

AGENDA BILL**Beaverton City Council
Beaverton, Oregon**

SUBJECT: An Ordinance Amending Chapter 2.11 of the City Code by Adding New Sections Relating to the Process for Enacting Ordinances and Declaring an Emergency

FOR AGENDA OF: 04-13-21 **BILL NO:** _____

CITY MANAGER'S APPROVAL: [Signature]

DEPARTMENT OF ORIGIN: City Attorney

DATE SUBMITTED: 04-02-21 *Bill Kirby*

CLEARANCES:

PROCEEDING: Ordinance
Public Hearing

EXHIBITS: 1. Ordinance
2. Article 6, Beaverton Charter of 2021

BUDGET IMPACT

EXPENDITURE REQUIRED	AMOUNT BUDGETED	APPROPRIATION REQUIRED
\$0	\$0	\$0

RECOMMENDED ACTION:

The city council conducts a public hearing regarding the possible adoption of an ordinance (set forth in Exhibit 1) amending Chapter 2.11 of the Beaverton City Code by adding new sections relating to the process for enacting ordinances and declaring an emergency.

At the close of the public hearing, the city council either: (1) moves to adopt the proposed ordinance or (2) specifies future actions to be taken regarding the proposed ordinance.

ISSUE STATEMENT SUMMARY:

Beaverton has a new city charter that became operative on January 1, 2021. Article 6 of the new charter changes how the city adopts ordinances compared to the process followed under the old city charter. Article 6 of the new city charter is set forth in its entirety in Exhibit 2.

Staff recommends the council adopt an ordinance that provides more detail about the new process by which ordinances can be adopted by the Beaverton City Council. Staff proposes the ordinance's provisions be codified in Chapter 2.11 of the Beaverton Code. The proposed additions to Chapter 2.11 would be made by adoption of the ordinance set forth in Exhibit 1.

Beaverton's new charter provides three different ways a city ordinance may be enacted. Staff expects the standard adoption process will be the usual way ordinances are enacted. The process is described in section 2.11.028A. of Exhibit 1:

- A complete draft of the ordinance will be published for seven days in advance of the first reading of the ordinance.

Agenda Bill No: _____

- The first reading of the ordinance will only entail the reading of the ordinance by its title and an announcement of the date a public hearing on the proposed ordinance will be held.
- After the public hearing is held, the council may move to adopt the ordinance at the same meeting, or may specify further action staff is to take regarding the ordinance.

The charter also provides for an expedited way to enact a city ordinance. This process requires the unanimous consent of the council members present and voting and, if unanimously approved, can waive the need for a first reading of an ordinance. The process is described in section 2.11.028B. of Exhibit 1:

- A complete draft of the ordinance will be published for seven days in advance of the first meeting when the ordinance will be considered for expedited consideration.
- The council must unanimously consent to the expedited consideration of the proposed ordinance, and the ordinance must be adopted unanimously.
- If unanimous consent to expedited consideration or ordinance adoption is not achieved, the proposed ordinance essentially would be put back on the standard ordinance adoption process, unless council directs otherwise.

Finally, the new charter provides a third way to enact a city ordinance, but only when a state of emergency exists. In these instances, the council may adopt an ordinance to address the state of emergency by modifying the ordinance adoption process in any lawful manner the council determines necessary or convenient under the circumstances. This process is set forth in section 2.11.028C of the proposed ordinance.

Other provisions included in the proposed ordinance address how the city would handle amendments to a proposed ordinance in any of the three scenarios just outlined and clarify the latitude the council has in establishing an ordinance's effective date and/or operative date by use of an emergency clause.

HISTORICAL PERSPECTIVE:

Beaverton voters approved a new city charter in May 2020. Among other things, the new charter changed the city's form of government from a mayor-council form of government to a council-manager form of government and changed the procedure by which city ordinances are enacted. City ordinances must conform to the charter. Chapter 2.11 of the Beaverton City Code relates to the council rules of procedure and would be amended by adoption of the proposed ordinance that would detail the new procedures by which ordinances are enacted.

COMMUNITY VISION/COUNCIL GOALS/MASTER PLANS:

New Charter Implementation

FOR MORE INFORMATION:

Bill Kirby, City Attorney's Office

Megan Thornton, City Attorney's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 2.11 OF THE CITY CODE BY ADDING NEW SECTIONS RELATING TO THE PROCESS FOR ENACTING ORDINANCES AND DECLARING AN EMERGENCY

Whereas, on February 11, 2020, the City Council adopted Resolution No. 4627, referring to the voters of Beaverton a measure proposing a new city charter and adopting a ballot title for the referral; and

Whereas, on May 19, 2020, the voters of Beaverton voted to adopt the Beaverton Charter of 2021, which became operative on January 1, 2021; and

Whereas, the newly adopted charter changes the city’s procedures for adopting ordinances; and

Whereas, the Beaverton Code (Code) requires modifications to be consistent with the new ordinance-adoption procedures set forth in the charter.

Now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Amendment. The Code is amended by adding the sections as shown in Exhibit A, which is attached and incorporated by this reference.

Section 2. Severability. The sections and subsections of this ordinance are severable. If any part of this ordinance is held unconstitutional or otherwise invalid by a court of competent jurisdiction, the remaining parts shall remain in full force and effect unless:

A. The remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional or invalid part that it is apparent that the remaining parts would not have been enacted without the unconstitutional or invalid part; or

B. The remaining parts, standing alone, are incomplete and incapable of being executed according to the legislative intent.

