

# PROPOSED INDEPENDENCE CITY CHARTER AMENDMENT

## CHARTER AMENDMENT ADVISORY BOARD

Public Hearing - November 29, 1995  
Council Chambers  
4:00 p.m.

CITY COUNCIL STUDY SESSION  
December 4, 1995

NOTE: Current wording to be eliminated is ~~struck-through~~.  
New wording to be added is shaded (called redlined).



**CHARTER OF THE CITY OF  
INDEPENDENCE, MISSOURI**

**PREAMBLE**

We, the people of the City of Independence, Missouri, exercising the powers of home rule granted to us by the Constitution of the State of Missouri, in order to provide for more efficient, adequate, and economical government, do hereby adopt, ratify, and establish this Charter of the City of Independence, Missouri.

**ARTICLE 1**

**INCORPORATION, FORM OF GOVERNMENT, POWERS**

**Section 1.1. Incorporation, name and boundaries.** The inhabitants of the City of Independence, Missouri, within the corporate limits as now established or as hereafter established, in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the "City of Independence," a copy of the said limits being found in Appendix A herein incorporated by reference.

**Section 1.2. Form of government—Exercise of powers.** The municipal government provided by this charter shall be known as a "council-manager government." Pursuant to the provisions of the charter and subject only to the limitations imposed by the Constitution and laws of the State of Missouri and this charter, all powers of the city shall be vested in an elective council, hereinafter referred to as "the council," which shall enact local legislation, adopt the budget, determine policies, and appoint the city manager, who shall execute the laws and ordinances and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by this charter, or, if the manner is not thus prescribed, then in such manner as the council may prescribe by ordinance.

**Section 1.3. Powers of the city: General grant.** The city shall have all powers of local self-government and home rule, and all powers possible for any city to have under the constitution and laws of the State of Missouri, or which the legislature is competent to grant. Except as prohibited by the constitution or laws of the state, the city shall have and may exercise all municipal powers, functions, rights, privileges, franchises, and immunities of every name and nature whatsoever.

The enumeration or mention of particular powers in this charter is not exclusive of others, nor is it restrictive of general words or phrases granting powers, nor shall a grant or failure to grant power in this article impair a power granted in any other part of this charter; and whether powers, objects, or purposes are expressed conjunctively or disjunctively, they shall be construed so as to permit the city to exercise freely any one (1) or more such powers.

**Section 1.4. Powers.** The city shall have all powers which the general assembly of the State of Missouri has authority to confer upon any city, provided such powers are consistent with the Constitution of this state and are not limited or denied either by this charter or by statute. The city shall, in addition to its home rule powers, have all powers conferred by law.

**Section 1.5. Construction.** The powers of the city shall be liberally construed. The specific mention of a particular power in this charter shall not be construed as limiting the powers of the city.

## ARTICLE 2

### THE COUNCIL

**Section 2.1. Council: Created, number of councilmembers, terms.** There shall be a council, which shall consist of seven (7) members; namely, the mayor, two (2) councilmembers at large, and four (4) district councilmembers. Unless otherwise clearly indicated by the context, the words "councilmember" and "councilmembers" shall include the mayor as well as other councilmembers. The terms of the councilmembers shall be four (4) years.

**Section 2.2. Councilmembers: Qualifications.** Only registered qualified voters of the city who immediately prior to the election have resided for at least two (2) years in the city or in territory annexed and included within the city, shall be qualified for the offices of the mayor and other councilmembers. District councilmembers shall also be registered qualified voters of their respective districts at the time of the election, and shall have been residents thereof or of territory annexed and included therein, for at least one (1) year immediately prior to the election. If the mayor or any other councilmember ceases to reside within the city, the tenure of office of said mayor or councilmember shall be terminated thereby. A change in district boundaries or removal from one district to another within the city shall not disqualify a district councilmember from completing his/her term. A councilmember shall not hold any other office or position of profit in the city government or any office or position by appointment by the city manager or by any subordinate of the city manager. If a councilmember is convicted of a crime involving moral turpitude, the office of that councilmember shall become immediately vacant at the expiration of the period during which that councilmember may appeal or, in case of appeal, when the case is finally determined.

**Section 2.3. Council to be judge of qualifications of its members, etc.** The council shall be the judge of the charter-required qualifications of its members, and may determine whether any person claiming to be a councilmember is qualified, whether that person is in fact a councilmember or whether that person has ceased to be a councilmember pursuant to the provisions of this charter, as the case may be. Any councilmember or any other registered qualified voter of the city may challenge such person's membership in the council, by filing with the council a written statement, setting forth the reason or reasons why said voter thinks that such person is not qualified to be a member of the council. The council, after notice and adequate opportunity for a public hearing, shall promptly proceed to make a determination thereof. This section shall not interfere with the jurisdiction of courts of competent jurisdiction in such cases. The council shall not have power to impeach its members except as otherwise provided by this section.

**Section 2.4. Council a continuing body.** The council shall be a continuing body, and no change in the membership thereof shall at any time affect the status of any pending ordinance, resolution, or other matter.

**Section 2.5 Mayor.** The mayor shall preside at meetings of the council, and shall be recognized as the head of the city government for all legal and ceremonial purposes and by the governor for purposes of military law. As a councilmember the mayor shall have all powers, rights, privileges, duties, and responsibilities of a councilmember, including the right to vote on questions. The mayor shall have no power of veto.

The mayor is hereby authorized to declare the existence of an emergency in the city and may in a proper event suspend hours of business, close certain businesses and take immediate action to preserve the peace, property and safety of its citizens.

**Section 2.6. Mayor pro tempore.** At the first meeting after the time provided for the beginning of the terms of regularly elected councilmembers, the council shall elect from its membership a mayor pro tempore, who shall serve until the time provided for the beginning of the terms of the next regularly elected councilmembers.

The mayor pro tempore shall act as mayor during the absence, disability, or suspension of the mayor, or, if a vacancy occurs in the office of mayor, until another mayor is elected and qualifies. If the office of mayor pro tempore becomes vacant, the council shall elect from its membership another mayor pro tempore for completion of the unexpired term.

**Section 2.7. Councilmembers: Absences to terminate membership.** If the mayor or any other councilmember shall be absent from more than one-half ( $\frac{1}{2}$ ) of all the meetings of the council, regular and special, held within any period of six (6) consecutive calendar months, he/she shall thereupon cease to hold office.

**Section 2.8. Councilmembers: Vacancies.** If a vacancy occurs in the office of mayor or other councilmember (15) months or more before the next general city election, the vacancy shall be filled by a successor elected at a special election to complete the unexpired term. ~~The council shall call such special election promptly upon the occurrence of such~~ **appoint a successor to fill the vacancy.**

~~If a vacancy occurs in the office of mayor or other councilmember less than fifteen (15) months before the next general city election, and if the term of the office does not expire immediately after said election, the council shall elect a successor to serve until the next regularly scheduled council election. In the election, a successor shall be elected to complete the unexpired term.~~

~~If a vacancy occurs in the office of mayor or other councilmember less than fifteen (15) months before the next general city~~ **regularly scheduled council election, and if the occurs in mid-term of the office expires immediately after said, then the candidate elected at such election, the council shall fill the remaining** ~~elect a successor to complete the unexpired term.~~

*CAAB Comment: This change (2.8) is proposed to simplify the process for filling council vacancies and avoid the expense of a special election. All vacancies will be filled by the city council via appointment regardless of when the vacancy occurs. If after appointment, there is time for inclusion on the ballot of a regularly scheduled council election, an election will be held to fill the remaining unexpired term. If not, the appointed official remains in office until the term would have otherwise expired.*

**Section 2.9. Mayor and councilmembers: Compensation.** Councilmembers and the mayor shall receive for their services such sum as shall be approved by the affirmative vote of four (4) members of the council from time to time payable in monthly installments. The council, by nonemergency ordinance may alter the compensation of the mayor and other councilmembers, but such change shall not go into effect until the terms of all of the councilmembers in office at that time have expired.

**Section 2.10. Council: Powers.** Except as otherwise provided in this charter, all powers of the city shall be vested in the council. Without limitation of the foregoing, the council shall have power, subject to the state constitution, applicable law, and this charter:

1. To appoint and remove the city manager;
2. To enact municipal legislation relating to any or all subjects and matters within the powers of the city;
3. To adopt the budget, provide revenues, and make appropriations; regulate salaries, wages, and other compensation of officers and employees; and regulate all other fiscal affairs of the city;
4. To sell and convey any and all property belonging to the city both personal and real, after ample opportunity for competitive bidding, under such regulations and with such exceptions as the council may provide;
5. To adopt in its entirety or in parts a comprehensive master plan for the physical development of the city and its environs, and to make changes therein;
- ~~6. To adopt an official map of the city, and to make changes therein;~~
76. To inquire into the conduct of any office, department, or agency of the city government, and investigate municipal affairs; and to authorize council committees and other city authorities to make such inquiries and investigations;
87. To subpoena witnesses to testify and to compel the production of documents and other effects as evidence, and to authorize council committees and other city authorities to exercise such power;
98. To appoint or elect and, with or without cause, remove the members of the personnel board, of the city planning commission, of the board of adjustment, of the public utilities advisory board, and of the board of ethics, and other quasi-legislative, quasi-judicial, or advisory officers and authorities, now or when and if established; and to provide the method of appointing or electing and removing them; and
109. To create, rename, change, and abolish all offices, departments, and agencies of the city government other than including the offices, departments, and agencies created by this charter; and to assign additional powers, duties, and functions consistent with this charter to offices, departments, and agencies created by this charter. If offices, departments, or agencies created by this charter are changed or abolished, then the responsibilities provided for such office, department or agency by this charter shall be reassigned to one or more office, department or agency, whether created by this charter or otherwise.

*CAAB Comment: This change (2.10) will allow the city council to revise the organizational structure of the city government to meet the everchanging needs of the public. It will allow for all departments (regardless of whether it is charter created or not) to be abolished, provided the function performed by that department is reassigned to another department.*

**Section 2.11. City management auditor~~analyst~~.** There shall be a city management analyst, who shall be an officer of the city elected by the sole act of the council upon the affirmative vote of at least four (4) members of the council. The management analyst shall be a full-time employee of the city and shall serve for an indefinite term at the pleasure of the council in an unclassified service category. The council may suspend or remove the management analyst, with or without cause, by the affirmative vote of at least four (4) members of the council. Said management analyst shall have a bachelors or advanced degree in accounting, business administration or public administration, or in lieu of the degree requirement, be a certified public accountant or a licensed attorney. In addition to the aforesaid requirements, the management analyst shall be specifically trained in governmental or business investigation in management. The management analyst shall have such powers and perform such duties as may be directed and granted from time to timme by the council. The management analyst's duties shall include the continuous investigation of the works of all departments

of the city. The management analyst shall make a written report, at least once each year, to the council concerning the methods and results of the operations of said departments.

*CAAB Comments: This (2.11) is an editorial change to conform to the title to a previous charter amendment.*

**Section 2.12. City clerk.** There shall be a city clerk, who shall be an officer of the city elected by the council for an indefinite term upon the affirmative vote of at least four (4) members of the council. The city clerk shall be a full-time employee of the city and shall serve at the pleasure of the council in an unclassified service category. The council may suspend or remove the city clerk, with or without cause, by the affirmative vote of at least four (4) members of the council.

The city clerk shall serve as clerical officer of the council. He/she shall keep the journal of the proceedings of the council, ~~and shall enroll in a book or books kept for the purpose all executed original ordinances and resolutions passed by it in a bound volume.~~ He/she shall be custodian of such documents, records, and archives as may be provided by applicable law or ordinance; shall be custodian of the seal of the city; and shall attest, and affix the seal, to documents when required in accordance with this charter, applicable law or ordinance.

*CAAB Comment: This (2.12) change will allow the city clerk more flexibility in record keeping.*

**Section 2.13. Other personnel appointed by the council.** The council may, upon the affirmative vote of at least four (4) members of the council, in its discretion, hire and retain on a full-time, part-time, or contract basis in an unclassified service category, such other personnel as may be needed by the council to assist the council or individual councilmembers in undertaking their duties. Such personnel shall serve for an indefinite term and may be removed or suspended, with or without cause, by the affirmative vote of at least four (4) members of the council.

**Section 2.14. Relation of personnel appointed by the council to the administrative service.** Neither the management auditor~~analyst~~, city clerk nor other personnel appointed or elected by the council, shall hold any administrative office or duty in the administrative service which is subject to the control and authority of the city manager; however, the city manager may hold any administrative office or duty which is subject to his/her control. The management auditor~~analyst~~ and city clerk shall hold no other position of public office or employment. Personnel appointed or elected by the council shall have access to all books and records of all administrative departments in the city and may contact officers and employees of said administrative departments for the purpose of inquiry on matters of concern to the council; however, said persons shall not direct officers and employees in the administrative service in the performance of their duties.

*CAAB Comment: This (2.14) is an editorial change to conform the title to a previous charter amendment.*

**Section 2.15. Council not to interfere with administrative service.** Councilmembers shall not direct the appointment of any person to, or their removal from, office or employment by the city manager or by any other authority, or, except as provided in this charter, participate in any manner in the appointment or removal of officers and employees of the city. councilmembers

shall deal with the administrative service solely through the city manager; and no councilmember shall give orders to any subordinate of the city manager either publicly or privately. Notwithstanding, councilmembers may otherwise contact such officers and employees for the purpose of inquiry on matters of concern, but shall not direct such officers and employees in the performance of their administrative duties. If any councilmember violates any provision of this section, said councilmember shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty-five (~~25~~) dollars (~~\$25~~) nor more than five hundred (~~500~~) dollars (~~\$500~~). Any such conviction of any councilmember shall be cause for removal from office, and such councilmember shall be automatically removed by the said conviction effective at the expiration of the period during which he/she may appeal or, in case of appeal, when the case is finally determined.

All prosecutions for violations of this section shall be instituted by the prosecuting attorney of Jackson County. The municipal court shall not have jurisdiction of any case involving violation of this section.

**Section 2.16. Council: Rules of Procedure.** Four (4) members of the council shall constitute a quorum, but a smaller number may adjourn from day to day or from time to time, and may compel the attendance of absent members in such manner and under such penalties as the council may provide. The council may determine its own rules. On the demand of any member, the vote on any question shall be by roll call, and the ayes and noes shall be entered in the journal. An affirmative vote of at least four (4) members of the council shall be necessary to pass an ordinance; but a resolution, motion, or any other proposition may be adopted by a majority of the councilmembers voting on the proposition, except when otherwise provided in this charter. Vacancies on the council or abstention by any councilmember shall not be counted affirmatively or negatively, with the majority or against the majority. The mayor, mayor pro tempore, and other councilmembers shall have only one (1) vote each in the council.

**Section 2.17. Council: Meetings.** The council shall hold at least two (2) regular meetings every month at such times as it may provide by ordinance, resolution, or rules of the council.

The mayor or any four (4) councilmembers may call special meetings. All meetings of the council shall be open to the public, and the journal of its proceedings shall be open to public inspection.

**Section 2.18. Ordinances: Enacting clause.** The enacting clause of all ordinances passed by the council, except initiated ordinances, shall be, "Be it ordained by the council of the City of Independence, Missouri."

**Section 2.19. Ordinances: Confined to one subject, exceptions.** No ordinance except an appropriation ordinance, an ordinance adopting or embodying an administrative or governmental code, or an ordinance adopting a code of ordinances, shall relate to more than one (1) subject, which shall be clearly stated in its title.

**Section 2.20. Ordinances: Re-enacting and amending.** No ordinance shall be revived or reenacted by mere reference to its title, but the same shall be set forth at length as if it were an original ordinance. No ordinance or section thereof shall be amended merely by providing that designated words be struck out or that designated words be inserted, but the ordinance or section as amended shall be set forth in full.

**Section 2.21. Ordinances: Passage.** Every proposed ordinance shall be introduced in the council in writing, and shall be read by title or in full two (2) times. Except in case of a bill for an emergency ordinance, ~~or an appropriation ordinance or ordinance approving a plat,~~ not more than one (1) such reading shall be on the same day, and at least seven (7) days shall elapse between the introduction and the final passage so that the introduction and final passage may not occur sooner than on the same day (i.e. Monday) in consecutive weeks, irrespective of time of day. The vote on final passage of every bill shall be by roll call, and the ayes and noes shall be entered in the journal.

When passed by the council, an ordinance shall be signed by the presiding officer, ~~and be attested to by the city clerk, and it shall be immediately placed in a bound volume~~ and preserved in the office of the city clerk.

*CAAB Comment: This change (2.21) clarifies that an ordinance may be read on the same day of consecutive weeks without regard to the time of day.*

**Section 2.22. Ordinances: Required.** In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the city council shall be by ordinance which: 1) adopt or amend the city code or establish, alter, or abolish any city department, office or agency; 2) provide for a fine, imprisonment or other penalty or establish a rule or regulation for violation of which a fine, imprisonment or other penalty is imposed; 3) levy taxes; 4) grant, review or extend a franchise; 5) regulate the rate charged for its services by a public utility; 6) authorize the borrowing of money; 7) convey or lease or authorize the conveyance of lease of any lands of the city; 8) regulate land use and development; and 9) amend or repeal any ordinance previously adopted.

Acts other than those referred to in the preceding sentence may be done either by ordinance, resolution or by other approval process.

*CAAB Comment: This change (2.22) establishes which actions will be required to be done by ordinance.*

**Section 2.2223. Ordinances: When in effect. (1)A.** The following ordinances shall go into effect immediately upon final passage unless they specify a later time: (a) Any emergency ordinance; (b) any ordinance calling or authorizing the calling of or otherwise relating to a particular election or providing for or relating to submission of a particular proposal to the registered qualified voters; (c) any appropriation ordinance or ordinance amending the budget; (d) any ordinance relating to a specific contract; (e) any ordinance relating to a particular public improvement, levying special assessments, or providing for the issuance of special tax bills; (f) any ordinance levying taxes or fixing any tax rate or assessment; (g) any ordinance approving a plat; and (h) any ordinance authorizing the issuance of notes in anticipation of the receipt of revenues estimated in the budget or in anticipation of the issuance of bonds which have been authorized.

Unless specifically required to be adopted by ordinance pursuant to Section 2.22 or other provisions of the charter, the above listed matters may be approved by ordinance, resolution or other approval process.

**(2)B.** All other ordinances shall go into effect at one (1) minute after twelve midnight (12:01 a.m.) on the eleventh day after the date of their passage unless a later time therefore be provided therein; however, if prior to five o'clock (5:00) p.m. on the tenth day after the passage of any such ordinance there shall be filed with the city clerk a notice signed by not less than one hundred (100)

registered qualified voters of the city stating their intention to cause a referendum petition to be circulated to refer it to the voters, such ordinance shall go into effect at one (1) minute after midnight (12:01 a.m.) thirty-one (31) days after its passage unless such ordinance specifies a later time, subject to the referendum as provided in this charter.

*CAAB Comment: This change (2.2223) clarifies that these matters may be approved in a manner other than by ordinance.*

**Section 2.2324. Ordinances: Emergency.** An emergency ordinance is an ordinance which in the judgment of the council is necessary for the immediate preservation of the public peace, property, health, safety, or morals, and which should become effective prior to the time when an ordinary ordinance embracing the subject matter would become effective. Every such ordinance, in a separate section, shall declare the emergency and specify distinctly the facts constituting or the reasons for the emergency. An affirmative vote of at least five (5) members of the council shall be required for the final passage of an emergency ordinance.

**Section 2.2425. Ordinances: Adoption by reference.** The council by ordinance may adopt by reference, with or without modification, codes, ordinances, standards, and regulations relating to building, plumbing, electrical installations, milk and milk products, and any and all other matters and subjects which it has power to regulate otherwise, including provisions of law which would not otherwise be applicable to this city and of rules and regulations of administrative authorities. A copy of every such code, ordinance, standard, or regulation, including provisions of law and any other rules and regulations, so adopted and in effect, shall be kept in the city clerk's office, and shall be open to public inspection.

**Section 2.2526. Ordinances: Codification.** The permanent, general ordinances of the city shall be codified and published in book or pamphlet form at least every ten (10) years unless the council, by use of a loose-leaf system, provides for keeping the code up-to-date. The ordinances and parts of ordinances included in the code may be revised, rearranged, and reorganized; and the code may contain new matter, provisions of the state constitution and law applicable to the city, and this charter. The council by nonemergency ordinance shall adopt the code.

