

1 (Published in the Topeka Metro News May 26, 2014)

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3 **ORDINANCE NO. 19905**

4
5 AN ORDINANCE introduced by Councilmember Chad Manspeaker, concerning
6 Domestic Partnership Registry by creating new Chapter 2.150 of
7 the City of Topeka Municipal Code.

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9 BE IT ORDAINED BY THE GOVERNING BODY THE CITY OF TOPEKA:

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11 Section 1. That The Code of the City of Topeka, Kansas, is hereby amended
12 by adding a section, to be numbered 2.150.010, which said section reads as follows:

13 **Definitions.**

14 Whenever used in this chapter, the following definitions shall apply:

15 “Domestic partner” shall be construed to mean two individuals who are residents
16 of the City of Topeka, as defined in this section, who have reached 18 years of age,
17 who have the mental capacity to contract, and who live together in a relationship of
18 indefinite duration, with a mutual commitment in which the partners share the
19 necessities of life and are financially interdependent. Domestic partners are not married
20 to another person, do not have another domestic partner and are not related by blood
21 more closely than would bar their marriage in this state.

22 “Resident” shall mean a person who has established at least 60 consecutive
23 days prior to filing a Declaration of Domestic Partnership with the office of the City
24 designated by the City Manager, a present and fixed residence within the city limits of
25 Topeka, Kansas where the person intends to remain for an indefinite period and to
26 which the person intends to return following absence.

27 Section 2. That The Code of the City of Topeka, Kansas, is hereby amended
28 by adding a section, to be numbered 2.150.020, which said section reads as follows:

29 **Criteria for establishing a domestic partnership.**

30 The following criteria must be met for two individuals to be considered domestic
31 partners for the purposes of registering the partnership with the City of Topeka:

32 (a) Both individuals are residents of the City of Topeka, as defined in Section
33 2.150.010.

34 (b) Both individuals share a common permanent residence. It is not
35 necessary that the legal right to possess the common residence be in both of the
36 individual's names.

37 (c) Both individuals agree to be in a relationship of mutual interdependence.

38 (d) Both individuals contribute to the maintenance and support of the
39 household. The individuals are not required to contribute equally to the household.

40 (e) Neither individual is married to a third individual or a member of a
41 domestic partnership with a third individual.

42 (f) Each individual is 18 years of age or older.

43 (g) Each individual has the mental capacity to contract.

44 (h) The two individuals are not related by blood in a way that would prevent
45 them from being married to another in the State of Kansas.

46 (i) Both individuals agree to file a Declaration of Domestic Partnership with
47 the City pursuant to this chapter.

48 Section 3. That The Code of the City of Topeka, Kansas, is hereby amended
49 by adding a section, to be numbered 2.150.030, which said section reads as follows:

50 **Registration.**

51 (a) Two persons seeking to register as domestic partners may complete and
52 file a Declaration of Domestic Partnership with an office of the City designated by the
53 City Manager.

54 (b) No individual who has previously filed a Declaration of Domestic
55 Partnership in this City may file a new Declaration of Domestic Partnership until at least
56 ninety (90) days after the date that a Request for Removal from the Domestic
57 Partnership Registry was filed with the City under this chapter. This prohibition does not
58 apply if the previous domestic partnership ended because one of the partners died.

59 Section 4. That The Code of the City of Topeka, Kansas, is hereby amended
60 by adding a section, to be numbered 2.150.040, which said section reads as follows:

61 **Procedure and fees.**

62 (a) The City Manager shall develop procedures and standard forms for the
63 “Registration of Domestic Partnership” and “Notice of Removal from the Domestic
64 Partnership Registry”.

65 (b) The City Manager, or his or her designee, shall determine a reasonable
66 fee based upon the cost of processing the forms and the City shall charge these fees to
67 the persons filing a Declaration of Domestic Partnership. No fee shall be charged for
68 filing a Request for Removal from the Domestic Partnership Registry.

69 (c) The City shall maintain the registry based upon the information provided
70 by the individuals filing the Declaration of Domestic Partnership. The City shall have no
71 duty to independently verify the information provided by the individuals filing the
72 Declaration of Domestic Partnership.

