all respects the conduct of the election on the foregoing proposition shall conform to the procedures established pursuant to the laws for the conduct of elections, and the polls shall be opened at the same hour and closed at the same hour and all other applicable provisions in accordance with the election laws of the State of Oregon.

Section 5: Notice of the foregoing proposals in form substantially as hereinafter set forth shall be given by three consecutive publications in the Tigard Times on May 1, May 3, and May 8, 1984, and by posting notices substantially in the following form at each of the following designated places, such posting to be accomplished not later than May 4, 1984.

- a) At the front door of the City Hall conspicuously exposed to the public view, Sherwood, Oregon
- b) At the front door of the United States Postoffice in the City of Sherwood, conspicuously exposed to public view
- c) At the front door of the Tualatin Rural Fire District Station in the City of Sherwood, conspicuously exposed to the public view
- d) At least one other public place to be selected by the City Recorder, conspicuously exposed to public view.

The City Recorder is directed to cause to have published and posted said notice and to file in the records of said election an affidavit of posting in usual form prior to May 12, 1984.

The form of notice shall be substantially as follows:

NOTICE OF CHARTER AMENDMENT ELECTION

Notice is hereby given that, pursuant to Ordinance No. 800 enacted by the City Council of Sherwood on March 14, 1984, at the election date of May 15, 1984, between the hours of 8:00 o'clock a.m. and 8:00 o'clock p.m. there will be submitted to the qualified voters of the City of Sherwood for their approval or rejection the following proposition:

Submitted to the qualified voters by the Sherwood City Council

CAPTION

ADOPTION OF A REVISED SHERWOOD CITY CHARTER

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PURPOSE

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The polling places in the City of Sherwood for purposes of this election will be those designated by the County Clerk or the elections officer.

Witness my hand and the seal of the City of Sherwood, Oregon this ___ day of _____, 1984.


City Recorder

Section 6: The City Council of the City of Sherwood, Oregon deems it unnecessary for the city of Sherwood, or any officer thereof, to furnish election pamphlets containing the text of the propositions or arguments in support of or in opposition to the propositions, other than to provide copies of the proposed charter, Exhibit A hereto.

Section 7: The City Recorder shall be, and she is hereby, authorized and directed to cause the county elections officer to have prepared ballots in due and legal form as herein prescribed, to appoint an election board, and to furnish to the election board a proper ballot box and all necessary election materials, and to take any and all other and further actions necessary to conduct this election in accordance with laws regulating and governing elections.

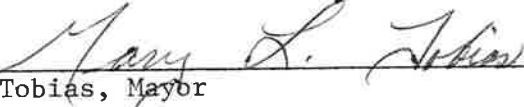
Section 8: It is necessary for the preservation of the public peace, health and safety of the people of the City of Sherwood that this ordinance take effect immediately in order that the charter amendment proposal may be properly submitted to the people of the City of Sherwood at the statutory election date of May 15, 1984, and therefore an emergency is hereby declared to exist. This ordinance shall be effective upon its passage by the council and signature by the Mayor.

PASSED: By the City Council, by vote of all Council members present, after being read three times by caption, this 14 day of March, 1984.



Polly Blankenbaker, City Recorder

APPROVED: By the Mayor this 15 day of March, 1984.



Mary Tobias, Mayor

SHERWOOD CITY CHARTER

CHAPTER I

INTRODUCTORY PROVISIONS

Section 1.1 Title. This enactment shall be referred to as the City of Sherwood Charter of 1984.

Section 1.2 Corporate Name and Capacity. The inhabitants of the City of Sherwood have been and are hereby constiuted a municipal corporation by the name of the City of Sherwood and by that name have perpetual succession.

Section 1.3 Boundaries. The City includes all territory encompassed by its boundaries as they exist when this revision of the Charter is adopted or as they are subsequently modified in accordance with state law. The repository of city records shall include at least two copies of this Charter, each containing an accurate, up-to-date description of the boundaries. The copies and description shall be available for public inspection during regular office hours.

CHAPTER II

POWERS

Section 2.1 Vesting, Granting and Construction of Powers.

(1) Except as this Charter provides to the contrary, all power of the City is vested in the Council, which is the representative legislative body of the City.

(2) The City has all powers that the Constitution or laws of the United States and of this State expressly or impliedly grant or allow cities, as fully as if this Charter specifically stated each of those powers.

(3) In this Charter failure to mention a particular power may not be construed to be exclusive or to restrict the scope of the powers that the City would have if the particular power were mentioned. The Charter shall be liberally construed to the end that the City have all powers necessary or convenient for the conduct of its affairs, including all powers that cities may assume under state laws and the provisions of the state constitution regarding municipal home rule.

