ORDINANCE NO. 18381

AN ORDINANCE introduced by the Form of Government Transition Committee, relating to the changes in the administrative code pursuant to Charter Ordinance No. 94, amending City of Topeka Code §§ 2-27, 2-28, 2-29, 2-30, 2-33, 2-34, 2-112, 2-114, 2-118, 2-141, 2-142, 2-143, 2-145, 2-146, 2-147, 2-149, 2-150, 2-151, 2-152, 2-153, 2-154, and 2-155 and repealing said original section.

WHEREAS, effective April 12, 2005, the City of Topeka, pursuant to Charter Ordinance No. 94, adopted by the City Council on July 20, 2004, and approved by the electors of the city on November 2, 2004, will be governed by a city manager form of government; and

WHEREAS, the city manager form of government adopted pursuant to Charter Ordinance No. 94 provides for the mayor to be relieved of administrative duties; and

WHEREAS, the city manager form of government adopted pursuant to Charter Ordinance No. 94 provides for the city manager to assume responsibility for administrative duties; and

WHEREAS, the adoption of Charter Ordinance 94 necessitates amendments to the administrative code of the city.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That City of Topeka Code § 2-27, Time of council meetings; to be open to the public, is hereby amended to read as follows:

Time of council meetings; to be open to the public.

The council shall meet in the council chambers/municipal court complex on the second floor of the municipal building, the first four Tuesdays of each month at 7:00 p.m.
for the purpose of conducting the business of the city, except that when the date of a
regular meeting falls on a legal holiday, any city primary or general election the meeting
shall be adjourned to the following Wednesday unless another day is fixed in advance by
the council. A council meeting may be canceled by a majority vote of the council, provided
that in no event shall the number of council meetings in a month be less than that required

Section 2. That City of Topeka Code § 2-28, Preparation of agenda, is hereby
amended to read as follows:

Preparation of agenda.

The mayor city manager shall set prepare the agenda for all council meetings. The
city clerk is hereby authorized and directed to prepare and circulate the agenda of the
items of business to be transacted by the council at each regular meeting. Arrangements
may be made with the city clerk to mail or deliver the agenda each week to any person for
an annual fee to be set during the yearly budget process. The fee may be waived at the
discretion of the city clerk.

Section 3. That City of Topeka Code § 2-29, Adding items, is hereby amended to
read as follows:

Adding items.

Items may be added to the agenda only at regular Tuesday meetings. The item to
be added shall be introduced at the beginning of the official meeting by the city clerk. The
councilmember(s), or the chief administrative officer city manager who wishes to have an
item added to the agenda, shall submit a cover letter with the item explaining the necessity
for adding the item, and the item shall only be added if its addition is approved by a
majority vote of the city council.

Section 4. That City of Topeka Code § 2-30, Ordinances and resolutions, is
hereby amended to read as follows:

Ordinances and resolutions.

(a) The title of every ordinance and resolution shall summarize the subject matter
of the ordinance, and shall set forth the name of the mayor city manager, councilmember
or members introducing each ordinance and resolution to the city council.

(b) When any ordinance or resolution is amended, a draft shall be prepared and
circulated to the members of the city council in such a manner that material proposed for
elimination shall be shown stricken and material proposed for addition shall be underlined.

Section 5. That City of Topeka Code § 2-33, Office of the arts, is hereby
amended to read as follows:

Office of the arts.

(a) Office of the arts created. There is hereby created an Office of the Arts for the
City of Topeka. The office shall be an adjunct to the office of the mayor city manager. The
office of the arts shall provide the technical assistance to arts programs and coordination of
arts programs within the City of Topeka, administer the Topeka Arts Grant Program, and
the Art in Public Places Program.