**Section 2.2627. Independent annual audit.** The council, at least six (6) months prior to the end of the fiscal year, shall designate a certified public accountant or accountants experienced in municipal auditing, who shall make an independent audit of the accounts and evidences of financial transactions of the department of finance and of all other departments, offices, and agencies keeping separate or subordinate accounts or making financial transactions, as of the end of every fiscal year, and who shall report to the council and to the city manager. Such audit shall be completed within ninety (90) days after the close of the fiscal year. A copy of the report shall be kept in the city clerk's office, and shall be open to public inspection. Such accountant or accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. The city management auditor~~analyst~~ shall be prohibited from performing this independent annual audit.

*CAAB Comment: This (2.2627) is an editorial change to conform the title to a previous charter amendment.*

**Section 2.2728. Annual evaluation by council.** The council, no less frequently than annually, shall evaluate the efficiency, performance, goals, and objectives of all city functions and facets of the city administration and shall make public those evaluations.

## ARTICLE 3

### CITY MANAGER AND ADMINISTRATIVE DEPARTMENTS City Manager and Administrative Departments Generally

Section 3.1. City manager: Office created, appointment, term, qualifications, compensation, removal. There shall be an officer of the city who shall have the title of city manager. The council shall appoint the city manager for an indefinite term by the affirmative vote of at least five (5) members of the council. ~~It shall choose~~ The city manager shall be appointed solely on the basis of the individual's executive and administrative qualifications, ~~with special reference to knowledge of, and~~ The city manager shall have a minimum of a bachelor's degree and six (6) years of responsible professional experience or a master's degree and four (4) years of responsible professional experience in municipal administration. At the time of his/her appointment, the city manager need not be a resident of the city or state; but, ~~during his/her tenure of office,~~ he/she shall ~~reside within~~ become a resident of the city within six months of said appointment. Neither the mayor nor any other councilmember may be appointed city manager or acting city manager during his/her term of office nor within two (2) years after the expiration of his/her term.

The council shall fix the compensation of the city manager.

The council may suspend or remove the city manager, with or without cause, by the affirmative vote of at least four (4) members of the council. In case the council determines to remove the city manager, the city manager shall be so notified in writing, and he/she may, in writing filed with the city clerk within ten (10) days after receipt of said notice, demand and shall receive a written statement of the reasons for such removal and a hearing thereon at a public meeting of the council prior to the date on which his/her final removal shall take effect; but, pending and during such hearing, the council may suspend him/her from office. The action of the council in suspending or removing the city manager shall be final and not subject to review.

*CAAB Comment: This (3.1) change accomplishes two objectives. First, minimum qualifications for the position of city manager are established. Second, a time period is specified for the city manager to become a resident of the city.*

Section 3.2. Acting city manager. The city manager may designate by letter filed with the city clerk a qualified administrative officer of the city to be acting city manager during his/her temporary absence or disability; or, if the city manager fails to do so, the council may appoint an acting city manager to serve during such time. If the council suspends the city manager, or if there is a vacancy in the office of city manager, the council may appoint an acting city manager to serve until his/her suspension ceases or until another city manager is appointed and qualifies. The council may suspend or remove an acting city manager at any time.

Section 3.2.1 Coordinator of emergency preparedness. The city manager shall appoint the coordinator of emergency preparedness, who shall thereafter be a member of the city manager's staff. The coordinator shall be under the supervision and control of the city manager, and the city manager may suspend or remove the coordinator as any other director or head of an administrative department. The coordinator shall be responsible for the preparation and planning of emergency functions, to include emergency management of resources and administration of such economic controls as may be needed to provide for the welfare of the people.

**Section 3.3. City manager: Powers and duties.** The city manager shall be chief administrative officer and head of the administrative branch of the city government. The city manager shall execute the laws and ordinances and administer the government of the city, and shall be responsible therefor to the council. The city manager shall:

1. Appoint, and when deemed necessary for the good of the service, lay off, suspend, demote, or remove all directors, or heads, of administrative departments and all other administrative officers and employees of the city subject, however, to the appellate procedures as provided by Section 3.29 of this charter and except as he/she may authorize the head of a department, an officer, or an agency to exercise such powers respecting subordinates in such department, office, or agency;
2. Supervise and control, directly or indirectly, all administrative departments, agencies, officers, and employees of the city;
3. Prepare a budget annually and submit it to the council, be responsible for the administration of the budget after it goes into effect, and recommend to the council any changes in the budget which he/she deems desirable;
4. Submit to the council a complete report as of the end of the fiscal year on the finances and administrative activities of the city for the preceding year;
5. Keep the council advised of the financial condition and future needs of the city, and make such recommendations on matters of policy and other matters to the council as may seem to him/her desirable;
6. Have such other powers and duties as this charter provides, and such powers and duties consistent with this charter as the council may provide.

**Section 3.4. Administrative departments, offices, and agencies.** There shall be such administrative departments, offices, and agencies as this charter establishes and as the council may establish, as provided in Section 2.10 of the charter. Each administrative department shall be headed by a director with appropriate title, who shall be an officer of the city appointed by the city manager for an indefinite term. The city manager may also serve as director of a department as provided in another section of this charter. All said directors shall be qualified in their respective fields of specialization with a minimum of a bachelor's degree and four (4) years or a master's degree and two (2) years of responsible professional experience. At the time of his/her appointment, the director need not be a resident of the city or state, but he/she shall become a resident of the city within six months of said appointment, unless specifically authorized by the city manager to reside outside the city limits. The director of a department shall have supervision and control of his/her department, subject to the control and authority of the city manager. There shall be such divisions and other organizational units within each department as this charter or the council may create, or as the city manager or the director of the department may create consistent with the charter and ordinances of the city.

*CAAB Comment: This (3.4) change conforms to the revision of Section 2.10, provides minimum qualifications for department directors and establishes a residency requirement for department directors, with limited exceptions.*

#### **Department of Law**

**Section 3.5. Department of law: Created, city counselor.** There shall be a department of law, the director of which shall be the city counselor. The city counselor shall be a duly licensed attorney of the State of Missouri. Notwithstanding any provision in this charter to the contrary, the city counselor shall be appointed by the city manager only upon the affirmative vote of at least

four (4) members of the council; however, the city manager shall have the sole power to remove, lay off, suspend, or demote the city counselor in the same fashion that the city manager may remove all directors or heads of administrative departments.

**Section 3.6. Department of law: Powers and duties.** The city counselor shall conduct and carry on all civil suits, actions, and proceedings on behalf of the city, and he/she shall represent the city in all cases before the municipal court and in all legal matters in which the city is a party or interested. The city counselor shall advise the council or any member thereof, the city manager, and the heads of all departments, offices, and agencies concerning any legal questions affecting the city's interest. The city counselor shall, when requested by the council or any member thereof or by the city manager, draft or review proposed city ordinances or amendments thereto. The city counselor shall prepare or officially approve as to form all contracts, deeds, bonds, and other such documents to be signed in the name of or made to, with, or for the benefit of the city. The city counselor shall direct and supervise the revision of the city's ordinances as herein provided, and thereafter he/she shall direct and supervise future codifications of such ordinances. The city counselor shall supervise preparation of complaints in the municipal court, which complaints shall be verified by oath or affirmation; and is authorized to prosecute on such complaints without filing an information. The city counselor shall perform such other legal duties as the council may require. The city counselor shall not engage in the private practice of law unless authorized by the council.

**Section 3.7. Department of law: Assistants, special counsel.** The council may authorize the appointment of such assistant city counselors as it may deem necessary. Such assistant city counselors shall be duly licensed attorneys of the State of Missouri, and they may be retained on either a part-time or full-time basis as determined by the council. Such assistant counselors shall assist the city counselor in his/her official duties with power and authority, under his/her direction, to discharge any of the duties of the city counselor. The council shall also have power to employ from time to time such special legal counsel as it deems necessary.

#### **Police Department**

**Section 3.8. Police department: Created, chief of police.** There shall be a police department, the director of which shall be the chief of police.

**Section 3.9. Police department: Powers and duties.** The police department, in accordance with and subject to the law and ordinances, shall preserve peace and order, enforce the law and ordinances, prevent and suppress crime, detect and apprehend violators of all laws and ordinances, and perform such other duties relating to public peace, order, and safety as the council shall provide. The chief of police and every member of the police department shall be conservators of the peace, and shall have power to arrest, or cause to be arrested, with or without process, any person whom they see violating, or whom they have reasonable grounds to believe has violated, any law of the state or ordinance of the city.

#### **Fire Department**

**Section 3.10. Fire department: Created, fire chief.** There shall be a fire department, the director of which shall be the fire chief.

**Section 3.11. Fire department: Powers and duties.** The fire department, in accordance with and subject to the law and ordinances, shall protect life and property from fire and explosion, inspect property and places for fire and explosion hazards, enforce the law and ordinances relating to safety from fire and explosion, and prevent and suppress fires and explosions.

### **Public Utilities**

**Section 3.12. Electric utility department: Created, director.** There shall be an electric utility department, the director of which shall be the electric utility director.

**Section 3.13. Electric utility department: Powers and duties.** The electric utility department shall operate the electric utility of the city.

**Section 3.14. Electric utility department: Other utilities, enterprises, and services; change of title of the department.** The council by ordinance may provide that the electric utility department shall operate other public utilities, enterprises, and services which the city may operate; and also by ordinance may change the title of the department and of the director to department of public utilities and director of public utilities respectively; provided that nothing herein shall prohibit the council by ordinance from creating a separate department or departments for any one (1) or more such other utilities, enterprises, and services.

**Section 3.15. Public utilities advisory board: Created, membership.** There shall be a public utilities advisory board, composed of seven (7) members appointed by the council for overlapping four (4)-year terms. The five (5) members serving prior to the adoption of this revised charter shall serve until the end of their present terms. The council shall appoint two (2) additional members so that their terms will expire on July 1 in the years as follows: one (1) in 1981 and one (1) in 1982.

**Section 3.16. Public utilities advisory board: Powers and duties.** The public utilities advisory board:

1. May initiate on its own or upon request of the council or city manager investigations of public utilities operated within the city;
2. Shall adopt rules for the transaction of business and keep a record of its proceedings;
3. Shall hold regular meetings and such special meetings as the board may provide by rule;
4. May request the city manager to assign such clerical, legal, and investigatory personnel and to contract with other persons for goods and services that are required for its work, provided that resulting expenditures are duly authorized by the city manager, within amounts appropriated by the council, and made pursuant to proper purchasing procedures;
5. May conduct public hearings on matters relating to public utilities and, through its chairperson, administer oaths and affirmations;
6. May obtain from any city department, officer, and agency and from any public utility operated within the city any available information that is required for its work;
7. May subpoena witnesses to testify and compel the production of documents and other effects as evidence;
8. May inspect all public utilities operated within the city;

9. May recommend to the executive or legislative officials of the city, programs for the financing, use, ownership, service, operation, or franchising of public utilities operated within the city, including but not limited to recommendations regarding rate adjustments, long-range planning, the employment and termination of the services of consultants to the city, the review of recommendations made by consultants to the city, the issuance of debt obligations of the city and the construction of new and expansion of existing facilities; and
10. Shall report its findings and recommendations at least annually, to the council, the people of the city, the city manager and the respective director(s) of the public utility operated within the city to which such findings and recommendations apply.

**Section 3.17. Municipally owned and operated utilities and enterprises.** ~~The~~<sup>All</sup> municipally owned and operated electric system ~~is a public utilities~~ and shall be operated in a businesslike manner.

~~The electric~~ <sup>Municipally owned and operated public utilities</sup> shall not be operated for the benefit of other municipal functions, and shall not be used directly or indirectly as a general revenue producing agency for the city, ~~but it may pay to the city an amount in lieu of such taxes as are normally placed upon private business enterprises.~~ <sup>except as may hereinafter be provided.</sup> They may:

1. Pay to the city an amount in lieu of such taxes as are normally placed upon private business enterprises.
2. Make appropriate interfund payments to the city.
3. Provide to the city without charge lighting for all streets, alleys or public ways, including traffic signals and other similar services.
4. Provide to the city without charge such utility service to all city-owned and operated buildings, grounds, and facilities.
5. Allow for the use of vehicles and other equipment on a temporary basis without charge to the city.

After providing for depreciation accruals and amortization of bonds, and for reasonable accumulation of surplus, the ~~electric~~ <sup>municipally owned and operated public utilities</sup> shall apply all annual profits to rate reductions.

~~The electric~~ <sup>All municipally owned and operated public utilities</sup> and ~~such other public utilities and enterprises as the city may acquire~~ shall be operated from funds separate from the general fund. An accounting system for each such fund shall be established within the general accounting system of the city, and shall be so set up and maintained as to reflect annually or as often as the council may require the financial condition of the enterprise and its income and expense.

*CAAB Comment: This (3.17) change accomplishes two objectives. First, it clarifies that all city-owned utilities must be operated as enterprises. Second, it establishes certain services which may be provided to the city without charge.*

**Section 3.18. Duty of council to consult with public utilities advisory board.** For the purpose of promoting municipal planning of public utilities operated within the city, the council, city employees, city officers and all other public officials shall cooperate and consult with the board on all policy and planning matters related to such public utilities. The council may determine what constitutes "policy" and "planning" for the purposes of this section. The council shall not pass any ordinance, resolution, motion or other proposition which

relates to any matter of policy or planning of a public utility operated within the city without first giving the board the opportunity to submit to the council, within a reasonable time, the board's findings and recommendations relating to such matters. The council may determine what constitutes a "reasonable time" for the purposes of the preceding sentence. In case the council passes such an ordinance, resolution, motion or proposition contrary to a board finding or recommendation, the council shall, upon request by the board, communicate its reasons to the board for its passage.

Nothing herein shall be construed to prevent the council from passing any ordinance, resolution, motion or other proposition which, in the judgment of the council, is necessary for the immediate preservation of the public peace, property, health, safety or morals, and which, in the judgment of the council, should become effective prior to consultation with or the receipt of findings and recommendations from the board. Every such action, in a separate section, shall specify distinctly the reasons for not giving the board the opportunity to submit its findings and recommendations to the council within a reasonable time.

### **Public Works Department**

**Section 3.19. Public works department: Created, director.** There shall be a public works department, the director of which shall be the director of public works. Within the department of public works, there shall be a division of engineering, the head of which shall be the city engineer. The duties of this department may, in the discretion of the council, be divided between a director of public works/engineering and director of public works/maintenance.

**Section 3.20. Public works department: Powers and duties.** The public works department, except as the council may provide otherwise by ordinance and insofar as these functions are performed by city personnel, shall:

1. Design, construct, reconstruct, repair, and maintain all municipal buildings, bridges, viaducts, subways, cemeteries, dikes, canals, waterways, sewers, drains, levees, tunnels, airports, public market facilities, off-street parking facilities and structures, including alterations, replacements, additions, and appurtenances thereto;
2. Grade, maintain and improve all streets, alleys, other public highways, sidewalks, and sidewalk areas; and construct, reconstruct, repair, and maintain all pavements, curbs, gutters, and sidewalks;
3. Have control of the laying of conduits, the location, erection, and construction of poles and all structures in, on, under, or over public grounds and highways; and grant all permits to excavate into or disturb any highway or public grounds, or to make any special use thereof;
4. Collect and dispose of garbage, ashes, and refuse; and dispose of sewage;
5. Issue and may revoke all building permits, and administer all building and zoning ordinances and regulations; and
6. Inspect gas, plumbing, and electrical installations, boilers, elevators, and smoke, sanitary, and safety equipment of buildings and structures.

### **Parks and Recreation Department**

**Section 3.21. Parks and recreation department: Created, director of parks and recreation.** There shall be a parks and recreation department, the director of which shall be the director of parks and recreation. The council in its discretion may divide the duties of this department into separate departments with separate department heads.

**Section 3.22. Parks and recreation department: Powers and duties.** The parks and recreation department, in accordance with and subject to the ordinances of the city, shall supervise, control, operate, and maintain all parks, playgrounds, swimming pools, and other recreational facilities operated by city personnel. It shall be responsible for planning, conducting, and coordinating city public recreation programs.

### Department of Health

**Section 3.23. Department of health: Created, director of health.** There shall be a department of health, the director of which shall be a physician (M.D. or D.O.), dentist, veterinarian, or registered nurse with a baccalaureate degree in nursing, in each case licensed to practice by the State of Missouri; or a person with a baccalaureate degree in a life science(s) or sanitary engineering. In every case, the person ~~will~~ shall have an accompanying master of public health, master of public health administration, or an equivalent health-related degree from an accredited college or university and three (3) of the immediately preceding five (5) years of experience must be in public health work. Reference to health officer shall mean the director of health unless the council creates a separate office of health officer within the department. The council may also create a separate office of city physician.

*CAAB Comments: This (3.23) change clarifies that the minimum qualifications for the position of director of health are mandatory.*

**Section 3.24. Department of health: Powers and duties.** The department of health, in accordance with and subject to the ordinances of the city, shall:

1. Enforce and administer the laws of the state, the provisions of this charter, and ordinances relating to public health and sanitation; and
2. Direct and supervise the inspection of the production, handling, storage, and sale of all commodities intended for human consumption; and require that the places and premises wherein the same are produced, processed, kept, or offered for sale be kept in a sanitary condition, with due regard for the healthfulness, cleanliness, and sanitation of all methods, practices, persons, and things relating thereto.

### Personnel Department

**Section 3.25. Merit system—Appointments, removals, etc.—Personnel department.** A merit system is hereby established for personnel in the classified service. Appointments and promotions in the classified service of the city shall be made solely on the basis of merit and fitness; and removals, demotions, suspensions, and layoffs shall be made solely for the good of the service. The merit and fitness of persons appointed or promoted in the classified service shall be ascertained insofar as practicable by competitive examinations.

In order better to achieve this purpose, there is hereby created a personnel department, the director of which shall be the personnel director. The personnel director shall have had training and experience in personnel administration.

**Section 3.26. Personnel director: Powers and duties.** The personnel director or personnel under his/her supervision and control shall:

1. Hold competitive examinations for appointments in the classified service, restricted to persons reasonably qualified to perform the duties of the positions, with the exception of such temporary, unskilled, and scientific, managerial, and professional personnel as the personnel rules may provide;

2. Give wide publicity to all announcements of examinations to encourage qualified persons to take the examinations;
3. Prepare and recommend to the city manager such personnel rules and such modifications therein from time to time, as may be deemed desirable to carry into effect the provisions of this article;
4. Prepare and recommend to the city manager a plan classifying all positions in the classified service on the basis of their respective duties, authority, and responsibility, and such changes therein from time to time as may be deemed desirable; and install and maintain the classification plan after it is adopted in the manner provided by the personnel rules;
5. Prepare and recommend to the city manager, a pay plan for personnel in the classified service and such changes therein from time to time as may be deemed desirable, and maintain the pay plan after it is adopted by the council;
6. Establish and maintain a roster or file of all persons in the municipal service, in which there shall be set forth regarding each such officer or employee (a) the class title of the position held, (b) salary or other compensation, (c) any changes in class title, compensation, or status, and (d) such other data as may be deemed desirable;
7. Certify all payrolls for persons in the classified service; and no payment for personal service to any person in the classified service of the city shall be made unless the payroll bears the certification of the personnel director or his/her authorized agent that the persons mentioned therein have been appointed in accordance with the provisions of this article;
8. Develop and establish, or assist in developing and establishing, training and educational programs for persons in the municipal service;
9. Investigate periodically the operation and effect of the personnel provisions of this charter and the rules promulgated thereunder, and report at least annually his/her findings and recommendations to the city manager; and
10. Have such other powers and duties as may be provided by this charter, by ordinance or by personnel rules.

**Section 3.27. Personnel board: Created, membership.** There shall be a personnel board within the personnel department, which shall consist of five (5) members appointed by the council for four (4) year terms which shall overlap based upon the expiration dates of the terms of original appointment.

**Section 3.28. Personnel board: Qualifications.** Each member of the personnel board shall be known to be in sympathy with the merit principle as applied to the civil service; shall neither hold nor be a candidate for any other public office or position; and shall not be a member of any local, state, or national committee of a political party or an officer in any partisan political club or organization; provided that a member may be a member of the national guard, or of the naval, military, or air reserve, or a notary public.

