

CHARTER ORDINANCE NO. NINETY-TWO

(Note: All or parts of this charter ordinance have been repealed.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 13-14a01, 13-14a02, 13-14a03, 13-14a04, 13-14a05, 13-14a06, 13-14a07, 13-14a08, 13-14a09, 13-14a11, 13-14a12, AND 13-14a13 OF THE KANSAS STATUTES ANNOTATED PERTAINING TO FIRE AND POLICE DEPARTMENT RETIREMENT SYSTEMS, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT AND REPEALING OVERLAND PARK CHARTER ORDINANCE NUMBER EIGHTY-THREE.

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 13-14a01, 13-14a02, 13-14a03, 13-14a04, 13-14a05, 13-14a06, 13-14a07, 13-14a08, 13-14a09, 13-14a11, 13-14a12, and 13-14a13 of the Kansas Statutes Annotated and provide substitute and additional provisions therefor; said sections relate to Fire and Police Department Retirement Systems, an enactment of the legislature which is applicable to the City of Overland Park, but not uniformly applicable to all cities.

SECTION 2. The Overland Park, Kansas, Police Department Retirement Plan (the "Police Department Plan") and the Overland Park, Kansas, Police Department Retirement Trust Agreement (the "Police Department Trust Agreement"), as previously established under authority of Overland Park Charter Ordinance Number Eight and Overland Park Ordinances PEN-497, PEN-497A, PEN-497B and PEN-842 and reestablished by Charter Ordinance Number Twenty Seven and Charter Ordinance No. Eighty-Three are hereby further reestablished and reaffirmed.

The Overland Park, Kansas, Fire Department Retirement Plan, as originally established by the Overland Park Fire Department, Incorporated, as of January 1, 1969, subsequently amended and restated by the Overland Park Fire Department, Incorporated, and then assumed by the City of Overland Park, Kansas, as of September 1, 2003 (the "Fire Department Plan"), and the Overland Park, Kansas, Fire Department Retirement Trust, as established by the Overland Park Fire Department, Incorporated, and then assumed, amended, and restated by the City of Overland Park, Kansas, as of September 1, 2003 (the "Fire Department Trust Agreement"), and reestablished by Charter Ordinance No. Eighty-Three are hereby reestablished and reaffirmed.

The Governing Body is authorized to amend, by resolution, either the Police Department Plan or Trust Agreement or the Fire Department Plan or Trust Agreement, provided that such amendments shall not conflict with any provisions of this Charter Ordinance.

SECTION 3.

A. Police Department Trust Agreement. There shall be five trustees to act as provided in the Police Department Trust Agreement. The Mayor shall appoint three trustees, although the appointment of two trustees shall be with the consent of the City Council. Beginning in 1982,

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such trustees shall be appointed for designated terms of three years, two years, and one year and until their successors are appointed and qualified. In years after 1982, each appointed trustee shall serve three years and until his or her successor is appointed and qualified.

Two additional trustees shall be elected from among the participating membership of the Police Department Retirement Plan, by a majority vote of the members of the Plan casting ballots. In 1982, trustees elected by the participating members shall serve for specified terms of two years and three years and until their successors are appointed and qualified. At each future election, a trustee elected by the participating members shall serve for a period of three years and until his or her successor is appointed and qualified.

The term of each trustee of the Police Department Trust Agreement shall commence on the second Tuesday of April following his or her appointment or election. Other provisions concerning the appointment, election, resignation, or removal of a trustee may be specified in the Police Department Trust Agreement, so long as such provisions do not conflict with any provisions of this Charter Ordinance.

B. Fire Department Trust Agreement. There shall be five trustees to act as provided in the Fire Department Trust Agreement. The Mayor shall appoint three trustees, although the appointment of two such trustees shall be with the consent of the City Council. Effective as of September 1, 2003, such trustees shall be appointed for designated terms of three years, two years, and one year and until their successors are appointed and qualified. In years after 2003, each appointed trustee shall serve three years and until his or her successor is appointed and qualified.

Two additional trustees shall be elected from among the participating membership of the Fire Department Retirement Plan, by a majority vote of the members of the Plan casting ballots. Such trustees in office as of September 1, 2003, shall serve remaining terms of two years and one year and until their successors are elected and qualified. In future years, a trustee elected by the participating members shall serve for a period of three years and until his or her successor is elected and qualified.

The term of each trustee of the Fire Department Trust Agreement shall commence immediately upon such trustee's acceptance of his or her appointment or election. Other provisions concerning the appointment, election, resignation, or removal of a trustee may be specified in the Fire Department Trust Agreement, so long as such provisions do not conflict with any provisions of this Charter Ordinance.

SECTION 4. One or more policies providing disability income and life insurance for the benefit of police officers, fire fighters and their dependents shall be purchased and maintained to supplement the provisions of the Police Department Plan, the Fire Department Plan, and their related Trust Agreements.

SECTION 5. For the purpose of funding the Plans and purchasing any insurance described in Section 4 of this Charter Ordinance, the City shall make annual contributions from the General Fund. Said contributions shall be made in compliance with K.S.A. 2002 Supp. 12-5002 or any

amendments thereto, and shall be maintained in order to fund the Plans on an actuarially-sound basis.

In addition thereto, funds shall be utilized for the Plans and said insurance which are obtained by gifts, grants, bequests, gratuities and proceeds from lost or stolen securities, money or personal property which shall remain unclaimed in the possession of the City for six months, together with the proceeds of all unclaimed or confiscated property of any nature which shall have been in the possession of the City for a period of six months, and the City is hereby authorized to sell at public auction any such lost, stolen or unclaimed property.

SECTION 6. Payments upon retirement, discharge, disability, or death to any member or beneficiary of the Police Department Plan or the Fire Department Plan shall be established and paid out in accordance with the terms of the Plans and the Trust Agreements.

SECTION 7. Existing Overland Park Charter Ordinance Number Eighty-Three is hereby repealed.

SECTION 8. This ordinance shall be published once each week for two consecutive weeks in the *Overland Park Sun*, an official City newspaper.

SECTION 9. THIS IS A CHARTER ORDINANCE AND SHALL TAKE EFFECT SIXTY-ONE (61) DAYS AFTER FINAL PUBLICATION UNLESS WITHIN 60 DAYS OF ITS FINAL PUBLICATION A PETITION SIGNED BY A NUMBER OF ELECTORS OF THE CITY OF OVERLAND PARK EQUAL TO NOT LESS THAN TEN PERCENT OF THE NUMBER OF ELECTORS WHO VOTED AT THE LAST PRECEDING REGULAR CITY ELECTION SHALL BE FILED IN THE OFFICE OF THE CITY CLERK OF OVERLAND PARK DEMANDING AN ELECTION ON THE CHARTER ORDINANCE IN WHICH CASE THE CHARTER ORDINANCE SHALL BECOME EFFECTIVE 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 7th day of January, 2008.

Carl Gerlach, Mayor

ATTEST:

Marian Cook
City Clerk

APPROVED AS TO FORM:

Michael R. Santos
Deputy City Attorney

Passed: January 7, 2008
Published: January 10, 2008
January 17, 2008
Effective: March 18, 2008

Entire ordinance repealed by Charter Ordinance No. Ninety-Four

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