

CHARTER ORDINANCE NO. EIGHTY-FOUR

*(Note: All or parts of this charter ordinance have been repealed. See notes at the end of the ordinance.)*

A CHARTER ORDINANCE RELATING TO THE FORM OF GOVERNMENT OF THE CITY OF OVERLAND PARK, KANSAS; EXEMPTING THE CITY OF OVERLAND PARK, KANSAS, FROM K.S.A. 12-1009 THROUGH 12-1015, 12-1036a. THROUGH 12-1036h., 25-2107, 25-2108a., 25-2109, AND 25-2113; REPEALING CHARTER ORDINANCE NUMBERS THIRTY-FOUR, FORTY, FORTY-THREE, SEVENTY-THREE, SEVENTY-SIX, SEVENTY-SEVEN, SEVENTY-EIGHT AND EIGHTY-ONE AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ESTABLISHING A MAYOR-COUNCIL-MANAGER FORM OF GOVERNMENT FOR THE CITY OF OVERLAND PARK, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERLAND PARK, KANSAS:

**Article I. Statutes made inapplicable.**

The City of Overland Park, Kansas, by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it the provisions of K.S.A. 12-1009 through 12-1015, 12-1036a. through 12-1036h., 25-2107, 25-2108a., 25-2109, and 25-2113, and provide substitute and additional provisions as hereinafter set forth in this charter ordinance. Such referenced provisions are either enactments or a part thereof which are applicable to this city but are not applicable uniformly to all cities.

**Article II. City council, mayor and council president.**

**Section 2.1. Composition and eligibility.**

A. *Composition.* The governing body shall consist of a mayor elected by the city as a whole and twelve (12) council members elected by wards. Each ward shall be represented by two council members.

B. *Eligibility.* The mayor and each council member shall be a citizen of the United States and a qualified elector of Overland Park, Kansas, and must reside in the city at the time of filing for election and thereafter for the duration of their terms. Council members from wards shall be residents of their respective wards at the time of filing for election and thereafter for the duration of their terms unless removal from the ward is the result of reapportionment.

**Section 2.2. Elections and terms.**

*A. Nonpartisan elections.* City elections shall be nonpartisan. Laws applicable to elections occurring at the same time as city elections shall apply to city elections to the extent that the same are not in conflict with the provisions of Article 21 of Chapter 25 of the Kansas Statutes Annotated.

*B. Date of primary and general city elections.* The primary election of the city officers shall be held on the Tuesday preceding by five weeks the first Tuesday in April of every odd-numbered year. The general election of the city officers shall be held on the first Tuesday in April of every odd-numbered year. Both elections shall be conducted in the manner prescribed in this charter ordinance and applicable state law.

*C. Filing deadlines for city elections.* The filing deadline for all city elections shall be twelve noon of the Tuesday preceding by ten weeks the first Tuesday of April of each election year.

*D. Procedure for conduct of primary city elections.*

1. In 2005 and in each subsequent year in which the term of the mayor expires, if no more than two (2) candidates have filed for the office of mayor, both such candidates shall automatically be listed on the general city election ballot; but if more than two (2) candidates have filed for the office of mayor, a primary city election at large shall be held for the nomination of two (2) candidates for the office. Each qualified elector of the city shall be entitled to vote for one (1) candidate. The two (2) candidates receiving the highest number of votes cast shall be placed on the general city election ballot as the candidates nominated for election as mayor.

2. In 2005 and in each subsequent year in which the term of a council member expires, if no more than two (2) candidates have filed for the office of council member to be filled, both such candidates shall automatically be listed on the general city election ballot; but if more than two (2) candidates have filed for the office of council member to be filled, a primary city election shall be held within each such ward for the nomination of two (2) candidates from that ward. Each qualified elector who is a resident of the ward shall be entitled to vote for one (1) candidate from his or her ward. The two (2) candidates from each such ward receiving the highest number of votes cast shall be placed on the general city election ballot as the candidates nominated for election from the ward.

