

Title 35A

OPTIONAL MUNICIPAL CODE

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Chapter 35A.01 RCW INTERPRETATION OF TERMS

Sections

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- 35A.01.070 Definitions—Change of plan or classification of municipal government.
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35A.01.010 Purpose and policy of this title—Interpretation. The purpose and policy of this title is to confer upon two optional classes of cities created hereby the broadest powers of local self-government consistent with the Constitution of this state. Any specific enumeration of municipal powers contained in this title or in any other general law shall not be construed in any way to limit the general description of power contained in this title, and any such specifically enumerated powers shall be construed as in addition and supplementary to the powers conferred in general terms by this title. All grants of municipal power to municipalities electing to be governed under the provisions of this title, whether the grant

is in specific terms or in general terms, shall be liberally construed in favor of the municipality. [1967 ex.s. c 119 § 35A.01.010.]

35A.01.020 Noncharter code city. A noncharter code city is one, regardless of population, which has initially incorporated as a noncharter code city, subject to the provisions of this title, or is an incorporated municipality which has elected, under the procedure prescribed in this title, to be classified as a noncharter code city and to be governed according to the provisions of this title under one of the optional forms of government provided for noncharter code cities. [1967 ex.s. c 119 § 35A.01.020.]

35A.01.030 Charter code city. A charter code city is one having at least ten thousand inhabitants at the time of its organization or reorganization which has either initially incorporated as a charter code city and has adopted a charter under the procedure prescribed in this title; or which, as an incorporated municipality, has elected to be classified as a charter code city and to be governed according to the provisions of this title and of its adopted charter. [1967 ex.s. c 119 § 35A.01.030.]

35A.01.035 Code city. The term "code city" means any noncharter code city or charter code city. [1967 ex.s. c 119 § 35A.01.035.]

35A.01.040 Sufficiency of petitions. Wherever in this title petitions are required to be signed and filed, the following rules shall govern the sufficiency thereof:

(1) A petition may include any page or group of pages containing an identical text or prayer intended by the circulators, signers or sponsors to be presented and considered as one petition and containing the following essential elements when applicable, except that the elements referred to in (d) and (e) of this subsection are essential for petitions referring or initiating legislative matters to the voters, but are directory as to other petitions:

(a) The text or prayer of the petition which shall be a concise statement of the action or relief sought by petitioners and shall include a reference to the applicable state statute or city ordinance, if any;

(b) If the petition initiates or refers an ordinance, a true copy thereof;

(c) If the petition seeks the annexation, incorporation, withdrawal, or reduction of an area for any purpose, an accurate legal description of the area proposed for such action and if practical, a map of the area;

(d) Numbered lines for signatures with space provided beside each signature for the name and address of the signer and the date of signing;

(e) The warning statement prescribed in subsection (2) of this section.

(2) Petitions shall be printed or typed on single sheets of white paper of good quality and each sheet of petition paper having a space thereon for signatures shall contain the text or prayer of the petition and the following warning:

WARNING

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

Each signature shall be executed in ink or indelible pencil and shall be followed by the name and address of the signer and the date of signing.

(3) The term "signer" means any person who signs his or her own name to the petition.

(4) To be sufficient a petition must contain valid signatures of qualified registered voters or property owners, as the case may be, in the number required by the applicable statute or ordinance. Within three working days after the filing of a petition, the officer with whom the petition is filed shall transmit the petition to the county auditor for petitions signed by registered voters, or to the county assessor for petitions signed by property owners for determination of sufficiency. The officer or officers whose duty it is to determine the sufficiency of the petition shall proceed to make such a determination with reasonable promptness and shall file with the officer receiving the petition for filing a certificate stating the date upon which such determination was begun, which date shall be referred to as the terminal date. Additional pages of one or more signatures may be added to the petition by filing the same with the appropriate filing officer prior to such terminal date. Any signer of a filed petition may withdraw his or her signature by a written request for withdrawal filed with the receiving officer prior to such terminal date. Such written request shall so sufficiently describe the petition as to make identification of the person and the petition certain. The name of any person seeking to withdraw shall be signed exactly the same as contained on the petition and, after the filing of such request for withdrawal, prior to the terminal date, the signature of any person seeking such withdrawal shall be deemed withdrawn.

(5) Petitions containing the required number of signatures shall be accepted as prima facie valid until their invalidity has been proved.

(6) A variation on petitions between the signatures on the petition and that on the voter's permanent registration caused by the substitution of initials instead of the first or middle names, or both, shall not invalidate the signature on the petition if the surname and handwriting are the same.

(7) If a person signs a petition more than once, all but the first valid signature must be rejected.

(8) Signatures followed by a date of signing which is more than six months prior to the date of filing of the petition shall be stricken.

(9) When petitions are required to be signed by the owners of property, the determination shall be made by the county assessor. Where validation of signatures to the petition is required, the following shall apply:

(a) The signature of a record owner, as determined by the records of the county auditor, shall be sufficient without the signature of his or her spouse;

(b) In the case of mortgaged property, the signature of the mortgagor shall be sufficient, without the signature of his or her spouse;

(c) In the case of property purchased on contract, the signature of the contract purchaser, as shown by the records of the county auditor, shall be deemed sufficient, without the signature of his or her spouse;

(d) Any officer of a corporation owning land within the area involved who is duly authorized to execute deeds or encumbrances on behalf of the corporation, may sign on behalf of such corporation, and shall attach to the petition a certified excerpt from the bylaws of such corporation showing such authority;

(e) When the petition seeks annexation, any officer of a corporation owning land within the area involved, who is duly authorized to execute deeds or encumbrances on behalf of the corporation, may sign under oath on behalf of such corporation. If an officer signs the petition, he or she must attach an affidavit stating that he or she is duly authorized to sign the petition on behalf of such corporation;

(f) When property stands in the name of a deceased person or any person for whom a guardian has been appointed, the signature of the executor, administrator, or guardian, as the case may be, shall be equivalent to the signature of the owner of the property; and

(g) When a parcel of property is owned by multiple owners, the signature of an owner designated by the multiple owners is sufficient.

(10) The officer or officers responsible for determining the sufficiency of the petition shall do so in writing and transmit the written certificate to the officer with whom the petition was originally filed. [2014 c 121 § 3; 2008 c 196 § 2; 2003 c 331 § 9; 1996 c 286 § 7; 1985 c 281 § 26; 1967 ex.s. c 119 § 35A.01.040.]

Finding—Intent—2014 c 121: See note following RCW 35.21.005.

Intent—Severability—Effective date—2003 c 331: See notes following RCW 35.13.410.

35A.01.050 The general law. For the purposes of this optional municipal code, "the general law" means any provision of state law, not inconsistent with this title, enacted before or after the enactment of this title, which is by its terms applicable or available to all cities or towns. Except when expressly provided to the contrary, whenever in this optional municipal code reference is made to "the general law", or to specific provisions of the Revised Code of Washington, it shall mean "the general law, or such specific provisions of the Revised Code of Washington as now enacted or as the same may hereafter be amended". [1967 ex.s. c 119 § 35A.01.050.]

35A.01.060 Optional municipal code—This title. References contained in this title to "Optional Municipal Code", "this title", "this code" or to any specific chapter, section, or provision thereof shall refer to the whole or appropriate part of Title 35A RCW, as now or hereafter amended. [1967 ex.s. c 119 § 35A.01.060.]

35A.01.070 Definitions—Change of plan or classification of municipal government. Where used in this title with reference to procedures established by this title in regard

to a change of plan or classification of government, unless a different meaning is plainly required by the context:

(1) "Classify" means a change from a city of the first or second class, an unclassified city, or a town, to a code city.

(2) "Classification" means either that portion of the general law under which a city or a town operates under Title 35 RCW as a first or second-class city, unclassified city, or town, or otherwise as a code city.

(3) "Organize" means to provide for officers after becoming a code city, under the same general plan of government under which the city operated prior to becoming a code city, pursuant to RCW 35A.02.055.

(4) "Organization" means the general plan of government under which a city operates.

(5) "Plan of government" means a mayor-council form of government under chapter 35A.12 RCW, council-manager form of government under chapter 35A.13 RCW, or a mayor-council, council-manager, or commission form of government in general that is retained by a noncharter code city as provided in RCW 35A.02.130, without regard to variations in the number of elective offices or whether officers are elective or appointive.

(6) "Reclassify" means changing from a code city to the classification, if any, held by such a city immediately prior to becoming a code city.

(7) "Reclassification" means changing from city or town operating under Title 35 RCW to a city operating under Title 35A RCW, or vice versa; a change in classification.

(8) "Reorganize" means changing the plan of government under which a city or town operates to a different general plan of government. A city or town shall not be deemed to have reorganized simply by increasing or decreasing the number of members of its legislative body.

(9) "Reorganization" means a change in general plan of government under which a city operates, but an increase or decrease in the number of members of its legislative body shall not be deemed to constitute a reorganization. [2001 c 33 § 1. Prior: 1994 c 223 § 24; 1994 c 81 § 66; 1979 ex.s. c 18 § 1.]

Additional notes found at www.leg.wa.gov

35A.01.900 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 80.]

Chapter 35A.02 RCW
PROCEDURE FOR INCORPORATED
MUNICIPALITY TO BECOME A NONCHARTER
CODE CITY

Sections

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- 35A.02.020 Petition method—Direct.
- 35A.02.025 Referendum.
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- 35A.02.040 Certification of ordinance—Transcript of record to secretary of state.
- 35A.02.050 Election of new officers.
- 35A.02.055 Election of new officers—Exception where same general plan of government is retained.
- 35A.02.060 Petition for election.
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- 35A.02.090 Alternative plan of government.
- 35A.02.120 Effective date of reclassification and reorganization.
- 35A.02.130 Adoption of classification of noncharter code city without change of governmental plan.
- 35A.02.140 Petition or resolution pending—Restriction—Exception.

Incorporation subject to approval by boundary review board: RCW 36.93.090.

35A.02.010 Adoption of noncharter code city classification authorized. Any incorporated city or town may become a noncharter code city in accordance with, and be governed by, the provisions of this title relating to noncharter code cities and may select one of the plans of government authorized by this title. A city or town adopting and organizing under the optional municipal code shall not be deemed to have reorganized and to have abandoned its existing general plan of government, upon changing classification and becoming a noncharter code city, solely because organizing under a plan of government authorized in this title changes the number of elective offices or changes the terms thereof, or because an office becomes appointive rather than elective, or because that city or town has come under the optional municipal code, or because of any combination of these factors. [1979 ex.s. c 18 § 2; 1967 ex.s. c 119 § 35A.02.010.]

Additional notes found at www.leg.wa.gov

35A.02.020 Petition method—Direct. When a petition is filed, signed by registered voters of an incorporated city or town, in number equal to not less than fifty percent of the votes cast at the last general municipal election, seeking the adoption by the city or town of the classification of noncharter code city, either under its existing authorized plan of government or naming one of the plans of government authorized for noncharter code cities, the county auditor shall promptly proceed to determine the sufficiency of the petition under the rules set forth in RCW 35A.01.040. If the petition is found to be sufficient, the county auditor shall file with the legislative body a certificate of sufficiency of the petition. Thereupon the legislative body of such city or town shall, by resolution, declare that the inhabitants of the city or town have decided to adopt the classification of noncharter code city and to be governed under the provisions of this title. If a prayer for reorganization is included in the petition such resolution shall also declare that the inhabitants of the city or town have decided to reorganize under the plan of government specified in the petition. The legislative body shall cause such resolution to be published at least once in a news-

paper of general circulation within the city or town not later than ten days after the passage of the resolution. Upon the expiration of the ninetieth day from, but excluding the date of, first publication of the resolution, if no timely and sufficient referendum petition has been filed pursuant to RCW 35A.02.025, as now or hereafter amended, as determined by RCW 35A.29.170, the legislative body at its next regular meeting shall effect the decision of the inhabitants, as expressed in the petition, by passage of an ordinance adopting for the city the classification of noncharter code city, and if the petition also sought governmental reorganization by adoption of one of the plans of government authorized for noncharter code cities involving a different general plan of government from that under which the city is operating, then the legislative body shall provide at that time for such reorganization by ordinance and for election of all new officers pursuant to RCW 35A.02.050, as now or hereafter amended. [1990 c 259 § 2; 1979 ex.s. c 18 § 3; 1967 ex.s. c 119 § 35A.02.020.]

Additional notes found at www.leg.wa.gov

35A.02.025 Referendum. Upon the filing of a referendum petition in the manner provided in RCW 35A.29.170 signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general municipal election, such resolution as authorized by RCW 35A.02.020 shall be referred to the voters for confirmation or rejection in the next general municipal election if one is to be held within one hundred and eighty days from the date of filing of the referendum petition, or at a special election to be called for that purpose in accordance with RCW 29A.04.330. [2015 c 53 § 47; 1979 ex.s. c 18 § 4; 1967 ex.s. c 119 § 35A.02.025.]

Additional notes found at www.leg.wa.gov

35A.02.030 Resolution method. When a majority of the legislative body of an incorporated city or town determines that it would serve the best interests and general welfare of such municipality to change the classification of such city or town to that of noncharter code city, such legislative body may, by resolution, declare its intention to adopt for the city or town the classification of noncharter code city. If the legislative body so determines, such resolution may also contain a declaration of intention to reorganize the municipal government under one of the plans of government authorized in this title, naming such plan; but it shall also be lawful for the legislative body of any incorporated city or town which is governed under a plan of government authorized prior to the time this title takes effect to adopt for the city or town the classification of noncharter code city while retaining the same general plan of government under which such city or town is then operating. Within ten days after the passage of the resolution, the legislative body shall cause it to be published at least once in a newspaper of general circulation within the city or town. Upon the expiration of the ninetieth day from, but excluding the date of first publication of the resolution, if no timely and sufficient referendum petition has been filed pursuant to RCW 35A.02.035, as determined by RCW 35A.29.170, the intent expressed in such resolution shall at the next regular meeting of the legislative body be effected by an ordinance adopting for the city or town the classification of noncharter code city; and, if the resolution

includes a declaration of intention to reorganize, the legislative body shall provide at that time for such reorganization by ordinance. [1979 ex.s. c 18 § 5; 1967 ex.s. c 119 § 35A.02.030.]

Additional notes found at www.leg.wa.gov

35A.02.035 Referendum. Upon the filing of a referendum petition in the manner provided in RCW 35A.29.170 signed by qualified electors of an incorporated city or town in number equal to not less than ten percent of the votes cast in the last general municipal election, such resolution shall be referred for approval or rejection by the voters at an election as specified in RCW 35A.02.025. [1967 ex.s. c 119 § 35A.02.035.]

35A.02.040 Certification of ordinance—Transcript of record to secretary of state. When one or more ordinances are passed under RCW 35A.02.020 or 35A.02.030, as now or hereafter amended, the clerk of the city or town shall forward to the secretary of state a certified copy of any such ordinance. Upon the filing in the office of the secretary of state of a certified copy of an ordinance adopting the classification of noncharter code city, such city or town shall thereafter be classified as a noncharter code city; except that if there is also filed with the secretary of state a certified copy of an ordinance providing for reorganization of the municipal government of such city or town under a different general plan of government, such reclassification and reorganization shall not be effective until the election, qualification, and assumption of office under RCW 35A.02.050 as now or hereafter amended of at least a quorum of all new officers under the plan of government so adopted. [1979 ex.s. c 18 § 6; 1970 ex.s. c 52 § 1; 1967 ex.s. c 119 § 35A.02.040.]

Additional notes found at www.leg.wa.gov

35A.02.050 Election of new officers. The first election of officers where required for reorganization under a different general plan of government newly adopted in a manner provided in RCW 35A.02.020, 35A.02.030, 35A.06.030, or 35A.06.060, as now or hereafter amended, shall be at the next general municipal election if one is to be held more than ninety days but not more than one hundred and eighty days after certification of a reorganization ordinance or resolution, or otherwise at a special election to be held for that purpose in accordance with RCW 29A.04.330. In the event that the first election of officers is to be held at a general municipal election, such election shall be preceded by a primary election pursuant to RCW 29A.52.210 and 29A.04.311. In the event that the first election of all officers is to be held at a special election rather than at a general election, and notwithstanding any provisions of any other law to the contrary, such special election shall be preceded by a primary election to be held on a date authorized by RCW 29A.04.321, and the persons nominated at that primary election shall be voted upon at the next succeeding special election that is authorized by RCW 29A.04.321: PROVIDED, That in the event the ordinances calling for reclassification or reclassification and reorganization under the provisions of Title 35A RCW have been filed with the secretary of state pursuant to RCW 35A.02.040 in an even-numbered year at least ninety days prior to a state general election then the election of new officers shall be

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concurrent with the state primary and general election and shall be conducted as set forth in general election law.

Upon reorganization, candidates for all offices shall file or be nominated for and successful candidates shall be elected to specific council positions. The initial terms of office for those elected at a first election of all officers shall be as follows: (1) A simple majority of the persons who are elected as councilmembers receiving the greatest numbers of votes and the mayor in a city with a mayor-council plan of government shall be elected to four-year terms of office, if the election is held in an odd-numbered year, or three-year terms of office, if the election is held in an even-numbered year; and (2) the other persons who are elected as councilmembers shall be elected to two-year terms of office, if the election is held in an odd-numbered year, or one-year terms of office, if the election is held in an even-numbered year. The newly elected officials shall take office immediately when they are elected and qualified, but the length of their terms of office shall be calculated from the first day of January in the year following the election. Thereafter, each person elected as a councilmember or mayor in a city with a mayor-council plan of government shall be elected to a four-year term of office. Each councilmember and mayor in a city with a mayor-council plan of government shall serve until a successor is elected and qualified and assumes office as provided in RCW 29A.60.280.

The former officers shall, upon the election and qualification of new officers, deliver to the proper officers of the reorganized noncharter code city all books of record, documents and papers in their possession belonging to such municipal corporation before the reorganization thereof. [2015 c 53 § 48; 1994 c 223 § 25; 1979 ex.s. c 18 § 7; 1971 ex.s. c 251 § 1; 1970 ex.s. c 52 § 2; 1967 ex.s. c 119 § 35A.02.050.]

Additional notes found at www.leg.wa.gov

35A.02.055 Election of new officers—Exception where same general plan of government is retained. Where a city elects to become a noncharter code city under one of the optional plans of government provided in Title 35A RCW for code cities which involves the same general plan of government as that under which the city operated prior to the choice and where with the change in classification the number of council positions in a city remains the same or increases from five to seven, the procedures for the first election of officers which appear in RCW 35A.02.050 shall not be followed. When membership in a city council remains the same or is increased upon becoming a noncharter code city, the terms of incumbent councilmembers shall not be affected. If the number of councilmembers is increased from five to seven, the city council shall, by majority vote, pursuant to RCW 35A.12.050 and 35A.13.020, appoint two persons to serve in these offices until the next municipal general election, at which election one person shall be elected for a two-year term and one person shall be elected for a four-year term.

A first election of all officers upon a change in classification to a noncharter code city is also not required where the change in classification otherwise retains the same general or specific plan of government and where the change in classification

cation results in a decrease in the number of council positions in a city.

If the membership in a city council is decreased from seven to five members upon adopting the classification of noncharter code city, this decrease in the number of councilmembers shall be determined in the following manner: The councilmembers shall determine by lot which two council positions shall be eliminated upon the expiration of their terms of office. The terms of the remaining councilmembers shall not be affected. [2009 c 549 § 3001; 1979 ex.s. c 18 § 8.]

Additional notes found at www.leg.wa.gov

35A.02.060 Petition for election. When a petition which is sufficient under the rules set forth in RCW 35A.01.040 is filed with the legislative body of an incorporated city or town, signed by qualified electors of such municipality in number equal to not less than ten percent of the votes cast at the last general municipal election, seeking adoption by the city or town of the classification of noncharter code city and the reorganization of the city or town under one of the plans of government authorized in this title, the county auditor shall file with the legislative body thereof a certificate of sufficiency of such petition. Thereupon, the legislative body shall cause such proposal to be submitted to the voters at the next general municipal election if one is to be held within one hundred eighty days after certification of the sufficiency of the petition, or at a special election to be held for that purpose not less than ninety days nor more than one hundred and eighty days from such certification of sufficiency. Ballot titles for elections under this chapter shall be prepared by the city attorney. [2015 c 53 § 49; 1990 c 259 § 3; 1967 ex.s. c 119 § 35A.02.060.]

35A.02.070 Resolution for election. The legislative body of an incorporated city or town may, by resolution, submit to the voters in the next general municipal election if one is to be held within one hundred and eighty days after passage of the resolution, or in a special election to be called for that purpose not less than ninety days nor more than one hundred and eighty days after passage of the resolution, a proposal that the city or town adopt the classification of noncharter code city and organize under one of the plans of government authorized in this title, naming such plan. [1967 ex.s. c 119 § 35A.02.070.]

35A.02.080 Election of officers upon approval of plan of government by voters. If the majority of votes cast at an election for organization under a plan provided in this title favor the plan, the city or town shall elect in accordance with RCW 35A.02.050 the officers for the positions created. The former officers of the municipality shall, upon the election and qualification of the new officers, deliver to the proper officers of the new noncharter code city all books of record, documents and papers in their possession belonging to such municipal corporation before reorganization. [1971 ex.s. c 251 § 2; 1967 ex.s. c 119 § 35A.02.080.]

35A.02.090 Alternative plan of government. Proposals for each of the plans of government authorized by this title may be placed on the ballots in the same election by timely

petition as provided in this chapter. When the ballot contains alternative proposals for each of the plans of government the ballot shall clearly state that voters may vote for only one of the plans of government. [1971 ex.s. c 251 § 3; 1967 ex.s. c 119 § 35A.02.090.]

35A.02.120 Effective date of reclassification and reorganization. Upon the filing of the certified copy of the resolution with the secretary of state, the county auditor shall issue certificates of election to the successful candidates for the offices under the plan of government for which a majority of the votes were cast, and upon the issuance of such certificates, such city or town shall become a noncharter code city governed under the plan of government chosen by the voters, under the provisions of this title and with the powers conferred by this title. [1967 ex.s. c 119 § 35A.02.120.]

35A.02.130 Adoption of classification of noncharter code city without change of governmental plan. Any incorporated city or town governed under a plan of government authorized prior to the time this title takes effect may become a noncharter code city without changing such plan of government by the use of the petition-for-election or resolution-for-election procedures provided in RCW 35A.02.060 and 35A.02.070 to submit to the voters a proposal that such municipality adopt the classification of noncharter code city while retaining its existing plan of government, and upon a favorable vote on the proposal, such municipality shall be classified as a noncharter code city and retain its old plan of government, such reclassification to be effective upon the filing of the record of such election with the office of the secretary of state. Insofar as the provisions of *RCW 35A.02.100 and 35A.02.110 are applicable to an election on such a reclassification proposal they shall apply to such election. [1994 c 223 § 26; 1994 c 81 § 67; 1967 ex.s. c 119 § 35A.02.130.]

*Reviser's note: RCW 35A.02.100 and 35A.02.110 were repealed by 1994 c 223 § 92.

35A.02.140 Petition or resolution pending—Restriction—Exception. While proceedings are pending under any petition or resolution relating to reclassification of a municipality or reorganization of the government thereof pursuant to this chapter, no resolution shall be passed for the purpose of initiating other such proceedings or submitting other such proposals to the voters at an election thereunder; and no petition for reclassification or reorganization of such municipality shall be accepted for filing pending such proceedings, except that a timely and sufficient petition seeking to place on the ballot for such election a proposal for an alternative plan of government authorized by this title, as provided in RCW 35A.02.090, may be filed and acted upon. [1967 ex.s. c 119 § 35A.02.140.]

Chapter 35A.03 RCW

INCORPORATION AS NONCHARTER CODE CITY

Sections

- 35A.03.001 Actions subject to review by boundary review board.
- 35A.03.005 Incorporation to be governed by chapter 35.02 RCW.

35A.03.001 Actions subject to review by boundary review board. Actions taken under chapter 35A.03 RCW may be subject to potential review by a boundary review board under chapter 36.93 RCW. [1989 c 84 § 36.]

35A.03.005 Incorporation to be governed by chapter 35.02 RCW. Noncharter code cities shall be incorporated as provided in chapter 35.02 RCW. [1986 c 234 § 36.]

Chapter 35A.05 RCW CONSOLIDATION OF CODE CITIES

Sections

- 35A.05.001 Actions subject to review by boundary review board.
35A.05.005 Consolidation of code cities.

35A.05.001 Actions subject to review by boundary review board. Actions taken under chapter 35A.05 RCW may be subject to potential review by a boundary review board under chapter 36.93 RCW. [1989 c 84 § 37.]

35A.05.005 Consolidation of code cities. Code cities shall consolidate as provided in chapter 35.10 RCW. [1985 c 281 § 14.]

Chapter 35A.06 RCW ADOPTION AND ABANDONMENT OF NONCHARTER CODE CITY CLASSIFICATION OR PLAN OF GOVERNMENT

Sections

- 35A.06.010 Each optional plan of government declared complete form of government.
35A.06.020 Laws applicable to noncharter code cities.
35A.06.030 Abandonment of plan of government of a noncharter code city.
35A.06.040 Abandonment—Resolution or petition for election.
35A.06.050 Abandonment—Election.
35A.06.060 Abandonment—Reorganization under plan adopted—Effective date.
35A.06.070 Abandonment of noncharter code city classification without reorganization.

35A.06.010 Each optional plan of government declared complete form of government. Each of the optional plans of government authorized by chapter 35A.12 RCW and chapter 35A.13 RCW, with any amendments thereto, is declared to be a complete and separate plan of government authorized by the legislature for submission to the voters of a municipality or for adoption by resolution of the legislative body thereof in the manner provided herein, and is additional to the plans of government existing prior to the time this title takes effect. [1967 ex.s. c 119 § 35A.06.010.]

35A.06.020 Laws applicable to noncharter code cities. The classifications of municipalities as first-class cities, second-class cities, unclassified cities, and towns, and the restrictions, limitations, duties, and obligations specifically imposed by law upon such classes of cities and towns, shall have no application to noncharter code cities, but every noncharter code city, by adopting such classification, has elected to be governed by the provisions of this title, with the powers granted hereby. However, any code city that retains its old plan of government is subject to the laws applicable to that old plan of government until the city abandons its old plan of

government and reorganizes and adopts a plan of government under chapter 35A.12 or 35A.13 RCW. [1997 c 361 § 17; 1995 c 134 § 11. Prior: 1994 c 223 § 27; 1994 c 81 § 68; 1967 ex.s. c 119 § 35A.06.020.]

35A.06.030 Abandonment of plan of government of a noncharter code city. By use of the resolution for election or petition for election methods described in RCW 35A.06.040, any noncharter code city which has operated for more than six consecutive years under one of the optional plans of government authorized by this title, or for more than a combined total of six consecutive years under a particular plan of government both as a code city and under the same general plan under Title 35 RCW immediately prior to becoming a code city, may abandon such organization and may reorganize and adopt another plan of government authorized for noncharter code cities, but only after having been a noncharter code city for more than one year or a city after operating for more than six consecutive years under a particular plan of government as a noncharter code city: PROVIDED, That these limitations shall not apply to a city seeking to adopt a charter.

In reorganization under a different general plan of government as a noncharter code city, officers shall serve the remainder of their terms. If a city with a mayor-council plan of government is reorganized with a council-manager plan of government, the mayor shall serve as a councilmember for the remainder of his or her term. If a city with a council-manager plan of government is reorganized with a mayor-council plan of government, the mayor shall be elected as provided in RCW 35A.02.050. When a noncharter code city adopts a plan of government other than those authorized under Title 35A RCW, such city ceases to be governed under this optional municipal code, shall be classified as a city or town of the class selected in the proceeding for adoption of such new plan, with the powers granted to such class under the general law, and shall elect officers as provided in RCW 35A.02.050. [2001 c 33 § 2; 1994 c 223 § 28; 1994 c 81 § 69; 1979 ex.s. c 18 § 14; 1971 ex.s. c 251 § 13; 1967 ex.s. c 119 § 35A.06.030.]

Additional notes found at www.leg.wa.gov

35A.06.040 Abandonment—Resolution or petition for election. Upon the passage of a resolution of the legislative body of a noncharter code city, or upon the filing of a sufficient petition with the county auditor signed by registered voters in number equal to not less than ten percent of the votes cast at the last general municipal election therein, proposing abandonment by the city of the plan of government under which it is then operating and adoption of another plan, naming such plan, the sufficiency of the petition for abandonment shall be determined, an election ordered and conducted, and the results declared generally as provided in chapter 35A.02 RCW insofar as such provisions are applicable. If the resolution or petition proposes a plan of government other than those authorized in chapters 35A.12 RCW and 35A.13 RCW of this title, the resolution or petition shall specify the class under which such city will be classified upon adoption of such plan. [1990 c 259 § 4; 1967 ex.s. c 119 § 35A.06.040.]

Sufficiency of petition in code city: RCW 35A.01.040.

35A.06.050 Abandonment—Election. The proposal for abandonment of a plan of government as authorized in RCW 35A.06.030 and for adoption of the plan named in the resolution or petition shall be voted upon at the next general election in accordance with RCW 29A.04.330, or at a special election held prior to the next general election in accordance with the resolution of the legislative body. The ballot title and statement of the proposition shall be prepared by the city attorney as provided in RCW 35A.29.120. [2009 c 7 § 1; 2004 c 268 § 2; 1994 c 223 § 29; 1979 ex.s. c 18 § 15; 1967 ex.s. c 119 § 35A.06.050.]

Effective date—2009 c 7: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [February 18, 2009]." [2009 c 7 § 2.]

Additional notes found at www.leg.wa.gov

35A.06.060 Abandonment—Reorganization under plan adopted—Effective date. If a majority of votes cast at the election favor abandonment of the general plan of government under which the noncharter code city is then organized and reorganization under the different general plan proposed in the resolution or petition, the officers to be elected shall be those prescribed by the plan of government so adopted, and they shall be elected as provided in RCW 35A.06.030. If the city is adopting a plan of government other than those authorized under this title, the officers shall be elected at the next succeeding general municipal election. Upon the election, qualification, and assumption of office by such officers the reorganization of the government of such municipality shall be complete and such municipality shall thereafter be governed under such plan. If the plan so adopted is not a plan authorized for noncharter code cities, upon the election, qualification, and assumption of office by such officers the municipality shall cease to be a noncharter code city governed under the provisions of this optional municipal code and shall revert to the classification selected and shall be governed by the general laws relating to municipalities of such class with the powers conferred by law upon municipalities of such class. Such change of classification shall not affect the then existing property rights or liabilities of the municipal corporation. [2001 c 33 § 3; 1979 ex.s. c 18 § 16; 1967 ex.s. c 119 § 35A.06.060.]

Additional notes found at www.leg.wa.gov

35A.06.070 Abandonment of noncharter code city classification without reorganization. By means of the procedures set forth in this chapter, insofar as they apply, any noncharter code city which has been governed under the provisions of this title for more than six years may abandon the classification of noncharter code city and elect to be governed under the general law relating to cities or towns of the classification held by such city immediately prior to becoming a noncharter code city, if any, or relating to cities or towns of the highest class for which it is qualified by population, with the powers conferred by law upon such class, while retaining the plan of government under which it is then organized. A change of classification approved by a majority of the voters voting on such proposition shall become effective upon the filing of the record of such election with the office of the secretary of state. [1967 ex.s. c 119 § 35A.06.070.]

Chapter 35A.07 RCW

PROCEDURE FOR CITY OPERATING UNDER CHARTER TO BECOME A CHARTER CODE CITY

Sections

- 35A.07.010 Adoption of charter code city classification authorized.
- 35A.07.020 Petition method—Direct.
- 35A.07.025 Referendum.
- 35A.07.030 Resolution method.
- 35A.07.035 Referendum.
- 35A.07.040 Certification of ordinance—Transcript of record to secretary of state.
- 35A.07.050 Petition for election.
- 35A.07.060 Resolution for election.
- 35A.07.070 Election on reclassification—Effective date of reclassification upon favorable vote.

35A.07.010 Adoption of charter code city classification authorized. Any city having ten thousand inhabitants which is governed under a charter may become a charter code city by a procedure prescribed in this chapter and be governed under this title, with the powers conferred hereby. [1967 ex.s. c 119 § 35A.07.010.]

35A.07.020 Petition method—Direct. When a petition is filed, signed by registered voters of a charter city in number equal to not less than fifty percent of the votes cast at the last general municipal election, seeking the adoption by the charter city of the classification of charter code city the legislative body of such city shall direct the county auditor to determine the sufficiency of the petition under the rules set forth in RCW 35A.01.040. If the petition is found to be sufficient, the county auditor shall file with the legislative body a certificate of sufficiency of the petition. Thereupon the legislative body of the charter city shall, by resolution, declare that the inhabitants of such city have decided to adopt the classification of charter code city and to be governed under this title. The legislative body shall cause such resolution to be published at least once in a newspaper of general circulation within the city not later than ten days after the passage of the resolution. Upon the expiration of the ninetieth day from, but excluding the date of first publication of the resolution, if no timely and sufficient referendum petition has been filed, as determined by RCW 35A.29.170, the legislative body shall effect the decision of the inhabitants, as expressed in the petition, by passage of an ordinance adopting for the city the classification of charter code city. [1990 c 259 § 5; 1967 ex.s. c 119 § 35A.07.020.]

35A.07.025 Referendum. Upon the filing of a referendum petition in the manner provided in RCW 35A.29.170 signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general municipal election, the resolution authorized by RCW 35A.07.020 shall be referred to the voters for confirmation or rejection in the next general municipal election, if one is to be held within one hundred and eighty days from the date of filing of the referendum petition, or at a special election to be called for that purpose not less than ninety days nor more than one hundred and eighty days from the filing of such referendum petition. [1967 ex.s. c 119 § 35A.07.025.]

35A.07.030 Resolution method. When a majority of the legislative body of a charter city determines that it would

serve the best interests and general welfare of such city to become a charter code city, such legislative body may, by resolution, declare its intention to adopt for the city the classification of charter code city and to be governed under the provisions of this title, with the powers conferred hereby. Within ten days after the passage of the resolution, the legislative body shall cause it to be published at least once in a newspaper of general circulation within the city. Upon the expiration of the ninetieth day from, but excluding the date of first publication of the resolution, if no timely and sufficient referendum petition has been filed, as determined by RCW 35A.29.170, the intent expressed in such resolution shall be effected by passage of an ordinance adopting for the city the classification of charter code city. [1967 ex.s. c 119 § 35A.07.030.]

35A.07.035 Referendum. Upon the filing of a referendum petition in the manner provided in RCW 35A.29.170 signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general municipal election, the resolution authorized by RCW 35A.07.030 shall be referred to the voters for approval or rejection at an election as specified in RCW 35A.07.025. [1967 ex.s. c 119 § 35A.07.035.]

35A.07.040 Certification of ordinance—Transcript of record to secretary of state. When an ordinance is passed as provided in RCW 35A.07.020 or 35A.07.030, the clerk of the charter city shall forward to the secretary of state a certified copy thereof. Upon the filing of the certified copy of the ordinance in the office of the secretary of state, such city shall be classified as a charter code city and shall thereafter be governed under the provisions of this optional municipal code and have the powers conferred hereby. [1967 ex.s. c 119 § 35A.07.040.]

35A.07.050 Petition for election. When a petition which is sufficient under the rules set forth in RCW 35A.01.040 is filed with the legislative body of a charter city, signed by registered voters of such city in number equal to not less than ten percent of the votes cast at the last general municipal election, seeking adoption by the city of the classification of charter code city, the county auditor shall file with the legislative body thereof a certificate of sufficiency of such petition. Thereupon the legislative body shall cause such proposal to be submitted to the voters at the next general municipal election if one is to be held within one hundred eighty days, or at a special election to be held for that purpose not less than ninety days nor more than one hundred and eighty days after the filing of such petition. Ballot titles for such election shall be prepared by the city attorney. [2015 c 53 § 50; 1990 c 259 § 6; 1967 ex.s. c 119 § 35A.07.050.]

35A.07.060 Resolution for election. The legislative body of a charter city may, by resolution, submit to the voters at an election held within the time period specified in RCW 35A.07.050 a proposal that the city adopt the classification of charter code city and be governed under the provisions of this title with the powers conferred hereby. [1967 ex.s. c 119 § 35A.07.060.]

35A.07.070 Election on reclassification—Effective date of reclassification upon favorable vote. Notice of elections under this chapter shall be given, the election conducted, and the result declared generally as provided in chapter 35A.02 RCW, insofar as such provisions are applicable. If a majority of votes cast on the proposition are in favor of adoption of the classification of charter code city, upon the certification of the record of election to the office of the secretary of state, such city shall become a charter code city and shall be governed under the provisions of this title and have the powers conferred on charter code cities. [1967 ex.s. c 119 § 35A.07.070.]

Chapter 35A.08 RCW

PROCEDURE FOR ADOPTION OF CHARTER AS CHARTER CODE CITY

Sections

- 35A.08.010 Adoption of charter authorized.
- 35A.08.020 Determining population.
- 35A.08.030 Resolution or petition for election.
- 35A.08.040 Election on question—Election of charter commission.
- 35A.08.050 Organization of charter commission—Vacancies—Duties.
- 35A.08.060 Expenses of commission members—Consultants and assistants.
- 35A.08.070 Public hearing.
- 35A.08.080 Submission of charter—Election of officers—Publication.
- 35A.08.090 Conduct of elections.
- 35A.08.100 Ballot titles.
- 35A.08.110 Certificates of election to officers—Effective date of becoming charter code city.
- 35A.08.120 Authentication of charter.

35A.08.010 Adoption of charter authorized. Any city having a population of ten thousand or more inhabitants may become a charter code city and be governed under the provisions of this title by adopting a charter for its own government in the manner prescribed in this chapter. Once any city, having ten thousand population, has adopted such a charter, any subsequent decrease in population below ten thousand shall not affect its status as a charter code city. [1967 ex.s. c 119 § 35A.08.010.]

35A.08.020 Determining population. For the purposes of this chapter, the population of a city shall be the number of residents shown by the figures released for the most recent official state or federal census, by a population determination made under the direction of the office of financial management, or by a city census conducted in the following manner:

(1) The legislative authority of any such city may provide by ordinance for the appointment by the mayor thereof, of such number of persons as may be designated in the ordinance to make an enumeration of all persons residing within the corporate limits of the city. The enumerators so appointed, before entering upon their duties, shall take an oath for the faithful performance thereof and within five days after their appointment proceed, within their respective districts, to make an enumeration of all persons residing therein, with their names and places of residence.

(2) Immediately upon the completion of the enumeration, the enumerators shall make return thereof upon oath to the legislative authority of the city, who at its next meeting or as soon thereafter as practicable, shall canvass and certify the returns.

(3) If it appears therefrom that the whole number of persons residing within the corporate limits of the city is ten thousand or more, the mayor and clerk under the corporate seal of the city shall certify the number so ascertained to the secretary of state, who shall file it in his or her office. This certificate when so filed shall be conclusive evidence of the population of the city. [2009 c 549 § 3002; 1979 c 151 § 32; 1967 ex.s. c 119 § 35A.08.020.]

Population determinations, office of financial management: Chapter 43.62 RCW.

35A.08.030 Resolution or petition for election. The legislative body of any city having ten thousand or more inhabitants may, by resolution, provide for submission to the voters of the question whether the city shall become a charter code city and be governed in accordance with a charter to be adopted by the voters under the provisions of this title. The legislative body must provide for such an election upon receipt of a sufficient petition therefor signed by qualified electors in number equal to not less than ten percent of the votes cast at the last general municipal election therein. The question may be submitted to the voters at the next general municipal election if one is to be held within one hundred and eighty days or at a special election held for that purpose not less than ninety nor more than one hundred and eighty days after the passage of the resolution or the filing of the certificate of sufficiency of the petition. At such election provision shall also be made for the election of fifteen freeholders who, upon a favorable vote on the question, shall constitute the charter commission charged with the duty of framing a charter for submission to the voters. If the vote in favor of adopting a charter receives forty percent or less of the total vote on the question of charter adoption, no new election on the question of charter adoption may be held for a period of two years from the date of the election in which the charter proposal failed. [2001 c 33 § 4; 1967 ex.s. c 119 § 35A.08.030.]

Sufficiency of petition in code city: RCW 35A.01.040.

35A.08.040 Election on question—Election of charter commission. The election on the question whether to adopt a charter and become a charter code city and the nomination and election of the members of the charter commission shall be conducted, and the result declared, according to the laws regulating and controlling elections in the city. Candidates for election to the charter commission must be nominated by petition signed by ten registered voters of the city and residents therein for a period of at least two years preceding the election. A nominating petition shall be filed within the time allowed for filing declarations of candidacy and shall be verified by an affidavit of one or more of the signers to the effect that the affiant believes that the candidate and all of the signers are registered voters of the city and he or she signed the petition in good faith for the purpose of endorsing the person named therein for election to the charter commission. A written acceptance of the nomination by the nominee shall be affixed to the petition when filed with the county auditor. Nominating petitions need not be in the form prescribed in RCW 35A.01.040. Any nominee may withdraw his or her nomination by a written statement of withdrawal filed at any time not later than five days before the last day allowed for filing nominations. The positions on the charter commis-

sion shall be designated by consecutive numbers one through fifteen, and the positions so designated shall be considered as separate offices for all election purposes. A nomination shall be made for a specific numbered position. [2009 c 549 § 3003; 1990 c 259 § 7; 1967 ex.s. c 119 § 35A.08.040.]

35A.08.050 Organization of charter commission—Vacancies—Duties. Within ten days after its election the charter commission shall hold its first meeting, elect one of the members as chair, and adopt such rules for the conduct of its business as it may deem advisable. In the event of a vacancy in the charter commission, the remaining members shall fill it by appointment thereto of some properly qualified person. A majority shall constitute a quorum for transaction of business but final charter recommendations shall require a majority vote of the whole membership of the commission. The commission shall study the plan of government of the city, compare it with other available plans of government, and determine whether, in its judgment, the government of the city could be strengthened, made more responsive or accountable to the people, or whether its operation could be made more economical or more efficient by amendment of the existing plan or adoption of another plan of government. The commission shall consider the plans of government described in this title but shall not be limited to such plans in its recommendations for the government of the city and may frame a charter for any plan it deems suitable for the good government of the city; except that the provisions of such charter shall not be valid if inconsistent with the Constitution of this state, the provisions of this title, or the general laws of the state, insofar as they are applicable to cities governed under this title. [2009 c 549 § 3004; 1967 ex.s. c 119 § 35A.08.050.]

35A.08.060 Expenses of commission members—Consultants and assistants. Members of the charter commission shall serve without compensation but shall be reimbursed by the city from any funds for their necessary expenses incurred in the performance of their duties. The legislative body may, in its discretion, make a reasonable appropriation of the city funds to provide for public information and discussion concerning the purposes and progress of the commission's work and/or to provide technical or clerical assistance to the commission in its work. Within the limits of any such appropriation and privately contributed funds and services as may be available to it, the charter commission may appoint one or more consultants and clerical or other assistants to serve at the pleasure of the commission and may fix a reasonable compensation to be paid such consultants and assistants. [1967 ex.s. c 119 § 35A.08.060.]

35A.08.070 Public hearing. The charter commission shall hold at least one public hearing in the course of its deliberations, may hold committee meetings and may sponsor public forums and promote public education and discussion respecting its work. [1967 ex.s. c 119 § 35A.08.070.]

35A.08.080 Submission of charter—Election of officers—Publication. Within one hundred and eighty days from the date of its first meeting, the charter commission, or a majority thereof, shall frame a charter for the city and sub-

mit the charter to the legislative body of the city, which, within five days thereafter shall initiate proceedings for the submission of the proposed charter to the qualified electors of the city at the next general election if one is to be held within one hundred and eighty days or at a special election to be held for that purpose not less than ninety nor more than one hundred and eighty days after submission of the charter to the legislative body. The legislative body shall cause the proposed charter to be published in a newspaper of general circulation in the city at least once each week for four weeks next preceding the day of submitting the same to the electors for their approval. At this election the first officers to serve under the provisions of the proposed charter shall also be elected. If the election is from wards, the division into wards as specified in the proposed charter shall govern; in all other respects the then existing laws relating to such elections shall govern. The notice of election shall specify the objects for which the election is held and shall be given as required by law. [1967 ex.s. c 119 § 35A.08.080.]

35A.08.090 Conduct of elections. The election upon the question of becoming a charter code city and framing a charter and the election of the charter commission, and the election upon the adoption or rejection of the proposed charter and the officers to be elected thereunder, the returns of both elections, the canvassing thereof, and the declaration of the result shall be governed by the laws regulating and controlling elections in the city. [1967 ex.s. c 119 § 35A.08.090.]

35A.08.100 Ballot titles. Ballot titles for elections under this chapter shall be prepared by the city attorney. The ballot statement in the election for adopting or rejecting the proposed charter shall clearly state that, upon adoption of the proposed charter, the city would be governed by its charter and by this title. [2015 c 53 § 51; 1967 ex.s. c 119 § 35A.08.100.]

35A.08.110 Certificates of election to officers—Effective date of becoming charter code city. If a majority of the votes cast at the election upon the adoption of the proposed charter favor it, certificates of election shall be issued to each officer elected at that election. Within ten days after the issuance of the certificates of election, the newly elected officers shall qualify as provided in the charter, and on the tenth day thereafter at twelve o'clock noon of that day or on the next business day if the tenth day is a Saturday, Sunday or holiday, the officers so elected and qualified shall enter upon the duties of the offices to which they were elected and at such time the charter shall be authenticated, recorded, attested and go into effect, and the city shall thereafter be classified as a charter code city. When so authenticated, recorded and attested, the charter shall become the organic law of the city and supersede any existing charter and amendments thereto and all special laws inconsistent therewith. [1967 ex.s. c 119 § 35A.08.110.]

35A.08.120 Authentication of charter. The authentication of the charter shall be by certificate of the mayor in substance as follows:

"I,, mayor of the city of, do hereby certify that in accordance with the provisions of the Constitution and statutes of the state of Washington, the city of caused fifteen freeholders to be elected on the day of, (year) as a charter commission to prepare a charter for the city; that due notice of that election was given in the manner provided by law and that the following persons were declared elected to prepare and propose a charter for the city, to wit:

That thereafter on the day of, (year) the charter commission returned a proposed charter for the city of signed by the following members thereof:

That thereafter the proposed charter was published in (indicate name of newspaper in which published), for at least once each week for four weeks next preceding the day of submitting the same to the electors for their approval. (Indicate dates of publication.)

That thereafter on the day of, (year), at an election duly called and held, the proposed charter was submitted to the qualified electors thereof, and the returns canvassed resulting as follows: For the proposed charter votes; against the proposed charter, votes; majority for the proposed charter, votes; whereupon the charter was declared adopted by a majority of the qualified electors voting at the election.

I further certify that the foregoing is a full, true and complete copy of the proposed charter so voted upon and adopted as aforesaid.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the corporate seal of the said city at my office this day of, (year)

.....
Mayor of the city of

Attest:
.....
Clerk of the city of (corporate seal)."

