ORDINANCE NO. 19905

AN ORDINANCE introduced by Councilmember Chad Manspeaker, concerning Domestic Partnership Registry by creating new Chapter 2.150 of the City of Topeka Municipal Code.

BE IT ORDAINED BY THE GOVERNING BODY THE CITY OF TOPEKA:

Section 1. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 2.150.010, which said section reads as follows:

Definitions.

Whenever used in this chapter, the following definitions shall apply:

"Domestic partner" shall be construed to mean two individuals who are residents of the City of Topeka, as defined in this section, who have reached 18 years of age, who have the mental capacity to contract, and who live together in a relationship of indefinite duration, with a mutual commitment in which the partners share the necessities of life and are financially interdependent. Domestic partners are not married to another person, do not have another domestic partner and are not related by blood more closely than would bar their marriage in this state.

"Resident" shall mean a person who has established at least 60 consecutive days prior to filing a Declaration of Domestic Partnership with the office of the City designated by the City Manager, a present and fixed residence within the city limits of Topeka, Kansas where the person intends to remain for an indefinite period and to which the person intends to return following absence.

Section 2. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 2.150.020, which said section reads as follows:
Criteria for establishing a domestic partnership.

The following criteria must be met for two individuals to be considered domestic partners for the purposes of registering the partnership with the City of Topeka:

(a) Both individuals are residents of the City of Topeka, as defined in Section 2.150.010.

(b) Both individuals share a common permanent residence. It is not necessary that the legal right to possess the common residence be in both of the individual’s names.

(c) Both individuals agree to be in a relationship of mutual interdependence.

(d) Both individuals contribute to the maintenance and support of the household. The individuals are not required to contribute equally to the household.

(e) Neither individual is married to a third individual or a member of a domestic partnership with a third individual.

(f) Each individual is 18 years of age or older.

(g) Each individual has the mental capacity to contract.

(h) The two individuals are not related by blood in a way that would prevent them from being married to another in the State of Kansas.

(i) Both individuals agree to file a Declaration of Domestic Partnership with the City pursuant to this chapter.

Section 3. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 2.150.030, which said section reads as follows:

Registration.
(a) Two persons seeking to register as domestic partners may complete and file a Declaration of Domestic Partnership with an office of the City designated by the City Manager.

(b) No individual who has previously filed a Declaration of Domestic Partnership in this City may file a new Declaration of Domestic Partnership until at least ninety (90) days after the date that a Request for Removal from the Domestic Partnership Registry was filed with the City under this chapter. This prohibition does not apply if the previous domestic partnership ended because one of the partners died.

Section 4. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 2.150.040, which said section reads as follows:

**Procedure and fees.**

(a) The City Manager shall develop procedures and standard forms for the “Registration of Domestic Partnership” and “Notice of Removal from the Domestic Partnership Registry”.

(b) The City Manager, or his or her designee, shall determine a reasonable fee based upon the cost of processing the forms and the City shall charge these fees to the persons filing a Declaration of Domestic Partnership. No fee shall be charged for filing a Request for Removal from the Domestic Partnership Registry.

(c) The City shall maintain the registry based upon the information provided by the individuals filing the Declaration of Domestic Partnership. The City shall have no duty to independently verify the information provided by the individuals filing the Declaration of Domestic Partnership.
Section 5. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 2.150.050, which said section reads as follows:

**Removal from registry; Death or voluntary dissolution of partnership.**

(a) Reasons. A domestic partnership registered with the City shall be removed from the registry for the following reasons:

(1) One of the partners dies and the City is notified thereof; or

(2) A Request for Removal from the Domestic Partner Registry has been filed by one or both of the individuals registered as domestic partners with the City.

(b) Procedure. A domestic partnership registered with the City shall be removed from the registry in accordance with the following procedures:

(1) Within ninety (90) days of the dissolution of the domestic partnership, at least one former partner shall file a Request for Removal from the Domestic Partner Registry with an office of the City designated by the City Manager pursuant to procedures adopted by the City Manager. Upon receipt, the City shall provide the domestic partner who filed the Request for Removal from the Domestic Partner Registry with two copies of the Request marked “filed.” Unless the partners jointly file the Request, the partner filing the Request, shall within five days send a copy of the filed Request to the other partner’s last known address. This notice requirement does not apply if the removal request is due to a death of one of the domestic partners.
(2) The request shall be effective upon filing the Request for Removal from the Domestic Partner Registry with the City by one or both partners or on the date of the death of one.

(3) A former domestic partner who has given a copy of the Declaration of Domestic Partnership to any third party to qualify for any benefit or right and whose receipt of that benefit or enjoyment of that right has not otherwise terminated, shall notify the third party in writing of the Request for Removal from the Domestic Partner Registry, at the last known address of the third party.

(4) Failure to provide third-party notice required in subsection (b)(3) of Section 2.150.050 shall not delay or prevent the removal of the domestic partnership from the registry. The City shall have no duty to provide notice to third parties.

Section 6. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 2.150.060, which said section reads as follows:

Removal from registry; Failure to meet definition.

If it appears based upon a preponderance of the evidence that one or both of the partners in a registered domestic partnership no longer meets the definition of a domestic partner under this chapter, the City shall, after notice and an opportunity to be heard, remove the partnership from the Registry. The City Manager shall develop procedures for the implementation of this Section.

Section 7. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 2.150.070, which said section reads as follows:

Legal effect.
Registration pursuant to this chapter creates no legal rights, other than the right to have the registered domestic partnership included in the City’s Domestic Partner Registry pursuant to this chapter. No parties are prohibited from extending rights or benefits to persons listed in the Domestic Partner Registry.

Section 8. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 2.150.080, which said section reads as follows:

**Other applicable laws; Kansas Open Records Act.**

(a) This chapter shall not be interpreted nor construed to permit the recognition of a relationship that is otherwise prohibited by State law.

(b) Registration applications and any records created pursuant to this chapter are public records and may be disclosed in accordance with the Kansas Open Records Act, K.S.A. 45-215 et seq.

Section 9. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 2.150.090, which said section reads as follows:

**Registering a partnership without the individual’s consent.**

No person shall register or attempt to register a domestic partnership pursuant to the chapter without the consent of the persons to be registered. Any person who is convicted of a violation of this section shall be guilty of a misdemeanor.

Section 10. This ordinance shall take effect and be in force on June 30, 2014 after its passage, approval and publication in the official City newspaper.

Section 11. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.
Section 12. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the City Council on May 20, 2014.

CITY OF TOPEKA, KANSAS

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Larry E. Wolgast, Mayor

ATTEST:

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Brenda Younger, City Clerk