

1 (Published in the Topeka Metro News November 7, 2011 and November 14, 2011)

2
3 **CHARTER ORDINANCE NO. 104**

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5 A CHARTER ORDINANCE introduced by Daniel R. Stanley, Interim City Manager,
6 repealing City of Topeka Code § A5-16, § A5-17, § A5-18,
7 and § A-19, as established by Charter Ordinance No. 1, all
8 concerning abandoned cemeteries.

9 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA,
10 KANSAS:

11 Section 1. That section A5-16, established by Charter Ordinance No. 1, of the
12 Code of the City of Topeka, Kansas, is hereby repealed.

13 **~~Declaration by resolution – Notice.~~**

14 ~~That the board of commissioners of the City of Topeka, after notice and public~~
15 ~~hearing and determining that any certain cemetery within the corporate limits of the City~~
16 ~~of Topeka, Kansas, has been abandoned and that no bodies have been interred therein~~
17 ~~within five consecutive years prior to the date of said hearing, may by resolution declare~~
18 ~~said cemetery to be abandoned. The city clerk shall publish said notice in the official~~
19 ~~paper of the city for two consecutive days, the last publication to be at least one week~~
20 ~~prior to the date set for said hearing.~~

21 Section 2. That section A5-17, established by Charter Ordinance No. 1, of the
22 Code of the City of Topeka, Kansas, is hereby repealed.

23 **~~Publication of resolution in newspaper.~~**

24 ~~That said resolution declaring a certain cemetery to be abandoned shall be~~
25 ~~published once in the official city newspaper.~~

26 Section 3. That section A5-18, established by Charter Ordinance No. 1, of the
27 Code of the City of Topeka, Kansas, is hereby repealed.

28 **~~Cemetery deemed park property.~~**

29 ~~From and after the passage and publication of said resolution, it shall be unlawful~~
30 ~~for any person, firm or corporation to cause any bodies or corpses to be interred in said~~

31 ~~cemetery, and the department of parks shall thereafter operate, maintain and care for~~
32 ~~the property within such cemetery as a memorial park and the property shall for such~~
33 ~~purpose be considered to be park property, [and] the expense of said operation, care,~~
34 ~~and maintenance shall be paid from the park or recreation fund of the City of Topeka~~
35 ~~Park Department.~~

36 Section 4. That section A5-19, established by Charter Ordinance No. 1, of the
37 Code of the City of Topeka, Kansas, is hereby repealed.

38 **Reclaiming of operation by owners.**

39 ~~In the event that the owners of the land within a cemetery so declared to be~~
40 ~~abandoned as provided in section 2 [A5-17] of this ordinance, shall desire to reclaim the~~
41 ~~operation of any such cemetery, then said owners may file with the board of~~
42 ~~commissioners proof of their ownership in the form of a certificate of title certified by a~~
43 ~~licensed and bonded abstractor to be approved as to form by the city attorney together~~
44 ~~with an affidavit declaring the intent of said owner or owners to reclaim the operation of~~
45 ~~said abandoned cemetery and to pay the expenses which have been incurred by the~~
46 ~~City of Topeka in the operation, care and maintenance thereof. Upon receipt of said~~
47 ~~certificate of title, affidavit and the payment of such expenses, the board of~~
48 ~~commissioners shall, by resolution, declare said cemetery to be operational and shall~~
49 ~~cease to continue the operation, care and maintenance thereof.~~

50 Section 5. This Ordinance shall be published once each week for two (2)
51 consecutive weeks in the official City newspaper.

52 Section 6. This Charter Ordinance shall take effect sixty-one (61) days after
53 final publication unless a sufficient petition for a referendum is filed and a referendum
54 held on this Charter Ordinance as provided in Article 12, Section 5, Subdivision (c)(3),
55 of the Kansas Constitution, in which case this Charter Ordinance shall become effective
56 if approved by a majority of the electors voting therein.

57 Section 7. Upon the effective date of this Charter Ordinance, this Charter
58 Ordinance shall be recorded by the City Clerk in a book maintained for such purposes
59 with a statement of the manner of adoption and a certified copy shall be filed with the
60 Secretary of State of the State of Kansas.

61 PASSED AND APPROVED by the Governing Body on November 1, 2011.

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CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

72 **STATEMENT OF MANNER OF ADOPTION OF FOREGOING**

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The foregoing Charter Ordinance No. 104 was passed on the 1st day of November, 2011, as shown by the minutes, Book 2011 Page 450, by a vote of 8 for and 0 against, being not less than two-thirds (2/3) of the members-elect of the governing body, published in the Topeka Metro News, the official city newspaper, on the 7th day of November, 2011, and on the 14th day of November, 2011, being once each week for two (2) consecutive weeks, and there being no petition demanding a referendum filed with the City Clerk within sixty (60) days after the final publication, said Charter Ordinance took effect on the 14th day of January, 2012.

Brenda Younger, City Clerk

CERTIFICATE

CITY OF TOPEKA)
COUNTY OF SHAWNEE) ss:
STATE OF KANSAS)

I, Brenda Younger, City Clerk of the City of Topeka, County of Shawnee, State of Kansas, do hereby certify that the above and foregoing, consisting of 4 typewritten pages, including the page upon which this Certificate is written, is a full true and correct copy of Charter Ordinance No. 104 of the said City of Topeka, that all acts and things required by Article 12, Section 5 of the Constitution of the State of Kansas were done and performed in the manner and within the time prescribed and that said Ordinance became effective on the 14th day of January, 2012.

Brenda Younger, City Clerk