

City of Wildwood

Charter Review

2017

Article I: Incorporation, Name and Boundaries

Section 1.1 Incorporation, Name and Boundaries.

The residents of the City of Wildwood, within the corporate limits as now established or as hereafter established in the manner then provided by law, shall continue to be a municipal body politic and corporate in perpetuity under the name of the City of Wildwood.

Article II: Powers

Section 2.1 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 2.2 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 III: The Council

Section 3.1 Powers Vested.

All powers of the City shall be vested in the Council unless specifically provided otherwise in this Charter. The Council shall provide for the exercise of these powers and for the performance of all duties and obligations imposed on the City by law. The Council may to the fullest extent permitted by law delegate any of the powers vested herein to such board, commission, or officer of the City as it may deem appropriate, advantageous, or necessary for the proper and efficient undertaking of the public business.

Section 3.2 Structure.

(a) Wards And Representation. The City Council shall consist of two (2) Council Members elected from each ward as established by this Charter. A Council Member shall be nominated and elected by the qualified voters of his or her respective ward.

(b) Qualifications. Each Council Member shall be a registered voter and a resident of the City ward he or she represents. Each Council Member shall have been a resident of the ward that he or she represents for at least one (1) year prior to election.

- **Qualifications should include criminal background check**

(c) Terms Of Office. Each Council Member shall be elected for a term of two (2) years. Terms of Council Members representing each ward shall be staggered.

(d) Limitation Of Terms. Council Members shall be limited to four (4) consecutive terms, not including time served to complete an unexpired term. Such person cannot serve again as Council Member for two (2) years.

- **Should have true term limits**
- **Limit to four (4) terms total – Council Members**
- **Council Members should be limited to serve on Council for a total of eight (8) years**

Section 3.3 Compensation and Expenses.

The Council shall determine compensation of the Council Members by ordinance, but no increase in such compensation shall become effective for any Council Member until the commencement of a new term of office. Council Members may receive reasonable reimbursement for actual and necessary expenses incurred in the performance of their duties as Council Members, provided that such expenses are supported by appropriate documentation.

[Ord. No. 2150, passed March 14, 2016]

Section 3.4 Prohibitions.

(a) Holding Other Office. Except where authorized by law, or pursuant to a written agreement between the City and another entity of government, no Council Member shall hold any other elective City office, compensated City office, or City employment while serving in the term for which he or she was elected or appointed. No former Council Member shall hold any compensated appointive City office or City employment until one (1) year after leaving office.

(b) Appointments, Hirings And Removals. No Council Member shall in any manner dictate the appointment, hiring, or removal of any City administrative officer or employee, whom the City Administrator or any of his or her subordinates are empowered to appoint or hire as established in this Charter or by ordinance. As a collective body, the Council Members may express their views and discuss with the City Administrator anything pertaining to the appointment, hiring and removal of such officer or employee.

(c) Interference With Administration. Except for the purpose of investigations as established by this Charter, Council Members shall not interfere with administrative City officers or employees who are subject to the direction and supervision of the City Administrator. Council Members shall not give any orders to any such officer or employee, either publicly or privately.

Section 3.5 Vacancies; Forfeiture of Office; Filling of Vacancies.

[Ord. No. 1472 § 2, passed in election of April 8, 2008]

(a) Vacancies. The office of Council Member shall become vacant upon the death or resignation of the Council Member, or by his or her forfeiture of or removal from office by any manner authorized by law.

(b) Forfeiture Of Office. A Council Member shall forfeit his or her office, if at any time during the term of office, the Council Member: (1) lacks any qualification for the office prescribed by this Charter or by law, (2) violates any prohibition of this Charter, (3) is convicted of a crime involving moral turpitude, or (4) is in default in any unpaid taxes, fines or financial obligations to the City.

(c) Filling Of Vacancies. A vacancy in the City Council shall be filled at the next general municipal election for which the full filing period remains. Until the person elected to serve the remainder of the unexpired term takes office, the Mayor, no

later than thirty (30) days following a vacancy, with advice and consent of a majority of the members of the City Council shall appoint a qualified person to fill the office until the next general municipal election at which the vacancy is filled. If the City Council fails to consent to the appointment, the Mayor shall make an appointment of a different qualified candidate within thirty (30) days of the Council's failure to consent and continue this process until such time as a majority of the members of the City Council consents to an appointment.

- **No repercussion if the Mayor does not appoint someone**
- **Should the Council be permitted to appoint someone?**
- **Upon failure of acceptance of the first candidate, the Mayor must submit a sub sequential candidate at the next Council meeting until a person is accepted by Council. If Council declares the Mayor is not acting in "good conscience" to find a suitable replacement then Council may perform the search.**

Section 3.6 Judge of Qualifications.

The City Council shall be the judge of the qualifications of its members and of the Mayor and of the grounds for forfeiture of office and for such purposes shall have power to subpoena witnesses, administer oaths and require the production of evidence. Any person charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and shall forfeit such office only upon an affirmative vote of at least two-thirds (2/3) of the members of the City Council. Decisions made by the City Council under this Section shall be subject to review by the courts.

Section 3.7 Investigations.

The City Council may make investigations into the affairs of the City. In the event the City Council decides to conduct a formal investigation, it may do so only upon the vote of a majority of the members of the City Council then in office setting forth with particularity the nature of the investigation. In the event the City Council undertakes a formal investigation, it may conduct hearings, issue subpoenas to compel the testimony of witnesses and production of evidence, and administer oaths. Any person who willfully fails to comply with a subpoena issued hereunder shall be guilty of a misdemeanor subject to penalty as provided by ordinance.

Section 3.8 Legislative Proceedings.

(a) Regular Meetings. The City Council shall meet regularly at least once each month at such time and place as the Council may prescribe by rule. The Council may also hold additional regular meetings at such time and place as the Council may prescribe. In no event shall regular meetings of the Council be held outside the City limits, nor scheduled prior to 7:00 P.M. local time, except for work sessions at which no legislative action shall be taken. Notice of regular meetings shall be posted at the City Hall. All regular meetings of the Council shall be public meetings at which the Council shall provide for public comments, unless public access has been restricted pursuant to law.

- **Should electronic methods be noted?**
- **Should this state that notices of Council meetings "shall be posted at the City Hall" and that "all proposed ordinances to be considered . . . shall be posted . . . at City Hall." Should these Sections be modified to include the**

**more modern (electronic) methods of notice and ordinance posting?
(Sunshine Law)**

- **Should there be an outdoor bulletin board?**

(b) Special Meetings. The Mayor may, or at the request of at least one-fourth (1/4) of the members of the City Council shall, call a special meeting of the Council for a time not earlier than twenty-four (24) hours after notice is given to all members of the Council then in the City, except for emergencies.

(c) Quorum. A quorum shall constitute one (1) more than half (1/2) of the total number of members of the City Council. If a quorum fails to attend any meeting, it shall stand adjourned until the next regular or special meeting. Except as provided in this Charter or other law, the Council may act by an affirmative vote of not less than a majority of members present.

(d) Rules And Journals. The Council shall by ordinance determine its own rules and order of business. It shall cause a journal of its proceedings to be kept, and this journal shall be open to public inspection. A separate record shall be kept of closed sessions, which record shall remain closed to public inspection and to legal process except as otherwise provided by law.

[Ord. 8, passed September 1, 1995]

(e) Voting. The ayes and nays shall be entered on any question at the request of any two (2) members, provided however, that on the vote on final passage of any ordinance, the ayes and nays shall in all cases be entered in the record showing the vote of each Council Member then in attendance. Roll call votes shall be taken in the order as prescribed by rule of the Council. Except as otherwise provided in this Charter, an affirmative vote of a majority of the members of the City Council shall be necessary to approve any ordinance. In all cases, members of the Council must be present to vote.

