

CHARTER ORDINANCE NO. THIRTY-ONE

*(Note: All or parts of this charter ordinance have been repealed.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 SECTIONS 12-4211 AND 12-4212 OF THE KANSAS STATUTES ANNOTATED PERTAINING TO THE POWERS OF A LAW ENFORCEMENT OFFICER TO DETAIN AND ARREST PERSONS AS PROVIDED FOR IN THE CODE OF PROCEDURE FOR MUNICIPAL COURTS, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

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 from and make inapplicable to it Sections 12-4211 and 12-4212 of the Kansas Statutes Annotated are part of the Code of Procedure for Municipal Courts, Kansas Statutes Annotated 12-4101 et seq., an enactment of the legislature which is applicable to the City of Overland Park, but not uniformly applicable to all cities, and the legislature has not established classes of cities for the purpose of imposing limitations on procedures in municipal courts.

SECTION 2.

A law enforcement officer may detain a person when:

- (a) He or she has a warrant commanding that such person be arrested; or
- (b) He or she has no warrant, but the officer has reason to believe that a warrant for the person's arrest has been issued by any court in this state, or by any court in any other jurisdiction for a felony committed therein; or
- (c) He or she has probable cause to believe that the person is committing or has committed
  - (1) A felony; or
  - (2) A misdemeanor or ordinance violation, and the officer has probable cause to believe that:
    - (i) Such person will not be apprehended or evidence of the crime will be irretrievably lost unless such person is immediately detained; or
    - (ii) Such person may cause injury to himself, herself, or others or damage to property unless immediately detained; or
- (d) Any crime (felony, misdemeanor, or ordinance violation) has been or is being committed by such person in the officer's view.

A law enforcement officer having detained a person pursuant to the preceding paragraph, except subsection (a) or (b) thereof, may release the person or may prepare and serve upon such person a complaint and notice to appear, as provided by Charter Ordinance No. Thirty and shall then release such accused person from such detention, except in such instances where the law

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enforcement officer has power and authority to arrest such accused person as hereinafter set forth.

SECTION 3.

A law enforcement officer may arrest a person when:

- (a) He or she has a warrant commanding that such person be arrested; or
- (b) He or she has no warrant, but the officer has probable cause to believe that a warrant for the person's arrest has been issued by any court in this state, or by any court in any other jurisdiction for a felony committed therein; or
- (c) He or she has probable cause to believe that the person is committing or has committed
  - (1) A felony; or
  - (2) A misdemeanor or ordinance violation, and the officer has probable cause to believe that:
    - (i) Such person will not be apprehended or evidence of the crime will be irretrievably lost unless such person is immediately arrested; or
    - (ii) Such person may cause injury to himself, herself, or others or damage to property unless immediately arrested; or
- (d) Any crime (felony, misdemeanor, or ordinance violation) has been or is being committed by such person in the officer's view.

SECTION 4. This ordinance shall be published once every week for two consecutive weeks in the official City newspaper.

SECTION 5. This is a Charter Ordinance and shall take effect sixty-one (61) 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.

PASSED by the Governing Body not less than two-thirds of the members-elect voting in favor thereof the 15th day of August, 1983.

ATTEST:  
Bernice Crummett, City Clerk

Ed Eilert, Mayor

Karen Arnold-Burger  
Assistant City Attorney

Passed: 8/15/83  
Published: 8/17/83  
8/24/83  
Effective: 10/23/83

*Entire ordinance repealed by Charter Ordinance No. Sixty-Seven*