CHAPTER III

FORM OF GOVERNMENT

Section 3.0 Where Powers Vested. Except as this Charter provides otherwise, all powers of the City shall be vested in the council.

Section 3.1 Council: Membership. Four Councilors and the Mayor shall be members of the City Council.

Section 3.2 Mayor: Election. A Mayor shall be elected at the first general election after the Charter is adopted. The Mayor will be elected for a two year term and hold office until a successor is elected or appointed.

Section 3.3 Councilors: Election. The term of office of each Councilor in office when this charter is adopted shall continue until the expiration of the current elected term. At the first general election after the Charter is adopted, two Councilors shall be elected to the two open positions. At each subsequent general election, two Councilors shall be elected, each for a term of four years.

Section 3.4 Council: President. At the first regular meeting of the Council in January following the general election, or as soon thereafter as practical, the Council shall choose one of its members to preside over the Council and perform the duties of Mayor in the absence of the Mayor from the City or in case of the Mayor's inability to act as such. In functioning as Mayor while he or she is absent from the City on leave granted by the council or after the Mayor is absent from the City for 30 days or when the Mayor is physically unable to function as Mayor for 30 days, the President of the Council has the legal powers and is subject to the legal limitations of the Mayor. The President of the Council shall function as the Mayor until the Mayor resumes office.

Section 3.5 Council: Meetings. The Council shall prescribe times and places for its meetings. It shall meet regularly at least once each month. At a meeting it may adjourn to the next succeeding regular meeting or to some specified time prior thereto. The Mayor or a majority of the Councilors may call special meetings of the Council.

Section 3.6 Mayor: Functions at Council Meetings. The Mayor shall be chairman of the Council and preside over its deliberations. The Mayor shall have a vote on all questions before the Council. The Mayor shall have authority to preserve order, enforce the rules of the Council, and determine the order of business under the rules of the Council.

Section 3.7 Council: Quorum. A majority of the Council constitutes a quorum for the transaction of council business, except that a lesser number may meet and compel the attendance of absent members. A quorum may also compel the attendance of absent

members. The Mayor shall be included in the council for the purpose of a quorum.

Section 3.8 Council: Vote Required. Except as this Charter

otherwise provides, the concurrence of a majority of the members of the Council present at a Council meeting shall be necessary to decide any question before the council.

Section 3.9 Council: Record of Proceedings. The Council shall

cause a record of its proceedings to be kept. Upon the request of any of its members, the ayes and nays upon any question before it shall be taken and entered in the record. No action by the Council shall have legal effect unless the motion for the action and the vote by which it is disposed of take place at proceedings open to the public.

Section 3.10 Council: Committees, Commissions, and Boards.

Advisory and statutory commissions, committees, and boards that the Council may establish shall be appointed by the City Council.

CHAPTER IV

CITY MANAGER

Section 4.1 City Manager: Appointment and Qualifications. The

Council shall hire a City Manager for an indefinite term who shall hold office during the pleasure of the Council and may be removed at any time by a three-fifths vote of the entire council. The City Manager shall be chosen without regard to political considerations and solely on the basis of executive and administrative qualifications. The City Manager need not be a resident of the City or state at the time of appointment, but within one year thereafter shall

become and remain a resident of the City while in office. No Councilor nor Mayor may be hired as City Manager until one year after the expiration of that person's service in the office of Councilor or Mayor.

Section 4.2 City Manager: Vacancy. If the office of the City Manager becomes vacant or if the City Manager is absent from the City or disabled, the Council may designate a City Manager Pro Tem.

Section 4.3 City Manager: Pro Tem. The City Manager Pro Tem shall perform the duties of City Manager, but may appoint or dismiss a department head only with the approval of the Council. The term of office of the City Manager Pro Tem ends when the City Manager returns to the City or takes office.

Section 4.4 City Manager: Powers and Duties. The City Manager shall be the chief executive officer of the City government and shall be responsible to the council for the proper performance of his or her duties. The City Manager shall:

- (a) Supervise and control all administrative and business affairs of the City;
- (b) Enforce all ordinances;
- (c) See that the provisions of all franchises, contracts, leases, permits and privileges granted by the City are fully observed and enforced;
- (d) Except for municipal court judges, generally supervise and control all employees of the City including, but not limited to, employing, disciplining and discharging employees, assigning duties and accounting for performances as prescribed by ordinance;

- (e) Organize, disband or reorganize departments;
- (f) Prepare the annual budget;
- (g) Make all purchases;
- (h) Execute all contracts with Council approval;
- (i) Prepare and furnish reports requested by the Council;
- (j) Devote full time to the office of the City Manager; and
- (k) Perform other duties as the Council directs.

