

ORDINANCE NO. 2021-01-12

AN ORDINANCE OF THE CITY OF KEMPNER, TEXAS, ADOPTING THE CITY MANAGER FORM OF GOVERNMENT PURSUANT TO CHAPTER 25 OF THE TEXAS LOCAL GOVERNMENT CODE; DESIGNATING THE DUTIES, AUTHORITIES AND RESPONSIBILITIES OF THE CITY MANAGER AND MAYOR, AND PROVIDING FOR RELATED MATTERS.

WHEREAS, on or about January 29, 2020, the City of Kempner (the "City") city secretary received a petition in compliance with section 25.022 of the Texas Local Government Code ("LGC") requesting the mayor to call a special election to determine whether the City shall adopt the city manager form of government;

WHEREAS, after a petition is filed in accordance with LGC section 25.022, LGC section 25.025 mandates an election to consider the adoption of the city manager form of government to be held on the first authorized uniform election date prescribed by the Election Code that occurs after the date the petition is filed under LGC section 25.022 and that affords enough time to hold the election in the manner required by law;

WHEREAS, because of the unprecedented COVID-19 pandemic, the City postponed its May 2020 uniform election until the November 3, 2020 uniform election;

WHEREAS, each qualified voter in the City is entitled to vote in the election to consider the adoption of the city manager form of government;

WHEREAS, the ballots at the November 3, 2020 special election to consider the adoption of the city manager form of government were printed to provide for voting for or against the following proposition: "The governing body of the municipality of Kempner appointing a city manager and setting by ordinance the salary of the manager";

WHEREAS, at the November 3, 2020 Special Election to consider the adoption of the city manager form of government in the City, 262 votes were cast "FOR" and 166 votes were cast "AGAINST";

WHEREAS, a municipality holding an election under LGC Chapter 25 shall operate under the city manager form of government if a majority of the votes cast at the election are for its adoption;

WHEREAS, upon the adoption of the city manager form of government, the governing

body of the City, in compliance with LGC section 25.026, shall appoint a city manager within sixty (60) days after the election day and by ordinance shall set the manager's salary;

WHEREAS, the City Council has the authority to create offices, establish the duties of offices, combine the duties of offices, set salaries, and take other actions as it deems appropriate for the administration and governance of the City; and

WHEREAS, the chief administrative officer of the City shall be the City Manager, and the criteria for the appointment, removal, compensation, duties and qualifications of the City Manager position shall be as set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KEMPNER, TEXAS, THAT:

Section 1. City Manager Form of Government Adopted. The position and office of City Manager is hereby created and the criteria for appointment, removal, compensation, and the authorities, powers, duties, and responsibility of the office of City Manager shall be as hereinafter set forth.

Section 2. Appointment and Term of Office. The City Manager shall be appointed by a majority vote of the City Council and shall serve at the pleasure of the City Council. The City Manager can be terminated by a majority vote of the City Council, consistent with local laws, ordinances, or any employment agreement(s) they may have with the City Council. The City Council shall appoint the City Manager solely on the basis of the person's administrative ability. The City Manager is not required to meet any residency qualifications. The City Manager shall be employed as a full-time, salaried employee.

Section 3. Compensation. The City Manager shall receive such compensation and benefits as may be established from time to time by the City Council. Any person appointed as City Manager by a majority vote of the City Council shall serve an initial ninety (90) day probationary period. The annual salary for the City Manager position during the probationary period shall be \$30,000.00 and shall increase to \$45,000.00 annually should the City Manager continue to be employed after the initial probationary period.

Section 4. Authority, Duties and Responsibilities. The City Manager shall be the chief administrative officer of the City and shall be responsible to the City Council for the proper administration of all affairs of the City. The City Council, by ordinance, may delegate to the City Manager any additional powers or duties the governing body considers proper for the efficient administration of municipal affairs. The authority, duties and responsibilities of the position of City Manager are more specifically detailed in the document attached hereto as Exhibit "A", said

document is incorporated herein for all purposes and entitled "Adoption of City Manager Form of Government, City of Kempner, Texas."