**Section 3.29. Personnel board: Powers and duties.** The personnel board shall:

1. Advise the council, the city manager, and the personnel director on matters relating to personnel administration;
2. Make any investigation or study which it may deem desirable concerning personnel policy and administration, and report to the council its findings, conclusions, and recommendations at least once every year;
3. Hear appeals of all non-probationary officers and employees in a classified service category after layoff, suspension without pay for more than ten (10) days, or demotion, and prior to removal of said officers and employees; and report its findings and recommendations in writing to the

city manager, and to any authority, other than the city manager, having power of removal; and the authorities having power of removal shall then make a decision, in writing, regarding that person's disciplinary action discharge from employment and, notwithstanding any provisions to the contrary, such findings and recommendations shall be final upon all such appeals and not subject to further appeal to any person, administrative or legislative body, nor subject to administrative review by any court;

4. Hear any officer, employee, or member of a board or commission of the city in an unclassified service category, except for the city manager, municipal judges, and councilmembers, after his/her discharge from employment, and report its findings and recommendations in writing to the respective authorities having power of removal; and the authorities having power of removal shall then make a decision, in writing, regarding that person's discharge from employment; and, further, said decision shall be final and not subject to appeal to any person, administrative or legislative body, nor subject to administrative review by any court;

5. Have power to subpoena witnesses to testify and to compel the production of documents and other effects as evidence; and, through its chairperson, have power to administer oaths and affirmations; and

6. Have such other powers and duties relating to personnel administration as may be provided by this charter, by ordinance, or by personnel rules.

*CAAB Comment: This (3.29) change clarifies that the personnel board is advisory to the city manager and that once an appeal has been made to the personnel board, no further administrative remedy is available.*

**Section 3.30. Unclassified and classified service categories.** All officers and employees of the city shall be divided into the unclassified and classified service.

1. The following shall constitute the unclassified service:

- a. Councilmembers, the city clerk, the management auditor, and such other personnel as may be elected or appointed by the council;
- b. The municipal judge or judges, and the clerk of the municipal court;
- c. The city manager, and assistant city manager(s), if any;
- d. The directors of all administrative departments;
- e. Members of each board, commission, or other plural authority;
- f. All personnel who serve without compensation; and
- g. Persons appointed or employed on a temporary basis to make or conduct a special audit, inquiry, investigation, study, examination, or installation, or to perform a temporary service subject to such exceptions, limitations, and regulations, as the personnel rules may provide.

2. All other officers and employees shall be in the classified service.

**Section 3.31. Inclusion of unclassified personnel in the classification system and pay plan.** Nothing in this charter shall prohibit including unclassified personnel in the classification system and in the pay plan with the classified personnel.

**Section 3.32. Personnel rules.** The council, by motion or resolution, shall adopt and may change personnel rules consistent with this charter and the ordinances of the city. Such personnel rules shall further regulate the merit system and personnel matters, and provide for proper personnel administration. The city manager and the personnel board shall have the right to make recommendations or to be heard on the personnel rules and any changes therein before the council adopts them.

## Department of Finance

**Section 3.33. Department of finance: Created, director.** There shall be a department of finance, the director of which shall be the director of finance. He/she shall have knowledge of municipal accounting and taxation, and shall have had experience in budgeting and financial control.

**Section 3.34. Department of finance: Powers and duties.** The director of finance, under the direction of the city manager, shall have charge of the administration of the financial affairs of the city; and to that end, he/she or personnel under his/her supervision and control shall have power and shall be required to:

1. Assist the city manager in preparation of the budget;
2. Assess all taxable property within the city for taxation unless the city uses the assessments made on property within the city by the county assessor and equalized as provided by law;
3. Compute the taxes levied by the council and extend the same upon the tax rolls, and extend special assessments upon the special assessment rolls;
4. Collect or receive all taxes, special assessments, license fees, and other revenues of the city or for the collection of which the city is responsible, and receive all money receivable by the city from all sources;
5. Have custody of all funds belonging to or under control of the city, or any office, department, or agency of the city government, and deposit such funds in such depositories as the council may designate or, if the council fails to make such designation, as the city manager may designate, subject to any requirements of law as to surety and the payment of interest on deposits; and all such interest shall be the property of the city;
6. Have custody of all investments and invested funds of the city government or in possession of the city government in a fiduciary capacity, and have the safekeeping of all bonds, notes, and other securities of the city, and the receipt and delivery of city bonds, notes, and other securities for transfer, registration, or exchange;
7. Audit and approve before payment all bills, invoices, payrolls, and other evidences of claims, demands and charges against the city government; and determine the regularity, legality, and correctness of such claims, demands, and charges;
8. Certify for the city's governmental funds whether there is an unencumbered balance of funds appropriated or authorized and available for every proposed expenditure; and unless the director of finance or authorized agent certifies that there is an unencumbered balance, no funds shall be encumbered and no expenditure shall be made; for proprietary funds, which shall include the electric utility, certify whether there is an unexpended balance of funds authorized and/or available for every proposed expense, and unless the director of finance or authorized agent certifies that there is such a balance no expense shall be made;
9. Maintain a general accounting system for the city government and its departments, offices, and agencies in accordance with generally accepted accounting principles; where appropriate exercise budgetary control over them; keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it, and the unencumbered balance; and require financial reports from each receiving and spending agency of the city government to be made daily or at such intervals as he/she may deem expedient;
10. Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department, or agency of the city government;

11. Submit to the council through the city manager a monthly financial report in sufficient detail to show the exact financial condition of the city;
12. Prepare for the city manager, as of the end of every fiscal year, a complete financial report for the year;
13. Supervise and be responsible for the purchase, storage, and distribution of all supplies, materials, and equipment for all departments, offices, and agencies of the city government; have charge of the rental, sale, or other disposition of city-owned personal property;
14. Establish and maintain a program of insurance on city-owned property, and maintain appropriate records thereon.

**Section 3.35. Division of purchases: City purchasing agent, powers, and duties.** There shall be within the department of finance a division of purchases, the head of which shall be the city purchasing agent.

The purchasing agent shall have power and shall be required, subject to any regulations which the council may provide, to:

1. Establish and enforce specifications for supplies, materials, and equipment to be procured for the city government;
2. Contract for, purchase, or issue purchase authorizations for all supplies, materials, equipment, contractual labor, and services and insurance for the departments, offices, and agencies of the city government; provided that, before the purchase of or contract for any supplies, materials, equipment, contractual labor and services, or insurance, ample opportunity for competitive bidding, under such regulations and with such exceptions as the council may provide, shall be given; but the council shall not except an individual contract or purchase from the requirement of competitive bidding;
3. Inspect or supervise the inspection of all supplies, materials, and equipment delivered; and determine or supervise the determination of their quality, quantity, and conformance with specifications;
4. Have charge of such general storerooms and warehouses as may be established;
5. Transfer to or between departments, offices, and agencies, or sell surplus, obsolete, or unused supplies, materials, and equipment.

#### ARTICLE 4

#### MUNICIPAL COURT

**Section 4.1. Municipal Court: Created, judge or judges.** There shall be a municipal court with a municipal judge, who shall be a duly licensed attorney of the State of Missouri and who shall have resided at least four (4) years immediately preceding his/her appointment in the city or in territory annexed and included in the city; provided that the council by ordinance may add one (1) or more other municipal judges having like qualifications, may provide appropriate titles therefor, and may establish divisions within the general jurisdiction of the municipal court. The mayor shall appoint the municipal judge or, in case there are more than one (1), each municipal judge, and shall fill vacancies in the office of a municipal judge, both in the following manner: By appointing one (1) of three (3) persons possessing the qualifications for such office, who shall be nominated and whose names shall be submitted to the mayor by a nonpartisan city judicial commission. The mayor shall make such appointment within fourteen (14) days after receiving the nominations from the commission.

The city judicial commission shall consist of five (5) members, one (1) of whom shall be a councilmember other than the mayor appointed by the council by a vote of at least four (4) members, the designated circuit court judge of the sixteenth judicial circuit sitting in Independence and who shall be chairperson of the commission. The members of the bar of the State of Missouri residing in the City of Independence shall elect two (2) of their number to serve as members of the commission and the city manager shall appoint two (2) registered qualified voters of the City of Independence, not members of the bar, to serve as members of the commission. The terms of their original appointment shall be four (4) years; thereafter the members of the commission shall be elected or appointed for four (4) year terms. No member of the commission other than the chairperson shall hold any other public office or position, and no member shall hold any official position in a political party. For terms commencing after enactment of this provision, no person, except the chairperson shall serve more than two (2) terms on the commission. The commission may act only by the concurrence of a majority of its members.

Each judge shall be appointed hereunder shall hold office until to a four (4) year term expiring on June 30 of the year in which the term for that respective division expires. In the event that the city council shall establish more than one division of the municipal court, the terms of the divisions shall end on June 30 of different years insofar as possible. Should the terms of more than one (1) division end at the same time by reason of prior charter provision or ordinance, then the city council shall, at the end of the existing terms designate terms shorter than four (4) years for the next term of one (1) or more division so that thereafter the terms for the various divisions shall not be concurrent. A municipal judge may be removed at any time by the affirmative vote for removal of four (4) five (5) members of the council, but only for with or without cause, after a hearing before the council. In the event of the temporary absence, disability, disqualification, or suspension of a municipal judge, or of a vacancy in the office of a municipal judge, the mayor shall have the power to appoint a municipal judge pro tempore to serve during such absence, disability, disqualification, or suspension, or until the vacancy is filled, as the case may be; however, no such appointment shall exceed one hundred and eighty (180) days in duration. The mayor may remove a municipal judge pro tempore at any time. A municipal judge shall devote adequate time to the duties of the office.

*CAAB Comment: This change (4.1) is intended to improve the selection process for municipal judge. It clarifies that the 4 years of residency must be immediately preceding the appointment. It substitutes the councilmember with the designated circuit court judge of the 16th judicial circuit in Independence and allows for a continuing term of office for this individual. This particular provision puts the selection process in substantial conformance with the selection process for other judges. It clarifies that the term of office for the judges is 4 years and eliminates unnecessary language. Finally, it modifies the removal procedure for judges by allowing removal with or without cause upon the vote of 5 councilmembers.*

**Section 4.2. Municipal court: Jurisdiction and powers.** The municipal court shall have jurisdiction of all cases involving violations of the provisions of the ordinances of the city and power to assess punishment as therein provided, and such other jurisdiction as may be conferred by law or ordinance. Appeals may be taken by either party to the circuit court in like manner as provided by law for appeals from magistrate court in Jackson County, Missouri, in criminal cases; but the city shall not be required to furnish security for any bond on appeals, nor shall there be any appeal from a judgment on a plea of guilty. The municipal court may punish contempts of court in like manner and to the same extent as is authorized by law or rule for the circuit court of Jackson County, Missouri, and

may include confinement in jail as punishment; may enforce its process, orders, and judgments in the same manner as the circuit court of Jackson County, Missouri; may issue warrants of arrest; may issue search warrants or warrants for search and seizure as authorized by law for circuit judges or magistrates, directed to the chief of police or other members of the police department, upon application of the city counselor or assistant city counselor; may summon and compel the attendance and recognizance or cash bond of witnesses and the production of books, papers, documents, other documentary evidence not privileged by law, and other effects as evidence; may administer oaths and affirmations; ~~may summon and compel the attendance of jurors, who shall be selected in the same manner as jurors in magistrate court;~~ may pass upon the competence, relevance, and the admissibility of evidence; may adjudge and require the abatement of nuisances as defined by law or ordinance, and declare the costs of such abatement to be a lien upon the premises concerned and subject to sale as provided by law or ordinance; and may render final judgment on any forfeited bond or recognizance returnable to such court; and have such other powers and duties as may be provided by law or ordinance.

The municipal judge shall, upon convictions, fix the amount of fine or imprisonment, or both, and costs within the limits provided by the charter or ordinance, and shall have power to grant stays of execution and bench paroles, to suspend sentence and to place defendants on probation.

*CAAB Comment: This change (4.2) deletes out of date and unnecessary language.*

**Section 4.3. Marshal and clerk.** The chief of police and other members of the police department shall serve as marshal and deputy marshals of the municipal court, and shall have power to serve and execute all warrants, subpoenas, writs, or other process directed to them as provided by law or ordinance at any place within the limits of the county.

There shall be a clerk of the municipal court appointed by the ~~municipal court~~ city manager. He/she shall have the power to administer oaths and affirmations and to issue warrants upon proper complaint. He/she shall perform the following duties: Keep a complete record of each case showing the final disposition thereof; collect all fines, penalties, and monies from other sources assessed by the court, and shall regularly account for such monies and deliver all such monies daily to the city treasury; and perform such other functions relating to the municipal court as may be provided by ordinance. The clerk shall not be a member of the police department or hold any other public office or employment.

*CAAB Comment: This change (4.3) puts the appointment of the municipal court clerk under the authority of the city manager rather than the presiding municipal judge.*

**Section 4.4. Place of holding court.** The city shall provide a suitable place for holding court, together with such offices and chambers as may be necessary. Although such place for holding court, offices and chambers may be in the same building as the police department, they shall be removed from the police department.

## ARTICLE 5

### BOARD MEMBERS, COUNCILMEMBERS, AND EMPLOYEES GENERALLY

#### Code of Conduct

**Section 5.1. Function of local government.** Councilmembers, board members, and employees shall accept the fundamental principle that the sole function of local government is the efficient provision of facilities and services deemed essential ~~for the kind of urban living desired by the resident population.~~

1. Councilmembers, board members, and employees are agents of public purpose and shall hold office or employment for the benefit of the public.
2. Councilmembers, board members, and employees, recognizing that the public interest is their primary concern, shall faithfully discharge their official duties regardless of personal considerations.

*CAAB Comment: This change (5.1) deletes unnecessary language.*

**Section 5.2. Fair and equal treatment.** Councilmembers, board members, and employees shall give fair and equal treatment to every citizen.

1. Canvassing of any councilmember, directly or indirectly, to obtain preferential consideration for appointment in the municipal service shall disqualify the candidate for appointment.
2. No individual who seeks appointment or promotion to any municipal office or position shall directly or indirectly give, render, or pay any money, service, or any other valuable thing to any person for, or in connection with, his/her test, appointment, proposed appointment, promotion, or proposed promotion.
3. Councilmembers, board members, and employees shall not use city-owned vehicles, equipment, materials, or property for personal convenience or profit.
4. No councilmember, board member, or employee shall grant a special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.

**Section 5.3. Conflicts of interests.** ~~The use of public office for private gain is prohibited. The city council shall implement this prohibition by ordinance. Regulations to this end shall include but not be limited to: acting in an official capacity on matters in which the official has a private financial interest clearly separate from that of the general public; the acceptance of gifts and other things of value ex parte communications with board members by applicants, petitioners and others seeking decisions and recommendations; acting in a private capacity on matters dealt with as a public official, the use of confidential information; and appearances by city officials before other city agencies on behalf of private interest. Councilmembers, board members, and employees shall not place themselves in a position which may substantially conflict with their official duties or which may be a substantial influence to act other than in the best interests of the public since they owe an undivided loyalty to the public they serve. By way of illustration, and not limitation, the following shall be deemed to constitute conflict of interests:-~~

- ~~1. No councilmember, board member, or employee shall transact any business in his/her official capacity with any business entity of which he/she is an officer, agent, or member or in which he/she owns a substantial interest; nor shall he/she make any personal investments in any business entity which will create a substantial conflict between his/her private interest and the public interest; nor shall he/she or any business entity of which he/she is an officer, agent, or member, or the owner of substantial interest, sell any goods or services to any business entity which is licensed by or regulated in any manner by the city when such sales shall constitute a substantial conflict.~~

- ~~2. No councilmember, board member, or employee shall appear in behalf of private interests before any officer, department, or agency of the city government where such appearance will create a substantial conflict between his/her private interest and the public interest.~~
- ~~3. No councilmember, board member, or employee shall enter into any private business transaction with any person or business entity that has a matter pending or to be pending upon which the councilmember, board member, or employee is or will be called upon to render a decision or pass judgment. If any councilmember, board member, or employee is already engaged in the business transaction at the time that a matter arises, he/she shall be disqualified from rendering any decision or passing any judgment upon the same.~~
- ~~4. After termination of service or employment, no person who has served as a councilmember, board member, or employee of the city shall, within such time period (whichever is longer) as may be provided by state law or city ordinance, appear before any agency of the city government or receive compensation for services rendered on behalf of any person or business entity, in relation to any case, proceeding, or application with respect to which the person was directly concerned, and in which he/she personally participated during the prior period of service or employment with the city. Notwithstanding, nothing herein contained shall be construed to prohibit any business entity, in which any councilmember, board member, or employee is a member, from appearing, rendering services in relation to any matter before, or transacting business with any agency of the city, where the councilmember, board member, or employee does not share in the profits resulting therefrom.~~
- ~~5. Councilmembers, board members, and employees who have a direct or indirect financial or other private interest in any proposed legislation and who participate in discussion before or give official opinion to the council, shall publicly disclose the nature and extent of such interest, and the disclosure shall be entered in the journal of the council.~~
- ~~6. No councilmember, board member, or employee in the course of his/her official duties shall represent private interests in any action or proceeding against the interests of the city, in any litigation to which the city is a party, or in any action or proceeding in the municipal court in which the city, any agency, councilmember, board member, or employee of the city in the course of his/her official duties is a complainant.~~
- ~~7. No councilmember, board member, or employee of the city shall accept any valuable gift, whether in the form of service, loan, thing, or promise, or in any other form, from any person or business entity, which, to his/her knowledge, is interested directly or indirectly, in any manner whatsoever, in business dealings with the city.~~
- ~~8. No councilmember, board member, or employee shall disclose confidential information concerning the property, government or affairs of the city, nor shall he/she use such information to advance the financial or other private interest of himself/herself or others.~~
- ~~9. No councilmember, board member, or employee shall invest or hold any investment directly or indirectly in any financial, business, commercial, or other private transaction which creates a substantial conflict with his/her official duties.~~
- ~~10. No councilmember, board member, or employee shall engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of his/her official duties.~~
- ~~11. No councilmember, board member, or employee shall solicit, negotiate for, or promise to accept employment with any person or business entity with which he/she is engaged on behalf of the city in the transaction of business or which is or may be affected by his/her official action.~~

~~12. No person or business entity shall attempt, directly or indirectly, to secure preferential treatment in dealings with the city government by offering any valuable gift, whether in the form of service, loan, thing, or promise, or in any other form, to councilmembers, board members, or employees. If any person or business entity violates the foregoing provision, any current contracts which he/she or it may have with the city shall be cancelled; and such person or business entity shall not be eligible to bid on any city contracts for a period of two (2) years.~~

~~13. No councilmember, nor the city manager, the director of finance, the city purchasing agent, or any other employee or board member whom the council may designate by ordinance or personnel rules, shall sell or barter anything to the city or to a contractor to be supplied to the city; or make any contract with the city; or purchase anything from the city other than those things which the city offers generally to the public (as for example, utility services), and then only on the same terms as are offered to the public. Any violation of this section, with the knowledge, express or implied, of the person or business entity contracting with the city, shall render the contract voidable by the city manager or the council. This paragraph shall not apply to the taking of property by condemnation proceedings.~~

*CAAB Comment: This (5.3) is a major change which eliminates most of the conflict of interest detail and instead establishes a general policy which includes a requirement that the city council further supplement this provision by ordinance.*

#### **Section 5.4. Political activities.**

~~(1) A. No employee of the city shall, other than as authorized under applicable law, :~~

- ~~(a) Continue in such position after becoming a candidate for nomination or election to any public office;~~
- ~~(b) Give, pay, lend, or contribute any part of his/her salary or compensation or any money or other valuable thing to any person on account of or to be applied to the promotion knowingly or willfully, make, solicit or receive any contribution to the campaign of any political party or organization or for any political purpose whatsoever;~~
- ~~(c) Serve as an officer or committeemember of a political club or organization, or solicit any person to vote for or against any candidate for any public office, or seek signatures to any petition provided by this charter or any primary or general election law, or act as a worker at the polls, or distribute badges, colors, or indicia favoring or opposing a candidate for nomination or election to any public office, or otherwise work for or against the nomination or election of committee to be used in a city election or to campaign funds to be used in support of or opposition to any candidate for election to city office or city ballot issue. Further, no city employee shall, knowingly or willfully, actively participate in any aspect of any political campaign on behalf of, or in opposition to, any candidate for public city office, or work for or against the recall of any public officer; and~~
- ~~(d) Use any vehicle, equipment, materials, or other property of the city in the interest of or against the nomination or election of any candidate for any public office, or for any other political purpose. This section shall not be construed to limit any person's right to exercise rights as a citizen to express opinions while not at the workplace (such as wearing campaign buttons, placing bumper stickers on personal vehicles, putting yard signs on their own property or other similar expressions) or to cast a vote nor shall it be construed to prohibit any person from active participation in political campaigns at any other level of government.~~

