

(Published in the Topeka Metro News January 20, 2014)

ORDINANCE NO. 19875

AN ORDINANCE introduced by City Manager Jim Colson, amending City of Topeka Code § 2.15.020 through § 2.15.040, § 2.15.070, § 2.15.080, § 3.55.060, § 5.20.080 and § 5.55.120 concerning meetings of the City Council and specifically repealing said original sections.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That section 2.15.020, Time of council meetings – To be open to the public, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Time of council meetings – To be open to the public.

(a) The council shall, ~~for the period of April 30, 2013, to April 28, 2015,~~ meet in the council chambers/municipal court complex on the second floor of the municipal building, the first ~~four~~ three Tuesdays of each month at 6:00 p.m. ~~for the purpose of conducting the business of the city.~~

(b) Notwithstanding subsection (a) of this section, when the date of a ~~regular~~ meeting falls on a legal holiday or any city primary or general election, the meeting may be rescheduled to another day fixed in advance by the council.

(c) Notwithstanding subsection (a) of this section, a council meeting may be canceled under any of the following circumstances; provided, that the number of council meetings in a month is not less than that required by Appendix A, Section A2-26:

(1) By a majority vote of the council;

(2) When the mayor, with the concurrence of the deputy mayor, determines that special circumstances exist, including but not limited to the scheduling of a special event or a lack of agenda items; or

30 (3) By the city manager in the event of inclement weather.

31 Section 2. That section 2.15.030, Preparation of agenda, of The Code of the
32 City of Topeka, Kansas, is hereby amended to read as follows:

33 **Preparation of agenda.**

34 The city manager shall prepare the agenda for all council meetings. The city clerk
35 ~~is hereby authorized and directed to~~ shall prepare and circulate the agenda ~~of~~ containing
36 the items of business to be ~~transacted~~ considered by the council ~~at each regular~~
37 meeting. Arrangements may be made with the city clerk to mail or deliver the agenda
38 ~~each week to any person for an annual fee to be set during the yearly budget process.~~
39 ~~The fee may be waived at the discretion of the city clerk.~~

40 Section 3. That section 2.15.040, Adding items, of The Code of the City of
41 Topeka, Kansas, is hereby amended to read as follows:

42 **Adding items.**

43 Items may be added to the agenda ~~only at regular Tuesday~~ council meetings. The
44 item to be added shall be introduced at the beginning of the ~~official~~ meeting by the city
45 clerk. The councilmember(s) or the city manager who wishes to have an item added to
46 the agenda shall ~~submit a cover letter with the item explaining~~ explain for the record the
47 necessity for adding the item, and the item shall only be added if its addition is approved
48 by a majority ~~vote of unless there is an objection by a majority of the city council.~~

49 Section 4. That section 2.15.070, Veto procedures, of The Code of the
50 City of Topeka, Kansas, is hereby amended to read as follows:

51 **Veto procedures.**

52 (a) General Procedures.(1) The mayor, following council adoption of an
53 ordinance or resolution, legislative in nature, may, on or before the next ~~regular~~ council
54 meeting ~~where formal council action may take place~~, exercise veto authority as provided
55 for in Charter Ordinance No. 94 as amended or as otherwise provided by law. If the veto
56 authority is not so exercised, the ordinance shall then take effect without the mayor's
57 signature. If the mayor fails to exercise the veto authority and fails to sign the ordinance
58 on or before the next ~~regular~~ council meeting ~~where formal council authority may be~~
59 ~~exercised~~, the city clerk shall endorse at the end of the ordinance, as entered in the
60 ordinance book, that it took effect without the signature of the mayor.

61 (2) Neither the deputy mayor, any councilmember, or any other person
62 shall have the authority to exercise the mayor's veto authority over legislative
63 ordinances or resolutions.

64 (3) If the mayor exercises veto authority, the veto shall be established
65 by a written statement giving the objections and reasons therefor. The statement
66 of objection shall be presented to each councilmember, whereupon the
67 councilmembers shall have 30 days to override the mayor's veto as provided for
68 in Charter Ordinance No. 98 as amended or as otherwise provided by law.

69 (4) The question to override may be placed before the council, whether
70 or not on the ~~formal~~ agenda, by any member of the council.

