

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 051253

Calling for submission to the voters of Kansas City, at a special election to be held on August 8, 2006, a question amending the Charter of Kansas City to require a committee of petitioners seeking the recall of the Mayor or a Council member to identify the actions or failure to act on the part of the official, which must be related to the official's duties, which forms the basis of the recall and requiring placement of the grounds before the voters; eliminating the question of recall and providing for a single election at which the official and any other qualified candidate may seek to serve the remainder of the term of office of the official subject to the recall petition; directing the City Clerk to notify the responsible election authorities of the election on or after May 26, 2006, but not later than May 30, 2006; and recognizing this ordinance to be an emergency measure.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. ELECTION CALLED. That an election is called on August 8, 2006, for the purpose of submitting to the voters of Kansas City an amendment to the City Charter.

Section 2. NOTICE TO ELECTION AUTHORITIES BY CITY CLERK. That following passage of this ordinance the City Clerk shall deliver certified copies of this ordinance and notice of election to the Clerk of Cass County, Board of Election Commissioners of Clay County, Board of Election Commissioners of Kansas City, and Board of Election Commissioners of Platte County, on or after May 26, 2006, but not later than May 30, 2006, which shall be the authority of each election authority of the City to submit the amendment to the electors of Kansas City and to give public notice as provided by law.

Section 3. NOTICE OF ELECTION. The notice of election shall read as follows:

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NOTICE OF ELECTION

KANSAS CITY, MISSOURI

Notice is hereby given that the City of Kansas City has called a special election to be held on Tuesday, August 8, 2006, between the hours of 6:00 a.m. and 7:00 p.m., at which election all qualified voters residing within Kansas City, Missouri will be given the opportunity to vote.

The official ballot will be in substantially the following form:

OFFICIAL BALLOT
CITY OF KANSAS CITY

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SPECIAL ELECTION, AUGUST 8, 2006

QUESTION NO. _____

(Reasons for Recall and Recall Election)

Should the Charter of Kansas City be amended by requiring a committee of petitioners seeking the recall of the Mayor or a Council member to state a reason for the recall that must relate to malfeasance, misfeasance or misconduct, and by conducting a single election at which a person would be chosen to serve the remainder of the term of the official subject to the recall petition; and permitting the official subject to the recall petition to also be a candidate to continue in office?

_____ Yes

_____ No

(Instructions to voters will be supplied by the election authorities.)

A full and complete copy of Committee Substitute for Ordinance No. 051253 (as it may be amended) submitting the above amendment to the electorate is on file in the office of the City Clerk of Kansas City, Missouri where the same is open for inspection and copying.

The polling places for the election will be (INSERT LIST OF POLLING PLACES IN LAST PUBLICATION ONLY)

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I hereby certify that the foregoing is the legal notice to be published pursuant to Section 115.127, RSMo, as amended.

Given under my hand and the official seal of the Kansas City, Missouri, this _____ day of May, 2006.

(SEAL)

MILLIE CROSSLAND
City Clerk of Kansas City, Missouri

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Before me, a notary public, personally appeared Millie Crossland, to me known to be the City Clerk of Kansas City, Missouri, and the person who acknowledged to me that she executed the same for the purposes therein stated.

Notary Public

My Commission Expires:_____

Section 4. AMENDMENTS TO BECOME THE CHARTER OF THE CITY OF KANSAS CITY – REASONS FOR RECALL. If a majority of the voters favor the reasons for recall question, then the amendment to the Charter of the City of Kansas City shall become effective September 1, 2006, which amendment shall read as follows:

BE IT ADOPTED BY THE PEOPLE OF KANSAS CITY:

That the Charter of the City of Kansas City is amended by enacting a new Section 720.5 of the Charter proposed by Committee Substitute for Ordinance 050953 (as it may be amended) if it is adopted by the people, to read as follows:

Sec. 720.5. Grounds for recall.

Grounds for recall must relate to and affect the administration of the official’s office, and be of a substantial nature directly affecting the rights and interests of the public. Grounds for recall are limited to objective reasons which reasonable people, regardless of their political persuasion, could agree would render any official’s performance ineffective, which must be an act of misfeasance, the improper performance of some act which may lawfully be done, or malfeasance, the commission of some act wholly beyond the official’s authority, or nonfeasance, the failure to perform a required duty. The Council shall not fail to place the matter before the voters based on the inadequacy of the grounds stated by the committee of petitioners.

That the Charter of the City of Kansas City is amended by repealing Sections 724, 725, and 726 of the Charter proposed by Committee Substitute for Ordinance 050953 (as it may be amended) if it is adopted by the people, and enacting new Sections 724, 725, and 726 to read as follows:

Sec. 724. Ballots in recall election.

