

|AGENDA Thursday, September 27, 2007  
|Charter Revision  
|Carnegie Town Hall  
|Commission  
|Tenth Street

8:30 a.m. at  
235 West

1. Call To Order

2. Approval of Minutes

A. SEPTEMBER 6, 2007

3. Address by Mayor Munson

4. Public Input

5. Presentation

A. FINANCE DEPARTMENT

Charter - City of Sioux Falls, South Dakota

Charter - Article V (Financial Procedures)

B. DISCUSSION HELD REGARDING SCHEDULE AMENDMENTS FOR OCTOBER, 2007.

C. DISCUSSION HELD REGARDING SCHEDULE AMENDMENTS FOR NOVEMBER, 2007.

6. Adjournment

Date: 2007-09-27  
SIRE Meeting ID: 1225  
Meeting Type: Charter Revision Commission

YouTube:[https://youtu.be/8CM\\_IstW\\_2U](https://youtu.be/8CM_IstW_2U)  
Agenda Item: Not Assigned  
Item ID: 53697

The following document(s) are public records obtained from the  
City of Sioux Falls.

**PART I CHARTER\***

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**\*Editor's 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.

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**Article I. Powers of the City**

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Sec. 1.04. Limitations.

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### **Article III. Mayor**

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## **Article VI. Elections**

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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.

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Sec. 9.06. Separability.

## **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.

***(Ref. of 04-11-2000)***

**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 nor more than seven 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.

***(Ref. of 04-13-2004)***

#### **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.

#### **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 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 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.

***(Ref. of 04-13-2004)***

(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.

**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.

***(Ref. of 04-13-2004)***

(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).

### **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.

***(Ref. of 04-11-2000)***

## **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 05-07-1996)***

### **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 term 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.

***(Ref. of 04-11-2000)***

### **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.

*(Ref. of 04-11-2000)*

### **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.

*(Ref. of 04-11-2000)*

(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.

#### **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 05-07-1996)*

#### **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.

*(Ref. of 04-11-2000)*

#### **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 05-07-1996)*

### **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 three (3) 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.

**(Ref. of 04-13-2004)**

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.

**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 the annual appropriation ordinance for the ensuing fiscal year, in which it shall appropriate the sums of money necessary to meet all lawful expenses and liabilities of the municipality. The ordinance shall specify the function and subfunction as prescribed by the department of legislative audit for which the appropriations are made and the amount appropriated for each function and subfunction, which amount shall be appropriated from the proper fund. It is not necessary to appropriate revenue to be expended from an enterprise or trust and agency fund 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.

### **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, 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 05-07-1996)***

**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 July 1 of each year for consideration.

(b) Contents. The capital program shall include:

(1) A clear general summary of its contents;

(2) 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;

(3) Cost estimates and recommended time schedules for each improvement or other capital expenditure;

(4) Method of financing, upon which each capital expenditure is to be reliant; and

(5) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

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 05-07-1996)***

#### **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 15th day of August of the current fiscal year.

***(Ref. of 05-07-1996)***

#### **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 at suitable places in the city.

### **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 fourth Friday preceding the date of the election 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 05-07-1996)***

## **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 Section 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.

***(Ref. of 04-13-2004)***

### **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.

***(Ref. of 04-11-2000)***

***(Ref. of 04-13-2004)***

(b) Penalties. Any person violating this section shall be ineligible for a period of five 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.

***(Ref. of 04-13-2004)***

## **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 councilperson's 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 05-07-1996; Ref. of 04-11-2000)***

#### **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.

Date: 2007-09-27  
SIRE Meeting ID: 1225  
Meeting Type: Charter Revision Commission

YouTube:[https://youtu.be/8CM\\_IstW\\_2U](https://youtu.be/8CM_IstW_2U)  
Agenda Item: Not Assigned  
Item ID: 53698

The following document(s) are public records obtained from the  
City of Sioux Falls.

**PART I CHARTER\***

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**\*Editor's 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.

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**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.

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### **Article V. Financial Procedures**

Sec. 5.01. Fiscal year.

Sec. 5.02. Submission of budget and budget message.

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Sec. 5.04. Budget.

Sec. 5.05. City council action on budget.

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Sec. 5.07. Amendments after adoption.

Sec. 5.08. Lapse of appropriations.

Sec. 5.09. Administration of the budget.

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Sec. 5.11. Capital program.

Sec. 5.12. City council action on capital program.

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## **Article VI. Elections**

Sec. 6.01. City elections.

Sec. 6.02. Council districts: adjustment of districts.

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## **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.

## **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 05-07-1996)*

### **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 three (3) 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.

***(Ref. of 04-13-2004)***

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.

**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 the annual appropriation ordinance for the ensuing fiscal year, in which it shall appropriate the sums of money necessary to meet all lawful expenses and liabilities of the municipality. The ordinance shall specify the function and subfunction as prescribed by the department of legislative audit for which the appropriations are made and the amount appropriated for each function and subfunction, which amount shall be appropriated from the proper fund. It is not necessary to appropriate revenue to be expended from an enterprise or trust and agency fund 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.

### **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, 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 05-07-1996)***

**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 July 1 of each year for consideration.

(b) Contents. The capital program shall include:

(1) A clear general summary of its contents;

(2) 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;

(3) Cost estimates and recommended time schedules for each improvement or other capital expenditure;

(4) Method of financing, upon which each capital expenditure is to be reliant; and

(5) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

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 05-07-1996)***

#### **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 15th day of August of the current fiscal year.

***(Ref. of 05-07-1996)***

#### **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 at suitable places in the city.

### **ARTICLE VI. ELECTIONS**