

*City of Ellisville, MO
Monday, December 2, 2024*

Chapter C. The Charter

PREAMBLE: In order to provide for the government of the City of Ellisville and secure the benefits and advantages of constitutional home rule under the Constitution of the State of Missouri, the people of Ellisville adopt the following Charter.

Article I. Incorporation and Name

Section 1.1. Incorporation and Name.

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

Article II. Powers

Section 2.1. Powers and Construction.

The City shall have all powers which the General Assembly of the State of Missouri has authority to confer upon any municipality, provided such powers are consistent with the Constitution of the State of Missouri and are not limited or denied either by this Charter or by Statute. The City shall have all powers conferred by law in addition to its home rule powers. The powers of the City shall be liberally construed. The specific mention, or lack of 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.

Section 3.2. Composition.

- (a) *Composition.* The Council shall consist of a Mayor and two (2) Council Members from each district.
- (b) *Representation.* The Mayor shall represent the City at large. Two (2) Council Members shall represent each of the districts established under Article **VIII**, Section 8.6, of this Charter.
- (c) *Eligibility.* The Mayor and each Council Member shall be a qualified voter of the City. The Mayor and each Council Member shall be a resident of the City and shall have been a resident of the City for at least one (1) year prior to his or her election. Additionally, each Council Member shall be a resident of the district which he or she represents.
- (d) *Terms.* The Mayor and each Council Member shall be elected for four (4) year terms. The terms of the two (2) Council Members representing each district shall be staggered. The terms of the Mayor and all Council Members shall be staggered.
- (e) *Limitation On Terms.* There shall be no limit to the number of terms a person may serve as Mayor or Council Member; provided however, that no person shall be eligible to be elected to more than two (2) consecutive terms as either Mayor or as a Council Member.^[1]
[Ord. No. 3058 §§ 1--2, 1-18-2012]

[1] *Editor's Note--Since the qualified voters of the City adopted the new provisions set out in 3.2(d) above, the implementation shall be as follows:*

- (a) *The Mayor and three (3) Council Members, one (1) from each of Districts 1, 2, and 3, shall be elected to three (3) year terms at the regular municipal election of April 3, 2012. Effective with the regular municipal election of April, 2015, the three (3) Council Members shall and thereafter be elected to four (4) year terms.*
- (b) *Three (3) Council Members, one (1) from each of Districts 1, 2, and 3, shall be elected to a four (4) year term at the regular municipal election of April, 2013. Effective with that election, the three (3) Council Members shall and thereafter be elected to four (4) year terms.*
- (c) *To achieve staggered elections between the Mayor and all Council Members as provided in the Charter amendment to Section **3.2(d)**, the Mayor shall be elected to a second (2nd) three (3) year term at the regular municipal election of April, 2015. Effective with the regular municipal election of April, 2018, the Mayor shall and thereafter be elected to a four (4) year term.*

Section 3.3. Compensation; Expenses.

In all circumstances other than those recognized exceptions treated in Article **XIII** of this Charter, the Council may determine the annual compensation of the Mayor and Council Members by ordinance, but no ordinance increasing such compensation shall become effective for a Mayor or Council Member until the commencement of a new term of office. In addition to their compensation, the Mayor and Council Members shall receive their actual and necessary expenses incurred in the performance of their duties, provided that such expenses are supported by appropriate documentation.

Section 3.4. Prohibitions.

- (a) *Holding Other Office.* Except where authorized by law or pursuant to an agreement between the City and another entity of government, neither the Mayor nor any Council Member shall hold

any other City office or employment during the term for which he or she was elected, and no former Mayor or Council Member shall hold any compensated appointive City office or employment until one (1) year after the end of his or her service in the position to which he or she was elected or appointed; and in no event, even if authorized to hold additional City offices, shall any such Mayor or Council Member exercise any voting rights in such office other than that to which they were elected or appointed to fill a vacancy in an elected office.

(b) *Appointments, Hirings And Removals.* Neither the Mayor nor any Council Member shall in any manner dictate, encourage or discourage the appointment, hiring or removal of any City administrative officers or employees whom the City Manager or any of his or her subordinates are empowered to appoint or hire; provided however, the City Manager shall inform the Council of any person selected by the City Manager for appointment as Assistant City Manager or as a department head prior to such appointment. As a collective body the Mayor and Council Members may express their views and discuss with the City Manager anything pertaining to the appointment, hiring and removal of such officers and employees.

[Ord. No. 2739 §1(2--4), 1-18-2006, passed by a vote on April 4, 2006]

(c) *Interference With Administration.* Except for the purpose of inquiry, information or investigation as established by Article III, Section 3.11 of this Charter, the Mayor or Council Members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager. Neither the Mayor nor Council Members shall give any orders to any such officer or employee, either publicly or privately.

[Ord. No. 2518 §1(B), 8-21-2002, passed by a vote on November 5, 2002]

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

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

(b) *Forfeiture Of Office.* The Mayor or a Council Member shall forfeit his or her office if at any time during his or her term of office, he or she:

- (1) Lacks any qualification for the office prescribed by this Charter or by law,
- (2) Violates any express prohibition of this Charter,
- (3) Is convicted of a crime involving moral turpitude,
- (4) Is in default to the City, or
- (5) Fails to attend three (3) consecutive regular meetings of the Council without being excused by the Council.

(c) *Filling Of Vacancies.* Any vacancy in the Council, whether the Mayor or another Council Member, shall be filled by the Council by a majority vote of all its remaining members for a period running to the next regularly scheduled Council election unless such period exceeds one (1) year. In the latter case, the Council shall make arrangements for a special election to fill such vacancy for the remainder of the unexpired term.

Section 3.6. Judge of Qualifications.

