

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF KELSO, WASHINGTON,
PROVIDING FOR THE SUBMISSION TO THE QUALIFIED
ELECTORS OF THE CITY OF KELSO AND TRANSMISSION TO
THE COWLITZ COUNTY AUDITOR FOR THE GENERAL
ELECTION TO BE HELD ON TUESDAY NOVEMBER 8, 2016, A
PROPOSITION AUTHORIZING A CITY CHARTER AMENDMENT
RELATED TO ADMINISTRATIVE PROVISIONS**

WHEREAS, based on concerns raised by councilmembers in prior years related to the City's Charter, the City Council formed a Charter Review Committee in April 2016; and

WHEREAS, the Charter Review Committee met on April 26, May 2, May 16, May 23, and June 13, 2016 to take public comment and consider changes to the City Charter; and

WHEREAS, at a special meeting of the City Council on June 28, 2016, the Charter Review Committee made its recommendations to amend the City Charter to the City Council; and

WHEREAS, on June 28, 2016, the City Council considered the Charter Review Committee's recommendations to amend the City Charter and took public comment on the proposed changes and determined to submit four (4) ballot propositions to the voters of the City of Kelso; and

WHEREAS, upon consideration of (1) the purposes of the original City Charter, developed using a national "League of Cities" sample document not specific to Washington State, and (2) the duplicative nature of many of the amendments with state law, and (3) the breadth of regulation of optional municipal code cities under 35A RCW where the Charter may have conflicted, and (4) the need for efficient council meetings

and administrative operations, the Charter Review Committee and City Council recommend this Charter Amendment removing certain administrative provisions from the Charter.

WHEREAS, on July 5, 2016, the Council by a majority vote determined it advisable and in the best interest of the citizens of the City of Kelso to submit this resolution concerning city administrative provisions of the Charter in Article IV, and Sections 2.07, 2.09 through 2.14, and 9.01 through 9.02; and

WHEREAS, the proposed amendments to Article IV, and Sections 2.07, 2.09 through 2.14, and 9.01 through 9.02, if approved, will result in such matters being governed by Title 35A RCW, the same optional code city provisions of state law applicable to all code cities within the state;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF KELSO DO HEREBY RESOLVE:

Section 1. Proposition No. 4 Concerning City Administrative Provisions.

There shall be submitted to the qualified electors of the City of Kelso at the General Election to be held on Tuesday the 8th day of November 2016, for their approval or rejection a ballot proposition to amend Article IV, and Sections 2.07, 2.09 through 2.14, and 9.01 through 9.02 of the Charter as set forth in Exhibit A attached hereto and incorporated herein by reference. Upon approval of the voters of the proposition hereinafter set forth, the Charter shall be amended as proposed.

The Cowlitz County Auditor, as ex officio supervisor of elections, is hereby requested to call and conduct such election and to submit to the qualified electors of the City for their approval or rejection, the proposed Charter amendments as set forth in

Exhibit A. The City Clerk shall cause the proposed City Charter amendments to be published in the City's newspaper of record in the manner provided by law, and is further authorized and directed to certify the following proposition to the Cowlitz County Auditor, as ex officio supervisor of elections, in substantially the following form:

CITY OF KELSO, WASHINGTON

PROPOSITION NO. 4

**CHARTER AMENDMENT CONCERNING CITY
ADMINISTRATIVE PROVISIONS**

The Kelso City Council adopted Resolution __ concerning City Charter administrative amendments. If approved, this proposition would amend Article IV, and Sections 2.07, 2.09 through 2.14, and 9.01 through 9.02 of the Charter, resulting in such matters being governed by Title 35A RCW, the same optional code city provisions of state law applicable to all code cities within the state.

Should this proposition be:

APPROVED? _____

REJECTED? _____

Section 2. Minor Adjustments. The Mayor and City Attorney are authorized to make such minor adjustments to the wording of such proposition as may be recommended by the Cowlitz County Elections as long as the intent of the proposition remains clear and consistent with the intent of this Resolution as approved by the City Council.

Section 3. Effective Date. This resolution will take effect from and after its adoption as provided by law.

ADOPTED by the City Council and **SIGNED** by the Mayor this _____ day of _____, 2016.

