Home Rule Charter

CITY OF
NIXA
MISSOURI

TABLE OF CONTENTS

Article I. Incorporation, Name and Boundaries ----------5
Preamble ----------5
Incorporation, Name and Boundaries ----------5
Section 1.1 Incorporation, Name and Boundaries----------5

Article II. Powers----------6
Section 2.1 Powers ----------6
Section 2.2 Construction ----------6

Article III. The Council ----------7
Section 3.1 Where Powers Vested----------7
Section 3.2 Composition, Eligibility, Election and Terms----------7
Section 3.3 Compensation; Expenses ----------7
Section 3.4 Mayor Pro Tempore ----------8
Section 3.5 Prohibitions ----------8
Section 3.6 Vacancies; Forfeitures of Office, Filling of Vacancies ----------8
Section3.7 Judge of Qualifications ----------9
Section 3.8 City Clerk ----------9
Section 3.9 Investigations----------9
Section 3.10 Independent Audit----------9
Section 3.11 Legislative Proceedings ----------10
Section 3.12 Revision of Ordinances----------11

Article IV Mayor ----------12
Section 4.1 Executive Power ----------12
Section 4.2 Mayor Qualifications; Election and Term ----------12
Section 4.3 Compensation ----------12
Section 4.4 Powers and Duties – Mayor ----------12
Section 4.5 Prohibition ----------13
Section 4.6 Vacancy, Forfeiture of Office: Filling of Vacancy ----------13

Article V City Administrator ----------15
Section 5.1 Appointment and Term ----------15
Section 5.2 Duties and Responsibilities----------15
Section 5.3 Acting City Administrator----------16
Section 5.4 Performance Review ----------16

Article VI Municipal Court ----------17
Section 6.1 Jurisdiction----------17
Section 6.2 Judges----------17
Section 6.3 Court Administration----------18

Article VII: Administrative Organization and Personnel System----------19
Section 7.1 Administrative Organization ----------19
Section 7.2 Personnel System ----------19

Article VIII: Financial Procedures----------20
Section 8.1 Fiscal Year ----------20

Section 8.2 Submission of Budget and Budget Message----------20
Section 8.3 Budget ----------20
Section 8.4 Capital Program ----------20
Section 8.5 Council Action on Budget ----------21
Section 8.6 Public Records ----------21
Section 8.7 Amendment after Adoption ----------21
Section 8.8 Council Action on Taxes and Levies ----------22
Section 8.9 Sale of Bonds ----------22

Article IX; Nominations and Elections ----------23
Section 9.1 Municipal Elections ----------23
Section 9.2 Declaration of Candidacy----------23
Section 9.3 Determination of Election Results ----------23
Section 9.4 City Council Districts ----------23

Article X: Initiative, Referendum and Recall ----------24
Section 10.1 General Authority ----------24
Section 10.2 Commencement of Proceedings; Petitioner's Committee; Notarized Affidavit ----------25
Section 10.3 Petitions ----------25
Section 10.4 Procedure after Filing----------26
Section 10.5 Referendum Petitions; Suspension of Effect of Ordinance ----------27
Section 10.6 Action on Initiative, Referendum and Recall Petitions----------27
Section 10.7 Results of Election ----------28

Article XI; Franchises ----------29
Section 11.1 Granting of Franchises ----------29
Section 11.2 Right of Regulations ----------29
Section 11.3 Temporary Permits ----------30
Section 11.4 Operation Beyond and Franchise Period ----------30

Article XII; Licensing, Taxation and Regulation of Business, Occupations, Professions, Vocations and Other Activities or Things ----------31
Section 12.1 Objects of Licensing, Taxation and Regulation ----------31

Article XIII; General Provisions ----------32
Section 13.1 Personal Financial Interest ----------32
Section 13.2 Prohibitions----------32
Section 13.3 Political Activity----------33
Section 13.4 All Ordinances Effective on Municipal Land----------33
Section 13.5 Notice of Suits ----------33
Section 13.6 Official Bonds and Oath----------33
Section 13.7 Charter Amendment ----------34
Section 13.8 Charter Review Commission ----------34
Section 13.9 Public Improvements and Special Assessments ----------34
Section 13.10 Proof of Ordinance ----------35
Section 13.11 Separability ----------35

Article XIV; Transitional Provisions ----------36
Section 14.1 Personnel System----------36
Section 14.2 Continuance of Taxes, Assessments and Fees ----------36

Section 14.3 Ordinances to Remain in Force ----------36
Section 14.4 Pending Actions and Proceedings ----------36
Section 14.5 Continuance of Contracts, Public Improvements and Taxes ----------36

Article XV; Schedule ----------37
Section 15.1 Election to Adopt Charter ----------37
Section 15.2 Election of City Officials----------37
Section 15.3 Time of Taking Full Effect ----------37
Section 15.4 Temporary Ordinances ----------37
Section 15.5 Purpose of Schedule ----------38

ARTICLE I. INCORPORATION, NAME AND BOUNDARIES
CHARTER OF THE CITY OF NIXA, MISSOURI (2010)

PREAMBLE

We, the People of Nixa, Missouri, in order to build on a proud heritage, promote the well-being of our community, and secure the benefits and advantages of constitutional home rule under the Missouri Constitution, do hereby establish this Charter for the better government of our City:

INCORPORATION, NAME AND BOUNDARIES

Section 1.1 Incorporation, Name and Boundaries

The inhabitants of the City of Nixa, 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 Nixa.

ARTICLE II.

POWERS

Section 2.1 Powers

The City shall have all powers 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 Where Powers Vested

Except as this Charter provides otherwise, all powers of the City shall be vested in the Council. 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.

Section 3.2 Composition, Eligibility, Election and Terms

(a) *Election by Districts.* There shall be a City Council of two (2) members per District elected by the registered voters of their respective districts, as provided in Article IX.

(b) *Qualifications.* A Council Member shall be a citizen of the United States and a resident of the City for one (1) year at the time of filing for office. A person must be a resident of the District for which the person is seeking office at the time of filing for office and must be registered to vote in that District and must remain a resident of the District during the time of service as an elected official of the City.

