

Rapid City Home Rule Charter

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PREAMBLE

We the people of Rapid City under the constitution and laws of the state of South Dakota, in order to secure the benefits of local self-government, and to provide for an honest and accountable council-manager government, do hereby adopt this charter and confer upon the city the following powers, subject to the following restrictions, and prescribed by the following procedures and governmental structure. By this action, we secure the benefits of home rule and affirm the values of representative democracy, professional management, strong political leadership, citizen participation, diversity and inclusiveness and regional cooperation.

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 liberally in favor of the city, 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 or in state law.

Section 1.03. Intergovernmental Relations.

The city may participate by contract or otherwise with any governmental entity of this state or any other state or states or the United States in the performance of any activity which one or more of such entities has the authority to undertake.

Section 1.04. Limitations

The city may exercise any legislative power or perform any function not denied by its charter, the Constitution or the general laws of the state (SD Constitution: Art IX, section 2.)

The city is **prohibited** from:

- (1) Enacting or increasing any tax, fee or charge unless authorized by state law
- (2) Defining crimes and punishment except for a violation of the Charter or ordinances, limited to \$500 or six months jail time
- (3) Changing laws relating to elementary and secondary education
- (4) Changing assessment practices related to ad valorem taxation of property
- (5) Denying initiative or referendum on ordinances or by-laws
- (6) Reducing services required by state law
- (7) Setting standards less or lower than state law (but can make more strict standards)
SDCL 6-12-5, 6, 14, 15)

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 city council shall act as a policy making and legislative body, assigning management and administrative duties to the city manager.

Section 2.02. Eligibility, Terms, and Composition.

(a) Eligibility A person may be nominated, elected, or appointed as a mayor or as an alderman if the person is a citizen of the United States, a voter of and resident of the municipality, and, if an alderman representing a ward, a voter of and resident of the ward for which the person is to hold office.

(b) Terms. The term of office of elected officials shall be {three (3) years for city council and four (4) years for mayor.

(c) Composition. There shall be a city council composed of 7 members, 6 members and the mayor. There shall be 5 wards. One member from each of the council wards will be elected by the voters of those wards in accordance with provisions of Article Vi. The Mayor and one member of the Council will be elected by the voters of the city at large. With the exception of the council member elected at large, not more than one council member shall reside in each ward.

Section 2.03. Mayor.

(a) Powers and Duties. The mayor shall be a voting member of the city council and shall attend and preside at meetings of the council, represent the city in intergovernmental relationships, appoint, with the advice and consent of the council, the members of citizen advisory boards and commissions, present an annual state of the city message, appoint the members and officers of council committees, assign, subject to the consent of council, agenda items to committees, and perform other duties specified by the council. The mayor shall be recognized as head of the city government for all ceremonial purposes but shall have no administrative duties. The role of the mayor will be a part-time position.

(b) Deputy Mayor. The council shall elect from among its members a deputy mayor who shall act as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become mayor for the remainder of the unexpired term.

Section 2.04. Compensation; Expenses.

The city council may determine the annual salary of the mayor and council members by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of council members elected at the next regular election.

Section 2.05. Prohibitions.

(a) Holding Other Office. No council member shall hold any other city office or city employment during the term for which the member was elected to the council. No former council member shall

hold any compensated appointive office with the city until one year after the expiration of the term for which the member was elected to the council, unless granted a waiver by the current city council. Nothing in this section shall be construed to prohibit the city council from selecting any current or former council member to represent the city on the governing board of any regional or intergovernmental agency or from completing an unexpired term of the mayor.

Section 2.06. Vacancies; Forfeiture of Office; Filling of Vacancies.

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

(b) Forfeiture of Office. A council member shall forfeit his office if the council member:

- (1) Fails to meet the residency requirements,
- (2) Violates any express prohibition of this charter,
- (3) Is convicted of a crime involving moral turpitude, or
- (4) Fails to attend three consecutive regular meetings of the council without being excused by the council.
- (5) Is removed from office by the council as provided by law.

