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JOHN ARDNER
JACOB CLEVERLEY
TIM FIER
AMANDA GAYKEN

JACK HOLLIS
CATHY KEATHLEY
BRITT MCCONN
DANA STROUD
DIANA MARCELA WASH

GRESHAM CITY CHARTER REVIEW COMMITTEE

March 9, 2022

OPEN SESSION – 6 PM

VIA ZOOM MEETING (SEE INSTRUCTIONS BELOW)

COVID-19 EMERGENCY ORDER MEETING PROCEDURE

Due to the restrictions in place established by the Governor's Stay-at-Home Order
The Gresham City Charter Review Committee will be holding the
March 9, 2022, Meeting at 6 PM Via Zoom Meeting.

Please click the link below to join the webinar:

<https://greshamoregon.zoom.us/j/86127704594?pwd=ZHh1YlBSc2RoU2RrbVAzbDFIc05SQT09>

Passcode: 3SC0aE

One Touch Telephone: US: +14086380968,,86127704594#,,,*772852#

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Webinar ID: 861 2770 4594

Passcode: 772852

International numbers available: <https://greshamoregon.zoom.us/j/86127704594?pwd=ZHh1YlBSc2RoU2RrbVAzbDFIc05SQT09>

Persons who desire to access the meeting and are unable to access the meeting via Zoom are encouraged to contact Dara Wright, Paralegal, by calling 503-618-2505 or emailing Dara.Wright@GreshamOregon.gov by 5:00 pm two business days before the meeting, so that the City can provide alternate arrangements.

Persons who desire translation services for this meeting must notify Dara Wright, Paralegal, by calling 503-618-2505 or emailing Dara.Wright@GreshamOregon.gov by 5:00 pm three business days before the meeting, so that the City can make arrangements for translation services.

If you wish to receive notices of future meetings, please contact Dara Wright, Paralegal at Dara.Wright@GreshamOregon.gov or (503) 618-2505.

GRESHAM CITY CHARTER REVIEW COMMITTEE
MARCH 9, 2022

AGENDA ITEMS

1. PUBLIC TESTIMONY

Instructions to Citizens regarding public testimony on agenda and non-agenda items:

Instructions for providing Written OR Oral testimony during the COVID-19 Emergency are listed below.

Written Testimony must be received by 12 PM on Friday, March 4, 2022, via email to Dara Wright at Dara.Wright@greshamoregon.gov.

Oral Testimony

If you plan to provide Oral Public testimony you may register your Name, email address, phone number and subject matter to Dara Wright via email to Dara.Wright@greshamoregon.gov. Advanced registration is not required. Individuals will have 3 minutes to speak, persons representing a group or organization will have 5 minutes.

2. OPEN PUBLIC COMMENTS

3. APPROVE MINUTES FROM PREVIOUS MEETING

4. PRESENTATION FROM LEWIS & CLARK PROFESSORS, DR. TODD LOCHNER AND DR. ELLEN SELJAN

5. DISCUSSION REGARDING LEWIS & CLARK PRESENTATION; TIMING OF ELECTION SYSTEM RECOMMENDATION

6. DISCUSSION ON PUBLIC INPUT IDEAS: FACILITATOR, SUBCOMMITTEES, PRESENTATIONS AT FUTURE MEETINGS

7. AGENDA ITEMS FOR FUTURE MEETING; FUTURE SCHEDULE

From: [Paul J. Wilcox](#)
To: [Dara Halligan](#)
Subject: CRC public comment
Date: Monday, February 7, 2022 8:26:30 PM

CAUTION: External Email

Hello Ms. Halligan,

Please accept this as my next public comment to the CRC and staff.

According to my history of Gresham Charter Amendment ballot measures, more often than not the amending measures have been on an even-year November ballot, although some have been during even-year primary election ballots. These are respectively the elections with the highest voter turnout, Presidential years being better than Gubernatorial years, I assume. The last Charter Amendment ballot measures were May 2012.

Since your committee is already two years behind schedule, I would encourage you to complete your work in time to get your recommended amendments to Council in time for this year's November elections. I've seen turnouts as low as 15% on odd year elections! Delaying action until 2024 would also be a disservice to the idea of a review every eight years.

Paul Wilcox

From: [Paul J. Wilcox](#)
To: [Dara Halligan](#)
Subject: CRC public comment
Date: Monday, February 7, 2022 8:44:15 PM

CAUTION: External Email

Hello Ms. Halligan,

One more for consideration.

If plurality vs majority is an election issue, something like Ranked Choice Voting could be adopted. Benton County has approved it for their County Commissioner elections. RCV would avoid the necessity of a primary election to narrow the field to two candidates. I continue to believe that “unopposed” candidates are a major problem which will continue to occur as long as candidates run for specific seats. Term limits are also a very reasonable question to put before your voters, but which will generally be opposed by the incumbents.

Paul Wilcox

From: [Paul Wilcox](#)
To: [Dara Halligan](#)
Subject: CRC public comment
Date: Tuesday, February 8, 2022 10:35:31 AM

CAUTION: External Email

Hello Ms. Halligan,

Just one more, for now!

One of the members suggested electing the entire Council in the same election, so that all terms would run concurrently. This is extremely rare, though not unheard of. While researching whether cities elected their Councils according to Position or not, I read nearly every city charter in the entire state. The only one that I can recall that had every seat up for election at the same time is the city of Philomath, outside Corvallis. Both their six Councilors and Mayor serve a two-year term, so every two years the ballot reads "Vote for six", plus the Mayor. Over the last five election cycles the number of Council candidates has ranged from six to twelve.

The argument against concurrent terms is that the city might end up with six "rookies" who have no experience whatsoever. A middle ground approach might be to have the Mayor on a two-year term while the Councilors hold four-year terms beginning in alternate odd-numbered years. This provides the voters the opportunity to replace a "majority" of the Council at every election if that's their wish. This also allows each Councilor to run for Mayor at the end of their Council term. The problem created with Councilors running for Mayor midterm is that their seat is filled by appointment for the remaining two years. Some local cities, such as Lake Oswego and Tigard, address this by requiring a Councilor running for Mayor to "resign to run". That way their office vacancy is on the same ballot. Gresham came close to that situation in the last election. If the Councilor had become Mayor, he would have been one vote of six to choose his own replacement.

I'd also like to call out committee member Ardner in particular for his obvious keen interest in the Charter review process and his detailed attention to the matter at hand.

Paul Wilcox

Sent from my iPad

Committee Members Present: Joseph Andaya
John “Jack” Ardner
Jacob Cleverley
Tim Fier
Amanda Gayken
Jack Hollis
Cathy Keathley
Britt McConn (Joined the meeting at 6:36 p.m.)
Dana Stroud
Diana Marcela Wash

Staff Present: Kevin McConnell, City Attorney
Margarita Contreras, Administrative Assistant
Dara Wright, Paralegal

A public meeting of the Charter Review Committee (CRC) was called to order by Chair Joseph Andaya, on the 7th of February, 2022, at 6:01 p.m., via Zoom. The meeting was digitally recorded and minutes were prepared by Dara Wright.

1. PUBLIC TESTIMONY.

Lee Dayfield provided oral testimony at the meeting. She was a member of the 2019 CRC which was disbanded due to Covid-19 in 2020. She encouraged the CRC to review the testimony provided to the 2019 CRC. She suggested that the CRC consider amendments to Chapters 3, 4, and 5 of the Charter. She was supportive of the CRC considering a district/ward versus an at-large election system.

Written testimony was received from Dave Dyk. He provided testimony regarding the topic of at-large versus district elections. He stated that at-large elections can serve to limit access from historically under-represented groups and exacerbate racial and economic injustice. Mr. Dyk provided historical details of the election systems in the City of Gresham. He noted that the vast majority of City Councilors elected in the at-large voting system in Gresham have been either significant landowners or previously active in local business community organizations, which may exclude important parts of the community, and lead to increasingly expensive and polarized local election campaigns. He stated that every resident in a democracy deserves adequate representation, which has not been the case with the at-large system.

Written testimony was received from Paul Wilcox. He provided 9 attachments to the CRC for their review:

- 1.) Gresham 60%: Mr. Wilcox noted that Chair Andaya mentioned that the CRC may want to consider changing the requirement that a Charter Amendment received 60% of votes to pass, by changing the requirement to 50% +1, or a simple majority. He queried whether the lower requirement would apply to other Amendments on the same ballot, assuming it passed.
- 2.) Gresham Charter Proofread: Recommendations to amend the Charter in Sections 8, 20, 27, 32, and 46.
- 3.) Gresham Charter: A spreadsheet with a list of ballot measures recommended by previous CRC's, whether the measures passed, as well as the percentage of "yes" votes from 1986-2012.
- 4.) Gresham City Council Candidate Distribution: A list of City Council candidate distribution by year from 1994-2020.
- 5.) Gresham Election Results, 2018: A list of 2018 candidates that ran for Mayor, Council Positions 2, 4, and 6, and the percentage of votes each candidate received.
- 6.) Gresham Elections: A spreadsheet with a list of Mayors and City Council members from 1998-2018.
- 7.) Gresham Wards, etc. Intro: Mr. Wilcox stated that he did research regarding two topics of interest of the CRC, election of Councilors according to geographic wards/districts, and term limits for Councilors and Mayor.
- 8.) Gresham Term Limits, etc.: A list summarizing current term limits in Hillsboro, Milwaukie, Oregon City, Tualatin, Lake Oswego, Molalla, Sherwood, and Tigard. The list also includes cities in Oregon that currently hold elections using a ward/district system.
- 9.) Gresham, Top Three: Mr. Wilcox stated that a Charter Amendment was placed on the November 2020 ballot in Troutdale to return to a "Top Three" system, where voters would select three candidates from among all that were running. The measure was passed by the voters 58%-42%.

There was discussion on whether the CRC would like to give attendees the opportunity to provide oral testimony up to three minutes to the CRC, even if they did not register prior to the meeting. City Attorney Kevin McConnell stated that this was not noted in the information provided to the public, but that the City Attorney's Office (CAO) would include that information on documents for future CRC meetings.

2. APPROVE MINUTES FROM PREVIOUS MEETING.

Minutes from the January 10, 2022, meeting were unanimously approved by the committee.

3. REVIEW CITY CHARTER AND COMPILE PRIORITY LIST.

Mr. McConnell gave an update to the CRC regarding a recent resignation of a member of the committee. Michelle Reid resigned from the CRC. The current CRC has 10 members.

Member Stroud discussed how the CRC would structure education, training, and the input needed to ensure that decisions fairly represent everyone in the community. The CRC discussed the need to reach out to people, groups, and communities and invite them to provide oral or written testimony to the CRC.

There was discussion regarding possible subcommittees or changes to the time of meetings of the CRC, so that there are more opportunities for members of the community to participate and provide information to the CRC.

Mr. McConnell introduced CAO staff member Margarita Contreras.

Member Stroud proposed bringing in a facilitator of color to provide training and a presentation to the CRC and help guide conversations so the CRC can get input from community-based organizations and members of the community who may have opinions about the decision-making process of the CRC. Mr. McConnell stated he would follow up with Ms. Stroud to collect further details regarding possibly hiring a facilitator to present to the CRC.

