

CHARTER ORDINANCE NO. SEVENTY-SEVEN

*(Note: All or parts of this charter ordinance have been repealed or did not take effect by operation of law. See notes at the end of the ordinance.)*

A CHARTER ORDINANCE ADDING A SIXTH WARD IN THE CITY OF OVERLAND PARK, KANSAS; REPEALING SECTIONS 4 AND 6 OF CHARTER ORDINANCE NUMBER THIRTY-FOUR AND REPEALING CHARTER ORDINANCE NUMBERS FORTY-SEVEN AND FIFTY-FOUR; AND SUBJECTING THIS CHARTER ORDINANCE TO A VOTE OF THE ELECTORS OF THE CITY.

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

**\*\*SECTION 1. Composition of the Governing Body and eligibility for election thereto.**

- A. Composition. The Governing Body shall consist of a mayor elected by the City as a whole and ten (10) council members elected by wards; provided, for purposes of the City elections in 2003 and thereafter, 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.

**SECTION 2. Number of wards.** The City shall be divided into five wards to be numbered one through five; provided, effective in December, 2002, the City shall be divided into six wards numbered one through six for purposes of the City elections held in 2003 and thereafter.

**SECTION 3. 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 2002. 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 4. Date of primary City election; procedure for conduct of primary and general City elections.**

Charter Ordinance No. Seventy-Seven

A. If Charter Ordinance No. Seventy-Six is approved by a majority of the electors on April 3, 2001, Section 3 of Charter Ordinance No. Seventy-Six is hereby amended to read as follows:

1. Date of primary City election. The primary election of the City officers shall be on the Tuesday preceding by five weeks the first Tuesday in April of every odd-numbered year.
2. Procedure for conduct of primary City elections.
  - a. 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.
  - b. In 2003 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 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; provided, in Ward Six in 2003 the two (2) Ward Six council positions shall be designated as Position No. 1 and Position No. 2 and both council positions shall be filled. A candidate may file for either Position No. 1 or Position No. 2, but not for both positions. If no more than two (2) candidates have filed for either or both such Ward Six positions, the candidates for such Ward Six position or positions shall automatically be listed on the general City election ballot; but if more than two (2) candidates have filed for either or both of the Ward Six positions, a primary City election shall be held for the nomination of two (2) candidates for such Ward Six position or positions. Each qualified elector who is a resident of Ward Six shall be entitled to vote for one (1)

candidate for each Ward Six position. The two (2) candidates for each Ward Six position receiving the highest number of votes shall be placed on the general City election ballot as the candidates nominated for election to that Ward Six position.

3. Procedure for conduct of general City elections.

- a. 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.
- b. In the general City election in 2003 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; provided, in the general City election of 2003, all qualified electors of Ward Six shall be entitled to vote on the election of one council member for each Ward Six position. Of the candidate or candidates nominated or automatically listed for each Ward Six position, the candidate receiving the highest number of votes shall be elected to that Ward Six position.

\*B. If Charter Ordinance No. Seventy-Six is not approved by a majority of the electors on April 3, 2001, the following provisions shall take effect:

1. Date of primary election. The primary election of the City officers shall be on the Tuesday preceding by five weeks the first Tuesday in April of every odd-numbered year.
2. Procedure for conduct of primary City elections.
  - a. In 2005 and in each subsequent year in which the term of the mayor expires, if no more than one (1) candidate has filed for the office of mayor from any officially recognized political party, such candidate shall automatically be listed on the general City election ballot as the candidate from that party; but if more than one (1) candidate has filed for the office of mayor from any officially recognized political party in Kansas entitled to have its candidate nominated by a primary election, a primary City election at large shall be held for the nomination of a candidate for the office from that party. Each qualified elector of the City who is eligible to vote in that party's partisan primary under the election laws of the State of

Kansas shall be entitled to vote for one (1) candidate. The candidate from that party receiving the highest number of votes cast shall be placed on the general City election ballot as the candidate from that party nominated for election as mayor. If more than one (1) candidate has filed for the office of mayor from any officially recognized political party other than one entitled to have its candidate nominated by a primary election, the nominee of that party shall be chosen by a delegate or mass convention. All independent candidates for the office of mayor shall automatically be listed on the general City election ballot.

