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CHARTER ORDINANCE NO. 46

A CHARTER ORDINANCE ESTABLISHING THE OFFICE OF PRESIDENT OF THE CITY COUNCIL; PROVIDING FOR SELECTION OF THE PRESIDENT OF THE COUNCIL; PRESCRIBING THE DUTIES OF SUCH OFFICE; AMENDING SECTION 2 OF CHARTER ORDINANCE NO. 43 OF THE CITY, PERTAINING TO ELECTION OF COUNCIL MEMBERS AND FILLING OF VACANCIES IN THE OFFICE OF COUNCIL MEMBER; AND EXEMPTING THE CITY OF DERBY, KANSAS, FROM THE PROVISIONS OF K.S.A. 14-308.

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

Section 1. Exemption from K.S.A. 14-308. The City of Derby, Kansas, a city of the second class, by virtue of the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to and does exempt itself from and make inapplicable to it the provisions of Kansas Statutes Annotated (K.S.A.) 14-308, which statute provides for filling of vacancies in the office of mayor in cities of the second class and is an enactment or portion of an enactment not uniformly applicable to all cities within the State; and to provide substitute and additional provisions therefor.

Section 2. Election and term of president of the Council. At its second regular meeting in April of each year, the City Council shall elect from its membership a president of the Council ("president"). The president shall serve for a term of one year or until a successor is elected and qualified.

Section 3. Duties of president.

a. Temporary absence of mayor. During temporary absences of the mayor, the president shall preside at Council meetings and perform all of the duties of the office of mayor, except that the president shall neither make appointments to boards, commissions and other agencies, nor veto ordinances.

b. Vacancy in office of mayor. When a vacancy occurs in the office of mayor, whether by reason of death, resignation, removal from the city, removal from office, refusal to qualify or other cause, the president shall succeed to the office of mayor, with all of the rights and privileges and obligations thereof, and until the next regular City election.

Section 4. Election of council members; qualifications therefor; tie votes and filling of vacancies in office of council member.

a. Election and qualifications of council members. Each ward of the City shall have two council members who shall be chosen by the qualified electors of their respective wards to serve a term of four years. No person shall be eligible to hold the office of council member who

is not at the time of his or her election or appointment an actual resident of the ward for which he or she is elected or appointed. Whenever there shall be a tie in the election of a council member, the winner shall be determined by lot by the judges of the election of the ward in which such tie occurred. If any council member shall move from the ward from which he or she was elected or appointed, his or her office as council member shall thereby be vacated.

b. Filling vacancy in office of council member. Except as provided in subsection (c) of this section, all vacancies in the office of council member shall be filled within sixty (60) days after the vacancy occurs by appointment by majority vote of the council following a nomination made by the Mayor; provided, that in the event the mayoral nominee does not receive a majority vote, then such vacancy shall be filled by appointment made by the remaining council members. All such appointments shall be for the unexpired term of the vacant office.

c. Filling vacancy in office of council member; exception. In the event a vacancy in the office of council member occurs by reason of the succession of the president to the office of mayor, the mayor shall, within 30 days following succession to such office, elect whether to fill such vacancy as provided in subsection (b) of this section or leave such office vacant until the next regular City election and at that time return to such office and complete the unexpired term thereof.

Section 5. Repealer. §2 of Charter Ordinance no. 43 of the City is hereby repealed.

Section 6. Publication. This Charter Ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

Section 7. Effective Date. This is a Charter Ordinance, and shall take effect sixty-one days after final publication, unless a sufficient petition for a referendum is filed and a referendum held on the ordinance, as provided in Article 12, Section 5, Subdivision C (3) of the Constitution of the State 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 10th day of June, 2008.



Dion P. Avello, Mayor

ATTEST:



Jean Epperson, City Clerk

Approved as to form:



Philip H. Alexander, City Attorney