An attendee of the meeting, Laurie Palmer of the Go Get Your Child Violence Prevention Coalition, wrote that she had something to say in the Zoom meeting chat. There was discussion on whether the CRC would like to invite Laurie Palmer to provide her oral testimony at that time, later in the meeting, or at a future meeting. After discussion, the CRC voted on whether to proceed with reviewing the Charter or to allow Ms. Palmer to speak first. The majority of members present voted to proceed with the review of the Charter, and the CRC invited Ms. Palmer to provide her oral testimony at the end of the meeting.

The CRC went through the Charter together, reviewing each chapter and section. Members were invited to share sections which they were interested in discussing and possibly amending.

Chapter & Section	Member(s) Interested
Chapter 3, Section 10(b)	Cleverley, Andaya
Chapter 3, Section 7	Gayken, Stroud, Ardner
Chapter 3, Section 9A	Stroud, Andaya, Gayken
Chapter 3, Section 8	Stroud, Ardner, Andaya, Fier
Chapter 3, Title	Ardner
Chapter 3, Sections 7, 8, 9 (relocating to Chapter 6)	Ardner

Chapter 3, Section 10(a)	Stroud, Andaya
Chapter 3, Section 11(b)	McConn, Andaya
Chapter 4, Section 13	Andaya
Chapter 4, Section 14	Ardner, McConn, Gayken
Chapter 4, Section 16	Andaya, Wash
Chapter 4, Section 18A	McConn
Chapter 5, Section 20(c)(10)	Ardner
Chapter 5, Section 20(a)	Gayken
Chapter 5, Section 20(b)	Andaya
Chapter 5, Section 20(e)	Keathley
Chapter 5, Section 20(g)	Stroud
Chapter 5, Section 21(a)	Ardner, Stroud, McConn, Wash
Chapter 5, Section 21(c)	Stroud, Wash
Chapter 5, Section 21A	Keathley, Andaya, Gayken
Chapter 5, Section 27	Andaya
Chapter 8, Section 34(b)(4)	Ardner
Chapter 9, Section 36A	Wash, McConn, Hollis
Chapter 9, Section 36B	Stroud
Chapter 10, Section 42B	Andaya
Chapter 10, Section 40	Gayken
Chapter 11, Section 45A	Andaya, Ardner
Chapter 11, Section 45B	Andaya, McConn
Chapter 11, Section 46	Andaya
Chapter 11, Section 47	Stroud, McConn

The CRC also shared topics of interest to add to the Charter.

Topic	Member(s) Interested
Remove use of “he” or “she” and replace with “they” throughout Charter	Hollis
Board of Ethics	McConn
Eligibility for voting	Stroud, Andaya, Wash
Day off/city “holiday” for on election day	McConn, Andaya
Public utilities/internet as a public utility	Andaya, Wash
Community gardens	Wash

Sustainable industry/conditions for contracts with the City	Andaya, McConn
Participatory Budgeting	McConn, Stroud, Andaya
City Auditor	Andaya, Ardner
Establish campaign funding limits and contributing reporting procedures for elected officials	Ardner, Andaya
Preamble	Ardner
Require City to develop people-drive City strategic vision and identity	Ardner
Restructure citizen advisory committees and require annual work plan and annual report for City Council	Ardner
Requirements for code of conduct complaints or violations for police officers	McConn, Ardner
Voting method	Andaya
Citizen review board for police	Andaya

4. DISCUSS AGENDA ITEMS FOR FUTURE MEETINGS.

The CRC agreed that they would submit their prioritized lists of suggested changes or additions to the Charter to CAO staff, to be compiled into one document and reviewed and discussed at a future meeting.

The CRC discussed the importance of receiving input from the public before deciding which issues would be of top priority and interest for the CRC. Mr. McConnell stated that he would speak with the City Manager or someone from the City's Communications Department about internal and external resources available to the CRC for public outreach.

Vice Chair Ardner brought up the question of whether the CRC's goal was to make a recommendation to Council regarding Resolution 3478 in time to put a ballot measure on November 2022 general election. The CRC discussed the importance of having enough time to receive input and prepare their recommendation, while also noting that general elections typically have the most voter participation.

The CRC also discussed possibly submitting a sub-final report on the specific issue of at-large versus district/ward election system first, and then subsequently focusing on other items of interest once the sub-final report was complete. Chair Andaya asked what the timeline would be in terms of submitting a sub-final report to Council in time to put a measure on the November 2022 election. Mr. McConnell stated that he would ask the City Recorder for the specific date of when a report would need to be submitted to City Council.

Vice Chair Ardner recommended that the CRC invite the Lewis & Clark professors to present to the committee as soon as possible. Member Wash suggested determining a date that the Lewis & Clark professors are available to present at the CRC's next meeting. The CRC voted and the majority of members present voted to have the Lewis & Clark professors' presentation as an Agenda item at the next meeting.

The CRC also discussed the possible formation of subcommittees who may meet more frequently than once per month. They agreed to discuss subcommittees and public input in further detail at the next meeting.

5. SCHEDULE FOR FUTURE MEETING.

The date of the next CRC meeting will be determined after CAO obtains available dates from the Lewis & Clark professors.

Laurie Palmer of the Go Get Your Child Violence Prevention Coalition provided oral testimony at the end of the meeting. She emphasized the importance of serving the community in Gresham. She encouraged the CRC to do as many trainings as they can, and learn about other cultures, noting that the CRC can make plans which impact community members' lives. She also encouraged the CRC to let diverse communities have a voice and participate in important conversations. Member Hollis asked Ms. Palmer how the CRC could be serving the community better. She said that the CRC can have diverse voices at the table, including African Americans and other groups which are not represented by the members of the CRC, and find ways to engage with the community overall. She stated that she would compile a list of people who the CRC could invite to future meetings and would submit that list to Member Stroud.

There being no further business, the meeting was adjourned at 9:27 p.m.



MODEL

LEAGUE OF OREGON CITIES

Model Charter for Oregon Cities

**SEVENTH EDITION
JANUARY 2018**



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FOREWORD

This is the 7th edition of the Model Charter for Oregon Cities. It is the second published by the League of Oregon Cities. Previous versions were published by the Bureau of Governmental Research and Service at the University of Oregon.¹

The purpose of the Model Charter is to serve as a guide for charter drafting by city officials and citizens by providing a foundation for meeting different needs and policy choices about city government structure. It is not intended for submission to community voters without discussion. Each city that undertakes charter revision or the preparation of a new charter must consider provisions and procedures that best serve its unique community.

This 2018 version contains several minor changes from the 6th edition of 2004. The format continues as one document. All models prior to 1988 had two separate versions: one for the mayor-council form of government and one for the council-manager form of government. Language for the council-manager form is now presented in the text. Except for the city manager section 8.1, this model is useful for cities without a city manager. Alternative mayor-council language is included in the footnotes.

This edition makes numerous clarifications, simplifications and style changes from previous versions including the addition of a table of contents and an updated section numbering system.

¹ The first Oregon Model Charter was published in 1947; revisions were published in 1951, 1959, 1967, 1988 and 2004.

PREAMBLE

We, the voters of _____, Oregon exercise our power to the fullest extent possible under the Oregon Constitution and laws of the state, and enact this Home Rule Charter.²

Section I NAMES AND BOUNDARIES

Section 1.1. Titles. This charter may be referred to as the 20 _____ Charter.³

Section 1.2. Names. The City of _____, Oregon, continues⁴ as a municipal corporation with the name City of _____.⁵

Section 1.3. Boundaries. The city includes all territory within its boundaries as they now exist or are legally modified. The city will maintain as a public record an accurate and current description of the boundaries.

Section II POWERS

Section 2.1. Powers. The city has all powers that the constitutions, statutes and common law of the United States and Oregon expressly or impliedly grant⁶ or allow⁷ the city, as fully as though this charter specifically enumerated each of those powers.⁸

Section 2.2. Construction. The charter will be liberally construed⁹ so that the city may exercise fully all powers possible under this charter and under United States and Oregon law.

Section 2.3. Distribution. The Oregon Constitution reserves initiative and referendum powers as

² This uses the “voters” language of Article XI, section 2 of the Oregon Constitution and makes clear the intent to use all the home rule power.

³ Insert the year the charter is adopted and the city name. For convenience, this may be used as the charter’s short title.

⁴ The continuity of a city’s existence is not broken by the adoption of a new charter.

⁵ If this section changes the name of the city, it may read: “The municipal corporation previously known as the City of _____ continues under this charter as a municipal corporation with the name ‘City of _____.’”

⁶ The city home rule amendments to the Oregon Constitution reserve powers to city voters. Oregon Constitution, Article XI, section 2 (1906, 1910). The Oregon Supreme Court has said that the amendments are a “continuous offer” of “all powers properly belonging to municipal government.” *Robertson v. City of Portland*, 77 Or 121, 127 (1915). The offer is conditional. City voters may accept the offer by adopting charter terms. This general grant of power accepts the offer completely.

⁷ The US Constitution does not mention cities, but does not restrict city actions. The Oregon Constitution imposes some restrictions, but also authorizes city actions. Federal and state statutes impose many requirements and restrictions on cities, but still authorize or allow them a wide range of action. “Allow” in this section is intended to provide a basis for city authority to act even though the city cannot identify clear statutory authority for the city action. It assumes the authority is municipal in nature and not prohibited by federal or state law.

⁸ Appendix A discusses the legal basis for general grants of authority.

⁹ This requirement that the charter be liberally construed is intended to negate the effect of a rule of strict construction of city charters known as Dillon’s Rule.

to all municipal legislation to city voters.¹⁰ 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.¹¹

Section III COUNCIL

Section 3.1. Council. The council consists of a mayor¹² and six councilors¹³ nominated and elected from the city at large.¹⁴

Section 3.2. 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 and has no veto authority.¹⁵

- a) With the consent of council, the mayor appoints members of commissions and committees established by ordinance or resolution.
- b) The mayor must sign all records of council decisions.¹⁶
- c) The mayor serves as the political head of the city government.¹⁷

¹⁰ Article IV, section 1, subsection (5) of the Oregon Constitution.

¹¹ While part of federal and state government structures, separation of powers is rarely found in cities. The council has powers analogous to those of the three branches of the federal government and the three departments of the Oregon government. The context, substance and form of council decisions determine the nature of the power exercised. Only the council may adopt ordinances and exercise its legislative authority. Only its legislative authority is subject to voter initiative and referendum. The council may by ordinance delegate its administrative and quasi-judicial authority.

¹² Although some charters provide that the mayor is not a member of the council, this model recommends that the council include the mayor as a member. This means that the mayor participates in and votes on matters before the council as do other council members. Section 3.2 states that the mayor is a voting member of the council. If the mayor is not to have a council vote, then section 3.1 should state that the council consists of a specified number of councilors elected from the city at large.

¹³ Some Oregon cities have five-member councils. If the council is to have five members, “six” needs to be changed to “four.” A city may want a larger council of nine members or more. If so, “six” needs to be changed accordingly.

¹⁴ Most Oregon cities nominate and elect councilors at large. Some nominate and elect councilors by district or ward. A third option is to nominate by district and elect at large. If there are districts, then the district boundaries must be specified. The most efficient way of doing this is by ordinance. For that purpose, this section could read: “The council consists of a mayor nominated and elected at large, and six councilors nominated and elected by districts with the boundaries fixed by ordinance.” District boundaries must be periodically adjusted to meet equal protection requirements. Most charters that provide for election of councilors by district also require as a qualification that each councilor reside in the district the councilor represents and continue to so reside for the term of office.