~~B. No councilmember, boardmember, employee or candidate or their agent shall knowingly or willfully solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose to be used in conjunction with any city election from any city employee.~~

~~(2) No councilmember nor board member shall:~~

~~(a) Orally, by letter, or otherwise solicit or be in any manner concerned in soliciting any assessment, subscription, or contribution for any political party or political purpose whatever from any employee of the city; and~~

~~(b) Use any vehicle, equipment, materials, or other property of the city in the interest of or against the nomination or election of any candidate for any public office, or for any other political purpose.~~

~~(3) No person or business entity shall orally, by letter, or otherwise solicit or be in any manner concerned in soliciting any assessment, subscription, or contribution for any political party or political purpose whatever from any employee of the city.~~

~~(4) Should a board member, after successfully pursuing nomination to election, become so elected he/she shall resign his/her position with said board or commission before taking the oath of that public office, except as provided by this charter, ordinance or by state law.~~

~~(5) All persons and business entities under this article mentioned shall retain the right to vote as they may choose and the right to express their opinions on all political subjects and candidates notwithstanding the provisions of this article.~~

~~(6)C. No other person shall use any vehicle, equipment, materials, or other property of the city in the interest of or against the nomination or election of any candidate for any public office, or for any other political purpose at any level of government.~~

~~D. All employees must notify the director of the Personnel Department, and obtain approval pursuant to applicable personnel department policy, before seeking election to any public office at any level of government in order to avoid any conflict of interest or compromise of the employee's duties and obligations to the City. Approval will not be unreasonably withheld and the application process will be treated as a confidential, personnel matter.~~

*CAAB Comment: This (5.4) is a major change which eliminates substantial portions of the political activities provision. It limits the prohibition to local elections, subject to certain applicable state and federal laws. It further imposes a requirement that employees wishing to seek elective office, obtain approval prior to doing so. (Note: This provision is currently subject to litigation).*

**Section 5.5. Penalty section.** Any person, or business entity, who willfully or through culpable negligence violates any of the provisions of Sections 5.1 to 5.4 of this article shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five ~~(25)~~-dollars ~~(\$25)~~ nor more than five hundred ~~(500)~~- dollars ~~(\$500)~~, or by imprisonment for a term not exceeding one (1) year, or by both such fine and imprisonment. Any person who is convicted hereunder shall, for a period of five (5) years thereafter, be ineligible to hold any office or position of employment in the city service. Any such conviction of any councilmember, board member, or employee of the city shall also be cause for removal from office or employment, and such councilmember, board member, or employee shall be automatically removed by the said conviction effective at the expiration of the period during which he/she may appeal or, in

case of appeal, when the case is finally determined, unless the regular removal authority has already removed such person.

All prosecutions for violations of the provisions of Sections 5.1 and 5.4 of this article shall be instituted by the city counselor. If the city counselor shall declare that he/she has a conflict of interest or otherwise disqualifies himself/herself, then the city manager shall appoint a special prosecutor for that purpose. In the event the city manager shall fail to appoint a special prosecutor within 30 days of notification of conflict of interest or disqualification of the city counselor then the city council shall by majority vote appoint the special prosecutor. In all events, the city council may appoint a special prosecutor by majority vote.

Jurisdiction of any case involving violations of Sections 5.1 to 5.4 of this article shall be vested in the circuit court of Jackson County, Missouri.

Any resident of the city of Independence may institute an action to prevent or prohibit a violation of the charter by suing for injunctive relief. If such action is successful, the city shall bear court costs and the plaintiff's reasonable attorney fees.

**Section 5.6. Board of ethics: Created, membership.** There shall be a board of ethics, which shall consist of five (5) members appointed by the council for four (4) year terms which shall overlap based upon the expiration dates of the terms of original appointment.

**Section 5.7. Board of ethics: Procedures, powers and duties.**

A. The board of ethics shall not render any opinion, finding, or advisory recommendation which does not relate to Sections 5.1 to 5.7 of this article unless additional duties are provided by ordinance.

B. Any councilmember may request, in writing, opinions, findings, and advisory recommendations as to any person, business entity, board member, employee, or other member of the council or as to any matter of a general nature. The city manager, may request, in writing, opinions, findings, and advisory recommendations of a general nature or as to any person, business entity, or employee of the city; however, the city manager shall not request any opinion, finding, or advisory recommendation relating to any councilmember or board member. In the event that the above written requests relate to the conduct of a certain person, business entity, councilmember, or employee a copy of any such request shall be provided to said person or business entity within five (5) days of receipt by the board by registered, certified or similar special mail, or by personal service.

C. Any councilmember, board member, person, business entity or employee of the city may voluntarily request, in writing, such opinions, findings, and advisory recommendations as would relate to the conduct of such person or business entity making such request.

D. The board shall have the power in all cases, whether or not a request has been made under Section 5.7 (2B) or Section 5.7 (3C) hereof, to initiate its own investigations, to hold hearings, to issue opinions, findings, and advisory recommendations to subpoena witnesses to testify, and to compel the production of documents and other effects as evidence. The chairperson may administer oaths and affirmations. The board may request the city manager to assign such clerical, legal, and investigatory personnel as may be needed from time to time, provided the expenditure authorized by the city manager be within the amount appropriated by the council and made in accordance with proper purchasing procedures.

E. Failure to obey any subpoena or order to produce shall constitute a misdemeanor; and, any person or business entity who is convicted for such failure to obey shall be punished by a fine of not less than twenty-five ~~(25)~~ dollars ~~(\$25)~~ nor more than five hundred ~~(500)~~ dollars ~~(\$500)~~. The municipal court shall have jurisdiction of such cases.

F. In the event that the board shall act without a request having been made pursuant to Section 5.7 ~~(2B)~~ or Section 5.7 ~~(3C)~~ hereof, the board shall provide written notice to any person or business entity whose conduct is being investigated, at least fifteen (15) days prior to the issuance of any opinion, finding, or advisory recommendation pertaining to said person or business entity. Said notice shall specify the nature of the conduct being considered, the time and date of any hearing pertaining to said person or business entity, and shall be served upon such person or business entity by registered, certified, or similar special mail, or by personal service.

G. Within five (5) days of receiving any request made under the provisions of Section 5.7 ~~(2B)~~ or any notice under the provisions of Section 5.7 ~~(2B)~~ or any notice issued pursuant to Section 5.7 ~~(6E)~~ any person or business entity may request, in writing, a hearing before the board. The board shall grant such a hearing prior to issuance of any opinion, finding, or advisory recommendation that pertains to such person or business entity.

H. Opinions, findings, and advisory recommendations may relate to present, or possible future, conflicts of interests or political activities. The board shall determine what constitutes "substantial conflict", "substantial influence", and "substantial interest". The board shall determine what constitutes a conflict of interest under the provisions of Section 5.3 and what constitutes a prohibited political activity under the provisions of Section 5.4.

I. Opinions, findings, and advisory recommendations concerning application and violation of Sections 5.1 to 5.7 of this article shall be adopted by the board only upon affirmative vote of at least three (3) members of said board. Opinions and findings of the board shall be final and not subject to appeal to any person or administrative or legislative body and not subject to administrative review by any court. In appropriate cases, the board shall issue non-binding (advisory) recommendations to the superintending authority as to what action, if any, should be taken as a result of its opinions and findings. Notwithstanding the provisions hereof, the board shall have continuing authority and discretion to reconsider prior opinions, findings, or advisory recommendations relating to Sections 5.1 to 5.7 of this article.

J. The board shall submit its opinions, findings, and advisory recommendations to the person or business entity requesting them, to the superintending authority, and to the council in the event that any request is made pursuant to Section 5.7 ~~(2B)~~.

In the event that a request is made pursuant to the provisions of Section 5.7~~(3C)~~ or a board-initiated inquiry pursuant to the provisions of Section 5.7~~(4D)~~, the board may, as it deems appropriate, determine who should receive such opinions, findings, and advisory recommendations. The board shall take appropriate action, affirmative, negative, or other, within one hundred and twenty (120) days after receipt of a request made under the provisions of Section 5.7(2) or Section 5.7~~(3C)~~.

The board shall publish or make public its opinions, findings, and advisory recommendations with such deletions as may be desired, in the discretion of the

board, to prevent disclosure of the identity of the councilmember, boardmember, or employee, person or business entity involved. In deciding to make such deletions, the board may consider whether or not the person or business entity involved voluntarily initiated the request for board action pursuant to the provisions of Section 5.7(3).

*CAAB Comment: This (5.7) is an editorial change.*

### Miscellaneous Provisions

**Section 5.8. Boards and commissions created by this charter: Qualifications, compensation, organization, removal, vacancies.** Only persons who are registered qualified voters of the city and who have resided within the city for at least one (1) year prior to their appointment or election, may be appointed or elected members of the boards and commissions created by this charter.

Such members shall serve without compensation. Any nominee for position shall first be apprised of the duties and responsibilities of the office and be provided a copy of the code of conduct article of this charter.

At the time provided for the beginning of the term of a newly appointed or elected member or members or as soon thereafter as practicable, such board or commission shall elect a chairperson, vice chairperson, and a secretary; provided that the chairperson of the judicial commission shall be appointed by the council. ~~Provided further that a chairperson may hold such position for only two consecutive one year terms, unless otherwise specifically provided in this charter.~~ The secretary of such board or commission need not be a member thereof. Such board or commission shall determine the time and place of its regular meetings, and the chairperson or a majority of the members may call special meetings.

The council may remove any member of any such board or commission whom it has appointed, with or without cause by the favorable vote for removal of at least four (4) members of the council. The vote shall be by roll call, and the ayes and noes shall be entered in the journal.

A vacancy in any such board or commission shall be filled for the unexpired term.

*CAAB Comment: This change (5.8) establishes a limit on the length of time an individual may be a chairperson of a board or commission.*

**Section 5.9. Qualifications of boardmembers and employees.** Boardmembers and employees of the city shall have the qualifications provided by this charter and such additional qualifications as the council may provide; but the council shall not provide additional qualifications for the mayor and other councilmembers. ~~Diversity of board members is encouraged to the fullest extent practicable.~~

*CAAB Comment: This change (5.9) indicates the City's desire to involve all citizens in the local government process.*

**Section 5.10. Persons in arrears for city taxes not qualified to hold office or employment.** No person who is in arrears for any city taxes, shall be entitled to hold any office or employment in the city government. The method of determining such delinquency shall be provided by ordinance and shall include notice, reasonable opportunity to pay, and a hearing if requested.

**Section 5.11. Nepotism.** Neither the mayor, the council, the city manager, nor

any boardmember, employee, or agency of the city government may appoint or elect any person related to the mayor, to any other councilmember, to the city manager, or to himself/herself, or, in the case of a plural authority, to one of its members, by affinity or consanguinity within the fourth degree, to any office or position in the city government; but this shall not prohibit any boardmember or employee already in the service of the city from continuing therein.

Any such appointment or election shall be null and void. The mayor, any councilmember, boardmember, or employee who appoints a person so related to him/her, or who, as a member of a plural authority, knowingly votes to appoint or elect a person so related to him/her, shall thereby forfeit his/her office or position.

**Section 5.12. No favoritism or discrimination because of race, politics, or religion.** No person in the service of the city or seeking admission thereto shall be appointed, promoted, demoted, removed, or in any way favored or discriminated against because of race, creed, color, national origin, age, sex, ethnic background, or political or religious opinions or affiliations.

**Section 5.13. Holding more than one office.** Except as may be otherwise provided by this charter or by ordinance, the same person shall not hold more than one office in the city. The city manager may hold more than one such office, through appointment by himself/herself, by the council, or by other city authority having power to fill the particular office, subject to any regulations which the council may make by ordinance; but he/she may not receive compensation for service in such other offices. The council may provide that the city manager shall hold ex officio designated administrative offices subordinate to the city manager as well as other designated compatible city offices.

**Section 5.14. Official bonds.** The city manager, the director of finance, the city purchasing agent, and such other employees as the council may designate, before entering upon their duties, shall provide bonds for the faithful performance of their respective duties, payable to the city, in such form and in such amounts as the council may provide, with a surety company authorized to operate within the state. The city shall pay the premiums on such bonds. No payment of compensation shall be made to any such employee until the bond herein required shall have been approved by the director of finance and filed in the department of finance; provided that the bond of the director of finance shall be approved by the city manager and filed in the city manager's office.

**Section 5.15. Oath or affirmation of office.** Every officer of the city, before entering upon the duties of his/her office, shall take and subscribe to an oath or affirmation of office that he/she will support the Constitution of the United States, the constitution and laws of the State of Missouri, and the charter and ordinances of the City of Independence, and that he/she will demean himself/herself faithfully in office. The oath or affirmation shall be filed in the office of the city clerk.

**Section 5.16. Who may administer oaths and affirmations.** All persons authorized by federal or state law, the mayor, the city manager, the city clerk, the municipal judge or judges, the director of finance, the chairperson of the personnel board, and such other persons as this charter or the council may authorize, may administer oaths and affirmations in any matter pertaining to the affairs and government of the city.

**Section 5.17. Acting boardmembers and employees.** The appointing or electing authority who may appoint or elect the successor of a boardmember or employee, may appoint or elect a person to act during the temporary absence, disability,

leave, or suspension of such boardmember or employee, or, in case of a vacancy, until a successor is appointed or elected and qualifies, unless the council provides by general ordinance that a particular superior or subordinate of such boardmember or employee shall act. The council by general ordinance may provide for a deputy to act in such cases.

**Section 5.18. Officers to continue until successors are elected or appointed and qualify.** Every officer who is elected or appointed for a term ending at a definite time shall continue to serve thereafter until his/her successor is elected or appointed and qualifies unless his/her services are sooner terminated by resignation, removal, disqualification, death, abolition of the office, or other legal manner.

**Section 5.19. Removal of officers and employees.** The power to lay off, suspend, demote, and remove accompanies the power to appoint or elect; provided that the mayor may not remove a municipal judge other than a municipal judge pro tempore and, provided further, that the council may not remove the city counselor.

**Section 5.20. Definition of terms.** For purposes of this article only the following terms shall be defined to mean:

1. "Employee" is one who works for wages or salary in the service of the city government and shall include but shall not be limited to the city clerk, the management auditoranalyst, municipal judge or judges, clerk of municipal court, city manager, assistant city manager or managers and directors of all administrative departments; however, the terms shall not include councilmembers or board members.
2. "Boardmember" is one who is elected or appointed to a board, commission or other plural authority created by this charter or by ordinance, but shall not include a member of the council.
3. "Business entity" is any corporation, association, firm, partnership, proprietorship or other business organization of any kind or character including, but not limited to, charitable, eleemosynary, educational and organizations.
4. "Officer" is a person who holds one of the following offices in the city government: councilmember, boardmember, city manager, assistant city manager or managers, management auditoranalyst, city clerk, municipal judge or judges, clerk of municipal court, and directors of all administrative departments.

*CAAB Comment: This (5.20) is an editorial change to conform the title to a previous charter amendment.*

## ARTICLE 6

### NOMINATIONS AND ELECTIONS

**Section 6.1. Charter and law to govern elections—Further regulation by ordinance.** All city elections, general, special and primary, shall be governed by the provisions of this charter and of law applicable thereto. The council by ordinance may further regulate elections, subject to the said provisions of the charter and of law. If a change in law renders any provision of the charter relating to elections invalid or inapplicable, the council by ordinance may take such action as may be made necessary or desirable by such change.

**Section 6.2. Biennial elections—Elected at large and by district—Terms.** The city shall hold a primary election, except where otherwise provided in this charter, biennially in every even numbered year, on the first Tuesday after the

first Monday in February, and a general election on the first Tuesday of April. The officers to be elected by the registered qualified voters of the city in separate biennial elections shall be the mayor and two (2) councilmembers at large (by the voters of the entire city), and in the succeeding biennial election, four (4) district councilmembers (by the voters of their respective districts).

A primary election shall be held on the first Tuesday after the first Monday in February of 1980 and of every fourth year thereafter to nominate the candidates for councilmember from each of the four districts of the city ~~as the districts are constituted in Section 4 of the schedule of this charter or as the districts may be constituted hereafter by ordinance~~. The two candidates who receive the highest number of votes for each district council position at the primary election will be certified to run in the general election to be held on the first Tuesday in April of 1980 and of every fourth year thereafter to elect the district councilmembers. The candidate in each district receiving the majority of votes in the general election shall be elected councilmember for that district.

A primary election shall be held on the first Tuesday after the first Monday in February of 1982 and of every fourth year thereafter to nominate the candidates for mayor and two councilmembers at large. The two candidates who receive the highest number of votes for mayor and the four candidates who receive the highest number of votes for at large councilmembers at the primary election will be certified to run in the general election to be held on the first Tuesday in April of 1982 and every fourth year thereafter to elect a mayor and two councilmembers at large. The candidate receiving the majority of votes at the general election shall be elected mayor and the two candidates receiving the greatest member of votes shall be elected councilmembers at large, respectively.

The terms of the mayor and all other councilmembers elected in 1980 and each even numbered year thereafter shall be four years, and shall begin on the second Monday after the first Tuesday of April in the respective years in which they are elected. If the mayor elect or a councilmember elect fails to qualify within one (1) month thereafter, his/her office shall become vacant and the vacancy shall be filled as other vacancies are filled.

*CAAB Comment: This (6.2) change removes unnecessary language.*

**Section 6.3 Districts.** Within one hundred and eighty (180) days after every general city election at which the mayor is regularly elected, or ~~often~~ ~~more often~~, the council shall review the lines of the districts from and by which the district councilmembers are elected, in the following manner:

The council shall first cause the city to be divided into two (2) sections by a line, either generally north-south or east-west, which so far as practicable, shall run along the center lines of streets and other public highways and which shall be so located that the population in either of said sections at the time of redistricting shall be as nearly equal in population as is practicable. One of said sections shall then be divided into two (2) districts by a line which, so far as practicable, shall run generally at right angles to the original line, along the center lines of streets and other public highways, and which shall be so located that the population in either of the districts at the time of the redistricting shall be as nearly equal as is practicable. The other section shall then be divided into two (2) districts in like manner. The council shall number these districts and shall adopt them by ordinance.

These districts shall constitute the new districts for the purpose of electing

When territory is annexed to the city, the council shall promptly attach it to an existing district or districts, or shall revise the districts as provided hereinabove.

*CAAB Comment: This (6.3) is an editorial change.*

**Section 6.4. To serve until successors are elected and qualify.** The mayor and other councilmembers shall serve until their respective successors are elected and qualify. If only one (1) councilmember at large is elected at an election, then lots shall be cast in a meeting of the council and under its direction to determine which of the two (2) councilmembers at large whose terms are expiring shall continue to serve; provided that, if there is only one (1) councilmember at large at that time, he/she shall continue to serve. At least two (2) days' notice of the casting of the lots shall be given to the two (2) councilmembers at large whose terms are expiring, by service or by mail.

**Section 6.5. Nonpartisan official election ballots and nominating petitions.** The election of the mayor and other councilmembers shall be nonpartisan in that no partisan political wording, symbols, or emblems shall appear on the official election ballots or on nominating petitions; however, all other campaign documents, paraphernalia, and advertising may bear political symbols and designations.

**Section 6.6. Nominations for primary election to be made by petitions.**

A. Nomination of a candidate for the primary election for the office of mayor or any other councilmember shall be by petition signed, in the case of the mayor or a councilmember at large, by at least two hundred and fifty (250) registered qualified voters of the city, and in the case of a district councilmember, by at least one hundred (100) registered qualified voters of the respective districts. Not more than one (1) candidate for office may be nominated by the same petition. Each signer of a petition shall designate his/her residence by street and number or by other description sufficient to identify his/her place of residence. Petitions shall be circulated only by registered qualified voters of the city or of the district, as the case may be.