Section 3. Effective Date. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance takes effect on its passage.

First reading the _____ day of _____, 2021.

Public hearing the _____ day of _____, 2021.

Duly passed by the City Council the _____ day of _____, 2021.

Approved:

Attested:

Lacey Beaty, Mayor

Catherine Jansen, City Recorder

2.11.012. Definitions

As used in this chapter:

- A. "Agenda bill" is a document prepared by staff explaining an issue being discussed at a council meeting.
- B. "Ordinance" means a legislative enactment of the city and does not include administrative or quasi-judicial resolutions or orders.
- C. "Substantive amendment" is an amendment to a proposed ordinance that, if the ordinance were enacted and codified, could not be edited under the authority granted the city attorney under BC 1.05.010 to edit the city code.

2.11.028 Ordinance Adoption Procedures.

- A. Standard Adoption.
 - 1. For at least seven days before the required public hearing on a proposed ordinance, a complete draft of the proposed ordinance, including any incorporated exhibits, must be:
 - a. available in paper for public inspection in the city recorder's office during business hours, and
 - b. electronically published on the city's website.
 - 2. Staff must prepare an agenda bill for the first reading of the proposed ordinance. The agenda bill must include, at minimum:
 - a. the full title of the proposed ordinance, and
 - b. an announcement of the council meeting date when the required public hearing on the proposed ordinance will be held.
 - 3. The first reading of the ordinance must occur at a council meeting on a date before the required public hearing. The first reading of the proposed ordinance is complete when a staff or council member reads aloud the title of the proposed ordinance and announces the date of the council meeting when the public hearing on the ordinance will be held. The public hearing on the proposed ordinance may be held at any council meeting after the first reading of the proposed ordinance.
 - 4. Staff must prepare an agenda bill for the public hearing on the proposed ordinance. The agenda bill must include, at minimum:
 - a. the full title of the proposed ordinance, and

hearing on the proposed ordinance and consider adoption of the ordinance at the same council meeting.

b. the council does not unanimously allow the expedited consideration of the proposed ordinance, a staff or council member may read aloud the title of the proposed ordinance and announce a later council meeting date when the public hearing on the ordinance will be held.

4. The council may adopt an ordinance under expedited consideration only upon the unanimous approval of the council members present and voting. If the ordinance is not adopted, the council must specify further action to be taken regarding the ordinance, including providing direction to draft amendments or to bring the proposed ordinance back to council pursuant to standard ordinance adoption procedures.

C. **Emergency Adoption.** When a state of emergency exists as defined in BC 2.01.012, the council may adopt an ordinance to address the state of emergency by modifying the expedited adoption process in subsection B in any lawful manner the council determines necessary or convenient under the circumstances. Modifications may include, but are not limited to, reducing or waiving the seven-day publication requirement or adopting the ordinance without a public hearing. The modification of the ordinance adoption process must be made with the consent of all council members present and voting.

D. **Ordinance Titles and Agendas.** Whenever the proposed adoption, amendment, or repeal of an ordinance is listed as a subject anticipated to be considered at a public meeting, the meeting notice must describe the ordinance that is subject to the proposed action using the ordinance's full title.

E. **Amendment to Proposed Ordinance.** Any substantive amendment to a proposed ordinance made after the ordinance's first reading, expedited consideration, or emergency consideration must be:

1. electronically published on the city's website and made available in paper for public inspection in the city recorder's office at least twenty-four hours in advance of the public meeting, or
2. read aloud at a council meeting.

F. **Effective Date of Ordinance.** Unless otherwise specified in the ordinance, an ordinance becomes effective 30 days after its adoption. An ordinance with an emergency clause takes effect upon its adoption unless the emergency clause specifies another date that is less than 30 days after the ordinance's adoption, in which instance the specified date is the ordinance's effective date. Whether an ordinance includes an emergency clause and when an ordinance becomes effective or operative is a legislative decision of the council regardless of whether an actual state of emergency exists within the city.

Beaverton City Charter of 2021
Article 6: Ordinances

6.1 Ordaining Clause.

The council exercises its legislative authority by adopting ordinances. The enacting clause for all ordinances must state "The City of Beaverton ordains as follows:".

6.2 Adoption.

Except as otherwise provided in this charter, the council must do the following to adopt an ordinance:

- (a) Publish a draft of the proposed ordinance for public inspection at least seven days before a public hearing on the proposed ordinance;
- (b) Read the ordinance by title only and announce the public hearing date at a council meeting;
- (c) Publish, in accordance with applicable law, the title of the ordinance in a written meeting agenda for a subsequent meeting;
- (d) Hold a public hearing at a subsequent meeting;
- (e) Move to adopt the ordinance at the same meeting the public hearing is held or at a subsequent meeting; and
- (f) Vote whether to adopt the ordinance.

6.3 Immediate Adoption.

The council may adopt an ordinance at a single meeting by the unanimous approval of the council members present and voting on the matter, provided the proposed ordinance is available in writing to the public at least seven days before the meeting, unless there is an emergency. With the consent of the councilors present, the council may adopt an ordinance to address the emergency with such abbreviated notice and process as the council determines to be necessary under the circumstances.

6.4 Amendment to Proposed Ordinance.

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.

6.5 Record of Vote.

After the adoption of an ordinance:

- (a) the mayor must sign the ordinance.
- (b) the city recorder must attest to the adoption and date of adoption of the ordinance and enter into the council minutes the vote of each council member regarding the adoption of the ordinance.

6.6 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 on another date less than 30 days after adoption if it contains an emergency clause.