Section 5. Conflict of Duties, Office of Mayor. The Mayor, City Council and City Manager constitute a policy-development and management team. To the fullest extent not in conflict with State law, this Ordinance, or the express actions and directions by a majority vote of the City Council, the City Manager shall have the responsibility for and authority incident thereto, the day-to-day supervision and management of the City and the salaried officers, directors, employees, and personnel of the City.

The Mayor shall serve as a key political leader and policy developer. In the case of the City Council, the Mayor is responsible for soliciting citizen views in forming these policies and interpreting them to the public. The Mayor shall have no administrative duties. The Mayor's duties include, but are not limited to, the following:

1. Presiding at City Council meetings and facilitating communication among City Council members;
2. Serving as a spokesperson for the community, facilitating communication and understanding between elected and appointed officials;
3. Assisting the City Council in setting goals and advocating policy decisions;
4. Serving as a promoter and defender of the community;
5. Presenting an annual state of the City address and serve as a spokesperson for the City;
6. Recommending to the City Council appointments of members and officers to City Council committees;
7. Serving as a key representative in intergovernmental relations; and
8. Being recognized as the head of City government for ceremonial purposes and by the Governor for purposes of military law;

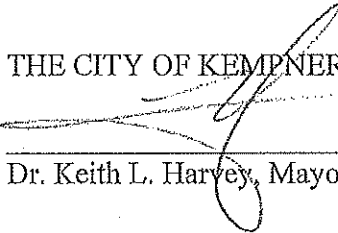
Section 6. Severability. If any provision, section subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity of the remaining portions of this Ordinance and no portion or provision hereof shall become inoperative or fail by reason of any invalidity or unconstitutionality of any other portion or provision, and to this end all provisions of this Ordinance are declared to be severable.

Section 7. Conflicting Ordinances. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed on the effective date of this Ordinance.

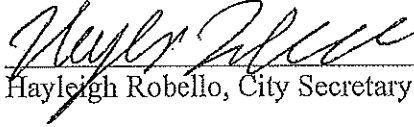
Section 8. Effective Date. This Ordinance shall take effect immediately from and after its passage.

Section 9. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code.*

PASSED AND APPROVED this the 12th day of JANUARY, 2021.

THE CITY OF KEMPNER, TEXAS


Dr. Keith L. Harvey, Mayor

ATTEST:


Hayleigh Robello, City Secretary

"EXHIBIT A"

ADOPTION OF CITY MANAGER FORM OF GOVERNMENT
CITY OF KEMPNER, TEXAS

AUTHORITY, DUTIES AND RESPONSIBILITIES OF CITY MANAGER. The office of City Manager of the City of Kempner, Texas, is hereby established. The person that serves in this office shall be referred to as the City Manager. To that end, the City Manager shall have the following authority, duties, and responsibilities:

- (A) The City Manager shall direct, coordinate, and provide oversight over all departments of the City, and, in the event of a conflict between any matter of direction and oversight by the City Manager and the supervision undertaken by the Mayor, the matter shall be referred to the City Council for action.
- (B) The City Manager shall perform administrative and management functions including, but not limited to, the following:
 - (1) Ensure that all applicable laws and ordinances are enforced;
 - (2) Supervise and inspect the conduct of all subordinate officers, directors and employees of the City;
 - (3) Cause all negligence, carelessness, and violations of duty by the employees, directors and officers to be given appropriate consideration; and
 - (4) Communicate and make recommendations to the City Council for the administration and management of the City.
- (C) The City Manager shall serve as the City Council's chief advisor, attend all meetings of the City Council for which he or she is not excused, with the right to participate in the discussion but have no vote. The City Manager shall inform the City Council in an objective and complete manner, provide the pros and cons on an issue or project and describe the long-term consequences of a proposed City Council action. The City Manager may attend closed meetings of City Council as required upon Council's specific authorization.
- (D) In consultation with the City Secretary, City Treasurer and the Mayor as Chief Budget Officer of the City, prepare, review, and submit to the City Council prior to the beginning of

each fiscal year a budget for proposed expenditures for the ensuing year together with a message describing the important features of said budget. The City Staff, City Secretary, City Treasurer and City Department Heads shall render such assistance as the City Manager may find reasonably necessary in the preparation and submission of said budget. The City Manager shall further, as directed by the City Council, assist the City Council with respect to its consideration of said budget. The City Manager shall further assure the proper administration of the budget after its adoption by the City Council.

