

ORDINANCE NO. 2008-11

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PERRY, OKLAHOMA, AUTHORIZING THE CALLING AND HOLDING OF A SPECIAL MUNICIPAL ELECTION IN THE CITY OF PERRY, NOBLE COUNTY, STATE OF OKLAHOMA, TO BE HELD ON NOVEMBER 4, 2008, FOR THE PURPOSE OF SUBMITTING TO THE REGISTERED, QUALIFIED VOTERS OF SAID CITY THE PROPOSITION WHETHER ARTICLE III, SECTION 4, SUBSECTION 1B OF THE PERRY CITY CHARTER SHOULD BE AMENDED TO PROVIDE THAT PART-TIME EMPLOYEES, TEMPORARY EMPLOYEES, SEASONAL EMPLOYEES AND EMPLOYEES ON PROBATION SHALL NOT BE SUBJECT TO A MERIT AND FITNESS STANDARD FOR THEIR CONTINUED EMPLOYMENT BUT SUBJECT TO REMOVAL FOR THE GOOD OF THE SERVICE; PROVIDING THAT SUCH AMENDMENT, IF APPROVED, SHALL BE RETROACTIVE TO THE ORIGINAL EFFECTIVE DATE OF THE PERRY CITY CHARTER; PROVIDING FOR EFFECTIVE DATE; PROVIDING FOR SAVINGS; SEVERABILITY; REPEALER; CODIFICATION; AND DECLARING AN EMERGENCY.

EMERGENCY ORDINANCE

WHEREAS, Article III, Section 4, Subsection 1B of the Perry City Charter provides that removals of employees from employment shall be made solely upon the basis of "merit and fitness"; and

WHEREAS, the term "merit and fitness" has been interpreted by courts to mean "for cause", thereby creating a property right in continued employment; and

WHEREAS, while this standard for continued employment may be appropriate for full-time employees who has successfully completed their probation, it is not appropriate for part-time, temporary, seasonal or employees on probation; and

WHEREAS, it is recommended that the standard for part-time, temporary, seasonal or employees on probation, should be for the "good of the service", which standard creates an "at-will" employment status, which status is appropriate for employees whose tenure with the City is short in duration; and

WHEREAS, it is also deemed appropriate to make this amendment retroactive to the original effective date of the Perry City Charter.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PERRY, OKLAHOMA:

Section I: AUTHORITY. That pursuant to Sections 13-111 and 16-112 of Title 11, Oklahoma Statutes, and pursuant to the request of the governing body, Chuck Hall, the Mayor of the City of Perry, Oklahoma, is hereby authorized and directed to call a special municipal election to be held in the City of Perry on the 4th day of November 2008, for the purpose of submitting to the registered, qualified voters thereof, the following Proposition:

PROPOSITION 1

"Shall Article III, Section 4, Subsection 1B of the Perry City Charter be amended to read as follows:

Section 4. Special Powers and Duties of the City Manager.

1. Being at all times directly responsible to the Council for the proper administration of the City Government, the City Manager shall have the following powers and duties:

B. To appoint and remove all directors or heads of departments and all subordinate officers and employees in such departments. Such appointments and removals shall be made solely upon the basis of merit and fitness, including training, education and experience in the work to be performed, and without regard to age, gender, race, color, creed, national origin, or disability (provided he is qualified and meets the requirements applicable to his employment); provided however, the standard for removal of part-time, temporary, seasonal employees or employees on probation shall not be upon the basis of merit and fitness, but shall be based upon the good of the service, creating employment "at will", and shall be effective from and after the approval of this amendment by majority vote of the electorate. This amendment will not apply to any full-time employees, who have completed their probation period.

Section II. EFFECTIVE DATE. This charter amendment shall become effective if approved by a majority of voters at the November 4, 2008, special municipal election.

Section III. SAVINGS CLAUSE. Nothing in this ordinance hereby adopted shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired or liability incurred nor any cause or causes of action accrued or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired or affected by this ordinance.

Section IV. SEVERABILITY. If any one or more of the sections, sentences, clauses or parts of this ordinance, chapter or section shall for any reason be held invalid, the invalidity of such section, clause or part shall not affect or prejudice in any way the applicability and validity of any other provision of this ordinance. It is hereby declared to be the intention of the Mayor and City Council of the City of Perry that this section of the Perry Municipal Code would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

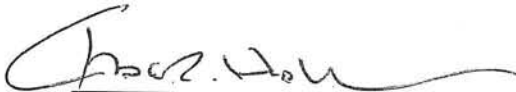
Section V. REPEALER. All charter provisions, ordinances or parts thereof which are inconsistent with this ordinance are hereby repealed.

Section VI. CODIFICATION. This ordinance shall be codified as shown in Article III, Section 4, Subsection 1B of the Perry City Charter.

Section VII. EMERGENCY. In order to protect the health, safety and welfare of the general public of the City of Perry, Oklahoma, and in order to submit this proposed amendment to the City Charter to the voters for their consideration and approval or rejection, an emergency is hereby declared; therefore, this ordinance shall become effective from and after its passage, approval and publication.

Approved and executed this 2nd day of Sept 2008.

THE CITY OF PERRY, OKLAHOMA



Chuck Hall, Mayor
(Seal)

ATTEST:



Kyla Golay, City Clerk

Approved as to Form:


Jim Davis, Interim City Manager

