

HOME RULE CHARTER

City of West Plains, Missouri

**Unanimously Approved by the
West Plains Home Rule Charter Commission
November 19, 2013**



West Plains Home Rule Charter Commission

Herb Lunday, Chair | Reid Grigsby, Vice Chair | Brenda Smith, Secretary
Gary Duggins | Don Eagleman | Ray Gobel | David Kirk | Jim Laughary | Brian Mitchell | Terry
Sanders | Barry Slayton | Sherrill Thompson | Michael Topliff

Paid for by the City of West Plains

TABLE OF CONTENTS

PREAMBLE	5
ARTICLE I. Incorporation, Name and Boundaries	5
Section 1.1. Incorporation, Name and Boundaries.....	5
ARTICLE II. Powers	5
Section 2.1. Powers	5
Section 2.2. Construction.....	5
ARTICLE III. City Council.....	5
Section 3.1. Where Powers Vested	5
Section 3.2. Composition; Qualifications; Election and Terms.....	5
Section 3.3. Salary and Stipend.....	6
Section 3.4. Mayor Pro Tempore	6
Section 3.5. Administrative Policy Matters	6
Section 3.6. Prohibition Against Holding Other Office.....	6
Section 3.7. Vacancies; Forfeiture of Office; Filling of Vacancies	7
Section 3.8. Judge of Qualifications.....	7
Section 3.9. City Officers	7
Section 3.10. City Attorney(s)	8
Section 3.11. Investigations	8
Section 3.12. Audits and Reviews.....	8
Section 3.13. Legislative Proceedings	9
Section 3.14. Revision of Ordinances.....	10
ARTICLE IV. Mayor.....	10
Section 4.1. Executive Power	10
Section 4.2. Qualifications; Election and Term	10
Section 4.3. Salary and Stipend.....	10
Section 4.4. Powers and Duties.....	11
Section 4.5. Prohibition Against Holding Other Office.....	11
Section 4.6. Vacancy; Forfeiture of Office; Filling of Vacancy.....	12
ARTICLE V. City Administrator	12
Section 5.1. Appointment and Term.....	12
Section 5.2. Bond.....	12
Section 5.3. Powers and Duties.....	12
Section 5.4. Acting City Administrator.....	14
Section 5.5. Performance Review.....	14
ARTICLE VI. Administrative Organization and Personnel System	14
Section 6.1. Administrative Organization	14
Section 6.2. Personnel System	14

ARTICLE VII. Financial Procedures	15
Section 7.1. Fiscal Year	15
Section 7.2. Submission of Budget and Budget Message	15
Section 7.3. Budget.....	15
Section 7.4. Capital Program	15
Section 7.5. Council Action on Budget.....	16
Section 7.6. Public Records	16
Section 7.7. Amendment After Adoption	16
Section 7.8. Property Tax Rates and Tax Rolls	17
Section 7.9. Sale of Bonds.....	17
 ARTICLE VIII. Declaration of Candidacy and Elections	 17
Section 8.1. Municipal Elections	17
Section 8.2. Declaration of Candidacy	17
Section 8.3. Determination of Election Results	18
 ARTICLE IX. Initiative, Referendum and Recall	 18
Section 9.1. General Authority	18
Section 9.2. Commencement of Proceedings; Petitioners' Committee; Notarized Affidavit	19
Section 9.3. Petitions	20
Section 9.4. Procedure After Filing	21
Section 9.5. Referendum Petitions; Suspension of Effect of Ordinance	22
Section 9.6. Action on Initiative, Referendum and Recall Petitions.....	22
Section 9.7. Results of Elections	23
 ARTICLE X. Franchises	 23
Section 10.1. Granting of Franchises.....	23
Section 10.2. Right of Regulation.....	24
Section 10.3. Temporary Permits.....	24
Section 10.4. Operation Beyond Franchise Period	25
 ARTICLE XI. Licensing, Taxation and Regulation of Business, Occupations, Professions, Vocations, and Other Activities or Things.....	 25
Section 11.1. Objects of Licensing, Taxation and Regulation	25
 ARTICLE XII. General Provisions.....	 25
Section 12.1. Personal Financial Interest.....	25
Section 12.2. Prohibitions	26
Section 12.3. Political Activity	26
Section 12.4. All Ordinances Effective on Municipal Land	26
Section 12.5. Notice of Suits	26
Section 12.6. Official Bonds.....	27
Section 12.7. Charter Review Commission.....	27
Section 12.8. Charter Amendment.....	27
Section 12.9. Public Improvements and Special Assessments.....	27

