

The background of the page is a stylized American flag. It features vertical stripes of red, white, and blue, with a light blue field containing white and purple stars. The stripes and stars are slightly wavy and layered, giving a sense of depth and movement.

City of Sioux Falls

Sioux Falls Code Chapter 14 Elections
&
Sioux Falls City Charter

Chapter 14

ELECTIONS*

- Sec. 14-50. Requirement of registration with city clerk to precede petition circulation for initiative or referendum in a municipal election.
- Sec. 14-51. Definitions.
- Sec. 14-52. Political committee chair and treasurer required.
- Sec. 14-53. Statement of organization and candidate campaign committee required exception.
- Sec. 14-54. Incorporation of political committee permitted treasurer remains personally liable.
- Sec. 14-55. Contents of statement of organization.
- Sec. 14-56. Limit on contributions to candidates for mayoral and city council election offices.
- Sec. 14-57. Limit on contributions to political action committees.
- Sec. 14-58. Name and address of contributor required donation of contributions from unknown sources to charitable organization.
- Sec. 14-59. Disguised contributions prohibited.
- Sec. 14-60. Property purchased with contributions to be property of political committee or party.
- Sec. 14-61. Required reporting of sale of property.
- Sec. 14-62. Printed political communications to contain certain language exceptions.
- Sec. 14-63. Statements to be filed regarding independent expenditures for communications advocating for or against candidate, office holder, ballot question, or political party time for filing contents exceptions.
- Sec. 14-64. Statements to be filed regarding payments for communications identifying candidate or office holder but not advocating election or defeat contents exceptions.
- Sec. 14-65. Certain political contributions and independent expenditures by organizations prohibited.
- Sec. 14-65.1. Restriction on acceptance of contributions by ballot question committee.
- Sec. 14-66. Statements required for organization to make contribution to ballot question committee disclosure of information by committee.
- Sec. 14-67. Expenditure of public funds to influence election outcome prohibited.
- Sec. 14-67.1. Acceptance of contributions from public entities prohibited.
- Sec. 14-68. Persons and entities required to file campaign finance disclosure statements time for filing.

Sec. 14-69.	Contents of campaign finance disclosure statement.
Sec. 14-69.1.	Termination statement.
Sec. 14-70.	Requirements for dissolution of political committee.
Sec. 14-71.	Conditions requiring filing of amended statement time for filing.
Sec. 14-72.	Records required to be kept by treasurer of political committee and political party.
Sec. 14-73.	Civil penalty for delinquent statements.
Sec. 14-74.	Forms to be adopted by city clerk oath or affirmation.
Sec. 14-75.	Preservation and destruction of statements in public records.
Sec. 14-76.	Sale and certain uses of information in statements prohibited.
Sec. 14-77.	Intentionally false or misleading statements prohibited.
Sec. 14-78.	Investigation and prosecution of violations by city attorney.
Sec. 14-79.	Access to records by city attorney.
Sec. 14-80.	Confidentiality of records.
Sec. 14-81.	Candidate may not be certified or to forfeit office for violation.
Sec. 14-82.	Filing by facsimile or email.
Sec. 14-83.	Candidate shall not accept a contribution from a political committee which is in noncompliance.
Sec. 14-84.	Establishing council positions.
Sec. 14-85.	Election results.

***Cross reference** Administration, ch. 2.

State law reference Municipal elections, SDCL ch. 9-13.

Sec. 14-50. Requirement of registration with city clerk to precede petition circulation for initiative or referendum in a municipal election.

Persons seeking to propose an ordinance or resolution shall first register with the city clerk's office before such petitions are circulated for signatures. Registration shall include the name of the organization, address, contact person, and language of the proposed ordinance or resolution. A copy of the proposed resolution or ordinance will become public when petition circulation effort commences.

(Ord. No. 102-80, § 1, 10-27-80; Ord. No. 25-84, 2-13-84; Ord. No. 39-84, 3-5-84; Ord. No. 30-94, § 1, 4-4-94; Ord. No. 41-02, § 1, 5-13-02; Ord. No. 182-07, § 1, 11-19-07)

Sec. 14-51. Definitions.

Terms in this chapter mean:

Ballot question. Any referendum, initiative, proposed city charter amendment, or other measure submitted to voters at any election.

Ballot question committee. A person or organization that raises, collects, or disburses contributions for the placement of a ballot question on the ballot or the adoption or defeat of any ballot question. A ballot question committee is not a person, political committee, or political party that makes a contribution to a ballot question committee. A ballot question committee is not an organization that makes a contribution to a ballot question committee from treasury funds.

Candidate. Any person who seeks election to the office of mayor or member of the city council, whether or not successfully. A person shall be deemed to seek election when he or she first:

- (1) Raises, collects, or disburses contributions in excess of \$500; or
- (2) Has created a candidate campaign committee for the purpose of obtaining office; or
- (3) Announces publicly or files for office; or
- (4) Purchases commercial advertising space or broadcast time to promote his or her candidacy; or
- (5) Authorizes the solicitation of contributions or the making of expenditures; or
- (6) Gives his or her consent to another person to take on behalf of the individual any of the actions in subsections (1), (2), or (4) of this section.

Candidate campaign committee. Any entity organized by a candidate to receive contributions and make expenditures for the candidate. Only one candidate campaign committee may be organized for each candidate.

Clearly identified. The appearance of the name, nickname, a photograph, or a drawing of a candidate or public office holder, or the unambiguous reference to the identity of a candidate or public office holder.

Contribution. Any gift, advance, distribution, deposit, or payment of money or any other valuable consideration, or any contract, promise, or agreement to do so; any discount or rebate not available to the general public; any forgiveness of indebtedness or payment of indebtedness by another person; or the use of services, or property without full payment made or provided by any person, political committee, or political party whose primary business is to provide such services or property for the purpose of influencing:

- (1) The election, or re-election of any person to public office; or
- (2) The placement of a ballot question on the ballot or the adoption or defeat of any ballot question submitted.

The term does not include services provided by a person as a volunteer for or on behalf of any candidate, political committee, or political party, including the free or discounted use of a person's residence. Nor does the term include the purchase of any item of value or service from any political committee or political party. The purchase price of the item may not exceed the fair market value and may not include an intent to contribute beyond the item's value. A contribution does not include administration and solicitation of a contribution for a political action committee established by an organization and associated expenses, nor the use of an organization's real or personal property located on its business premises for such purposes. A contribution does not include nominal use of a candidate's real or personal property or nominal use of resources available at a candidate's primary place of business. Contributions are reportable upon delivery.

Commercial advertising. Selling the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public, whether through the use of newspapers, magazines, television or radio stations, billboard companies, direct mail advertising companies, printing companies, the internet or otherwise.

Election. Any election for public office; any regular, special, or runoff election; and any election on a ballot question.

Expressly advocate. Any communication which:

- (1) In context has no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidates, public office holders, or the placement of a ballot question on the ballot or the adoption or defeat of any ballot question by use of explicit works of advocacy of election or defeat. The following words convey a

message of express advocacy: vote, re-elect, support, cast your ballot for, reject, and defeat; or

- (2) If taken as a whole and with limited reference to external events, such as the proximity to the election, may only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidates, public office holders, or the placement of a ballot question on the ballot or the adoption or defeat of any ballot question because:
 - a. The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and
 - b. Reasonable minds could not differ as to whether it encourages action to elect or defeat one or more clearly identified candidates, public office holders, or the placement of a ballot question on the ballot or the adoption or defeat of any ballot question or encourages some other kind of action.

Immediate family. A spouse of a candidate or public office holder, or a person under the age of 18 years who is claimed by that candidate or public office holder or that candidate's or public office holder's spouse as a dependent for federal income tax purposes or any relative within the third degree of kinship of the candidate or the candidate's spouse, and the spouses of such relatives.

Independent expenditure. An expenditure made by a person, organization, political committee, or political party to expressly advocate the election or defeat of a clearly identified candidate or the placement of a ballot question on the ballot or the adoption or defeat of any ballot question, but which is not made to, controlled by, coordinated with, requested by, or made upon consultation with a candidate, political committee, or agent of a candidate or political committee. The term does not include administration and solicitation of any contribution for a political action committee established by an organization and associated expenses, nor the use of an organization's real or personal property located on its business premises for such purposes. The term does not include any communication by a person made in the regular course and scope of the person's business or ministry or any communication made by a membership organization solely to any member of the organization and the member's family.

In-kind. A good or service provided at no charge or for less than its fair market value. The term does not include the value of services provided by a person as a volunteer for or on behalf of any candidate, political committee, or political party, including the free or discounted use of any person's residence or office.

Loan. A transfer of money, property, guarantee, or anything of value in exchange for an obligation, conditional or not, to repay in whole or in part.

Organization. Any business corporation, limited liability company, nonprofit corporation, limited liability partnership, limited partnership, partnership, cooperative, trust, business trust, association, club, labor union, collective bargaining organization, local, state, or national organization to which a labor organization pays membership or per capita fees, based upon its affiliation and membership, trade or professional association that receives its funds from membership dues or services fees, whether organized inside or outside the state, any entity organized in a corporate form under federal law or the laws of South Dakota, or any group of persons acting in concert which is not defined as a political committee or political party in this chapter.

Person. A natural person.

Political action committee. A person or organization that raises, collects, or disburses contributions to influence the outcome of an election and who is not a candidate, candidate campaign committee, ballot question committee, or a political party. A political action committee is not any:

- (1) Person that makes a contribution to a political committee or political party; or
- (2) Organization that makes a contribution to a ballot question committee from treasury funds.

