

Shady Cove, OR Code of Ordinances

**CITY CHARTER OF SHADY COVE, JACKSON
COUNTY, OREGON**

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PREAMBLE

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.

CHAPTER I. NAMES AND BOUNDARIES

SECTION 1. TITLE OF CHARTER.

This charter may be referred to as the 1998 Shady Cove Charter.

SECTION 2. NAME OF CITY.

The city of Shady Cove, Oregon, continues under this charter to be a municipal corporation with the name City of Shady Cove.

SECTION 3. BOUNDARIES.

The city includes all territory within its boundaries as they now exist or hereafter are modified pursuant to 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.

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 the state now or hereafter expressly or impliedly grant or allow the city, as fully as though this charter specifically enumerated each of those powers.

SECTION 5. CONSTRUCTION OF POWERS.

In this charter, 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 United States and Oregon law. All powers are continuing unless a specific grant of power clearly indicates the contrary, included but not limited to the city home rule provisions of the Oregon Constitution.

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 four councilors nominated and elected from the city at large, or, in case of one or more vacancies in the council, the council members who are still in office shall constitute the council.

SECTION 8. COUNCILORS.

The term of office of a councilor in office when this charter is adopted is the term of office for which the councilor has been elected before adoption of the charter. Two councilors shall be elected for a four-year term at the time of the adoption of this charter. At each general election after the adoption, two councilors shall be elected, each for a four-year term.

SECTION 9. MAYOR.

The term of office of the Mayor in office when this charter is adopted continues until the beginning of the first odd-numbered year after that time. A Mayor will be elected for a two-year term at the time this charter is adopted. At each general election, a mayor shall be elected for a two-year term.

SECTION 10. TERMS OF OFFICE.

The term of office of an elective officer who is elected at a general election begins at the first council meeting of the new year immediately after the election.

SECTION 11. APPOINTIVE OFFICE.

A majority of the council may appoint and may remove a city administrator. The majority may:

- 1) Create, abolish, and combine additional appointive offices.
- 2) Except as the majority prescribes otherwise, fill such offices by appointment and vacate them by removal.

3) Appointees to standing committees may serve on more than one (1) standing committee. Definition of Standing Committee is defined as Planning Commission and Budget Committee.

CHAPTER IV. COUNCIL

SECTION 12. RULES.

The council shall, by resolution, 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 council rules, and may meet at other times in accordance with its rules. The Mayor upon his own motion may, or at the request of three councilors shall, by giving notice thereto to all members of the council then in the city, call a special meeting of the council.

SECTION 14. QUORUM.

A majority of members of the council shall constitute a quorum for its business, but a smaller number may meet and compel the attendance of absent members in a manner provided by Council rules.

SECTION 15. RECORD OF PROCEEDINGS.

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.

SECTION 16. 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 provisions of the Oregon Open Meetings Law.

SECTION 17. MAYOR'S FUNCTION AT COUNCIL MEETINGS.

The Mayor shall be chairperson of the council and preside over its deliberations. The Mayor shall have a vote on all questions before the council. The Mayor shall have authority to preserve order, enforce the rules of the council and determine the order of business under the rules.

SECTION 18. PRESIDENT OF THE COUNCIL.

At its first meeting of each odd-numbered year, the council shall elect a President from its membership. In the Mayor's absence from a council meeting, the President shall preside over said meeting(s), and shall have all power of the Mayor as set forth as Section 17 of this Charter. Whenever the Mayor is unable to perform the functions of the office, the President shall act as Mayor.

SECTION 19. VOTE REQUIRED.

The expressed concurrence of a majority of the council members present and voting and constituting a quorum is necessary to decide a question before the council.

SECTION 20. VACANCIES.