- **This provision relates to calling for a voice or standing vote on issues before the Council, and states that any two members of the Council may ask for that. Per our Code, we follow Robert's Rules, which also allow for the chair (Mayor) to do that. (See, pp. 46-47.) For consistency, should the Mayor be included in this provision?**
- **Requirement to be present to vote – should voting be allowed via teleconference?**
- **Does being present apply to conference calls?**

(f) Form Of Ordinances. Proposed ordinances or resolutions shall be introduced in the Council only in written or printed form. The enacting clause of all ordinances shall be:

Be It Ordained By The Council Of The City Of Wildwood, Missouri

The enacting clause of all ordinances submitted by initiative shall be:

Be It Ordained By The People Of The City Of Wildwood, Missouri

Every ordinance shall be titled in a manner that identifies its general content. An ordinance may incorporate and adopt by reference any additional publicly available material, the full text of which need not be set forth in the adopting ordinance.

(g) Procedure. Every proposed ordinance shall be read by title in a City Council meeting at least twice before final passage. No ordinance shall be read more than once at a meeting unless two-thirds (2/3) of the members of the City Council consent to a second reading at the same meeting. Copies of each proposed ordinance shall be made available to each Council Member within a reasonable time after its placement on the agenda, but not less than forty-eight (48) hours before the start of the meeting. If this provision is violated, a Council Member must object prior to the vote on the basis of this violation, and in such event the vote shall be

postponed. No ordinance shall be held invalid because of this provision, unless a Council Member raises an objection before the vote.

After placement on the agenda, and at least twenty-four (24) hours prior to consideration, copies of all proposed ordinances to be considered in a public meeting of the Council shall be posted for public inspection in an area at City Hall accessible to the public during regular business hours. The Council shall provide the opportunity for persons interested in any proposed ordinance to be heard before the Council.

- **Define "majority" throughout the Charter**
- **Should this state that notices of Council meetings "shall be posted at the City Hall" and that "all proposed ordinances to be considered . . . shall be posted . . . at City Hall." Should these Sections be modified to include the more modern (electronic) methods of notice and ordinance posting? (Sunshine Law)**

(h) Amendments To Proposed Ordinances. If the Council accepts an amendment to a proposed ordinance that constitutes a material change, and if a Council Member objects to further consideration of the proposed ordinance for that reason, the proposed ordinance as amended shall be posted for public inspection in compliance with this Charter for one (1) week prior to its final passage. If no Council Member objects, the failure to follow this provision shall not invalidate any adopted ordinance. Further, prior to the passage of any such amended proposed ordinance, the Council may by an explicit vote, waive the one-week posting requirement by a vote of two-thirds (2/3) of the members of the City Council.

(i) Adoption Or Veto. An ordinance, resolution or order approved by the Council shall be presented to the Mayor. The Mayor shall either sign the same, whereupon it shall be adopted, or return it with a written statement of his reasons for disapproval, whereupon it shall be vetoed. Measures vetoed by the Mayor shall be considered at the next regular meeting of the Council, and the Council may adopt the measure over the veto by affirmative vote of two-thirds (2/3) of the members of the City Council. An ordinance, resolution or order not signed nor vetoed by the Mayor shall become effective at the next regularly scheduled meeting of the Council.

(j) Effective Date. Every ordinance, resolution or order shall become effective immediately upon its approval and adoption or at any later date specified therein.

(k) Authentication. All adopted ordinances, resolutions or orders shall be reviewed as to form by the City Attorney and authenticated by the signatures of the Mayor and of the City Clerk.

Section 3.9 Adoption of Special Matters.

(a) General Legislation. All matters of general legislation shall be adopted by ordinance. Special or administrative matters, including contracts, subdivision plats, and other matters not constituting general legislation, may also be adopted by order or resolution, except as may otherwise be required by law.

(b) Comprehensive Zoning Plan And Zoning Ordinances. A comprehensive zoning plan generally establishing appropriate zoning districts within the City shall be adopted by ordinance. The portion of any City Master Plan designating such districts and previously adopted and in effect at the time of the effective date of this Charter shall be deemed the adopted comprehensive zoning plan required by this Section. The comprehensive zoning plan shall be reviewed not less than once every 10 years, and amendments may be initiated by the Council and approved from time to time as provided by state law. No amendment to such comprehensive zoning plan shall be adopted except by an affirmative vote of at least two-thirds

(2/3) of the members of the City Council, or by initiative or referendum process. Zoning ordinances may be adopted or amended only to the extent that such ordinances are consistent with the comprehensive zoning plan.

[Ord. 1324, passed August 14, 2016]

(c) Land Use Policy. It shall be the public policy regarding future and existing development of this City reasonably to preserve adequate open space, protect public parks and green space, conserve soil and reduce erosion, protect water quality, preserve trees and natural areas, and conserve and protect natural resources and public infrastructure. All ordinances relating to development or construction within the City shall reasonably accommodate this public policy of the City of Wildwood, provided no ordinance may be invalidated based upon failure to comply with this provision.

Section 3.10 Codification of Ordinances.

All ordinances and resolutions of the City of a general and permanent nature may be codified and promulgated according to a system of continuous numbering and revision as specified by ordinance.

Article IV: The Mayor

Section 4.1 Powers Vested.

The executive power in the City shall be vested in a Mayor who shall be recognized as the head of the City for all legal and ceremonial purposes and by the Governor of Missouri for all purposes of military law.

Section 4.2 Qualifications.

(a) Representation. The Mayor shall be elected by the City at-large.

(b) Qualifications. The Mayor shall be a registered voter and a resident of the City, be at least twenty-five (25) years old and shall have been a resident of the City for at least two (2) years prior to election.

(c) Term Of Office. The Mayor shall be elected for a term of four (4) years.

(d) Limitation Of Terms. The Mayor shall be limited to two (2) consecutive terms, not including time served to complete an unexpired term. Such person cannot serve again as Mayor for four (4) years.

- **Establish maximum term limits**

Section 4.3 Compensation and Expenses.

The Council shall determine compensation of the Mayor by ordinance, but no change in such compensation shall become effective for the office of Mayor until commencement of a new term of office. The Mayor may receive reasonable reimbursement for actual and necessary expenses incurred in the performance of duties as Mayor, provided that such expenses are supported by appropriate documentation.

[Ord. 2149, passed March 14, 2016]

- **Can the Council Members double their compensation?**
- **Can there be a cap on compensation?**
- **Who should vote on salary increases?**
- **Should elected officials receive compensation?**
- **Should not be beneficiary of a salary increase if voting on salary**
- **Should compensation be determined by the Council?**

Section 4.4 Prohibitions.

(a) *Holding Other Office.* Except where authorized by law or pursuant to an agreement between the City and another entity of government, the Mayor shall not hold any other elective City office, compensated City office, or City employment while serving in the term for which he or she was elected or appointed. No former Mayor shall hold any compensated appointive City office or City employment until one (1) year after leaving office.

(b) *Appointments, Hirings And Removals.* The Mayor shall not in any manner dictate the appointment, hiring or removal of any City administrative officer or employee, whom the City Administrator or any of his or her subordinates are empowered to appoint or hire as established in this Charter. The Mayor may express his or her views and discuss with the City Administrator anything pertaining to the appointment, hiring or removal of such officer or employee.

(c) *Interference With Administration.* Except for the purpose of investigations as established by this Charter, the Mayor shall not interfere with administrative City officers or employees who are subject to the direction and supervision of the City Administrator. The Mayor shall not give any orders to any such officer or employee, either publicly or privately.

Section 4.5 Vacancy; Forfeiture of Office; Filling of Vacancy.

(a) *Vacancy.* The office of Mayor shall become vacant upon the death or resignation of the Mayor, or by his or her forfeiture of or removal from office in any manner authorized by law.

(b) *Forfeiture Of Office.* The Mayor shall forfeit his or her office if at any time during the term of office the Mayor: (1) lacks any qualification for the office prescribed by this Charter or by law, (2) violates any prohibition of this Charter, (3) is convicted of a crime involving moral turpitude, or (4) is in default in any unpaid taxes, fines or financial obligations to the City.

- **Can the Council "sit on" an item?**
- **Should this be changed to say that such forfeiture occurs "immediately," as in ". . . shall immediately forfeit his or her office . . ."? The concern is that, without that specification, a dispute could arise as to when such forfeiture should occur.**

(c) *Filling Of Vacancy.* Any vacancy of the Office of Mayor shall be filled by the Mayor Pro Tempore until the next general municipal election for which the full filing period remains. The election to fill the vacated office shall be for a full term. Upon the Mayor Pro Tempore assuming the Office of Mayor, the Council seat thereby vacated by the Mayor Pro Tempore shall be filled in the manner provided by this Charter for a vacancy in the Council.

