

1 (Published in the Topeka Metro News August 20, 2003 and
2 August 27, 2003).

3
4 CHARTER ORDINANCE NO. 91
5

6 A CHARTER ORDINANCE, introduced by Councilmember Jeff Preisner, exempting the
7 City from the provisions of K.S.A. 41-712 and providing
8 substitute and additional provisions on the same subject in
9 accordance with the provisions of Article 12, Section 5 of the
10 Constitution of the State of Kansas.

11 WHEREAS, pursuant to Article 12, Section 5 of the Kansas Constitution,
12 hereinafter referred to as the "Constitution," cities of the State of Kansas, hereinafter
13 referred to as the "State," may by charter ordinance elect, in the manner prescribed in
14 the Constitution, that the whole or any part of any enactment of the State legislature
15 applying to such city, other than enactments of statewide concern applicable uniformly
16 to all cities; other enactments applicable uniformly to all cities; and enactments
17 prescribing limits of indebtedness, shall not apply to such city; and

18 WHEREAS, pursuant to the Constitution, no charter ordinance shall take effect
19 until sixty (60) days after its final publication; provided, however, if within sixty (60) days
20 of its final publication a petition signed by a number of electors of the city equal to not
21 less than ten percent (10%) of the number of electors who voted at the last preceding
22 regular city election shall be filed in the office of the clerk of such city demanding that
23 such ordinance be submitted to a vote of the electors, such charter ordinance shall not
24 take effect until submitted to a referendum and approved by a majority of the electors
25 voting thereon; and

26 WHEREAS, K.S.A. 41-712, hereinafter referred to as the "Act," is an enactment
27 of the State legislature which is applicable to the City of Topeka, Kansas, hereinafter
28 referred to as the "City," but not uniformly applicable to all cities of the same class; and

29 WHEREAS, the Act is not an enactment of the legislature of statewide concern
30 applicable uniformly to all cities; to other enactments of the legislature applicable
31 uniformly to all cities; to enactments of the legislature applicable uniformly to all cities of

the same class limiting or prohibiting the levying of any tax, excise, fee, charge, or other exaction; or to enactments of the legislature prescribing limits of indebtedness; and

WHEREAS, the governing body of the City now wishes to exempt itself from the Act and provided certain substitute and additional provisions to the Act, which, in accordance with the provisions of the Constitution, may be accomplished only upon either the adoption of a charter ordinance of the City or by an enactment of the state legislature applicable to all cities of the State.

NOW THEREFORE, BE IT ORDERED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS, THAT:

Section 1. The Governing Body of the City of Topeka, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas hereby elects to and does exempt itself and make inapplicable to it K.S.A. 41-712, which applies to this city but is part of an enactment commonly known as the Kansas Liquor Control Act, as enacted in Chapter 242 of the Session Laws of 1949, which enactment applies to this city but does not apply uniformly to all cities.

Section 2. The following is hereby substituted for the provisions of K.S.A. 41-712, as amended:

Sales of alcohol liquor; days and hours of sale. The Governing Body shall provide by ordinary ordinance for the permitted days and hours for the retail sale of alcoholic liquor.

Section 3. This Charter Ordinance shall be published once each week for two (2) consecutive weeks in the official City newspaper.

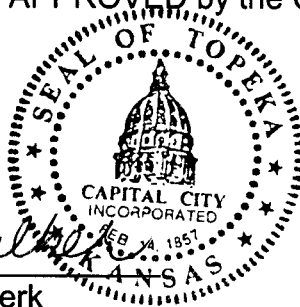
Section 4. This Charter Ordinance shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on this Charter Ordinance as provided in Article 12, Section 5, Subdivision (c)(3), of the Kansas Constitution, in which case this Charter Ordinance shall become effective if approved by a majority of the electors voting therein.

59 Section 5. Upon the effective date of this Charter Ordinance, this Charter
60 Ordinance shall be recorded by the City Clerk in a book maintained for such purposes
61 with a statement of the manner of adoption and a certified copy shall be filed with the
62 Secretary of State of the State of Kansas.

63 PASSED AND APPROVED by the Council of the City of Topeka Aug. 12, 2003

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67 ATTEST:

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70 Iris E. Walker
71 Iris E. Walker, City Clerk
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CITY OF TOPEKA, KANSAS

Harry Felker
Harry Felker, Mayor

| | |
|----------------------------------|----------------|
| APPROVED AS TO FORM AND LEGALITY | |
| DATE <u>8/7/03</u> | BY <u>133C</u> |
| TO BE CODIFIED | <u>X</u> |
| NOT TO BE CODIFIED | |

72 **STATEMENT OF MANNER OF ADOPTION OF FOREGOING**

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74 The foregoing Charter Ordinance No. 91 was passed on the 12th day of
75 August, 2003, as shown by the minutes, Book 2003 Page 306, by a vote of
76 6 for and 3 against, being not less than two-thirds (2/3) of the members-elect
77 of the governing body, published in the Topeka Metro News, the official city newspaper,
78 on the 20th day of August, 2003, and on the 27th day of August, 2003,
79 being once each week for two (2) consecutive weeks, and there being no petition
80 demanding a referendum filed with the City Clerk within sixty (60) days after the final
81 publication, said Charter Ordinance took effect on the 27th day of October, 2003.

82 Iris E. Walker
83 Iris E. Walker, City Clerk

84
85 CERTIFICATE

86 CITY OF TOPEKA)
87 COUNTY OF SHAWNEE) ss:
88 STATE OF KANSAS)
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90 I, Iris E. Walker, City Clerk of the City of Topeka, County of Shawnee, State of
91 Kansas, do hereby certify that the above and foregoing, consisting of four (4)
92 typewritten pages, including the page upon which this Certificate is written, is a full true
93 and correct copy of Charter Ordinance No. _____ of the said City of Topeka, that all
94 acts and things required by Article 12, Section 5 of the Constitution of the State of
95 Kansas were done and performed in the manner and within the time prescribed and that
96 said Ordinance became effective on the _____ day of _____, 2003.
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Iris E. Walker, City Clerk