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OCA # 050013

November 24, 2014

CHARTER ORDINANCE NO. 223

A CHARTER ORDINANCE EXEMPTING THE CITY OF WICHITA, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-4107, 12-4108, 13-628a AND 13-628d AND AMENDMENTS THERETO RELATING TO APPOINTMENT OF MUNICIPAL COURT JUDGES AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS OF THE SAME SUBJECT AND REPEALING CHARTER ORDINANCES 90, 117, 135, 142, 152, 186, 191 AND 207.

SECTION 1. Be it ordained by the governing body of the City of Wichita, Kansas, a city of the first class, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, that it hereby elects to exempt itself from and makes inapplicable to it, the provisions of K.S.A. 12-4107, 12-4108, 13-628a and 13-628d and provide substitute and additional provisions hereinafter set forth in this ordinance. Such referenced provisions are either enactments or a part thereof which are applicable to the City, but are not applicable uniformly to all cities.

SECTION 2. The judicial power of the City shall be vested in the municipal court of not less than five judges and composed of divisions. The City Council shall designate one of the municipal court judges to serve as the chief judge in charge of the administration of the judicial functions of the court who shall serve at the pleasure of the City Council.

SECTION 3. The City of Wichita shall establish the position of municipal court administrator which shall be responsible for directing the administrative, non-judicial operations of the municipal court, clerk of the municipal court, chief probation officer and who shall be responsible to the chief judge for implementation of the policies of the court regarding judicial functions. The City shall also establish the position of clerk of the municipal court and chief probation officer. The organization, functions and duties of the municipal court administrator, clerk of the municipal court and chief probation officer shall be set forth in an ordinance by the City Council.

SECTION 4. (a) The judges of the municipal court shall be selected as herein provided for terms of four years, the initial terms commencing on the third Tuesday in April.

(b) In the event that a vacancy for the office of municipal court judge is filled during the four-year term provided by subsection (a), then that position shall expire on the expiration date of the term in which the appointment was made.

SECTION 5. The compensation of the judges of the municipal court shall be fixed by the City Council, and salaries for the judges shall be in the same pay grade. Compensation of a judge shall not be diminished during a term of office unless economic conditions cause a reduction in salary for other city employees in similar pay grades. Each municipal court judge shall be evaluated annually according to procedures established by the City Council. Such evaluation shall determine if the judge is qualified to continue to serve as a municipal court judge and if a merit increase should be granted. The evaluation process shall be set forth by a policy adopted by the City Council. The judges shall give their full time to the duties of their office. The judges shall be eligible for all City employment benefits and participation in the city retirement system.

SECTION 6. No judge of the municipal court shall engage in the practice of law.

SECTION 7. Any person who is selected as a municipal court judge shall:

- (a) Be a citizen of the United States and a resident of Sedgwick County, Kansas, at the time of his or her selection as well as the time for taking and holding office;
- (b) Have been regularly admitted to practice law in the State of Kansas; and
- (c) Comply with the residency requirements set forth in City Council Policy No. 25;
and
- (d) For a period of not less than three years, have engaged in the active practice of law as a lawyer, judge of a court of record or any court in this state, full-time teacher of law in any accredited law school or any combination thereof.

SECTION 8. The judges of the municipal court shall, with the assistance of the City Attorney and the municipal court administrator, prescribe and adopt rules of practice and procedure for the municipal court not inconsistent with sound principles of municipal court administration of justice, this ordinance or with the ordinances of the City or the laws of this state. Said rules shall be revised and updated.

SECTION 9. (a) There is hereby established a Municipal Judge Nominating Commission, which shall consist of five (5) members. Two (2) non-lawyer members of the nominating commission shall be appointed by the City Council. The other three (3) members of the nominating commission shall be lawyers nominated by the governing body of the Wichita Bar Association and appointed by the City Council. In the event the Wichita Bar Association does not nominate members, three (3) lawyers shall be appointed by the City Council. Each member of the commission shall be a qualified elector of the City of Wichita. The commission shall appoint one of its members as chairperson and one as vice-chairperson under such procedures and for such term as the commission may determine by majority vote. The members of the commission shall serve for such term as is provided by ordinance for appointive boards and commissions. Vacancies shall be filled in the same manner as the original appointment.