Section 4.6 Duties.

(a) *Administrative Policy Matters.* The Mayor shall have the responsibility of discussing with the City Administrator any and all policy matters and shall have the responsibility of interpreting City policy, subject to review by the Council as it deems necessary. The Mayor may recommend improvements in City operations and shall advise the Council as to any deficiencies.

(b) *Review Of City Administrator.* The Mayor shall preside as chairman of the City Council's review of the City Administrator's performance as provided in this Charter. The Mayor shall have a vote in such proceedings.

(c) *Removal Of City Administrator.* The Mayor may recommend removal of the City Administrator, but in such case where he or she recommends removal, shall not preside over any hearing or administrative proceeding for such action. In all other cases of such hearing, the Mayor shall serve as presiding officer.

(d) Presiding At Meetings. The Mayor shall preside at meetings of the Council, but he or she shall have the right to vote only in case of a tie. The Mayor may call special meetings of the Council as provided in this Charter.

(e) Report By The Mayor. The Mayor shall, at the beginning of each fiscal year and may at any other time, give the Council information as to the affairs of the City and any other recommendations he or she may have.

(f) Veto Power. The Mayor shall have the power of veto as established by this Charter.

(g) Enforcement Of Provisions, Laws And Resolutions. The Mayor shall see that all laws, provisions of the Charter and acts of the Council, subject to enforcement by the Mayor or by officers of the City, are faithfully executed.

(h) Additional Powers And Duties. The Mayor shall exercise such other powers and perform such other duties as may be prescribed by this Charter, by ordinance or by law.

Section 4.7 Appointments.

[Ord. No. 1473 § 2, passed in election of April 8, 2008]

(a) Officers, Boards, Commissions, Committees. The Mayor with advice and consent of a majority of the members of the City Council shall appoint or recommend removal of all officers and members of committees, boards, and commissions, except as provided by this Charter, ordinance or other law. The Council may, without the consent of the Mayor, remove such officers and members by a vote of two-thirds (2/3) of the members of the City Council. A vacancy in any office or on any board, commission or committee shall be filled for the unexpired term. The Mayor, no later than thirty (30) days following a vacancy occurring, with advice and consent of a majority of the members of the City Council, shall appoint a replacement to fill the position for the unexpired term. If the City Council fails to consent to the appointment, the Mayor shall make an appointment of a different replacement within thirty (30) days of the Council's failure to consent and continue this process until such time as a majority of the members of the City Council consents to an appointment.

- **Limit number of times a person can serve as a Chair on a Committee**
- **Add "an individual may only serve 2 times as Chairperson for any and all Committees"**
- **Chair is elected by Committee**
- **What influence does the Chair have on a Committee?**

(b) City Clerk. The Mayor with advice and consent of a majority of the members of the City Council shall appoint an officer as City Clerk, who shall serve an indefinite term of office at the pleasure of the Mayor and of the Council. The performance of the City Clerk shall be reviewed annually by the Mayor, the Council, and the City Administrator. The Council shall fix by ordinance the compensation and conditions of employment of the City Clerk. The City Clerk shall maintain the journal of the Council proceedings, authenticate by signature of the City Clerk all ordinances, resolutions and orders and record them in full in a book maintained for that purpose. The City Clerk shall also perform such other duties as may be required by law, by this Charter or by the Council.

[Ord. 2243, passed February 13, 2017]

(c) City Attorney. The Mayor with advice and consent of a majority of the members of the City Council shall appoint an officer as City Attorney, who shall serve an indefinite term of office at the pleasure of the Mayor and of the Council. The performance of the City Attorney shall be reviewed annually by the Mayor, the Council, and the City Administrator. The Council shall fix

by ordinance the compensation of the City Attorney. The City Attorney shall be licensed to practice law in the State of Missouri. The City Attorney shall serve as the chief legal officer for the City and shall have duties as may be assigned by law or by the Council.

[Ord. 2186, passed May 23, 2016]

(d) *Assistant City Attorneys.* The Mayor with advice and consent of a majority of the members of the City Council shall appoint any assistant City Attorneys at any time as may be deemed necessary. The Council shall fix by ordinance the compensation of an Assistant City Attorney. An Assistant City Attorney shall serve an indefinite term of office at the pleasure of the Mayor and of the Council.

(e) *Prosecuting Attorney.* The Mayor with advice and consent of a majority of the members of the City Council shall appoint an officer as Prosecuting Attorney, who shall serve an indefinite term of office at the pleasure of the Mayor and of the Council. The performance of the Prosecuting Attorney shall be reviewed annually by the Mayor, the Council, and the City Administrator. The Council shall fix by ordinance the compensation of the Prosecuting Attorney. The Prosecuting Attorney shall be licensed to practice law in the State of Missouri. The Prosecuting Attorney shall, on behalf of the City, prosecute violations of the ordinances of the City of Wildwood before the Municipal Judge and handle any appeals therefrom. The Prosecuting Attorney shall have such duties as may be assigned by law or by the Council.

[Ord. 1073, passed May 10, 2004]

(f) *Assistant Prosecuting Attorneys.* The Mayor with advice and consent of a majority of the members of the City Council shall appoint any assistant Prosecuting Attorneys at any time as may be deemed necessary. The Council shall fix by ordinance the compensation of an assistant Prosecuting Attorney. An Assistant Prosecuting Attorney shall serve an indefinite term of office at the pleasure of the Mayor and of the Council.

(g) *Municipal Judge.* The Mayor with advice and consent of a majority of the members of the City Council shall appoint an officer as Municipal Judge. The Municipal Judge shall serve a term of two (2) years. The Council shall fix by ordinance the compensation of the Municipal Judge. The Municipal Judge shall be licensed to practice law in the State of Missouri. The Municipal Judge shall meet the qualifications established by law and shall have such powers and duties as are conferred upon such officers by the laws of the State of Missouri.

[Ord. 619, passed September 25, 2000]

(h) *Provisional Municipal Judge.* The Mayor with advice and consent of a majority of the members of the City Council shall appoint an officer as Provisional Municipal Judge. The Provisional Municipal Judge shall serve a term of two (2) years. The Council shall fix by ordinance the compensation of the Provisional Municipal Judge. The Provisional Municipal Judge shall serve as the Municipal Judge with the same powers and qualifications as the Municipal Judge in the event that the Municipal Judge is unable to perform such duties of office due to absence, illness, vacancy in the office, or disqualification to hear certain matters.

[Ord. 892, passed October 14, 2002]

(i) *City Treasurer.* The Mayor with advice and consent of a majority of the members of the City Council shall appoint an officer as City Treasurer, who shall serve an indefinite term of office at the pleasure of the Mayor and of the Council. The performance of the City Treasurer shall be reviewed annually by the Mayor, the Council, and the City Administrator. The Council shall fix by ordinance the compensation of the City Treasurer. The City Treasurer must reside in the City of Wildwood. The powers, qualifications and duties of the City Treasurer shall be determined by the Council and shall include open access to all financial records of the City.

[Ord. 1983, passed December 9, 2013]

(j) City Marshal. The Mayor with advice and consent of a majority of the members of the City Council shall appoint an officer as City Marshal, who shall serve an indefinite term of office at the pleasure of the Mayor and of the Council. The performance of the City Marshal shall be reviewed annually by the Mayor, the Council, and the City Administrator. The Council shall fix by ordinance the compensation of the City Marshal. The City Marshal must reside in the City of Wildwood. The City Marshal shall act as liaison between the police and the Council, shall oversee the budgets for police protection and chair the Board of Public Safety. The City Marshal shall have any other powers and duties as provided by law, by ordinance or by the Council.

[Ord. 453, passed October 26, 1998]

- **4.7 C-J: Rebid these services on a regular schedule**
- **Rebid every 2-3 years and base on qualifications, not price**

Section 4.8 Mayor Pro Tempore.