(c) *Election and Terms.* Council Members shall be elected to serve staggered three (3) year terms. At the first election under this charter, six (6) Council Members shall be elected. Of the Council Members elected at the first such election, one (1) Council Member from Districts One (1) and Two (2) shall serve only one (1) year terms; one (1) Council Member from Districts Two (2) and Three (3) shall serve only two (2) year terms; and one (1) Council Member from Districts Three (3) and One (1) shall serve three (3) year terms. The Council Member from each respective District receiving the greatest number of votes shall serve the longer term for that District. At each regular municipal election thereafter, Council Members shall be elected to fill the positions of those whose terms expire and shall serve full three (3) year terms.

Section 3.3 Compensation; Expenses

The Council may determine the annual compensation of Council Members by ordinance, but no ordinance increasing such compensation shall become effective for a Council Member until the commencement of a new term of office. Council Member shall receive their actual and necessary expenses incurred in the performance of their duties of office.

Section 3.4 Mayor Pro Tempore

The Council shall elect annually from among its members a Mayor Pro Tempore. The Mayor Pro Tempore shall assume the powers and duties of the Mayor during the absence or disability of the Mayor, or if a vacancy occurs. While assuming the powers and duties of the Mayor, the Mayor Pro Tempore shall retain his or her vote as a Council Member, but shall not possess the additional mayoral voting power provided by Section 4.4(a), *Council Meetings,* and shall not possess the mayoral veto power provided by Section 4.4(c), *Veto.*

Section 3.5 Prohibitions

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

(b) *Appointments and Removals*. Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the City Administrator or any of his subordinates are empowered to appoint, but the Council as a group may express its views and fully and freely discuss with the City Administrator anything pertaining to the appointment and removal of such officers and employees.

(c) *Interference with Administration.* Except for the purpose of inquiries and investigations under Section 3.9, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Administrator solely through the City Administrator, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

Section 3.6 Vacancies; Forfeiture of Office, Filling of Vacancies

(a) *Vacancies.* The office of a Council Member shall become vacant upon the member's death, resignation, recall or removal from office in any manner authorized by law or this Charter or upon forfeiture of the office.

(b) *Forfeiture of Office*. A Council Member shall forfeit office if:
   i. At any time during the member's term of office the member lacks any qualification for the office prescribed by this Charter or by law; or
   ii. If the member violates any prohibition of this Charter or is convicted of a crime involving moral turpitude; or
   iii. If the member defaults in taxes to the City or fails to attend three (3) consecutive regular meetings of the Council without being excused by the Council.

(c) *Filling of Vacancies.* A vacancy in the Council shall be filled by the Council by a majority vote of all its remaining members for a period running to the next regular municipal election unless such period exceeds one year. In the latter case, the Council shall make arrangements for a special election to fill such vacancy for the unexpired term.

Section 3.7 Judge of Qualifications

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of his or her office shall be entitled to a public hearing on demand. Decisions made by the Council under this section shall be subject to review by the courts.

Section 3.8 City Clerk

The City Clerk shall keep the journal of Council proceedings, authenticate by his/her signature all ordinances and resolutions, and record them in full in a book kept for that purpose. He/she shall perform such other duties as may be required by law, by this charter, or by the Council. The City Clerk shall hold office in accordance with Section 4.4 (g) and 4.4 (h).

Section 3.9 Investigations

The Council may make investigations into the affairs of the City and the conduct of any City department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a subpoena issued in the exercise of these powers by the Council shall be guilty of an ordinance violation and punishable as prescribed by law.

Section 3.10 Independent Audit

The Council shall provide for an independent audit of all City accounts at least once a year. Such audits shall be made in accordance with generally accepted accounting standards by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The audit report shall be presented to the Council within 90 days of its preparation. A copy of the report prepared by the certified public accountant or firm of such accountants shall be kept in the City Clerk's office and shall be open to public inspection.

Section 3.11 Legislative Proceedings

(a) *Meetings*. The Council shall meet regularly at least once each month at such times and places as the Council may prescribe. The Mayor upon his or her own motion may, or at the request of three members of the Council shall, call a special meeting of the Council for a time not earlier than 24 hours after notice is given to all members of the Council then in the City. Emergency meetings may be called with less than 24 hours notice subject to state law.

(b) *Rules and Journals.* The Council shall 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, maintained in the Office of the City Clerk.

(c) *Voting.* Voting procedures shall be adopted by ordinance or resolution establishing under what circumstances a roll call vote is required and setting forth a procedure for vote taking that provides for a degree of random voting so that a Council Member will be varied in his voting order. Such voting procedures shall be consistent with State law. In all roll call votes the names of the members of the Council shall be recorded in a journal. A majority of members of the Council shall constitute a quorum for its business, but a smaller number may meet and compel the attendance of absent members in the manner and subject to the penalties prescribed by ordinance. Unless otherwise provided by this Charter, the affirmative vote of a majority of the entire Council shall be necessary to adopt any ordinance.

The term "entire Council", as used in this Charter, shall mean the number of Council seats established by Section 3.2 (a) of this Charter and shall include, in determining the number of votes required, any vacant seat. In the case of an emergency declared by the Mayor or Governor of the State of Missouri involving the City of Nixa and caused by a catastrophic event or disaster, the Council may act on any matter before it by a majority vote of the quorum without counting vacant seats to determine the required number of votes. If a vote on an issue does not require a vote of the "entire Council", then a majority of a quorum may act on the issue.

(d) *Forms of Ordinances.* Proposed ordinances and 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 Nixa.

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

Be it Ordained by the People of the City of Nixa.

