

Handbook for Citizen Boards

Includes Agenda/Minute Procedures

**City of Sioux Falls,
South Dakota**



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Section 1. Home Rule

S.D. Constitution Art. IX, §2

§2. Home rule.

Any county or city or combinations thereof may provide for the adoption or amendment of a charter. Such charter shall be adopted or amended if approved at an election by a majority of the votes cast thereon. Not less than ten percent of those voting in the last preceding gubernatorial election in the affected jurisdiction may by petition initiate the question of whether to adopt or amend a charter.

A chartered governmental unit may exercise any legislative power or perform any function **not denied** by its charter, the Constitution or **the general laws of the state**. The charter may provide for any form of executive, legislative, and administrative structure which shall be of superior authority to statute, provided that the legislative body so established be chosen by popular election and that the administrative proceedings be subject to judicial review.

Powers and functions of home rule units shall be construed liberally.

Purpose of Home-rule Constitutional Provisions

The purpose of home-rule constitutional provisions is to eliminate to some extent the authority of the legislature over the municipality, and to bestow on the municipalities coming thereunder full power of local self-government as to all subjects which are strictly of municipal concern, and not in conflict with the constitution or general laws applicable thereto.

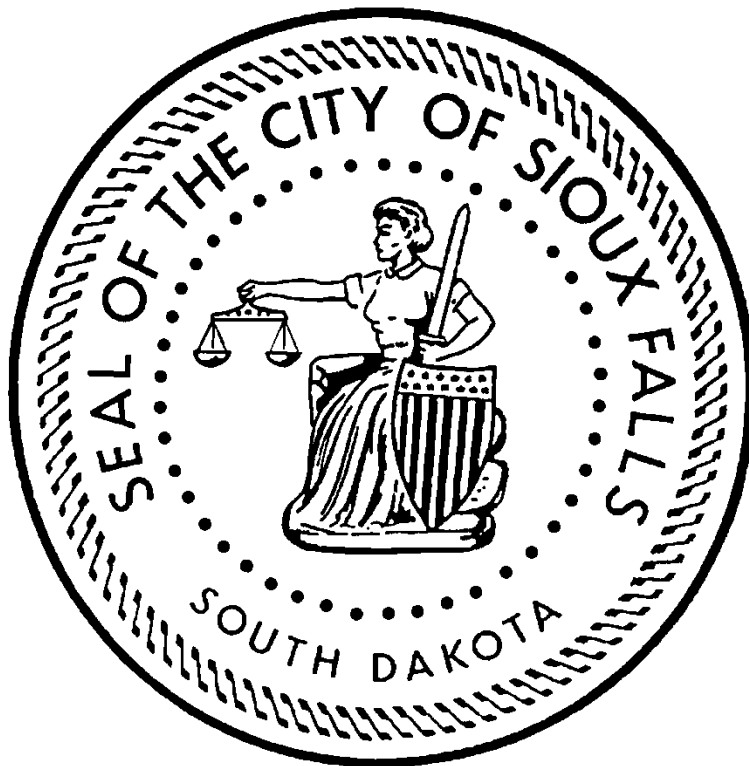
Depending upon applicable constitutional provisions, a charter adopted thereunder may become the organic law of the municipality and supersede all general state laws in conflict with it relating to purely municipal affairs.

McQuillen on Municipal Corporations

Section 2. Charter of the City of Sioux Falls

Sioux Falls City Charter

Mayor/Council Form
of Government



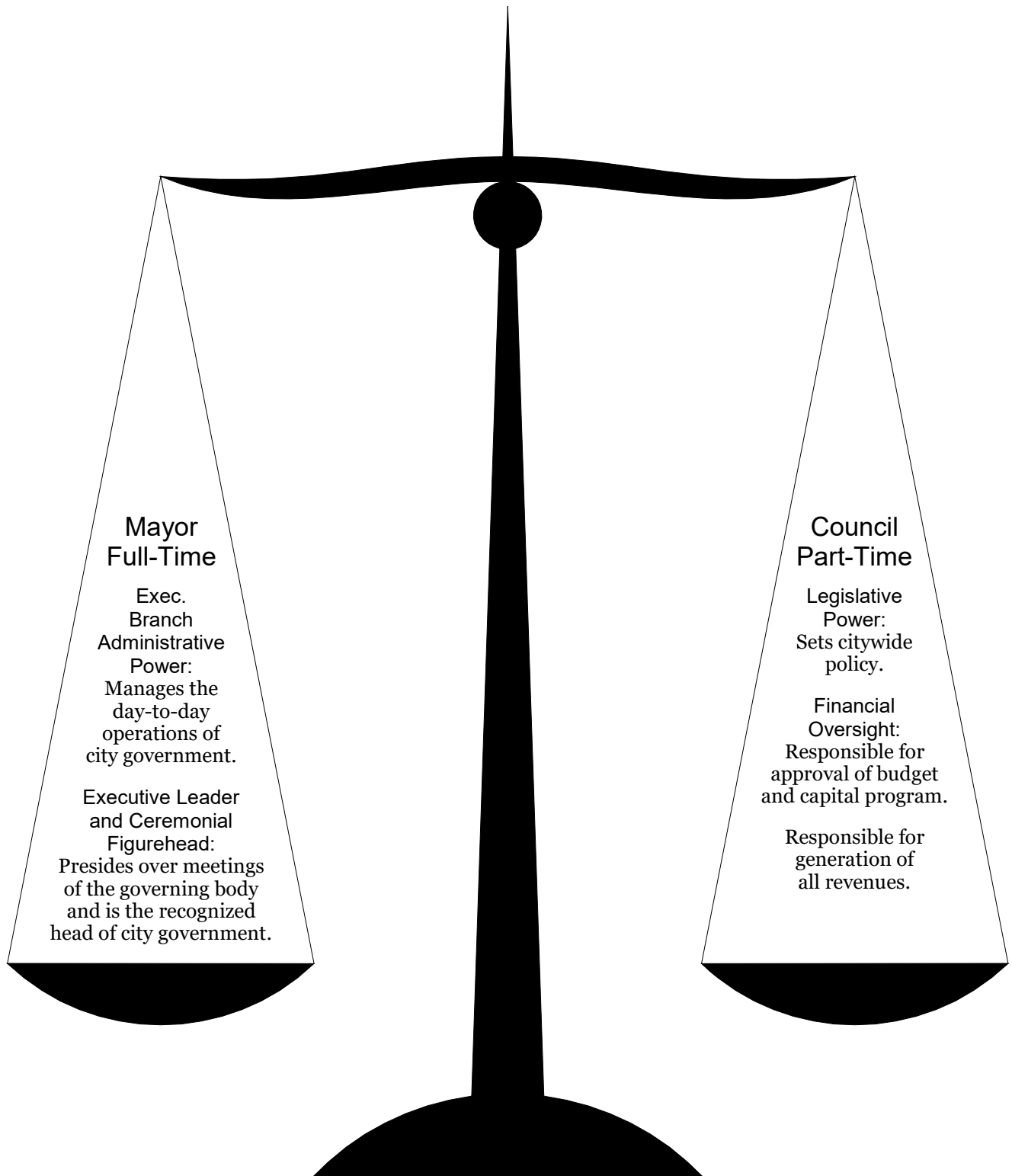
Mayor-Council Form of Government

	Mayor (Administrative Operations)	Council (Policy)
Money:	Proposes Budget/Capital Program	Adopts Budget/Capital Program
Spending:	Spends the Money	Appropriates the Money To Be Spent
Generation of Revenue, Fees, Taxes:	Recommends	Approves
Staff and Boards:	Appoints, Directs, Supervises, Removes	Advice and Consent of Officers or Employees Having Final Authority Over More Than 5% of Employees or Budget
Legislation:	Tie Breaking Vote Veto Power	Five Members for Ordinances Majority Vote for Motions and Resolutions Override of Vetoed Ordinances
Policy:	Implements	Sets
Land Use:	Implements	Approves
Establishment of Depts.:	Creates and Assigns Functions	Can Create and Controls Funding Through Budget
Borrowing Money:	Recommends	Authorizes
Conveying Real Property:	Recommends	Authorizes

Public

- Power to Vote/Elect Mayor and Council Members
- §2.06(b) Power to recall Mayor and Council Members
- §6.03 Powers of Initiative and Referendum
- Right to Appeal Administrative Decisions to Circuit Court
- §1.05 Power to Approve New Taxes

Checks and Balances = Separation of Powers



Sioux Falls City Charter

Mayor/Council Form of Government

PART I—CHARTER*

*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.

Article I. Powers of the City

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Sec. 1.02. Construction.

Sec. 1.03. Intergovernmental relations.

Sec. 1.04. Limitations.

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Sec. 7.01. Conflicts of interest; board of ethics.

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Sec. 8.02. Election.

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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.

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) 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 (3) nor more than seven (7) interim successors. The selection of interim successors in the executive order shall be at the mayor's discretion from among department heads or city employees; however, the number and order of proposed interim successor

designees shall not be effective without the advice and consent of the city council.

(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, excluding the city pension system. However, upon taking office the mayor may elect to participate in the employees' retirement system, if allowed by ordinance, or may elect not to participate in the employees' retirement system.

(Ref. of 04-08-2008)

Section 2.05. Prohibitions.

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

(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.

(Ref. of 04-08-2008)

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

- (1) The proposed goals and objectives and expenditures for current operations during the ensuing fiscal year, detailed for each fund by organization unit, and program, purpose or activity, and the method of financing such expenditures;

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

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

(Ref. of 04-13-2004)

(Ref. of 04-08-2008)

(Ref. of 04-13-2010)

Section 5.05. City council action on budget.

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

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

(b) Amendment before adoption. After the public hearing, the city council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized

expenditures to an amount greater than total estimated income.

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

Section 5.06. Appropriation and revenue ordinances.

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

(a) Shall, no later than its final regular meeting in October of the year, introduce and adopt the annual appropriation ordinance for the ensuing fiscal year, making appropriations by fund and department or organizational unit. It is not necessary to appropriate revenue to be expended from a proprietary or trust and agency funds if the fund is not supported or subsidized by revenue derived from the annual appropriated tax levy. However, an annual budget for these funds shall be developed and published no later than the last day of December of each year, and

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

(Ref. of 04-08-2008)

Section 5.07. Amendments after adoption.

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

(b) *Emergency appropriations.* To meet a public emergency affecting life, health, property, or the public peace, the city council or mayor may make emergency special appropriations. Such appropriations may be

made by emergency ordinance or declaration. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the council may by such emergency ordinance or declaration authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency special appropriation was made.

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

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

(e) *Limitation; effective date.* No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any

amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

(Ref. of 05-07-1996)
(Ref. of 04-08-2008)

Section 5.08. Lapse of appropriations.

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

Section 5.09. Administration of the budget.

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

Section 5.10. Overspending of appropriations prohibited.

No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the mayor or the mayor's designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this charter shall be void and any payments made illegal. A violation of this provision shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation. Such officer may also be liable to the city for any amount so paid. Except where prohibited by law, however, nothing in

this charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, but only if such action is made or approved by ordinance.

Section 5.11. Capital program.

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

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

- (1) A clear general summary of its contents;
- (2) Identification of the five-year goals of the city;
- (3) A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for each;
- (4) Cost estimates and recommended time schedules for each improvement or other capital expenditure;
- (5) Method of financing, upon which each capital expenditure is to be reliant;
- (6) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired;

- (7) A commentary on how the plan addresses the financial sustainability of the city and the region of which it is a part; and
- (8) Methods to measure outcomes and performance of the capital plan related to the long-term goals of the city.

