

ORDINANCE NO. 2196

AN ORDINANCE amending Section 2.06.010 of the Camas Municipal Code by revising the procedure for appointment and removal of the City Administrator to require the consent of a majority of the City Council.

THE COUNCIL OF THE CITY OF CAMAS DO ORDAIN AS FOLLOWS:

Section I

Section 2.06.010 of the Camas Municipal Code is amended to provide as follows:

2.06.010 - Position Created

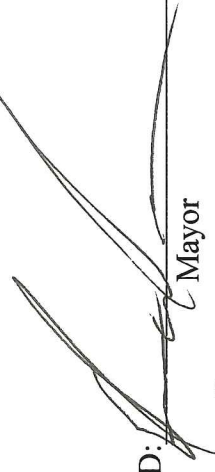
There is hereby created the position of City Administrator, who shall be and act as the administrative and executive supervisor of the city government under the authority and direction of the Mayor. The position of City Administrator shall be filed by appointment of the Mayor with the consent and approval of a majority of the City Council. The position of City Administrator shall be an at will position; any person so appointed to the position of City Administrator shall serve at the pleasure of the Mayor, and may be removed, with or without cause, by the Mayor with the consent and approval of a majority of the City Council. Appointment of any person to the position of City Administrator shall not be deemed to have conferred upon such appointee any express or implied contractual right to nor any property interest or liberty interest in continued employment with the City as City Administrator or in any other capacity. The City may, at its option, enter into a formal contract with any person appointed as City Administrator, provided however, that such contract may not vary the provisions of this ordinance.

Section II

This ordinance shall take force and be in effect five (5) days from and after its publication according to law.

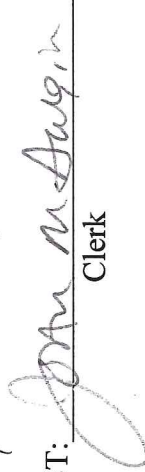
PASSED by the Council and APPROVED by the Mayor this 8th day of March, 1999.

SIGNED:



Mayor

ATTEST:



Clerk

APPROVED as to form:



City Attorney

MEMORANDUM

TO: Mayor, City Council and Staff

FROM: Roger Knapp

RE: City Administrator's Position

DATE: September 22, 1999

Municipal Research has recently informed us that Ordinance 2196, which revised the procedure for appointment and removal of the City Administrator by requiring the consent of a majority of the Council, may violate RCW 35A.12.090. I have attached a copy of that statute for your reference. Municipal Research's analysis is essentially that RCW 35A.12.090 expressly confers upon the Mayor the authority to appoint and remove all appointed officers. That statute further goes on to provide that confirmation of appointments may be required when provided for by ordinance. There is no corresponding language regarding removal from office.

I have therefore revised Section 2.06.010 of the Camas Municipal Code to delete the language whereby the City Administrator can be removed with or without cause by the Mayor with the consent and approval of a majority of the City Council. In its revised form, the ordinance provides for removal by the Mayor only.

I have also reviewed our provisions relating to the appointment and removal of the fire chief and police chief. Under the applicable ordinances, only the Mayor has the authority of removal, and that is limited to removal for just cause. Any appointee to either of the chiefs positions who is removed by the Mayor may appeal that removal to the City Council for a determination of whether sufficient just cause exists to justify the removal. I am of the opinion that this scheme does not contravene RCW 35A.12.090. The Mayor is the only person authorized to remove either of the chiefs, and he may do so without the concurrence of the City Council. The Council's involvement is invoked only if an appeal is filed, and then is limited to a determination of whether just cause exists.

RDK

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. [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 councilman, the remaining members by majority vote may appoint a councilman pro tempore to serve during the absence or disability. [1967 ex.s. c 119 § 35A.12.065.]

35A.12.070 Compensation of elective officers—Expenses. The salaries of the mayor and the councilmen 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 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 salary may be increased during his 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 councilman 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 councilman 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 councilman 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 councilmen 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. [1971 ex.s. c 251 § 5; 1967 ex.s. c 119 § 35A.12.070.]

Severability—1971 ex.s. c 251: See RCW 35A.90.050.

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

35A.12.080 Oath and bond of officers. Any officer before entering upon the performance of his duties may be required to take an oath or affirmation as prescribed by charter or by ordinance for the faithful performance of his 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. [1986 c 167 § 20; 1967 ex.s. c 119 § 35A.12.080.]

Severability—1986 c 167: See note following RCW 29.01.055.

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.]

Severability—1987 c 3: See note following RCW 3.46.020.

Dossett, Dean @ CAM

From: Drew Derby [dderby@mrsc.org]
Sent: Wednesday, September 15, 1999 4:05 PM
To: Dossett, Dean
Subject: Ordinance No. 2196

Dear Mayor Dossett,

It has come to my attention of a possible problem with Camas' s recently passed Ordinance 2196. As you may know, MRSC receives copies of many ordinances from cities across Washington State. Occasionally we advertise them as samples to other cities. When this particular ordinance was requested by another city, our legal staff examined it and found that the clause "City Administrator shall serve at the pleasure of the Mayor, and may be removed, with or without cause, by the Mayor with the consent and approval of a majority of the City Council". It was explained to me that the City Council may approve appointments, but has no legal grounds to approve removals and may be in violation of RCW 35a.12.090.

Consequently, we are not using your ordinance as a viable sample in our ordinance library. I offer this information for you to do whatever you wish with it. If you decide to conform your city statute to State Law, I would encourage you to contact your city attorney.

Yours,

Andrew Derby / Librarian <dderby@mrsc.org>
Municipal Research & Services Center of Washington
1200 5th Ave.; Suite 1300
Seattle, WA 98101
206-625-1300
<http://www.mrsc.org>

9/16/99

Roger:
your view?

(L#)