

1 (Published in the Topeka Metro News February 15, 2016 and February 22, 2016)

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3 **CHARTER ORDINANCE NO. 117**

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5 A CHARTER ORDINANCE introduced by City Manager Jim Colson, amending Charter
6 Ordinances codified at TMC Sections A2-1, A2-22 A2-26,
7 A2-29, and A2-30, creating new Section A2-21.5, and
8 repealing in its entirety Section A2-25.5, all concerning the
9 form of government.

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11 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS,
12 THAT:

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14 Section 1. Charter Ordinance 102, § 1 codified at TMC § A2-1, Statutes made
15 inapplicable, is hereby amended to read as follows:

16 **Statutes made inapplicable.**

17 The City of Topeka, Kansas, by the power vested in it by article 12, section 5, of
18 the Constitution of the State of Kansas, hereby elects to exempt itself from and make
19 inapplicable to it the provisions of K.S.A. ~~12-3002, 12-3003, 13-103, 13-502, 13-506~~
20 through 13-516, 13-518, 13-527, 13-907, 13-1011, 13-1013, 13-1410, ~~25-2107, 25-~~
21 ~~2108a, 25-2110, 25-2110a, and 25-2117,~~ and provide substitute and additional
22 provisions as hereinafter set forth in this Charter Ordinance. Such referenced provisions
23 are either enactments or a part thereof which are applicable to this city but are not
24 applicable uniformly to all cities.

25 Section 2. The Code of the City of Topeka, Kansas, are hereby amended by
26 adding a section, to be numbered A2-21.5, which said section reads as follows:

27 **Eligibility for Office**

28 Effective January 1, 2017, any person desiring to become a candidate for Mayor
29 or Councilmember shall comply with the filing deadlines and process established in
30 state law. Any ordinance that is in conflict with state law shall no longer be effective.

31 Section 3. Charter Ordinance 102, § 2 codified at TMC § A2-22, Election and
32 terms, is hereby amended to read as follows.

33 **Election and terms.**

34 (a) ~~Time of primary and general elections. The primary city election for the~~
35 ~~Mayor and district Councilmembers shall be held on the Tuesday preceding by five (5)~~
36 ~~weeks the first Tuesday in April of odd numbered years, and the general city election~~
37 ~~shall be held on the first Tuesday in April of odd numbered years, both elections to be~~
38 ~~conducted in the manner prescribed in this Charter Ordinance and applicable state law.~~

39 (b) ~~Primary elections. In each year in which the term of the Mayor expires, if~~
40 ~~there are more than two (2) candidates who have filed for the office of Mayor, a primary~~
41 ~~city election at large shall be held for the nomination of two (2) candidates for the office.~~
42 ~~Each qualified elector of the city shall be entitled to vote for one (1) candidate. The two~~
43 ~~(2) candidates receiving the greatest number of votes cast shall be placed on the~~
44 ~~general city election ballot as the candidates nominated for election as Mayor.~~

45 ~~In each year in which the term of a district Councilmember expires, if there are~~
46 ~~more than two (2) candidates who have filed for the office to be filled, a primary city~~
47 ~~election shall be held within each such district for the nomination of two (2) candidates~~
48 ~~from that district. Each qualified elector who is a resident of the district shall be entitled~~
49 ~~to vote for one (1) candidate from his or her district. The two (2) candidates from each~~
50 ~~such district receiving the greatest number of votes cast shall be placed on the general~~
51 ~~city election ballot as the candidates nominated for election from the district.~~

52 (c) ~~General eElections.~~ General Elections. In the general city mayoral primary and general
53 elections all qualified electors of the city shall be entitled to vote on the election of the

54 Mayor. ~~Of the two (2) candidates nominated for the office of Mayor, the candidate~~
55 ~~receiving the highest number of votes in the general election shall be elected Mayor.~~

56 ~~In each year in which the term of a district Councilmember expires, In primary~~
57 ~~and general elections for district Councilmembers, each qualified elector who is a~~
58 ~~resident of the district shall be entitled to vote in the city general election for the~~
59 ~~Councilmember from his/her respective district. The candidate receiving the highest~~
60 ~~number of votes in the general city election of the two (2) candidates nominated from~~
61 ~~those districts shall be elected as Councilmember from those districts.~~

62 (db) Terms of office. The Mayor shall be elected to a four (4) year term. The
63 district Councilmembers shall be elected to staggered four (4) year terms. Terms of
64 office that would have expired in April of 2017 shall expire on January 8, 2018. Terms of
65 office that would have expired in April of 2019 shall expire on January 13, 2020.

66 Section 4. Charter Ordinance 98, § 3 codified at TMC § A2-25.5, Powers of
67 the City Council, is hereby repealed.

68 **~~Powers of the City Council.~~**

69 ~~In addition to any other grant of authority under the Constitution of the State of~~
70 ~~Kansas, applicable state law, or Charter Ordinance No. 94, as amended, the Council~~
71 ~~shall have the following duties, powers and responsibilities including, but without~~
72 ~~limitation thereto:~~

73 ~~The ability to override a mayoral veto of any council legislation whether by resolution or~~
74 ~~ordinance by a two-thirds (2/3) vote of the entire council, that number being six (6).~~

75 Section 5. Charter Ordinance 112, § 1 codified at TMC § A2-26, Meetings –
76 Deputy Mayor, is hereby amended to read as follows:

77 **Meetings – Deputy Mayor.**

78 (a) The ~~Council~~governing body shall establish, by ordinance, a meeting
79 schedule for each calendar year, with a minimum of two meetings each month.

