

**CITY OF VERMILLION
HOME RULE CHARTER**
25 Center St.
Vermillion, South Dakota 57069

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PREAMBLE

We, the citizens of the City of Vermillion, South Dakota, hereinafter referred to as the "City", in order to establish a home rule municipal government that will provide for the public welfare and establish a more representative and effective city government, hereby adopt this Charter in accordance with the home rule power granted in Article IX, Section 2 of the South Dakota Constitution and the procedural requirements of SDCL Chapter 6-12.

ARTICLE I. POWERS OF THE CITY

Section 1.01 General Powers

The City shall have all powers possible for a city to have under the Constitutions of this State and of the United States. It is the intention of this Charter to confer upon the City every power it may have under law, as fully and completely as though the power was specifically mentioned.

Section 1.02 Construction

This Charter shall be construed liberally in favor of the City and the specific mention of particular municipal powers in other sections of this Charter does not limit the powers of the City to those so mentioned.

Section 1.03 Form of Government

The municipal government provided by this Charter shall be known as "Council Manager Government." Pursuant to its provisions and subject only to the limitations imposed by the State Constitution, the statutes of this State, and by this Charter, all powers of the City shall be vested in an elective council, hereinafter referred to as the "City Council," which shall enact local legislation, adopt budgets, determine policies, and employ the City Manager, who in turn shall be held responsible to the City Council for the execution of the laws and the administration of the government of the City.

Section 1.04 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 division or agency, or the United States or any of its agencies, or any township, county, school district, municipality, or public entity in accordance with SDCL Chapter 1-24.

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 1.05 Limitations

Except to the extent otherwise authorized to any city pursuant to SDCL Title 9, 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. Permit increased gaming beyond that which is permitted by State law.
3. Do any other act prohibited by the South Dakota Constitution, South Dakota Codified Law (SDCL herein), or South Dakota Administrative Rule.

Section 1.06 Limitations on Taxing Authority

The City's authority to pass or implement any new tax or new form of taxation is limited to those authorized by SDCL 6-12-14 or SDCL 6-12-15 and approved by the City Council. Any implementation of any new tax or new form of taxation is subject to the public's exercise of referendum provisions as provided for in SDCL 9-20.

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 part-time policymaking and legislative body, leaving management and administrative issues which are hereafter assigned to a City Manager.

Section 2.02 Composition, Eligibility, Election, and Terms

a. Composition. There shall be a City Council composed of the Mayor elected at large and eight (8) Council members, two (2) Council members elected from and by the voters of each of four (4) City wards.

b. Eligibility. Only registered voters of the City shall be eligible to hold the office of Council member or Mayor. No person is eligible to be nominated, elected, or appointed as a Mayor or as a Council member unless such person is also a citizen of the United States, and, if a Council member, a resident of the ward for which such person is to hold office. In addition to any other qualifications prescribed by law, the Mayor and each Council member shall meet the conditions of this Charter while in office, and shall reside within the City limits and in the ward, as applicable, while in office. Any member of the City Council ceasing to possess any of the qualifications specified in this section, or convicted of a felony while in office, shall immediately forfeit such position.

c. Terms. The terms of Council members and Mayor shall be according to ordinance not to exceed that permitted by State law. The Mayor and Council members shall hold office until successors are elected and qualified.

d. Continuation of Terms in Office. The present City Council and Mayor, upon the successful adoption of this Charter by the voters of the City of Vermillion, shall continue in office for the remainder of their respective terms and may seek reelection if not prohibited by the terms of this Charter. This paragraph will be deleted from the Charter five (5) years after the Charter is enacted.

e. Powers and Duties. The City Council shall establish the powers and the duties of the City Council and of the Mayor in addition to those assigned by this Charter.

Section 2.03 Mayor

The Mayor shall be recognized as the official head of the City government for all ceremonial purposes and by the governor for purposes of military law and those provided by SDCL 9-10-7. The Mayor shall have the powers and duties of a Council member, including the power to vote, and, in addition, shall preside at the meetings of the City Council, represent the City in intergovernmental relationships, appoint--with the advice and consent of the City Council--the members of citizen advisory boards, committees, and commissions, and perform other duties specified by the City Council. The City Council shall elect from among its members a President and Vice President who shall act as Mayor during the absence or the disability of the Mayor and / or President. The Mayor or the Mayor's designee may, when authorized by the City Council, sign any official document including but not limited to ordinances, resolutions, conveyances, grant agreements, official plats, contracts, bonds, or the like. The Mayor or the Mayor's designee will sign all proclamations.

