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CHARTER ORDINANCE NO. 38

A CHARTER ORDINANCE CHANGING THE FORM OF GOVERNMENT OF THE CITY OF HUTCHINSON, KANSAS FROM THE COMMISSION-MANAGER FORM OF GOVERNMENT TO A MODIFIED MAYOR-COUNCIL-MANAGER FORM; EXEMPTING THE CITY OF HUTCHINSON, KANSAS FROM K.S.A. 12-1001, 12-1002, 12-1003, 12-1004, 12-1005, 12-1005d, 12-1005e, 12-1005f, 12-1005g, 12-1005h, 12-1005j, 12-1005k, 12-1005l, 12-1006, 12-1007, 12-1008, 12-1009, 12-1010, 12-1011, 12-1012, 12-1013, 12-1014, 12-1015, 12-1017, 12-1018, 12-1019, 12-1020, 12-1036a, 12-1036b, 12-1036c, 12-1036d, 12-1036e, 12-1036f, 12-1036g, 12-1036h; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ESTABLISHING A MODIFIED MAYOR-COUNCIL-MANAGER FORM OF GOVERNMENT FOR THE CITY OF HUTCHINSON.

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

ARTICLE I STATUTES MADE INAPPLICABLE

The City of Hutchinson, 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 the provisions of K.S.A. 12-1001, 12-1002, 12-1003, 12-1004, 12-1005, 12-1005d, 12-1005e, 12-1005f, 12-1005g, 12-1005h, 12-1005j, 12-1005k, 12-1005l, 12-1006, 12-1007, 12-1008, 12-1009, 12-1010, 12-1011, 12-1012, 12-1013, 12-1014, 12-1015, 12-1017, 12-1018, 12-1019, 12-1020, 12-1036a, 12-1036b, 12-1036c, 12-1036d, 12-1036e, 12-1036f, 12-1036g, 12-1036h 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.

ARTICLE II GOVERNING BODY

Section 2.1 Composition

- A. The governing body of the City of Hutchinson, Kansas, shall consist of five (5) council members with one (1) elected at large by the City as a whole and four (4) elected by districts. At every regular city election following the regular city election in 1995, there shall be elected two district council members for a term of four (4) years each and one (1) council member elected by the city as a whole to a two (2) year term.

- B. The governing body, once elected as described in paragraph A, Section 2.1, shall each year select the Mayor from its own members by a majority vote to serve a term of one (1) year.

Section 2.2 Districts

- A. Within sixty (60) days after approval of this Charter Ordinance by a majority vote of the electors of the city, the governing body shall, by ordinance, divide the city into four (4) districts to be called the Northwest, Southwest, Northeast and Southeast districts. Said districts shall be as nearly equal in population, and as compact and contiguous as is practical. Dividing lines between districts shall follow precinct boundaries. Every eight (8) years thereafter, the governing body of the city shall adjust district boundaries to reflect approximately equal population.
- B. Candidates for council members from a district shall have been residents of the district for which they seek election for at least six months prior to their election and continue to reside in the district during their term of office. Qualified voters signing a petition for the candidacy of a council member for a district shall be residents of such district. Only the qualified voters of a district shall vote upon the office of council member from that district.

Section 2.3 General Powers

All powers of the city shall be vested in the governing body, except as the Constitution and the Statutes of Kansas or this Charter Ordinance may otherwise provide. The governing body shall provide for the performance of all duties and obligations imposed on the City by law. The governing body shall adopt such codes, rules and regulations as may be necessary for the establishment of proper authority and direction for the administration of the affairs of the city. The governing body shall employ a City Manager as provided in Article III of this Charter Ordinance. The governing body shall set priorities for budget preparation and adopt the annual budget of the city. It shall be the duty of the governing body to be the policy-making body of the city, to pass ordinances, resolutions and contracts needful for the welfare of the city, to provide for such offices as shall be necessary to carry out the provisions of this Charter Ordinance and determine salaries for the same.