Political committee. Any candidate campaign committee, political action committee, or ballot question committee.

Political party. Any state or county political party qualified to participate in a primary or general election, including any auxiliary organization of such political party. An auxiliary organization is any organization designated as an auxiliary organization in the political party's bylaws or constitution except any auxiliary organization that only accepts contributions to support volunteer activities of the organization and does not make monetary or in-kind contributions or any independent expenditures to any political committee.

Public office. Any mayoral or city council office.

Qualified nonprofit corporation. Any nonprofit corporation subject to the provisions of SDCL chapters 47-22 to 47-28, inclusive, that was organized for the purposes of promoting political ideas and cannot engage in business activities, has no shareholders or other persons affiliated so as to have a claim on the assets or earnings, was not established by a corporation, and has not accepted more than de minimis amount of funds from any corporation.

Volunteer. A person who provides services free of charge and does not receive compensation for services rendered.
(Ord. No. 41-02, § 1, 5-13-02; Ord. No. 58-05, § 1, 6-20-05; Ord. No. 182-07, § 2, 11-19-07; Ord. No. 125-08, § 1, 10-20-08)

Sec. 14-52. Political committee chair and treasurer required.

A political committee shall have and continually maintain a chair and a treasurer, which may be the same person. The chair and treasurer for a candidate campaign committee shall be appointed by the candidate, and the candidate may serve as either, or both, such officers. No political committee may receive or make contributions or pay expenses while the office of treasurer is vacant.

(Ord. No. 41-02, § 1, 5-13-02; Ord. No. 182-07, § 3, 11-19-07; Ord. No. 125-08, § 2, 10-20-08; Ord. No. 91-09, § 1, 11-2-09)

Sec. 14-53. Statement of organization and candidate campaign committee required exception.

The treasurer of a candidate campaign committee or a ballot question committee, pursuant to section 14-51, shall file a statement of organization with the city clerk not later than 15 days after the date upon which the committee made contributions, received contributions, or paid expenses in excess of \$500. Notwithstanding the provisions of section 14-82, the statement of organization shall include the original signature of each person filing the statement. The treasurer for a political action committee shall file a statement of organization with the secretary of state no later than 15 days after the date upon which the committee participating in a municipal election made contributions, received contributions, or paid expenses in excess of \$500, unless such activity falls within 30 days of any municipal election, in which case the statement of organization shall be filed within 48 hours. A political committee that regularly files a campaign finance disclosure statement with the secretary of state or the Federal Election Commission is exempt from this requirement.

(Ord. No. 39-84, 3-5-84; Ord. No. 30-94, § 2, 4-4-94; Ord. No. 74-96, § 1, 7-1-96; Ord. No. 41-02, § 1, 5-13-02; Ord. No. 58-05, § 2, 6-20-05; Ord. No. 182-07, § 4, 11-19-07; Ord. No. 125-08, § 3, 10-20-08; Ord. No. 91-09, § 2, 11-2-09)

Sec. 14-54. Incorporation of political committee permitted treasurer remains personally liable.

A political committee may incorporate and not be subject to the provisions of section 14-65 of this Code if the political committee incorporates for liability purposes only. Notwithstanding the corporate status of the political committee, the treasurer of an incorporated political committee remains personally responsible for carrying out the treasurer's duties under this chapter.

(Ord. No. 104-98, § 1, 10-5-98; Ord. No. 182-07, § 5, 11-19-07; Ord. No. 91-09, § 3, 11-2-09)

Sec. 14-55. Contents of statement of organization.

The statement of organization shall include:

- (1) The name, street address, postal address, and daytime telephone number of the committee;
- (2) The name, street address, postal address, and daytime telephone number of the chair

and the treasurer of the committee;

- (3) A statement of the type of political committee that has been or is being organized;
- (4) In the case of a candidate campaign committee, the name, street address, and postal address of the candidate;
- (5) In the case of a political action committee or ballot question committee, a concise statement of its purpose and goals, and the full name, street address, and postal address of the organization with which the committee is connected or affiliated, or if the committee is not connected or affiliated with any one organization, the trade, profession, or primary interest of the committee;
- (6) If the committee is organized as a corporation under federal or state laws for liability purposes only as authorized by section 14-54 of this Code, a statement affirming such organization; and
- (7) The name, street address, postal address, and telephone number of each financial institution where an account or depository is maintained.

The statement shall be signed by the treasurer for a candidate campaign committee and by the chair and treasurer for other political committees. A political committee continues to exist until a termination statement is filed pursuant to sections 14-69.1 and 14-70 of this Code. The treasurer of a political committee shall file an updated statement of organization not later than 15 days after any change in the information contained on the most recently filed statement of organization.

(Ord. No. 104-98, § 2, 10-5-98; Ord. No. 182-07, § 6, 11-19-07; Ord. No. 125-08, § 4, 10-20-08; Ord. No. 91-09, § 4, 11-2-09)

Sec. 14-56. Limit on contributions to candidates for mayoral and city council election offices.

A candidate campaign committee may accept contributions from any candidate campaign committee, political action committee, or political party. The limitation on any contribution from a person in this section does not apply to any contribution by the candidate or the candidate's immediate family. Limitations on contributions to candidates include:

- (1) If a contributor is a person, no candidate for public office or the candidate's campaign committee may accept any contribution which in the aggregate exceeds \$1,000 during any calendar year.
 - (2) If a contributor is a political committee or political party, no candidate for public office or the candidate's campaign committee may accept any contribution which in the aggregate exceeds \$5,000 during any calendar year.
- (Ord. No. 182-07, § 7, 11-19-07; Ord. No. 91-09, § 5, 11-2-09)

Sec. 14-57. Limit on contributions to political action committees.

If the contributor is a person, no political action committee may accept any contribution which in the aggregate exceeds \$10,000 during any calendar year. A political action committee may accept contributions from any candidate campaign committee, political action committee, or political party.

(Ord. No. 182-07, § 8, 11-19-07)

Sec. 14-58. Name and address of contributor required donation of contributions from unknown sources to charitable organization.

No person, organization, candidate, political committee, or political party may give or accept a contribution unless the name and residence address of the contributor is made known to the person receiving the contribution. Any contribution, money, or other thing of value received by a candidate, political committee, or political party from an unknown source shall be donated to a nonprofit charitable organization.

(Ord. No. 182-07, § 9, 11-19-07)

Sec. 14-59. Disguised contributions prohibited.

No person or organization may make a contribution in the name of another person or organization, make a contribution disguised as a gift, make a contribution in a fictitious name, make a contribution on behalf of another person or organization, or knowingly permit another to use that person's or organization's name to make a contribution. No candidate may accept a contribution disguised as a gift.

(Ord. No. 182-07, § 10, 11-19-07; Ord. No. 125-08, § 5, 10-20-08; Ord. No. 91-09, § 6, 11-2-09)

Sec. 14-60. Property purchased with contributions to be property of political committee or party.

Equipment, supplies, and materials purchased with contributions are property of the political committee or political party, and are not property of the candidate or any other person.

(Ord. No. 182-07, § 11, 11-19-07)

Sec. 14-61. Required reporting of sale of property.

It shall be a violation of sections 14-50 through 14-85 of this Code to fail to timely report the sale of any property and any proceeds resulting therefrom in the campaign finance disclosure statement.

(Ord. No. 182-07, § 12, 11-19-07)

Sec. 14-62. Printed political communications to contain certain language exceptions.

Any printed material or communication made, purchased, paid for, or authorized by a candidate, political committee, or political party which expressly advocates for or against a

candidate, public office holder, ballot question, or political party shall prominently display or clearly speak the statement: "Paid for by (Name of candidate, political committee, or political party)." This section does not apply to buttons, balloons, pins, pens, matchbooks, clothing, or similar small items upon which the inclusion of the statement would be impracticable. (Ord. No. 182-07, § 13, 11-19-07)

Sec. 14-63. Statements to be filed regarding independent expenditures for communications advocating for or against candidate, office holder, ballot question, or political party time for filing contents exceptions.

Any person or qualified nonprofit corporation that makes an independent expenditure for a communication which expressly advocates for or against a candidate, public office holder, ballot question, or political party totaling \$1,000 or more shall file a statement with the city clerk that is received within 48 hours of the time that the communication is disseminated, broadcast, or otherwise published.

Any organization that makes an independent expenditure for a communication which expressly advocates for or against a public office holder, ballot question, or political party totaling \$1,000 or more shall file a statement with the city clerk that is received within 48 hours of the time that the communication is disseminated, broadcast, or otherwise published.

The statement shall include the name of the person, qualified nonprofit corporation, or organization and its street address, city, and state, the name of each candidate, public office holder, ballot question, or political party mentioned in the communication, the amount spent on the communication, and a description of the content of the communication.

Further, if the independent expenditure is made by an organization comprised of 20 or fewer members or shareholders, the statement shall include the name and address of each shareholder or member who owns 10% or more of the organization.

For the purposes of this section, the term, communication, does not include:

- (1) Any news articles, editorial endorsements, opinion, or commentary writings, or letter to the editor printed in a newspaper, magazine, flyer, pamphlet, or other periodical not owned or controlled by a candidate, political committee, or political party;
- (2) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate, political committee, or political party;
- (3) Any communication by a person made in the regular course and scope of the person's business or ministry or any communication made by a membership organization solely to members of the organization and the members' families; and

- (4) Any communication that refers to any candidate only as part of the popular name of an amendment, ordinance, or resolution.