(c) Filling of Vacancies. A vacancy in the city council shall be filled by appointment by the majority of the remaining members of the city council until the next annual municipal election. However, if the vacancy occurs less than sixty days prior to the next annual municipal election, then the person appointed to fill the vacancy shall continue to serve, and the vacancy shall be filled at the annual municipal election the following year. If appointment is for replacement of a council member elected to represent a ward, the appointment must be a person from the same ward.

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 city 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 and notice of such hearing shall be published in one or more newspapers of general circulation in the city at least one week in advance of the hearing. In order to exercise these powers, the council shall by ordinance establish rules of procedure. A majority of the vote of the council is needed to find misconduct on the part of a council member. A two-thirds vote of the members-elect is necessary to expel a member from the council.

Section 2.08. City Clerk.

The city manager 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 journal 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 with an affirmative vote of at least 4 council members, and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. The council may prescribe by ordinance penalties for violations of this section.

Section 2.10. Procedure.

(a) Meetings. The council shall meet regularly, but not less than monthly, at such times and places as the council may prescribe. Special meetings may be held on the call of the mayor or of three or more members and, whenever practicable, upon no less than twenty-four hours' notice to each member. Except as allowed by state law, all meetings shall be public; however, the council may discuss in a closed or executive session any matter for which an executive session is authorized by law.

(b) Rules and Minutes. The city council shall determine its own rules and order of business and shall provide for keeping minutes of its proceedings. These minutes shall be a public record.

(c) Voting. The ayes and nays shall be recorded in the minutes. A majority of the members-elect (including the Mayor) 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.

Section 2.11. 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 or abolish any city department, office, or agency;
- (2) Provide for a fine or other penalty or establish a rule or regulation the violation of which results in a fine or other penalty.
- (3) Levies taxes;
- (4) Grant, renew, or extend a franchise;
- (5) Regulate the rate charged for its services by a public utility;
- (6) Authorize the borrowing of money;
- (7) Impose regulations on land use and development;
- (8) Amend or repeal any ordinance previously adopted;

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

Section 2.12. Ordinances in General.

(a) Form. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. The enacting clause shall be: " Be It Ordained by the City of Rapid City. . ." Any ordinance which repeals or amends an existing ordinance or part of the city code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matters by underscoring or by italics

(b) Procedure. Any member at any regular or special meeting of the council may introduce an ordinance. Upon introduction of any ordinance, the city clerk shall distribute a copy to each council member and to the city manager. Prior to approval, the title of all ordinances must be read at two separate council meetings with at least five days intervening between such readings. Approval of an ordinance requires the affirmative vote of a majority of the council; provide however, that ordinance or proposals which appropriate or spend money shall require a majority of the members-elect.

(c) Effective Date. Except as otherwise provided in this charter, every adopted ordinance shall become effective 20 days after publication as required by state law.

Section 2.13. Emergency Ordinances.

To meet a public emergency affecting life, safety, health, property, or the public peace, the city council may adopt one or more emergency ordinances and / or resolutions, but such ordinances and resolutions may not levy taxes; grant, renew, or extend a franchise; or authorize the borrowing of money except as provided in Section 5.06(b) of this charter. An emergency ordinance or resolution shall be introduced in the form and manner generally prescribed and used, except that it shall be plainly designated as an emergency ordinance or resolution and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance or resolution may be adopted with or without amendment or rejected at the meeting at which it is introduced. A majority vote of the council members present shall be required for adoption. After its adoption, the ordinance or resolution shall be published and printed as prescribed for other adopted ordinances or resolutions. It shall become effective upon adoption or at such later time as it may specify.

Every emergency ordinance except one made pursuant to Section 5.06(b) shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance enacted in the manner specified in this section if the emergency still exists. An emergency ordinance may be repealed in full or in part by adoption of a repealing ordinance or resolution.

Section 2.14. Codes of Technical Regulations.

The city council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally.

Copies of any adopted code of technical regulations shall be kept on file and made available for inspection by the city clerk.

Section 2.15. Authentication and Recording; Codification; Printing of Ordinances and Resolutions.

(a) Authentication and Recording. The city clerk shall authenticate by signing and shall record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the city council.