80 (b) ~~In April of each year, the Council~~The governing body shall elect a
81 ~~Council~~member to serve as deputy mayor in the absence or temporary disability of the
82 mayor. ~~The deputy mayor shall serve for one (1) year.~~The deputy mayor elected in April
83 of 2016 shall serve until a successor is elected at the first governing body meeting in
84 January of 2017 to serve a term that expires on January 8, 2018. Thereafter, a deputy
85 mayor shall be elected at the third meeting in January for a one year term.

86 Section 6. Charter Ordinance 96, § 4 codified at TMC § A2-29, Vacancies –
87 Forfeiture of office – Filling of vacancies, is hereby amended to read as follows:

88 **Vacancies – Forfeiture of office – Filling of vacancies.**

89 (a) Vacancies. The office of district Councilmember or Mayor shall become
90 vacant upon death, resignation, recall, removal from office in any manner authorized by
91 law, ~~failure of the electorate to elect an officeholder as provided for in Article II herein, or~~
92 by forfeiture of office pursuant to K.S.A. 60-1205, as it may be amended.

93 ~~(b) Forfeiture of office. A district Councilmember or Mayor shall ipso facto forfeit~~
94 ~~his or her office if he or she at any time during the term of office lacks any qualification~~
95 ~~for the office prescribed by this Charter Ordinance or other applicable law, or if he or~~
96 ~~she violates any other provision of this Charter Ordinance. A forfeiture does not occur if~~
97 ~~a district Councilmember no longer resides in his or her elected district as a result of~~
98 ~~redistricting.~~

99 (e) Filling of vacancies. A vacancy in the offices of Mayor or district
100 Councilmember shall be filled by appointment of an elector qualified to fill the vacant
101 position by a majority vote of the remaining members of the governing body, ~~including~~
102 ~~the Mayor~~. If ~~such~~the vacancy occurs before ~~January 1 of an odd numbered year~~
103 ~~leaving an unexpired term of more than one (1) year~~June 1 in an election year, such the
104 unexpired term shall be filled at the next ~~regular city~~ primary and general election in the
105 same manner as if the term were expiring and the term of the appointed member shall
106 end ~~upon election of a member for the unexpired term~~ on the second Monday in
107 January following certification of the election.

108 Section 7. Charter Ordinance 112, § 2 codified at TMC § A2-30, Council rules
109 of procedure, is hereby amended to read as follows:

110 **Council~~Council~~Governing body rules of procedure.**

111 (a) Meetings. The ~~Council~~governing body shall meet at least twice in every
112 month at times and places as ~~the Council~~ may be prescribed by ordinary ordinance.
113 Special meetings may be held on the call of the Mayor or of four (4) or more district
114 Councilmembers in the manner prescribed by rules of the ~~Council~~governing body.

115 (b) Rules and journal. The ~~Council~~governing body shall determine its own
116 rules and order of business and shall provide for keeping a journal of its proceedings.

117 (c) Voting; Quorum.

118 (1) ~~Five (5)~~Six (6) members of the ~~Council~~governing body shall
119 constitute a quorum.

120 (2) All actions by the ~~Council~~governing body shall be taken by ~~the an~~
121 affirmative vote of ~~five (5)~~six (6) or more members ~~of the Council~~, unless a

122 greater or lesser number of votes is required by ~~this Charter Ordinance, by the~~
123 ~~Statutes of Kansas, or by the Constitution of Kansas. The votes of all~~
124 ~~Councilmembers shall be recorded in the journal~~ordinance or state law.

125 (3) All actions by the Council with regard to ordinances enacted
126 pursuant to Article 12, § 5(b) of the Kansas Constitution (ordinary ordinances)
127 shall be taken by an affirmative vote of five (5) or more Councilmembers.

128 (d) ~~Form. Proposed ordinary ordinances and resolutions shall be introduced~~
129 ~~in the Council only~~ in written or printed form. ~~No ordinary ordinance shall contain more~~
130 ~~than one subject which shall be clearly expressed in its title. The enacting clause of all~~
131 ~~ordinary ordinances shall be: "Be it Ordained by the Council of the City of Topeka,~~
132 ~~Kansas:"~~. Any ~~ordinary ordinance~~ which repeals or amends an existing ~~ordinary~~
133 ~~ordinance or part of the Code of Ordinances of the city~~ shall set out in full the sections
134 or subsections to be repealed or amended, and shall indicate matter to be omitted by
135 enclosing it in brackets or by strikeout type and shall indicate new matter by
136 underscoring or by italics.

137 (e) Procedure. All ordinances shall be considered at a ~~Council~~governing body
138 meeting. Persons interested in a proposed ordinance shall be given an opportunity to be
139 heard ~~before the Council~~ in accordance with such rules and regulations as the
140 ~~Council~~governing body may adopt.