Immediately after authentication, the authenticated charter shall be recorded by the city clerk in a book provided for that purpose known as the charter book of the city of and when so recorded shall be attested by the clerk and mayor under the corporate seal of the city. All amendments shall be in like manner recorded and attested.

All courts shall take judicial notice of a charter and all amendments thereto when recorded and attested as required in this section. [2016 c 202 § 28; 1967 ex.s. c 119 § 35A.08.120.]

**Chapter 35A.09 RCW
AMENDMENT OR REVISION OF CHARTERS OF
CHARTER CODE CITIES**

- Sections
- 35A.09.010 Amendment of charter—Initiated by legislative body.
- 35A.09.020 Petition for submission of charter amendment.
- 35A.09.030 New or revised charter—Petition—Charter commission.
- 35A.09.040 Submission of new or revised charter—Election.
- 35A.09.050 Publication of proposed charter.
- 35A.09.060 Conduct of elections.
- 35A.09.070 Effect of favorable vote.

35A.09.010 Amendment of charter—Initiated by legislative body. The charter of a charter code city may be amended by proposals therefor submitted by resolution of the legislative authority of such city to the electors thereof at any general election, after publication of such proposed charter amendment in the manner provided in chapter 35A.08 RCW for publication of a proposed charter, and upon notice of election as provided by law. If such proposed charter amendment is ratified by a majority of the qualified electors voting thereon it shall become a part of the charter organic law governing such charter code city. [1967 ex.s. c 119 § 35A.09.010.]

35A.09.020 Petition for submission of charter amendment. Upon the filing with the county auditor of a sufficient petition signed by registered voters of a charter code city, in number equal to at least ten percent of the votes cast at the last general municipal election, seeking the adoption of a specified charter amendment set forth in the petition, providing for any matter within the realm of local affairs, or municipal business, or structure of municipal government, offices, and departments, said amendment shall be submitted to the voters at the next general municipal election if one is to be held within one hundred and eighty days, or at a special election to be held for that purpose not less than ninety days, nor more than one hundred and eighty days after the filing of the certificate of sufficiency of the petition. The proposed charter amendment shall be published as provided in RCW 35A.09.050. Upon approval by a majority of the registered voters voting thereon, such amendment shall become a part of the charter organic law governing such charter code city. [1990 c 259 § 8; 1967 ex.s. c 119 § 35A.09.020.]

Sufficiency of petition in code city: RCW 35A.01.040.

35A.09.030 New or revised charter—Petition—Charter commission. On the petition of a number of qualified electors of a charter code city equal to ten percent of the total votes cast at the last preceding municipal general election, the legislative body of such charter code city shall, or without such petition, may, by resolution, cause an election to be held for the election of a charter commission of fifteen freeholders for the purpose of preparing a new or revised charter for the city by altering, revising, adding to, or repealing the existing charter including all amendments thereto. The members of the charter commission shall be qualified and nominated as provided by chapter 35A.08 RCW. At such election the proposition of whether or not a charter commission shall be created at all shall be separately stated on the ballots and unless a majority of the votes cast upon that proposition favor it, no further steps shall be taken in the proceedings. [1967 ex.s. c 119 § 35A.09.030.]

Sufficiency of petition in code city: RCW 35A.01.040.

35A.09.040 Submission of new or revised charter—Election. Within ten days after the results of the election authorized by RCW 35A.09.030 have been determined, if a majority of the votes cast favor the proposition, the members of the charter commission elected thereat shall convene and prepare a new or revised charter by altering, revising, adding to, or repealing the existing charter including all amendments thereto and within one hundred and eighty days thereafter file

it with the county auditor. The charter commission shall be organized, vacancies filled, alternative plans of government considered, and a public hearing held all in the manner provided in sections of chapter 35A.08 RCW relating to charter commissions, and the commission members shall be reimbursed for their expenses and may obtain technical and clerical assistance in the manner provided in chapter 35A.08 RCW. Upon the filing of the proposed new, altered, changed, or revised charter with the county auditor, it shall be submitted to the registered voters of the charter code city at an election conducted as provided in RCW 35A.09.060. [1990 c 259 § 9; 1967 ex.s. c 119 § 35A.09.040.]

35A.09.050 Publication of proposed charter. The proposed new, altered, or revised charter shall be published in the newspaper having the largest general circulation within the city at least once each week for four weeks next preceding the day of submitting the same to the electors for their approval. [1985 c 469 § 41; 1967 ex.s. c 119 § 35A.09.050.]

35A.09.060 Conduct of elections. The election of the charter commission and the election upon the proposition of adopting the proposed new, altered, or revised charter, may be general or special elections held within the corresponding time period specified in chapter 35A.08 RCW, and except as herein provided, said elections, the notice specifying the objects thereof, the returns, the canvassing, and the declaration of the result shall be governed by the laws regulating and controlling elections in the charter code city. [1967 ex.s. c 119 § 35A.09.060.]

35A.09.070 Effect of favorable vote. If a majority of the voters voting upon the adoption of the proposed new, altered, or revised charter favor it, it shall become the charter of the charter code city and the organic law thereof, superseding any existing charter; but if any offices are abolished or dispensed with by the new, altered, or revised charter, and any new offices created thereby, such charter shall not go into effect until the election and qualification of such new officers at the next general municipal election if one is to be held within one hundred and eighty days, or at a special election to be held for that purpose not less than ninety days, nor more than one hundred and eighty days after approval of such charter by the voters. [1967 ex.s. c 119 § 35A.09.070.]

Chapter 35A.10 RCW

ADOPTION AND ABANDONMENT OF CHARTER CODE CITY CLASSIFICATION

Sections

- 35A.10.010 Laws applicable to charter code cities.
- 35A.10.020 Abandonment of charter code city classification.
- 35A.10.030 Resolution or petition for change of classification—Election.
- 35A.10.040 No subsequent vote for six years.

35A.10.010 Laws applicable to charter code cities. The classifications of municipalities which existed prior to the time this title goes into effect—first-class cities, second-class cities, unclassified cities, and towns—and the restrictions, limitations, duties and obligations specifically imposed by law upon such classes of cities and towns, shall have no application to charter code cities, but every charter code city,

by adopting such classification, has elected to be governed by its charter and by the provisions of this title, with the powers thereby granted. [1994 c 81 § 70; 1967 ex.s. c 119 § 35A.10.010.]

35A.10.020 Abandonment of charter code city classification. Any charter code city, which has been so classified under the provisions of this title for more than six years may abandon such classification and elect to be governed according to its charter under the general law relating to charter cities of the classification held by such city immediately prior to becoming a charter code city, if any, or may elect to be governed by the general law relating to charter cities of the highest class, or other class, for which it is qualified by population. [1967 ex.s. c 119 § 35A.10.020.]

35A.10.030 Resolution or petition for change of classification—Election. Upon the passage of a resolution of the legislative body of a charter code city, or upon the filing with the county auditor of a sufficient petition signed by registered voters of a charter code city in number equal to not less than ten percent of the votes cast at the last general municipal election therein, proposing abandonment of the classification of charter code city and that the city be governed under its charter and the general law relating to cities of the classification named in the petition or resolution, the legislative body thereof shall cause the propositions to be submitted to the voters at the next general municipal election if one is to be held within one hundred and eighty days or at a special election to be held for that purpose not less than ninety days nor more than one hundred and eighty days after the passage of the resolution or the filing of the certificate of sufficiency of the petition. Notice of election shall be given, the election conducted, and results declared generally as provided in chapter 35A.02 RCW, insofar as such provisions are applicable. If a majority of the votes cast upon such proposition are in favor of abandonment of the classification of charter code city, upon the certification of the record of election to the office of the secretary of state, such charter city shall be classified as a city of the class selected and shall be governed by the laws relating thereto. [1990 c 259 § 10; 1967 ex.s. c 119 § 35A.10.030.]

Sufficiency of petition in code city: RCW 35A.01.040.

35A.10.040 No subsequent vote for six years. When a proposition for abandonment of the classification of charter code city has been submitted to the voters of the charter code city in an election and has been rejected by a majority of such voters, such proposition shall not again be submitted to the voters for six years thereafter. [1967 ex.s. c 119 § 35A.10.040.]

Chapter 35A.11 RCW

LAWS GOVERNING NONCHARTER CODE CITIES AND CHARTER CODE CITIES—POWERS

Sections

- 35A.11.010 Rights, powers, and privileges.
- 35A.11.020 Powers vested in legislative bodies of noncharter and charter code cities.
- 35A.11.030 Applicability of general law.

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- 35A.11.035 Nonpolluting power generation by individual—Exemption from regulation—Authorization to contract with utility.
- 35A.11.037 Hydroelectric resources—Separate legal authority—Creation by irrigation districts and cities, towns, or public utility districts.
- 35A.11.040 Intergovernmental cooperation and action.
- 35A.11.050 Statement of purpose and policy.
- 35A.11.060 Participation in Economic Opportunity Act programs.
- 35A.11.070 Tourist promotion.
- 35A.11.080 Initiative and referendum—Election to exercise—Restriction or abandonment.
- 35A.11.090 Initiative and referendum—Effective date of ordinances—Exceptions.
- 35A.11.100 Initiative and referendum—Exercise of powers.
- 35A.11.110 Members of legislative bodies authorized to serve as volunteer firefighters, volunteer ambulance personnel, or reserve law enforcement officers.
- 35A.11.200 Criminal code repeal by city operating municipal court—Agreement covering costs of handling resulting criminal cases—Arbitration.
- 35A.11.210 Juvenile curfews.

35A.11.010 Rights, powers, and privileges. Each city governed under this optional municipal code, whether charter or noncharter, shall be entitled "City of" (naming it), and by such name shall have perpetual succession; may sue and be sued in all courts and proceedings; use a corporate seal approved by its legislative body; and, by and through its legislative body, such municipality may contract and be contracted with; may purchase, lease, receive, or otherwise acquire real and personal property of every kind, and use, enjoy, hold, lease, control, convey or otherwise dispose of it for the common benefit. [1967 ex.s. c 119 § 35A.11.010.]

35A.11.020 Powers vested in legislative bodies of noncharter and charter code cities. The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title and its charter, if any; and to define the functions, powers, and duties of its officers and employees; within the limitations imposed by vested rights, to fix the compensation and working conditions of such officers and employees and establish and maintain civil service, or merit systems, retirement and pension systems not in conflict with the provisions of this title or of existing charter provisions until changed by the people: PROVIDED, That nothing in this section or in this title shall permit any city, whether a code city or otherwise, to enact any provisions establishing or respecting a merit system or system of civil service for firefighters and police officers which does not substantially accomplish the same purpose as provided by general law in chapter 41.08 RCW for firefighters and chapter 41.12 RCW for police officers now or as hereafter amended, or enact any provision establishing or respecting a pension or retirement system for firefighters or police officers which provides different pensions or retirement benefits than are provided by general law for such classes.

Such body may adopt and enforce ordinances of all kinds relating to and regulating its local or municipal affairs and appropriate to the good government of the city, and may impose penalties of fine not exceeding five thousand dollars or imprisonment for any term not exceeding one year, or both, for the violation of such ordinances, constituting a misdemeanor or gross misdemeanor as provided therein. However, the punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime. Such a body alternatively may provide that violation of such ordinances constitutes a civil violation subject to

monetary penalty, but no act which is a state crime may be made a civil violation.

The legislative body of each code city shall have all powers possible for a city or town to have under the Constitution of this state, and not specifically denied to code cities by law. By way of illustration and not in limitation, such powers may be exercised in regard to the acquisition, sale, ownership, improvement, maintenance, protection, restoration, regulation, use, leasing, disposition, vacation, abandonment or beautification of public ways, real property of all kinds, waterways, structures, or any other improvement or use of real or personal property, in regard to all aspects of collective bargaining as provided for and subject to the provisions of chapter 41.56 RCW, as now or hereafter amended, and in the rendering of local social, cultural, recreational, educational, governmental, or corporate services, including operating and supplying of utilities and municipal services commonly or conveniently rendered by cities or towns.

In addition and not in limitation, the legislative body of each code city shall have any authority ever given to any class of municipality or to all municipalities of this state before or after the enactment of this title, such authority to be exercised in the manner provided, if any, by the granting statute, when not in conflict with this title. Within constitutional limitations, legislative bodies of code cities shall have within their territorial limits all powers of taxation for local purposes except those which are expressly preempted by the state as provided in RCW 66.08.120, *82.36.440, 48.14.020, and 48.14.080. [2007 c 218 § 66; 1993 c 83 § 8; 1986 c 278 § 7; 1984 c 258 § 807; 1969 ex.s. c 29 § 1; 1967 ex.s. c 119 § 35A.11.020.]

***Reviser's note:** Chapter 82.36 RCW was repealed in its entirety by 2013 c 225 § 501, effective July 1, 2016.

Intent—Finding—2007 c 218: See note following RCW 1.08.130.

Additional notes found at www.leg.wa.gov

35A.11.030 Applicability of general law. Powers of eminent domain, borrowing, taxation, and the granting of franchises may be exercised by the legislative bodies of code cities in the manner provided in this title or by the general law of the state where not inconsistent with this title; and the duties to be performed and the procedure to be followed by such cities in regard to the keeping of accounts and records, official bonds, health and safety and other matters not specifically provided for in this title, shall be governed by the general law. For the purposes of this title, "the general law" means any provision of state law, not inconsistent with this title, enacted before or after the passage of this title which is by its terms applicable or available to all cities or towns. [1967 ex.s. c 119 § 35A.11.030.]

35A.11.035 Nonpolluting power generation by individual—Exemption from regulation—Authorization to contract with utility. See chapter 80.58 RCW.

35A.11.037 Hydroelectric resources—Separate legal authority—Creation by irrigation districts and cities, towns, or public utility districts. See RCW 87.03.825 through 87.03.840.

[Title 35A RCW—page 14]

35A.11.040 Intergovernmental cooperation and action. The legislative body of a code city may exercise any of its powers or perform any of its functions including purchasing, and participate in the financing thereof, jointly or in cooperation, as provided for in chapter 39.34 RCW. The legislative body of a code city shall have power to accept any gift or grant for any public purpose and may carry out any conditions of such gift or grant when not in conflict with state or federal law. [1979 ex.s. c 18 § 17; 1967 ex.s. c 119 § 35A.11.040.]

Additional notes found at www.leg.wa.gov

35A.11.050 Statement of purpose and policy. The general grant of municipal power conferred by this chapter and this title on legislative bodies of noncharter code cities and charter code cities is intended to confer the greatest power of local self-government consistent with the Constitution of this state and shall be construed liberally in favor of such cities. Specific mention of a particular municipal power or authority contained in this title or in the general law shall be construed as in addition and supplementary to, or explanatory of the powers conferred in general terms by this chapter. [1967 ex.s. c 119 § 35A.11.050.]

35A.11.060 Participation in Economic Opportunity Act programs. The legislative body of any city or town is hereby authorized and empowered in its discretion by resolution or ordinance passed by a majority of the legislative body, to take whatever action it deems necessary to enable the city or town to participate in the programs set forth in the Economic Opportunity Act of 1964 (Public Law 88-452; 78 Stat. 508), as amended. Such participation may be engaged in as a sole city or town operation or in conjunction or cooperation with the state, any other city or town, county, or municipal corporation, or any private corporation qualified under said Economic Opportunity Act. [1971 ex.s. c 177 § 4.]

35A.11.070 Tourist promotion. See RCW 35.21.700.

35A.11.080 Initiative and referendum—Election to exercise—Restriction or abandonment. The qualified electors or legislative body of a noncharter code city may provide for the exercise in their city of the powers of initiative and referendum, upon electing so to do in the manner provided for changing the classification of a city or town in RCW 35A.02.020, 35A.02.025, 35A.02.030, and 35A.02.035, as now or hereafter amended.

The exercise of such powers may be restricted or abandoned upon electing so to do in the manner provided for abandoning the plan of government of a noncharter code city in RCW 35A.06.030, 35A.06.040, 35A.06.050, and 35A.06.060, as now or hereafter amended. [1979 ex.s. c 18 § 18; 1973 1st ex.s. c 81 § 1.]

Imposition or increase of business and occupation tax—Referendum procedure required—Exclusive procedure: RCW 35.21.706.

Initiative and referendum petitions: RCW 35A.29.170.

Additional notes found at www.leg.wa.gov

35A.11.090 Initiative and referendum—Effective date of ordinances—Exceptions. Ordinances of noncharter code cities the qualified electors of which have elected to

exercise the powers of initiative and referendum shall not go into effect before thirty days from the time of final passage and are subject to referendum during the interim except:

- (1) Ordinances initiated by petition;
- (2) Ordinances necessary for immediate preservation of public peace, health, and safety or for the support of city government and its existing public institutions which contain a statement of urgency and are passed by unanimous vote of the council;
- (3) Ordinances providing for local improvement districts;
- (4) Ordinances appropriating money;
- (5) Ordinances providing for or approving collective bargaining;
- (6) Ordinances providing for the compensation of or working conditions of city employees; and
- (7) Ordinances authorizing or repealing the levy of taxes; which excepted ordinances shall go into effect as provided by the general law or by applicable sections of Title 35A RCW as now or hereafter amended. [1973 1st ex.s. c 81 § 2.]

35A.11.100 Initiative and referendum—Exercise of powers. Except as provided in RCW 35A.11.090, and except that the number of registered voters needed to sign a petition for initiative or referendum shall be fifteen percent of the total number of names of persons listed as registered voters within the city on the day of the last preceding city general election, the powers of initiative and referendum in noncharter code cities shall be exercised in the manner set forth for the commission form of government in RCW 35.17.240 through 35.17.360, as now or hereafter amended. [1973 1st ex.s. c 81 § 3.]

Sufficiency of petition in code city: RCW 35A.01.040.

35A.11.110 Members of legislative bodies authorized to serve as volunteer firefighters, volunteer ambulance personnel, or reserve law enforcement officers. Notwithstanding any other provision of law, the legislative body of any code city, by resolution adopted by a two-thirds vote of the full legislative body, may authorize any of its members to serve as volunteer firefighters, volunteer ambulance personnel, or reserve law enforcement officers, or two or more of such positions, and to receive the same compensation, insurance, and other benefits as are applicable to other volunteer firefighters, volunteer ambulance personnel, or reserve law enforcement officers employed by the code city. [2005 c 38 § 1; 1993 c 303 § 2; 1974 ex.s. c 60 § 2.]

35A.11.200 Criminal code repeal by city operating municipal court—Agreement covering costs of handling resulting criminal cases—Arbitration. A code city operating a municipal court may not repeal in its entirety that portion of its municipal code defining crimes unless the municipality has reached an agreement with the appropriate county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall include provisions for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement,

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they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04A RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04A RCW. [2005 c 433 § 42; 1984 c 258 § 209.]

Additional notes found at www.leg.wa.gov

35A.11.210 Juvenile curfews. (1) Any code city has the authority to enact an ordinance, for the purpose of preserving the public safety or reducing acts of violence by or against juveniles that are occurring at such rates as to be beyond the capacity of the police to assure public safety, establishing times and conditions under which juveniles may be present on the public streets, in the public parks, or in any other public place during specified hours.

(2) The ordinance shall not contain any criminal sanctions for a violation of the ordinance. [1994 sp.s. c 7 § 503.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Chapter 35A.12 RCW MAYOR-COUNCIL PLAN OF GOVERNMENT

Sections

- 35A.12.010 Elective city officers—Size of council.
- 35A.12.020 Appointive officers—Duties—Compensation.
- 35A.12.030 Eligibility to hold elective office.
- 35A.12.040 Elections—Terms of elective officers—Numbering of council positions.
- 35A.12.050 Vacancies.
- 35A.12.060 Vacancy for nonattendance.
- 35A.12.065 Pro tempore appointments.
- 35A.12.070 Compensation of elective officers—Expenses.
- 35A.12.080 Oath and bond of officers.
- 35A.12.090 Appointment and removal of officers—Terms.
- 35A.12.100 Duties and authority of the mayor—Veto—Tie-breaking vote.
- 35A.12.110 Council meetings.
- 35A.12.120 Council—Quorum—Rules—Voting.
- 35A.12.130 Ordinances—Style—Requisites—Veto.
- 35A.12.140 Adoption of codes by reference.
- 35A.12.150 Ordinances—Authentication and recording.
- 35A.12.160 Publication of ordinances or summary—Public notice of hearings and meeting agendas.
- 35A.12.170 Audit and allowance of demands against city.
- 35A.12.180 Optional division of city into wards.
- 35A.12.190 Powers of council.

35A.12.010 Elective city officers—Size of council. The government of any noncharter code city or charter code city electing to adopt the mayor-council plan of government authorized by this chapter shall be vested in an elected mayor and an elected council. The council of a noncharter code city having less than twenty-five hundred inhabitants shall consist of five members; when there are twenty-five hundred or more inhabitants, the council shall consist of seven members. A city with a population of less than twenty-five hundred at the time of reclassification as an optional municipal code city may choose to maintain a seven-member council. The decision concerning the number of councilmembers shall be made by the council and be incorporated as a section of the ordinance adopting for the city the classification of noncharter code city. If the population of a city after having become a code city decreases from twenty-five hundred or more to

less than twenty-five hundred, it shall continue to have a seven-member council. If, after a city has become a mayor-council code city, its population increases to twenty-five hundred or more inhabitants, the number of council offices in such city may increase from five to seven members upon the affirmative vote of a majority of the existing council to increase the number of council offices in the city. When the population of a mayor-council code city having five council offices increases to five thousand or more inhabitants, the number of council offices in the city shall increase from five to seven members. In the event of an increase in the number of council offices, the city council shall, by majority vote, pursuant to RCW 35A.12.050, appoint two persons to serve in these offices until the next municipal general election, at which election one person shall be elected for a two-year term and one person shall be elected for a four-year term. The number of inhabitants shall be determined by the most recent official state or federal census or determination by the state office of financial management. A charter adopted under the provisions of this title, incorporating the mayor-council plan of government set forth in this chapter, may provide for an uneven number of councilmembers not exceeding eleven. For the purposes of determining population under this section, cities may include or exclude the population of any state correctional facility located within the city.

A noncharter code city of less than five thousand inhabitants which has elected the mayor-council plan of government and which has seven council offices may establish a five-member council in accordance with the following procedure. At least six months prior to a municipal general election, the city council shall adopt an ordinance providing for reduction in the number of council offices to five. The ordinance shall specify which two council offices, the terms of which expire at the next general election, are to be terminated. The ordinance shall provide for the renumbering of council positions and shall also provide for a two-year extension of the term of office of a retained council office, if necessary, in order to comply with RCW 35A.12.040.

However, a noncharter code city that has retained its old mayor-council plan of government, as provided in RCW 35A.02.130, is subject to the laws applicable to that old plan of government. [2011 c 14 § 1; 2009 c 549 § 3005; 1997 c 361 § 6; 1994 c 223 § 30; 1994 c 81 § 71; 1985 c 106 § 1; 1983 c 128 § 1; 1979 ex.s. c 18 § 19; 1979 c 151 § 33; 1967 ex.s. c 119 § 35A.12.010.]

Population determinations, office of financial management: Chapter 43.62 RCW.

Additional notes found at www.leg.wa.gov

35A.12.020 Appointive officers—Duties—Compensation. The appointive officers shall be those provided for by charter or ordinance and shall include a city clerk and a chief law enforcement officer. The office of city clerk may be merged with that of a city treasurer, if any, with an appropriate title designated therefor. Provision shall be made for obtaining legal counsel for the city, either by appointment of a city attorney on a full-time or part-time basis, or by any reasonable contractual arrangement for such professional services. The authority, duties and qualifications of all appointive officers shall be prescribed by charter or ordinance, consistent with the provisions of this title, and any amendments

thereto, and the compensation of appointive officers shall be prescribed by ordinance: PROVIDED, That the compensation of an appointed municipal judge shall be within applicable statutory limits. [1987 c 3 § 14; 1967 ex.s. c 119 § 35A.12.020.]

Additional notes found at www.leg.wa.gov

35A.12.030 Eligibility to hold elective office. No person shall be eligible to hold elective office under the mayor-council plan unless the person is a registered voter of the city at the time of filing his or her declaration of candidacy and has been a resident of the city for a period of at least one year next preceding his or her election. Residence and voting within the limits of any territory which has been included in, annexed to, or consolidated with such city is construed to have been residence within the city. A mayor or councilmember shall hold within the city government no other public office or employment except as permitted under the provisions of chapter 42.23 RCW. [2009 c 549 § 3006; 1979 ex.s. c 18 § 20; 1967 ex.s. c 119 § 35A.12.030.]

Additional notes found at www.leg.wa.gov

35A.12.040 Elections—Terms of elective officers—Numbering of council positions. Officers shall be elected at biennial municipal elections to be conducted as provided in chapter 35A.29 RCW. The mayor and the councilmembers shall be elected for four-year terms of office and until their successors are elected and qualified and assume office in accordance with RCW 29A.60.280. At any first election upon reorganization, councilmembers shall be elected as provided in RCW 35A.02.050. Thereafter the requisite number of councilmembers shall be elected biennially as the terms of their predecessors expire and shall serve for terms of four years. The positions to be filled on the city council shall be designated by consecutive numbers and shall be dealt with as separate offices for all election purposes. Election to positions on the council shall be by majority vote from the city at large, unless provision is made by charter or ordinance for election by wards. The mayor and councilmembers shall qualify by taking an oath or affirmation of office and as may be provided by law, charter, or ordinance. [2015 c 53 § 52; 1994 c 223 § 31; 1979 ex.s. c 18 § 21; 1970 ex.s. c 52 § 3; 1967 ex.s. c 119 § 35A.12.040.]

Additional notes found at www.leg.wa.gov

35A.12.050 Vacancies. The office of a mayor or councilmember shall become vacant if the person who is elected or appointed to that position fails to qualify as provided by law, fails to enter upon the duties of that office at the time fixed by law without a justifiable reason, or as provided in RCW 35A.12.060 or 42.12.010. A vacancy in the office of mayor or in the council shall be filled as provided in chapter 42.12 RCW. An incumbent councilmember is eligible to be appointed to fill a vacancy in the office of mayor. [2008 c 50 § 4; 1994 c 223 § 32; 1967 ex.s. c 119 § 35A.12.050.]

35A.12.060 Vacancy for nonattendance. In addition a council position shall become vacant if the councilmember fails to attend three consecutive regular meetings of the council without being excused by the council. [1994 c 223 § 33; 1967 ex.s. c 119 § 35A.12.060.]

35A.12.065 Pro tempore appointments. Biennially at the first meeting of a new council, or periodically, the members thereof, by majority vote, may designate one of their number as mayor pro tempore or deputy mayor for such period as the council may specify, to serve in the absence or temporary disability of the mayor; or, in lieu thereof, the council may, as the need may arise, appoint any qualified person to serve as mayor pro tempore in the absence or temporary disability of the mayor. In the event of the extended excused absence or disability of a councilmember, the remaining members by majority vote may appoint a councilmember pro tempore to serve during the absence or disability. [2009 c 549 § 3007; 1967 ex.s. c 119 § 35A.12.065.]

35A.12.070 Compensation of elective officers—Expenses. The salaries of the mayor and the councilmembers shall be fixed by ordinance and may be revised from time to time by ordinance, but any increase in the compensation attaching to an office shall not be applicable to the term then being served by the incumbent if such incumbent is a member of the city legislative body fixing his or her own compensation or as mayor in a mayor-council code city casts a tie-breaking vote relating to such ordinance: PROVIDED, That if the mayor of such a city does not cast such a vote, his or her salary may be increased during his or her term of office.

Until the first elective officers under this mayor-council plan of government may lawfully be paid the compensation provided by such salary ordinance, such officers shall be entitled to be compensated in the same manner and in the same amount as the compensation paid to officers of such city performing comparable services immediately prior to adoption of this mayor-council plan.

Until a salary ordinance can be passed and become effective as to elective officers of a newly incorporated code city, such first officers shall be entitled to compensation as follows: In cities having less than five thousand inhabitants, the mayor shall be entitled to a salary of one hundred and fifty dollars per calendar month and a councilmember shall be entitled to twenty dollars per meeting for not more than two meetings per month; in cities having more than five thousand but less than fifteen thousand inhabitants, the mayor shall be entitled to a salary of three hundred and fifty dollars per calendar month and a councilmember shall be entitled to one hundred and fifty dollars per calendar month; in cities having more than fifteen thousand inhabitants, the mayor shall be entitled to a salary of twelve hundred and fifty dollars per calendar month and a councilmember shall be entitled to four hundred dollars per calendar month: PROVIDED, That such interim compensation shall remain in effect only until a salary ordinance is passed and becomes effective as to such officers, and the amounts herein provided shall not be construed as fixing the usual salary of such officers. The mayor and councilmembers shall receive reimbursement for their actual and necessary expenses incurred in the performance of the duties of their office, or the council by ordinance may provide for a per diem allowance. Procedure for approval of claims for expenses shall be as provided by ordinance. [2009 c 549 § 3008; 1971 ex.s. c 251 § 5; 1967 ex.s. c 119 § 35A.12.070.]

Limitations on salaries: State Constitution Art. 11 § 8.

(2018 Ed.)

35A.12.080 Oath and bond of officers. Any officer before entering upon the performance of his or her duties may be required to take an oath or affirmation as prescribed by charter or by ordinance for the faithful performance of his or her duties. The oath or affirmation shall be filed with the county auditor. The clerk, treasurer, if any, chief of police, and such other officers or employees as may be designated by ordinance or by charter shall be required to furnish annually an official bond conditioned on the honest and faithful performance of their official duties. The terms and penalty of official bonds and the surety therefor shall be prescribed by ordinance or charter and the bond shall be approved by the chief administrative officer of the city. The premiums on such bonds shall be paid by the city. When the furnishing of an official bond is required of an officer or employee, compliance with such provisions shall be an essential part of qualification for office. [2009 c 549 § 3009; 1986 c 167 § 20; 1967 ex.s. c 119 § 35A.12.080.]

Additional notes found at www.leg.wa.gov

35A.12.090 Appointment and removal of officers—Terms. The mayor shall have the power of appointment and removal of all appointive officers and employees subject to any applicable law, rule, or regulation relating to civil service. The head of a department or office of the city government may be authorized by the mayor to appoint and remove subordinates in such department or office, subject to any applicable civil service provisions. All appointments of city officers and employees shall be made on the basis of ability and training or experience of the appointees in the duties they are to perform, from among persons having such qualifications as may be prescribed by ordinance or by charter, and in compliance with provisions of any merit system applicable to such city. Confirmation by the city council of appointments of officers and employees shall be required only when the city charter, or the council by ordinance, provides for confirmation of such appointments. Confirmation of mayoral appointments by the council may be required by the council in any instance where qualifications for the office or position have not been established by ordinance or charter provision. Appointive offices shall be without definite term unless a term is established for such office by law, charter or ordinance. [1987 c 3 § 15; 1967 ex.s. c 119 § 35A.12.090.]

Additional notes found at www.leg.wa.gov

35A.12.100 Duties and authority of the mayor—Veto—Tie-breaking vote. The mayor shall be the chief executive and administrative officer of the city, in charge of all departments and employees, with authority to designate assistants and department heads. The mayor may appoint and remove a chief administrative officer or assistant administrative officer, if so provided by ordinance or charter. He or she shall see that all laws and ordinances are faithfully enforced and that law and order is maintained in the city, and shall have general supervision of the administration of city government and all city interests. All official bonds and bonds of contractors with the city shall be submitted to the mayor or such person as he or she may designate for approval or disapproval. He or she shall see that all contracts and agreements made with the city or for its use and benefit are faithfully kept and performed, and to this end he or she may cause any legal

proceedings to be instituted and prosecuted in the name of the city, subject to approval by majority vote of all members of the council. The mayor shall preside over all meetings of the city council, when present, but shall have a vote only in the case of a tie in the votes of the councilmembers with respect to matters other than the passage of any ordinance, grant, or revocation of franchise or license, or any resolution for the payment of money. He or she shall report to the council concerning the affairs of the city and its financial and other needs, and shall make recommendations for council consideration and action. He or she shall prepare and submit to the council a proposed budget, as required by chapter 35A.33 RCW. The mayor shall have the power to veto ordinances passed by the council and submitted to him or her as provided in RCW 35A.12.130 but such veto may be overridden by the vote of a majority of all councilmembers plus one more vote. The mayor shall be the official and ceremonial head of the city and shall represent the city on ceremonial occasions, except that when illness or other duties prevent the mayor's attendance at an official function and no mayor pro tempore has been appointed by the council, a member of the council or some other suitable person may be designated by the mayor to represent the city on such occasion. [2009 c 549 § 3010; 1979 ex.s. c 18 § 22; 1967 ex.s. c 119 § 35A.12.100.]

Additional notes found at www.leg.wa.gov

35A.12.110 Council meetings. The city council and mayor shall meet regularly, at least once a month, at a place and at such times as may be designated by the city council. All final actions on resolutions and ordinances must take place within the corporate limits of the city. Special meetings may be called by the mayor or any three members of the council by written notice delivered to each member of the council at least twenty-four hours before the time specified for the proposed meeting. All actions that have heretofore been taken at special council meetings held pursuant to this section, but for which the number of hours of notice given has been at variance with requirements of RCW 42.30.080, are hereby validated. All council meetings shall be open to the public except as permitted by chapter 42.30 RCW. No ordinance or resolution shall be passed, or contract let or entered into, or bill for the payment of money allowed at any meeting not open to the public, nor at any public meeting the date of which is not fixed by ordinance, resolution, or rule, unless public notice of such meeting has been given by such notice to each local newspaper of general circulation and to each local radio or television station, as provided in RCW 42.30.080 as now or hereafter amended. Meetings of the council shall be presided over by the mayor, if present, or otherwise by the mayor pro tempore, or deputy mayor if one has been appointed, or by a member of the council selected by a majority of the councilmembers at such meeting. Appointment of a councilmember to preside over the meeting shall not in any way abridge his or her right to vote on matters coming before the council at such meeting. In the absence of the clerk, a deputy clerk or other qualified person appointed by the clerk, the mayor, or the council, may perform the duties of clerk at such meeting. A journal of all proceedings shall be kept, which shall be a public record. [2009 c 549 § 3011; 1993 c 199 § 3; 1979 ex.s. c 18 § 23; 1967 ex.s. c 119 § 35A.12.110.]

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Additional notes found at www.leg.wa.gov

35A.12.120 Council—Quorum—Rules—Voting. At all meetings of the council a majority of the councilmembers shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The council shall determine its own rules and order of business, and may establish rules for the conduct of council meetings and the maintenance of order. At the desire of any member, any question shall be voted upon by roll call and the ayes and nays shall be recorded in the journal.

The passage of any ordinance, grant or revocation of franchise or license, and any resolution for the payment of money shall require the affirmative vote of at least a majority of the whole membership of the council. [2009 c 549 § 3012; 1967 ex.s. c 119 § 35A.12.120.]

35A.12.130 Ordinances—Style—Requisites—Veto. The enacting clause of all ordinances shall be as follows: "The city council of the city of do ordain as follows:" No ordinance shall contain more than one subject and that must be clearly expressed in its title.

No ordinance or any section or subsection thereof shall be revised or amended unless the new ordinance sets forth the revised ordinance or the amended section or subsection at full length.

No ordinance shall take effect until five days after the date of its publication unless otherwise provided by statute or charter, except that an ordinance passed by a majority plus one of the whole membership of the council, designated therein as a public emergency ordinance necessary for the protection of public health, public safety, public property or the public peace, may be made effective upon adoption, but such ordinance may not levy taxes, grant, renew, or extend a franchise, or authorize the borrowing of money.

Every ordinance which passes the council in order to become valid must be presented to the mayor; if he or she approves it, he or she shall sign it, but if not, he or she shall return it with his or her written objections to the council and the council shall cause his or her objections to be entered at large upon the journal and proceed to a reconsideration thereof. If upon reconsideration a majority plus one of the whole membership, voting upon a call of ayes and nays, favor its passage, the ordinance shall become valid notwithstanding the mayor's veto. If the mayor fails for ten days to either approve or veto an ordinance, it shall become valid without his or her approval. Ordinances shall be signed by the mayor and attested by the clerk. [2009 c 549 § 3013; 1967 ex.s. c 119 § 35A.12.130.]

35A.12.140 Adoption of codes by reference. Ordinances may by reference adopt Washington state statutes and state, county, or city codes, regulations, or ordinances or any standard code of technical regulations, or portions thereof, including, for illustrative purposes but not limited to, fire codes and codes or ordinances relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health and sanitation, the slaughtering, processing, and selling of meats and meat products for human

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consumption, the production, pasteurizing, and sale of milk and milk products, or other subjects, together with amendments thereof or additions thereto, on the subject of the ordinance. Such Washington state statutes or codes or other codes or compilations so adopted need not be published in a newspaper as provided in RCW 35A.12.160, but the adopting ordinance shall be so published and a copy of any such adopted statute, ordinance, or code, or portion thereof, with amendments or additions, if any, in the form in which it was adopted, shall be filed in the office of the city clerk for use and examination by the public. While any such statute, code, or compilation is under consideration by the council prior to adoption, not less than one copy thereof shall be filed in the office of the city clerk for examination by the public. [1995 c 71 § 1; 1982 c 226 § 2; 1967 ex.s. c 119 § 35A.12.140.]

Additional notes found at www.leg.wa.gov

35A.12.150 Ordinances—Authentication and recording. The city clerk shall authenticate by his or her signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the council. Such book, or copies of ordinances and resolutions, shall be available for inspection by the public at reasonable times and under reasonable conditions. [2009 c 549 § 3014; 1967 ex.s. c 119 § 35A.12.150.]

35A.12.160 Publication of ordinances or summary—Public notice of hearings and meeting agendas. Promptly after adoption, the text of each ordinance or a summary of the content of each ordinance shall be published at least once in the city's official newspaper.

For purposes of this section, a summary shall mean a brief description which succinctly describes the main points of the ordinance. Publication of the title of an ordinance authorizing the issuance of bonds, notes, or other evidences of indebtedness shall constitute publication of a summary of that ordinance. When the city publishes a summary, the publication shall include a statement that the full text of the ordinance will be mailed upon request.

An inadvertent mistake or omission in publishing the text or a summary of the content of an ordinance shall not render the ordinance invalid.

In addition to the requirement that a city publish the text or a summary of the content of each adopted ordinance, every city shall establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the city's official newspaper, publication of a notice in the official newspaper, posting of upcoming council meeting agendas, or such other processes as the city determines will satisfy the intent of this requirement. [1994 c 273 § 15; 1988 c 168 § 7; 1987 c 400 § 3; 1985 c 469 § 42; 1967 ex.s. c 119 § 35A.12.160.]

35A.12.170 Audit and allowance of demands against city. All demands against a code city shall be presented and audited in accordance with such regulations as may be prescribed by charter or ordinance; and upon the allowance of a demand, the clerk shall draw a warrant upon the treasurer for it, which warrant shall be countersigned by the mayor, or such person as he or she may designate, and shall specify the

fund from which it is to be paid; or, payment may be made by a bank check when authorized by the legislative body of the code city under authority granted by RCW 35A.40.020, which check shall bear the signatures of the officers designated by the legislative body as required signatories of checks of such city, and shall specify the fund from which it is to be paid. [2009 c 549 § 3015; 1967 ex.s. c 119 § 35A.12.170.]

35A.12.180 Optional division of city into wards. At any time not within three months previous to a municipal general election the council of a noncharter code city organized under this chapter may divide the city into wards or change the boundaries of existing wards. No change in the boundaries of wards shall affect the term of any councilmember, and councilmembers shall serve out their terms in the wards of their residences at the time of their elections: PROVIDED, That if this results in one ward being represented by more councilmembers than the number to which it is entitled those having the shortest unexpired terms shall be assigned by the council to wards where there is a vacancy, and the councilmembers so assigned shall be deemed to be residents of the wards to which they are assigned for purposes of those positions being vacant. The representation of each ward in the city council shall be in proportion to the population as nearly as is practicable.

Wards shall be redrawn as provided in chapter 29A.76 RCW. Wards shall be used as follows: (1) Only a resident of the ward may be a candidate for, or hold office as, a councilmember of the ward; and (2) only voters of the ward may vote at a primary to nominate candidates for a councilmember of the ward. Voters of the entire city may vote at the general election to elect a councilmember of a ward, unless the city had prior to January 1, 1994, limited the voting in the general election for any or all council positions to only voters residing within the ward associated with the council positions. If a city had so limited the voting in the general election to only voters residing within the ward, then the city shall be authorized to continue to do so. [2015 c 53 § 53; 1994 c 223 § 34; 1967 ex.s. c 119 § 35A.12.180.]

35A.12.190 Powers of council. The council of any code city organized under the mayor-council plan of government provided in this chapter shall have the powers and authority granted to the legislative bodies of cities governed by this title, as more particularly described in chapter 35A.11 RCW. [1967 ex.s. c 119 § 35A.12.190.]

Chapter 35A.13 RCW

COUNCIL-MANAGER PLAN OF GOVERNMENT

Sections

- 35A.13.010 City officers—Size of council.
- 35A.13.020 Election of councilmembers—Eligibility—Terms—Vacancies—Forfeiture of office—Council chair.
- 35A.13.030 Mayor—Election—Chair to be mayor—Duties.
- 35A.13.033 Election on proposition to designate person elected to position one as chair—Subsequent holders of position one to be chair.
- 35A.13.035 Mayor pro tempore or deputy mayor.
- 35A.13.040 Compensation of councilmembers—Expenses.
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- 35A.13.200 Authentication, recording and publication of ordinances.
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35A.13.010 City officers—Size of council. The councilmembers shall be the only elective officers of a code city electing to adopt the council-manager plan of government authorized by this chapter, except where statutes provide for an elective municipal judge. The council shall appoint an officer whose title shall be "city manager" who shall be the chief executive officer and head of the administrative branch of the city government. The city manager shall be responsible to the council for the proper administration of all affairs of the code city. The council of a noncharter code city having less than twenty-five hundred inhabitants shall consist of five members; when there are twenty-five hundred or more inhabitants the council shall consist of seven members: PROVIDED, That if the population of a city after having become a code city decreases from twenty-five hundred or more to less than twenty-five hundred, it shall continue to have a seven-member council. If, after a city has become a council-manager code city its population increases to twenty-five hundred or more inhabitants, the number of council offices in such city may increase from five to seven members upon the affirmative vote of a majority of the existing council to increase the number of council offices in the city. When the population of a council-manager code city having five council offices increases to five thousand or more inhabitants, the number of council offices in the city shall increase from five to seven members. In the event of an increase in the number of council offices, the city council shall, by majority vote, pursuant to RCW 35A.13.020, appoint two persons to serve in these offices until the next municipal general election, at which election one person shall be elected for a two-year term and one person shall be elected for a four-year term. The number of inhabitants shall be determined by the most recent official state or federal census or determination by the state office of financial management. A charter adopted under the provisions of this title, incorporating the council-manager plan of government set forth in this chapter may provide for an uneven number of councilmembers not exceeding eleven.

A noncharter code city of less than five thousand inhabitants which has elected the council-manager plan of government and which has seven council offices may establish a five-member council in accordance with the following procedure. At least six months prior to a municipal general election, the city council shall adopt an ordinance providing for reduction in the number of council offices to five. The ordinance shall specify which two council offices, the terms of which expire at the next general election, are to be terminated. The ordinance shall provide for the renumbering of

council positions and shall also provide for a two-year extension of the term of office of a retained council office, if necessary, in order to comply with RCW 35A.12.040.

However, a noncharter code city that has retained its old council-manager plan of government, as provided in RCW 35A.02.130, is subject to the laws applicable to that old plan of government.

For the purposes of determining population under this section, cities may include or exclude the population of any state correctional facility located within the city. [2011 c 14 § 2; 2009 c 549 § 3016; 1994 c 223 § 35; 1994 c 81 § 72; 1987 c 3 § 16; 1985 c 106 § 2; 1983 c 128 § 2; 1979 ex.s. c 18 § 24; 1979 c 151 § 34; 1967 ex.s. c 119 § 35A.13.010.]

Population determinations, office of financial management: Chapter 43.62 RCW.

Additional notes found at www.leg.wa.gov

35A.13.020 Election of councilmembers—Eligibility—Terms—Vacancies—Forfeiture of office—Council chair. In council-manager code cities, eligibility for election to the council, the manner of electing councilmembers, the numbering of council positions, the terms of councilmembers, the occurrence and the filling of vacancies, the grounds for forfeiture of office, and appointment of a mayor pro tempore or deputy mayor or councilmember pro tempore shall be governed by the corresponding provisions of RCW 35A.12.030, 35A.12.040, 35A.12.050, 35A.12.060, and 35A.12.065 relating to the council of a code city organized under the mayor-council plan, except that in council-manager cities where all council positions are at large positions, the city council may, pursuant to RCW 35A.13.033, provide that the person elected to council position one shall be the council chair and shall carry out the duties prescribed by RCW 35A.13.030. [2009 c 549 § 3017; 1994 c 223 § 36; 1975 1st ex.s. c 155 § 1; 1967 ex.s. c 119 § 35A.13.020.]

35A.13.030 Mayor—Election—Chair to be mayor—Duties. Biennially at the first meeting of the new council the members thereof shall choose a chair from among their number unless the chair is elected pursuant to RCW 35A.13.033. The chair of the council shall have the title of mayor and shall preside at meetings of the council. In addition to the powers conferred upon him or her as mayor, he or she shall continue to have all the rights, privileges, and immunities of a member of the council. The mayor shall be recognized as the head of the city for ceremonial purposes and by the governor for purposes of military law. He or she shall have no regular administrative duties, but in time of public danger or emergency, if so authorized by ordinance, shall take command of the police, maintain law, and enforce order. [2009 c 549 § 3018; 1975 1st ex.s. c 155 § 2; 1967 ex.s. c 119 § 35A.13.030.]

35A.13.033 Election on proposition to designate person elected to position one as chair—Subsequent holders of position one to be chair. The city council of a council-manager city may by resolution place before the voters of the city, a proposition to designate the person elected to council position one as the chair of the council with the powers and duties set forth in RCW 35A.13.030. If a majority of those voting on the proposition cast a positive vote, then at all subsequent general elections at which position one is on the bal-

lot, the person who is elected to position one shall become the chair upon taking office. [2009 c 549 § 3019; 1975 1st ex.s. c 155 § 3.]

35A.13.035 Mayor pro tempore or deputy mayor. Biennially at the first meeting of a new council, or periodically, the members thereof, by majority vote, may designate one of their number as mayor pro tempore or deputy mayor for such period as the council may specify, to serve in the absence or temporary disability of the mayor; or, in lieu thereof, the council may, as the need may arise, appoint any qualified person to serve as mayor pro tempore in the absence or temporary disability of the mayor. In the event of the extended excused absence or disability of a councilmember, the remaining members by majority vote may appoint a councilmember pro tempore to serve during the absence or disability. [2009 c 549 § 3020; 1969 ex.s. c 81 § 1.]