(Ord. No. 182-07, § 14, 11-19-07)

Sec. 14-64. Statements to be filed regarding payments for communications identifying candidate or office holder but not advocating election or defeat contents exceptions.

Any person, political committee, political party, or organization that makes a payment or promise of payment totaling \$1,000 or more for a communication that clearly identifies a candidate or public office holder, but does not expressly advocate the election or defeat of the candidate or public office holder, and that is disseminated, broadcast, or otherwise published within 60 days of an election, shall file a statement with the city clerk disclosing the name, street address, city, and state of such person, political committee, political party, or organization. The statement shall also include the name of the candidate or public office holder mentioned in the communication, the amount spent on the communication, and a description of the content of the communication. The statement shall be received and filed within 48 hours of the time that the communication is disseminated, broadcast, or otherwise published.

For the purposes of this section, the term, communication, does not include:

- (1) Any news articles, editorial endorsements, opinion or commentary writings, or letter to the editor printed in a newspaper, magazine, flyer, pamphlet, or other periodical not owned or controlled by a candidate, political committee, or political party;
- (2) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate, political committee, or political party;
- (3) Any communication by a person made in the regular course and scope of the person's business or ministry or any communication made by a membership organization solely to members of the organization and the members' families; and
- (4) Any communication that refers to any candidate only as part of the popular name of an amendment, ordinance, or resolution.

(Ord. No. 182-07, § 15, 11-19-07)

Sec. 14-65. Certain political contributions and independent expenditures by organizations prohibited.

No organization may make a contribution to a candidate committee, political action committee, or political party or make an independent expenditure expressly advocating the election or defeat of a candidate. An organization may make a contribution to a ballot question committee organized solely for the purpose of influencing an election on a ballot question and independent expenditures regarding the placement of a ballot question on the ballot or the adoption or defeat of a ballot question. Any organization making expenditures, equal to or exceeding 50 percent of the organization's annual gross income, for the adoption or defeat of a ballot measure is a ballot question committee. The prohibitions of this section do not apply to

independent expenditures expressly advocating the election or defeat of a candidate by a qualified nonprofit corporation from its treasury funds. An organization may create a political action committee.

(Ord. No. 182-07, § 16, 11-19-07; Ord. No. 91-09, § 7, 11-2-09)

Sec. 14-65.1. Restriction on acceptance of contributions by ballot question committee.

A ballot question committee may only accept contributions from a person, organization, political committee, or political party.

(Ord. No. 91-09, § 8, 11-2-09)

Sec. 14-66. Statements required for organization to make contribution to ballot question committee disclosure of information by committee.

Before making a contribution to a ballot question committee pursuant to section 14-65, an organization shall provide to the ballot question committee the following:

- (1) A statement that the organization is filed as a domestic or foreign entity in good standing with the office of the secretary of this state;
- (2) A statement that the organization is filed as an entity in good standing with another jurisdiction, and setting forth the following:
 - a. The name of the organization;
 - b. The name of the state or nation under whose law the organization is incorporated or organized; and
 - c. The street address of the organization's principal office.
- (3) If neither of the above apply, a statement providing:
 - a. The name of the organization;
 - b. The street address of the organization's principal office;
 - c. The name and street address of the person authorizing the contribution; and
 - d. The name and street address of every owner, director, and officer of the organization.

Before contributing more than \$10,000 in the aggregate to a ballot question committee pursuant to section 14-65, an organization shall provide to the ballot question committee a sworn written statement made by the president and treasurer of the organization declaring and affirming, under the penalty of perjury, the following:

- (1) The name and street address of every person who owns 10 percent or more of the

organization, has provided 10 percent or more of the organization's gross receipts, including capital contributions, in the current or preceding year, or has provided 10 percent or more of the funds being contributed to the ballot question committee; and

- (2) That no part of the contribution was raised or collected by the organization for the purpose of influencing the ballot question.

A ballot question committee shall disclose in its applicable campaign financial disclosure statement or supplemental statement all information received from an organization pursuant to this section. No ballot question committee may accept any contribution from an organization not preceded or accompanied by the statements required by this section, except as provided by SDCL § 22-29-1.

(Ord. No. 182-07, § 17, 11-19-07; Ord. No. 91-09, § 9, 11-2-09)

Sec. 14-67. Expenditure of public funds to influence election outcome prohibited.

The City of Sioux Falls, an agency of the city, and the governing body of the city, or other political subdivision of the city may not expend or permit the expenditure of public funds for the purpose of influencing the nomination or election of any candidate, or for the petitioning of a ballot question on the ballot or the adoption or defeat of any ballot question. This section may not be construed to limit the freedom of speech of any officer or employee of the city, or such political subdivision in his or her personal capacity. This section does not prohibit the city, its agencies, or the governing body of any political subdivision of the city from presenting factual information solely for the purpose of educating the voters on a ballot question.

(Ord. No. 182-07, § 18, 11-19-07; Ord. No. 91-09, § 10, 11-2-09)

Sec. 14-67.1. Acceptance of contributions from public entities prohibited.

No candidate, political committee, or political party may accept any contribution from any state, state agency, political subdivision of the state, foreign government, Indian tribal entity as defined by Federal Register Vol. 72, No. 55 as of March 22, 2007, federal agency, or the federal government.

(Ord. No. 91-09, § 11, 11-2-09)

Sec. 14-68. Persons and entities required to file campaign finance disclosure statements time for filing.

A campaign finance disclosure statement shall be signed and filed in the city clerk's office by the treasurer of every candidate or candidate campaign committee, political action committee, political party, ballot question committee, and public office holder pertaining to city elections. Any statement pursuant to this section shall be consecutive and shall cover contributions and expenditures since the last statement filed. Filing shall occur pursuant to the following schedule:

- (1) Candidates shall file a statement of financial interest:

- a. Within 15 days after becoming a candidate; or
 - b. Within 15 days after assuming office, any corrections or additions.
- (2) Candidates and candidate campaign committees shall have filed a finance disclosure statement by 5:00 p.m. within three business days pursuant to the following schedule:
- a. By 5:00 p.m. within three business days after December 31 of the year prior to a city of Sioux Falls municipal election;
 - b. By 5:00 p.m. within three business days after the last business day of February preceding the election, in an election year;
 - c. By 5:00 p.m. within three business days of the last Monday one week prior to the election;
 - d. By 5:00 p.m. within 60 calendar days following the election for all candidates and newly elected officials; and
 - e. For runoff candidates, the post- election statement shall be filed by 5:00 p.m. within 60 calendar days following the runoff election.
- (3) Ballot question committees shall have filed a finance disclosure statement by 5:00 p.m. within three business days pursuant to the following schedule:
- a. By 5:00 p.m. within three business days, the last business day of each month during the 90-day period immediately preceding the election;
 - b. By 5:00 p.m. within three business days on the last Monday, one week prior to the election;
 - c. By 5:00 p.m. within 60 calendar days following the election, and shall include the disposition of any remaining funds or obligations of such person or committee;
 - d. The requirements of subsection (3) shall also apply to any person raising, collecting, or disbursing money for the adoption or defeat of any question submitted to the voters at any election unless the person is engaging in such activities on behalf of a ballot question committee.

- (4) Political action committees shall file a finance disclosure statement with the city clerk by 5:00 p.m. within three business days from the last Monday one week prior to each city election. The statement shall cover the contributions and expenditures of the political action committee from the last filing with the secretary of state's office. A political action committee that regularly files a campaign finance disclosure statement with the Federal Election Commission or a report of contributions and expenditures with the Internal Revenue Service is not required to file a campaign disclosure statement.
- (5) Public office holders for the city of Sioux Falls shall file an end of the year finance disclosure statement by 5:00 p.m. within three business days after December 31, with the city clerk. The statement shall cover the contributions and expenditures for the preceding calendar year. If the public office holder filed a financial disclosure statement during the course of a municipal election in the preceding calendar year, then the end of the year finance disclosure statement shall cover the contributions and expenditures from the last filing with the city clerk's office.

(Ord. No. 182-07, § 19, 11-19-07; Ord. No. 125-08, § 6, 10-20-08; Ord. No. 91-09, § 12, 11-2-09)

Sec. 14-69. Contents of campaign finance disclosure statement.