(b) Codification. Within three years after adoption of this charter, and at least every ten years thereafter, the city council shall provide for the preparation of a general codification of all city ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the council by ordinance and shall be published, together with this charter and any amendments thereto. This compilation shall be known and cited officially as the Rapid City Municipal Code. Copies of the code shall be furnished to city officers, placed in libraries, and if available, on a website for free public reference and made available for purchase by the public at a reasonable price fixed by the council.

Article III CITY MANAGER

Section 3.01. Appointment; Qualifications; Compensation.

The city council by a majority vote of its total membership shall appoint a full-time city manager and fix the manager's compensation. The city manager shall be appointed solely based on education and experience in the accepted competencies and practices of local government management. The manager need not be a resident of the city or state at the time of appointment but may reside outside the city while in office only with the approval of the council.

No person elected to membership on the governing body shall be eligible for appointment as manager until one year has elapsed following the expiration of the term for which he was elected.

Section 3.02 Compensation and Review

The city council and the city manager will develop an agreement covering the terms and conditions of employment. The city council shall fix the compensation to be received by the city manager, and the compensation may be amended from time to time in accordance with the city manager's experience, qualifications, and performance. The city manager shall be evaluated at least once a year by the city council.

Section 3.03. Removal.

The city manager shall be appointed for an indefinite term but may be removed by the majority vote of the elected members of the governing body. The termination procedure shall be in accordance with SDCL 9-10-11.

Section 3.04. Acting City Manager.

Whenever a vacancy occurs in the office of the city manager the council shall designate an individual to serve as the acting city manager until such time as the council shall appoint a permanent replacement. Council members (including the mayor) shall not be designated as the acting city manager.

Section 3.05. Powers and Duties of the City Manager.

(a) City Manager. The city manager shall be the chief administrative officer of the city, responsible to the council for the management of all city affairs placed in the manager's charge by or under this charter or city ordinance. The city manager shall:

- (1) Supervise all city employees except for the city attorney, finance director, and employees reporting to the city attorney or finance director, in accordance with all applicable ordinances and council approved policies. The city manager may delegate supervisory authority to other city employees in order to establish appropriate chains of command to ensure proper oversight and execution of municipal functions. The city manager retains ultimate responsibility even when supervisory authority is delegated to subordinates.
- (2) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law;
- (3) Attend all city council meeting. Propose ordinances and resolutions. The city manager shall have the right to take part in discussion but shall not vote;
- (4) See that all laws, provisions of this charter and acts of the city council, subject to enforcement by the city manager or by officers subject to the manager's direction and supervision, are faithfully executed;
- (5) Prepare and submit the annual budget and capital program to the city council, and implement the final budget approved by council to achieve the goals of the city;
- (6) Submit to the city council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;
- (7) Make such other reports as the city council may require concerning operations;
- (8) Keep the city council fully advised as to the financial condition and future needs of the city;
- (9) Make recommendations to the city council concerning the affairs of the city and facilitate the work of the city council in developing policy;
- (10) Provide staff support services for the mayor and council members;
- (11) Assist the council to develop long term goals for the city and strategies to implement these goals;
- (12) Encourage and provide staff support for regional and intergovernmental cooperation;
- (13) Promote partnerships among council, staff, and citizens in developing public policy and building a sense of community;
- (14) Sign all warrants for payment of money, with the same countersigned by the finance officer, but no warrant shall be issued until the claim therefore has been approved by the city council, except as may be otherwise provided by ordinance or resolution; and
- (15) Perform such other duties as are specified in this charter or may be required by the city council.

(b) Appointments and Removals. Neither the city council nor any of its members shall in any manner control the appointment or removal of any city administrative officer or employee whom the city manager, city attorney, or finance director or any of their subordinates hired, but the council may express its views and fully and freely discuss with the city manager anything pertaining to appointment and removal of such officers and employees.

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

Article IV
DEPARTMENTS, OFFICES, AND AGENCIES

Section 4.01. General Provisions.