Additional notes found at www.leg.wa.gov

35A.13.040 Compensation of councilmembers—Expenses. The salaries of the councilmembers, including the mayor, shall be fixed by ordinance and may be revised from time to time by ordinance, but any increase or reduction in the compensation attaching to an office shall not become effective until the expiration of the term then being served by the incumbent: PROVIDED, That compensation of councilmembers may not be increased or diminished after their election nor may the compensation of the mayor be increased or diminished after the mayor has been chosen by the council.

Until councilmembers of a newly organized council-manager code city may lawfully be paid as provided by salary ordinance, such councilmembers shall be entitled to compensation in the same manner and in the same amount as councilmembers of such city prior to the adoption of this council-manager plan.

Until a salary ordinance can be passed and become effective as to elective officers of a newly incorporated code city, the first councilmembers shall be entitled to compensation as follows: In cities having less than five thousand inhabitants—twenty dollars per meeting for not more than two meetings per month; in cities having more than five thousand but less than fifteen thousand inhabitants—a salary of one hundred and fifty dollars per calendar month; in cities having more than fifteen thousand inhabitants—a salary of four hundred dollars per calendar month. A councilmember who is occupying the position of mayor, in addition to his or her salary as a councilmember, shall be entitled, while serving as mayor, to an additional amount per calendar month, or portion thereof, equal to twenty-five percent of the councilmember salary: PROVIDED, That such interim compensation shall remain in effect only until a salary ordinance is passed and becomes effective as to such officers, and the compensation provided herein shall not be construed as fixing the usual compensation of such officers. Councilmembers shall receive reimbursement for their actual and necessary expenses incurred in the performance of the duties of their office, or the council by ordinance may provide for a per diem allowance. Procedure for approval of claims for expenses shall be as provided by ordinance. [2009 c 549 § 3021; 1979 ex.s. c 18 § 25; 1967 ex.s. c 119 § 35A.13.040.]

Additional notes found at www.leg.wa.gov

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35A.13.050 City manager—Qualifications. The city manager need not be a resident at the time of his or her appointment, but shall reside in the code city after his or her appointment unless such residence is waived by the council. He or she shall be chosen by the council solely on the basis of his or her executive and administrative qualifications with special reference to his or her actual experience in, or his or her knowledge of, accepted practice in respect to the duties of his or her office. No person elected to membership on the council shall be eligible for appointment as city manager until one year has elapsed following the expiration of the term for which he or she was elected. [2009 c 549 § 3022; 1967 ex.s. c 119 § 35A.13.050.]

35A.13.060 City manager may serve two or more cities. Whether the city manager shall devote his or her full time to the affairs of one code city shall be determined by the council. A city manager may serve two or more cities in that capacity at the same time. [2009 c 549 § 3023; 1967 ex.s. c 119 § 35A.13.060.]

35A.13.070 City manager—Bond and oath. Before entering upon the duties of his or her office the city manager shall take an oath or affirmation for the faithful performance of his or her duties and shall execute and file with the clerk of the council a bond in favor of the code city in such sum as may be fixed by the council. The premium on such bond shall be paid by the city. [2009 c 549 § 3024; 1967 ex.s. c 119 § 35A.13.070.]

35A.13.080 City manager—Powers and duties. The powers and duties of the city manager shall be:

- (1) To have general supervision over the administrative affairs of the code city;
- (2) To appoint and remove at any time all department heads, officers, and employees of the code city, except members of the council, and subject to the provisions of any applicable law, rule, or regulation relating to civil service: PROVIDED, That the council may provide for the appointment by the mayor, subject to confirmation by the council, of a city planning commission, and other advisory citizens' committees, commissions, and boards advisory to the city council: PROVIDED FURTHER, That if the municipal judge of the code city is appointed, such appointment shall be made by the city manager subject to confirmation by the council, for a four year term. The council may cause an audit to be made of any department or office of the code city government and may select the persons to make it, without the advice or consent of the city manager;
- (3) To attend all meetings of the council at which his or her attendance may be required by that body;
- (4) To see that all laws and ordinances are faithfully executed, subject to the authority which the council may grant the mayor to maintain law and order in times of emergency;
- (5) To recommend for adoption by the council such measures as he or she may deem necessary or expedient;
- (6) To prepare and submit to the council such reports as may be required by that body or as he or she may deem it advisable to submit;
- (7) To keep the council fully advised of the financial condition of the code city and its future needs;

(8) To prepare and submit to the council a proposed budget for the fiscal year, as required by chapter 35A.33 RCW, and to be responsible for its administration upon adoption;

(9) To perform such other duties as the council may determine by ordinance or resolution. [2009 c 549 § 3025; 1987 c 3 § 17; 1967 ex.s. c 119 § 35A.13.080.]

Additional notes found at www.leg.wa.gov

35A.13.090 Creation of departments, offices, and employment—Compensation. On recommendation of the city manager or upon its own action, the council may create such departments, offices, and employments as it may find necessary or advisable and may determine the powers and duties of each department or office. Compensation of appointive officers and employees may be fixed by ordinance after recommendations are made by the city manager. The appointive officers shall include a city clerk and a chief of police or other law enforcement officer. Pursuant to recommendation of the city manager, the council shall make provision for obtaining legal counsel for the city, either by appointment of a city attorney on a full time or part time basis, or by any reasonable contractual arrangement for such professional services. [1967 ex.s. c 119 § 35A.13.090.]

35A.13.100 City manager—Department heads—Authority. The city manager may authorize the head of a department or office responsible to him or her to appoint and remove subordinates in such department or office. Any officer or employee who may be appointed by the city manager, or by the head of a department or office, except one who holds his or her position subject to civil service, may be removed by the manager or other such appointing officer at any time subject to any applicable law, rule, or regulation relating to civil service. Subject to the provisions of RCW 35A.13.080 and any applicable civil service provisions, the decision of the manager or other appointing officer, shall be final and there shall be no appeal therefrom to any other office, body, or court whatsoever. [2009 c 549 § 3026; 1967 ex.s. c 119 § 35A.13.100.]

35A.13.110 City manager—Appointment of subordinates—Qualifications—Terms. Appointments made by or under the authority of the city manager shall be on the basis of ability and training or experience of the appointees in the duties which they are to perform, and shall be in compliance with provisions of any merit system applicable to such city. Residence within the code city shall not be a requirement. All such appointments shall be without definite term. [1967 ex.s. c 119 § 35A.13.110.]

35A.13.120 City manager—Interference by councilmembers. Neither the council, nor any of its committees or members, shall direct the appointment of any person to, or his or her removal from, office by the city manager or any of his or her subordinates. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the manager and neither the council nor any committee or member thereof shall give orders to any subordinate of the city manager, either publicly or privately. The provisions of this section do not prohibit the council, while in open session, from fully and freely discussing with

the city manager anything pertaining to appointments and removals of city officers and employees and city affairs. [2009 c 549 § 3027; 1967 ex.s. c 119 § 35A.13.120.]

35A.13.130 City manager—Removal—Resolution and notice. The city manager shall be appointed for an indefinite term and may be removed by a majority vote of the council. At least thirty days before the effective date of his or her removal, the city manager must be furnished with a formal statement in the form of a resolution passed by a majority vote of the city council stating the council's intention to remove him or her and the reasons therefor. Upon passage of the resolution stating the council's intention to remove the manager, the council by a similar vote may suspend him or her from duty, but his or her pay shall continue until his or her removal becomes effective. [2009 c 549 § 3028; 1967 ex.s. c 119 § 35A.13.130.]

35A.13.140 City manager—Removal—Reply and hearing. The city manager may, within thirty days from the date of service upon him or her of a copy thereof, reply in writing to the resolution stating the council's intention to remove him or her. In the event no reply is timely filed, the resolution shall upon the thirty-first day from the date of such service, constitute the final resolution removing the manager and his or her services shall terminate upon that day. If a reply shall be timely filed with the city clerk, the council shall fix a time for a public hearing upon the question of the manager's removal and a final resolution removing the manager shall not be adopted until a public hearing has been had. The action of the council in removing the manager shall be final. [2009 c 549 § 3029; 1967 ex.s. c 119 § 35A.13.140.]

35A.13.150 City manager—Substitute. The council may designate a qualified administrative officer of the city or town to perform the duties of manager:

- (1) Upon the adoption of the council-manager plan, pending the selection and appointment of a manager; or
- (2) Upon the termination of the services of a manager, pending the selection and appointment of a new manager; or
- (3) During the absence, disability, or suspension of the manager. [1967 ex.s. c 119 § 35A.13.150.]

35A.13.160 Oath and bond of officers. All provisions of RCW 35A.12.080 relating to oaths and bonds of officers, shall be applicable to code cities organized under this council-manager plan. [1967 ex.s. c 119 § 35A.13.160.]

35A.13.170 Council meetings—Quorum—Rules—Voting. All provisions of RCW 35A.12.110, as now or hereafter amended, and 35A.12.120, relating to council meetings, a quorum for transaction of business, rules and voting at council meetings, shall be applicable to code cities organized under this council-manager plan. [1979 ex.s. c 18 § 26; 1967 ex.s. c 119 § 35A.13.170.]

Additional notes found at www.leg.wa.gov

35A.13.180 Adoption of codes by reference. Ordinances of cities organized under this chapter may adopt codes by reference as provided in RCW 35A.12.140. [1967 ex.s. c 119 § 35A.13.180.]

35A.13.190 Ordinances—Style—Requisites—Veto.

The enacting clause of all ordinances shall be as follows: "The city council of the city of do ordain as follows:" No ordinance shall contain more than one subject and that must be clearly expressed in its title.

No ordinance or any section or subsection thereof shall be revised or amended unless the new ordinance sets forth the revised ordinance or the amended section or subsection at full length.

No ordinance shall take effect until five days after the date of its publication unless otherwise provided by statute or charter, except that an ordinance passed by a majority plus one of the whole membership of the council, designated therein as a public emergency ordinance necessary for the protection of public health, public safety, public property or the public peace, may be made effective upon adoption, but such ordinance may not levy taxes, grant, renew, or extend a franchise, or authorize the borrowing of money. [1967 ex.s. c 119 § 35A.13.190.]

35A.13.200 Authentication, recording and publication of ordinances. Ordinances of code cities organized under this chapter shall be authenticated, recorded and published as provided in RCW 35A.12.150 and 35A.12.160. [1967 ex.s. c 119 § 35A.13.200.]

35A.13.210 Audit and allowance of demands against city. RCW 35A.12.170 shall apply to the audit and allowance of demands against the city. [1967 ex.s. c 119 § 35A.13.210.]

35A.13.220 Optional division of city into wards. A code city organized under this chapter may be divided into wards as provided in RCW 35A.12.180. [1967 ex.s. c 119 § 35A.13.220.]

35A.13.230 Powers of council. The council of any code city organized under the council-manager plan provided in this chapter shall have the powers and authority granted to legislative bodies of cities governed by this title as more particularly described in chapter 35A.11 RCW, except insofar as such power and authority is vested in the city manager. [1967 ex.s. c 119 § 35A.13.230.]

Chapter 35A.14 RCW**ANNEXATION BY CODE CITIES**

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Water, sewer, or fire districts, annexation of: Chapter 35.13A RCW.

35A.14.001 Actions subject to review by boundary review board. Actions taken under chapter 35A.14 RCW may be subject to potential review by a boundary review board under chapter 36.93 RCW. [1989 c 84 § 38.]

35A.14.005 Annexations beyond urban growth areas prohibited. No code city located in a county in which urban growth areas have been designated under RCW 36.70A.110 may annex territory beyond an urban growth area. [1990 1st ex.s. c 17 § 31.]

Additional notes found at www.leg.wa.gov

35A.14.010 Authority for annexation. Any portion of a county not incorporated as part of a city or town but lying contiguous to a code city may become a part of the charter code city or noncharter code city by annexation. An area proposed to be annexed to a charter code city or noncharter code city shall be deemed contiguous thereto even though separated by water or tide or shore lands and, upon annexation of such area, any such intervening water and/or tide or shore lands shall become a part of such annexing city. [2009 c 402 § 4; 1967 ex.s. c 119 § 35A.14.010.]

Intent—2009 c 402: See note following RCW 35.13.490.

35A.14.015 Election method—Resolution for election—Contents of resolution. When the legislative body of a charter code city or noncharter code city shall determine that the best interests and general welfare of such city would be served by the annexation of unincorporated territory contiguous to such city, such legislative body may, by resolution, call for an election to be held to submit to the voters of such territory the proposal for annexation. The resolution shall, subject to RCW 35.02.170, describe the boundaries of the area to be annexed, state the number of voters residing therein as nearly as may be, and shall provide that said city will pay the cost of the annexation election. The resolution may require that there also be submitted to the electorate of the territory sought to be annexed a proposition that all property within the area annexed shall, upon annexation, be assessed and taxed at the same rate and on the same basis as the property of such annexing city is assessed and taxed to pay for all or any portion of the then-outstanding indebtedness of the city to which said area is annexed, which indebtedness has been approved by the voters, contracted for, or incurred prior to, or existing at, the date of annexation. Whenever such city has prepared and filed a proposed zoning regulation for the area to be annexed as provided for in RCW 35A.14.330 and 35A.14.340, the resolution initiating the election may also provide for the simultaneous adoption of the proposed zoning regulation upon approval of annexation by the electorate of the area to be annexed. A certified copy of the resolution shall be filed with the legislative authority of the county in which said territory is located. A certified copy of the resolution shall be filed with the boundary review board as provided for in chapter 36.93 RCW or the county annexation review board established by RCW 35A.14.200, unless such annexation proposal is within the provisions of RCW 35A.14.220. [1986 c 234 § 29; 1979 ex.s. c 124 § 1; 1975 1st ex.s. c 220 § 14; 1971 ex.s. c 251 § 10; 1967 ex.s. c 119 § 35A.14.015.]

[Title 35A RCW—page 24]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

Additional notes found at www.leg.wa.gov

35A.14.020 Election method—Contents of petition—Certification by auditor—Approval or rejection by legislative body—Costs. When a petition is sufficient under the rules set forth in RCW 35A.01.040, calling for an election to vote upon the annexation of unincorporated territory contiguous to a code city, describing the boundaries of the area proposed to be annexed, stating the number of voters therein as nearly as may be, and signed by qualified electors resident in such territory equal in number to ten percent of the votes cast at the last state general election therein, it shall be filed with the auditor of the county in which all, or the greatest portion, of the territory is located, and a copy of the petition shall be filed with the legislative body of the code city. If the territory is located in more than a single county, the auditor of the county with whom the petition is filed shall act as the lead auditor and transmit a copy of the petition to the auditor of each other county within which a portion of the territory is located. The auditor or auditors shall examine the petition, and the auditor or lead auditor shall certify the sufficiency of the petition to the legislative authority of the code city.

If the signatures on the petition are certified as containing sufficient valid signatures, the city legislative authority shall, by resolution entered within sixty days thereafter, notify the petitioners, either by mail or by publication in the same manner notice of hearing is required by RCW 35A.14.040 to be published, of its approval or rejection of the proposed action. In approving the proposed action, the legislative body may require that there also be submitted to the electorate of the territory to be annexed, a proposition that all property within the area to be annexed shall, upon annexation, be assessed and taxed at the same rate and on the same basis as the property of such annexing city is assessed and taxed to pay for all or any portion of the then-outstanding indebtedness of the city to which said area is annexed, which indebtedness has been approved by the voters, contracted for, or incurred prior to, or existing at, the date of annexation. Only after the legislative body has completed preparation and filing of a proposed zoning regulation for the area to be annexed as provided for in RCW 35A.14.330 and 35A.14.340, the legislative body in approving the proposed action, may require that the proposed zoning regulation be simultaneously adopted upon the approval of annexation by the electorate of the area to be annexed. The approval of the legislative body shall be a condition precedent to further proceedings upon the petition. The costs of conducting the election called for in the petition shall be a charge against the city concerned. The proposition or questions provided for in this section may be submitted to the voter either separately or as a single proposition. [1989 c 351 § 4; 1981 c 332 § 6; 1979 ex.s. c 124 § 2; 1967 ex.s. c 119 § 35A.14.020.]

Additional notes found at www.leg.wa.gov

35A.14.025 Election method—Creation of community municipal corporation. The resolution initiating the annexation of territory under RCW 35A.14.015, and the petition initiating the annexation of territory under RCW 35A.14.020, may provide for the simultaneous creation of a

community municipal corporation and election of community councilmembers as provided for in chapter 35.14 RCW, as separate ballot measures or as part of the same ballot measure authorizing the annexation, or for the simultaneous inclusion of the annexed area into a named existing community municipal corporation operating under chapter 35.14 RCW, as separate ballot measures or as part of the same ballot measure authorizing the annexation. If the petition so provides for the creation of a community municipal corporation and election of community councilmembers, the petition shall describe the boundaries of the proposed service area, state the number of voters residing therein as nearly as may be, and pray for the election of community councilmembers by the voters residing in the service area.

The ballots shall contain the words "For annexation and creation of community municipal corporation" and "Against annexation and creation of community municipal corporation," or "For creation of community municipal corporation" and "Against creation of community municipal corporation," as the case may be. Approval of either optional ballot proposition shall be by simple majority vote of the voters voting on the proposition, but the annexation must be authorized before a community municipal corporation is created. [1993 c 75 § 3.]

35A.14.030 Filing of petition as approved by city.

Upon approval of the petition for election by the legislative body of the code city to which such territory is proposed to be annexed, the petition shall be filed with the legislative authority of the county in which such territory is located, along with a statement, in the form required by the city, of the provisions, if any there be, relating to assumption of the portion of the debt that the city requires to be assumed by the owners of property of the area proposed to be annexed, and/or the simultaneous adoption of a proposed zoning regulation for the area. A copy of the petition and the statement, if any, shall also be filed with the boundary review board as provided for in chapter 36.93 RCW or the county annexation review board established by RCW 35A.14.160, unless such proposed annexation is within the provisions of RCW 35A.14.220. [1979 ex.s. c 124 § 3; 1971 ex.s. c 251 § 6; 1967 ex.s. c 119 § 35A.14.030.]

Additional notes found at www.leg.wa.gov

35A.14.040 Election method—Hearing by review board—Notice. Within ten days after receipt of a petition or resolution calling for an election on the question of annexation, the county annexation review board shall meet and, if the proposed annexation complies with the requirements of law, shall fix a date for a hearing thereon, to be held not less than fifteen days nor more than thirty days thereafter, of which hearing the city must give notice by publication at least once a week for two weeks prior thereto in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the area proposed to be annexed. The hearing shall be held within the city to which the territory is proposed to be annexed, at a time and place to be designated by the board. Upon the day fixed, the board shall conduct a hearing upon the petition or resolution, at which hearing a representative of the city shall make a brief presentation to the board in explanation of the annex-

ation and the benefits to be derived therefrom, and the petitioners and any resident of the city or the area proposed to be annexed shall be afforded a reasonable opportunity to be heard. The hearing may be adjourned from time to time in the board's discretion, not to exceed thirty days in all from the commencement of the hearing. [1967 ex.s. c 119 § 35A.14.040.]

35A.14.050 Decision of the county annexation review board—Filing—Date for election. After consideration of the proposed annexation as provided in RCW 35A.14.200, the county annexation review board, within thirty days after the final day of hearing, shall take one of the following actions:

(1) Approval of the proposal as submitted.

(2) Subject to RCW 35.02.170, modification of the proposal by adjusting boundaries to include or exclude territory; except that any such inclusion of territory shall not increase the total area of territory proposed for annexation by an amount exceeding the original proposal by more than five percent: PROVIDED, That the county annexation review board shall not adjust boundaries to include territory not included in the original proposal without first affording to residents and property owners of the area affected by such adjustment of boundaries an opportunity to be heard as to the proposal.

(3) Disapproval of the proposal.

The written decision of the county annexation review board shall be filed with the board of county commissioners and with the legislative body of the city concerned. If the annexation proposal is modified by the county annexation review board, such modification shall be fully set forth in the written decision. If the decision of the boundary review board or the county annexation review board is favorable to the annexation proposal, or the proposal as modified by the review board, the legislative body of the city at its next regular meeting if to be held within thirty days after receipt of the decision of the boundary review board or the county annexation review board, or at a special meeting to be held within that period, shall indicate to the county auditor its preference for a special election date for submission of such annexation proposal, with any modifications made by the review board, to the voters of the territory proposed to be annexed. The special election date that is so indicated shall be one of the dates for special elections provided under RCW 29A.04.330 that is sixty or more days after the date the preference is indicated. The county legislative authority shall call the special election at the special election date so indicated by the city. If the boundary review board or the county annexation review board disapproves the annexation proposal, no further action shall be taken thereon, and no proposal for annexation of the same territory, or substantially the same as determined by the board, shall be initiated or considered for twelve months thereafter. [2015 c 53 § 54; 1989 c 351 § 5; 1986 c 234 § 30; 1975 1st ex.s. c 220 § 15; 1971 ex.s. c 251 § 7; 1967 ex.s. c 119 § 35A.14.050.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

35A.14.070 Election method—Notice of election. Notice of an annexation election shall particularly describe

the boundaries of the area proposed to be annexed, as the same may have been modified by the boundary review board or the county annexation review board, state the objects of the election as prayed in the petition or as stated in the resolution, and require the voters to cast ballots which shall contain the words "For Annexation" or "Against Annexation" or words equivalent thereto, or contain the words "For Annexation and Adoption of Proposed Zoning Regulation", and "Against Annexation and Adoption of Proposed Zoning Regulation", or words equivalent thereto in case the simultaneous adoption of a proposed zoning regulation is proposed, and in case the assumption of all or a portion of indebtedness is proposed, shall contain an appropriate, separate proposition for or against the portion of indebtedness that the city requires to be assumed. The notice shall be posted for at least two weeks prior to the date of election in four public places within the area proposed to be annexed and published at least once a week for two weeks prior to the date of election in a newspaper of general circulation within the limits of the territory proposed to be annexed. Such notice shall be in addition to the notice required by general election law. [1994 c 223 § 38; 1979 ex.s. c 124 § 4; 1967 ex.s. c 119 § 35A.14.070.]

Additional notes found at www.leg.wa.gov

35A.14.080 Election method—Vote required for annexation—Proposition for assumption of indebtedness—Certification. On the Monday next succeeding the annexation election, the county canvassing board shall proceed to canvass the returns thereof and shall submit the statement of canvass to the county legislative authority.

The proposition for or against annexation or for or against annexation and adoption of the proposed zoning regulation, as the case may be, shall be deemed approved if a majority of the votes cast on that proposition are cast in favor of annexation or in favor of annexation and adoption of the proposed zoning regulation, as the case may be. If a proposition for or against assumption of all or any portion of indebtedness was submitted to the electorate, it shall be deemed approved if a majority of at least three-fifths of the electors of the territory proposed to be annexed voting on such proposition vote in favor thereof, and the number of persons voting on such proposition constitutes not less than forty percent of the total number of votes cast in such territory at the last preceding general election. If either or both propositions were approved by the electors, the county legislative authority shall enter a finding to that effect on its minutes, a certified copy of which shall be forthwith transmitted to and filed with the clerk of the city to which annexation is proposed, together with a certified abstract of the vote showing the whole number who voted at the election, the number of votes cast for annexation and the number cast against annexation or for annexation and adoption of the proposed zoning regulation and the number cast against annexation and adoption of the proposed zoning regulation, as the case may be, and if a proposition for assumption of all or any portion of indebtedness was submitted to the electorate, the abstract shall include the number of votes cast for assumption of indebtedness and the number of votes cast against assumption of indebtedness, together with a statement of the total number of votes cast in such territory at the last preceding general election. [1979 ex.s. c 124 § 5; 1967 ex.s. c 119 § 35A.14.080.]

[Title 35A RCW—page 26]

Additional notes found at www.leg.wa.gov

35A.14.085 Election method—Vote required for annexation with assumption of indebtedness—Without assumption of indebtedness. A code city may cause a proposition authorizing an area to be annexed to the city to be submitted to the qualified voters of the area proposed to be annexed in the same ballot proposition as the question to authorize an assumption of indebtedness. If the measures are combined, the annexation and the assumption of indebtedness shall be authorized only if the proposition is approved by at least three-fifths of the voters of the area proposed to be annexed voting on the proposition, and the number of persons voting on the proposition constitutes not less than forty percent of the total number of votes cast in the area at the last preceding general election.

However, the code city council may adopt a resolution accepting the annexation, without the assumption of indebtedness, where the combined ballot proposition is approved by a simple majority vote of the voters voting on the proposition. [1989 c 84 § 23.]

35A.14.090 Election method—Ordinance providing for annexation, assumption of indebtedness. Upon filing of the certified copy of the finding of the county legislative authority, the clerk shall transmit it to the legislative body of the city at the next regular meeting or as soon thereafter as practicable. If only a proposition relating to annexation or to annexation and adoption of a proposed zoning regulation was submitted to the voters and such proposition was approved, the legislative body shall adopt an ordinance providing for the annexation or adopt ordinances providing for the annexation and adoption of a proposed zoning regulation, as the case may be. If a proposition for annexation or for annexation and adoption of a proposed zoning regulation, and a proposition for assumption of all or any portion of indebtedness were both submitted, and both were approved, the legislative body shall adopt an ordinance providing for the annexation or for annexation and adoption of the proposed zoning regulation, including the assumption of the portion of indebtedness that was approved by the voters. If both propositions were submitted and only the annexation or the annexation and adoption of the proposed zoning regulation was approved, the legislative body may adopt an ordinance providing for the annexation or adopt ordinances providing for the annexation and adoption of the proposed zoning regulation, as the case may be, or the legislative body may refuse to annex when a proposal for assumption of the portion of indebtedness has been disapproved by the voters. [1979 ex.s. c 124 § 6; 1967 ex.s. c 119 § 35A.14.090.]

Additional notes found at www.leg.wa.gov

35A.14.100 Election method—Effective date of annexation. Upon the date fixed in the ordinance of annexation, the area annexed shall become a part of the city. Upon the date fixed in the ordinances of annexation and adoption of the proposed zoning regulation, the area annexed shall become a part of the city, and property in the annexed area shall be subject to the proposed zoning regulation, as prepared and filed as provided for in RCW 35A.14.330 and 35A.14.340. All property within the territory hereafter

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annexed shall, if the proposition approved by the people so provides, be assessed and taxed at the same rate and on the same basis as the property of such annexing city is assessed and taxed to pay for the portion of indebtedness of the city that was approved by the voters. [1979 ex.s. c 124 § 7; 1967 ex.s. c 119 § 35A.14.100.]

Additional notes found at www.leg.wa.gov

35A.14.110 Election method is alternative. The method of annexation provided for in RCW 35A.14.015 through 35A.14.100 is an alternative method and is additional to the other methods provided for in this chapter. [1967 ex.s. c 119 § 35A.14.110.]

35A.14.120 Direct petition method—Notice to legislative body—Meeting—Assumption of indebtedness—Proposed zoning regulation—Contents of petition. Proceedings for initiating annexation of unincorporated territory to a charter code city or noncharter code city may be commenced by the filing of a petition of property owners of the territory proposed to be annexed, in the following manner. This method of annexation shall be alternative to other methods provided in this chapter. Prior to the circulation of a petition for annexation, the initiating party or parties, who shall be the owners of not less than ten percent in value, according to the assessed valuation for general taxation of the property for which annexation is sought, shall notify the legislative body of the code city in writing of their intention to commence annexation proceedings. The legislative body shall set a date, not later than sixty days after the filing of the request, for a meeting with the initiating parties to determine whether the code city will accept, reject, or geographically modify the proposed annexation, whether it shall require the simultaneous adoption of a proposed zoning regulation, if such a proposal has been prepared and filed for the area to be annexed as provided for in RCW 35A.14.330 and 35A.14.340, and whether it shall require the assumption of all or of any portion of existing city indebtedness by the area to be annexed. If the legislative body requires the assumption of all or of any portion of indebtedness and/or the adoption of a proposed zoning regulation, it shall record this action in its minutes and the petition for annexation shall be so drawn as to clearly indicate these facts. Approval by the legislative body shall be a condition precedent to circulation of the petition. There shall be no appeal from the decision of the legislative body. A petition for annexation of an area contiguous to a code city may be filed with the legislative body of the municipality to which annexation is desired. It must be signed by the owners, as defined by RCW 35A.01.040(9) (a) through (d), of not less than sixty percent in value, according to the assessed valuation for general taxation of the property for which annexation is petitioned: PROVIDED, That a petition for annexation of an area having at least eighty percent of the boundaries of such area contiguous with a portion of the boundaries of the code city, not including that portion of the boundary of the area proposed to be annexed that is coterminous with a portion of the boundary between two counties in this state, need be signed by only the owners of not less than fifty percent in value according to the assessed valuation for general taxation of the property for which the annexation is petitioned. Such petition shall set forth a description of the property according

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to government legal subdivisions or legal plats and shall be accompanied by a map which outlines the boundaries of the property sought to be annexed. If the legislative body has required the assumption of all or any portion of city indebtedness by the area annexed or the adoption of a proposed zoning regulation, these facts, together with a quotation of the minute entry of such requirement, or requirements, shall also be set forth in the petition. [1989 c 351 § 6; 1979 ex.s. c 124 § 8; 1967 ex.s. c 119 § 35A.14.120.]

Sufficiency of petition in code city: RCW 35A.01.040.

Additional notes found at www.leg.wa.gov

35A.14.130 Direct petition method—Notice of hearing. Whenever such a petition for annexation is filed with the legislative body of a code city, which petition meets the requirements herein specified and is sufficient according to the rules set forth in RCW 35A.01.040, the legislative body may entertain the same, fix a date for a public hearing thereon and cause notice of the hearing to be published in one or more issues of a newspaper of general circulation in the city. The notice shall also be posted in three public places within the territory proposed for annexation, and shall specify the time and place of hearing and invite interested persons to appear and voice approval or disapproval of the annexation. [1967 ex.s. c 119 § 35A.14.130.]

35A.14.140 Direct petition method—Ordinance providing for annexation. Following the hearing, if the legislative body determines to effect the annexation, they shall do so by ordinance. Subject to RCW 35.02.170, the ordinance may annex all or any portion of the proposed area but may not include in the annexation any property not described in the petition. Upon passage of the annexation ordinance a certified copy shall be filed with the board of county commissioners of the county in which the annexed property is located. [1986 c 234 § 31; 1975 1st ex.s. c 220 § 16; 1967 ex.s. c 119 § 35A.14.140.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

35A.14.150 Direct petition method—Effective date of annexation. Upon the date fixed in the ordinance of annexation the area annexed shall become part of the city. All property within the territory hereafter annexed shall, if the annexation petition so provided, be assessed and taxed at the same rate and on the same basis as the property of such annexing code city is assessed and taxed to pay for the portion of any then-outstanding indebtedness of the city to which said area is annexed, which indebtedness has been approved by the voters, contracted for, or incurred prior to, or existing at, the date of annexation and that the city has required to be assumed. If the annexation petition so provided, all property in the annexed area shall be subject to and a part of the proposed zoning regulation as prepared and filed as provided for in RCW 35A.14.330 and 35A.14.340. [1979 ex.s. c 124 § 9; 1967 ex.s. c 119 § 35A.14.150.]

Additional notes found at www.leg.wa.gov

35A.14.160 Annexation review board—Composition. There is hereby established in each county of the state, other than counties having a boundary review board as pro-

vided for in chapter 189, Laws of 1967 [chapter 36.93 RCW], a board to be known as the "annexation review board for the county of (naming the county)", which shall be charged with the duty of reviewing proposals for annexation of unincorporated territory to charter code cities and noncharter code cities within its respective county; except that proposals within the provisions of RCW 35A.14.220 shall not be subject to the jurisdiction of such board.

In all counties in which a boundary review board is established pursuant to chapter 189, Laws of 1967 [chapter 36.93 RCW] review of proposals for annexation of unincorporated territory to charter code cities and noncharter code cities within such counties shall be subject to chapter 189, Laws of 1967 [chapter 36.93 RCW]. Whenever any county establishes a boundary review board pursuant to chapter 189, Laws of 1967 [chapter 36.93 RCW] the provisions of this act relating to annexation review boards shall not be applicable.

Except as provided above in this section, whenever one or more cities of a county shall have elected to be governed by this title by becoming a charter code city or noncharter code city, the governor shall, within forty-five days thereafter, appoint an annexation review board for such county consisting of five members appointed in the following manner:

Two members shall be selected independently by the governor. Three members shall be selected by the governor from the following sources: (1) One member shall be appointed from nominees of the individual members of the board of county commissioners; (2) one member shall be appointed from nominees of the individual mayors of charter code cities within such county; (3) one member shall be appointed from nominees of the individual mayors of noncharter code cities within such county.

Each source shall nominate at least two persons for an available position. In the event there are less than two nominees for any position, the governor may appoint the member for that position independently. If, at the time of appointment, there are within the county no cities of one of the classes named above as a nominating source, a position which would otherwise have been filled by nomination from such source shall be filled by independent appointment of the governor.

In making appointments independently and in making appointments from among nominees, the governor shall strive to appoint persons familiar with municipal government and administration by experience and/or training. [1971 ex.s. c 251 § 8; 1967 ex.s. c 119 § 35A.14.160.]

35A.14.170 Time for filing nominations—Vacancies.

Upon the initial formation of a county annexation review board the governor shall give written notice of such formation to all the nominating sources designated therein and nominations must be filed with the office of the governor within fifteen days after receipt of such notice. Nominations to fill vacancies caused by expiration of terms must be filed at least thirty days preceding the expiration of the terms. When vacancies occur in the membership of the board, the governor shall solicit nominations from the appropriate source and if none are filed within fifteen days thereafter, the governor shall fill the vacancy by an independent appointment. [1967 ex.s. c 119 § 35A.14.170.]

35A.14.180 Terms of members. The members of the annexation review board shall be appointed for five year terms. Upon the initial formation of a board, one member appointed by the governor independently shall be appointed for a four year term, the member appointed from among nominees of the board of county commissioners shall be appointed for a three year term, the member appointed from among nominees of the mayors of noncharter code cities shall be appointed for a three year term, and the remaining members shall be appointed for five year terms. Thereafter board members shall be appointed for five year terms as the terms of their predecessors expire. Members shall be eligible for reappointment to the board for successive terms. [1967 ex.s. c 119 § 35A.14.180.]

35A.14.190 Organization of annexation review board—Rules—Journal—Authority. The members of each annexation review board shall elect from among the members a chair and a vice chair, and may employ a non-member as chief clerk, who shall be the secretary of the board. The board shall determine its own rules and order of business, shall provide by resolution for the time and manner of holding regular or special meetings, and shall keep a journal of its proceedings which shall be a public record. A majority of all the members shall constitute a quorum for the transaction of business.

The chief clerk of the board, the chair, or the vice chair shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas to any public officer or employee ordering him or her to testify before the board and produce public records, papers, books or documents. The chief clerk, the chair or the vice chair may invoke the aid of any court of competent jurisdiction to carry out such powers.

The planning departments of the county, other counties, and any city, and any state or regional planning agency shall furnish such information to the board at its request as may be reasonably necessary for the performance of its duties.

At the request of the board, the state attorney general shall provide counsel for the board. [2009 c 549 § 3030; 1967 ex.s. c 119 § 35A.14.190.]

35A.14.200 Determination by county annexation review board—Factors considered—Filing of findings and decision. The jurisdiction of the county annexation review board shall be invoked upon the filing with the board of a resolution for an annexation election as provided in RCW 35A.14.015, or of a petition for an annexation election as provided in RCW 35A.14.030, and the board shall proceed to hold a hearing, upon notice, all as provided in RCW 35A.14.040. A verbatim record shall be made of all testimony presented at the hearing and upon request and payment of the reasonable costs thereof, a copy of the transcript of such testimony shall be provided to any person or governmental unit. The board shall make and file its decision, all as provided in RCW 35A.14.050, insofar as said section is applicable to the matter before the board. Dissenting members of the board shall have the right to have their written dissents included as part of the decision. In reaching a decision on an annexation proposal, the county annexation review

board shall consider the factors affecting such proposal, which shall include but not be limited to the following:

(1) The immediate and prospective population of the area proposed to be annexed, the configuration of the area, land use and land uses, comprehensive use plans and zoning, per capita assessed valuation, topography, natural boundaries and drainage basins, the likelihood of significant growth in the area and in adjacent incorporated and unincorporated areas during the next ten years, location and coordination of community facilities and services; and

(2) The need for municipal services and the available municipal services, effect of ordinances and governmental codes, regulations and resolutions on existing uses, present cost and adequacy of governmental services and controls, the probable future needs for such services and controls, the probable effect of the annexation proposal or alternatives on cost and adequacy of services and controls in area and adjacent area, the effect on the finances, debt structure, and contractual obligations and rights of all affected governmental units; and

(3) The effect of the annexation proposal or alternatives on adjacent areas, on mutual economic and social interests, and on the local governmental structure of the county.

The county annexation review board shall determine whether the proposed annexation would be in the public interest and for the public welfare. The decision of the board shall be accompanied by the findings of the board. Such findings need not include specific data on all the factors listed in this section, but shall indicate that all such factors were considered. [1971 ex.s. c 251 § 11; 1967 ex.s. c 119 § 35A.14.200.]

35A.14.210 Court review of decisions of the county annexation review board. Decisions of the county annexation review board shall be final unless within ten days from the date of said action a governmental unit affected by the decision or any person owning real property in or residing in the area proposed to be annexed files in the superior court a notice of appeal. The filing of such notice of appeal within such time limit shall stay the effective date of the decision of the board until such time as the appeal shall have been adjudicated or withdrawn. On appeal the superior court shall not take any evidence other than that contained in the record of the hearing before the board. The superior court may affirm the decision of the county annexation review board or remand the case for further proceedings; or the court may reverse the decision and remand if it finds that substantial rights have been prejudiced because the findings, conclusions, or decision of the board are:

- (1) In violation of constitutional provisions; or
- (2) In excess of the statutory authority or jurisdiction of the board; or
- (3) Made upon unlawful procedure; or
- (4) Affected by other error of law; or
- (5) Unsupported by material and substantial evidence in view of the entire record as submitted; or
- (6) Arbitrary or capricious. [1971 ex.s. c 251 § 12; 1967 ex.s. c 119 § 35A.14.210.]

35A.14.220 When review procedure may be dispensed with. Annexations under the provisions of RCW

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35A.14.295, 35A.14.297, 35A.14.300, and 35A.14.310 shall not be subject to review by the annexation review board: PROVIDED, That in any county in which a boundary review board is established under chapter 36.93 RCW all annexations shall be subject to review except as provided for in RCW 36.93.110. When the area proposed for annexation in a petition or resolution, initiated and filed under any of the methods of initiating annexation authorized by this chapter, is less than fifty acres or less than two million dollars in assessed valuation, review procedures shall not be required as to such annexation proposal, except as provided in chapter 36.93 RCW in those counties with a review board established pursuant to chapter 36.93 RCW: PROVIDED, That when an annexation proposal is initiated by the direct petition method authorized by RCW 35A.14.120, review procedures shall not be required without regard to acreage or assessed valuation, except as provided in chapter 36.93 RCW in those counties with a boundary review board established pursuant to chapter 36.93 RCW. [1979 ex.s. c 18 § 27; 1973 1st ex.s. c 195 § 26; 1967 ex.s. c 119 § 35A.14.220.]

Additional notes found at www.leg.wa.gov

35A.14.231 Territory subject to annexation proposal—When annexation by another city or incorporation allowed. After a petition proposing an annexation by a code city has been filed with the city or the city legislative authority, or after a resolution proposing the annexation by a code city has been adopted by the city legislative authority, no territory included in the proposed annexation may be annexed by another city or town or incorporated into a city or town unless: (1) The boundary review board or county annexation review board created under RCW 35A.14.160 modifies the boundaries of the proposed annexation and removes the territory; (2) the boundary review board or county annexation review board created under RCW 35A.14.160 rejects the proposed annexation; or (3) the city legislative authority rejects the proposed annexation or voters defeat the ballot proposition authorizing the annexation. [1994 c 216 § 8.]

Additional notes found at www.leg.wa.gov

35A.14.295 Annexation of unincorporated island of territory within code city—Resolution—Notice of hearing. (1) The legislative body of a code city may resolve to annex territory to the city if there is within the city, unincorporated territory:

(a) Containing less than one hundred seventy-five acres and having all of the boundaries of such area contiguous to the code city; or

(b) Of any size containing residential property owners and having at least eighty percent of the boundaries of such area contiguous to the city. Territory annexed under this subsection (1)(b) must be within the same county and within the same urban growth area designated under RCW 36.70A.110, and the city must plan under chapter 36.70A RCW.

(2) The resolution shall describe the boundaries of the area to be annexed, state the number of voters residing therein as nearly as may be, and set a date for a public hearing on such resolution for annexation. Notice of the hearing shall be given by publication of the resolution at least once a week for two weeks prior to the date of the hearing, in one or more

newspapers of general circulation within the code city and one or more newspapers of general circulation within the area to be annexed.

(3) For purposes of subsection (1)(b) of this section, territory bounded by a river, lake, or other body of water is considered contiguous to a city that is also bounded by the same river, lake, or other body of water. [2013 2nd sp.s. c 27 § 1; 2013 c 333 § 1; 1997 c 429 § 36; 1967 ex.s. c 119 § 35A.14.295.]

Effective date—2013 2nd sp.s. c 27: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 28, 2013." [2013 2nd sp.s. c 27 § 4.]

Additional notes found at www.leg.wa.gov

35A.14.297 Ordinance providing for annexation of unincorporated island of territory—Referendum. On the date set for hearing as provided in RCW 35A.14.295, residents or property owners of the area included in the resolution for annexation shall be afforded an opportunity to be heard. The legislative body may provide by ordinance for annexation of the territory described in the resolution, but the effective date of the ordinance shall be not less than forty-five days after the passage thereof. The legislative body shall cause notice of the proposed effective date of the annexation, together with a description of the property to be annexed, to be published at least once each week for two weeks subsequent to passage of the ordinance, in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the area to be annexed. If the annexation ordinance provides for assumption of indebtedness or adoption of a proposed zoning regulation, the notice shall include a statement of such requirements. Such annexation ordinance shall be subject to referendum for forty-five days after the passage thereof. Upon the filing of a timely and sufficient referendum petition as provided in RCW 35A.14.299 below, a referendum election shall be held as provided in RCW 35A.14.299, and the annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto. After the expiration of the forty-fifth day from, but excluding the date of passage of the annexation ordinance, if no timely and sufficient referendum petition has been filed, as provided by RCW 35A.14.299 below, the area annexed shall become a part of the code city upon the date fixed in the ordinance of annexation. [1967 ex.s. c 119 § 35A.14.297.]

35A.14.299 Annexation of unincorporated island of territory within code city—Referendum—Effective date if no referendum. Such annexation ordinance as provided for in RCW 35A.14.297 shall be subject to referendum for forty-five days after the passage thereof. Upon the filing of a timely and sufficient referendum petition with the legislative body, signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general state election in the area to be annexed, the question of annexation shall be submitted to the voters of such area in a general election if one is to be held within ninety days or at a special election called for that purpose according to RCW 29A.04.330. Notice of such election shall be given as provided in RCW 35A.14.070 and the election shall be conducted as provided

in RCW 35A.29.151. The annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto.

After the expiration of the forty-fifth day from but excluding the date of passage of the annexation ordinance, if no timely and sufficient referendum petition has been filed, the area annexed shall become a part of the code city upon the date fixed in the ordinance of annexation. From and after such date, if the ordinance so provided, property in the annexed area shall be subject to the proposed zoning regulation prepared and filed for such area as provided in RCW 35A.14.330 and 35A.14.340. If the ordinance so provided, all property within the area annexed shall be assessed and taxed at the same rate and on the same basis as the property of such annexing code city is assessed and taxed to pay for any then outstanding indebtedness of such city contracted prior to, or existing at, the date of annexation. [2006 c 344 § 25; 1967 ex.s. c 119 § 35A.14.299.]

Additional notes found at www.leg.wa.gov

35A.14.300 Annexation for municipal purposes. Legislative bodies of code cities may by a majority vote annex territory outside the limits of such city whether contiguous or noncontiguous for any municipal purpose when such territory is owned by the city. [1981 c 332 § 7; 1967 ex.s. c 119 § 35A.14.300.]

Additional notes found at www.leg.wa.gov

35A.14.310 Annexation of federal areas. A code city may annex an unincorporated area contiguous to the city that is owned by the federal government by adopting an ordinance providing for the annexation and which ordinance either acknowledges an agreement of the annexation by the government of the United States, or accepts a gift, grant, or lease from the government of the United States of the right to occupy, control, improve it or sublet it for commercial, manufacturing, or industrial purposes: PROVIDED, That this right of annexation shall not apply to any territory more than four miles from the corporate limits existing before such annexation. Whenever a code city proposes to annex territory under this section, the city shall provide written notice of the proposed annexation to the legislative authority of the county within which such territory is located. The notice shall be provided at least thirty days before the city proposes to adopt the annexation ordinance. The city shall not adopt the annexation ordinance, and the annexation shall not occur under this section, if within twenty-five days of receipt of the notice, the county legislative authority adopts a resolution opposing the annexation, which resolution makes a finding that the proposed annexation will have an adverse fiscal impact on the county or road district. [1985 c 105 § 1; 1967 ex.s. c 119 § 35A.14.310.]

35A.14.320 Annexation of federal areas—Provisions of ordinance—Authority over annexed territory. In the ordinance annexing territory pursuant to a gift, grant, or lease from the government of the United States, a code city may include such tide and shorelands as may be necessary or convenient for the use thereof, and may include in the ordinance an acceptance of the terms and conditions attached to the gift, grant, or lease. A code city may cause territory annexed pur-

suant to a gift, grant, or lease of the government of the United States to be surveyed, subdivided and platted into lots, blocks, or tracts and lay out, reserve for public use, and improve streets, roads, alleys, slips, and other public places. It may grant or sublet any lot, block, or tract therein for commercial, manufacturing, or industrial purposes and reserve, receive and collect rents therefrom. It may expend the rents received therefrom in making and maintaining public improvements therein, and if any surplus remains at the end of any fiscal year, may transfer it to the city's current expense fund. [1967 ex.s. c 119 § 35A.14.320.]

35A.14.330 Proposed zoning regulation—Purposes of regulations and restrictions. The legislative body of any code city acting through a planning agency created pursuant to chapter 35A.63 RCW, or pursuant to its granted powers, may prepare a proposed zoning regulation to become effective upon the annexation of any area which might reasonably be expected to be annexed by the code city at any future time. Such proposed zoning regulation, to the extent deemed reasonably necessary by the legislative body to be in the interest of health, safety, morals and the general welfare may provide, among other things, for:

(1) The regulation and restriction within the area to be annexed of the location and the use of buildings, structures and land for residence, trade, industrial and other purposes; the height, number of stories, size, construction and design of buildings and other structures; the size of yards, courts and other open spaces on the lot or tract; the density of population; the set-back of buildings and structures along highways, parks or public water frontages; and the subdivision and development of land;

(2) The division of the area to be annexed into districts or zones of any size or shape, and within such districts or zones regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land;

(3) The appointment of a board of adjustment, to make, in appropriate cases and subject to appropriate conditions and safeguards established by ordinance, special exceptions in harmony with the general purposes and intent of the proposed zoning regulation; and

(4) The time interval following an annexation during which the ordinance or resolution adopting any such proposed regulation, or any part thereof, must remain in effect before it may be amended, supplemented or modified by subsequent ordinance or resolution adopted by the annexing city or town.