The Council shall be the judge of all questions pertaining to the elections and qualifications of its members, including the Mayor and of the sufficiency of the grounds for forfeiture of their office. For that purpose, the Council shall have the power to issue subpoenas to compel the testimony of witnesses and production of evidence and to administer oaths, both on its own behalf and on behalf of the affected member. Any person who willfully fails to comply with a subpoena issued hereunder or who willfully violates an oath administered hereunder shall be guilty of a misdemeanor subject to penalty as provided by ordinance.

The Council shall adopt by an affirmative vote of a majority of the unaffected members a preliminary resolution stating the reasons a member has not been elected, is not qualified or has forfeited office and upon adoption of such resolution may suspend the affected member from duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the affected member.

Within five (5) days after a copy of the resolution is delivered to the Council Member affected, he or she may file with the Council a written request for a public 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 Council Member affected may file with the Council a written reply not later than five (5) days before the hearing. The Council may adopt a final resolution of removal, which may be effective immediately, by affirmative vote of a majority of the unaffected members at any time after five (5) days from the date a copy of the resolution was delivered to the affected member in the event that a public hearing has not been requested, or at any time after the public hearing has been completed, if a public hearing has been requested. Decisions made by the Council under this Section shall be subject to review by courts of appropriate jurisdiction.

Section 3.7. City Clerk.

The Council shall appoint an officer who shall have the title of City Clerk for a term of three (3) years. The Council shall by ordinance fix the compensation and conditions of employment for such office. The City Clerk shall maintain the journal of Council proceedings, authenticate by signature of the City Clerk all ordinances and resolutions 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. The City Clerk shall be responsible to the Council.

Section 3.8. City Attorney.

- (a) *Appointment And Qualifications.* The Council shall appoint an officer who shall have the title of City Attorney and who shall serve at the pleasure of the Council. The City Attorney shall be licensed to practice law in the State of Missouri but need not reside within the City limits.
- (b) *Duties.* The City Attorney shall be the chief legal officer for the City and shall have such duties as may be assigned by law and the Council.
- (c) *Compensation.* The Council shall by ordinance provide for the compensation of the City Attorney and any Assistant City Attorneys.
- (d) *Assistant City Attorneys.* Assistant City Attorneys may be appointed from time to time by the Council, if deemed necessary.

Section 3.9. Prosecuting Attorney.

- (a) *Appointment And Qualifications.* The Council shall appoint an officer who shall have the title of Prosecuting Attorney and who shall serve at the pleasure of the Council. The Prosecuting Attorney shall be licensed to practice law in the State of Missouri, but need not reside within the City limits.
- (b) *Duties.* The Prosecuting Attorney shall, on behalf of the City, prosecute violations of the ordinances of the City of Ellisville before the Municipal Judge and any appeals therefrom. The Prosecuting Attorney shall have such duties as may be assigned by law and the Council.
- (c) *Compensation.* The Council shall by ordinance provide for the compensation of the Prosecuting Attorney and any Assistant Prosecuting Attorneys.
- (d) *Assistant Prosecuting Attorneys.* Assistant Prosecuting Attorneys may be appointed from time to time, as deemed necessary by the Council.

Section 3.10. Municipal Judge.

- (a) *Appointment And Qualifications.* The Council shall appoint an officer who shall have the title of Municipal Judge and who shall serve a term of two (2) years. The Municipal Judge shall be licensed to practice law in the State of Missouri and shall meet the qualifications established by State Statute, but need not reside within the City limits.
- (b) *Powers And Duties.* The Municipal Judge shall have such powers and duties as are conferred upon such officers by laws of the State of Missouri.
- (c) *Provisional Municipal Judge.* The Council shall appoint a person to the position of Provisional Municipal Judge who shall have the same qualifications as the Municipal Judge and who shall serve a term of two (2) years. The Provisional Municipal Judge shall serve as Municipal Judge, with the same powers as the Municipal Judge, in the event 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.
- (d) *Compensation.* The Council shall by ordinance fix the compensation of the Municipal Judge and Provisional Municipal Judge.

Section 3.11. Investigations.

The Council may make investigations into the affairs of the City. In the event the Council determines to conduct a formal investigation, it may do so only upon the vote of a majority of the Council then in office setting forth with particularity the nature of the investigation. In the event the 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 3.12. Independent Audit.

The 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 of the report prepared by the certified public accountant or firm of such accountants shall be sent directly from the auditor to the Mayor and each Council Member and 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.

Section 3.13. Legislative Proceedings.

- (a) *Meetings.* The 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 by ordinance. In no event shall any meeting of the Council Members be held outside the City limits. Notice of such regular meetings shall be posted at the City Hall. The Mayor may, or at the request of at least one-half (1/2) of the Council Members 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. Emergency meetings of the Council may also be held at any time by the consent of two-thirds (2/3) of all the Council Members in the City and such consent may be given either prior to or during the emergency meeting. All 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. No action of the Council shall take effect unless the motion for the action and the vote by which it is disposed of shall take place by roll call vote at proceedings open to the public; except, however, those matters which may now or which may hereafter by law be heard in a closed meeting, as for example, presently provided in Title 39, Chapter 610, RSMo. In either case, members of the Council must be present to vote.
- (b) *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 recording shall be kept of closed sessions, which recording shall remain closed to public inspection and to legal process except as otherwise provided by Title 39, Chapter 610, RSMo.
- (c) *Voting.* Voting shall be by roll call except on procedural motions and the ayes and nays shall be recorded in the journal. Roll call votes shall be taken in the order as prescribed by rule of the Council. A majority of members of the Council shall constitute a quorum for its business. Except as otherwise provided in this Charter, the affirmative vote of a majority of the entire Council then in office shall be necessary to adopt any ordinance.
- (d) *Form 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 Ellisville, St. Louis County, Missouri

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

Be It Ordained By The People Of The City Of Ellisville, St. Louis County, Missouri

No ordinance, except those making appropriations of money and those codifying or revising existing ordinances, shall contain more than one (1) subject which shall be clearly expressed in its title. Ordinances making appropriations shall be confined to the subject matter of the appropriations.