*E. Procedure for conduct of general city elections.*

1. In the general city election in 2005 and in each subsequent year in which the term of the mayor expires, all qualified electors of the city shall be entitled to vote on the election of the mayor. Of the candidate or candidates nominated or automatically listed for the office of mayor, the candidate receiving the highest number of votes in the general city election shall be elected as mayor.

2. In the general city election in 2005 and in each subsequent year in which the term of a council member expires, all qualified electors of the ward shall be entitled to vote on the election of the council member from that ward. Of the two (2) candidates nominated or automatically listed from each ward, the candidate receiving the highest number of votes in the general city election shall be elected as council member from the ward.

F. *Terms of office.*

1. The incumbent members of the governing body shall continue in office for the duration of their terms as heretofore established.

2. At the primary and general city elections held in 2005 the position of mayor shall be filled by election, and the person so elected in 2005 shall succeed to the position of mayor. The person elected as mayor in 2005 and in subsequent elections shall hold the position of mayor for a term of four (4) years and until the person's successor has been duly elected and qualified.

3. At the primary and general city elections held in 2005 all council member positions which were last filled by election in 2001 and the Ward Six council member position filled for an initial two-year term in 2003, shall be filled by election, and those persons so elected in 2005 shall succeed to those council member positions. Those persons elected as council members in 2005, and in subsequent elections, shall hold their positions for a term of four (4) years and until their successors are duly elected and qualified.

4. At the primary and general city elections held in 2007 all council member positions which were last filled by election in 2003 except for the Ward Six council member position filled for an initial two-year term in 2003 shall be filled by election. Those persons elected as council members in 2007, and in subsequent elections, shall hold their positions for a term of four (4) years and until their successors are duly elected and qualified.

**\*Section 2.3. Wards.**

A. *Number of wards.* The city shall be divided into six wards numbered one through six for purposes of the city elections held in 2003 and thereafter.

B. *Ward boundaries.* Dividing lines between wards shall follow precinct boundaries established by the Johnson County Election Commissioner. The governing body of the city shall, by ordinance, adjust the ward boundaries to reflect approximately equal population effective in December of 2004. The governing body of the city may likewise adjust ward boundaries effective in December every two years thereafter but shall adjust the boundaries effective in December every four years thereafter. The governing body shall certify the boundaries so adjusted to the Johnson County Election Commissioner.

**Section 2.4. Council president, election of, powers and duties.**

A. On the second Monday after the first Tuesday in the month of April of each year, the council shall elect, by seven (7) affirmative votes cast by signed written ballot, one of its members as president of the council who, in the absence or disability of the mayor shall become acting mayor. Abstentions and blanks shall not be counted as votes cast. Such council member shall retain all his voting rights and other prerogatives as council member while acting as mayor.

B. Whenever the council president succeeds to the office of mayor pursuant to Section 2.5 B, below, the remaining membership of the council shall elect a new council president in the manner set out in Section 2.4 A, above.

**\*\*Section 2.5. Filling vacancies in office of mayor and council member.**

A. The mayor and council members shall remain in office until their successors have been duly elected and qualified. When there is a vacancy in the position of mayor, the president of the council, upon being qualified, shall become mayor. If such vacancy occurs before January 1 of an odd-numbered year leaving an unexpired term of more than two (2) years from said January 1, such successor shall serve in such position until a special election is held at the same time as the next regular city primary and general election. Such special election shall be held for the purpose of electing a replacement mayor to serve in such position for the remainder of the unexpired term. Such special election shall be held in the same manner as if the term were expiring and the term of the successor shall end upon election of a mayor for the unexpired term. In all other cases, the successor shall serve the remainder of the unexpired term.

