

**FILED**  
DEC 10 2019

YAKIMA COUNTY CLERK

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR YAKIMA COUNTY**

MARGUERITE WRIGHT and  
LEIGH KRONSNOBLE,

Plaintiffs,

vs.

CITY OF YAKIMA and YAKIMA COUNTY,

Defendants.

No. **1920448139**

COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF

Marguerite Jane Wright and Leigh Frances Kronsoble petition this Court for relief relating to proposed City of Yakima (hereinafter "City") Resolution No. R-2019-113, which would amend the Yakima City charter to change the City's governance structure. The City filed the proposed Resolution on November 22, 2019 with the Yakima County Election Division and requested the Yakima County Auditor to call and conduct a special election in the City of Yakima on February 11, 2020, for the purpose of submitting the proposition to the voters of the City of Yakima. Resolution No. R-2019-113 is attached as **Exhibit A**.

The Plaintiffs ask the Court to declare Proposition 1 unconstitutional and enjoin the County from submitting Proposition 1 to the voters at a special election on February 11, 2020, because the Washington State Constitution, Article XI, Section 10 mandates that Charter amendments be submitted to the voters in a general election:

1 Such charter may be amended by proposals therefor submitted by the legislative  
2 authority of such city to the electors thereof at any *general election* after notice of  
3 said submission published as above specified, and ratified by a majority of the  
4 qualified electors voting thereon.

5 Const, Art. XI, §10 (pertinent part) (emphasis added).

## 6 I. PARTIES

7 1. Plaintiff Marguerite Jane Wright is a resident of the City of Yakima, Washington  
8 and is an eligible, registered voter in the City of Yakima.

9 2. Plaintiff Leigh Frances Kronsoble is a resident of the City of Yakima,  
10 Washington and is an eligible, registered voter in the City of Yakima.

11 3. Defendant City of Yakima, through the Yakima City Council, submitted the  
12 proposed charter amendments in Resolution No. R-2019-113 to the voters in the City of Yakima  
13 in a manner that is contrary to law.

14 4. Defendant Yakima County, through its Election Division, is the entity responsible  
15 for calling and conducting a special election.

## 16 II. FACTS RELATED TO PROPOSED CITY OF YAKIMA 17 CHARTER AMENDMENTS

18 5. The council-manager form of government was developed in the early 1900s  
19 amidst increasing concerns about “political machines”, and a desire to improve city government  
20 “by removing politics in administration and by introducing the values of efficiency and  
21 professionalism borrowed from the model of America’s successful business organizations.”<sup>1</sup>

22 6. In 1943, the Washington Legislature enacted enabling legislation for the council-  
23 manager form of government.

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<sup>1</sup> Trends in City and Town Forms of Government, Municipal Research and Services Center, <http://mrsc.org/Home/Explore-Topics/Governance/Forms-of-Government-and-Organization/Trends-in-Forms-of-Government-in-Washington-Cities.aspx>.

1           7.       Since its introduction, the number of cities adopting a council-manager form of  
2 government in this state has steadily increased. The council-manager form of government is the  
3 most common governance structure in the country.

4           8.       Yakima city voters adopted the council-manager form of government in 1959.

5           9.       The City and County of Yakima have a history of voting-related discrimination  
6 against Latinx residents, who now comprise nearly half of the population of the City.

7           10.      For example, the Yakima County auditor persisted in administering literacy tests  
8 to Latinx voters for several years after the passage of the Voting Rights Act of 1965, despite  
9 being directed by the Washington Attorney General to discontinue the practice. After being sued,  
10 the County was subsequently ordered to comply by the District Court. *See* Wash. State Office  
11 of Attorney Gen., Administration of Literacy Test to Persons Registering to Vote, (June 15,  
12 1967), [https://www.atg.wa.gov/ago-opinions/administration-literacy-test-persons-registering-](https://www.atg.wa.gov/ago-opinions/administration-literacy-test-persons-registering-vote)  
13 [vote](https://www.atg.wa.gov/ago-opinions/administration-literacy-test-persons-registering-vote); Order Vacating Judgment, Mexican-Am. Fed'n – Wash. State v. Naff, No. 2457 (E.D.  
14 Wash. Sep. 27, 1971) (ordering Yakima to cease administering literacy tests to voters) (attached  
15 as Exhibit B).

16           11.      In 2004, Yakima County was sued by the U.S. Department of Justice for failing to  
17 provide Spanish-language voting materials and voter assistance as required by Section 203 of the  
18 Voting Rights Act. *See* Cases Raising Claims Under the Language Minority Provisions of the  
19 Voting Rights Act, U.S. Dept. of Justice, [https://www.justice.gov/crt/cases-raising-claims-under-](https://www.justice.gov/crt/cases-raising-claims-under-language-minority-provisions-voting-rights-act)  
20 [language-minority-provisions-voting-rights-act](https://www.justice.gov/crt/cases-raising-claims-under-language-minority-provisions-voting-rights-act) (discussing *United States v. Yakima Cnty.*).

21           12.      In 2014, a federal court ruled that Yakima's at-large system for electing City  
22 Council members illegally diluted the voting power of Yakima's Latinx residents, and in 2015,  
23

1 ordered Yakima to implement seven single-member district seats as a remedy. *See Montes v.*  
2 *Yakima*, No. 12-cv-3 108, 2015 WL 11120964 at \*2 (E.D. Wash. Feb. 17, 2015).

3 13. In *Montes*, the Court concluded that Latinos are excluded from an equal  
4 opportunity in city-wide seats, which “effectively preserve[s] the status quo that the Court has  
5 concluded violates Section 2 as it continues to allow non-Latino candidate to dominate those  
6 elections on a city-wide majority-takes-all-basis.” *Id.* at \*8.

7 14. Yakima voters made history in 2015, following adoption of the single-member  
8 district plan, and elected three Latinas to the City Council—the first Latinx City Council  
9 members elected in the City’s history.

10 15. Article XIII, Section 1 of the Yakima City Charter provides: “This charter may be  
11 amended in the manner provided by the laws of the State of Washington. Special elections for  
12 amending this charter may be called by the City Council or shall be called upon petition of  
13 qualified voters of the City of a number not less than fifteen percent of the total number of votes  
14 cast at the last preceding general state election, and otherwise as set forth in State law.”

15 16. On November 19, 2019, the Yakima City Council adopted Resolution No.  
16 R-2019-113 requesting that the Yakima County Auditor call a special election to be held in the  
17 City of Yakima on February 11, 2020, for the purpose of submitting Proposition No. 1 which  
18 concerns amendments to the City of Yakima Charter to the voters of the City of Yakima.

19 17. Passage of Proposition No. 1 would amend the City’s charter, purporting to  
20 change Yakima’s current council-manager system and adopt a mayor-council manager form of  
21 government, wherein the mayor is elected city-wide. The Resolution also contains a number of  
22 unrelated Charter amendments.

1 18. The City Council passed Resolution No. R-2019-113 despite strong opposition  
2 from a majority of community members who spoke at City Council meetings.

3 19. Resolution No. R-2019-113 adopted by the Yakima City Council incorporates the  
4 charter amendments proposed by individuals Dave Edler, Mike Leita and Bruce Smith on  
5 November 17, 2019.

6 20. There was no petition of a number (equal to fifteen percent of the total number of  
7 votes cast at the last preceding general state election) of qualified voters of the City of Yakima  
8 asking the adoption of the charter amendments.

9 21. On November 22, 2019, the City of Yakima filed Resolution No. R-2019-113  
10 with the Yakima County Elections Division.

11 22. On December 10, 2019, the Plaintiffs filed a petition to appeal the ballot title  
12 pursuant to RCW 29A.36.090 because Resolution No. R-2019-113 fails to meet statutory  
13 requirements and is prejudicial.

14 **III. CLAIM FOR DECLARATORY AND INJUNCTIVE RELIEF**

15 9. Article XI, Section 10 of the Washington State Constitution provides, in relevant  
16 part:

17 All elections in this section authorized shall only be had upon notice, which notice  
18 shall specify the object of calling such election, and shall be given as required by  
19 law. Said elections may be general or special elections, and **except as herein  
20 provided shall be governed by the law regulating and controlling general or  
21 special elections in said city. Such charter may be amended by proposals  
22 thereof submitted by the legislative authority of such city to the electors  
23 thereof at any general election** after notice of said submission published as  
above specified, and ratified by a majority of the qualified electors voting thereon.

(Emphasis added).

10. Within three years of the ratification of the Washington Constitution, the  
Washington Supreme Court reasoned that because there should be a certain stability

1 about City Charters and the vice of nonattention to special elections is well known, the  
2 framers selected general elections as the time for submission of amendments to city  
3 charters. *State v. Denny*, 4 Wash. 135, 147, 29 P. 991 (1892).

4 11. While charter amendments proposed by the voters themselves may be  
5 submitted in special elections, amendments proposed by the city legislative body must be  
6 submitted at a general election.