Section 4.5 City Manager: Council Meetings. The City Manager and such other officers of the city as the Council designates may sit with the Council, but may not vote on questions before the Council. The City Manager may take part in all Council discussions.

Section 4.6 City Manager: Interference in Administration.

No member of the Council shall directly or indirectly, by suggestion or otherwise, attempt to influence or coerce the City Manager in the making of any appointment or in the removal of any officer or employee. No Councilor shall attempt to exact any promise relative to any appointment from any candidate for City Manager. If the Council finds, upon a hearing, that a member of the Council has violated the foregoing provisions of this section, the office of the offending member shall be forfeited. Nothing in this section shall be construed, however, as prohibiting the Council, while in session, from fully and freely discussing with or suggesting to the Manager anything pertaining to city affairs or the interests of the city. Neither the Manager nor any person

in the employ of the city shall take part in securing, or contributing any money toward, the nomination or election of any candidate for a municipal office.

Section 4.7 City Manager: Ineligible Persons. Neither the manager's spouse nor any person related to the manager or the manager's spouse by consanguinity or affinity within the third degree may hold any appointive office or employment with the city.

CHAPTER V

RECORDER

Section 5.1 Recorder. The Recorder shall be appointed by the City Council. The Recorder shall serve as Clerk of the Council, attend all its meetings unless excused therefrom by the Council, keep an accurate record of its proceedings, and sign all orders on the treasury. The City Recorder need not be a resident of the City of state at the time of appointment, but within one year thereafter shall become and remain a resident of the City while in office.

Section 5.2 Elections. The City Recorder shall act as the city officer in charge of elections.

Section 5.3 Absence. In the Recorder's absence from a Council meeting, the Mayor shall appoint a Clerk of the Council Pro Tem who, while acting in that capacity, shall have all the authority and duties of the Recorder.

CHAPTER VI

MUNICIPAL COURT AND JUDGE

Section 6.1 Municipal Court: Creation and Jurisdiction. The Council may continue the court known as the Municipal

Court. The jurisdiction and proceedings of the Municipal Court are governed by the general laws of the State of Oregon for Justices of the Peace and Justice Courts, except as city ordinance prescribes to the contrary. The Municipal Court has original jurisdiction over all offenses defined and made punishable, and over all actions to recover or enforce forfeitures or penalties defined or authorized, by the ordinances of the city.

Section 6.2 Municipal Court: Powers.

(1) The Municipal Court has the jurisdiction and authority of a Justice of the Peace in and for Washington County, in both civil and criminal matters and, when exercising that jurisdiction and authority is subject to the general laws of the State of Oregon prescribing the duties of a Justice of the Peace and the mode of performing them.

(2) The Municipal Judge may:

(a) Render judgments and impose sanctions for the enforcement thereof on persons and property within its jurisdiction;

(b) Cause the arrest of any person accused of an offense against the city;

(c) Commit to jail, pending trial, any person accused of an offense against the city;

(d) Issue and compel obedience to subpoenas;

(e) Compel witnesses to appear and testify or jurors to serve in the trial of any cause before the Municipal Court;

(f) Punish witnesses and others for contempt

of court;

(g) Issue any process necessary to carry into effect the judgment of the Municipal Court; and

(h) Perform other judicial or quasi-judicial functions as the Council prescribes by general ordinance.

Section 6.3 Municipal Judge: Appointment. The Council may appoint a Municipal Judge and such Pro Tem judges as it deems necessary to serve for indefinite terms to hold office at the pleasure of the Council and may remove any of them at any time, with or without cause, by three-fifths vote of the entire Council.

Section 6.4 Municipal Judge: Vacancy. If the office of Municipal Judge becomes vacant or if the Municipal Judge is absent from the city or disabled, the City Council may appoint an acting Municipal Judge. The acting Municipal Judge shall perform the duties of Municipal Judge. The term of acting Municipal Judge shall end when the Municipal Judge returns to the city or takes office.

CHAPTER VII

MUNICIPAL OFFICERS AND EMPLOYEES

Section 7.1 Qualifications. No person may hold an elective city office unless that person is a legal elector under the laws and Constitution of the State of Oregon; a resident of the city for one year immediately before being elected or appointed to the office; a resident of the city when nominated, elected or appointed and when assuming the office and unless that

person received the highest number of votes cast for candidates for the office at the election at which the office is to be filled.