B. When the president of the council becomes mayor, there shall be a vacancy in the position of council president, which shall be filled by the remaining members of the council pursuant to Section 2.4, above, no later than the first regular council meeting following the date of occurrence of the vacancy. When the president of the council becomes mayor, there also shall be a vacancy in such council member's position on the council. Whenever a vacancy occurs for any reason in the position of council member, a screening committee composed of the mayor, president of the council and chair of the Finance, Administration and Economic Development Committee of the council shall recommend to the remaining members of the committee of the whole of the council and the mayor not to exceed two (2) persons as potential replacements within thirty (30) days from the date the vacancy is declared to have occurred by the members of the council remaining after the vacancy. The remaining members of the council and the mayor shall so declare a vacancy to have occurred at the first regular council meeting following the date of occurrence of the vacancy. Upon receipt of such recommendation from the screening committee, the committee of the whole of the council, by majority vote of the remaining members thereof and the mayor, may recommend to the remaining members of the council and the mayor either recommended replacement or may reject both such recommended replacements. Should the remaining members of the committee of the

whole of the council and the mayor reject both such recommended replacements, the screening committee shall make a second recommendation of not to exceed two (2) persons other than the two persons originally recommended, as potential replacements for consideration by the remaining members of the committee of the whole of the council and the mayor within fifteen (15) days of such rejection. Upon receipt of the second recommendation from the screening committee, the committee of the whole of the council, by majority vote of the remaining members thereof and the mayor, may recommend to the remaining members of the council and the mayor either such recommended replacement or may reject both such recommended replacements. Should the remaining members of the committee of the whole of the council and the mayor reject both such recommended replacements, the council, by majority vote of the remaining members thereof and the mayor, shall appoint an elector qualified to fill the vacant position.

C. If such vacancy occurs in the position of council member before January 1 of an odd-numbered year leaving an unexpired term of more than two (2) years from said January 1, such appointed replacement shall serve in such position until a special election is held at the same time as the next regular city primary and general election. Such special election shall be held for the purpose of electing a replacement to serve in such position for the remainder of the unexpired term. Such special election shall be held in the same manner as if the term were expiring and the term of the appointed member, if any, shall end upon election of a member for the unexpired term. In all other cases, the appointed replacement shall serve the remainder of the unexpired term.

**Section 2.6. General powers and duties of the governing body; voting.**

A. *General powers and duties.* All powers of the city shall be vested in the governing body, except as the Constitution and Statutes of Kansas or this or other charter ordinances may provide otherwise. The governing body shall provide for the performance of all duties and obligations imposed on the city by law.

B. *Voting.*

1. Any ordinance shall be passed by an affirmative vote of seven (7) council members unless a greater number of votes are specifically required by another provision of law; provided, that where the number of favorable votes is one less than required, the mayor shall have the power to cast the deciding vote in favor of the ordinance.

2. Any resolution, motion or any other action of the governing body except charter ordinances, upon which the mayor's vote shall be counted on every occasion, and except as otherwise provided herein or by law, shall be passed at a

meeting at which a quorum is present if more than half of the votes cast by council members are affirmative votes; provided, that abstentions shall not be counted as votes cast and where the number of affirmative votes is one less than required, the mayor shall have the power to cast the deciding vote in favor of the resolution, motion or other action.

**Section 2.7. Powers and duties of the mayor.**

The mayor shall be the titular head of the city and shall preside at all meetings of the council. The mayor shall sign all ordinances and resolutions passed by the council; provided, that the mayor shall have the power to veto any ordinance or resolution passed by the council, except the mayor shall have no power to veto a charter ordinance, or appointments by the council for vacancies on the council. Any ordinance or resolution vetoed by the mayor may be passed over the veto by the vote of two-thirds of the whole number of the council members-elect, notwithstanding the veto; and if the mayor has failed to sign or veto such ordinance or resolution by the first regular meeting following the adoption of such ordinance or resolution, the same shall take effect without the mayor's signature. It shall be the duty of the mayor to sign all contracts and agreements authorized by the governing body, except those contracts and agreements designated by the governing body to be entered into and signed by the city manager or his/her designee. The mayor shall represent the city governing body at all official city functions and shall be the official representative of the governing body at all meetings, conferences and negotiations relating to policy matters involving other governmental units and shall recommend council action relating thereto. The mayor shall be the official representative of the governing body at all conferences and meetings with citizens' groups and organizations interested in promoting the welfare and development of the city and shall recommend council action relative thereto. The mayor may annually communicate to the council in writing such information as he or she may possess with reference to the condition of the city, and recommend such measures as he or she may deem necessary and expedient. The mayor may inform the council concerning questions of policy and may make policy recommendations to the council.

