

CITY OF WHEELER 2002 CHARTER



"As Amended April, 2008"

CITY OF WHEELER 2002 CHARTER

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CITY OF WHEELER 2002 CHARTER

PREAMBLE

We, the people of Wheeler, 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, throughout this charter 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 enacted prior to the time this charter takes effect, except for those charter amendments relating to the passage of specific bond issues, where the obligation of the city continues:

Chapter I

NAMES AND BOUNDARIES

Section 1. Title of Charter. This charter may be referred to as the *2002 Charter*.

Section 2. Name of City. The City of Wheeler, Oregon continues under this charter to be a municipal corporation with the name City of Wheeler.

Section 3. Boundaries.

- (1) The City includes all territory within its boundaries as they now exist or hereafter are modified pursuant to the provisions of this charter and state law. The custodian of the city's records shall keep an accurate, current description of the boundaries and make a copy of it available for public inspection in the city during regular city office hours.
- (2) No real property shall be annexed to or become part of the City of Wheeler unless the property proposed for annexation is first submitted to the eligible voters of the City of Wheeler for their approval. An exception for annexation caused by failing septic systems, health hazards, or such matters required by state law, is hereby adopted, and in such case voter approval is not necessary.

Chapter II

POWERS

Section 4. Powers of the City. The city has all powers that the constitutions, statutes, and common law of the United States and of this state now or hereafter expressly or implicitly grant or allow the city, as fully as though the charter specifically enumerated each of those powers.

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Section 5. Construction of Powers. In this chapter, no specification of a power is exclusive or restricts authority that the city would have if the power were not specified. The charter shall be liberally construed, so that the city may exercise fully all its powers possible under this charter and under the United States and Oregon law. All powers are continuing unless a specific grant of power clearly indicates the contrary.

Section 6. Distribution of Powers. Except as this charter prescribes otherwise and as the Oregon Constitution reserves municipal legislative power to the voters of the city, all powers of the city are vested in the Council.

Chapter III FORM OF GOVERNMENT

Section 7. Council. The Council consists of a mayor and five councilors nominated and elected from the city at large or, in case of one or more vacancies in the council, the council members whose offices are not vacant.

Section 8. Councilors. The councilors seated at the time this charter is adopted shall continue in office until their terms expire. At the first general election after the adoption of this charter, three councilors shall be elected, each for a four-year term. At the subsequent general election two councilors shall be elected to four-year terms. This pattern shall be followed in all subsequent general elections.

Section 9. Mayor. The term of office of the mayor in office when this charter is adopted continues until the end of that term. The term of future mayors shall be four years.

Section 10. Terms of Office. The term of office of an elective officer who is elected at a general election begins after taking the oath of office or affirming at the first council meeting of the year immediately after the election and continues until the successor to the office assumes the office.

Section 11. Appointive Offices. A majority of the council may:

- (1) create, abolish, and combine appointive city offices and describe the duties thereof and except as the majority prescribes otherwise, fill such offices by appointment and vacate them by removal,
- (2) appoint members to committees as established by council rules.

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Chapter IV COUNCIL

Section 12. Rules. The council shall, by ordinance, prescribe rules to govern its meetings and proceedings.

Section 13. Meetings. The Council shall meet in the city regularly at least once a month at a time and place designated by ordinance, and may meet at other times in accordance with that ordinance.

Section 14. Quorum. A majority of the councilors constitutes a quorum for its business, but a smaller number of the council may meet and compel attendance of absent councilors in a manner provided by ordinance, The mayor is not a voting member except in the case of a tie, and shall not be counted as a member of the council as to quorum for a meeting.

Section 15. Record of Proceedings. A record of council proceedings shall be kept and authenticated in a manner prescribed by the council with all ayes and nays taken by roll call vote and recorded.

Section 16. Mayor's Functions.

- (1) When present at council meetings the mayor shall:
 - (a) preside over deliberations of the council.
 - (b) preserve order,
 - (c) enforce council rules, and
 - (d) determine the order of business before the council as provided by the council rules.
- (2) Notwithstanding subsection (1) of this section, the mayor may temporarily cease to chair a council meeting and delegate the functions described in subsection (1) to the president of the council or in the president's absence another council member.
- (3) The Mayor shall act as Chairman of the Council meetings, but shall vote only in the event of a tie of any vote of the City Council
- (4) The Mayor shall act as spokesperson for the city and be the official representative of the city.