All such regulations and restrictions shall be designed, among other things, to encourage the most appropriate use of land throughout the area to be annexed; to lessen traffic congestion and accidents; to secure safety from fire; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to promote a coordinated development of the unbuilt areas; to encourage the formation of neighborhood or community units; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve and restore natural beauty and other natural resources; to facilitate the adequate provision of transportation, water, sewerage and other public uses and requirements. [1967 ex.s. c 119 § 35A.14.330.]

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35A.14.340 Notice and hearing—Filings and recordings. The legislative body of the code city shall hold two or more public hearings, to be held at least thirty days apart, upon the proposed zoning regulation, giving notice of the time and place thereof by publication in a newspaper of general circulation in the annexing city and the area to be annexed. A copy of the ordinance or resolution adopting or embodying such proposed zoning regulation or any part thereof or any amendment thereto, duly certified as a true copy by the clerk of the annexing city, shall be filed with the county auditor. A like certified copy of any map or plat referred to or adopted by the ordinance or resolution shall likewise be filed with the county auditor. The auditor shall record the ordinance or resolution and keep on file the map or plat. [1967 ex.s. c 119 § 35A.14.340.]

Annexation of water, sewer, and fire districts: Chapter 35.13A RCW.

35A.14.380 Ownership of assets of fire protection district—Assumption of responsibility of fire protection—When at least sixty percent of assessed valuation is annexed or incorporated in code city. If a portion of a fire protection district including at least sixty percent of the assessed valuation of the real property of the district is annexed to or incorporated into a code city, ownership of all of the assets of the district shall be vested in the code city, upon payment in cash, properties or contracts for fire protection services to the district within one year, of a percentage of the value of said assets equal to the percentage of the value of the real property in the entire district remaining outside the incorporated or annexed area.

The fire protection district may elect, by a vote of a majority of the persons residing outside the annexed area who vote on the proposition, to require the annexing code city to assume responsibility for the provision of fire protection, and for the operation and maintenance of the district's property, facilities, and equipment throughout the district and to pay the code city a reasonable fee for such fire protection, operation, and maintenance. [1981 c 332 § 8; 1967 ex.s. c 119 § 35A.14.380.]

Additional notes found at www.leg.wa.gov

35A.14.400 Ownership of assets of fire protection district—When less than sixty percent of assessed valuation is annexed or incorporated in code city. If a portion of a fire protection district including less than sixty percent of the assessed value of the real property of the district is annexed to or incorporated into a code city, the ownership of all assets of the district shall remain in the district and the district shall pay to the code city within one year or within such period of time as the district continues to collect taxes in such incorporated or annexed areas, in cash, properties or contracts for fire protection services, a percentage of the value of said assets equal to the percentage of the value of the real property in the entire district lying within the area so incorporated or annexed: PROVIDED, That if less than five percent of the area of the district is affected, no payment shall be made to the code city except as provided in RCW 35.02.205. The fire protection district shall provide fire protection to the incorporated or annexed area for such period as the district continues to collect taxes levied in such annexed or incorporated area. [1989 c 267 § 2; 1967 ex.s. c 119 § 35A.14.400.]

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35A.14.410 When right-of-way may be included—Use of right-of-way line as corporate boundary. The boundaries of a code city arising from an annexation of territory shall not include a portion of the right-of-way of any public street, road, or highway except where the boundary runs from one edge of the right-of-way to the other edge of the right-of-way. However, the right-of-way line of any public street, road, or highway, or any segment thereof, may be used to define a part of a corporate boundary in an annexation proceeding. [1989 c 84 § 9.]

35A.14.420 Alternative direct petition method—Notice to legislative body—Meeting—Assumption of indebtedness—Proposed zoning regulation—Contents of petition. (1) Proceedings for initiating annexation of unincorporated territory to a charter code city or noncharter code city may be commenced by the filing of a petition of property owners of the territory proposed to be annexed, in the following manner which is alternative to other methods provided in this chapter:

(a) Before the circulation of a petition for annexation, the initiating party or parties, who shall be the owners of not less than ten percent of the acreage for which annexation is sought, shall notify the legislative body of the code city in writing of their intention to commence annexation proceedings;

(b) The legislative body shall set a date, not later than sixty days after the filing of the request, for a meeting with the initiating parties to determine whether the code city will accept, reject, or geographically modify the proposed annexation, whether it shall require the simultaneous adoption of a proposed zoning regulation, if such a proposal has been prepared and filed for the area to be annexed as provided for in RCW 35A.14.330 and 35A.14.340, and whether it shall require the assumption of all or any portion of existing city indebtedness by the area to be annexed;

(c) If the legislative body requires the assumption of all or any portion of indebtedness and/or the adoption of a proposed zoning regulation, it shall record this action in its minutes and the petition for annexation shall be so drawn as to clearly indicate these facts;

(d) Approval by the legislative body shall be a condition precedent to circulation of the petition; and

(e) There shall be no appeal from the decision of the legislative body.

(2) A petition for annexation of an area contiguous to a code city may be filed with the legislative body of the municipality to which annexation is desired. The petition for annexation must be signed by the owners of a majority of the acreage for which annexation is petitioned and a majority of the registered voters residing in the area for which annexation is petitioned.

(3) If no residents exist within the area proposed for annexation, the petition must be signed by the owners of a majority of the acreage for which annexation is petitioned.

(4) The petition shall set forth a legal description of the property proposed to be annexed that complies with RCW 35A.14.410, and shall be accompanied by a drawing that outlines the boundaries of the property sought to be annexed. If the legislative body has required the assumption of all or any portion of city indebtedness by the area annexed or the adop-

tion of a proposed zoning regulation, these facts, together with a quotation of the minute entry of such requirement, or requirements, shall also be set forth in the petition. [2003 c 331 § 10.]

Intent—Severability—Effective date—2003 c 331: See notes following RCW 35.13.410.

35A.14.430 Alternative direct petition method—Notice of hearing. When a petition for annexation is filed with the legislative body of a code city, that meets the requirements of RCW 35A.01.040 and 35A.14.420, the legislative body may entertain the same, fix a date for a public hearing thereon and cause notice of the hearing to be published in one or more issues of a newspaper of general circulation in the city. The notice shall also be posted in three public places within the territory proposed for annexation, and shall specify the time and place of hearing and invite interested persons to appear and voice approval or disapproval of the annexation. [2003 c 331 § 11.]

Intent—Severability—Effective date—2003 c 331: See notes following RCW 35.13.410.

35A.14.440 Alternative direct petition method—Ordinance providing for annexation. Following the hearing, if the legislative body determines to effect the annexation, they shall do so by ordinance. Subject to RCW 35A.14.410, the ordinance may annex all or any portion of the proposed area but may not include in the annexation any property not described in the petition. Upon passage of the annexation ordinance, a certified copy shall be filed with the board of county commissioners of the county in which the annexed property is located. [2003 c 331 § 12.]

Intent—Severability—Effective date—2003 c 331: See notes following RCW 35.13.410.

35A.14.450 Alternative direct petition method—Effective date of annexation. Upon the date fixed in the ordinance of annexation, the area annexed shall become part of the city. All property within the annexed territory shall, if the annexation petition so provided, be assessed and taxed at the same rate and on the same basis as the property of the annexing code city is assessed and taxed to pay for the portion of any then-outstanding indebtedness of the city to which the area is annexed, which indebtedness has been approved by the voters, contracted for, or incurred before, or existing at, the date of annexation and that the city has required to be assumed. If the annexation petition so provided, all property in the annexed area shall be subject to and a part of the proposed zoning regulation as prepared and filed as provided for in RCW 35A.14.330 and 35A.14.340. [2003 c 331 § 13.]

Intent—Severability—Effective date—2003 c 331: See notes following RCW 35.13.410.

35A.14.460 Annexation of territory within urban growth areas—Interlocal agreement—Public hearing—Ordinance providing for annexation. (1) The legislative body of a county or code city planning under chapter 36.70A RCW and subject to the requirements of RCW 36.70A.215 may initiate an annexation process for unincorporated territory by adopting a resolution commencing negotiations for an interlocal agreement as provided in chapter 39.34 RCW

between a county and any code city within the county. The territory proposed for annexation must meet the following criteria: (a) Be within the code city urban growth area designated under RCW 36.70A.110, and (b) at least sixty percent of the boundaries of the territory proposed for annexation must be contiguous to the annexing code city or one or more cities or towns.

(2) If the territory proposed for annexation has been designated in an adopted county comprehensive plan as part of an urban growth area, urban service area, or potential annexation area for a specific city, or if the urban growth area territory proposed for annexation has been designated in a written agreement between a city and a county for annexation to a specific city or town, the designation or designations shall receive full consideration before a city or county may initiate the annexation process provided for in RCW 35A.14.470.

(3) The agreement shall describe the boundaries of the territory to be annexed. A public hearing shall be held by each legislative body, separately or jointly, before the agreement is executed. Each legislative body holding a public hearing shall, separately or jointly, publish the agreement at least once a week for two weeks before the date of the hearing in one or more newspapers of general circulation within the territory proposed for annexation.

(4) Following adoption and execution of the agreement by both legislative bodies, the city legislative body shall adopt an ordinance providing for the annexation of the territory described in the agreement. The legislative body shall cause notice of the proposed effective date of the annexation, together with a description of the property to be annexed, to be published at least once each week for two weeks subsequent to passage of the ordinance, in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the territory to be annexed. If the annexation ordinance provides for assumption of indebtedness or adoption of a proposed zoning regulation, the notice shall include a statement of the requirements. Any territory to be annexed through an ordinance adopted under this section is annexed and becomes a part of the city upon the date fixed in the ordinance of annexation, which date may not be fewer than forty-five days after adoption of the ordinance. [2003 c 299 § 3.]

35A.14.470 Annexation of territory within urban growth areas—County may initiate process with other cities or towns—Interlocal agreement—Public hearing—Ordinance—Referendum—Election, when necessary. (1) The legislative body of any county planning under chapter 36.70A RCW and subject to the requirements of RCW 36.70A.215 may initiate an annexation process with the legislative body of any other cities or towns that are contiguous to the territory proposed for annexation in RCW 35A.14.460 if:

(a) The county legislative body initiated an annexation process as provided in RCW 35A.14.460; and

(b) The affected city legislative body adopted a responsive resolution rejecting the proposed annexation or declined to create the requested interlocal agreement with the county; or

(c) More than one hundred eighty days have passed since adoption of a county resolution as provided for in RCW

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35A.14.460 and the parties have not adopted or executed an interlocal agreement providing for the annexation of unincorporated territory. The legislative body for either the county or an affected city may, however, pass a resolution extending the negotiation period for one or more six-month periods if a public hearing is held and findings of fact are made prior to each extension.

(2) Any county initiating the process provided for in subsection (1) of this section must do so by adopting a resolution commencing negotiations for an interlocal agreement as provided in chapter 39.34 RCW between the county and any city or town within the county. The annexation area must be within an urban growth area designated under RCW 36.70A.110 and at least sixty percent of the boundaries of the territory to be annexed must be contiguous to one or more cities or towns.

(3) The agreement shall describe the boundaries of the territory to be annexed. A public hearing shall be held by each legislative body, separately or jointly, before the agreement is executed. Each legislative body holding a public hearing shall, separately or jointly, publish the agreement at least once a week for two weeks before the date of the hearing in one or more newspapers of general circulation within the territory proposed for annexation.

(4) Following adoption and execution of the agreement by both legislative bodies, the city or town legislative body shall adopt an ordinance providing for the annexation. The legislative body shall cause notice of the proposed effective date of the annexation, together with a description of the property to be annexed, to be published at least once each week for two weeks subsequent to passage of the ordinance, in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the territory to be annexed. If the annexation ordinance provides for assumption of indebtedness or adoption of a proposed zoning regulation, the notice shall include a statement of the requirements. Any area to be annexed through an ordinance adopted under this section is annexed and becomes a part of the city or town upon the date fixed in the ordinance of annexation, which date may not be less than forty-five days after adoption of the ordinance.

(5) The annexation ordinances provided for in RCW 35A.14.460(4) and subsection (4) of this section are subject to referendum for forty-five days after passage. Upon the filing of a timely and sufficient referendum petition with the legislative body, signed by registered voters in number equal to not less than fifteen percent of the votes cast in the last general state election in the area to be annexed, the question of annexation shall be submitted to the voters of the area in a general election if one is to be held within ninety days or at a special election called for that purpose according to RCW 29A.04.330. Notice of the election shall be given as provided in RCW 35A.14.070 and the election shall be conducted as provided in the general election law. The annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto.

After the expiration of the forty-fifth day from but excluding the date of passage of the annexation ordinance, if no timely and sufficient referendum petition has been filed, the area annexed shall become a part of the city or town upon the date fixed in the ordinance of annexation.

(6) If more than one city or town adopts interlocal agreements providing for annexation of the same unincorporated territory as provided by this section, an election shall be held in the area to be annexed pursuant to RCW 35A.14.070. In addition to the provisions of RCW 35A.14.070, the ballot shall also contain a separate proposition allowing voters to cast votes in favor of annexation to any one city or town participating in an interlocal agreement as provided by this section. If a majority of voters voting on the proposition vote against annexation, the proposition is defeated. If, however, a majority of voters voting in the election approve annexation, the area shall be annexed to the city or town receiving the highest number of votes among those cast in favor of annexation.

(7) Costs for an election required under subsection (6) of this section shall be borne by the county. [2006 c 344 § 26; 2003 c 299 § 4.]

Additional notes found at www.leg.wa.gov

35A.14.475 Annexation of territory within regional transit authorities. When territory is annexed under this chapter to a code city located within the boundaries of a regional transit authority, the territory is simultaneously included within the boundaries of the authority and subject from the effective date of the annexation to all taxes and other liabilities and obligations applicable within the code city with respect to the authority. The code city must notify the authority of the annexation. [2010 c 19 § 2.]

35A.14.480 Annexation of territory served by fire districts—Interlocal agreement process. (1)(a) An annexation by a code city proposing to annex territory served by one or more fire protection districts may be accomplished by ordinance after entering into an interlocal agreement as provided in chapter 39.34 RCW with the county and the fire protection district or districts that have jurisdiction over the territory proposed for annexation.

(b) A code city proposing to annex territory shall initiate the interlocal agreement process by sending notice to the fire protection district representative and county representative stating the code city's interest to enter into an interlocal agreement negotiation process. The parties have forty-five days to respond in the affirmative or negative. A negative response must state the reasons the parties do not wish to participate in an interlocal agreement negotiation. A failure to respond within the forty-five day period is deemed an affirmative response and the interlocal agreement negotiation process may proceed. The interlocal agreement process may not proceed if any negative responses are received within the forty-five day period.

(c) The interlocal agreement must describe the boundaries of the territory proposed for annexation and must be consistent with the boundaries identified in an ordinance describing the boundaries of the territory proposed for annexation and setting a date for a public hearing on the ordinance. If the boundaries of the territory proposed for annexation are agreed to by all parties, a notice of intention must be filed with the boundary review board created under RCW 36.93.030. However, the jurisdiction of the board may not be invoked as described in RCW 36.93.100 for annexations that are the subject of such agreement.

(2) An interlocal annexation agreement under this section must include the following:

(a) A statement of the goals of the agreement. Goals must include, but are not limited to:

(i) The transfer of revenues and assets between the fire protection district and the code city;

(ii) A consideration and discussion of the impact to the level of service of annexation on the unincorporated area, and an agreement that the impact on the ability of fire protection and emergency medical services within the incorporated area must not be negatively impacted at least through the budget cycle in which the annexation occurs;

(iii) A discussion with fire protection districts regarding the division of assets and its impact to citizens inside and outside the newly annexed area;

(iv) Community involvement, including an agreed upon schedule of public meetings in the area or areas proposed for annexation;

(v) Revenue sharing, if any;

(vi) Debt distribution;

(vii) Capital facilities obligations of the code city, county, and fire protection districts;

(viii) An overall schedule or plan on the timing of any annexations covered under this agreement; and

(ix) A description of which of the annexing code cities' development regulations will apply and be enforced in the area.

(b) The subject areas and policies and procedures the parties agree to undertake in annexations. Subject areas may include, but are not limited to:

(i) Roads and traffic impact mitigation;

(ii) Surface and stormwater management;

(iii) Coordination and timing of comprehensive plan and development regulation updates;

(iv) Outstanding bonds and special or improvement district assessments;

(v) Annexation procedures;

(vi) Distribution of debt and revenue sharing for annexation proposals, code enforcement, and inspection services;

(vii) Financial and administrative services; and

(viii) Consultation with other service providers, including water-sewer districts, if applicable.

(c) A term of at least five years, which may be extended by mutual agreement of the code city, the county, and the fire protection district.

(3) If the fire protection district, annexing code city, and county reach an agreement on the enumerated goals, or if only the annexing code city and county reach an agreement on the enumerated goals, the code city may adopt an annexation ordinance, but the annexation ordinance provided for in this section is subject to referendum for forty-five days after its passage, provided that no referendum shall be allowed for an annexation under this section if the fire protection district, annexing code city, and the county reach agreement on an annexation for which a code city has initiated the interlocal agreement process by sending notice to the fire protection district representative and county representative prior to July 28, 2013. Upon the filing of a timely and sufficient referendum petition with the legislative body of the code city, signed by qualified electors in a number not less than ten percent of the votes cast in the last general state election in the area to be

annexed, the question of annexation must be submitted to the voters of the area in a general election if one is to be held within ninety days or at a special election called for that purpose according to RCW 29A.04.330. Notice of the election must be given as provided in RCW 35A.14.070, and the election must be conducted as provided in the general election laws under Title 29A RCW. The annexation must be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition to the annexation.

After the expiration of the forty-fifth day from, but excluding, the date of passage of the annexation ordinance, if a timely and sufficient referendum petition has not been filed, the area annexed becomes a part of the code city upon the date fixed in the ordinance of annexation. [2013 2nd sp.s. c 27 § 2; 2009 c 60 § 9.]

Effective date—2013 2nd sp.s. c 27: See note following RCW 35A.14.295.

35A.14.485 Annexation of fire districts—Transfer of employees. (1) If any portion of a fire protection district is proposed for annexation to or incorporation into a code city, both the fire protection district and the code city shall jointly inform the employees of the fire protection district about hires, separations, terminations, and any other changes in employment that are a direct consequence of annexation or incorporation at the earliest reasonable opportunity.

(2) An eligible employee may transfer into the civil service system of the code city fire department by filing a written request with the code city civil service commission and by giving written notice of the request to the board of commissioners of the fire protection district. Upon receipt of the request by the civil service commission, the transfer of employment must be made. The needed employees shall be taken in order of seniority and the remaining employees who transfer as provided in this section and RCW 35.10.360 and 35.10.370 shall head the list for employment in the civil service system in order of their seniority, to the end that they shall be the first to be reemployed in the code city fire department when appropriate positions become available. Employees who are not immediately hired by the code city shall be placed on a reemployment list for a period not to exceed thirty-six months unless a longer period is authorized by an agreement reached between the collective bargaining representatives of the employees of the annexing and annexed fire agencies and the annexing and annexed fire agencies.

(3)(a) Upon transfer, an employee is entitled to the employee rights, benefits, and privileges to which he or she would have been entitled as an employee of the fire protection district, including rights to:

(i) Compensation at least equal to the level of compensation at the time of transfer, unless the employee's rank and duties have been reduced as a result of the transfer. If the transferring employee is placed in a position with reduced rank and duties, the employee's compensation may be adjusted, but the adjustment may not result in a decrease of greater than fifty percent of the difference between the employee's compensation before the transfer and the compensation level for the position that the employee is transferred to;

(ii) Retirement, vacation, sick leave, and any other accrued benefit;

(iii) Promotion and service time accrual; and
(iv) The length or terms of probationary periods, including no requirement for an additional probationary period if one had been completed before the transfer date.

(b) (a) of this subsection does not apply if upon transfer an agreement for different terms of transfer is reached between the collective bargaining representatives of the transferring employees and the participating fire protection jurisdictions.

(4) If upon transfer, the transferring employee receives the rights, benefits, and privileges established under subsection (3)(a)(i) through (iv) of this section, those rights, benefits, and privileges are subject to collective bargaining at the end of the current bargaining period for the jurisdiction to which the employee has transferred.

(5) Such bargaining must take into account the years of service the transferring employee accumulated before the transfer and must be treated as if those years of service occurred in the jurisdiction to which the employee has transferred. [2009 c 60 § 10.]

35A.14.488 Fire protection and safety in proposed annexed territory—Report request. Upon the written request of a fire protection district, code cities annexing territory under this chapter shall, prior to completing the annexation, issue a report regarding the likely effects that the annexation and any associated asset transfers may have upon the safety of residents within and outside the proposed annexation area. The report must address, but is not limited to, the provisions of fire protection and emergency medical services within and outside of the proposed annexation area. A fire protection district may only request a report under this section when at least five percent of the assessed valuation of the fire protection district will be annexed. [2009 c 60 § 11.]

35A.14.490 Annexation of territory used for an agricultural fair. (1) Territory owned by a county and used for an agricultural fair as provided in chapter 15.76 RCW or chapter 36.37 RCW may only be annexed to a code city through the method prescribed in this section.

(a) The legislative body of the city proposing the annexation must submit a request for annexation and a legal description of the subject territory to the legislative authority of the county within which the territory is located.

(b) Upon receipt of the request and description, the county legislative authority has thirty days to review the proposal and determine if the annexation proceedings will continue. As a condition of approval, the county legislative authority may modify the proposal, but it may not add territory that was not included in the request and description. Approval of the county legislative authority is a condition precedent to further proceedings upon the request and there is no appeal of the county legislative authority's decision.

(c) If the county legislative authority determines that the proceedings may continue, it must, within thirty days of the determination, fix a date for a public hearing on the proposal, and cause notice of the hearing to be published at least once a week for two weeks prior to the hearing in one or more newspapers of general circulation in the territory proposed for annexation. The notice must also be posted in three public places within the subject territory, specify the time and place

of the hearing, and invite interested persons to appear and voice approval or disapproval of the annexation. If the annexation proposal provides for assumption of indebtedness or adoption of a proposed zoning regulation, the notice must include a statement of these requirements.

(d) If, following the conclusion of the hearing, a majority of the county legislative authority deems the annexation proposal to be in the best interest of the county, it may adopt a resolution approving of the annexation.

(e) If, following the county legislative authority's adoption of the annexation approval resolution, the legislative body of the city proposing annexation determines to effect the annexation, it must do so by ordinance. The ordinance: (i) May only include territory approved for annexation in the resolution adopted under (d) of this subsection; and (ii) must not exclude territory approved for annexation in the resolution adopted under (d) of this subsection. Upon passage of the annexation ordinance, a certified copy must be filed with the applicable county legislative authority.

(2) Any territory annexed through an ordinance adopted under this section is annexed and becomes a part of the code city upon the date fixed in the ordinance. [2009 c 402 § 5.]

Intent—2009 c 402: See note following RCW 35.13.490.

35A.14.500 Outstanding indebtedness not affected.

When any portion of a fire protection district is annexed by or incorporated into a code city, any outstanding indebtedness, bonded or otherwise, shall remain an obligation of the taxable property annexed or incorporated as if the annexation or incorporation had not occurred. [1967 ex.s. c 119 § 35A.14.500.]

35A.14.550 Providing annexation information to public. A code city can provide factual public information on the effects of pending annexation proposed for the code city. [1989 c 351 § 9.]

35A.14.700 Determining population of annexed territory—Certificate—As basis for allocation of state funds—Revised certificate. (1) Whenever any territory is annexed to a code city, a certificate as hereinafter provided shall be submitted in triplicate to the office of financial management within thirty days of the effective date of annexation specified in the relevant ordinance. After approval of the certificate, the office of financial management shall retain the original copy in its files, and transmit the second copy to the department of transportation and return the third copy to the code city. Such certificates shall be in such form and contain such information as shall be prescribed by the office of financial management. A copy of the complete ordinance containing a legal description and a map showing specifically the boundaries of the annexed territory shall be attached to each of the three copies of the certificate. The certificate shall be signed by the mayor and attested by the city clerk. Upon request, the office of financial management shall furnish certification forms to any code city.

(2)(a) The resident population of the annexed territory shall be determined by, or under the direction of, the mayor of the code city. (b) If the annexing code city has a population of ten thousand or less, the annexed territory consists entirely of one or more partial federal census blocks, or 2010 federal

decennial census data has not been released within twelve months immediately prior to the date of annexation, the population determination shall consist of an actual enumeration of the population.

(c) In any circumstance, the code city may choose to have the population determination of the entire annexed territory consist of an actual enumeration. However, if the code city does not use actual enumeration for determining population, the annexed territory includes or consists of one or more complete federal census blocks, and 2010 federal decennial census data has been released within twelve months immediately prior to the date of annexation, the population determination shall consist of:

(i) Relevant 2010 federal decennial census data pertaining to the complete block or blocks, as such data has been updated by the most recent official population estimate released by the office of financial management pursuant to RCW 43.62.030;

(ii) An actual enumeration of any population located within the annexed territory but outside the complete federal census block or blocks; and

(iii) If the office of financial management, at least two weeks prior to the date of annexation, confirms the existence of a known census error within a complete federal census block and identifies a structure or complex listed in (c)(iii)(A) through (E) of this subsection (2) as a likely source of the error, an actual enumeration of one or more of the block's identified:

(A) Group quarters;

(B) Mobile home parks;

(C) Apartment buildings that are composed of at least fifty units and are certified for occupancy between January 1, 2010, and April 1, 2011;

(D) Missing subdivisions; and

(E) Closures of any of the categories in (c)(iii)(A) through (D) of this subsection.

(d) Whenever an actual enumeration is used, it shall be made in accordance with the practices and policies of, and subject to the approval of, the office of financial management.

(e) The code city shall be responsible for the full cost of the population determination.

(3) Upon approval of the annexation certificate, the office of financial management shall forward to each state official or department responsible for making allocations or payments to cities or towns, a revised certificate reflecting the increase in population due to such annexation. Upon and after the date of the commencement of the next quarterly period, the population determination indicated in such revised certificate shall be used as the basis for the allocation and payment of state funds to such city or town.

For the purposes of this section, each quarterly period shall commence on the first day of the months of January, April, July, and October. Whenever a revised certificate is forwarded by the office of financial management thirty days or less prior to the commencement of the next quarterly period, the population of the annexed territory shall not be considered until the commencement of the following quarterly period.

(4) Until an annexation certificate is filed and approved as provided herein, such annexed territory shall not be con-

sidered by the office of financial management in determining the population of such code city. [2011 c 342 § 2; 1979 ex.s. c 18 § 28; 1979 c 151 § 35; 1975 1st ex.s. c 31 § 2; 1967 ex.s. c 119 § 35A.14.700.]

Effective date—2011 c 342: See note following RCW 35.13.260.

Population determinations, office of financial management: Chapter 43.62 RCW.

Additional notes found at www.leg.wa.gov

35A.14.801 Taxes collected in annexed territory—Notification of annexation. (1) Whenever any territory is annexed to a code city which is part of a road district of the county and road district taxes have been levied but not collected on any property within the annexed territory, the same shall when collected by the county treasurer be paid to the code city and by the city placed in the city street fund; except that road district taxes that are delinquent before the date of annexation shall be paid to the county and placed in the county road fund.

(2) When territory that is part of a fire district is annexed to a code city, the following apply:

(a) Fire district taxes on annexed property that were levied, but not collected, and were not delinquent at the time of the annexation shall, when collected, be paid to the annexing code city at times required by the county, but no less frequently than by July 10th for collections through June 30th and January 10th for collections through December 31st following the annexation; and

(b) Fire district taxes on annexed property that were levied, but not collected, and were delinquent at the time of the annexation and the pro rata share of the current year levy budgeted for general obligation debt, when collected, shall be paid to the fire district.

(3) When territory that is part of a library district is annexed to a code city, the following apply:

(a) Library district taxes on annexed property that were levied, but not collected, and were not delinquent at the time of the annexation shall, when collected, be paid to the annexing code city at times required by the county, but no less frequently than by July 10th for collections through June 30th and January 10th for collections through December 31st following the annexation; and

(b) Library district taxes on annexed property that were levied, but not collected, and were delinquent at the time of the annexation and the pro rata share of the current year levy budgeted for general obligation debt, when collected, shall be paid to the library district.

(4) Subsections (1) through (3) of this section do not apply to any special assessments due in behalf of such property.

(5) If a code city annexes property within a fire district or library district while any general obligation bond secured by the taxing authority of the district is outstanding, the bonded indebtedness of the fire district or library district remains an obligation of the taxable property annexed as if the annexation had not occurred.

(6) For each annexation by a code city, the code city must provide notification, by certified mail or electronic means, that includes a list of annexed parcel numbers and the street address to the county treasurer and assessor, to the light and power businesses and gas distribution businesses, and to

the fire district and library district, as appropriate, at least sixty days before the effective date of the annexation. The county treasurer is only required to remit to the code city those road taxes, fire district taxes, and library district taxes collected sixty or more days after receipt of the notification. The light and power businesses and gas distribution businesses are only required to remit to the *city or town those utility taxes collected sixty days or more after receipt of the notification.

(7)(a) In counties that do not have a boundary review board, the code city shall provide notification to the fire district or library district of the jurisdiction's resolution approving the annexation. The notification required under this subsection must:

(i) Be made by certified mail within seven days of the resolution approving the annexation; and

(ii) Include a description of the annexed area.

(b) In counties that have a boundary review board, the code city shall provide notification of the proposed annexation to the fire district or library district simultaneously when notice of the proposed annexation is provided by the jurisdiction to the boundary review board under RCW 36.93.090.

(8) The provisions of this section regarding (a) the transfer of fire and library district property taxes and (b) code city notifications to fire and library districts do not apply if the code city has been annexed to and is within the fire or library district when the code city approves a resolution to annex unincorporated county territory.

(9) An error or accidental omission by a code city in the transmitted annexation notice required under this section may be corrected by the city by providing an amended notice to the county treasurer and assessor, the light and power businesses, the gas distribution businesses, and to the fire district and library district, as appropriate. The recipient of the amended notice is only required to remit applicable taxes to the city, in accordance with the corrected information, sixty days after its receipt of the amended notice.

(10) For purposes of this section, "electronic means" means an electronic format agreed to by both sender and recipient that conveys all applicable notification information. [2014 c 123 § 2; 2007 c 285 § 2; 2001 c 299 § 3; 1998 c 106 § 2; 1971 ex.s. c 251 § 14.]

***Reviser's note:** The reference to "city or town" appears to be erroneous. "Code city" was apparently intended.

35A.14.900 Cancellation, acquisition of franchise or permit for operation of public service business in territory annexed—Regulation of solid waste collection. The annexation by any code city of any territory pursuant to this chapter shall cancel, as of the effective date of such annexation, any franchise or permit theretofore granted to any person, firm or corporation by the state of Washington, or by the governing body of such annexed territory, authorizing or otherwise permitting the operation of any public utility, including but not limited to, public electric, water, transportation, garbage disposal or other similar public service business or facility within the limits of the annexed territory, but the holder of any such franchise or permit canceled pursuant to this section shall be forthwith granted by the annexing code city a franchise to continue such business within the annexed

territory for a term of not less than seven years from the date of issuance thereof, and the annexing code city, by franchise, permit or public operation, shall not extend similar or competing services to the annexed territory except upon a proper showing of the inability or refusal of such person, firm or corporation to adequately service said annexed territory at a reasonable price: PROVIDED, That the provisions of this section shall not preclude the purchase by the annexing code city of said franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm or corporation whose franchise or permit has been canceled by the terms of this section shall suffer any measurable damages as a result of any annexation pursuant to the provisions of the laws above mentioned, such person, firm or corporation shall have a right of action against any code city causing such damages.

After an annexation by a code city, the utilities and transportation commission shall continue to regulate solid waste collection within the limits of the annexed territory until such time as the city notifies the commission, in writing, of its decision to contract for solid waste collection or provide solid waste collection itself pursuant to RCW 81.77.020. In the event the annexing city at any time decides to contract for solid waste collection or decides to undertake solid waste collection itself, the holder of any such franchise or permit that is so canceled in whole or in part shall be forthwith granted by the annexing city a franchise to continue such business within the annexed territory for a term of not less than the remaining term of the original franchise or permit, or not less than seven years, whichever is the shorter period, and the city, by franchise, permit, or public operation, shall not extend similar or competing services to the annexed territory except upon a proper showing of the inability or refusal of such person, firm, or corporation to adequately service the annexed territory at a reasonable price. Upon the effective date specified by the code city council's ordinance or resolution to have the code city contract for solid waste collection or undertake solid waste collection itself, the transition period specified in this section begins to run. This section does not preclude the purchase by the annexing city of the franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm, or corporation whose franchise or permit has been canceled by the terms of this section suffers any measurable damages as a result of any annexation pursuant to this chapter, such person, firm, or corporation has a right of action against any city causing such damages. [1997 c 171 § 3; 1967 ex.s. c 119 § 35A.14.900.]

Additional notes found at www.leg.wa.gov

35A.14.901 Application of chapter to annexations involving water or sewer service. Nothing in this chapter precludes or otherwise applies to an annexation by a code city of unincorporated territory as authorized by RCW 57.24.170, 57.24.190, and 57.24.210. [1996 c 230 § 1604; 1995 c 279 § 4.]

Additional notes found at www.leg.wa.gov

Chapter 35A.15 RCW DISINCORPORATION

Sections

- 35A.15.001 Actions subject to review by boundary review board.
- 35A.15.010 Authority for disincorporation—Petition—Resolution.
- 35A.15.020 Election on disincorporation—Receiver.
- 35A.15.040 Ballots—Election results.
- 35A.15.050 Effect of disincorporation—Powers—Offices.
- 35A.15.060 Receiver—Qualification—Bond—When receiver may be appointed.
- 35A.15.070 Duties and authority of receiver—Claims—Priority.
- 35A.15.080 Compensation of receiver.
- 35A.15.090 Receiver—Removal for cause—Successive appointments.
- 35A.15.100 Receiver—Final account and discharge.
- 35A.15.105 Applicability of general receivership law.
- 35A.15.110 Involuntary dissolution.

35A.15.001 Actions subject to review by boundary review board. Actions taken under chapter 35A.15 RCW may be subject to potential review by a boundary review board under chapter 36.93 RCW. [1989 c 84 § 39.]

35A.15.010 Authority for disincorporation—Petition—Resolution. Any noncharter code city may be disincorporated. Proceedings may be initiated by the filing with the county auditor of a petition for disincorporation signed by a majority of the registered voters resident in such city, or the legislative body of the city may provide by resolution for an election on the proposition of disincorporation. [1990 c 259 § 11; 1967 ex.s. c 119 § 35A.15.010.]

Sufficiency of petition in code city: RCW 35A.01.040.

35A.15.020 Election on disincorporation—Receiver. The legislative body shall cause the proposition of disincorporation to be submitted to the voters at the next general municipal election if one is to be held within one hundred and eighty days, or at a special election called for that purpose not less than ninety days, nor more than one hundred and eighty days, after the certification of sufficiency of the petition, or the passage of the resolution, as the case may be. If the code city has any indebtedness or outstanding liabilities, the legislative body shall provide for election of a receiver at the same election. [1967 ex.s. c 119 § 35A.15.020.]

35A.15.040 Ballots—Election results. Ballot titles shall be prepared by the city as provided in RCW 35A.29.120 and shall contain the words "For Dissolution" and "Against Dissolution", and shall contain on separate lines, alphabetically, the names of candidates for receiver. If a majority of the votes cast on the proposition are for dissolution, the municipal corporation shall be dissolved upon certification of the election results to the office of the secretary of state. [1994 c 223 § 39; 1967 ex.s. c 119 § 35A.15.040.]

35A.15.050 Effect of disincorporation—Powers—Offices. The effect of disincorporation of a noncharter code city shall be as provided in RCW 35.07.090, 35.07.100, and 35.07.110. [1967 ex.s. c 119 § 35A.15.050.]

35A.15.060 Receiver—Qualification—Bond—When receiver may be appointed. The receiver shall qualify and post a bond as provided in RCW 35.07.120. If an elected receiver fails to qualify within the time prescribed, or if no receiver has been elected and the code city does have indebt-

edness or an outstanding liability, a receiver shall be appointed in the manner provided in RCW 35.07.130 or as provided in RCW 35.07.140. [1967 ex.s. c 119 § 35A.15.060.]

35A.15.070 Duties and authority of receiver—Claims—Priority. The duties and authority of the receiver and the disposition and priority of claims against the former municipality shall be as provided in RCW 35.07.150, and the receiver shall have the rights, powers, and limitations provided for such a receiver in RCW 35.07.160, 35.07.170, and 35.07.180. [1967 ex.s. c 119 § 35A.15.070.]

35A.15.080 Compensation of receiver. The compensation of the receiver shall be as provided in RCW 35.07.190. [1967 ex.s. c 119 § 35A.15.080.]

35A.15.090 Receiver—Removal for cause—Successive appointments. The receiver may be removed for cause as provided in RCW 35.07.200 and a successor to the receiver may be appointed as provided in RCW 35.07.210. [1967 ex.s. c 119 § 35A.15.090.]

35A.15.100 Receiver—Final account and discharge. The receiver shall file a final account, pay remaining funds to the county treasurer, and be discharged, all as provided in RCW 35.07.220. [1967 ex.s. c 119 § 35A.15.100.]

35A.15.105 Applicability of general receivership law. The provisions of Title 7 RCW generally applicable to receivers and receiverships do not apply to receivers elected or appointed under this chapter. [2004 c 165 § 44.]

Purpose—Captions not law—2004 c 165: See notes following RCW 7.60.005.

35A.15.110 Involuntary dissolution. A noncharter code city may be involuntarily dissolved in the manner provided in RCW 35.07.230, 35.07.240, 35.07.250, and 35.07.260 upon the existence of the conditions stated in RCW 35.07.230. [1967 ex.s. c 119 § 35A.15.110.]

Chapter 35A.16 RCW REDUCTION OF CITY LIMITS

Sections

35A.16.001	Actions subject to review by boundary review board.
35A.16.010	Petition or resolution for election.
35A.16.030	Abstract of vote.
35A.16.040	Effective date of reduction.
35A.16.050	Recording of ordinance and plat on effective date of reduction.
35A.16.060	Effect of exclusion as to liability for indebtedness.
35A.16.070	Franchises within territory excluded.
35A.16.080	Exclusion of agricultural land from the incorporated area of a code city.

35A.16.001 Actions subject to review by boundary review board. Actions taken under chapter 35A.16 RCW may be subject to potential review by a boundary review board under chapter 36.93 RCW. [1989 c 84 § 40.]

35A.16.010 Petition or resolution for election. Upon the filing of a petition which is sufficient as determined by RCW 35A.01.040 praying for the exclusion from the bound-

aries of a code city of an area described by metes and bounds or by reference to a recorded plat or government survey, signed by qualified voters of the city in number equal to not less than ten percent of the number of votes cast at the last general municipal election, the legislative body of the code city shall cause the question to be submitted to the voters. As an alternate method, such a proposal for exclusion from the code city of a described area may be submitted to the voters by resolution of the legislative body. The question shall be submitted at the next general municipal election if one is to be held within one hundred and eighty days or at a special election called for that purpose not less than ninety days nor more than one hundred and eighty days after the certification of sufficiency of the petition or the passage of the resolution. The petition or resolution shall set out and describe the territory to be excluded from the code city, together with the boundaries of the code city as it will exist after such change is made. [1967 ex.s. c 119 § 35A.16.010.]

35A.16.030 Abstract of vote. If three-fifths of the votes cast on the proposition favor the reduction of the corporate limits, the county auditor shall make and transmit to the office of the secretary of state a certified abstract of the vote. [1994 c 223 § 40; 1967 ex.s. c 119 § 35A.16.030.]

35A.16.040 Effective date of reduction. Promptly after the filing of the abstract of votes with the secretary of state the legislative body shall adopt an ordinance defining and fixing the corporate limits after excluding the area as determined by the election. The ordinance shall also describe the excluded territory by metes and bounds or by reference to a recorded plat or government survey and declare it no longer a part of the code city. [1967 ex.s. c 119 § 35A.16.040.]

35A.16.050 Recording of ordinance and plat on effective date of reduction. Upon the effective date of the ordinance a certified copy thereof together with a map showing the corporate limits as altered shall be filed and recorded in the office of the county auditor of the county in which the code city is situated, and thereupon the boundaries shall be as set forth therein. [1967 ex.s. c 119 § 35A.16.050.]

35A.16.060 Effect of exclusion as to liability for indebtedness. The exclusion of an area from the boundaries of the code city shall not exempt any real property therein from taxation for the purpose of paying any indebtedness of the code city existing at the time of its exclusion and the interest thereon. [1967 ex.s. c 119 § 35A.16.060.]

35A.16.070 Franchises within territory excluded. In regard to franchises previously granted for operation of any public service business or facility within the territory excluded from a code city by proceedings under this chapter, the rights, obligations, and duties of the legislative body of the county or other political subdivision having jurisdiction over such territory and of the franchise holder shall be as provided in RCW 35.02.160, relating to inclusion of territory by an incorporation, and such a franchise shall be canceled and a new franchise issued by the legislative body having jurisdiction, as therein provided. [1967 ex.s. c 119 § 35A.16.070.]

35A.16.080 Exclusion of agricultural land from the incorporated area of a code city. Proceedings for excluding agricultural land from the boundaries of a charter code city or noncharter code city may be commenced by the filing of a petition which is sufficient as determined by RCW 35A.01.040 by property owners of the agricultural land proposed to be excluded, in the following manner which is alternative to other methods provided in this chapter:

(1) A petition for exclusion of agricultural land from the incorporated area of a code city shall be filed with the legislative body of the municipality. The petition for exclusion must be signed by the owners of not less than one hundred percent of the agricultural land for which exclusion is sought and, if residents exist within the area proposed for exclusion, a majority of the registered voters residing in the area for which exclusion is petitioned.

(2) The petition shall set forth a legal description of the territory proposed to be excluded and shall be accompanied by a drawing that outlines the boundaries of the territory sought to be excluded.

(3) When a petition for exclusion that meets the requirements of this section and RCW 35A.01.040 is filed with the legislative body of the code city, the legislative body shall set a date, not later than sixty days after the filing of the request, for a public hearing thereon and cause notice of the hearing to be published in one or more issues of a newspaper of general circulation in the city. The notice shall also be posted in three public places within the territory proposed for exclusion, and shall specify the time and place of hearing and invite interested persons to appear and voice approval or disapproval of the exclusion.

(4) Following the hearing, if the legislative body determines to effect the exclusion from city boundaries, they shall do so by ordinance. The ordinance may exclude all or any portion of the proposed territory but may not include in the exclusion any territory not described in the petition. The ordinance shall contain a legal description of the territory and declare it no longer a part of the code city. [2005 c 77 § 1.]

Chapter 35A.21 RCW

PROVISIONS AFFECTING ALL CODE CITIES

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Transfer of real property or contract for use for park and recreational purposes: RCW 39.33.060.

35A.21.010 Validity of ordinances and resolutions—Deficiencies of form. Deficiencies in the form of an ordinance or resolution shall not affect the validity thereof if the following requirements are met:

(1) The purpose and intent of the ordinance or resolution are clear.

(2) Any regulatory or procedural provisions thereof are expressed in clear and unambiguous terms, or the legislative intent can be determined by usual methods of judicial construction.

(3) The legislative action was taken at an authorized public meeting held within the code city limits at a time and place made known to residents of the city, as provided by law.

(4) The legislative body of the code city followed the prescribed procedures, if any, for passage of such an ordinance or resolution, as provided in the law or charter provision delegating to the legislative body the authority to so legislate; or, if prescribed procedures were not strictly complied with, no substantial detriment was incurred by any affected person, by reason of such irregularity.

If the foregoing requirements have been met, brevity or awkwardness of language, or defects of form not going to the substance, or inadvertent use of an incorrect or inaccurate proper name or term shall not render an ordinance or resolution invalid, if otherwise in compliance with law. [1967 ex.s. c 119 § 35A.21.010.]

35A.21.020 Conflict between charter and optional code. This optional municipal code is intended to be a general law, available to all cities and towns within the state, and to all legal intents and purposes a "general law" within the meaning of Article 11, section 10 of the state Constitution, as amended.

If any provision of this title is in conflict with any provision of the charter or amendments thereto of any charter code city, the provisions of this title shall govern and control, except where the legislative body of such charter code city, by ordinance, elects to retain such charter provision or amendment, in which event such charter provision shall prevail notwithstanding a conflict with provisions of this optional code: PROVIDED, That such ordinance shall be subject to referendum as provided in RCW 35A.29.170. [1967 ex.s. c 119 § 35A.21.020.]

35A.21.030 Mandatory duties of code city officers. Except as otherwise provided in this title, every officer of a code city shall perform, in the manner provided, all duties of his or her office which are imposed by state law on officers of every other class of city who occupy a like position and perform like functions. [2009 c 549 § 3031; 1967 ex.s. c 119 § 35A.21.030.]

35A.21.040 Merit systems. Provisions for a merit system, made by charter or ordinance of a code city, shall be in compliance with any applicable statutes relating to civil service for employees of such city: PROVIDED, That nothing herein shall impair the validity of charter provisions adopted prior to the effective date of this title and relating to a merit system. [1967 ex.s. c 119 § 35A.21.040.]

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35A.21.050 Pension and retirement systems. Nothing in this title shall be construed to alter or affect vested rights of city employees under pension and retirement systems in effect at the time this title becomes effective. [1967 ex.s. c 119 § 35A.21.050.]

35A.21.060 Garbage ordinance—Lien—Foreclosure. A garbage ordinance of a code city may contain the provisions authorized by RCW 35.21.130. Notice shall be given of a lien for garbage collection and disposal service, the lien shall have priority and be foreclosed all as provided in RCW 35.21.140 and 35.21.150. [1967 ex.s. c 119 § 35A.21.060.]

35A.21.070 Office hours prescribed by ordinance. All code city offices shall be kept open for the transaction of business during such days and hours as the legislative body of such city shall by ordinance prescribe. [1967 ex.s. c 119 § 35A.21.070.]

35A.21.080 Computation of time. When, under the provisions of this title, an act is to be done within a certain time period, the time shall be computed by excluding the first day and including the last, except that when the last day is a Saturday, Sunday, or a day designated by RCW 1.16.050 or by the city's ordinances as a holiday, then it also is excluded and the act must be completed on the next business day. [1967 ex.s. c 119 § 35A.21.080.]

35A.21.090 Jurisdiction over adjacent waters—Control of street over tidelands. The legislative body of a code city shall have supervision and control within its corporate limits of streets over tidelands or upon or across tide and shore lands of the first class as provided in RCW 35.21.230, 35.21.240 and 35.21.250; and shall have jurisdiction over adjacent waters as provided in RCW 35.21.160. [1967 ex.s. c 119 § 35A.21.090.]

