

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

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

RCW 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.]

Severability—1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 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 newspaper 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.]

Severability—1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 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.]

Severability—1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 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.]

Severability—1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 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.]

RCW 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.]

Severability—1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 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 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.]

Severability—1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 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 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.]

Severability—1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 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.]

RCW 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.]

RCW 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.]

RCW 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.]

RCW 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.]

RCW 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.

RCW 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.]