The Mayor shall have such further authority and perform such further duties as may be prescribed by ordinance or resolution not inconsistent with the provisions of this section, but in no case shall the Mayor have the right of veto.

Section 2.04 Compensation-Expenses

The City Council, by approval of at least five (5) Council members, shall determine the annual salary of the Mayor and Council members. The Mayor and Council members shall be reimbursed for necessary expenses incurred in the performance of their duties of office.

Section 2.05 Prohibitions

a. Holding Other Office. Except where authorized by law, no Council member shall hold any other elected public office during the term for which the member was elected to the City Council. No Council member shall hold any other City office or City employment during the terms for which the member was elected to the City Council. No former Council member shall hold any compensated appointive office or employment with the City until the earlier of one year after the expiration of the term for which the member was elected to the City Council or one year after vacating their position on the City Council. Nothing in this section shall be construed to prohibit the City Council from selecting any current or former City 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.

b. Appointments and Removals. The City Council or any of its Council members shall not in any manner control or demand the employment or removal of any City officer or employee whom the City Manager or any subordinate of the City Manager is empowered to employ. However, City Council may express its views and fully and freely discuss with the City Manager anything pertaining to employment and removal of such officers and employees in executive session.

c. Interference with Administration. Except for the purpose of inquiries and investigations as provided by this Charter, the City Council and its Council members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor its Council 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 a Council member or Mayor shall become vacant upon the person's death, resignation, removal from office, or forfeiture of office in any manner authorized by law or this Charter.

b. Recall. The power of recall of the Mayor or 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 of this Charter.
3. Fails to maintain residency within the City limits, or in the case of Council members elected by ward, fails to maintain residency within that ward.
4. Is convicted of a felony.
5. Fails to attend at least fifty (50) percent of the regular meetings of the City Council during a fiscal year, or three (3) consecutive regular meetings of the City Council, without being excused by the City Council.

d. Filling of Vacancies. If a vacancy exists in the office of Mayor or City Council, the remaining members shall appoint a replacement to serve until the next municipal election, or if City

ordinance provides, the vacancy is to be filled by special election for the remainder of the unexpired term as provided in SDCL 9-13-14.1 and SDCL 9-13-14.2. If the appointment is for a City Council member, the replacement shall be a person from the same ward. The election shall be conducted as provided in Article VI of this Charter.

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. It shall determine its own rules of procedure, punish its members for disorderly conduct, and, with the concurrence of two-thirds of the City Council members elected thereto, may expel a member. 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 City Council shall have power to subpoena witnesses, administer oaths, and require the production of evidence. A Council 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 the official newspaper of the City at least seven (7) days in advance of the hearing. Decisions made by the City Council under this section may be subject to judicial review.

Section 2.08 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 City Council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding five (5) years subject to the approval of the State Department of Legislative Audit or its successor. If the State Department of Legislative Audit or its successor makes such an audit, the City Council may accept it as satisfying the requirements of this section.

Section 2.09 Meeting Procedure

a. Meetings. The City Council shall meet regularly at such times and places as the City Council may prescribe by ordinance. Special meetings may be held on the call of the Mayor, Acting Mayor, or by the City Manager upon the request of three (3) or more Council members with notice given in accordance with State open meeting laws. Except as allowed by State law, all meetings shall be public. The City Council may discuss in a closed or executive session any matter which is permitted by SDCL 1-25-2 or South Dakota or United States Constitution. The general subject matter for consideration will be expressed in the motion calling for such closed session and the final action on such motion will not be taken by the Council until the matter is placed on a meeting agenda.

b. Rules and Minutes. The City Council shall determine its own rules and order of business, and the rules shall provide that citizens of the City shall have a reasonable opportunity to be heard

at any regular City Council meeting. The rules established by the City Council for this procedure may include a provision which permits the City Council to set reasonable time limits to be adhered to by persons appearing before the City Council. City Council shall provide for written minutes to be taken of all meetings, except executive sessions authorized by this Charter and law, and such minutes shall be a public record.

c. Voting. For the final adoption of all ordinances, voting shall be by roll call called by the City Finance Officer or person serving in that capacity and shall be recorded in the minutes. The ayes and nays shall be recorded in the minutes. A majority of the Council members shall constitute a quorum to do business, but a smaller number may adjourn from time to time and may compel the attendance of absentees. Each Council member and Mayor shall have an equal vote. All actions of the Council shall be by a majority of those present, unless otherwise provided by State law, this Charter, or ordinance.