(b) Whenever a vacancy occurs in the office of municipal court judge, or whenever a vacancy will occur in such office on a specified future date, the City Attorney shall give notice of

such vacancy or expiration of term of office to the Chairperson of the nominating commission. The Chairperson shall call an organizing meeting of the commission to be held with five (5) days after receipt of such notice for the purpose of nominating persons for appointment to such office. The commission shall determine the rules necessary for the conduct of its proceedings and the discharge of its duties. The commission shall not take any final action except at regularly scheduled meetings. A majority of the members of the commission shall constitute a quorum to do business, but no final action shall be taken except upon a vote of the majority of the members of the commission.

(c) Applications for the office of municipal court judge shall be submitted to the City Clerk in such time, manner, and form as may be determined by the City Manager. The City Clerk shall forward the same to the nominating commission.

(d) It shall be the duty of the commission to nominate not less than three (3) persons for each municipal court judge office which is vacant or which term has or will expire, and shall submit the names of the persons so nominated to the City Council. Any person so nominated shall have the qualifications prescribed by statute and ordinance. In order that a vacancy in the office of municipal court judge does not exist for an inordinate length of time, the commission shall conduct the business of selecting nominees for appointment to such office and certifying the same to the City Council as promptly and expeditiously as possible, having due regard for the importance of selecting the best possible nominees. In no event shall the commission submit its nominations to the City Council more than thirty (30) days after notice, unless the City Council permits the extension of such period.

(e) An incumbent municipal court judge shall be deemed to be a candidate for reappointment unless the judge notifies the City Clerk prior to sixty (60) days from the end of his or her term that he or she does not seek to be reappointed. If there is no notification, it shall be assumed that the incumbent wishes to remain in office. The City Council shall have the discretion to consider and vote whether to reappoint an incumbent municipal court judge without referral to the nominating commission. In making its determination, the Council may consider the judge's annual evaluations in determining if such judge should be retained. If the City Council does not exercise its discretion to consider and vote to reappoint an incumbent judge, the procedure for filling a vacancy set out in subsections (b), (c) and (d) of this ordinance will be invoked. In such an instance, an incumbent judge shall be a candidate for nomination under such procedure.

(f) The City Council shall appoint one of the nominees so submitted, or reject all nominees and request the nomination by the commission of additional nominees. If the commission declines to nominate additional nominees within thirty (30) days after being so requested by the City Council, the City Council shall make the appointment from among the persons indicating an interest in the office.

(g) An appointee to the office of municipal court judge shall take and hold office for the term or remainder thereof provided herein, and until reappointed or until a successor is appointed.

SECTION 10. Judges of the municipal court of Wichita, Kansas, shall be subject to recall or removal as provided in the Rules of the Kansas Supreme Court Relating to Judicial Conduct. Further, the chief judge and the two senior district court judges of the Eighteenth Judicial District will act as a committee with the authority to suspend a judge of the municipal court for good cause shown.

Judges may be removed or not retained by the City Council for violations of the City's Human Resources policies or based upon the results of an annual performance evaluation performed by the City Council.

SECTION 11. (a) The judges of the divisions of the municipal court shall have concurrent jurisdiction over all criminal and traffic violations involving the ordinances of the City and arising within the corporate limits of the City.

(b) The divisions of the court shall be in session on each day of the year except Saturdays, Sundays, and legal holidays.

(c) The chief judge shall, upon the effective date of this ordinance and thereafter annually, in conjunction with budget preparation, submit for the approval of the City Council a schedule of the hours during which each division of court shall be in session.

(d) In each division of the court, there shall be daily dockets scheduled for the trial of cases and the transaction of all local business assigned for disposition to such division. In the rules of practice and procedure authorized by the Kansas Code of Procedure for Municipal Courts, K.S.A. 12-4101 *et seq.* and applicable charter ordinances establishing the rules of the court, the judges shall prescribe the schedule of such dockets for the trial and disposition of criminal and traffic violations.

(e) Each judge at a regular session of the division shall have and exercise all the powers and functions which he or she might have and exercise if he or she were the sole judge of the court.

(f) The provisions of K.S.A. 12-4107, and amendments thereto, relating to judges pro tempore shall apply, and the compensation of judges pro tempore shall be fixed by the City Council.

SECTION 12. The originals of Charter Ordinances Nos. 90, 117, 135, 142, 152, 186, 191 and 207 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 13. This ordinance shall be published once each week for two consecutive weeks in the official city paper.

SECTION 14. This is a Charter Ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for 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 if 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 this 6th day of January, 2015.

Carl Brewer
Mayor

ATTEST: (Seal)

Karen Sublett
City Clerk

Approved as to Form:

Sharon L. Dickgrafe
Interim Director of Law