7 12. Resolution No. R-2019-113 violates the state Constitution because it proposes  
8 that the Yakima County Auditor call a *special* election to be held in the City of Yakima on  
9 February 11, 2020, for the purpose of voting on Proposition No. 1 which concerns amendments  
10 to the City of Yakima Charter.

#### 11 IV. RELIEF RQUESTED

12 Plaintiffs respectfully request that this Court grant the following relief:

13 1. Enter a declaratory judgment that Resolution No. R-2019-113 violates the  
14 Washington State Constitution, Article XI, Section 10;

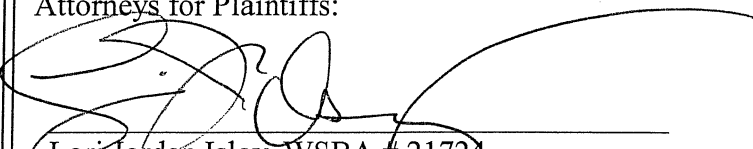
15 2. Enter a declaratory judgment that Article XIII, Section 1 of the Yakima City  
16 Charter providing that the City Council may call special elections for amending the charter when  
17 such amendments are proposed by City Council, rather than when based on the collection of  
18 signatures by the voters, is prohibited by Article XI, Section 10 of the state constitution and  
19 therefore is null and void;

20 3. Permanently enjoin Yakima County from holding a special election in the City of  
21 Yakima on February 11, 2020, for the purpose of submitting Proposition No. 1 to the voters of  
22 the City of Yakima or from scheduling a special election for such purpose at any other time;

23 4. For such other legal and equitable relief as this Court deems just.

1 Dated this 10th day of December, 2019.

2 Attorneys for Plaintiffs:

3   
4 \_\_\_\_\_  
5 Lori Jordan Isley, WSBA # 21724  
6 Alfredo Gonzalez Benitez, WSBA # 54364  
7 Xaxira Velasco Ponce De Leon, WSBA #55646  
8 COLUMBIA LEGAL SERVICES  
9 6 South Second Street, Suite 600  
10 Yakima, WA 98901  
11 (509) 575-5593 x. 217

8 Breanne Schuster, WSBA #49993  
9 John Midgley, WSBA #6511  
10 ACLU of Washington Foundation  
11 P.O. Box 2728  
12 Seattle, WA 98111  
13 (206) 623-9454

11 Chad W. Dunn  
12 Director  
13 UCLA Voting Rights Project  
14 Brazil & Dunn LLP  
15 3303 Northland Drive, Suite 205  
16 Austin, Texas 78731  
17 (512) 717-9822  
18 [chad@brazilanddunn.com](mailto:chad@brazilanddunn.com)  
19 Pro hac vice motion forthcoming  
20 (Licensed in Texas, District of Columbia,  
21 Florida and North Carolina)  
22  
23

# EXHIBIT A





Yakima County Elections Division

# ballot measure submission cover sheet

This form must accompany each resolution or ordinance submitted to:

Yakima County Elections  
128 N 2nd St Room 117, Yakima WA 98901  
PO Box 12570, Yakima WA 98909  
509.574.1340  
iVote@co.yakima.wa.us

# COPY

<b>district information</b>	<b>City of Yakima</b>	
	name of district	
	<b>Sonya Claar Tee, City Clerk</b>	
	district contact person and title	
	<b>509-575-6037</b>	<b>sonya.claartee@yakimawa.gov</b>
	phone	email

<b>election information</b>	<b>February 11, 2020</b>
	election date
	Miscellaneous local measure -- change type of government from council/manager to mayor/council
	type of measure (levy, bond, advisory vote, etc)
	<b>Simple majority</b>
	pass / fail requirements (simple majority, super majority, 60%, etc), along with the applicable statutory references

<b>contact information for publication</b>	This contact person from the district should be able to respond to questions from voters about the ballot measure. This contact information will be published on the elections division website.	
	<b>Jeff Cutter, City Attorney</b>	
	district contact person and title	
	<b>509-575-6030</b>	<b>jeff.cutter@yakimawa.gov</b>
	phone	email

<b>elections office use only</b>	received by initials, date stamp
	<b>RECEIVED</b> NOV 22 2019
	Yakima County Election Division

COPY

RESOLUTION NO. R-2019-113

**A RESOLUTION** of the City Council of the City of Yakima, Washington, providing for the submission to the voters of the City of Yakima, at a special election to be held therein on February 11, 2020, of a Proposition on whether Articles I, II, IV, VI, VII, VIII, XIII, XIV, and XV of the Charter of the City of Yakima should be amended to abandon and abolish the Council-Manager form of government and adopt the Mayor-Council form of government; making ancillary and corrective amendments throughout the Charter to accommodate the change in the form of government; and requesting the Yakima County Auditor to call a special election.

**WHEREAS**, Chapters 35.18 and 35.22 of the Revised Code of Washington (RCW) authorizes first class cities of the State of Washington to amend and revise their charters to abandon and abolish the Council-Manager form of government and adopt the Mayor-Council form of government, upon approval by a majority of the qualified voters of the city voting in a special election called for that purpose; and

**WHEREAS**, an amendment of the charter may be initiated by the City Council through the passing and approval of a resolution directing that a proposition be submitted to the qualified voters in the City on whether the City should adopt an amended charter abandoning and abolishing the Council-Manager form of government and adopting the Mayor-Council form of government pursuant to amended City Charter Articles I, II, IV, VI, VII, VIII, XIII, XIV, and XV, with ancillary amendments throughout the City Charter to accommodate the change in the form of government; and

**WHEREAS**, the City Council desires to hold a special election in the City of Yakima on February 11, 2020, for the purpose of submitting to the qualified voters of the City the proposition of whether the City of Yakima should abandon and abolish the Council-Manager form of government and adopt the Mayor-Council form of government pursuant to amended Charter Articles I, II, IV, VI, VII, VIII, XIII, XIV, and XV, with ancillary amendments throughout the City Charter to accommodate the change in the form of government; and

**WHEREAS**, the City Council finds and determines that the best interests and general welfare of the City of Yakima would be served by submitting to the qualified voters in the City the proposition of whether the City of Yakima should abandon and abolish the Council-Manager form of government and adopt the Mayor-Council form of government, now, therefore

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF YAKIMA:**

1. The proposition to be submitted at the special election shall be in the form of a ballot title as follows:

PROPOSITION NO. 1

ADOPTION OF AMENDMENTS TO THE CHARTER OF THE CITY OF YAKIMA TO ABANDON AND ABOLISH THE COUNCIL-MANAGER FORM OF GOVERNMENT AND ADOPT THE MAYOR-COUNCIL FORM OF GOVERNMENT WITHIN THE CITY OF YAKIMA, AND MAKE FURTHER AMENDMENTS COMMENSURATE THEREWITH

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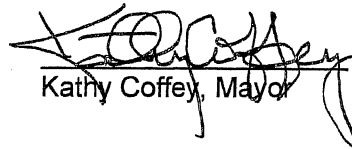
PROPOSITION NO. 1 concerns an amendment of the City of Yakima Charter. This measure would amend Charter Articles I, II, IV, VI, VII, VIII, XIII, XIV, and XV to abandon and abolish the Council-Manager form of government and adopt the Mayor-Council form of government. Adoption of the proposition will also make ancillary amendments throughout the Charter to accommodate the change in the form of government. Should this proposition be approved?

YES.....[ ]

NO.....[ ]

- 2. The City Clerk is authorized and directed to file a certified copy of this resolution with the Yakima County Auditor.
- 3. The Yakima County Auditor is requested to call and conduct a special election to be held in the City of Yakima on February 11, 2020, for the purpose of submitting to the qualified voters of the City of Yakima the proposition set forth in Section 1 above.
- 4. Severability. If any section, sentence, clause or phrase of this resolution should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this resolution.

**ADOPTED BY THE CITY COUNCIL** this 19th day of November 2019.

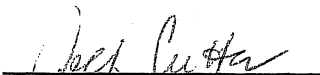
  
Kathy Coffey, Mayor

ATTEST:

  
Sonya Clear Tee, City Clerk



APPROVED AS TO FORM:

  
Jeff Cuffer, City Attorney

Certified to be a true and correct copy of the original filed in my office.

  
CITY CLERK  
By Deputy

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NOV 22 2019

Yakima County  
Election Division

**ARTICLE I**  
**Name, Boundaries, Powers, Rights and Liabilities**

SECTION 1. The people of the City of Yakima, within the boundaries as now established, or as hereafter established, shall continue to be the body politic and corporate by name of City of Yakima, and under that name shall have perpetual succession; shall use a corporate seal; may sue and be sued; may acquire property within or without its boundaries for municipal purposes by purchase, gift, devise, lease, or condemnation, and may sell, lease, hold, manage and control such property as its interests may require, except that property purchased for park purposes shall be within the city limits; and except as prohibited by the constitution of the State of Washington, or restricted by this charter, the City of Yakima shall have all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever pertaining to cities of the first class within the State of Washington.

