

2 **HB 1707** - S COMM AMD
3 By Committee on Government Operations

4 ADOPTED AS AMENDED 2/27/96

5 Strike everything after the enacting clause and insert the
6 following:

7 "**Sec. 1.** RCW 35.01.020 and 1994 c 81 s 4 are each amended to read
8 as follows:

9 A second class city is a city with a population of (~~more than~~)
10 fifteen hundred or more at the time of its organization or
11 reorganization that does not have a charter adopted under Article XI,
12 section 10, of the state Constitution, and does not operate under Title
13 35A RCW.

14 **Sec. 2.** RCW 35.01.040 and 1994 c 81 s 5 are each amended to read
15 as follows:

16 A town has a population of less than fifteen hundred (~~or less~~) at
17 the time of its organization and does not operate under Title 35A RCW.

18 **Sec. 3.** RCW 35.02.130 and 1994 c 154 s 308 are each amended to
19 read as follows:

20 The city or town officially shall become incorporated at a date
21 from one hundred eighty days to three hundred sixty days after the date
22 of the election on the question of incorporation. An interim period
23 shall exist between the time the newly elected officials have been
24 elected and qualified and this official date of incorporation. During
25 this interim period, the newly elected officials are authorized to
26 adopt ordinances and resolutions which shall become effective on or
27 after the official date of incorporation, and to enter into contracts
28 and agreements to facilitate the transition to becoming a city or town
29 and to ensure a continuation of governmental services after the
30 official date of incorporation. Periods of time that would be required
31 to elapse between the enactment and effective date of such ordinances,
32 including but not limited to times for publication or for filing
33 referendums, shall commence upon the date of such enactment as though
34 the city or town were officially incorporated.

1 During this interim period, the city or town governing body may
2 adopt rules establishing policies and procedures under the state
3 environmental policy act, chapter 43.21C RCW, and may use these rules
4 and procedures in making determinations under the state environmental
5 policy act, chapter 43.21C RCW.

6 During this interim period, the newly formed city or town and its
7 governing body shall be subject to the following as though the city or
8 town were officially incorporated: RCW 4.24.470 relating to immunity;
9 chapter 42.17 RCW relating to open government; chapter 40.14 RCW
10 relating to the preservation and disposition of public records;
11 chapters 42.20 and 42.23 RCW relating to ethics and conflicts of
12 interest; chapters 42.30 and 42.32 RCW relating to open public meetings
13 and minutes; RCW 35.22.288, (~~(35.23.310, 35.24.220)~~) 35.23.221,
14 35.27.300, 35A.12.160, as appropriate, and chapter 35A.65 RCW relating
15 to the publication of notices and ordinances; RCW 35.21.875 and
16 35A.21.230 relating to the designation of an official newspaper; RCW
17 36.16.138 relating to liability insurance; RCW 35.22.620, 35.23.352,
18 and 35A.40.210, as appropriate, and statutes referenced therein
19 relating to public contracts and bidding; and chapter 39.34 RCW
20 relating to interlocal cooperation. Tax anticipation or revenue
21 anticipation notes or warrants and other short-term obligations may be
22 issued and funds may be borrowed on the security of these instruments
23 during this interim period, as provided in chapter 39.50 RCW. Funds
24 also may be borrowed from federal, state, and other governmental
25 agencies in the same manner as if the city or town were officially
26 incorporated.

27 RCW 84.52.020 and 84.52.070 shall apply to the extent that they may
28 be applicable, and the governing body of such city or town may take
29 appropriate action by ordinance during the interim period to adopt the
30 property tax levy for its first full calendar year following the
31 interim period.

32 The governing body of the new city or town may acquire needed
33 facilities, supplies, equipment, insurance, and staff during this
34 interim period as if the city or town were in existence. An interim
35 city manager or administrator, who shall have such administrative
36 powers and duties as are delegated by the governing body, may be
37 appointed to serve only until the official date of incorporation.
38 After the official date of incorporation the governing body of such a
39 new city organized under the council manager form of government may

1 extend the appointment of such an interim manager or administrator with
2 such limited powers as the governing body determines, for up to ninety
3 days. This governing body may submit ballot propositions to the voters
4 of the city or town to authorize taxes to be collected on or after the
5 official date of incorporation, or authorize an annexation of the city
6 or town by a fire protection district or library district to be
7 effective immediately upon the effective date of the incorporation as
8 a city or town.

9 The boundaries of a newly incorporated city or town shall be deemed
10 to be established for purposes of RCW 84.09.030 on the date that the
11 results of the initial election on the question of incorporation are
12 certified or the first day of January following the date of this
13 election if the newly incorporated city or town does not impose
14 property taxes in the same year that the voters approve the
15 incorporation.

