

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KYLE ORDERING A SPECIAL ELECTION TO BE HELD ON THE QUESTION OF THE ADOPTION OF AMENDMENTS TO THE CHARTER OF THE CITY OF KYLE; DESIGNATING NOVEMBER 6, 2018 AS THE DATE OF THE SPECIAL ELECTION; PRESCRIBING THE FORM OF THE BALLOT; PROVIDING FOR ELECTION PROCEDURES; AND PROVIDING AN EFFECTIVE DATE.

Whereas, the City Council desires to submit to the voters the charter amendments that are set forth in this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS, THAT:

SECTION 1: A special election is ordered to be held in the city on Tuesday, November 6, 2018, between the hours of 7:00 a.m. and 7:00 p.m., for the purpose of submitting to the qualified voters of the city propositions on whether the Charter of the City of Kyle should be amended. The proposed amendments shall take effect upon their adoption and the entering of an order by the City Council declaring the amendments adopted. The proposed amendments affect only the Articles and sections listed below which are submitted for amendment to read as follows in this section. Only the sections or paragraphs proposed for amendments are presented below. Sections and paragraphs not included remain unchanged. In this ordinance, the proposed new language appears in bold and underlined text, and language proposed to be removed appears stricken through. The amended sections that are approved by the voters will appear in the City Charter after the election results are canvassed with the bold and underline markings removed, and the stricken language will be removed from the City Charter.

ARTICLE I. - INCORPORATION, FORM OF GOVERNMENT AND POWERS OF THE CITY

Sec. 1.04(d). - Under the name of the city it shall be known in law and have succession and be capable of contracting and being contracted with; being sued and impleaded as authorized in this charter or by state law; suing and impleading at law or in equity and being answered to in all courts and tribunals; provided that the city shall have sovereign immunity and its officers and employees shall have qualified governmental immunity. The officers of the city are the members of the city council, the city manager, municipal judge, city attorney and members of all standing boards and commissions appointed by the city council, and the department heads and the sworn law enforcement, ~~personnel appointed by the city manager.~~

ARTICLE III. THE CITY COUNCIL

Sec. 3.06. - Quorum and Attendance.

Four members of the council shall constitute a quorum for transacting business and no action of the council shall be valid or binding unless taken in an open meeting with a quorum present, **except for a meeting held for the purpose of canvassing an election, which shall meet the quorum requirements set forth in the Texas Election Code.** Less than a quorum

may adjourn any meeting, or order and compel the attendance of absent members. It shall be the duty of each member of the council to attend each regular and special council meeting and the failure of any member to attend three consecutive council meetings, whether regular, special or workshop meetings, without good and sufficient cause, shall constitute misconduct in office.

Sec. 3.07. - Meetings.

The council shall hold at least one regular meeting each month. Meetings shall be held on a schedule or dates established by the council, and as many regular or special meetings may be scheduled and held as the council deems necessary to transact the business of the city. The council shall fix the dates and times of the regular meetings and special meetings shall be held on the call of the mayor or the city manager. ~~If practicable no less than twelve (12) hours' notice of special meetings shall be given to each member of the council.~~ Meetings shall be open to the public and public notice shall be given in accordance with state law; provided that executive sessions closed to the public shall be permitted in accordance with the state law. The mayor or city manager shall approve meeting agendas and a councilmember may require any item related to city business to be placed on an agenda for which notice may be given.

Sec. 3.09. - Compensation.

~~The mayor shall be paid two hundred dollars per month and each other member of the council shall be paid one hundred dollars per month. The council may appoint a citizen committee not more often than every three years to review the monthly compensation and the committee may recommend the council approve a reasonable adjustment to the monthly compensation of members of the council. A member of the council that is absent from one or more meetings in a calendar month shall forfeit an amount for each absence that is proportionate to the number of council meetings held in that month. A member of the council shall not receive an increase during the term of office in which the increase is authorized by the council. Members of the council shall also be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties. No staff or assistant shall be provided for any member of the city council.~~