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

(Ref. of 05-07-1996)
(Ref. of 04-08-2008)

Section 5.12. City council action on capital program.

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

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

(b) Adoption. The city council, by resolution, shall adopt the capital program with or without amendment after public hearing and on or before the 30th day of September of the current fiscal year.

(Ref. of 05-07-1996)
(Ref. of 04-08-2008)

Section 5.13. Public records.

Copies of the budget, capital program, and appropriation and revenue ordinances shall be public records and shall be made available to the public for review at suitable locations or by suitable means in the city.

(Ref. of 04-08-2008)

ARTICLE VI. ELECTIONS

Section 6.01. City elections.

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

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

(c) *Conduct of elections.* All elections provided for by the charter shall be conducted by the election authorities established by law. Candidates shall run for office without party designation and shall declare whether seeking an at-large or district seat. Candidates for district seats must reside within the district. No person shall be eligible for elective municipal office unless a nominating petition is first filed. Nominating petitions shall conform in all respects to the provisions of South Dakota state law, except that the deadline for filing shall be no later than 5:00 p.m. on the last Friday in February. The mayoral and at-large council candidate nominating petitions shall be signed by not less than 200 registered voters of the city. The council district nominating petitions shall be signed by not less than 50 registered voters of the city. Council district nominating petitions shall be signed by registered voters who shall reside in the council district thereof, and 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)

(Ref. of 04-08-2008)

(Ref. of 04-13-2010)

**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 five (5) members, one member from each of the city's five (5) districts. These five (5) members shall, with the affirmative vote of at least three (3), choose one of their member who shall serve as chairperson.
- (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, incapacity or moving out of the district within 30 days of his or her appointment, the city council shall appoint a new member enrolled in

the same political party and from the same city district 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. (Ref. of 04-13-2010)

Section 6.03. Initiative and referendum.

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

ARTICLE VII. GENERAL PROVISIONS

Section 7.01. Conflicts of interest; board of ethics.

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

(b) *Board of ethics.* The city council shall, by ordinance, establish an independent board of ethics to administer and enforce violations of the conflict of interest and financial disclosure ordinances as well as determine violations of Sections 2.05 (a) and (b), 7.02 (a) (3), (4), and

(5) of this Charter and related ordinances. No member of the board may hold elective or appointed office under the city or any other government or hold any political party office. Insofar as possible under state law, the city council shall authorize the board to issue binding advisory opinions, conduct investigations on its own initiative and on referral or complaint, refer cases for prosecution, impose administrative fines, and to hire independent counsel. The city council shall appropriate sufficient funds to the board of ethics to enable it to perform the duties assigned to it.

(Ref. of 04-13-2004)

(Ref. of 04-08-2008)

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.

Section 3. City Council

- Current Office Holders (Mayor and Council)
- Meeting Calendar
- Chapter 10.005 Ordinances saved from repeal
- Chapter 30 City Council Organization and Procedure

Current Office Holders (Mayor and Council)

This is a current list of the City Council. You may contact them through the office or at their email address/phone number listed below.

Mayor:

Paul TenHaken 2022
(W) 367-8800
City Hall email: ptenhaken@siouxfalls.org

At-Large Council Members:

Christine M. Erickson 2022
(VM) 367-8818
Carnegie email: cerickson@siouxfalls.org

Alex Jensen 2024
(VM) 367-6393
Carnegie email: alexjensen@siouxfalls.org

Janet Brekke 2022
(VM) 367-8808
Carnegie email: jbrekke@siouxfalls.org

Southwest District Council Member:

Marshall Selberg 2024
(VM) 367-8819
Carnegie email: mselberg@siouxfalls.org

Southeast District Council Member:

Rick Kiley 2022
(VM) 367-8102
Carnegie email: rkiley@siouxfalls.org

Northwest District Council Member:

Greg Neitzert 2024
(VM) 367-8109
Carnegie email: gneitzert@siouxfalls.org

Northeast District Council Member:

Pat Starr 2024
(VM) 367-8809
Carnegie email: pstarr@siouxfalls.org

Central District Council Member:

Curt Soehl 2022
(VM) 367-8110
Carnegie email: csoehl@siouxfalls.org

2021 City of Sioux Falls Calendar of City Council Meetings

- Holiday
- Informational, 4 p.m.
- Council Meeting, 6 p.m.
- Joint City/Minnehaha County Meeting, 5 p.m.
- Joint City/Lincoln County Meeting, 7 p.m.

- March 15-19: Local Board of Equalization
- August 3, 10, and 17: Budget Hearings

JANUARY							FEBRUARY							MARCH						
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 Street Construction: Map and Project Updates
 Departments: A-Z Departments and Services
 City News & Events: News releases, Public Meetings, CityLink

Featured Community Health & Safety

Featured

Mayor's Monthly Column

- 2021 Mayor's Recommended Budget
- Sioux Falls has Street Credit
- Mayor's Recommended 2021-2025 Capital Plan
- COVID-19 Response: City Services Offered Online

Mayor's Monthly Column

We are fortunate to live in a community with an extensive list of accolades, from our low unemployment rate to Sioux Falls' excellent cultural and recreational amenities that enhance our quality of life. Sioux Falls is also poised for growth in many areas, including our population. Currently, the estimated population is hovering right over 190,000. City planners project the population to rise to 208,000 by 2025.

[Investing in Public Safety, Building our City's Future](#)

We're Here for You

Throughout the COVID-19 pandemic, the City is committed to maintaining the business operations and essential services while making efforts to protect the health of City employees and slow the spread of COVID-19. City staff will continue to work during this time while exercising CDC guidelines for social distancing and cleaning.

[MORE INFORMATION](#) [SOAR PROGRAM](#)

Mayor Paul TenHaken

Paul TenHaken was elected mayor of Sioux Falls in 2018. Paul is the founder and former CEO of Click Rain, a marketing technology agency in Sioux Falls. He has won numerous business and entrepreneurial awards over the years, but his proudest accomplishment is his family-- wife, Jill, and their three young kids.

[Mayor's Office](#)

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Live Video (below): Offers the ability to view presentation materials and the agenda beside the video. Video quality is standard and is best for desktop and Microsoft devices.

Upcoming Events

Name	Date	Documents
City Council Meetings	Tuesday, June 21, 2016	Agenda
Informational Meeting	Tuesday, June 21, 2016	Agenda
Land Use Committee	Tuesday, June 21, 2016	Agenda

Archive

City Council Meetings

Name	Date	Links
City Council Meetings	6/21/2016	Agenda
City Council Meetings	6/14/2016	Agenda Minutes Video
City Council Meetings	6/7/2016	Agenda Minutes Video
City Council Meetings	5/17/2016	Agenda Minutes Video
City Council Meetings	5/10/2016	Agenda Minutes Video
City Council Meetings	5/3/2016	Agenda Minutes Video
City Council Meetings	4/19/2016	Agenda Minutes Video
City Council Meetings	4/5/2016	Agenda Minutes Video
City Council Meetings	3/15/2016	Agenda Minutes Video

[View All City Council Meetings](#)

Informational Council Meetings

Name	Date	Links
Informational Meeting	6/21/2016	Agenda
Informational Meeting	6/14/2016	Agenda Minutes Video
Informational Meeting	6/7/2016	Agenda Minutes Video
Informational Meeting	5/24/2016	Agenda Minutes Video
Informational Meeting	5/17/2016	Agenda Minutes Video
Informational Meeting	5/10/2016	Agenda Minutes Video
Informational Meeting	5/3/2016	Agenda Minutes Video
Informational Meeting	4/26/2016	Agenda Minutes Video
Informational Meeting	4/19/2016	Agenda Minutes Video

[View All Informational Council Meetings](#)

Special City Council Meetings

Name	Date	Links
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Chapter 10

10.005. Ordinances saved from repeal.

(a) (1) Nothing contained in this Code, nor in the ordinance adopting this Code shall be construed to repeal or otherwise affect in any manner:

A. Any ordinance or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code;

B. Any ordinance promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness;

C. Any contract or obligation assumed by the city;

D. Any right or franchise granted by the city;

E. Any budget or appropriation ordinance;

F. Any ordinance which, by its own terms, is effective for a stated or limited term;

G. Any ordinance providing for local improvements and assessing taxes therefor;

H. Any ordinance adopted after the effective date of this Code;

I. Any ordinance relating to the annual tax levies; or

J. Any special ordinance.

(2) All such ordinances are hereby saved from repeal and recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

(1957 Rev. Ords., §§ 16.403, 16.405, 16.406; 1992 Code, § 1-6)

(b) (1) Nothing contained in this Code, nor in the ordinance adopting this Code, shall be construed to repeal or otherwise affect in any manner:

A. Any ordinance fixing the salary of any city officer or employee; or

B. Any ordinance of an administrative character not in conflict with the provisions of this Code.

(2) All such ordinances are hereby saved from repeal and recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

(1992 Code, § 2-1)

Chapter 30: CITY COUNCIL

Organization and Procedure

- 30.001 Council meetings
- 30.002 Special meetings
- 30.003 Informational meetings and working sessions of the city council
- 30.004 Standing committees of the city council
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- 30.026 Rules for boards and commissions
- 30.027 Fee for use of Carnegie Chambers
- 30.028 Assignment of delinquent accounts, uncollectible accounts
- 30.029 Council information gathering

*Cross reference(s): Administration of sewer provisions, see § 53.001; Airport authority board, see §§ 99.015 through 99.020; Arena, see ch. 32; Arena board, see §§ 32.035 through 32.042; Board of health and health center governing board, see §§ 92.025 through 92.034; Board of trustees of retirement system, see §§ 39.280 through 39.294; Civil service board, see §§ 39.080 through 39.092; Commission on human relations, see §§ 98.020 through 98.042; Continuity of city government, see §§ 33.001 through 33.010; Elections, see ch. 38; Electrical board of appeals and examiners, see § 55.011; Emergency management, see ch. 33; Extraterritorial zoning board of adjustment, see §§ 159.425 through 159.434; Fire protection and prevention, see ch. 91; Firefighters' pension fund retirement board, see §§ 39.355 through 39.367; Garbage and recycling, see ch. 57; Historic preservation commission, see §§ 151.015 through 151.020; Human resources department, see §§ 39.020 through 39.022; Parks and recreation, see ch. 95; Park and recreation board, see §§ 95.045 through 95.058; Personnel regulations and benefits, see ch. 39; Planning, see ch. 154; Planning commission, see §§ 154.015 through 154.039; Police, see §§ 131.020, 131.021; Public parking advisory board, see §§ 77.025 through 77.031; Retirement and pensions, see ch. 39; Streets and sidewalks, see ch. 96; Taxation, see ch. 37; Utilities, see title V; Zoning board of adjustment, see §§ 160.665 through 160.675.

ORGANIZATION AND PROCEDURE

Sec. 30.001. Council meetings.

(a) All city council meetings shall be open to the public, unless closed pursuant to state law.

(b) The city council shall hold meetings on the first, second and third Tuesday of each month at 7:00 p.m. at the Carnegie Town Hall. The first meeting of the month shall be designated the regular

meeting. In addition, any meeting scheduled for the purpose of considering the override of a mayoral veto shall be deemed a regular meeting. When the day fixed for a city council meeting falls on a date designated by law as a legal or national holiday, the meeting shall be held at the same hour on the next succeeding day, not a holiday.