(b) Arts advisory committee created. There is hereby created an arts advisory
committee within and a part of the office of the arts. The arts advisory committee shall
assist the office of the arts in carrying out its responsibilities as described in subsection (a).
The arts advisory committee shall also serve as a focal point for providing assistance to
arts programs within the City of Topeka, which may include but not be limited to the following activities:

(1) Providing recommendations to the mayor city manager and city council on Topeka Arts Grant Program requests;

(2) Technical assistance in grant writing;

(3) Technical assistance in fundraising;

(4) Distributing an advisory committee newsletter;

(5) Providing technical assistance and coordination to the arts community;

(6) Hosting special arts events;

(7) Establishing and maintaining a detailed resource information database including "technical/performance" marketing and management resources;

(8) Developing a supporting relationship with the Topeka-Shawnee County Public Library and Washburn University to support arts databases; and

(9) Performing other such duties in making recommendations as may be requested by the mayor and the city council.

The arts advisory committee shall prepare and file with the city clerk an annual report on the state of affairs of the arts in the City of Topeka. Additional reports may be filed with the city clerk in such manner and frequency as may be requested by the mayor city manager and city council.

(c) Arts advisory committee membership. The arts advisory committee shall consist of 10 members. One member shall be appointed by each of the city council members and the mayor. The eleventh member of the committee shall be
appointed by the mayor as the chair of the committee. Each member of the arts advisory
committee shall be a resident of the City of Topeka. Members of the arts advisory
committee shall serve a term of four years, corresponding to the term of the appointing
authority. Members may be appointed for subsequent terms after the completion of the first
term. Members shall serve until a successor is appointed. Committee members may be
affiliated with other arts boards or committees by way of membership. Members of the arts
advisory committee shall serve without compensation. Meetings shall be served at the call
of the chair with at least one meeting to be held quarterly. Any committee member that is
absent for any three scheduled meetings in a row shall automatically be removed from the
Committee. Vacancies occurring on the arts advisory committee shall be filled by
appointment for the unexpired term by the appropriate appointing authority.

(d) Art in public places program created. There is hereby created an art in public
places program that shall be administered by the office of the arts. The art in public places
program provides opportunities for permanent or temporary displays of art in public places
either on city-owned facilities or by the permission of the property owner on private
property. Policies and procedures for administration of this program shall be approved by
the mayor based on recommendations of the arts advisory committee.

(e) Topeka Arts Grant Program created. There is hereby created a Topeka Arts
Grant Program to be administered by the office of the arts. The Topeka Arts Grant
Program shall provide opportunities for recipients to receive funding for art projects,
programs, activities, or one time capital outlay expenses. The Topeka Arts Grant Program
shall not be used to supplant funding for ongoing, repetitive operating expenses or for
salaries. The Topeka Arts Grant Program is detailed in a separate resolution adopted and
approved by the Topeka City Council.

(f) **Topeka Arts Fund created.** There is hereby created in the City treasury the Topeka Arts Fund. All monies in the Topeka Arts Fund shall be expended in accordance with the appropriation acts of the Topeka City Council. These monies shall only be used to finance the office of the arts, the art in public places program and the Topeka Arts Grant Program.

There is hereby established a surcharge on all capital improvements funded from the general improvement fund monies, and all projects undertaken by the Topeka Public Building Commission. The surcharge is calculated as follows:

1. For improvements, projects, and developments which cost up to $999,999.00 --- .50 percent of cost;
2. For improvements, projects, and developments which cost from $1,000,000.00 to $2,999,999.00 -- .40 percent of cost; and
3. For improvements, projects and developments which cost $3,000,000.00 or more -- .35 percent of cost.

All monies received as a result of this surcharge shall be deposited into the city treasury and credited to the Topeka Arts Fund. Additionally, monies from the city's general fund, origination fees collected from economic development revenue bonds issued by the city pursuant to K.S.A. 12-1740, et seq., and deposited in the economic development fund, and monies from any other source legally available for such purpose may be credited to the Topeka Arts Fund.

(g) The Topeka Arts Fund surcharge shall be collected within 30 days of the city's approval of tax abatement or exemption for a project in a neighborhood revitalization...
area or for any other project receiving economic development incentive in the form of a tax
abatement or incentive.