Section 2.4 Mayor

The Mayor shall be the titular head of the city and shall preside at all meetings of the council. The Mayor shall sign all ordinances and resolutions passed by the council and shall have all voting privileges of the council members.

It shall be the duty of the Mayor to sign all contracts authorized by the governing body before the city shall be liable thereon. He or she shall represent the city governing body at all official city functions, and shall be the official representative of the governing body at all meetings, conferences and negotiations relating to policy matters involving other governmental

units and shall recommend governing body action relating thereto. The Mayor shall be the official representative of the governing body at all conferences and meetings with citizens' groups and organizations interested in promoting the welfare and development of the city, and shall recommend governing body action relative thereto. The Mayor may inform the governing body concerning questions of policy, and may make policy recommendations to the governing body. The Mayor shall be empowered to call special meetings as provided by law.

Section 2.5 Salaries

The governing body shall by ordinance fix the salaries of the members of the governing body.

Section 2.6 Qualifications and Vacancies

- A. All members of the governing body shall be citizens of the United States and qualified electors of the city and must reside in the city at the time of election and reside in the city during the period he or she remains in office. The removal from the city of any member shall occasion a vacancy in such office.
- B. When there is a vacancy in the office of Mayor, the Vice Mayor, upon being qualified, shall become Mayor to serve until the next regular city organization meeting.
- C. A vacancy in any office of district council member shall be filled by the governing body until the next regular city election and a council member has been duly elected for the unexpired four-year term and has been qualified, or until the next regular city election and a council member has been duly elected for a full term and has been qualified.
- D. A vacancy in any office of a council member elected by the city as a whole, shall be filled by the governing body until the next regular city election and a council member has been duly elected by the city as a whole for a full term and has been qualified.

Section 2.7 Annual Organization Meeting

On the second Tuesday meeting in April, the governing body shall:

- A. Elect from one of its members by majority vote, a Mayor to serve until the next regular scheduled organization meeting.
- B. Elect from one of its members by majority vote, a Vice Mayor who, in the absence, disability, or disqualification of the Mayor, shall become acting Mayor. Such council member shall retain all voting rights and other prerogatives as a council member while acting as Mayor.

Section 2.8 Prohibitions

- A. **Holding other office.** No governing body member shall hold any other city office or city employment during the term for which the member was elected to the governing body. No former governing body member shall hold any compensated appointive city office or city employment until one year after the expiration of the term for which the member was elected.
- B. **Appointments and removal.** Neither the governing body nor any of its individual members shall in the manner direct, supervise or require the appointment, promotion, transfer, assignment, demotion, discipline, lay off, suspension, discharge or removal of any officers or employees whom the city manager is empowered to appoint. Governing body members may express their view and fully and freely discuss with the city manager anything pertaining to appointment, promotion, transfer, assignment, demotion, suspension, discharge and removal of such appointive officers and employees.
- C. **Interference with administration.** No member of the governing body shall directly interfere with the conduct of any department, except at the express direction of the council. The council and its members as individuals shall deal with appointive officers and employees solely through the city manager, but they may request information necessary for council work.

Section 2.9 Governing Body Rules of Procedure

- A. **Meetings.** The governing body shall meet regularly once a week, unless the governing body shall determine that such a meeting is not necessary, or oftener if public business requires. A call signed by a majority of the governing body shall be sufficient warrant for a special meeting. Regular or special meetings shall always be open to the public.
- B. **Rules and journal.** The governing body shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings.
- C. **Voting.** Three (3) members of the governing body shall constitute a quorum. All governing body actions on the passage of ordinances shall be taken by affirmative vote of three or more members unless a greater or lesser number is required by this Charter Ordinance, by the Statutes of Kansas, or by the Constitution of Kansas. All resolutions, motions, contracts and other business may be adopted or passed by a majority vote of a quorum, except as otherwise required by law. The votes of all governing body members shall be recorded in the journal.