**Article III. City manager.**

**Section 3.1. In general.**

The governing body and the city manager shall be governed by the provisions of K.S.A. 12-1009 to 12-1013, both sections inclusive, and K.S.A. 12-1015, and any amendments thereto, in the organization and administration of the city.

**Section 3.2. Powers and duties of the city manager.**

The city manager shall be responsible for the administration of all of the affairs of the city. The city manager shall see that the laws and ordinances of the city are enforced.

The city manager shall have the authority to appoint, promote, transfer, assign and demote, discipline, lay off, suspend, discharge, or remove all heads of departments, and all subordinate officers and employees of the city. All such appointments shall be made upon merit and fitness alone. Provided that, the city manager may delegate at his or her discretion such authority to appoint, promote, transfer, assign and demote, discipline, lay off, suspend, discharge, or remove subordinate officers and employees of the city to department directors and division heads. In addition, the city manager may, without notice, cause the affairs of any department or the conduct of any officer or employee to be examined. The city manager shall prepare and submit the annual budget to the governing body and also keep the city fully advised as to the financial conditions and needs of the city. The city manager may make recommendations to the governing body on all matters concerning the welfare of the city and shall have a seat, but no vote, in all of the public meetings of the governing body. The city manager, or his/her designee, may enter into, execute, approve and accept, on behalf of the city, all contracts, agreements and other documents as designated by the governing body.

**Article IV. Civil service commission.**

Notwithstanding the provisions of Article III, above, the city shall have a civil service commission and such civil service commission shall have the jurisdiction, powers, duties and responsibilities as set forth in the ordinary ordinances of the city.

**Article V. Repeal of charter ordinances.**

That Charter Ordinance Nos. Thirty-Four, Forty, Forty-Three, Seventy-Three, Seventy-Six, Seventy-Seven, Seventy-Eight and Eighty-One be and the same are hereby repealed.

**Article VI. Severability.**

It is hereby declared to be the intention of the governing body that the sections, subsections, paragraphs, sentences, clauses and phrases of this charter ordinance are severable, and if any phrase, clause, sentence, paragraph, subsection or section of this charter ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, subsections and sections of this charter ordinance, since the same would have been enacted by the governing body without the incorporation into this charter ordinance of any unconstitutional or otherwise invalid phrase, clause, sentence, paragraph, subsection or section.

**Article VII. Publication.**

This charter ordinance shall be published once each week for two consecutive weeks in *The Overland Park Sun*, an official City newspaper.

**Article VIII. Effectiveness.**

THIS IS A CHARTER ORDINANCE AND SHALL TAKE EFFECT 61 DAYS AFTER FINAL PUBLICATION UNLESS WITHIN 60 DAYS OF ITS FINAL PUBLICATION A PETITION SIGNED BY A NUMBER OF ELECTORS OF THE CITY OF OVERLAND PARK EQUAL TO NOT LESS THAN TEN PERCENT OF THE NUMBER OF ELECTORS WHO VOTED AT THE LAST PRECEDING REGULAR CITY ELECTION SHALL BE FILED IN THE OFFICE OF THE CITY CLERK OF OVERLAND PARK DEMANDING AN ELECTION ON THE CHARTER ORDINANCE IN WHICH CASE THE CHARTER ORDINANCE SHALL BECOME EFFECTIVE ONLY IF AND WHEN APPROVED BY A MAJORITY OF THE ELECTORS VOTING THEREON.

PASSED by the Governing Body not less than two-thirds of the members elect voting in favor thereof the 3<sup>rd</sup> day of November, 2003.

Ed Eilert, Mayor

ATTEST:

Marian Cook  
City Clerk

APPROVED AS TO FORM:

Robert J. Watson  
City Attorney

Passed:	November 3, 2003
Published:	November 6, 2003 November 13, 2003
61 days:	January 13, 2004
Effective:	January 13, 2004

*\*Section 2.3 is repealed by Charter Ordinance No. Eighty-Six.*

*\*\*Section 2.5 is repealed by Charter Ordinance No. Eighty-Nine.*