The Council shall elect annually from its members a Mayor Pro Tempore, who shall preside at Council meetings not attended by the Mayor. Whenever the Mayor files with the City Clerk a written statement that he or she shall be unable to fully discharge his or her powers and duties as Mayor due to absence, disability or otherwise, the Mayor Pro Tempore shall act as Mayor until the Mayor shall file a contrary statement. When the Mayor is absent and no such statement has been filed, the Council may by an affirmative roll-call vote of a least three-fourths (3/4) of the members of the City Council direct that the Mayor Pro Tempore shall act as Mayor until the earlier of the next meeting or the Mayor's filing with the City Clerk a statement of his ability to resume office. The Mayor Pro Tempore acting as Mayor by authority of this Section shall have no power of veto, nor power to break a tie vote, and shall retain the office and duties of Council Member.

- **Does not have the same rights as the Mayor**
- **What if the Mayor cannot serve for extended period of time?**
- **When is it considered abandonment of office?**
- **Mayor Pro Tem cannot break a tie**

Article V: City Administrator

Section 5.1 Appointment, Qualifications, Review and Compensation.

(a) Appointment. A majority of the members of the City Council with the advice and consent of the Mayor shall appoint a City Administrator for an indefinite term and shall fix the conditions of his or her employment.

(b) Qualifications. The City Administrator shall be appointed solely on the basis of his or her executive and administrative qualifications. The Administrator need not be a resident of the City or State at the time of his or her appointment, but must reside inside the City within six months of appointment unless an extension is granted by the Council.

(c) Review. A review of the City Administrator's performance shall occur on a yearly basis and shall be held in closed executive session by the Council and presided over by the Mayor. A record of the proceedings shall be held as a confidential record in the personnel file of the Administrator.

(d) Compensation. The Council shall establish the compensation of the City Administrator by ordinance. In addition to compensation, the Administrator shall receive actual and necessary expenses incurred in the performance of duties as City Administrator, provided that such expenses are supported by the appropriate documentation.

[Ord. 2077, passed January 12, 2015]

Section 5.2 Removal.

The Council may remove the Administrator from office in accordance with the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of the members of the City Council a preliminary resolution that must state the reasons for removal and may suspend the Administrator from duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the Administrator.

(2) Within five (5) days after a copy of the resolution is delivered to the Administrator, he or she may file with the Council a written request for a hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Administrator may file with the Council a written reply not later than five (5) days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of the members of the City Council, subject to veto and override procedures, at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Administrator, if he or she has not requested a hearing, or at any time after the hearing if he or she has requested one. The Administrator shall continue to receive his or her salary until the effective date of a final resolution of removal.

(4) Upon suspension or removal of the City Administrator, the Mayor shall with the advice and consent of a majority of the members of the City Council appoint within three (3) days an interim City Administrator. The interim appointee shall not hire or fire any City employee without consent of a majority of the members of the City Council, but shall maintain all other powers of City Administrator.

Section 5.3 Acting City Administrator.

By letter filed with the City Clerk, the City Administrator shall designate a qualified City Administrative Officer to exercise the powers and perform the duties of Administrator during the Administrator's temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Administrator shall return or his or her disability shall cease.

Section 5.4 Powers and Duties.

[Ord. 9, passed September 1, 1995]

The City Administrator shall be the chief administrative officer of the City. He or she shall be responsible to the Council for the administration of all City affairs placed in his or her charge. The City Administrator shall have the following powers and duties:

(a) *Supervision by the Administrator.* The City Administrator shall be responsible for the direction and supervision of the following administrative officers/employees: 1) directors of all departments, 2) all secretarial and administrative support staff, and 3) any other personnel or officer assigned to the City Administrator's supervision by the Council.

(b) *Appointment and Removal of City Employees and Administrative Officers.* The City Administrator shall appoint and, when he or she deems it necessary for the good of the City, suspend or remove all administrative officers/employees who are subject to the direction and supervision of the City Administrator. The City Administrator may, only with approval of a majority of the members of the City Council, appoint or remove directors of departments. The City Administrator may authorize any administrative officer who is subject to his or her direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency. All appointments and promotions of City administrative officers

and employees shall be on the basis of merit and fitness demonstrated by examination or other evidence of competence.

(c) Administration of Departments. The City Administrator shall direct and supervise the administration of all departments, offices, and agencies of the City, except as otherwise provided by this Charter or by ordinance.

(d) Attendance at Council Meetings. The City Administrator shall attend all Council meetings and shall have the right to take part in discussion, but may not vote. The City Administrator shall receive notice of all special meetings.

(e) Enforcement of Laws. The City Administrator shall see that all laws, provisions of this Charter, and acts of the Council, subject to enforcement by him or her or by officers subject to his or her direction and supervision, are faithfully executed.

(f) Budget and Capital Program. The City Administrator shall prepare and submit the annual budget and capital improvement program to the Mayor and Council.

(g) Finance and Administrative Report. The City Administrator shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City at the end of each fiscal year. The City Administrator shall keep the Council fully advised as to the financial condition of the City and provide recommendations concerning future needs as he or she may deem necessary.

(h) Other Reports. The City Administrator shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his or her direction and supervision.

(i) Execution of Contracts. The City Administrator shall have the authority to enter into, execute and rescind contracts on behalf of the City as may be authorized by ordinance.

(j) Advisement of Mayor. The City Administrator shall keep the Mayor advised of all significant matters concerning the City and respond in a timely manner to inquiries from the Mayor. The City Administrator may seek the advice of the Mayor in interpretation of City policies and, if requested, shall assist the Mayor in his or her duty to interpret such policies.

(k) Other Duties. The City Administrator shall perform such other duties as are specified in this Charter or required by the Council.

Article VI: Financial Procedures

Section 6.1 Fiscal Year.

The fiscal year of the City shall begin on the first day of July and end on the last day of June, unless otherwise set by ordinance.

[Ord. 21, passed September 1, 1995]

Section 6.2 Budget.

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the City Administrator deems desirable or the City Council may require. The budget shall indicate in separate Sections:

(1) Proposed expenditures for current operations during the ensuing fiscal year and the method of financing such expenditures and

(2) Proposed capital expenditures during the ensuing fiscal year and the proposed method of financing each such capital expenditure.

In no event shall the total proposed expenditures from any fund exceed the estimated revenues to be received plus any unencumbered balance or less any deficit estimated for the beginning

of the budget year. Nothing herein shall be construed as requiring the city to use any cash balance as current revenue, or to change from a cash basis of financing its expenditures.

Section 6.3 Capital improvement program.

[Ord. No. 1567 §§ 1–2, 10-27-2008—passed in the election of 4-7-2009]

A. The capital improvement program shall include:

(1) A clear general summary of the contents,

(2) A list of all capital improvements proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements,

(3) A cost estimate, a method of financing and a recommended time schedule for each such improvement, and

(4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

- **Include inflation escalator**
- **How is a “necessity” determined?**
- **What constitutes a project?**
- **Should the word “aggregate” be included?**
- **Is a park considered a facility?**
- **Can funds be carried over from year to year?**

The above information shall be revised and extended each year with regard to the capital improvements still pending or in process of construction or acquisition.

B. Certain Capital Expenditures—Voter Approval Required. Prior to spending or authorizing an expenditure of City funds for a municipal facility (including the building(s), land, site improvements, fixtures and furnishing), totaling more than three million dollars (\$3,000,000.00), the City Council shall, by ordinance, submit the proposed expenditure to the voters for approval. If a majority of the voters are in favor of the question, the City Council may, subject to the provisions of the Charter and applicable ordinances, spend or authorize such expenditure or include such expenditure in the five (5) year Capital Improvement Program, as amended from time to time. In response to an emergency or natural disaster, submittal to the voters shall not be required for expenditures to repair, replace or build municipal facilities that the Council deems necessary for the immediate protection of the health, safety and welfare of the public.

- **All aspects of any project should be included in the proposal and may not be separated to give the appearance of costing less**
- **If the project consists of phases or steps then the project should be considered one project**
- **Should “and fees” be added after the word taxes?**
- **Should “estimated total project cost” be added?**
- **Does this include public transit?**
- **Should “consumer price index” be added?**
- **Should change orders be considered?**
- **Do voters need to be involved if a project goes over \$3m**
- **Can inflation be handled through Ordinance?**

Section 6.4 Submission of Budget and Capital Improvement Program.