Section 2.10 Ordinances and Resolutions in General

City ordinances and resolutions shall be introduced, published, enacted, and recorded. All ordinances shall be codified as provided in State law; however, the City Council may by ordinance amend such requirements. Every ordinance, with the exception of emergency ordinances, shall become effective upon adoption and twenty (20) days after publication in the official newspaper of the City, subject to referendum provisions of SDCL Chapter 9-20 or applicable protest provisions of State law or ordinance.

The reading aloud of a title and caption of the ordinance shall suffice as a reading.

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:

- a. Adopt or amend an administrative code or establish or abolish any City department, office, or agency.
- b. Establish a rule or regulation enforced by fine or other penalty.
- c. Levy taxes.
- d. Grant, renew, or extend a franchise.
- e. Amend or repeal any ordinance previously adopted unless said ordinance already permits its amendment by resolution.
- f. Regulate land use and development.

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

Section 2.12 Emergency Ordinances and Resolutions

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 2.13 Authentication and Recording of Ordinances and Resolutions

a. Authentication and Recording. The City Finance Officer shall authenticate by signing and shall maintain in full in a properly indexed record kept for that purpose, all ordinances adopted by the City Council. Ordinances and resolutions shall be open for public inspection. Ordinances shall be numbered consecutively in the order in which adopted. The City Finance Officer shall attest the signature of the Mayor or the Mayor's designee signing such ordinances.

b. Codification. Ordinances shall be deemed to be of a permanent or continuing nature which affect the residents of the City at large. Within three (3) years after the adoption of this Charter and from time to time thereafter, the City Council shall provide for the preparation of a general codification of all City ordinances. A copy of this Charter shall be placed within the code book. The general codification shall be adopted by the City Council by ordinance and shall be published promptly in the official record together with this Charter and any amendments thereto, and other rules and regulations as the City Council may specify. This compilation shall be known and cited officially as the Vermillion City Code of Ordinances. Copies of the Code shall be furnished to City officers, placed in libraries and public offices and in other means of public reference for free public reference and made available for purchase by the public at a reasonable price to cover the reproduction costs.

Section 2.14 Codes of Technical Regulations

The City Council may adopt any standard or uniform 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, except that:

- a. The requirements of 2.13 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations and its adopting ordinance.
- b. A copy of each adopted code of technical regulations and its adopting ordinance shall be authenticated and recorded by the City Finance Officer pursuant to Section 2.13.

ARTICLE III. CITY MANAGER

Section 3.01 Appointment and Qualifications

The City Council shall employ, by affirmative vote of five (5) Council members, a City Manager. The City Manager shall be chosen by the City Council solely on the basis of executive and administrative qualifications and professional employment experience as a City Manager, Assistant City Manager, or other relevant senior-level employment in municipal government or comparable management experience and need not, when appointed, be a resident of the City of Vermillion. Each City Manager must become a resident of the City of Vermillion within a reasonable period of time to be determined by the City Council at the time of appointment.

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 Term and Removal

The City Manager shall serve at the pleasure of the City Council and have no fixed term of office. The City Council shall have the sole authority to terminate the City Manager's employment by affirmative vote of five (5) Council members. The termination procedure shall be in accordance with that contained in SDCL 9-10-11.

Terms and conditions contained in the City Manager's written employment agreement may provide additional procedures in addition to those provided in this section.

Section 3.04 Powers and Duties of City Manager

The City Manager shall be the chief administrative and executive officer of the City, responsible to the City Council for the administration of all affairs of the City. The City Manager shall have those powers contained in SDCL Chapter 9-10 and as supplemented or restricted by City Council ordinance, resolution, or written employment agreement consistent with State law.

Section 3.05 Acting City Manager

The City Manager shall, within thirty (30) days of taking office and at appropriate subsequent times, designate by letter filed with the City Finance Officer, an alternate to perform the duties of the City Manager in the case of absence, disability, or suspension of the City Manager. During the absence, disability, or suspension of the City Manager, the City Council may revoke such designation and appoint another person to serve as Acting City Manager until the City Manager shall return or disability shall cease. The Acting City Manager shall be a qualified administrative officer of the City at the time of the designation.