An ordinance may incorporate or adopt by reference, without setting forth in full, the provisions of technical codes, Statutes, prior ordinances, St. Louis County ordinances and other matters of public record, provided that at least three (3) copies of the material to be adopted are filed with the City Clerk at least fifteen (15) days prior to the passage of the ordinance adopting said material. The copies of material to be adopted by reference shall be retained by the City Clerk so long as the ordinance remains in effect.

- (e) *Procedure.* Every proposed ordinance shall be read by title in an open Council meeting at least twice before final passage. No ordinance shall be read more than once at a meeting unless unanimous consent to vote on the ordinance a second (2nd) time is given. Copies of each proposed ordinance shall be provided to each Council Member within a reasonable time after its placement on the agenda, but never less than forty-eight (48) hours before the start of the meeting. If this provision is violated, the 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 such placement on the agenda, and prior to consideration, copies of all proposed ordinances shall be posted for public inspection in an area at City Hall accessible at all hours to the public. The Council shall enact an ordinance or resolution which shall provide the opportunity for persons interested in any proposed ordinance to be heard before the Council.
- (f) *Amendments To Proposed Ordinances.* If the Council adopts an amendment to a proposed ordinance which constitutes a change in substance, 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 Article III, Section 3.13(e), of 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 (1) week posting requirement by a two-thirds (2/3) majority vote of the Council.
- (g) *Emergency Ordinances.* Notwithstanding the foregoing provision, an ordinance deemed necessary for the immediate preservation of the public peace, health or safety may be passed as an emergency measure on the day of its introduction upon the affirmative vote of two-thirds (2/3) of all the members of the Council. Such emergency ordinances shall contain a declaration describing in clear and specific terms the facts and reasons constituting the emergency. All such ordinances shall be read in their entirety at least once before passage. No ordinance granting, reviewing or extending a franchise shall be passed as an emergency ordinance.
- (h) *Effective Date.* Every adopted ordinance subject to referendum shall become effective at the expiration of thirty (30) days after adoption or at any later date specified in such ordinance. All other ordinances shall become effective upon adoption or at any later date specified in the ordinance.
- (i) *Authentication And Recording.* All ordinances and resolutions adopted by the Council shall be approved as to form by the City Attorney and authenticated by the signature of the Mayor and City Clerk. The City Clerk shall record in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.

Section 3.14. Revision of Ordinances.

All ordinances and resolutions of the City of a general and permanent nature shall be codified and

promulgated according to a system of continuous numbering and revision as specified by ordinance.

Article IV. The Mayor and Mayor Pro Tempore

Section 4.1. Duties.

- (a) *Duties.* The Mayor shall be a voting member of the Council, shall have no veto power and shall have no additional duties other than those specified in Subsection (b).
- (b) *Additional Duties.* In addition to being a member of the Council, the Mayor shall:
 - (1) Preside as Chairman of meetings of the Council;
 - (2) Call special meetings of the Council as provided in Article III, Section 3.13(a), of this Charter;
 - (3) Be deemed the head of City government for legal, ceremonial and military purposes, but not as chief law enforcement officer;
 - (4) Execute all bills, resolutions, contracts and documents on behalf of the City except as otherwise provided by ordinance, resolution or this Charter;
 - (5) Preside as Chairman of the annual Council review of the performance of the City Manager as provided in Article V, Section 5.1(b), of this Charter;
 - (6) Place in nomination for consideration of the Council nominees for the positions of City Attorney, Prosecuting Attorney, Municipal Judges, City Clerk and members of all boards, commissions and committees of the City. The Council by resolution may also provide for such nominations to be made by its other members;
 - (7) Have the authority, with the advice and consent of the Council, to request written reports and recommendations from the presiding officer of each board, commission and committee of the City under the jurisdiction of the Council.
- (c) *Mayor Pro Tempore.* The Council shall elect annually from its members a Mayor Pro Tempore who shall act as Mayor during such time when the office of Mayor is vacant or if the Mayor shall be unable to act due to absence or disability.

Section 4.2. Vacancy; Forfeiture of Office; Filling Vacancy.

The office of Mayor shall be deemed vacant or forfeited for the same reasons that a Council Member's office shall be deemed vacant or forfeited under Article III, Section 3.5, of this Charter. Whether a vacancy or forfeiture of the office of Mayor exists shall be determined by a majority vote of the remaining members of the Council. A vacancy in the office of Mayor shall be filled under the provisions of Article III, Section 3.5(c), of this Charter.

Section 4.3. Prohibitions.

The Mayor shall be subject to the same prohibitions as are Council Members under Article **III**, Section 3.4, of this Charter.

Article V. City Manager

Section 5.1. Appointment and Evaluation.

- (a) *Appointment.* The Council shall appoint a City Manager for an indefinite term and shall by ordinance fix the compensation and conditions of employment for such office. The City Manager shall be appointed solely on the basis of such person's executive and administrative qualifications. The Council may not require City of Ellisville residency as a condition for appointment of a City Manager by ordinance or resolution.
- (b) *Evaluation.* At least once a year after the appointment of the City Manager, the Council shall evaluate the performance of the City Manager and the results of that evaluation shall be made a part of the confidential personnel file of the City Manager.

Section 5.2. Removal.

The Council may remove the City Manager from office at will in accordance with the following procedures:

- (1) The Council shall adopt by an affirmative vote of a majority of all of its members a preliminary resolution for removal without stating the reasons for such removal. Such resolution may suspend the City Manager from duty, with or without pay, for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the City Manager.
- (2) Within five (5) days after a copy of the resolution is delivered to the City Manager, the City Manager may file with the Council a written request for a closed meeting with the Council to discuss the resolution. This meeting shall be held during a closed Council meeting not earlier than twenty (20) days nor later than thirty (30) days after the request is made. The City Manager may file with the Council a written reply not later than five (5) days before the meeting.
- (3) In the event a closed meeting has not been requested by the City Manager, the Council may adopt a final resolution of removal, without stating the reason for such removal, any time after five (5) days from the date when a copy of the first (1st) resolution was delivered to the City Manager. An affirmative vote of a majority of all the Council Members is required to make the resolution effective. A removal may be made effective immediately. If a closed meeting is requested by the City Manager, the Council may consider a final resolution at any time five (5) days after the date the requested closed meeting procedures are completed. The City Manager shall continue to receive compensation until the effective date of a final resolution of removal. Since the City Manager serves at the will of the Council, not by virtue of any right, the action of the Council in suspending or removing the City Manager shall not be subject to review by any court or agency.