16 The newly elected officials shall take office immediately upon
17 their election and qualification with limited powers during this
18 interim period as provided in this section. They shall acquire their
19 full powers as of the official date of incorporation and shall continue
20 in office until their successors are elected and qualified at the next
21 general municipal election after the official date of incorporation:
22 PROVIDED, That if the date of the next general municipal election is
23 less than twelve months after the date of the first election of
24 councilmembers, those initially elected councilmembers shall serve
25 until their successors are elected and qualified at the next following
26 general municipal election as provided in RCW 29.04.170. For purposes
27 of this section, the general municipal election shall be the date on
28 which city and town general elections are held throughout the state of
29 Washington, pursuant to RCW 29.13.020.

30 In any newly incorporated city that has adopted the council-manager
31 form of government, the term of office of the mayor, during the interim
32 period only, shall be set by the council, and thereafter shall be as
33 provided by law.

34 The official date of incorporation shall be on a date from one
35 hundred eighty to three hundred sixty days after the date of the
36 election on the question of incorporation, as specified in a resolution
37 adopted by the governing body during this interim period. A copy of
38 the resolution shall be filed with the county legislative authority of
39 the county in which all or the major portion of the newly incorporated

1 city or town is located. If the governing body fails to adopt such a
2 resolution, the official date of incorporation shall be three hundred
3 sixty days after the date of the election on the question of
4 incorporation. The county legislative authority of the county in which
5 all or the major portion of the newly incorporated city or town is
6 located shall file a notice with the county assessor that the city or
7 town has been authorized to be incorporated immediately after the
8 favorable results of the election on the question of incorporation have
9 been certified. The county legislative authority shall file a notice
10 with the secretary of state that the city or town is incorporated as of
11 the official date of incorporation.

12 **Sec. 4.** RCW 35.02.180 and 1986 c 234 s 17 are each amended to read
13 as follows:

14 The ownership of all county roads located within the boundaries of
15 a newly incorporated city or town shall revert to the city or town and
16 become streets as of the official date of incorporation. However, any
17 special assessments attributable to these county roads shall continue
18 to exist and be collected as if the incorporation had not occurred.
19 Property within the newly incorporated city or town shall continue to
20 be subject to any indebtedness attributable to these roads and any
21 related property tax levies.

22 The territory included within the newly incorporated city or town
23 shall be removed from the road district as of the official date of
24 incorporation. The territory included within the newly incorporated
25 city or town shall be removed from a fire protection district or
26 districts or library district or districts in which it was located, as
27 of the official date of incorporation, unless the fire protection
28 district or districts have annexed the city or town during the interim
29 period as provided in RCW (~~52.04.160 through 52.04.200~~) 52.04.061
30 through 52.04.101, or the library district or districts have annexed
31 the city or town during the interim period as provided in RCW
32 (~~27.12.260 through 27.12.290~~) 27.12.360 through 27.12.395.

33 The ownership of all assets and liabilities of any park and
34 recreation district created and governed under the provisions of
35 chapter 36.69 RCW that is located wholly within a city or town
36 incorporated after August 1, 1995, shall, upon adoption of a resolution
37 by the council of the newly incorporated city or town, revert to the
38 city or town and become assets and liabilities of the city or town as

1 of the official date of incorporation. However, any special
2 assessments attributable to the park and recreation district shall
3 continue to exist and be collected as if the incorporation had not
4 occurred. Property that was within the boundaries of the park and
5 recreation district shall continue to be subject to any indebtedness
6 attributable to the park and recreation district and any related
7 property tax levies.

8 **Sec. 5.** RCW 35.22.010 and 1965 c 7 s 35.22.010 are each amended to
9 read as follows:

10 Cities of the first class shall be organized and governed according
11 to the law providing for the government of cities having a population
12 of ~~((twenty))~~ ten thousand or more inhabitants that have adopted a
13 charter in accordance with Article ~~((11))~~ XI, section 10 of the state
14 Constitution.

15 **Sec. 6.** RCW 35.23.051 and 1994 c 223 s 17 and 1994 c 81 s 36 are
16 each reenacted and amended to read as follows:

17 General municipal elections in second class cities ~~((not operating~~
18 ~~under the commission form of government))~~ shall be held biennially in
19 the odd-numbered years and shall be subject to general election law.

20 The terms of office of the mayor, city attorney, clerk, and
21 treasurer shall be four years and until their successors are elected
22 and qualified and assume office in accordance with RCW 29.04.170:
23 PROVIDED, That if the offices of city attorney, clerk, and treasurer
24 are made appointive, the city attorney, clerk, and treasurer shall not
25 be appointed for a definite term: PROVIDED FURTHER, That the term of
26 the elected treasurer shall not commence in the same biennium in which
27 the term of the mayor commences, nor in which the terms of the city
28 attorney and clerk commence if they are elected.