- b. In 2003 and in each subsequent year in which the term of a council member expires, if no more than one (1) candidate from any officially recognized political party has filed for the office of council member to be filled, such candidate shall automatically be listed on the general election ballot as the candidate from that party; but if more than one (1) candidate from any officially recognized political party in Kansas entitled to have its candidate nominated by a primary election has 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 a candidate from that party from that ward. Each qualified elector who is a resident of the ward and who is eligible to vote in that party's partisan primary under the election laws of the state of Kansas, shall be entitled to vote for one (1) candidate from his or her ward. The party candidate from each such ward who receives the highest number of votes cast shall be placed on the general City election ballot as the candidate nominated for election from that party from that ward; provided, in Ward Six in 2003 the two (2) Ward Six council positions shall be designated as Position No. 1 and Position No. 2 and both council positions shall be filled. A candidate may file for either Position No. 1 or Position No. 2, but not for both positions. If no more than one (1) candidate has filed for either or both of the Ward Six positions from any officially recognized political party, such candidate shall automatically be listed on the general election ballot as the candidate from that party for that position; but if more than one (1) candidate from any officially recognized political party in Kansas entitled to have its candidate nominated by a primary election has filed for either or both Ward Six positions, a primary City election shall be held for the nomination of one (1) candidate from that party for that Ward Six position. Each qualified elector who is a resident of Ward Six and who is eligible to vote in a partisan primary under the election laws of the State of Kansas shall be entitled to vote for one (1) candidate for each Ward Six position. The party candidate for each Ward Six position who receives the highest number of votes shall be placed on the general City election ballot as the candidate for election from that party for that Ward Six position. If more than one (1) candidate has filed for the

office of council member from any officially recognized political party other than one entitled to have its candidate nominated by a primary election, the nominee of that party shall be chosen by a delegate or mass convention. All independent candidates for the office of council member shall automatically be listed on the general City election ballot.

3. Procedure for conduct of general City elections.

- a. 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.
- b. In the general City election in 2003 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 candidates nominated from each ward or listed automatically on the general City election ballot from that ward, the candidate receiving the highest number of votes in the general City election shall be elected as council member from the ward; provided, in the general City election of 2003, all qualified electors of Ward Six shall be entitled to vote on the election of one council member for each Ward Six position. Of the candidate or candidates nominated or listed automatically on the general City election ballot for each Ward Six position, the candidate receiving the highest number of votes in the general City election shall be elected to that Ward Six position.

**SECTION 5. Terms of office.**

- A. At the primary and general City elections held in 2003 all council member positions which were last filled by election in 1999 shall be filled by election, and those persons so elected in 2003 shall succeed to those council member positions. Also, at the primary and general City elections held in 2003 both council positions in Ward Six shall be filled by election. Those persons elected as council members in 2003 shall hold their positions for a term of four (4) years and until their successors are duly elected and qualified; provided, the candidate elected to council Position No. 1 in Ward Six in 2003 shall hold the position for an initial term of two (2) years.
- B. At the primary and general City elections held in 2005 the position of mayor and all council member positions which were last filled by election in 2001 and the Council

member position in Ward Six filled by election to a two year term in 2003 shall be filled by election, and those persons so elected in 2005 shall succeed to those mayor and council member positions. Those persons elected as mayor and 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.

**SECTION 6. Council president, election of, powers and duties.** On the second Monday after the first Tuesday in the month of April of each year, the council shall elect by six (6) affirmative votes cast by signed written ballot, provided that abstentions and blanks shall not be counted as votes cast, one of its members as president of the council who, in the absence or disability of the mayor shall become acting mayor; provided, beginning in the month of April of 2003 the president of the council shall be elected by seven (7) affirmative votes. Such council member shall retain all his voting rights and other prerogatives as council member while acting as mayor.

**SECTION 7. 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 six (6) 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; and further provided that beginning on April 7, 2003, an ordinance shall be passed by an affirmative vote of seven (7) council members.
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, 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 8. Repeal of charter ordinances.** That Sections 4 and 6 of Charter Ordinance Number Thirty-Four, and Charter Ordinance Numbers Forty-Seven and Fifty-Four of the City of Overland Park, Kansas, be and the same are hereby repealed.

**SECTION 9. 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.

**SECTION 10. Publication of charter ordinance.** This charter ordinance shall be published once each week for two (2) consecutive weeks in *The Overland Park Sun*, an official City newspaper.

**SECTION 11. Election on charter ordinance.** This is a charter ordinance and its effectiveness is hereby made subject to a vote of the electors of the City of Overland Park, Kansas. It shall take effect only if 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 5<sup>TH</sup> DAY OF FEBRUARY, 2001.

Ed Eilert, Mayor

ATTEST:

Marian Cook, City Clerk

APPROVED AS TO FORM:

Robert J. Watson, City Attorney

Passed:	2/5/2001
Published:	2/7/2001
	2/14/2001
Election:	4/3/2001
Effective:	4/6/2001

*\*Subsection B of Section 4 did not take effect by operation of law.*

*\*\*Section 1 repealed by Charter Ordinance No. Eighty-One*

*Entire ordinance has been repealed by Charter Ordinance No. Eighty-Four.*