(c) Any meeting of the city council may be adjourned to a later date and time, provided that no adjournment shall be for a longer period than until the next scheduled meeting.

(d) The city council may by resolution, when necessary, change the time and place of any meeting. The resolution shall set forth the circumstances necessitating the change. The resolution shall be published at least 24 hours prior to the rescheduled meeting. The city clerk, or the city clerk's designee, shall give each council member written notice either in person, by mail, email or other electronic means of any change from the meeting days established by this section.

(e) All meetings of the city council shall be open to the media, subject to recording by radio, television and photography at any time, provided that these arrangements do not interfere with the orderly conduct of the meetings under those rules as the city council may prescribe.

(1992 Code, § 2-3) (Ord. 50-95, passed 3-20-1995; Ord. 57-97, passed 8-4-1997; Ord. 34-98, passed 3-16-1998; Ord. 117-99, passed 11-15-1999; Ord. 121-99, passed 12-6-1999; Ord. 52-11, passed 7-11-2011; Ord. 24-12, passed 4-2-2012)

Sec. 30.002. Special meetings.

(a) The mayor, acting mayor or six members of the city council may call special meetings of the city council whenever in its opinion the public business may require it.

(b) Whenever a special meeting is called, a notice in writing signed by the mayor, acting mayor or the council members requesting the meeting shall be prepared by and filed with the

city clerk, or the city clerk's designee, and served forthwith upon each member of the city council either in person, by e-mail, or other electronic means or by notice left at the city council member's place of residence. The notice shall state the date and hour of the meeting and the purpose for which the meeting is called. No business shall be transacted at the meeting except such as is stated in the notice.

(c) No special meeting shall be held until at least 24 hours after the call is issued.

(1992 Code, § 2-4) (Ord. 50-95, passed 3-20-1995; Ord. 76-99, passed 7-19-1999; Ord. 52-11, passed 7-11-2011)

Sec. 30.003. Informational meetings and working sessions of the city council.

(a) The city council may meet in informational meetings and working sessions which shall be open to the general public to review and discuss matters pertaining to the affairs of the city council provided that all discussions and conclusions thereon shall be informal. All agendas for informational meetings and working sessions of the city council shall be posted with at least 24 hours' notice.

(b) Informational meetings may be held each Tuesday of the month. When the day fixed for an informational meeting falls on a date designated by law as a legal or national holiday, the meeting shall be held at the same hour on the next succeeding day, not a holiday. Cancellations must be posted with at least 24 hours' notice to the public.

(c) Working sessions of the council may be held as needed.

(d) The city council chair and vice chair shall determine the agenda, with city council input, for all informational meetings and working sessions.

(1992 Code, § 2-5) (Ord. 50-95, passed 3-20-1995; Ord. 117-99, passed 11-15-1999; Ord. 121-99, passed 12-6-1999; Ord. 52-11, passed 7-11-2011; Ord. 24-12, passed 4-2-2012; Ord. 68-12, passed 8-21-2012)

Sec. 30.004. Standing committees of the city council.

The city council shall establish an audit committee, a fiscal committee, a land use committee, an operations committee and a public services committee as standing committees of the city council. The city council chair and vice chair shall appoint the members of each committee and shall designate the committee chair for each committee who shall serve as the presiding officer.

(1992 Code, § 2-5.1) (Ord. 52-11, passed 7-11-2011; Ord. 13-12, passed 2-21-2012)

Sec. 30.005. Executive sessions.

Executive sessions or closed meetings may be held in accordance with the provisions of the State Open Public Meetings Law.

(1992 Code, § 2-6) (Ord. 50-95, passed 3-20-1995)

Sec. 30.006. Minutes.

(a) The city clerk, or the city clerk's designee, shall prepare minutes of all regular and special meetings, informational meetings, and committee meetings. The minutes shall be maintained in the office of the city clerk. The minutes shall reflect:

- (1) The date, time and place of the meeting or session;
- (2) The members recorded as either present or absent;
- (3) A general description of all matters proposed, discussed or decided; and
- (4) Record of any votes taken.

(b) Approval of minutes of all city council meetings and informational meetings shall be

considered at the next regular council meeting. The minutes may be reviewed by the city clerk, or the city clerk's designee, to correct spelling, numbering or other technical defects.

(c) Minutes of city council meetings held pursuant to § 30.001(b) of this subchapter shall be published in the city's official newspaper.

(1992 Code, § 2-7) (Ord. 50-95, passed 3-20-1995; Ord. 52-11, passed 7-11-2011; Ord. 24-12, passed 4-2-2012)

Sec. 30.007. Journal of proceedings.

(a) A journal containing the minutes of the council meetings shall be kept by the city clerk's office which shall constitute the official record of the council. Council meeting minutes will be available on the city's website for public view, and copies are available from the city clerk's office upon request.

(b) The minutes of all the city council meetings shall be open to public inspection.

(1992 Code, § 2-8) (Ord. 50-95, passed 3-20-1995; Ord. 52-11, passed 7-11-2011; Ord. 24-12, passed 4-2-2012)

Sec. 30.008. Presiding officer; duties.

(a) The presiding officer of the city council meetings shall be the mayor. In the absence of the mayor, the acting mayor shall act as the presiding officer at the city council meetings. The acting mayor may vote on all issues.

(b) (1) The city council shall designate a council chair and council vice chair to perform the duties of acting mayor pursuant to city charter § 2.03. The chair and vice chair shall serve a one-year term. The election of the city council chair and vice chair shall occur on the third Tuesday in May of each year.

(2) If the vice chair is unable to serve as acting mayor, the council chair may designate a city council member to serve as acting mayor in his or her absence.

(c) The mayor, or acting mayor, shall preserve strict order and decorum at all regular and special meetings of the city council and confine members in debates to the question under discussion. The mayor, or acting mayor, shall announce the vote on all subjects voted on by the city council.

(d) The city clerk, or the clerk's designee, shall state every question coming before the city council. The mayor, or acting mayor, shall decide all questions of order; subject, however, to an appeal to the city council, in which event a majority vote of the city council shall govern and conclusively determine a question of order.

(e) The mayor shall vote only in the case of a tie vote, with his or her name being called last. (1992 Code, § 2-9) (Ord. 50-95, passed 3-20-1995; Ord. 31-96, passed 3-18-1996; Ord. 76-99, passed 7-19-1999; Ord. 52-11, passed 7-11-2011; Ord. 24-12, passed 4-2-2012)

Sec. 30.009. Call to order for city council meetings.

(a) The mayor shall take the chair precisely at the hour appointed for the meeting, and shall immediately call the city council meeting to order.

(b) In the absence of the mayor, the city council chair, or in the chair's absence, the council vice chair, as acting mayor, shall call the city council meeting to order.

(c) Upon the arrival of the mayor, the acting mayor shall relinquish the position of presiding officer upon the conclusion of the business immediately before the city council. (1992 Code, § 2-10) (Ord. 50-95, passed 3-20-1995; Ord. 31-96, passed 3-18-1996; Ord. 52-11, passed 7-11-2011)

Sec. 30.010. Roll call.

Before proceeding with the business of the city council, the city clerk, or the city clerk's designee, shall call the roll of the members. The names of those present and absent shall be entered in the minutes.

(1992 Code, § 2-11) (Ord. 50-95, passed 3-20-1995; Ord. 52-11, passed 7-11-2011)

Sec. 30.011. Quorum.

Five members of the council shall constitute a quorum and be necessary for the transaction of business. If a quorum is not present, those in attendance shall be named and shall adjourn to a later time.

(1992 Code, § 2-12) (Ord. 50-95, passed 3-20-1995)

Sec. 30.012. Rules of order.

Robert's Rules of Order Newly Revised (latest edition) shall govern the proceedings of the council in all cases, unless they are in conflict with this subchapter.

(1992 Code, § 2-13) (Ord. 50-95, passed 3-20-1995)

Sec. 30.013. Order of business.

The business of the council shall be considered in the following order:

- (a) Roll call;
- (b) Invocation;
- (c) Pledge;
- (d) Proclamations, recognitions, awards;
- (e) Approval of consent agenda:
 - (1) Approval of minutes;
 - (2) Communications;

- (3) Council’s internal departmental directives;
- (4) Applications;
- (5) Notice of hearings; and
- (6) Other.
- (f) Approval of regular agenda;
- (g) Public input;
- (h) Petitions;
- (i) Unfinished business;
- (j) Introduction and adoption of ordinances:
 - (1) Second readings; and
 - (2) First readings.
- (k) Hearings and resolutions;
- (l) Notice of hearings for street vacations;
- (m) Report of officers, boards, committees, commissions and transfers of unencumbered appropriation balances among programs within a department or organizational unit as provided in the city charter § 5.07(d);
- (n) New business;
- (o) Items added after agenda deadline;
- (p) Adjournment; and
- (q) Executive session.
 (1992 Code, § 2-14) (Ord. 50-95, passed 3-20-1995; Ord. 51-98, passed 5-18-1998; Ord. 28-99, passed 3-15-1999; Ord. 68-02, passed 9-3-2002; Ord. 1-09, passed 1-5-2009; Ord. 24-12, passed 4-2-2012)

Sec. 30.014. Agenda.

(a) All reports, communications, ordinances, resolutions or other matters to be submitted to the council for consideration shall be delivered

to the city clerk’s office no later than 2:00 p.m. on the Tuesday one week prior to the council meeting. If the Tuesday one week prior to the city council meeting is a holiday, the deadline is 2:00 p.m. on the last day of business preceding that holiday. All materials related to an agenda item requiring council action will be delivered to the city clerk’s office in its complete and final format. The city clerk’s office shall prepare the agenda in electronic format and will furnish each member of the council, the mayor and the directors with access to the information no later than 3:00 p.m. on the Thursday prior to the city council meeting.

(b) Any contract approval items to be considered under communications to the city council on the consent agenda shall be delivered to the city clerk’s office no later than 12:00 p.m. on Thursday for consideration at the next Tuesday meeting. At the request of any one council member, an item may be removed from the consent agenda and placed on the regular agenda whenever that council member believes additional discussion on the item is necessary.

(c) The proposed agenda shall be posted at the city clerk’s office and placed on the city’s website, with email notice sent to those persons who have requested notice pursuant to law by the close of business on the Friday preceding any meeting to take place on the following Tuesday. Proposed additions to the agenda, in their complete and final format, including a signed agenda approval form, shall be delivered to the city clerk’s office no later than Monday at 12:00 p.m. before the Tuesday meeting the next day. These items shall be listed as “Items added after agenda deadline” on a revised agenda which shall be posted, placed on the website and noticed at least 24 hours in advance of the Tuesday meeting to the council, the mayor, the directors and all persons who have requested notice pursuant to law. Any item to be placed on

a revised agenda must be separately approved for the agenda by a vote of a majority of the city council members present in order to be considered that same evening.

(d) Any item in its complete and final format, including a signed agenda approval form, which is passed by a city council committee for consideration by the city council as a whole may be placed on the proposed agenda for the following Tuesday meeting no later than 2:00 p.m. Wednesday. During consideration of new business, the mayor or any two city council members may bring before the city council any business that person feels should be deliberated upon by the city council. These matters can be added to the agenda by a vote of six city council members and will be considered under new business. Formal action on these matters shall be deferred until a subsequent city council meeting, unless consideration is necessary for the immediate preservation of the public peace, health or safety of the municipal government. If the city council chooses to take immediate action on the newly calendared agenda item, an affirmative vote of six members of the council is required for approval.