ARTICLE III CITY MANAGER

Section 3.1 Appointment, Qualifications, Compensation

The governing body shall appoint a city manager to serve at the pleasure of the governing body and shall establish compensation of the city manager. The city manager shall be appointed primarily on the basis of executive, managerial and administrative qualifications as demonstrated by a verified record of training and experience in public administration and shall have such other qualifications as the governing body shall determine to be relevant and shall have an annual job review by the governing body. The city manager need not be a resident of the city at the time of appointment, but must reside in the city while in office. The terms and conditions of employment of the city manager shall be reduced to writing, and approved by the governing body shall retain the power to remove the city manager from office upon reasonable notice at their pleasure.

Section 3.2 Acting City Manager

By written notice filed with the governing body, the city manager may designate, subject to approval of the governing body, a qualified appointive administrative officer to exercise the powers and perform the duties of city manager during any temporary absence or disability of the city manager.

Section 3.3 Powers and duties of the City Manager

The city manager shall be the chief administrative officer of the city, and shall be responsible to the governing body for administration of the city affairs placed in his or her charge by or under this Charter Ordinance. The city manager shall:

1. Provide assistance and advice to the governing body as needed;
2. After appropriate consultation with the governing body, prepare and submit a recommended annual budget to the governing body for final adoption, and be responsible for the administration of the budget after it goes into effect;
3. Make recommendations to the governing body on all matters concerning the welfare of the city;
4. Ensure that all ordinances, resolutions, codes, regulations, rules, policies, directions and acts of the governing body are faithfully enforced, administered and executed;
5. Appoint, promote, transfer, assign and demote, discipline, lay off, suspend, discharge or remove appointed officers and employees of the city. The city manager may authorize any appointive officer who is subject to his or her direction and supervision to exercise these powers with respect to subordinates of that officer;

6. Direct and supervise the administration of all offices and all appointive officers and employees of the city;
7. Attend all governing body meetings, unless excused by the governing body, and have the right to take part in discussions without the right to vote;
8. Assist the governing body in the preparation of meeting agendas, ordinances, resolutions, rules, regulations and policies and in such matters as may be requested by the governing body;
9. Submit to the governing body and make available to the public periodic and annual reports on the financial and administrative affairs of the city and keep the governing body advised of the financial conditions and needs of the city;
10. Prepare and submit to the governing body annually recommendations for a capital development and financing program for the city.
11. Make such other reports as the governing body may require concerning the operations of city offices; and
12. Have such other powers and duties consistent with this Charter Ordinance as the governing body may prescribe.

ARTICLE IV ADMINISTRATION

Section 4.1 General

Administrative departments shall be created by the governing body as the public business may demand. All appointments shall be made by the city manager based upon qualification and merit. All department heads shall be ready at all times to furnish him or her with such information as he or she may require.

ARTICLE V ABANDONMENT

Section 5.1 General

A proposition to abandon this form of government and accept the commission-manager form of government law must first be submitted to a vote of the qualified electors of the city in the manner provided by K.S.A. 12-184.

Section 5.2 Petition

Any petition for the submission of a proposition hereunder shall be headed "Petition for a Special Election of the City of Hutchinson, Kansas, to vote on the abandonment of the mayor-council-city manager form of government."

The form of the ballots to be used at the election shall be as follows:

"Shall the City of Hutchinson, Kansas, abandon the mayor-council-city manager form of government and become a city operating under the general laws governing commission-manager cities?"

If a majority of the votes cast upon said proposition shall be in favor of abandoning the mayor-council-city manager plan of government, then at the next regular city election a board of city commissioners shall be elected and upon their election and qualification the rights, powers and duties of the mayor and council shall cease and terminate.

ARTICLE VI TRANSITION PROCEDURES

Section 6.1 Interim governing body

Upon approval of this Charter Ordinance by majority vote of the electors of Hutchinson, Kansas, voting thereon, the board of city commissioners shall continue in office as an interim governing body, holding all powers and duties as specified in the Kansas Constitution, Kansas Statutes and the Charter Ordinances and ordinary ordinances of the City of Hutchinson, Kansas, until the next regular city election. City offices and department existing under the board of city commissioners shall also remain in force and effect until altered, modified or repealed by or under the authority of the Charter Ordinance.