71 (b) Line Item Veto Procedures.

72 (1) The mayor, following council adoption of an ordinance containing
73 items of appropriations, may on or before the next ~~regular~~ council meeting ~~where~~
74 ~~formal council action may take place~~ exercise line item veto authority as provided

75 for in Charter Ordinance No. 94 as amended or as otherwise provided by law. If
76 the veto authority is not so exercised, the ordinance shall then take effect without
77 the mayor's signature. If the mayor fails to exercise veto authority and fails to
78 sign the ordinance on or before the next ~~regular~~ council meeting ~~where formal~~
79 ~~council authority may be exercised~~, the city clerk shall endorse at the end of the
80 ordinance, as entered in the ordinance book, that it took effect without the
81 signature of the mayor.

82 (2) If the ordinance contains more than one item of appropriation of
83 money, the mayor may veto one or more of such items, while approving the other
84 portions of the ordinance.

85 (3) Neither the deputy mayor, any councilmember, or any other person
86 shall have the authority to exercise the mayor's veto authority over appropriations
87 ordinances.

88 (4) If the mayor exercises veto authority, the veto shall be established
89 by a written statement giving objections as to each item vetoed, and reasons
90 therefor. The statement of objection shall be presented to each councilmember,
91 whereupon the councilmembers shall have 30 days to override the mayor's veto
92 as provided for in Charter Ordinance No. 98 as amended or as otherwise
93 provided by law.

94 (5) The question to override may be placed before the council, whether
95 or not on the ~~formal~~ agenda, by any member of the council.

96 (c) Veto Authority. Substantial compliance by the mayor with the procedures
97 stated in this section shall be deemed an effective exercise of veto authority.

98 Section 5. That section 2.15.080, Filling of vacancies in the office of mayor or
99 councilmember, of The Code of the City of Topeka, Kansas, is hereby amended to read
100 as follows:

101 **Filling of vacancies in the office of mayor or councilmember.**

102 Subject to city of Topeka Charter Ordinance No. 94, as amended, the following
103 process shall be followed when filling vacancies in the offices of mayor or
104 councilmember:

105 (a) Within one week of a vacancy in the office of mayor or councilmember, the
106 city clerk shall cause to be published in the official city newspaper a notice that
107 applications are being sought for the filling of the open position.

108 (b) The deadline for applications shall be at 5:00 p.m. on the day two weeks
109 from the date of publication of the notice for the office of councilmember and four weeks
110 from the date of publication of the notice for the office of mayor. Applications shall be
111 submitted to the city clerk.

112 (c) The application shall include the following information:

113 (1) A statement of qualifications and personal background.

114 (2) A statement addressing why the applicant wishes to serve in the
115 office of mayor or councilmember (as applicable).

116 (3) A statement addressing what the applicant sees as the number one
117 problem facing Topeka city government and how the applicant would seek to
118 address the problem if chosen to serve.

119 (d) Application for the office of mayor shall include the \$100.00 filing fee or a
120 petition signed by 100 qualified electors of the city or one percent of the cast vote in the

121 last city general election. Application for the office of district councilmember shall
122 include the \$50.00 fee or a petition signed by 50 qualified electors of the council district.

123 (e) Unless an alternative date and/or time is established by the city council,
124 the council shall interview each applicant at the next ~~regular~~ council meeting following
125 the application deadline.

126 (f) At least one day prior to the interview date, the mayor and
127 councilmembers may each submit one question to be asked of all applicants during the
128 interviews.

129 (g) Interviews shall be conducted in the order that applications are received.

130 (h) Interviews shall consist of an opening statement by the applicant and the
131 asking and answering of all submitted questions.

132 (i) At the conclusion of the interviews the city council may conduct an
133 election to fill the vacant position, subject to the following rules:

134 (1) The election shall be conducted only during a ~~regular city~~ council
135 meeting. The election may be deferred to a subsequent meeting upon approval
136 by the city council of an appropriate motion. In no event shall an election be
137 deferred later than the next ~~regular city~~ council meeting.

138 (2) Each councilmember and the mayor shall vote for one person on
139 each ballot by indicating in writing his or her choice and signing the ballot before
140 submitting it to the city clerk.

141 (3) The city clerk shall read the result of each ballot.