(1992 Code, § 2-15) (Ord. 50-95, passed 3-20-1995; Ord. 52-11, passed 7-11-2011; Ord. 24-12, passed 4-2-2012)

Sec. 30.015. Addressing the council; time limit.

(a) During the public input portion at the start of a city council meeting, no person shall be permitted to speak on a topic that appears later in that meeting's agenda if public input will be received when that agenda item is up for discussion.

(b) No person shall address the city council without first securing the permission of the mayor, or acting mayor, to do so.

(c) Each person addressing the city council shall step up to the microphone in front of the rail, shall give his or her name in an audible tone of voice for the record, and unless further

time is granted by the city council, shall be limited to five minutes.

(d) All remarks shall be addressed to the city council as a body and not to any member thereof.

(e) No person, other than the city council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the city council without the permission of the mayor or acting mayor.

(f) No question shall be asked of a city council member except through the mayor or acting mayor.

(g) No person, except city council members, shall address the council after a motion is made and seconded unless requested by a city council member.

(1992 Code, § 2-16) (Ord. 50-95, passed 3-20-1995; Ord. 52-11, passed 7-11-2011; Ord. 24-12, passed 4-2-2012)

Sec. 30.016. Rules of debate.

(a) City council debate may occur only after a motion has been made and seconded.

(b) The mayor, or acting mayor, shall not show themselves to be partisan in their duties as the presiding officer of a city council meeting. The mayor, or acting mayor, shall relinquish the chair if he or she desires to enter into the debate of the merits of a pending question. The mayor, or acting mayor, shall not return until the pending main question has been disposed of by the city council.

(c) Every member desiring to speak shall address the mayor, or acting mayor, and upon recognition, shall keep comments confined to the question under debate.

(d) A member, once recognized, shall not be interrupted when speaking unless it is to be called to order, or as herein

otherwise provided. If a member, while speaking, is called to order, the member shall cease speaking until the question of order be determined, and if in order, the member shall be permitted to proceed.

(e) A motion may be reconsidered at any time during the meeting of the city council or at the next regular meeting. A motion for reconsideration being once made and decided in the negative, shall not be renewed. A motion for reconsideration can only be made by a member who voted on the prevailing side. (1992 Code, § 2-17) (Ord. 50-95, passed 3-20-1995; Ord. 52-11, passed 7-11-2011)

Sec. 30.017. Voting Procedure.

City council members may not abstain from voting, but may absent themselves from the meeting by physically leaving the meeting at the time an item is called by the clerk. Members with a financial interest in a matter shall disclose that interest and shall absent themselves from the meeting by physically leaving the meeting while the matter is considered.

(1992 Code, § 2-18) (Ord. 50-95, passed 3-20-1995; Ord. 117-99, passed 11-15-1999; Ord. 121-99, passed 12-6-1999; Ord. 52-11, passed 7-11-2011)

Sec. 30.018. Decorum.

(a) While the city council is in session, the members must preserve order and decorum, and a member shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the council or disturb any member while speaking or refuse to obey the orders of the city council or the mayor, or acting mayor, except as otherwise herein provided.

(b) Any person making personal, impertinent or slanderous remarks or who shall become boisterous while addressing the council shall be forthwith, by the mayor, or acting mayor, barred from further audience before the city council, unless permission to continue be granted by a majority vote of the city council.

(1992 Code, § 2-19) (Ord. 50-95, passed 3-20-1995; Ord. 52-11, passed 7-11-2011)

Sec. 30.019. Enforcement of decorum.

Upon instructions of the mayor, or acting mayor, law enforcement shall place any person who violates the order and decorum of the meeting under arrest, and cause him or her to be prosecuted under the provisions of this Code.

(1992 Code, § 2-20) (Ord. 50-95, passed 3-20-1995; Ord. 52-11, passed 7-11-2011)

Sec. 30.020. Persons authorized to be within rail.

No person except city officials and their representatives shall be permitted within the rail in front of the city council chamber without the express consent of the mayor, or acting mayor.

(1992 Code, § 2-21) (Ord. 50-95, passed 3-20-1995; Ord. 52-11, passed 7-11-2011)

Sec. 30.021. Members' objections to council action entered into the minutes.

At the time of the vote, a council member may request to have the reasons for that member's dissent from, or protest against, any action of the city council entered in the minutes.

(1992 Code, § 2-22) (Ord. 50-95, passed 3-20-1995; Ord. 52-11, passed 7-11-2011)

Sec. 30.022. Ordinances, resolutions, motions and other documents requiring council approval.

(a) No ordinance shall be considered by the city council unless sponsored by two city council members or the mayor.

(b) All proposed ordinances, resolutions and other documents requiring city council approval shall, before presentation to the council, have been

approved as to form and legality by the city attorney's office. All proposed ordinances and resolutions involving substantive matters of administration shall also be reviewed by the head of the department under whose jurisdiction the administration of the subject matter of the ordinance, resolution or other document would devolve. The sponsor(s) of any proposed ordinance, resolution or other document shall provide a written or oral explanation to the city council and mayor on the background and impact of the proposed item at least 24 hours prior to its consideration at any city council meeting. All proposed ordinances may be assigned or referred to a council committee for consideration and recommendation.

(c) Ordinances, resolutions and other matters or subjects requiring action by the city council must be introduced and sponsored by two members of the city council, except that the mayor may present ordinances, resolutions and other matters or subjects to the city council, and any city council member may move that these ordinances, resolutions, matters or subjects be adopted; otherwise, they shall not be considered.

(d) No ordinance shall relate to more than one subject. The subject shall be clearly expressed in the title.

(e) When a proposed ordinance is referred to a committee of the city council, the committee shall give a report of the proposed ordinance's status to the city council at a subsequent city council meeting or informational meeting. The proposed ordinance shall stand for final action in accordance with the report of the committee, notwithstanding that the committee reports an amended or substituted ordinance, provided that the amendment or substitution is germane to the title of the ordinance originally referred to the committee.

(f) The yes and no votes shall be taken upon the passage of all ordinances and resolutions and entered upon the official record of the city council.

(g) An affirmative vote of at least five city council members shall be necessary to pass an ordinance. A resolution, motion or any other proposition may be adopted by a majority of those present. When any vote is called, each city council member shall respond "yes" or "no."

(h) Upon passage, a number shall be assigned to each ordinance or resolution by the city clerk or the city clerk's designee.

(i) When passed by the council, unless an ordinance has been vetoed by the mayor, an ordinance shall be signed by the mayor and be attested by the city clerk. If the mayor does not veto an ordinance, but fails to sign the ordinance, the city clerk shall so note the failure to sign on the ordinance, shall attest and file the ordinance.

(j) Any member of the city council may request formal written city attorney opinions, relating to city business.

(k) Any member of the city council may, for purposes of inquiry, request verbal or written opinion or advice on city legal matters directly from the city attorney.

(1992 Code, § 2-23) (Ord. 50-95, passed 3-20-1995; Ord. 117-99, passed 11-15-1999; Ord. 121-99, passed 12-6-1999; Ord. 52-11, passed 7-11-2011; Ord. 24-12, passed 4-2-2012)

Sec. 30.023. Reports and resolutions to be filed with city clerk.

All reports and resolutions of departments, authorities, boards, committees, commissions, districts and similar organizations shall be filed with the city clerk and referenced in the minutes.

(1992 Code, § 2-24) (Ord. 50-95, passed 3-20-1995)

Sec. 30.024. Adjournment.

A motion to adjourn is decided without debate and without the need for a roll call vote.

(1992 Code, § 2-25) (Ord. 50-95, passed 3-20-1995; Ord. 52-11, passed 7-11-2011; Ord. 24-12, passed 4-2-2012)

Sec. 30.025. Creation of agencies, authorities, committees, boards, commissions and districts.

(a) The council may create agencies, authorities, committees, boards, commissions and districts to assist in the conduct of the operation of the city government with those duties as the council may specify not inconsistent with the city charter or Code of Ordinances.

(b) Membership and selection of members shall be as provided by the council if not specified by the city charter or Code of Ordinances.

(c) Any agency, authority, committee, board, commission or district so created shall cease to exist upon the accomplishment of the special purpose for which it was created or when abolished by a majority vote of the council.

(d) No agency, authority, committee, board, commission or district so appointed shall have powers other than advisory to the council or the mayor except as otherwise specified by the city charter or Code of Ordinances.

(e) Except as otherwise provided by this Code or state law, any person appointed to any city agency, authority, board, committee, commission or district authorized by this Code shall not serve more than two consecutive full or partial terms of office on the agency, authority, board, committee, commission or district.

(f) Citizen appointees who miss more than 50% of the board meetings in any calendar year may be removed by the mayor for cause.

(g) Except as otherwise provided by this Code or state law, the council may remove any member of an agency, authority, board, committee, commission or district appointed by the council for cause.

(h) Members of agencies, authorities, boards, committees, commissions or districts shall be registered voters of the city unless otherwise specified.

(i) Any vacancy on any board shall be filled for the unexpired term of the member vacating the board in the same manner as is required for a regular appointment.

(1992 Code, § 2-26) (Ord. 50-95, passed 3-20-1995; Ord. 26-99, passed 3-1-1999; Ord. 179-07, passed 11-19-2007)

Sec. 30.026. Rules for boards and commissions.

Bylaws or rules of procedure for any agency, authority, board, committee, commission or district must contain the following.

(a) Each member of a city agency, authority, board, committee, commission or district shall, upon assuming office, receive a CD of orientation materials regarding, at a minimum, the form of city government, the city's conflicts of interest ordinance, the state open meeting laws and the basic rules of parliamentary procedure. These materials shall also be available online.

(b) A uniform format for the agenda shall be established. A printed agenda shall be prepared in advance of all meetings of city agencies, authorities, boards, committees and commissions. Each agenda shall contain, at a minimum, a time and place of the meeting and specific descriptions of the topics to be discussed.

(c) A uniform format shall be established for the taking of minutes. A set of minutes

of all meetings of city agencies, authorities, boards, committees and commissions shall be kept and filed with the city clerk. Minutes shall contain, at a minimum, a record of attendance, actions taken, numerical results of votes taken and specific descriptions of items discussed.

(1992 Code, § 2-26.1) (Ord. 82-97, passed 11-17-1997; Ord. 102-07, passed 6-18-2007)

Sec. 30.027. Fee for use of carnegie chambers.

If a special meeting of the city council is held because of an individual request, that individual shall pay a special meeting fee of \$150 to the city clerk's office prior to the scheduling of the meeting.

(1992 Code, § 2-27) (Ord. 50-95, passed 3-20-1995; Ord. 52-11, passed 7-11-2011)

Sec. 30.028. Assignment of delinquent accounts, uncollectible accounts.

The city may assign for collection any or all delinquent accounts receivable. After reasonable collection efforts for accounts receivable under \$5,000, the city finance officer may determine that an account is uncollectible, and direct that the uncollectible amount be removed from the records and disclosed on that year's financial report. For accounts receivable of \$5,000 or more, the city council shall determine that an account is uncollectible, and direct that the uncollectible amount be removed from the records and disclosed on that year's financial report.