(e) *Procedure.* Except in the case of emergency ordinances, every proposed ordinance shall be read by title in open Council meeting two times before final passage. A copy of each proposed ordinance shall be provided for each Council Member at the time of its introduction, and at least three copies shall be provided for public inspection in the Office of the City Clerk. Persons interested in a proposed ordinance shall be given an

opportunity to be heard before the Council in accordance with such rules and regulations as the Council may adopt. If the Council adopts an amendment to a proposed ordinance that constitutes a change in substance, any member of the Council may require that the proposed ordinance as amended be placed on file for public inspection in the Office of City Clerk for one additional week before final passage. In the absence of such a request, the Council may consider the amended ordinance at the same meeting.

(f) *Emergency Ordinances.* An ordinance may be passed as an emergency measure on the day of its introduction if it contains a declaration describing in clear and specific terms the facts and reasons constituting the emergency and receives the vote of two-thirds of the entire Council. An ordinance granting, reviewing, or extending a franchise shall not be passed as an emergency ordinance.

(g) *Effective Date.* Every adopted ordinance and resolution shall become effective immediately upon passage, adopting and approval by the Mayor (including deemed approval by the Mayor failing to either sign or disapprove the same within ten days of receipt, as provided in Section 4.4 (c), Veto), or any later date specified therein.

(h) *Authentication and Recording*. All ordinances and resolutions adopted by the Council shall be authenticated by a signature of the Mayor and City Clerk. The City Clerk shall record in a properly indexed book kept for the purpose of all ordinances and resolutions adopted by the Council which shall be made available for public inspection.

Section 3.12 Revision of Ordinances

Within three years after adoption of this Charter, all ordinances and resolutions of the City of a general and permanent nature shall be revised, codified, and promulgated according to a system of continuous numbering and revision as specified by ordinance.

ARTICLE IV
MAYOR

Section 4.1 Executive Power

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 Mayor Qualifications; Election and Term

(a) *Qualifications.* The Mayor shall have been a resident of the City one year at the time of filing for office and a registered voter and shall remain a resident and registered voter of the City.
(b) *Election and Term.* At the regular municipal election, the Mayor shall be elected by the registered voters of the City at large to serve a three (3) year term provided by Section 9.1.

Section 4.3 Compensation

The City Council may determine the annual compensation of the Mayor by ordinance, but no ordinance changing such compensation shall become effective for the Mayor until the commencement of a new term of office. The Mayor shall receive actual and necessary expenses incurred in the performance of the Mayor's duties of office.

Section 4.4 Powers and Duties—Mayor

The Mayor shall have the following powers and duties:

(a) *Council Meetings.* The Mayor shall preside at meetings of the Council, but the Mayor shall have the right to vote only in case of a tie. The Mayor may call special meetings of the Council as provided in Section 3.11 (a), Meetings.
(b) *State of the City.* The Mayor shall at least annually present to the Council information as to the affairs of the City and any recommendations of the Mayor.
(c) *Veto.* An ordinance or resolution adopted by the Council shall be presented to the Mayor for the Mayor's approval. The Mayor shall either sign the same or, within ten (10) business days of receipt of the ordinance or resolution, return it with a written statement of the Mayor's reasons for disapproval. Ordinances or resolutions vetoed by the Mayor shall be considered at the next regular meeting of the Council, and the Council may pass the ordinance over the veto by an affirmative vote of two-thirds (2/3) of the entire Council. If any ordinance or resolution be neither signed nor returned by the Mayor within ten (10) days of receipt by the Mayor, the same shall be deemed approved by the Mayor as if the Mayor had signed it and shall become law without his signature.

(d) *Execution of Laws.* The Mayor shall see that all laws, provisions of this Charter and acts of the Council are faithfully executed.
(e) *Execution of Documents.* The Mayor shall sign all ordinances, resolutions, proclamations, grants and executive orders. Except as otherwise provided by the City Council, the Mayor shall sign on behalf of the City all instruments conveying and/or releasing an interest in real property, all agreements and contracts between the City and other governmental entities and all Council policies.
(f) *Appointments.* The Mayor, with the advice and consent of a majority of the Council, shall appoint all members of committees, authorities, boards and commissions, except as otherwise provided by law or this charter.
(g) *Appointive Officers.* The Mayor, with the advice and consent of two-thirds (2/3) of the entire Council, shall have power to appoint a City Administrator, City Clerk, City Attorney and Chief of Police. The Mayor and City Council may employ special counsel to represent the City, either in a case of a vacancy in the office of City Attorney or to assist the City Attorney, and pay reasonable compensation therefore.
(h) *Removal of Appointive Officers.* The Mayor, with the consent of a majority of the entire Council, may remove from office any appointive officer authorized under paragraph (g) at will, and any such appointive officer may be so removed by a two-thirds (2/3) vote of the entire Council, independently of the Mayor's approval or recommendation. The City Council may pass ordinances regulating the manner of removals.
(i) *Administrative Policy Matters.* The Mayor shall have the responsibility of discussing with the City Administrator any and all policy matters; however, the Mayor shall not interfere with day-to-day administration of City affairs.
(j) *Review City Administrator.* The Mayor shall preside as Chair of the City Council's annual performance review of the City Administrator.
(k) *Other 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 4.5 Prohibition

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 City office or City employment during the term for which the Mayor was elected, and no former Mayor shall hold any compensated appointive City office or City employment until one (1) year after the expiration of the term for which the Mayor was elected.

Section 4.6 Vacancy, Forfeiture of Office; Filling of Vacancy

(a) *Vacancy.* The office of the Mayor shall become vacant upon the Mayor's death, resignation, recall or removal from office in any manner authorized by this Charter or by law, or upon forfeiture of the office.
(b) *Forfeiture of Office.* The Mayor shall forfeit office:
   i. If at any time during the term of office the Mayor lacks any qualifications for the office prescribed by this Charter or by law; or
   ii. If the Mayor violates any prohibition of this Charter or is convicted of a crime involving moral turpitude; or

iii. Defaults in taxes to the City or fails to attend three (3) consecutive regular meetings of the Council without being excused by the Council; or

iv. If the Mayor willfully violates the requirements of Section 13.1, Personal Financial Interest.