35A.21.100 Lien for utility services. Code cities owning or operating waterworks or electric light distribution or power plants shall have a lien for such utility services as provided by RCW 35.21.290 for cities owning such plants and as limited therein, which lien may be enforced only as provided in RCW 35.21.300. [1967 ex.s. c 119 § 35A.21.100.]

35A.21.110 Warrants—Interest rate—Payment. Code city warrants shall draw interest, be paid, and called for all as provided in RCW 35.21.320 and the duty and liability of the treasurer of a code city in calling and paying warrants of the city shall be as provided in RCW 35.21.320. [1967 ex.s. c 119 § 35A.21.110.]

35A.21.120 Utilities—Facilities for generation of electricity. Any code city owning and operating a public utility and having facilities and/or land for the generation of electricity shall be governed by the provisions of RCW 35.21.420 through 35.21.450. [1967 ex.s. c 119 § 35A.21.120.]

35A.21.125 Locally regulated utilities—Attachments to poles. (1) As used in this section:

(a) "Attachment" means the affixation or installation of any wire, cable or other physical material capable of carrying electronic impulses or light waves for the carrying of intelligence for telecommunications or television, including, but not limited to cable, and any related device, apparatus, or auxiliary equipment upon any pole owned or controlled in whole or in part by one or more locally regulated utilities where the installation has been made with the necessary consent.

(b) "Locally regulated utility" means a code city owning and operating an electric utility not subject to rate or service regulation by the utilities and transportation commission.

(c) "Nondiscriminatory" means that pole owners may not arbitrarily differentiate among or between similar classes of persons approved for attachments.

(2) All rates, terms, and conditions made, demanded or received by a locally regulated utility for attachments to its poles must be just, reasonable, nondiscriminatory and sufficient. A locally regulated utility shall levy attachment space rental rates that are uniform for the same class of service within the locally regulated utility service area.

(3) Nothing in this section shall be construed or is intended to confer upon the utilities and transportation commission any authority to exercise jurisdiction over locally regulated utilities. [1996 c 32 § 4.]

35A.21.130 Codification of ordinances. Compilation, codification, and revision of code city ordinances shall be as provided by and be governed by the provisions of RCW 35.21.500 through 35.21.570. [1967 ex.s. c 119 § 35A.21.130.]

35A.21.140 Change of name. Any code city may change its name in accordance with the procedure provided in chapter 35.62 RCW. [1967 ex.s. c 119 § 35A.21.140.]

35A.21.150 Sewerage and refuse collection and disposal systems. The general law as contained in, but not limited to, chapter 35.67 RCW, relating to sewerage systems and the collection and disposal of refuse, the manner of providing therefor, and the issuance of general obligation or revenue bonds therefor, the establishment of a revenue bond fund in connection therewith, compulsory connection with a city sewer system, setting and collection of rates, fees, and charges therefor, and the existence, enforcement, and foreclosure of a lien for sewer services is hereby recognized as applicable to code cities operating systems of sewerage and systems and plants for refuse collection and disposal. A code city may exercise the powers, in the manner provided, perform the duties, and shall have the rights and obligations provided in chapter 35.67 RCW, subject to the conditions and limitations therein provided. [1967 ex.s. c 119 § 35A.21.150.]

35A.21.152 Solid waste collection—Rate increase notice. (1) A city that contracts for the collection of solid waste, or provides for the collection of solid waste directly, shall notify the public of each proposed rate increase for a solid waste handling service. The notice may be mailed to each affected ratepayer or published once a week for two consecutive weeks in a newspaper of general circulation in

the collection area. The notice shall be available to affected ratepayers at least forty-five days prior to the proposed effective date of the rate increase.

(2) For purposes of this section, "solid waste handling" has the same meaning as provided in RCW 70.95.030. [1994 c 161 § 3.]

Findings—Declaration—1994 c 161: See note following RCW 35.21.157.

35A.21.153 Solid waste collection curbside recycling—Reduced rate. (1) Each city or town providing by ordinance or resolution a reduced solid waste collection rate to residents participating in a residential curbside recycling program implemented under RCW 70.95.090, may provide a similar reduced rate to residents participating in any other recycling program, if such program is approved by the jurisdiction. Nothing in this section shall be interpreted to reduce the authority of a city to adopt ordinances under RCW 35.21.130(1).

(2) For the purposes of this section, "reduced rate" means a residential solid waste collection rate incorporating a rebate, refund, or discount. Reduced rate shall not include residential solid waste collection rate based on the volume or weight of solid waste set out for collection. [1991 c 319 § 405.]

35A.21.155 Collection and transportation of recyclable materials by recycling companies or nonprofit entities—Reuse or reclamation—Application of chapter. Nothing in this chapter shall prevent a recycling company or nonprofit entity from collecting and transporting recyclable materials from a buy-back center, drop-box, or from a commercial or industrial generator of recyclable materials, or upon agreement with a solid waste collection company.

Nothing in this chapter shall be construed as prohibiting a commercial or industrial generator of commercial recyclable materials from selling, conveying, or arranging for transportation of such material to a recycler for reuse or reclamation. [1989 c 431 § 35.]

35A.21.160 General application of laws to code cities. A code city organized or reorganized under this title shall have all of the powers which any city of any class may have and shall be governed in matters of state concern by statutes applicable to such cities in connection with such powers to the extent to which such laws are appropriate and are not in conflict with the provisions specifically applicable to code cities. [1967 ex.s. c 119 § 35A.21.160.]

35A.21.161 Regulation of activities and enforcement of penal laws. All code cities shall observe and enforce, in addition to its local regulations, the provisions of state laws relating to the conduct, location and limitation on activities as regulated by state law and shall supply police information to the *section on identification of the state patrol as required by chapter 43.43 RCW. [1983 c 3 § 59; 1967 ex.s. c 119 § 35A.21.161.]

***Reviser's note:** The "section on identification" was renamed the "identification and criminal history section" by 2006 c 294 § 1.

35A.21.162 Nonpolluting power generation by individual—Exemption from regulation—Authorization to contract with utility. See chapter 80.58 RCW.

35A.21.164 Hydroelectric resources—Separate legal authority—Creation by irrigation districts and cities, towns, or public utility districts. See RCW 87.03.825 through 87.03.840.

35A.21.170 Fiscal year. The fiscal year of a code city shall commence on the first day of January and end on the thirty-first day of December of each calendar year unless a different fiscal period is authorized by RCW 1.16.030, as amended. [1967 ex.s. c 119 § 35A.21.170.]

35A.21.180 Flags to be displayed. The flag of the United States and the flag of the state shall be prominently installed and displayed and maintained in code city buildings and shall be as provided in RCW 1.20.010. [1967 ex.s. c 119 § 35A.21.180.]

35A.21.190 Daylight saving time. No code city shall adopt any provision for the observance of daylight saving time other than as authorized by RCW 1.20.050 and 1.20.051. [1967 ex.s. c 119 § 35A.21.190.]

35A.21.195 Actions by and against code cities. A code city may exercise the power to bring an action or special proceeding at law as authorized by Title 4 RCW, chapters 7.24, 7.25, and 6.27 RCW, and shall be subject to actions and process of law in accordance with procedures prescribed by law and rules of court. [1987 c 442 § 1117; 1983 c 3 § 58; 1967 ex.s. c 119 § 35A.20.150. Formerly RCW 35A.20.150.]

35A.21.200 Limitation of actions. The limitations prescribed in chapter 4.16 RCW shall apply to actions brought in the name or for the benefit of, or against, a code city, except as otherwise provided by general law or by this title. [1967 ex.s. c 119 § 35A.21.200.]

35A.21.210 Revision of corporate boundary within street, road, or highway right-of-way by substituting right-of-way line—Not subject to review. (1) The governing bodies of a county and any code city located therein may by agreement revise any part of the corporate boundary of the city which coincides with the centerline, edge, or any portion of a public street, road or highway right-of-way by substituting therefor a right-of-way line of the same public street, road or highway so as fully to include or fully to exclude that segment of the public street, road or highway from the corporate limits of the city.

(2) The revision of a corporate boundary as authorized by this section shall become effective when approved by ordinance of the city council and by ordinance or resolution of the county legislative authority. Such a boundary revision is not subject to potential review by a boundary review board. [1989 c 84 § 11; 1975 1st ex.s. c 220 § 18.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

Boundary line adjustment: RCW 35.13.300 through 35.13.330.

(2018 Ed.)

Use of right-of-way line as corporate boundary in incorporation proceeding—When right-of-way may be included in territory to be incorporated: RCW 35.02.170.

When right-of-way may be included in territory to be annexed—Use of right-of-way line as corporate boundary in annexation: RCW 35A.14.410.

35A.21.220 Insurance and workers' compensation for offenders performing community restitution. The legislative authority of a code city may purchase liability insurance in an amount it deems reasonable to protect the code city, its officers, and employees against liability for the wrongful acts of offenders or injury or damage incurred by offenders in the course of court-ordered community restitution, and may elect to treat offenders as employees and/or workers under Title 51 RCW. [2002 c 175 § 31; 1984 c 24 § 2.]

Workers' compensation coverage of offenders performing community restitution: RCW 51.12.045.

Additional notes found at www.leg.wa.gov

35A.21.230 Designation of official newspaper. Each code city shall designate an official newspaper by resolution. The newspaper shall be of general circulation in the city and have the qualifications prescribed by chapter 65.16 RCW. [1985 c 469 § 102.]

35A.21.240 Right-of-way donations—Credit against required improvements. Where the zoning and planning provisions of a city or town require landscaping, parking, or other improvements as a condition to granting permits for commercial or industrial developments, the city or town may credit donations of right-of-way in excess of that required for traffic improvement against such landscaping, parking, or other requirements. [1987 c 267 § 8.]

Right-of-way donations: Chapter 47.14 RCW.

35A.21.245 Facilities and rights-of-way—Requirements and restrictions—Application to code cities. Each code city is subject to the requirements and restrictions regarding facilities and rights-of-way under *this chapter. [2000 c 83 § 10.]

*Reviser's note: A reference to chapter 35.99 RCW was apparently intended.

"Facilities," "right-of-way" defined: RCW 35.99.010.

35A.21.250 Building construction projects—Code city prohibited from requiring state agencies or local governments to provide bond or other security as a condition for issuance of permit. A code city may not require any state agency or unit of local government to secure the performance of a permit requirement with a surety bond or other financial security device, including cash or assigned account, as a condition of issuing a permit to that unit of local government for a building construction project.

As used in this section, "building construction project" includes, in addition to its usual meaning, associated landscaping, street alteration, pedestrian or vehicular access alteration, or other amenities or alterations necessarily associated with the project. [1993 c 439 § 2.]

35A.21.260 Amateur radio antennas—Local regulation to conform with federal law. No code city shall enact or enforce an ordinance or regulation that fails to conform to the limited preemption entitled "Amateur Radio Preemption, 101 FCC 2nd 952 (1985)" issued by the federal communications commission. An ordinance or regulation adopted by a code city with respect to amateur radio antennas shall conform to the limited federal preemption, that states local regulations that involve placement, screening, or height of antennas based on health, safety, or aesthetic considerations must be crafted to reasonably accommodate amateur communications, and to represent the minimal practicable regulation to accomplish the local authority's legitimate purpose. [1994 c 50 § 2.]

Additional notes found at www.leg.wa.gov

35A.21.270 Assumption of substandard water system—Limited immunity from liability. A code city assuming responsibility for a water system that is not in compliance with state or federal requirements for public drinking water systems, and its agents and employees, are immune from lawsuits or causes of action, based on noncompliance with state or federal requirements for public drinking water systems, which predate the date of assuming responsibility and continue after the date of assuming responsibility, provided that the city has submitted and is complying with a plan and schedule of improvements approved by the department of health. This immunity shall expire on the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith. [1994 c 292 § 6.]

Findings—Intent—1994 c 292: See note following RCW 57.04.050.

35A.21.275 Regulation of automatic number or location identification—Prohibited. No code city may enact or enforce an ordinance or regulation mandating automatic number identification or automatic location identification for a private telecommunications system or for a provider of private shared telecommunications services. [1995 c 243 § 7.]

Findings—Severability—1995 c 243: See notes following RCW 80.36.555.

35A.21.280 Statement of restrictions applicable to real property. (1) A property owner may make a written request for a statement of restrictions applicable to a single parcel, tract, lot, or block of real property to the code city in which the real property is located.

(2) Within thirty days of the receipt of the request, the code city shall provide the owner, by registered mail, with a statement of restrictions as described in subsection (3) of this section.

(3) The statement of restrictions shall include the following:

(a) The zoning currently applicable to the real property;
 (b) Pending zoning changes currently advertised for public hearing that would be applicable to the real property;

(c) Any designations made by the code city pursuant to chapter 36.70A RCW of any portion of the real property as agricultural land, forestland, mineral resource land, wetland, an area with a critical recharging effect on aquifers used for

potable water, a fish and wildlife habitat conservation area, a frequently flooded area, and as a geological hazardous area; and

(d) If information regarding the designations listed in (c) of this subsection are not readily available, inform the owner of the procedure by which the owner can obtain that site-specific information from the code city.

(4) If a code city fails to provide the statement of restrictions within thirty days after receipt of the written request, the owner shall be awarded recovery of all attorneys' fees and costs incurred in any successful application for a writ of mandamus to compel production of a statement.

(5) For purposes of this section:

(a) "Owner" means any vested owner or any person holding the buyer's interest under a recorded real estate contract in which the seller is the vested owner; and

(b) "Real property" means a parcel, tract, lot or block: (i) Containing a single-family residence that is occupied by the owner or a member of his or her family, or rented to another by the owner; or (ii) five acres or less in size.

(6) This section does not affect the vesting of permits or development rights.

Nothing in this section shall be deemed to create any liability on the part of a code city. [1996 c 206 § 7.]

Findings—1996 c 206: See note following RCW 43.05.030.

Additional notes found at www.leg.wa.gov

35A.21.290 Fish enhancement project—Code city's liability. A code city is not liable for adverse impacts resulting from a fish enhancement project that meets the criteria of RCW 77.55.181 and has been permitted by the department of fish and wildlife. [2014 c 120 § 11; 2003 c 39 § 16; 1998 c 249 § 10.]

Findings—Purpose—Report—Effective date—1998 c 249: See notes following RCW 77.55.181.

35A.21.300 Rail fixed guideway public transportation system—Safety program plan and security and emergency preparedness plan. (1) Each code city that owns or operates a rail fixed guideway public transportation system as defined in RCW 81.104.015 shall submit a system safety program plan and a system security and emergency preparedness plan for that guideway to the state department of transportation by September 1, 1999, or at least one hundred eighty calendar days before beginning operations or instituting significant revisions to its plans. These plans must describe the code city's procedures for (a) reporting and investigating any reportable incident, accident, or security breach and identifying and resolving hazards or security vulnerabilities discovered during planning, design, construction, testing, or operations, (b) developing and submitting corrective action plans and annual safety and security audit reports, (c) facilitating on-site safety and security reviews by the state department of transportation and the federal transit administration, and (d) addressing passenger and employee safety and security. The plans must, at a minimum, conform to the standards adopted by the state department of transportation as set forth in the most current version of the Washington state rail safety oversight program standard manual as it exists on March 25, 2016, or such subsequent date as may be provided by the department by rule, consistent with the purposes of

this section. If required by the department, the code city shall revise its plans to incorporate the department's review comments within sixty days after their receipt, and resubmit its revised plans for review.

(2) Each code city shall implement and comply with its system safety program plan and system security and emergency preparedness plan. The code city shall perform internal safety and security audits to evaluate its compliance with the plans, and submit its audit schedule to the department of transportation pursuant to the requirements in the most current version of the Washington state rail safety oversight program standard manual as it exists on March 25, 2016, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. The code city shall prepare an annual report for its internal safety and security audits undertaken in the prior year and submit it to the department no later than February 15th. The department shall establish the requirements for the annual report. The contents of the annual report must include, at a minimum, the dates the audits were conducted, the scope of the audit activity, the audit findings and recommendations, the status of any corrective actions taken as a result of the audit activity, and the results of each audit in terms of the adequacy and effectiveness of the plans.

(3) Each code city shall notify the department of transportation, pursuant to the most current version of the Washington state rail safety oversight program standard manual as it exists on March 25, 2016, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, any reportable incident, accident, security breach, hazard, or security vulnerability. The department may adopt rules further defining any reportable incident, accident, security breach, hazard, or security vulnerability. The code city shall investigate any reportable incident, accident, security breach, hazard, or security vulnerability and provide a written investigation report to the department as described in the most current version of the Washington state rail safety oversight program standard manual as it exists on March 25, 2016, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(4) The system security and emergency preparedness plan required in subsection (1) of this section is exempt from public disclosure under chapter 42.56 RCW. However, the system safety program plan as described in this section is not subject to this exemption. [2016 c 33 § 3; 2007 c 422 § 2; 2005 c 274 § 267; 1999 c 202 § 2.]

Effective date—2016 c 33: See note following RCW 81.104.115.

Additional notes found at www.leg.wa.gov

35A.21.310 Mobile home, manufactured home, or park model moving or installing—Copies of permits—Definitions. (1) A code city shall transmit a copy of any permit issued to a tenant or the tenant's agent for a mobile home, manufactured home, or park model installation in a mobile home park to the landlord.

(2) A code city shall transmit a copy of any permit issued to a person engaged in the business of moving or installing a mobile home, manufactured home, or park model in a mobile home park to the tenant and the landlord.

(3) As used in this section:

(a) "Landlord" has the same meaning as in RCW 59.20.030;

(b) "Mobile home park" has the same meaning as in RCW 59.20.030;

(c) "Mobile or manufactured home installation" has the same meaning as in *RCW 43.63B.010; and

(d) "Tenant" has the same meaning as in RCW 59.20.030. [1999 c 359 § 19.]

*Reviser's note: RCW 43.63B.010 was recodified as RCW 43.22A.010 pursuant to 2007 c 432 § 13.

Additional notes found at www.leg.wa.gov

35A.21.312 Authority to regulate placement or use of homes—Regulation of manufactured homes—Issuance of permits—Restrictions on location of manufactured/mobile homes and entry or removal of recreational vehicles used as primary residences. (1) A code city may not adopt an ordinance that has the effect, directly or indirectly, of discriminating against consumers' choices in the placement or use of a home in such a manner that is not equally applicable to all homes. Homes built to 42 U.S.C. Sec. 5401-5403 standards (as amended in 2000) must be regulated for the purposes of siting in the same manner as site built homes, factory built homes, or homes built to any other state construction or local design standard. However, except as provided in subsection (2) of this section, any code city may require that:

(a) A manufactured home be a new manufactured home;

(b) The manufactured home be set upon a permanent foundation, as specified by the manufacturer, and that the space from the bottom of the home to the ground be enclosed by concrete or an approved concrete product which can be either load bearing or decorative;

(c) The manufactured home comply with all local design standards applicable to all other homes within the neighborhood in which the manufactured home is to be located;

(d) The home is thermally equivalent to the state energy code; and

(e) The manufactured home otherwise meets all other requirements for a designated manufactured home as defined in RCW 35.63.160.

A code city with a population of one hundred thirty-five thousand or more may choose to designate its building official as the person responsible for issuing all permits, including department of labor and industries permits issued under chapter 43.22 RCW in accordance with an interlocal agreement under chapter 39.34 RCW, for alterations, remodeling, or expansion of manufactured housing located within the city limits under this section.

(2) A code city may not adopt an ordinance that has the effect, directly or indirectly, of restricting the location of manufactured/mobile homes in manufactured/mobile home communities that were legally in existence before June 12, 2008, based exclusively on the age or dimensions of the manufactured/mobile home. This does not preclude a code city from restricting the location of a manufactured/mobile home in manufactured/mobile home communities for any other reason including, but not limited to, failure to comply with fire, safety, or other local ordinances or state laws related to manufactured/mobile homes.

(3) Except as provided under subsection (4) of this section, a code city may not adopt an ordinance that has the effect, directly or indirectly, of preventing the entry or requiring the removal of a recreational vehicle used as a primary residence in manufactured/mobile home communities.

(4) Subsection (3) of this section does not apply to any local ordinance or state law that:

(a) Imposes fire, safety, or other regulations related to recreational vehicles;

(b) Requires utility hookups in manufactured/mobile home communities to meet state or federal building code standards for manufactured/mobile home communities or recreational vehicle parks; or

(c) Includes both of the following provisions:

(i) A recreational vehicle must contain at least one internal toilet and at least one internal shower; and

(ii) If the requirement in (c)(i) of this subsection is not met, a manufactured/mobile home community must provide toilets and showers.

(5) For the purposes of this section, "manufactured/mobile home community" has the same meaning as in RCW 59.20.030.

(6) This section does not override any legally recorded covenants or deed restrictions of record.

(7) This section does not affect the authority granted under chapter 43.22 RCW. [2009 c 79 § 2; 2008 c 117 § 2; 2004 c 256 § 3.]

Findings—Intent—Effective date—2004 c 256: See notes following RCW 35.21.684.

35A.21.320 Abandoned or derelict vessels. A code city has the authority, subject to the processes and limitation outlined in chapter 79.100 RCW, to store, strip, use, auction, sell, salvage, scrap, or dispose of an abandoned or derelict vessel found on or above publicly or privately owned aquatic lands within the jurisdiction of the code city. [2002 c 286 § 16.]

Additional notes found at www.leg.wa.gov

35A.21.322 Transfer of ownership of a code city-owned vessel—Review of vessel's physical condition. (1) Prior to transferring ownership of a code city-owned vessel, the code city shall conduct a thorough review of the physical condition of the vessel, the vessel's operating capability, and any containers and other materials that are not fixed to the vessel.

(2) If the code city determines that the vessel is in a state of advanced deterioration or poses a reasonably imminent threat to human health or safety, including a threat of environmental contamination, the code city may: (a) Not transfer the vessel until the conditions identified under this subsection have been corrected; or (b) permanently dispose of the vessel by landfill, deconstruction, or other related method.

(3) Vessels taken into custody under chapter 79.100 RCW are not subject to this section or RCW 35A.21.324. [2013 c 291 § 17.]

35A.21.324 Transfer of ownership of a code city-owned vessel—Further requirements. (1) Following the inspection required under RCW 35A.21.322 and prior to

transferring ownership of a code city-owned vessel, a code city shall obtain the following from the transferee:

(a) The purposes for which the transferee intends to use the vessel; and

(b) Information demonstrating the prospective owner's intent to obtain legal moorage following the transfer, in the manner determined by the code city.

(2)(a) The code city shall remove any containers or other materials that are not fixed to the vessel and contain hazardous substances, as defined under RCW 70.105D.020.

(b) However, the code city may transfer a vessel with:

(i) Those containers or materials described under (a) of this subsection where the transferee demonstrates to the code city's satisfaction that the container's or material's presence is consistent with the anticipated use of the vessel; and

(ii) A reasonable amount of fuel as determined by the code city, based on factors including the vessel's size, condition, and anticipated use of the vessel, including initial destination following transfer.

(c) The code city may consult with the department of ecology in carrying out the requirements of this subsection.

(3) Prior to sale, and unless the vessel has a title or valid marine document, the code city is required to apply for a certificate of title for the vessel under RCW 88.02.510 and register the vessel under RCW 88.02.550. [2013 c 291 § 18.]

35A.21.330 Regulation of financial transactions—Limitations. A code city or governmental entity subject to this title may not regulate the terms, conditions, or disclosures of any lawful financial transaction between a consumer and (1) a business or professional under the jurisdiction of the department of financial institutions, or (2) any financial institution as defined under *RCW 30.22.041. [2005 c 338 § 3.]

*Reviser's note: RCW 30.22.041 was recodified as RCW 30A.22.041 pursuant to 2014 c 37 § 4, effective January 5, 2015.

Finding—Intent—2005 c 338: See note following RCW 35.21.698.

35A.21.335 Registration under or compliance with streamlined sales and use tax agreement—Prohibited requirement for businesses. A code city may not require a business to be licensed based solely upon registration under or compliance with the streamlined sales and use tax agreement. [2008 c 129 § 5.]

35A.21.340 Contractors—Authority of city to verify registration and report violations. A city that issues a business license to a person required to be registered under chapter 18.27 RCW may verify that the person is registered under chapter 18.27 RCW and report violations to the department of labor and industries. The department of revenue must conduct the verification for cities that participate in the business licensing system. [2013 c 144 § 37; 2011 c 298 § 23; 2009 c 432 § 3.]

Purpose—Intent—Agency transfer—Contracting—Effective date—2011 c 298: See notes following RCW 19.02.020.

Report—2009 c 432: See RCW 18.27.800.

35A.21.350 Community athletics programs—Sex discrimination prohibited. The antidiscrimination provisions of RCW 49.60.500 apply to community athletics pro-

grams and facilities operated, conducted, or administered by a code city. [2009 c 467 § 6.]

Findings—Declarations—2009 c 467: See note following RCW 49.60.500.

35A.21.360 Temporary encampments for the homeless—Hosting by religious organizations authorized—Prohibitions on local actions. (1) A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.

(2) A code city may not enact an ordinance or regulation or take any other action that:

(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;

(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; or

(c) Imposes permit fees in excess of the actual costs associated with the review and approval of the required permit applications.

(3) For the purposes of this section, "religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(4) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section. [2010 c 175 § 4.]

Findings—Intent—Construction—Prior consent decrees and negotiated settlements for temporary encampments for the homeless not superseded—2010 c 175: See notes following RCW 36.01.290.

35A.21.370 State and federal background checks of license applicants and licensees of occupations under local licensing authority. (1) For the purpose of receiving criminal history record information by code city officials, code cities may:

(a) By ordinance, require a state and federal background investigation of license applicants or licensees in occupations specified by ordinance;

(b) By ordinance, require a federal background investigation of code city employees, applicants for employment, volunteers, vendors, and independent contractors, who, in the course of their work or volunteer activity with the code city, may have unsupervised access to children, persons with developmental disabilities, or vulnerable adults;

(c) Require a state criminal background investigation of code city employees, applicants for employment, volunteers, vendors, and independent contractors, who, in the course of their work or volunteer activity with the code city, may have

unsupervised access to children, persons with developmental disabilities, or vulnerable adults; and

(d) Require a criminal background investigation conducted through a private organization of code city employees, applicants for employment, volunteers, vendors, and independent contractors, who, in the course of their work or volunteer activity with the code city, may have unsupervised access to children, persons with developmental disabilities, or vulnerable adults.

(2) The investigation conducted under subsection (1)(a) through (c) of this section shall consist of a background check as allowed through the Washington state criminal records privacy act under RCW 10.97.050, the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834, and the federal bureau of investigation.

(3) The background checks conducted under subsection (1)(a) through (c) of this section must be done through the Washington state patrol identification and criminal history section and may include a national check from the federal bureau of investigation, which shall be through the submission of fingerprints. The Washington state patrol shall serve as the sole source for receipt of fingerprint submissions and the responses to the submissions from the federal bureau of investigation, which must be disseminated to the code city.

(4) For a criminal background check conducted under subsection (1)(a) through (c) of this section, the code city shall transmit appropriate fees for a state and national criminal history check to the Washington state patrol, unless alternately arranged. The cost of investigations conducted under this section shall be borne by the code city.

(5) The authority for background checks outlined in this section is in addition to any other authority for such checks provided by law. [2017 c 332 § 2; 2010 c 47 § 3.]

35A.21.380 Warrant officers—Training requirements—Authority. (1) Any code city may establish the position of warrant officer.

(2) If any code city establishes the position of warrant officer, the position shall be maintained by the city within the city police department. The number and qualifications of warrant officers shall be fixed by ordinance, and their compensation shall be paid by the city. The chief of police of the city must establish training requirements consistent with the job description of warrant officer established in that city. Training requirements must be approved by the criminal justice training commission.

(3) Warrant officers shall be vested only with the special authority identified in ordinance, which may include the authority to make arrests authorized by warrants and other authority related to service of civil and criminal process.

(4) Process issuing from any court that is directed to a police department in which a warrant officer position is maintained may be served or enforced by the warrant officer, if within the warrant officer's authority as identified in ordinance.

(5) Warrant officers shall not be entitled to death, disability, or retirement benefits pursuant to chapter 41.26 RCW on the basis of service as a warrant officer as described in this section. [2015 c 288 § 2.]

35A.21.390 Failing septic systems—Connection to public sewer systems—Appeals process. (1) A city with an ordinance or resolution requiring, upon the failure of an on-site septic system, connection to a public sewer system must, in accordance with this section, provide an administrative appeals process to consider denials of permit applications to repair or replace the septic system. The administrative appeals process required by this section applies only to requests to repair or replace existing, failing on-site septic systems that:

(a) Were made for a single-family residence by its owner or owners;

(b) Were denied solely because of a law, regulation, or ordinance requiring connection to a public sewer system; and

(c) Absent the applicable law, regulation, or ordinance requiring connection to a public sewer system upon which the denial was based, would be approved.

(2) If the city has an administrative appeals process, the city may, subject to the requirements of this section, use that process. The administrative appeals process required by this section, however, must be presided over by the legislative body of the city or by an administrative hearings officer.

(3) The administrative appeals process required by this section must, at a minimum, consider whether:

(a) It is cost-prohibitive to require the property owner to connect to the public sewer system. In complying with this subsection (3)(a), the city must consider the estimated cost to repair or replace the on-site septic system compared to the estimated cost to connect to the public sewer system;

(b) There are public health or environmental considerations related to allowing the property owner to repair or replace the on-site septic system. In complying with this subsection (3)(b), the city must consider whether the repaired or replaced on-site septic system contributes to the pollution of surface waters or groundwater;

(c) There are public sewer system performance or financing considerations related to allowing the property owner to repair or replace the on-site septic system; and

(d) There are financial assistance programs or latecomer agreements offered by the city or state that may impact a decision of the property owner to repair or replace the on-site septic system.

(4) If the city, following the appeals process required by this section, determines that the property owner must connect the residence to the public sewer system, the property owner may, in complying with the determination and subject to approval of appropriate permits, select and hire contractors at his or her own expense to perform the work necessary to connect the residence to the public sewer system.

(5) Unless otherwise required by law, a city determination requiring the owner of a single-family residence with a failing on-site septic system to connect a residence to a public sewer system is not subject to appeal.

(6) For purposes of this section, "city" means a "code city" as defined in RCW 35A.01.035. [2015 c 297 § 2.]

35A.21.400 Final determination on state highway project permits. A code city must comply with the requirements of RCW 47.01.485 in making a final determination on a permit as part of a project on a state highway as defined in RCW 46.04.560. [2015 3rd sp.s. c 15 § 4.]

Effective date—Findings—Intent—2015 3rd sp.s. c 15: See notes following RCW 47.01.485.

35A.21.405 Nuisance abatement—Special assessment—Notice requirements. (1) A code city that exercises its authority under chapter 7.48 RCW, RCW 35.22.280, 35.23.440, or 35.27.410, or other applicable law to abate a nuisance which threatens health or safety must provide prior notice to the property owner that abatement is pending and a special assessment may be levied on the property for the expense of abatement. Such special assessment authority is supplemental to any existing authority of a code city to levy an assessment or obtain a lien for costs of abatement. The notice must be sent by regular mail.

(2) A code city that exercises its authority under chapter 7.48 RCW, RCW 35.22.280, 35.23.440, or 35.27.410, or other applicable law to declare a nuisance, abate a nuisance, or impose fines or costs upon persons who create, continue, or maintain a nuisance may levy a special assessment on the land or premises where the nuisance is situated to reimburse the code city for the expense of abatement. A code city must, before levying a special assessment, notify the property owner and any identifiable mortgage holder that a special assessment will be levied on the property and provide the estimated amount of the special assessment. The notice must be sent by regular mail.

(3) The special assessment authorized by this section constitutes a lien against the property, and is binding upon successors in title only from the date the lien is recorded in the county where the affected real property is located. Up to two thousand dollars of the recorded lien is of equal rank with state, county, and municipal taxes.

(4) A code city levying a special assessment under this section may contract with the county treasurer to collect the special assessment in accordance with RCW 84.56.035. [2016 c 100 § 2.]

35A.21.410 Removal of restrictive covenants—Hearing, notice. Any code city must hold a public hearing upon a proposal to remove, vacate, or extinguish a restrictive covenant from property owned by the code city before the action is finalized. The public hearing must allow individuals to provide testimony regarding the proposed action. The code city must provide notice of the public hearing at least ten days before the hearing at its usual place of business and issue a press release to local media providing the date, time, location, and reason for the public hearing. The notice must be posted on the code city's web site if it is updated for any reason prior to the hearing date. The notice must also identify the property and provide a brief explanation of the restrictive covenant to be removed, vacated, or extinguished. Any member of the public, in person or by counsel, may submit testimony regarding the proposed action at the public hearing. [2017 c 119 § 4.]

Short title—Finding—2017 c 119: See notes following RCW 35.21.960.

35A.21.415 Voluntary change to electoral system. The legislative authority of a code city or town may authorize a change to its electoral system pursuant to RCW 29A.92.040. [2018 c 113 § 207.]

Findings—Intent—Short title—2018 c 113: See RCW 29A.92.005 and 29A.92.900.

Chapter 35A.24 RCW AERONAUTICS

Sections

35A.24.010 Airport operation, planning and zoning.

35A.24.010 Airport operation, planning and zoning. A code city may exercise the powers relating to airport planning and zoning, improvement and operation as authorized by chapters 14.07, 14.08, and 14.12 RCW and chapter 35A.63 RCW of this title in accordance with the procedures therein prescribed. [1967 ex.s. c 119 § 35A.24.010.]

Chapter 35A.27 RCW LIBRARIES, MUSEUMS, AND HISTORICAL ACTIVITIES

Sections

35A.27.010 General laws applicable.

35A.27.010 General laws applicable. Every code city may exercise the powers relating to the acquisition, development, improvement and operation of libraries and museums and the preservation of historical materials to the same extent authorized by general law for cities of any class, including, but not limited to, the authority for city libraries granted by RCW 35.22.280, the power to acquire and operate art museums, auditoriums, and other facilities as authorized by RCW 35.21.020, to participate in the establishment of regional libraries, and to contract for library service for public libraries with county, intercounty, and rural library districts, and for regional libraries as authorized by chapter 27.12 RCW, to have a county law library or branch thereof generally under the provisions of chapter 27.24 RCW, to preserve historical materials, markers, graves and records as provided in chapters 27.48 and 27.34 RCW, and to expend municipal funds thereon. [1985 c 7 § 101; 1983 c 3 § 60; 1967 ex.s. c 119 § 35A.27.010.]

Chapter 35A.28 RCW SCHOOLS

Sections

35A.28.010 General laws applicable.

35A.28.010 General laws applicable. Code cities shall have the authority to enter into contracts for joint acquisition of land and improvement thereof with school districts. Code cities and their relationship with public schools, colleges and school districts shall be governed by the provisions of general law, including Titles 28A and 28B RCW. Each code city shall be contained within one school district except as may be otherwise provided in *RCW 28A.315.250. [1983 c 3 § 61; 1967 ex.s. c 119 § 35A.28.010.]

*Reviser's note: RCW 28A.315.250 was repealed by 1999 c 315 § 801.

(2018 Ed.)

Chapter 35A.29 RCW MUNICIPAL ELECTIONS IN CODE CITIES

Sections

35A.29.120 Ballot titles.
35A.29.130 Notice of ballot title—Appeal.
35A.29.151 Conduct of elections.
35A.29.170 Initiative and referendum petitions—Suspension of effectiveness of legislative action.
35A.29.180 Recall.

35A.29.120 Ballot titles. When any question is to be submitted to the voters of a code city, or when a proposition is to be submitted to the voters of an area under provisions of this title, the question or proposition shall be advertised as provided for nominees for office, and in such cases there shall also be printed on the ballot a ballot title for the question or proposition in the form applicable under RCW 82.14.036, 82.46.021, or 82.80.090 or as otherwise expressly required by state law. The ballot title shall be prepared by the attorney for the code city. [2015 c 53 § 55; 1993 c 256 § 13; 1979 ex.s. c 18 § 31; 1967 ex.s. c 119 § 35A.29.120.]

Additional notes found at www.leg.wa.gov

35A.29.130 Notice of ballot title—Appeal. Upon the filing of a ballot title as defined in RCW 35A.29.120, the county auditor shall forthwith notify the persons proposing the measure of the exact language of the ballot title. If the persons filing any local question covered by RCW 35A.29.120 are dissatisfied with the ballot title formulated by the attorney for the code city or by the county prosecuting attorney, they may appeal to the superior court of the county where the question is to appear on the ballot, as provided in RCW 29A.36.090. [2015 c 53 § 56; 1967 ex.s. c 119 § 35A.29.130.]

35A.29.151 Conduct of elections. Elections for code cities shall comply with general election law. [1994 c 223 § 41.]

35A.29.170 Initiative and referendum petitions—Suspension of effectiveness of legislative action. Initiative and referendum petitions authorized to be filed under provisions of this title, or authorized by charter, or authorized for code cities having the commission form of government as provided by chapter 35.17 RCW, shall be in substantial compliance with the provisions of RCW 35A.01.040 as to form and content of the petition, insofar as such provisions are applicable; shall contain a true copy of a resolution or ordinance sought to be referred to the voters; and must contain valid signatures of registered voters of the code city in the number required by the applicable provision of this title. Except when otherwise provided by statute, referendum petitions must be filed with the clerk of the legislative body of the code city within ninety days after the passage of the resolution or ordinance sought to be referred to the voters, or within such lesser number of days as may be authorized by statute or charter in order to precede the effective date of an ordinance: PROVIDED, That nothing herein shall be construed to abrogate or affect an exemption from initiative and/or referendum provided by a code city charter. The clerk shall transmit the petition to the county auditor who shall determine the sufficiency of the petition under the rules set forth in RCW

35A.01.040. When a referendum petition is filed with the clerk, the legislative action sought to be referred to the voters shall be suspended from taking effect. Such suspension shall terminate when: (1) There is a final determination of insufficiency or untimeliness of the referendum petition; or (2) the legislative action so referred is approved by the voters at a referendum election. [1996 c 286 § 8; 1967 ex.s. c 119 § 35A.29.170.]

35A.29.180 Recall. Elective officers of code cities may be recalled in the manner provided in chapter 29A.56 RCW. [2015 c 53 § 57; 1967 ex.s. c 119 § 35A.29.180.]

Chapter 35A.31 RCW ACCIDENT CLAIMS AND FUNDS

Sections

- 35A.31.010 Claims—Statement of residence required—Time for filing—Verification.
- 35A.31.020 Liberal construction.
- 35A.31.030 Report—Manner of filing.
- 35A.31.050 Charter code cities—Provisions cumulative.
- 35A.31.060 Accident fund—Warrants for judgments.
- 35A.31.070 Tax levy for fund.
- 35A.31.080 Surplus to general fund.

35A.31.010 Claims—Statement of residence required—Time for filing—Verification. Claims for damages sounding in tort against any code city shall be presented and filed within the time, in the manner and by the person prescribed in RCW 4.96.020. [1967 ex.s. c 119 § 35A.31.010.]

35A.31.020 Liberal construction. With respect to the content of such claims the provisions of RCW 4.96.020 shall be liberally construed so that substantial compliance will be deemed satisfactory. [1967 ex.s. c 119 § 35A.31.020.]

35A.31.030 Report—Manner of filing. No ordinance or resolution shall be passed allowing such claim or any part thereof, or appropriating any money or other property to pay or satisfy the same or any part thereof, until the claim has first been referred to the proper department or committee, nor until such department or committee has made its report thereon to the legislative body of the code city pursuant to such reference.

No action shall be maintained against any code city for any claim for damages until the claim has been filed in the manner set forth in chapter 4.96 RCW. [1993 c 449 § 9; 1967 ex.s. c 119 § 35A.31.030.]

Purpose—Severability—1993 c 449: See notes following RCW 4.96.010.

35A.31.050 Charter code cities—Provisions cumulative. Nothing herein shall be construed as in anywise modifying, limiting, or repealing any valid provision of the charter of any charter code city relating to such claims for damages, except when in conflict herewith, but the provisions hereof shall be in addition to such charter provisions, and such claims for damages, in all other respects, shall conform to and comply with such charter provisions. [1967 ex.s. c 119 § 35A.31.050.]

[Title 35A RCW—page 50]

35A.31.060 Accident fund—Warrants for judgments. Every code city may create an accident fund upon which the clerk shall draw warrants for the full amount of any judgment including interest and costs against the city on account of personal injuries suffered by any person as shown by a transcript of the judgment duly certified to the clerk. Warrants issued for such purpose shall be in denominations not less than one hundred dollars nor more than five hundred dollars; they shall draw interest at the rate of six percent per annum, shall be numbered consecutively and be paid in the order of their issue. [1967 ex.s. c 119 § 35A.31.060.]

35A.31.070 Tax levy for fund. The legislative body of the code city, after the drawing of warrants against the accident fund, shall estimate the amount necessary to pay the warrant with accrued interest thereon and may appropriate and transfer money from the contingency fund sufficient therefor, or if there is not sufficient money in the contingency fund the legislative body shall levy a tax sufficient to pay all or such unpaid portion of any judgment not exceeding seventy-five cents per thousand dollars of assessed value. If a single levy of seventy-five cents per thousand dollars of assessed value is not sufficient, and if other moneys are not available therefor, an annual levy of seventy-five cents per thousand dollars of assessed value shall be made until the warrants and interest are fully paid. [1973 1st ex.s. c 195 § 27; 1967 ex.s. c 119 § 35A.31.070.]

Additional notes found at www.leg.wa.gov

35A.31.080 Surplus to general fund. If there is no judgment outstanding against the city for personal injuries, the money remaining in the accident fund after the payment of the warrants drawn on that fund and interest in full shall be transferred to the general fund. [1967 ex.s. c 119 § 35A.31.080.]

Chapter 35A.33 RCW BUDGETS IN CODE CITIES

Sections

- 35A.33.010 Definitions.
- 35A.33.020 Applicability of chapter.
- 35A.33.030 Budget estimates.
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(2018 Ed.)

35A.33.160 Violations and penalties.

35A.33.010 Definitions. Unless the context clearly indicates otherwise, the following words as used in this chapter shall have the meaning herein prescribed:

(1) "Chief administrative officer" as used in this chapter includes the mayor of cities having a mayor-council form of government, the commissioners in cities having a commission form of government, the city manager, or any other city official designated by the charter or ordinances of such city under the plan of government governing the same, or the budget or finance officer designated by the mayor, manager or commissioners, to perform the functions, or portions thereof, contemplated by this chapter.

(2) "Clerk" as used in this chapter includes the officer performing the functions of a finance or budget director, comptroller, auditor, or by whatever title he or she may be known in any code city.

(3) "Council" as used in this chapter includes the commissioners in cities having a commission form of government and any other group of city officials serving as the legislative body of a code city.

(4) "Department" as used in this chapter includes each office, division, service, system or institution of the city for which no other statutory or charter provision is made for budgeting and accounting procedures or controls.

(5) "Fiscal year" as used in this chapter means that fiscal period set by the code city pursuant to authority given under RCW 1.16.030.

(6) "Fund", as used in this chapter and "funds" where clearly used to indicate the plural of "fund", shall mean the budgeting or accounting entity authorized to provide a sum of money for specified activities or purposes.

(7) "Funds" as used in this chapter where not used to indicate the plural of "fund" shall mean money in hand or available for expenditure or payment of a debt or obligation.

(8) Except as otherwise defined herein, municipal accounting terms used in this chapter have the meaning prescribed in "Governmental Accounting, Auditing and Financial Reporting" prepared by the National Committee on Governmental Accounting, 1968. [2009 c 549 § 3032; 1969 ex.s. c 81 § 2; 1967 ex.s. c 119 § 35A.33.010.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Additional notes found at www.leg.wa.gov

35A.33.020 Applicability of chapter. The provisions of this chapter apply to all code cities except those which have adopted an ordinance under RCW 35A.34.040 providing for a biennial budget. In addition, this chapter shall not apply to any municipal utility or enterprise for which separate budgeting provisions are made by general state law. [1985 c 175 § 33; 1967 ex.s. c 119 § 35A.33.020.]

35A.33.030 Budget estimates. On or before the second Monday of the fourth month prior to the beginning of the city's next fiscal year, or at such other time as the city may provide by ordinance or charter, the clerk shall notify in writing the head of each department of a code city to file with the clerk within fourteen days of the receipt of such notification, detailed estimates of the probable revenue from sources other

than ad valorem taxation and of all expenditures required by his or her department for the ensuing fiscal year. The notice shall be accompanied by the proper forms provided by the clerk, prepared in accordance with the requirements and classification established by the state auditor. The clerk shall prepare the estimates for interest and debt redemption requirements and all other estimates, the preparation of which falls properly within the duties of his or her office. The chief administrative officers of the city shall submit to the clerk detailed estimates of all expenditures proposed to be financed from the proceeds of bonds or warrants not yet authorized, together with a statement of the proposed method of financing them. In the absence or disability of the official or person regularly in charge of a department, the duties herein required shall devolve upon the person next in charge of such department. [1995 c 301 § 51; 1967 ex.s. c 119 § 35A.33.030.]

35A.33.040 Classification and segregation of budget estimates. All estimates of receipts and expenditures for the ensuing year shall be fully detailed in the annual budget and shall be classified and segregated according to a standard classification of accounts to be adopted and prescribed by the state auditor after consultation with the Washington finance officers association, the association of Washington cities and the association of Washington city managers. [1995 c 301 § 52; 1967 ex.s. c 119 § 35A.33.040.]

35A.33.050 Proposed preliminary budget. On or before the first business day in the third month prior to the beginning of the fiscal year of a code city or at such other time as the city may provide by ordinance or charter, the clerk or other person designated by the charter, by ordinances, or by the chief administrative officer of the city shall submit to the chief administrative officer a proposed preliminary budget which shall set forth the complete financial program of the city for the ensuing fiscal year, showing the expenditure program requested by each department and the sources of revenue by which each such program is proposed to be financed.

The revenue section shall set forth in comparative and tabular form for each fund the actual receipts for the last completed fiscal year, the estimated receipts for the current fiscal year and the estimated receipts for the ensuing fiscal year, which shall include the amount to be raised from ad valorem taxes and unencumbered fund balances estimated to be available at the close of the current fiscal year.

The expenditure section shall set forth in comparative and tabular form for each fund and every department operating within each fund the actual expenditures for the last completed fiscal year, the appropriations for the current fiscal year and the estimated expenditures for the ensuing fiscal year. The salary or salary range for each office, position or job classification shall be set forth separately together with the title or position designation thereof: PROVIDED, That salaries may be set out in total amounts under each department if a detailed schedule of such salaries and positions be attached to and made a part of the budget document. [1967 ex.s. c 119 § 35A.33.050.]

35A.33.052 Preliminary budget. The chief administrative officer shall prepare the preliminary budget in detail,

making any revisions or addition to the reports of the department heads deemed advisable by such chief administrative officer and at least sixty days before the beginning of the city's next fiscal year he or she shall file it with the city clerk as the recommendation of the chief administrative officer for the final budget. The clerk shall provide a sufficient number of copies of such preliminary budget and budget message to meet the reasonable demands of taxpayers therefor and have them available for distribution not later than six weeks before the beginning of the city's next fiscal year. [2009 c 549 § 3033; 1967 ex.s. c 119 § 35A.33.052.]