Section 5.3. Acting City Manager.

During the temporary absence or disability of the City Manager, the Assistant City Manager, previously designated by the City Manager, will exercise the powers and perform the duties of the City Manager. 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 City Manager shall return or his disability shall cease. In the event there is no Assistant City Manager, the Council shall select someone to serve in that capacity.

Section 5.4. Powers and Duties of The City Manager.

The City Manager shall be responsible to the Council for the administration of all operations placed in the charge of the City Manager by or under this Charter. The City Manager shall:

- (1) In accordance with the laws of the State of Missouri, the provisions of this Charter, and any personnel rules adopted previously by the Council or adopted pursuant to this Charter, appoint, suspend or remove any City employees and appointed administrative officers provided for, by or under this Charter, except the City Clerk, City Attorney, Assistant City Attorneys, Prosecuting Attorney, Assistant Prosecuting Attorneys, Municipal Judge and Provisional Municipal Judges. The City Manager may authorize any administrative officer who is subject to direction and supervision of the City Manager to exercise these powers with respect to subordinates in that officer's department;
- (2) Direct and supervise the administration of all departments of the City, except as otherwise provided by this Charter or by law. The City Manager shall not supervise the administration of the offices of the City Clerk, City Attorney, Assistant City Attorneys, Prosecuting Attorney, Assistant Prosecuting Attorneys, Municipal Judge and Provisional Municipal Judges;
- (3) Attend all meetings of the Council, and committees of its members, except as excused by the Council, or committee, and except when the Council may be considering personnel matters relating to the City Manager. The City Manager shall have the right to take part in discussions at meetings of the Council but shall have no power to vote. The City Manager shall receive notice of all meetings;
[Ord. No. 2518 §1(C), 8-21-2002, passed by a vote on November 5, 2002]
- (4) Provide that all laws, provisions of this Charter and legislative acts of the Council, subject to enforcement by the City Manager or by officers subject to the direction and supervision of the City Manager are faithfully executed;
[Ord. No. 2518 §1(D), 8-21-2002, passed by a vote on November 5, 2002]
- (5) Supervise and be responsible for the preparation of the annual budget, capital program and long range plan, and promptly submit all of the above to the Council;
- (6) In addition to the annual audit, at the end of each fiscal year, submit to the Council, and make available to the public, a complete report on the finances and the administrative activities of the City;
[Ord. No. 2518 §1(E), 8-21-2002, passed by a vote on November 5, 2002]
- (7) Keep the Council fully informed so that the Council shall properly execute their legislative and policy making functions and make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to the direction and supervision of the City Manager;

- (8) Prepare and submit to the Council policy recommendations for programs and priorities which, in the opinion of the City Manager, should be considered by the Council. These recommendations shall be submitted on an on-going basis, but not less than quarterly;
[Ord. No. 2518 §1(F), 8-21-2002, passed by a vote on November 5, 2002]
- (9) Facilitate the prompt, economical and efficient dispatch of City business. To that end, the City Manager may from time to time:
 - (a) Organize or reorganize work within or among departments responsible to the City Manager;
 - (b) Assign assistants, deputies and employees from any office or department of the City government under direction of the City Manager to perform work or service in connection with any other office or department, or to work in more than one (1) of such offices and departments. The City Manager can reorganize the work force and establish or abolish departments and consolidate the same, provided his reorganization plan is in writing, is filed with the Council and that reorganization plan is approved by ordinance prior to implementation.
[Ord. No. 2518 §1(G), 8-21-2002, passed by a vote on November 5, 2002]
- (10) Keep the Council fully advised on the financial condition and future needs of the City and make such other recommendations to the Council concerning the affairs of the City as are deemed advisable;
- (11) Perform such other duties as may be prescribed by this Charter or required by the Council consistent with this Charter.

Article VI. Administrative Organization and Personnel System

Section 6.1. Existing Organizations.

- (a) *Departments, Etc.* 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, Commissions, Etc.* Existing boards and commissions shall remain in effect unless changed pursuant to this Charter or by ordinance.

Section 6.2. Performance Based Personnel System.

All appointments, promotions and removals of City officers and employees shall be made in compliance with the Performance Based Personnel Code of the City of Ellisville, as it may be amended from time to time. Appellate procedures to review disciplinary actions imposed by the City Manager shall include a personnel review board consisting of three (3) commissioners appointed by the Council on such terms and conditions as they may enact by ordinance. No person, while a member of said commission, shall hold or be a candidate for any office of public trust.

Article VII. Financial Procedures

Section 7.1. Fiscal Year.

The fiscal year of the City shall begin on the first (1st) day of January and end on the last day of December, unless otherwise set by ordinance.

Section 7.2. Budget.

(a) *Submission; Contents.* At least ninety (90) days prior to the beginning of each fiscal year, the City Manager shall submit to the Council a budget and accompanying written narrative. 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 Manager deems desirable or the 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 for any fund defined by City ordinances exceed the estimated revenues to be received. Revenue estimates shall be adjusted to reflect any unencumbered or undesignated balance from the previous year or any deficit balance estimated for the beginning of the fiscal year.

On a monthly basis a report shall be generated and submitted to the Council comparing actual income and expenditures to income and expenditure projections in the budget.