A campaign finance disclosure statement shall include the following information:

- (1) Political committee or political party name, street address, postal address, city, state, zip code, daytime and evening telephone number, and email address;
- (2) Type of campaign statement;
- (3) If a ballot question committee, the ballot question number and whether the committee is for or against the measure;
- (4) The balance of cash and cash equivalents on hand at the beginning of the reporting period;
- (5) The total amount of all contributions received during the reporting period;
- (6) The total amount of all in-kind contributions received during the reporting period;
- (7) The total of refunds, rebates, interest, or other income not previously identified during the reporting period;
- (8) The total of contributions, loans, and other receipts during the reporting period;
- (9) The total value of loans made to any person, political committee, or political party during the reporting period;
- (10) The total of expenditures made during the reporting period;

- (11) The total amount of all expenditures incurred but not yet paid. An expenditure incurred but not yet paid shall be reported on each report filed after the date of receipt of goods or services until payment is made to the vendor. A payment shall be listed as an expenditure when the payment is made;
- (12) The statement shall state the cash balance on hand as of the close of the reporting period;
- (13) The total amount of contributions of \$100 or less in the aggregate from one source received during the reporting period;
- (14) The name, residence address, city, and state of each person contributing a contribution of more than \$100 in the aggregate during the reporting period and the amount of the contribution. Any contribution from any political committee or political party shall be itemized. Any contribution from a federal political committee or political committee organized outside this state shall also include the name and internet website address of the filing office where campaign finance disclosure statements are regularly filed for the committee. If all of the information required is not on file, the political committee or political party may not deposit the contribution;
- (15) The statement shall contain the same information for in-kind contributions as for monetary contributions, and shall also include a description of the in-kind contribution;
- (16) Upon the request of the treasurer, a person making an in-kind contribution shall provide all necessary information to the treasurer, including the value of the contribution;
- (17) Any monetary or in-kind contribution made by the reporting political committee or political party to any political committee, political party, or nonprofit charitable organization shall be itemized;
- (18) A categorical description and the amount of the refunds, rebates, interest, sale of property, or other receipts not previously identified during the reporting period;
- (19) A categorical description and the amount of funds or donations by any organization to its political committee for establishing and administering the political committee and for any solicitation costs of the political committee;
- (20) The total balance of loans owed by the political committee or political party;

- (21) The balance of loans owed by the political committee or political party, itemized by lender's name, street address, city, and state, including the terms, interest rate, and repayment schedule of each loan;
 - (22) The total balance of loans owed to the political committee or political party;
 - (23) The amount of each loan made during the reporting period. The name, street address, city, and state of the recipient of the loan;
 - (24) The balance of each loan owed to the political committee or political party, itemized by name, street address, city, and state;
 - (25) The expenditures made during the reporting period shall be categorized. Disbursements to consultants, advertising agencies, credit card companies, and similar firms shall be itemized in expense categories. Any contribution made by the reporting political committee or political party that is not in exchange for any item of value or service shall be itemized;
 - (26) The expenditures incurred but not yet paid during the reporting period and to whom the expenditure is owed;
 - (27) The amount of each independent expenditure, as defined in this chapter, made during the reporting period, the name of the candidate, public office holder, or ballot question related to the expenditure and a description of the expenditure;
 - (28) The information contained in any statement provided under section 14-66 of this Code; and
 - (29) The statement shall include a certification that the contents of the statement is true and correct signed by the treasurer of the political committee or political party.
- (Ord. No. 182-07, § 20, 11-19-07; Ord. No. 91-09, § 13, 11-2-09)

Sec. 14-69.1. Termination statement.

The post-election financial disclosure statement pursuant to section 14-68(2)d. and 14-68(2)e. shall serve as the termination statement for all candidates except public officials subject to section 14-68(4). The last campaign disclosure statement for public officials, subject to section 14-68(4), shall be a termination statement and shall be filed by the treasurer within 30 days following disposition of all funds and property and the payment of all obligations.

(Ord. No. 91-09, § 14, 11-2-09)

Sec. 14-70. Requirements for dissolution of political committee.

A political committee that contributes to a municipal election and has not registered with the office of the secretary of state may not dissolve until the political committee has settled all of its debts, disposed of all of its assets, and files a termination statement with the city clerk's office.

(Ord. No. 182-07, § 21, 11-19-07)

Sec. 14-71. Conditions requiring filing of amended statement time for filing.

Any treasurer, or other person filing a statement pursuant to this chapter, shall file an amended statement within three days of discovering any omission, inaccuracy, or other change necessary to make the statement accurate. A person responsible for filing a statement pursuant to this chapter, who willfully fails to report a material change or correction, is in violation of city ordinance. A person responsible for filing a statement pursuant to this chapter, who willfully fails to file an amendment pursuant to this section beginning on the first day following the third day after the candidate, treasurer, or other person is notified of the omission, inaccuracy, or other change necessary to make the statement accurate is in violation of city ordinance.

(Ord. No. 182-07, § 22, 11-19-07; Ord. No. 125-08, § 7, 10-20-08)

Sec. 14-72. Records required to be kept by treasurer of political committee and political party.

The treasurer of a political committee and political party shall maintain and preserve detailed and accurate records of the following:

- (1) Each contribution and in-kind contribution received by the political committee or political party;
- (2) In the case of a ballot question committee, the information required by section 14-66 of this Code for any organization contribution;
- (3) Each loan received or made by the political committee or political party;
- (4) Each refund, rebate, interest, or other income received by the political committee or political party;
- (5) All receipts, invoices, bills, canceled checks, or other proofs of payment, with an explanation of each, for each expenditure;
- (6) The name and address of any financial institution where an account or depository for the political committee or political party is maintained including the account number.

The treasurer shall maintain and preserve the records for a period of seven years or three years past the date of filing the post-election termination statement for the election for which the contribution or expenditure was made, whichever is earlier.

(Ord. No. 182-07, § 23, 11-19-07; Ord. No. 91-09, § 15, 11-2-09)

Sec. 14-73. Civil penalty for delinquent statements.

A candidate or political committee that fails to timely file any statement, amendment, or correction required by this chapter subjects the treasurer responsible for filing to a civil penalty of fifty dollars per day for each day that the statement remains delinquent not to exceed \$3,000. The civil penalty shall be in addition to any criminal sanctions and shall be paid to the city clerk and deposited in the city general fund.

(Ord. No. 182-07, § 24, 11-19-07; Ord. No. 91-09, § 16, 11-2-09)

Sec. 14-74. Forms to be adopted by city clerk oath or affirmation.

The city clerk shall adopt forms for statements of organization and campaign finance disclosure statements. Each person filing a statement of organization or campaign finance disclosure statement shall subscribe to an oath or affirmation verifying that the contents of the statement are true and correct to the best of the knowledge and belief of the signer.

(Ord. No. 182-07, § 25, 11-19-07)

Sec. 14-75. Preservation and destruction of statements in public records.

The city clerk shall endorse the date of the filing on each statement filed pursuant to this chapter, and shall preserve the statement among the public records of the office. However, the statement may be destroyed if the Records Destruction Manual declares the records to have no further administrative, legal, fiscal, research, or historical value.

(Ord. No. 182-07, § 26, 11-19-07)

Sec. 14-76. Sale and certain uses of information in statements prohibited.

No information copied, or otherwise obtained, from any statement, or copy, reproduction, or publication thereof, filed with the city clerk may be sold or utilized by any person for any commercial purpose or for the purpose of soliciting contributions.

(Ord. No. 182-07, § 27, 11-19-07)

Sec. 14-77. Intentionally false or misleading statements prohibited.

No person shall intentionally make any false, fraudulent, or misleading statement or entry in any statement of organization, campaign finance disclosure statement, other statement, or amendment.

(Ord. No. 182-07, § 28, 11-19-07)

Sec. 14-78. Investigation and prosecution of violations by city attorney.

The city attorney shall investigate violations of the provisions of this chapter relating to a city elected office or a ballot question and may prosecute any violation thereof. Any penalty recovered shall be paid to the city general fund. An action brought by the city attorney shall be commenced in Minnehaha County, in the county where the person resides, or in the county where the organization, political party, or political committee has its principal office.
(Ord. No. 182-07, § 29, 11-19-07)

Sec. 14-79. Access to records by city attorney.

The city attorney may, for the purpose of enforcing the provisions of this chapter, inspect or examine any political committee or political party records required to be maintained by this chapter. It is a misdemeanor for any person having charge, control, or possession of political committee or political party records to neglect or refuse the city attorney reasonable access to any records required to be maintained by this chapter which is necessary to enforce the provisions of this chapter.
(Ord. No. 182-07, § 30, 11-19-07)

Sec. 14-80. Confidentiality of records.

The city attorney shall keep each record inspected or examined confidential except when the records are used to enforce provisions of this chapter.
(Ord. No. 182-07, § 31, 11-19-07)

Sec. 14-81. Candidate may not be certified or to forfeit office for violation.

If any candidate is proved in a contest of an election or is proved to have intentionally made any false, fraudulent, or misleading statement or entry in any statement of organization, campaign finance, disclosure statement, other statement, or amendment, the candidate may not be certified for election or the candidate shall forfeit his or her office. The office shall be declared vacant and shall be filled in the manner provided by the charter of the city of Sioux Falls.
(Ord. No. 182-07, § 32, 11-19-07)

Sec. 14-82. Filing by facsimile or email.

Any statement required to be filed under this chapter may be filed by facsimile device or electronic mail in accordance with the methods approved by the city clerk. To be timely filed, any statement received by facsimile device or electronic mail shall be legible and readable when received by the means it was delivered. The original shall be filed with the city clerk within one week following the date the facsimile or electronic mail transmission was received.
(Ord. No. 182-07, § 33, 11-19-07)

Sec. 14-83. Candidate shall not accept a contribution from a political committee which is in noncompliance.

No candidate shall accept or retain a contribution from a political committee which is in noncompliance with this chapter.

(Ord. No. 182-07, § 34, 11-19-07)

Sec. 14-84. Establishing council positions.

(a) The clerk shall designate alphabetically each individual at large council position to be filled by election. The position that is assigned to an individual at large council person is assigned also to the council person's successor in office.

(b) A candidate for council member at-large shall indicate on his nominating petition the specific position for which the candidate is running.

(Ord. No. 182-07, § 35, 11-19-07)

Sec. 14-85. Election results.

