

ORDINANCE NO. 826

AN ORDINANCE DEFINING “ANNUAL OPERATING BUDGET” AND “RESERVE FUND” AS SAID TERMS ARE FOUND IN SEC. 8.12 OF THE CITY CHARTER; PROVIDING OTHER DEFINITIONS; PROVIDING TRANSFER OF FUND BALANCES; REPEALING SECTION 2, SUBPARAGRAPH (F), SUBSECTION (9) OF ORDINANCE NO. 648 CODIFIED AS ARTICLE VII (DEBT ISSUANCE AND MANAGEMENT POLICY) OF CHAPTER 2 (ADMINISTRATION) OF THE CODE OF ORDINANCES; ESTABLISHING THAT THIS ORDINANCE SHALL GOVERN OVER PREVIOUSLY ADOPTED ORDINANCES AND RESOLUTIONS IN CONFLICT WITH SAID ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR PUBLICATION; PROVIDING FOR PUBLIC NOTICE PURSUANT TO THE TEXAS OPEN MEETINGS ACT; PROVIDING FOR AN EFFECTIVE DATE; AND MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED HERETO.

WHEREAS, Local Gov't Code Secs. 101.021 and 101.022 grant a home-rule municipality the discretion and authority to control and manage its own finances and prescribe other fiscal arrangements; and,

WHEREAS, Sec. 4.03 of the city's charter, not being in conflict with the previous sections of the Local Gov't Code, states that the city council shall have control of all city finances subject only to the terms and provisions of the charter; and,

WHEREAS, Sec. 1.04 of the charter cites that the city shall possess and may exercise the full power of local self-government and shall have all powers possible and lawful for a home rule city to have under the constitution and laws of the State of Texas, as fully and completely as though each such power were specifically enumerated in the charter, except the city shall not have any authority or power that conflicts with state law; and,

WHEREAS, the city council has the power and authority vested by the charter at Sec. 1.02 to enact legislation, adopt budgets and determine policies; and,

WHEREAS, the charter does not define the terms “annual operating budget” or “reserve fund” as those terms are used in Sec. 8.12 of the charter; and,

WHEREAS, because the city council as the governing body of the city possesses and may exercise the powers and authority identified hereinabove regarding the city's financial and fiscal arrangements, the city council may define the terms “annual operating budget” and “reserve fund” and other terms and repeal certain sections of Article VII (Debt Issuance and Management Policy) of Chapter 2 of the Code of Ordinances; and,

WHEREAS, by the actions of defining the terms, “annual operating budget” of the city and “reserve fund” and other terms or repealing certain provisions of ordinances, it is not the intention of the city council to alter, modify, change, redefine, bias, or otherwise adjust any word, part, phrase,

paragraph or sentence of Sec. 8.12 (Reserve Fund) of the charter; and,

WHEREAS, as granted by Sec. 1.04 of the city's charter, it is the intention of the city council to diligently and in due course of law exercise its control, authority, responsibility and duty in the matter of the finances and fiscal arrangements of the city in a manner that is useful or desirable to accomplish any public or lawful purpose, or to provide for the advancement of the interest, welfare, health, morals, comfort, safety, economic well being, or convenience of the city and its inhabitants, and that is consistent with the city's charter and state law; and,

WHEREAS, this ordinance shall be read and interpreted to be consistent with all provisions of the charter and state law;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS, that:

Section 1. Findings. The above foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

Section 2. Definition of Annual Operating Budget. Based upon case law, statutory law, local laws, and industry-standard best practices, the city council defines the term "annual operating budget" as that part of the city's annual budget that pertains to operations of the city and consists of the fund balances of its general fund, utility fund, and all other funds or accounts included in the city's annual budget and, in accordance with state law, all estimated revenues available to cover the city's annual proposed budget and the estimated tax rate required to cover said proposed budget.

Section 3. Definition of Fund Balance. For purposes of this ordinance, "fund balance" means the unexpended and unencumbered monies left over in any fund from previous years and available for appropriation.

Section 4. Definition of Reserve Fund. The term "reserve fund" referenced in Sec. 8.12 of the charter shall mean at least twenty-five percent (25%) of the annual operating budget as defined herein and further, if any line item incorporated in the city's annual budget has a fund balance, that item's fund balance shall be included in determining the actual amount necessary to meet the reserve fund requirement of Sec. 8.12 of the charter, regardless of whether or not such amounts are otherwise designated or set aside as reserve funds or accounts. The amount necessary to meet the reserve fund required under Sec. 8.12 need not be set aside in one particular fund or account but may be kept in separate funds or accounts, so long as said funds and accounts are accessible to meet an emergency as required by Sec. 8.12. Not less than twenty-five percent (25%) of the fund balances or accounts included herein, including said line items included in the annual budget, shall be expended only for an emergency.

Section 5. Transfer of Fund Balances. For the purpose of complying with the percentage or emergency requirements of Sec. 8.12 of the charter, the city council may transfer by majority vote any fund balance or portion thereof from one fund or account to another.

Section 6. Repealed. Ordinance No. 648, Section 2, Subparagraph (f), subsection (9) is hereby REPEALED.

Section 7. Conflicting Ordinances. All ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the City, the terms and provisions of this ordinance shall govern.

Section 8. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is declared unconstitutional or invalid for any purpose by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby and to this end the provisions of this ordinance are declared to be severable.

Section 9. Codification. It is the intention of the City Council that this ordinance shall become a part of the Code of Ordinances of the City of Kyle, and it may be renumbered and codified therein accordingly. Upon codification, at least four sections shall be reserved for future use.

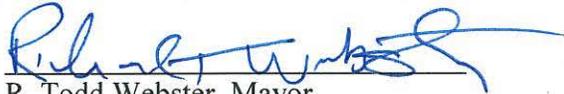
Section 10. Publication. The City Secretary is directed to publish this ordinance in a newspaper of general circulation in the City of Kyle in compliance with the provisions of the City Charter.

Section 11. Open Meetings. It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Tex. Gov't Code, and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon unless otherwise allowed by law to be closed.

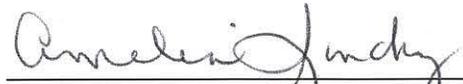
Section 12. Effective Date. This Ordinance shall take effect from and after its final passage and publication as required by law.

PASSED and APPROVED on First Reading the 2nd day of September, 2014.

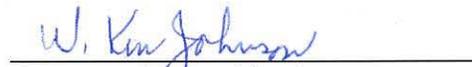
PASSED AND ADOPTED on Second Reading the 16th day of September, 2014.


R. Todd Webster, Mayor

ATTEST:


Amelia Sanchez, City Secretary

APPROVED AS TO FORM:


W. Ken Johnson, City Attorney