[Ord. No. 2518 §1(H), 8-21-2002, passed by a vote on November 5, 2002]

(b) *Capital Program.* At least ninety (90) days prior to the beginning of each fiscal year, the City Manager shall submit to the Council a capital program for the five (5) years ensuing, including a list of all proposed capital improvements, with appropriate supporting information, cost estimates, methods of financing, time schedules and the estimated annual cost of operating and maintaining the proposed facilities. The program shall be reviewed and extended each year.

[Ord. No. 2518 §1(I), 8-21-2002, passed by a vote on November 5, 2002]

(c) *Long Range Plan.* By the end of the second (2nd) quarter of each year, the City Manager shall submit to the Council a long range plan for the five (5) years ensuing. The plan should begin with a statement of the goals and objectives for the period and address, but not be limited to, capital expenditures, commercial and residential development, parks and recreation, public works, security and law enforcement and City expansion. Each objective must take into consideration personnel requirements and address financial and environmental impacts.

(d) *Public Hearing.* After appropriate public notice, the Council shall hold a public hearing on the proposed budget prior to its adoption.

(e) *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 estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated revenues and unencumbered or undesignated balance from any previous fiscal year.

- (f) *Adoption.* The budget, capital program and long range plan shall be adopted by the affirmative vote of a majority of the members of the Council on or before the last day of the current fiscal year. If the Council fails to adopt the budget by this date, amounts appropriated for existing City operations during the current fiscal year shall be deemed adopted for the ensuing fiscal year on a pro-rated month-to-month basis until the Council shall adopt a budget.
- (g) *Budgeted Items Appropriated.* Adoption of the budget shall constitute an appropriation of the amounts specified therein as expenditures.
- (h) *Supplemental Appropriations.* The Council may by ordinance make supplemental appropriations if the City Manager certifies that funds will be available for such expenditures.
- (i) *Insufficient Revenues.* If at any time during the fiscal year it appears probable to the City Manager that the revenues available will be insufficient to meet the amount appropriated, it shall be reported to the Council without delay. The City Manager shall indicate the estimated amount of the deficit and any remedial action taken and recommend further steps to be implemented. The Council shall then take such further action as it deems necessary to prevent any deficit and for that purpose it may by ordinance reduce appropriations.
- (j) *Amendments After Adoption.* The City Manager may transfer all or any part of any unencumbered appropriation balance among accounts within a department. The Council may by ordinance transfer part or all of an unencumbered appropriation balance from one (1) department to another. Monies held in reserve, contingency or undesignated funds shall be transferred or encumbered only by ordinance of the Council.
- (k) *Appropriations Lapse.* All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been spent, lawfully encumbered or authorized for pro rata expenditure in a fiscal year for which a budget has not been adopted pursuant to the provisions of Article **VII**, Section 7.2(f), of this Charter.
- (l) *Prohibited Payments And Obligations.* No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made. No payment shall be made or obligation incurred against any allotment or appropriation unless the City Manager or his or her designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation and he or she shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.
- (m) *Public Records.* Copies of the budget, capital program and long range plan as adopted shall be

public records and shall be made available to the public at City Hall.

Section 7.3. Taxation Powers.

Taxes as authorized by law shall be levied by ordinance.

Section 7.4. 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 as 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 whatever terms and conditions may be provided by ordinance.

Article VIII. Nominations and Elections

Section 8.1. City Elections.

- (a) *Regular Elections.* The regular City elections shall be held on the first (1st) Tuesday in April or such day in April as may be mandated by State law or the St. Louis County Board of Election Commissioners.
- (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 City 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 the Charter and applicable State law. If the regular election date is changed by State law, regular elections shall be held on dates as close as practicable to the dates established by Article VIII, Section 8.1, of this Charter.
- (d) *Financial Disclosure.* In addition to complying with all State campaign disclosure requirements, all candidates filing for elected offices must make a full disclosure to the City of all campaign funding contributions. These financial disclosure reports are to be public record and are required to be filed thirty (30) days before the election, again seven (7) days before the election and yet again seven (7) days after the election. No persons will be sworn into office until they have filed the first (1st) two (2) of these reports. Failure to file the third (3rd) report will cause automatic suspension from office.

Section 8.2. Filing For Elected Offices.

Declaration of candidacy for elected City offices shall be made with the City Clerk at City Hall in the form and manner prescribed by ordinance. Any City employee desiring to seek elective position shall take a general leave of absence without pay from his or her position for a period running from the filing period for the elective office through the date of losing the election or to the date of installation

as an elected official in the City, whichever is later. Any City employee shall resign his or her position in the City, regardless of whether the person is appointed or elected to the City office.

Section 8.3. Preparation of Ballot.

The City Clerk shall cause the names of the qualified candidates to appear on all ballots in the order in which the candidates filed for office. The candidates shall appear on the ballot without party designation.

Section 8.4. Election Procedure and Determination of Results.

- (a) *Voting.* At the City election for Mayor each voter shall be entitled to vote for one (1) candidate. At the City election for Council Members each voter shall be entitled to vote for one (1) candidate to represent the district in which the voter resides, except as otherwise provided in Article **VIII**, Section 8.5, of this Charter.
- (b) *Council Members.* Upon receipt of the results of the City election, the Council shall notify the candidates who have been elected to the position of Council Member. The number of candidates, equal to the number of Council Member positions to be filled in the Council, receiving the highest number of votes shall be certified elected. In the event of a tie such tie shall be resolved by a special run-off election between the candidates who have tied, which special election shall be held within seventy-five (75) days of the certification of the election results or at the next available election date provided by law.
- (c) *Mayor.* Upon receipt of the results of the City election the Council shall certify the Mayoral candidate receiving the highest number of votes to be elected to the office of Mayor. In the event of a tie such tie shall be resolved by a special run-off election between the candidates who have tied, which special election shall be held within seventy-five (75) days of the certification of the election results or at the next available election date provided by law.

Section 8.5. Filling Vacancies in Office.