(a) *Election by plurality.* In election for at large council members and district council members, the person receiving the highest number of votes for that office is elected to that office. If no candidate receives 34 percent to the votes cast in that race, then the top two candidates shall be required to participate in a secondary election which shall be held two weeks from the date of the first election. At the secondary election, the two candidates receiving the highest number of votes at the first election shall be on the ballot. The person receiving the highest number of votes at the secondary election is elected.

(b) *Election by majority.* In elections for mayor, if no candidate in a race involving three or more candidates receives a majority of the votes cast for mayor, a secondary election shall be held two weeks from the date of the first election. At the secondary election, the two candidates receiving the highest number of votes at the first election shall be on the ballot. The person receiving the highest number of votes at the secondary election is elected.

(Ord. No. 182-07, § 36, 11-19-07)

PART I

CHARTER*

* Editors Note: Printed herein is a charter resolution, as adopted at a special city election held on September 13, 1994. Amendments to the charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

Article I. Powers of the City

- Sec. 1.01. Powers of the city.
- Sec. 1.02. Construction.
- Sec. 1.03. Intergovernmental relations.
- Sec. 1.04. Limitations.
- Sec. 1.05. New taxes.

Article II. City Council

- Sec. 2.01. General powers and duties.
- Sec. 2.02. Composition, eligibility, election, and terms.
- Sec. 2.03. Mayor.
- Sec. 2.04. Compensation; expenses.
- Sec. 2.05. Prohibitions.
- Sec. 2.06. Vacancies; forfeiture of office; filling of vacancies.
- Sec. 2.07. Judge of qualifications.
- Sec. 2.08. City clerk.
- Sec. 2.09. Investigations.
- Sec. 2.10. Independent audit.
- Sec. 2.11. Procedure.
- Sec. 2.12. Action requiring an ordinance.
- Sec. 2.13. Ordinances in general.
- Sec. 2.14 Updating the Code of Ordinances.

Article III. Mayor

- Sec. 3.01. Executive power.
- Sec. 3.02. Election and qualifications of mayor.
- Sec. 3.03. Mayor's duties and responsibility.
- Sec. 3.04. Mayor's power to veto legislation.

Article IV. Departments, Offices, and Agencies

- Sec. 4.01. General provisions.
- Sec. 4.02. Personnel system.
- Sec. 4.03. Legal officer.
- Sec. 4.04. Planning.

Article V. Financial Procedures

- Sec. 5.01. Fiscal year.
- Sec. 5.02. Submission of budget and budget message.
- Sec. 5.03. Budget message.
- Sec. 5.04. Budget.
- Sec. 5.05. City council action on budget.
- Sec. 5.06. Appropriation and revenue ordinances.
- Sec. 5.07. Amendments after adoption.
- Sec. 5.08. Lapse of appropriations.
- Sec. 5.09. Administration of the budget.
- Sec. 5.10. Overspending of appropriations prohibited.
- Sec. 5.11. Capital program.
- Sec. 5.12. City council action on capital program.
- Sec. 5.13. Public records.

Article VI. Elections

- Sec. 6.01. City elections.
- Sec. 6.02. Council districts: adjustment of districts.
- Sec. 6.03. Initiative and referendum.

Article VII. General Provisions

- Sec. 7.01. Conflicts of interest; board of ethics.
- Sec. 7.02. Prohibitions.

Article VIII. Charter Amendment

- Sec. 8.01. Proposal of amendment.
- Sec. 8.02. Election.
- Sec. 8.03. Adoption of amendment.

Article IX. Transition/Separability Provision

- Sec. 9.01. Officers and employees.
- Sec. 9.02. Departments, offices, and agencies.
- Sec. 9.03. Pending matters.
- Sec. 9.04. State and municipal laws.
- Sec. 9.05. Schedule.
- Sec. 9.06. Separability.

CHARTER

PREAMBLE

We the people of Sioux Falls in order to establish a more representative and effective city government, do adopt this Charter in accordance with the Home Rule power granted in Article IX of the Constitution of South Dakota.

ARTICLE I. POWERS OF THE CITY

Section 1.01. Powers of the city.

The city shall have all powers possible for a city to have under the constitution and laws of this state as fully and completely as though they were specifically enumerated in this charter.

Section 1.02. Construction.

The powers of the city under this charter shall be construed favorably in support of the charter and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted in this article.

Section 1.03. Intergovernmental relations.

The city may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one (1) or more states or any state civil division or agency, or the United States or any of its agencies.

The city retains and reserves its right to Joint Exercise of Governmental Powers as set forth in SDCL Title 1. Further the city adopts and ratifies each and every contract and agreement entered into by virtue of that power under any prior city organization or form of government.

Section 1.04. Limitations.

Nothing in this charter shall be construed to permit the city to do any of the following:

- (1) Levy a personal or corporate income tax,
- (2) Issue more liquor licenses,
- (3) Permit increased gaming, or
- (4) Incur additional debt,

unless and except to the extent otherwise authorized to any city established as a SDCL Title 9 authorized form of city government.

Section 1.05. New taxes.

Any new form or type of taxation which is approved by the city council must be referred to a vote of the people before it can become effective. This does not apply to new or increased fees or increases in existing taxes.

ARTICLE II. CITY COUNCIL

Section 2.01. General powers and duties.

All powers of the city shall be vested in the city council, except as otherwise provided by law or this charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law. The council shall act as a part-time, policy making and legislative body, avoiding management and administrative issues.

Section 2.02. Composition, eligibility, election, and terms.

(a) *Composition.* There shall be a city council composed of the mayor and eight (8) members. Three (3) council members shall be nominated and elected by the voters of the city at large, and five (5) shall be nominated and elected by the voters of each of the five (5) council districts, as provided in article VI.

(b) *Eligibility.* Only the registered voters of the city who have resided in the city for at least six (6) months immediately prior to the date of election shall be eligible to hold the office of council member or mayor.

(c) *Election and terms.* The terms of council members shall be four (4) years beginning on the third Monday of May following the official canvass of any final council or mayoral election, whichever is later, and shall continue until a successor has been elected and takes office. No council member may serve more than two (2) full or partial terms consecutively; however, a council member may immediately thereafter be eligible to be a candidate for mayor. The two consecutive term limit shall apply regardless of whether a council member has served as a district or an at large council member or both.

(4-11-00, § A)

Section 2.03. Mayor.

The mayor shall serve as a member of the city council. In the absence of the mayor for purposes of city council meetings, the city council shall designate one (1) of its members as acting mayor, with the duties but not the powers of that office. In case of emergencies or for purposes of day-to-day administrative duties and functions if the mayor is temporarily unavailable, the mayor shall propose to designate an interim successor by executive order, listing not less than three (3) nor more than seven (7) interim successors. The selection of interim successors in the executive order shall be at the mayor's discretion from among department heads or city employees; however, the number and order of proposed interim successor designees shall not be effective without the advice and consent of the city council.

(4-13-04, § B)

Section 2.04. Compensation; expenses.

The annual salary of the mayor and part-time council members is set in section 9.05, and shall be automatically adjusted annually for inflation or deflation, as determined by a generally accepted federal government index (e.g., CPI-U). The mayor and council members shall receive their actual and necessary expenses incurred in the performance of their duties of office. The mayor, but not the council members, shall participate in the city's employee benefits programs which are available to other management employees, excluding the city pension system. However, upon taking office the mayor may elect to participate in the employees retirement system, if allowed by ordinance, or may elect not to participate in the employees retirement system.

(4-8-08, § A)

Section 2.05. Prohibitions.

(a) *Holding other office.* No council member shall hold any other elected public office during the term for which the member was elected to the council. No council member shall hold any other city office or city employment during the terms for which the member was elected or appointed to the council. No former council member shall hold any compensated appointive office or employment with the city until two (2) years after the expiration of the term for which the member was elected or appointed to the council. Nothing in this section shall be construed to prohibit the council or mayor from selecting any current or former council member to represent the city on the governing board of any regional, national, or other intergovernmental agency.

(b) *Appointments and removal.* Neither the city council nor any of its members shall in any manner control or demand the appointment or removal of any city administrative officer or employee whom the mayor or any subordinate of the mayor is empowered to appoint, but the council may express its views and fully and freely discuss with the mayor anything pertaining to appointment or removal of such officers and employees.

(c) *Interference with administration.* Except for the purpose of inquiries and investigations under section 2.09, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the mayor solely through the mayor and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.

(4-13-04, § A; 4-8-08, § B)

Section 2.06. Vacancies; forfeiture of office; filling of vacancies.

(a) *Vacancies.* The office of mayor or of a council member shall become vacant upon the person's death, resignation, removal from office or forfeiture of office in any manner authorized by law.

(b) *Recall.* The power of recall of the mayor and council members shall be allowed as set forth in SDCL Title 9.

(c) *Forfeiture of office.* The mayor or a council member shall forfeit that office if the mayor or council member:

- (1) Lacks at any time during the term of office for which elected any qualification for the office prescribed by this charter or by law,

- (2) Violates any expressed prohibition in section 7.02 of this charter,
- (3) Fails to maintain residency within city limits, or in the case of council members elected by district, fails to maintain residency within that district; however, any council member may complete their elected term of office if residency outside their district is caused during their term of office by a district adjustment pursuant to Section 6.02.
- (4) Is convicted of a felony, or
- (5) Fails to attend 50% of the regular monthly meetings of the council during a fiscal year, or three consecutive regular monthly meetings of the council, without being excused by the council.