(a) Creation of Departments. The city council may establish city departments, offices, or agencies in addition to those created by this charter and may prescribe the functions of all departments, offices, and agencies. 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 City Manager. All departments, offices, and agencies under the direction and supervision of the city manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. With the consent of council, the city manager may serve as the interim head of one or more such departments, offices, or agencies or may appoint one person as the head of two or more of them.

Section 4.02. Personnel System.

(a) Merit Principle. All appointments and promotions of city officers and employees shall be made solely on the basis of merit and competence demonstrated by a valid and reliable examination or other evidence of performance.

(b) Merit System. Consistent with all applicable federal and state laws the city council shall provide by ordinance for the establishment, regulation, and maintenance of a merit system governing personnel policies necessary to effective administration of the employees of the city's departments, offices and agencies, including but not limited to classification and pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training, grievances and relationships with employee organizations.

Section 4.03. City Attorney.

(a) Appointment. There shall be a city attorney of the city appointed by the city council. The city attorney may be removed from office by a two-third's vote of the members elect.

(b) Role. The city attorney shall serve as chief legal adviser to the council, the manager and all city departments, offices and agencies, shall represent the city in all legal proceedings and shall perform any other duties prescribed by state law, by this charter or by ordinance. The city attorney may propose ordinances.

Section 4.04. City Finance Director.

(a) Appointment. There shall be a finance director of the city appointed by the city council. The city finance director may be removed from office by a two-third's vote of the members elect.

(b) Role. The finance director shall serve as chief financial adviser to the council, the manager and all city departments, offices and agencies, shall represent the city in all financial proceedings and shall perform any other duties prescribed by state law, by this charter or by ordinance.

Section 4.05. Land Use, Development, and Environmental Planning.

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

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

The designated agency, the city manager, and the mayor and council shall seek to act in cooperation with other jurisdictions and organizations in their region to promote integrated approaches to regional issues.

Section 4.06. Copying of Public Records.

Any officer or public servant required to keep or preserve any record, document, or other instrument subject to the provisions of SDCL 1-27-1 shall keep the records open to inspection or copying by any person during normal business hours. A reasonable fee established by the city manager may be charged for copying the record.

**Article V
FINANCIAL MANAGEMENT**

Section 5.01. Fiscal Year.

The fiscal year of the city shall be the calendar year

Section 5.02. Annual Appropriation Ordinance.

The council shall approve an Annual Appropriation Ordinance at such time as required by state law. The city manager in conjunction with the finance director shall present a proposed Annual Appropriation Ordinance to the council at least 60 days in advance of the date required for council approval. No expenditure of municipal funds is permissible unless the funds have been appropriated by ordinance by the council. The council is prohibited from appropriating funds in excess of those reasonably anticipated to be received from tax revenues authorized by state law, bond proceeds and other authorized borrowings, and fees imposed by the council.

Section 5.03. Amendments after Adoption.

(a) Supplemental Appropriations. During or before the fiscal year the council may approve supplemental appropriation ordinances to correct, amend, or add to the Annual Appropriation Ordinance as it deems necessary and appropriate.

(b) Emergency Appropriations. To address a public emergency affecting life, health, property or the public peace, the city council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of § 2.14.

(c) Reduction of Appropriations. If at any time during the fiscal year it appears probable to the city manager or the finance director that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the council shall then take such further action as it deems necessary to prevent any deficit and for that purpose it may, by ordinance, reduce or eliminate one or more appropriations.

(d) Transfer of Appropriations. The city manager may transfer funds among programs within a department, fund, service, strategy or organizational unit and shall report such transfers to the council in writing first regular council meeting following the transfer.

(e) Limitation; Effective Date. No appropriation for debt service may be reduced or transferred, except to the extent that the debt is refinanced, 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.

Section 5.04. Administration and Fiduciary Oversight of the Budget.

The city council shall provide by ordinance the procedures for administration and fiduciary oversight of the budget.

Section 5.05. 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. An independent certified public accountant or firm of such accountants shall make such audits. The annual audit conducted for the Department of Legislative Audit will fulfill this requirement. No accountant or firm may provide any other services to the city during the time it is retained to provide independent audits to the city. The city council may waive this requirement by a majority vote following a public hearing, notice of which is given at least two weeks in advance.

