

CHARTER ORDINANCE NO. SEVENTY-SIX

(Note: All or parts of this charter ordinance have been repealed.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

A CHARTER ORDINANCE CHANGING CITY ELECTIONS IN THE CITY OF OVERLAND PARK, KANSAS, FROM PARTISAN TO NONPARTISAN ELECTIONS; CHANGING THE METHOD OF FILLING VACANCIES IN THE OFFICE OF COUNCIL MEMBER IN THE CITY OF OVERLAND PARK, KANSAS, FROM A PARTISAN TO A NON-PARTISAN METHOD; EXEMPTING THE CITY OF OVERLAND PARK, KANSAS, FROM K.S.A. 25-2113 AND 13-513; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECTS; REPEALING SECTION 6 OF CHARTER ORDINANCE NO. 34; REPEALING CHARTER ORDINANCE NO. 49 EFFECTIVE APRIL 7, 2003; 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. Statutes made inapplicable. The City of Overland Park, 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. 25-2113 and 13-513 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.

SECTION 2. 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.

***SECTION 3. Date of primary city election; procedure for conduct of primary and general city elections.**

A. 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.

B. 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 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 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 for election from the ward.

C. 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 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 candidate or 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.

SECTION 4. Filling vacancies in office of mayor and council member. Effective on and after April 7, 2003:

- 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 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 not to exceed two (2) persons as potential replacements to the council 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, the council, by majority vote of the remaining members thereof and the mayor, may appoint either recommended replacement or may reject both such recommended replacements. Should the remaining members 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 replacements for council consideration within fifteen (15) days of such rejection. Upon receipt of the second recommendation, the council, by majority vote of the remaining members thereof and the mayor, may appoint either such recommended replacement or may reject both such recommended replacements. Should the remaining members 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 5. Repeal of charter ordinances. Section 6 of Charter Ordinance No. 34 be and the same is hereby repealed and Charter Ordinance No. 49 of the City of Overland Park, Kansas, be and the same is hereby repealed effective April 7, 2003.

SECTION 6. 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

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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 7. 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 8. 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 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 5TH 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

**Section 3 amended by Subsection A of Section 4 of Charter Ordinance No. Seventy-Seven and therefore repealed.*

Entire ordinance repealed by Charter Ordinance No. Eighty-Four.