(h) Whenever the city council finds that imposition of the Topeka Arts Fund
surcharge would result in severe and undue economic burden or have a negative effect on
economic development in the City of Topeka, the city council may by resolution waive the
entire surcharge or any portion thereof.

Section 6. That City of Topeka Code § 2-34, Filling of vacancies in the office of
mayor or councilmember, is hereby amended as follows:

Filling of vacancies in the office of mayor or councilmember.

Subject to City of Topeka Charter Ordinance A2-24 No. 94, as amended, the
following process shall be followed when filling vacancies in the offices of mayor or
councilmember.

(1) Within one week of a vacancy in the office of mayor or
councilmember, the city clerk shall cause to be published in the official city
newspaper a notice that applications are being sought for the filling of the
open position.

(2) The deadline for applications shall be at 5:00 p.m. on the day two
weeks from the date of publication of the notice for the office of
councilmember and four weeks from the date of publication of the notice for
the office of mayor. Applications shall be submitted to the city clerk.

(3) The application shall include the following information:

a. A statement of qualifications and personal background.

b. A statement addressing why the applicant wishes to serve in
the office of mayor or councilmember (as applicable).

c. A statement addressing what the applicant sees as the number one problem facing Topeka city government and how the applicant would seek to address the problem if chosen to serve.

(4) Application for the office of mayor shall include the $100.00 filing fee or a petition signed by 100 qualified electors of the city or one percent of the cast vote in the last city general election.

Application for the office of district councilmember shall include the $50.00 fee or a petition signed by 50 qualified electors of the council district.

(45) Unless an alternative date and/or time is established by the city council, the council shall interview each applicant at the next regular council meeting following the application deadline.

(56) At least one day prior to the interview date, the mayor and councilmembers may each submit one question to be asked of all applicants during the interviews.

(67) Interviews shall be conducted in the order that applications are received.

(78) Interviews shall consist of an opening statement by the applicant and the asking and answering of all submitted questions.

(89) At the conclusion of the interviews the city council may conduct an election to fill the vacant position, subject to the following rules:

a. The election shall be conducted only during a regular city
council meeting. The election may be deferred to a subsequent
meeting upon approval by the city council of an appropriate
motion. In no event shall an election be deferred later than the
next regular city council meeting.

b. Each councilmember and the mayor shall vote for one person
on each ballot by indicating in writing his or her choice and
signing the ballot before submitting it to the city clerk.

c. The city clerk shall read the result of each ballot.

d. Balloting shall end any time one applicant receives five votes.

e. If no applicant receives five votes in the final ballot, additional
ballots shall be cast until one of the applicants receives five
votes or the matter is deferred until a date certain, which shall
not be later than the next regular council meeting.

f. The council and mayor may confer after any ballot in any
manner consistent with the Kansas Open Meetings Act.

Section 7. That City of Topeka Code § 2-112, Approval of employee agreements,
is hereby amended to read as follow:

Approval of employee agreements.

(a) The power and authority of the city to enter into an employment agreement
with city employees represented by a recognized employee organization shall be vested in
the city council. Except as otherwise provided in this section, no memorandum of
agreement between the city and a recognized employee organization shall be valid unless
the agreement is approved by the city council and signed by the mayor city manager.
(b) The director of the department of human resources or designee shall represent the city as head of the negotiating team when collectively bargaining with a recognized employee organization. The director of human resources or designee shall negotiate all terms and provisions of a memorandum of agreement and may reach agreement on those terms and provisions with a recognized employee organization.

(c) If agreement is reached between the director of the department of human resources and the recognized employee organization, a memorandum of understanding will be prepared within 14 days and presented to the city council for approval. The city council, as soon as practicable after receiving a report from the city controller of the fiscal effect the terms of such memorandum will have upon the city, shall consider the memorandum and take appropriate action.

(d) The city council shall implement the memorandum in the form of a resolution. If the city council rejects a proposed memorandum, the matter shall be returned to the mayor and the employee organization for further deliberation.