SECTION 2. This entire charter amendment and each article, section and subsection thereof inclusive shall become effective and enforceable on behalf of the City of Yakima upon the first swearing in of a duly elected Mayor following the election enacting this charter and shall continue to be so until further amendment is adopted. If any provision or part of this proposed charter amendment, or its application to any person or circumstance is held invalid, the remainder of the proposed revisions or parts thereof, or the application of the provision or parts to other persons or circumstances, is not affected, and to this end the provisions and/or parts of this proposed charter amendment are declared to be severable. The enumeration of particular powers by this charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein, implied hereby or appropriate to the exercise thereof, the City of Yakima shall have, and may exercise, all powers which under the constitution and laws of the State of Washington it would be lawful for said charter specifically to enumerate. All powers of the City, whether express or implied, shall be exercised in the manner prescribed by this charter, or if not prescribed herein, then in the manner provided by law, ordinance or resolution of the City Council. Furthermore, all powers of the City, unless otherwise provided in this charter, shall be exercised by the Mayor and City Council in a Mayor-Council form of government. They shall be subject to the control and direction of the people at all times by the initiative, referendum and recall provided for in this charter.

**ARTICLE II**  
**Officers -- Elective Officials, Qualifications, Authorities and Responsibilities --**  
**Mayor-Council-Manager Form of Government**

SECTION 1. A. The elective officials of the City of Yakima shall consist of a Mayor and seven Council members, who shall all be residents and qualified electors of the City and shall not hold any other public office while serving as an elective official of the City except that of Notary Public or member of the military branch of the state or federal government. The Mayor shall be the chief executive officer of the City. Beginning with the elections for the Yakima City Council to be held in 2015, and including the August 4, 2015 primary election and the November 3, 2015 general election, all elections for the Yakima

City Council will be conducted using a system in which each of the seven members of the City Council is elected from a single-member district. Each Council member must reside in his or her district, and only residents of a given district may vote for the Council member position for that district.

B. In the Final Injunction and Remedial Districting Plan ("Final Injunction") entered by the Court in United States District Court for the Eastern District of Washington Case No. 12-CV-3018-TOR ("Case No. 12-CV-3018-TOR") on February 15, 2015, maps and tables showing the boundaries of the seven single-member districts and their populations were attached as Exhibit A to the Final Injunction.

C. The City shall take all steps necessary to implement the seven single-member district plan attached as Exhibit A to the Final Injunction in Case No. 12-CV-3018-TOR in order to allow single-member district based elections to proceed in 2015 and thereafter, provided that the City of Yakima may revise those districts based on annexations, de-annexations, and population changes reflected in the decennial census and at appropriate times in the future when necessary to conform to state and federal law.

D. In order to preserve the staggered election plan for members of the City Council, in elections held for the City Council in 2015 the odd numbered districts were set for a four-year election cycle and even numbered districts were set initially for a two-year term and are set thereafter for a four-year election cycle.

E. Future redistricting shall be done in a manner that complies with the terms and intent of the Final Injunction and Judgment and the Court's August 22, 2014 Order in Case No. 12-CV-3108-TOR, continues to provide for single-member districts, and complies with Section 2 of the Voting Rights Act.

F. City Council Election: At the primary election, each qualified voter of each district may cast only one vote for a City Council candidate. The names of the two candidates from each district for whom the largest number of votes are cast at the primary election shall appear on the general election ballot for that district.

Mayoral Election: At the primary election, each qualified voter of the City may cast one vote for a Mayoral candidate. The names of the two Mayoral candidates for whom the largest number of votes are cast at the primary election shall appear on the general election ballot for City-wide vote. The mayoral term shall be for four years, provided, however, that should a mayoral election be held during an even-numbered year pursuant to a special election, the first mayoral term shall be for three years.

G. In the event the Mayor, as an elected official of the City, moves his or her place of residence outside of the City, or any Council member elected or appointed to a district position moves that member's that member's place of residence outside the district boundary from which that member-person was nominated or appointed, then the Mayor or that Council member shall forfeit the office of Mayor or Council member and the position held by the Mayor or member shall be deemed to be vacant.

SECTION 2. The Council shall constitute the legislative branch and authority of the City government and shall have power to adopt rules of order and regulations for the conduct of its business.

SECTION 3. A. One of the seven elected Council members shall be the Council President, chosen as provided by Section 4 A of this Article II. Any elective official that

ceases to possess any of the qualifications specified in general law or in this charter or is convicted of a felony or of a crime involving moral turpitude while in office shall immediately forfeit that official's office.

B. Provision for the time and manner of election of the Mayor and Council officials, and the conduct of such biennial elections, shall be governed by general state laws, by this charter, and by applicable ordinances of the City as they may be enacted from time to time.

C. The annual salaries of the Mayor, Council President and each Council member shall be as set forth in City ordinance. The salaries of the office of Council President and each Council member may be increased or decreased from time to time by ordinance, but any change in the compensation attached to that office shall not be applicable to the term then being served by the incumbent.

D. The office of Mayor, Council President or any Council member shall be deemed vacant if any of the following occur:

1. failure to qualify within ten days after certification of election or as otherwise provided by state law, or
2. death, or
3. resignation, or
4. removal from office by recall, or
5. failure to maintain residency requirement of the office, or
6. absence from four consecutive regularly scheduled meetings of the city council without being excused by the council, or
7. conviction of a felony or a crime of moral turpitude, or
8. judicially declared incompetency

In the event of a vacancy in the office of Mayor, the members of the Council shall elect one of their number to the vacant office of Mayor for the unexpired term and shall then follow the procedure set forth in this Section to appoint a person to the Council position left vacant by the person assuming the office of Mayor. In the case of the temporary absence or temporary disability of the Mayor, the Council President shall be the Mayor Pro Tempore and perform the duties of Mayor. The Mayor Pro Tempore shall not have the power to appoint or remove any officer, or to veto any acts of the City Council.

In the event a vacancy occurs in the City Council positions for any reason, the vacancy in the district shall be filled by the appointment of some qualified person who is a resident of that district by a majority vote of the remaining members of the Council, but such appointee shall hold office only until the next regular municipal election, at which time a qualified person who is a resident of that district shall be elected to serve for the remainder of the unexpired term for that position. If, after 30 days have passed since the occurrence of a vacancy, the Council is unable to agree upon a person to be appointed to fill a vacancy in the Council, the Mayor shall make the appointment from among the persons nominated by members of the Council.

SECTION 4. A. The Council shall choose its own chairman-Council President at its first meeting and at the first meeting after of the newly elected Council following

~~each subsequent biennial elections. The Council President chairman shall have the title of Mayor during the biennium for which chosen. The Mayor shall preside at all meetings of the Council and shall also set the Council Agenda for each meeting held by the Council. The Council President shall be a member of the City Council with equal rights and privileges and shall be entitled to vote on all matters coming before the Council. The Council President shall not possess any veto power. The Council President shall have the powers and perform the duties conferred upon him or her by this charter, the City Council and the ordinances of the City, and imposed by this charter and the ordinances of the City. The Mayor shall be recognized as the head of the City for all ceremonial purposes and by the Governor for purposes of military law. The Mayor shall have no regular administrative duties but in time of public danger or emergency shall, if so authorized and directed by a majority vote of the Council, take command of the police, maintain order and enforce the law. The Mayor shall also have the rights, privileges and immunities of a member of the Council with the right to vote as another member thereof. If a vacancy occurs in the office of Mayor Council President, or in case of the Mayor's Council President's absence or disability, a Mayor Council President pro tem shall be elected by the Council from its members to act as Mayor Council President for the unexpired term or during the continuance of the absence or disability. In the case of a permanent vacancy, the Council shall then follow the procedure set forth at Section 3 D to appoint a person to the Council position left vacant by the person assuming the office of Council President pro tem.~~

~~B. Four Council members shall be a quorum for the transaction of business. In the absence of a quorum the members present at a meeting shall adjourn the meeting to a later date.~~

~~SECTION 4. Except as otherwise provided in this charter, all powers of the City shall be vested in the Council. The Mayor and each member of the Council shall receive compensation as established by Ordinance. Members of the Council shall be qualified electors of the City and any member ceasing to possess any of the qualifications specified in general law or in this charter or convicted of crime involving moral turpitude while in office shall immediately forfeit his office.~~

~~SECTION 5. The Council shall meet at the times and places fixed by ordinance, but must hold at least two regular meetings each month. The Clerk shall call special meetings of the Council upon written request of the Council President, or any two two members. Requests for special meetings shall state the subjects to be considered and no final action may be taken with respect to any other subject shall be considered at during a special meeting except by consent of all members of the Council. All meetings of the Council and of committees thereof shall be open to the public, and the rules of the council shall provide that citizens of the City shall have a reasonable opportunity to be heard at any meetings in regard to any matter being considered thereat.~~

~~SECTION 6. The Council shall choose such employees of its own body, as it may deem necessary. Employees of the Council shall not be chosen for a definite term but shall continue to serve during the pleasure of the Council.~~