Section 6.2 Schedule of implementation.

- A. Time of taking partial effect. After the time of approval by the electors of the city, this Charter Ordinance shall be in effect only to the extent necessary to carry out the provisions of Article VI, and to provide for the first election of the council. The board of city commissioners shall adopt such ordinance or take whatever steps are required to cause such election to be held in accord with this Charter Ordinance and applicable laws of Kansas.
- B. Next city election. At the next regular city election to be held in April, 1995, there shall be elected one (1) council member at large by the city as a whole for a two (2) year term and two (2) council members by the Southeast and Northeast districts for four (4) year terms. At the next regular city election to be held in April, 1997, there shall be elected one (1) council member at large by the city as a whole for a two (2) year term and two (2) council members by the Northwest and Southwest districts to four (4) year terms.

Every two years thereafter, regular city elections shall be held to elect one (1) member at large and two (2) members by district.

- C. Time of taking full effect. This Charter Ordinance shall be in full effect for all purposes on an after the date and time of the first meeting of the newly elected council.
- D. On Tuesday, April 11, 1995, at 9:00 a.m. the three (3) newly elected council members and the two (2) hold over commissioners, who shall thereafter be referred as council members, shall hold their first regular meeting for the purpose of: (1) adopting any ordinary ordinances and resolutions necessary to effect the transition of government under this Charter Ordinance and to maintain effective government during that transition; (2) choosing one of its members for the office of Mayor and Vice Mayor; and (3) conducting such other business as may be necessary and appropriate.

Section 6.3 Ordinances to remain in force.

All ordinances, resolutions, policies, rules and regulations in force at the time this Charter Ordinance takes full effect, which are not inconsistent with the provisions of this Charter Ordinance, shall remain and be in force until altered, modified or repealed by or under the authority of this Charter Ordinance.

Section 6.4 Continuation of contracts, public improvements and taxes

All contracts and memoranda of agreement entered into by the city, or for its benefit prior to the taking full effect of this Charter Ordinance, shall continue in full force and effect.

Public improvements for which legislative steps have been taken under laws existing at the time this Charter Ordinance takes full effect may be carried to the completion as nearly practicable in accordance with the provisions of such existing laws. All taxes and assessments levied or assessed, all fines and penalties imposed, and all other obligations owing to the city which are uncollected at the time this Charter Ordinance becomes fully effective, shall continue in force and effect and shall be collected as if no change had been made.

ARTICLE VII REPEAL OF CHARTER ORDINANCE

All Charter Ordinances heretofore adopted by the City of Hutchinson, Kansas, the provisions of which are inconsistent herewith, are hereby repealed.

ARTICLE VIII SEVERABILITY

If a court of competent jurisdiction should hold any section or part of this Charter Ordinance invalid, such holding shall not affect the remainder of this Charter Ordinance nor the context in which such section or part so held invalid may appear, except to the extent that an

entire section or part may be inseparably connected in meaning and effect with that section or part.

If a court of competent jurisdiction holds a part of this Charter Ordinance invalid, or if a change in the Constitution of the State of Kansas or in the Statutes of Kansas or applicable federal law, renders a part of this Charter Ordinance invalid or inapplicable, the council may take such appropriate action as will enable the city government to function properly.

ARTICLE IX PUBLICATION OF CHARTER ORDINANCE

Section 9.1 General

This Charter Ordinance shall be published once each week for two (2) consecutive weeks in the official city newspaper.

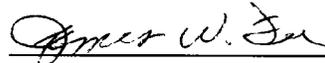
ARTICLE X ELECTION ON CHARTER ORDINANCE

Section 10.1 General

This is a Charter Ordinance and was approved by the electors of the City of Hutchinson on November 8, 1994.

PASSED BY THE GOVERNING BODY, this 6 day of December, 1994, for the City of Hutchinson, Kansas.




James W. Fee, Mayor


Vernon Stallman, CMC, City Clerk