(c) *Filling of Vacancy.* A vacancy in the office of Mayor shall be filled by election at the next regular municipal election established by the Missouri election calendar in accordance with State law, for which timely notice may be given. The person elected will serve the remainder of the unexpired term. The Council shall, by majority vote of the entire Council, appoint someone to serve as Mayor if the general election is over sixty (60) days from the date of vacancy.

ARTICLE V
CITY ADMINISTRATOR

Section 5.1 Appointment and Term

There shall be a City Administrator appointed by the Mayor with the advice and consent of two-thirds (2/3) of the entire Council. The City Administrator shall be appointed solely on the basis of such person's executive and administrative qualifications. The person appointed as City Administrator shall serve for an indefinite term. The City Administrator may be removed on recommendation of the Mayor with the consent of two-thirds (2/3) of the entire Council or by a two-thirds (2/3) vote of the entire Council on its own initiative. The City Administrator shall be compensated as established by the Council. The person appointed to the office of City Administrator shall become a resident of and reside within the City limits within six (6) months of appointment and possess qualifications provided by ordinance. The residency requirement may be waived by a two-thirds (2/3) vote of the entire Council.

Section 5.2 Duties and Responsibilities

The City Administrator shall be the chief administrative officer of the City. The City Administrator shall be responsible to the Mayor and Council for the administration of all City affairs placed in the City Administrator's charge by or under this Charter. The City Administrator shall have the following duties and responsibilities:

(a) *Appointment and Removal of Department Directors and Employees*. The City Administrator shall appoint and, when the City Administrator deems it necessary for the good of the City, to suspend or remove City employees and appointive administrative officers, provided for by or under this Charter, except as otherwise provided by law, this Charter or the personnel code and regulations thereunder adopted pursuant to Section 7.2 Personnel System. The City Administrator may authorize any administrative officer who is subject to the City Administrator's direction and supervision to exercise these duties and responsibilities with respect to subordinates in that officer's department, office or agency.

(b) *Administration of Departments*. The City Administrator shall direct and supervise the administration of all departments, officers and agencies of the City, except as otherwise provided by this Charter or by law.

(c) *Attend City 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.

(d) *Enforcement of Laws*. The City Administrator shall see that all laws, provisions of this Charter and acts of the Council subject to enforcement by the City Administrator, or by any person subject to the City Administrator's direction and supervision, are enforced.

(e) *Budget and Capital Program*. The City Administrator shall prepare and submit the annual budget and capital program to the Mayor and Council.
(f) *Finance and Administrative Report*. The City Administrator shall submit to the Mayor and 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.
(g) *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.
(h) *Report of Financial Condition of the City*. The City Administrator shall keep the Mayor and Council fully advised as to the financial condition and future needs of the City and make recommendations to the Council concerning the affairs of the City.
(i) *Execution of Documents*. Except as otherwise provided by the Council or in this Charter, the City Administrator shall sign on behalf of the City all instruments required to implement the Council approved budget, all documents related to the administration and management of employees, all administrative policies, all capital project contracts and professional services agreements, and all contracts and agreements related to the administration and management of government business.
(j) *Other duties*. The City Administrator shall perform such other duties as are specified in this Charter or may be required by the Council.

Section 5.3 Acting City Administrator

By letter filed with the City Clerk, the City Administrator shall designate a qualified person to exercise the powers and perform the duties of the City Administrator during the temporary absence or disability of the City Administrator. Such person shall be appointed solely on the basis of such person's executive and administrative qualifications. During such absence or disability, the Mayor, with the consent of the Council, may revoke such designation at any time and appoint another qualified person to serve.

Section 5.4 Performance Review

The City Administrator shall receive a performance review from the Mayor and Council at least once each year. Each Performance review shall be made part of the confidential personnel file of the City Administrator.

ARTICLE VI

MUNICIPAL COURT

Section 6.1 Jurisdiction

There shall be a Municipal Court which shall have jurisdiction to hear and determine all cases involving alleged violations of ordinances of the city, and to assess punishment, by fine or incarceration, as therein provided. This court is a continuation of the municipal court of the city as previously established and shall be known as the "Nixa Municipal Court, a Division of the 38th Judicial Circuit Court of the State of Missouri." The Municipal Court shall be subject to the rules of the Missouri Supreme Court and the Circuit Court of which it is part.

Section 6.2 Judges

The Municipal Court shall have its own judge.

(a) *Election and Terms.* The judge shall be elected to serve a two-year term as provided by Section 15.2(d), Election of City Officials; Municipal Judge. The number of Municipal Judges and corresponding division of the Municipal Court may be changed by ordinance without amending the Charter, provided said change would not take effect before the expiration of the affected term. Additional judges shall also be elected to two-year terms on a cycle to be determined by the ordinances creating such additional judicial positions.

(b) *Powers and Duties.* The Municipal Judge shall have such powers and duties as are conferred upon such officers by law or by ordinance.

(c) *Qualifications.* A Municipal Judge shall be a licensed member of the Missouri Bar, shall have been in active practice of law in the State of Missouri for at least three years immediately preceding his or her election.

(d) *Prohibition.* No Municipal Judge shall hold any other Nixa City office or City employment during the term for which the judge was elected, and no former Municipal Judge shall hold any compensation appointive Nixa City office or City employment until one year after the expiration of the term for which the judge was elected.

(e) *Vacancies.* An office of Municipal Judge shall become vacant upon the judge's death, resignation, recall or removal from office in any manner authorized by this Charter or by law, or upon forfeiture of the office.

(f) *Forfeiture of Office.* A Municipal Judge shall forfeit office: (1) if at any time during the term of office he or she lacks any qualification for the office prescribed by this Charter or by law, or (2) if the judge violates any prohibition as provided in Section 6.2(d), Prohibition, or (3) if a judge willfully violated the requirements of Section 13.1, Personal Financial Interest, (4) or if convicted of a crime involving moral turpitude.

(g) *Removal from Office***.** Municipal judges may be removed from office in any manner provided by law or the Rules of the Missouri Supreme Court.