In such time-frame as established by ordinance, but not less than forty-five (45) days prior to the beginning of each fiscal year, the City Administrator shall submit to the Mayor and the City Council the proposed budget and capital improvement program.

[Ord. 2227, passed December 12, 2016]

Section 6.5 Adoption of Budget and Capital Improvement Program.

(a) Public Hearing. After appropriate notice, a public hearing on the proposed budget shall be held prior to its adoption.

(b) Amendment Before Adoption. After the public hearing, the City Council may approve the budget and capital improvement program with or without amendment. In amending the budget and/or the capital improvement program, the City Council may add or decrease programs or amounts, except expenditures required by law or for debt service.

(c) Adoption. The budget and the capital improvement program shall be adopted by ordinance on or before the last day of the fiscal year currently ending. If the budget is not adopted by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the City Council adopts a budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriation of the amounts specified therein as expenditures from the funds indicated.

[Ords. 21 and 2227]

Section 6.6 Public Record.

Copies of the budget and capital improvement program as adopted shall be public records and shall be made available to the public at City Hall and other suitable places in the City.

Section 6.7 Amendment After Adoption.

(a) Supplemental Appropriation. If during the fiscal year the City Administrator certifies that there are available for appropriation revenues in excess of those estimated in the budget, the City Council by ordinance may make supplemental appropriation for the year up to the amount of such excess.

[Ord. 2209, passed September 12, 2016]

(b) Reduction Of Appropriation. If at any time during the fiscal year it appears probable to the City Administrator that the revenues available will be insufficient to meet the amount appropriated, the City Administrator shall report to the City Council without delay, indicating the estimated amount of the deficit, any remedial action taken and recommendations as to any other steps to be taken. The City Council shall then take such further action as it deems necessary to prevent or minimize any deficit, and for that purpose it may by ordinance reduce one or more appropriations.

(c) Transfer Of Appropriations. At any time during the fiscal year, the City Administrator with the approval of the City Council may transfer part or all of any unencumbered appropriation balance among departments within a fund and, upon written request by the City Administrator, the City Council may by ordinance transfer part or all of any unencumbered appropriations balance from one fund to another.

Section 6.8 Taxation Powers.

Taxes shall be levied by ordinance in accordance with law.

[Ords. 135, 159, 373, 503, 528, 1290, 1295, 1544, 1826, 1923, 2141]

Section 6.9 Sale of Bonds.

The City shall be authorized to sell any bonds as may now or hereafter be authorized by law. Bonds sold by the City may be sold at private or public sale authorized by law. In the event such bonds are to be sold at public sale, the same shall be sold upon sealed proposals after reasonable public notice has been given as provided by ordinance or otherwise by law. Any public sale shall be conducted according to such terms and conditions as may be provided by ordinance.

Section 6.10 Investment.

The investment objective of the City shall be the safety of the principal and each investment shall seek first to insure that capital losses are avoided, whether from securities default or erosion of market value.

Section 6.11 Audit.

The City Council shall provide for an independent audit of all City accounts at least annually. Such audits shall be made by a certified public accountant or firm of such accountants having no personal interest, direct or indirect, in the fiscal affairs of the City or any of its officers. A copy shall be kept in the City Clerk's office and shall be open to public inspection. No certified public accountant or firm shall conduct the audit for more than four (4) consecutive years without competitive rebidding.

- **Should services go out to bid more often than every four (4) years?**
- **Should services go out to bid every two (2) years?**
- **What is the advantage of using the same firm for four (4) years?**

Section 6.12 Fiscal Reports.

(a) Report To Public. A fiscal report shall be published semi-annually in one (1) or more newspapers or publications of general circulation in the City.

(b) Report To City Council. A current fiscal report shall be provided quarterly, or more frequently if required by ordinance, to each member of the City Council. The fiscal report shall include actual revenue and expenditures compared to budgeted amounts.

- **This Section requires a fiscal report to be provided to the City Council on at least a quarterly basis. However, it makes no mention of who is to do this. Should the responsible person be specified, and if so, who should that person be?**

Section 6.13 Fiscal Policy.

It shall be the fiscal policy of the City to conserve public moneys while efficiently providing municipal services or infrastructure, to operate the City with a minimum of bureaucracy, and to provide government services by contract with private providers when feasible and appropriate. The City should consider the viability, quality, and cost effectiveness of contracting for all new major services prior to providing such services directly by City employees, provided no ordinance may be invalidated based upon failure to comply with this provision.

Article VII: Nominations and Elections

Section 7.1 City Elections.

(a) General Municipal Elections. The general municipal election shall be held annually on the first Tuesday in April or on such day as may be mandated by law.

- **The election is held on the first Tuesday after the first Monday in April**

(b) Special Elections. The City Council may by resolution or ordinance order special elections, fix the time for such elections, and provide for holding such elections on any of the dates provided for elections by law.

(c) Conduct Of Elections. All city elections shall be non-partisan and governed by the provisions of this Charter and applicable law. The City Council may further regulate elections by ordinance, subject to the provisions of this Charter and other law.

[Ord. 25, passed September 1, 1995 and Ord. 390, passed December 8, 1997]

Section 7.2 Nominations.

[Ord. No. 1474 § 2, passed in election of April 8, 2008]

(a) Nominations By Petition. Nominations of candidates for all elective offices shall be by petition filed by the nominee. No person shall be allowed to be nominated for more than one (1) office at a time. Petitions for Council Members shall be signed by not less than twenty-five (25) registered voters who are residents of the ward. Petitions for the Mayor shall be signed by not less than one hundred (100) registered voters who are residents of the city. The Council by ordinance shall designate all procedures for the filing and acceptance of nominating petitions.

(b) Filling Vacancies If No Petition Filed. In the event no candidate files a valid nominating petition for an elective office prior to the last date permitted by law or this Charter for such filing, then not later than the date of the scheduled election the Mayor with advice and consent of a majority of the members of the City Council shall appoint a qualified person to fill the office until the next general municipal election. If the Council fails to consent to the appointment, the Mayor shall make an appointment of a different qualified person to fill the office within thirty (30) days of the Council's failure to consent and continue this process until such time as a majority of the members of the City Council consents to an appointment.

(c) Regulation By City Council. Nothing contained in this Charter shall prevent the City Council from further regulating the conduct of nominations and elections consistent with the provisions of this Charter and of other law.

(d) Certification To Election Authority. The City Clerk shall certify to the election authority within the time required by state statutes, the names of candidates who have filed valid nominating petitions and shall indicate the order in which the candidates filed petitions for nominations which were verified and accepted.

Section 7.3 Preparation of Ballots.

The City Clerk shall cause the names of the candidates to appear on all ballots and in all election notices in the order in which the candidates filed petitions for nominations which were verified and accepted. Prior to the election, the City Council shall provide an opportunity for the public to question and examine all candidates in a public forum.

Section 7.4 Election and Determination of Election Results.

(a) Voting. At the election for Mayor each registered voter who is a resident of the City shall be entitled to vote for one (1) candidate. At the election for Council Member each registered voter who is a resident of the City shall be entitled to vote for one (1) candidate to represent

the ward in which the voter resides. If two (2) Council Members are to be elected from any ward at the same general municipal election, there shall be placed on the ballot a single proposition for each open office and each voter shall be entitled to vote for two (2) candidates. The candidate receiving the highest number of votes will hold the Council seat with the longest term, and the candidate receiving the second highest number of votes will hold the remaining Council seat.

(b) *Determination Of Election Results.* The City Council shall examine the election returns as certified by the election authority and declare the results of any municipal election, general or special, at the next regularly scheduled City Council meeting. The candidates shall be declared elected and inducted into office at that time.

(c) *General And Special Elections Tie Vote.* If at any general municipal election or special election there shall be two (2) or more candidates receiving an equal number of votes as certified by the election authority, a tie shall be broken as provided by law. The incumbent shall remain in office until a successor has been elected and duly installed.