At a regular election any official may be elected who would not ordinarily be elected in such year if by death, resignation, removal from the City or other cause there exists a vacancy in any office to be filled by such election. Such an official may also be elected if the interim appointment of any person filling a vacancy in office by appointment shall terminate so that a successor need be elected to fill the unexpired portion of the term of office of the original holder of such office. If two (2) Council Members are to be elected from any district at a regular election where only one (1) Council Member normally would be elected, there shall be placed on the ballot two (2) separate offices for election: one (1) office for the unexpired term and one (1) office for the full three (3) year term which would appear regardless of any vacancy referred to above. No person shall be allowed to file his candidacy for more than one (1) of the offices of Council Member referred to above.

Section 8.6. City Council Districts.

There shall be three (3) Council districts, bounded and numbered the same as the wards which exist

at the time of adoption of this Charter. The Council may by ordinance increase the number of districts up to a maximum of five (5). District boundaries shall be established by ordinance within one hundred eighty (180) days of receipt of the final data for each decennial census or at other more frequent intervals as may be determined by the Council. Districts shall be comprised of compact and contiguous territory and shall contain, as nearly as possible, an equal number of inhabitants.

Article IX. Initiative, Referendum and Recall

Section 9.1. 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 City election, provided that such power shall not extend to the budget or capital program or any ordinance relating to the appropriation of money, the levy of taxes, zoning or salaries of City officers or employees. A proposed initiative ordinance shall contain only one (1) subject which shall be clearly expressed in its title. An initiative petition may be utilized to repeal any ordinance subject to initiative, including an ordinance for which the referendum time has lapsed. An initiative petition may also be utilized to amend an ordinance subject to initiative by repeal and enactment of same.
- (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 City election, provided that such power shall not extend to the budget or capital program, any emergency ordinance, any ordinance levying a special assessment or providing for the issuance of special tax bills or any ordinance relating to zoning, the appropriation of money or the levy of taxes.
- (c) *Recall.* No elected official shall be subject to recall during the first (1st) one hundred twenty (120) days after his or her induction into office. Likewise, no elected official shall be subject to recall during the last one hundred eighty (180) days of his or her term. If the elected official is retained in office upon any recall election, the official shall not be subject to recall during the first (1st) one hundred eighty (180) days after such recall election. Recall of the Mayor shall be by petition and vote of the qualified voters of the City; recall of a Council Member shall be by petition and vote of the qualified voters of that Council Member's electoral district.

The recall question shall be submitted to the voters in substantially the following form:

Shall _____ Name _____
Title _____
be removed from office?
Yes _____ No _____

Section 9.2. Commencement of Proceedings; Petitioners' Committee; Affidavit.

Any five (5) Ellisville registered voters may commence initiative, referendum or recall proceedings by

filling with the City Clerk an affidavit stating that 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 one address to which all notices to the committee are to be sent, and setting out the complete text of either the proposed initiative ordinance or the existing ordinance to be reconsidered or the name and City office of the official to be recalled.

Not less than three (3) or more than ten (10) days after the affidavit of the petitioners' committee is filed, the City Clerk shall issue the appropriate petition blanks to the petitioners' committee. At such time the City Clerk shall also furnish the committee in writing the total number of persons registered to vote at the last regular City election.

Section 9.3. Petitions.

- (a) *Number Of Signatures.* An initiative petition or referendum petition shall be signed by a number of Ellisville registered voters equal to at least ten percent (10%) of the total number of persons registered to vote at the last regular City election. A petition for recall of the Mayor shall be signed by a number of Ellisville registered voters equal to at least fifteen percent (15%) of the total number of persons registered to vote at the last regular City election; a petition for recall of a Council Member shall be signed by a number of Ellisville registered voters equal to at least fifteen percent (15%) of the total number of persons registered to vote at the last regular City election in that Council Member's electoral district.
- (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 executed in ink or indelible pencil and shall be followed by the address of the person signing and the date he or she signed the petition. Petitions shall contain, or have attached thereto throughout their circulation, the full text of either the proposed initiative ordinance to be reconsidered or the name and office of the City official to be recalled.
- (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 and date of each signature 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 initiative ordinance or the existing ordinance to be reconsidered or the recall proposition. Such affidavit shall also state the approximate cost of the election.
- (d) *Time For Filing Referendum Petitions.* Referendum petitions must be filed within thirty (30) days after adoption by the Council of the ordinance to be reconsidered.
- (e) *Time For Filing Recall Petitions.* Recall petitions shall be filed within ninety (90) days of the date of the first (1st) signature to the petition.
- (f) *Time Limit For Initiative Petitions.* Initiative petitions must be filed within ninety (90) days of the date of the first (1st) signature to the petition.

Section 9.4. Procedure After Filing.

- (a) *Certification By City Clerk; Amendment Of Petition.* Within twenty (20) days after a petition with

the apparent number of required signatures is filed, the City Clerk 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 certified 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) days, exclusive of Saturdays, Sundays and holidays, 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 files a supplementary petition upon additional papers within ten days, exclusive of Saturdays, Sundays and holidays, after receiving the copy of a certificate of insufficiency. All such supplementary petitions shall comply with the requirements of Subsections (b) and (c) of Article **IX**, Section 9.3, of this Charter. Within ten (10) days, exclusive of Saturdays, Sundays and holidays, after a supplementary petition 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 certified mail, return receipt requested, as in the case of any 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 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 9.5. Referendum Petitions; Suspension of Effect Of Ordinance.

When a referendum petition is timely filed with the City Clerk, the ordinance 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 Council repeals the ordinance, or
- (4) The election results sustaining the ordinance have been certified.

Section 9.6. Action On Petitions For Initiative and Referendum.

(a) *Action By Council.* When an initiative or referendum petition has been determined sufficient, the Council shall promptly consider the proposed initiative ordinance in the manner provided in Article **III** of this Charter, or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the City.