ARTICLE IV. DEPARTMENTS, OFFICES, AND AGENCIES

Section 4.01 General Provisions

The City Manager may, through budgetary processes, establish or consolidate offices and departments and may divide and subdivide the administration of any department, except those specifically established by this Charter. The City Manager shall prescribe the function of all departments, offices, and agencies, except that no function assigned by this Charter to a particular department, office, or agency may be discontinued, altered, or reassigned unless this Charter specifically so provides.

Section 4.02 Supervision

All departments, utilities, enterprise activities, offices, and agencies under the direction and supervision of the City Manager shall be administered by an officer or employee appointed by the City Manager and subject to the direction and supervision of the City Manager. The City Manager, in the absence of a department head, may serve as the head of one (1) or more departments, offices, or agencies, or may appoint one person as the head of two (2) or more such departments, offices, or agencies. Personnel rules shall be prepared by the City Manager and presented to the City Council for approval; provided, however, that a rule or regulation which involves the expenditure or commitment of public funds must have the approval of the City Council.

Section 4.03 City Attorney

There shall be a legal officer of the City appointed by the City Council. The City Council may contract with an attorney or with a firm of attorneys who may designate one (1) member of said firm to serve as City Attorney. The City Attorney shall serve at the pleasure of the City Council and as such shall have no property right to continued employment. The City Attorney shall serve as the chief legal advisor to the Council, City Manager, and all City departments, utilities, other enterprise activities, offices, and agencies. The City Attorney shall represent the City in all litigation and legal proceedings as directed by City Council and City Manager, or monitor all legal proceedings involving the City; review and provide opinions as requested by the City Council or City Manager on contracts, legal instruments, and ordinances of the City; and shall perform any other duties prescribed by State law, by this Charter, or by ordinance. The City Attorney shall receive compensation as may be determined by the City Council. The City

Attorney may select additional attorneys to act for the City Attorney and the City in its representation and litigation. Additionally, the City Council may, by resolution, provide for other attorneys to represent the City.

Section 4.04 Finance Department; Finance Officer

There shall be established and maintained a Department of Finance for the custody and disbursement of City funds and monies. The City Council shall appoint an officer to the City who shall have the title of City Finance Officer. The City Finance Officer shall serve at the pleasure of the City Council. The City Finance Officer shall be the chief administrative officer of the Department of Finance.

a. The City Finance Officer shall render a complete and composite statement of receipts, deposits, and disbursements as the City Council shall require; assist the City Manager with budget preparation; assist all departments with their budgetary functions and maintain a general accounting system; audit and adjust all claims against the municipality; draw and countersign all warrants and the same shall be signed by the City Manager but no warrant shall be issued until the claim therefore has been approved by the City Council or authorized by State statute; invest cash balances of the municipality; maintain special assessment records; and supervise municipal elections. The City Finance Officer shall appoint and remove the employees of said department, subject to the review of the City Manager, and perform other duties as may be requested by the City Manager and / or required by the City Council.

b. The City Finance Officer shall keep the minutes of the City Council's proceedings and perform such other duties as are assigned by this Charter, the City Council, State law, ordinance, or resolution.

c. The City Finance Officer shall submit to the City Council and make available to the public a complete annual report of the finances and administrative activities of the City as of the end of each fiscal year.

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 August 1st, the City Manager shall submit to the City Council a proposed budget for the ensuing fiscal year and an accompanying budget message.

Section 5.03 Budget

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the City

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 request, 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 fiscal years. It shall indicate in separate sections:

a. The proposed expenditures for current operations during the ensuing fiscal year, detailed for each fund by organization unit, program, purpose, or activity, and the method of financing such expenditures.

b. The proposed capital expenditures during the ensuing fiscal year, detailed for each fund by organization unit when practicable, and the proposed method of financing each such capital expenditure.

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 5.04 City Council Action on Budget

The City Council may schedule budget meetings or hearings at appropriate times and may direct changes in the City Manager's proposed budget. The City Council shall adopt the final budget for the next fiscal year on or before the 30th day of September of the fiscal year currently ending. If the City Council fails to adopt the budget by this date, the budget proposed by the City Manager shall go into effect.