Section 7.5 Wards.

(a) *Establishment And Changes.* There shall be eight (8) wards, bounded and numbered the same as the wards that exist at the time of adoption of this Charter. Ward boundaries shall be established by ordinance following each decennial census and at such other times as may be deemed by the Council to be required by law. Wards shall comprise compact and contiguous territory and shall contain, as nearly as practicable, an equal number of residents. When the average population per ward exceeds five thousand (5,000), an additional ward may be added by ordinance, provided the total number of wards shall not exceed twelve (12). If an additional ward is not added within one (1) year of the determination that such a limit has been exceeded, then the question shall be submitted to the voters of the City at the next general municipal election in the following form:

[Ord. 2, passed September 1, 1995]

Shall an additional ward be added to the City and the boundaries of the wards be adjusted accordingly?

Such a question shall be submitted to the voters of the City once every five (5) years for as long as the average population of the wards shall exceed five thousand (5,000), until the number of wards has reached twelve (12). Population may be determined by any fair and reliable, direct or indirect, measurement. A Redistricting Committee, appointed in accordance with this Charter, shall recommend any changes in ward boundaries.

(b) *Redistricting Committee.* The Redistricting Committee may be established from time to time and shall consist of one (1) resident from each existing ward appointed by the Mayor and individually approved by two-thirds (2/3) of the members of the City Council. Such appointed residents shall not hold any other appointive or elective position with the City. The committee shall submit its findings to the City Council and, if redistricting is required by law, the findings shall be approved unless a two-thirds (2/3) majority of the members of the City Council shall object, in which case the Council may establish other boundaries by a two-thirds (2/3) majority of the members of the City Council or return the findings for reconsideration.

(c) *Representation After Boundary Changes.* Redrawn wards and newly created wards shall take effect for Council elections at the next general municipal election. Any Council Member

who no longer resides in his or her ward upon the boundaries being redrawn shall remain in office until expiration of that term.

- **Discussion was held regarding the number of Council Members and the number of wards – it was decided to continue the discussion at a future meeting**

Article VIII: Initiative, Referendum and Recall

Section 8.1 General Authority.

(a) Initiative. The qualified voters of the City shall have the power to propose ordinances to the Council and, if an ordinance so proposed is not adopted without any change in substance, to adopt or reject it at a City election, provided that such power shall not extend to the budget or capital program or any ordinance relating to the appropriation of money, levy of taxes, zoning, or salaries of City officers or employees. No proposed initiative ordinance shall contain more than one (1) subject, which shall be clearly expressed in its title.

(b) Referendum. The registered voters of the City shall have the power to require reconsideration by the City Council of any ordinance and, if an ordinance so reconsidered is not repealed, to approve or reject it at a City election, provided that such power shall not extend to the budget or capital program, or any ordinance levying a special assessment or providing for the issuance of special tax bills, or any ordinance relating to appropriation of money or levy of taxes.

(c) Recall. Any official elected by popular vote may be removed by the registered voters qualified to vote for his or her successor. No elected official shall be subject to recall during the first six (6) months after the official's induction into office. No elected official shall be subject to recall during the last six (6) months of the official's term. If the official is retained in office upon any recall election, the official shall not be again subject to recall during the same term of office.

Section 8.2 Commencement of Proceedings; Petitioners' Committee; Affidavit.

Any five (5) registered voters of the City qualified to sign the petition may commence initiative, referendum or recall proceedings by filing with the City Clerk an affidavit, on a form provided by the City, stating they will constitute the petitioners' committee and be responsible for circulating the petition and for filing it in proper form. The affidavit shall state their names, addresses and phone numbers, specify the address to which all notices to the committee are to be sent, and set out in full the proposed initiative ordinance or the existing ordinance to be reconsidered, or the name and City office of the City official to be recalled.

No more than five (5) business days after the affidavit of the petitioners' committee is filed, the City Clerk shall issue the appropriate petition forms to the petitioners' committee.

Section 8.3 Petitions.

(a) Number Of Signatures. Initiative and referendum petitions shall be signed by registered qualified voters of the City equal in number to at least ten percent (10%) of the total number of persons registered to vote at the last general municipal election. A recall petition shall be signed by registered qualified voters qualified to vote for his or her successor equal to at least fifteen percent (15%) of the total number of persons registered to vote at the last general municipal election.

(b) Form And Content. All papers of a petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. Each signature shall be followed by the address of the person signing. Petitions shall contain the full text of the ordinance proposed or sought to be reconsidered, or the name and office of the official for whom recall is sought. No petition shall seek the recall of more than one (1) officer, but several propositions for recall may be separately submitted at the same election on the same ballot.

(c) Affidavit Of Circulator. Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating the following: that he or she personally circulated the paper; the number of signatures thereon; that all the signatures were affixed in his or her presence; that he or she believes them to be the genuine signatures of the persons whose names they purport to be; and that each signer had an opportunity before signing to read the full text of either the proposed ordinance, the existing ordinance to be reconsidered, or the recall proposition.

(d) Time For Filing Petitions. Initiative petitions must be filed within sixty (60) days of the issuance of the appropriate petition forms to the petitioners' committee. Referendum petitions must be filed within sixty (60) days after adoption by the Council of the ordinance sought to be reconsidered. Recall petitions must be filed within sixty (60) days of the issuance of the appropriate petition forms to the petitioners' committee.

Section 8.4 Procedure After Filing.

(a) Certification By City Clerk; Amendment Of Petition. Within three (3) business days after a petition with the apparent number of required signatures is filed, the City Clerk shall submit the petition to the election authority for certification, and within three (3) business days after such determination, shall complete a certificate as to its sufficiency, specifying if it is insufficient, the reasons it is defective. A copy of the certificate shall promptly be sent to the petitioners' committee by registered mail, return receipt requested. A petition certified insufficient for lack of the required number of valid signatures may be amended once if, within two (2) business days after receiving the copy of such certificate, the petitioners' committee files with the City Clerk a notice of intention to amend their original petition and a supplementary petition upon additional papers within ten (10) business days after receiving the copy of a certificate of insufficiency. All such supplementary petitions shall comply with the requirements of this Charter, and the City Clerk shall proceed on such supplementary petition as provided for an original petition. If a petition is certified to be insufficient and no timely amended petition is filed, or if an amended petition is certified to be insufficient, no further action shall be had thereon and such determination shall be deemed the final determination.

(b) Court Review New Petition. A final determination as to the sufficiency of a petition shall be subject to court review in the Circuit Court of St. Louis County in the manner provided by law for review of administrative decisions. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

Section 8.5 Referendum Petitions; Suspension of Effect of Ordinance.

When a referendum petition is properly filed with the City Clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- 1)** there is a final determination of insufficiency of the petition, or
- 2)** the petitioners' committee withdraws the petition, or
- 3)** the City Council repeals the ordinance, or
- 4)** the election results sustaining the ordinance have been certified.

- **Could someone use to suspend an ordinance for personal benefit?**

Section 8.6 Action on Initiative and Referendum Petitions.

(a) Action By City Council. When an initiative or referendum petition has been determined sufficient, the City Council shall promptly consider the proposed initiative ordinance in the manner provided in this Charter, or reconsider the referred ordinance by voting its repeal. If a proposed initiative ordinance is not adopted without any change in substance within sixty (60) days or the referred ordinance is not repealed within thirty (30) days after the date the petition was finally determined sufficient, the proposed or referred ordinance shall be submitted to the voters of the City. Council action under this Subsection shall be subject to any otherwise applicable super-majority requirements.

(b) Public Hearing. Any initiative or referendum relating to matters for which public hearings or other procedures are required by law to have occurred before such laws shall take effect shall continue to be subject to such hearings or procedures. Prior to calling the election as required herein, the Council shall timely hold such hearing, provide required notice, and take all other action that may be required by law for such ordinance to become effective if approved by the voters.

(c) Submission To Voters. The vote of the City on a proposed or referred ordinance shall be held not less than thirty (30) days nor later than the next general municipal election date after the expiration of the time periods set forth for Council action. Copies of the proposed or referred ordinance shall be made available at the polls.