¹⁵ Some charters permit the mayor to vote only to break a tie. If the mayor’s vote is to be so limited, this section needs to be changed accordingly.

¹⁶ The council may assign by ordinance or council rules additional duties to the mayor for authenticating ordinances, resolutions, orders, and other council documents.

¹⁷ This section adds facilitator and political leader to enhance the role of the mayor. It makes specific the apparent and inherent authority of the office of mayor. It also parallels the administrative authority of city manager in section 8.1. It follows the example of the 8th edition of National Civic League (NCL) Model Charter (2011).

Section 3.3. Council President. At its first meeting each 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 3.4. Rules. The council must by resolution adopt rules to govern its meetings.^{18, 19}

Section 3.5. 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 the rules and laws of the state of Oregon.

Section 3.6. Quorum. A majority of the council members is a quorum to conduct business.²⁰ In the event of a vacancy due to resignation or other events, the quorum is reduced accordingly.²¹ In the event of an absence, a smaller number may meet and compel attendance of absent members as prescribed by council rules.²²

Section 3.7. Vote Required. The express²³ approval of a majority of a quorum of the council is necessary for any council decision,²⁴ except when this charter requires approval by a majority of the council.²⁵

Section 3.8. Record. A record of council meetings must be kept in a manner prescribed by the council rules and the laws of the state of Oregon.²⁶

¹⁸ Council meetings must comply with the requirements of the Oregon Public Meetings Law. ORS 192.610 –192.710. Council rules should be considered administrative and adopted by resolution. They are easier to keep updated and less formal than if adopted by ordinance. Also, they are not subject to initiative and referendum.

¹⁹ The League has published a set of Model Rules of Procedure for Council Meetings available at:

<http://www.orcities.org/Portals/17/Library/Model%20Procedures%20for%20Council%20Meetings%203-1-17.pdf>.

²⁰ A majority is more than half of the council. For a seven-member council, a quorum is four or more.

²¹ For example, if a seven-member council has one vacant position due to resignation or other events, the quorum remains at four. If there are two vacant positions, the quorum is reduced to three. If a five-member council has one vacant position, the quorum remains at three. If there are two vacant positions, the quorum is reduced to two.

²² For example, council rules may state that the members present may order a city police officer to find and bring an absent member to the meeting. The rules may also provide a penalty for the absent member.

²³ “Express” is used here to clarify the effect of abstention from voting. At common law abstention from voting was regarded as concurrence with the decision. Thus, the concurrence could be either affirmative or negative depending on how the majority voted on a decision. “Express” is intended to make clear that an abstention from voting on a question may not contribute to answering the question affirmatively; it amounts to a “no” vote. Use of the word “express” means that no vote less than a majority of a quorum may decide affirmatively a question before the council.

²⁴ A “decision” is any action taken by council vote. This includes votes on formal documents such as ordinances, resolutions, orders and contracts. It also includes votes to direct city staff, and other questions and motions before the council. Unless the charter provides otherwise, the council may act affirmatively through less than a majority of its positions. A seven-member council thus may act through three councilors; its quorum is four. A five-member council may so act through two members; its quorum is three. A question may be decided negatively by fewer councilors than required to decide it affirmatively. For example, a 2 to 2 vote or a 2 to 1 vote when the quorum is four councilors, and one councilor is absent.

²⁵ Some charter sections require a vote of a majority of the council to make certain decisions. In this model, they are sections 4.2(a), 7.9, 8.1(b) and (d), 8.2 and 8.3(a). Section 4.2(b) requires a unanimous vote of at least a council quorum to adopt an ordinance at one meeting.

²⁶ The Oregon Public Meetings Law, ORS 192.650, requires cities to provide for sound, video, digital recording or the taking of written minutes. This section provides an independent requirement for council records and authorizes the council to adopt requirements in addition to those of state law.

Section IV LEGISLATIVE AUTHORITY²⁷

Section 4.1. Ordinances. The council will exercise its legislative authority by adopting ordinances. The enacting clause for all ordinances must state “The City of _____ ordains as follows:”.

Section 4.2. Ordinance Adoption.

- a) Except as authorized by subsection (b), adoption of an ordinance requires approval by a majority of the council at two meetings.²⁸
- b) The council may adopt an ordinance at a single meeting by the unanimous approval of at least a quorum of the council,²⁹ provided the proposed ordinance is available in writing to the public at least one week before the meeting.
- c) 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.
- d) After the adoption of an ordinance, the vote of each member must be entered into the council minutes.
- e) After adoption of an ordinance, the city custodian of records must endorse it with the date of adoption and the custodian’s name and title.

Section 4.3. 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 other date less than 30 days after adoption if it contains an emergency clause.³⁰

²⁷ The most significant power granted to cities is the authority to adopt legislation. Legislation is local law that applies throughout a city. Legislative authority is properly exercised in the form of ordinances. City charters traditionally prescribe specific requirements for adoption of ordinances, and no provisions for approval of resolutions (administrative) or orders (quasi-judicial). Only using ordinances for legislation and using other forms for non-legislative decisions makes clear which council actions are subject to referendum. Oregon Constitution, Article IV, section 1(5) gives voters initiative and referendum powers over “municipal legislation.”

²⁸ Under section 3.6, the majority of the council membership must be present at the time a decision is made. If there is one or more unfilled council vacancy, the majority is calculated on the temporarily diminished membership. However, action by a majority of a quorum (e.g. three votes when quorum of four is present) is not sufficient to enact an ordinance under this section. See note 21 above.

²⁹ This section requires the presence of at least four councilors and a unanimous vote to adopt an ordinance at one meeting when there is a seven-member council. The presence of three councilors and a unanimous vote is required when the council has five members.

³⁰ Ordinances containing an emergency clause take effect immediately and are not subject to referendum. Legislation may not take effect when it is subject to referendum. Procedures for city initiative and referendum are found in ORS 250.255 to 250.355, and city ordinances. Emergency clauses are legislative and not subject to judicial review. *Kaddery v. City of Portland*, 44 Or 118 (1903). City use of an emergency clause preventing a referendum on the ordinance is not subject to federal court review as a violation of civil rights. *Stone v. City of Prescott*, 173 F3d 1172 (9th Cir 1999).

Section V ADMINISTRATIVE AUTHORITY³¹

Section 5.1. Resolutions. The council will normally exercise its administrative authority by approving resolutions.³² The approving clause for resolutions may state “The City of _____ resolves as follows:”

Section 5.2. Resolution Approval.

- a) Approval of a resolution or any other council administrative decision requires approval by the council at one meeting.³³
- 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 that 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 city custodian of records must endorse it with the date of approval and the custodian’s name and title.

Section 5.3. Effective Date of Resolutions. Resolutions and other administrative decisions take effect on the date of approval, or on a later day provided in the resolution.³⁴

³¹ Councils formally exercise their administrative authority in the form of resolutions. Administrative decisions normally implement requirements of city ordinances and state statutes. Examples include city budgets, budget amendments, financial transfers, public contracts, fees and charges, council rules, and city personnel rules. Administrative decisions often are “internal” and relate to the city government. City charters traditionally prescribe specific requirements for adoption of ordinances (legislative), and include no provisions for approval of resolutions (administrative). This model suggests that charters specifically recognize council resolutions as the proper form for the exercise of its administrative authority. Use of this form for non-legislative decisions makes clear which council actions are subject to referendum. Oregon Constitution, Article IV, section 1(5) gives voters initiative and referendum powers over “municipal legislation”, but not municipal administration.

³² The preferred method for the council to exercise its administrative authority is by resolution. However, “normally” is used in this sentence to allow the council to approve contracts and other documents, give direction to the city manager, city attorney and city employees, and make other administrative decisions by approving a motion without adopting a resolution.

³³ Under section 3.6, the majority of the council membership must be present at the time a decision is made. If there is one or more unfilled council vacancy, the majority is of the temporarily diminished membership. Action by a majority of a quorum (e.g. three votes when quorum of four is present) is sufficient to approve a resolution under this section. See note 19 above.

³⁴ ORS 221.310(3) applies to cities of 2,000 or more. It provides that a resolution may take effect any time after passage by the city council. The resolution must state the resolution effective date in a separate section.

Section V QUASI-JUDICIAL AUTHORITY³⁵

Section 6.1. Orders. The council will normally exercise its quasi-judicial authority by approving orders. The approving clause for orders may state “The City of _____ orders as follows:”

Section 6.2. Order Approval.

- a) Approval of an order or any other council quasi-judicial decision requires approval by the council at one meeting.³⁶
- 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 city custodian of records must endorse it with the date of approval and the custodian’s name and title.

Section 6.3. 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.

Section VII ELECTIONS

Section 7.1. Councilors. The term of a councilor in office when this charter is adopted is the term for which the councilor was elected.³⁷ At each general election after the adoption, three councilors

³⁵ Quasi-judicial authority is normally exercised in the form of orders. Under this authority, the council holds hearings and is required to make decisions. The most common examples are land use matters and nuisance proceedings. City charters traditionally prescribe specific requirements for adoption of ordinances (legislative) and include no provisions for adoption of orders (quasi-judicial). This model suggests that charters specifically recognize council orders as the proper form for the exercise of quasi-judicial authority. Use of this form for non-legislative decisions helps make clear which council actions are subject to referendum. Oregon Constitution, Article IV, section 1(5) gives voters initiative and referendum powers over “municipal legislation,” but not municipal quasi-judicial decisions.

³⁶ Under section 3.6, the majority of the council membership must be present at the time a decision is made. If there is one or more unfilled council vacancy, the majority is of the temporarily diminished membership. Action by a majority of a quorum (e.g. three votes when quorum of four is present) is sufficient to approve an order under this section. See note 22 above.

³⁷ This sentence anticipates the charter vote at a primary or special election. If the charter vote is at a general election, the words “or is elected at the time of adoption” should be added.

will be elected³⁸ for four-year terms.³⁹

Section 7.2. Mayor. The term of the mayor in office when this charter is adopted continues until the beginning of the first odd-numbered year after adoption. At every other general election after the adoption, a mayor will be elected for a four-year term.⁴⁰

Section 7.3. State Law. City elections must conform to state law except as this charter or ordinances provide otherwise. All elections for city offices must be nonpartisan.⁴¹

Section 7.4. 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.⁴²
- b) No person may be a candidate at a single election for more than one city office.
- c) Neither the mayor nor a councilor may be employed by the city.⁴³
- d) The council is the final judge of the election and qualifications of its members.

Section 7.5. 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.⁴⁴

Section 7.6. 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

³⁸ Oregon Constitution, Article II, section 14a 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.

³⁹ This language assumes that adoption of the charter will not affect the council size or terms of office. It does provide a transition from the city government before charter adoption to the city government under the charter.