142 (4) Balloting shall end any time one applicant receives five votes.

143 (5) If no applicant receives five votes in the final ballot, additional
144 ballots shall be cast until one of the applicants receives five votes or the matter is
145 deferred until a date certain, which shall not be later than the next ~~regular~~ council
146 meeting.

147 (6) The council and mayor may confer after any ballot in any manner
148 consistent with the Kansas Open Meetings Act.

149 Section 6. That section 3.55.060, Notice and hearing, of The Code of the City
150 of Topeka, Kansas, is hereby amended to read as follows:

151 **Notice and hearing.**

152 No tax exemption shall be granted by the city prior to a public hearing thereon.
153 Notice of the public hearing shall be published at least seven days prior to the hearing in
154 the official city newspaper, giving the time and place thereof, and the hearing may be
155 held at a ~~regular or special~~ meeting of the council. The city clerk shall thereupon notify
156 the board of county commissioners, the superintendent of the appropriate school
157 district, and the clerk of any other taxing jurisdiction, excluding the state, which derives
158 or could derive property taxes from the affected business, advising them of the
159 scheduled public hearing and inviting their review and comment. Upon request, the city
160 clerk shall provide any such public agency with a copy of the application. The applicant
161 business shall be invited, but not required, to attend the public hearing.

162 Section 7. That section 5.20.080, Cancellation and suspension of The Code of
163 the City of Topeka, Kansas, is hereby amended to read as follows:

164 **Cancellation and suspension.**

(a) Any person holding a license issued under this article shall be responsible for the manner and method of operating or carrying on their business, and the chief of police upon information and after investigation shall have power to suspend the license if in the chief's opinion the business or enterprise is conducted in such a manner as to constitute a nuisance within the meaning of subsection (c) of this section and that the commodities sold or the services rendered are unlawful or the business or enterprise is operated or carried on in such a manner as to disturb the peace of the community, or in such a manner as to impair the value of any property of any person residing in or doing business in the city. Before any suspension order shall become effective, a written notice of such order shall be delivered by the chief of police to the person so operating or carrying on such business or enterprise. The service by the chief of police upon any person in charge of such business or enterprise or upon any agent of any person who is in charge of such business or enterprise or any person in charge of or agent for the person who is in charge of the premises on which the business or enterprise is operated, shall be deemed sufficient service, and upon completion of the service the license is suspended until further order of the council.

The chief of police shall be sole judge as to whether the manner, means, method, operation or carrying on of the business or enterprise or the commodity sold by the person is such that the same constitutes a nuisance for the purpose of the suspension order.

(b) After the license has been suspended by the chief of police, the chief shall immediately report such fact to the council. At the next ~~regular~~ meeting of the council, the license may be reinstated or cancelled by the council, and the council may receive

any information other than that furnished by the chief of police, or the council may order the chief of police to make further investigation before acting on the matter of the cancellation of the license.

(c) For the purpose of this section, a “nuisance” shall be defined to be any act done or permitted to be done by any person in the city, which act is intended to or does disturb any person or destroy or impair any property right of any person in the city, or engaging in any unlawful enterprise.

Section 8. That section 5.55.120, Inspection approval – Appeals, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Inspection approval – Appeals.

If an application or reapplication for a general retailer’s license is not certified as provided in TMC 5.55.100 and 5.55.110, the applicant may appeal the decision of the inspector to the city council by filing a written notice of appeal with the office of the city clerk within 10 days after receiving written notification of nonconformity with the applicable laws and regulations. Such notice of appeal shall be insufficient unless it states the grounds for such appeal. The city council shall hear such appeal at a ~~regular~~ meeting thereof within 10 days following receipt of the notice of appeal. All interested parties shall have an opportunity to present evidence and argument. The appellant shall have the burden of proof. Following presentation of evidence and comment by all interested parties, the city council shall make a determination as to whether the applicant has violated the applicable laws and regulations as stated in the written notification of nonconformance. If the city council decides that the applicant is in violation of such laws and regulations, the application or reapplication for a license shall be denied.

Section 9. That original § 2.15.020 through § 2.15.040, § 2.15.070, § 2.15.080, § 3.55.060, § 5.20.080 and § 5.55.120 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 10. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 11. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 12. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the City Council on January 14, 2014.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk