

# Shady Cove City Charter



Prepared for the City of Shady Cove, Oregon  
Shady Cove Charter Revision Committee

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## 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.~~  
We, the people of the City of Shady Cove, Oregon, in order to avail ourselves of self-determination in municipal affairs to the fullest extent now or hereafter possible under the constitutions and laws of the United States and the State of Oregon, enact this charter to confer upon the City the following powers, subject it to the following restrictions, prescribe for it the following procedures and governmental structure, and repeal all previous charter provisions of the City.

## Section I NAMES AND BOUNDARIES

Section 1.1. Titles. This Charter may be referred to as the 2020 Shady Cove Charter.

Section 1.2. Names. The City of Shady Cove, Oregon, continues as a municipal corporation with the name City of Shady Cove.

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 grant or allow the City, as fully as though this charter specifically enumerated each of those powers.

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

Section 2.3. Distribution. The Oregon Constitution reserves initiative and referendum powers as to all municipal legislation to City voters. This Charter vests all other City powers in the Council except as the charter otherwise provides. The Council has legislative, administrative and quasi-judicial authority. The Council exercises legislative authority by ordinance, administrative authority by resolution, and quasi-judicial authority by order. The Council may not delegate its authority to adopt ordinances.

## Section III COUNCIL

Section 3.1. Council. The Council consists of a Mayor and four Councilors nominated and elected from the City at large, or in case of one or more vacancies in the Council, members who are still in office shall constitute the Council.

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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.

- 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.
- c) The Mayor serves as the political head of the City government.

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.

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. The Mayor upon his/her own motion may, or at the request of three Councilors, or the City Administrator, shall, by giving notice thereto all members of the Council then in the City, call a special meeting of the Council.

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

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

Section 3.8. Record. ~~A record of Council meetings must be kept in a manner prescribed by the Council rules and the~~ A record of Council proceedings shall be kept and authenticated in a manner prescribed by the Council. The yes or no upon any question before the Council shall be taken, and a record of the vote reflected in the record. The same record of votes shall be added to all ordinances and resolutions by individual names of the members and follow the laws of the state of Oregon.

Section 3.9. Proceedings to be Public. No action by the Council shall have legal affect unless the motion for the action and the vote by which it is disposed of takes place at proceedings open to the public, and all within the provision of the Oregon Open Meetings Law.

#### **Section IV LEGISLATIVE AUTHORITY**

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 Shady Cove ordains as follows:".

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a) In case of adoption or ratification by the voters of the City, the enacting clause of the ordinance must state: “The people of the City of Shady Cove ordain 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.
- b) The Council may adopt an ordinance at a single meeting by the unanimous approval of at least a quorum of the Council, provided the proposed ordinance is available in writing to the public at least ~~one week~~ 72 hours 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 30<sup>th</sup> 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.

### **Section V ADMINISTRATIVE AUTHORITY**

Section 5.1. Resolutions. The Council will normally exercise its administrative authority by approving resolutions. The approving clause for resolutions may state “The City of Shady Cove 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.
  - 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.
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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.

## **Section VI QUASI-JUDICIAL AUTHORITY**

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 Shady Cove 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.
- 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. At each general election after the adoption, ~~three~~ two Councilors will be elected for four-year terms.

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.

*The term of the Mayor elected in the 2020 statewide general election shall be four years. Thereafter, the Mayor shall be elected to a four-year term at every other statewide general election, beginning in the 2024 statewide general election.*

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.

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.

- 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.
- d) The Council is the final judge of the election and qualifications of its members.

e) ~~All Council applicants must submit to a background check.~~

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. Nomination shall be by petition specifying the position sought in a form prescribed by the Council. Such petition shall be signed by not fewer than 20 electors. All elections shall conform to applicable state law.

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 assumes the office.

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 and City of Shady Cove.

Section 7.8. Vacancies. The Mayor or a Council office becomes vacant:

- a) Upon the incumbent's:
    - 1) Death;
    - 2) Adjudicated incompetence; or
    - 3) Recall from the office.
  - b) Upon declaration by the Council after the incumbent's:
    - 1) Failure to qualify for the office within 10 days of the time the term of office is to begin;
    - 2) Absence from the City for 30 days without Council ~~consent~~ notification, or from all Council meetings within a ~~60~~ 45-day period;
    - 3) Ceasing to reside in the City;
    - 4) Ceasing to be a qualified elector under state law;
    - 5) Conviction of a misdemeanor or felony crime;
    - 6) Resignation from the office; or
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7) Removal under Section 8.1(j).

Section 7.9. Filling Vacancies. A Mayor or Councilor vacancy will be filled by appointment by a majority of the remaining Council members. 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 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.

Section 7.10. In the event of a tie vote for candidates for an elective office, the office shall be declared vacant and set for election at the next general election date.