Section 17. Council President.

- (1) At its first meeting of each odd-numbered year, the council shall appoint a president from its councilors.
- (2) Except in voting on questions before the council, the president shall function as mayor when the mayor is:
 - (a) absent from a council meeting, or
 - (b) unable to function as mayor.

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Section 18. Vote Required. Except as sections of this chapter prescribe otherwise, the express concurrence of a majority of the council members present and constituting a quorum is necessary to decide affirmatively a question before the council except an affirmative vote of the majority of the full council shall be necessary to adopt an ordinance, order appropriations, authorize loans, or fill vacancies on the council.

Section 19. Vacancies: Occurrence. The office of a member of the council becomes vacant:

- (1) upon the incumbent's:
 - (a) death,
 - (b) adjudicated incompetence, or
 - (c) recall from office, or
- (2) upon declaration by the council of the vacancy in case of the incumbent's:
 - (a) absence from all meetings of the council within a 90-day period without prior written notification and council consent,
 - (b) ceasing to reside in the city,
 - (c) ceasing to be qualified elector under state law,
 - (d) conviction of a public offense punishable by loss of liberty, or
 - (e) resignation from the office.

Section 20. Vacancies: Filling. A vacancy on the council shall be filled by appointment by a majority of the remaining council. The appointee shall serve from the time of appointment until the successor elected at the next available general election assumes office. During a council member's disability to serve on the council or during a member's excused absence from city meetings, a majority of the other council members may by appointment fill the vacancy pro tem.

Chapter V POWERS AND DUTIES OF OFFICERS

Section 21. City Manager.

- (1) The city manager is the administrative head of the city government.
- (2) The city manager shall be the city recorder, the custodian of city records.
- (3) A majority of the council shall appoint and may remove the manager. The appointment shall be without regard to political considerations and solely on the basis of administrative qualifications.
- (4) Upon the appointment, the manager shall furnish the city a bond in an amount and with a surety approved by the council. The city shall pay the bond premium.
- (5) The manager shall be appointed for a definite or an indefinite term and may be removed by the council at its pleasure. After a vacancy occurs in the office, the council shall fill the vacancy by appointment within a reasonable and prudent time.

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- (6) The manager shall:
 - (a) attend all council meetings unless excused by the council or mayor;
 - (b) keep the council advised of the affairs and needs of the city;
 - (c) see that the provisions of all laws applicable to the city, and all ordinances and regulations established by the city council are administered appropriately,
 - (d) see that all terms of franchises, leases, contracts, permits, and privileges granted by the city are fulfilled,
 - (e) hire, supervise, direct, and remove all city employees,
 - (f) prepare and transmit to the council an annual city budget,
 - (g) supervise city contracts,
 - (h) supervise operation of all city-owned public utilities and property,
 - (i) perform other duties as the council prescribes consistent with this charter, and
 - (j) shall be an authorized signer on all orders on the city treasury.
- (7) The manager may not control:
 - (a) Councilors, mayor, municipal judge, or planning commissioners,
 - (b) Except as the council authorizes, appointed officials of the city.
- (8) The manager and other personnel whom the council designates may sit with the council but may not vote on questions before it. The manager may take part in all council discussions.
- (9) When the manager is absent from the city or disabled from acting as manager, or when the office of the manager becomes vacant, the council shall appoint a manager pro tem, who has the powers and duties of manager. No person shall be manager pro tem more than six consecutive months.
- (10) Except in council meeting, no council member may directly or indirectly, by suggestion or otherwise, attempt to influence the manager or a candidate for the office of manager in the appointment, discipline, or removal of personnel or in decisions regarding city policy, property or contracts. A violator of this prohibition may be removed from office by a court of competent jurisdiction. In council meeting, members of the council may discuss with, or suggest to, the manager anything pertinent to city affairs.

Section 22. Municipal Court and Judge

- (1) If the council creates the office of municipal judge and fills it by appointment, the appointee shall hold, at a place and times that the council specifies, a court known as the municipal Court for the City of Wheeler, Tillamook County, Oregon.
- (2) Except as this charter or city ordinance prescribes to the contrary, proceedings of the court shall conform to general laws of this state governing justices of the peace and justice courts.