~~SECTION 7. The Council shall appoint an officer whose title shall be City Manager and who shall be the chief executive officer and the head of the administrative branch of the City government. The City Manager shall be chosen upon the basis of character and ability with special reference to actual experience in, or knowledge of, accepted practice in respect to the duties of the office as hereinafter outlined. Choice shall not be limited by any residence or political qualification. No person elected to membership on the Council shall, subsequent to such election, be eligible for appointment as City Manager until one year has elapsed following the expiration of the term for which elected. Before entering upon the duties of the office, such City Manager shall take the official oath for the support of the National and State Governments and the faithful performance of duties, and shall execute a bond in favor of the City in such sum as may be fixed by the Council.~~

~~SECTION 8. 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 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 the City Manager and the reasons therefor. Upon passage of the resolution stating the Council's intention to remove the City Manager, the Council may by a similar vote suspend the City Manager from duty, but compensation shall continue until the removal becomes effective. The City Manager may, within thirty days from the date of service upon the City Manager of a copy thereof, reply in writing to the resolution of intent for removal. 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 City Manager, and the City Manager's services shall terminate upon that day. If a reply shall be timely filed with its Clerk, the Council shall fix a time for a public hearing upon the question of the City Manager's removal and a final resolution removing the City Manager shall not be adopted until a public hearing has been held. The action of the Council in removing the City Manager shall be final. In case of the absence or disability of the City Manager, the Council may designate some qualified person to perform the duties of the office during such absence or disability.~~

~~SECTION 9. The powers and duties of the City Manager shall be:~~

- ~~(1) To have general supervision over the administrative affairs of the municipality;~~
- ~~(2) To appoint and remove at any time all department heads, officers and employees of the City, except members of the Council, but the appointment and removal of those department heads, officers and employees who are subject to Civil Service or merit systems of the City of Yakima shall be pursuant to the Civil Service laws, rules and regulations of such City in existence at the effective date hereof: provided, that the Council may cause an audit to be made of any department or office of the 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 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 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 may deem it advisable to submit;~~
- (7) ~~To keep the Council fully advised of the financial condition of the City or town and its future needs;~~
- (8) ~~To prepare and submit to the Council a tentative budget for the fiscal year;~~
- (9) ~~To perform such other duties as the Council may determine by ordinance or resolution.~~

~~SECTION 640. Administrative departments shall be created. The Mayor shall appoint a City Administrator to assist in the general administration of the City. The specific responsibilities of the City Administrator shall be determined by the Mayor. Administrative departments shall be created and discontinued by the City Council as the public business may demand. Pending further action by the City Council, the administrative departments now in existence shall be continued. The rights, powers and duties of the departments shall be prescribed, distributed, assigned, established or discontinued by ordinance.~~

~~SECTION 7. 41. The Mayor shall be the chief executive officer of the City. The position of Mayor is a full-time position. The Mayor shall not accept or hold employment preventing the Mayor from being available at City offices during the hours the offices are open to the public or that would prevent the Mayor from regularly attending Council meetings and other meetings as may from time to time be required, or that would interfere with any other conditions or duties of the office as set by ordinance. In addition to the powers and duties granted a chief executive and/or administrative officer under the laws of the State of Washington, the Mayor shall have the following powers and duties:~~

- ~~A. The power to appoint and remove the administrative heads in each department of the City government, provided the appointment, but not the removal, of an administrative head shall be subject to the approval of the City Council and, further provided, that the head of any department shall not be deprived by any such removal of any standing under the civil service provisions of this charter which the employee may have had before appointment as head or assistant head of a department. City residency shall not be a requirement for these positions.~~
- ~~B. The power to appoint and remove a city clerk, provided such appointment, but not removal, shall be subject to the approval of the City Council. City residency shall not be a requirement for this position.~~
- ~~C. The power to appoint and remove a city attorney, provided such appointment, but not removal, shall be subject to the approval of the City Council. City residency shall not be a requirement for this position.~~
- ~~D. The power to appoint and remove, subject to the civil service provisions of this charter, all other officers and employees of the City of Yakima or to authorize the head of a department or officer responsible to the Mayor to appoint and remove subordinates in such department or office.~~
- ~~E. The power to make all other appointments required to be made by the Mayor by the laws of the State of Washington and in the manner provided hereby.~~

- F. The power to appoint and remove a City Administrator, provided such appointment, but not removal, shall be subject to the approval of the City Council. Residency within the City shall not be a requirement for this position. The City Administrator, under the general supervision of the Mayor, shall assist the Mayor, and in the discretion of the Mayor shall supervise the administrative offices and shall perform such other duties as are delegated to the position by the Mayor from time to time.
- G. The power to appoint and remove an executive secretary and assistants who are not subject to civil service. City residency shall not be a requirement for these positions.
- H. Whenever the City Council shall be required to appoint any member of a board, committee, commission or other body, unless the appointee must be a Council member, it shall be the duty of the Mayor to nominate a suitable person for such appointment. City residency may be required for these positions and shall be specifically stated in statute and/or ordinance. If the City Council refuses to appoint any nominee of the Mayor, then the Mayor shall, within forty five days thereafter, nominate another person to fill the office, and may continue to nominate until Council appointment. If the Mayor fails to make another such nomination within forty five days, then the City Council shall select a suitable person to fill the office.
- I. The power to remove a Council appointee, other than a Council member appointee, from a board, committee or commission. Upon such removal, the vacancy for the unexpired term, if any, shall be filled by appointment in the same manner as if at the beginning of the term, except as otherwise provided in this charter.
- J. The duty to see that all laws and ordinances are faithfully enforced and that law and order are maintained in the City.
- K. The duty to annually, at the first meeting of the City Council in February, communicate by message to the City Council a statement of the conditions and affairs of the City, and to recommend the adoption of such measures he or she may deem expedient and proper. The Mayor shall make special communication to the City Council from time to time as he or she may deem useful and proper, and shall submit reports on City matters when so requested by the City Council.
- L. The duty to prepare and present to the City Council a budget and a budget message setting forth the programs proposed for the City during the next fiscal year. Budget preparation and presentation shall comply with applicable state statutes, City Charter and City Ordinance provisions and shall generally include a budget forecast presented to the Council by mid-October, a preliminary budget presented to the Council before November 1, and a final budget presented to Council no later than the final December City Council meeting of each year.
- M. The power to recommend to the City Council for adoption such measures and ordinances as may be deemed expedient and to make such other recommendations to the City Council concerning the affairs of the City as may seem desirable.

- N. The power to veto ordinances or parts of ordinances passed by the Council and submitted to him or her as provided herein; provided that such veto may be overridden by the vote of a majority of all Council members plus one more vote.
- O. The power to make investigation into the affairs of the City under the supervision of the Mayor or any department or division, or the proper performance of any contract or obligation running to the City of Yakima.
- P. The power to make recommendations in connection with the awarding of public contracts and see that all contracts made by the City of Yakima are faithfully performed.
- Q. The duty to approve for payment and submit to the City Council at each meeting for its allowance all claims and bills. To the extent specifically approved and provided for in ordinance the Mayor may have limited authority to pay claims and bills in amounts less than or equal to those specifically provided by ordinance without first obtaining Council approval.
- R. The authority to execute contracts and execute settlement agreements on behalf of the City so long as said contracts and settlement agreements have been previously approved by Council. To the extent specifically approved and provided for in ordinance the Mayor may have limited authority to execute contracts and settlement agreements in amounts less than or equal to those specifically provided by ordinance without first obtaining Council approval.
- S. The duty to attend, or assign a representative to attend, all meetings of the City Council as may be required by that body. The Mayor or the assigned representative shall not vote on any matters before the Council for consideration.
- T. The Mayor shall have no authority to increase or reduce taxes; the Mayor shall possess no taxing authority on behalf of the City. The City Manager may authorize the head of the department or office responsible to the City Manager 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 a position subject to Civil Service, may be removed by the City Manager or other such appointing officer at any time. Subject to the provisions of SECTION 9 herein, the decision of the City Manager or other appointing officer shall be final and there shall be no opportunity for administrative appeal.

~~SECTION 12. Appointments made by or under the authority of the City Manager shall be on the basis of executive and administrative ability and of the training and experience of the appointees in the work, which they are to perform. Residence within the City shall not be a requirement.~~

~~SECTION 13. Neither the Council, nor any of its committees or members shall direct or request the appointment of any person to, or removal from, office by the City Manager or any of the City Manager's subordinates. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City 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. Provided, however, that nothing herein shall be construed to 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.~~

~~SECTION 14. The City Manager and other officers, assistants and employees, shall receive such salary or compensation as the Council shall fix by ordinance and it shall be payable at such times as the Council shall determine.~~

SECTION ~~8~~45. Nothing in this Article shall affect the pension or Civil Service or merit system of the City of Yakima in existence at the effective date hereof.

### **ARTICLE III Elections**

SECTION 1. Elections shall be general, primary or special. The manner and method of holding and calling municipal elections, both general and special, shall be according to State law. All municipal elections shall be non-partisan and by the qualified electors of the City.

**ARTICLE IV**  
**Legislation by the People**

SECTION 1. The people of Yakima, in addition to the method of legislation herein before provided, shall have direct legislation by the initiative and referendum.