(h) *Filling of Vacancies.* The Council by a majority of the entire Council shall appoint a qualified person to fill a vacancy in the office of Municipal Judge until the next regular municipal election as established by the Missouri election calendar in accordance with state law, for which timely notice may be given, when a person will be publicly elected by qualified voters to serve the remainder of any unexpired term.

(i) *Compensation.* Compensation of Municipal Judges shall be determined by ordinance, and shall not be dependent in any way upon the number of cases tried, the number of guilty verdicts reached, or the amount of fine imposed or collected. No change in compensation of an incumbent Municipal Judge shall become effective during that judge's term of office.

Section 6.3 Court Administration

The Council shall provide for a Court Administrator, clerks and other personnel for the Municipal Court, with management appointed by the City Administrator. Said management shall appoint, suspend, or remove and render the annual performance review of the Court Administrator, Clerks and other personnel for the Municipal Court. All personnel of the Municipal Court shall be subject to the administrative policies and procedures of the city, except as otherwise provided by law.

ARTICLE VII
ADMINISTRATIVE ORGANIZATION AND PERSONNEL SYSTEM

Section 7.1 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) *Committees, Boards and Commissions*. Existing committees, 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 7.2 Personnel System

The Council shall adopt by ordinance a personnel code providing a comprehensive personnel system for City officers and employees. The personnel code shall provide that all appointments and promotion of City officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or otherwise evidence of competence. The personnel code may authorize the City Administrator to promulgate regulations dealing with personnel matters. The personnel code and any regulations promulgated pursuant thereto shall be consistent with this Charter.

ARTICLE VIII
FINANCIAL PROCEDURES

Section 8.1 Fiscal Year

The Council shall determine the fiscal year of the City.

Section 8.2 Submission of Budget and Budget Message

Before the beginning of the fiscal year, the City Administrator shall submit to the Mayor and Council a budget for the ensuing fiscal year and an accompanying message.

Section 8.3 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 Council may require. In no event shall the total proposed expenditures exceed the estimated revenues to be received plus any unencumbered cash reserves estimated to be on hand at the beginning of the budget year.

Section 8.4 Capital Program

(a) *Submission to Council.* The City Administrator shall prepare and submit to the Mayor and Council a five-year capital program prior to the final date for submission of the budget. The Council by resolution shall adopt the capital program with or without amendment on or before the last day of the month of the current fiscal year.

(b) *Contents.* The capital program shall include:

i. A clear general summary of its contents;
ii. A list of all capital improvements that are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
iii. Costs estimates, method of financing and recommended time schedules for each such improvement; and
iv. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

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

Section 8.5 Council Action on Budget

(a) *Notice and Hearing*. The Council shall publish in one or more newspapers of general circulation in the City a general summary of the budget and a notice stating:

(1) The times and places where copies of the message and budget are available for inspection by the public; and
(2) The time and place, not less than two weeks after such publication, for a public hearing on the budget.

(b) *Amendment Before Adoption*. After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for elimination of a projected cash deficit.

(c) *Adoption.* The Council by ordinance shall adopt the budget on or before the last day of the month of the fiscal year currently ending. If it fails to adopt the budget 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 Council adopts a budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated.

Section 8.6 Public Records

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

Section 8.7 Amendment After Adoption

(a) *Supplemental Appropriations*. 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 Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

(b) *Reduction of Appropriations*. 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 Council without delay, indicating the estimated amount of the deficit, any remedial action taken by the City Administrator, and recommendations as to any other steps to be taken. The Council then shall 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 may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the City Administrator, the Council may by ordinance transfer part or all of any unencumbered appropriation balance from one department, office agency to another within the same Fund.

(d) *Emergency Appropriations; Effective Date.* The supplemental appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption and may be made by emergency ordinance in accordance with the provisions of Section 3.11(f), *Emergency Ordinances*.

Section 8.8 Council Action on Taxes and Levies

The Council shall by ordinance set the tax rates and levy on the various classes of property, and the levy so established shall be certified by the City Clerk to the appropriate officials who shall compute the taxes and extend them upon the tax rolls.

Section 8.9 Sale of Bonds

The City shall be authorized to sell bonds as may now or hereafter be authorized by law. Except as otherwise required by law or this Charter, all bonds issued by the City shall be sold as prescribed by ordinance.

ARTICLE IX
NOMINATIONS AND ELECTIONS

Section 9.1 Municipal Elections

(a) *Regular Elections*. The regular municipal election shall be held as may be mandated by state law.

(b) *Special Elections*. The Council may by ordinance order special elections, fix the time for such elections, and provide for holding such elections.

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

(d) *Definition of Qualified Voter*. Wherever used in the Charter, the term "qualified voter" means a registered voter who is eligible to vote in the City at large or in a Council District, whichever is applicable.

Section 9.2 Declaration of Candidacy

Declaration of candidacy for election to City office shall be made by declaration of candidacy filed with the City Clerk. No person shall file a declaration of candidacy for one City office and, without withdrawing, file for another City office to be filled at the same election. Any person violating this section shall be disqualified from running for any City office at the subject election.

Section 9.3 Determination of Election Results

The Council shall canvass the election returns and declare the results of any municipal election, regular or special, at the next regularly scheduled Council meeting following certification of the election returns by the respective verification board of each county. The candidate receiving the highest number of votes for each office shall be declared elected and inducted into office at that time.

Section 9.4 City Council Districts

There shall be three (3) City Council Districts, bounded and numbered the same as the wards that exist at the time of adoption of this Charter. District boundaries shall be established by ordinance following each decennial census. Districts shall comprise

compact and contiguous territory and shall contain, as nearly possible, an equal number of inhabitants.

ARTICLE X

INITIATIVE, REFERENDUM AND RECALL

Section 10.1 General Authority

(a) *Initiative.* The qualified voters of the City shall have the power to propose ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a municipal election, provided that such power shall not extend to the budget or capital program, any ordinance relating to the levy of taxes, zoning or salaries of City employees, or any ordinance relating to any appropriation of money unless such ordinance provides for additional revenues therefore. The term "City employees" in this section shall not include elected officials. A proposed initiative ordinance shall contain only one subject, which shall be clearly expressed in its title. The election shall be held at the next available regular or special election date as established by the Missouri election calendar in accordance with state law, for which timely notice may be given.