MAYOR

ATTEST/AUTHENTICATION:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

EXHIBIT A

ARTICLE IV

ARTICLE IV—RESERVED ADMINISTRATION

4.01 General Provisions.

~~(a) Creation of Departments. The city council may establish city departments, offices or agencies in addition to those created by this charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this charter to a particular department, office or agency may be discontinued or, unless this charter specifically so provides, assigned to any other.~~

~~(b) Direction by City Manager. All departments, offices and agencies under the direction and supervision of the city manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. With the consent of city council, the city manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two or more of them.~~

4.02 Personnel System.

~~(a) Merit Principle. All appointments and promotions of city officers and employees shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other evidence of competence.~~

~~(b) Merit System. Consistent with all applicable federal and state laws, the city council shall provide by ordinance for the establishment, regulation and maintenance of a merit system governing personnel policies necessary to effective administration of the employees of the city's departments, offices and agencies, including but not limited to classification and pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training, grievances and relationships with employee organizations.~~

4.03 Legal Officer.

~~The manager, subject to the approval of the council, shall appoint or remove the city attorney who shall be an attorney admitted and qualified to practice before the Supreme Court of the State of Washington. The city attorney shall:~~

- ~~(1) Act as legal advisor to and counsel for the council and manager in matters relating to their official duties;~~
- ~~(2) Represent the city in litigation in which the city is interested, unless the manager, with the approval of the council, otherwise provides;~~
- ~~(3) Provide legal opinions on official matters when requested by the council or manager;~~
- ~~(4) Draft and review for legal correctness, contracts, bonds, franchises, and other instruments to which the city is a party;~~
- ~~(5) Draft ordinances as requested by city council;~~
- ~~(6) Perform such other duties as may be assigned by the administrative code or otherwise by general laws or ordinances.~~

4.04 Planning.

~~There shall be a city planner who shall be appointed by the city manager to assist the mayor, city council, and the planning commission as a technical advisor regarding the city's comprehensive plan, zoning, and capital improvements; prepare reports and recommendations relative to annexation review and urban renewal plans and projects; and shall have such further powers and perform other duties as may be prescribed by ordinance. The city planner shall have an educational background and practical experience commensurate with the responsibility of the position.~~

~~4.05 City Clerk.~~

~~The city manager shall appoint an officer for the city who shall have the title of city clerk. The city clerk shall give notice of council meetings to its members and the public, keep a journal of its proceedings and perform such other duties as are assigned by this charter or by the council or the city manager, or by state law.~~

Section 2.07

~~2.07-RESERVED Judge of Qualifications.~~

~~The City Council shall be the judge of the qualifications of its members. The Council shall have the power to set additional standards of conduct for its members beyond those specified in the charter and may provide for such penalties as it deems appropriate, including forfeiture of office. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand. Decisions made by the council under this section shall be subject to judicial review.~~

Section 2.09

2.09 Procedure.

(a) Meetings. The council shall meet regularly at least once in every month at such times and places as the council may prescribe by rule. Special meetings may be held on the call of the mayor or two or more members, provided notice of such meetings is given in accordance with State law. Except as allowed by state law, all meetings shall be public, with a portion of ~~the each regular~~ meeting set aside for public comment.

Section 2.10

~~2.10 Action Requiring an Ordinance.~~

~~In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the city council shall be by ordinance which:~~

- ~~(1) Adopt or amend an administrative code or establish, alter, or abolish any city department, office or agency;~~
- ~~(2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;~~
- ~~(3) Levy taxes;~~
- ~~(4) Grant, renew or extend a franchise;~~

~~(5) Regulate the rate charged for its services by a public utility;~~
~~(6) Authorize the borrowing of money;~~
~~(7) Convey or lease or authorize the conveyance or lease of any lands of the city;~~
~~(8) Regulate land use and development; and~~
~~(9) Amend or repeal any ordinance previously adopted.~~
~~Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution.~~

Section 2.11

2.110 Ordinances in General.

(a) Form. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be “The City of Kelso hereby ordains . . .”. Any ordinance which repeals or amends an existing ordinance or part of the city code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matters by underscoring or by italics.

(b) Procedure. At First Reading, the title of such ordinance shall be read ~~and upon request of any person present shall be read in full.~~ Copies of all such proposed ordinances shall be kept available to the public at the office of the city clerk. Ordinances granting a franchise shall be published once each week for three consecutive weeks prior to finally passing such ordinance.