Section 7.2 Certificate of Election. Immediately after the votes at a municipal election for filling an elective office have been canvassed, the City Recorder shall issue a certificate of election to each person declared by the canvassers to have been elected at the election. The certificate shall be prima facie evidence of the facts therein stated, but the Council shall be the judge of the election and qualifications of the Mayor and Councilors, and in case of a contest between two or more persons claiming an elective city office shall determine the contest.

Section 7.3 Terms. The term of city elective offices shall commence upon the swearing in of the officers at the first regular meeting in January following the election.

Section 7.4 Oath of Office. Each elective officer, the City Manager and Municipal Judge, before entering upon the duties of office, shall take an oath or affirmation to support the Constitution and laws of the United States and of the State of Oregon and to faithfully perform the duties of the office. The oath of office will be administered at the first regularly scheduled Council meeting in January following the officer's election.

Section 7.5 Offices: Vacancies.

(1) An office becomes vacant upon its incumbent's death, adjudication of incompetence, conviction of a felony, forfeiture of office by action of the Council, resignation or

ceasing to be a qualified elector of the City. An elective city office may be declared vacant whenever its incumbent is absent from the City for forty-five (45) consecutive days without the consent of the Council or whenever the elected city officer has been absent from three regular meetings of the Council without the Council's consent or whenever a Councilor removes his primary residence from the City.

(2) The Council shall judge when an office becomes vacant.

(3) A vacancy in any elective city office shall be filled by appointment. A majority vote of the entire Council shall be required to validate the appointment. The appointee's term of office shall begin immediately upon that person's appointment and shall continue until the first Council meeting of January following the next general election; and if the term of office does not expire, the remainder thereof shall be filled by election at such general election.

Section 7.6 Compensation. Councilors and the Mayor shall

receive no pay for their services, but may be reimbursed for actual expenses they incur when performing their duties. The compensation of other officers shall be prescribed by the Council.

Section 7.7 Liability for Unauthorized Expenditures.

(1) A city officer who participates in, advises, consents to, or allows city money to be diverted to any purpose other than the one for which it is raised is guilty of malfeasance and is removable from office as provided by law.

(2) If any city money is diverted from the purpose for

which it is raised, if any money is unlawfully used or if any void evidence of debt is paid, any qualified elector or taxpayer of the city may bring a civil action in the name of the city against any officer voting for, approving of, or in any way directing the diversion, unlawful use, or void payment, to recover the amount, with interest, for the benefit of the city.

CHAPTER VIII

ELECTIONS

Section 8.1 Elections. City elections, insofar as not governed by this Charter or by city ordinance, shall be conducted as prescribed by Oregon State law governing popular elections.

Section 8.2 Voters' Qualifications. No person may vote at a city election who is not a qualified voter of the state.

Section 8.3 Notice. The City Recorder shall give ten days public notice of each city election. The notice shall state the officers to be elected and the measures to be submitted at the election. The notice shall also state the places for the election.

Section 8.4 Nomination. The Council shall provide by ordinance the mode for nominating elective officers.

CHAPTER IX

ORDINANCES

Section 9.1 Ordaining Clause. The ordaining clause of an ordinance shall read: "The City of Sherwood ordains as follows:"

Section 9.2 Mode of Enactment

(1) Except as paragraph (2) of this section

section provides to the contrary, every ordinance of the Council shall, before being put upon its final passage, be read fully and distinctly once in open Council meeting.

(2) Any reading may be by title only (A) if no Council member present at the meeting requests to have the ordinance read in full, or (B) if a copy of the ordinance is provided for each Council member and three copies are provided for public inspection in the office of the City Recorder not later than one week before the first reading of the ordinance, and notice of their availability is given forthwith upon the filing, by (I) written notice posted at the City Hall and two other public places in the City, or (II) advertisement in a newspaper of general circulation in the City.

(3) An ordinance enacted after being read by title alone may have no legal effect if it differs substantially from its terms as it was thus filed prior to such reading, unless each section incorporating such difference is read fully and distinctly in open Council meeting as finally amended prior to being approved by the Council.

(4) Upon the final vote on an ordinance, the ayes and nays of the members shall be taken and recorded in the journal.

Section 9.3 Attestation and Approval. Upon the enactment of an ordinance the Recorder shall sign it with the date of its passage and the Recorder's name and title of office and submit the ordinance to the Mayor for approval. If the Mayor approves the ordinance, the Mayor shall sign and date his or her signature on the

ordinance.