The office of a member of the council becomes vacant:

- (1) Upon the incumbent's:
 - (a) Death
 - (b) Adjudicated incompetence, or
 - (c) Recall from the office.
- (2) Upon declaration by the council of the vacancy in case of the incumbent's:
 - (a) Failure, following election or appointment to the office, to qualify as specified in Section 25, for the office within ten days after the time for his/her term of office to begin,
 - (b) Unexplained absence from all meetings of the council within a 45-day period.
 - (c) Ceasing to reside in the city.
 - (d) Ceasing to be a qualified elector under state law.
 - (e) Conviction of a public offense punishable by loss of liberty.
 - (f) Resignation from the office.

SECTION 21. FILLING VACANCIES.

In the event of vacancy in the council, the remaining council members may appoint a member to serve until the next available election date, at which time the position will be filled by election for the balance of the unexpired term.

CHAPTER V. POWERS AND DUTIES OF OFFICERS

SECTION 22. MAYOR AND COUNCIL.

The Mayor and council shall appoint:

- (1) Members of committees and commissions established by council, and
- (2) Other persons required by the council to act in an advisory capacity to the council or its appointed committees and commissions.
- (3) The Mayor shall sign all approved records of proceedings of the council, and countersign all orders of the treasury.
- (4) The Mayor shall have no veto power and shall sign all Ordinances and Resolutions passed by the council within seven (7) working days after their passage. After the council approves a bond of a city officer, or a bond for a license, contract or proposal, the Mayor shall endorse the bond.

SECTION 23. CITY ADMINISTRATOR.

- (1) The city Administrator is the administrative head of the city government
- (2) A majority of the council shall appoint and may remove the Administrator. The appointment shall be without regard to political considerations and solely on the basis of administrative qualifications.
- (3) The Administrator need not reside in the city.
- (4) Upon accepting the appointment, the Administrator shall furnish the city a bond in an amount and a surety approved by the council. The city shall pay the bond premium.
- (5) The Administrator 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 ordinances are administered to the satisfaction of the council;
 - (d) See that all terms of franchises, leases, contracts, permits, and privileges granted by the city are fulfilled;
 - (e) Appoint, discipline and remove appointive personnel, except appointees of the Mayor or council;
 - (f) Supervise and control the Administrator's appointees in their service to the city;
 - (g) Organize and reorganize the departmental structure of city government;
 - (h) Prepare and transmit to the council an annual city budget;
 - (i) Supervise city contracts;

- (j) Supervise operation of all city-owned public utilities and property; and
 - (k) Perform other duties as the council prescribes and consistent with this charter.
- (6) The Administrator may not control:
- (a) The council;
 - (b) The municipal Judge in the Judge's judicial functions; or,
 - (c) Except as the council authorizes, appointive personnel of the city whom the Administrator does not appoint.
- (7) The Administrator and other personnel whom the council designates may sit with the council but may not vote on questions before it. The Administrator may take part in all council discussions.
- (8) When the Administrator is absent from the city or disabled from acting as Administrator, or when the office of Administrator becomes vacant, the council shall appoint a manager pro tem, who has the powers and duties of Administrator, except that the Administrator pro tem may appoint or remove personnel only with approval of the council.
- (9) Except in council meetings, and/or executive sessions, neither the Mayor nor any council member may directly or indirectly, by suggestion or otherwise, attempt to influence the Administrator or a candidate for the office of Administrator in the appointment, discipline, or removal of personnel or in decisions regarding city 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 Administrator anything pertinent to city affairs.

SECTION 24. MUNICIPAL COURT AND JUDGE.

- (1) If the council creates the office of municipal judge and fills it by appointment, the appointee shall hold, within the city at a place and times that the council specifies, a court known as the Municipal Court for the City of Shady Cove, Jackson 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.
- (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) Commit to jail, or admit to bail, anyone accused of such an offense;

- (d) Issue and compel obedience to subpoenas;
 - (e) Compel witnesses to appear and testify in the trial matters before the Court.
 - (f) Penalize contempt of Court;
 - (g) Issue process necessary to effectuate judgments and orders of the court;
 - (h) Issue search warrants; and
 - (i) Perform other judicial and quasi-judicial functions prescribed by Ordinance.
- (6) The Municipal Judge shall transfer jury cases to the court of appropriate jurisdiction.
- (7) The council may authorize the Municipal Judge to appoint Municipal Judges pro tem for terms of office set by the Judge or the council.
- (8) Notwithstanding this section, the council may transfer some or all of the functions of the Municipal Court to an appropriate state court.