Evidence of the debt removed from the records by the formal action of the finance officer or the city council shall be retained by the city to support possible subsequent collection of that debt.

(1992 Code, § 2-28) (Ord. 43-95, passed 3-6-1995)

Sec. 30.029. Council information gathering.

Inquires as referenced in § 2.05(c) of the city charter shall refer to individual and collective requests by the city council for information

relevant to the performance of the council's legislative and policy making duties. Information relevant to council legislative and policy making duties may not be unreasonably withheld. This section shall not authorize the public disclosure of material that is confidential or privileged under federal, state or local law, or material the public disclosure of which otherwise would constitute an unwarranted invasion of personal privacy.

(1992 Code, § 2-29) (Ord. 56-99, passed 5-17-1999)

Section 4. Ethics

- Chapter 35 Conflicts of Interest of Officers and Employees and Ethics Board

Chapter 35

Conflicts of Interest of Officers and Employees and Ethics Board

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Cross-reference: City council code of ethics, see §§ 34.001 through 34.009; Code of Ethics, see ch. 34; Elections; Investigation and prosecution of violations by board of ethics, see § 38.033

**BOARD OF ETHICS,
QUALIFICATIONS, APPOINTMENTS,
TERMS, POWERS AND DUTIES**

35.001. Board of ethics created.

There is hereby created a board which shall be known as the board of ethics which shall consist of five members.

(1992 Code, § 12.5-1) (Ord. 24-09, passed 3-16-2009)

35.002. Qualifications and board composition.

No member of the board may be an officer or employee of the city or any other governmental unit, or hold any political party office, or be in a contractual relationship with the city, or receive compensation for services from the city. No member of the board may endorse or engage in any political or campaign activity on behalf of any candidate for city office.

(1992 Code, § 12.5-2) (Ord. 24-09, passed 3-16-2009; Ord. 03-11, passed 1-18-2011)

35.003. Appointment.

The members of the board of ethics shall be appointed by the mayor with the advice and consent of the city council.

(1992 Code, § 12.5-3) (Ord. 24-09, passed 3-16-2009)

35.004. Terms.

The members of the board of ethics shall be appointed for staggered terms of four years. No member is eligible for reappointment after having served two four-year terms.

(1992 Code, § 12.5-4) (Ord. 24-09, passed 3-16-2009; Ord. 03-11, passed 1-18-2011)

35.005. Compensation.

No member of the board of ethics shall receive a salary. Members may be reimbursed for expenses in accordance with city policy.

(1992 Code, § 12.5-5) (Ord. 24-09, passed 3-16-2009)

35.006. Chairperson.

The board of ethics shall annually select a chairperson from its members.

(1992 Code, § 12.5-6) (Ord. 24-09, passed 3-16-2009)

35.007. Meetings.

(a) The board of ethics may meet in executive session pursuant to state law. The board of ethics must give advance notice to the public of all meetings in accordance with state law.

(b) The board of ethics shall meet at least quarterly.

(1992 Code, § 12.5-7) (Ord. 24-09, passed 3-16-2009; Ord. 57-12, passed 8-7-2012)

35.008. Quorum.

Three members of the board of ethics shall constitute a quorum for the transaction of business coming before it.

(1992 Code, § 12.5-8) (Ord. 24-09, passed 3-16-2009; Ord. 03-11, passed 1-18-2011; Ord. 57-12, passed 8-7-2012)

35.009. Complaints.

(a) Any person who is a resident of the city or is doing or attempting to do business with the city may file a complaint with the board. The complaint shall be in writing, signed and dated, and include an address and telephone number. All complaints shall be sworn to by a notary public and filed with the office of the city attorney, except for any referral from the fraud coordination committee pursuant to the city's fraud control policy. Complaints shall describe in detail the act or acts complained of and the specific section(s) of the respective subchapter in this chapter that have been allegedly violated.

(b) All complaints, and any subsequent filings and proceedings before the board, shall remain confidential unless the accused elects to make the complaint public pursuant to §§ 35.025 through 35.036, or unless the accused elects to make the complaint public or the board has issued its report pursuant to §§ 35.050 through 35.059. If the board determines that the complainant (the person who filed the complaint) has violated any confidentiality provisions under this chapter, then the board may immediately dismiss the complaint. Dismissal under this section does not affect the right of the board or any person other than the complainant to initiate a complaint based on the same factual allegations.

(c) After an initial review of the complaint, the board may dismiss any complaint that it finds to be frivolous. A “frivolous” complaint is one which lacks a rational basis in fact or law. No investigation is required if the board determines that a complaint is frivolous on its face, illegible, too indefinite, does not identify the accused, or is unsigned or is not verified by an oath of affirmation. Except for the fraud coordination committee, any person who files a frivolous complaint with the board shall be civilly liable to the person charged for all costs incurred in defending the charge, including, but not limited to, costs and attorney’s fees. In determining if a complaint is frivolous, the board may consider the following:

(1) The timing of the complaint with respect to when the facts supporting the alleged violation became known to the complainant, and with respect to the date of any pending election in which the accused is a candidate or is otherwise involved with that election in any manner, if any;

(2) The nature and type of publicity surrounding the filing of the complaint, and the degree of participation by the complainant in publicizing the fact that a complaint was filed with the board;

(3) The existence and nature of any relationship between the accused and the complainant before the complaint was filed;

(4) If the accused is a candidate for election to office, the existence and nature of any relationship between the complainant and any candidate or group opposing the accused;

(5) Any evidence that the complainant knew or reasonably should have known that the allegations in the complaint were groundless; and

(6) Any evidence of the complainant’s motives in filing the complaint.

(1992 Code, § 12.5-9) (Ord. 24-09, passed 3-16-2009; Ord. 57-12, passed 8-7-2012)

35.010. Powers and duties of the board of ethics.

In addition to the other powers and duties specifically mentioned in this subchapter, the board of ethics shall have the following powers and duties:

(a) To initiate and to receive complaints of violations of any of the provisions of §§ 35.025 through 35.036 and §§ 35.050 through 35.059;

(b) To determine whether to investigate and whether to act upon any particular complaint under §§ 35.025 through 35.036;

(c) To conduct investigations, inquiries and hearings concerning any matter covered by §§ 35.025 through 35.036;

(d) To conduct reviews and/or investigations based on requests or complaints concerning any matter covered by §§ 35.050 through 35.059 and the city charter. Council shall receive a report of all findings and recommendations of all complaints or investigations of the board regarding §§ 35.050 through 35.059. Upon receiving the report from the board, council shall follow procedures set forth in

§§ 35.050 through 35.059 and shall determine if disciplinary action is necessary;

(e) Under §§ 35.025 through 35.036, the board shall advise any individual whose acts are the subject of a complaint or an investigation of the board and notify the individual within two business days;

(f) Under §§ 35.025 through 35.036, to subpoena persons or documents and issue subpoenas to the fullest extent authorized by law. Persons accused or under investigation shall have authority to subpoena persons or documents in preparation of their defense. No unreasonable subpoena request will be denied by the board to the accused;

(g) Under §§ 35.025 through 35.036, to request the assistance of other appropriate agencies in conducting investigations;

(h) To consult with municipal agencies, officials and employees on matters involving ethical conduct;

(i) To recommend such legislative action as it may deem appropriate to effectuate the policy of §§ 35.025 through 35.036 and §§ 35.050 through 35.059;

(j) To adopt procedural rules consistent with the requirements of due process of law, consistent with the rules of evidence, consistent with the intent of this chapter and the city charter, and subject to review by the city council;

(k) To prescribe forms for the disclosure and registration of information as provided in §§ 35.025 through 35.036 and §§ 35.050 through 35.059;

(l) The board of ethics may also render advisory opinions at the board's discretion with respect to §§ 35.025 through 35.036;

(m) The board of ethics may render advisory opinions at the request of an elected official

of the city with respect to §§ 35.050 through 35.059;

(n) To offer recommendations with respect to remedies for violations of §§ 35.025 through 35.036; and

(o) To offer a full report of all findings and recommendations of the board, for complaints and investigations of elected officials, with respect to §§ 35.050 through 35.059. The remedies for violations of §§ 35.050 through 35.059 shall follow the provisions therein.

(1992 Code, § 12.5-10) (Ord. 24-09, passed 3-16-2009; Ord. 03-11, passed 1-18-2011; Ord. 57-12, passed 8-7-2012)

35.011. Records.

(a) The board shall keep minutes of its proceedings, showing the vote of each member upon every question, and shall also keep records of its investigations and other official actions. All minutes of the board's proceedings will be filed with the city clerk's office.

(b) Designees within the city attorney's staff shall serve as administrative and secretarial staff to the board and shall take and preserve minutes of all meetings as required by law. An annual report will be produced on the past costs of those activities and from which estimated cost should be included in the next annual budget as a separate item.

(1992 Code, § 12.5-11) (Ord. 24-09, passed 3-16-2009; Ord. 03-11, passed 1-18-2011; Ord. 57-12, passed 8-7-2012)

35.012. Staff.

The individual serving as the city attorney shall serve as legal counsel to the board of ethics unless a complaint arises under §§ 35.050 through 35.059. For a complaint under §§ 35.050 through 35.059, the board shall consult only with outside legal counsel of its own choosing as needed who is not otherwise employed by the city. The board may appoint an individual to act as its investigator. The individual serving as the

investigator for the board shall be an employee of the city police department who is trained in investigatory techniques and shall be bound by the rules of confidentiality contained in this chapter. If a member of the city police department is a complaining party, the accused person, or is a material witness to the investigation, then the board shall appoint and consult with an outside investigator as needed.

(1992 Code, § 12.5-12) (Ord. 24-09, passed 3-16-2009; Ord. 03-11, passed 1-18-2011; Ord. 57-12, passed 8-7-2012)

CONFLICTS OF INTERESTS OF OFFICERS AND EMPLOYEES

35.025. Declaration of policy.

The proper operation of a republic requires that public officers and employees be honest, impartial and responsible to the people; that governmental decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. This subchapter applies to city officers and employees, whether appointed, paid or unpaid, including members of all boards, commissions and committees of the city. The purpose of these regulations is to establish guidelines setting forth those actions which are incompatible with the best interest of the citizens of the city and directing disclosure by those officers and employees of private financial or other interests in matters affecting city government. This subchapter does not apply to the mayor and other city council members.

(1992 Code, § 12.5-13) (Ord. 24-09, passed 3-16-2009; Ord. 57-12, passed 8-7-2012)

35.026. Construction.

This subchapter shall be liberally construed to protect the public interest in full disclosure of conflicts of interest and promoting ethical standards of conduct for municipal officers, employees, members of city agencies and all advisory boards.

(1992 Code, § 12.5-14) (Ord. 24-09, passed 3-16-2009)

35.027. Definitions.

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADVISORY OPINION. A written opinion offering the board's advice to the requestor in conjunction with its interpretation of the city charter and ordinances on a matter submitted for that purpose. **ADVISORY OPINIONS** may be requested by person(s), subject to §§ 35.025 through 35.036, seeking advice about his or her current conduct or an anticipated future behavior or activity.

BUSINESS. A corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, activity or entity.

CITY AGENCY. Any authority, advisory board, body, commission, committee, department, unit, division or office of the city.

COMPLAINT. A formal accusation against a person(s) alleging unethical or improper actions, behavior or conduct as defined by city charter or city and state law.

CONFIDENTIAL INFORMATION. All information, including information described in this chapter whether transmitted verbally or in writing, which is

not, at the time, a public record pursuant to law.