Section 8.7 Action on Recall Petitions.

When a recall petition has been certified as sufficient by the City Clerk, the City Council shall at its next meeting after receipt of such certification fix a date for holding the election. The election shall be held at the next available general municipal or special election date for which timely notice may be given. If such office becomes vacant prior to the election, such election shall be canceled, and the vacancy shall be filled as provided in this Charter.

Section 8.8 Withdrawal of Petition.

An initiative, referendum or recall petition may be withdrawn at any time prior to the deadline for certification as prescribed by state law, by filing with the City Clerk a request for withdrawal signed by at least four-fifths (4/5) of the members of the petitioners' committee. Upon filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Section 8.9 Results of Election.

(a) Initiative. If a majority of the registered qualified voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as other ordinances. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict. The initiative question shall be submitted to the voters by a question stated in a neutral form.

- **This provision is part of several Sections relating to voter initiative petitions, and states that if "conflicting ordinances are approved at the same election, the one receiving the greatest number of votes shall prevail to the extent of such conflict." Who determines whether there is a conflict? It seems that this could give rise to dispute/litigation without identifying a decision maker on that issue.**

(b) Referendum. If a majority of the registered qualified voters on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results. The referendum question shall be submitted to the voters in substantially the following form:

Shall City of Wildwood Ordinance # _____ be repealed?

(c) Recall. If a majority of the registered qualified voters voting in such recall election shall vote in favor of the recall, then a vacancy shall exist, regardless of a defect in the recall petition. Such vacancy shall be filled as provided in this Charter. If a majority of the registered qualified voters voting in such election shall vote against the recall, the elected officer shall continue in office. Any person who has been recalled shall be ineligible to serve in the City in any capacity at any time during the remainder of the term for which the official was originally elected. The recall question shall be submitted to the voters in substantially the following form:

Shall (Name) _____, (Title) _____ be removed from office?

Article IX: Franchises

Section 9.1 Granting of Franchises.

All public utility franchises and other franchises for the use of public right-of-way and public places and renewals, extensions and amendments thereof shall be granted only by ordinance. No such ordinance shall be adopted within less than thirty (30) days after application has been filed with the City Council, nor until a public hearing has been held. No exclusive franchises shall be granted, and no franchise shall be granted for a longer term than twenty (20) years. No such franchise or rights thereunder shall be transferable directly or indirectly, except with the approval of the City Council expressed by ordinance after a public hearing.

Section 9.2 Right of Regulation. -

The City Council shall have the right to regulate public franchises, whether or not it be so provided by ordinance. The City Council may:

(a) Repeal for misuse or nonuse, or for failure to comply with the franchise agreement or any applicable ordinance or other law;

(b) Require proper and adequate extension of plant and service and the maintenance thereof;

(c) Establish highest practical standards of service and quality of products and prevent unjust discrimination in service or rates;

(d) Make an independent audit and examination of accounts at any time, and require reports annually;

(e) Require continuous and uninterrupted service to the public in accordance with the terms of the franchise;

(f) Control and regulate the use of the City streets, alleys, bridges and public places, and the space above and below them;

(g) Regulate rates, fares and charges and make readjustments from time to time if the rates are not regulated by the State;

(h) Charge fees or rates for use of the public right-of-way or property based upon any reasonable method of calculation; and

(i) Impose such other regulations from time to time as may be determined to be conducive to the safety, welfare and accommodations of the public, including the payment of utility taxes or other charges as may be established.

Section 9.3 Revocable Permits.

Temporary permits for the operation of public utilities or like permits for a period not to exceed two (2) years but subject to being renewed for a period not to exceed one (1) year and subject to amendment, alteration or revocation at any time at the will of the City Council may be granted by ordinance on such terms and conditions as the City Council shall determine. Such permits shall in no event be construed to be franchises or extensions or amendments of franchises.

Section 9.4 Operation Beyond Franchise Period.

Any operation by a franchise holder with the tacit permission of the City, beyond the period for which the franchise was granted, shall under no circumstances be construed as a renewal or extension of such franchise. Any such operation shall at most be regarded as a mere temporary permit subject, like other permits, to amendment, alteration or revocation at any time at the will of the City Council.

Article X: Licensing, Taxation and Regulation of Business, Occupations, Professions, Vocations and Other Activities or Things

Section 10.1 Objects of Licensing, Taxation and Regulation.

The City Council shall have the power by ordinance to license, tax and regulate all business, occupations, professions, vocations, activities or things whatsoever set forth and enumerated by the statutes of this State now or hereafter applicable to constitutional charter cities, special charter cities, towns, villages, or cities of the third or fourth class, or of municipalities of any population group, and which any such cities are now or may hereafter be permitted by law to license, tax and regulate.

[Ords. 46, 47, 48, 373]

Article XI: Ethics

Section 11.1 Purpose of Personal Financial Provisions.

The purpose of the following provisions is to establish a standard of conduct and a standard of public ethics consistent with the expectations of the Citizens of Wildwood who deserve and demand integrity and ethical behavior.

Section 11.2 Personal Financial Interest.

Any elected or appointed officer, employee or member of any board or commission of the City who has substantial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract with the City or in the sale or purchase of any land, material, supplies or services to or from the City or to a contractor supplying the City shall make known that interest in writing to the City and shall refrain from voting upon or otherwise participating in his or her capacity as a City officer or employee in the making of such sale or purchase or in the making or performance of such contract. Any City officer or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this Section shall be guilty of malfeasance in office or position and shall forfeit his or her office or position. Violation of this Section with the knowledge express or implied of the person or corporation contracting with or making a sale to the City shall render the contract or sale voidable by the City.

- **Should this be changed to say that such forfeiture occurs "immediately," as in ". . . shall immediately forfeit his or her office . . ."? The concern is that, without that specification, a dispute could arise as to when such forfeiture should occur.**
- **Lines 7 and 8 should read: "Any City Officer, employee or member of any board or commission of the City who willfully conceals such a substantial financial interest or willfully violates the requirements of this Section shall be guilty of malfeasance in office or position and shall forfeit his or her office or position."**

Section 11.3 Political Activity.

No City employee shall solicit any contribution for the campaign fund of any candidate for Wildwood City office or take part in the political campaign of any candidate for City office. All employees may exercise their rights as private citizens to express opinions and, if registered qualified voters in Wildwood, to vote in any City election. Political affiliation, participation or contribution shall not be considered in making any City employment decision. No City officer, board member, Council member, commission member or employee shall use official authority or official influence for the purpose of interfering with or affecting the result of an election to City office. No City officer, board member, Council member, commission member or employee shall directly or indirectly coerce, attempt to coerce, command, advise or solicit a City employee to pay, lend, or contribute anything of value to a committee, organization, agency or person for the political or electoral purposes of any candidate for City office.

- **Charter Commission comments:**
 - When can those identified in Section 11.3 express their opinions as private citizens
 - Do not want to infringe upon peoples' rights
 - Need legal interpretation of official authority versus official influence
 - Focus more on Sections of the Charter that affect peoples' daily lives
 - Voters may want to know who candidates support
 - Endorsing candidates does not influence elections
 - Support amendment proposed by Mr. Riegel
 - Legal to endorse candidates at the state and federal levels
- **Opposition from residents via public comment and letters to the Charter Review Commission regarding amendments to Section 11.3**
(Larry Thompson, Bill Kennedy, John Gagnani, Marlene Thelemann, Tammy Shea, Dan McLaughlin, Kelley Woerther, Jean Vedvig, Pat Kozlowski)
 - **Summary of comments received**
 - Elected officials should not be allowed to endorse other candidates while using their official title
- **2 residents spoke in favor of amending Section 11.3** (Maureen Maryniak and Rubin Riegel)
- **Proposed amendment from Rubin Riegel:** No city employee shall solicit any contribution for the campaign fund of any candidate for Wildwood City office or take part in the political campaign of any candidate for City office. All employees may exercise their rights as private citizens to express opinions and, if registered qualified

voters in Wildwood, to vote in any City election. Political affiliation, participation or contribution shall not be considered in making any City employment decision. No mayor, City officer, board member, Council member, commission member or employee shall use official authority or official influence for the purpose of improperly interfering with or improperly affecting the result of an election to City office. No mayor, City officer, board member, Council member, commission member or employee shall directly or indirectly coerce, attempt to coerce, command a City employee to pay, lend, or contribute anything of value to a committee, organization, agency or person for political or electoral purposes of any candidate for City office. Nothing hereunder shall prevent any person seeking elected office in Wildwood or who has attained elected office in Wildwood from endorsing any other candidate, in such manner as he or she deems appropriate. Any such endorsement shall not be deemed improper interference or improper affecting an election.