CHAPTER VI. PERSONNEL

SECTION 25. QUALIFICATIONS.

- (1) An elective city officer shall be a qualified elector under the state constitution and shall have resided in the city during the twelve (12) months immediately before submitting petition, or appointment 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.
- (a) An elective officer may be employed in a city position that is substantially volunteer in nature.
- (b) Except as subsection (1) of this section provided to the contrary, the council is the final judge of the election and qualifications of its members.
- (c) The qualifications of appointive officers of the city are whatever the council prescribes or authorizes.

SECTION 26. COMPENSATION.

Neither the Mayor nor any councilor may receive compensation for service in that capacity. The council shall prescribe the compensation of 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 27. OATH.

Before assuming city office, an officer shall take an oath or shall affirm the faithful performance of the duties of the office and support the constitution and laws of the United States, the state of Oregon, and the City of Shady Cove.

CHAPTER VII. ELECTIONS

SECTION 28. STATE LAW.

Except as this charter or a city ordinance prescribes to the contrary, a city election shall conform to state law applicable to the election.

SECTION 29. NOMINATIONS.

A qualified elector who shall have resided in the City during the twelve (12) months immediately preceding a nomination, may be nominated for an elective city positive. 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 30. NON-PARTISAN ELECTIONS.

All elections under this charter shall be non-partisan.

SECTION 31. TIE VOTES.

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 available election date.

CHAPTER VII. ORDINANCES

SECTION 32. ORDAINING CLAUSES.

The ordaining clause of an ordinance shall read:

(1) In case of adoption by the council alone, "The council of the City of Shady Cove ordains as follows:".

(2) In case of adoption or ratification by the voters of the city, "The people of the City of Shady Cove ordain as follows:".

SECTION 33. ADOPTION BY COUNCIL.

(1) An ordinance shall be fully and distinctly read in open council meeting on two (2) different days before being adopted by the council. Except as subsection (2) of the section allows adoption at a single meeting and subsection (3) of this section allows reading by title only.

(2) The council may adopt an emergency 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. Except as subsection (3) of this section allows reading by title only.

(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, or

(b) At least 72 hours before the reading:

(i) A copy of the ordinance is provided for each council member,

(ii) Three (3) 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 (2) 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 34. EFFECTIVE DATE.

A non-emergency ordinance takes effect on the thirtieth day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as adopted.

CHAPTER IX. PUBLIC IMPROVEMENTS

SECTION 35. IMPROVEMENTS.

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 needed at once because of an emergency, which shall state the exact harm to the City if the improvement is not made, shall be suspended for six months upon a remonstrance thereto by the owners of two thirds of the property to be specially assessed therefor. For the purpose of this section, "owner" shall mean the record holder of legal title to the land, except that if there is a purchaser of the land according to a recorded land sale contract or according to a verified writing by the record holder of legal title to the land filed with the City Recorder, the said purchaser shall be deemed the owner.

SECTION 36. SPECIAL ASSESSMENTS.

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

CHAPTER X. MISCELLANEOUS PROVISIONS

SECTION 37. BIDS.

Bidding procedures shall follow Oregon state law.

SECTION 38. 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.

SECTION 39. 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 40. REPEAL.

All charter provisions enacted before this charter takes effect are hereby repealed.

SECTION 41. SEVERABILITY.

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

SECTION 42. TIME OF EFFECT.

This charter takes effect upon the date of having been certified by the voters.