Section 12.10. Proof of Ordinance	28
Section 12.11. Separability	28
ARTICLE XIII. Transitional Provisions	28
Section 13.1. Personnel System	28
Section 13.2. Continuance of Taxes, Assessments and Fees	28
Section 13.3. Ordinances to Remain in Force	28
Section 13.4. Pending Actions and Proceedings	28
Section 13.5. Continuance of Contracts, Public Improvements and Taxes.....	29
ARTICLE XIV. Schedule	29
Section 14.1. Election to Adopt Charter	29
Section 14.2. Election of City Officials	29
Section 14.3. Time of Taking Full Effect	29
Section 14.4. Temporary Ordinances	29
Section 14.5. Purpose of Schedule.....	30
APPENDIX.	31
Appendix A. Registration Form for Initiative or Referendum Petition Circulators	31

CHARTER OF THE CITY OF WEST PLAINS, MISSOURI

PREAMBLE

We, the People of West Plains, 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.

ARTICLE I INCORPORATION, NAME AND BOUNDARIES

Section 1.1. Incorporation, Name and Boundaries.

The inhabitants of the City of West Plains, 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 West Plains.

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 Missouri Constitution and are not limited or denied either by this Charter or by statute. In addition to its home rule powers, the City shall 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 CITY COUNCIL

Section 3.1. Where Powers Vested.

Except as this Charter provides otherwise, all powers of the City shall be vested in the City Council (hereafter City Council or 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. Except as specified otherwise within this Charter, Council decisions shall be affirmed by simple majority vote.

Section 3.2. Composition; Qualifications; Election and Terms.

(a) **Composition.** There shall be a Council of four members and a mayor, chosen from the City at large by qualified voters as provided in Section 8.1 (d), Definition of Qualified Voter. Wherever used in this Charter, the terms "Council" and "City

Council" shall mean an entire Council of four members and a mayor, regardless of vacancies or absences.

- (b) **Qualifications.** Prior to being considered for election, a candidate for Councilmember shall be a United States citizen, shall have reached the age of 25, shall have been a continuous resident of the City for the two years preceding the election and shall be a qualified voter.
- (c) **Election, Terms and Term Limitations.** Councilmembers shall be elected to serve staggered four-year terms as provided by Section 14.2, Election of City Officials unless they are running for an unexpired term of a Councilmember. At each regular municipal election, Councilmembers shall be elected to fill the offices of those whose terms expire. There shall be no limit to the number of terms a person may serve as a Councilmember.

Section 3.3. Salary and Stipend.

The Councilmembers shall receive no salary, but they shall receive a stipend for necessary expenses incurred in connection with their duties. The Council may determine the stipend as consistent with state law.

Section 3.4. Mayor Pro Tempore.

Annually or when a vacancy occurs, the Council shall elect 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. While assuming the powers and duties of the Mayor, the Mayor Pro Tempore shall retain his or her vote as a Councilmember, but shall not possess the additional mayoral voting power provided by Section 4.4 (a), Council Meetings. If a vacancy in the office of Mayor should occur, the position shall be filled in accordance with Section 4.6 (c), Filling of Vacancy.

Section 3.5. Administrative Policy Matters.

Except for the purpose of inquiries, information and investigations under Section 3.11, Investigations, 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. Neither the Council nor any of its members shall in any manner dictate the appointment, promotion, discipline, or removal of any City administrative officers or employees whom the City Administrator or the City Administrator's subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the City Administrator anything pertaining to appointment and removal of such officers and employees, provided such communications are based on discussions from the Council as a body and not made as individuals.

Section 3.6. Prohibition Against Holding Other Office.

Except where authorized by law, no Councilmember shall hold any other West Plains City office or City employment during the term for which the Councilmember was

elected to the Council, and no former Councilmember shall hold any compensated appointive West Plains City office or City employment until one year after the expiration of the term for which the Councilmember was elected to the Council.

Section 3.7. Vacancies; Forfeiture of Office; Filling of Vacancies.

- (a) **Vacancies.** The office of a Councilmember shall become vacant upon the Councilmember'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.** A Councilmember shall forfeit office: (1) if at any time during the term of office a Councilmember lacks any qualification for the office prescribed by this Charter or by law; or (2) if a Councilmember violates any prohibition as provided in Section 3.6, Prohibition Against Holding Other Office; or (3) if a Councilmember willfully violates the requirements of Section 12.1, Personal Financial Interest.
- (c) **Filling of Vacancies.** The Council by a majority vote of all its remaining members shall appoint a qualified person to fill the vacancy until the next regular municipal election when a person will be elected by qualified voters to serve the remainder of the unexpired term. The appointed person shall take office immediately upon being sworn into office by the City Clerk.