(d) *Filling of vacancies.* A vacancy in the office of mayor or in the city council shall be filled for the remainder of the unexpired term, if any, at the next regular election following not less than 60 days upon the occurrence of the vacancy, but the council by a majority vote of all its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. If the council fails to do so within 30 days following the occurrence of the vacancy, the city election authorities shall call a special election to fill the vacancy, to be held not sooner than 90 days and not later than 120 days following the occurrence of the vacancy, and to be otherwise governed by law. Notwithstanding the requirement in section 2.11, if at any time the membership of the council is reduced to less than six (6), the remaining members may by majority action appoint additional members to raise the membership to six (6).

(4-13-04, § C)

Section 2.07. Judge of qualifications.

The city council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office. The council shall have the power to set additional standards of conduct for its members beyond those specified in the charter and may provide for such penalties as it deems appropriate, including forfeiture of office. In order to exercise these powers, the council shall have power to subpoena witnesses, administer oaths, and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one (1) or more newspapers of general circulation in the city at least seven (7) days in advance of the hearing. Decisions made by the council under this section shall be subject to judicial review.

Section 2.08. City clerk.

The city council shall appoint an officer of the city who shall have the title of city clerk. The city clerk shall give notice of council meetings to its members and the public, keep the minutes of its proceedings and perform such other duties as are assigned by this charter or by the council or by state law.

Section 2.09. Investigations.

The city council may make investigations into the affairs of the city and the conduct of any city department, office, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the council shall be a violation and punishable as provided in state law.

Section 2.10. Independent audit.

The city council shall provide for an independent annual audit of all city accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the city government or any of its officers. The council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, but the designation for any particular fiscal year shall be made no later than 120 days before the expiration of such fiscal year. If the state makes such an audit, the council may accept it as satisfying the requirements of this section.

(4-11-00, § B)

Section 2.11. Procedure.

(a) *Meetings.* The council shall meet regularly at least once in every month at such times and places as the council may prescribe by rule. If the council meets more than once a month, it may designate which meeting is the regular monthly meeting. If they don't so designate one, the first meeting of the month is the regular monthly meeting. Special meetings may be held on the call of the mayor or of six (6) or more members and, whenever practicable, upon no less than twelve hours notice to each member. All meetings shall be public, except as allowed by state law.

(b) *Rules and journal.* The city council shall determine its own rules and order of business and shall provide for keeping of an accurate journal of its proceedings. This journal shall be a public record.

(c) *Voting.* Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Five (5) members of the council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. Each council member shall have an equal vote; the mayor shall only vote as necessary to break a tie. All actions of the council shall be by a majority of those present, except no ordinances or any action calling for the expenditure of money in excess of the state bids limits for municipalities or filling of vacancies as set forth in section 2.06 shall be valid or binding unless adopted by the affirmative vote of five (5) or more members of the council.

Section 2.12. Action requiring an ordinance.

In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the city council shall be by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter, or abolish any city department, office, or agency;

- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Levy taxes, or impose or increase fees;
- (4) Grant, renew, or extend a franchise;
- (5) Regulate the rate charged for its services as a public utility;
- (6) Authorize the borrowing of money;
- (7) Convey or lease or authorize the conveyance or lease for a period of longer than one (1) year of any real property of the city;
- (8) Regulate land use and development;
- (9) Actions to establish the conduct of elections; and
- (10) Amend or repeal any ordinance previously adopted.

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

(Ref. of 5-7-96)

Section 2.13. Ordinances in general.

City ordinances shall be introduced, published, enacted, recorded, and codified as provided in state law; however, the city council may by ordinance amend such requirements.

Section 2.14. Updating the Code of Ordinances.

The Code of Ordinances must be updated at least every twenty years, pursuant to the provisions of state law, as was done in 1972 and in 1992.

ARTICLE III. MAYOR

Section 3.01. Executive power.

The executive and administrative power of the city shall be vested in a mayor.

Section 3.02.Election and qualifications of mayor.

The mayor shall be elected for a term of four years by a direct vote of the people at the regular city election. No mayor shall serve more than two (2) full or partial terms consecutively; however, the mayor may immediately thereafter be eligible to be a candidate for council member. The mayor's terms shall begin on the third Monday of May following the official canvass of the mayor's election and shall continue until a successor has been elected and takes office.

(4-11-00, § C)

Section 3.03.Mayor's duties and responsibility.

The mayor shall, at the beginning of each calendar year, and may at other times give the council information as to the affairs of the city and recommend measures considered necessary and desirable. The mayor shall preside at meetings of the council, represent the city in intergovernmental relationships, appoint with the advice and consent of the council the members of the citizen advisory boards and commissions, present an annual state of the city message, and perform other duties specified by the council and by article III. The mayor shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law.

Section 3.04.Mayor's power to veto legislation.

Within four (4) business days after the adjournment of any council meeting, the city clerk shall present to the mayor the record of proceedings of the meeting and all ordinances and resolutions adopted at the meeting. The mayor, within seven days of receipt of an ordinance or resolution, shall return it to the city clerk with or without approval, or with a veto. If an ordinance or resolution is vetoed, the mayor shall attach a written statement explaining the reasons for the veto. Ordinances or resolutions vetoed by the mayor shall be considered at the next regular meeting of the council, and the council may pass the ordinance or resolution over the veto by the affirmative vote of six of its members. The effective date of an ordinance or resolution passed over the mayoral veto shall not be less than 20 days after the date of publication. The mayor's veto power shall extend to disapproving or reducing individual appropriation items in the budget or any ordinance or resolution, except appropriations for auditing or investigating any part of the executive branch. The mayor shall not have the power to veto any emergency ordinance.

(4-11-00, § D)

ARTICLE IV. DEPARTMENTS, OFFICES, AND AGENCIES

Section 4.01.General provisions.

(a) *Creation of departments.* The mayor may establish city departments, offices, or agencies in addition to those created by this charter by filing an executive order which may also provide that any funds previously appropriated to perform a function which is being transferred may thereby be transferred to the new major organizational unit performing such function, with such order becoming effective after the expiration of 25 days from the date it is filed, unless action is taken to nullify the executive order by a vote of six (6) or more members of the city council. The mayor may prescribe the functions of all departments, offices, and agencies, except that no function assigned by this charter to a particular department, office, or agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

(b) *Direction by mayor.* All departments, offices, and agencies under the direction and supervision of the mayor shall be administered by one (1) or more officers appointed by and subject to the direction and supervision of the mayor. The appointment by the mayor of any officer or employee having final authority over more than five (5) percent of the city's employees or budget shall only be effective with the advice and consent of the council. The mayor may appoint one (1) person as the head of two (2) or more departments.

(4-11-00, § E)

Section 4.02. Personnel system.

(a) *Appointments and promotions.* All appointments and promotions of city officers and employees shall be made solely on the basis of merit and fitness.

(b) *Civil service system.* The city council shall provide by ordinance for the establishment, regulation, and maintenance of a civil service system governing personnel policies necessary to effect the administration of the employees of the city's departments, offices, and agencies. The city council shall provide by ordinance for classification and pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training, civil service appeal procedures to address grievances of employees, and relationship with employee organizations.

(Ref. of 5-7-96)

Section 4.03. Legal officer.

There shall be a legal officer of the city appointed by the mayor effective with the advice and consent of the council. The legal officer shall serve as chief legal advisor to the city council, the mayor and all city departments, offices and agencies, shall perform any other duties prescribed by state law, by this charter or by ordinance, and shall handle or monitor the representation of the city in legal proceedings.

(4-11-00, § F)

Section 4.04. Planning.

Consistent with all applicable federal and state laws with respect to land use, development, and environmental protection, the city council shall:

- (1) Designate an agency or agencies to carry out the planning function and such decision-making responsibilities as may be specified by ordinance;
- (2) Adopt a comprehensive plan and determine to what extent zoning and other land use control ordinances must be consistent with the plan; and
- (3) Adopt development regulations, to be specified by ordinance, to implement the plan.

ARTICLE V. FINANCIAL PROCEDURES

Section 5.01.Fiscal year.

The fiscal year of the city shall begin on the first day of January and end on the last day of December.

Section 5.02.Submission of budget and budget message.

On or before the 1st day of August of each year, the mayor shall submit to the city council a budget for the ensuing fiscal year and an accompanying message.

(Ref. of 5-7-96)

Section 5.03.Budget message.

The mayor's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the city's debt position and include such other material as the mayor deems desirable.

Section 5.04.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 mayor deems desirable or the city council may require. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding two (2) fiscal years. It shall indicate in separate sections:

- (1) The proposed goals and objectives and expenditures for current operations during the ensuing fiscal year, detailed for each fund by organization unit, and program, purpose or activity, and the method of financing such expenditures;
- (2) Proposed capital expenditures during the ensuing five (5) fiscal years, detailed for each fund by organization unit when practicable, and the proposed method of financing each such capital expenditure; and
- (3) The anticipated income and expense and profit and loss for the ensuing year for each utility or other proprietary fund operated by the city.

For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus the fund balance carried forward, exclusive of reserves.

(4-13-04, § D; 4-8-08, § C)

Section 5.05.City council action on budget.

(a) *Notice and hearing.* The city council shall publish in one (1) or more newspapers of general circulation in the city the general summary of the budget and a notice stating:

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

(b) *Amendment before adoption.* After the public hearing, the city 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 an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income.

(c) *Adoption.* The city council shall adopt the budget on or before the 30th day of September of the fiscal year currently ending. If it fails to adopt the budget by this date, the budget proposed by the mayor shall go into effect.

