

CHARTER ORDINANCE NO. FORTY-FOUR

(Note: All or parts of this charter ordinance have been repealed.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

A CHARTER ORDINANCE EXEMPTING THE CITY OF OVERLAND PARK, KANSAS, FROM THE PROVISIONS OF KSA 12-4202 (1986 SUPP.), 12-4203 (1982), 12-4204 (1982), 12-4205 (1986 SUPP.), AND 12-4207 (1982), AND ANY AMENDMENTS THERETO, WHICH RELATE TO THE FILING AND SERVICE OF COMPLAINTS AND NOTICES TO APPEAR; AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT; REPEALING CITY OF OVERLAND PARK CHARTER ORDINANCE NO. THIRTY.

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

SECTION 1. 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 and make inapplicable to it the provisions of KSA 12-4202 (1986 Supp.), 12-4203 (1982), 12-4204 (1982), 12-4205 (1986 Supp.) and 12-4207 (1982) and any amendments thereto. Such referenced provisions are part of the Kansas Code of Procedure for Municipal Courts, an enactment of the legislature which is applicable to the City of Overland Park but not uniformly applicable to all cities.

*SECTION 2. "City officer" shall mean City Attorney, City Prosecutor, Assistant City Attorney, Fire Chief, Chief of Fire Prevention, Fire Inspector, Battalion Chief, Environmental Health Officer, Code Inspector, Public Officer, Building Inspector, Plans Examiner, Codes Administrator, Systems Inspector, Building Official, Animal Control Officer, Animal Control Supervisor, Parking Control Officer, or Code Enforcement Officer. Said officers shall have the authority to investigate violations of City ordinances, order compliance and issue complaints and notices to appear.

SECTION 3. Complaint; requirements form.

A Complaint shall be in writing and shall be signed by the complainant. More than one violation may be charged in the same complaint. A complaint shall be deemed sufficient if in substantially the form of complaint set forth in Section 4 herein or in substantially the following form:

Charter Ordinance No. Forty-Four

IN THE MUNICIPAL COURT OF THE CITY OF OVERLAND PARK, KANSAS
8500 Antioch, Overland Park, Kansas 66212

The City of Overland Park
vs.

(Accused Person)

of lawful age, being first duly sworn on oath, for complaint against the above shown accused person alleges and states:

That on or about the _____ day of _____, 19____, the said _____, within the corporate limits of the above named City and State did then and there in violation of the ordinances of said City unlawfully, _____

Complaint

Ordinance violated: _____

Notice issued for the accused person's appearance on the _____ day of _____, 19____, at _____, Mo.
OR
Warrant issued-appearance bond requirement per statute is:..... \$ _____

*Sworn to positively before me this _____ day of _____, 19____.

Judge-Notary Public-Municipal Court Clerk

My appointment expires: _____

*(This complaint is not required to be sworn to if it is signed by a Law enforcement officer or city officer.)

The foregoing provisions notwithstanding, and notwithstanding the provisions of Kansas Statutes Annotated 12-4113(g) (1986 Supp.), or any amendments thereto, whenever a law enforcement officer or city officer issues a complaint for the violation of any City ordinance, and such complaint includes information required by law and is signed by the officer preparing the same, then such complaint shall be deemed lawful for purposes of prosecution under this Act even though the same has not been sworn to before a Municipal Judge, Court Clerk, Assistant Court Clerk, or Notary Public.

SECTION 4. In all cases a complaint and notice to appear may be made in the form of the "Uniform Complaint and Notice to Appear" which shall be deemed sufficient if in substantially the following form:

UNIFORM COMPLAINT AND NOTICE TO APPEAR

State of Kansas)
 County of Johnson) ss
CITY OF OVERLAND PARK) No.

In the Municipal Court of Overland Park **COMPLAINT**

The Undersigned, being duly sworn, complains that on _____
 the _____ day of _____ 10, at _____ a.m.
 p.m.

NAME _____
(Last) PLEASE PRINT (First) (Middle)

STREET ADDRESS _____

CITY _____ STATE _____

AGE _____
Birth Date RACE _____ SEX _____

HT. _____ WT. _____ HAIR _____ EYES _____

Chas./Drv. Lic. No. _____

Did violation at _____ **OVERLAND PARK, KANSAS**

TRAFFIC

Operate a vehicle to wit Model _____ Color _____ Make _____

Year Lic. no. _____ Year Lic. _____ State _____

By () Speeding _____ mph in _____ mph zone School Zone
 () Other traffic violation _____

OTHER VIOLATIONS (NON-TRAFFIC)

All in Violation of OPMAL

Signature of Officer _____ Badge No. _____
 for Complainant

* Sworn to positively before me this _____ day of _____, 10.

Municipal Judge/Court Clerk (Assist/Notary Public)

NOTICE TO APPEAR

The City of Overland Park, Kansas to the above-named Accused Person:
 You are hereby summoned to appear in Court Room _____ Municipal
 Court of Overland Park, Kansas at 8800 Ardench, on the _____ day of _____
 10, at _____ o'clock _____ M. to answer the above complaint.
 If you fail to appear a warrant may be issued for your arrest.