⁴⁰ A four-year term for the mayor and four-year staggered terms for an even-number of councilors gives the voters an opportunity to vote for a majority of the council positions at every other general election. It may also be necessary to change “first” to “second” in the first sentence. A mayor elected to a four-year term when this charter provision is adopted would serve until the beginning of the second odd-numbered year after adoption. If the mayor is to have a two-year term, the second sentence of this section needs to be changed. The mayor is appointed from the council by the councilors under the Incorporation Act, ORS 221.130. If this is to continue under the charter, then the second sentence of section 7.2 needs to be replaced by the sentence: “At the first meeting of the council in each odd-numbered year, the council must appoint one of its members to serve as mayor for a term of two years.” If the mayor is appointed from the council, the council should have an odd number of members, and section 3.1 should be changed.

⁴¹ The last sentence of this section makes specific the Oregon tradition that local government elections are nonpartisan. This provision is included in the county model home rule charter and county charters. It is also consistent with the 8th edition of the NCL Model Charter (2011).

⁴² Courts have consistently invalidated residency qualifications of more than 12 months.

⁴³ This prohibition is intended to avoid certain conflicts of interest in city service. It bars full-time or part-time employees from serving as mayor or councilor. It does not, however, prevent the mayor or a councilor from receiving reimbursement of expenses for services.

⁴⁴ This model charter does not prescribe a nominating procedure. It allows flexibility by requiring that an ordinance govern the nominating process.

assumes the office.⁴⁵

Section 7.7. 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 Oregon.

Section 7.8. Vacancies. The mayor or a council office becomes vacant:

a) Upon the incumbent's:

- 1) Death;
- 2) Adjudicated incompetence;⁴⁶ or
- 3) Recall from the office.⁴⁷

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 30 days without council consent, or from all council meetings within a 60-day period;
- 3) Ceasing to reside in the city;⁴⁸
- 4) Ceasing to be a qualified elector under state law;
- 5) Conviction of a misdemeanor or felony crime;
- 6) Resignation from the office; or
- 7) Removal under Section 8.1(i).

Section 7.9. Filling Vacancies. A mayor or councilor vacancy will be filled by appointment by a majority of the remaining council members.⁴⁹ The appointee's term of office runs from appointment until expiration of the term of office of the last person elected to that office. If a

⁴⁵ These words allow for a successor to be appointed as well as elected, and require that the successor meet the necessary qualifications for the office at the time of election or appointment. Some charters have provisions limiting the number of terms or years that a citizen may serve in an elected office.

⁴⁶ "Adjudicated incompetence" means inability or unfitness to manage one's affairs because of mental condition determined in a court proceeding.

⁴⁷ Recall of elective officers is governed by Oregon Constitution, Article II, section 18, and ORS 249.865 to 249.877.

⁴⁸ Section 7.4 requires each member to be a qualified voter and resident of the city. Under subsections (3) and (4) of section 7.8(b), moving outside the city or allowing voter registration to lapse permits the council to declare a council position vacant.

⁴⁹ Normally a single vacancy is filled at one time. This section permits the council to fill multiple vacancies at the same time. Most vacancies are created in positions filled by election. However, this section also applies to appointments to fill vacancies created in positions previously filled by an appointee to the council.

disability prevents a council member from attending council meetings or a member is absent from the city, a majority of the council may appoint a councilor pro tem.⁵⁰

Section VIII APPOINTIVE OFFICERS

Section 8.1. City Manager.

- a) The office of city manager is established as the administrative head of the city government.⁵¹ 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.⁵²
- 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.⁵³
- c) The manager need not reside in the city.⁵⁴
- d) 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.
- e) 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;

⁵⁰ A member's disability under this section is usually temporary. If the disability is permanent, it often results in the resignation of the disabled member. A permanent disability does not create a vacancy unless the member resigns. However, the council may appoint a pro tem councilor, and the appointment may continue until a successor to the disabled member is elected and takes office.

⁵¹ The city manager exercises the administrative authority delegated by the city charter and the city council. The manager and the council both exercise administrative authority. Only the council may exercise legislative authority.

⁵² This gives the manager a role in policy development consistent with the 8th edition of the NCL Model Charter (2011). It makes the manager responsible for carrying out city policy adopted by council resolution or ordinance.

⁵³ This section adds more specific qualifications for city manager consistent with the 8th edition of the NCL Model Charter (2011).

⁵⁴ If the city wants the charter to require the manager to live in the city, the following may be added: "but must become and remain a resident of the city while manager." In the alternative, if a residency requirement is desired but is not practicable due to a housing shortage or other condition, the following may be added: "but must live within 30 miles of the city." Either requirement can be imposed more flexibly by ordinance or contract.

- 4) Appoint, supervise and remove city employees;⁵⁵
 - 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;⁵⁶
 - 10) Perform other duties as directed by the council; and
 - 11) Delegate duties, but remain responsible for actions of all subordinates.
- f) The manager has no authority over the council or over the judicial functions of the municipal judge.⁵⁷
 - g) 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.
 - h) When the manager is temporarily disabled from acting as manager or when the office of the manager 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.
 - i) No council member may directly or indirectly attempt to coerce the manager or a candidate for the office of manager in the appointment or removal of any city employee, or in administrative decisions regarding city property or contracts.⁵⁸ 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.⁵⁹

⁵⁵ Note that the manager appoints, supervises and removes city employees. The council appoints, supervises and removes city officers.

⁵⁶ Subsections (8) and (9) of this section add provisions that update the charter by recognizing the increasing importance of regional and intergovernmental issues, and the participatory nature of policy development. They are consistent with the 8th edition of the NCL Model Charter (2011).

⁵⁷ Municipal judges have administrative duties incidental to their judicial functions such as record keeping and accounting for certain funds. These administrative duties may be supervised by the city manager.

⁵⁸ A similar charter restriction was the basis for damages in *Still v. Benton*, 251 Or 463, 445 P2d 492 (1968). The court found that the mayor did not act within the scope of his authority in pressuring the manager to discharge the police chief. The chief was awarded punitive as well as general damages.

⁵⁹ This does not affect the ability of a council member to obtain information from the manager or other city employees. Council members also have at least as much right to public records as other members of the public under the Oregon Public Records Law, ORS 192.311 to 192.431.

Section 8.2. City Attorney. The office of city attorney is established as the chief legal officer of the city government. A majority of the council must appoint and may remove the attorney. The attorney may appoint, supervise, and may remove any employees who work in and for the city attorney's office.⁶⁰

Section 8.3. 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 Municipal Court.
- 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.⁶¹
- 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.

⁶⁰ If a city attorney office is established by the charter, it is independent of the wishes of the council or manager. This language places office employees under the supervision of the attorney rather than the manager. The charter could establish the office and provide for appointment by the manager. If not created by charter, the city attorney office may be created by ordinance. The ordinance may provide for city attorney appointment by the council or manager.

Attorney duties may be assigned by ordinance and contract.

⁶¹ ORS 221.339 gives municipal courts jurisdiction over violations and misdemeanors committed or triable in the city. Municipal courts do not have jurisdiction over felonies or designated drug-related misdemeanors as defined in ORS 423.478. The section provides that jurisdiction over misdemeanors may be limited by city 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.⁶²

Section IX PERSONNEL

Section 9.1. Compensation. The council must authorize the compensation of city officers and employees as part of its approval of the annual city budget.⁶³

Section 9.2. Merit Systems. The council⁶⁴ by resolution will determine the rules governing recruitment, selection, promotion, transfer, demotion, suspension, layoff, and dismissal of city employees based on merit and fitness.⁶⁵

Section X PUBLIC IMPROVEMENTS

Section 10.1. Procedure. The council may by ordinance provide for procedures governing the making, altering, vacating, or abandoning of a public improvement.⁶⁶ A proposed public improvement may be suspended for six months 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 10.2. 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.

Section XI MISCELLANEOUS PROVISIONS

Section 11.1. Debt. City indebtedness may not exceed debt limits imposed by state law.⁶⁷ A charter amendment is not required to authorize city indebtedness.

Section 11.2. Ordinance Continuation. All ordinances consistent with this charter in force when it

⁶² ORS 51.035.

⁶³ ORS 294.388(5) requires that the budget list the salary for each officer and employee. If councilors are to receive no compensation for their services to the city, the following may be added to this section: "However, no councilor may receive compensation for serving in that capacity." This prohibition does not prevent reimbursement for expenses.

⁶⁴ If there is a city manager, the manager may be substituted for the council. Rules adopted by the manager may be made subject to council approval. The council may also delegate authority to the city manager or city administrator to adopt rules.

⁶⁵ "Merit and fitness" allows wide discretion in the interpretation and application of personnel rules and practices.

⁶⁶ Few procedures applicable to cities appear in state statute. ORS 223.387 to 223.401 apply to assessments for local improvements. ORS 223.805 to 223.845 relate to city motor vehicle parking facilities. ORS 271.080 to 271.230 apply to vacation of certain public property.

⁶⁷ Bancroft bonds may not "exceed .03 of the latest true cash valuation of the city." ORS 223.295(1).

takes effect remain in effect until amended or repealed.

Section 11.3. Repeal. All charter provisions adopted before this charter takes effect are repealed.⁶⁸

Section 11.4. 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 11.5. Time of Effect. This charter takes effect _____, 20__.

⁶⁸ It may be necessary to continue unusual charter provisions such as bond approvals, special levies or annexations.

APPENDIX A

GENERAL GRANTS OF POWER

The first version of the Model Charter for Oregon Cities was published in 1947. It was drafted to confer powers on cities in general terms rather than by a detailed enumeration of specific powers. All subsequent revisions have continued this practice.

Since about 1910, a city charter has been viewed as a city constitution. For this reason, city powers have generally been stated in general, comprehensive terms. The charter should deal only with the basic, broad fundamentals of city government. The charter should be as concise as possible, and adaptable to changing conditions to avoid the need for frequent amendment.

Most Oregon cities have charters that grant authority for their activities under general grants of powers. In 1934, Huntington adopted a general powers charter quite similar to the 1947 model charter. Since then, almost all Oregon cities have adopted charters that resemble this model.

The Oregon Incorporation Act (now ORS 224.010-221.100) provides that cities without a home rule charter have comprehensive power and need no grants of specific powers.

A general grant of power allows a city to assume extraterritorial powers granted by statute and conditioned upon the existence of charter authority. ORS 225.020 authorizes a city to own and operate utilities outside city limits if its charter allows it such power. *Kassel v. City of Salem*, 34 Or. App. 739, 579 P.2d 875 (1978) construes this section and states that Salem's charter "accepts this offer [of extramural powers] in broad terms." These broad terms were more specific than the general grant of powers in the model. No city with a general grant has been challenged in its exercise of the power offered by ORS 225.020.

Constitutional Grants in General Terms

The 1906 home rule amendments to the Oregon Constitution empower "the legal voters of every city * * * to enact and amend their municipal charter, subject to the Constitution and criminal laws of the State."^a They also empower "the qualified voters of each municipality" to exercise the powers of initiative and referendum "as to all local, special and municipal legislation of every character in or for their municipality[.]"^b These grants of power are general in terms.

Specific Power Derived from General Grants

Courts have often held that a general grant of power confers a particular power not specified in the grant. Such specific powers include the following:

- 1) To regulate amusement devices.^c

^a Or. Const. art. XI, sec. 2.

^b Or. Const. art. IV, sec. 1a (1906), sec. 1(5) (1968).

^c *Terry v. City of Portland*, 204 Or 478, 269 P2d 544 (1955); 33 Or Op Atty Gen 174 (1967).