B. The signatures on a nominating petition need not all be appended to one paper, but each separate paper shall have a statement setting forth the election date, the office to be filled, and the name and residence of the candidate on whose behalf the petition is being filed. In addition, there shall be attached to each such paper an affidavit of the circulator thereof stating the number of signatures on such paper, that each signature appended thereto was made in his/her presence and is the genuine signature of the person whose name it purports to be, and that he/she believes each such signer to be a registered qualified voter of the city or of the district as the case may be.

C. Nominating petitions shall be substantially in the following form:

NOMINATING PETITION

We, the undersigned registered qualified voters of the City of Independence, Missouri, respectively petition and request that the name of \_\_\_\_\_ residing at \_\_\_\_\_ in the City of Independence, be placed upon the ballot as a candidate for the office of \_\_\_\_\_, to be voted for at the primary election to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_; and we individually state that we are registered qualified voters of \_\_\_\_\_

(Insert the name of city, district, and number as the case may be.)

NAME	STREET AND NUMBER	DATE OF SIGNING

AFFIDAVIT OF CIRCULATOR

The undersigned is the circulator of the foregoing paper containing \_\_\_\_\_ signatures. Each signature appended thereto was made in my presence and is the genuine signature of the person whose name it purports to be. I am a registered voter qualified to vote for this candidate, and I believe each signer is a registered qualified voter of \_\_\_\_\_. (Insert name of city or district and number, as the case may be.)

Signature of Circulator \_\_\_\_\_  
Address \_\_\_\_\_

Subscribed and sworn to (or affirmed) before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

D. All separate papers comprising a nominating petition shall be assembled and filed by a registered qualified voter of the city or district, as the case may be, with the city clerk as one (1) instrument, not more than one hundred (100) days and not less than seventy (70) days before the primary election. The city clerk shall record on the petition the exact time when it was filed, shall promptly certify in writing whether the petition is in proper form, and, if in proper form, shall immediately forward the petition to the board of election commissioners. A nominating petition shall not be accepted for filing unless it is accompanied by a statement indicating the person's acceptance of the placement or his/her name in nomination signed and sworn (or affirmed) by the candidate, substantially in the following form:

**ACCEPTANCE OF CANDIDACY**

I hereby accept the candidacy for the office of \_\_\_\_\_ and agree to enter the general election if nominated at the primary election and if elected at the general election I will adhere to the following oath of office:

STATE OF MISSOURI            )  
COUNTY OF JACKSON        )        SS  
CITY OF INDEPENDENCE     )

I, \_\_\_\_\_, having been elected to the Office of \_\_\_\_\_ within and for the City of Independence, in the county and state aforesaid, do solemnly swear that I possess all the qualifications prescribed for said office by the Charter of the City of Independence. I will support the Constitution of the United States and of the State of Missouri and all provisions of the Charter and ordinances of said City, and will faithfully demean myself in said office; that I was not at the time of my said election in arrears to said City for any tax, lien, forfeiture or defalcation in office.

Signature of Candidate \_\_\_\_\_

Subscribed and sworn to (or affirmed) before me this \_\_\_\_\_ day of \_\_\_\_, 19\_\_\_\_\_.

Signed \_\_\_\_\_

E. It is understood that within fifteen (15) days after receiving a nominating petition the board of election commissioners shall notify the city clerk, and the city clerk shall immediately notify the candidate and the person who filed the petition, whether or not it is found to be sufficient. If a petition is found insufficient the city clerk shall return it immediately, in person or by registered, certified, or similar special mail, to the person who filed it, with a statement certifying wherein the petition is found insufficient. Within the regular time for filing petitions, the same petition duly supplemented or a new petition may be filed for the same candidate. The petition of each candidate seeking to be nominated shall be preserved until the expiration of the term of office for which he/she has been nominated as herein provided.

**Section 6.7. Primary election-Exceptions.** Where there are no more than two (2) candidates successfully completing the petitioning process for the nomination for an office no primary shall be held for that office.

**Section 6.8. Withdrawal.** Any candidate for whom a nominating petition is filed, may withdraw as a candidate by filing with the city clerk, not more than five (5) days after the filing deadline, a statement of withdrawal duly signed and acknowledged by said candidate before some person authorized to administer oaths and affirmations. The city clerk shall immediately notify the board of election commissioners of such withdrawal. The name of such person complying herewith shall not appear on the ballot. There shall be no provision for withdrawal of a successful primary candidate before the general election.

Should death, incompetency, or removal from city or any other disqualifying condition occur to any successful primary candidate between the primary and general election there shall be no reopening of the election and the surviving candidate shall be declared the winner.

**Section 6.9. Order of names on ballots.** Promptly after expiration of the time when candidates may withdraw, the city clerk shall certify the order in which the names of candidates for the respective offices shall appear on the ballots to the board of election commissioners. The names of candidates for each office shall be listed in the order in which they are filed.

**Section 6.10. Voting at primary election—Who nominated.** On the ballots, above the names of the candidates at the primary election for the office of mayor, shall appear the instruction "Vote for one;" every registered qualified voter of the city shall be entitled to vote for one (1) candidate; and the two (2) candidates receiving the greatest number of votes shall be nominated.

On the ballots, above the names of the candidates for the offices of councilmembers at large, shall appear the instructions "Vote for two;" every registered qualified voter of the city shall be entitled to vote for two (2) candidates; and the four (4) candidates receiving the greatest number of votes shall be nominated.

On the ballots above the names of the candidates for the office of district councilmember in each district, shall appear the instruction "Vote for one"; every registered qualified voter of the district shall be entitled to vote for one (1) candidate, and the two (2) candidates receiving the greatest number of votes shall be nominated.

**Section 6.11. Voting at general election—Who elected.** On the ballots, above the names of the candidates at the general election for the office of mayor, shall appear the instruction "Vote for one"; every registered qualified voter of the city shall be entitled to vote for one (1) candidate; and the candidate receiving the greatest number of votes shall be elected.

On the ballots, above the names of the candidates for the offices of councilmembers at large, shall appear the instructions "Vote for two"; every registered qualified voter of the city shall be entitled to vote for two (2) candidates; and the two (2) candidates receiving the greatest number of votes shall be elected.

On the ballots, above the names of the candidates for the office of district councilmember in each district, shall appear the instruction "Vote for one", every registered qualified voter of the district shall be entitled to vote for one (1) candidate; and the candidate receiving the greatest number of votes shall be elected.

**Section 6.12. Canvassing returns at primary election—Certifying results.** Within ten (10) days after every primary election, the returns shall be canvassed, and the results thereof certified by the board of election commissioners and given to the city clerk. The city clerk shall immediately notify candidates of their nomination to office and eligibility to enter the general election and certify the results on all questions submitted at the primary election.

*CAAB Comment: This change (6.12) clarifies that the election results are to be given to the City Clerk by the board of election commissioners.*

**Section 6.13. Canvassing returns at general election—Certifying results.** Within (10) days after every election, general or special, the returns shall be canvassed, and the results thereof certified by the board of election commissioners to the city clerk. The city clerk shall immediately issue election certificates to all persons elected to office and certify the results on all questions submitted at the election.

**Section 6.14. Tie votes.** In case of failure to elect the mayor or a councilmember because of a tie, the election shall be determined fairly by lot from among the candidates tying with the greatest number of votes, by the council in a public meeting. At least two (2) days' notice of the casting of lots shall be given to said candidates tying, by service or by mail.

**Section 6.15. Special elections—Submission of proposals at elections.** The council may order special elections, fix the time thereof, and provide for holding the same and may submit proposals at elections, general and special. Nothing in this charter shall prohibit holding a city election on the same day and by the same election personnel as a state or other public election, or submitting a city proposal at such election.

## ARTICLE 7

### INITIATIVE, REFERENDUM, AND RECALL

**Section 7.1. Initiative: Authorization, exceptions, enacting clause.** The registered qualified voters of the city, by the initiative, shall have power to propose and adopt any ordinance which the council has power to enact under this charter except an ordinance appropriating money or levying taxes, an ordinance regulating compensation or days and hours of work of city personnel, and an ordinance granting, extending, renewing, or amending a franchise for a public utility. The enacting clause of every initiated ordinance shall be: "Be it ordained by the People of the City of Independence, Missouri."

**Section 7.2. Referendum: Authorization, exceptions.** The registered qualified voters of the city, by the referendum, shall have power to reject any ordinance passed by the council, except an ordinance which, in accordance with paragraph (1) one of Section 2.2223 of this charter, goes into effect immediately upon final passage by the council unless it specifies a later time; however, if prior to five o'clock p.m. (5:00) on the tenth day after the passage of any such ordinance there be filed with the city clerk a notice signed by not less than one hundred (100) registered qualified voters of the city stating their intention to cause a referendum petition to be circulated to refer it to the voters, such ordinance shall go into effect at one (1) minute after twelve (12) midnight (12:01 a.m.) thirty-one (31) days after its passage unless it specifies a later time, subject to the referendum as provided in this charter.

**Section 7.3. Initiative and referendum petitions: Content, circulation, filing.** An initiative petition shall contain the complete text of the ordinance initiated, and a referendum petition shall contain the complete text of the ordinance sought to be referred.

A copy of an initiative or referendum petition shall be filed with the city clerk before copies are circulated for signatures; and the city clerk shall note thereon the exact time of filing. The city clerk shall also promptly certify in writing whether the petition is in proper form.

Only registered qualified voters of the city may circulate copies of petitions. Each signer of a petition shall designate his/her residence by street and number or by other description sufficient to identify his/her place of residence.

~~An initiative petition shall be signed by a number with signatures of registered qualified voters of the city equal at least to five percent (5%) of the total number of qualified voters registered at the time of the last general city election. A referendum petition shall be signed by a number of registered qualified voters of the city equal at least to five (5) percent of the total number of qualified voters registered at the time of the last general city election.~~

~~An initiative petition with signatures must be filed with the city clerk within thirty (30) days after the city clerk certifies that it is in proper form. A notice of intention to cause a referendum petition to be circulated must be filed with the city clerk within ten (10) days after passage of the ordinance sought to be referred, as provided in paragraph two (2) of Section 2.2223 of this charter; and the referendum petition with signatures of registered qualified voters of the city equal at least to five percent (5%) of the total number of qualified voters registered at the time of the last general city election must be filed with the city clerk within thirty (30) days after passage of the ordinance. Each copy of an initiative or a referendum petition filed must bear an affidavit signed by the registered qualified voter who circulated the copy stating that each signature appended thereto was made in his/her presence, that he/she believes that each signature appended thereto is the genuine signature of the person whose name it purports to be, and that he/she believes each such signer to be a registered qualified voter of the city; and the circulator shall designate after his/her signature his/her residence by street and number or by other description sufficient to identify his/her place of residence. All copies of a petition must be assembled and filed with the city clerk as a single instrument by a registered qualified voter of the city. Upon filing with the city clerk, all such petitions shall become the property of the city.~~

~~The city clerk shall record on an initiative or referendum petition with signatures the exact time when it is filed, and shall immediately forward it to the board of election commissioners, if the petition contains signatures equal to at least five percent (5%) of the total number of qualified voters registered at the time of the last general city election. If the petition does not contain at least this minimum number, the city clerk shall immediately notify the person filing the petition of the deficiency and if the thirty (30) days to file the petition has expired, the petitions shall be void and of no effect.~~

~~When a referendum petition with signatures is thus filed with the city clerk, the ordinance sought to be referred shall not go into effect until the petition as originally filed or, if amended, as amended, is found to be insufficient by the board of election commissioners and so certified by the city clerk, or, in case the petition is found to be sufficient, until the registered qualified~~

voters adopt the ordinance as provided below in this article. ~~The city clerk shall not certify that a petition is insufficient until the time during which it may be amended has expired or, if amended, until the board has found the amended petition insufficient.~~

*CAAB Comment: This (7.3) change is intended to improve the petitioning process. It requires that the necessary signatures be obtained within 30 days after the passage of an ordinance for a referendum petition and 30 days after city clerk certification for an initiative petition. It further clarifies that once submitted, the petitions become city property.*

**Section 7.4. Initiative and referendum petitions: Examination and certification.** Within thirty (30) days after an initiative or referendum petition is filed with the city clerk, the board of election commissioners shall examine the ~~forwarded~~ petition and ascertain whether it has sufficient signatures, and shall certify its findings to the city clerk. If the board certifies that the number of signatures is insufficient, the city clerk, ~~by service or by registered, certified, or similar special mail,~~ shall ~~immediately notify the person filing the petition of the board's findings and the petition shall be void and of no effect.~~ If the board certifies that the number of signatures is sufficient, the city clerk shall notify the council at its next regular meeting of the findings of the board.

*CAAB Comment: This (7.4) change clarifies the effect of an insufficient petition after review by the election board.*

~~**Section 7.5. Initiative and referendum petitions: Amendment.** If the number of signatures on a petition is found to be insufficient, the person filing the petition may amend it, within ten (10) days after the notice was given or mailed to him/her, by filing additional copies of the petition with more signatures, executed and filed as provided in the case of the original petition. Within ten (10) days after the amendment is filed with the city clerk, the board of election commissioners shall examine the amended petition and ascertain whether it has a sufficient number of signatures, and shall again certify its findings to the city clerk, who shall notify the council at its next regular meeting of the findings. If the number of signatures is found to be still insufficient, the city clerk shall notify the person filing the petition thereof, and the petition shall be void and of no effect.~~

*CAAB Comment: This (7.5) section was eliminated because the additional time for circulation of a petition was determined to be unnecessary and confusing to the process.*

**Section 7.65. Initiated and referred ordinances: Passage or repeal, or submission by council.** Within thirty (30) days after receiving notification from the city clerk that an initiative or referendum petition is sufficient, the council shall pass the initiated ordinance as proposed by the initiative petition or pass an ordinance repealing the ordinance sought to be referred, as the case may be; or shall submit the initiated ordinance or the ordinance sought to be referred to the registered qualified voters of the city at an election which shall be held not less than thirty (30) days and not ~~more than ninety (90) days after receiving such notification from the city clerk~~ ~~later than the next legally available election as prescribed by state law.~~

*CAAB Comment: This (7.65) change recognizes that election dates are controlled by state law and requires that ballot measures be submitted at the next legally available election date.*

**Section 7.76. Initiated and referred ordinances: Ballot title, ballot.** The city counselor shall prepare the ballot title for an initiated or referred ordinance. The ballot title shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of the ordinance. ~~The ballot used in voting upon any such ordinance, if a paper ballot, shall have below the ballot title the following propositions, one above the other in the order indicated: "FOR THE REFERRED ORDINANCE" "AGAINST THE REFERRED ORDINANCE" and "FOR THE INITIATED ORDINANCE" and "AGAINST THE INITIATED ORDINANCE". Immediately at the left of each proposition, there shall be a square in which, by marking a cross (X), the voter may vote for or against the ordinance. A paper ballot used for voting on ordinances may be used only for that purpose and for voting on any proposed charter amendments.~~

~~If voting machines are used, the ballot title shall be accompanied by the same two (2) propositions, one above the other or one preceding the other in the order indicated; and the voter shall be given an opportunity to vote for either of the two (2) propositions and thereby to vote for or against the ordinance.~~

*CAAB Comment: This (7.76) is an editorial change which deletes unnecessary language.*

**Section 7.87. Initiated and referred ordinances: Adoption or rejection, effect.** If a majority of the registered qualified voters voting on an initiated or referred ordinance shall vote in favor thereof, it shall thereupon be adopted, and shall go into effect when the results of the vote are ascertained by the board of election commissioners and certified by the city clerk, unless the ordinance provides a later time; otherwise the ordinance shall be rejected.

An ordinance amending or repealing an initiated ordinance thus adopted may not be enacted by the council within one (1) year after the election at which it was adopted except by unanimous vote of the council. An ordinance re-enacting an ordinance rejected by referendum may not be enacted by the council within one (1) year after the election at which it was rejected, except by unanimous vote of the council.

If two (2) or more initiated or referred ordinances which have conflicting provisions are adopted at the same election the one receiving the greatest number of affirmative votes shall prevail.

The vote on an initiated or referred ordinance shall not be set aside because of any defect in the petition.

**Section 7.98. Recall: Authorization petition.** The incumbent of any elective city office including a person chosen to fill a vacancy in any such office may be recalled from office by the registered voters qualified to vote for a successor to the incumbent in the manner provided herein.

A petition demanding the recall of such officer shall contain a general statement of the grounds for recall. Before the petition is circulated a copy of it shall be filed with the city clerk; and the city clerk shall note thereon the exact time of filing. The city clerk shall also promptly certify in writing whether the petition is in proper form. Copies of the petition may be circulated only by registered qualified voters of the city in case of recall of the mayor or a councilmember at large or by the registered qualified voters of the respective district in case of recall of a district councilmember. The petition shall be signed by a number of registered qualified voters of the city or of the district as the case may be equal at least to eight percent (8%) of the total number of qualified voters registered at the time of the last general city

~~election in the city or in the district as the case may be. Such petition shall be signed executed verified filed examined and certified and may be amended in the manner provided in this article for initiative and referendum petitions at which the incumbent was elected. The provisions of Section 7.3 and 7.4 of this article shall apply to the recall petition process.~~

*CAAB Comment: This change (7.98) clarifies the recall process.*

**Section 7.109. Recall: Submission at election.** The council after receiving notification from the city clerk that the petition is sufficient shall submit the question of recall to the registered qualified voters of the city or of the district as the case may be at a special or general election to be held not less than thirty (30) days and not more than ninety (90) days later than the next legally available election as prescribed by state law after receiving the notification of the city clerk. More than one (1) question of recalling officers may be submitted at the same election.

If any such office becomes vacant by resignation or otherwise prior to the election, the question of recall shall not be submitted, and unless there are other matters to be voted upon, the election, if a special election, shall be canceled. The vacancy shall be filled as other vacancies in such office are filled.

*CAAB Comment: This (7.109) change recognizes that election dates are controlled by state law and requires that recall elections be held at the next legally available election date.*

**Section 7.110. Recall: Ballot title and propositions.** The ballot title, propositions, and instructions to voters for recall of an officer shall be substantially in the following form:

Shall (name of officer) be recalled from the office of (title of office) ?

YES

NO

~~Voters in favor of the recall place a cross (X) in the square opposite the word "yes".~~

~~Voters opposed to the recall place a cross (X) in the square opposite the word "no".~~

~~If voting machines are used, the ballot shall be prepared in a form so as to give the voters an opportunity to vote either "yes" or "no" as set forth above.~~

*CAAB Comment: This (7.110) is an editorial change which deletes unnecessary language.*

**Section 7.1211. Recall: Effect of vote.** If a majority of the registered qualified voters voting on a question of recall shall vote in favor of the recall, the incumbent of the office shall be recalled from office effective when the results of the vote are certified by the board of election commissioners to the city clerk and certified by the city clerk. The vote on a question of recall shall not be set aside because of any defect in the recall petition. A vacancy caused by recall shall be filled as other vacancies in such office are filled.

**Section 7.1312. Recall: Limitations.** Recall proceedings shall not be initiated against the incumbent of an office until he/she has held the office at least one hundred twenty (120) days, nor during the last ~~one~~three hundred and eighty (180) days of his/her term. If a majority of the registered qualified voters voting on a question of recall do not vote in favor of the recall, the incumbent shall continue in office without interruption, and recall proceedings shall not again be initiated against him/her within one hundred and eighty (180) days after the election, provided, however the process does not conflict with the limitations stated above.

*CAAB Comment: This change (7.1312) was necessary because of the state control of election days. It recognizes that in a worst case scenario, a recall election may not be practical any time sooner than 300 days during an incumbent's last year in office.*

**Section 7.1413. Person recalled or resigning.** No person who has been recalled from an office, or who has resigned from an office while recall proceedings were pending against him/her, may hold any office or position of employment in the city government within two (2) years after his/her recall or resignation.

**Section 7.1514. Initiative, referendum, and recall: Charter provisions to apply.** The provisions of this charter relating to elections of councilmembers shall also govern initiative, referendum, and recall elections insofar as they are applicable and are not superseded by the provisions of this article.

## ARTICLE 8

### BUDGET

**Section 8.1. Fiscal year.** The fiscal year of the city government shall begin on July 1 and shall end on June 30 unless otherwise provided by ordinance.