(b) *Submission To Voters.* The vote of the City on a proposed or referred ordinance shall be held not less than thirty (30) days and not later than one hundred twenty (120) days from the date of the final Council vote thereon. If no regular City election is to be held within the period

prescribed in this Subsection, the Council may in its discretion provide for a special election within the prescribed period; otherwise, the vote shall be had at the same time as the next regular election. Copies of the proposed or referred ordinance shall be made available at the polls.

Section 9.7. Actions On Petitions For 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 for which timely notice has been given.

Section 9.8. Withdrawal of Petitions.

An initiative, referendum or recall petition may be withdrawn at any time prior to the certification date established by the election authority of the City by filing with the City Clerk a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Section 9.9. Results of Election; Limit On Resubmission.

- (a) *Initiative.* If a majority of the voters voting on a proposed initiative ordinance vote in its favor, it shall be deemed adopted. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail. In the event a proposed initiative ordinance fails to receive a majority of the voters' vote, an initiative ordinance on the same subject shall not be resubmitted for at least one (1) year after said vote.
- (b) *Referendum.* If a majority of the electors voting on a referred ordinance vote to repeal the ordinance, it shall be deemed repealed. No ordinance on the same subject or with the same purpose shall be passed by the Council before one hundred twenty (120) days after an ordinance has been repealed by referendum.
- (c) *Recall.* If a majority of the electors voting at a recall election vote in favor of the proposition to remove an official, a vacancy shall exist in the office and such vacancy shall be filled in accordance with the procedures established in this Charter. If a majority of the electors voting at a recall election vote against the proposition to remove an official, that official shall remain in office. An official who has been removed from office by recall shall be ineligible to serve as an appointed official at any time during the remainder of the term for which the official was elected.

Article X. Franchises

Section 10.1. Granting of Franchises.

All public utility franchises 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 therefor has been filed with the Council, nor until a public hearing has been held thereon. No exclusive franchises shall ever be granted, and no franchise shall be granted for a longer term 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 public hearing.

Section 10.2. Right of Regulation.

All public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the Council to:

- (1) Repeal the same for misuse or non-use, or for failure to comply with the terms of the franchise.
- (2) Require proper and adequate extension of plant and service and the maintenance thereof at the highest practicable standards of efficiency.
- (3) Establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates.
- (4) Make an independent audit and examination of accounts at any time, and require reports annually.
- (5) Require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof.
- (6) Control and regulate the use of the City streets, alleys, bridges, and public places, and the space above and beneath them.
- (7) Regulate rates, fares and charges and make readjustments thereof from time to time if the same are not regulated by the State of Missouri.
- (8) Impose such other regulations from time to time as it may determine to be conducive to the safety, welfare and accommodation of the public, including the requirement that utility taxes shall be paid on a monthly basis.

Section 10.3. 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 amendment, alteration, or revocation at any time at the will of the Council, may be granted only by ordinance on such terms and conditions as the Council shall determine. Such permits shall in no event be construed to be franchises or extensions or amendments of franchises.

Section 10.4. Operation Beyond Franchise Period.

Any operation of a public utility 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 Council.

Article XI. Licensing, Taxation and Regulation of Businesses, Occupations, Professions, Vocations and Other Activities

Section 11.1. Objects of Licensing, Taxation and Regulations.

The Council shall have power by ordinance to license, tax, and regulate all businesses, 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, and Cities of the third or fourth class, and of any population group, and which any such Cities are now or may hereafter be permitted by law to license, tax, and regulate.

Article XII. General Provisions

Section 12.1. Personal Financial Interest.

Any City officer, board member, Council Member, commission member or employee who has a financial interest in any contract with the City, or in the sale of any land, material, supplies or services to the City or to a contractor supplying the City, or by reason of ownership of two percent (2%) or more of any class of outstanding stock, units or other equity interests in any publicly-traded corporation or limited partnership which is listed on a regulated stock exchange or automated quotation system in any contract with the City or in the sale of any land, material, supplies or services to the City or to a contractor supplying the City, shall make known that financial interest and shall refrain from voting upon or otherwise participating in his or her capacity as a City officer, board member, Council Member, commission member or employee in the making of such sale or in the making or performance of such contract, other than his or her employment contract as an officer or employee of the City. Likewise, any City officer, board member, Council Member, commission member or employee who owns ten percent (10%) or more of any of the outstanding stock or units of any closely-held corporation or limited partnership involved in any contract or other business relationship with the City, shall make known that financial interest and refrain from voting upon or otherwise participating in his or her capacity as a City officer, board member, Council Member, commission member or employee in the making or performance of any City contract, sale or other business arrangement involving that financial interest. Any person who is a City officer, board member, Council Member, commission member or employee and who willfully conceals such a 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 Manager or the Council.

Section 12.2. Political Activity.

No City employee shall solicit any contribution for the campaign fund of any candidate for Ellisville City office or take part in the political campaign of any candidate for Ellisville City office. All employees may exercise their rights as private citizens to express opinions and, if a registered voter

in Ellisville, 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 Ellisville 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 Ellisville City office.

Section 12.3. Activities Prohibited.

- (a) 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 or political or religious opinions or affiliations.
- (b) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel 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) 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 test, appointment, proposed appointment, promotion or proposed promotion.
- (d)
 - (1) The Mayor, Council Members, and the members of any City boards or commissions shall not meet or confer with any person, business entity, or any agent of either, regarding any application or petition which such person, business entity, or agent has filed with the Council, or any City board or commission, except by way of a lawful public meeting requested by such person, business entity or agent. Notice of any such meeting shall be published as required by law and shall include the purpose of the meeting and the identity of the person, business entity or agent requesting the meeting; and
 - (2) If any Council member, including the Mayor, or any board or commission member, shall be approached by any person, business entity, or any agent of either, concerning an application or petition that said person, business entity, or agent may file with the City Council, or any City board or commission, such member shall direct the person, business entity, or agent to request the City Clerk schedule a public meeting as provided above.
[Ord. No. 2518 §1(J), 8-21-2002, passed by a vote on November 5, 2002; Ord. No. 2739 §1(6), 1-18-2006, passed by a vote on April 4, 2006]
- (e) Any person who by himself or herself or with others willfully violates any of the provisions of Article **XII**, Section 12.3, of this Charter, shall be deemed guilty of a misdemeanor and shall be subject to fine, imprisonment or both as may be provided by ordinance. Any person who violates any of the aforementioned provisions shall forfeit his or her office or employment with the City.