(b) *Referendum.* The qualified voters of the City shall have the power to require reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a municipal election, provided that such power shall not extend to the budget or capital program , any emergency ordinance, any zoning or land use issues, or any ordinance levying a special assessment or providing for the issuance of special tax bills, appropriation of money, levy of taxes or salaries of city employees. The term "City employee" in this section shall not include elected officials. The election shall be held at the next available regular or special election date as established by the Missouri election calendar in accordance with state law, for which timely notice may be given.

(c) *Recall.* Any elected official, whether popularly elected or appointed, may be removed by qualified voters. No elected official shall be subject to recall within six months after induction into office nor during the last six months of the official's term. If the elected official is retained in office upon any recall election, the official shall not be again subject to recall during the same term of office. The election shall be held at the next available regular or special election date as established by the Missouri election calendar in accordance with state law, for which timely notice may be given. The recall question shall be submitted to the voters in substantially the following form.

Shall_____(Name)_____
_____(Title of Office)_____
be removed from office?

Yes_____ No_____

Section 10.2 Commencement of Proceedings; Petitioners' Committee; Notarized Affidavit

Any five qualified voters may commence initiative, referendum or recall proceedings by filing with the City Clerk a notarized affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the street address to which all notices to the committee are to be sent, consenting that sending notice by United States Certified Mail return receipt requested to such address shall constitute valid notice to the committee, and setting out in full the proposed initiative ordinance, or citing the ordinance sought to be reconsidered, or specifying the name and title of office of the elected official to be recalled and a general statement of the reason(s) for the recall. Not more than three (3) business days after the notarized affidavit of the petitioners' committee is filed, the City Clerk shall issue the appropriate petition blanks to the petitioners' committee.

Section 10.3 Petitions

(a) Number of Signatures

i. *Initiative.* An initiative petition shall be signed by qualified voters of the City equal in number to at least seven percent (7%) of the total number of qualified voters registered to vote at the last regular municipal election.

ii. *Referendum.* A referendum petition shall be signed by qualified voters of the City equal in number to at least ten percent (10%) of the total number of qualified voters registered to vote at the last regular municipal election.

iii. *Recall.* A recall petition shall be signed by qualified voters for that office in number equal to at least ten percent (10%) of the total number of votes cast for the office in the election at which that office was elected.

(b) *Form and Content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Initiative and referendum petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered. A recall petition shall state the name and title of office of the elected official sought to be recalled and the general reason(s) for recall on the top and bottom of all pages of the petition. No petition shall seek the recall of more than one officer, but several propositions for recall may be separately submitted at the same election on the same ballot.

(c) *Notarized affidavit of Circulator.* When filed, each paper of a petition shall have attached to it a notarized affidavit executed by the circulator thereof stating that the circulator personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in the circulator's presence, that the circulator believes them to be the genuine signature of the persons whose names they purport to be, and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered. A petition circulator need not be a member of the petitioners' committee, but shall be a qualified voter. Failure of the circulator to be a qualified voter shall render any petition the circulator has obtained invalid.

(d) *Time for Filing Petitions.*

i. Initiative. An initiative petition shall be filed within ninety (90) calendar days of the issuance of the appropriate petition forms to the petitioners' committee.

ii. Referendum. A referendum petition shall be filed within ninety (90) calendar days after adoption by the Council of the ordinance sought to be reconsidered.

iii. Recall. A recall petition shall be filed within ninety (90) calendar days of the issuance of the appropriate petition forms to the petitioners' committee.

<u>Section 10.4 Procedure After Filing</u>

(a) *Certificate of City Clerk; Amendment.* Within fifteen (15) business days after the petition is filed, the City Clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by United States certified mail return receipt requested. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the City Clerk within three (3) business days after receiving the copy of the City Clerks certificate and files a supplement to the petition within ten (10) business days after receiving the copy of such certificate. Such supplement to the petition shall comply with the requirements of subsections (b) and (c) of Section 10.3, Petitions, and within five (5) business days after it is filed, the City Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by United States certified mail return receipt requested as in the case of an original petition. If a petition or amended petition is certified insufficient and the petitioners' committee does not amend within the time required, the City Clerk shall promptly present the City Clerk's certificate to the Council, and the certificate then shall be a final determination as to the sufficiency of the petition.

(b) *Court Review; New Petition.* A final determination as to the sufficiency of a petition shall be subject to court review. 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 10.5 Referendum Petitions; Suspension of Effect of Ordinance

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

(a) There is a final determination of insufficiency of the petition; or
(b) The petitioners' committee withdraws the petition; or
(c) The Council repeals the ordinance; or
(d) The election results sustaining the ordinance have been certified by the election authorities.

Section 10.6 Action on Initiative, Referendum and Recall Petitions

(a) *Initiative and Referendum; Council Action.* When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance in the manner provided in Section 3.11, Legislative Proceedings, or reconsider the referred ordinance voting its repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance, within sixty (60) calendar days, or fails to repeal the referred ordinance within thirty (30) calendar days after the date the petition was finally determined sufficient, it shall at the next meeting of the Council thereafter fix a date for holding the election to submit the proposed or referred ordinance to the voters of the City.

(b) *Initiative and Referendum; Submission to Voters*. The vote on a proposed or referred ordinance shall be held not less than ninety (90) calendar days from the date the petition was finally determined sufficient and not later than the next available regular or special election date as established by the Missouri election calendar in accordance with state law, for which timely notice may be given. Copies of the proposed or referred ordinance shall be made available at the polls.

(c) *Recall.* When a recall petition has been certified to the Council as sufficient by the City Clerk, the 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 regular or special election date as established by the Missouri election calendar in accordance with state law, for which timely notice may be given.