73 Section 5. That The Code of the City of Topeka, Kansas, is hereby amended
74 by adding a section, to be numbered 2.150.050, which said section reads as follows:

75 **Removal from registry; Death or voluntary dissolution of partnership.**

76 (a) Reasons. A domestic partnership registered with the City shall be
77 removed from the registry for the following reasons:

78 (1) One of the partners dies and the City is notified thereof; or

79 (2) A Request for Removal from the Domestic Partner Registry has
80 been filed by one or both of the individuals registered as domestic partners with
81 the City.

82 (b) Procedure. A domestic partnership registered with the City shall be
83 removed from the registry in accordance with the following procedures:

84 (1) Within ninety (90) days of the dissolution of the domestic
85 partnership, at least one former partner shall file a Request for Removal from the
86 Domestic Partner Registry with an office of the City designated by the City
87 Manager pursuant to procedures adopted by the City Manager. Upon receipt, the
88 City shall provide the domestic partner who filed the Request for Removal from
89 the Domestic Partner Registry with two copies of the Request marked "filed."
90 Unless the partners jointly file the Request, the partner filing the Request, shall
91 within five days send a copy of the filed Request to the other partner's last known
92 address. This notice requirement does not apply if the removal request is due to
93 a death of one of the domestic partners.

94 (2) The request shall be effective upon filing the Request for Removal
95 from the Domestic Partner Registry with the City by one or both partners or on
96 the date of the death of one.

97 (3) A former domestic partner who has given a copy of the Declaration
98 of Domestic Partnership to any third party to qualify for any benefit or right and
99 whose receipt of that benefit or enjoyment of that right has not otherwise
100 terminated, shall notify the third party in writing of the Request for Removal from
101 the Domestic Partner Registry, at the last known address of the third party.

102 (4) Failure to provide third-party notice required in subsection (b)(3) of
103 Section 2.150.050 shall not delay or prevent the removal of the domestic
104 partnership from the registry. The City shall have no duty to provide notice to
105 third parties.

106 Section 6. That The Code of the City of Topeka, Kansas, is hereby amended
107 by adding a section, to be numbered 2.150.060, which said section reads as follows:

108 **Removal from registry; Failure to meet definition.**

109 If it appears based upon a preponderance of the evidence that one or both of the
110 partners in a registered domestic partnership no longer meets the definition of a
111 domestic partner under this chapter, the City shall, after notice and an opportunity to be
112 heard, remove the partnership from the Registry. The City Manager shall develop
113 procedures for the implementation of this Section.

114 Section 7. That The Code of the City of Topeka, Kansas, is hereby amended
115 by adding a section, to be numbered 2.150.070, which said section reads as follows:

116 **Legal effect.**

117 Registration pursuant to this chapter creates no legal rights, other than the right
118 to have the registered domestic partnership included in the City's Domestic Partner
119 Registry pursuant to this chapter. No parties are prohibited from extending rights or
120 benefits to persons listed in the Domestic Partner Registry.

121 Section 8. That The Code of the City of Topeka, Kansas, is hereby amended
122 by adding a section, to be numbered 2.150.080, which said section reads as follows:

123 **Other applicable laws; Kansas Open Records Act.**

124 (a) This chapter shall not be interpreted nor construed to permit the
125 recognition of a relationship that is otherwise prohibited by State law.

126 (b) Registration applications and any records created pursuant to this chapter
127 are public records and may be disclosed in accordance with the Kansas Open Records
128 Act, K.S.A. 45-215 et seq.

129 Section 9. That The Code of the City of Topeka, Kansas, is hereby amended
130 by adding a section, to be numbered 2.150.090, which said section reads as follows:

131 **Registering a partnership without the individual' consent.**

132 No person shall register or attempt to register a domestic partnership pursuant to
133 the chapter without the consent of the persons to be registered. Any person who is
134 convicted of a violation of this section shall be guilty of a misdemeanor.

135 Section 10. This ordinance shall take effect and be in force on June 30, 2014
136 after its passage, approval and publication in the official City newspaper.

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

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

142 PASSED AND APPROVED by the City Council on May 20, 2014.
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144 CITY OF TOPEKA, KANSAS
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146 _____
147 Larry E. Wolgast, Mayor
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149 ATTEST:
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152 Brenda Younger, City Clerk
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