- 2) To levy special assessments.^d
- 3) To develop a program of free parking using tax revenues.^e
- 4) To govern labor relations with public employees.^f
- 5) To license certain businesses or occupations.^g
- 6) To levy license taxes for revenue.^h
- 7) To provide police protection.ⁱ
- 8) To control disposal of refuse.^j
- 9) To regulate the storage of gasoline and kerosene.^k
- 10) To control streets.^l
- 11) To levy taxes in the form of licenses.^m
- 12) To adopt taxes on sales and incomes.ⁿ
- 13) To supply water.^o
- 14) To impose registration and license fees.^p
- 15) To impose fees and regulatory requirements on telecommunications providers.^q

^d *Paget v. City of Pendleton*, 219 Or 253 346 P2d 1111 (1959).

^e *Jarvill v. City of Eugene*, 289 Or 157, 613 P2d 1 (1980), US cert den at 449 US 1013 (1980). Although the majority opinion in this case relies on a specific grant of power stemming from a 1973 amendment to the Eugene city charter, this charter has been repealed. At the court of appeals level, the majority opinion relied on the general grant of power in the 1976 revised city charter to explain the city's ability to levy taxes. "In those cases, it was held that a general grant of powers in a city charter, like that contained in the Eugene charter, carries with it the power to impose revenue taxes." 40 Or App 185, 198-99, 594 P2d 1261 (1979).

^f *Beaverton v. International Assoc. of Firefighters*, 20 Or App 293, 531 P2d 730 (1975).

^g *Davidson Baking Co. v. Jenkins*, 216 Or 51, 337 P2d 352 (1959).

^h *City of Idanha v. Consumers Power, Inc.* 8 Or App 551, 495 P2d 294 (1972), aff'd, 13 Or App 431 (1973).

ⁱ *City of East Portland v. County of Multnomah*, 6 Or 62, 64 (1876).

^j *Dunn v. Gray*, 238 Or 71, 392 P2d 1018 (1964); *City of Tigard v. Werner*, 15 Or App 335, 515 P2d 934 (1973).

^k Cf. *Leathers v. City of Burns*, 251 Or 206, 444 P2d 1010 (1968).

^l *City of East Portland v. County of Multnomah*, 6 Or 62, 64 (1876).

^m *City of Idanha v. Consumers Power, Inc.* 8 Or App 551, 495 P2d 294 (1972), aff'd 13 Or App 431 (1973).

ⁿ *City of Idanha v. Consumers Power, Inc.* 8 Or App 551, 495 P2d 294 (1972), aff'd 13 Or App 431 (1973).

^o *Paget v. City of Pendleton*, 219 Or 253, 346 P2d 1111 (1959).

^p *AT & T Communications v. City of Eugene*, 177 Or App 379 (2001), *rev den*, 334 Or 491 (2002). The court held that a general power charter gave the city power to impose registration and license fees. The court relied on *Multnomah Kennel Club v. Department of Revenue*, 295 Or 279 (1983), a case that involved a general power county home rule charter that provided authority to impose a business income tax.

^q *Sprint Spectrum v. City of Eugene*, 177 Or App 417 (2001), *rev den*, 334 Or 491 (2002). The court found that home rule authority includes the taxation of businesses that conduct business within city boundaries.

APPENDIX B

PROVISIONS NOT INCLUDED IN THE MODEL CHARTER

This model charter omits many provisions contained in city charters granted by the Oregon Legislature prior to 1906, and charters adopted soon after the 1906 home rule amendments took effect. A general grant of powers replaced specific grants of authority. Subjects and procedures covered by state statutes are generally no longer included in charters. The model charter also omits provisions better left to adoption by ordinance.

Annexation Procedure

An Oregon city may not assume extramural power under its home rule charter unless authorized by state statute.⁸⁶ City power under the home rule amendments is only intramural in character.⁸⁷ A city may only exercise extramural power delegated by the Legislature.⁸⁸ A home rule charter may provide a procedure for the intramural aspects of annexation, such as the manner of acceptance of the annexation by the city. The model charter contains no provision relating to annexation of territory to a city because state statutes control annexation procedures.

Elections

Elections in Oregon are generally under the control of the Secretary of State. The conduct of elections is governed by ORS chapter 254. Many duties relating to the conduct of elections are delegated to county clerks. Time of elections, wording of ballot titles, printing of ballots and fixing of precinct boundaries are examples of matters governed by state law. City initiative and referendum requirements and process are found in ORS Chapter 250. Therefore, the model charter contains no sections relating to elections in general. Sections 7.2 and 7.5 do authorize the council to govern certain election matters by ordinance.

Subjects Covered by State Law

This model charter contains no provisions on several other subjects covered by state law:

Budgeting.....ORS 294.305 to 294.565
Public contracts.....ORS Chapters 279A, 279B and 279C
Assessments bonding and lien enforcement...ORS 223.205 to 223.295 and 223.505 to 223.650
Tort liability.....ORS 30.260 to 30.300

⁸⁶ *Thurber v. Henderson*, 63 Or 410, 415-16, 128 P 43 (1912); *State ex rel Mullins v. Port of Astoria*, 79 Or 1, 19-20, 154 P 399 (1916); *Morsman v. City of Madras*, 203 Or App 546 (2006) (holding that the state has the authority to decide whether residents of an area subject to annexation get to vote on the annexation); and *Costco Wholesale Corp. v. City of Beaverton*, 343 Or 18, 25 (2007) (stating that cities lack “inherent home-rule authority to impose * * * obligations on those outside their borders.”).

⁸⁷ *Kiernan v. City of Portland*, 57 Or 454, 464, 111 P379, 112 P 402 (1910); *State ex rel Mullins v. Port of Astoria*, 79 Or 1, 18-19, 154 P 399 (1916); *Curtis v. Tillamook City*, 88 Or 443, 454-55, 171 P574, 172 P 122 (1918).

⁸⁸ *Couch v. Marvin*, 67 Or 341, 136 P 6 (1913); *McBee v. Town of Springfield*, 58 Pr 459, 114 P 637 (1911); *Landess v. City Cottage Grove*, 64 Or 155, 129 P 537 (1913).

Debt limitations.....	ORS 223.295
Ethics.....	ORS Chapter 244
Public meetings and records.....	ORS 192.311 to 192.710
Land use planning and regulation.....	ORS Chapters 92, 197, 197A and 227
Street vacation.....	ORS 271.080 to 271.230
Condemnation.....	ORS Chapter 35; 223.005 to 223.105, 226.310 to 226.380 and 227.300.
Collective bargaining.....	ORS 243.650 to 243.782
Public Employee's Retirement System.....	ORS Chapter 238 and 238A

Other Subjects

The model charter contains no provisions on a number of other subjects that may be covered as well or better by ordinance. Such subjects include council rules, personnel rules, procedures for local improvements, levying and collecting special assessments and city commissions and committees.

Municipal Judge as Ex Officio Justice of the Peace

Some Oregon charters enacted as special legislative acts prior to 1906 provide that the municipal judge has the jurisdiction and authority of an ex officio justice of the peace. This model charter contains no such provision. A home rule charter may not grant such authority to a municipal judge; such authority may only be granted by state statute.

The decision in *In re Application of Boalt*⁸⁹ suggests that once a municipal judge is given the jurisdiction and authority of an ex officio justice of the peace by a special legislative act, it continues regardless of a subsequent home rule charter. It may be withdrawn by the Legislature. A city in this situation may retain its charter provisions conferring jurisdiction and authority of an ex officio justice of the peace on its municipal judge by enacting its new charter as an amendment to its former legislative charter. A municipal judge may continue to exercise this authority under this Supreme Court decision.

⁸⁹ 123 Or 1, 260 P 1004 (1927).

Chapter	Section	Member	Notes	Priority Level (1-10)
3	7	Andaya	Districts vs. at-large; Small single member districts or larger multi member districts? What are the costs of districts? Change number of councilors?	
3	7	Ardner	Make recommendation(s) to the City Council on the issue of electing City Councilors "At Large" (city-wide) or by "Districts."	1
3	7	Fier	consists of a mayor and six councilors. Mayor will be elected at large, and councilors from six districts or wards.	
3	8	Andaya	Should we have primaries with the top two on the general ballot? Majority vs. plurality?	
3	8	Ardner	Change the requirement for candidates for Mayor and City Councilors to be elected from a "plurality of votes" to a "simple majority" of votes (50% + 1).	3
3	8	Fier	Change plurality to elected by a majority (50%+1) of voters in that election. Add - Councilors are limited to two four-year terms, whether consecutive or separated terms. If someone is appointed to a vacant seat, the time they serve in that capacity does not affect the two-term limit.	
3	9	Andaya	Potentially change to be the same year as the Presidential Election? Higher voter turnout means more people will have a say in who is mayor.	
3	9	Fier	Change to elected at the November Presidential election. Mayor elected at large. Add - Elected by a majority (50%+1) of voters in that election. Add - Mayor is limited to two four-year terms, whether consecutive or separated terms. If someone is appointed to a vacant seat, the time they serve in that capacity does not affect the two-term limit.	
3	9A	Andaya	somewhat vague. could be more specific. this doesn't jump out at me as "citizen involvement"	
3	10(a)	Andaya	Update language to set a livable salary based on empirical data. Currently set to \$25,000 for City Councilors and \$61,000 for Mayor. Seems that the Councilor wage is a "full time" minimum wage position. Living wage in Multnomah County appears to be \$39,000 in 2022	
3	10(a)	Fier	Change to a livable compensation for services shall be the amount fixed by Finance Committee in every budget cycle.	
3	10(b)	Andaya	potential to change? Is there a need?	
3	10(b)	Cleverley	Do the City Manager and City Departments feel that the current ratio of 6.5:1,000 is adequate for the fulfillment of their duties? If they report that they have more or fewer staff than needed for their duties, that ratio may require revisions.	
3	11(a)	Andaya	Update language to not disqualify persons who may have been victims of systemic racism in the justice system	
3	11(b)	Andaya	someone could have a different full time job while serving on council, so why not a city job? Is there such a conflict of interest that they could not abstain from when relevant?	
3	11(c)	Andaya	why not? for school district officers	
3	11(d)	Andaya	are all positions full time positions? potential to change. Is there a need?	
4	13	Andaya	what is the process for this? seems vague. What does the resolution look like?	
5	20(b)	Andaya	this seems flawed. the city manager is a human being and a public servant. Their livelihood could be upended by a new council. term limit?	
5	20(c)(4)	Andaya	what does effectiveness mean in this context?	
5	20(c)(10)	Andaya	what is the process for this? seems vague	
5	20(c)(10)	Ardner	Require that City Manager proposed changes to City Government (involving reorganizations or disbandment of city departments), receive the advice and consent of the City Council.	10
5	20(e)	Fier	Change "in excess of six months" to "no less than one-year."	
5	20(f)(2)	Andaya	what does "a determination of guilt is established" mean exactly?	
5	21(a)	Andaya	do we have a municipal court (NO) is there a need?	
5	21(a)	Fier	Change "council may appoint" to "council shall appoint."	
5	21(b)	Andaya	potential for prison reform? getting rid of cash bail?	
5	21A	Andaya	this seems flawed. the city attorney's office are human beings and public servants. Their livelihoods could be upended by a new council. term limit?	
6	23	Ardner	Require the use of the Primary Election to identify the top two candidates for each position in the General Election.	2
6	27	Andaya	seems very flawed if I am understanding this correctly.	
6	27	Fier	Change "public drawing of lots ..." to other elected council members and Finance Committee shall vote to break the tie."	
8	31(a)	Cleverley	We should create a process by which a special election is triggered upon the vacancy of a Council seat in order to fill the vacancy as soon as possible while maintaining a democratic representation. If the City transitions to a different style of election, this may be more feasible than at present.	
8	34(b)	Cleverley	Add a stipulation of a digital announcement of the ordinance in order for it to be enacted in order to ensure that the public is aware of the ordinance being voted on before the meeting. Solely relying on newspapers and physical postings in city hall is an inadequate approach for notifying the populace of Council business in 2022.	
8	35	Cleverley	Reflecting upon the COVID19 pandemic and the Council's response, was this section enough to allow a timely and sufficient response to the emergency, or does this section need to be expanded upon. Likewise, should such a clause be added to C5S20 in regards to the City Manager's execution of emergency powers during an emergency?	
11	45A	Andaya	I dislike that it takes 60% and not a majority to change the charter	
11	45B	Andaya	possibility for change? is there a need? somewhat vague as well. how many on the committee? should we add number? should we add a process of selection and nomination?	
11	46	Andaya	10% of registered voters is a pretty low bar	

Topic	Member	Notes	Priority Level (1-10)
Anti-discrimination Measure	Andaya	including gender identity, lgbtq+, race, religion etc	
Board of Ethics	Andaya		
Campaign Funding Limits	Ardner	Establish campaign funding limits for all candidates for the position(s) of Mayor or City Councilor. Report all contributions received on the city website, within four days of receipt. Out of state contributions will not be accepted.	4
Campaign Funding Limits	Fier	Campaign funding should be limited per the charter.	
Citizen Advisory Committees	Ardner	Citizen Advisory Committees and other city commissioned groups are critical to bringing the views of the residents to city policy issues. To be effective, these Committees/groups will have the following: A Mission Statement; Requirement for an Annual Work Plan approved by City Council; and A requirement for an Annual Report directly to City Council.	9
City Auditor	Ardner	Establish an elected city auditor to monitor the efficiency and effectiveness of city policies and government and publish reports to the people and the City Council.	6
City Auditor	Andaya		
Equity Framework and Funding	Andaya		
Participatory Budgeting	Andaya		
Police Oversight	Andaya		
Police Oversight	Fier	Community Police Oversight Committee should be created.	
Preamble	Ardner	Add a preamble at the beginning of the City Charter stating that the power to govern flows from the people and that the actions of government must focus on improving the quality of life for all the residents.	7
Preamble	Fier	Worded to in a way that "We the People" ensures everyone knows Gresham is a citizen-driven city and that all are included. As such, Gresham does not tolerate injustice or discrimination.	
Public Utilities and Internet	Andaya		
Redundant Rights from Federal Level	Andaya	e.g. freedom of choice in case OR or national law ever changes	
Strategic Vision and Action Plan	Ardner	Require the City develop and maintain a people-driven Strategic Vision for Gresham. It would establish a 20 year plan that includes: An identity for our city; A Strategic Vision; An Action Plan; Funding plan; and Provide for formal progress reports every five year. This plan shall be updated every 10 years with the active participation of residents	8
Sustainable Industry and Climate Change Infrastructure	Andaya		
Term Limits	Ardner	Establish an eight year Term Limit for candidates elected as Mayor or City Councilor. If an individual is appointed to fill a City Council vacancy, the maximum term of service is 10 years.	5
Term Limits	Andaya		
Voting Day a Holiday	Andaya		
Voting Methods	Andaya	if we recommend changing to districts, i feel strongly we should simultaneously recommend changing voting methods to ensure equity (ranked choice, star etc.); majority vs. plurality?	

From: [John Ardner](#)
To: [Dara Halligan](#)
Subject: Prioritized List of Changes for the City Charter
Date: Tuesday, February 8, 2022 2:37:08 PM
Attachments: [CRC List of Recommended Changes to the Charter.pdf](#)

CAUTION: External Email

Dara

Thank you for all your efforts at last evenings meeting. We appreciate your work.

Please find my list of the 10 priority recommendations separated into one table for changes to the existing Charter and one table for new recommendations.

Please let me know if you have any questions.

Sincerely Yours,

Jack Ardner
Vice Chair, CRC

Recommended City Charter Changes

Prepared by Jack Ardner
Vice Chair

At the February 7, 2022 Charter Review Committee (CRC) meeting, each member was tasked with identifying a prioritized list of 10 changes or additions to the existing Gresham City Charter. These are submitted to city staff for processing. The following is my list of recommended changes.

Priority	Charter Section	Recommended Changes to the Existing Gresham City Charter
1	Chapter III, Section 7	Make recommendation(s) to the City Council on the issue of electing City Councilors "At Large" (city-wide) or by "Districts."
2	Chapter VI, Section 23	Require the use of the Primary Election to identify the top two candidates for each position in the General Election.
3	Chapter III, Section 8	Change the requirement for candidates for Mayor and City Councilors to be elected from a "plurality of votes" to a "simple majority" of votes (50% + 1).
10	Chapter V, Section 20, c) Powers and Duties, Subparagraph (10)	Require that City Manager proposed changes to City Government (involving reorganizations or disbandment of city departments), receive the advice and consent of the City Council.

Recommended City Charter Changes

Prepared by Jack Ardner
Vice Chair

Priority	Charter Section	Title	Recommended Additions to the Gresham City Charter
4	New	Campaign Funding Limits	Establish campaign funding limits for all candidates for the position(s) of Mayor or City Councilor. Report all contributions received on the city website, within four days of receipt. Out of state contributions will not be accepted.
5	New	Term Limits	Establish an eight year Term Limit for candidates elected as Mayor or City Councilor. If an individual is appointed to fill a City Council vacancy, the maximum term of service is 10 years.
6	New	City Auditor	Establish an elected city auditor to monitor the efficiency and effectiveness of city policies and government and publish reports to the people and the City Council.
7	New	Preamble	Add a preamble at the beginning of the City Charter stating that the power to govern flows from the people and that the actions of government must focus on improving the quality of life for all the residents.

Recommended City Charter Changes

Prepared by Jack Ardner
Vice Chair

Priority	Charter Section	Title	Recommended Additions to the Gresham City Charter
8	New	Strategic Vision and Action Plan	Require the City develop and maintain a people-driven Strategic Vision for Gresham. It would establish a 20 year plan that includes: An identity for our city; A Strategic Vision; An Action Plan; Funding plan; and Provide for formal progress reports every five year. This plan shall be updated every 10 years with the active participation of residents.
9	New	Citizen Advisory Committees	Citizen Advisory Committees and other city commissioned groups are critical to bringing the views of the residents to city policy issues. To be effective, these Committees/groups will have the following: A Mission Statement; Requirement for an Annual Work Plan approved by City Council; and A requirement for an Annual Report directly to City Council.

From: [joseph_andaya](#)
To: [Dara Halligan](#); [Margarita Contreras](#)
Cc: [Amanda Gayken \(hypothetical300@gmail.com\)](#); [Britt McConn](#); [Cathy Keathley \(cathykea@comcast.net\)](#); [Dana Stroud \(dhpstroud@gmail.com\)](#); [Diana Marcela Wash \(dmarcelal@hotmail.com\)](#); [Jack Hollis \(jack.c.hollis@gmail.com\)](#); [Jacob Cleverley \(jacobcleverley@gmail.com\)](#); [John Ardner](#); [tim.fier@gmail.com](#)
Subject: Joseph Andaya's Charter Notes, Recommended Additional Reading, and Portland Charter Excerpts
Date: Tuesday, February 8, 2022 7:35:39 PM

CAUTION: External Email

Good evening Dara, Margarita, and CRC Members,

Below you will find my submitted notes regarding the Gresham City Charter, potential additions and resources I found useful, and finally excerpts from the Portland City Charter I thought were interesting. I have also included a link to the prioritizing grid I showcased at yesterday's meeting. If my notes cause any confusion, I do apologize. If you have any clarifying questions, let me know. I look forward to discussing our priorities for the charter at future meetings.

Best,

Joseph A

CHAPTER III FORM OF GOVERNMENT

- ADDITIONS
- ch3: districts vs at large?
- ch3: change our voting method from winner take all? ranked choice or STAR?
- ch3: majority vs plurality?
- ch3: small single member districts or larger multi member districts?
- ch3: what are the costs of districts? (financial, gerrymandering etc.)
- ch3: term limits?
- ch3: change number of councilors?

- **Ch3 S8 COUNCILORS:** should we have primaries with the top two on the general ballot?
- **Ch3 S9 MAYOR:** Potentially change to be the same year as the Presidential Election? Higher voter turnout means more people will have a say in who is mayor.
- **Ch3 S9A CITIZEN INVOLVEMENT:** somewhat vague. could be more specific. this doesn't jump out at me as "citizen involvement"
- **Ch3 S10 COMPENSATION:** Update language to set a livable salary based on empirical data. Currently set to \$25,000 for City Councilors and \$61,000 for Mayor. Seems that the Councilor wage is a "full time" minimum wage position. [Living wage in Multnomah County appears to be \\$39,000 in 2022](#)
- **Ch3 S10 b:** potential to change? Is there a need?
- **Ch3 S11 a QUALIFICATION FOR COUNCIL:** Update language to not disqualify persons who may have been victims of systemic racism in the justice system
- **Ch3 S11 b:** someone could have a different full time job while serving on council, so why not a city job? Is there such a conflict of interest that they could not abstain from

when relevant?

- **Ch3 S11 c:** why not? for school district officers
- **Ch3 S11 d:** are all positions full time positions? potential to change. Is there a need?

CHAPTER IV CITY COUNCIL

- **Ch4 S13 QUORUM:** what is the process for this? seems vague. What does the resolution look like?

CHAPTER V POWERS AND DUTIES OF OFFICERS

- S20 CITY MANAGER
- **Ch5 S20 b:** this seems flawed. the city manager is a human being and a public servant. their livelihood could be upended by a new council. term limit?
- **Ch5 S20 c4:** what does effectiveness mean in this context?
- **Ch5 S20 c10:** what is the process for this? seems vague
- **Ch5 S20 f2:** what does " a determination of guilt is established" mean exactly?

- S21 JUDGES, POWERS, PROCEDURE
- **Ch5 S21 a:** do we have a municipal court (NO) is there a need?
- **Ch5 S21 b:** potential for prison reform? getting rid of cash bail?
- **Ch5 S21A CITY ATTORNEY:** this seems flawed. the city attorney's office are human beings and public servants. their livelihoods could be upended by a new council. term limit?

CHAPTER VI ELECTIONS

- **Ch6 S27 TIE VOTES:** seems very flawed if I am understanding this correctly.