SECTION 2. The initiative shall be exercised in the following manner:

(a) A petition signed by registered and qualified electors of the City, accompanied by the proposed legislation in the form of a proposed ordinance and requesting that such ordinance be submitted to a vote of the people shall be filed with the City Clerk.

(b) Within two days from the filing of such petition the City Clerk shall certify the number of votes cast at the last general City election and the number of signers of such petition, and shall present such certificate, petition and proposed ordinance to the City Council.

(c) If such petition be signed by qualified electors in number equal to twenty per centum of the total number of votes cast at the last preceding general city election, the City Council, within twenty days after receipt thereof, except as otherwise provided in this Charter, shall either pass such ordinance without alteration, or refer it to a popular vote at a special election which must be held at the first available opportunity in accordance with the provisions of State law for special municipal elections: Provided, however, that if any other municipal election is to be held more than thirty days but within ninety days after the filing of the petition, said proposed ordinance shall be submitted without alteration to be voted upon at such election.

SECTION 3. If, prior to the date when any ordinance shall take effect, a petition signed by qualified electors equal in number to ten per centum of the entire vote cast at the last preceding general city election shall be filed with the City Clerk, protesting against the enactment of such ordinance, it shall be suspended from taking effect. Immediately upon the filing of the petition the City Clerk shall do all things required in SECTION 2 (a) and (b) of this article. Thereupon the City Council shall immediately reconsider such ordinance, and, if it does not entirely repeal the same, shall submit it to popular vote at the next municipal election; or, the City Council may call a special election for that purpose as such elections are permitted by state statutes in accord with the provisions of State law for special municipal elections; and such ordinance shall not take effect, unless a majority of the qualified electors voting thereon at such election shall vote in favor thereof.

SECTION 4. The City Council may submit to popular vote for adoption or rejection at any election any proposed ordinance in the same manner and effect as provided in this article for submission on petition.

SECTION 5. There shall not be held under this article more than one special election in any period of six months.

SECTION 6. The City Council, by ordinance, shall make further regulations for carrying out the provisions of this article not inconsistent herewith.

**ARTICLE V**  
**The Recall**

SECTION 1. The holder of any elective office, whether elected or appointed thereto, may be removed from such office by recall proceedings as provided by the laws of the State of Washington for elective officers.

SECTION 2. An officer removed from office by recall election or who shall resign from such office pending recall proceedings against him shall not be eligible to hold any city office or employment within two years after such removal or resignation.

**ARTICLE VI**

**Ordinances; Additional Powers and Limitations on Officers**

SECTION 1. A. At all meetings of the City Council every resolution and ordinance shall be in writing and read aloud by title before a vote is taken thereon; provided, at the request of a majority of Council members present, a resolution ~~and~~ ordinance shall be read aloud in its entirety before a vote is taken thereon. Upon every vote the yeas and nays shall be called and recorded. All ordinances, except ordinances making appropriations or codifying or rearranging existing ordinances, shall be confined to one subject, which shall be clearly expressed in the title. Ordinances making appropriations shall be confined to the subject of appropriations. The enacting clause of all ordinances shall be, "Be it ordained by the City of Yakima."

B. Every ordinance, except those which become emergency ordinances, passed by the City Council shall, within five days thereafter, be presented to the Mayor.

C. Within ten days after its presentation, the Mayor shall either sign the ordinance and return it to the City Clerk, or veto the ordinance and return it to the City Clerk with a written and signed statement of the reasons for the Mayor's veto, or sign and partially veto an appropriation ordinance and return it to the City Clerk with a written and signed statement of the reasons for the partial veto. If an ordinance is not returned by the Mayor within ten days after its presentation, it shall be deemed enacted without the Mayor's signature. Within thirty days after an ordinance has been vetoed and returned or partially vetoed and returned, the City Council may override the veto or partial veto by enacting the ordinance by an affirmative vote of the majority plus one vote.

D. Every ordinance enacted by the City Council shall be signed by the Mayor, or the Council President or two City Council members in the event of prior Mayoral veto, attested by the City Clerk and recorded in a book kept for that purpose.

SECTION 2. A. Ordinances making the annual tax levy or relating to local improvements or assessments therefore, or making appropriations, emergency ordinances, or ordinances adopted by vote of the electors shall take effect at the time indicated therein; all other ordinances shall take effect 30 days after the date of the enactment and publication thereof as herein provided.

B. An ordinance which is subject to the veto power of the Mayor and which is not vetoed, or the approved portions of an ordinance which has been partially vetoed, shall

be deemed enacted on the date that it is approved by, or ten days after it is presented to, the Mayor. An ordinance which is vetoed, or the vetoed portions of an ordinance, shall be deemed enacted on the date that the City Council overrides the veto or partial veto. An ordinance which is not subject to the veto power of the Mayor shall be deemed enacted on the date it is approved by the City Council.

C. An emergency ordinance is one to provide for the immediate preservation of the public peace, property, health or safety. The unanimous vote of the City Council shall be necessary for the passage of an emergency ordinance, which shall not be subject to veto by the Mayor. No measure making or amending a grant, renewal or extension of a franchise or other special privilege shall ever be passed as an emergency measure.

~~SECTION 3. Upon its final passage, each ordinance or resolution shall be authenticated by the signature of the Mayor and attested by the City Clerk and recorded in a book kept for that purpose. The number and title of each ordinance enacted passed by the City Council, with certificate as herein provided, attached thereto shall be published once in the official newspaper of the city. Said certificate shall be signed by the City Clerk and shall be in substantially the following form: "Ordinance No. \_\_\_\_\_ bearing above title, was duly and regularly passed by the City Council of the City of Yakima, Washington, on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, and is now on file with the undersigned at the office of the City Clerk, where the same is open to the public inspection. Dated . City Clerk."~~

~~SECTION 4. Members of the City Council shall be qualified electors of the City, and shall not hold any other public office except that of Notary Public or member of the military branch of the state or federal government. A member of the City Council ceasing to possess any of the qualifications specified in this SECTION, or who may be convicted of a crime involving moral turpitude while in office shall immediately forfeit his office. A certified copy of the judgment of conviction filed in the office of the City Clerk shall be prima facie evidence of forfeiture as above provided.~~

~~SECTION 45. No elective official, officer or employee of the City shall solicit or receive any pay, commission, money or thing of value, or derive any benefit, profit or advantage, directly or indirectly from or by reason of any improvement, alteration or repair, or purchase of materials required by the City, or any contract to which the City shall be a party, except his lawful compensation or salary as such officer or employee. A violation of any of the provisions of this SECTION shall disqualify the offender to continue in office or employment and he shall be forthwith removed.~~

~~SECTION 56. Any purchase of supplies, material, equipment or services, except for public work or improvement, where the cost thereof exceeds a specific sum to be set by ordinance within the limits established by State law shall be made upon call for bids in the same method and under the same conditions as required herein on a call for bids for public work or improvement. This monetary limit for the purchase of supplies, material, equipment and services may be increased from time to time, but no more often than one time in any twenty-four month period, by ordinance enacted by the vote of no less than a~~

two-thirds majority of the City Council members, up to, but in no case to exceed any amount allowed by State law. In the event of an emergency declared by resolution of the City Council, any purchase of supplies, material, equipment or service may be made without calling for bids.

SECTION 67. In addition to the provisions of the general law the City Council may by ordinance create and establish special funds into which all monies received for a special or specific purpose may be placed: Provided, however, that such fund or funds shall be other than those deriving revenue from taxation.

SECTION 78. There shall be a dedicated street overlay and reconstruction fund, reserved for the enhancement in quality and value of City street infrastructure, of no less than Two Million Dollars annually in the City's General Fund budget. This dedicated fund base amount of Two Million Dollars shall be adjusted annually in accord with the annual change in the June U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) West Region. The City Council shall make no other use of this fund than as is provided in this Section.

SECTION 89. There shall be a dedicated public parks and recreation capital fund, reserved for the construction and rehabilitation of City public parks and recreation facilities, of no less than Seven Hundred Fifty Thousand Dollars annually in the City's General Fund budget. This dedicated fund base amount of Seven Hundred Fifty Thousand Dollars shall be adjusted annually in accord with the annual change in the June U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) West Region. The City Council shall make no other use of this fund than as is provided in this Section.

## **ARTICLE VII Limitation of Taxation**

SECTION 1. The fiscal year of the City shall commence on the first day of January and end on the last day of December each year.

SECTION 2. The City Council shall have power and authority to assess, levy and collect taxes upon all the real and personal property (not exempt from taxation) within the City for the corporate uses and purposes thereof and provide for the payment of the debts and expenses of the City; provided that after January 1, 2014, any new councilmanic tax may be assessed, levied or increased only by a minimum affirmative vote of five members of the City Council. The Mayor shall have no authority to assess or levy any taxes on behalf of the City.