Section 8. That City of Topeka Code § 2-114, Payroll deduction, is hereby amended to read as follows:

Payroll deduction.

(a) The department of administrative and financial services is hereby authorized to place into full force and effect a payroll deduction plan, and keep proper record and account thereof, whereby upon written request of a city employee proper deduction from the salary due such employee shall be made for Topeka United Way fund, employees' group health insurance plan, contributions to a savings program, union dues, and such other deductions approved by the chief administrative officer and authorized
by such employee. The department of administrative and financial services is further
authorized to deduct court-ordered child support payments and other court-approved
indebtedness from employee salary checks, pursuant to the provisions of K.S.A. 60-1613.

(b) The city council city manager may set, in accordance with state statutes
where applicable, a reasonable handling fee for the expense of processing authorized
deductions. Such handling fee will be paid by the recipient of the deduction and not by the
employee requesting the deduction. Upon notice to the recipients, the city council reserves
the right to make any reasonable adjustment it deems appropriate in the handling fee.

Section 9. That City of Topeka Code § 2-118, Reimbursements for conferences,
seminars, conventions and short courses, is hereby amended to read as follows:

Reimbursements for conferences, seminars, conventions and short courses.
(a) Employees eligible; authorization; reimbursements generally. Benefit-eligible
non-elected employees, and, in some cases, individuals appointed to special commissions,
may be reimbursed for official travel and related expenses while carrying out official duties
attending professional conferences, or attending directly job-related training courses or
seminars which will benefit the city. Generally, no individual or employee shall attend more
than two national and two state conferences in one year except with the approval of the
relevant department head. Authorization for attending conferences, training sessions or
related activities shall be made in advance and pursuant to departmental policies
authorizing such attendance. Approval shall be obtained from the appropriate department
head and the department head shall obtain approval from the chief administrative officer
for such employee’s travel. Attendance at hearings and special official presentations shall
not be subject to the limitations set forth in this section. Employees who become or are
officers of a governing body of a professional organization related to typically assigned
duties may be authorized to attend a reasonable but limited number of business sessions
of such organizations in addition to other authorized meetings. Provided, there shall be no
duplication of reimbursement for any expenses by the city if the professional organization
pays the expenses in full or in part. Persons authorized to travel shall be reimbursed for
actual air, bus or train fare, or equivalent reimbursement for personal use of an automobile,
not to exceed in any event the typical air coach fare for such travel. Reimbursements shall
be made for actual room costs for overnight lodging, taxi fares, auto rental, if specifically
authorized, meals, tips and other travel-related expenses upon proper presentation of
appropriate itemized receipts. Persons seeking travel reimbursement shall certify and
swear to the accuracy and legitimacy of all receipts submitted.

(b) Elected officials. Council members and the mayor may be reimbursed for
official travel and related expenses in accordance with the resolutions passed by
the council relating to out-of-state travel and upon the submittal of documentation
confirming relevant expenditures.

(c) The procedure for reimbursements for official travel shall be established by

Section 10. That City of Topeka Code § 2-141, City clerk position created; duties,
is hereby amended to read as follows:

**City clerk position created; duties.**

There is hereby created the position of city clerk in the city. The city clerk shall be
appointed by and under the administrative direction of the mayor city manager. The city
clerk shall attend all meetings of the city council, keep a time record of its proceedings, and
also keep a record of all official acts, and when necessary shall attest them. The city clerk shall also keep and preserve the corporate seal of the city, and all records, public papers and documents of the city not belonging to any other officer. The city clerk shall be authorized to administer oaths; and the copies of all papers filed in the clerk's office, and transcripts from the records of the proceedings of the council, including ordinances duly certified by the city clerk under the corporate seal of the city, shall be taken as evidence in all courts of the state without further proof.