CHAPTER XI ORDINANCE POWER, INITIATIVE, REFERENDUM AND RECALL

- **Ch11 S45A CHARTER AMENDMENTS:** I dislike that it takes 60% and not a majority to change the charter
- **Ch11 S45B CHARTER REVIEW:** possibility for change? is there a need? somewhat vague as well. how many on the committee? should we add number? should we add a process of selection and nomination?
- **Ch11 S46 RECALL:** 10% of registered voters is a pretty low bar

CHARTER ADDITIONS

- if we recommend changing to districts, i feel strongly we should simultaneously recommend changing voting methods to ensure equity (ranked choice, star etc.)
- anti discrimination measure including gender identity, lgbtq+, race, religion etc
- city auditor
- public utilities and the internet
- [petersburg charter updates Equity framework and funding Amendments 3 and 4](#)
- [Authorizing City Council to Enact Rent Control Ordinance](#)
- [participatory budgeting?](#)
- police oversight

- board of ethics
- sustainable industry and climate change infrastructure/urban renewal
- voting day a holiday
- redundant rights from the federal level? (e.g. freedom of choice in case OR or national law ever changes)

ADDITIONAL READING

[City Club of Portland: New Government for Today's Portland: Rethinking the Commission System & How We Vote](#)

[Not sure you want to read the full reports? Here's a brief document that covers both reports](#)

[The Context Matters: The Effects of Single-Member versus At-Large Districts on City Council Diversity](#)

Prioritizing Grid

PDX Charter Excerpts of interest

Portland is about 6x more populous than Gresham

- **Chapter 2 Government**

- **Article 2 Elective Offices**

"No official appointed or elected to elective office shall, during the official's term of service, hold any other office or position of profit, or pursue any other business or vocation, or serve on or under any committee of any political party. "

- Article 5 The Auditor

- Article 10 Community Police Oversight Board

- **Chapter 3 Nominations and Elections**

- **Article 1 General Procedure**

- **Section 3-101 Time of Taking Office and Terms.**

“if any candidate for the office of Mayor, Commissioner, or Auditor receives a **majority** of the votes cast in a primary election for that office, that candidate shall be elected. **If no candidate for such an office receives a majority of the votes cast in the primary election, the names of the two candidates receiving the highest number of votes cast shall be declared nominees and their names shall appear on the general election ballot in that same year.** The nominee receiving the highest number of votes in the general election shall be elected.”

○

Article 3 Campaign Finance in Candidate Elections

- Section 3-301 Contributions in City of Portland Candidate Elections
- Section 3-302 Expenditures in City of Portland Candidate Elections.
- Section 3-303 Timely Disclosure of Large Contributions and Expenditures.
- Section 3-304 Coordination with Public Funding of Campaigns.
- Section 3-306 Adjustments.
- Section 3-308 Definitions.

○

Chapter 4 Civil Service

- **Article 4 Civil Service Board**
- **Section 4-401 Civil Service Board**

“There shall be a Civil Service Board consisting of three members appointed by the

Mayor and confirmed by Council. The appointments shall ensure that the perspectives of labor, management and the general public are reflected. Members of the board shall act impartially.”

- Article 5 Right to Bargain Collectively

- Section 4-501 Right to Bargain Collectively.

“The right of City employees to bargain collectively, through representatives of their own choosing, shall not be abrogated by the City, provided that no provision of a collective bargaining agreement shall abrogate the provisions of this Charter.”

- **Chapter 13 Charter Revision and Interpretation**

- **Article 3 Provide for Periodic Charter Review**

- **Section 13-301 Charter Commission.**

“From time to time, but no less frequently than every 10 years, the Council shall convene a Charter review commission (“Charter Commission”) to review and recommend amendments to this Charter provided. **The Charter Commission shall be reflective of the City in terms of its racial and ethnic diversity, age and geography. It shall be comprised of twenty (20) residents of the City.** Each member of the Council shall nominate four (4) Charter Commission members who shall be subject to confirmation by the Council. The term of office of each member of the Charter Commission shall be no less than two years...No member of the Charter Commission shall serve as an elective officer of the City during the member’s service on the Charter Commission. The Mayor or Council may request that the Charter Commission review specific sections of the Charter, but the work and recommendations of the Charter Commission shall not be limited to such specific sections. The Commission shall provide a written report of its findings to the City Council.”

- Section 13-302 Submission to Voters.

“All Charter amendments proposed by the Charter Commission supported by an affirmative vote of at least fifteen (15) members of the Charter Commission,

after a public hearing process prescribed by the Council, shall be submitted to the voters of the City of Portland at the next primary or general election that is at least 120 days after the date the recommendations are presented to the City Council. **All Charter amendments proposed by the Charter Commission supported by an affirmative vote of a majority but less than least fifteen (15) members of the Charter Commission shall be considered as recommendations to the City Council. The Council may, but is not required to, refer such proposed amendments to the voters of the City of Portland.** [New Section May 15, 2007, effective January 1, 2009.]”

From: [Jacob Cleverley](#)
To: [Dara Halligan](#)
Subject: CRC Revision Ideas from 2/7/22 Meeting
Date: Sunday, February 20, 2022 8:55:54 PM

CAUTION: External Email

Ms. Halligan,

Here are my initial concerns for revising the City Charter from the 2/7/22 CRC meeting; those that I found a chance to voice as well as those that I didn't.

C3S10B

Do the City Manager and City Departments feel that the current ratio of 6.5:1,000 is adequate for the fulfillment of their duties? If they report that they have more or fewer staff than needed for their duties, that ratio may require revisions.

C8S31A

We should create a process by which a special election is triggered upon the vacancy of a Council seat in order to fill the vacancy as soon as possible while maintaining a democratic representation. If the City transitions to a different style of election, this may be more feasible than at present.

C8S34B

Add a stipulation of a digital announcement of the ordinance in order for it to be enacted in order to ensure that the public is aware of the ordinance being voted on before the meeting. Solely relying on newspapers and physical postings in city hall is an inadequate approach for notifying the populace of Council business in 2022.

C8S35

Reflecting upon the COVID19 pandemic and the Council's response, was this section enough to allow a timely and sufficient response to the emergency, or does this section need to be expanded upon. Likewise, should such a clause be added to C5S20 in regards to the City Manager's execution of emergency powers during an emergency?

Thank you for your facilitation!

-Jacob Cleverley

From: [Tim Fier](#)
To: [Dara Halligan](#)
Subject: Charter Review Ideas
Date: Monday, February 21, 2022 11:00:52 AM

CAUTION: External Email

Morning Dara,

Below are my ideas for Charter changes and new topics. If anything is unclear, of course, I'm available to clarify.

Topics to review and address changing in Charter are:

Wards/Districts, Majority Vote, Term Limits, Compensation, City Manager, and Lots

Chapter III

Ch.3 S.7 City Council consists of a mayor and six councilors. Mayor will be elected at large, and councilors from six districts or wards.

Ch.3 S.8 Councilors: Change plurality to elected by a majority (50%+1) of voters in that election.

Add - Councilors are limited to two four-year terms, whether consecutive or separated terms. If someone is appointed to a vacant seat, the time they serve in that capacity does not affect the two-term limit.

Ch.3 S. 9 Mayor - Change to elected at the November Presidential election. Mayor elected at large.

Add - Elected by a majority (50%+1) of voters in that election.

Add - Mayor is limited to two four-year terms, whether consecutive or separated terms. If someone is appointed to a vacant seat, the time they serve in that capacity does not affect the two-term limit.

Ch. 3 S. 10 Compensation - Change to a livable compensation for services shall be the amount fixed by Finance Committee in every budget cycle.

Chapter V

Ch. 5 S. 20e City Manager - Change "in excess of six months" to "no less than one-year."

Ch. 5 S. 21 Judges - Change "council may appoint" to "council shall appoint."

Chapter VI

Ch. 6 S. 27 The Votes - Change "public drawing of lots ... " to other elected council members and Finance Committee shall vote to break the tie."

New Ideas to address

District / Wards

Preamble: Worded to in a way that “We the People” ensures everyone knows Gresham is a citizen-driven city and that all are included. As such, Gresham does not tolerate injustice or discrimination.

Community Police Oversight Committee should be created.

Campaign funding should be limited per the charter.

Sincerely,

Tim Fier

tim.fier@gmail.com

971.275.7436

From: [joseph andaya](#)
To: [Dara Halligan](#); [Margarita Contreras](#)
Cc: [Jay Lee](#)
Subject: Inviting Sightline Institute to present to the Gresham Charter Review Commission
Date: Wednesday, February 9, 2022 5:49:57 PM

CAUTION: External Email

Good evening Dara,

I reached out to the Sightline Institute (who authored the article you helped me share with the rest of the CRC a few weeks ago) if they would be interested in presenting information regarding voting methods and election systems of the PNW to the Gresham CRC.

Jay Lee of the Sightline Institute was enthusiastic about the opportunity so I wanted to create a connection early between the City Attorney's Office and Sightline to inquire about the process to have their presentation be an agenda item during a future CRC meeting.

My current feeling is this may not occur at the March meeting as we will most likely have the Lewis and Clark professors present and to receive questions. However, if the duration of their presentation is not too long, I would be open to having Jay present during that meeting as well.

This is a flexible, organic process. Bottom line is I am looking forward to the Sightline Institute presenting to the CRC whenever that may be and I am hoping we can work together to make this a reality.

Let me know what I can do to further this process.

Thank you.

Best,

Joseph A.

Data on the Election of Mayor and City Councilors in Gresham OR, Over Two Decades

Compiled by Jack Ardner

The following data on Gresham City Council elections was collated from the Multnomah County Elections website. The purpose was to provide the CRC with background data on the election of the Mayor and City Councilors over the past 22 years (1998 to 2020).

I have provided definitions of terms commonly used in election data. In addition, I color coded these data to highlight specific facts for the Charter Review Committee.

Definition	Description
Majority Vote	A majority voting system is an electoral system in which the winner of an election is the candidate that received more than half of the votes cast. Ballotpedia
Plurality Vote	A plurality is the number of votes cast for a candidate that receives more votes than any other candidate without receiving a majority, or more than half, of the total votes cast. Ballotpedia
Overvote	An overvote occurs when an elector casts more votes in a contest than is allowed. This results in a spoiled vote, a ballot which is not counted in the final tally. For example, a voter who votes for two candidates in a contest that permits only one vote has overvoted, and his or her ballot cannot be counted for the race in which the voter overvoted. Ballotpedia

Definition	Description
Undervote	An undervote occurs when the number of choices selected by a voter in an election is less than the maximum number allowed for that election. An undervote also occurs when no vote is cast for a single-choice election. For example, a voter that is permitted to cast one vote for a presidential candidate and does not select a candidate, or a voter who has only cast two votes in a contest allowing three, has undervoted. Voters have the right to undervote if they choose to do so. Unlike an overvote, a ballot will not be canceled or disqualified as the result of an undervote. An undervote can be intentional (e.g., protest votes, tactical voting, or abstention) or unintentional (e.g., oversight on the voter's part or confusing ballot design). Ballotpedia
Color Code:	Description
Green	Green indicates the winner of the election, the number of votes received and the percentage of votes, where the winner has a majority of the votes cast.
Red	Red indicates the percentage of the vote where the candidate won by a plurality of votes.
Blue	Blue indicates the total number of Gresham ballots accepted for that election period.
Yellow	Yellow indicates the number of the "undervote" in each race (where data is available).
Data Source	Description
Multnomah County Elections Division	Elections data shown on Table 1. were collated from the Multnomah County, OR, Elections Division website. The 2020 Gresham "overvote" and "under" vote data were provided by separate communications from the Multnomah County Elections Division (available on request).