Article VI ELECTIONS

Section 6.01. City Elections.

(a) Regular Elections. The regular city election shall be held at the time established by state law or as established by ordinance of the city

(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. The provisions of the general election laws of the state of South Dakota shall apply to elections held under this charter. 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. For the conduct of city elections, the city council shall follow State law, State election administrative rules, and this charter. 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. The election authorities may adopt further regulations consistent with law, this Charter, and the ordinances of the city council. Such ordinances and regulations pertaining to elections shall be publicized in the manner of city ordinances generally.

(d) Contribution and Spending Limitations. In order to combat the potential for, and appearance of, corruption, and to preserve the ability of all qualified citizens to run for public office, the city shall, in so far as is permitted by state and federal law, have the authority to enact ordinances designed to limit contributions and expenditures by, or on behalf of, candidates for locally elected office. Ordinances pursuant to this section may include but are not limited to limitations on candidate and candidate committees that affect the amount, time, place, and source of financial and in-kind contributions; and voluntary limitations on candidate and candidate committee expenditures tied to financial or non-financial incentives.

Section 6.02. Council Wards; Adjustment of Districts.

(a) Number of Districts. There shall be 5 city council wards.

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

(c) Council to Redistrict. Following each decennial census, the city council shall, by ordinance, adjust the boundaries of the city council wards and precincts. A redistricting committee will be assembled by the city manager, to include the finance director, GIS representation, country representation, and other members as needed.

(d) Council Election. At the first election under this charter, 5 council members shall be elected by the voters of their ward. Initially, council members from odd-numbered wards shall serve for terms of two (2) years, and council members from even-numbered wards shall serve for terms of three (3) years. One Council member will be elected at large for a term of 3 years. The mayor shall be elected by the voters at large for a term of four (4) years. Commencing at the next regular election and at all subsequent elections, all council members shall serve for terms of three (3) years, and the mayor for 4 years.

Section 6.03. Initiative, Citizen Referendum, and Recall.

(a) Provisions Provided by State Law. The powers of initiative, citizen referendum, and recall are hereby reserved to the electors of the city. The provisions of the election laws of the State of South Dakota and the administrative rules 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.

(b) Recall. The registered voters of the city shall have power to recall elected officials of the city, but no recall petition shall be filed against any official within six (6) months after the official takes office, nor, in case of a member subjected to a recall election and not removed, until at least six (6) months after the election.

(c) Petitions. The city will follow State Statute SDCL 9-20 and administrative rules relating to the requirements for petitions.

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, the terms of which 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. This ordinance shall include a statement of purpose and shall provide for reasonable public disclosure of finances by officials with major decision-making authority over monetary expenditures and contractual and regulatory matters and, insofar as permissible under state law, shall provide for fines and imprisonment for violations.

(b) Board of Ethics. The city council shall, by ordinance, establish an independent board of ethics to administer and enforce the conflict of interest and financial disclosure 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 from officials or citizens, subpoena witnesses and documents, 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 and to provide annual training and education of city officials and employees, including candidates for public office, regarding the ethics code.

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, sexual orientation, disability, 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 there under, 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 his or her 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 officer or city employee.
- (5) No city officer or city employee shall knowingly or willfully make, solicit or receive any contribution from the campaign funds of any political party or committee to be used in a city

election or to campaign funds to be used in support of or opposition to any candidate for election to city office or city ballot issue. Further, no city employee shall knowingly or willfully participate in any aspect of any political campaign on behalf of or opposition to any candidate for city office. This section shall not be construed to limit any person's right to exercise rights as a citizen to express opinions or to cast a vote nor shall it be construed to prohibit any person from active participation in political campaigns at any other level of government.

(b) Penalties. Any violation of this section may be sufficient cause for the reprimand, suspension, demotion, or termination of the employment of any city employee found to be in violation of this section. The city council shall establish by ordinance such further penalties as it may deem appropriate.