Each member of Council shall receive as compensation for their services the salary established by ordinance adopted after two public hearings and approved in the budget. Changes to Council salary shall only be considered once every three years and shall be considered only after a recommendation is made by a Council-appointed committee. Meetings of said committee shall be held in compliance with the Open Meetings Act. A salary adjustment approved in accordance with this section shall be included in the proposed budget for the subsequent fiscal year, and the effective date of the Council salary adjustment shall be the first day of the fiscal year for the budget in which the salary adjustment is included. Council is prohibited from amending a budget to adjust Council salary. Members of the Council shall continue to receive the salary established in accordance with the prior version of this section until their compensation is changed in accordance with this section. Members of the City Council shall also be entitled to reimbursement for all necessary and approved expenses incurred in the performance of their official duties. There shall be provided in each annual city budget an amount for the expenses of the mayor and for each council member. The city council by ordinance shall provide a method for determining what expenses are reimbursable and what requirements

must be met to receive reimbursement.

ARTICLE V. – ELECTIONS

Sec. 5.01. - Notice and Order for Elections.

City elections shall be ordered and notice thereof given as provided in the Texas Election Code, and the council shall establish the procedures and order elections except as provided therein. If not otherwise provided for by state law, all elections shall be ordered at least thirty (30) days prior to the date of election and notice **of the election** shall be given **as required by applicable law**~~by publication not more than thirty (30) days and not less than twenty (20) days immediately preceding the date of election.~~ Notice of election shall be published in a newspaper published within the city, and if there be no such publication notice shall be published in a newspaper of general circulation within the city.

Sec. 5.07(a) (Official Ballots). The name of each qualified candidate for office, except those who withdraw, die or ~~become~~ **are declared** ineligible **as of the deadline for omitting a candidate's name from the ballot set forth in state law** ~~two business days or more prior to the start of early voting,~~ shall be printed on the official ballots without party designation or symbol in the form designated by the candidate. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion, their residence addresses shall be printed with their names on the ballot.

ARTICLE VII. ADMINISTRATIVE SERVICES

Sec. 7.01. - City Manager.

The council shall appoint and may remove the city manager upon the affirmative vote of five members of the council, and shall supervise the city manager by a majority vote. The city manager shall be chosen and compensated solely on the basis of his or her experience, education, training, ability and performance. The city manager may be bonded at city expense as determined by the council, and may require a bond be provided at city expense by any other employee. No member of the council shall, during the term of office for which he or she is elected or for one (1) year thereafter, be appointed city manager. ~~The city manager need not reside in the city when appointed but shall thereafter, within a reasonable period of time established by council, reside within the City.~~

ARTICLE XI. - PUBLIC UTILITIES, FRANCHISES AND CONTRACTS

Original Proposed Language:

Sec. 11.05. - Franchise for Public Services.

The council shall have the power to grant, amend, renew or extend by ordinance, or deny, the franchises of all providers of public services to the city. Public services include, but are not limited to, ambulance services, cable television services, ~~transportation services~~, any communication services, sanitation services, and any other service or business using the public streets or property within the city to provide service. The effective period of public service franchises may be set by the council but shall not exceed ten (10) years.

Proposed Alternate Language

Sec. 11.02. – Franchises.

The council shall have the power and authority to grant franchises for the use and occupancy of streets, avenues, alleys and any and all public property belonging to or under the control of the city. Except as specifically authorized and provided otherwise by state law, no individual, organization, entity, political subdivision, corporation, public utility, or any provider of public service shall provide any service within the city requiring the use or occupancy of any street, public right-of-way or property without first being granted a franchise or permit to use such city facilities. The franchise ordinance or permit shall fully describe the terms of the agreement and, regardless of the title given, shall be subject to the terms of this Article. The terms of such agreements shall be explicit so as to protect the interests of the citizens and shall include but not be limited to the terms prescribed in this charter. No franchise ordinance or permit shall be passed except on two readings held after a public hearing for which ten (10) days notice is given, **, unless applicable state or federal law requires the issuance of the franchise or permit within a specific time period, in which case the franchise ordinance or permit will be approved in accordance with the procedures established by ordinance; and provided further that a franchise or permit for transportation services may be issued in accordance with the procedure established by ordinance.**

Section 2. Charter Amendment Notice and Propositions. Notice of the election shall be given and the election shall be held in compliance with *Chapt. 9, Tex. Loc. Gov't. Code*, and Section 4 of this Ordinance. The ballots for the special election shall comply with the *Texas Election Code* and be in the form provided by the City to the Hays County Elections Administrator, pursuant to the Contract for Election Services, for use on the voting devices and ballots used by the City; provided that the official ballot shall be prepared in such a manner as will permit the voters to vote “Yes” or “No” on the propositions submitted, with the propositions to be expressed on the official ballot in a form substantially as follows:

CITY OF KYLE PROPOSITION A

Conformance with State Law – Appointment of Sworn Law Enforcement Personnel

Shall Article I, Section 1.04(d) of the City Charter be amended to delete language that states that the City Manager appoints law enforcement personnel, as the Chief of Police appoints law enforcement personnel?