Table 1. Election Results – Candidates for City Council in Gresham, OR – 1998 to 2020

General Election	Gresham Mayor Candidates	Votes	Percentage	City Councilors			
				Position Number	City Council Candidates	Votes	Percentage
1998	Robert H. Banning, III	3,398	14.40%	2	Juanita M. Crawford	7,094	30.07%
	Chuck Becker	7,974	33.80%		Chris Lassen	9,478	40.18%
	Ed Hickam	3,483	14.76%		Totals	16,572	70.25%
	Robert (Bob) J. Moore	3,721	15.77%	4	Cathy Butts	7,020	29.76%
	Terry R. Wright	1,012	4.29%		Robert Fisher	5,743	24.34%
					Marv Woldyla	2,935	12.44%
	Total Votes Counted	19,588			Totals	15,698	66.54%
					Edward M. Desantis	877	3.71%
				6	Scott Forrester	2,538	10.76%
					Jacquenette J. McIntire	2,888	12.24%

General Election	Gresham Mayor Candidates	Votes	Percentage	City Councilors			
				Position Number	City Council Candidates	Votes	Percentage
					Connie Woods Winn	4,750	20.13%
					Totals	11,053	46.84%
2000	This is mid-term for the Mayor.			1	Arlene Easley	10,309	42.15%
					Jack Horner	13,901	56.84%
	Total Ballots Accepted	34,533			Write-in	246	1.01%
					Over Votes	40	
	Average "Under Vote" for City Council Seats	11,108	32.17%		Under Votes	10,037	
				3	Jack Hanna	11,118	47.58%
					John A. Leuhauser	6,658	28.50%
					David M. Peery	1,522	6.51%
					Kim Louise Penwell	3,810	16.31%
					Write-in	257	1.10%
			Over Votes	53			

General Election	Gresham Mayor Candidates	Votes	Percentage	City Councilors			
				Position Number	City Council Candidates	Votes	Percentage
					Under Votes	11,115	
				5	John W. Dillow	9,577	42.85%
					Larry Haverkamp	12,487	55.87%
					Write-In	284	1.27%
					Over Votes	13	
					Under Votes	12,172	
2002	Chuck Becker	9,475	41.83%	2	Chris Lassen	9,499	45.83%
	Arlene Easley	4,834	21.34%		Jacquenette J. McIntire	11,228	54.17%
	Jack Gallagher	5,168	22.82%	4	Cathy Butts	6,737	32.29%
	John A. Leuthauser	3,174	14.01%		Dave Shields	14,124	67.71%
				6	Shane T. Bemis	13,221	66.94%
	Total Votes Counted	22,651			John William Dillow	6,530	33.06%
					Karylenn Echols	19,732	73.39%
					Steven T. Hoiland	6,811	25.33%

General Election	Gresham Mayor Candidates	Votes	Percentage	City Councilors			
				Position Number	City Council Candidates	Votes	Percentage
2004	This is mid-term for the Mayor.			1	Write-in	344	1.28%
					Over Votes	17	
	Total Ballots Accepted	41,409			Under Votes	14,503	
				3	Cynthia Hopkins	8,432	30.68%
	Average "Under Vote" for City Council Seats	6,997	16.90%		Shirley R. Craddick	10,744	39.09%
					R.H. (Bob) Pung, Sr.	8,001	29.11%
					Write-In	307	1.12%
					Over Votes	52	
					Under Votes	13,873	
				5	Paul Warr-King	16,451	61.59%
					Sharon Petri	9,916	37.12%
					Write-In	344	1.29%
			Over Votes		29		
			Under Votes		14,669		

General Election	Gresham Mayor Candidates	Votes	Percentage	City Councilors			
				Position Number	City Council Candidates	Votes	Percentage
2006	Charles J (Chuck) Becker	9,404	40.05%	2	Mike Bennett	15,381	97.90%
	Shane Bemis	13,913	59.26%		Write-in	330	2.10%
	Write-in	162	0.69%				
				4	R. H. (bob) Pung, Sr.	1,854	10.46%
					Mike Mattingly	5,300	29.91%
	Total Votes Counted	23,479			Richard Strathern	10,355	58.44%
					Write-in	210	1.19%
				6	John H. Kilian	6,621	33.85%
					Bryant Lister	4,200	21.47%
					Carol L. Neilsen-Hood	8,585	43.89%
			Write-in		154	0.79%	
	This is mid-term for the Mayor.			1	Jenni Simonis	10,377	39.79%
					David Widmark	15,461	48.96%
	Total Ballots Accepted	39,484			Write-in	242	0.93%

General Election	Gresham Mayor Candidates	Votes	Percentage	City Councilors			
				Position Number	City Council Candidates	Votes	Percentage
2008					Over Votes	5	
	Average "Under Vote" for City Council Seats	16,634	42.13%		Under Votes	13,399	
				3	Shirley Craddick	20,871	97.81%
					Write-in	467	2.09%
					Over Votes	2	
					Under Votes	18,144	
				5	Paul Warr-King	20,628	97.64%
					Write-in	498	2.36%
					Over Votes	0	
					Under Votes	18,358	
	Shane T. Bemis	19,573	96.56%	2	Dominick Glorgianni	4,331	23.24%
	Write-in	698	3.44%		Josh Fuhrer	14,065	75.46%
	Over Votes	0			Write-in	242	1.30%
	Under Votes	9,658			Over Votes	7	
					Under Votes	11,284	

General Election	Gresham Mayor Candidates	Votes	Percentage	City Councilors			
				Position Number	City Council Candidates	Votes	Percentage
2010				4	John H. Kilian	15,790	97.48%
	Total Ballots Accepted	29,929			Write-In	408	2.52%
					Over Votes	0	
	Average "Under Vote" for City Council Seats	11,286	37.71%		Under Votes	13,731	
				6	Lori Stegmann	13,971	72.48%
					Ken Stine	5,076	26.33%
					Write-In	229	1.19%
					Over Votes	4	
				Under Votes	10,469		
	This is mid-term for the Mayor.			1	Mario A. Palmero	11,967	44.98%
					Jerry Hinton	14,315	53.80%
	Total Ballots Accepted	38,954			Write-In	325	1.22%
					Over Votes	3	

General Election	Gresham Mayor Candidates	Votes	Percentage	City Councilors			
				Position Number	City Council Candidates	Votes	Percentage
2012	Average "Under Vote" for City Council Seats	12,232	31.40%		Under Votes	12,344	
				3	Karylinn Echols	15,304	56.75%
					Richard A. Strathern	4,510	16.72%
					John Deer	4,054	15.03%
					John W. Dillow	2,819	10.45%
					Write-In	279	1.03%
					Over Votes	20	
					Under Votes	11,968	
					5	Paul Warr-King	11,871
				Mike McCormick		14,392	54.18%
				Write-In		299	1.13%
				Over Votes		7	
				Under Votes		12,385	
		Shane T. Bemis	20,771	95.10%		Andrew S. Doolin	5,269
	Write-In	1,070	4.90%		Kirk French	13,119	69.73%

General Election	Gresham Mayor Candidates	Votes	Percentage	City Councilors			
				Position Number	City Council Candidates	Votes	Percentage
2014	Over Votes	2		2	Write-In	427	2.27%
	Under Votes	8,960			Over Votes	17	
					Under Votes	11,971	
	Total Ballots Accepted	30,803		4	Jennie L. Cochran	9,600	48.73%
					Mario A. Palmero	9,721	49.34%
	Average "Under Vote" for City Council Seats	11,335	36.80%		Write-In	380	1.93%
					Over Votes	5	
					Under Votes	11,097	
				6	Lori Stegmann	16,872	96.48%
					Write-In	615	3.52%
			Over Votes		5		
			Under Votes		13,311		
	This is mid-term for the Mayor.				Jerry W. Hinton	17,626	63.28%
					Thomas Stanley	9,883	35.48%

General Election	Gresham Mayor Candidates	Votes	Percentage	City Councilors			
				Position Number	City Council Candidates	Votes	Percentage
2016	Total Ballots Accepted	42,971		1	Write-In	343	1.23%
					Over Votes	5	
	Average "Under Vote" for City Council Seats	16,016	37.27%		Under Votes	15,114	
				3	Karylenn Echols	23,757	97.92%
					Write-In	504	2.08%
					Over Votes	0	
					Under Votes	18,710	
				5	David Widmark	17,653	61.41%
					Christopher Bentley	10,756	37.42%
					Write-In	336	1.17%
			Over Votes		3		
			Under Votes		14,223		
	Allen Cox	8,879	26.74%	2	Kirk French	15,310	49.71%
	Shane T. Bemis	24,162	72.77%		Eddy Morales	15,368	49.90%
	Write-In	163	0.49%		Write-In	120	0.31%

General Election	Gresham Mayor Candidates	Votes	Percentage	City Councilors				
				Position Number	City Council Candidates	Votes	Percentage	
2018	Over Votes	8			Over Votes	5		
	Under Votes	5,211			Under Votes	7,620		
						Benjamin Jones	1,815	6.37%
						Ryan C. Johnson	4,549	15.96%
	Registered Voters	64,971				Raymond Love	5,483	19.24%
						Mario A. Palmero	9,837	34.52%
	Total Ballots Accepted	38,423			4	Paul Drechsier	5,752	20.18%
						Antonio Medel	825	2.90%
	Average "Under Vote" for City Council Seats	9,899	25.76%			Write-in	236	0.83%
						Over Votes	27	
						Under Votes	9,899	
						Janine M. Gladfelter	21,190	98.30%
				6	Write-in	366	1.70%	

General Election	Gresham Mayor Candidates	Votes	Percentage	City Councilors			
				Position Number	City Council Candidates	Votes	Percentage
					Over Votes	0	
					Under Votes	16,867	
2020	Eddy Morales	16,635	36.68%	1	Jerry W. Hinton	19,538	46.89%
	Sean Bishop	2,045	4.51%		Dina DiNucci	21,882	52.52%
	Joe Demers	8,739	19.27%		Write-In	248	0.60%
	Nick Switzer	1,042	2.30%		Over Votes	1	0.00%
	Travis Stovall	16,648	36.71%		Under Votes	10,050	
	Write-in	244	0.54%				
	Over Votes	5		3	Matt Burnett	3,649	8.84%
	Under Votes	6,363			Vincent Jones-Dixon	17,417	42.18%
					Brianna Harris	5,194	12.58%
					Raymond Love	12,899	31.24%
	Note: This is mid-term for the Mayor, but an election was held because of the resignation of Mayor Bemis.				Beshara S. Shahin	1,909	4.62%
	Note: The difference between the first and second candidate was only 13 votes which prompted a recount.				Write-in	225	0.54%
				Over Votes	22		

General Election	Gresham Mayor Candidates	Votes	Percentage	City Councilors			
				Position Number	City Council Candidates	Votes	Percentage
	Registered Voters				Under Votes	10,404	
				5	Sue Piazza	19,718	46.58%
	Total Votes:	51,719			Stella Armstrong	5,787	13.67%
					Dave Dyk	14,592	34.47%
	Average "Under Vote" for City Councilor Seats	9,946	19.23%		Thomas Stanley	2,025	4.78%
					Write-In	209	0.49%
					Over Votes	4	
					Under Votes	9,384	