141 (f) ~~Emergency ordinances. An ordinary ordinance may be passed as an~~
142 ~~emergency measure on the day of its introduction if it contains a declaration describing~~
143 ~~in clear and specific terms the facts and reasons constituting the emergency. Neither an~~

144 ordinance granting, reviewing, or extending a franchise, nor a Charter Ordinance, shall
145 be passed as an emergency ordinance.

146 (gf) Publication. The City Clerk or such other city officer as the ~~Council~~governing
147 body may designate shall cause all ~~ordinary~~ ordinances, as soon as practicable after
148 they have been passed and signed, to be published once in the official city newspaper,
149 unless Kansas Statutes or other applicable law require more publications. In lieu of
150 publication of the entire ordinance, the City Clerk may publish a summary of the
151 ordinance ~~provided all of the following requirements are met~~in accordance with state
152 law:

153 (1) ~~The publication is identified as a "summary" and contains notice that~~
154 ~~the complete text of the ordinance may be obtained or viewed free of charge at~~
155 ~~the City Clerk's office or on the city's website.~~

156 (2) ~~The City Attorney certifies the summary of the ordinance prior to~~
157 ~~publication to ensure that the summary is legally accurate and sufficient.~~

158 (3) ~~The publication contains the city's official website address where a~~
159 ~~reproduction of the original ordinance is available for at least ninety days~~
160 ~~following the summary publication in the newspaper.~~

161 (4) ~~If an ordinance is subject to a petition pursuant to state law, the~~
162 ~~summary shall contain a statement to that effect.~~

163 (h) ~~Effective date. Except in the case of emergency ordinances, and except~~
164 ~~where Kansas Statutes otherwise specify, every adopted ordinary ordinance shall~~
165 ~~become effective upon its publication pursuant to subsection (g) or at any later date~~

166 ~~specified therein. Emergency ordinances shall become effective upon passage or at any~~
167 ~~later date specified therein.~~

168 (ig) Signature, authentication and recording. All ~~ordinary~~ ordinances and
169 resolutions ~~passed or adopted by the Council~~ shall be authenticated by the signatures
170 of the Mayor and City Clerk or such other appointive officer as the ~~Council~~ governing
171 body may designate. ~~The City Clerk or such other appointive officer as the Council may~~
172 ~~designate shall record in a properly indexed "Ordinance Book" kept for the purpose of~~
173 ~~every ordinary ordinance, immediately after its publication, or in the case of emergency~~
174 ~~ordinances immediately after passage.~~

175 Section 8. That original sections of Charter Ordinances codified as § A2-1, §
176 A2-22, § A2-26, § A2-29, and § A2-30 of the Code of the City of Topeka, Kansas, are
177 hereby specifically repealed.

178 Section 9. This Charter Ordinance shall be published once each week for two
179 (2) consecutive weeks in the official City newspaper.

180 Section 10. This Charter Ordinance shall take effect sixty-one (61) days after
181 final publication unless a sufficient petition for a referendum is filed and a referendum
182 held on this Charter Ordinance as provided in Article 12, Section 5, Subdivision (c)(3),
183 of the Kansas Constitution, in which case this Charter Ordinance shall become effective
184 if approved by a majority of the electors voting therein.

185 Section 11. Upon the effective date of this Charter Ordinance, this Charter
186 Ordinance shall be recorded by the City Clerk in a book maintained for such purposes
187 with a statement of the manner of adoption and a certified copy shall be filed with the
188 Secretary of State of the State of Kansas.

189 PASSED AND APPROVED by the Governing Body on February 9, 2016.

190 CITY OF TOPEKA, KANSAS

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ATTEST:

Larry E. Wolgast, Mayor

Brenda Younger, City Clerk

203 **STATEMENT OF MANNER OF ADOPTION OF FOREGOING**

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The foregoing Charter Ordinance No. 117 was passed on the 9th day of February, 2016, as shown by the minutes, Book 2016 Page 43, by a vote of 10 for and 0 against, being not less than two-thirds (2/3) of the members-elect of the governing body, published in the Topeka Metro News, the official city newspaper, on the 15th day of February, 2016, and on the 22nd day of February, 2016, being once each week for two (2) consecutive weeks, and there being no petition demanding a referendum filed with the City Clerk within sixty (60) days after the final publication, said Charter Ordinance took effect on the 23rd day of April, 2016.

Brenda Younger, City Clerk

CERTIFICATE

CITY OF TOPEKA)
COUNTY OF SHAWNEE) ss:
STATE OF KANSAS)

I, Brenda Younger, City Clerk of the City of Topeka, County of Shawnee, State of Kansas, do hereby certify that the above and foregoing, consisting of 10 typewritten pages, including the page upon which this Certificate is written, is a full true and correct copy of Charter Ordinance No. 117 of the said City of Topeka, that all acts and things required by Article 12, Section 5 of the Constitution of the State of Kansas were done and performed in the manner and within the time prescribed and that said Charter Ordinance became effective on the 23rd day of April, 2016.

Brenda Younger, City Clerk