29 Council positions shall be numbered in each second class city so
30 that council position seven has a two-year term of office and council
31 positions one through six shall each have four-year terms of office.
32 Each councilmember shall remain in office until a successor is elected
33 and qualified and assumes office in accordance with RCW 29.04.170.

34 In its discretion the council of a second class city may divide the
35 city by ordinance into a convenient number of wards, not exceeding six,
36 fix the boundaries of the wards, and change the ward boundaries from
37 time to time and as provided in RCW 29.70.100. No change in the

1 boundaries of any ward shall be made within one hundred twenty days
2 next before the date of a general municipal election, nor within twenty
3 months after the wards have been established or altered. However, if
4 a boundary change results in one ward being represented by more
5 councilmembers than the number to which it is entitled, those having
6 the shortest unexpired terms shall be assigned by the council to wards
7 where there is a vacancy, and the councilmembers so assigned shall be
8 deemed to be residents of the wards to which they are assigned for
9 purposes of determining whether those positions are vacant.

10 Whenever such city is so divided into wards, the city council shall
11 designate by ordinance the number of councilmembers to be elected from
12 each ward, apportioning the same in proportion to the population of the
13 wards. Thereafter the councilmembers so designated shall be elected by
14 the voters resident in such ward, or by general vote of the whole city
15 as may be designated in such ordinance. Council position seven shall
16 not be associated with a ward and the person elected to that position
17 may reside anywhere in the city and voters throughout the city may vote
18 at a primary to nominate candidates for position seven, when a primary
19 is necessary, and at a general election to elect the person to council
20 position seven. ~~((When))~~ Additional territory that is added to the
21 city ~~((it may))~~ shall, by act of the council, be annexed to contiguous
22 wards without affecting the right to redistrict at the expiration of
23 twenty months after last previous division. The removal of a
24 councilmember from the ward for which he or she was elected shall
25 create a vacancy in such office.

26 Wards shall be redrawn as provided in chapter 29.70 RCW. Wards
27 shall be used as follows: (1) Only a resident of the ward may be a
28 candidate for, or hold office as, a councilmember of the ward; and (2)
29 only voters of the ward may vote at a primary to nominate candidates
30 for a councilmember of the ward. Voters of the entire city may vote at
31 the general election to elect a councilmember of a ward, unless the
32 city had prior to January 1, 1994, limited the voting in the general
33 election for any or all council positions to only voters residing
34 within the ward associated with the council positions. If a city had
35 so limited the voting in the general election to only voters residing
36 within the ward, then the city shall be authorized to continue to do
37 so. The elections for the remaining council position or council
38 positions that are not associated with a ward shall be conducted as if
39 the wards did not exist.

1 **Sec. 7.** RCW 35.23.101 and 1994 c 223 s 19 and 1994 c 81 s 38 are
2 each reenacted and amended to read as follows:

3 The council of a second class city may declare a council position
4 vacant if the councilmember is absent for three consecutive regular
5 meetings without permission of the council. In addition, a vacancy in
6 an elective office shall occur and shall be filled as provided in
7 chapter 42.12 RCW.

8 Vacancies in offices other than that of mayor or city councilmember
9 shall be filled by appointment of the mayor.

10 If there is a temporary vacancy in an appointive office due to
11 illness, absence from the city, or other temporary inability to act,
12 the mayor may appoint a temporary appointee to exercise the duties of
13 the office until the temporary disability of the incumbent is removed.

14 **Sec. 8.** RCW 35.33.020 and 1985 c 175 s 4 are each amended to read
15 as follows:

16 The provisions of this chapter apply to all cities of the first
17 class (~~((which))~~) that have a population of less than three hundred
18 thousand, to all cities of the second (~~((and third classes))~~) class, and
19 to all towns, except those cities and towns (~~((which))~~) that have adopted
20 an ordinance under RCW 35.34.040 providing for a biennial budget.

21 **Sec. 9.** RCW 35.34.020 and 1985 c 175 s 5 are each amended to read
22 as follows:

23 This chapter applies to all cities of the first(~~((7))~~) and second(~~((7
24 ~~and third~~))~~) classes and to all towns (~~((which))~~), that have by ordinance
25 adopted this chapter authorizing the adoption of a fiscal biennium
26 budget.

27 **Sec. 10.** RCW 35.86.010 and 1975 1st ex.s. c 221 s 1 are each
28 amended to read as follows:

29 Cities of the first(~~((7))~~) and second(~~((7
30 ~~and third~~))~~) classes are authorized to provide off-street parking space and facilities located
31 on land dedicated for park or civic center purposes, or on other
32 municipally-owned land where the primary purpose of such off-street
33 parking facility is to provide parking for persons who use such park or
34 civic center facilities. In addition a city may own other off-street
35 parking facilities and operate them in accordance with RCW 35.86A.120.