**Section 8.2. Budget: Preparation and submission.** At least forty-five (45) days before the beginning of the fiscal year, the city manager shall prepare and submit to the council a proposed budget for the next fiscal year, which shall contain detailed estimates of anticipated revenues including any resources available from the current fiscal year, and proposed expenditures for the year, and an explanatory message. The budget shall include the general fund and at least all other regular operating funds which are deemed to require formal annual budgeting, and shall be in such form as the city manager deems desirable or as the council may require. The total of the proposed expenditures from any fund shall not exceed the total of the anticipated resources thereof. The budget and budget message shall be public records in the office of the city clerk, and shall be open to public inspection. ~~Copies of the budget and budget message shall be made for distribution to persons on request.~~

*CAAB Comment: This (8.2) is an editorial change reflecting the applicability of the open records law.*

~~**Section 8.3. Budget: Comparison of anticipated revenues and proposed expenditures with prior years.**~~

~~A. In parallel columns opposite the several items of anticipated revenues in the budget, there shall be placed the amount of revenue during the last preceding fiscal year, and the amount of revenue up to the time of preparing the budget plus anticipated revenue for the remainder of the current fiscal year estimated as accurately as may be.~~

~~B. In parallel columns opposite the several items of proposed expenditures in the budget, there shall be placed the amount of each such item actually expended during the last preceding fiscal year, and the amount of each such item actually expended up to the time of preparing the budget plus the expenditures for the remainder of the current fiscal year estimated as accurately as may be.~~

*CAAB Comment: This section (8-3) was determined to be surplus because it required a level of detail deemed to be unnecessary for a charter.*

**Section 8.43. Budget: Public hearing.** The council shall hold a public hearing on the proposed budget at least one (1) week after a notice of the time of the hearing has been published in a newspaper of general circulation within the city; and any interested person shall have an opportunity to be heard. The council may continue the hearing at later meetings without further notice.

**Section 8.54. Budget: Amendment, adoption, appropriations.** The council may insert, strike out, increase, or decrease items in the budget, and otherwise amend it, but may not increase any estimate of anticipated revenues therein unless the city manager certifies that, in the city manager's judgment, the amount estimated will be revenue of the fiscal year. The council, not later than the twenty-seventh (27th) day of the last month of the fiscal year, shall adopt the budget and make the appropriations for the next fiscal year. If the council fails to adopt the budget and make the appropriations on or before that day, the budget as submitted or as amended, shall go into effect and be deemed to have been finally adopted by the council; and the proposed expenditures therein shall become the appropriations for the next fiscal year. The appropriations, when made by the council by a general appropriation ordinance separate from the budget document, need not be in as great detail as the proposed expenditures in the budget. Appropriations from a fund shall never exceed the anticipated resources thereof in the budget as adopted.

~~**Section 8.6. Ordinance levying taxes.** The council shall pass an ordinance making the annual property tax levies and the estimate of revenues from property taxes included or to be included in the budget, shall not be in excess of the revenues provided or to be provided by said ordinance.~~

*CAAB Comment: This section (8-6) was determined to be surplus because it required a level of detail deemed to be unnecessary for a charter.*

**Section 8.75. Budget: Transfer of appropriation balances, amendment.** After the appropriations are made, and except as the council by ordinance may provide otherwise, the city manager may transfer unencumbered appropriation balances or parts thereof from any item of appropriation within a ~~department, office, or agency fund~~ to any other items of appropriation, including new items, within the same ~~department, office, or agency fund~~; and upon recommendation by the city manager, the council may transfer unencumbered appropriation balances or parts thereof from any item of appropriation, including an item for contingencies, ~~in between funds~~ to any other item of appropriation, including new items, ~~in the fund~~.

Upon recommendation by the city manager, the council by ordinance may also amend the budget as adopted by changing the estimates of anticipated revenues or proposed expenditures of a fund and otherwise; and may increase or decrease the total appropriations from a fund when a change in revenues or conditions justify such action; but total appropriations from any fund shall never exceed the anticipated revenues thereof in the budget as adopted or as amended, as the case may be. The council shall not increase any estimate of anticipated revenues in

the budget unless the city manager certifies that, in the city manager's judgment, the amount estimated will be revenue of the fiscal year.

*CAAB Comment: This change (8.75) eliminates language deemed to be unnecessary for a charter.*

**Section 8.86. Borrowing in anticipation of revenues.** In any fiscal year, in anticipation of the receipt of revenues estimated in the budget for any fund, the council by ordinance or resolution may authorize the borrowing of money by the issuances of notes of the city. The total of such loans for any fund at any time shall not exceed seventy-five percent (75%) of the estimated revenues of the fund for the year still outstanding and uncollected. ~~Such revenue anticipation notes may be renewed from time to time, but all such notes and renewals thereof shall mature and be paid not later than the end of the next fiscal year. Money for one fund may thus be borrowed from another fund of the city, including the revolving improvement fund, as well as from other sources; but, in case of a loan from another fund of the city, unless the notes and any interest thereon are fully paid on or before the due date thereof, no other expenditures shall be made thereafter from the fund for which the loan was made until the notes and interest are fully paid.~~

*CAAB Comment: This change (8.86) eliminates language deemed to be unnecessary for a charter.*

**Section 8.97. Appropriations to lapse at end of year.** All appropriations and all balances of appropriations made as provided in this article, which have not been expended or lawfully encumbered, shall lapse at the end of the fiscal year.

**Section 8.108. Representation upon the county board of equalization.** When the county board of equalization is sitting to equalize assessment of property in the city, the city shall have such representation thereon as is authorized by law; and such representatives shall receive such compensation for such service as the council may provide.

**Section 8.119. Contracts and expenditures prohibited, when.** No department, officer, employee, or agency of the city government shall expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, for any purpose, in excess of the amounts appropriated or authorized and available ~~for that general classification of expenditure.~~ Any contract made in violation of this charter shall be null and void. Any officer or employee of the city who shall violate this section shall be guilty of a misdemeanor, and upon conviction thereof, shall cease to hold the office or employment currently held by said officer or employee, effective at the expiration of the period during which said officer or employee may appeal or, in case of appeal, when the case is finally determined. Nothing in this section shall prohibit the making of contracts or the spending of money for public improvements to be financed in whole or in part by the issuance of bonds after the issuance of said bonds has been duly authorized, or for public improvements to be financed in whole or in part by special assessments on benefited real property after said improvements have been duly authorized; nor the making of contracts of lease or for services for a period exceeding the fiscal year in which such contract is made, when such contract is not prohibited by applicable law or ordinance.

*CAAB Comment: This change (8.119) eliminates language deemed to be unnecessary for a charter.*

## ARTICLE 9

### LICENSE TAXES

**Section 9.1. License taxes authorized.** The council, by ordinance, shall have power which the general assembly of the State of Missouri has authority to confer upon any city to license, tax and regulate all businesses, occupations, professions, vocations, activities or things whatsoever, provided such power is consistent with the constitution of this state and is not limited or denied either by this charter or by statute. The council shall have power to license, tax and regulate all lawful subjects and objects of taxation, including, but not limited to, the following:

1. Abstractors, certifiers, or guarantors of land titles; escrow service in land transfers; accountants; adjusters of claims; addressing businesses; advertising of any kind or by any means, and advertising advisors, artists, composers, and writers; aerial dusting or spraying; aerial surveying; airports; aircraft transportation; ambulance companies; amusement ticket brokers or sellers; amusement devices, instruments, places, and parks; animals; animal shows; appraisers; architects; arenas; art galleries; assayers; artisans; artists; athletic, boxing, sparring, or wrestling exhibitions or contests; auctioneers; auction criers; auction houses, auditors; automobiles; automobile dealers; automobile shows, bail or other bondsmen; ball games, fields or parks or bowling alleys; banks, bankers; barbers; beauticians; barber or beauty shops; barge lines and terminals; baseball parks; bath houses; beer dealers, depots, or storerooms; beer or wine gardens or houses; bicycles; billboards or bill posters; billiard or pool tables, halls, or rooms; blacksmith shops; blueprint or photostat makers; board, livery, or sales stables; boarding, lodging, or rooming houses; bonding or surety companies; bookbinders; bottle exchanges; bottling plants; brewers or breweries; broadcasting stations; brokerage companies; building management, operation, or maintenance; building, house, or window cleaners; building or savings and loan associations; building or construction companies; buildings; buses; carnivals; carpet and rug layers; carters or draymen; caterers; cemeteries; chauffeurs; check rooms; chemists; children's nurseries or other places for the care of children; chiropodists; chiropractors; cigarettes and tobacco of all kinds; circuses or menageries; claim agents; clairvoyants, palmists, or fortune tellers; clearing houses; coal or other fuel dealers; cold, garment, food, household goods, locker, lot or merchandise storage; collectors of accounts or claims; commission merchants or agents; concerts; conduit companies; contract haulers; contract tailors; convalescent or nursing homes, rest homes, or homes for the aged; crematories; curb market merchants; dairies, dealers in or handlers of dairy products; dance halls; designers; detectives; detective agencies or investigators; development companies; distillers or distilleries; dealers in or distributors of goods, wares, or merchandise, new or used; docks, piers, wharves, or other landing places; dog kennels; dogs; drivers of motor and other vehicles; dram shops or taverns; drugs, druggists, and drug stores, wholesale and retail; drummers or salespersons; dye houses; electric companies; electricians; electrologists; embalmers; employment agencies; engineers; engravers; excursion boats; exhibitions; express companies; ferries or other boats; filling or service stations; finance or loan companies, or money lenders; fire or burglar alarm systems; food handlers, dealers, or processors; freight or other forwarders; freight, transfer, or other warehousing; fumigators; funeral home or directors; garages or other places for vehicle service, repair, or storage; gas companies; gasoline; garbage or refuse removers; gas fitters; gaugers; geologists; gift, premium or trading stamp enterprises; gold refiners, goldsmiths, or silversmiths; golf courses, driving ranges, and any other golf enterprises; grain elevators; gunsmiths; gymnasiums; hawkers, hucksters, or peddlers; health institutes or

reducing parlors; heating companies; horse shoers; hospitals, sanitoriums, or sanitariums; hotels; ice or dry ice manufacturers or dealers; inflammable liquids; inspectors; installation with or without sale; insurance companies; insurance adjustors; interpreters; investigators; investment or trust companies; itinerant vendors, traveling or auction stores; itinerant wholesale produce dealers; jewelers; jobbers; junk or secondhand dealers, merchants, or peddlers; laboratories; labor or public relation counselors; landscape gardeners; laundries and self-service laundries; lenders and their agents; lithographers; linotyping; lighting companies; liquefied petroleum gas; liquor; wholesale or retail liquor dealers; livestock or produce dealers; locksmiths; lumber measures, brokers, agents, or dealers; lunch stands, counters, or wagons; machines or devices; machinists; machine shops; malt dealers; manufacturers; manicurists; marinas; market places; masseurs; mechanics; mercantile agents or agencies; merchants; merry-go-rounds; messenger or delivery services; metalworkers; midwives; mining companies; money transportation; motels or travelers' courts or accommodations; moving picture film producers, distributors, exchanges, or rental establishments; moving picture theaters, exhibitions, or shows; motor vehicles; materialist; motor scooters; moving or packing companies; museums; music arrangers or bureaus; natural gas companies; navigation companies or steamboat lines; news agents, dealers, distributors, or stands; newspapers; newspaper publishers, agents, dealers, or distributors; news services or bureaus; nurseries or nurserypersons; office, business, or professional buildings; oil companies; business or professional buildings; oil companies; operatic, theatrical, or other performances; opticians; optometrists; orchestras, bands, or other musical ensembles or organizations; packing or slaughter houses; parades; parking lots or facilities; passenger stations or terminals; pawnbrokers; pest exterminators; photographers; pipe lines; pipes, poles, wires, or conduits of public utility companies; plumbers; poultry shows; printing or other duplicating establishments; processors of all kinds; public amusements and entertainments; public carriers; public halls; public lecturers; public meetings; public movers; public scales and weighers; public utilities of all kinds; publishing companies; push carts; quarries; race tracks; realtors; realty brokers and salespersons; rectifiers; refrigerating companies; rendering plants; repair shops; repairpersons; restaurants or other places where food or drink is served; runners; safe depositories; salary or wage brokers or buyers; scalp treaters; selling, handling, or storing gasoline, other inflammable liquids or gas; service ears; service ear drivers; shoe shining parlors; shooting galleries; shows; sight-seeing tours or companies; sign makers or hangers; signs; skating rinks; slot machines; solicitors; sport events or exhibitions; statisticians; steamfitters; stock or merchants exchanges; stock feeders; stockyards; storage houses; street railway ears and companies; street stands; subway companies; surveyors; swimming pools; tailors, clothes pressers or cleaners; tanners; taxicabs or other vehicles for hire: taxicab drivers and companies: taxidermists; technicians; telegraph or telephone companies; ticket agents; theaters; toll bridges or viaducts; trailer or tourist camps or courts; transfer companies; transportation companies; travel or traffic bureaus; truck terminals; trust companies; typographers or typesetters; undertakers; upholsterers; vehicles; vending machines; veterinarians; veterinary hospitals; watch or instrument makers or repairpersons; water companies; wine manufacturers; wineries; woodworkers;

2. And upon agents or agencies for the sale of automobiles; bus or railroad tickets; cash registers; exports or imports; farm equipment or supplies; ice; lightning rods; lumber; magazines; monuments; nursery stock; oil, mining, or other stocks or securities; real estate; sewing machines; or any other property or things;

3. And upon agents or agencies for bonding companies; buyers; distilleries; express companies; finance or loan companies; insurance companies; laundries,

cleaners, and dyers; manufacturers; merchants; railway traffic; rentals; sellers; shippers; steamships; surety companies; theatrical bookings; and for any other persons, firms, corporations or purposes;

4. And upon brokers of whatever class or character, including, but without limiting the generality of the foregoing, brokers of the following kinds: Bond; bonding company; business; commodity; customhouse; feed; financial; food products; fruit; grain; insurance; investment; liquor; loan; meat; merchandise; patent right; produce; real estate; scrap metal; steel; stock; surety company; and theatrical booking brokers;

5. And upon contractors and subcontractors for the construction, alteration, repair, or performance of air conditioning; airports; alleys; asphalt work; badminton, tennis, or other playing courts; bridges; brickwork; building or house moving, razing, shoring, or wrecking; building; carpentry; caulking; cement or concrete work; culverts; decorating; dredging; drilling; electrical work; excavating; flooring; foundations; grading; guttering or spouting; heating; highway improvement; home building; kalsomining; land clearing; lathing; mausoleums; millwrighting; museums; ornamental work; painting; paper hanging; paving; pile driving; pipe lines; plastering; plumbing or gas fitting; power piping; power plants; prefabricated buildings; railroads; rigging; roads; road oiling; roofing; sashing; scaffolds; sewers; sheet metal work; sidewalks; steamfitting; steel erection; stone work; streets; street lighting; tanks; terrazzo or tile work; tin work; tuck pointing; trenches; ventilation; waterproofing; waterworks; weatherstripping; and all other improvements on real property; and those engaged in the sale of products in connection therewith;

6. And upon installing, rebuilding, cleaning, renovating, selling, renting, leasing, hiring, repairing, maintaining, servicing, or storing accounting machines; air conditioning equipment; air compressors; aircraft; aluminum products; amusement devices; art glass; automobiles; awnings; beds; bicycles; boilers; books; calculating machines; cameras; carpets; chairs; clothing; contractor's equipment; costumes; cranes; desks; dishwashing machines; duplicating machines; electric appliances; electric or compressed hammers; elevators; engines; fans; fire escapes; floor-surfacing machines; furnaces; furniture; gas appliances; gas or electric ranges; gauges; hotel or restaurant equipment; industrial or technical instruments; intercommunicating systems; lamps; lifting jacks; jewelry; kitchen equipment; laboratory equipment; lawn mowers; leather goods; machinery of all kinds; meat choppers; motion picture projectors; motors; motor vehicles or parts thereof; musical instruments; numbering machines; office equipment; organs; oxygen tents; paint sprayers; phonographs; pianos; printing presses; public address systems; pumps; radios; radio equipment; railroad or tank cars; recording equipment; refrigerators; refrigeration systems; rugs; safes; sash metal; saws; scales; sewing machines; shoes; silverware; slicing machines; smoke stacks; soda fountains; sporting goods; stairs; statuary; stokers; stoves; surgical instruments; surveying instruments; store or office fixtures; tables; tape machines; tank cars; tanks; television sets or equipment; tents; therapeutic devices; tile; tires; tools; trailers; trucks; typewriters; umbrellas; vacuum cleaners; vehicles; vending machines; washing machines; watches; water coolers; welding equipment; windows; and all other kinds of property;

7. And upon schools, colleges, or academies of art, business, correspondence, dancing, dramatics, expression, language, music, nursery, riding and other; and technical, vocational or trade schools or colleges;

8. And upon services rendered in connection with air conditioning systems; aircraft stations; aircraft transportation; air express; ambulances; apron

supply; armature rewinding; automobile livery; battery charging; bleaching; cleaning, dyeing, or pressing; boiler cleaning, inspection or setting; bookbinding; bookkeeping; broadcasting stations; buffing, grinding, or polishing; building reports; check cashing; chimney cleaning; credit associations, bureaus, or agencies; delivery of goods, baggage, or parcels; desiccating; diapers; die cutting; duplicating; electrical transcription; electronic service; electroplating; embossing; enameling; feather renovating; film developing; filters; finders of missing persons; floor refinishing or maintenance; fluorescent lighting maintenance; furniture refinishing; galvanizing; grinding or sharpening; heating or refrigeration; hoisting; income or other tax returns or tax services; information or inspection bureaus; insurance inspection bureaus; insurance, railroad, and other rating bureaus; janitor service; linoleum laying; machinery designing; mailing; mail order houses; market research; messengers; metal finishing, spraying, or stamping; mirror resilvering; motor vehicle oiling and greasing, repossessing, steam cleaning, towing, washing, repair, wheel aligning, or wrecks; motor vehicles or parts or equipment thereof; mothproofing; multigraphing; office coats, overalls, towels, linen, uniforms, work clothes, or similar supply; oil or gas burners or stokers; oil cutting or reclaiming; patrol, guard, or watchman service; pattern making; payrolls; pension plans; photography; pipe bending, cleaning, cutting, or threading; press clipping bureaus; printing; real estate management; research bureaus; sales counseling; sand blasting; sewers; sheet metal stamping or other work; steel shearing; tariff bureaus; theater sound equipment; tube cleaning or expanding; typing or secretarial work; upholstering; ushering; vulcanizing; wall paper cleaning; welding; window displays; and all other services to persons, firms, corporations, associations, or property; and

10. And a separate license tax may be imposed for each business conducted or maintained by the same person, firm, or corporation.

**Section 9.2. Foregoing enumeration not to limit.** The foregoing enumeration shall not be taken to affect, impair, or limit the general power of the city to impose license taxes upon any business, vocation, pursuit, calling, activity, or thing, or any class or classes thereof now or hereafter not prohibited by law.

**Section 9.3. License taxes authorized by law.** When authorized by law, license taxes may be imposed by ordinance upon any person, firm, corporation, other subject, or object of such tax although he/she or it may not be included in this article or elsewhere in this charter.

**Section 9.4. Classification.** Any ordinance imposing a license tax may divide and classify any subject or object of taxation, and may impose a different tax upon each class, but the tax shall be uniform for each class.

**Section 9.5. Duration of licenses.** All licenses shall be issued for such periods as may be provided by ordinance, but no such period shall exceed one (1) year.

## ARTICLE 10

### INDEBTEDNESS, BONDS AND NOTES

**Section 10.1. Purposes for which the city may issue bonds and notes: In general.** The city may incur indebtedness and issue its bonds and notes in evidence thereof for any purpose authorized by this charter or which may be now or hereafter authorized by the state constitution or law for any municipality in the state.

