

CHARTER ORDINANCE NO. FORTY-NINE

*(Note: All or parts of this charter ordinance have been repealed effective April 7, 2001. See notes at the end of the ordinance.)*

A CHARTER ORDINANCE AMENDING AND REPEALING EXISTING SECTION 1 OF CHARTER ORDINANCE NO. 40 RELATING TO VACANCIES IN THE OFFICE OF MAYOR AND COUNCILMEMBER AND PROVIDING A METHOD FOR FILLING SUCH VACANCIES.

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

SECTION 1. Section 1 of Charter Ordinance No. 40 of the City of Overland Park, Kansas, be and the same is hereby amended to read as follows:

Section 1. Section 9 of Charter Ordinance No. 34 of the City of Overland Park, Kansas, be and the same is hereby amended to read as follows:

SECTION 9. FILLING VACANCY IN OFFICE OF MAYOR AND COUNCILMEMBER.

(a) The Mayor and Councilmembers shall remain in office until their successors have been duly elected and qualified. When there is a vacancy in the office of Mayor, the president of the Council, upon being qualified, shall become Mayor and shall serve in such office until the next regular City election and a successor has been duly elected and qualified. If the Mayor who vacated the office had a term which would not expire at such regular City election, then the successor elected at such regular City election is elected to serve such unexpired term.

(b) When the president of the Council becomes Mayor, there shall be a vacancy of such Councilmember's office on the City Council. Whenever a vacancy exists for any reason in the office of Councilmember, the precinct committee people who represent the precincts located within the ward which the vacating Councilmember represented, and who were elected by the political party of the vacating Councilmember, shall recommend a replacement to the Council within 30 days from the date the vacancy is declared to have occurred by the remaining members of the Council. The remaining members of the Council shall so declare a vacancy to have occurred at the first regular Council meeting following the date of occurrence of the vacancy. Such recommendation shall be communicated to the Council by the party's City chairman or County chairman. Upon receipt of such recommendation, the Council by majority vote of the remaining members thereof may either appoint such recommended replacement or may reject such recommended replacement. Should the remaining members of the Council reject such recommended replacement, the precinct committee people shall recommend another person for Council consideration within fifteen (15) days of such

rejection, and shall continue to make such timely recommendations successively until the remaining members of the Council have appointed a replacement. The remaining members of the Council shall act upon each successive recommendation by no later than the second regularly scheduled Council meeting following the Council meeting at which such recommendation was received.

(c) Should the precinct committee people fail to make such timely initial recommendation to the Council, or fail to make any such timely recommendation to the Council of another person when the Council has rejected the previously recommended person, the remaining member or members of the Council who are members of the same political party as the vacating Councilmember, or if none of the remaining members of the Council are members of the same political party as the vacating Councilmember, the Mayor shall recommend a replacement to the Council within fifteen (15) days of the previous Council rejection. Such recommended replacement, if made by the Mayor, shall be a member of the same political party as the vacating Councilmember. Upon receipt of such recommendation, the Council by majority vote of the remaining members thereof may appoint such recommended replacement or may reject such recommended replacement. Should the remaining members of the Council reject such recommended replacement, the remaining members of the Council of the same party as the vacating member, or the Mayor, as applicable, shall recommend another person for Council consideration within fifteen (15) days of such rejection and shall continue to make such timely recommendations successively until the remaining members of the Council have appointed a replacement. The remaining members of the Council shall act upon each successive recommendation by no later than the second regularly scheduled Council meeting following the Council meeting at which such recommendation was received.

(d) 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 appointed replacement shall serve in such position until an election is held at the same time as the next regular City primary and general election. Such election shall be held for the purpose of electing a replacement to serve in such position for the remainder of the unexpired term. Such 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.

(e) Should the remaining members of the Council of the same party as the vacating member, or should the Mayor, as applicable, fail to make such timely initial recommendation to the Council, or fail to make any such timely recommendation to the Council of another person when the Council has rejected the previously recommended person, and should such failure to timely recommend or to recommend another person occur more than 180 days prior to the filing deadline for the next regular City election, the Election Commissioner of Johnson County shall be so notified by the City Clerk and shall call a special

City ward election, at City expense, for the purpose of filling the vacancy with a replacement from the same political party as the vacating Councilmember. The special City ward election shall be held on a Tuesday not sooner than 90 days and not later than 120 days following such notification by the City Clerk. Such special City ward election otherwise shall be governed, to the extent possible, by the election laws contained in Kansas statutes and charter ordinances of the City. The winner at such special City ward election shall fill the vacated position until the next regular City election and until a successor has been duly elected and qualified. If the Councilmember who vacated the office had a term which would not expire at such regular City election, then the successor elected at such regular City election is elected to serve such unexpired term.

(f) In the event the Councilmember who vacates his office is an independent who belongs to no organized political party, the vacancy shall be filled by a majority vote of the remaining Councilmembers and thereafter such person shall serve in such office until the next regular City election and a successor has been duly elected and qualified. If the Councilmember who vacated the office had a term which would not expire at such regular City election, then the successor elected at such regular City election is elected to serve such unexpired term.

SECTION 2. Existing Section 1 of Charter Ordinance No. Forty is hereby repealed.

SECTION 3. 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.

SECTION 4. This ordinance shall be published once each week for two consecutive weeks in the Overland Park Sun, an official City newspaper.

SECTION 5. 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 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 26th day of March, 1990.

Ed Eilert, Mayor

Charter Ordinance No. Forty-Nine

ATTEST:

Bernice Crummett, City Clerk

APPROVED AS TO FORM:

John S. Anderson

Assistant City Attorney

Passed: 3/26/90

Published: 3/28/90

4/4/90

Effective: 6/4/90

*Entire ordinance repealed by Charter Ordinance No. Seventy-Six effective April 7, 2003.*