FINANCIAL INTEREST. An expectation of receiving a pecuniary benefit. A FINANCIAL INTEREST of a person includes any FINANCIAL INTEREST of a member of that person's immediate family. A person has a FINANCIAL INTEREST in an organization in which that person has an ownership interest, or is a director, officer or employee. A person has a FINANCIAL INTEREST in a decision if a financial interest of that person will vary with the outcome of the decision. A FINANCIAL INTEREST does not include the following:

(1) A personal or FINANCIAL INTEREST which is not of the magnitude that would exert an influence on an average, reasonable person;

(2) A personal or FINANCIAL INTEREST of a type which is generally possessed by the public or a large class of persons to which that official or employee belongs; or

(3) An action or influence which would have an insignificant or conjectural effect on the matter in question.

IMMEDIATE FAMILY. Any person related to an officer or employee within the first degree of consanguinity and includes a spouse, parent, child, grandparent, grandchild or an individual claimed by that individual or the spouse as a dependent for federal income tax purposes.

INCOME. Any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain and shall include all INCOME from whatever source derived.

OFFICER or EMPLOYEE. Any person appointed to, or employed or retained by, any public office or public body

of the city, whether paid or unpaid and whether temporary, part-time or full-time. (1992 Code, § 12.5-15) (Ord. 24-09, passed 3-16-2009; Ord. 03-11, passed 1-18-2011; Ord. 57-12, passed 8-7-2012)

35.028. Conflicts of interest; acting in an official capacity on matters in which an official or employee has a private financial interest clearly separate from that of the general public.

(a) No officer or employee of the city shall knowingly have a financial interest clearly separate from that of the general public in any contract, transaction, zoning decision or other matter which is subject to an official act or services from the city. This provision shall not apply if the interested officer or employee discloses by written communication to his or her immediate supervisor, director and the appropriate elected official(s) and they reply with unanimous consent to the financial interest or if the person serves on a lay board and discloses to the city council the full nature and extent of that interest and disqualifies and/or removes himself or herself from consideration or future participation in the matter in any respect.

(b) The foregoing conflict of interest prohibition shall not apply if an interested officer or employee does not or will not act in the regular course of his or her duties and responsibilities, directly or indirectly, for the city as to inspection, any related performance issues or any operational oversight or work with the matter in question. Also, this prohibition may not apply if the interested officer or employee is an employee of a business involved in the matter in question and the officer or employee has no ownership interest in the matter and will not receive a fee or compensation related thereto.

(1992 Code, § 12.5-16) (Ord. 24-09, passed 3-16-2009) Penalty, see § 35.999

35.029. Acceptance of gifts and other things of value.

(a) No officer or employee shall directly or indirectly solicit any gift, or accept any gift whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence, or could reasonably be expected to influence the officer or employee, in the performance of official duties, or was intended as a reward for any official action.

(b) Legitimate political contributions are not gifts under the provisions of this subchapter.

(c) It is not a conflict of interest for any official or employee to receive a gift or gratuity that is an unsolicited item of nominal intrinsic value.

(1992 Code, § 12.5-17) (Ord. 24-09, passed 3-16-2009) Penalty, see § 35.999

35.030. Disclosure of confidential information.

During the period of employment or service and for two years thereafter, no officer or employee, with respect to any contract, transaction, zoning decision or other matter which is or may be the subject of an official act or action of the city shall, without appropriate authorization, disclose confidential information concerning the property, government or affairs of the city. In addition, no officer or employee shall use this information to advance the financial or other private interest of the officer or employee or others.

(1992 Code, § 12.5-18) (Ord. 24-09, passed 3-16-2009) Penalty, see § 35.999

35.031. Disclosure of confidential or privileged information prohibited.

No member of any city agency may publicly disclose information received, discussed or decided in executive session held pursuant to law or in conference with legal counsel

which is protected by the attorney/client privilege or has been confidentially disclosed at an executive session, unless a majority of the members of the city agency has authorized that disclosure or unless a disclosure is authorized by a court of competent jurisdiction.

(1992 Code, § 12.5-19) (Ord. 24-09, passed 3-16-2009; Ord. 57-12, passed 8-7-2012) Penalty, see § 35.999

35.032. Appearances by city officials on behalf of private interests.

No officer or employee, except when acting in an official capacity, shall appear on behalf of any private person before any city agency. This section shall not apply to any officer who has fully informed the city agency of the officer's private interest in a matter and the officer does not participate in any decision related thereto.

(1992 Code, § 12.5-20) (Ord. 24-09, passed 3-16-2009) Penalty, see § 35.999

35.033. Prohibited conduct after leaving the city.

No present or former officer or employee may represent another person for compensation before the city or any public body thereof while in office or employed for a period of two years from the date of termination of their office or employment concerning any matter with which the officer or employee was directly concerned and in which the officer or employee personally participated during the employment or service by a substantial and material exercise of administrative discretion either during their holding of office or employment or for a period of two years thereafter. This section shall not prohibit any former employee from acting as a paid private consultant for any person so long as the former officer or employee does not appear on behalf of that person before the city or any public body thereof, either personally or by communication of any kind, for a period of two years from the date of termination of their office or

employment and that former officer or employee does not disclose confidential information at any time.

(1992 Code, § 12.5-21) (Ord. 24-09, passed 3-16-2009; Ord. 57-12, passed 8-7-2012)
Penalty, see § 35.999

35.034. Advisory opinions.

An advisory opinion may be requested from the board of ethics by any city officer and employees whether appointed, paid or unpaid, including members of all boards, commissions and committees of the city who seek the board of ethics' opinion to interpret the law as it applies to himself or herself. A request for an advisory opinion may include the request to review conduct that has already occurred that has not yet been the subject of a complaint to the board or a report to the fraud coordination committee. The "self-reporting" of past incidents shall not act as a bar against possible sanctions for conduct, but may be considered in mitigation of any possible penalties otherwise imposed.

(1992 Code, § 12.5-22) (Ord. 24-09, passed 3-16-2009; Ord. 57-12, passed 8-7-2012)

35.035. Complaint procedure.

A complaint that a city officer or city employee, whether appointed, paid or unpaid, or a member of a city board, city commission or city committee has violated the conflicts of interest or standards of conduct outlined in this subchapter shall be made in accordance with the provisions of this chapter. All complaints shall be referred to the board of ethics who shall review the complaint in the light of the conflicts of interest and standards of conduct as set forth in this subchapter. A copy of the complaint shall be sent to the city employee or officer against whom a complaint has been filed by certified mail within two business days of the filing of the complaint. All complaints and any subsequent filings and proceedings of the board shall remain confidential unless otherwise provided herein. No board member, complainant, nor

any person who has access to any confidential information related to the functions or activities of the board shall divulge that information to any other person who is not authorized to have it. The person accused may choose to waive confidentiality and make public the complaint. Upon the election by the accused, any subsequent filings and proceedings before the board become public. If the accused chooses to waive confidentiality, then the board has the right to make a public statement limited to that information as reasonably necessary to mitigate any adverse publicity resulting from the public statement by the accused person.

(1992 Code, § 12.5-23) (Ord. 24-09, passed 3-16-2009; Ord. 03-11, passed 1-18-2011; Ord. 57-12, passed 8-7-2012)

35.036. Collective bargaining agreements.

Nothing in this chapter shall be enforced contrary to the provisions of any collective bargaining agreements between the city and its employees.

(1992 Code, § 12.5-25) (Ord. 24-09, passed 3-16-2009)

CONFLICTS OF INTEREST AND STANDARDS OF CONDUCT OF CITY COUNCIL MEMBERS

35.050. Declaration of policy.

(a) All city council members shall act with integrity, impartiality and dedication to the best interest of the city and the public trust which they hold.

(b) The citizens have a right to expect that city council members will conduct themselves in a manner that will tend to preserve public confidence in and respect for the government they represent.

(c) The public confidence and respect can best be promoted if city council members uniformly treat all citizens with courtesy, impartiality, fairness and equality under the

law and avoid both actual and potential conflicts between their private self-interest and the public trust.

(d) The purpose of this subchapter is to regulate conflicts of interest and standards of conduct for city council members by setting forth conduct which is incompatible with the best interest of the city, and by directing disclosure by city council members of private financial or other interests in matters affecting the city.

(1992 Code, § 12.5-27) (Ord. 24-09, passed 3-16-2009)

35.051. Construction.

This subchapter shall be liberally construed to protect the public interest in full disclosure of conflicts of interest and promoting ethical standards of conduct for city council members including the mayor.

(1992 Code, § 12.5-28) (Ord. 24-09, passed 3-16-2009; Ord. 03-11, passed 1-18-2011; Ord. 57-12, passed 8-7-2012)

35.052. Definitions in this subchapter.

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADVISORY OPINION. A written opinion offering the board's advice to the requestor in conjunction with its interpretation of the city charter and city ordinance on a matter submitted for that purpose. **ADVISORY OPINIONS** may be requested only by city council members seeking advice about his or her current conduct or an anticipated future behavior or activity(ies).

BENEFIT. Anything reasonably regarded as economic gain or economic advance, including **BENEFIT** to any other person in whose welfare the beneficiary is interested, but does not include a contribution or expenditure made and reported in accordance with law.

BUSINESS ENTITY. A sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust or any other entity recognized by law through which business is conducted.

CITY COUNCIL MEMBER. For the purposes of this subchapter, means all members of the city council, including the mayor.

COMPLAINT. A formal accusation against a city council member alleging unethical or improper actions, behavior or conduct as defined by city charter or city and state law.

CONFIDENTIAL INFORMATION. Privileged statements or communications, whether expressed or implied, oral or written, between the city council member, city employees and their attorneys; work product of the city attorney, or other attorneys representing the city, its council member, officers and employees; and city records, documents and other information not subject to public disclosure or dissemination by law.

FINANCIAL INTEREST. An expectation of receiving a pecuniary benefit. A **FINANCIAL INTEREST** of an official includes any **FINANCIAL INTEREST** of a member of that person's immediate family. A person has a **FINANCIAL INTEREST** in an organization in which that person has an ownership interest, or is a director, officer or employee. An official has a **FINANCIAL INTEREST** in a decision if a **FINANCIAL INTEREST** of that person will vary with the outcome of the decision. A **FINANCIAL INTEREST** does not include the following:

(1) A personal or **FINANCIAL INTEREST** which is not of the magnitude that would exert an influence on an average, reasonable person;

(2) A personal or **FINANCIAL INTEREST** of a type which is generally

possessed by the public or a large class of persons to which that official belongs; and

(3) An action or influence which would have an insignificant or conjectural effect on the matter in question.

HOLDING OTHER OFFICE. Holding another elected public office during the term for which the member was elected to the city council, or holding a full-time position with the city as an employee of the mayor and his or her administration.

IMMEDIATE FAMILY. Any person related to a city council member within the first degree of consanguinity and includes a spouse, parent, child, grandparent, grandchild or an individual claimed by that individual or their spouse as a dependent for federal income tax purposes.

OFFICIAL(S). When referenced in this subchapter, means the mayor or any other member of the city council.