Section 3.8. Judge of Qualifications.

The Council shall be the judge of the qualifications of its members and of the grounds for forfeiture of their offices, and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. An elected official charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand.

Section 3.9. City Officers

- (a) **City Administrator.** The Mayor, with the advice and consent of the Council, shall appoint a City Administrator. The City Administrator shall be the chief administrative officer of the City and shall devote his or her full time to the performance of the duties of office, as described in Article V.
- (b) **City Clerk.** A qualified person shall be appointed City Clerk by a majority of the City Council after recommendation from the City Administrator. The City Clerk shall keep the journal of City Council proceedings, authenticate by signature all ordinances and resolutions, and record them in full in a book kept for that purpose. The City Clerk shall perform such other duties as may be required by law, by this Charter, by ordinance, or by the City Administrator. The City Clerk may be removed by a four-fifths vote of the Council.
- (c) **Director of Finance.** A qualified person shall be appointed Director of Finance by a majority of the City Council after recommendation from the City Administrator. The Director of Finance shall be the general accountant of the City and shall perform

such other duties as may be required by law, by this Charter, by ordinance, or by the City Administrator. The Director of Finance may be removed by a four-fifths vote of the Council.

- (d) **Other City Officers.** To ensure proper functioning of City government, officer positions may be established or redefined by ordinance by a majority of the City Council after recommendation from the City Administrator.

Section 3.10. City Attorney(s).

There shall be a City Attorney(s) appointed by a majority of the entire Council. The City Attorney(s) shall serve as the chief legal advisor to the Mayor, the Council, administrative staff and all the City departments, offices and agencies, shall represent the City in all legal proceedings and shall perform any other duties prescribed by law, by this Charter, by ordinance or as may be required of the City Attorney(s) by the Mayor, Council or City Administrator. The person(s) appointed shall serve at the pleasure of the Council in accordance with a contract or ordinance approved by the Council. The City Attorney(s) may be removed by a four-fifths vote of the entire Council.

- (a) **Accountability.** In all respects except in his or her capacity as legal advisor to the Mayor and Council, the City Attorney(s) shall report to and be accountable to the City Administrator, and the City Administrator shall render an annual review of the City Attorney(s) to the Mayor and Council.
- (b) **Attend City Council Meetings.** The City Attorney(s) shall attend Council meetings as required by ordinance and shall receive notice of all special meetings.
- (c) **Qualifications.** The City Attorney(s) shall be a licensed member(s) of the Missouri Bar and shall be qualified to practice law in the State of Missouri.
- (d) **Compensation.** The Council shall provide for the compensation of the City Attorney(s). The City Attorney(s) shall be subject to the administrative policies and procedures of the City.

Section 3.11. Investigations.

The Council may make investigations into the affairs of the City and the conduct of any City department or office 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 subject to punishment as prescribed by law.

Section 3.12. Audits and Reviews.

- (a) **Independent Audits.** The Council shall provide for an independent financial audit of all City accounts and a management discussion and analysis report at least once a year. Such audits shall be made in accordance with generally accepted accounting principles 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. A copy of the audit report and management report prepared by the certified public accountant or firm of such accountants shall be maintained in the Office of the City Clerk and shall be open to public inspection.

- (b) **Operations Reviews.** The Council, upon its own initiative or upon a recommendation of the City Administrator, shall provide for periodic management/ performance reviews (performance audits) of the City operations, programs or other matters.

Section 3.13. Legislative Proceedings.

- (a) **Meetings.** The Council shall meet regularly at least once each month at such times and places as the Council may prescribe. Special meetings of the City council may be called at the direction of the Mayor or upon request of any two members of the council, provided the special meetings are announced in accordance with City ordinance, this charter, or law.
- (b) **Rules and Journals.** The Council shall determine its own rules of order of business. It shall cause a journal of its proceedings (minutes) to be kept, and this journal shall be maintained in the Office of the City Clerk and made available for public inspection.
- (c) **Voting.** A roll call vote of the Council shall be required on passage of an ordinance, on matters requiring a four-fifths vote, and all matters required by state law. The ayes and nays, by name, shall be recorded in the journal. A roll call vote shall not be required in other matters.
- (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 West Plains, Missouri. The enacting clause of all ordinances submitted by initiative shall be: Be It Ordained By the People of the City of West Plains, Missouri.
- (e) **Procedure.** Every proposed ordinance shall be read by title in open Council meeting(s) two times before final passage. Within state law and by ordinance, Council shall designate ordinance categories for which both ordinance readings may occur during the same Council meeting. A copy of each proposed ordinance shall be provided for each Council member at the time of its introduction, and copies shall be provided for public inspection in the Office of the City Clerk and in electronic format until it is finally adopted or fails of adoption. 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, the proposed ordinance as amended shall be placed on file for public inspection in the Office of City Clerk for a minimum of one week before final passage.