**Section 11.** That City of Topeka Code § 2-142, Legal department created, is hereby amended to read as follows:

**Legal department created.**

There is hereby created a legal department. The city attorney shall be appointed by the mayor with the consent of the city council. The mayor, pursuant to Charter §§ 2.4 and Charter Ordinance 75, § 2 (App. A, § A2-19) city manager. The city manager, pursuant to Charter Ordinance No. 94, §21 shall be responsible for supervising and evaluating the performance of the city attorney. The city attorney may be terminated within the first six months of service by the mayor without the consent of the city council and thereafter with the consent of the council. The city attorney may establish the divisions necessary to properly carry out the functions of the legal department. The city attorney may appoint a deputy and division directors as necessary, all of whom shall serve under the administrative direction of the city attorney. The city attorney and assistant city attorneys shall be prohibited from providing legal services to any other governmental entity outside of the scope of the attorney's duties for the city.
Section 12. That City of Topeka Code § 2-143, Department of administrative and financial services created, is hereby amended to read as follows:

Department of administrative and financial services created.

There is hereby created a department of administrative and financial services. The director of the department of administrative and financial services shall be appointed by the mayor and serve under the administrative direction of the mayor or the chief administrative officer city manager. The director may establish the divisions necessary to carry out the functions of the department. The director may appoint a deputy director and division directors as necessary, all of whom shall serve under the administrative direction of the director of administrative and financial services.

Section 13. That City of Topeka Code § 2-145, Judicial department created, is hereby amended to read as follows:

Judicial department created.

There is hereby created a judicial department which shall include the administration of municipal court and related court services. The municipal judge shall be appointed by the mayor with the consent of the city council. The mayor, pursuant to Charter Ordinance 65, § 2.4 and Charter Ordinance 75, § 2(App. A, § A2.19) city manager, who shall be responsible for supervising and evaluating the performance of the municipal judge. The municipal judge may be terminated within the first six months of service by the mayor without the consent of the city council and thereafter with the consent of the council. The municipal judge may establish the divisions necessary to properly carry out the functions of the judicial department. The municipal judge may appoint division directors as necessary, all of whom shall serve under the administrative direction of the municipal judge. The
municipal judge shall be responsible for the efficient operation and delivery of all municipal
court services.

Section 14. That City of Topeka Code § 2-146, Department of human resources
created, is hereby amended by the addition of the following language:

Department of human resources created.

There is hereby established a department of human resources. The director of
human resources shall be appointed by the mayor and serve under the administrative
direction of the mayor or chief administrative officer city manager and shall be responsible
for managing all personal personnel matters including labor negotiations and employee
benefits. The director may establish the divisions necessary to properly carry out the
functions of the department. The director may appoint a deputy human resources director
and division directors as necessary, all of whom shall serve under the administrative
direction of the director of human resources.

Section 15. That City of Topeka Code § 2-147, Department of public works
created, is hereby amended to read as follows:

Department of public works created.

There is hereby created a department of public works. The director of the
department of public works shall be appointed by the mayor and serve under the
administrative direction of the mayor or the chief administrative officer city manager. The
director may establish the divisions necessary to properly carry out the functions of the
department. The director may appoint a deputy director and division superintendents or
directors as necessary, all of whom shall serve under the administrative direction of the
director of public works.
Section 16. That City of Topeka Code § 2-149, Department of information services created, is hereby amended to read as follows:

Department of information services technology created.

There is hereby created a department of information services technology. The director of information services technology shall be appointed by the mayor and shall be under the administrative direction of the mayor or chief administrative officer city manager. The director may establish the division necessary to properly carry out the functions of the department. The director may appoint a deputy director and division directors as necessary, all of whom shall serve under the administrative direction of the director of information services.

Section 17. That City of Topeka Code § 2-150, Department of housing and neighborhood services created, is hereby amended to read as follows:

Department of housing and neighborhood services development created.