At the Second Reading, the title of such ordinance shall be read ~~, or upon the request of any person present, the clerk shall read the proposed ordinance in full.~~ All persons interested shall be given an opportunity to be heard on the proposed ordinance.

After such opportunity for public comment, the city council may pass such ordinance, with or without amendment. Passage of an ordinance requires at least a majority vote in its favor and the vote shall be taken by yeas and nays, and entered in the public journal of city council proceedings. Every ordinance or resolution passed by the city council shall be signed by the mayor and filed with the city clerk, who shall record the same. When an ordinance fails to pass and a motion is made to reconsider, the vote upon such motion shall not be acted upon before the next meeting of the city council.

(c) Effective Date. Except as otherwise provided in this charter, every adopted ordinance shall become effective 5 days after publication of the summary of the ordinance or at any later date specified therein. All ordinances shall be published promptly.

(d) “Publish” Defined. As used in this section, the term “publish” means to print in one or more newspapers of general circulation in the city: (1) The summary of the ordinance thereof, and (2) the places where copies of it have been filed and the times when they are available for public inspection and purchase at a reasonable price.

Section 2.12

2.12 Emergency Ordinance.

To meet a public emergency affecting life, health, property or the public peace, the city council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption, a summary of the ordinance shall be published and printed as prescribed for other adopted ordinances. ~~Every emergency ordinance shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists.~~ An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances. An emergency ordinance shall become effective upon adoption or at such later time as it may specify.

Section 2.13

~~2.13 Codes of Technical Regulations.~~

~~The city council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:~~

~~(1) The requirements of Section 2.12 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and~~

~~(2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the city clerk. Copies of any adopted code of technical regulations shall be made available by the city clerk for distribution or for purchase at a reasonable price.~~

Section 2.14

~~2.14 Authentication and Recording; Codification; Printing.~~

~~(a) Authentication and Recording. The city clerk shall authenticate by signing and shall record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the city council.~~

~~(b) Codification. Regularly the city council shall provide for the preparation of a general codification of all city ordinances having the force and effect of law. The general codification shall be adopted by the council by ordinance and shall be published promptly in bound or loose leaf form, together with this charter and any amendments thereto, pertinent provisions of the constitution and other laws of the State of Washington, and such codes of technical regulations and other rules and regulations as the council may specify. This compilation shall be known and cited officially as the Kelso City Code. Copies of the code shall be furnished to city officers placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the council.~~

~~(c) Printing of Ordinances. The city council shall cause each ordinance having the force and effect of law and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances and charter amendments shall be distributed or sold to the public at reasonable prices as fixed by the council. Following publication of the first Kelso City Code and at all times thereafter, the ordinances and Charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the constitution and other laws of the State of Washington, or the codes of technical regulations and other rules and regulations included in the code.~~

Section 9.01

9.01 Officers and Employees.

(a) Rights and Privileges Preserved. Nothing in this charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are city officers or employees at the time of its adoption.

~~(b) Continuance of Office or Employment. Except as specifically provided by this charter, if at the time this charter takes full effect a city administrative officer or employee holds any office or position which is or can be abolished by or under this charter, he or she shall continue in such office or position until the taking effect of some specific provision under this charter directing that he or she vacate the office or position.~~

~~(c) Personnel System. An employee holding a city position at the time this charter takes full effect, who was serving in that same or a comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position, but in all other respects shall be subject to the personnel system provided for in paragraph 4.02.~~

Section 9.02

~~9.02 Departments, Offices and Agencies.~~

~~(a) Transfer of Powers. If a city department, office or agency is abolished by this charter, the powers and duties given it by law shall be transferred to the city department, office or agency designated in this charter or if the charter makes no provision, designated by the city council.~~

~~(b) Property and Records. All property, records and equipment of any department, office or agency existing when this charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, offices or agencies designated by the city council in accordance with this charter.~~

[...]

9.023 Pending Matters.

All rights, claims, actions, orders, contracts and legal administrative proceedings shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on or dealt with by the city department, office or agency appropriate under this charter.

9.034 State and Municipal Laws.

All city ordinances, resolutions, orders, regulations and laws which are in force when this charter becomes fully effective are superseded to the extent that they are inconsistent with this charter.

9.045 Time of Taking Full Effect.

The charter shall be in full effect for all purposes on and after the date and time of the first meeting of the newly elected city council.

9.056 Separability.

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.