SECTION 3. The aggregate of all the property taxes levied or appropriated for City purposes including funds for the parks and playgrounds, police and firemen's relief shall be taken and apportioned by the City Council from the current expense fund which for any one year shall not exceed the statutory limits established by State law on each dollar of assessed valuation of the property within the City except as follows:



(a) The levies for redemption of and interest on the bonded debt of the City heretofore or hereafter authorized in the manner provided by law;

(b) The levy for local improvement district assessment guaranty fund as required by law;  
(c) Such other levies as may have been heretofore or which may hereafter beis required by general law.

SECTION 4. No special levies shall be made for other purposes than those above specified except those, which may be authorized at an election.

SECTION 5. All City funds shall be administered by the City Council; and boards or committees selected by the City Council to assist in the management of any municipal activities, if any are selected, shall act in an advisory capacity only.

SECTION 6. The City Council shall make no appropriation in aid of any corporation, person or society not expressly authorized by this charter.

#### **ARTICLE VIII Special Boards**

SECTION 1. The City Council may appoint advisory boards, committees and commissions as may be deemed helpful and necessary to the City Council to assist in administering the City's operation and programs, including but not limited to parks, playgrounds and city planning. The City Council shall have full charge of the budgets for such purposes and shall by ordinance regulate the organization and duties of such boards, committees and commissions, and may provide that any monies acquired by donation, bequest or from leases or concessions, fines, or penalties shall be used in addition to the amount set aside in the annual budget out of the tax levy.

#### **ARTICLE IX Public Utilities**

SECTION 1. The City Council shall provide by ordinance rules and regulations and make provisions for the control, management and operation of all public utilities owned and operated by the City, or which may hereafter be acquired by the City in the manner provided by law, or which the City may by law govern, control or regulate.

SECTION 2. The City Council shall have power to arrange by ordinance for the financing and repair, replacement, rehabilitation or extension of any public utility owned and operated by the City, provided, however, that such financing shall be arranged upon the credit of the utility itself and not upon the issuance of general obligation bonds of the City.

#### **ARTICLE X**

## **Claims**

SECTION 1. Claims for damages and the filing of such claims against the City, its officers, employees or volunteers acting in such capacity, are governed by State law.

## **ARTICLE XI Franchises**

SECTION 1. No exclusive franchise shall ever be granted.

SECTION 2. No franchise or right to occupy or use the streets, highways, bridges, or public places of the City shall be granted, renewed or extended except by ordinance

SECTION 3. No franchise shall be granted unless there be inserted therein a provision that the City may acquire the public utility for the exercise of which the franchise is granted, either by agreement or by condemnation, and that upon such purchase by the City, either by agreement or condemnation, no value of the franchise itself shall be taken into account in fixing the price to be paid by the City for such utility.

SECTION 4. No franchise shall be granted by the City for a longer term than twenty-five years.

SECTION 5. No franchise shall be renewed or extended earlier than three years prior to its expiration.

SECTION 6. No franchise shall be granted without provision for proper compensation to the City. Such compensation shall when feasible be a percentage upon the gross earnings of the person or corporation to whom such franchise is granted arising from the exercise of such franchise. When the determination of the gross earnings by the exercise of the franchise is not feasible the ordinance granting said franchise shall prescribe such other mode of determining the compensation to be paid the City by the grantee as shall be deemed reasonable and just.

SECTION 7. The grantee or assignee of any franchise granted by the City shall submit to the City Council within sixty days after the first day of January of each year, an annual report verified by the oath of such person or the president, treasurer or general manager of such corporation, which shall contain such detailed information as may be prescribed by the City Council to enable it to determine the amount of compensation to be paid to the City for the use of said franchise during the preceding year. Any such person, persons, or corporations which shall refuse or fail to make any such report within the time specified shall be liable to a penalty established in accord with State law, ordinance and specific franchise agreements for each and every day during which he or it shall fail to file such report, such penalty to be sued for and recovered by the City in any court having jurisdiction thereof.

SECTION 8. No franchise granted by the City shall ever be leased, assigned or otherwise alienated without the express consent of the City Council by ordinance passed for that purpose, and no rule of estoppel shall ever be invoked against the City in case it shall assert the invalidity of any attempted transfer in violation of this SECTION.

SECTION 9. The grant of every franchise for a street, suburban, or interurban railroad or bus line shall provide that all United States mail carriers, city officials, policemen and firemen shall at all time while in the actual discharge of their duties be allowed to ride upon such cars or buses under said franchise without paying therefor, and with all rights of other passengers.

SECTION 10. No franchise, right, privilege, or license shall be considered as granted by any ordinance except when expressed therein in plain and unambiguous terms, and if any ambiguity appears therein it shall be construed in favor of the city and against the claimant under said ordinance.

## **ARTICLE XII Power to Incur Indebtedness**

SECTION 1. The City may borrow money and become indebted in any legal way, subject, as to the amount and manner of incurring indebtedness, to the provisions and limitations of the constitution and laws of the state and this charter; and subject to the same provisions and limitations, the City may issue bonds to secure any existing or contemplated indebtedness.

SECTION 2. When a popular vote is not required by law, the City Council by ordinance may authorize any indebtedness and the issuance of bonds.

## **ARTICLE XIII Amendments**

SECTION 1. This charter may be amended in the manner provided by the laws of the State of Washington. Special elections for amending this charter may be called by the City Council or shall be called upon petition of qualified voters of the City of a number not less than fifteen percent of the total number of votes cast at the last preceding general state election, and otherwise as set forth in State law.

## **ARTICLE XIV Schedule**

SECTION 1. Upon the taking effect of this charter all title, right and interest of the former corporation in and to any and all property, real or personal, of whatever kind of character, shall vest in and be owned by the corporation created by this charter.

SECTION 2. All ordinances and resolutions in force at the time this charter shall go into effect and not inconsistent herewith, shall remain in force until amended or

repealed or until they expire by limitation. All rights and obligations in favor of or against the City existing at the time this charter shall go into effect and shall continue without modification. All street and other improvements, all vacations of public streets, alleys or places, all assessments for improvements, all suits and actions in court, all fines, penalties and forfeitures and all other matters relating to the City that may have been begun and not completed, shall be completed according to the law and ordinances existing prior to the time this charter shall go into effect, and all taxes and assessments levied and remaining unpaid when this charter shall go into effect shall be collected as provided by the law existing and in effect at the time the same were levied.

SECTION 3. At the election to be held for the purpose of adopting or rejecting this charter amendment, articles numbered I to XIV, inclusive, shall be submitted upon the ballot as a complete charter and shall be included in the vote "For the Charter" and "Against the Charter," and in the event that a majority of all votes cast thereon, shall be "For the Charter" said charter shall be adopted.

## **ARTICLE XV Civil Service**

SECTION 1. The general purpose of this charter amendment is to establish for the City of Yakima a system of personnel administration based on merit principles and governing the appointment, promotion, transfer, layoff, removal, discipline and welfare of its employees, and other incidents of city employment.

SECTION 2. The following terms, whenever used in this Article, shall be construed as follows:

- (a) "Commission" means the civil service commission herein created, and "Commissioner" means any one of the three members of any such commission.
- (b) "Appointing power" -- Appointing power means the officer or person, board or committee who is empowered to make appointments for employment in the city civil service.
- (c) "Appointment" includes all means of selecting, appointing, or employing any person to any office, place, position, or employment in civil service.
- (d) "City" means the City of Yakima, Washington.
- (e) "Employees" means all persons regularly employed by the City of Yakima, Washington, either on a part-time or full-time basis with the exception of those persons listed in SECTION 6.

SECTION 3. There is created a city civil service commission, which shall be composed of three persons. The commission members shall be appointed by the City Council in the following manner:

- (a) One member shall be appointed by the City Council.
- (b) The second member shall be appointed by the City Council from a list of three names submitted to the Council chosen by a referendum of city employees, excluding police and firemen. The City Clerk shall conduct the referendum and shall formulate proper rules and regulations for said referendum.

(c) The third shall be appointed by the City Council from a list of three names submitted to the council by the other two civil service commissioners.

(d) The term of office of the commissioners shall be for six years or until a successor is selected and qualified, except that the first three members of the commission shall be appointed for different times, as follows: The appointee from the employee referendum list shall serve for a period of six years, the appointee at large as designated in subsection (a) above to serve for a period of four years, and the third appointee to serve for two years. All commissioners must be registered voters of Yakima County. Any member of the commission may be removed from office for incompetence, incompatibility, or dereliction of duty, or malfeasance of office, or other good cause; provided, that no member of the commission shall be removed until charges have been preferred, in writing, due notice, and a full hearing held before the City Council. Any vacancy in the commission shall be filled in the same manner as provided for selecting the commissioner previously filling the vacancy. Two members of the commission shall constitute a quorum and the votes of any two members concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided by the commission. No member of the civil service commission shall engage in active partisan or non-partisan politics and hold any salaried public office or engage in city employment, other than his commission duties. The members of the commission shall serve without compensation.