Dated _____, 10

Signature of Officer (Complainant) _____
 I agree to appear in said Court at said time and place.

Signature of Accused Person _____

RETURN OF SERVICE

The undersigned hereby certifies that on the _____ day of _____
 10 the notice to appear was served, mailed or delivered.

Law Enforcement Officer - City Officer

(This complaint is not required to be sworn to if it is signed by a law enforcement officer or city officer.)

SECTION 5. Notice to appear; contents; form.

A notice to appear shall describe the offense charged, shall summon the accused person to appear, shall contain a space in which the accused person may agree, in writing, to appear at a time not less than five (5) days after such notice to appear is given, unless the accused person shall demand an earlier hearing. A notice to appear may be signed by a municipal judge, the clerk of the municipal court, or any law enforcement officer or city officer of the city.

A notice to appear shall be deemed sufficient if in substantially the form of the notice to appear set out below:

IN THE MUNICIPAL COURT
OF OVERLAND PARK, KANSAS

The City of Overland Park, Kansas
vs.

(Accused person)

(Address)

NOTICE TO APPEAR

The City of Overland Park, Kansas, To
The Above Named Accused Person.

You are hereby summoned to appear before
the Municipal Court of Overland Park, Kansas,
on the _____ day of _____, 19____,
at _____ o'clock, .m., to answer a
complaint charging you with _____

If you fail to appear, a warrant will be
issued for your arrest.

DATED _____, 19__.

Law Enforcement Officer/City Officer

I agree to appear in said Court at said time
and place.

Signature of Accused Person

RETURN

The undersigned hereby certifies that on the
_____ day of _____, 19__ , the notice
to appear was served, mailed or delivered.

Law Enforcement Officer or City Officer

SECTION 6. Same; service; return.

The notice to appear shall be served upon the accused person by delivering a copy to him or her personally, or by leaving it at the dwelling house of the accused person or usual place of abode with some person of suitable age and discretion then residing therein, or by mailing it to the last known address of said person. A notice to appear may be served by any law enforcement officer or city officer and, if mailed, shall be mailed by a law enforcement officer, city officer, or the clerk of the municipal court. Upon service by mail, the law enforcement officer or City officer shall execute a verification to be filed with a copy of the notice to appear. Said verification shall be deemed sufficient if in substantially the following form:

The undersigned hereby certifies that on the _____ day
of _____, 19__ a copy of notice to appear
was mailed to _____ at

Signature of Law Enforcement Officer,
or Clerk of Municipal Court or
City Officer

SECTION 7. Same; how used; issuance of warrant; refusal to issue; effect.

A copy of the complaint shall be served, together with a notice to appear or a warrant, by a law enforcement officer or city officer upon the accused person, and forthwith, the complaint shall be filed with the municipal court. Provided further that the complaint need not be sworn to at the time of service but where required must be sworn to before filing the same with the municipal court. A complaint may be filed initially with the municipal court, and if so filed, a copy of the complaint shall forthwith be delivered to the City Attorney. The City Attorney shall cause a notice to appear to be issued, unless he or she has good reason to believe that the accused person will not appear in response to a notice to appear, in which case the City Attorney may request that a warrant be issued. Such warrant will be issued if the complaint is positively sworn to and the municipal judge has probable cause to believe that (a) there has been the commission of a violation of a municipal ordinance, (b) the accused person committed such violation and (c) the accused person will not appear in response to a notice to appear.

If a City Attorney fails either to cause a notice to appear or to request a warrant to be issued, on a complaint initially filed with the municipal court, the municipal judge may, upon affidavits filed with him or her alleging the violation of an ordinance, order the City Attorney to institute proceedings against any person. Any such municipal judge shall be disqualified from sitting in any case wherein such order was entered and is further prohibited from communicating about such case with the municipal judge pro tem appointed by the municipal judge to preside therein.

SECTION 8. Charter Ordinance No. Thirty is hereby repealed.

SECTION 9. This ordinance shall be published once each week for two consecutive weeks in the Overland Park Sun, an official City newspaper.

SECTION 10. This is a Charter Ordinance and shall take effect sixty-one days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, subdivision (c)(3) of the Constitution of Kansas, in which case the ordinance shall become effective as approved by a majority of the electors voting thereon.

Charter Ordinance No. Forty-Four

PASSED by the governing body not less than two-thirds of the members elect voting in favor thereof the 19th day of October, 1987.

Ed Eilert, Mayor

ATTEST:

Bernice Crummett, City Clerk

APPROVED AS TO FORM:

Karen Arnold-Burger

Assistant City Attorney

Passed: 10/19/87

Published: 10/23/87

10/30/87

Effective: 12/30/87

**Section 2 is repealed by Charter Ordinance No. Sixty
Entire ordinance repealed by Charter Ordinance No. Ninety-Three*