- (f) **Emergency Ordinances.** All emergency ordinances shall be read by title in open City Council meetings. 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 affirmative vote 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 and adoption by the City Council, or as otherwise specified within the ordinance.
- (h) **Authentication and Recording.** All ordinances and resolutions adopted by the Council shall be authenticated by the signature of the Mayor and City Clerk. The City Clerk shall maintain a properly-indexed record of all ordinances and resolutions adopted by the Council. The record shall be open to public inspection and maintained in the Office of the City Clerk.

Section 3.14. 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 have a seat on the City Council and shall preside at all of its meetings. The Mayor shall be recognized as the head of the City for all legal and ceremonial purposes and by the Governor of Missouri for all purposes of military law.

Section 4.2. Qualifications; Election and Term.

- (a) **Qualifications.** Prior to being considered for election, a candidate for Mayor shall be a United States citizen, shall have reached the age of 25, shall have been a continuous resident of the City for the two years preceding the election and shall be a qualified voter.
- (b) **Election, Term, and Term Limitation.** At the regular municipal election, the Mayor shall be elected by the qualified voters of the City at large to serve a four-year term as provided by Section 14.2, Election of City Officials. There shall be no limit to the number of terms a person may serve as Mayor.

Section 4.3. Salary and Stipend.

The Mayor shall receive no salary, but he or she shall receive a stipend for necessary expenses incurred in connection with his or her duties. The Council may determine the stipend as consistent with state law.

Section 4.4. Powers and Duties.

The powers and duties of the Mayor shall include the following but shall not necessarily be limited to:

- (a) **Council Meetings.** The Mayor shall preside at meetings of the Council, and the Mayor shall be a voting member of the Council. The Mayor may call special meetings of the Council as provided in Section 3.13 (a), Meetings.
- (b) **State of the City.** The Mayor, during the first quarter of the City's fiscal year, shall present to the Council information as to the affairs of the City and any recommendations of the Mayor.
- (c) **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.
- (d) **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. Bylaws shall be maintained for each such entity, to include member duties and conditions under which members may be removed by the Mayor or the appropriate municipal authority.
- (e) **Administrative Policy Matters.** The Mayor shall exercise general supervision over all the officers and affairs of the City, but shall defer the direct supervision of personnel and day-to-day operations of the City to the City Administrator.
- (f) **Remit Fines and Forfeitures and Grant Reprieves and Pardons.** The Mayor shall have the power to remit fines and forfeitures and to grant reprieves and pardons for offenses arising under the ordinances of the City. Notice of such action shall be made public at the next regular Council meeting.
- (g) **Review City Administrator.** The Mayor shall preside as chair of the City Council's annual performance review of the City Administrator.
- (h) **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 Against Holding Other Office.

Except where authorized by law, no Mayor shall hold any other West Plains City office or City employment during the term for which the Mayor was elected to the Council, and no former Mayor shall hold any compensated appointive West Plains City office or City employment until one year after the expiration of the term for which the Mayor was elected to the Council.

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: (1) if at any time during the term of office the Mayor lacks any qualification for the office prescribed by this Charter or by law; or (2) if the Mayor violates any prohibition as provided in Section 4.5, Prohibition Against Holding Other Office; or (3) if the Mayor willfully violates the requirements of Section 12.1, Personal Financial Interest.
- (c) **Filling of Vacancy.** In the event the office of Mayor should be vacated, the Mayor Pro Tempore shall assume the office of Mayor for the remainder of the unexpired term, and the Mayor Pro Tempore's previous position as Councilmember shall be filled in accordance with Section 3.7 (c), Filling of Vacancies. The person shall take office immediately upon being sworn into office by the City Clerk.

**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 a majority of the entire City Council. The City Administrator and any Acting City Administrator shall be appointed solely on the basis of such person's executive and administrative qualifications. The person appointed shall serve at the pleasure of the Council in accordance with a contract or ordinance approved by the Council. The City Administrator may be removed by a four-fifths vote of the Council. 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 months of appointment and possess qualifications provided by ordinance. The residency requirement may be waived by a majority vote of the Council.