SECTION 4. Immediately after appointment the commission shall organize by electing one of its members chairman and shall hold regular meetings at least once a month, and such additional meetings as may be required for the proper discharge of its duties. All meetings of the commission shall be open to the public. It shall appoint a chief examiner who shall also serve as secretary of the commission and such assistants as may be necessary. The chief examiner shall keep the records for the commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction and perform such other duties as the commission may prescribe. The chief examiner shall be appointed as a result of competitive examination, which examination may be either original and open to all properly qualified persons, or promotional and limited to persons already in the service of the City of Yakima, Washington. The chief examiner shall be subject to suspension, reduction, or discharge in the same manner and subject to the same limitations as are provided in the case of members of the classified service. A pay and classification plan with job descriptions providing equal pay for equal work shall be devised by the chief examiner with the cooperation and approval of the civil service commission which shall be submitted in ordinance form to the City Council for passage.

SECTION 5. It shall be the duty of the civil service commission:

(a) To make suitable rules and regulations not inconsistent with the provisions hereof. Such rules and regulations shall provide in detail the manner in which examinations may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions, and discharges shall be made, and may also provide for any other matters connected with the general subject of personnel administration, and which may be considered desirable to further carry out the general purposes of this Article, or which may be found to be in the interest of good personnel administration. The rules and

regulations and any amendments thereof shall be printed, mimeographed, or multigraphed for free public distribution. Such rules and regulations may be changed from time to time. Prior to adoption of new rules or changes in existing rules all interested parties shall be given an opportunity to express opinions concerning the proposed rules at the regular public meetings of the commission.

(b) To give practical tests which shall consist only of subjects which will fairly determine the capacity of persons examined to perform duties of the position to which appointment is to be made. Such tests may include tests of physical fitness or manual skill or both.

(c) To make investigations and to report upon all matters concerning the enforcement and effect of the provisions of this Article, and the rules and regulations prescribed hereunder; to inspect all departments, offices, places, positions, and employments affected by this Article, and ascertain whether this Article and all such rules and regulations are being obeyed. Such investigations may be made by the commission or by any commissioner designated by the commission for that purpose. Not only must these investigations be made by the commission as aforesaid, but the commission must make like investigation on petition of any citizen, duly verified, stating that irregularities or abuses exist, and setting forth in concise language, in writing, the necessity for such investigation. In the course of such investigation the commission, or the chairman or chief examiner when authorized by a majority vote of the commission, may issue subpoenas to compel the attendance at such place as may be designated in this City of witnesses and the production of books and papers pertinent to any inquiry or investigation authorized by this Article; or may take depositions of witnesses. Subpoenas shall also be ~~issued~~ used at the request of the parties to the proceedings other than the commission and the chairman. The commission or any member thereof, or the chief examiner, when authorized by the commission, may administer oaths and take testimony. The commission or the chief examiner may examine such public records, as they require in relation to any matter, which they have authority to investigate.

(d) To conduct hearings and investigations in accordance with this Article and by the rules of practice and procedure adopted by the commission, and in the conduct thereof neither the commission, nor designated commissioner shall be bound by technical rules of evidence. No informality in any proceedings or hearing, or in the manner of taking testimony before the commission or designated commissioner, shall invalidate any order, decision, rule, or regulation made, or confirmed by the commission; provided, that no order, decision, rule or regulation made by any designated commissioner conducting any hearing or investigation alone shall be any force or effect whatsoever unless and until concurred in by at least one of the other two members.

(e) To hear and determine appeals or complaints respecting the allocation of positions, the rejection of an examinee, and such other matters as may be referred to the commission.

(f) To provide for, formulate, and hold competitive tests to determine the relative qualifications of persons who seek employment in any class or position, and as a result thereof establish eligible lists for the various classes of positions, and provide that persons laid off because of curtailment of expenditures, reduction in force, and for like causes, head the list in the order of their seniority, to the end that they shall be the first to be reemployed.

(g) It shall be the duty of the Civil Service Commission to certify to the appointing authority, when a vacant position is to be filled, on written request, the names of the three persons highest on the eligible list for the class. Any one of the three persons so certified may be appointed. If there is no such list, to authorize a provisional or temporary appointment list for such class. Such temporary provisional appointment(s) shall not continue for longer than five months in any one fiscal year.

(h) To keep such records as may be necessary for the proper administration of this Article.

As amended by vote of the people November 8, 1983.

SECTION 6. The classified civil service and provisions of this Article shall be applicable to and shall include all employees of the city except the following:

(a) Officers elected by the people and persons appointed to fill vacancies in elective offices.

(b) Members of boards and commissions and the ~~City Manager~~Administrator;

(c) Employees under civil service coverage within the police and fire departments;

(d) All department heads; one confidential secretary and one administrative assistant for each of the ~~Mayor and City Manager~~Administrator;

(e) Judges, City Attorney and all assistant city attorneys;

(f) Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the City Council or a committee thereof, or by authority of the ~~City Manager~~Mayor.

SECTION 7. All appointments to and promotions to positions in the classified civil service of the City of Yakima shall be made solely on merit, efficiency, and fitness, which shall be ascertained by open competitive examination and impartial investigation. No person in the classified civil service shall be reinstated in or transferred, suspended, or discharged from any such place, position, or employment, contrary to the provisions of this Article.

SECTION 8. For the benefit of the public service and to prevent delay, injury, or interruption therein by reason of the enactment hereof, all persons holding a position which is deemed classified under SECTION 6 for a continuous period of six months prior to the effective dates of this Article, and still currently employed, are eligible for permanent appointment under civil service to the offices, places, positions or employment which they then held without examination or other act on their part, and not on probation; and every such person is automatically adopted and inducted permanently into civil service, into the office, place, position or employment which he then held as completely and effectual to all intents and purposes as if such person had been permanently appointed thereto under civil service after examination and investigation.

SECTION 9. The tenure of every person holding an office, place, position or employment under the provisions of this Article shall be only during good behavior, and any such person may be removed or discharged, suspended without pay, demoted or reduced in rank, for any of the following reasons:

- (a) Incompetency, inefficiency, or inattention to, or dereliction of duty;
- (b) Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public, or a fellow employee, or any other act of omission or commission tending to injure the public service; or any other willful failure on the part of the employee to properly conduct himself; or any willful violation of the provisions of this Article or of the rules and regulations to be adopted hereunder;
- (c) Mental or physical unfitness for the position which the employee holds;
- (d) Dishonest, disgraceful, or prejudicial conduct;
- (e) Drunkenness or use of intoxicating liquors, narcotics, or any other habit forming drug, liquid, or preparation to such extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee or which precludes the employee from properly performing the function and duties of any position under civil service;
- (f) Conviction of a felony, or a misdemeanor involving moral turpitude;
- (g) Any other act or failure to act which in the judgment of the civil service commission is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service.

SECTION 10. No person in the classified civil service who has been permanently appointed or inducted into civil service under provisions of this Article, shall be removed, suspended, or demoted except for cause, and only upon written accusation of the appointing power or any citizen or taxpayer; a written statement of which accusation, in general terms, shall be served upon the accused; and a duplicate filed with the commission. Any person so removed, suspended, or demoted may within ten days from the time of his removal, suspension, or demotion, file with the commission a written demand for an investigation, whereupon the commission shall conduct such investigation. The investigation shall be confined to the determination of the question of whether the removal, suspension, or demotion was made in good faith for cause. After such investigation the commission may affirm the removal, or if it finds that removal, suspension or demotion was not made in good faith for cause, shall order the immediate reinstatement or reemployment of such person in the office, place, position, or employment from which he was removed, suspended, or demoted, which reinstatement shall, if the commission so provides be retroactive, and entitle such person to pay or compensation from the time of the removal, suspension, or demotion. The commission upon such investigation in lieu of affirming a removal, may modify the order by directing a suspension without pay, for a given period, and subsequent restoration to duty, or demotion in classification, grade, or pay. The findings of the commission shall be certified, in writing to the appointing power, and shall be forthwith enforced by such officer. All investigations made by the commission pursuant to this SECTION shall be by public hearing, after reasonable notice to the accused of the time and place thereof, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel, and presenting his defense. The subpoena provisions of SECTION 5 of this Article shall apply to all such hearings. If the order of removal, suspension, or demotion is concurred in by the commission or a majority thereof, the accused may appeal therefrom to the superior court of the county wherein he resides. Such appeal shall be taken by serving the commission, within thirty days after the entry of its order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of



the record and of all papers on file in the office of the commission affecting or relating to its order, be filed by the commission with the court. The commission shall, within ten days after the filing of the notice, make, certify, and file such transcript with the court. The court shall thereupon proceed to hear and determine the appeal in a summary manner. Such hearing shall be confined to the determination of whether the order of removal, suspension, or demotion made by the commission, was or was not made in good faith for cause, and no appeal shall be taken except upon such ground or grounds. The decision of the superior court may be appealed to the Supreme Court.