Section 12.4. 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 and personally served upon the City Manager, or his or her designee, 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 therefor from the City.

Section 12.5. 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 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 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 12.6. 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 Constitution of the State of Missouri for framing and submitting a complete charter. Amendments may also be proposed by ordinance by the Council or by petition signed by a number of registered voters equal to at least fifteen percent (15%) of the total number of persons registered to vote at the last regular City election, setting forth the proposed amendment and filed with the City Clerk, in the manner prescribed for initiative petitions in Article **IX**, Section 9.3, of this Charter. 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 seventy-five (75) days nor more than one hundred eighty (180) days after its passage or, if none, at a special election held as provided by law and the Constitution of the State of Missouri 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 of the State of Missouri for a complete charter.

Section 12.7. 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 the payment of special assessments for the public improvements or special tax bills evidencing such assessments shall be governed by general ordinance, consistent with applicable State law.

Section 12.8. 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 12.9. 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.

Section 12.10. Enactment of Charter Enforcement Commission.

[Ord. No. 2518 §1(K), 8-21-2002, passed by a vote on November 5, 2002]

An ordinance establishing a Charter Enforcement Commission shall be enacted by the Council within sixty (60) days after the effective date of this Charter amendment with the option to extend it to ninety (90) days on unanimous consent of the Council.

The Charter Enforcement Commission shall consist of the senior Council member from each district, except in such case the senior Council member is the subject of the alleged charter violation, then it shall be the junior Council member of the district. If neither Council member from a district is available to serve, then it shall be the Mayor, or in his absence, a Council member selected by the Council.

Said Commission shall investigate and render advisory opinions on allegations of violations of this Charter to the full Council.

Section 12.11. Charter Review.

[Ord. No. 2518 §1(L), 8-21-2002, passed by a vote on November 5, 2002]

From time to time, but not less than every five (5) years, the Council shall review the Charter to consider whether any amendments to this Charter are appropriate.

Article XIII. Transitional Provisions

Section 13.1. Personnel System.

All City employees, with the following limited exceptions, shall be subject to the Performance Based 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. Only those officials with specific removal procedures under this Charter shall be exempt from the Performance Based Personnel System.

Section 13.2. Ordinances To Remain in Force.

All ordinances, regulations, and resolutions 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 13.3. Pending Actions and Proceedings.

No action or proceeding, civil or criminal, pending at the time this Charter shall take effect, whether 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 13.4. Continuance of Contracts, Public Improvements and Taxes.

All contracts entered into by the City, or for its benefit, prior to the effective date 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.

Article XIV. Schedule

Section 14.1. Purpose of Schedule.

The purpose of the following provisions is to promote the orderly transition from the present government of the City of Ellisville, Missouri, to the new government provided for in this Charter and to inaugurate the new government under the provisions of this 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 14.2. Election To Approve A Charter.

This Charter shall be submitted to a vote of the electors of the City of Ellisville at an election to be held on the third (3rd) day of August, 1993. The election shall be administered by the officials now charged with the responsibility for the conduct of City elections, and in accordance with the provisions of the Constitution of the State of Missouri. The question to the voters shall be submitted as follows: "Shall the Charter of the City of Ellisville, Missouri, be approved?"

Section 14.3. First Elections.

- (a) *Effect.* After its adoption by voters this Charter shall be in effect at the first (1st) 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.

(b) *First General Election.* The first (1st) general election shall be held on the first (1st) Tuesday after the first (1st) Monday in April, 1994.

Section 14.4. Time of Taking Full Effect.

This Charter shall be in full force and effect after the certification of the election results set forth in Article **XIV**, Section 14.2, of this Charter, to the extent possible and not in conflict with pre-existing vested rights to hold office pursuant to Article **XIV**, Section 14.5, of this Charter. This Charter shall be in full effect after all elected positions are elected or appointed after the certification of the election results set forth in Article **XIV**, Section 14.3(b), of this Charter.

Section 14.5. Incumbent Members of The Legislative Branch and Mayor.

The incumbent Mayor and incumbent members of the legislative branch shall serve their respective terms and under this Charter in all other manners not inconsistent with pre-existing vested rights to hold office; however, such incumbent members of the legislative branch shall exercise only the powers and duties conferred by this Charter and hold office under the prohibitions during the remainder of their terms. Incumbent members of the legislative branch shall not have the remainder of their respective terms served during the transition to the Charter City counted toward the limitation period specified in Article **III**, Section 3.2(e), of this Charter. Term limitation provisions shall commence with the elections held subsequent to the adoption of this Charter for each of the respective offices.

Section 14.6. Temporary Ordinances.

At its first (1st) meeting or at any meeting held within sixty (60) days after the date of its first (1st) meeting, 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 would probably 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 rejected 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 ninety-first (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 this Charter for permanent ordinances of such type.

Section 14.7. First City Manager of Charter.

After adoption of this Charter by the voters at a duly held election, and at the first (1st) meeting following certification of those election results, the Council shall appoint a City Manager.

Section 14.8. Enactment of Performance Based Personnel System.

The ordinance establishing the Performance Based Personnel System, referenced in Article **VI**, Section 6.2, of this Charter, shall be enacted by the Council within sixty (60) days after the effective date of this Charter with the option to extend it to ninety (90) days on unanimous consent of the Council. The personnel review board of three (3) commissioners shall be appointed within thirty (30) days of the effective date of the enabling ordinance for the Performance Based Personnel System.