(d) *Withdrawal of Petitions*. An initiative, referendum or recall petition may be withdrawn at any time prior to 5:00 p.m. on the final day for certification, as prescribed by state law, by filing with the City Clerk a request for withdrawal signed by at least four members of the petitioners' committee. Upon the filing of such requests, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Section 10.7 Results of Election

(a) *Initiative.* If a majority of the qualified electors 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 ordinances of the same kind adopted by the Council and approved by the Mayor. 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.

(b) *Referendum.* If a majority of the qualified electors voting on a referred ordinance vote to repeal it, it shall be considered repealed upon certification of the election results.

(c) *Recall*. If a majority of the qualified electors voting at a recall election shall vote in favor of the proposition to remove an official, a vacancy shall exist in the office and such vacancy shall be filled as provided by this Charter. If a majority of the qualified electors voting at a recall election shall vote against the proposition to remove an official, the official shall remain in office. An official who has been removed from office by recall shall be ineligible to be appointed to serve as a City official in any capacity at any time until one (1) year after the expiration of the term for which the member was elected.

ARTICLE XI

FRANCHISES

Section 11.1 Granting of Franchises

All public franchises or privileges which the City is authorized to grant, and all 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 therefore has been filed with the City Council, nor until a full public hearing has been held thereon. Notice of all public hearings conducted hereunder shall be given at least fifteen (15) days prior to such hearing by publishing such notice at least once in a newspaper of general circulation within the City. No exclusive franchises shall ever be granted, and no franchise shall be granted for a term longer than twenty (20) years. No such franchise shall be transferable directly or indirectly, except with the approval of the Council expressed by ordinance after a full public hearing.

Section 11.2 Right of Regulation

All public franchises and privileges, whether or not provided for in the ordinance, shall be subject to the right of the Council to:

(a) *Misuse-Nonuse*. Repeal the same for misuse or nonuse, or for failure to comply therewith, or shorten the term thereof for failure to comply with the provisions of this Section and regulations adopted in accordance with this Section or with the provisions of the franchise ordinance.

(b) *Efficiency.* Require proper and adequate extension of plant and service and the maintenance thereof at the highest practicable standards of efficiency.

(c) *Non-Discrimination*. Establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.

(d) *Audit of Accounts*. Make an independent audit and examination of accounts at any time and require reports annually.

(e) *Service to Public*. Require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof.

(f) *Use of City Property*. Control and regulate the use of the City streets, alleys, bridges, easements, rights-of-way and public places, and the space above and beneath them.

(g) *Rates and Charges*. Regulate rates, fares and charges and make readjustments thereof from time to time, if the same are not regulated by an applicable local, State or Federal agency.

(h) *Other Regulations*. Impose such other regulations from time to time as it may determine to be conducive to the safety, welfare and accommodation of the public.

Section 11.3 Temporary Permits

Temporary permits for the operation of public services utilizing public streets, alleys, bridges, easements, rights-of-way and public places for a period not to exceed two (2) years may be granted by the Council by ordinance without public hearing. Such permit shall be subject to amendment, alteration or revocation at any time at the will of the Council, whether so provided in the ordinance or not. Any permit granted hereunder shall in no event be construed to be franchise or an extension or amendment of a franchise.

Section 11.4 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 circumstance 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 Council.

ARTICLE XII

LICENSING, TAXATION AND REGULATION OF BUSINESS, OCCUPATIONS, PROFESSIONS, VOCATIONS AND OTHER ACTIVITIES OR THINGS

Section 12.1 Objects of Licensing, Taxation and Regulation

The Council shall have the power by ordinance to license, tax and regulate all businesses, occupations, professions, vocations, activities or things whatsoever set forth and enumerated by the statues of this state now or hereafter applicable to constitutional charter cities, or cities of any class, or of any population group, and which any such cities are now or may hereafter be permitted by law to license, tax and regulate.

ARTICLE XIII

GENERAL PROVISIONS

Section 13.1 Personal Financial Interest

Any elected or appointed officer, employee, or member of any committee, authority, board or commission of the City who has any direct or indirect substantial financial interest (as defined by the conflict of interest statutes of Missouri) (a) in any party transacting business with the City, or (b) in the subject matter of any City transaction, shall make known that interest and shall refrain from voting upon or otherwise participating in his or her capacity as a City officer, employee or member in such transaction. Any City officer, employee or member 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 the office or position. Violation of this section with the express or implied knowledge of the party transacting business with the City shall render the transaction voidable by the City.

Section 13.2 Prohibitions

(a) Activities Prohibited

i. *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, political or religious opinions or affiliations.

ii. *False Reports.* No person shall willfully make any false statement, certificate, marks, rating or report in regard to any test, certification or appointment under the personnel provisions of this Charter or the rules and regulations made thereunder or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

iii. *Undue Influence*. No person who seeks appointment or promotion 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 test, appointment, proposed appointment, promotion or proposed promotion.

(b) *Penalties.* Any person who willfully violates any of the provisions of Section 13.2 (a), Activities Prohibited, shall be guilty of an ordinance violation and upon conviction thereof shall be punishable as may be provided by ordinance.

Section 13.3 Political Activity

The City may adopt such rules and regulations as the City deems appropriate and not in conflict with Federal or State law with regard to political activity of City employees. Any such rules and regulations shall be set forth either in the personnel policy of the City or may be established by ordinance.

Section 13.4 All Ordinances Effective on Municipal Land

In addition to all other powers herein granted, the City of Nixa shall have the right and authority to administer and enforce all its municipal ordinances within all areas owned or occupied by the City which are outside of the corporate city limits.

Section 13.5 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 City Administrator within ninety (90) days of the occurrence for which said damage is claimed, stating the place, time, character and circumstances of the injury, and that the person so injured will claim damages therefore from the City.

Section 13.6 Official Bonds and Oath

(a) Every officer of the City and the officer's assistants and every Councilmember, before entering upon the duties of his/her office, shall take and subscribe to an oath or affirmation before some court or record in the County, or the City Clerk, that the person possesses all the qualifications prescribed for the office by law; that the person will support the Constitution of the United States and of the State of Missouri, the provisions of all laws of this State affecting cities of this class, and the ordinances of the City, and faithfully demean himself or herself while in office; which official oath or affirmation shall be filed with the City Clerk.