(c) Disclosure. The city council shall enact ordinances to protect the ability of city residents to be informed of the financing used in support of, or against, campaigns for locally elected office. The terms of such ordinances shall include, but not be limited to, requirements upon candidates and candidate committees to report in a timely manner to the appropriate city office: contributions received, including the name and address, of each contributor who has contributed more than \$100; expenditures made; and obligations entered into by such candidate or candidate committee. In so far as is permissible under state law, such regulations shall also provide for fines and imprisonment for violations. The ordinance shall provide for convenient public disclosure of such information by the most appropriate means available to the city.

Article VIII CHARTER AMENDMENT

Section 8.01. Proposal of Amendment.

Amendments to this Charter may be framed and proposed:

- (1) In the manner provided by law, or
- (2) By ordinance of the city council containing the full text of the proposed amendment (except Sections 1.04, 1.05, 2.01, 2.02, 2.03 and Article III cannot be so amended) and effective upon adoption, or
- (3) By report of a charter commission created by ordinance, or
- (4) By the voters of the city, when any fifteen (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 city finance director shall issue the appropriate petition blanks to the petitioners' committee. The petitions shall contain 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 10 percent of those voting in the last preceding gubernatorial election.

Section 8.02 Amendment 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 finance director 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 the official newspaper of the city at least thirty (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 finance director 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 sixty (60) and not more than one hundred twenty (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 State election law.

Section 8.03 Adoption of Amendment.

If a majority of those 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, thirty (30) days after the official canvas certifying its adoption.

Section 8.04 Application of general election laws.

Except as provided in §§ 6-12-7 to 6-12-9, inclusive, the general election laws of the state shall govern elections on questions of adoption, amendment, or repeal of a charter.

Article IX TRANSITION AND SEVERABILITY

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 or employees at the time of its adoption.

(b) Continuance of Office or Employment. Except as specifically provided by this charter, if at the time this charter or any amendment thereof takes full effect, a city administrative officer or employee holds any office or position which is or can be abolished by or under this charter, he or she shall continue in such office or position until the taking effect of some specific provision under this charter directing that he or she vacate the office or position.

(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 § 4.02.

Section 9.02. Departments, Offices, and Agencies.

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

(b) Property and Records. All property, records and equipment of any department, office or agency existing when this charter is adopted shall be transferred to the department, office 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 or more departments, offices 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 or agency appropriate under this charter.

Section 9.04. State and Municipal Laws.

(a) In General. 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 with this charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws 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.

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 members of the city council may be conducted in accordance with the provisions of this charter. The first election shall be held on the _____ day of _____, 202__.

(b) Time of Taking Full Effect. The charter shall be in full effect for all purposes on and after the date and time of the first meeting of the newly elected city council provided in § 9.05(c).

(c) Temporary Ordinances. In adopting ordinances as provided in § 9.05(c), the city council shall follow the procedures prescribed in § 2.12, except that at its first meeting or any meeting held within sixty (60) days thereafter, the council may adopt temporary ordinances to deal with cases in which there is an urgent need for prompt action in connection with the transition of government and in which the delay incident to the appropriate ordinance procedure would probably cause serious hardship or impairment of effective city government. Every temporary ordinance shall be plainly labeled as such but shall be introduced in the form and manner prescribed for ordinances generally. A temporary ordinance may be considered and may be adopted with or without amendment or rejected at the meeting at which it is introduced. After adoption of a temporary ordinance, the council shall cause it to be printed and published as prescribed for other adopted ordinances. A temporary ordinance shall become effective upon adoption or at such later time preceding automatic repeal under this subsection as it may specify, and the referendum power shall not

extend to any such ordinance. Every temporary ordinance, including any amendments made thereto after adoption, shall automatically stand repealed as of the ninety-first day following the date on which it was adopted, renewed, or otherwise continued except by adoption in the manner prescribed in § 2.12 for ordinances of the kind concerned.

(d) Initial Expenses. The initial expenses of the city council, including the expense of recruiting a city manager, shall be paid by the city on warrants signed by the mayor.

Section 9.06. Severability.

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected. 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 provisions to other persons or circumstances shall not be affected.