~~Section 10.2. Purposes for which the city may issue bonds and notes: Specific purposes. Some of the purposes for which the bonds and notes of the city may be issued, sold, pledged or disposed of on the credit of the city, or solely upon the credit or security of specific property owned by the city, or solely upon the credit of income derived from property used in connection with any public utility or other revenue producing enterprise or service owned or operated by the city, or upon any two (2) or more such credits or securities, shall be: The acquiring of land; the acquiring, purchase, construction, reconstruction, repair, improvement, or extension of water systems, including lakes and reservoirs, sanitary sewers, sewage disposal plants and facilities, storm sewers, levees, public buildings and equipment therefor, facilities and equipment for the collection and disposal of garbage and refuse, bridges, viaducts, subways, tunnels, railroads, bus lines, terminals for bus, air, railroad, and other common carrier travel, and their equipment, warehouses, public market facilities, and airports, and equipment therefor street lighting systems, gas and electric utility systems, heating and power plants, telephone and telegraph systems, facilities for radio and television broadcasting and reception, off street parking facilities, and any other public utility, enterprise, or service, and equipment therefor, public housing, hospitals, orphans homes, industrial schools, jails, workhouses, and other charitable, correctional, and penal institutions, and equipment therefor, parks, golf courses, swimming pools, and other recreational facilities, and their equipment, parkways, streets, alleys, boulevards, grounds, and any other public improvement; the paying, refunding, or renewing of any bonds and notes issued by the city, whether general obligation, revenue, or other; and the establishment of or providing funds for the revolving improvement fund created by this charter.~~

~~The foregoing enumeration shall not be construed to limit any general provision of this charter authorizing the city to borrow money or issue and dispose of bonds and notes, and such general provisions shall be construed according to the full force and effect of their language as if no specific purposes had been mentioned. The authority to issue such bonds and notes for any purpose aforesaid is cumulative, and shall not be construed to impair any authority to make any public improvement under any provision of this charter or of the state constitution or law.~~

~~Section 10.3. Provisions of constitution and law relating to approval by electors to apply Proceedings, etc., provided by ordinance. Provisions of the state constitution and law applicable to the city and any changes made hereafter therein, relating to approval of bond issues by the qualified voters of the city, shall have full force and effect in the city as if they were set out in full in this charter.~~

~~All forms, proceedings, and other matters relating to any bond issue or to any election at which a proposal to issue bonds is to be submitted, and the amounts, purposes, issue, and disposition of the bonds, may be provided by ordinance consistent with this charter, the state constitution, and applicable law.~~

~~Section 10.4. Annual tax to retire bond within twenty (20) years. Before the issuance of any general obligation bonds, the council by ordinance shall provide for the collection of an annual tax on all taxable tangible property in the city sufficient to pay the interest and principal of the indebtedness as they fall due, and to retire the same within twenty (20) years from the date contracted.~~

*CAAB Comment: These changes (10.2, 10.3 & 10.4) eliminate language deemed to be unnecessary for a charter.*

Section 10.52. Debt statement. Prior to the passage of any ordinance

submitting to the qualified voters of the city at any election, general or special, any proposal for issuing general obligation bonds, the director of finance shall prepare, swear to, or affirm, and file in the office of the city clerk for public inspection, a debt statement which shall set forth at least: 1) The aggregate principal amount of all outstanding general obligation bonds and notes of the city; 2) deductions, if any, permitted by the state constitution or law; 3) the amount of the existing net general obligation indebtedness; 4) the amount of the net general obligation indebtedness after the issuance of the bonds authorized by such bond ordinance; 5) the assessed valuation of taxable tangible property within the city as shown by the last completed assessment for state and county purposes; and 6) the aggregate principal amount of general obligation bonds and notes which the city may issue pursuant to the state constitution and law.

The debt statement shall be approved by the council, and shall be published in a newspaper of general circulation within the city at least two (2) weeks before the qualified voters vote on the proposal to issue bonds. The debt statement shall be deemed to be correct, but no error therein shall affect the validity of the election or of any bonds to be issued.

**Section 10.63. Bond anticipation notes.** In anticipation of the issuance of general obligation, revenue, or other bonds which have been authorized, the council by ordinance or resolution may authorize the issuance of notes. ~~Each such note, including any renewals, shall mature and be paid not more than fourteen (14) calendar months after date of issuance of the original note.~~

*CAAB Comment: This change (10.63) eliminates language deemed to be unnecessary for a charter.*

**Section 10.74. Sale of bonds and notes.** All ~~general obligation and revenue~~ bonds and notes issued by the city, ~~general obligation, revenue, or other,~~ shall be sold at public sale upon sealed proposals after at least ten (10) days' notice published at least once in a newspaper of general circulation within the city. The director of finance shall also mail or have mailed notices to persons and financial institutions who he/she thinks may be interested in the purchase of such bonds and notes or who shall make written request therefor. Bonds and notes may be sold only to the highest and best bidder and on terms deemed most advantageous to the city. The city may repeatedly reject any and all bids and readvertise such bonds and notes in the manner required herein. Provided that notes issued in anticipation of the issuance of bonds which have been authorized, ~~and notes issued in anticipation of the receipt of revenues estimated in the budget and special obligation bonds or notes~~ may also be sold at private sale without notice and opportunity for competitive bidding as required herein.

*CAAB Comment: This change (10.74) will allow for the sale of special obligation bonds, such as TIF bonds, by private placement.*

**Section 10.85. Indebtedness to federal or state government or agencies.** Nothing in this charter shall prohibit the city from incurring indebtedness to the federal or state government or to any agency thereof, directly or indirectly, and issuing appropriate evidences thereof, in accordance with federal or state law and regulations, as the case may be.

## ARTICLE 11

### PUBLIC IMPROVEMENTS, SPECIAL ASSESSMENTS, AND CONDEMNATION

**Section 11.1. Public improvements: Power to make and acquire.** The city shall have power, within the city, to establish and improve public highways of every character, and parts thereof, by grading or regrading, paving or repaving, macadamizing or remacadamizing, blacktopping or reblacktopping, surfacing or resurfacing, constructing or reconstructing, oiling or sprinkling, curbing or recurbing, guttering or reguttering, repairing, or otherwise improving the same, or any parts thereof, or by constructing, reconstructing, altering, or repairing sidewalks thereon, or by sodding or resodding same or part thereof, or by planting, replanting, and caring for trees and shrubbery on or along the same, and acquire, construct, reconstruct, alter, repair, and maintain bridges, viaducts, tunnels, subways, culverts, cuts and fills, and approaches to any of them, and dikes, wharves, levees, drains, and sanitary and storm sewers on, along, or under any such public highway or highways or other rights of way therefor, and any and all other works in connection therewith; and to acquire, construct, reconstruct, repair, maintain, enlarge, alter and extend waterworks and facilities thereof, sanitary sewers, storm sewers, drains, canals, septic tanks, sewage disposal works and plants, including all inlets, outlets, equipment, and other appurtenances thereto; and to improve watercourses and the banks thereof, divert the water thereof, and change the channels of the same; and to acquire, construct, reconstruct, alter, repair, and maintain all other public works or improvements; and to provide for making or acquiring such works or improvements separately or in combination with any two (2) or more of them as one (1) general public improvement. When not otherwise limited or prohibited by the state constitution, the powers above enumerated may also be exercised by the city outside of the city limits for the benefit of the city and its inhabitants.

**Section 11.2. Public improvements: How cost to be paid.** The city shall have power to pay, in whole or in part, for the public works or improvements authorized by this article or by any other provisions of this charter, out of the general fund, or out of the revolving improvement fund herein created, or out of any other fund available therefor, or in whole or in part by bonds or the proceeds of bonds, or in whole or in part by special assessments on benefited real property, or in special tax bills or other securities evidencing special assessments thereon; and to make, levy, assess, and collect such special assessments to pay therefor, and to issue special tax bills and other evidences of such special assessments.

**Section 11.3. Revolving improvement fund.** There is hereby created a fund to be known as the revolving improvement fund. Said fund may be established and maintained from any or all of the following sources:

1. Available resources from the general fund or other available funds.
2. The proceeds from bond issues as provided in this charter.
3. Collections of special assessments or special tax bills or other evidences of special assessments, and any interest thereon, levied or issued for public work or improvement or condemnation of land paid for out of said improvement fund.
4. The proceeds from the sale of special tax bills or other evidences of special assessments.
5. Any other source provided by ordinance not in conflict with this charter or law.

Whenever the council shall authorize the cost of any public work or improvement, including the condemnation of any property, or of the purchase of

any tax bills issued for any public work or improvement to be paid out of the revolving improvement fund, any special assessment and interest thereon which may be levied and collected on account of such work or improvement, or the proceeds from the collection or sale of any such tax bills and interest thereon, shall be credited to and paid into said fund.

#### **Section 11.4. Procedure for initiating special assessment projects.**

A. All proceedings to make or acquire any of the public works or improvements authorized by this charter, which are to be paid for, in whole or in part, by special assessments upon benefited real property, or in special tax bills or other evidences of special assessments thereon, or out of the revolving improvement fund to be reimbursed by collection of such assessments, shall be begun by adoption of a resolution by the council declaring the necessity of such work or improvement, and stating generally the nature thereof, the proposed method of payment therefor, the proposed boundaries of the district within which property is to be assessed, and the proposed method of apportioning the cost among the individual parcels of land in the district.

B. The said resolution declaring the necessity of a public work or improvement shall be published in full, within ten (10) days after passage, in a newspaper of general circulation within the city. A copy of the resolution and notice of a public hearing to be held on the proposed work or improvement shall be mailed to all owners of real property in the proposed benefit district, of record at the time of passage of the resolution, whose addresses are known; but failure of a property owner to receive the resolution and the notice shall not affect the validity of the proceedings. Notice of the hearing, if not included in the resolution and published as a part thereof, shall be published in a newspaper of general circulation within the city.

C. The public hearing on the proposed work or improvement shall be held at least seven (7) days after the publication and mailing of the resolution of necessity and notice of the hearing. The council shall hold the hearing unless it provides ~~by general ordinance~~ that such hearings shall be held by the director of public works and that the director shall report recommendations to the council.

D. If, after the public hearing on the proposed public work or improvement, the council desires to proceed with the work or improvement or any part thereof, it shall adopt a resolution of intent to proceed therewith. The resolution of intent shall set forth the general nature of the work or improvement, the method of payment therefor, the boundaries of the district within which property is to be assessed therefor, and the method of apportioning the cost among the individual parcels of land within the district; shall order the preparation of detailed plans and specifications therefor; and shall order that an estimate be made of the total cost of the project and of the amount which would be assessed against each parcel of land in the district. No error or inaccuracy in such estimate shall affect the validity of the proceedings.

E. Upon completion of the estimate of cost, the estimate and a notice of a public hearing thereon shall be published in a newspaper of general circulation within the city, and a copy of the estimate and a notice of the hearing shall be mailed to all owners of real property in the benefit district, of record at the time of passage of the resolution of necessity, whose addresses are known; provided that, in lieu of mailing a copy of the complete estimate of cost to each owner, a statement of the amount estimated to be charged against his individual property may be mailed. Failure of a property owner to receive the estimate and the notice shall not affect the validity of the proceedings. The public hearing

shall be held at least seven (7) days after such publication and mailing. The council shall hold the hearing unless it provides ~~by general ordinance~~ that such hearings shall be held by the director of public works and that he/she shall report to the council.

F. After the hearing on the estimate of cost, but not more than ~~one hundred and eight (180) days~~ ~~one (1) year~~ after passage of the resolution of necessity, the council may pass an ordinance directing the advertisement for bids on the public work or improvement if it is to be done by contract or directing city forces to proceed with the work or improvement. If the council has not already done so by motion, resolution, or ordinance, this ordinance shall approve the plans and specifications. If any part of the cost of the work or improvement is to be paid in cash, and the money has not already been appropriated or authorized, this ordinance shall also appropriate the money therefor from a proper fund or funds, but the appropriation shall be subject to change.

*CAAB Comment: This change (11.4) will allow a more reasonable time for the special benefit district procedure to be completed.*

**Section 11.5. Plans and specifications.** The plans and specifications for a public work or improvement shall not limit the materials to be used to those of any particular producer or manufacturer, but they shall be so drafted as to permit materials and processes to enter into competition insofar as deemed advantageous to the city.

**Section 11.6. Public improvements to be made by contract or by the city government—Awarding contracts.** Public improvements, regardless of the manner of paying for them, may be made by contract or by the city government itself, as the council may determine.

~~The Council shall determine by ordinance when informal bids will be allowed and when formal bids will be required. At least in all cases in which the amount of the contract for a public improvement is more than five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500), formal or informal bids shall be taken; and in all cases in which the amount of the contract is more than two thousand five hundred dollars (\$2,500), the city shall advertise for bids therefor in such manner as the council may provide, and formal bids shall be taken. All bids may be rejected repeatedly, and the city may further advertise for bids. The contract may be awarded only to the lowest and best bidder. The council shall award all contracts for public improvements.~~

If part or all of the cost of a public improvement is to be paid to the contractor in special tax bills or other evidences of special assessments, the contract shall specify the amount to be so paid, and the city shall not be liable therefor.

~~At least in every case in which the amount of the contract exceeds two thousand five hundred dollars (\$2,500), the contractor shall provide a bond for the faithful performance of the contract, including payment by the contractor for all labor done and materials used, in the for a public improvement+ project, and said bond shall be subject to approval by the council, according to standards established by ordinance.~~

*CAAB Comment: This change (11.6) eliminates language deemed to be unnecessary for a charter and delegates the city council the authority to establish bidding procedures by ordinance.*

**Section 11.7. Levy and assessment of costs.** Upon the completion or acquisition of any public work or improvement the cost of which is to be paid in whole or in part by special assessments, or in special tax bills or other evidences of special assessments, or out of the revolving improvement fund to be reimbursed by collection of special assessments, the city manager shall cause the entire cost thereof, including any cost or expense incurred by the city (which may include among other things any cost for engineering or cost of condemnation incurred by the city, not separately assessed) to be computed.

The council shall then pass an ordinance levying and assessing the cost or the part thereof to be paid by special assessments, or in special tax bills or other evidences of special assessments, or out of the revolving improvement fund to be reimbursed by collection of special assessments, against the individual parcels of land in the benefit district.

The council may provide that such special assessments and interest thereon may be paid in annual or more frequent installments within a period not exceeding ten (10) years.

If special tax bills are to be issued in payment for the public work or improvement, in whole or in part, the said ordinance or a separate ordinance shall direct the issuance thereof.

*CAAB Comment: This change clarifies which costs are to be included in the special assessment.*

**Section 11.8. Method of apportioning costs.** The amount to be assessed against all real property specially benefited by any public work or improvement shall be apportioned among the individual parcels in the district in proportion to their respective benefits in the manner prescribed by the council in the resolution of intent to proceed with the work or improvement.

**Section 11.9. Invalid or insufficient assessments, reassessment—Excessive assessments.** If any such special assessment or special tax bill or other evidence of special assessments shall fail to be valid in whole or in part, or if for any cause, mistake, or inadvertence the amount assessed shall not be sufficient to pay the cost of such work or improvement, the council shall be and is hereby authorized to cause such assessment to be reassessed and to enforce or authorize the enforcement of its collection.

If the amount assessed be more than necessary, the excess shall first be credited on any unpaid installments of the assessments already levied against the individual parcels of land and any balance then remaining shall be refunded to the property owners in proportion to those assessments.

**Section 11.10. All property, public or private, liable for special assessments.** All real property located within any benefit district established by the council, whether publicly or privately owned, including all tax-exempt property, cemeteries, railroad rights of way, and all other real property, public or private, shall be liable for special assessments made or special tax bills issued against such property.

If any property deemed benefited shall by reason of any provision of law be exempt from assessment, a proportionate share of the cost shall be assessed against such property, and such assessment shall be paid by the city.

**Section 11.11. Special tax bills: Registration, etc.** Upon issuance, special tax bills shall be promptly registered in the department of finance, and all

special tax bills except those issued directly to the city to reimburse the city, shall be delivered to the person entitled thereto. Such tax bills shall mature at such times and bear such rate of interest as may be provided by ordinance.

Special tax bills shall be prima facie evidence of what they contain and of their own validity, and no mere informality or clerical mistake in any of the proceedings shall be a defense thereto.

Special tax bills shall be assignable. The assignee thereof shall notify the department of finance of the city of the assignment and shall furnish the department said assignee's name and address.

The city may purchase outstanding special tax bills out of any funds available for such purpose.

**Section 11.12. Special tax bills: Payment.** Special tax bills and lawful interest and charges thereon shall be payable to the parties entitled thereto at the department of finance of the city in the manner provided herein. Upon receipt of such payment in full, the department shall duly receipt therefor and properly enter the payment of such tax bill in the record thereof; and thereupon the tract of land against which any such tax bill so paid in full was issued shall be discharged from all liens on account of such tax bill. Upon demand and upon delivery to the department of finance of such special tax bill duly marked "paid," the department shall pay to the owner or holder thereof the amount so paid to the department.

Special tax bills and lawful interest and charges thereon shall also be payable directly to the owners or holders thereof. Upon delivery to the department of finance of such tax bill duly marked "paid," the department shall properly enter the payment of such tax bill in the record thereof; and thereupon the tract of land against which any such tax bill so paid in full and delivered was issued shall be discharged from all liens on account of such tax bill.

**Section 11.13. Sewers: Classes, where located, connections.** There shall be four (4) classes of sewers, either sanitary or storm: Public, district, joint-district, and private.

Public sewers are those which have been or may be constructed or acquired and paid for wholly out of general revenue or any other public funds available for that purpose.

District sewers are those which have been or may be constructed or acquired, under authority of ordinance, within the limits of an established sewer district, and paid for or to be paid for in whole or in part by special assessments upon the property in the district.

Joint-district sewers are those which have been or may be constructed or acquired under the authority of ordinances uniting one or more districts and unorganized territory, or uniting districts or unorganized territory, into a joint sewer district, for the purpose of providing main, outlet, or intercepting sewers, for the benefit of such joint sewer district, and paid for or to be paid for in whole or in part by special assessments upon the property in such joint sewer district.

Private sewers are those paid for by private parties constructing the same.

All public, district, and joint-district sewers shall be constructed along

streets, alleys and other public ways whenever practicable; and no such sewer shall be built or acquired by the city except it be on a public way, right of way, or easement owned by the city. Such sewers may be connected with any other sewer of any class or with a natural course of drainage.

**Section 11.14. Private sewers: Acquisition.** The city may acquire any private sewer by gift, condemnation, or purchase, and provide for reimbursement by special assessment, in the manner hereinbefore provided, to be levied against the property in the district or joint district for which such private sewer is acquired. An ordinance making a private sewer or any part thereof a part of a proposed district or joint-district sewer may provide that the contractor shall pay for such private sewer at the price fixed in such ordinance, and the cost thereof shall be included in the total cost of constructing such district or joint-district sewer.

**Section 11.15. Sidewalks: When not part of another highway improvement project.** Notwithstanding any other provisions of this charter, whenever the council shall by resolution declare that it is necessary to construct, reconstruct, alter, or repair any sidewalk which is not part of another highway improvement project, the owner or owners of the abutting property shall be notified thereof. If the owner or owners and their addresses are known, the notice shall be by registered, certified or similar special mail, or by personal service; otherwise the notice shall be published once each week for two (2) consecutive weeks in a newspaper of general circulation within the city, describing the location of the sidewalk so as to identify the same, and giving the specifications of the work to be done. The specifications may be given in full in the notice or may be given by reference to specifications in the ordinances of the city or on file in the department of public works. If the owner or owners do not comply within a reasonable time after such notice to be determined by the council, the city shall proceed to do said constructing, reconstructing, altering, or repairing, either by contract or by the city's own forces; and the cost thereof, including any cost or expense incurred by the city, shall be levied as a special assessment against the abutting property, and special tax bills may be issued therefor.

The procedure provided by this section shall be cumulative and shall not prohibit proceeding under other sections of this article.

**Section 11.16. Weeds, dilapidated buildings, etc.: Abatement, etc.** Notwithstanding any other provisions of this charter, whenever the council shall by resolution find and declare that weeds, other plants, decayed or dead trees, refuse, filth, mine shafts, holes wells, pits, excavations, dilapidated buildings or structures, defective wiring or plumbing, or any other thing or condition on any premises or places within the city or within one-half mile thereof, are dangerous or detrimental to the health, safety, or comfort of any of the inhabitants of the city, or are a nuisance, the owner or owners of the real property on which such thing or condition exists shall be notified thereof. If the owner or owners and their addresses are known, the notice shall be by registered, certified, or similar special mail, or by personal service; otherwise the notice shall be published once each week for two (2) consecutive weeks in a newspaper of general circulation within the city, describing the location of the property. The notice shall designate the thing or condition which is dangerous or detrimental or which constitutes a nuisance. and shall state that, unless the owner or owners render the thing or condition no longer thus dangerous or detrimental or abate the nuisance in the manner provided by the council in said resolution or in a manner satisfactory to the council, within a reasonable time under the circumstances after such notice to be determined by the council, the city will proceed to have the work done and levy the cost thereof as a special

assessment against the real property on which the thing or condition exists. If the owner or owners do not comply, then the city shall proceed to do so, either by contract or by the city's own forces; and the cost thereof, including any cost or expense incurred by the city, shall be levied as a special assessment against the said property and special tax bills may be issued therefor.