(b) Every officer of the City, when required by law or ordinance, shall, within fifteen (15) days after appointment or election, and before entering upon the discharge of the duties of office, give bond to the City in such sum and with such sureties as may be designated by ordinance, conditioned upon the faithful performance of the duties of office, and that he/she will pay over all monies belonging to the City, as provided by law, that may come into the person's hands. The City shall pay the premiums on all such bonds.

(c) If any person elected or appointed to any office shall fail to take and subscribe such oath or affirmation or to give bond as herein required, the office shall be deemed vacant. For any breach of condition of any such bond, suit may be instituted thereon by the City, or by any person in the name of the City, to the use of such person.

Section 13.7 Charter Amendment

Amendments to this Charter may be framed and submitted to the electors by a commission in the manner provided by law and the Missouri Constitution for framing and submitting a complete charter. Amendments may also be proposed by the Council, by the Charter Review Commission, or by petition of not less than ten percent of the qualified electors of the city, filed with the City Clerk in the manner prescribed for initiative petitions in Article X, setting forth the proposed amendment(s). The Council shall at once provide by ordinance that any amendment so proposed shall be submitted to the electors at the next election held in the city not less than sixty days after its passage, or at a special election held as provided by law and the Constitution for a charter. Any amendment approved by a majority of the qualified electors voting thereon shall become a part of this 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 by law and the Constitution for a complete charter.

Section 13.8 Charter Review Commission

Within ten (10) years of the approval of this Charter, the Council shall provide for a Charter Review Commission for a one time mandatory review. Thereafter, from time to time, but no less often than every ten (10) years, the Council shall review and consider by majority vote, providing for a Charter Review Commission to review this Charter and recommend to the voters of the City proposed amendments, if any, to this Charter. The members of the Charter Review Commission shall be selected by the Council. The Charter Review Commission shall consist of nine (9) qualified voters for the City, none of whom shall be an elected official of the City. No more than three (3) of the Commission member's shall reside in any one Council District. The Charter Review Commission shall, within twelve months of its first meeting, report to the voters as many amendments to the Charter as it shall deem advisable.

Section 13.9 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 state law.

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

Section 13.10 Proof of Ordinance

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

Section 13.11 Separability

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 XIV

TRANSITIONAL PROVISIONS

Section 14.1 Personnel System

An employee holding a City position at the time this Charter takes full effect, who was serving in that same or a comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position but in all other respects shall be subject to the personnel system established pursuant to Section 7.2, Personnel System.

Section 14.2 Continuance of Taxes, Assessments and Fees

Except as otherwise provided by this Charter, all existing taxing authorizations, assessments and fees adopted by the people of the city, or authorized by the City, are hereby continued in full force and effect until modified or discontinued in the manner provided by this Charter or law.

Section 14.3 Ordinances to Remain in Force

All ordinances, resolutions and regulations in force at the time this Charter takes effect, or at the time this Charter is amended, 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 14.4 Pending Actions and Proceedings

No action or proceeding, civil or criminal, pending at the time this Charter, or any amendment hereto, 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 contained herein.

Section 14.5 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, or any amendments hereto, 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 that

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.

ARTICLE XV

SCHEDULE

Section 15.1 Election to Adopt Charter

This Charter shall be submitted to the voters of the City of Nixa at the regular municipal election to be held April 6th, 2010. The election shall be administered by the officials now charged with the responsibility for the conduct of municipal elections.

Section 15.2 Election of City Officials

(a) Incumbents. All officials elected on April 6th, 2010 shall serve a one (1) year term. All officials elected prior to April 6th, 2010 who would continue in office shall continue in office for the duration of the term to which they were elected.

(b) At the municipal election in April of 2011 Council Members shall be elected to serve staggered three (3) year terms. At the first election under this charter, six (6) Council Members shall be elected. Of the Council Members elected at the first such election, one (1) Council Member from Districts one (1) and two (2) shall serve only one (1) year terms; one (1) Council member from districts two (2) and three (3) shall serve only two (2) year terms; and one (1) Council Member from Districts three (3) and one (1) shall serve three (3) year terms. Subsequent to the April 2011 election , the Council Member shall be elected to fill the positions of those whose terms expire and shall serve full three (3) year terms.

(c) At the municipal election in April of 2011 and every third year thereafter, the Mayor shall be elected to serve a full three (3) year term.

(d) At the municipal election in April of 2011 a qualified person shall be elected Judge of the City of Nixa and every second year thereafter, the Judge shall be elected to serve a full two (2) year term.

Section 15.3 Time of Taking Full Effect

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

Section 15.4 Temporary Ordinances

At its first meeting, or at any meeting held within sixty days thereafter, the Council may adopt temporary ordinances to deal with cases in which there is an urgent need for

prompt action in connection with the transition of government and in which the delay incident to the appropriate ordinance procedure likely would cause serious hardship or impairment of effective City government. Every temporary ordinance shall be plainly labeled as such but shall be introduced in the form and manner prescribed for ordinances generally. A temporary ordinance may be considered and may be adopted, with or without amendment, or rejection at the meeting at which it is introduced. A temporary ordinance shall become effective upon adoption, or at such later time preceding automatic repeal under this subsection as it may specify, and the referendum power shall not extend to any such ordinance. Every temporary ordinance, including any amendments made thereto after adoption, shall automatically stand repealed as of the 91st day following the date on which it was adopted, and it shall not be readopted, renewed or otherwise continued except by adoption in the manner prescribed in Section 3.11, Legislative Proceedings, for ordinances of the kind concerned.

Section 15.5 Purpose of Schedule

The purpose of the foregoing provisions is to provide a transition from the present government of the City of Nixa, Missouri, to the new government provided for in this Charter, and to inaugurate the new government under the provisions of this Charter. They shall constitute a part of this Charter only to the extent and for the time required to accomplish that aim.