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- (3) All area within the city and, to the extent provided by state law, area outside the city is within the territorial jurisdiction of the court.
- (4) The municipal court has original jurisdiction over every offense that an ordinance of the city makes punishable. The court may enforce forfeitures and other penalties that such ordinances prescribe.
- (5) The municipal judge may:
 - (a) render judgments and, for enforcing them impose sanctions on persons and property within the court's territorial jurisdiction,
 - (b) order the arrest of anyone accused of an offense against the city,
 - (c) issue and compel obedience to subpoenas,
 - (d) compel witnesses to appear and testify matters before the court,
 - (e) penalize contempt of court,
 - (f) issue process necessary to effectuate judgments and orders of the court,
 - (g) issue search warrants, and
 - (h) perform other judicial and quasi-judicial functions prescribed by ordinance.
- (6) The Council may authorize the municipal judge to appoint municipal judges pro tem for terms of office set by the judge or the council.
- (7) Notwithstanding this section, the council may transfer some or all of the functions of the municipal court to an appropriate state court or another municipality's municipal court.

Chapter VI OFFICERS AND PERSONNEL

Section 23 Qualifications.

- (1) An elective or appointed member of the council shall be a qualified elector under the state constitution and shall have resided in the city during the 12 months immediately before being elected or appointed to the office. In this subsection "city" means area inside the city limits at the time of the election or appointment.
- (2) No person may be a candidate at a single election for more than one elective city office.
- (3) An elective officer may serve in a city position that is substantially volunteer in nature. Whether the position is volunteer may be decided by the municipal court or in some other manner, whichever the council prescribes.
- (4) Except as subsection (1) of this section provides to the contrary, the council is the final judge of the election and qualifications of its members.
- (5) The qualifications of appointive officers of the city are whatever the council prescribes or authorizes.

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Section 24. Compensation. The council shall prescribe a plan for reimbursing city personnel for expenses that they incur in serving the city.

Section 25. Merit System. Subject to all collective bargaining agreements between the city and one or more groups of its employees, the council shall prescribe rules governing recruitment, selection, promotion, transfer, demotion, suspension, layoff, and dismissal of city employees, all of which shall be based on merit and fitness.

Section 26. Political Rights. By ordinance the Council may affirm the rights of city personnel to participate in political activities and may limit those activities to the extent necessary for orderly and effective operation of the city government.

Section 27. Oath. Before assuming city office, an officer shall take an oath or shall affirm that he or she will faithfully perform the duties of the office and support the constitution and laws of the United States and the State of Oregon, and the charter and ordinances of the city.

Chapter VII ELECTIONS

Section 28. State Law. A city election shall conform to state law applicable to the election.

Section 29. Nomination. A person may be nominated in a manner prescribed by general ordinance to run for an elective office of the city.

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Chapter VIII ORDINANCES

Section 30. Ordaining Clause. The ordaining clause of an ordinance shall be "The City of Wheeler ordains as follows:"

Section 31. Adoption by Council.

- (1) Except as subsection (2) of this section allows adoption at a single meeting and subsection (3) of this section allows reading by title only, an ordinance shall be fully and distinctly read in open council meeting on two different days before being adopted by the council.
- (2) Except as subsection (3) of this section allows reading by title only, the council may adopt an ordinance at a single meeting by the express unanimous votes of all council members present, provided the ordinance is read first in full and then by title.
- (3) A reading of an ordinance may be by title only if
 - (a) no council member present at the reading requests that the ordinance be read in full and
 - (b) at least five days before the reading:
 - i. a copy of the ordinance is provided for each council member,
 - ii. three copies of the ordinance are available for public inspection in the office of the custodian of city records, and
 - iii. notice of their availability is given by written notice posted at the city hall and two other public places in the city.
- (4) An ordinance read by title only has no legal effect if it differs substantially from its terms as it was filed prior to the reading unless each section so differing is read fully and distinctly in open council meeting before the council adopts the ordinance.
- (5) Upon the adoption of an ordinance, the ayes and nays of the council members shall be entered in the record of council proceedings.
- (6) After adoption of an ordinance, the custodian of city records shall endorse it with its date of adoption and the endorser's name and title of office.

Section 32. Effective Date. A non-emergency ordinance takes effect on the thirtieth day after its adoption or later if prescribed by the ordinance. An ordinance adopted to meet an emergency may take effect as soon as adopted.