Section 9.4 Veto. If not approving an ordinance so submitted,

the Mayor shall, within ten days after receiving it, return it to the City Recorder, with written reasons for not approving it. If not so returned, the ordinance shall have legal effect as if so approved.

Section 9.5 Overriding of Veto. At the first meeting of the

Council after the Mayor returns an ordinance not so approved, the City Recorder shall present the ordinance to the Council with the objections of the Mayor. The ordinance shall then be submitted for adoption again and if four-fifths of the entire Council vote in favor of the ordinance, it shall take effect in accordance with Section 9.6 of the Charter.

Section 9.6 Times of Effect. An ordinance takes effect thirty

(30) days after its adoption by the Council and approval by the Mayor, or passage over the Mayor's veto, unless it is necessary to have immediate effect for the preservation of the peace, health, and safety of the City, and so states in a separate section the reasons why it is necessary, and is approved by the affirmative vote of three-fifths of the entire Council. In that event, it takes effect immediately upon its adoption by the Council and approval by the Mayor or passage over his or her veto at whatever subsequent time the ordinance specifies.

CHAPTER X

PUBLIC IMPROVEMENTS

Section 10.1 Procedure.

(1) Except as provided in this section, the procedure for making, altering, vacating or abandoning a public

improvement shall be governed by general ordinances or, to the extent not so governed, by the applicable general laws of the State of Oregon.

(2) If, within fifteen (15) days of first publication of notice of intention to make an improvement, the owners of 65% or more in area of the property within the assessment district make and file written objection or remonstrance against the proposed improvement, said remonstrance shall be a bar to further proceedings in making such improvement under the authority granted by this Section, for a period of one (1) year, unless within that period the owners of one-half (1/2) or more of the property affected shall subsequently petition therefore. Further proceedings to make the improvement after expiration of the period of bar shall require republication of notice of intention to make the improvement, and those proceedings shall likewise be subject to bar by remonstrance pursuant to this section.

Section 10.2 Assessments. The procedure for levying, collecting and enforcing the payment of special assessments for public improvements or other services to be charged against real property shall be governed by general ordinance.

Section 10.3 Liens. The docket of city liens is a public writing, and the original or a certified copy of any matter authorized to be entered in the docket shall have the force and effect of a judgment. From the time of the Council's authorization of an improvement on account of which an assessment is entered in the docket, the sum so entered is a lien against the property. The lien has priority over all other liens and encumbrances upon the property

and may be enforced in the manner authorized by the Council. The Council must notify the property owner by certified mail or process server, thirty (30) days prior to taking action to foreclose a lien.

CHAPTER XI

MISCELLANEOUS PROVISIONS

Section 11.1 Indebtedness: Limits.

(1) Indebtedness of the city may not exceed the limits on city indebtedness under state law.

(2) Approval by the voters of city indebtedness need not be in the form of a charter amendment.

Section 11.2 Terms, Proceeds, and Retirement of Bonds. Bonds

issued as evidence of indebtedness shall have such terms and provisions as shall be prescribed by the Council. Bond sale proceeds shall be kept, invested, disbursed and accounted for and the indebtedness retired in the manner prescribed by the Council.

Section 11.3 Presumption of Validity of City Action. In every

proceeding in any court concerning the exercise or enforcement by the City of any of its officers or agencies of any power by this act given to the City or any of its officers or agencies, all acts by the City or any of its officers or agencies shall be presumed to be valid and no error or omission in any such act invalidates it, unless the person attacking it alleges and proves that he or she has been misled by the error or omission to his or her damage. The court shall disregard every error or omission which does not affect a sub-

stantial right of the person. Any action by this Charter committed to the discretion of the Council, when taken, shall be final and shall not be reviewed or called into question elsewhere.

Section 11.4 Existing Ordinances Continued. All ordinances of the City consistent with this Charter and in force when it takes effect shall remain in effect until amended or repealed.

Section 11.5 Repeal of Previously Enacted Provisions.

All Charter provisions of the City enacted prior to the time that this Charter takes effect are hereby repealed. All prior acts of the City pursuant to the Charter provisions hereby repealed, giving rise to vested rights and obligations, are ratified, confirmed, and unaffected by repeal of said prior Charter provisions.

Section 11.6 Initial Elected Officers. The duly elected officers of the City of Sherwood under the Charter provisions repealed hereby shall, upon the effective date of this Charter, become the initial elected officers under this Charter, to serve the remainder of their respective terms of office.

Section 11.7 Time of Effect of Charter

This Charter shall take effect on July 1, 1984.