## **Section VIII APPOINTIVE OFFICERS**

Section 8.1. City ~~Manager~~ Administrator.

- a) The office of City ~~manager~~ Administrator is established as the administrative head of the City government.<sup>51</sup> The City ~~manager~~ Administrator is responsible to the Mayor and Council for the proper administration of all City business. The City ~~manager~~ Administrator will assist the Mayor and Council in the development of City policies, and carry out policies established by ordinances and resolutions.
  - b) A majority of the Council must appoint and may remove the City Administrator. The appointment must be made without regard to political considerations and solely on the basis of education and experience in competencies and practices of local government management.
  - c) The ~~manager~~ City Administrator need not reside in the City.
  - d) The ~~manager~~ City Administrator 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) Upon accepting the appointment, the City Administrator shall furnish the City a bond in an amount and a surety approved by the Council. The City shall pay the bond premium.
  - f) The ~~manager~~ City Administrator must:
    - 1) Attend all Council meetings unless excused by the Mayor or Council;
    - 2) Make reports and recommendations to the Mayor and Council about the needs of the City;
    - 3) Administer and enforce all City ordinances, resolutions, franchises, leases, contracts, permits and other City decisions;
    - 4) Appoint, supervise and remove City employees;
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- 5) Organize City departments and administrative structure;
  - 6) Prepare and administer the annual City budget;
  - 7) Administer City utilities and property;
  - 8) Encourage and support regional and intergovernmental cooperation;
  - 9) Promote cooperation among the Council, staff and citizens in developing City policies and building a sense of community;
  - 10) Perform other duties as directed by the Council; and
  - 11) Delegate duties, but remain responsible for actions of all subordinates.
- g) The ~~manger~~ City Administrator has no authority over the Council or over the judicial functions of the municipal judge.
  - h) The ~~manger~~ City Administrator and other employees designated by the Council may sit at Council meetings but have no vote. The ~~manger~~ City Administrator may take part in all Council discussions.
  - i) When the ~~manger~~ City Administrator is temporarily disabled from acting as ~~manger~~ City Administrator or when the office of the ~~manger~~ City Administrator becomes vacant, the Council must appoint an ~~manger~~ Administrator pro tem. The ~~manger~~ Administrator pro tem has the authority and duties of ~~manger~~ City Administrator, except that a pro tem ~~manger~~ Administrator may appoint or remove employees only with Council approval.
  - j) No Council member may directly or indirectly attempt to coerce the ~~manger~~ City Administrator or a candidate for the office of ~~manger~~ City Administrator in the appointment or removal of any City employee, or in administrative decisions regarding City property or contracts. 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 ~~manger~~ City Administrator relating to City business.

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.

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.
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- c) All areas within the City and areas outside the City as permitted by state law are within the territorial jurisdiction of the court.
- d) The municipal court has jurisdiction over every offense created by City ordinance. The court may enforce forfeitures and other penalties created by such ordinances. The court also has jurisdiction under state law unless limited by City ordinance.
- e) The municipal judge may:
  - 1) Render judgments and impose sanctions on persons and property;
  - 2) Order the arrest of anyone accused of an offense against the City;
  - 3) Commit to jail or admit to bail anyone accused of a City offense;
  - 4) Issue and compel obedience to subpoenas;
  - 5) Compel witnesses to appear and testify and jurors to serve for trials before the court;
  - 6) Penalize contempt of court;
  - 7) Issue processes necessary to enforce judgments and orders of the court;
  - 8) Issue search warrants; and
  - 9) Perform other judicial and quasi-judicial functions assigned by ordinance.
- f) The Council may appoint and may remove municipal judges pro tem.
- g) The Council may transfer some or all of the functions of the municipal court to an appropriate state court.

## **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.~~ Neither the Mayor nor any Councilor may receive compensation for service in their capacity. The Council shall prescribe the compensation for all City officers. The Council may prescribe a plan for reimbursing City personnel, including Mayor and any Councilor, for expenses that they incur in serving the City.

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

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## **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. 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.~~ The procedure for making, altering, vacating or abandoning a public improvement shall be governed by general ordinance, or to the extent not so governed, by the applicable general laws of the State of Oregon. Action in any proposed public improvement, except an improvement unanimously declared by the Council to be an emergency, shall be suspended for six months upon a remonstrance by the legal owner. Any action declared as an emergency must state the exact harm to the City if the improvement is not made.

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. A charter amendment is not required to authorize City indebtedness. A City officer or employee who creates or officially approved indebtedness in excess of this limitation is jointly and severally liable for the excess.

Section 11.2. Ordinance Continuation. All ordinances consistent with this charter in force when it takes effect remain in effect until amended or repealed.

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

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. Bidding procedures shall follow the laws of the City of Shady Cove and Oregon State law.

Section 11.56. Time of Effect. This charter takes effect **January 1, 2021.**

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