Section 5.2. Bond

The City Administrator, upon entering into the duties of his or her office, shall be included with certain other employees, as identified by the City Council, in a bonding insurance policy with an annual limit of at least \$500,000. Such bond shall be approved by the City Council, and such bond shall insure the City for the faithful and honest performance of the duties of the City Administrator and for rendering a full and proper account of the City for funds and property which shall come into the possession or control of the City Administrator. The cost of such bond shall be paid by the City.

Section 5.3. Powers and Duties.

The City Administrator shall be the chief administrative officer of the City and shall devote his or her full time to the performance of the duties of office. 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 powers and duties, but at no time shall the duties or powers of the City Administrator supersede the actions of the City Council:

- (a) **Appointment and Removal of Department Heads and Subordinates.** The City Administrator shall act as the personnel officer and shall recommend an appropriate position classification system and pay plan to the Mayor and City Council. The City Administrator, after consultation with department heads, shall approve advancements and appropriate pay increases within the approved pay plans and position classification system. The City Administrator shall have the power to appoint and remove, in accordance with personnel system regulations approved by the City Council, all City employees subordinate to department heads. The City Administrator shall make recommendations of appointment and removal of department heads to the City Council.
- (b) **Administration of Departments.** The City Administrator shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.
- (c) **Attend City Council Meetings.** Except as allowed by the Mayor or City Council, 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 faithfully executed.
- (e) **Budget and Capital Program.** The City Administrator shall ensure preparation of the annual budget and capital program, submit both to the Mayor and Council, and make them available at City Hall for public review.
- (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, the official copy of which shall be on file at City Hall.
- (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 such recommendations to the Council concerning the affairs of the City as the City Administrator deems desirable.

- (i) **Execution of Documents.** Except as otherwise provided by the Council, 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 municipal business.
- (j) **Other Duties.** The City Administrator shall perform such other duties as are specified in this Charter, by ordinance, or as may be required by the Council.

Section 5.4. 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. 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 5.5. 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
ADMINISTRATIVE ORGANIZATION AND PERSONNEL SYSTEM**

Section 6.1. Administrative Organization.

- (a) **Departments, Authorities and Offices.** Existing departments, 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 6.2. Personnel System.

Within 12 months after the adoption of this Charter, 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 other 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. Existing personnel policies and procedures shall be continued as constituted on the effective date of this Charter until thereafter changed pursuant to this Charter or by ordinance.

ARTICLE VII FINANCIAL PROCEDURES

Section 7.1. **Fiscal Year.**

The City Council shall determine the fiscal year of the City.

Section 7.2. **Submission of Budget and Budget Message.**

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

Section 7.3. **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 7.4. **Capital Program.**

(a) **Submission to Council.** Prior to the final date for submission of the budget, the City Administrator shall prepare and submit to the Mayor and Council a long-range capital program. The proposed capital program shall also be made available for public review as a part of the budget. The Council by resolution shall adopt the capital program with or without amendment on or before the last day of the current fiscal year.

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

- (1) a clear general summary of its contents;
- (2) a list of all capital improvements that are proposed to be undertaken during the time period next ensuing, with appropriate supporting information as to the necessity for such improvements;
- (3) cost estimates, method of financing and recommended time schedules for each such improvement; and
- (4) 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 7.5. Council Action on Budget.

- (a) **Notice and Hearing.** The Council shall communicate via one or more media sources, as required by law, 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 meeting on the budget.
- (b) **Adoption.** The Council by ordinance shall adopt the budget with or without amendment on or before the last day of the current fiscal year. If it fails to adopt the budget by this date, the amounts appropriated for operation for the ending 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 7.6. 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. The Council shall communicate annually, in one or more media sources as required by law, a summary accounting of the receipts and expenditures for the preceding year.

Section 7.7. Amendment After Adoption.

- (a) **Supplemental Appropriations.** If during the fiscal year the City Administrator certifies that there are revenues in excess of those estimated in the budget available for appropriation, 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.**
- (1) 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 or office. The City Administrator shall regularly inform Council of any such transfers.

(2) Upon written request by the City Administrator, the Council may by ordinance transfer part or all of any unencumbered appropriation balance from one department or office to another.

(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 3.13 (f), Emergency Ordinances.

Section 7.8. Property Tax Rates and Tax Rolls.

Working cooperatively with municipal, county and state officials, the Council shall by ordinance and state law set the tax rates and levy on the various classes of property, and the levy so established shall be certified, computed, and extended upon the tax rolls.