Section 5.06. Appropriation and revenue ordinances.

To implement the adopted budget of the ensuing fiscal year, the city council:

- (a) Shall, no later than its final regular meeting in October of the year, introduce and adopt the annual appropriation ordinance for the ensuing fiscal year, making appropriations by fund and department or organizational unit. It is not necessary to appropriate revenue to be expended from a proprietary or trust and agency funds if the fund is not supported or subsidized by revenue derived from the annual appropriated tax levy. However, an annual budget for these funds shall be developed and published no later than the last day of December of each year, and
 - (b) Shall adopt any other ordinances required to authorize new revenues or to amend the rates or other features of existing taxes or other revenue sources.
- (4-13-04, § E; 4-8-08, § D)

Section 5.07. Amendments after adoption.

(a) *Supplemental appropriations.* If during the fiscal year the mayor certifies that there are available for appropriation revenues in excess of those estimated in the budget or a sufficient fund balance, the city council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

(b) *Emergency appropriations.* To meet a public emergency affecting life, health, property, or the public peace, the city council or mayor may make emergency special appropriations. Such appropriations may be made by emergency ordinance or declaration. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the council may by such emergency ordinance or declaration authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency special appropriation was made.

(c) *Reduction of appropriations.* If at any time during the fiscal year it appears probable to the mayor that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the mayor shall report to the city council without delay, indicating the estimated amount of the deficit, any remedial action taken by the mayor and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may by ordinance reduce one (1) or more appropriations.

(d) *Transfer of appropriations.* At any time during the fiscal year the city council may by resolution transfer part or all of the unencumbered appropriation balance from one (1) department or major organizational unit to the appropriation for other departments or major organizational units. The mayor may transfer part or all of any unencumbered appropriation balances among programs within a department or organizational unit and shall report such transfers to the council in writing prior to the next council meeting.

(e) *Limitation; effective date.* No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption. (Ref. of 5-7-96; 4-8-08, § E)

Section 5.08.Lapse of appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until expended, revised, or repealed; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

Section 5.09.Administration of the budget.

The city council shall provide by ordinance the procedures for administering the budget.

Section 5.10. Overspending of appropriations prohibited.

No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the mayor or the mayor's 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 any payments made illegal. A violation of this provision shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation. Such officer may also be liable to the city for any amount so paid. Except where prohibited by law, however, 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, but only if such action is made or approved by ordinance.

Section 5.11. Capital program.

(a) *Submission to city council.* The mayor shall prepare and submit to the city council a five-year capital program no later than July 1 of each year for consideration.

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

- (1) A clear general summary of its contents;
- (2) Identification of the five-year goals of the city;
- (3) A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for each;
- (4) Cost estimates and recommended time schedules for each improvement or other capital expenditure;
- (5) Method of financing, upon which each capital expenditure is to be reliant;
- (6) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired;
- (7) A commentary on how the plan addresses the financial sustainability of the city and the region of which it is a part; and
- (8) Methods to measure outcomes and performance of the capital plan related to the long-term goals of the city.

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

(Ref. of 5-7-96; 4-8-08, § F)

Section 5.12. City council action on capital program.

(a) *Notice and hearing.* The city council shall publish in one (1) or more newspapers of general circulation in the city the general summary of the capital program and a notice stating:

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

(b) *Adoption.* The city council, by resolution, shall adopt the capital program with or without amendment after public hearing and on or before the 30th day of September of the current fiscal year. (Ref. of 5-7-96; 4-8-08, § G)

Section 5.13.Public records.

Copies of the budget, capital program, and appropriation and revenue ordinances shall be public records and shall be made available to the public for review at suitable locations or by suitable means in the city.
(4-8-08, § H)

ARTICLE VI. ELECTIONS

Section 6.01.City elections.

(a) *Regular elections.* The regular city election shall be held in even numbered years. Conduct of the election shall be in accordance with provisions of state law. The date of the city election shall be set by ordinance as the second Tuesday in April. The city may combine its election with that of the Sioux Falls School Board.

(b) *Registered voter defined.* All citizens legally registered under the constitution and laws of the State of South Dakota to vote in the city shall be registered voters of the city within the meaning of this charter.

(c) *Conduct of elections.* All elections provided for by the charter shall be conducted by the election authorities established by law. Candidates shall run for office without party designation and shall declare whether seeking an at-large or district seat. Candidates for district seats must reside within the district. No person shall be eligible for elective municipal office unless a nominating petition is first filed. Nominating petitions shall conform in all respects to the provisions of South Dakota state law, except that the deadline for filing shall be no later than 5:00 p.m. on the last Friday in February and the petition shall be signed by not less than 200 registered voters of the city or district thereof who shall be eligible to vote for the nominee. For the conduct of city elections, for the prevention of fraud in such elections, and for the recount of ballots in cases of doubt or fraud, the city council shall adopt ordinances consistent with law and this charter, and the election authorities may adopt further regulations consistent with law and this charter and the ordinances of the council. Such ordinances and regulations pertaining to elections shall be publicized in the manner of city ordinances generally.
(Ref. of 5-7-96; 4-8-08, § I)

Section 6.02.Council districts: adjustment of districts.

- (a) *Number of districts.* There shall be five (5) city council districts.
- (b) *Districting commission; composition; appointment; terms; vacancies; compensation.*
 - (1) There shall be a districting commission consisting of five (5) members. No more than three (3) commission members may belong to the same political party. The city council shall appoint four (4) members. These four (4) members shall, with the affirmative vote of at least three (3), choose the fifth member who shall be chairman.
 - (2) No member of the commission shall be employed by the city or hold any other elected or appointed position in the city.
 - (3) The city council shall appoint the commission no later than one (1) year and five (5) months before the first general election of the city council after each federal decennial census. The commission's term shall end upon adoption of a districting plan, as set forth in section 6.02(c).
 - (4) In the event of a vacancy on the commission by death, resignation, or otherwise, the city council shall appoint a new member enrolled in the same political party from which his or her predecessor was selected, to serve the balance of the term remaining.
 - (5) No member of the districting commission shall be removed from office by the city council except for cause and upon notice and hearing.
 - (6) The members of the commission shall serve without compensation except that each member shall be allowed actual and necessary expenses to be audited in the same manner as other city charges.
 - (7) The commission may hire or contract for necessary staff and may require agencies of city government to provide technical assistance. The commission shall have a budget as provided by the city council.
- (c) *Powers and duties of the districting commission; hearings; submissions, and approval of plan.*
 - (1) Following each decennial census or upon reliable evidence that the city's population has increased more than 15% since the last redistricting, the commission shall consult the city council and shall prepare a plan for dividing the city into districts for the election of council members. In preparing the plan, the commission shall be guided by the criteria set forth in section 6.02(d). The report on the plan shall include a map and description of districts recommended.
 - (2) The commission shall hold one (1) or more public hearings not less than 30 days before it submits the plan to the city council. The commission shall make its plan available to the public for inspection and comment not less than 30 days before its public hearing.
 - (3) The commission shall submit its plan to the city council not less than nine (9) months

before the first general election of the city council after each decennial census.

- (4) The plan shall be deemed adopted by the city council unless disapproved within 21 days by the vote of the majority of all members of the city council. If the city council fails to adopt the plan, it shall return the plan to the commission with its objections, and with the objections of individual members of the council.
- (5) Upon rejection of its plan, the commission shall prepare a revised plan and shall submit such revised plan to the city council no later than 21 days after the initial plan is rejected. Such revised plan shall be deemed adopted by the city council unless disapproved within 14 days by the vote of two-thirds of all of the members of the city council and unless, by a vote of two-thirds of all of its members, the city council votes to file a petition in the Circuit Court, Minnehaha County, for a determination that the plan fails to meet the requirements of this charter. The city council shall file its petition no later than 10 days after its disapproval of the plan. Upon a final determination upon appeal, if any, that the plan meets the requirements of this charter, the plan shall be deemed adopted by the city council and the commission shall deliver the plan to the city clerk. The plan delivered to the city clerk shall include a map and description of the districts.
- (6) If in any year population figures are not available at least one (1) year and five (5) months before the first general election following the decennial census, the city council may by local law shorten the time periods provided for districting commission action in subsections (2), (3), (4), and (5) of this section.

(d) *Districting plan; criteria.* In preparation of its plan for dividing the city into districts for the election of council members, the commission shall apply the following criteria which, to the extent practicable, shall be applied and given priority in the order in which they are herein set forth.

- (1) Districts shall be equal in population except where deviations from equality result from the application of the provisions hereinafter set forth, but no such deviation may exceed five (5) percent of the average population for all city council districts according to the figures available from the most recent census.
- (2) Districts shall consist of contiguous territory.
- (3) No voting precinct (as set by the counties) shall be divided in the formation of districts.
- (4) The number of districts which include territory in more than one (1) county shall be as few as possible.

- (5) Consistent with the foregoing provisions, the aggregate length of all district boundaries shall be as short as possible.

(e) *Effect of enactment.* The new city council districts and boundaries as of the date of enactment shall supersede previous council districts and boundaries for all purposes of the next regular city election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all council members elected at that regular city election take office.

Section 6.03. Initiative and referendum.

The powers of initiative and referendum are hereby reserved to the electors of the city. The provisions of the election law of the State of South Dakota, as they currently exist or may hereafter be amended or superseded, shall govern the exercise of the powers of initiative and referendum under this charter.

ARTICLE VII. GENERAL PROVISIONS

Section 7.01. Conflicts of interest; board of ethics.