(1992 Code, § 12.5-29) (Ord. 24-09, passed 3-16-2009; Ord. 03-11, passed 1-18-2011; Ord. 57-12, passed 8-7-2012)

35.053. Conflicts of interest; city council members.

City officials shall not:

(a) Participate or vote in matters in which they have a direct or indirect financial interest in any contract with the city;

(b) Participate or vote in matters in which they may be directly or indirectly financially interested in the sale of land to the city, or in which they may have rights or interests in the sale of any materials, supplies or services to the city;

(c) Participate or vote in any other matters in which they may have a direct or indirect financial interest, or in which an immediate family member has a direct or indirect financial interest;

(d) Except when acting in an official capacity, appear on behalf of any private person before any city agency. An official may appear at any place on behalf of constituents in the course of their duties as representatives of the electorate or in the performance of public or civic obligations. Officials shall not receive compensation for those appearances, unless specifically authorized by action of the city council. However, this section shall not apply to any official who has fully informed the city agency of his or her private interest in a matter and he or she does not participate in any decision related thereto;

(e) Directly or indirectly solicit any gift, or accept any gift whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence, or could reasonably be expected to influence the officer, in the performance of their official duties, or was intended as a reward for any official action:

(1) Legitimate political contributions are not gifts under the provisions of this subchapter; and

(2) It is not a conflict of interest for any official to receive a gift or gratuity that is an unsolicited item of nominal intrinsic value.

(f) Participate or vote in matters having a financial interest in any property within 300 feet of property involved in a zoning matter before the city council; and

(g) Participate or vote in matters that come before the city council directly or indirectly involving the interest of a present business client or customer of any official or the interest of a person or entity who has been a business client or customer of any official within the prior 12 months. A business client or customer is any person or entity for which the official is employed or if in the past 12 months payment has been received by the official from the person or entity in

the amount of \$5,000 or greater and that fact is or should be known by the official. (1992 Code, § 12.5-30) (Ord. 24-09, passed 3-16-2009) Penalty, see § 35.999

35.054. Standards of conduct; city council members.

City officials shall not take action to:

(a) Disclose confidential information;

(b) Directly or indirectly use any confidential information which was gained because of their official position or employment for their own personal gain or benefit or for the benefit of others. Disclose or reveal any information or the contents of any discussion which took place in executive session under the provisions of the state open meetings law;

(c) Disclose or reveal any information, or the contents of any discussion, considered during an executive session or closed meeting conducted pursuant to the state open meetings law, held by the city council, any city agency, board, commission, committee or department, except as may be authorized by a majority vote of that body;

(d) Grant any special consideration, treatment or advantage to any citizen, individual, business organization or group beyond that which is normally available to every other citizen, individual, business organization or group;

(e) Use their elected position to secure special advantages, privileges or exemptions for themselves or others;

(f) Engage in any conduct which may be directly prejudicial to the government of the city or which reflects discredit or dishonor on the government of the city, which conduct causes the city substantial monetary damage or the commission of a criminal act;

(g) Use city supplies, equipment or facilities for any purpose other than the conduct of official city business, unless otherwise provided for by law, ordinance or city policy;

(h) Knowingly perform or refuse to perform any act to deliberately prevent the execution of the city ordinances, rules or regulations, or the achievement of official city programs;

(i) Violate the city's election ordinances; and

(j) Violate the city's fraud control policy.

(1992 Code, § 12.5-31) (Ord. 24-09, passed 3-16-2009; Ord. 57-12, passed 8-7-2012) Penalty, see § 35.999

35.055. Conflicts of interest; former city officials.

Past city officials shall not appear before the city council or any board, commission or committee of the city and represent any interest on any matter which was pending on file and unresolved with the city during their service, for a period of one year after the date of termination of the relationship with the city.

(1992 Code, § 12.5-32) (Ord. 24-09, passed 3-16-2009)

35.056. Disclosure of interest.

City council members who have a financial interest in any matter pending before the city shall disclose that interest to other members of the city council, and shall refrain from further discussion of the matter; shall not be physically present when the subject is discussed in an executive session; and shall not vote on or participate further therein in any manner.

(1992 Code, § 12.5-33) (Ord. 24-09, passed 3-16-2009) Penalty, see § 35.999

35.057. Advisory opinion; elected officials and candidates.

Advisory opinions may be requested by any city official who seeks the board of ethics' opinion to guide that official's own conduct. Only a city official may request an advisory opinion from the board of ethics about his or her conduct or activities, provided that the request is made prior to the filing of a complaint as outlined in this chapter. Declared candidates for a municipal election can seek advisory opinions from the board of ethics about his or her conduct or activities. A request for an advisory opinion may include the request to review conduct that has already occurred that has not yet been the subject of a complaint to the board or a report to the fraud coordination committee. The "self-reporting" on past incidents shall not act as a bar against possible sanctions for that conduct, but may be considered in mitigation of any possible penalties otherwise imposed.

(1992 Code, § 12.5-34) (Ord. 24-09, passed 3-16-2009; Ord. 57-12, passed 8-7-2012)

35.058. Complaint procedure.

(a) A complaint that a city official has violated the conflicts of interest or standards of conduct outlined in this subchapter shall be made in accordance with this chapter, except that a report concerning a city official may be referred to the board by the fraud coordination committee. Anonymous complaints shall not be considered. All complaints shall be referred to the board of ethics who shall review the complaint in light of the conflicts of interest and standards of conduct as set forth in this subchapter, or the fraud control policy if it is a referral from the fraud coordination committee. A copy of the complaint shall be sent to the city official against whom a complaint has been filed by certified mail within two business days of the written filing.

(b) All complaints, subsequent filings and proceedings of the board shall remain

confidential unless otherwise provided herein. The accused may choose to waive confidentiality and make the complaint public. Upon the election by the accused, any subsequent filings and proceedings with the board become public. If the accused chooses to waive confidentiality, then the board has the right to make a public statement limited to that information as reasonably necessary to mitigate any adverse publicity resulting from a public statement by the accused.

(c) The board of ethics shall have all the powers of investigation as are afforded the city council by the city charter. The board performing the review of the complaint shall report to the city council in writing not more than 60 days after the day of assignment, unless an extension is granted by a majority of the eligible council members. For purposes of this section, an **ELIGIBLE COUNCIL MEMBER** means any council member who is not named in the complaint. If the board determines that the facts as alleged do not establish probable cause that there has been a violation of this subchapter or otherwise dismisses a complaint under this subchapter, a report of the board's findings shall be given to the city council, and the matter shall be considered concluded. If the board determines that the facts as alleged establish probable cause that there has been a violation of this subchapter, the report containing the board's findings and recommended sanctions shall be given to the city council.

(d) The board's report to the city council shall be a public record, but all filings and proceedings prior to the report shall remain confidential unless the accused had elected to make the complaint public. Until a time as the board issues its report to the city council or the accused elects to make the complaint public, no complainant, board member, nor any person who has access to any confidential information related to the functions or activities of the board shall divulge that information to any person who is not authorized to have it.

(e) Upon receiving a report from the board of ethics that there is probable cause to believe that a violation of the conflicts of interest or standards of conduct or a violation of the fraud control policy by a city council member may exist, the eligible members of the city council shall schedule a public hearing to be held within 30 days of receipt of that report.

(f) All hearings of the city council under this subchapter shall be conducted as follows:

(1) The city council shall have all the powers of investigation including subpoena power as are given to it by reason of the city charter;

(2) A city council member against whom a complaint has been filed may elect to be represented by outside legal counsel of his or her own choosing and at their own expense. The city council member(s) has the right to a full and complete hearing with the opportunity to call witnesses and present evidence;

(3) The board of ethics chairperson or his or her designee shall present the evidence and examine witnesses in support of the board's report with the board bearing the burden of proof on behalf of the city;

(4) The city attorney shall act as legal advisor to the eligible city council members conducting the hearing, unless there is a conflict of interest for the city attorney;

(5) All proceedings shall be taken verbatim by a court reporter;

(6) The city council shall receive evidence from the city council member alleged to have committed wrongdoing, and from the person making a complaint against the official or employee of unethical conduct or behavior, or any other person as the city council deems necessary;

(7) The city council may request and, if necessary, subpoena witnesses, books,

records or any documents which relate to the allegations or complaint;

(8) The eligible city council members, upon completion of a public hearing, shall render a decision in the form of a resolution and, in addition, the eligible city council members shall thereafter have prepared findings of fact, conclusions of law and a final order to be filed within 20 days with both the city clerk and the city council member against whom a complaint has been filed either determining no violation occurred, or if supported by clear and convincing evidence the order shall set forth the remedy as provided by this chapter to be complied with in order that voluntary compliance may be had and final determination obtained. In the event that voluntary compliance is not obtainable, action consistent with the city charter may be taken; and

(9) All decisions and orders rendered by the city council shall be made public. (1992 Code, § 12.5-35) (Ord. 24-09, passed 3-16-2009; Ord. 03-11, passed 1-18-2011; Ord. 57-12, passed 8-7-2012)

35.059. Judicial review.

Pursuant to Article IX of the South Dakota Constitution, any final order by the city council is subject to judicial review as provided by SDCL ch. 21-31 within 20 days of the filing of the city council's final order. (1992 Code, § 12.5-37)

35.999. Penalty.

(a) (1) Violation of §§ 35.025 through 35.036 may be punished under the general penalty provisions of this code. Board recommendations regarding a city employee shall be in writing and given to the mayor, if the employee is subject to the authority of the mayor, or council, if the employee is subject to the authority of the council. In addition, upon the finding of a violation of §§ 35.025 through 35.036 by four members,

the board of ethics may exercise any one or any combination of the following remedies:

A. Recommend a reprimand for the officer or employee in writing, either privately or publicly;

B. Recommend the suspension or removal of an officer that is subject to the mayor or that is subject to the council from service on a lay board;

C. Recommend the suspension, demotion or termination of employment of any compensated employee of the city;

D. Recommend an administrative fine not to exceed \$500;

E. Refer to the city attorney to prosecute for violation of city ordinance; and

F. Refer to the city attorney to seek civil remedies to enjoin any activity prohibited by §§ 35.025 through 35.036.

(2) Any finding from the board resulting in a recommended suspension, demotion, termination of employment or an imposed fine shall be considered cause under § 39.059 of this Code if final action is taken thereon by the city pursuant to the issuance of an employee incident report. (1992 Code, § 12.5-24)

(b) (1) Violation of §§ 35.050 through 35.059 may be remedied by the eligible city council members by any one or any combination of the following punishments:

A. Public reprimand;

B. Administrative fine not to exceed \$500; and/or

C. Removal from office only for the causes set forth in §§ 2.06(c) and 7.02(a) of the city charter.

(2) In addition to the penalties listed above, the city council may refer the matter to the city attorney:

A. To prosecute for violation of city ordinance; and/or

B. To seek civil remedies to enjoin any activity prohibited by §§ 35.050 through 35.059. (1992 Code, § 12.5-36) (Ord. 24-09, passed 3-16-2009; Ord. 03-11, passed 1-18-2011; Ord. 57-12, passed 8-7-2012)

Section 5. Open Meeting Law/ Executive Sessions

- South Dakota State Law

Open Meeting Law/Executive Sessions

Meetings of the City Council fall under the South Dakota open meetings law. The Sioux Falls City Charter provides: "Section 2.11 Procedure. (a) Meetings . . . All meetings shall be public, except as allowed by state law."

CONDUCTING THE PUBLIC'S BUSINESS IN PUBLIC

A guide to South Dakota's Open Meetings Law
(July 1, 2012)

Prepared by representatives of the:

S.D. Attorney General's Office
S.D. Municipal League
Associated School Boards of S.D.
S.D. Association of County Commissioners
S.D. Association of County Officials
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Q: WHAT IS SOUTH DAKOTA'S OPEN MEETINGS LAW?