Section 7.9. Sale of Bonds.

The City shall be authorized to sell any 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 VIII
DECLARATION OF CANDIDACY AND ELECTIONS**

Section 8.1. Municipal Elections.

(a) **Regular Elections.** The regular municipal election shall be held on the first Tuesday following the first Monday in April, or such day 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 this Charter, the term "qualified voter" means a registered voter who is eligible to vote in the City.

Section 8.2. 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 8.3. Determination of Election Results.

The Council shall review the election abstract and enter the results into the permanent record of the City at the next Council meeting following certification of the election returns as provided by state law. The candidate receiving the highest number of votes for each office shall take office immediately upon being sworn into office by the City Clerk. Procedures in the event of an absolute tie shall be determined by state statute.

**ARTICLE IX
INITIATIVE, REFERENDUM AND RECALL**

Section 9.1. General Authority.

- (a) **Initiative.** Any resident who possesses the qualifications to be eligible to vote in the City shall have the power to propose ordinances to the Council. Such power shall only extend to matters subject to initiative under state law. A proposed initiative ordinance shall contain only one subject, which shall be clearly expressed in its title. If the Council votes to not adopt the proposed ordinance, without any change in substance, or after the passage of sixty (60) calendar days, the voters may initiate a petition. This petition must be initiated within fourteen (14) calendar days after a vote to not adopt the ordinance has been made or the above mentioned sixty (60) calendar days have passed, whichever may come first.

- (b) **Referendum.** Any resident who possesses the qualifications to be eligible to vote in the City shall have the power to require reconsideration by the Council of any adopted ordinance, but must do so within forty-five (45) calendar days after the ordinance is adopted. Such power shall only extend to matters subject to referendum under state law. If the Council fails to repeal the referred ordinance after sixty (60) calendar days have passed, or votes to not repeal the ordinance, the voters may initiate a petition. This petition must be initiated within fourteen (14) calendar days after the vote to not repeal or the above mentioned sixty (60) calendar days have passed, whichever may come first.

- (c) **Recall.** Any elected official, whether popularly elected or appointed, may be removed by qualified voters of the City. However, no elected official shall be subject to recall within six months after induction into office or during the last six months of the official's term, and, 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. Upon being asked to resign by any resident who possesses the qualifications to be eligible to vote in a City election, if the elected official fails to resign, or sixty (60) calendar days have passed, any resident who possesses the qualifications to be eligible to vote in a City election may initiate a petition. This petition must be initiated within fourteen (14) calendar days after the elected official refuses to resign or the above mentioned sixty (60) calendar days have passed, whichever may come first.

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

- (a) Any five residents who possess the qualifications to be eligible to vote in a City election of the City 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 street addresses and specifying a local mailing 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, which must comply with Section 3.13 (d) of this Charter, 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. Each petition circulator shall be at least eighteen years of age and registered with the City Clerk. Signatures collected by any circulator who has not registered with the City Clerk on or before the deadline for filing petitions shall not be counted. The form with which the petition circulator shall register shall be substantially the same as the form appearing in Appendix A of this Charter:
- (b) Within five (5) business days after the affidavit of the Petitioners' Committee is filed, the City Clerk shall provide the proposed initiative petition to the City Attorney and City Director of Finance.
- (1) The City Attorney shall then issue a short advisory legal opinion, which shall only concern the legality of the subject matter and the wording of the petition. The legal opinion shall be returned by the City Attorney to the City Clerk within fifteen (15) business days of receipt of the proposed initiative petition from the City Clerk.
 - (2) Upon receipt of the proposed initiative petition from the City Clerk, the Director of Finance shall prepare a short summary of the estimated cost to the City to implement the proposed ordinance and the anticipated funding source for the expenses caused by the implementation and operation of the proposed ordinance. Such opinion shall be advisory only and shall not

constitute a binding commitment of the City treasury. The estimated cost summary shall be returned by the Director of Finance to the City Clerk within fifteen (15) business days of receipt of the proposed initiative petition from the City Clerk.

- (c) Once the City Clerk has received the advisory legal opinion and estimated cost summary, the Clerk shall, within ten (10) business days, remit the proposed initiative petition to the Petitioners' Committee. The petition shall include a notation on the top of the proposed petition stating that copies of the advisory legal opinion or summary thereof prepared by the City Attorney and estimated cost summary are attached to the petition as exhibits along with the appropriate signature forms. The Committee shall then be permitted to obtain signatures on the proposed initiative as long as the legal opinion and estimated cost summary are attached as exhibits to every petition used to collect signatures.
- (d) Since the legal opinion and estimated cost summary above are advisory only, the Committee may inform any potential signer and the public at large that the Committee disagrees with either the legal opinion and/or estimated cost summary.