Ballots used at a recall election shall conform to the following requirements:

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(Mayor _____ or Council member _____) has been subjected to recall by submission of a recall petition. Which of the following candidates should serve as (Mayor or Council member) to serve out the existing term of office?

Below shall be listed the names of all qualified candidates, which may include the official subject to recall.

Sec. 725. Result of recall election.

The candidate who shall have received the highest number of votes at such election, shall be deemed elected and shall serve for the unexpired term unless sooner removed as provided in this Charter, provided that the candidate received greater than 50% of the votes. If no candidate received greater than 50% of the votes, the two candidates receiving the greatest number of votes shall participate in a runoff election held at the next available municipal or state election held for which the City can lawfully provide required notices to the election authorities without seeking a court order.

Sec. 726. Election when an officer resigns.

If an officer, for whose recall an affidavit has been filed with the City Clerk, and a petition for the officer's recall shall be filed within thirty days next thereafter, or for whose recall a petition is submitted to the Council, shall resign within five days after the filing of such affidavit with the City Clerk (when followed within thirty days next thereafter by the filing of a petition for his recall), or within five days after the submission of such petition to the Council, the election shall be held as hereinbefore provided, except that the official resigning from office may not be a candidate. No vacancy resulting from such resignation of an officer, after the filing of an affidavit for recall, when following within thirty (30) days next thereafter by the filing of petition for recall, shall be filled for the unexpired term by a majority vote of the City Council or of the remaining members thereof, but such vacancy shall be filled by election as hereinbefore provided.

Alternatively, by enacting a new Section 434.5 of the Charter of Kansas City if the Charter proposed by Committee Substitute for Ordinance 050953 (as it may be amended) is not adopted by the people, to be effective September 1, 2006, the sections to read as follow:

Sec. 434.5. Grounds for recall.

Grounds for recall must relate to and affect the administration of the official's office, and be of a substantial nature directly affecting the rights

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and interests of the public. Grounds for recall are limited to objective reasons which reasonable people, regardless of their political persuasion, could agree would render any official's performance ineffective, which must be an act of misfeasance, the improper performance of some act which may lawfully be done, or malfeasance, the commission of some act wholly beyond the official's authority, or nonfeasance, the failure to perform a required duty. The Council shall not fail to place the matter before the voters based on the inadequacy of the grounds stated by the committee of petitioners.

And by repealing Sections 438, 439, and 440 of the Charter proposed by Committee Substitute for Ordinance 050953 (as it may be amended) if it is adopted by the people, and enacting new Sections 438, 439, and 440 to read as follows:

Sec. 438. Ballots in recall election.

Ballots used at a recall election shall conform to the following requirements:

(Mayor _____ or Council member _____) has been subjected to recall by submission of a recall petition. Which of the following candidates should serve as (Mayor or Council member) to serve out the existing term of office?

Below shall be listed the names of all qualified candidates, which may include the official subject to recall.

Sec. 439. Result of recall election.

The candidate who shall have received the highest number of votes at such election, shall be deemed elected and shall serve for the unexpired term unless sooner removed as provided in this Charter, provided that the candidate received greater than 50% of the votes. If no candidate received greater than 50% of the votes, the two candidates receiving the greatest number of votes shall participate in a runoff election held at the next available municipal or state election held for which the City can lawfully provide required notices to the election authorities without seeking a court order.

Sec. 440. Election when an officer resigns.

If an officer, for whose recall an affidavit has been filed with the City Clerk, and a petition for the officer's recall shall be filed within thirty days next thereafter, or for whose recall a petition is submitted to the Council, shall resign within five days after the filing of such affidavit with the City

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Clerk (when followed within thirty days next thereafter by the filing of a petition for his recall), or within five days after the submission of such petition to the Council, the election shall be held as hereinbefore provided, except that the official resigning from office may not be a candidate. No vacancy resulting from such resignation of an officer, after the filing of an affidavit for recall, when following within thirty (30) days next thereafter by the filing of petition for recall, shall be filled for the unexpired term by a majority vote of the City Council or of the remaining members thereof, but such vacancy shall be filled by election as hereinbefore provided.

Section 5. EMERGENCY RECOGNIZED. This ordinance, providing for the submission of Charter amendments to the people of Kansas City, Missouri, is hereby recognized to be an emergency measure within the meaning of Section 15, Article II, of the Charter, and as such shall become effective immediately upon its passage.

Approved as to form and legality:

William Geary
Assistant City Attorney