There is hereby created a department of housing and neighborhood services development. The director of the department of housing and neighborhood services development shall be appointed by the mayor and serve under the administrative direction of the mayor or the chief administrative officer city manager. The director may establish the divisions necessary to properly carry out the functions of the department. The director may appoint a deputy director and division directors as necessary, all of whom shall serve under the administrative direction of the director of housing and neighborhood services. The director shall supervise the preparation of the annual community development act assistance application; shall be responsible for developing a coordinated approach to community development; and shall manage city real estate.
Section 18. That City of Topeka Code § 2-151, Metropolitan planning department created, is hereby amended to read as follows:

Metropolitan City planning department created.

(a) The metropolitan city planning department is established pursuant to City Code section 110-42 as amended and shall act as the staff of the metropolitan Topeka planning commission. The director of the department shall be known as the planning director and is appointed by the mayor and majority vote of the county commission with concurrence by the city council. The interview/selection process and termination of employment shall be in accordance with City Code section 110-42 as amended. The planning director shall be an employee of the City of Topeka, Kansas for personnel management purposes. The mayor and county commission shall have equal authority to direct work of the planning director city manager.

(b) The planning director shall have the responsibilities as set forth in section 110-42 as amended and shall actively participate in the development and updating of the capital improvement programs for the City of Topeka and Shawnee County.

Section 19. That City of Topeka Code § 2-152, Department of parks and recreation created, is hereby amended to read as follows:

Department of parks and recreation created.

There is hereby created a department of parks and recreation. The director of the department of parks and recreation shall be appointed by the mayor and serve under the administrative direction of the mayor or the chief administrative officer city manager. The director may establish the divisions necessary to properly carry out the functions of the department. The director may appoint a deputy director and division superintendents or
directors as necessary, all of whom shall serve under the administrative direction of the
director of parks and recreation.

Section 20. That City of Topeka Code § 2-153, Police department created, is
hereby amended to read as follows:

**Police department created.**

There is hereby created a police department. The chief of police shall be appointed
by the mayor and serve under the administrative direction of the mayor or the chief
administrative officer city manager. The chief of police may establish the divisions
necessary to properly carry out the functions of the department. The chief may appoint a
deputy chief of police, division commanders and other command staff as necessary, all of
whom shall serve under the administrative direction of the chief of police. The chief of
police, with the consent of the mayor, may establish a reserve police force, and pay
compensation to reserve police officers while testifying in court, at the rate established in
the police pay schedule for a first-year officer. The chief of the police department shall be
responsible for the discipline, good order, and proper conduct of the police department and
any reserve force.

Section 21. That City of Topeka Code § 2-154, Fire department created, is hereby
amended to read as follows:

**Fire department created.**

There is hereby established a fire department which shall consist of the chief of the
fire department who shall be appointed by the mayor and serve under the administrative
direction of the mayor or chief administrative officer city manager. The fire chief may
establish such divisions as are necessary to properly carry out the functions of the
department. The fire chief may appoint a deputy fire chief and such division commanders as are necessary, all of whom shall serve under the administrative direction of the fire chief. The chief of the fire department shall be responsible for the discipline, good order, and proper conduct of the fire department.

**Section 22.** That City of Topeka Code § 2-155, Enforcing officer designated, is hereby amended to read as follows:

**Enforcing officer designated.**

Pursuant to the provisions of K.S.A. 12-1750 et seq.; Dangerous Structures and Abandoned Property Act, as amended, the council city manager of the city hereby designates the director of code development services division as the enforcing officer and charges the director of code development services division with administration of the provisions of the Dangerous Structures and Abandoned Property Act as the same pertains to abandoned property only.

**Section 23.** That City of Topeka Code §§ 2-27, 2-28, 2-29, 2-30, 2-33, 2-34, 2-112, 2-114, 2-118, 2-141, 2-142, 2-143, 2-145, 2-146, 2-147, 2-149, 2-150, 2-151, 2-152, 2-153, 2-154, and 2-155 are hereby specifically repealed.

**Section 24.** This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper on or after April 12, 2005.

PASSED and APPROVED by the City Council **JAN 25 2005**

ATTEST:

James A. McClinton, Mayor

Iris E. Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY
DATE 1/10/05 BY **
TO BE CODIFIED 
NOT TO BE CODIFIED