_____ YES _____ NO

CITY OF KYLE PROPOSITION B

Quorum and Voting Requirements for Canvassing Elections

Shall Article III, Section 3.06 of the City Charter be amended to provide that less than four members of City Council constitutes a quorum for canvassing elections and canvassing an election, which is allowed by state law?

_____ YES _____ NO

CITY OF KYLE PROPOSITION C

Notice to Council of Special Meetings

Shall Article III, Section 3.07 of the City Charter be amended to delete the requirement that members of the Council shall receive no less than 12 hours notice of a special meeting and instead state law will control when the Council receives notice of a special meeting (which is not less than 72 hours)?

_____ YES _____ NO

CITY OF KYLE PROPOSITION D

City Council Compensation and Reimbursement for Expenses

Shall Article III, Section 3.09 of the City Charter be amended to provide for the City Council to set and adjust the salary for the Council by ordinance only once every three years after holding two public hearings, receiving a recommendation from a council-appointed committee, and including the salary adjustment in the budget for the next fiscal year; to prohibit Council from amending the budget for council salary adjustments; and to provide a procedure for reimbursement of expenses incurred by the Council in the performance of City business?

_____ YES _____ NO

CITY OF KYLE PROPOSITION E

Notice of Election

Shall Article V, Section 5.01 of the City Charter be amended to provide for state

law to govern when and how notice of elections must be given?

_____ YES _____ NO

CITY OF KYLE PROPOSITION F

Omission of Candidate Name from Ballot

Shall Article V, Section 5.07(a) of the City Charter be amended to provide for state law to govern when names of candidates may be omitted from the ballot?

_____ YES _____ NO

CITY OF KYLE PROPOSITION G

City Manager Residency

Shall Article VII, Section 7.01 of the City Charter be amended to remove the requirement that the City Manager reside within the city limits?

_____ YES _____ NO

CITY OF KYLE PROPOSITION H

[Original Proposed Language]

Franchise Authority

Shall Article XI, Section 11.05 of the City Charter be amended to remove transportation services as a public service that requires a franchise?

_____ YES _____ NO

[Alternative Proposed Language]

Shall Article XI, Section 11.02, of the City Charter be amended to address preemption by state law of the City's procedures for granting franchises and to allow the City to establish the procedure for granting a franchise or permit for transportation services by ordinance?

_____ YES _____ NO

SECTION 3. The election precincts for the election shall be the election precincts established by the Hays County Elections Administrator, provided that each shall contain and include geographic area that is within the City and the election precincts are in accordance with the City Charter.

SECTION 4. Notice of the election shall be given by posting a notice containing a substantial copy of this ordinance on the bulletin board used for posting notice of meetings of the governing body at the City Hall not later than the twenty-first (21st) day before the election and by publishing said Notice of Election on the same day in each of two successive weeks, with the first such publication occurring before the fourteenth (14th) day before the date of the election. The notice that is posted, and the notice that is published in a newspaper of general circulation within the city, will be written in both English and Spanish.

SECTION 5. The elections shall be held and conducted by the Hays County Elections Administrator in compliance with state law, the City Charter, the Election Agreement, and Sections 3, 4, 5, 6, 7, 8, and 10, Ordinance Number _____, calling the 2018 general election; provided that Chapter 9, Texas Local Gov't Code shall apply to the special election. And, this Ordinance shall be in force and effect from and after its passage on the date shown below.

SECTION 6. It is hereby officially found and determined that this meeting was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by the Open Meetings Act, *Chapter 551, Texas Government Code*.

PASSED AND APPROVED on this the ____ day of ____ 2018.

ATTEST:

The City of Kyle, Texas

Jennifer Vetrano, City Secretary

Travis Mitchell, Mayor