Section 5.05 Appropriation and Revenue Ordinances

To enact and implement the budget of the ensuing fiscal year, the City Council:

a. Shall, no later than its first regular meeting in September of each year or within ten (10) days thereafter, 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 subfunctions as prescribed by the State Department of Legislative Audit or its successor 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 included as information only in the annual appropriation ordinance.

b. Shall adopt any other ordinances or resolutions required to authorize new revenues or to amend the rates or other features of existing taxes or other revenue sources.

Section 5.06 Amendments after Budget Adoption

a. Supplemental Appropriations. If during the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget or in reserve, the City Council by ordinance may make supplemental appropriations for the year up to the amount of such excess and / or reserves.

b. Emergency Appropriations. To meet 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. To the extent there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the City Council may, by such emergency ordinance, 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 City Manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the City Manager shall report to the City Council indicating the recommended remedial steps to be taken. The City 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 or more appropriations.

d. Transfer of Appropriations. At any time during the fiscal year the City Council may, by ordinance, transfer part or all of the unencumbered appropriation balance from one department or major organizational unit to the appropriation for other departments or major organizational units. The City Manager may transfer part or all of any unencumbered appropriation balances among programs within a department or organizational unit.

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 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.

Section 5.07 Lapse of Appropriations

Every appropriation, except an appropriation for a capital program expenditure, shall lapse at the first City Council meeting in February from the past fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital program expenditure shall continue in force until expended, revised, or repealed; the purpose of any such appropriation shall be deemed abandoned if five (5) years pass without any disbursement from, or encumbrance of, the appropriation.

Section 5.08 Administration of Budget

The City Council may develop policies and the City Manager shall promulgate procedures for administering the budget.

Section 5.09 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 City Manager or the City Manager's designee first certifies that there is 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 may be cause for removal of any employee or officer who knowingly authorized or made such payment or incurred such obligation. Such employee or 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 of 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 approved by resolution.

Section 5.10 Special Assessments

The City Council shall have the authority and power to levy and collect special assessments upon property for nuisance abatement and / or benefits incurring to such property as a consequence of any municipal public work, service, or improvement, and to provide for the payment of all or any part of the cost of the work, service, or improvement out of the proceeds of such special assessments.

Section 5.11 Public Records

Copies of the budget and appropriation and revenue ordinances shall be public records and shall be made available to the public for inspection at suitable places in the City.

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 Council. The City Council shall be responsible for selection of places for holding such elections.

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 or as set forth in any ordinance adopted by the City Council. All elections provided for by this 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. 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.

Section 6.02 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

The use of public office for private gain is prohibited. The City Council shall implement this prohibition by ordinance or resolution. Rules or regulations to this end shall include but not be limited to: acting in an official capacity on matters 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 or resolution setting a stricter standard.

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, sex, age, disability, religion, country of origin, political affiliation, or other distinguishing characteristic not related to job performance as may be defined by ordinance, resolution, or agreement passed by City Council.

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, 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 officer or employee shall knowingly or willfully make, solicit, or receive any contribution to 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 in 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 in 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 may establish by ordinance such further penalties as it may deem appropriate.

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 State law.

b. 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 by this ordinance method) and effective upon adoption.

c. By report of a Charter Commission created by ordinance.

d. By the voters of the City, when any fifteen (15) qualified voters initiate proceedings to amend the Charter by filing with the City Finance Officer 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 Officer 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 ten (10) percent of those voting in the last preceding gubernatorial 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 Finance Officer 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 Officer 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.

ARTICLE IX. TRANSITION / SEPARABILITY PROVISION

Section 9.01 Officers and Employees

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.

a. Continuation 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 officer or employees holds any office or position which is or can be abolished by or under this Charter, that officer or employee shall continue in such office or position until the taking effect of some specific provision under this Charter directing that officer or employee vacate the office or position.

b. 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 provisions of Article IV.

Section 9.02 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 9.03 State and Municipal Laws

All City ordinances, resolutions, policies, and regulations which are in force when this Charter becomes effective shall continue. 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.

References to specific State law refer to how they exist at the time of adoption of this Charter or may hereafter be amended or superseded.

Section 9.04 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 provisions to other persons or circumstances shall not be affected thereby.

Section 9.05 Effective Date

If a majority of those voting upon this proposed Charter vote in favor of it, the Charter shall become effective after the official canvas certifying its adoption.