The procedure provided by this section shall be cumulative to any other procedures now or hereafter provided by this charter, by law, or by ordinance.

**Section 11.17. Special assessments, etc., to be a lien.** All special assessments and special tax bills and other evidences of special assessments and lawful interest and charges thereon, shall be a lien upon the property charged therewith.

**Section 11.18. Council may further regulate.** The council by general ordinance may further regulate the making or acquiring of public works or improvements to be paid for, in whole or in part, by special assessments, or in special tax bills or other evidences of special assessments upon real property, or out of the revolving improvement fund to be reimbursed by collection of such assessments, the issuance of special tax bills and the collection thereof, the making of special assessments, and all other matters incidental thereto.

**Section 11.19. Condemnation proceedings.** All proceedings for the condemnation of property or in the exercise of the right of eminent domain, shall be in accordance with the general provisions of state law.

**Section 11.20. Inclusion of real property in city in drainage or levee districts.** Real property in the city, public and private, may be included in drainage or levee districts which may be organized by any circuit or county court or under the laws of this state.

## ARTICLE 12

### ~~PLANNING AND ZONING~~ COMMUNITY DEVELOPMENT

**Section 12.1. City planning commission: Created, membership.** There shall be a city planning commission, which shall consist of seven (7) members appointed by the council for four (4) year terms which shall overlap based upon the expiration dates of the terms of original appointment. ~~The mayor and city manager shall serve continuously as ex officio members.~~

The city planning commission shall have power to subpoena witnesses to testify and to compel the production of documents and other effects as evidence. The chairman of the commission shall have power to administer oaths and affirmations.

*CAAB Comment: This change (12.1) eliminates unnecessary language.*

**Section 12.2. City planning commission: Powers and duties.** The city planning commission, in accordance with and subject to any conditions, limitations, and exceptions provided by ordinance, shall have power and shall be required to:

1. Develop and recommend to the council a ~~master~~ comprehensive plan for the ~~physical~~ development of the city and its environs, which may be adopted in its entirety or in parts, and recommend changes therein;
2. Prepare and recommend to the council regulations governing the subdivision of land within the city and outside the city insofar as it is not in conflict with law, and recommend changes therein;

3. Recommend to the council the approval or disapproval of plats; and the council shall approve or disapprove a plat within one hundred and twenty (120) days after it is filed with approved by the commission; and if the council takes no such action in such time, the plat shall be deemed to be approved;

~~(4) Prepare and recommend to the council an official map of the city, and recommended changes therein;~~

~~54. Prepare and recommend to the council a zoning plan or map and ordinance, which shall be guided by, and an implementation of the comprehensive plan in accordance with the powers granted to the city by this charter and law, and recommended changes therein; and the council shall take appropriate action in conformance with the comprehensive plan, affirmative, negative, or other, pursuant to a request, application, or petition for rezoning property or other change in zoning regulations within one hundred and twenty (120) days after the a recommendation has been made by the commission on a request, application, or petition is filed with the commission;~~

65. Recommend to the council appropriate action relating to urban renewal development and redevelopment proposals;

76. Make reports and recommendations relating to the master comprehensive plan and to the development of the city and its environs to public officers and agencies, public utility companies, citizen organizations, and others;

87. Promote public interest in and understanding of the master comprehensive plan, planning, zoning, and related matters;

98. Submit annually to the city manager, not less than ninety (90) days prior to the beginning of the fiscal year, a list of recommended public improvements which in the opinion of the commission are necessary or desirable to be constructed or acquired during the forthcoming six (6) year period; and such list shall be arranged in order of preference, with recommendations as to which projects should be constructed and acquired during the next fiscal year and during the succeeding five (5) year period:

~~(10) Make a report annually to the council; and~~

119. Perform such other functions as the council may provide by ordinance consistent with this charter.

~~The personnel of the planning commission and of the office of the planning director, in the performance of their official duties, may enter upon any land, make examinations and surveys, and place and maintain necessary monuments and markers thereon.~~

**Section 12.3. Planning Community development director.** There shall be an officer of the city with the title of planning community development director, who shall be appointed by the city manager for an indefinite term. In addition to a bachelor's degree and four (4) years experience or a master's degree and two (2) years experience, He/she shall have had education, training and experience in planning, community development growth management.

The planning community development director shall be the chief planning officer of the city and the principal technical advisor of the city manager and of the planning commission on planning and related matters, and other assigned

~~commissions and boards on community development shall have such other powers and duties as the council may provide by ordinance and such powers and duties relating matters to the planning commission and its functions as the commission may provide consistent with this charter and the ordinances of the city.~~

**Section 12.4. Master Comprehensive plan.** The master comprehensive plan shall be so prepared that all or portions of it may be adopted and kept current by the council as a basis for growth management and community development decision making.

The master comprehensive plan shall include a statement describing it and a statement of contain a vision of the City's future and each element shall contain coordinated goals, objectives, policies, plans and implementation strategies, principles, and standards used in developing it; and shall include, but not necessarily be limited to, the following parts or elements components:

1. An economic development strategy.
2. A future land use element, including land use type, density and development standards.
3. A conservation element addressing natural amenities and resources.

~~(1) A land use element which designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, recreation, education, public buildings and grounds, and other categories of public and private uses of land.~~

~~(2)4. A transportation element consisting of the general location and extent of existing and proposed major highways, airways, railways, waterways, and related terminal facilities including traffic circulation, and major streets, mass transit, bike and pedestrian circulation and other forms of transportation appropriate to the city.~~

~~(3) A community facilities element including all necessary community facilities and services, such as schools, parks and recreational facilities, public utilities, libraries, and police and fire facilities.~~

~~(4) A statement of the standards of population density and building intensity recommended for the various districts and other territorial units, and estimates of future population growth, correlated with the land use element of the plan.~~

~~(5) Supporting maps, diagrams, charts, descriptive material, and reports.~~

5. A housing strategy including population characteristics and projections.
6. A recreation and open space element.
7. A utilities element.
8. A capital improvements program.
9. An intergovernmental coordination element.

The master comprehensive plan or elements thereof and any changes therein may be recommended by the city planning commission only after receiving comment from effected agencies, groups and organizations, and after a public hearing thereon, and may be adopted by the council only after a public hearing thereon. The

comprehensive plan shall be reviewed by the planning commission at least every five (5) years, beginning in 1995.

*CAAB Comment: These changes (12.2, 12.3, and 12.4) clarify the function of the Comprehensive Plan and impose certain requirements for plan review.*

**Section 12.5. Board of adjustment: Created membership.** There shall be a board of adjustment, which shall consist of five (5) members appointed by the council for overlapping five (5) year terms. The council shall appoint the five (5) original members so that the term of one (1) will expire on July 1 in each of the first five (5) years after their appointment.

The board of adjustment shall have power to subpoena witnesses to testify and to compel the production of documents and other effects as evidence. The chairperson of the board shall have power to administer oaths and affirmations.

**Section 12.6. Board of adjustment: Powers and duties.** The board of adjustment shall be primarily a quasijudicial body, and in accordance with and subject to any conditions, limitations, and exceptions provided by ordinance, shall have power and shall be required:

1. To hear and determine appeals from orders, requirements, decisions, and determinations of administrative officers and agencies relating to the enforcement of zoning regulations;
2. To hear and determine applications for variances from the strict application of any provision of the zoning regulations to a specific parcel of land under conditions provided by ordinance; and
3. To perform such other functions as the council may provide by ordinance consistent with this charter or as provided by law.

The board of adjustment may reverse an order, requirement, decision, or determination of an administrative officer or agency, or decide in favor of the applicant on any matter upon which it is required to pass under any ordinance or to effect any variation in an ordinance, only by a vote of at least four (4) members.

## ARTICLE 13

### PRIVATELY OWNED UTILITIES

**Section 13.1. Franchises: Granting.** A franchise for a public utility may be granted to a person, firm, or corporation, ~~extended, renewed, or amended~~ only by an ordinance passed by the council, accepted as provided hereinbelow by the person, firm, or corporation to whom the franchise is granted, and approved at an election by a majority of the registered qualified voters voting on the questions. After introduction, a copy of the ordinance in its final form must be in the office of the city clerk and subject to public inspection for at least thirty (30) days before it is passed. Before final passage, the council shall hold a public hearing thereon, a notice of which must have been published in a newspaper of general circulation within the city at least seven (7) days prior to the hearing. Within fourteen (14) days after final passage, the grantee must file with the city clerk the grantee's unconditional acceptance of all terms of the franchise, ~~extension, renewal, or amendment~~, and if a special election is to be held for the purpose of voting on the franchise, ~~extension, renewal, or amendment~~, must pay to the department of finance of the city an amount of money

estimated by the director of finance to be adequate to pay all expenses of holding such election. The election at which the question of approving the same is submitted to the registered qualified voters shall not be held less than sixty (60) days after final passage of the ordinance granting, ~~extending, renewing, or~~ amending the franchise.

*CAAB Comment: This change (13.1) eliminates language considered unnecessary due to state law governing the renewal of franchise agreements. Only the granting of the initial franchise will require a public vote.*

### **Section 13.2. Franchises: Terms and conditions.**

~~(1)~~A. No franchise shall be granted by the city for a term exceeding twenty-five (25) years. An exclusive franchise shall never be granted.

~~(2)~~B. With respect to any franchise granted after this charter goes into effect, whether or not provided in the franchise, the city shall have power:

~~(a)~~1. To terminate the franchise for the violation of any of its provisions, for the misuse or nonuse thereof, or for the violation of any regulations imposed by this charter, by a suit brought in a court of competent jurisdiction and by the judgment of said court;

~~(b)~~2. To control and regulate the use of the streets, alleys, other public ways, bridges, easements, and other public places of the city, and the space above and beneath them;

~~(c)~~3. To require the public utility to permit joint use of its property and appurtenances located in the streets, alleys, other public ways, bridges, easements, and other public places, by the city and by other public utilities, insofar as such joint use may be reasonably practicable, and upon payment of a reasonable rental or charge therefor; and in the absence of agreement, upon application by the public utility, provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor;

~~(d)~~4. To impose regulations determined by the council to be conducive to the health, safety, or welfare of the public;

~~(e)~~5. To require the public utility to pay all or any part of the cost of improvement or maintenance of streets, alleys, other public ways, bridges, easements and other public places, that arises from its use thereof, and to protect and to save the city harmless from all damages arising from such use; and

~~(f)~~6. To require the public utility to file with any designated city officer or officers such drawings and maps of the proposed location or locations and nature of pipes, conduits, wires and other facilities.

~~(3)~~C. The rates to be charged and the character, quality and standards of service to be furnished by a public utility operating under a franchise granted by this city, shall be under the jurisdiction and control of such regulatory agency as may be vested therewith by law; provided that, if at any time there shall be no such regulatory agency vested by law with exclusive jurisdiction and control over said rates and the character, quality, and standards of service, then such jurisdiction, and control shall be vested in the council to the extent consistent with law.

*CAAB Comment: This (13.2) is an editorial change.*

**Section 13.3. Franchises: Sale or assignment.** The grantee of a franchise may not sell, assign, sublet, or allow another to use the same, unless the council by ordinance gives its approval.

## ARTICLE 14

### GENERAL AND MISCELLANEOUS PROVISIONS

**Section 14.1. Gender.** When the masculine gender is used in this charter, it shall also mean the feminine unless the masculine alone is clearly indicated.

**Section 14.2. Notice of suits.** No action shall be maintained against the city for or on account of any injury growing out of alleged negligence of the city unless notice shall first have been given in writing to the mayor within ninety (90) days of the occurrence for which damage is claimed, stating the place, time, character, and circumstances of the injury, and that the person so injured will claim damages therefor from the city.

**Section 14.3. Service of processes, writs, and legal notices.** All civil processes, judicial writs, and legal notices running to the city, may be served upon the mayor.

**Section 14.4. Judicial bonds.** The city shall not be required to furnish security for any bond in any judicial proceeding or appeal.

**Section 14.5. Proof of ordinances, etc.** Any ordinance, resolution, or proceedings of the city may be proved by a copy thereof duly certified by the city clerk under seal of the city; or, when printed in book or pamphlet form by authority of the city, the same shall be received in evidence in all courts and places without further proof of authenticity.

**Section 14.6. Creation and maintenance of records.** All officers shall cause to be created and filed such records as are necessary for the performance of their official duties, and shall cause them to be maintained so as to be accessible at all times. When officers vacate their offices, they shall deliver the records of their offices to their successors.

The council shall regulate city records and provide for their preservation, removal when no longer needed for current use, storage and donation to an appropriate historical society or library or other disposition when no longer of value to the city government.

**Section 14.7. Destruction of records.** No record of account voucher, contract, lease, insurance policy, payroll, time record, tax deed, purchase order, police or municipal court record or other official document in any office or agency of the city government shall be destroyed except as may be provided by ordinance.

**Section 14.8. Publicity of meetings, records and votes.** All meetings, records, accounts and votes of the council and of every office, department, or agency of the city shall be open to the public as may be required by state law or city ordinance. Any meeting, record or vote pertaining to legal action, causes of action, or litigation involving the city, leasing, purchase or sale of real estate where public knowledge of the transaction might adversely affect the legal consideration therefor, may be a closed meeting, closed record or closed vote. Any meeting, record or vote involving physical health of any person or relating to probation, expulsion, discipline, reprimand, reduction in force, demotion, hiring, firing or promotion of personnel of the city may be a closed meeting, a closed record, or a closed vote. Other meetings, records or votes as otherwise provided by law may be a closed meeting, closed record, or a closed vote. Where meetings, records or votes are open to the public, reasonable rules and regulations may be promulgated regulating, but not prohibiting, public access.

ARTICLE 15

CHARTER: PUBLIC ACT, AMENDMENT,  
AND SEPARABILITY

Section 15.1. Charter to be a public act. This charter is hereby declared to be a public act, and all courts shall take judicial notice thereof.

Section 15.2. Amendment of charter. This charter may be amended in any manner now or hereafter provided by the state constitution.

Section 15.3. Separability clause. If a court of competent jurisdiction should hold any section or part of this charter invalid, such holding shall not affect the remainder of this charter nor the context in which such section or part so held invalid may appear, except to the extent that an entire section or part may be inseparably connected in meaning and effect with that section or part.

If a court of competent jurisdiction holds a part of this charter invalid, or if a change in the state constitution or law renders a part of this charter invalid or inapplicable, the council by ordinance may take such appropriate action as will enable the city government to function properly.

~~Section 15.4. Charter review. This charter shall be reviewed by a charter amendment advisory board at least every ten (10) years beginning in 1995.~~

*CAAB Comment: This is a new section (15.4) that requires that the Charter undergo a formal review not less than every 10 years.*

SCHEDULE

~~Section 1. Election to revise charter. This revised charter shall be submitted to a vote of the registered qualified voters of the City of Independence, Missouri, at a city election to be held on Tuesday, \_\_\_\_\_, 19\_\_\_\_.~~

~~The ballot title and propositions which shall be submitted to the registered qualified voters of the city shall be substantially as follows:~~

~~Shall the revised Charter of the City of Independence, Missouri, proposed by the City Council of the City of Independence, be adopted?~~

~~\_\_\_\_\_ FOR THE PROPOSED CHARTER REVISION  
\_\_\_\_\_ AGAINST THE PROPOSED CHARTER REVISION~~

~~Section 2. Election of mayor and councilmembers, terms. The mayor, the two (2) councilmembers at large, and the four (4) district councilmembers elected prior to the adoption of this revised charter shall serve the remainder of their terms and this revised charter shall not abate or otherwise affect said terms. Future elections of said councilmembers shall be conducted in the manner prescribed in Article 6 of this revised charter.~~

~~Section 3. Districts. The four (4) districts from and by which the four (4) district councilmembers shall be elected shall be as follows until changed by ordinance as provided by this charter:~~

~~The city shall be divided by a line running generally north and south and described as follows:-~~

~~Beginning at a point on the south city limits of the City of Independence, Missouri, at the center line of Noland Road; thence northerly along the center line of Noland Road to its intersection with the center line of Pacific Street; thence westerly along the center line of Pacific Street to its intersection with Main Street; thence southerly along the center line of Main Street to its intersection with Pacific Street; thence westerly along the center line of Pacific Street to its intersection with Liberty Street; thence northerly along the center line of Liberty Street to its intersection with the south boundary of Lot 5, Kemper Place, in Section 35, Township 50, Range 32, thence west along the south line of Lots 5 and 8, Kemper Place, to the southwest corner of Lot 8, Kemper Place, Section 34, Township 50, Range 32; thence following the present city limits generally north to a point on the north city limits 200 feet north of and 893.83 feet west of the northeast corner of Section 27, Township 50, Range 32.~~

~~That part of the city lying west of the line above described shall be and hereby is divided by a line running generally east and west described as follows:-~~

~~Beginning at a point on the center line of 23rd Street (Missouri 78 Highway) at its intersection with Noland Road; thence westerly along the center line of 23rd Street (Missouri 78 Highway) to a point on the west city limits of the City of Independence, Missouri.~~

~~That part of the city lying east of the north-south line first above described, shall be and hereby is divided by a line running generally east and west and described as follows:-~~

~~Beginning at a point on the center line of 23rd Street (Missouri 78 Highway) at its intersection with the center line of Noland Road; thence easterly along the center line of 23rd Street (Missouri 78 Highway) to its intersection with the center line of Kiger Road; thence northerly along the center line of Kiger Road to its intersection with the center line of Truman Road; thence easterly along the center line of Truman Road to its intersection with the center line of 23rd Street (Missouri 78 Highway); thence northeasterly along the center line of 23rd Street (Missouri 78 Highway) to its intersection with the center line of the Little Blue River; thence southwesterly along the center line of the Little Blue River to its intersection with the south line of Township 50; thence easterly along the south line of Township 50 to its intersection with the existing city limits line.~~

~~That part of the city lying in the quadrant thus created in the northwest part of the city shall be known as District 1; that part lying in the northeast part shall be known as District 2; that part lying in the southeast part shall be known as District 3; that part lying in the southwest part shall be known as District 4.~~

~~Section 4. Contracts, obligations, etc., to remain in effect. The adoption and going into effect of this revised charter shall not impair any contract to which the city is a party at the time this revised charter goes into full effect.~~

~~Public improvements for which steps have been taken by the council under the former charter government may be carried to the completion as nearly as practicable in accordance with the provisions of law under which said government operated. All uncollected taxes and assessments levied or assessed, all fines and penalties imposed, and all other obligations owing to the city, shall continue in full effect and be collected as if no change had been made in the city government. Nothing in this charter shall prohibit the city from performing all the covenants heretofore entered into by it in connection with revenue bonds which it has issued.~~

~~Section 5. Pending actions and proceedings. The adoption of this revised charter shall not abate or otherwise affect any action or proceeding, civil or criminal, pending when it takes effect, brought by or against the municipality or any office, department, agency or officer thereof.~~

~~Section 6. Ordinances to remain in effect. The adoption of this revised charter shall not repeal, abate or otherwise affect existing ordinances, whether codified or not, resolutions, or administrative orders or codes.~~

~~Section 7. Budget revision, etc. Notwithstanding any other provisions of this charter, the Council may take such action regarding the budget as may be necessary or proper as a result of the going into effect of this revised charter and the change made in the fiscal year by this charter, including, but not limited to, the adoption of a revised or interim budget.~~

~~Section 8. Effective date of revised charter. If a majority of the qualified voters of the city vote for the proposed charter revisions as provided in Section 1 of this schedule, the provisions of the revised charter, including this schedule, shall go into effect immediately.~~

*CAAB Comment: This change (Schedule) eliminates language which was a part of the original charter covering the transition to the charter form of government. It is now surplus language.*