35A.33.055 Budget message—Preliminary hearings.

In every code city a budget message prepared by or under the direction of the city's chief administrative officer shall be submitted as a part of the preliminary budget to the city's legislative body at least sixty days before the beginning of the city's next fiscal year and shall contain the following:

- (1) An explanation of the budget document;
- (2) An outline of the recommended financial policies and programs of the city for the ensuing fiscal year;
- (3) A statement of the relation of the recommended appropriation to such policies and programs;
- (4) A statement of the reason for salient changes from the previous year in appropriation and revenue items;
- (5) An explanation for any recommended major changes in financial policy.

Prior to the final hearing on the budget, the legislative body or a committee thereof, shall schedule hearings on the budget or parts thereof, and may require the presence of department heads to give information regarding estimates and programs. [1967 ex.s. c 119 § 35A.33.055.]

35A.33.060 Budget—Notice of hearing on final.

Immediately following the filing of the preliminary budget with the clerk, the clerk shall publish a notice once each week for two consecutive weeks stating that the preliminary budget for the ensuing fiscal year has been filed with the clerk, that a copy thereof will be furnished to any taxpayer who will call at the clerk's office therefor and that the legislative body of the city will meet on or before the first Monday of the month next preceding the beginning of the ensuing fiscal year for the purpose of fixing the final budget, designating the date, time and place of the legislative budget meeting and that any taxpayer may appear thereat and be heard for or against any part of the budget. The publication of the notice shall be made in the official newspaper of the city. [1985 c 469 § 43; 1973 c 67 § 1; 1967 ex.s. c 119 § 35A.33.060.]

35A.33.070 Budget—Hearing. The council shall meet on the day fixed by RCW 35A.33.060 for the purpose of fixing the final budget of the city at the time and place designated in the notice thereof. Any taxpayer may appear and be heard for or against any part of the budget. The hearing may be continued from day to day but not later than the twenty-fifth day prior to commencement of the city's fiscal year. [1967 ex.s. c 119 § 35A.33.070.]

35A.33.075 Budget adoption. Following conclusion of the hearing, and prior to the beginning of the fiscal year, the legislative body shall make such adjustments and changes as

it deems necessary or proper and after determining the allowance in each item, department, classification and fund, and shall by ordinance, adopt the budget in its final form and content. Appropriations shall be limited to the total estimated revenues contained therein including the amount to be raised by ad valorem taxes and the unencumbered fund balances estimated to be available at the close of the current fiscal year. Such ordinances may adopt the final budget by reference: PROVIDED, That the ordinance adopting such budget shall set forth in summary form the totals of estimated revenues and appropriations for each separate fund and the aggregate totals for all such funds combined.

A complete copy of the final budget as adopted shall be transmitted to the state auditor, and to the association of Washington cities. [1995 c 301 § 53; 1969 ex.s. c 81 § 3; 1967 ex.s. c 119 § 35A.33.075.]

Additional notes found at www.leg.wa.gov

35A.33.080 Emergency expenditures—Nondebatable emergencies.

Upon the happening of any emergency caused by violence of nature, casualty, riot, insurrection, war, or other unanticipated occurrence requiring the immediate preservation of order or public health, or for the restoration to a condition of usefulness of any public property which has been damaged or destroyed by accident, or for public relief from calamity, or in settlement of approved claims for personal injuries or property damage, or to meet mandatory expenditures required by laws enacted since the last annual budget was adopted, or to cover expenses incident to preparing for or establishing a new form of government authorized or assumed after adoption of the current budget, including any expenses incident to selection of additional or new officials required thereby, or incident to employee recruitment at any time, the city council, upon the adoption of an ordinance, by the vote of one more than the majority of all members of the legislative body, stating the facts constituting the emergency and the estimated amount required to meet it, may make the expenditures therefor without notice or hearing. [1967 ex.s. c 119 § 35A.33.080.]

35A.33.090 Emergency expenditures—Other emergencies—Hearing.

If a public emergency which could not reasonably have been foreseen at the time of filing the preliminary budget requires the expenditure of money not provided for in the annual budget, and if it is not one of the emergencies specifically enumerated in RCW 35A.33.080, the city council before allowing any expenditure therefor shall adopt an ordinance stating the facts constituting the emergency and the estimated amount required to meet it and declaring that an emergency exists.

Such ordinance shall not be voted on until five days have elapsed after its introduction, and for passage shall require the vote of one more than the majority of all members of the legislative body of the code city.

Any taxpayer may appear at the meeting at which the emergency ordinance is to be voted on and be heard for or against the adoption thereof. [1967 ex.s. c 119 § 35A.33.090.]

35A.33.100 Emergency expenditures—Warrants—Payments. All expenditures for emergency purposes as pro-

vided in this chapter shall be paid by warrants from any available money in the fund properly chargeable with such expenditures. If, at any time, there is insufficient money on hand in a fund with which to pay such warrants as presented, the warrants shall be registered, bear interest and be called in the same manner as other registered warrants as prescribed in RCW 35A.21.110. [1967 ex.s. c 119 § 35A.33.100.]

35A.33.102 Registered warrants—Appropriations. In adopting the final budget for any fiscal year, the council shall appropriate from estimated revenue sources available, a sufficient amount to pay the principal and interest on all outstanding registered warrants issued since the adoption of the last preceding budget except those issued and identified as revenue warrants and except those for which an appropriation previously has been made: PROVIDED, That no portion of the revenues which are restricted in use by law may be appropriated for the redemption of warrants issued against a utility or other special purpose fund of a self-supporting nature: PROVIDED FURTHER, That all or any portion of the city's outstanding registered warrants may be funded into bonds in any manner authorized by law. [1967 ex.s. c 119 § 35A.33.102.]

35A.33.105 Adjustment of wages, etc., of employees permissible budget notwithstanding. Notwithstanding the appropriations for any salary, or salary range of any employee or employees adopted in a final budget, the legislative body of any code city may, by ordinance, change the wages, hours, and conditions of employment of any or all of its appointive employees if sufficient funds are available for appropriation to such purposes. [1967 ex.s. c 119 § 35A.33.105.]

35A.33.110 Forms—Accounting—Supervision by state. The state auditor is empowered to make and install the forms and classifications required by this chapter to define what expenditures are chargeable to each budget class and to establish the accounting and cost systems necessary to secure accurate budget information. [1995 c 301 § 54; 1967 ex.s. c 119 § 35A.33.110.]

35A.33.120 Funds—Limitations on expenditures—Transfers and adjustments. The expenditures as classified and itemized in the final budget shall constitute the city's appropriations for the ensuing fiscal year. Unless otherwise ordered by a court of competent jurisdiction, and subject to further limitations imposed by ordinance of the code city, the expenditure of city funds or the incurring of current liabilities on behalf of the city shall be limited to the following:

(1) The total amount appropriated for each fund in the budget for the current fiscal year, without regard to the individual items contained therein, except that this limitation shall not apply to wage adjustments authorized by RCW 35A.33.105; and

(2) The unexpended appropriation balances of a preceding budget which may be carried forward from prior fiscal years pursuant to RCW 35A.33.150; and

(3) Funds received from the sale of bonds or warrants which have been duly authorized according to law; and

(4) Funds received in excess of estimated revenues during the current fiscal year, when authorized by an ordinance amending the original budget; and

(5) Expenditures required for emergencies, as authorized in RCW 35A.33.080 and 35A.33.090.

Transfers between individual appropriations within any one fund may be made during the current fiscal year by order of the city's chief administrative officer subject to such regulations, if any, as may be imposed by the city council. Notwithstanding the provisions of RCW 43.09.210 or of any statute to the contrary, transfers, as herein authorized, may be made within the same fund regardless of the various offices, departments or divisions of the city which may be affected.

The city council, upon a finding that it is to the best interests of the code city to decrease, revoke or recall all or any portion of the total appropriations provided for any one fund, may, by ordinance, approved by the vote of one more than the majority of all members thereof, stating the facts and findings for doing so, decrease, revoke or recall all or any portion of an unexpended fund balance, and by said ordinance, or a subsequent ordinance adopted by a like majority, the moneys thus released may be reappropriated for another purpose or purposes, without limitation to department, division or fund, unless the use of such moneys is otherwise restricted by law, charter, or ordinance. [1967 ex.s. c 119 § 35A.33.120.]

35A.33.122 Administration, oversight, or supervision of utility—Reimbursement from utility budget authorized. Whenever any code city apportions a percentage of the city manager's, administrator's, or supervisor's time, or the time of other management or general government staff, for administration, oversight, or supervision of a utility operated by the city, or to provide services to the utility, the utility budget may identify such services and budget for reimbursement of the city's current expense fund for the value of such services. [1991 c 152 § 3.]

35A.33.125 Limitation on expenditures—Void. Liabilities incurred by any officer or employee of the city in excess of any budget appropriations shall not be a liability of the city. The clerk shall issue no warrant and the city council or other authorized person shall approve no claim for an expenditure in excess of the total amount appropriated for any individual fund, except upon an order of a court of competent jurisdiction or for emergencies as provided in this chapter. [1969 ex.s. c 81 § 4; 1967 ex.s. c 119 § 35A.33.125.]

Additional notes found at www.leg.wa.gov

35A.33.130 Funds received from sales of bonds and warrants—Expenditures program—Federal tax law. Moneys received from the sale of bonds or warrants must be used for no other purpose than that for which they were issued. If any unexpended fund balance remains from the proceeds realized from the bonds or warrants after the accomplishment of the purpose for which they were issued it must be used for the payment of principal of or interest on such indebtedness consistent with applicable provisions of federal tax law. Where a budget contains an expenditure program to be partially or wholly financed from a bond issue to be authorized thereafter, expenditures of amounts anticipated to be reimbursed from the proceeds of the issuance and sale of such

bonds must be made or incurred consistent with any applicable federal tax law requirements. [2011 c 210 § 4; 1967 ex.s. c 119 § 35A.33.130.]

Application to previously issued bonds—2011 c 210: See note following RCW 39.46.040.

35A.33.135 Levy for ad valorem tax. At a time fixed by the city's ordinance or charter, not later than the first Monday in October of each year, the chief administrative officer shall provide the city's legislative body with current information on estimates of revenues from all sources as adopted in the budget for the current year, together with estimates submitted by the clerk under RCW 35A.33.050. The city's legislative body and the city's administrative officer or his or her designated representative shall consider the city's total anticipated financial requirements for the ensuing fiscal year, and the legislative body shall determine and fix by ordinance the amount to be raised by ad valorem taxes. Upon adoption of the ordinance fixing the amount of ad valorem taxes to be levied, the clerk shall certify the same to the board of county commissioners as required by RCW 84.52.020. [2009 c 549 § 3034; 1967 ex.s. c 119 § 35A.33.135.]

35A.33.140 Funds—Quarterly report of status. At such intervals as may be required by city charter or ordinance, however, being not less than quarterly, the clerk shall submit to the city's legislative body and chief administrative officer a report showing the expenditures and liabilities against each separate budget appropriation incurred during the preceding reporting period and like information for the whole of the current fiscal year to the first day of the current reporting period together with the unexpended balance of each appropriation. The report shall also show the receipts from all sources. [1967 ex.s. c 119 § 35A.33.140.]

35A.33.145 Contingency fund—Creation. Every code city may create and maintain a contingency fund to provide moneys with which to meet any municipal expense, the necessity or extent of which could not have been foreseen or reasonably evaluated at the time of adopting the annual budget, or from which to provide moneys for those emergencies described in RCW 35A.33.080 and 35A.33.090. Such fund may be supported by a budget appropriation from any tax or other revenue source not restricted in use by law, or also may be supported by a transfer from other unexpended or decreased funds made available by ordinance as set forth in RCW 35A.33.120: PROVIDED, That the total amount accumulated in such fund at any time shall not exceed the equivalent of thirty-seven and one-half cents per thousand dollars of assessed valuation of property within the city at such time. Any moneys in the contingency fund at the end of the fiscal year shall not lapse except upon reappropriation by the council to another fund in the adoption of a subsequent budget. [1973 1st ex.s. c 195 § 28; 1967 ex.s. c 119 § 35A.33.145.]

Additional notes found at www.leg.wa.gov

35A.33.146 Contingency fund—Withdrawals. No money shall be withdrawn from the contingency fund except by transfer to the appropriate operating fund authorized by a resolution or ordinance of the council, adopted by a vote of the majority of the entire council, clearly stating the facts

constituting the reason for the withdrawal or the emergency as the case may be, specifying the fund to which the withdrawn money shall be transferred. [1967 ex.s. c 119 § 35A.33.146.]

35A.33.150 Unexpended appropriations. All appropriations in any current operating fund shall lapse at the end of each fiscal year: PROVIDED, That this shall not prevent payments in the following year upon uncompleted programs or improvements in progress or on orders subsequently filled or claims subsequently billed for the purchase of material, equipment and supplies or for personal or contractual services not completed or furnished by the end of the fiscal year, all of which have been properly budgeted and contracted for prior to the close of such fiscal year but furnished or completed in due course thereafter.

All appropriations in a special fund authorized by ordinance or by state law to be used only for the purpose or purposes therein specified, including any cumulative reserve funds lawfully established in specific or general terms for any municipal purpose or purposes, or a contingency fund as authorized by RCW 35A.33.145, shall not lapse, but shall be carried forward from year to year until fully expended or the purpose has been accomplished or abandoned, without necessity of reappropriation.

The accounts for budgetary control for each fiscal year shall be kept open for twenty days after the close of such fiscal year for the purpose of paying and recording claims for indebtedness incurred during such fiscal year; any claim presented after the twentieth day following the close of the fiscal year shall be paid from appropriations lawfully provided for the ensuing period, including those made available by provisions of this section, and shall be recorded in the accounts for the ensuing fiscal year. [1967 ex.s. c 119 § 35A.33.150.]

35A.33.160 Violations and penalties. Upon the conviction of any city official, department head or other city employee of knowingly failing, or refusing, without just cause, to perform any duty imposed upon such officer or employee by this chapter, or city ordinance or charter, in connection with the giving of notice, the preparing and filing of estimates of revenues or expenditures or other information required for preparing a budget report in the time and manner required, or of knowingly making expenditures in excess of budget appropriations, he or she shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars for each separate violation. [2009 c 549 § 3035; 1967 ex.s. c 119 § 35A.33.160.]

Chapter 35A.34 RCW BIENNIAL BUDGETS

Sections

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- 35A.34.280 Violations and penalties.

35A.34.010 Legislative intent. See RCW 35.34.010.

35A.34.020 Application of chapter. This chapter applies to all code cities which have by ordinance adopted this chapter authorizing the adoption of a fiscal biennium budget. [1985 c 175 § 34.]

35A.34.030 Definitions. Unless the context clearly indicates otherwise, the definitions in this section apply throughout this chapter.

(1) "Clerk" includes the officer performing the functions of a finance or budget director, comptroller, auditor, or by whatever title the officer may be known in any code city.

(2) "Department" includes each office, division, service, system, or institution of the city for which no other statutory or charter provision is made for budgeting and accounting procedures or controls.

(3) "Legislative body" includes the council, commission, or any other group of officials serving as the legislative body of a code city.

(4) "Chief administrative officer" includes the mayor of cities having a mayor-council plan of government, the commissioners in cities having a commission plan of government, the manager, or any other city official designated by the charter or ordinances of such city under the plan of government governing the same, or the budget or finance officer designated by the mayor, manager, or commissioners, to perform the functions, or portions thereof, contemplated by this chapter.

(5) "Fiscal biennium" means the period from January 1 of each odd-numbered year through December 31 of the next succeeding even-numbered year.

(6) "Fund" and "funds" where clearly used to indicate the plural of "fund" means the budgeting or accounting entity authorized to provide a sum of money for specified activities or purposes.

(7) "Funds" where not used to indicate the plural of "fund" means money in hand or available for expenditure or payment of a debt or obligation.

(8) Except as otherwise defined in this chapter, municipal accounting terms used in this chapter have the meaning prescribed by the state auditor pursuant to RCW 43.09.200. [1985 c 175 § 35.]

"Fiscal biennium" defined: RCW 1.16.020.

(2018 Ed.)

35A.34.040 Biennial budget authorized—Limitations. All code cities are authorized to establish by ordinance a two-year fiscal biennium budget. The ordinance shall be enacted at least six months prior to commencement of the fiscal biennium and this chapter applies to all code cities which utilize a fiscal biennium budget. Code cities which establish a fiscal biennium budget are authorized to repeal such ordinance and provide for reversion to a fiscal year budget. The ordinance may only be repealed effective as of the conclusion of a fiscal biennium. However, the city shall comply with chapter 35A.33 RCW in developing and adopting the budget for the first fiscal year following repeal of the ordinance. [1985 c 175 § 36.]

35A.34.050 Budget estimates—Submittal. On or before the second Monday of the fourth month prior to the beginning of the city's next fiscal biennium, or at such other time as the city may provide by ordinance or charter, the clerk shall notify in writing the head of each department of a city to file with the clerk within fourteen days of the receipt of such notification, detailed estimates of the probable revenue from sources other than ad valorem taxation and of all expenditures required by the department for the ensuing fiscal biennium. The notice shall be accompanied by the proper forms provided by the clerk, prepared in accordance with the requirements and classification established by the state auditor. The clerk shall prepare the estimates for interest and debt redemption requirements and all other estimates, the preparation of which falls properly within the duties of the clerk's office. The chief administrative officers of the city shall submit to the clerk detailed estimates of all expenditures proposed to be financed from the proceeds of bonds or warrants not yet authorized, together with a statement of the proposed method of financing them. In the absence or disability of the official or person regularly in charge of a department, the duties required by this section shall devolve upon the person next in charge of such department. [1995 c 301 § 55; 1985 c 175 § 37.]

35A.34.060 Budget estimates—Classification and segregation. All estimates of receipts and expenditures for the ensuing fiscal biennium shall be fully detailed in the biennial budget and shall be classified and segregated according to a standard classification of accounts to be adopted and prescribed by the state auditor after consultation with the Washington finance officers association, the association of Washington cities, and the association of Washington city managers. [1995 c 301 § 56; 1985 c 175 § 38.]

35A.34.070 Proposed preliminary budget. On or before the first business day in the third month prior to the beginning of the biennium of a city or at such other time as the city may provide by ordinance or charter, the clerk or other person designated by the charter, by ordinances, or by the chief administrative officer of the city shall submit to the chief administrative officer a proposed preliminary budget which shall set forth the complete financial program of the city for the ensuing fiscal biennium, showing the expenditure program requested by each department and the sources of revenue by which each such program is proposed to be financed.

The revenue section shall set forth in comparative and tabular form for each fund the actual receipts for the last completed fiscal biennium, the estimated receipts for the current fiscal biennium, and the estimated receipts for the ensuing fiscal biennium, which shall include the amount to be raised from ad valorem taxes and unencumbered fund balances estimated to be available at the close of the current fiscal biennium. However, if the city was not utilizing a fiscal biennium budget for the previous three years, it shall set forth its fiscal years' revenues to reflect actual and estimated receipts as if it had previously utilized a biennial budgetary process.

The expenditure section shall set forth in comparative and tabular form for each fund and every department operating within each fund the actual expenditures for the last completed fiscal biennium, the appropriations for the current fiscal biennium, and the estimated expenditures for the ensuing fiscal biennium. However, if the city was not utilizing a fiscal biennium budget for the previous three years, it shall set forth its fiscal years' expenditures to reflect actual and estimated levels as if it had previously utilized a biennial budgetary process. The expenditure section shall further set forth separately the salary or salary range for each office, position, or job classification together with the title or position designation thereof. However, salaries may be set out in total amounts under each department if a detailed schedule of such salaries and positions be attached and made a part of the budget document. [1985 c 175 § 39.]

35A.34.080 Preliminary budget. The chief administrative officer shall prepare the preliminary budget in detail, making any revisions or additions to the reports of the department heads deemed advisable by such chief administrative officer. At least sixty days before the beginning of the city's next fiscal biennium the chief administrative officer shall file it with the clerk as the recommendation of the chief administrative officer for the final budget. The clerk shall provide a sufficient number of copies of such preliminary budget and budget message to meet the reasonable demands of taxpayers therefor and have them available for distribution not later than six weeks before the beginning of the city's next fiscal biennium. [1985 c 175 § 40.]

35A.34.090 Budget message—Hearings. (1) In every city, a budget message prepared by or under the direction of the city's chief administrative officer shall be submitted as a part of the preliminary budget to the city's legislative body at least sixty days before the beginning of the city's next fiscal biennium and shall contain the following:

- (a) An explanation of the budget document;
- (b) An outline of the recommended financial policies and programs of the city for the ensuing fiscal biennium;
- (c) A statement of the relation of the recommended appropriation to such policies and programs;
- (d) A statement of the reason for salient changes from the previous biennium in appropriation and revenue items; and
- (e) An explanation for any recommended major changes in financial policy.

(2) Prior to the final hearing on the budget, the legislative body or a committee thereof shall schedule hearings on the budget or parts thereof, and may require the presence of

department heads to give information regarding estimates and programs. [1985 c 175 § 41.]

35A.34.100 Budget—Notice of hearing. Immediately following the filing of the preliminary budget with the clerk, the clerk shall publish a notice once a week for two consecutive weeks stating that the preliminary budget for the ensuing fiscal biennium has been filed with the clerk, that a copy thereof will be made available to any taxpayer who will call at the clerk's office therefor, that the legislative body of the city will meet on or before the first Monday of the month next preceding the beginning of the ensuing fiscal biennium for the purpose of fixing the final budget, designating the date, time, and place of the legislative budget meeting, and that any taxpayer may appear thereat and be heard for or against any part of the budget. The publication of the notice shall be made in the official newspaper of the city if there is one, otherwise in a newspaper of general circulation in the city. If there is no newspaper of general circulation in the city, then notice may be made by posting in three public places fixed by ordinance as the official places for posting the city's official notices. [1985 c 175 § 42.]

35A.34.110 Budget—Hearing. The legislative body shall meet on the day fixed by RCW 35A.34.100 for the purpose of fixing the final budget of the city at the time and place designated in the notice thereof. Any taxpayer may appear and be heard for or against any part of the budget. The hearing may be continued from day to day but not later than the twenty-fifth day prior to commencement of the city's fiscal biennium. [1985 c 175 § 43.]

35A.34.120 Budget—Adoption. Following conclusion of the hearing, and prior to the beginning of the fiscal biennium, the legislative body shall make such adjustments and changes as it deems necessary or proper and, after determining the allowance in each item, department, classification, and fund, shall by ordinance adopt the budget in its final form and content. Appropriations shall be limited to the total estimated revenues contained therein including the amount to be raised by ad valorem taxes and the unencumbered fund balances estimated to be available at the close of the current fiscal biennium. Such ordinances may adopt the final budget by reference. However, the ordinance adopting the budget shall set forth in summary form the totals of estimated revenues and appropriations for each separate fund and the aggregate totals for all such funds combined.

A complete copy of the final budget as adopted shall be transmitted to the state auditor and to the association of Washington cities. [1995 c 301 § 57; 1985 c 175 § 44.]

35A.34.130 Budget—Mid-biennial review and modification. The legislative authority of a city having adopted the provisions of this chapter shall provide by ordinance for a mid-biennial review and modification of the biennial budget. The ordinance shall provide that such review and modification shall occur no sooner than eight months after the start nor later than conclusion of the first year of the fiscal biennium. The chief administrative officer shall prepare the proposed budget modification and shall provide for publication of notice of hearings consistent with publication of notices for

adoption of other city ordinances. City ordinances providing for a mid-biennium review and modification shall establish procedures for distribution of the proposed modification to members of the city legislative authority, procedures for making copies available to the public, and shall provide for public hearings on the proposed budget modification. The budget modification shall be by ordinance approved in the same manner as are other ordinances of the city.

A complete copy of the budget modification as adopted shall be transmitted to the state auditor and to the association of Washington cities. [1995 c 301 § 58; 1985 c 175 § 45.]

35A.34.140 Emergency expenditures—Nondebatable emergencies. Upon the happening of any emergency caused by violence of nature, casualty, riot, insurrection, war, or other unanticipated occurrence requiring the immediate preservation of order or public health, or for the property which has been damaged or destroyed by accident, or for public relief from calamity, or in settlement of approved claims for personal injuries or property damages, or to meet mandatory expenditures required by law enacted since the last budget was adopted, or to cover expenses incident to preparing for or establishing a new form of government authorized or assumed after adoption of the current budget, including any expenses incident to selection of additional or new officials required thereby, or incident to employee recruitment at any time, the city legislative body, upon the adoption of an ordinance, by the vote of one more than the majority of all members of the legislative body, stating the facts constituting the emergency and the estimated amount required to meet it, may make the expenditures therefor without notice or hearing. [1985 c 175 § 46.]

35A.34.150 Emergency expenditures—Other emergencies—Hearing. If a public emergency which could not reasonably have been foreseen at the time of filing the preliminary budget requires the expenditure of money not provided for in the budget, and if it is not one of the emergencies specifically enumerated in RCW 35A.34.140, the city legislative body before allowing any expenditure therefor shall adopt an ordinance stating the facts constituting the emergency and the estimated amount required to meet it and declaring that an emergency exists.

The ordinance shall not be voted on until five days have elapsed after its introduction, and for passage shall require the vote of one more than the majority of all members of the legislative body of the city.

Any taxpayer may appear at the meeting at which the emergency ordinance is to be voted on and be heard for or against the adoption thereof. [1985 c 175 § 47.]

35A.34.160 Emergency expenditures—Warrants—Payment. All expenditures for emergency purposes as provided in this chapter shall be paid by warrants from any available money in the fund properly chargeable with such expenditures. If, at any time, there is insufficient money on hand in a fund with which to pay such warrants as presented, the warrants shall be registered, bear interest, and be called in the same manner as other registered warrants as prescribed in RCW 35A.21.110. [1985 c 175 § 48.]

35A.34.170 Registered warrants—Payment. In adopting the final budget for any fiscal biennium, the legislative body shall appropriate from estimated revenue sources available, a sufficient amount to pay the principal and interest on all outstanding registered warrants issued since the adoption of the last preceding budget except those issued and identified as revenue warrants and except those for which an appropriation previously has been made. However, no portion of the revenues which are restricted in use by law may be appropriated for the redemption of warrants issued against a utility or other special purpose fund of a self-supporting nature. In addition, all or any portion of the city's outstanding registered warrants may be funded into bonds in any manner authorized by law. [1985 c 175 § 49.]

35A.34.180 Adjustment of wages, hours and conditions of employment. Notwithstanding the appropriations for any salary or salary range of any employee or employees adopted in a final budget, the legislative body of any city may, by ordinance, change the wages, hours, and conditions of employment of any or all of its appointive employees if sufficient funds are available for appropriation to such purposes. [1985 c 175 § 50.]

35A.34.190 Forms—Accounting—Supervision by state. The state auditor is empowered to make and install the forms and classifications required by this chapter to define what expenditures are chargeable to each budget class and to establish the accounting and cost systems necessary to secure accurate budget information. [1995 c 301 § 59; 1985 c 175 § 51.]

35A.34.200 Funds—Limitations on expenditures—Transfers and adjustments. (1) The expenditures as classified and itemized in the final budget shall constitute the city's appropriations for the ensuing fiscal biennium. Unless otherwise ordered by a court of competent jurisdiction, and subject to further limitations imposed by ordinance of the city, the expenditure of city funds or the incurring of current liabilities on behalf of the city shall be limited to the following:

(a) The total amount appropriated for each fund in the budget for the current fiscal biennium, without regard to the individual items contained therein, except that this limitation does not apply to wage adjustments authorized by RCW 35A.34.180;

(b) The unexpended appropriation balances of a preceding budget which may be carried forward from prior fiscal periods pursuant to RCW 35A.34.270;

(c) Funds received from the sale of bonds or warrants which have been duly authorized according to law;

(d) Funds received in excess of estimated revenues during the current fiscal biennium, when authorized by an ordinance amending the original budget; and

(e) Expenditures authorized by budget modification as provided by RCW 35A.34.130 and those required for emergencies, as authorized by RCW 35A.34.140 and 35A.34.150.

(2) Transfers between individual appropriations within any one fund may be made during the current fiscal biennium by order of the city's chief administrative officer subject to such regulations, if any, as may be imposed by the city legislative body. Notwithstanding the provisions of RCW

43.09.210 or of any statute to the contrary, transfers, as authorized in this section, may be made within the same fund regardless of the various offices, departments, or divisions of the city which may be affected.

(3) The city legislative body, upon a finding that it is to the best interests of the city to decrease, revoke, or recall all or any portion of the total appropriations provided for any one fund, may, by ordinance, approved by the vote of one more than the majority of all members thereof, stating the facts and findings for doing so, decrease, revoke, or recall all or any portion of an unexpended fund balance, and by said ordinance, or a subsequent ordinance adopted by a like majority, the moneys thus released may be reappropriated for another purpose or purposes, without limitation to department, division, or fund, unless the use of such moneys is otherwise restricted by law, charter, or ordinance. [1985 c 175 § 52.]

35A.34.205 Administration, oversight, or supervision of utility—Reimbursement from utility budget authorized. Whenever any code city apportions a percentage of the city manager's, administrator's, or supervisor's time, or the time of other management or general government staff, for administration, oversight, or supervision of a utility operated by the city, or to provide services to the utility, the utility budget may identify such services and budget for reimbursement of the city's current expense fund for the value of such services. [1991 c 152 § 4.]

35A.34.210 Liabilities incurred in excess of budget. Liabilities incurred by any officer or employee of the city in excess of any budget appropriations shall not be a liability of the city. The clerk shall issue no warrant and the city legislative body or other authorized person shall approve no claim for an expenditure in excess of the total amount appropriated for any individual fund, except upon an order of a court of competent jurisdiction or for emergencies as provided in this chapter. [1985 c 175 § 53.]

35A.34.220 Funds received from sales of bonds and warrants—Expenditures program—Federal tax law. Moneys received from the sale of bonds or warrants must be used for no other purpose than that for which they were issued. If any unexpended fund balance remains from the proceeds realized from the bonds or warrants after the accomplishment of the purpose for which they were issued, it must be used for the payment of principal of or interest on such indebtedness consistent with applicable provisions of federal tax law. Where a budget contains an expenditure program to be partially or wholly financed from a bond issue to be authorized thereafter, expenditures of amounts anticipated to be reimbursed from the proceeds of the issuance and sale of such bonds must be made or incurred consistent with any applicable federal tax law requirements. [2011 c 210 § 5; 1985 c 175 § 54.]

Application to previously issued bonds—2011 c 210: See note following RCW 39.46.040.

35A.34.230 Revenue estimates—Amount to be raised by ad valorem taxes. At a time fixed by the city's ordinance or city charter, not later than the first Monday in October of

the second year of each fiscal biennium, the chief administrative officer shall provide the city's legislative body with current information on estimates of revenues from all sources as adopted in the budget for the current biennium, together with estimates submitted by the clerk under RCW 35A.34.070. The city's legislative body and the city's administrative officer or the officer's designated representative shall consider the city's total anticipated financial requirements for the ensuing fiscal biennium, and the legislative body shall determine and fix by ordinance the amount to be raised the first year of the biennium by ad valorem taxes. The legislative body shall review such information as is provided by the chief administrative officer and shall adopt an ordinance establishing the amount to be raised by ad valorem taxes during the second year of the biennium. Upon adoption of the ordinance fixing the amount of ad valorem taxes to be levied, the clerk shall certify the same to the county legislative authority as required by RCW 84.52.020. [1985 c 175 § 55.]

35A.34.240 Funds—Quarterly report of status. At such intervals as may be required by city charter or city ordinance, however, being not less than quarterly, the clerk shall submit to the city's legislative body and chief administrative officer a report showing the expenditures and liabilities against each separate budget appropriation incurred during the preceding reporting period and like information for the whole of the current fiscal biennium to the first day of the current reporting period together with the unexpended balance of each appropriation. The report shall also show the receipts from all sources. [1985 c 175 § 56.]

35A.34.250 Contingency fund—Creation. Every city may create and maintain a contingency fund to provide moneys with which to meet any municipal expense, the necessity or extent of which could not have been foreseen or reasonably evaluated at the time of adopting the annual budget, or from which to provide moneys for those emergencies described in RCW 35A.34.140 and 35A.34.150. Such fund may be supported by a budget appropriation from any tax or other revenue source not restricted in use by law, or also may be supported by a transfer from other unexpended or decreased funds made available by ordinance as set forth in RCW 35A.34.200. However, the total amount accumulated in such fund at any time shall not exceed the equivalent of thirty-seven and one-half cents per thousand dollars of assessed valuation of property within the city at such time. Any moneys in the emergency fund at the end of the fiscal biennium shall not lapse except upon reappropriation by the council to another fund in the adoption of a subsequent budget. [1985 c 175 § 57.]

35A.34.260 Contingency fund—Withdrawals. No money shall be withdrawn from the contingency fund except by transfer to the appropriate operating fund authorized by a resolution or ordinance of the legislative body of the city, adopted by a majority vote of the entire legislative body, clearly stating the facts constituting the reason for the withdrawal or the emergency as the case may be, specifying the fund to which the withdrawn money shall be transferred. [1985 c 175 § 58.]

35A.34.270 Unexpended appropriations. All appropriations in any current operating fund shall lapse at the end of each fiscal biennium. However, this shall not prevent payments in the following biennium upon uncompleted programs or improvements in progress or on orders subsequently filled or claims subsequently billed for the purchase of material, equipment, and supplies or for personal or contractual services not completed or furnished by the end of the fiscal biennium, all of which have been properly budgeted and contracted for prior to the close of such fiscal biennium, but furnished or completed in due course thereafter.

All appropriations in a special fund authorized by ordinance or by state law to be used only for the purpose or purposes therein specified, including any cumulative reserve funds lawfully established in specific or general terms for any municipal purpose or purposes, or a contingency fund as authorized by RCW 35A.34.250, shall not lapse, but shall be carried forward from biennium to biennium until fully expended or the purpose has been accomplished or abandoned, without necessity of reappropriation.

The accounts for budgetary control for each fiscal biennium shall be kept open for twenty days after the close of such fiscal biennium for the purpose of paying and recording claims for indebtedness incurred during such fiscal biennium; any claim presented after the twentieth day following the close of the fiscal biennium shall be paid from appropriations lawfully provided for the ensuing period, including those made available by provisions of this section, and shall be recorded in the accounts for the ensuing fiscal biennium. [1985 c 175 § 59.]

35A.34.280 Violations and penalties. Upon the conviction of any city official, department head, or other city employee of knowingly failing, or refusing, without just cause, to perform any duty imposed upon such officer or employee by this chapter, or city charter or city ordinance, in connection with the giving of notice, the preparing and filing of estimates of revenues or expenditures or other information required for preparing a budget report in the time and manner required, or of knowingly making expenditures in excess of budget appropriations, the official or employee shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars for each separate violation. [1985 c 175 § 60.]

Chapter 35A.35 RCW

INTERGOVERNMENTAL RELATIONS

Sections

- 35A.35.010 Joint facilities and agreements.
- 35A.35.020 Demonstration Cities and Metropolitan Development Act—Authority to contract with federal government.

35A.35.010 Joint facilities and agreements. In addition to exercising all authority granted to cities of any class for joint or intergovernmental cooperation and activity and agreements for the acquisition, ownership, leasing, control, improvement, occupation and use of land or other property with a county, another city, or governmental agency, and in addition to authority granted to code cities by RCW 35A.11.040, every code city may exercise the powers relating to jails, places of detention, civic centers, civic halls and

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armories as is authorized by chapters 36.64 and 38.20 RCW. [1967 ex.s. c 119 § 35A.35.010.]

35A.35.020 Demonstration Cities and Metropolitan Development Act—Authority to contract with federal government. See RCW 35.21.660.

Chapter 35A.36 RCW

EXECUTION OF BONDS BY PROXY IN CODE CITIES

Sections

- 35A.36.010 Appointment of proxies.
- 35A.36.020 Coupons—Printing facsimile signatures.
- 35A.36.030 Deputies—Exemptions.
- 35A.36.040 Designation of bonds to be signed.
- 35A.36.050 Liability of officer.
- 35A.36.060 Notice to council.
- 35A.36.070 Revocation of proxy.

35A.36.010 Appointment of proxies. The mayor, finance officer, city clerk, or other officer of a code city who is authorized or required by law, charter, or ordinance to execute bonds of the city or any subdivision or district thereof may designate one or more bonded persons to affix such officer's signature to any bond or bonds requiring his or her signature. If the signature of one of these officers is affixed to a bond during his or her continuance in office by a proxy designated by him or her whose authority has not been revoked, the bond shall be as binding upon the city and all concerned as though the officer had signed the bond in person. This chapter shall apply to all bonds, whether they constitute obligations of the city as a whole or of any local improvement or other district or subdivision thereof, whether they call for payment from the general funds of the city or from a local, special or other fund, and whether negotiable or otherwise. [2009 c 549 § 3036; 1967 ex.s. c 119 § 35A.36.010.]

35A.36.020 Coupons—Printing facsimile signatures. A facsimile reproduction of the signature of any of the code city officers referred to in RCW 35A.36.010 may be printed, engraved, or lithographed upon bond coupons with the same effect as though the particular officer had signed the coupon in person. [1967 ex.s. c 119 § 35A.36.020.]

35A.36.030 Deputies—Exemptions. This chapter shall not be construed to require the appointment of deputy finance officers or deputy city clerks of code cities to be made in accordance with this chapter insofar as concerns signatures or other acts which may lawfully be made or done by such deputy officer under the provisions of any other law. [1967 ex.s. c 119 § 35A.36.030.]

35A.36.040 Designation of bonds to be signed. (1) The officer of a code city whose duty it is to cause any bonds to be printed, engraved, or lithographed, shall specify in a written order or requisition to the printer, engraver, or lithographer the number of bonds to be printed, engraved or lithographed and the manner of numbering them.

(2) Every printer, engraver, or lithographer who knowingly prints, engraves, or lithographs a greater number of bonds than that specified or who knowingly prints, engraves, or lithographs more than one bond bearing the same number

is guilty of a class B felony punishable according to chapter 9A.20 RCW. [2003 c 53 § 200; 1967 ex.s. c 119 § 35A.36.040.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

35A.36.050 Liability of officer. A code city officer authorizing the affixing of his or her signature to a bond by a proxy shall be subject to the same liability personally and on his or her bond for any signature so affixed and to the same extent as if he or she had affixed his or her signature in person. [2009 c 549 § 3037; 1967 ex.s. c 119 § 35A.36.050.]

35A.36.060 Notice to council. In order to designate a proxy to affix his or her signature to bonds, a code city officer shall address a written notice to the legislative body of the city giving the name of the person whom he or she has selected therefor and stating generally or specifically what bonds are to be so signed.

Attached to or included in the notice shall be a written signature of the officer making the designation executed by the proposed proxy followed by the word "by" and his or her own signature; or, if the notice so states, the specimen signatures may consist of a facsimile reproduction of the officer's signature impressed by some mechanical process followed by the word "by" and the proxy's own signature.

If the authority is intended to include the signature upon bonds bearing an earlier date than the effective date of the notice, the prior dated bonds must be specifically described by reasonable reference thereto.

The notice designating a proxy shall be filed with the city finance officer or city clerk, together with the specimen signatures attached thereto and a record of the filing shall be made in the journal of the legislative body. This record shall note the date and hour of filing and may be made by the official who keeps the journal at any time after the filing of the notice, even during a period of recess or adjournment of the legislative body. The notice shall be effective from the time of its recording. [2009 c 549 § 3038; 1967 ex.s. c 119 § 35A.36.060.]

35A.36.070 Revocation of proxy. Any designation of a proxy may be revoked by written notice addressed to the legislative body of the code city signed by the officer who made the designation and filed and recorded in the same manner as the notice of designation. It shall be effective from the time of its recording but shall not affect the validity of any signatures theretofore made. [1967 ex.s. c 119 § 35A.36.070.]

Chapter 35A.37 RCW FUNDS, SPECIAL PURPOSE

Sections

35A.37.010 Segregating and accounting.

35A.37.010 Segregating and accounting. Code cities shall establish such funds for the segregation, budgeting, expenditure, and accounting for moneys received for special purposes as are required by general law applicable to such cities' activities and the officers thereof shall pay into, expend

from, and account for such moneys in the manner provided therefor including, but not limited to, the requirements of the following:

- (1) Accounting funds as required by RCW 35.37.010;
- (2) Annexation and consolidation fund as required by chapters 35.10 and 35.13 RCW;
- (3) Assessment fund as required by RCW 8.12.480;
- (4) Equipment rental fund as authorized by RCW 35.21.088;
- (5) Current expense fund as required by RCW 35.37.010, usually referred to as the general fund;
- (6) Local improvement guaranty fund as required by RCW 35.54.010;
- (7) An indebtedness and sinking fund, together with separate funds for utilities and institutions as required by RCW 35.37.020;
- (8) Local improvement district fund and revolving fund as required by RCW 35.45.130 and 35.48.010;
- (9) City street fund as required by chapter 35.76 RCW and RCW 47.24.040;
- (10) Firefighters' relief and pension fund as required by chapters 41.16 and 41.18 RCW;
- (11) Police relief and pension fund as required by RCW 41.20.130 and 63.32.030;
- (12) First-class cities' employees retirement and pension system as authorized by chapter 41.28 RCW;
- (13) Applicable rules of the state auditor. [2013 c 23 § 64; 1995 c 301 § 60; 1983 c 3 § 62; 1967 ex.s. c 119 § 35A.37.010.]

Chapter 35A.38 RCW EMERGENCY SERVICES

Sections

35A.38.010 Local organization.

35A.38.010 Local organization. A code city may participate in the creation of local organizations for emergency services, provide for mutual aid, and exercise all of the powers and privileges and perform all of the functions and duties, and the officers and employees thereof shall have the same powers, duties, rights, privileges and immunities as any city of any class, and the employees thereof, have in connection with emergency services as provided in chapter 38.52 RCW in the manner provided by said chapters or by general law. [1974 ex.s. c 171 § 2; 1967 ex.s. c 119 § 35A.38.010.]

Chapter 35A.39 RCW PUBLIC DOCUMENTS AND RECORDS

Sections

35A.39.010 Legislative and administrative records.

35A.39.010 Legislative and administrative records. Every code city shall keep a journal of minutes of its legislative meetings with orders, resolutions and ordinances passed, and records of the proceedings of any city department, division or commission performing quasi-judicial functions as required by ordinances of the city and general laws of the state and shall keep such records open to the public as

required by RCW 42.30.035 and shall keep and preserve all public records and publications or reproduce and destroy the same as provided by Title 40 RCW. Each code city may duplicate and sell copies of its ordinances at fees reasonably calculated to defray the cost of such duplication and handling. [2017 3rd sp.s. c 25 § 32; 1995 c 21 § 2; 1967 ex.s. c 119 § 35A.39.010.]

Chapter 35A.40 RCW
FISCAL PROVISIONS APPLICABLE TO CODE
CITIES

Sections

35A.40.010	Accounting—Funds—Indebtedness—Bonds.
35A.40.020	Payment of claims and obligations by warrant or check.
35A.40.030	Fiscal—Depositaries.
35A.40.050	Fiscal—Investment of funds.
35A.40.060	Fiscal—Validation and funding of debts.
35A.40.070	Fiscal—Municipal Revenue Bond Act.
35A.40.080	Bonds—Form, terms, and maturity.
35A.40.090	Indebtedness.
35A.40.100	Bankruptcy, readjustment and relief from debts.
35A.40.110	Employee checks, drafts, warrants—City may cash.
35A.40.200	General law relating to public works and contracts.
35A.40.210	Public work or improvement—Procedures—Purchases.

35A.40.010 Accounting—Funds—Indebtedness—Bonds. Municipal accounts and funds, the contracting of indebtedness for municipal purposes and the issuance and payment of bonds therefor, the validation of preexisting obligations by the voters of a consolidated city, debt limitations, elections for authorization of the incurring of indebtedness, and provisions pertaining to the issuance, sale, funding and redemption of general obligation bonds and remedies for nonpayment thereof are governed and controlled by the general law as contained in, but not limited to chapters 35.37, 39.40, 39.46, 39.52, 39.56, and 43.80 RCW, and are hereby recognized as applicable to code cities. [1984 c 186 § 24; 1967 ex.s. c 119 § 35A.40.010.]

Purpose—1984 c 186: See note following RCW 39.46.110.

35A.40.020 Payment of claims and obligations by warrant or check. A code city, by ordinance, may adopt a policy for the payment of claims or other obligations of the city, which are payable out of solvent funds, electing either to pay such obligations by warrant, or to pay such obligations by check: PROVIDED, That no check shall be issued when the applicable fund is not solvent at the time payment is ordered, but a warrant shall be issued therefor. When checks are to be used, the legislative body shall designate the qualified public depositary whereon such checks are to be drawn, and the officers authorized or required to sign such checks. Wherever in this title, reference is made to warrants, such term shall include checks where authorized by this section. [1984 c 177 § 5; 1967 ex.s. c 119 § 35A.40.020.]

35A.40.030 Fiscal—Depositaries. The legislative body of a code city, at the end of each fiscal year, or at such other times as the legislative body may direct, shall designate one or more financial institutions which are qualified public depositaries as set forth by the public deposit protection commission as depositary or depositaries of the moneys required to be kept by the code city treasurer or other officer performing the duties commonly performed by the treasurer of a code

city: PROVIDED, That where any bank has been designated as a depositary hereunder such designation shall continue in force until revoked by a majority vote of the legislative body of such code city. The provisions relating to depositaries, contained in chapter 39.58 RCW, as now or hereafter amended, are hereby recognized as applicable to code cities and to the depositaries designated by them. [1984 c 177 § 6; 1973 c 126 § 4; 1967 ex.s. c 119 § 35A.40.030.]

35A.40.050 Fiscal—Investment of funds. Excess and inactive funds on hand in the treasury of any code city may be invested in the same manner and subject to the same limitations as provided for city and town funds in all applicable statutes, including, but not limited to the following: RCW 35.39.030, 35.58.510, 35.81.070, 35.82.070, 36.29.020, 39.58.020, 39.58.080, 39.58.130, 39.60.010, 39.60.020, 41.16.040, 68.52.060, and 68.52.065.

The responsibility for determining the amount of money available in each fund for investment purposes shall be placed upon the department, division, or board responsible for the administration of such fund.

Moneys thus determined available for this purpose may be invested on an individual fund basis or may, unless otherwise restricted by law be commingled within one common investment portfolio for the mutual benefit of all participating funds: PROVIDED, That if such moneys are commingled in a common investment portfolio, all income derived therefrom shall be apportioned among the various participating funds or the general or current expense fund as the governing body of the code city determines by ordinance or resolution.

Any excess or inactive funds on hand in the city treasury not otherwise invested for the specific benefit of any particular fund, may be invested by the city treasurer in United States government bonds, notes, bills or certificates of indebtedness for the benefit of the general or current expense fund. [2015 1st sp.s. c 4 § 28; 2007 c 64 § 1; 1987 c 331 § 77; 1983 c 66 § 2; 1983 c 3 § 64; 1967 ex.s. c 119 § 35A.40.050.]