Section 9.3. Petitions.

(a) Number of Signatures.

- (1) **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.
- (2) **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.
- (3) **Recall.** A recall 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.

- (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, along with the attachments required in Section 9.2 (c). Signature sheets of initiative and referendum petitions shall state the specific title of the proposal on the top and bottom of all pages. Signature sheets of 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. 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 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 the ordinance proposed, or ordinance sought to be reconsidered, or recall petition, as well as any required attachments.

(d) **Time for Filing Petitions.**

(1) **Initiative.** An initiative petition shall be filed within ninety (90) calendar days of the issuance of the appropriate petition forms to the Petitioners' Committee by the City Clerk as specified in Section 9.2 (c).

(2) **Referendum.** A referendum petition shall be filed within ninety (90) calendar days of the issuance of the appropriate petition forms to the Petitioners' Committee by the City Clerk as specified in Section 9.2 (c).

(3) **Recall.** A recall petition shall be filed within ninety (90) calendar days of the issuance of the appropriate petition forms to the Petitioners' Committee by the City Clerk as specified in Section 9.2 (c).

(e) **Withdrawal of Signatures.** Any voter who has signed an initiative or referendum petition may withdraw his or her signature from that petition by submitting to the City Clerk, before the petition is filed with the City Clerk, a sworn statement requesting that his or her signature be withdrawn and affirming the name of the petition signed, the name of the voter used when signing the petition, the address of the voter, and the county of residence.

Section 9.4. Procedure After Filing.

(a) **Certificate of City Clerk; Amendment.** Within twenty-five (25) 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 within three (3) business days 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 two (2) business days after receiving the copy of the City Clerk's 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 9.3, Petitions. Within ten (10)

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 is certified insufficient and the Petitioners' Committee does not amend within the time required, or an amended petition is certified insufficient, or a petition or amended petition is certified sufficient, the City Clerk shall promptly present the City Clerk's certificate to the Council.

Section 9.5. 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 9.6. Action on Initiative, Referendum and Recall Petitions.

- (a) **Initiative and Referendum; Council Action.** When the Council has received a certified sufficient initiative or referendum petition, it shall promptly consider the proposed initiative ordinance in the manner provided in Section 3.13, Legislative Proceedings, 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) 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 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 at the next regular municipal or special municipal election for adoption or rejection. Copies of the proposed or referred ordinance, including the attachments required by Section 9.2 (c) 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 submitting the proposed recall to the voters of the City. The vote on the proposed recall shall be held at the next available regular municipal or special municipal election. Copies of the petition, stating the name of the person and the

title of the office of the elected official to be recalled and a general statement of the reasons for the recall, shall be made available at the polls.

- (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 9.7. **Results of Election.**

- (a) **Initiative.** If a majority of the electors voting on a proposed initiative ordinance vote in favor thereof, it shall thereupon be an ordinance of the City and shall, unless otherwise specified, become effective as indicated in Section 3.13 (g) of this Charter. No ordinance submitted by an initiative and approved by the voters shall be amended or repealed by the Council for at least six months, excepting any sections, which are determined to be facially invalid. In the succeeding six month period, such ordinance may only be amended or repealed by unanimous vote of Council. After the expiration of the second six month period outlined above, such ordinance may only be amended or repealed by the affirmative vote of at least four (4) members of Council. If conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail. No election under an initiative procedure shall be set aside because of any defect in the petition.
- (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. No election under a referendum procedure shall be set aside because of any defect in the petition.
- (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 Sections 3.7 (c) and 4.6 (c) of 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 during the remainder of the term for which the official was elected.

ARTICLE X FRANCHISES

Section 10.1. **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 therefor has

been filed with the 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 communicating such notice via one or more media sources, as required by law. 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 10.2. 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, which shall be made available in printed or electronic format.
- (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 10.3. 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 a franchise, or an extension or amendment of a franchise.

Section 10.4. 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 XI
LICENSING, TAXATION AND REGULATION
OF BUSINESS, OCCUPATIONS, PROFESSIONS,
VOCATIONS AND OTHER ACTIVITIES OR THINGS**

Section 11.1. 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 statutes 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. Any new licensing, taxation, or regulation, or increase to existing licensing, taxation, or regulation, shall require a four-fifths vote of the council. Decreases or elimination of like matters may be decided by a simple majority vote.