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Chapter IX PUBLIC IMPROVEMENTS

Section 33. Procedure.

- (1) 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 applicable state law. In the event of an emergency, proposed action on a public improvement that is not declared by two-thirds of the council present to be needed at once shall be suspended for six months upon remonstrance by owners of land to be specially assessed for the improvement. The number of owners necessary to suspend the action shall be prescribed by general ordinance. A second such remonstrance suspends the action only with the consent of the council.
- (2) In this section "owner" means the record holder of legal title or, as to land being purchased under a land-sale contract that is recorded or verified in writing by the record holder of legal title, the purchaser.

Section 34. Special Assessments. The procedure for fixing, levying, and collecting special assessments against the real property for public improvements or other public services shall be governed by general ordinance.

Chapter X

MISCELLANEOUS PROVISIONS

Section 35. Debt. The City's indebtedness may not exceed debt limits imposed by state law. A city officer or employee who creates or officially approves indebtedness in excess of this limitation is jointly and severally liable for the excess. A charter amendment is not required to authorize city indebtedness.

Section 36. Continuation of Ordinances. Insofar as consistent with this charter, and until amended or repealed, all ordinances in force when the charter takes effect retain the effect they have at that time.

Section 37. Repeal. All charter provisions adopted before this charter takes effect are hereby repealed.

Section 38. Severability. The terms of this charter are severable. If part of the charter is held invalid, that the invalidity does not affect another part of the charter, except as the logical relation between the two parts requires.

Section 39. Time of Effect. This charter takes effect December 17, 2002
An amendment (March 11, 2008 Election) to this charter took effect April 15, 2008.

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Definition of Terms

| | |
|---------------------|------------------------------------------------------------------------------------|
| Official | Any officer of the city |
| Elected Official | A person elected at large to an office of the city, i.e. councilor, mayor |
| Councilors | Those persons elected at large or appointed to the council. exclusive of the mayor |
| Mayor | The person elected at large as the mayor of the city |
| Council | The councilors and the mayor |
| Appointed Officials | Those persons appointed by the council to an office of committee |
| Personnel | Any person hired to a city position |
| City Manager | The person employed by the city to fulfill that office |

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BACKGROUND HISTORY FOR THE
2002 WHEELER CHARTER
AS AMENDED, March 11, 2008

In April of 2001, the Wheeler City Council announced that they wished to form a Committee to review the existing City Charter and to make recommendations on how it could be improved. In June of that same year, a "Charter Review Committee" was appointed consisting of citizens Merle Spencer, Gloria Schiewe, Nancy Rinehart, Lee Shore, Mayor Stevie Burden and Councilor Chuck McLaughlin.

The Committee held their first meeting on July 31, 2001 and appointed Merle Spencer as the Committee Chairman and Nancy Rinehart the recording Secretary. Meetings were scheduled for the second and fourth Wednesdays of the month until a recommendation to Council could be formulated.

On April 10, 2002, the Committee presented a "Draft City Charter" to the City Council. A copy of the draft was sent to Sandra Arp, Consultant, who reviewed it with the City Council on May 2002. Two public hearings were held regarding the Charter, one in June and one in July and on July 16, 2002 the City Council voted to place the question of adopting the Charter on the 2002 ballot.

"Should the City of Wheeler create a new Charter which has not been done since 1970?"

The election was held on November 5, 2002, the results of this measure were 166 in favor of, and 23 opposed to, the creation of the new Charter.

At the regular Meeting of the Wheeler City Council held on December 17, 2002, the Council formally accepted the results of the election and the "2002 City Charter" took effect on that same day.

In November 20, 2007 the Wheeler City Council was presented a signed petition from the Chief Petitioners Ralph Thomas and Karen Mathews. The petition contained 79 signatures of which 73 were accepted by the county clerk during the signature verification process. The question on the ballot for the March 2008 Election that was included on the petition –

"Should the City of Wheeler amend its Charter to require voter approval for annexation of land to its boundaries?"

The election was held March 11, 2008 and the results of this measure were 128 in favor of, and 30 opposed to, an amendment to the 2002 City Charter requiring voter approval for annexation of land to its boundaries.

At the regular meeting of the Wheeler City Council held on April 15, 2008, the Council formally accepted the results of the election and amended the 2002 City Charter to take affect that day.

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