- **Proposed amendment from Mayor Jim Bowlin:** No mayor, City officer, board member, Council member, commission member or employee shall use official authority or official influence to: (1) coerce any person to participate or refrain from participating in political activity; or (2) solicit, accept or receive uncompensated individual volunteer services from a subordinate for any political purpose for the purpose of interfering with or affecting the result of an election to City office.

Section 11.4 Activities Prohibited.

(a) Discrimination. No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to, any City position or appointive City administrative office because of race, sex, age, disability, national origin, sexual orientation, or political or religious opinions or affiliations.

- **Does this conflict with Section 11.3?**

(b) Fraud. No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the provisions of this Charter or the rules and regulations made hereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

(c) Graft. No person who seeks appointment, promotion or retention with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his or her appointment, promotion or proposed promotion.

(d) Improper Influence. No elected or appointed officer or employee of the City may accept any improper fee, compensation, gift or payment as shall be prohibited and defined by ordinance.

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(e) Penalties. Any person who, by himself or herself or with others, willfully violates any of the provisions of this Section shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of up to five hundred dollars (\$500.00) and/or up to ninety (90) days in jail, or such greater or different penalties as may be provided by ordinance.

Article XII: General Provisions

Section 12.1 Notice of Suits.

Unless otherwise established by ordinance, no action shall be maintained against the City for or on account of any injuries growing out of any defect in the condition of any bridge, boulevard, street, sidewalk or thoroughfare in the City, until notice shall first have been given in writing to the Mayor, within ninety (90) days of the occurrence for which such damage is claimed, stating the place where and the time when such injury was received, and the character and circumstances of the injury, and that the person so injured will claim damages therefore from the City. The Council is authorized to establish by ordinance such additional or different notice provisions regarding any claims against the City as permitted by law.

Section 12.2 Official Bonds.

All officers and employees of the City who receive, disburse, or are responsible for City funds and such other officers and employees as the City Council by ordinance may designate, shall, within such time after election or appointment as may be fixed by ordinance, and before entering upon the discharge of their duties, give bond to the City in such sums and with such sureties as shall be prescribed by ordinance, and subject to approval by the City Council, conditioned upon the faithful and proper performance of their duties and for the prompt accounting for and paying over to the City of all moneys belonging to the City that may come into their hands. The City shall pay the premiums on all such bonds.

Section 12.3 Charter Amendments.

Amendments to this Charter may be framed and submitted to the voters by a commission as provided by law and the Constitution of the State of Missouri for framing and submitting a complete charter. The commission may include the Mayor and Council Members. Amendments may also be proposed by ordinance by the City Council, the Charter Review Commission or by petition signed by not less than ten percent (10%) of the registered voters of the City setting forth the proposed amendment and filed with the City Clerk.

The City Council shall at once provide by ordinance that any amendment so proposed shall be submitted to the voters at the next election held in the City not less than two (2) months nor more than eight (8) months after such proposal is certified by the appropriate election officials. If a City election is not scheduled within that time period, a special election shall be held at the next available election date provided by law.

Any amendment approved by a majority of those voting thereon shall become a part of the Charter at the time and under the conditions fixed in the amendment. Sections or Articles may be submitted separately or in the alternative and determined as provided for a complete Charter.

Section 12.4 Charter Review Commission.

From time to time, but not less than every ten (10) years, the City Council shall provide for a Charter Review Commission to consider whether any amendments to this Charter are appropriate. The members of the Charter Review Commission shall be appointed by the Mayor with the advice and consent of a majority of the members of the City Council.

The Charter Review Commission shall consist of one (1) member from each Ward, with not more than one-fourth (1/4) of the members being persons holding other elected offices of the City.

The Charter Review Commission shall within six (6) months of its first meeting report to the City Council any amendments to the Charter it deems advisable. The City Council may at its discretion submit such proposed amendments to the voters.

- **Should Council Members and/or the Mayor be allowed to serve on the Commission?**

Section 12.5 Public Improvements and Special Assessments.

(a) Improvements. The procedure for making, altering, vacating or abandoning a public improvement shall be governed by general ordinance, consistent with applicable law.

(b) Special Assessments. The procedure for levying, collecting and enforcing the payment of special assessments for public improvements or special tax bills evidencing such assessments shall be governed by general ordinance, consistent with applicable law.

Section 12.6 Proof of Ordinance.

Any ordinance may be proved by a copy thereof certified by the City Clerk under the seal of the City; or, when printed and published by authority of the City, shall be received in evidence in all courts, or other places, without further proof of authenticity.

Section 12.7 Severability.

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstances is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

Article XIII: Transitional Provisions and Schedule

- **This entire Article appears to relate to provisions pertaining to the initial incorporation of the City. If so, is it necessary to continue to have this Article as part of the Charter?**

Section 13.1 Purpose.

The purpose of the following provisions is to promote the orderly transition from the present statutory government of the City of Wildwood to the Home Rule Charter. The provisions of this Article shall constitute a part of this Charter only to the extent and for the time required to accomplish that aim.

Section 13.2 Personnel and Officials.

Any person employed by the City or holding any appointive or elected City office at the time this Charter takes full effect, who was serving in that same or comparable position at the time of its adoption, shall continue in that position.

Section 13.3 Administrative Organization.

(a) Departments, Authorities And Offices. Existing departments, agencies, authorities and offices shall be continued as constituted on the effective date of this Charter until thereafter changed pursuant to this Charter or by ordinance.

(b) Boards And Commissions. Existing boards and commissions shall be continued as constituted on the effective date of this Charter until thereafter changed pursuant to this Charter or by ordinance.

Section 13.4 Ordinances to Remain in Force.

All ordinances, regulations, resolutions and orders in force at the time this Charter takes effect, which are not inconsistent with the provisions of this Charter, shall remain and be in force until altered, modified or repealed by or under authority of this Charter or ordinance.

Section 13.5 Pending Actions and Proceedings.

No action or proceeding, civil or criminal, pending at the time this Charter shall take effect, brought by or against the City or any office, department, agency or officer thereof, shall be affected or abated by the adoption of this Charter or by anything herein contained.

Section 13.6 Continuance of Contracts, Public Improvements and Taxes.

All contracts entered into by the City, or for its benefit, prior to the taking effect of this Charter, shall continue in full force and effect.

Public improvements for which legislative steps have been taken under laws existing at the time this Charter takes effect may be carried to completion as nearly as practicable in accordance with the provisions of such existing laws.

All taxes and assessments levied or assessed, all fines and penalties imposed and all other obligations owing to the City which are uncollected at the time this Charter becomes effective shall continue in full force and effect and shall be collected as if no change had been made.

Section 13.7 Election to Approve Charter.

This Charter shall be submitted to a vote of the electors of the City of Wildwood at an election to be held on the fourth day of November, 1997. This election shall be administered by the officials having the responsibility for the conduct of municipal elections in accordance with the provisions of the Constitution of the State of Missouri.

Section 13.8 Effective Date of Charter.

After its adoption by voters, this Charter shall be in effect at the first meeting of the City Council after certification of those election results, with the Mayor and Council Members in office at the date this Charter is adopted operating within the Charter as Mayor and Council Members.

Section 13.9 First Elections.

The first municipal election for elected municipal offices under this Charter shall be held on the first general municipal election date after the effective date of this Charter.

Section 13.10 Incumbent Elective Officials.

Incumbent elective officials holding office on the effective date of this Charter shall serve the remainder of their terms, and all subsequent terms shall be filled as provided for in this Charter. No term or portion of a term in effect on the effective date of this Charter shall be included in any calculation of term limitations.