Additional notes found at www.leg.wa.gov

35A.40.060 Fiscal—Validation and funding of debts. The provisions of general law contained in chapters 35.40 and 39.90 RCW, relating to the validation and funding of debts and elections pertaining thereto is hereby recognized as applicable to code cities. [1967 ex.s. c 119 § 35A.40.060.]

35A.40.070 Fiscal—Municipal Revenue Bond Act. All provisions of chapter 35.41 RCW, the Municipal Revenue Bond Act, shall be applicable and/or available to code cities. [1967 ex.s. c 119 § 35A.40.070.]

35A.40.080 Bonds—Form, terms, and maturity. In addition to any other authority granted by law, a code city shall have authority to ratify and fund indebtedness as provided by chapter 35.40 RCW; to issue revenue bonds, coupons and warrants as authorized by chapter 35.41 RCW; to authorize and issue local improvement bonds and warrants, installment notes and interest certificates as authorized by chapter 35.45 RCW; to fund indebtedness and to issue other bonds as authorized by chapters 39.44, 39.48, 39.52 RCW, RCW 39.56.020, and 39.56.030 in accordance with the pro-

cedures and subject to the limitations therein provided. [1967 ex.s. c 119 § 35A.40.080.]

35A.40.090 Indebtedness. The provisions of general law contained in chapter 39.36 RCW relating to municipal indebtedness shall be applicable to code cities. [2001 c 200 § 2; 1973 1st ex.s. c 195 § 29; 1970 ex.s. c 42 § 16; 1967 ex.s. c 119 § 35A.40.090. Cf. 1973 1st ex.s. c 195 § 141.]

Additional notes found at www.leg.wa.gov

35A.40.100 Bankruptcy, readjustment and relief from debts. A code city may exercise the powers and obtain the benefits relating to bankruptcy, readjustment and relief from debts as authorized by chapter 39.64 RCW in accordance with the procedures therein prescribed. [1967 ex.s. c 119 § 35A.40.100.]

35A.40.110 Employee checks, drafts, warrants—City may cash. Any code city is hereby authorized, at its option and after the adoption of the appropriate ordinance, to accept in exchange for cash a payroll check, draft, or warrant; expense check, draft, or warrant; or personal check from a city employee in accordance with the following conditions:

(1) The check, warrant, or draft must be drawn to the order of cash or bearer and be immediately payable by a drawee financial institution;

(2) The person presenting the check, draft, or warrant to the city must produce identification as outlined by the city in the authorizing ordinance;

(3) The payroll check, draft, or warrant or expense check, draft, or warrant must have been issued by the city; and

(4) Personal checks cashed pursuant to this authorization cannot exceed two hundred dollars.

In the event that any personal check cashed for a city employee by the city under this section is dishonored by the drawee financial institution when presented for payment, the city is authorized, after notice to the drawer or endorser of the dishonor, to withhold from the drawer's or endorser's next payroll check, draft, or warrant the full amount of the dishonored check. [1991 c 185 § 2.]

35A.40.200 General law relating to public works and contracts. Every code city shall have the authority to make public improvements and to perform public works under authority provided by general law for any class of city and to make contracts in accordance with procedure and subject to the conditions provided therefor, including but not limited to the provisions of: (1) Chapter 39.04 RCW, relating to public works; (2) RCW 35.23.352 relating to competitive bidding for public works, materials and supplies; (3) RCW 9.18.120 and 9.18.150 relating to suppression of competitive bidding; (4) chapter 60.28 RCW relating to liens for materials and labor performed; (5) chapter 39.08 RCW relating to contractor's bonds; (6) chapters 39.12 and 43.03 RCW relating to prevailing wages; (7) chapter 49.12 RCW relating to hours of labor; (8) chapter 51.12 RCW relating to workers' compensation; (9) chapter 49.60 RCW relating to antidiscrimination in employment; (10) chapter 39.24 RCW relating to the use of Washington commodities; and (11) chapter 39.28 RCW

relating to emergency public works. [1995 c 164 § 2; 1987 c 185 § 4; 1983 c 3 § 65; 1967 ex.s. c 119 § 35A.40.200.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

35A.40.210 Public work or improvement—Procedures—Purchases. Procedures for any public work or improvement for code cities shall be governed by RCW 35.23.352.

Purchases for code cities with twenty thousand population or more shall be governed by RCW 35.22.620. Purchases for code cities with under twenty thousand population shall be governed by RCW 35.23.352. [2009 c 229 § 5; 1989 c 11 § 8; 1979 ex.s. c 89 § 3.]

Additional notes found at www.leg.wa.gov

Chapter 35A.41 RCW PUBLIC EMPLOYMENT

Sections

- 35A.41.010 Retirement and pension systems for code cities having a population of more than twenty thousand.
- 35A.41.020 Public employment and civil service.
- 35A.41.030 City contracts to obtain sheriff's office law enforcement services.

35A.41.010 Retirement and pension systems for code cities having a population of more than twenty thousand. A code city having a population of more than twenty thousand inhabitants, or having been classed theretofore as a city of the first class may exercise all of the powers relating to retirement and pension systems for employees as authorized by RCW 35A.11.020 and by chapter 41.28 RCW in accordance with the procedures prescribed therein and subject to the limitations and penalties thereof. [1967 ex.s. c 119 § 35A.41.010.]

35A.41.020 Public employment and civil service. Except as otherwise provided in this title, the general provisions relating to public employment, including hospitalization and medical aid as provided in chapter 41.04 RCW, and the application of federal social security for public employees, the acceptance of old age and survivors insurance as provided in chapters 41.47 and 41.48 RCW, military leave as provided in RCW 38.40.060, self-insurance as provided in chapter 48.62 RCW, the application of industrial insurance as provided in Title 51 RCW, and chapter 43.101 RCW relating to training of law enforcement officers, shall apply to code cities. Any code city may retain any civil service system theretofore in effect in such city and may adopt any system of civil service which would be available to any class of city under general law. [1991 sp.s. c 30 § 20; 1983 c 3 § 66; 1967 ex.s. c 119 § 35A.41.020.]

Political activities of public employees: RCW 41.06.250.

Additional notes found at www.leg.wa.gov

35A.41.030 City contracts to obtain sheriff's office law enforcement services. See RCW 41.14.250 through 41.14.280.

Chapter 35A.42 RCW

PUBLIC OFFICERS AND AGENCIES, MEETINGS,
DUTIES AND POWERS

Sections

- 35A.42.010 City treasurer—Miscellaneous authority and duties.
 35A.42.020 Qualification, removal, code of ethics, duties.
 35A.42.030 Continuity of government—Enemy attack.
 35A.42.040 City clerks and controllers.
 35A.42.050 Public officers and employees—Conduct.

Dog handler using dog in line of duty—Immunity: RCW 4.24.410.

35A.42.010 City treasurer—Miscellaneous authority and duties. In addition to authority granted and duties imposed upon code city treasurers by this title, code city treasurers, or the officers designated by charter or ordinance to perform the duties of a treasurer, shall have the duties and the authority to perform the following: (1) As provided in RCW 8.12.500 relating to bonds and compensation payments in eminent domain proceedings; (2) as provided in RCW 68.52.050 relating to cemetery improvement funds; (3) as provided in RCW 41.28.080 relating to custody of employees' retirement funds; (4) as provided in RCW 47.08.100 relating to the use of city street funds; (5) as provided in RCW 46.68.080 relating to motor vehicle funds; (6) as provided in RCW 41.16.020 and chapter 41.20 RCW relating to police and firefighters' relief and pension boards; (7) as provided in chapter 42.20 RCW relating to misappropriation of funds; and (8) as provided in chapter 39.60 RCW relating to investment of municipal funds. The treasurer shall be subject to the penalties imposed for the violation of any of such provisions. Where a provision of this title, or the general law, names the city treasurer as an officer of a board or other body, or assigns duties to a city treasurer, such position shall be filled, or such duties performed, by the officer of a code city who is performing the duties usually performed by a city treasurer, although he or she may not have that designation. [2009 c 549 § 3039; 1987 c 331 § 78; 1984 c 258 § 320; 1967 ex.s. c 119 § 35A.42.010.]

Intent—1984 c 258: See note following RCW 3.34.130.

Additional notes found at www.leg.wa.gov

35A.42.020 Qualification, removal, code of ethics, duties. Except as otherwise provided in this title, every elective and appointive officer and all employees of code cities shall: (1) Be possessed of the qualifications and be subject to forfeiture of office, impeachment or removal and recall as provided in chapter 42.04 RCW and RCW 9.81.040; and (2) provide official bonds in accordance with the requirements of this title, and as required in compliance with chapters 42.08 and 48.28 RCW.

When vacancies in public offices in code cities shall occur the term of a replacement officer shall be fixed as provided in chapter 42.12 RCW. A public officer charged with misconduct as defined in chapter 42.20 RCW, shall be charged and, upon conviction, punished as provided for such misconduct in chapter 42.20 RCW. The officers and employees of code cities shall be guided and governed by the code of ethics as provided in chapter 42.23 RCW. Vouchers for the payment of public funds and the provisions for certifying the same shall be as provided in chapter 42.24 RCW. The meetings of any board, agency, or commission of a code city shall

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be open to the public to the extent and notice given in the manner required by *chapter 42.32 RCW. [1967 ex.s. c 119 § 35A.42.020.]

***Reviser's note:** RCW 42.32.010 and 42.32.020 were repealed by 1971 ex.s. c 250 § 15; later enactment, see chapter 42.30 RCW. RCW 42.32.030 was recodified as RCW 42.30.035 pursuant to 2017 3rd sp.s. c 25 § 30.

Recall of elective officers: State Constitution Art. I §§ 33, 34 (Amendment 8); chapter 29A.56 RCW.

Residence qualifications of officials and employees: RCW 35.21.200.

35A.42.030 Continuity of government—Enemy attack. In the event that the mayor, manager or other chief executive officer of any code city is unavailable by reason of enemy attack to exercise the powers and to discharge the duties of his or her office, his or her successor or substitute shall be selected in the manner provided by RCW 42.14.050 subject to rules and regulations providing for the appointment of temporary interim successors adopted under RCW 42.14.070. [2009 c 549 § 3040; 1967 ex.s. c 119 § 35A.42.030.]

35A.42.040 City clerks and controllers. In addition to any specific enumeration of duties of city clerks in a code city's charter or ordinances, and without limiting the generality of RCW 35A.21.030 of this title, the clerks of all code cities shall perform the following duties in the manner prescribed, to wit: (1) Certification of city streets as part of the highway system in accordance with the provisions of RCW 47.24.010; (2) perform the functions of a member of a firefighters' pension board as provided by RCW 41.16.020; (3) keep a record of ordinances of the city and provide copies thereof as authorized by RCW 5.44.080; (4) serve as applicable the trustees of any police relief and pension board as authorized by RCW 41.20.010; and (5) serve as secretary-treasurer of volunteer firefighters' relief and pension boards as provided in RCW 41.24.060. [2013 c 23 § 65; 1991 c 81 § 39; 1967 ex.s. c 119 § 35A.42.040.]

Additional notes found at www.leg.wa.gov

35A.42.050 Public officers and employees—Conduct. In addition to provisions of general law relating to public officials and others in public administration, employment or public works, the duties and conduct of such officers and other persons shall be governed by: (1) Chapter 9A.68 RCW relating to bribery of a public officer; (2) Article II, section 30 of the Constitution of the state of Washington relating to bribery or corrupt solicitation; (3) RCW 35.17.150 relating to misconduct in code cities having a commission form of government; (4) chapter 42.23 RCW in regard to interest in contracts; (5) chapter 29A.84 RCW relating to misconduct in connection with elections; (6) RCW 49.44.060 relating to grafting by employees; (7) RCW 49.44.020 and 49.44.030 relating to the giving or solicitation of a bribe to a labor representative; (8) chapter 42.20 RCW relating to misconduct of a public officer; (9) RCW 49.52.050 and 49.52.090 relating to rebating by employees; and (10) chapter 9.18 RCW relating to bribery and grafting. [2015 c 53 § 58; 1983 c 3 § 67; 1967 ex.s. c 119 § 35A.42.050.]

Chapter 35A.43 RCW

LOCAL IMPROVEMENTS IN CODE CITIES

Sections

- 35A.43.010 General law applicable to code cities.
 35A.43.020 Public lands subject to local assessments.

35A.43.010 General law applicable to code cities.

Chapters 35.43, 35.44, 35.45, 35.47, 35.48, 35.49, 35.50, 35.53, 35.54, 35.55, and 35.56 RCW all relating to municipal local improvements and made applicable to all incorporated cities and towns by RCW 35.43.030 are hereby recognized as applicable to all code cities, and the provisions thereof shall supersede the provisions of any charter of a charter code city inconsistent therewith. The provisions of the chapters named in this section shall be effective as to charter code cities to the same extent as such provisions are effective as to cities of the first class, and all code cities may exercise, in the manner provided, any authority therein granted to any class of city. [1967 ex.s. c 119 § 35A.43.010.]

Local improvements, supplemental authority: Chapter 35.51 RCW.

35A.43.020 Public lands subject to local assessments.

In addition to the authority provided by chapter 35.44 RCW, and chapter 79.44 RCW, a code city may assess public lands for the cost of local improvements specially benefiting such lands. [1967 ex.s. c 119 § 35A.43.020.]

Chapter 35A.44 RCW

CENSUS

Sections

- 35A.44.010 Population determination.

35A.44.010 Population determination. The population of code cities shall be determined for specific purposes in accordance with any express provision of state law relating thereto. Where no express provision is made, the provisions of RCW 43.41.110(7) relating to the office of financial management and the provisions of RCW 35.13.260 shall govern. [1979 ex.s. c 18 § 32; 1979 c 151 § 36; 1967 ex.s. c 119 § 35A.44.010.]

Additional notes found at www.leg.wa.gov

Chapter 35A.46 RCW

MOTOR VEHICLES

Sections

- 35A.46.010 State law applicable.

35A.46.010 State law applicable. The provisions of Title 46 RCW relating to regulation of motor vehicles shall be applicable to code cities and its officers and employees to the same extent as such provisions grant powers and impose duties upon cities of any class and their officers and agents, including without limitation the following: (1) Authority to provide for angle parking on certain city streets designated as forming a route of a primary state highway as authorized in RCW 46.61.575; (2) application of city police regulations to port districts as authorized by RCW 53.08.230; (3) authority to establish local regulations relating to city streets forming a

part of the state highway system as authorized by RCW 46.44.080; (4) exemption from the payment of vehicle license fees for city owned vehicles as authorized by RCW 46.16A.170 and 46.16A.200(8); (5) authority to establish traffic schools as provided by chapter 46.83 RCW; and (6) authority to enforce the provisions of RCW 81.48.050 relating to railroad crossings. [2010 c 161 § 1104; 1967 ex.s. c 119 § 35A.46.010.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Chapter 35A.47 RCW

HIGHWAYS AND STREETS

Sections

- 35A.47.010 Highways, granting land for.
 35A.47.020 Streets—Acquisition, standards of design, use, vacation and abandonment—Funds.
 35A.47.030 Public highways—Acquisition, agreements, transfers, regulations.
 35A.47.040 Franchises and permits—Streets and public ways.

Contracts for street improvements: Chapter 35.72 RCW.

Local adopt-a-highway programs: RCW 47.40.105.

35A.47.010 Highways, granting land for. A code city may exercise the powers relating to granting of property for state highway purposes as authorized by RCW 47.12.040 in accordance with the procedures therein prescribed. [1967 ex.s. c 119 § 35A.47.010.]

35A.47.020 Streets—Acquisition, standards of design, use, vacation and abandonment—Funds. The designation of code city streets as a part of the state highway system, the jurisdiction and control of such streets, the procedure for acquisition or abandonment of rights-of-way for city streets and state highways, and the sale or lease of state highway land or toll facility to a code city, the requirements for accounting and expenditure of street funds, and the authority for contracting for the construction, repair and maintenance of streets by the state or county shall be the same as is provided in RCW 36.75.090, chapters 47.08, 47.12, 47.24 and 47.56 RCW, and the regulation of signs thereon as provided in chapter 47.42 RCW. Code cities shall be regulated in the acquisition, construction, maintenance, use and vacation of alleys, city streets, parkways, boulevards and sidewalks and in the design standards therefor as provided in chapters 35.68 through 35.79, 35.85, and 35.86 RCW and *RCW 79.93.010 relating to dedication of tidelands and shorelands to public use and in the use of state shared funds as provided by general law. [1983 c 3 § 68; 1967 ex.s. c 119 § 35A.47.020.]

*Reviser's note: RCW 79.93.010 was recodified as RCW 79.120.010 pursuant to 2005 c 155 § 1007.

35A.47.030 Public highways—Acquisition, agreements, transfers, regulations. The provisions of Title 47 RCW shall apply to code cities, its officers and employees to the same extent as such provisions are applicable to any other class of city within the state, including, without limitation, the following: (1) The acquisition by the state of municipal lands and the exchange of state highway and municipal lands, as provided in chapter 47.12 RCW; (2) the dedication of pub-

lic land for city streets as provided by RCW 36.34.290 and 36.34.300; (3) city contributions to finance toll facilities as provided in RCW 47.56.250; (4) contracts with the department of transportation, as provided in RCW 47.01.210; (5) the construction, maintenance, jurisdiction, and control of city streets, as provided in chapter 47.24 RCW; (6) agreements between the department of transportation and a city for the benefit or improvement of highways, roads, or streets, as provided in RCW 47.28.140; (7) sales, leases, or transfers as authorized by RCW 47.12.063, 47.12.066, and 47.12.080; (8) the erection of information signs as regulated by RCW 47.42.050 and 47.42.060; (9) provisions relating to limited access highways under chapter 47.52 RCW; (10) the acquisition and abandonment for state highways as provided by RCW 36.75.090 and 90.28.020; and (11) the sharing of maintenance of streets and alleys as an extension of county roads as provided by RCW 35.77.020. [1984 c 258 § 321; 1983 c 3 § 69; 1967 ex.s. c 119 § 35A.47.030.]

Intent—1984 c 258: See note following RCW 3.34.130.

Additional notes found at www.leg.wa.gov

35A.47.040 Franchises and permits—Streets and public ways. Every code city shall have authority to permit and regulate under such restrictions and conditions as it may set by charter or ordinance and to grant nonexclusive franchises for the use of public streets, bridges or other public ways, structures or places above or below the surface of the ground for railroads and other routes and facilities for public conveyances, for poles, conduits, tunnels, towers and structures, pipes and wires and appurtenances thereof for transmission and distribution of electrical energy, signals and other methods of communication, for gas, steam and liquid fuels, for water, sewer and other private and publicly owned and operated facilities for public service. The power hereby granted shall be in addition to the franchise authority granted by general law to cities.

No ordinance or resolution granting any franchise in a code city for any purpose shall be adopted or passed by the city's legislative body on the day of its introduction nor for five days thereafter, nor at any other than a regular meeting nor without first being submitted to the city attorney, nor without having been granted by the approving vote of at least a majority of the entire legislative body, nor without being published at least once in a newspaper of general circulation in the city before becoming effective.

The city council may require a bond in a reasonable amount for any person or corporation obtaining a franchise from the city conditioned upon the faithful performance of the conditions and terms of the franchise and providing a recovery on the bond in case of failure to perform the terms and conditions of the franchise.

A code city may exercise the authority hereby granted, notwithstanding a contrary limitation of any preexisting charter provision. [1967 ex.s. c 119 § 35A.47.040.]

Chapter 35A.49 RCW LABOR AND SAFETY REGULATIONS

Sections

35A.49.010 Labor regulations—Safety regulations, discrimination in employment, hours, wages.

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35A.49.010 Labor regulations—Safety regulations, discrimination in employment, hours, wages. Provisions of state laws relating to labor and safety regulations as provided in Title 49 RCW shall apply to code cities to the same extent as such laws apply to other classes of cities. [1967 ex.s. c 119 § 35A.49.010.]

Chapter 35A.56 RCW LOCAL SERVICE DISTRICTS

Sections

35A.56.010 Laws relating to special service districts, application to code cities.

35A.56.010 Laws relating to special service districts, application to code cities. Except as otherwise provided in this title, state laws relating to special service or taxing districts shall apply to, grant powers, and impose duties upon code cities and their officers to the same extent as such laws apply to and affect other classes of cities and towns and their employees, including, without limitation, the following: (1) Chapter 70.94 RCW, relating to air pollution control; (2) chapter 68.52 RCW, relating to cemetery districts; (3) chapter 29A.28 RCW, relating to congressional districts; (4) chapters 14.07 and 14.08 RCW, relating to municipal airport districts; (5) chapter 36.88 RCW, relating to county road improvement districts; (6) Title 85 RCW, relating to diking districts, drainage districts, and drainage improvement districts; (7) *chapter 36.54 RCW, relating to ferry districts; (8) Title 52 RCW, relating to fire protection districts; (9) Title 86 RCW, relating to flood control districts and flood control; (10) chapter 70.46 RCW, relating to health districts; (11) chapters 87.03 through 87.84 and 89.12 RCW, relating to irrigation districts; (12) chapter 35.61 RCW, relating to metropolitan park districts; (13) chapter 35.58 RCW, relating to metropolitan municipalities; (14) chapter 17.28 RCW, relating to mosquito control districts; (15) chapter 17.12 RCW, relating to agricultural pest districts; (16) Title 53 RCW, relating to port districts; (17) chapter 70.44 RCW, relating to public hospital districts; (18) Title 54 RCW, relating to public utility districts; (19) chapter 91.08 RCW, relating to public waterway districts; (20) chapter 89.12 RCW, relating to reclamation districts; (21) chapters 57.02 through 57.36 RCW, relating to water-sewer districts; and (22) chapter 17.04 RCW, relating to weed districts. [2015 c 53 § 59; 1996 c 230 § 1605; 1987 c 331 § 79; 1979 ex.s. c 30 § 2; 1967 ex.s. c 119 § 35A.56.010.]

*Reviser's note: Chapter 36.54 RCW relates to county-owned ferries.

Additional notes found at www.leg.wa.gov

Chapter 35A.57 RCW INCLUSION OF CODE CITIES IN METROPOLITAN MUNICIPAL CORPORATIONS

Sections

35A.57.020 Metropolitan municipal corporations—May be formed around charter code city.

35A.57.020 Metropolitan municipal corporations—May be formed around charter code city. Any area of the state containing two or more cities, at least one of which is a

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code city having at least ten thousand population, may organize as a metropolitan municipal corporation. The presence in such area of a code city having at least ten thousand population, shall fulfill the requirement of RCW 35.58.030 as to the class of city required to be included in an area incorporating as a metropolitan municipal corporation. [1967 ex.s. c 119 § 35A.57.020.]

Chapter 35A.58 RCW BOUNDARIES AND PLATS

Sections

- 35A.58.010 Locating corners and boundaries.
- 35A.58.020 Alteration and vacation of plats.
- 35A.58.030 Platting and subdivision of land.

35A.58.010 Locating corners and boundaries. General laws shall govern the methods, procedures, and standards for surveying, establishing corners and boundaries, describing and perpetuating and recording information and descriptions relating thereto. The boundaries and corners of sections, parcels, plats, and subdivisions of land within a code city, may be surveyed, established, relocated, and perpetuated whenever a majority of the resident owners of any section or part or parts of any section of land within the city makes application in accordance with the provisions of chapter 58.04 RCW. [1967 ex.s. c 119 § 35A.58.010.]

35A.58.020 Alteration and vacation of plats. The provisions of *chapters 58.11 and 58.12 RCW shall apply in appropriate cases to the alteration or vacation of plats including land or lots within a code city or the vacation of streets therein as provided in chapter 35.79 RCW. The vacation of waterways within a code city shall be governed by the provisions of **chapter 79.16 RCW. [1967 ex.s. c 119 § 35A.58.020.]

Reviser's note: *(1) Chapters 58.11 and 58.12 RCW were repealed by 1987 c 354 § 8.

***(2) Chapter 79.16 RCW was repealed by 1982 1st ex.s. c 21 § 183. For later enactment, see chapters 79.90 through 79.96 RCW. Chapters 79.90 through 79.96 RCW were subsequently recodified as chapters 79.105 through 79.140 RCW pursuant to 2005 c 155.

35A.58.030 Platting and subdivision of land. The provisions of chapter 58.17 RCW together with the provisions of a code city's subdivision regulations as adopted by ordinance not inconsistent with the provisions of chapter 58.17 RCW shall control the platting and subdividing of land into lots or tracts comprising five or more of such lots or tracts or containing a dedication of any part thereof as a public street or highway, or other public place or use: PROHIBITED, That nothing herein shall prohibit the legislative body of a code city from adopting reasonable ordinances regulating the subdivision of land into two or more parcels without requiring compliance with all of the requirements of the platting law. [1983 c 3 § 70; 1971 ex.s. c 251 § 9; 1967 ex.s. c 119 § 35A.58.030.]

Chapter 35A.60 RCW LIENS

Sections

- 35A.60.010 General law applicable.

35A.60.010 General law applicable. The general law relating to liens including but not limited to the provisions of Title 60 RCW, as the same relates to cities of any class shall apply to code cities. Every code city may exercise the authority to perform services to property within the city and to claim and foreclose liens allowed therefor by general laws for any class of city including but not limited to the following provisions: (1) Chapter 35.80 RCW, relating to unfit dwellings, buildings and structures; (2) RCW 35.22.320, relating to the cost of filling cesspools; (3) RCW 35.85.030, relating to assessment liens for viaducts, elevated roadways, tunnels, and subways; (4) RCW 35.21.130, 35.21.140, 35.21.150, and 35.22.320 for garbage collection; (5) chapters 35.50, 35.55 and 35.56 RCW relating to enforcement of local improvement liens; (6) RCW 35.73.050 relating to the expense of sanitary fills; (7) RCW 35.67.200 through 35.67.290, relating to sewerage systems and service; (8) RCW 35.68.070, 35.69.030, 35.70.090, relating to sidewalks; (9) RCW *35.49.120 through 35.49.160, relating to priority of tax liens; (10) RCW 35.21.290 and 35.21.300, providing for liens for utility services; (11) chapter 84.60 RCW relating to lien of taxes upon property; (12) RCW 4.16.030, relating to foreclosure of local improvement liens; (13) chapter 60.76 RCW, relating to lien of employees for contribution to benefit plans; and (14) chapter 60.28 RCW, relating to lien for labor and materials on public works. [1967 ex.s. c 119 § 35A.60.010.]

*Reviser's note: RCW 35.49.120 was repealed by 1994 c 301 § 57.

Chapter 35A.63 RCW PLANNING AND ZONING IN CODE CITIES

Sections

- 35A.63.010 Definitions.
- 35A.63.015 "Solar energy system" defined.
- 35A.63.020 Planning agency—Creation—Powers and duties—Conflicts of interest.
- 35A.63.030 Joint meetings and cooperative action.
- 35A.63.040 Regional planning.
- 35A.63.050 Receipt and expenditure of funds.
- 35A.63.060 Comprehensive plan—General.
- 35A.63.061 Comprehensive plan—Required elements.
- 35A.63.062 Comprehensive plan—Optional elements.
- 35A.63.070 Comprehensive plan—Notice and hearing.
- 35A.63.071 Comprehensive plan—Forwarding to legislative body.
- 35A.63.072 Comprehensive plan—Approval by legislative body.
- 35A.63.073 Comprehensive plan—Amendments and modifications.
- 35A.63.080 Comprehensive plan—Effect.
- 35A.63.100 Municipal authority.
- 35A.63.105 Development regulations—Consistency with comprehensive plan.
- 35A.63.107 Development regulations—Jurisdictions specified—Electric vehicle infrastructure.
- 35A.63.110 Board of adjustment—Creation—Powers and duties.
- 35A.63.120 Administration and enforcement.
- 35A.63.130 Provisions inconsistent with charters.
- 35A.63.140 Duties and responsibilities imposed by other acts.
- 35A.63.145 Prohibitions on manufactured homes—Review required—"Designated manufactured home" defined.
- 35A.63.146 Manufactured housing communities—Prohibitions of code city due to community status as a nonconforming use.
- 35A.63.149 Residential care facilities—Review of need and demand—Adoption of ordinances.
- 35A.63.150 Public hearings.
- 35A.63.152 Public notice—Identification of affected property.

- 35A.63.160 Construction—1967 ex.s. c 119.
- 35A.63.170 Hearing examiner system—Adoption authorized—Alternative—Functions—Procedures.
- 35A.63.200 Conformance with chapter 43.97 RCW required.
- 35A.63.210 Child care facilities—Review of need and demand—Adoption of ordinances.
- 35A.63.215 Family day-care provider's home facility—City may not prohibit in residential or commercial area—Conditions.
- 35A.63.220 Moratoria, interim zoning controls—Public hearing—Limitation on length.
- 35A.63.230 Accessory apartments.
- 35A.63.240 Treatment of residential structures occupied by persons with handicaps.
- 35A.63.250 Watershed restoration projects—Permit processing—Fish habitat enhancement project.
- 35A.63.260 Planning regulations—Copies provided to county assessor.
- 35A.63.270 General aviation airports.
- 35A.63.280 Conditional and special use permit applications by parties licensed or certified by the department of social and health services or the department of corrections—Mediation prior to appeal required.
- 35A.63.290 Application for a permit to site an energy plant or alternative energy resource—Written notice to United States department of defense.

Acquisition of interests in land for conservation, protection, preservation, or open space purposes by cities: RCW 64.04.130.

Appearance of fairness doctrine—Application to local land use decisions: RCW 42.36.010.

Associations of municipal corporations or municipal officers to furnish information to legislature and governor: RCW 44.04.170.

35A.63.010 Definitions. The following words or terms as used in this chapter shall have the meanings set forth below unless different meanings are clearly indicated by the context:

(1) "Chief administrative officer" means the mayor in code cities operating under the mayor-council and commission forms, the city manager in code cities operating under the council-manager forms, or such other officer as the charter of a charter code city designates as the chief administrative officer.

(2) "City" means an incorporated city or town.

(3) "Code city" is used where the application of this chapter is limited to a code city; where joint, regional, or cooperative action is intended, a code city may be included in the unrestricted terms "city" or "municipality".

(4) "Comprehensive plan" means the policies and proposals approved by the legislative body as set forth in RCW 35A.63.060 through 35A.63.072 of this chapter and containing, at least, the elements set forth in RCW 35A.63.061.

(5) "Legislative body" means a code city council, a code city commission, and, in cases involving regional or cooperative planning or action, the governing body of a municipality.

(6) "Municipality" includes any code city and, in cases of regional or cooperative planning or action, any city, town, township, county, or special district.

(7) "Ordinance" means a legislative enactment by the legislative body of a municipality; in this chapter "ordinance" is synonymous with the term "resolution" when "resolution" is used as representing a legislative enactment.

(8) "Planning agency" means any person, body, or organization designated by the legislative body to perform a planning function or portion thereof for a municipality, and includes, without limitation, any commission, committee, department, or board together with its staff members, employees, agents, and consultants.

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(9) "Special district" means that portion of the state, county, or other political subdivision created under general law for rendering of one or more local public services or for administrative, educational, judicial, or political purposes. [1967 ex.s. c 119 § 35A.63.010.]

35A.63.015 "Solar energy system" defined. As used in this chapter, "solar energy system" means any device or combination of devices or elements which rely upon direct sunlight as an energy source, including but not limited to any substance or device which collects sunlight for use in:

- (1) The heating or cooling of a structure or building;
- (2) The heating or pumping of water;
- (3) Industrial, commercial, or agricultural processes; or
- (4) The generation of electricity.

A solar energy system may be used for purposes in addition to the collection of solar energy. These uses include, but are not limited to, serving as a structural member or part of a roof of a building or structure and serving as a window or wall. [1979 ex.s. c 170 § 6.]

Local governments authorized to encourage and protect solar energy systems: RCW 64.04.140.

Additional notes found at www.leg.wa.gov

35A.63.020 Planning agency—Creation—Powers and duties—Conflicts of interest. By ordinance a code city may create a planning agency and provide for its membership, organization, and expenses. The planning agency shall serve in an advisory capacity to the chief administrative officer or the legislative body, or both, as may be provided by ordinance and shall have such other powers and duties as shall be provided by ordinance. If any person or persons on a planning agency concludes that he or she has a conflict of interest or an appearance of fairness problem with respect to a matter pending before the agency so that he or she cannot discharge his or her duties on such an agency, he or she shall disqualify himself or herself from participating in the deliberations and the decision-making process with respect to the matter. If this occurs, the appointing authority that appoints such a person may appoint a person to serve as an alternate on the agency to serve in his or her stead in regard to such a matter. [2009 c 549 § 3041; 1979 ex.s. c 18 § 33; 1967 ex.s. c 119 § 35A.63.020.]

Additional notes found at www.leg.wa.gov

35A.63.030 Joint meetings and cooperative action. Pursuant to the authorization of the legislative body, a code city planning agency may hold joint meetings with one or more city or county planning agencies (including city or county planning agencies in adjoining states) in any combination and may contract with another municipality for planning services. A code city may enter into cooperative arrangements with one or more municipalities and with any regional planning council organized under this chapter for jointly engaging a planning director and such other employees as may be required to operate a joint planning staff. [1969 ex.s. c 81 § 5; 1967 ex.s. c 119 § 35A.63.030.]

Additional notes found at www.leg.wa.gov

35A.63.040 Regional planning. A code city with one or more municipalities within a region, otherwise authorized

by law to plan, including municipalities of adjoining states, when empowered by ordinances of their respective legislative bodies, may cooperate to form, organize, and administer a regional planning commission to prepare a comprehensive plan and perform other planning functions for the region defined by agreement of the respective municipalities. The various agencies may cooperate in all phases of planning, and professional staff may be engaged to assist in such planning. All costs shall be shared on a pro rata basis as agreed among the various entities. A code city may also cooperate with any department or agency of a state government having planning functions. [1969 ex.s. c 81 § 6; 1967 ex.s. c 119 § 35A.63.040.]

Additional notes found at www.leg.wa.gov

35A.63.050 Receipt and expenditure of funds. Any code city or any regional planning commission that includes a code city, when authorized by the legislative bodies of the municipalities represented by the regional planning commission, may enter into an agreement with any department or agency of the government of the United States or the state of Washington, or its agencies or political subdivisions, or any other public or private agency, to arrange for the receipt and expenditure of funds for planning in the interest of furthering the planning program. [1967 ex.s. c 119 § 35A.63.050.]

35A.63.060 Comprehensive plan—General. Every code city, by ordinance, shall direct the planning agency to prepare a comprehensive plan for anticipating and influencing the orderly and coordinated development of land and building uses of the code city and its environs. The comprehensive plan may be prepared as a whole or in successive parts. The plan should integrate transportation and land use planning. [2002 c 189 § 2; 1967 ex.s. c 119 § 35A.63.060.]

35A.63.061 Comprehensive plan—Required elements. The comprehensive plan shall be in such form and of such scope as the code city's ordinance or charter may require. It may consist of a map or maps, diagrams, charts, reports and descriptive and explanatory text or other devices and materials to express, explain, or depict the elements of the plan; and it shall include a recommended plan, scheme, or design for each of the following elements:

(1) A land-use element that designates the proposed general distribution, general location, and extent of the uses of land. These uses may include, but are not limited to, agricultural, residential, commercial, industrial, recreational, educational, public, and other categories of public and private uses of land. The land-use element shall also include estimates of future population growth in, and statements of recommended standards of population density and building intensity for, the area covered by the comprehensive plan. The land use element shall also provide for protection of the quality and quantity of groundwater used for public water supplies and shall review drainage, flooding, and stormwater runoff in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute Puget Sound or waters entering Puget Sound.

(2) A circulation element consisting of the general location, alignment, and extent of existing and proposed major thoroughfares, major transportation routes, and major termi-

nal facilities, all of which shall be correlated with the land-use element of the comprehensive plan. [1985 c 126 § 2; 1984 c 253 § 2; 1967 ex.s. c 119 § 35A.63.061.]

35A.63.062 Comprehensive plan—Optional elements. The comprehensive plan may include also any or all of the following optional elements:

(1) A conservation element for the conservation, development, and utilization of natural resources.

(2) An open space, park, and recreation element.

(3) A transportation element showing a comprehensive system of surface, air, and water transportation routes and facilities.

(4) A public-use element showing general locations, designs, and arrangements of public buildings and uses.

(5) A public utilities element showing general plans for public and franchised services and facilities.

(6) A redevelopment or renewal element showing plans for the redevelopment or renewal of slum and blighted areas.

(7) An urban design element for general organization of the physical parts of the urban landscape.

(8) Other elements dealing with subjects that, in the opinion of the legislative body, relate to the development of the municipality, or are essential or desirable to coordinate public services and programs with such development.

(9) A solar energy element for encouragement and protection of access to direct sunlight for solar energy systems. [1979 ex.s. c 170 § 7; 1967 ex.s. c 119 § 35A.63.062.]

Additional notes found at www.leg.wa.gov

35A.63.070 Comprehensive plan—Notice and hearing. After preparing the comprehensive plan, or successive parts thereof, as the case may be, the planning agency shall hold at least one public hearing on the comprehensive plan or successive part. Notice of the time, place, and purpose of such public hearing shall be given as provided by ordinance and including at least one publication in a newspaper of general circulation delivered in the code city and in the official gazette, if any, of the code city, at least ten days prior to the date of the hearing. Continued hearings may be held at the discretion of the planning agency but no additional notices need be published. [1967 ex.s. c 119 § 35A.63.070.]

35A.63.071 Comprehensive plan—Forwarding to legislative body. Upon completion of the hearing or hearings on the comprehensive plan or successive parts thereof, the planning agency, after making such changes as it deems necessary following such hearing, shall transmit a copy of its recommendations for the comprehensive plan, or successive parts thereof, to the legislative body through the chief administrative officer, who shall acknowledge receipt thereof and direct the clerk to certify thereon the date of receipt. [1967 ex.s. c 119 § 35A.63.071.]

35A.63.072 Comprehensive plan—Approval by legislative body. Within sixty days from its receipt of the recommendation for the comprehensive plan, as above set forth, the legislative body at a public meeting shall consider the same. The legislative body within such period as it may by ordinance provide, shall vote to approve or disapprove or to modify and approve, as modified, the comprehensive plan or

to refer it back to the planning agency for further proceedings, in which case the legislative body shall specify the time within which the planning agency shall report back to the legislative body its findings and recommendations on the matters referred to it. The final form and content of the comprehensive plan shall be determined by the legislative body. An affirmative vote of not less than a majority of total members of the legislative body shall be required for adoption of a resolution to approve the plan or its parts. The comprehensive plan, or its successive parts, as approved by the legislative body, shall be filed with an appropriate official of the code city and shall be available for public inspection. [1967 ex.s. c 119 § 35A.63.072.]

35A.63.073 Comprehensive plan—Amendments and modifications. All amendments, modifications, or alterations in the comprehensive plan or any part thereof shall be processed in the same manner as set forth in RCW 35A.63.070 through 35A.63.072. [1967 ex.s. c 119 § 35A.63.073.]

35A.63.080 Comprehensive plan—Effect. From the date of approval by the legislative body the comprehensive plan, its parts and modifications thereof, shall serve as a basic source of reference for future legislative and administrative action: PROVIDED, That the comprehensive plan shall not be construed as a regulation of property rights or land uses: PROVIDED, FURTHER, That no procedural irregularity or informality in the consideration, hearing, and development of the comprehensive plan or a part thereof, or any of its elements, shall affect the validity of any zoning ordinance or amendment thereto enacted by the code city after the approval of the comprehensive plan.

The comprehensive plan shall be consulted as a preliminary to the establishment, improvement, abandonment, or vacation of any street, park, public way, public building, or public structure, and no dedication of any street or other area for public use shall be accepted by the legislative body until the location, character, extent, and effect thereof shall have been considered by the planning agency with reference to the comprehensive plan. The legislative body shall specify the time within which the planning agency shall report and make a recommendation with respect thereto. Recommendations of the planning agency shall be advisory only. [1967 ex.s. c 119 § 35A.63.080.]

35A.63.100 Municipal authority. After approval of the comprehensive plan in accordance with provisions of this chapter, the legislative body, in developing the municipality and in regulating the use of land, may implement or give effect to the comprehensive plan or parts thereof by ordinance or other action to such extent as the legislative body deems necessary or appropriate. Such ordinances or other action may provide for:

(1) Adoption of an official map and regulations relating thereto designating locations and requirements for one or more of the following: Streets, parks, public buildings, and other public facilities, and protecting such sites against encroachment by buildings and other physical structures.

(2)(a)(i) Dividing the municipality, or portions thereof, into appropriate zones within which specific standards,

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requirements, and conditions may be provided for regulating: The use of public and private land, buildings, and structures; the location, height, bulk, number of stories, and size of buildings and structures; size of yards, courts, and open spaces; density of population; ratio of land area to the area of buildings and structures; setbacks; area required for off-street parking; protection of access to direct sunlight for solar energy systems; and such other standards, requirements, regulations, and procedures as are appropriately related thereto.

(ii) Eliminating the minimum gross floor area requirements for single-family detached dwellings or reducing the requirements below the minimum performance standards and objectives contained in the state building code.

(b) The ordinance encompassing the matters of this subsection (2) is hereinafter called the "zoning ordinance." No zoning ordinance, or amendment thereto, shall be enacted by the legislative body without at least one public hearing, notice of which shall be given as set forth in RCW 35A.63.070. Such hearing may be held before the planning agency or the board of adjustment or such other body as the legislative body shall designate.

(3) Adoption of design standards, requirements, regulations, and procedures for the subdivision of land into two or more parcels, including, but not limited to, the approval of plats, dedications, acquisitions, improvements, and reservation of sites for public use.

(4) Scheduling public improvements on the basis of recommended priorities over a period of years, subject to periodic review.

(5) Such other matters as may be otherwise authorized by law or as the legislative body deems necessary or appropriate to effectuate the goals and objectives of the comprehensive plan or parts thereof and the purposes of this chapter. [2018 c 302 § 4; 1979 ex.s. c 170 § 8; 1967 ex.s. c 119 § 35A.63.100.]

Additional notes found at www.leg.wa.gov

35A.63.105 Development regulations—Consistency with comprehensive plan. Beginning July 1, 1992, the development regulations of each code city that does not plan under RCW 36.70A.040 shall not be inconsistent with the city's comprehensive plan. For the purposes of this section, "development regulations" has the same meaning as set forth in RCW 36.70A.030. [1990 1st ex.s. c 17 § 23.]

Additional notes found at www.leg.wa.gov

35A.63.107 Development regulations—Jurisdictions specified—Electric vehicle infrastructure. (1) By July 1, 2010, the development regulations of any jurisdiction:

(a) Adjacent to Interstate 5, Interstate 90, Interstate 405, or state route number 520, with a population over twenty thousand, and located in a county with a population over one million five hundred thousand; or

(b) Adjacent to Interstate 5 and located in a county with a population greater than six hundred thousand; or

(c) Adjacent to Interstate 5 and located in a county with a state capitol within its borders;

planning under this chapter must allow electric vehicle infrastructure as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the

effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(2) By July 1, 2011, or six months after the distribution required under RCW 43.31.970 occurs, whichever is later, the development regulations of any jurisdiction adjacent to Interstate 5, Interstate 90, Interstate 405, or state route number 520 planning under this chapter must allow electric vehicle infrastructure as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(3) By July 1, 2011, or six months after the distribution required under RCW 43.31.970 occurs, whichever is later, the development regulations of any jurisdiction planning under this chapter must allow battery charging stations as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(4) Cities are authorized to adopt incentive programs to encourage the retrofitting of existing structures with the electrical outlets capable of charging electric vehicles. Incentives may include bonus height, site coverage, floor area ratio, and transferable development rights for use in urban growth areas.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(6) If federal funding for public investment in electric vehicles, electric vehicle infrastructure, or alternative fuel distribution infrastructure is not provided by February 1, 2010, subsection (1) of this section is null and void. [2009 c 459 § 10.]

Finding—Purpose—2009 c 459: See note following RCW 47.80.090.

Regional transportation planning organizations—Electric vehicle infrastructure: RCW 47.80.090.

35A.63.110 Board of adjustment—Creation—Powers and duties. A code city which pursuant to this chapter creates a planning agency and which has twenty-five hundred or more inhabitants, by ordinance, shall create a board of adjustment and provide for its membership, terms of office, organization, jurisdiction. A code city which pursuant to this chapter creates a planning agency and which has a population of less than twenty-five hundred may, by ordinance, similarly create a board of adjustment. In the event a code city with a population of less than twenty-five hundred creates a planning agency, but does not create a board of adjustment, the code city shall provide that the city legislative authority shall itself hear and decide the items listed in subdivisions (1), (2), and (3) of this section. The action of the board of adjustment shall be final and conclusive, unless, within twenty-one days from the date of the action, the original applicant or an adverse party makes application to the superior court for the county in which that city is located for a writ of certiorari, a writ of prohibition, or a writ of mandamus. No member of the board of adjustment shall be a member of the planning agency or the legislative body. Subject to conditions, safeguards, and procedures provided by ordinance, the board of adjustment may be empowered to hear and decide:

(1) Appeals from orders, recommendations, permits, decisions, or determinations made by a code city official in the administration or enforcement of the provisions of this chapter or any ordinances adopted pursuant to it.

(2) Applications for variances from the terms of the zoning ordinance, the official map ordinance or other land-use regulatory ordinances under procedures and conditions prescribed by city ordinance, which among other things shall provide that no application for a variance shall be granted unless the board of adjustment finds:

(a) The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located; and

(b) That such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and

(c) That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.

(3) Applications for conditional-use permits, unless such applications are to be heard and decided by the planning agency. A conditional use means a use listed among those classified in any given zone but permitted to locate only after review as herein provided in accordance with standards and criteria set forth in the zoning ordinance.

(4) Such other quasi-judicial and administrative determinations as may be delegated by ordinance.

In deciding any of the matters referred to in subsections (1), (2), (3), and (4) of this section, the board of adjustment shall issue a written report giving the reasons for its decision. If a code city provides for a hearing examiner and vests in him or her the authority to hear and decide the items listed in subdivisions (1), (2), and (3) of this section pursuant to RCW

35A.63.170, then the provisions of this section shall not apply to such a city. [2009 c 549 § 3042; 2001 c 200 § 1; 1979 ex.s. c 18 § 34; 1967 ex.s. c 119 § 35A.63.110.]

Additional notes found at www.leg.wa.gov

35A.63.120 Administration and enforcement. In order to carry into effect the purposes of this chapter, administrative and enforcement responsibilities, other than those set forth in RCW 35A.63.110, may be assigned by ordinance to such departments, boards, officials, employees, or agents as the legislative body deems appropriate. [1967 ex.s. c 119 § 35A.63.120.]

35A.63.130 Provisions inconsistent with charters. Insofar as the provisions of an existing charter of a municipality are inconsistent with this chapter, a municipality may exercise the authority, or any part thereof, granted by this chapter notwithstanding the inconsistent provision of an existing charter. [1967 ex.s. c 119 § 35A.63.130.]