(a) *Conflicts of interest.* The use of public office for private gain is prohibited. The city council shall implement this prohibition by ordinance. Regulations to this end shall include but not be limited to: acting in an official capacity on matters in which the official has a private financial interest clearly separate from that of the general public; the acceptance of gifts and other things of value; acting in a private capacity on matters dealt with as a public official, the use of confidential information; and appearances by city officials before other city agencies on behalf of private interests. The appearance of impropriety shall be avoided. Municipal officials shall be, at a minimum, restricted from conflict of interest to the same extent that state public officials are bound by state law; provided however, that the city council may adopt an ordinance setting a stricter standard.

(b) *Board of ethics.* The city council shall, by ordinance, establish an independent board of ethics to administer and enforce violations of the conflict of interest and financial disclosure ordinances as well as determine violations of Sections 2.05 (a) and (b), 7.02 (a) (3), (4), and (5) of this Charter and related ordinances. No member of the board may hold elective or appointed office under the city or any other government or hold any political party office. Insofar as possible under state law, the city council shall authorize the board to issue binding advisory opinions, conduct investigations on its own initiative and on referral or complaint, refer cases for prosecution, impose administrative fines, and to hire independent counsel. The city council shall appropriate sufficient funds to the board of ethics to enable it to perform the duties assigned to it.

(4-13-04, § F; 4-8-08, § J)

Section 7.02.Prohibitions.

(a) Activities prohibited.

- (1) 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, gender, age, handicap, religion, country of origin, or political affiliation.
- (2) No person shall willfully make any false statement, certificate, mark, rating, or report in regard to any test, certification, or appointment under the provisions of this charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules, and regulations.
- (3) 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 any test, appointment, proposed appointment, promotion, or proposed promotion.
- (4) No person shall knowingly or willfully solicit or assist in soliciting any assessment, subscription, or contribution for any political party or political purpose to be used in conjunction with any city election from any city employee.
- (5) No city employee shall, directly or indirectly, contribute money or anything of value to or render service in behalf of the candidacy of any candidate for nomination or election to any city office. Elected officials and spouses of city employees acting on their own behalf are exempt from this prohibition. The expression of private or personal views concerning candidates for political office is not prohibited hereby.

(b) *Penalties.* Any person violating this section shall be ineligible for a period of five (5) years following such violation to hold any City elected or appointed office or board. If the person violating this section is a city officer or employee, said violation shall be sufficient cause for the suspension, demotion or termination of employment of the officer or employee. The city council may establish by ordinance any further penalties as it may deem appropriate.

(4-11-00, § G; 4-13-04, §§ G, H)

ARTICLE VIII. CHARTER AMENDMENT

Section 8.01.Proposal of amendment.

Amendments to this charter may be framed and proposed:

- (a) In the manner provided by law, or
- (b) By ordinance of the city council containing the full text of the proposed amendment (except that sections 1.04, 1.05, 2.01, 2.02, 2.03, and 2.04 and article III cannot be so amended) and effective upon adoption, or

- (c) By report of a charter commission created by ordinance; or
- (d) By the voters of the city, when any 15 qualified voters initiate proceedings to amend the charter by filing with the city clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed charter amendment. Promptly after the affidavit of the petitioners' committee is filed the clerk shall issue the appropriate petition blanks to the petitioners' committee. The petitions shall contain or have attached thereto throughout their circulation the full text of the proposed charter amendment and must be signed by registered voters of the city in the number of at least 5 percent of the total number of registered voters at the last regular city election.

Section 8.02.Election.

Upon delivery to the city election authorities of the report of a charter commission pursuant to section 8.01(c) or delivery by the city clerk of an adopted ordinance proposing an amendment pursuant to section 8.01(b) or a petition finally determined sufficient to propose an amendment pursuant to section 8.01(d), the election authorities shall submit the proposed amendment to the voters of the city at an election. Such election shall be announced by a notice containing the complete text of the proposed amendment and published in one (1) or more newspapers of general circulation in the city at least 30 days prior to the date of the election. If the amendment is proposed by petition, the amendment may be withdrawn at any time prior to the thirtieth day preceding the day scheduled for the election by filing with the city clerk a request for withdrawal signed by at least two-thirds of the members of the petitioners' committee. The election shall be held not less than 60 and not more than 120 days after the adoption of the ordinance or report or the final determination of sufficiency of the petition proposing the amendment. If no regular election is to be held within that period, the city council shall provide for a special election on the proposed amendment; otherwise, the holding of a special election shall be as specified in the state election law.

Section 8.03.Adoption of amendment.

If a majority of the registered voters of the city voting upon a proposed charter amendment vote in favor of it, the amendment shall become effective at the time fixed in the amendment or, if no time is therein fixed, 30 days after the initial canvas certifying its adoption by the voters.

ARTICLE IX. TRANSITION/SEPARABILITY PROVISION

Section 9.01.Officers and employees.

(a) *Rights and privileges preserved.* Nothing in this charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are city officers, appointees, or employees at the time of its adoption. State law governing Change of Employee Contributions or Benefits shall apply to the city under this charter.

(b) *Continuance of office or employment.* Except as specifically provided by this charter, if at the time this charter takes full effect an appointive administrative officer or employee holds any office or position which is or can be abolished by or under this charter, it shall continue until the taking effect of some specific provision under this charter directing that the office or position be eliminated.

(c) *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 provided for in section 4.02.

Section 9.02. Departments, offices, and agencies.

(a) *Transfer of powers.* If a city department, office, board, or agency is abolished by this charter, the powers and duties given it by law shall be transferred to the city department, office, board, or agency designated in this charter, or if the charter makes no provision, designated by the city council.

(b) *Property and records.* All property, records, and equipment of any department, office, board, or agency existing when this charter is adopted shall be transferred to the department, office, board, or agency assuming its powers and duties, but; in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records, or equipment shall be transferred to one (1) or more departments, offices, boards, or agencies designated by the city council in accordance with this charter.

Section 9.03. Pending matters.

All rights, claims, actions, orders, contracts, and legal administrative proceedings shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on, or dealt with by the city department, office, board, or agency appropriate under this charter.

Section 9.04. State and municipal laws.

(a) *In general.* All city ordinances, resolutions, policies, orders, codes, and regulations which are in force when this charter becomes fully effective remain effective, except as stated in subsection (b).

(b) *Exceptions.* All city ordinances, resolutions, orders, and regulations which are in force when this charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the constitution and law of the State of South Dakota permit, all laws relating to or affecting this city or its agencies, officers, or employees which are in force when this charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this charter or of ordinances or resolutions adopted pursuant thereto.

(c) The term "city commission" in all city ordinances, resolutions, policies, orders, and regulations which are in force when this charter becomes fully effective is hereby replaced by the term "city council."

Section 9.05.Schedule.

(a) *First election.* At the time of its adoption, this charter shall be in effect to the extent necessary in order that the first election of mayor and members of the city council may be conducted in accordance with the provisions of this charter. The first election shall be held on November 8, 1994 or the first available Tuesday after that as determined by election officials. The Sioux Falls city officials to be designated shall prepare and adopt temporary regulations applicable only to the first election and designed to insure its proper conduct and to prevent fraud and provide for recount of ballots in cases of doubt or fraud.

The term of the two at large council members receiving the most votes among the at large candidates in the first election shall be four (4) years. The term of the at large council member receiving the third largest vote counts among the at large candidates shall be two (2) years.

The terms of the two council members receiving the most votes among the five (5) elected by the five (5) districts in the first election shall be four years. The term of the other three council members elected by district shall be two (2) years.

The five (5) districts for the first election and until the redistricting required after the 2000 census, shall be as follows:

- (1) The southwest district shall be comprised of the following complete precincts: 4-4, 4-5/6, 10-1/7, 10-3/5 and 11-1, 10-4, and 10-6.
- (2) The southeast district shall be comprised of the following complete precincts: 3-4, 3-6, 3-7/8, 3-9, 9-5, 9-6, 9-8/9, 10-2 and 12-1.
- (3) The northwest district shall be comprised of the following complete precincts: 4-3, 5-2, 5-3, 5-4, 6-1, 6-2, 7-1, 7-3, and 11-2/3.
- (4) The northeast district shall be comprised of the following complete precincts: 7-2, 7-4, 8-1, 8-2, 8-3, 9-1, 9-2, 9-4, and 9-7.
- (5) The central district shall be comprised of the following complete precincts: 1-1, 2-1, 2-2, 3-1, 3-2, 3-3, 3-5, 4-1, 4-2, 5-1, and 9-3.

(b) *Time of taking full effect.* The charter shall be in full effect for all purposes on and after January 1, 1995.

(c), (d) *Reserved.*

(e) *Initial expenses.* The initial expenses of the mayor and city council shall be paid by the city on vouchers signed by the mayor.

(f) *Salary of mayor and council members.* The mayor's salary having been established in the amount of \$75,000 by this provision in 1995, each other council member shall receive an annual salary in the amount of fifteen (15) percent of the mayor's salary. The mayor's salary shall automatically be adjusted annually for inflation or deflation with each other council persons salary thereafter adjusted to be equal to fifteen (15) percent of the mayor's new adjusted salary. No meeting fees shall be paid to the mayor nor city council members.

(Ref. of 5-7-96; 4-11-00, § H)

Section 9.06. 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 circumstance is held invalid, the application of the charter and its provision to other persons or circumstances shall not be affected thereby.