1 **Sec. 11.** RCW 35A.06.020 and 1995 c 134 s 11 are each amended to
2 read as follows:

3 The classifications of municipalities (~~((which existed prior to the~~
4 ~~time this title goes into effect~~)) as first class cities, second class
5 cities, unclassified cities, and towns(~~((~~)), and the restrictions,
6 limitations, duties, and obligations specifically imposed by law upon
7 such classes of cities and towns, shall have no application to
8 noncharter code cities, but every noncharter code city, by adopting
9 such classification, has elected to be governed by the provisions of
10 this title, with the powers granted hereby. However, any code city
11 that retains its old plan of government is subject to the laws
12 applicable to that old plan of government until the city abandons its
13 old plan of government and reorganizes and adopts a plan of government
14 under chapter 35A.12 or 35A.13 RCW.

15 **Sec. 12.** RCW 35A.12.010 and 1994 c 223 s 30 are each amended to
16 read as follows:

17 The government of any noncharter code city or charter code city
18 electing to adopt the mayor-council plan of government authorized by
19 this chapter shall be vested in an elected mayor and an elected
20 council. The council of a noncharter code city having less than
21 twenty-five hundred inhabitants shall consist of five members; when
22 there are twenty-five hundred or more inhabitants, the council shall
23 consist of seven members(~~((:—PROVIDED, That))~~). A city with a
24 population of over two thousand but less than twenty-five hundred at
25 the time of reclassification as an optional municipal code city may
26 choose to maintain a seven-member council. The decision concerning the
27 number of councilmembers shall be made by the council and be
28 incorporated as a section of the ordinance adopting for the city the
29 classification of noncharter code city. If the population of a city
30 after having become a code city decreases from twenty-five hundred or
31 more to less than twenty-five hundred, it shall continue to have a
32 seven member council. If, after a city has become a mayor-council code
33 city, its population increases to twenty-five hundred or more
34 inhabitants, the number of councilmanic offices in such city may
35 increase from five to seven members upon the affirmative vote of a
36 majority of the existing council to increase the number of councilmanic
37 offices in the city. When the population of a mayor-council code city
38 having five councilmanic offices increases to five thousand or more

1 inhabitants, the number of councilmanic offices in the city shall
2 increase from five to seven members. In the event of an increase in
3 the number of councilmanic offices, the city council shall, by majority
4 vote, pursuant to RCW 35A.12.050, appoint two persons to serve in these
5 offices until the next municipal general election, at which election
6 one person shall be elected for a two-year term and one person shall be
7 elected for a four-year term. The number of inhabitants shall be
8 determined by the most recent official state or federal census or
9 determination by the state office of financial management. A charter
10 adopted under the provisions of this title, incorporating the mayor-
11 council plan of government set forth in this chapter, may provide for
12 an uneven number of councilmembers not exceeding eleven.

13 A noncharter code city of less than five thousand inhabitants which
14 has elected the mayor-council plan of government and which has seven
15 councilmanic offices may establish a five-member council in accordance
16 with the following procedure. At least six months prior to a municipal
17 general election, the city council shall adopt an ordinance providing
18 for reduction in the number of councilmanic offices to five. The
19 ordinance shall specify which two councilmanic offices, the terms of
20 which expire at the next general election, are to be terminated. The
21 ordinance shall provide for the renumbering of council positions and
22 shall also provide for a two-year extension of the term of office of a
23 retained councilmanic office, if necessary, in order to comply with RCW
24 35A.12.040.

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

28 NEW SECTION. **Sec. 13.** RCW 35.21.620 shall be recodified as a
29 section in chapter 35.22 RCW.

30 NEW SECTION. **Sec. 14.** The following acts or parts of acts are
31 each repealed:

32 (1) RCW 35.21.600 and 1979 c 151 s 27, 1965 ex.s. c 47 s 6, & 1965
33 c 7 s 35.21.600;

34 (2) RCW 35.21.610 and 1965 ex.s. c 47 s 1; and

35 (3) RCW 35A.61.010 and 1967 ex.s. c 119 s 35A.61.010."

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2 By Committee on Government Operations

3 ADOPTED AS AMENDED 2/27/96

4 On page 1, line 1 of the title, after "towns;" strike the remainder
5 of the title and insert "amending RCW 35.01.020, 35.01.040, 35.02.130,
6 35.02.180, 35.22.010, 35.33.020, 35.34.020, 35.86.010, 35A.06.020, and
7 35A.12.010; reenacting and amending RCW 35.23.051 and 35.23.101; adding
8 a new section to chapter 35.22 RCW; recodifying RCW 35.21.620; and
9 repealing RCW 35.21.600, 35.21.610, and 35A.61.010."

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