35A.63.140 Duties and responsibilities imposed by other acts. Any duties and responsibilities which by other statutes are imposed upon a planning commission may, in a code city, be performed by a planning agency, as provided in this chapter. [1967 ex.s. c 119 § 35A.63.140.]

35A.63.145 Prohibitions on manufactured homes—Review required—"Designated manufactured home" defined. (1) Each comprehensive plan which does not allow for the siting of manufactured homes on individual lots shall be subject to a review by the city of the need and demand for such homes. The review shall be completed by December 31, 1990.

(2) For the purpose of providing an optional reference for cities which choose to allow manufactured homes on individual lots, a "designated manufactured home" is a manufactured home constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes, which:

(a) Is comprised of at least two fully enclosed parallel sections each of not less than twelve feet wide by thirty-six feet long;

(b) Was originally constructed with and now has a composition or wood shake or shingle, coated metal, or similar roof of not less than 3:12 pitch; and

(c) Has exterior siding similar in appearance to siding materials commonly used on conventional site-built uniform building code single-family residences.

(3) Nothing in this section precludes cities from allowing any manufactured home from being sited on individual lots through local standards which differ from the designated manufactured home as described in this section, except that the term "designated manufactured home" shall not be used except as defined in subsection (2) of this section. [1988 c 239 § 2.]

35A.63.146 Manufactured housing communities—Prohibitions of code city due to community status as a nonconforming use. (1) After June 10, 2004, a code city may designate a manufactured housing community as a nonconforming use, but may not order the removal or phased

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elimination of an existing manufactured housing community because of its status as a nonconforming use.

(2) A code city may not prohibit the entry or require the removal of a manufactured/mobile home, park model, or recreational vehicle authorized in a manufactured housing community under chapter 59.20 RCW on the basis of the community's status as a nonconforming use. [2011 c 158 § 10; 2004 c 210 § 2.]

Transfer of residual funds to manufactured home installation training account—2011 c 158: See note following RCW 43.22A.100.

35A.63.149 Residential care facilities—Review of need and demand—Adoption of ordinances. Each municipality that does not provide for the siting of residential care facilities in zones or areas that are designated for single-family or other residential uses, shall conduct a review of the need and demand for the facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 31, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the *department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the *department of community development as to why such implementing ordinances were not adopted. [1989 c 427 § 37.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994. The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

35A.63.150 Public hearings. The legislative body may provide by ordinance for such additional public hearings and notice thereof as it deems to be appropriate in connection with any action contemplated under this chapter. [1967 ex.s. c 119 § 35A.63.150.]

35A.63.152 Public notice—Identification of affected property. Any notice made under chapter 35A.63 RCW that identifies affected property may identify this affected property without using a legal description of the property including, but not limited to, identification by an address, written description, vicinity sketch, or other reasonable means. [1988 c 168 § 10.]

35A.63.160 Construction—1967 ex.s. c 119. This title is intended to implement and preserve to code cities all powers authorized by Article XI, section 11 of the Constitution of the state of Washington and the provision of this title shall not limit any code city from exercising its constitutionally granted power to plan for and to make and enforce within its limits all such local police, sanitary, and other regulations in the manner that its charter or ordinances may provide. [1967 ex.s. c 119 § 35A.63.160.]

35A.63.170 Hearing examiner system—Adoption authorized—Alternative—Functions—Procedures. (1)

As an alternative to those provisions of this chapter relating to powers or duties of the planning commission to hear and report on any proposal to amend a zoning ordinance, the legislative body of a city may adopt a hearing examiner system under which a hearing examiner or hearing examiners may hear and decide applications for amending the zoning ordinance when the amendment which is applied for is not of general applicability. In addition, the legislative body may vest in a hearing examiner the power to hear and decide those issues it believes should be reviewed and decided by a hearing examiner, including but not limited to:

(a) Applications for conditional uses, variances, subdivisions, shoreline permits, or any other class of applications for or pertaining to development of land or land use;

(b) Appeals of administrative decisions or determinations; and

(c) Appeals of administrative decisions or determinations pursuant to chapter 43.21C RCW.

The legislative body shall prescribe procedures to be followed by a hearing examiner. If the legislative authority vests in a hearing examiner the authority to hear and decide variances, then the provisions of RCW 35A.63.110 shall not apply to the city.

(2) Each city legislative body electing to use a hearing examiner pursuant to this section shall by ordinance specify the legal effect of the decisions made by the examiner. The legal effect of such decisions may vary for the different classes of applications decided by the examiner but shall include one of the following:

(a) The decision may be given the effect of a recommendation to the legislative body;

(b) The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative body; or

(c) Except in the case of a rezone, the decision may be given the effect of a final decision of the legislative body.

(3) Each final decision of a hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the city's comprehensive plan and the city's development regulations. Each final decision of a hearing examiner, unless a longer period is mutually agreed to in writing by the applicant and the hearing examiner, shall be rendered within ten working days following conclusion of all testimony and hearings. [1995 c 347 § 424; 1994 c 257 § 7; 1977 ex.s. c 213 § 2.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

Additional notes found at www.leg.wa.gov

35A.63.200 Conformance with chapter 43.97 RCW required. With respect to the National Scenic Area, as defined in the Columbia River Gorge National Scenic Area Act, P.L. 99-663, the exercise of any power or authority by a city pursuant to this chapter shall be subject to and in conformity with the requirements of chapter 43.97 RCW, including the Interstate Compact adopted by RCW 43.97.015, and with the management plan regulations and ordinances adopted by the Columbia River Gorge commission pursuant to the Compact. [1987 c 499 § 7.]

[Title 35A RCW—page 72]

35A.63.210 Child care facilities—Review of need and demand—Adoption of ordinances. Each municipality that does not provide for the siting of family day care homes in zones or areas that are designated for single-family or other residential uses, and for the siting of mini-day care centers and day care centers in zones or areas that are designated for any residential or commercial uses, shall conduct a review of the need and demand for child care facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 31, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the *department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the *department of community development as to why such implementing ordinances were not adopted. [1989 c 335 § 5.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994. The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—Purpose—Severability—1989 c 335: See notes following RCW 35.63.170.

Definitions for RCW 35A.63.210: See RCW 35.63.170.

35A.63.215 Family day-care provider's home facility—City may not prohibit in residential or commercial area—Conditions. (1) Except as provided in subsections (2) and (3) of this section, no city may enact, enforce, or maintain an ordinance, development regulation, zoning regulation, or official control, policy, or administrative practice that prohibits the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day-care provider's home facility.

(2) A city may require that the facility: (a) Comply with all building, fire, safety, health code, and business licensing requirements; (b) conform to lot size, building size, setbacks, and lot coverage standards applicable to the zoning district except if the structure is a legal nonconforming structure; (c) is certified by the department of children, youth, and families licensor as providing a safe passenger loading area; (d) include signage, if any, that conforms to applicable regulations; and (e) limit hours of operations to facilitate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day-care and who work a nonstandard work shift.

(3) A city may also require that the family day-care provider, before state licensing, require proof of written notification by the provider that the immediately adjoining property owners have been informed of the intent to locate and maintain such a facility. If a dispute arises between neighbors and the family day-care provider over licensing requirements, the licensor may provide a forum to resolve the dispute.

(4) Nothing in this section shall be construed to prohibit a city from imposing zoning conditions on the establishment and maintenance of a family day-care provider's home in an area zoned for residential or commercial use, so long as such

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conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone and the establishment of such facilities is not precluded. As used in this section, "family day-care provider" is as defined in RCW 43.216.010. [2018 c 58 § 24; 2007 c 17 § 11; 2003 c 286 § 4; 1995 c 49 § 2; 1994 c 273 § 16.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

35A.63.220 Moratoria, interim zoning controls—Public hearing—Limitation on length. A legislative body that adopts a moratorium or interim zoning ordinance, without holding a public hearing on the proposed moratorium or interim zoning ordinance, shall hold a public hearing on the adopted moratorium or interim zoning ordinance within at least sixty days of its adoption, whether or not the legislative body received a recommendation on the matter from the planning agency. If the legislative body does not adopt findings of fact justifying its action before this hearing, then the legislative body shall do so immediately after this public hearing. A moratorium or interim zoning ordinance adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium of [or] interim zoning ordinance may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal. [1992 c 207 § 3.]

35A.63.230 Accessory apartments. Any local government, as defined in RCW 43.63A.215, that is planning under this chapter shall comply with RCW 43.63A.215(3). [1993 c 478 § 9.]

35A.63.240 Treatment of residential structures occupied by persons with handicaps. No city may enact or maintain an ordinance, development regulation, zoning regulation or official control, policy, or administrative practice which treats a residential structure occupied by persons with handicaps differently than a similar residential structure occupied by a family or other unrelated individuals. As used in this section, "handicaps" are as defined in the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3602). [1993 c 478 § 21.]

35A.63.250 Watershed restoration projects—Permit processing—Fish habitat enhancement project. (1) A permit required under this chapter for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510.

(2) A fish habitat enhancement project meeting the criteria of RCW 77.55.181 shall be reviewed and approved according to the provisions of RCW 77.55.181. [2014 c 120 § 12; 2003 c 39 § 17; 1998 c 249 § 6; 1995 c 378 § 9.]

Findings—Purpose—Report—Effective date—1998 c 249: See notes following RCW 77.55.181.

35A.63.260 Planning regulations—Copies provided to county assessor. By July 31, 1997, a code city planning under RCW 36.70A.040 shall provide to the county assessor a copy of the code city's comprehensive plan and development regulations in effect on July 1st of that year and shall

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thereafter provide any amendments to the plan and regulations that were adopted before July 31st of each following year. [1996 c 254 § 4.]

35A.63.270 General aviation airports. Adoption and amendment of comprehensive plan provisions and development regulations under this chapter affecting a general aviation airport are subject to RCW 36.70.547. [1996 c 239 § 4.]

35A.63.280 Conditional and special use permit applications by parties licensed or certified by the department of social and health services or the department of corrections—Mediation prior to appeal required. A final decision by a hearing examiner involving a conditional or special use permit application under this chapter that is requested by a party that is licensed or certified by the department of social and health services or the department of corrections is subject to mediation under RCW 35.63.260 before an appeal may be filed. [1998 c 119 § 2.]

35A.63.290 Application for a permit to site an energy plant or alternative energy resource—Written notice to United States department of defense. (1) Upon receipt of an application for a permit to site an energy plant or alternative energy resource that is connected to electrical transmission facilities of a nominal voltage of at least one hundred fifteen thousand volts, the city shall notify in writing the United States department of defense. The notification shall include, but not be limited to, the following:

- (a) A description of the proposed energy plant or alternative energy resource;
- (b) The location of the site;
- (c) The placement of the energy plant or alternative energy resource on the site;
- (d) The date and time by which comments must be received by the city; and
- (e) Contact information of the city permitting authority and the applicant.

(2) The purpose of the written notification is to provide an opportunity for the United States department of defense to comment upon the application, and to identify potential issues relating to the placement and operations of the energy plant or alternative energy resource, before a permit application is approved. The time period set forth by the city for receipt of such comments shall not extend the time period for the city's processing of the application.

(3) For the purpose of this section, "alternative energy resource," "energy plant," and "electrical transmission facility" shall each have the meaning set forth in RCW 80.50.020. [2011 c 261 § 4.]

Chapter 35A.64 RCW

PUBLIC PROPERTY, REAL AND PERSONAL

Sections

- 35A.64.010 Acquisition of by conditional sales contracts.
- 35A.64.020 Purchase of products made by blind.
- 35A.64.180 Disinfection of property.
- 35A.64.200 Eminent domain by cities.

35A.64.010 Acquisition of by conditional sales contracts. A code city may exercise the powers relating to

acquisition of real or personal property under executory conditional sales contracts as authorized by RCW 39.30.010. [1967 ex.s. c 119 § 35A.64.010.]

35A.64.020 Purchase of products made by blind. A code city may exercise the powers relating to the acquisition of products made by the blind as authorized by RCW 19.06.020. [1967 ex.s. c 119 § 35A.64.020.]

35A.64.180 Disinfection of property. Every code city shall disinfect or destroy all infected trees or shrubs growing upon public property within the city's jurisdiction and may expend city funds in carrying out the provisions of this section, and shall otherwise be governed by the provisions of chapter 15.08 RCW relating to horticultural pests and diseases. [1967 ex.s. c 119 § 35A.64.180.]

35A.64.200 Eminent domain by cities. A code city may exercise all powers relating to eminent domain as authorized by chapters 8.12 and 8.28 RCW in accordance with the procedures therein prescribed and subject to any limitations therein provided. [1967 ex.s. c 119 § 35A.64.200.]

Chapter 35A.65 RCW PUBLICATION AND PRINTING

Sections

- 35A.65.010 Public printing.
35A.65.020 Publication of legal notice.

35A.65.010 Public printing. All printing, binding and stationery work done for any code city shall be done within the state and all proposals, requests and invitations to submit bids, prices or contracts thereon and all contracts for such work shall so stipulate subject to the limitations contained in RCW 43.19.748 and 35.23.352. [2015 c 225 § 31; 1967 ex.s. c 119 § 35A.65.010.]

35A.65.020 Publication of legal notice. The publication of a legal notice required by general law or by a code city ordinance shall be in a newspaper of general circulation within the city having the qualifications prescribed by chapter 65.16 RCW and shall be governed by the provisions thereof as the same relate to a city of any class. [1967 ex.s. c 119 § 35A.65.020.]

Chapter 35A.66 RCW HEALTH AND SAFETY—ALCOHOL

Sections

- 35A.66.010 Alcoholism—Standards for institutions.
35A.66.020 Liquors, local option on sale of—Enforcement of state laws, sharing proceeds of liquor profits and excise tax.

35A.66.010 Alcoholism—Standards for institutions. In addition to regulating the use of alcoholic beverages, a code city may exercise the powers relating to prescribing standards for institutions for treating alcoholism as authorized by RCW 71.12.550. [1967 ex.s. c 119 § 35A.66.010.]

35A.66.020 Liquors, local option on sale of—Enforcement of state laws, sharing proceeds of liquor

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profits and excise tax. The qualified electors of any code city may petition for an election upon the question of whether the sale of liquor shall be permitted within the boundaries of such city as provided by chapter 66.40 RCW, and shall be governed by the procedure therein, and may regulate music, dancing and entertainment as authorized by RCW 66.28.080: PROVIDED, That every code city shall enforce state laws relating to the investigation and prosecution of all violations of Title 66 RCW relating to control of alcoholic beverages and shall be entitled to retain the fines collected therefrom as therein provided. Every code city shall also share in the allocation and distribution of liquor profits and excise as provided in RCW 82.08.170, 66.08.190, and 66.08.210, and make reports of seizure as required by RCW 66.32.090, and otherwise regulate by ordinances not in conflict with state law or *liquor board regulations. [1967 ex.s. c 119 § 35A.66.020.]

**Reviser's note:* The "state liquor control board" was renamed the "state liquor and cannabis board" by 2015 c 70 § 3.

State liquor and cannabis board: Chapter 66.08 RCW.

Chapter 35A.67 RCW RECREATION AND PARKS

Sections

- 35A.67.010 Parks, beaches and camps.

35A.67.010 Parks, beaches and camps. In addition to exercising all powers relating to the acquisition of land, the improvement and operation thereof, or cooperation with other taxing districts in connection with park or recreation facilities, any code city may exercise the powers relating to acquisition and operation of recreational facilities, establishment and operation of public camps, and contracting with other taxing or governmental agencies for the acquisition or operation of public parks, camps and recreational facilities as authorized by chapter 67.20 RCW, in accordance with the procedures prescribed in and authorized by *RCW 79.08.080 and 79.08.090 in the application for use of state-owned tide or shorelands for a municipal park or playground purposes. [1967 ex.s. c 119 § 35A.67.010.]

**Reviser's note:* RCW 79.08.080 and 79.08.090 were recodified as RCW 79.94.175 and 79.94.181 pursuant to 2003 c 334 § 570. RCW 79.94.175 and 79.94.181 were subsequently recodified as RCW 79.125.710 and 79.125.720 pursuant to 2005 c 155 § 1008.

Acquisition of interests in land for conservation, protection, preservation, or open space purposes by cities: RCW 64.04.130.

Chapter 35A.68 RCW CEMETERIES AND MORGUES

Sections

- 35A.68.010 Acquisition—Care and investment of funds.

35A.68.010 Acquisition—Care and investment of funds. A code city may exercise the powers to acquire, own, improve, manage, operate and regulate real and personal property for the operation of the city morgue, cemetery or other place for the burial of the dead, to create cemetery boards or commissions, to establish and manage funds for cemetery improvement and care and to make all necessary or

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desirable rules and regulations concerning the control and management of burial places and the investment of funds relating thereto and accounting therefor as is authorized by chapter 68.52 RCW, RCW 35.22.280, 35.23.440, *35.24.300 and 35.27.370(2) in accordance with the procedures and requirements prescribed by said laws and authority to be included within a cemetery district as authorized and conformed to the requirements of Title 68 RCW. [1987 c 331 § 80; 1967 ex.s. c 119 § 35A.68.010.]

*Reviser's note: RCW 35.24.300 was recodified as RCW 35.23.452 pursuant to 1994 c 81 § 90.

Additional notes found at www.leg.wa.gov

Chapter 35A.69 RCW FOOD AND DRUG

Sections

35A.69.010 Powers and duties prescribed.

35A.69.010 Powers and duties prescribed. Every code city shall have the powers, perform the functions and duties and enforce the regulations prescribed by general laws relating to food and drugs for any class of city as provided by Title 69 RCW; relating to water pollution control as provided by chapter 90.48 RCW; and relating to food fish and shellfish as provided by Title 77 RCW. [2003 c 39 § 18; 1999 c 291 § 31; 1994 c 143 § 512. Prior: 1983 1st ex.s. c 46 § 177; 1983 c 3 § 71; 1967 ex.s. c 119 § 35A.69.010.]

Chapter 35A.70 RCW HEALTH AND SAFETY

Sections

35A.70.010 Waters within city—City's water supply.
35A.70.020 Regulating assisted living facilities.
35A.70.040 Buildings, construction standards.
35A.70.050 City electrical code—State safety regulations.
35A.70.060 Elevators, moving walks.
35A.70.070 Public health and safety, general laws applicable.

35A.70.010 Waters within city—City's water supply. Every code city shall have authority to protect waters within the city or comprising part of the city's water supply pursuant to the authority provided therefor by RCW 9.66.050, 54.16.050, 69.30.130, *57.08.010, 8.12.030, 70.54.010 and 70.54.030. [1996 c 230 § 1606; 1967 ex.s. c 119 § 35A.70.010.]

*Reviser's note: RCW 57.08.010 was repealed by 1996 c 230 § 1703, effective July 1, 1997. For later enactment, see RCW 57.08.005.

Additional notes found at www.leg.wa.gov

35A.70.020 Regulating assisted living facilities. A code city may exercise the powers relating to enforcement of regulations for assisted living facilities. [2012 c 10 § 40; 1967 ex.s. c 119 § 35A.70.020.]

Application—2012 c 10: See note following RCW 18.20.010.

35A.70.040 Buildings, construction standards. In addition to other provisions of the law granting authority and imposing duties, a code city may exercise the powers relating to providing standards for the construction of buildings as provided in chapter 70.86 RCW and shall report the issuance

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of building permits for new construction as required by *RCW 36.21.040 through 36.21.060. [1967 ex.s. c 119 § 35A.70.040.]

*Reviser's note: RCW 36.21.040 through 36.21.060 were repealed by 1989 c 246 § 8.

35A.70.050 City electrical code—State safety regulations. Every code city may adopt ordinances regulating or otherwise controlling the installation of electrical wiring, equipment, apparatus or appliances as authorized by *RCW 19.28.360 and by other general law and shall obey, observe and comply with every order, approval, direction or requirement made by the director or the commission under authority of chapter 19.29 RCW. [1967 ex.s. c 119 § 35A.70.050.]

*Reviser's note: RCW 19.28.360 was recodified as RCW 19.28.141 pursuant to 2000 c 238 § 102.

35A.70.060 Elevators, moving walks. All conveyances owned or operated by code cities as defined by the provisions of chapter 70.87 RCW, shall be subject to the provisions of that chapter to the extent specifically provided for therein. [1967 ex.s. c 119 § 35A.70.060.]

35A.70.070 Public health and safety, general laws applicable. Every code city may exercise the powers authorized and shall perform the duties imposed upon cities of like population relating to the public health and safety as provided by Title 70 RCW and, without limiting the generality of the foregoing, shall: (1) Organize boards of health and appoint a health officer with the authority, duties and functions as provided in chapter 70.05 RCW, or provide for combined city-county health departments as provided and in accordance with the provisions of chapter 70.08 RCW; (2) contribute and participate in public health pooling funds as authorized by chapter 70.12 RCW; (3) control and provide for treatment of *venereal diseases as authorized by chapter 70.24 RCW; (4) provide for the care and control of tuberculosis as provided in chapters 70.28, 70.30, **70.32, and 70.54 RCW; (5) participate in health districts as authorized by chapter 70.46 RCW; (6) exercise control over water pollution as provided in chapter 35.88 RCW; (7) for all code cities having a population of more than twenty thousand serve as a primary district for registration of vital statistics in accordance with the provisions of chapter 70.58 RCW; (8) observe and enforce the provisions relating to fireworks as provided in chapter 70.77 RCW; (9) enforce the provisions relating to swimming pools provided in chapter 70.90 RCW; (10) enforce the provisions of chapter 18.20 RCW when applicable; (11) perform the functions relating to mentally ill prescribed in chapters 72.06 and 71.12 RCW; (12) cooperate with the state department of social and health services in mosquito control as authorized by RCW 70.22.060; and (13) inspect nursing homes as authorized by RCW 18.51.145. [1987 c 223 § 4; 1985 c 213 § 12; 1981 1st ex.s. c 2 § 25; 1979 c 141 § 42; 1967 ex.s. c 119 § 35A.70.070.]

Reviser's note: *(1) The term "venereal diseases" was changed to "sexually transmitted diseases" by 1988 c 206.

** (2) Chapter 70.32 RCW was repealed and/or recodified in its entirety pursuant to 1999 c 172.

Additional notes found at www.leg.wa.gov

Chapter 35A.74 RCW WELFARE

Sections

35A.74.010 General law applicable.

35A.74.010 General law applicable. Code cities may exercise authority granted by general law and available to any class of city for the relief of the poor and destitute, including, but not limited to the provisions of *RCW 74.04.390 through 74.04.470. [1967 ex.s. c 119 § 35A.74.010.]

*Reviser's note: RCW 74.04.390 through 74.04.470 were repealed by 1991 c 126 § 11.

Chapter 35A.79 RCW PROPERTY AND MATERIALS

Sections

35A.79.010 Powers to acquire, use and manage.

35A.79.020 Authority to transfer real property.

35A.79.010 Powers to acquire, use and manage. A code city shall have all powers provided by general law to cities of any class relating to the receipt of donations of money and property, the acquisition, leasing and disposition of municipal property, both real and personal, including, but not limited to, the following: (1) Intergovernmental leasing, transfer or disposition of property as provided by chapter 39.33 RCW; (2) disposition of unclaimed property as provided by chapters 63.32 and 63.21 RCW; (3) disposition of local improvement district foreclosures as provided by chapter 35.53 RCW; (4) materials removed from public lands as provided by *RCW 79.90.150; (5) purchase of federal surplus property as provided by chapter 39.32 RCW; and (6) land for recreation as provided by **chapter 43.99 RCW. A code city in connection with the acquisition of property shall be subject to provisions relating to tax liens as provided by RCW 84.60.050 and 84.60.070. The general law relating to the damage or destruction of public property of a code city or interferences with the duties of a police or other officer shall relate to code city's properties and officers to the same extent as such laws apply to any class of city, its property or officers. [1983 c 3 § 72; 1979 ex.s. c 30 § 3; 1967 ex.s. c 119 § 35A.79.010.]

Reviser's note: *(1) RCW 79.90.150 was recodified as RCW 79.140.110 pursuant to 2005 c 155 § 1011.

** (2) Chapter 43.99 RCW was recodified as chapter 79A.25 RCW pursuant to 1999 c 249 § 1601.

35A.79.020 Authority to transfer real property. Code cities are authorized to transfer real property pursuant to RCW 43.83.400 and 43.83.410. [2015 1st sp.s. c 4 § 29; 2006 c 35 § 11.]

Findings—2006 c 35: See note following RCW 43.83.400.

Chapter 35A.80 RCW PUBLIC UTILITIES

Sections

35A.80.010 General laws applicable.

35A.80.020 Electric energy.

35A.80.030 Hydroelectric resources—Separate legal authority—Creation by irrigation districts and cities, towns, or public utility districts.

35A.80.040 Code cities encouraged to provide utility customers with landscaping information and to request voluntary donations for urban forestry.

35A.80.050 Purchase of electric power and energy from joint operating agency.

35A.80.060 Voluntary donations for purpose of supporting hunger programs.

35A.80.010 General laws applicable. A code city may provide utility service within and without its limits and exercise all powers to the extent authorized by general law for any class of city or town. The cost of such improvements may be financed by procedures provided for financing local improvement districts in chapters 35.43 through 35.54 RCW and by revenue and refunding bonds as authorized by chapters 35.41, 35.67 and 35.89 RCW and Title 85 RCW. A code city may protect and operate utility services as authorized by chapters 35.88, 35.91, 35.92, and 35.94 RCW and may acquire and damage property in connection therewith as provided by chapter 8.12 RCW and shall be governed by the regulations of the department of ecology as provided in RCW 90.48.110. [1988 c 127 § 2; 1967 ex.s. c 119 § 35A.80.010.]

35A.80.020 Electric energy. Any code city is authorized to enter into contracts or compacts with any commission or any operating agency or publicly or privately owned utility for the purchase and sale of electric energy or falling waters as provided in RCW 43.52.410 and chapter 35.84 RCW and to exercise any other authority granted to cities as provided in chapter 43.52 RCW. [1967 ex.s. c 119 § 35A.80.020.]

35A.80.030 Hydroelectric resources—Separate legal authority—Creation by irrigation districts and cities, towns, or public utility districts. See RCW 87.03.825 through 87.03.840.

35A.80.040 Code cities encouraged to provide utility customers with landscaping information and to request voluntary donations for urban forestry. (1) Code cities providing utility services under this chapter are encouraged to provide information to their customers regarding landscaping that includes tree planting for energy conservation.

(2)(a) Code cities providing utility services under this chapter are encouraged to request voluntary donations from their customers for the purposes of urban forestry. The request may be in the form of a check-off on the billing statement or other form of a request for a voluntary donation.

(b) Voluntary donations collected by code cities under this section may be used by the code city to:

(i) Support the development and implementation of evergreen community ordinances, as that term is defined in RCW 35.105.010, for cities, towns, or counties within their service areas; or

(ii) Complete projects consistent with the model evergreen community management plans and ordinances developed under RCW 35.105.050.

(c) Donations received under this section do not contribute to the gross income of a light and power business or gas distribution business under chapter 82.16 RCW. [2008 c 299 § 20; 1993 c 204 § 3.]

Short title—2008 c 299: See note following RCW 35.105.010.

Findings—1993 c 204: See note following RCW 35.92.390.

35A.80.050 Purchase of electric power and energy from joint operating agency. A code city may contract to purchase from a joint operating agency electric power and energy required for its present or future requirements. For projects the output of which is limited to qualified alternative energy resources as defined by RCW 19.29A.090(3), the contract may include the purchase of capability of the projects to produce electricity in addition to the actual output of the projects. The contract may provide that the code city must make the payments required by the contract whether or not a project is completed, operable, or operating and notwithstanding the suspension, interruption, interference, reduction, or curtailment of the output of a project or the power and energy contracted for. The contract may also provide that payments under the contract are not subject to reduction, whether by offset or otherwise, and shall not be conditioned upon the performance or nonperformance of the joint operating agency or a city, town, or public utility district under the contract or other instrument. [2003 c 138 § 7.]

35A.80.060 Voluntary donations for purpose of supporting hunger programs. (1) Code cities providing utility services under this chapter may request voluntary donations from their customers for the purpose of supporting hunger programs.

(2) Voluntary donations collected by code cities under this section must be used by the code city to support the maintenance and operation of hunger programs.

(3) Donations received under this section do not contribute to the gross income of a light and power business or gas distribution business under chapter 82.16 RCW.

(4) Nothing in this section precludes a code city providing utility services from requesting voluntary donations to support other programs. [2011 c 226 § 3.]

Chapter 35A.81 RCW

PUBLIC TRANSPORTATION

Sections

35A.81.010 Application of general law.

35A.81.010 Application of general law. Motor vehicles owned and operated by any code city are exempt from the provisions of chapter 81.80 RCW, except where specifically otherwise provided. Urban passenger transportation systems must receive a refund of the amount of the motor vehicle fuel tax paid on each gallon of motor vehicle fuel used in such systems to the extent authorized by chapter 82.38 RCW. Notwithstanding any provision of the law to the contrary, every urban passenger transportation system as defined in RCW 82.38.080 are exempt from the provisions of chapter 82.38 RCW which requires the payment of use fuel taxes. [2013 c 225 § 603; 1983 c 3 § 73; 1967 ex.s. c 119 § 35A.81.010.]

Effective date—2013 c 225: See note following RCW 82.38.010.

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Chapter 35A.82 RCW TAXATION—EXCISES

Sections

35A.82.010 State shared excises.
 35A.82.020 Licenses and permits—Excises for regulation.
 35A.82.025 Authority to regulate massage therapists—Limitations.
 35A.82.030 City and county retail sales excise tax and use tax.
 35A.82.040 City and town license fees and taxes on financial institutions.
 35A.82.042 City license fees or taxes on certain business activities to be at a single uniform rate.
 35A.82.050 License fees or taxes upon certain business activities to be at single uniform rate.
 35A.82.055 License fees or taxes on telephone business to be at uniform rate.
 35A.82.060 License fees or taxes on telephone business—Imposition on certain gross revenues authorized—Limitations.
 35A.82.065 Taxes on network telephone services.
 35A.82.070 Taxes on telephone business—Deferral of rate reduction.

35A.82.010 State shared excises. A code city shall collect, receive and share in the distribution of state collected and distributed excise taxes to the same extent and manner as general laws relating thereto apply to any class of city or town including, but not limited to, funds distributed to cities under *RCW 82.36.020 relating to motor vehicle fuel tax, RCW 82.38.290 relating to use fuel tax, and RCW *82.36.275 and **82.38.080(3). [1998 c 176 § 2; 1995 c 274 § 4; 1985 c 7 § 102; 1983 c 3 § 74; 1967 ex.s. c 119 § 35A.82.010.]

Reviser's note: *(1) Chapter 82.36 RCW was repealed in its entirety by 2013 c 225 § 501, effective July 1, 2016.

** (2) RCW 82.38.080 was amended by 2013 c 225 § 111, deleting subsection (3), effective July 1, 2016. See RCW 82.38.080(1)(f).

35A.82.020 Licenses and permits—Excises for regulation. A code city may exercise the authority authorized by general law for any class of city to license and revoke the same for cause, to regulate, make inspections and to impose excises for regulation or revenue in regard to all places and kinds of business, production, commerce, entertainment, exhibition, and upon all occupations, trades and professions and any other lawful activity: PROVIDED, That no license or permit to engage in any such activity or place shall be granted to any who shall not first comply with the general laws of the state.

No such license shall be granted to continue for longer than a period of one year from the date thereof and no license or excise shall be required where the same shall have been preempted by the state, nor where exempted by the state, including, but not limited to, the provisions of RCW 36.71.090 and chapter 73.04 RCW relating to veterans. [1967 ex.s. c 119 § 35A.82.020.]

35A.82.025 Authority to regulate massage therapists—Limitations. (1) A state licensed massage therapist seeking a city license to operate a massage business must provide verification of his or her state massage license as provided for in RCW 18.108.030.

(2) The city may charge a licensing or operating fee, but the fee charged a state licensed massage therapist shall not exceed the licensing or operating fee imposed on similar health care providers, such as physical therapists or occupational therapists, operating within the same city.

(3) A state licensed massage therapist is not subject to additional licensing requirements not currently imposed on

similar health care providers, such as physical therapists or occupational therapists. [2016 c 41 § 24; 1991 c 182 § 2.]

Effective date—2016 c 41: See note following RCW 18.108.010.

35A.82.030 City and county retail sales excise tax and use tax. See chapter 82.14 RCW.

35A.82.040 City and town license fees and taxes on financial institutions. See chapter 82.14A RCW.

35A.82.042 City license fees or taxes on certain business activities to be at a single uniform rate. See RCW 35.21.710.

35A.82.050 License fees or taxes upon certain business activities to be at single uniform rate. Any code city which imposes a license fee or tax upon business activities consisting of the making of retail sales of tangible personal property which are measured by gross receipts or gross income from such sales, shall impose such tax at a single uniform rate upon all such business activities. This section shall not apply to any business activities subject to the tax imposed by chapter 82.16 RCW. For purposes of this section, the providing to consumers of competitive telephone service, as defined in RCW 82.04.065, or the providing of payphone service as defined in RCW 35.21.710, shall be subject to tax at the same rate as business activities consisting of the making of retail sales of tangible personal property. [2002 c 179 § 3; 1983 2nd ex.s. c 3 § 34; 1981 c 144 § 7; 1972 ex.s. c 134 § 7.]

Intent—Severability—Effective date—1981 c 144: See notes following RCW 82.16.010.

Additional notes found at www.leg.wa.gov

35A.82.055 License fees or taxes on telephone business to be at uniform rate. Any code city which imposes a license fee or tax upon the business activity of engaging in the telephone business, as defined in RCW 82.16.010, which is measured by gross receipts or gross income from the business shall impose the tax at a uniform rate on all persons engaged in the telephone business in the code city.

This section does not apply to the providing of competitive telephone service as defined in RCW 82.04.065 or to the providing of payphone service as defined in RCW 35.21.710. [2007 c 6 § 1012; 2002 c 179 § 4; 1983 2nd ex.s. c 3 § 36; 1981 c 144 § 9.]

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

Intent—Severability—Effective date—1981 c 144: See notes following RCW 82.16.010.

Additional notes found at www.leg.wa.gov

35A.82.060 License fees or taxes on telephone business—Imposition on certain gross revenues authorized—Limitations. (1) Any code city which imposes a license fee or tax upon the business activity of engaging in the telephone business which is measured by gross receipts or gross income may impose the fee or tax, if it desires, on one hundred percent of the total gross revenue derived from intrastate toll telephone services subject to the fee or tax: PROVIDED, That the city shall not impose the fee or tax on that portion of network telephone service which represents charges to another telecommunications company, as defined in RCW

80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate services, or charges for network telephone service that is purchased for the purpose of resale, or charges for mobile telecommunications services provided to customers whose place of primary use is not within the city.

(2) Any city that imposes a license tax or fee under subsection (1) of this section has the authority, rights, and obligations of a taxing jurisdiction as provided in RCW 82.32.490 through 82.32.510.

(3) The definitions in RCW 82.04.065 and 82.16.010 apply to this section. [2007 c 6 § 1014; 2007 c 6 § 1013; 2002 c 67 § 10; 1989 c 103 § 3; 1986 c 70 § 4; 1983 2nd ex.s. c 3 § 38; 1981 c 144 § 11.]

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

Finding—Effective date—2002 c 67: See notes following RCW 82.04.530.

Intent—Severability—Effective date—1981 c 144: See notes following RCW 82.16.010.

Additional notes found at www.leg.wa.gov

35A.82.065 Taxes on network telephone services. Notwithstanding RCW 35.21.714 or 35A.82.060, any city or town which imposes a tax upon business activities measured by gross receipts or gross income from sales, may impose such tax on that portion of network telephone service, as defined in RCW 82.16.010, which represents charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll services, or charges for network telephone service that is purchased for the purpose of resale. Such tax shall be levied at the same rate as is applicable to other competitive telephone service as defined in RCW 82.04.065. [2007 c 6 § 1015; 1989 c 103 § 4; 1986 c 70 § 5.]

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

Additional notes found at www.leg.wa.gov

35A.82.070 Taxes on telephone business—Deferral of rate reduction. A city or town required by RCW 35.21.870(2) to reduce its rate of taxation on telephone business may defer for one year the required reduction in rates for the year 1987. If the delay in rate reductions authorized by the preceding sentence is inadequate for a code city to offset the impact of revenue reductions arising from the removal of revenues from connecting fees, switching charges, or carrier access charges under the provisions of RCW 35A.82.060, then the legislative body of such code city may reimpose for 1987 the rates that such code city had in effect upon telephone business during 1985. In each succeeding year, the city or town shall reduce the rate by one-tenth of the difference between the tax rate on April 20, 1982, and six percent. [1986 c 70 § 6.]

Chapter 35A.84 RCW TAXATION—PROPERTY

Sections

- 35A.84.010 Procedure and rules relating to ad valorem taxes.
- 35A.84.020 Assessment for and collection of ad valorem taxes.

35A.84.030 Ex officio collector of code city taxes.

35A.84.010 Procedure and rules relating to ad valorem taxes. The taxation of property in code cities shall be governed by general provisions of the law including, but not limited to, the provisions of: (1) Chapter 84.09 RCW, relating to the time for establishment of official boundaries of taxing districts on the first day of March of each year; (2) chapter 84.12 RCW relating to the assessment and taxation of public utilities; (3) chapter 84.16 RCW, relating to the apportionment of taxation on private car companies; (4) chapter 84.20 RCW, relating to the taxation of easements of public utilities; (5) *chapter 84.24 RCW, relating to the reassessment of property; (6) chapter 84.36 RCW, relating to property subject to taxation and exemption therefrom; (7) chapter 84.40 RCW relating to the listing of property for assessment; (8) chapter 84.41 RCW, relating to reevaluation of property; (9) chapter 84.44 RCW, relating to the taxable situs of personalty; (10) chapter 84.48 RCW, relating to the equalization of assessments; (11) chapter 84.52 RCW, relating to the levy of taxes, both regular and excess; (12) chapter 84.56 RCW, relating to the collection of taxes; (13) chapter 84.60 RCW, relating to the lien of taxes and the priority thereof; (14) chapter 84.69 RCW, relating to refunds and claims therefor against the code city; and (15) RCW 41.16.060, relating to taxation for firefighters' pension fund. [2013 c 23 § 66; 1967 ex.s. c 119 § 35A.84.010.]

*Reviser's note: Chapter 84.24 RCW was repealed by 1994 c 124 § 42.

35A.84.020 Assessment for and collection of ad valorem taxes. For the purpose of assessment of all property in all code cities, other than code cities having a population of more than twenty thousand inhabitants, the county assessor of the county wherein such code city is situated shall be the ex officio assessor, and as to the code cities having a population of more than twenty thousand inhabitants such county assessor shall perform the duties as provided in *RCW 36.21.020. [1967 ex.s. c 119 § 35A.84.020.]

*Reviser's note: RCW 36.21.020 was repealed by 1994 c 301 § 57.

35A.84.030 Ex officio collector of code city taxes. The treasurer of the county wherein a code city is situated shall be the ex officio collector of such code city's taxes and give bond, and account for the city's funds as provided in chapter 36.29 RCW. [1967 ex.s. c 119 § 35A.84.030.]

Chapter 35A.88 RCW HARBORS AND NAVIGATION

Sections

35A.88.010 Discharge of ballast.
35A.88.020 Wharves and landings.
35A.88.030 General laws applicable.

35A.88.010 Discharge of ballast. A code city may exercise the powers relating to regulation of discharge of ballast in harbors within or in front of such city as authorized by RCW 88.28.060. [1967 ex.s. c 119 § 35A.88.010.]

35A.88.020 Wharves and landings. A code city shall have and exercise all powers granted by general laws to cities

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and towns of any class relative to docks and other appurtenances to harbor and shipping, including but not limited to, the provisions of RCW 35.22.280, 35.23.440, *35.24.290, and 88.24.030. [1967 ex.s. c 119 § 35A.88.020.]

*Reviser's note: RCW 35.24.290 was repealed by 1994 c 81 § 89.

35A.88.030 General laws applicable. General laws relating to harbor areas within cities, including but not limited to, chapter 36.08 RCW relating to transfer of territory lying in two or more counties; *RCW 79.92.110 relating to disposition of rental from leasehold in the harbor areas; and RCW 88.32.240 and 88.32.250 relating to joint planning by cities and counties shall apply to, benefit and obligate code cities to the same extent as such general laws apply to any class of city. [1985 c 7 § 103; 1983 c 3 § 75; 1967 ex.s. c 119 § 35A.88.030.]

*Reviser's note: RCW 79.92.110 was recodified as RCW 79.115.150 pursuant to 2005 c 155 § 1006.

Chapter 35A.90 RCW CONSTRUCTION

Sections

35A.90.010 Becoming code city—Rights, actions saved—Continuation of ordinances.
35A.90.020 Invalidity of part of title not to affect remainder.

35A.90.010 Becoming code city—Rights, actions saved—Continuation of ordinances. Unless otherwise provided by this title, the election by a city or town to become a code city and to be governed by this title shall not affect any right or liability either in favor of or against such city or town existing at the time, nor any civil or criminal proceeding involving or relating to such city or town; and all rights and property of every description which were vested in such city or town immediately prior to becoming a code city shall continue to be vested in such code city; and all charter provisions, ordinances, resolutions, rules, regulations, or orders lawfully in force in such city or town at the time of becoming a code city, and not inconsistent with or repugnant to this title, shall continue in force in such code city until amended or repealed as provided by law. [1967 ex.s. c 119 § 35A.90.010.]

35A.90.020 Invalidity of part of title not to affect remainder. If any provision, section, or chapter of this title or its application to any person or circumstance is held invalid, the remainder of the provision, section, chapter, or title, or the application thereof to other persons or circumstances is not affected. [1967 ex.s. c 119 § 35A.90.020.]

Chapter 35A.92 RCW FIRE DEPARTMENTS—PERFORMANCE MEASURES

Sections

35A.92.010 Intent.
35A.92.020 Definitions.
35A.92.030 Policy statement—Service delivery objectives.
35A.92.040 Annual evaluations—Annual report.
35A.92.050 Maintenance of response times in newly annexed areas—Firefighter transfers.

35A.92.010 Intent. The legislature intends for code cities to set standards for addressing the reporting and accountability of substantially career fire departments, and to specify performance measures applicable to response time objectives for certain major services. The legislature acknowledges the efforts of the international city/county management association, the international association of fire chiefs, and the national fire protection association for the organization and deployment of resources for fire departments. The arrival of first responders with automatic external defibrillator capability before the onset of brain death, and the arrival of adequate fire suppression resources before flash-over is a critical event during the mitigation of an emergency, and is in the public's best interest. For these reasons, this chapter contains performance measures, comparable to that research, relating to the organization and deployment of fire suppression operations, emergency medical operations, and special operations by substantially career fire departments. This chapter does not, and is not intended to, in any way modify or limit the authority of code cities to set levels of service. [2005 c 376 § 201.]

35A.92.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advanced life support" means functional provision of advanced airway management, including intubation, advanced cardiac monitoring, manual defibrillation, establishment and maintenance of intravenous access, and drug therapy.

(2) "Aircraft rescue and firefighting" means the firefighting actions taken to rescue persons and to control or extinguish fire involving or adjacent to aircraft on the ground.

(3) "Brain death" as defined by the American heart association means the irreversible death of brain cells that begins four to six minutes after cardiac arrest.

(4) "Code city" means a code city that provides fire protection services, which may include firefighting actions, emergency medical services, and other special operations, in a specified geographic area.

(5) "Fire department" means a code city fire department responsible for firefighting actions, emergency medical services, and other special operations in a specified geographic area. The department must be a substantially career fire department, and not a substantially volunteer fire department.

(6) "Fire suppression" means the activities involved in controlling and extinguishing fires.

(7) "First responder" means provision of initial assessment and basic first-aid intervention, including cardiac pulmonary resuscitation and automatic external defibrillator capability.

(8) "Flash-over" as defined by national institute of standards and technology means when all combustibles in a room burst into flame and the fire spreads rapidly.

(9) "Marine rescue and firefighting" means the firefighting actions taken to prevent, control, or extinguish fire involved in or adjacent to a marine vessel and the rescue actions for occupants using normal and emergency routes for egress.

(10) "Response time" means the time immediately following the turnout time that begins when units are en route to

the emergency incident and ends when units arrive at the scene.

(11) "Special operations" means those emergency incidents to which the fire department responds that require specific and advanced training and specialized tools and equipment.

(12) "Turnout time" means the time beginning when units receive notification of the emergency to the beginning point of response time. [2005 c 376 § 202.]

35A.92.030 Policy statement—Service delivery objectives. (1) Every code city shall maintain a written statement or policy that establishes the following:

- (a) The existence of a fire department;
- (b) Services that the fire department is required to provide;
- (c) The basic organizational structure of the fire department;
- (d) The expected number of fire department employees; and
- (e) Functions that fire department employees are expected to perform.

(2) Every code city shall include service delivery objectives in the written statement or policy required under subsection (1) of this section. These objectives shall include specific response time objectives for the following major service components, if appropriate:

- (a) Fire suppression;
- (b) Emergency medical services;
- (c) Special operations;
- (d) Aircraft rescue and firefighting;
- (e) Marine rescue and firefighting; and
- (f) Wildland firefighting.

(3) Every code city, in order to measure the ability to arrive and begin mitigation operations before the critical events of brain death or flash-over, shall establish time objectives for the following measurements:

- (a) Turnout time;
- (b) Response time for the arrival of the first arriving engine company at a fire suppression incident and response time for the deployment of a full first alarm assignment at a fire suppression incident;
- (c) Response time for the arrival of a unit with first responder or higher level capability at an emergency medical incident; and
- (d) Response time for the arrival of an advanced life support unit at an emergency medical incident, where this service is provided by the fire department.

(4) Every code city shall also establish a performance objective of not less than ninety percent for the achievement of each response time objective established under subsection (3) of this section. [2005 c 376 § 203.]

35A.92.040 Annual evaluations—Annual report. (1) Every code city shall evaluate its level of service and deployment delivery and response time objectives on an annual basis. The evaluations shall be based on data relating to level of service, deployment, and the achievement of each response time objective in each geographic area within the code city's jurisdiction.

(2) Beginning in 2007, every code city shall issue an annual written report which shall be based on the annual evaluations required by subsection (1) of this section.

(a) The annual report shall define the geographic areas and circumstances in which the requirements of this standard are not being met.

(b) The annual report shall explain the predictable consequences of any deficiencies and address the steps that are necessary to achieve compliance. [2005 c 376 § 204.]

35A.92.050 Maintenance of response times in newly annexed areas—Firefighter transfers. Code cities conducting annexations of all or part of fire protection districts shall, at least through the budget cycle, or the following budget cycle if the annexation occurs in the last half of the current budget cycle, in which the annexation occurs, maintain existing fire protection and emergency services response times in the newly annexed areas consistent with response times recorded prior to the annexation as defined in the previous annual report for the fire protection district and as reported in RCW 52.33.040. If the code city is unable to maintain these service levels in the newly annexed area, the transfer of firefighters from the annexed fire protection district as a direct result of the annexation must occur as outlined in RCW 35A.14.485. [2009 c 60 § 12.]