- (E) The City Manager shall prepare and submit to the City Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year. The City Manager shall order an independent annual audit of City Finances and shall coordinate and support requests from auditors in their preparation.
- (F) The City Manager shall keep the City Council advised of the financial condition and future needs of the City and provide such information and service as may be deemed reasonably necessary. The City Manager shall further advise and assist the City Council to ensure the accomplishment of the annual audit of the City.
- (G) The City Manager shall provide oversight of the purchase of all materials, supplies, and equipment for which funds are provided in the budget; oversee and/or perform purchasing of budgeted materials and supplies necessary for operation or maintenance of the City services. The City Manager may authorize City Department Directors to perform the actual purchases as deemed necessary, consistent with administrative guidelines and procedures defined. No purchase shall be made, or obligation incurred for any item or service which exceeds the current departmental budget appropriation without approval by the Council. No contract shall be let except by City Council. The City Manager shall advise the City Council on the advantages or disadvantages of contract and bid proposals. The City Manager may issue written rules governing procedures for purchasing consistent with this section and with applicable State law. A contract for personal or professional services requiring an expenditure of \$2,500.00 or less may be authorized by the city manager without further City Council action. A contract for personal or professional services requiring an expenditure exceeding \$2,500.00 must be authorized by the City Council. The City Manager or designee shall make all purchases for the City of all personal property necessary for the functions of the City.
- (H) The City Manager shall perform periodic and regular technical and administrative status reviews of City Department projects, operations, and financials. Department directors shall support City Manager as required for an effective review.
- (I) The City Manager shall perform periodic and regular performance reviews of immediate

staff personnel and department directors, providing recommending performance evaluation and rating for Council consideration and approval. The City Manager shall recommend salary levels and adjustments to Council as deemed appropriate as part of personnel evaluations.

- (J) The City Manager shall prepare job descriptions for approval by the City Council; delegate duties to the officers, directors, and employees of the City; appoint persons to fill the budgeted positions provided that such appointments or disciplinary actions shall, with respect to Department Directors, City Secretary and City Treasurer be with the City Council's concurrence. The City Manager shall ensure personnel procedures and policies are in place and followed by department directors and staff.
- (K) The City Manager shall provide oversight and serve as the primary day-to-day interface with contractors having contracts with the City, to ensure contract commitments for products and services are delivered and in compliance. The City Manager may assign such responsibility to City departments as appropriate and required.
- (L) The City Manager shall serve as the chief personnel officer of the City, with authority to recommend personnel disciplinary action processing related to employee misconduct to Department Directors and City Council. The City Manager shall administer drug and substance abuse testing policy and program of the City, as applicable; and, as he or she may determine advisable from time to time, make recommendations to the City Council on any and all personnel, performance, administration, management, financial, and general governance issues.
- (M) In the event of accident, disaster, or other circumstances creating a public emergency, the City Manager shall provide the Mayor such assistance as may be necessary and may award contracts and make purchases for the purpose of meeting said emergency; but shall file within seventy-two (72) hours with the City Council a certificate describing any such emergency and showing the necessity for such emergency purchases, together with an itemized account of all such expenditures.
- (N) The City Manager shall have such further authority, duties, and responsibilities as may be reasonably implied from the terms of this Ordinance and as heretofore or hereafter provided by the City Council.
- (O) The City Manager shall be bonded in an amount determined from time to time by the City Council which bond shall be conditioned upon the good and faithful performance of the duties, responsibilities, and performances of the office and position of City Manager, premium of which shall be paid by the City.