**ARTICLE XII
GENERAL PROVISIONS**

Section 12.1. 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 12.2. Prohibitions.

(a) Activities Prohibited.

- (1) **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.
- (2) **False Reports.** 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 thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.
- (3) **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 12.2 (a), Activities Prohibited, shall be guilty of a crime and upon conviction thereof shall be punishable as may be provided by ordinance or law.

Section 12.3. Political Activity.

All employees may exercise their rights as private citizens to express opinions and, if a qualified voter of the City, to vote in any municipal election. Political affiliation, participation or contribution shall not be considered in making any City employment decision. 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 12.4. All Ordinances Effective on Municipal Land.

In addition to all other powers herein granted, the City of West Plains 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 12.5. 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 Mayor 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 12.6. 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, be included in a bonding insurance policy with an annual limit of at least \$500,000 in the aggregate or in such sums and with such sureties as shall be prescribed by ordinance or law. The City shall pay the premiums on all such bonds.

Section 12.7. Charter Review Commission.

From time to time, but no less often than every ten years, the Council shall provide for a Charter Review Commission to review this Charter and to recommend to the voters of the City proposed amendments, if any, to this Charter. The members of the Charter Review Commission shall be selected as provided by the Council. The Charter Review Commission shall consist of at least nine citizens who are qualified voters of the City, none of whom shall be an elected official of the City or City administrative officer. 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 12.8. Charter Amendment.

Amendments to this Charter may be framed and submitted to the voters 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 (10%) of the qualified voters of the City registered to vote at the last regular municipal election, filed with the City Clerk in the manner prescribed for initiative petitions in Article IX, Initiatives, Referendums and Recall, 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 general municipal 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 12.9. 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 12.10. 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 12.11. 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 XIII
TRANSITIONAL PROVISIONS**

Section 13.1. 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 6.2, Personnel System.

Section 13.2. 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 13.3. 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. Ordinances, resolutions and regulations in force at the time this Charter takes effect that are deemed to be inconsistent with the provisions of this Charter shall be either eliminated or brought into compliance within one year.

Section 13.4. 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 or officer thereof, shall be affected or abated by the adoption of this Charter or by anything contained herein.

Section 13.5. 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 XIV
SCHEDULE**

Section 14.1. Election to Adopt Charter.

This Charter shall be submitted to a vote of the electors of the City of West Plains at the regular municipal election to be held on April 8, 2014. The election shall be administered by the officials now charged with the responsibility for the conduct of municipal elections.

Section 14.2. Election of City Officials.

All officials elected on April 8, 2014, shall serve a four-year term. All officials elected or appointed prior to April 8, 2014, shall continue in office for the duration of the term to which they were elected or appointed. At each regular municipal election thereafter, officials shall be elected to fill the offices of those whose terms expire and shall serve full four-year terms or the unexpired term of any official who does not serve his or her full term.

Section 14.3. Time of Taking Full Effect.

After its adoption by the voters, this Charter shall be in effect at the first City Council meeting after certification of those election results, not to exceed 21 days, with the Mayor and Councilmembers in office at the date this Charter is adopted.

Section 14.4. 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 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 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 3.13 (e), Legislative Proceedings, for ordinances of the kind concerned.

Section 14.5. Purpose of Schedule.

The purpose of the foregoing provisions is to provide a transition from the present government of the City of West Plains, 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.

Appendix A. – Registration Form for Initiative or Referendum Petition Circulators



Office of the City Clerk

City of West Plains
1910 Holiday Lane, P. O. Box 710
West Plains, MO 65775
(417) 256-7176

Each petition circulator shall be at least eighteen years of age and registered with the City Clerk. Signatures collected by any circulator who has not registered with the City Clerk on or before 5:00 p.m. on the final day for filing petitions with the City Clerk shall not be counted.

Name of Petition (Please type or print clearly.)

Name of circulator

Circulator's residential address (including street number, city, state and zip)

Mailing address (if different from above)

Telephone number (required)

Have you been or do you expect to be paid for soliciting signatures for this petition?

If yes, provide the name of the person or entity that you expect to receive payment from.

I hereby swear or affirm under penalty of perjury that all statements made by me are true and correct.

Signature _____ Date _____

It is punishable by law to knowingly file a false circulator registration form with the City Clerk.

This form must be received no later than 5:00 p.m. on (date) _____

Mail or deliver completed form to:
City Clerk
City of West Plains
P. O. Box 710
West Plains, MO 65775