SECTION 11. Whenever a position in the classified service becomes vacant, the appointing power, if it desires to fill the vacancy, shall requisition the commission for the names and addresses of persons eligible for appointment thereto. The commission shall certify the names of three persons highest on the eligible list for the class to which the vacant position has been allocated, who are willing to accept employment. In case of more than one vacancy in a particular class one additional name shall be certified for each additional vacancy. If there is no appropriate eligible list for the class, the commission shall certify the name of three persons standing highest on the list held appropriate for such class. The appointing power shall forthwith make its appointment to the vacant position from the list of persons so certified. To enable the appointing power to exercise a choice in the filling of positions, no appointment, employment, or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of six months' probationary service, as may be provided in the rules of the civil service commission, during which the appointing power may terminate the employment of the person certified to him, if during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing power deems him unfit or unsatisfactory for employment by the City of Yakima. Thereupon the appointing power shall select from the three persons certified as standing next highest on any such list and such person shall likewise enter upon said duties for the probationary period, until some person is found who is deemed fit for appointment, employment, or promotion whereupon the appointment, employment, or promotion shall be deemed complete.

SECTION 12. All offices, places, positions, and employments coming within the purview of this Article shall be filled by the appointing power; nothing herein contained shall infringe upon the authority that the City Council may have to fix the salaries and compensation of all employees employed hereunder.

SECTION 13. No treasurer, clerk or other officer, or employee of the City subject to this Article shall approve the payment of or be in any manner concerned in paying, auditing, or approving any salary, wage, or other compensation for services, to any person subject to the jurisdiction and scope of this Article, unless a payroll, estimate, or account for such salary, wage, or other compensation, containing the names of the persons to be paid, the amount to be paid, and any other information which, in the judgment of the civil service commission, should be furnished on such payroll, bears the certificate of the civil service commission, or of its chief examiner or other duly authorized agent, that the persons named therein have been appointed or employed in compliance with the terms of this Article and the rules of the commission, and that the payroll,

estimate, or account is, insofar as known to the commission, a true and accurate statement. The commission shall refuse to certify the pay of any public officer or employee whom it finds to be illegally or improperly appointed, and may further refuse to certify the pay of any public officer or employee who willfully or through culpable negligence, violates or fails to comply with this Article or with the rules of the commission.

SECTION 14. The commission shall begin and conduct all civil suits, which may be necessary for the proper enforcement of this Article and rules of the commission. The commission shall be represented in such suits by the city attorney.

SECTION 15. The right of any person to an appointment or promotion or to any position in classified service of the City shall not be withheld because of his race, color, religion, national origin, political affiliation or belief, nor shall any person be dismissed, demoted, transferred or reduced in grade for such reason.

SECTION 16. No public officer, whether elected or appointed, shall discharge, promote, demote, or in any manner change the official rank, employment, or compensation of any person under civil service or promise or threaten so to do for giving or withholding, or neglecting to make any contribution of money, or services, or any other valuable thing, for any political purpose.

SECTION 17. All officers and employees of the City shall aid in all proper ways in carrying out the provisions of this Article, and such rules and regulations as may, from time to time, be prescribed by the commission and afford the commission, its members, and employees, all reasonable facilities and assistance in the inspection of books, papers, documents, and accounts applying or in any way appertaining to any and all offices, places, positions, and employments, subject to civil service, and also shall produce such books, papers, documents, and accounts, and attend and testify, whenever required so to do by the commission or any commissioner.

SECTION 18. The City Council shall provide in the city budget for each fiscal year a sum equal to one half of one per cent of the preceding year's total payroll of those included under the scope of this Article. The funds so provided shall be used for the support of the commission. The City Council may provide additional funds for such purpose; any part of the funds so provided and not expended shall be placed in the current expense fund on the first day of January following the close of such fiscal year.

SECTION 19. This Article shall be full force and effect on and after the first Monday in June, 1959.

SECTION 20. If any SECTION, sentence, clause, or phrase of this Article should be held to be invalid or unconstitutional, the validity or constitutionality thereof shall not affect the validity or constitutionality of any other SECTION, sentence, clause, or phrase of this Article.

As adopted by vote of the people on February 11, 2020. Effective January 1 of the year immediately following the first swearing in of a duly elected Mayor following the election enacting this charter.

# EXHIBIT B

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FILED IN THE  
U. S. DISTRICT COURT  
Eastern District of Washington

SEP 27 1971

J. R. FALLQUIST, Clerk  
       Deputy

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON  
SOUTHERN DIVISION

MEXICAN-AMERICAN FEDERATION - )  
WASHINGTON STATE, a non profit )  
corporation; CAESARIO JIMENEZ, )  
SIMON RAMOS, JENNIE MARIN and )  
MARTA CANTU, on their own be- )  
halves and on behalf of all )  
others similarly situated, )

Plaintiffs )

NO. 2457

vs. )

EUGENE NAFF, Yakima County )  
Auditor; MAURINE SEEFELDT, )  
Toppenish City Clerk; and )  
CHARLES SKINNER, Zillah City )  
Clerk; on their own behalves )  
and on behalf of all others )  
similarly situated, )

Defendants )

ORDER VACATING  
JUDGMENT

and )

the STATE OF WASHINGTON, a body )  
politic, and A. LUDLOW KRAMER, )  
Secretary of State, )

Defendants )

The above-entitled cause having come on regularly  
for trial and determination of April 1, 1969, before the  
Honorable Frederick G. Hamley, the Honorable Charles L.  
Powell, and the Honorable William N. Goodwin, in the District  
Court of the United States, for the Eastern District of

Washington, Southern Division, Yakima, Washington, the plaintiffs appearing by Mr. Charles E. Ehlert; the defendant, Eugene Naff, appearing by Mr. Jon R. Harlan and Mr. Cameron Hopkins; the defendant, Maurine Seefeldt, appearing by Mr. Joseph C. Murphy; the defendant, Charles Skinner, appearing by Mr. Ted A. Roy; and the defendants, State of Washington and A. Ludlow Kramer, appearing by Mr. Donald H. Brazier; the Opinion of the Court having been filed on May 2, 1969, and having been reported as Jimenez v. Naff, 299 F.Supp. 587 (1969); a final judgment dismissing the complaint herein, having been unanimously signed July 29, 1969 and filed July 30, 1969; a Notice of Appeal to the United States Supreme Court having been filed on September 25, 1969; the cause having come on to be heard by the Supreme Court on the transcript of the record, and the judgment of the above-mentioned District Court having been vacated with costs, and the cause having been remanded on January 11, 1971, for further consideration in light of Oregon et al. v. Mitchell et al., Nos. 43, 44, 46 and 47. Originals, decided December 21, 1970, 400 U.S. 112, 91 S. Ct. 260, 27 L.Ed. 2d 272 (1970); and this Court having examined the record and being fully advised in the premises, now makes and enters the following

ORDER VACATING JUDGMENT:

IT IS ORDERED that the Judgment of this Court dismissing the complaint herein, signed July 29, 1969, filed July 30, 1969, and based on the opinion reported as Jimenez v. Naff,

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299 F.Supp. 587 (1969) be, and the same hereby is, vacated;

IT IS FURTHER ORDERED that the defendants above-named and their appointees shall hereafter comply with the requirements of Oregon et al. v. Mitchell et al., Nos. 43, 44, 46 and 47 Originals, decided December 21, 1970, 400 U.S. 112, 91 S.Ct. 260, 27 L.Ed.2d 272 (1970), as that opinion is pertinent to prohibiting the conditioning of the franchise upon a showing of literacy;

IT IS FURTHER ORDERED and DECLARED that the provisions of Amendment V of the Washington State Constitution and of RCW 29.07.070(13) requiring that voters be able to read and speak the English language are in conflict with the Voting Rights Act of 1965, Public Law 89-110, as amended by the Voting Rights Act Amendments of 1970, Public Law 91-285, and that during the existence of said Voting Rights Act, and to August 6, 1975, the said Act shall take priority over and supersede the Washington State Constitution and the statute above cited, and

IT IS FURTHER ORDERED that the defendants Eugene Naff, Maurine Seefeldt and Charles Skinner and their appointees, agents and successors in office shall register the plaintiffs to vote upon presentation of the plaintiffs' applications indicating compliance with all requirements for voting other than the ability to read and speak the English language;

IT IS FURTHER ORDERED that the defendants Eugene Naff, Maurine Seefeldt and Charles Skinner and their appointees,

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agents, and successors in office, shall hereafter register otherwise qualified applicants to vote without requiring that they demonstrate the ability to read, write, or speak the English language, or understand or interpret any matter, or that they demonstrate any educational achievement or knowledge of any particular subject, as used in Section 6 of the Voting Rights Act Amendments of 1970, Public Law 91-285, and during the period said law is in effect;

IT IS FURTHER ORDERED that the defendant, State of Washington, and the defendant Eugene Naff in his official capacity as the Yakima County Auditor, shall jointly pay the costs taxed by the Supreme Court in the amount of \$692.36, in equal portions.

DONE this 27 day of September, 1971.

*Frederick G. Hamley*  
JUDGE FREDERICK G. HAMLEY

*Charles L. Powell*  
JUDGE CHARLES L. POWELL

*William N. Goodwin*  
JUDGE WILLIAM N. GOODWIN

Entered in Civil Docket on 9/27/71  
*ome*