A: South Dakota's open meetings law embodies the principle that the public is entitled to the greatest possible information about public affairs and is intended to encourage public participation in government. SDCL 1-25-1 requires that official meetings of public bodies must be public and notice is to be given of such meetings 24 hours in advance of the meetings. While the open meetings law does not define "official meeting," specific statutes relating to cities, townships, counties, and school districts define what constitutes an official meeting. In addition, the attorney general takes the position that a meeting must be open to the public if:

1) A legal quorum of the public body is present at the same place at the same time; and

2) Public business, meaning any matter relating to the activities of the entity, is discussed.

Openness in government is encouraged.

Q: WHO DOES THE OPEN MEETINGS LAW APPLY TO?

A: The open meetings law applies to all public bodies that exercise "sovereign power derived from state statute." This includes city, counties, school boards and other public bodies such as appointed boards, task forces, and committees (or those that are created by ordinance or executive proclamation) so long as they

have authority to actually exercise sovereign authority. Although no court decisions have been issued on the subject, this probably does not include bodies that are not created by statute, ordinance or proclamation or that serve only in an advisory capacity.

The constitution allows the Legislature and the Court system to create rules regarding their own separate functions.

Q: WHAT DOES THE TERM “SOVEREIGN POWER” MEAN?

A: The open meeting law does not define this term, but it generally means the power to levy taxes, impose penalties, make special assessments, create ordinances, abate nuisances, regulate the conduct of others, or perform other traditional government functions. The term may include the exercise of many other governmental functions. If an entity is unclear whether it is exercising “sovereign power” it should consult with legal counsel.

Q: HOW ARE THE PUBLIC AND MEDIA NOTIFIED WHEN PUBLIC BUSINESS IS BEING DISCUSSED?

A: SDCL 1-25-1.1 requires that all public bodies prominently post a notice and copy of the proposed agenda at the public body’s principal office at least 24 hours PRIOR to the meeting. At a minimum, the agenda must be visible, readable, and accessible to the public for the full 24 hours immediately preceding the meeting (i.e. posted in a window facing outward). Also, the notice must be posted on the public body’s website upon dissemination of the notice, if the public body has its own website. For special or rescheduled meetings, public bodies must comply with the regular meeting notice requirements as much as circumstances permit. The notice must be delivered in person, by mail, by email, or by telephone to all local news media who have asked to be notified. It is good practice for

local media to renew requests for notification annually to remind the entity of ongoing media interest.

Q: WHO ARE LOCAL MEDIA?

A: There is no definition in state law, but the Attorney General is of the opinion that local media is all media—broadcast and print—that regularly carry news to the community.

Q: WHEN CAN A MEETING BE CLOSED TO THE PUBLIC AND MEDIA?

A: SDCL 1-25-2 allows a public body to close a meeting for discussing personnel issues pertaining to officers or employees, or the performance of a student, consulting with or reviewing communications from legal counsel about proposed or pending litigation or contractual matters, employee contract negotiations or pricing strategies by publicly-owned competitive businesses, and to comport with other laws that require or permit executive or closed meetings. Meetings may also be closed by cities and counties for certain economic development matters. SDCL 9-34-19. Note that SDCL 1-25-2 and SDCL 9-34-19 do not require meetings be closed in any of these circumstances.

Federal law pertaining to student and medical records will also cause school districts and cities or counties to conduct executive sessions or conduct meetings so as to refrain from releasing data regarding student records or medical records. Any official action based on these discussions must, however, be made at an open meeting.

Q: WHAT IS THE PROPER PROCEDURE FOR EXECUTIVE SESSIONS?

A: Motions for executive sessions must refer to the specific state law allowing for the executive session i.e. “pursuant to

SDCL 1-25-2(3).” Also, to avoid public confusion public bodies should explain the reason for going into executive session. For example the motion might refer to “the performance of a student” or “litigation issues with counsel.”

Discussion in the executive session must be strictly limited to the announced subject. No official votes may be taken on any matter during an executive session. The public body must return to open session before any official action can be taken.

Board members could be held personally liable for the results of an official vote taken illegally during an executive session. For example, a contract approved only during an executive session could be found void and the board members could be required to repay any public funds spent under the contract.

Q: WHAT HAPPENS IF THE MEDIA OR PUBLIC IS IMPROPERLY EXCLUDED FROM A MEETING OR OTHER VIOLATIONS OF THE OPEN MEETING LAW OCCUR?

A: Excluding the media or public from a meeting that has not been properly closed subjects the public body or the members involved to (a) prosecution as a Class 2 misdemeanor punishable by a maximum sentence of 30 days in jail, a \$500 fine or both or (b) a reprimand by the Open Meeting Commission (“OMC”). The same penalties apply if the agenda for the meeting is not properly posted or other open meeting violations occur.

Also action taken during any meeting that is not open or has not been properly noticed could, if challenged, be declared null and void. It could even result in personal liability for members of the governing body involved, depending upon the action taken.

Q: HOW ARE ISSUES REFERRED TO THE OPEN MEETINGS COMMISSION (“OMC”)?

A: Persons alleging violations of the open meetings laws must make their complaints with law enforcement officials in the county where the offense occurred. After a signed notarized complaint is made under oath, and any necessary investigation is conducted, the State’s Attorney may (a) prosecute the case as a misdemeanor, (b) find that the matter has no merits and file a report with the Attorney General for statistical purposes or (c) forward the complaint to the OMC for a determination. The OMC is comprised of five State’s Attorneys appointed by the Attorney General. The OMC examines whether a violation has occurred and makes written public findings explaining its reasons. If you have questions on the procedures or status of a pending case, you may contact the Attorney General’s Office at 605-773-3215 to talk to an assistant for the OMC. Procedures for the OMC are posted on the website for the Office [of Attorney General. www.atg.sd.gov](http://www.atg.sd.gov).

Q: ARE TELECONFERENCES CONSIDERED PUBLIC MEETINGS?

A: Yes. The open meeting law allows meetings, including executive or closed meetings, to be conducted by teleconference—an information exchange by audio or video--if a place is provided for the public to participate by speaker phone. In addition, for teleconferences where less than a quorum is present at the location open to the public, arrangements must also be made for the public to listen by telephone or internet (except for portions of meetings properly closed for executive sessions). The media and public must be notified of teleconference meetings under the same notice requirements as any other meeting. All votes shall be taken by roll call.

Q: MAY AGENDA ITEMS BE CONSIDERED IF THEY ARE ADDED LESS THAN 24 HOURS BEFORE A MEETING?

Proposed agendas for public meetings must be posted at least 24 hours in advance. Typically the public body adopts the final agenda upon convening the meeting and may change the order of business or delete agenda items. However, new items should not be added after the meeting starts or even within the 24-hour period beforehand. The rationale is that the public and media should have some time to determine whether to come to the meeting. Adding agenda items right before meetings (or during meetings) frustrates that purpose. Local courts and the OMC differ on whether such additions are legal.

McElhaney v. City of Edgemont (Fall River County Civ. 98-44) (not legal); Molden v. Grant-Deuel School Dist. 25-3 (Grant County Civ. 11-0095 (legal); Matter of Groton School Board (OMC May 7, 2010) (not legal). To avoid any dispute, do not add items less than 24 hours in advance. For special or rescheduled meetings, public bodies are to comply to the extent circumstances permit. In other words, posting less than 24 hours in advance may be permissible in emergencies.

Q: ARE EMAIL DISCUSSIONS “MEETINGS” FOR PURPOSES OF THIS LAW?

A: Courts in some states have held that contemporaneous email communications among a quorum of the governing members of a public body constitute a “meeting” of the public body when the members discuss the merits of pending issues. Email participation in scheduling or similar activity would not, under this analysis, constitute a public meeting. For additional reference see *Wood v. Battle Ground School District 27 P.3d 1208 (Wash. 2001); 1998 N.D. Op. Atty. Gen. 0-27.*

Q: WHAT RECORDS MUST BE AVAILABLE TO THE PUBLIC IN CONJUNCTION WITH PUBLIC MEETINGS?

A: There are a number of state laws pertaining to public records (SDCL ch. 1-27). Some are specific to records of meetings. For example, SDCL 1-27-1.17 requires that draft minutes of public meetings must be made available to the public at the principal place of business for the public body within 10 days after the meeting (or made available on the website for the public body within five days).

Another law provides that meeting packets or materials given out to members of a public body must also be made available to the public when provided to the public body, but contains various exemptions. This law, SDCL 1-27-1.16, is recited fully below.

These laws, are in addition to any specific requirements for public bodies (i.e. like publication requirements in state laws pertaining to cities, counties, or school districts). Enforcement of these public records law is handled by separate procedures in SDCL 1-27-35, et.seq. rather than the open meeting procedures described above. Violations of these laws are also Class 2 misdemeanors.

Q: WHAT REQUIREMENTS APPLY TO TASK FORCES, COMMITTEES, AND WORKING GROUPS?

A: Task forces and committees that exercise “sovereign power” and are created by statute, ordinance or proclamation are required to comply with the Open Meeting Law. SDCL 1-25-1. Task forces, committees, and working groups that are not created by statute, ordinance, or proclamation or are advisory only may not be subject to the open meeting law, but are encouraged to comply to the extent possible when public matters are discussed. Ultimately, if such advisory task forces, committees and

working groups present any reports or recommendations to public bodies, the public bodies must wait until the next meeting (or later) before taking final action on the recommendations. SDCL 1-27-1.18.

Pertinent S.D. Open Meetings Statutes

(other specific provisions may apply depending on the public body involved)

1-25-1. Opening Meetings. The official meetings of the state, its political subdivision, and any public body of the state or its political subdivisions are open to the public unless a specific law is cited by the state, the political subdivision, or the public body to close the official meeting to the public. For the purposes of this section, a political subdivision or a public body of a political subdivision means any association, authority, board, commission, committee, council, task force, school district, county, city, town, township, or other agency of the state, which is created or appointed by statute, ordinance, or resolution and is vested with the authority to exercise any sovereign power derived from state law.

It is not an official meeting of one political subdivision or public body if its members provide information or attend the official meeting of another political subdivision or public body for which the notice requirements of § 1-25-1.1 have been met.

Any official meeting may be conducted by teleconference as defined in § 1-25-1.2. A teleconference may be used to conduct a hearing or take final disposition regarding an administrative rule pursuant to § 1-26-4. A member is deemed present if the member answers present to the roll call conducted by teleconference for the purpose of determining a quorum. Each vote at an official meeting held by teleconference shall be taken by roll call.

If the state, a political subdivision, or a public body conducts an official meeting by teleconference, the state, the political subdivision, or public body shall provide one or more places at which the

public may listen to and participate in the teleconference meeting. For any official meeting held by teleconference, which has less than a quorum of the members of the public body participating in the meeting who are present at the location open to the public, arrangements shall be provided for the public to listen to the meeting via telephone or internet. The requirement to provide one or more places for the public to listen to the teleconference does not apply to an executive or closed meeting. A violation of this section is a Class 2 misdemeanor.

1-25-1.1. Public notice. All public bodies shall provide public notice, with proposed agenda, that is visible, readable, and accessible for at least an entire twenty-four hours before any meeting, by posting a copy of the notice, visible to the public, at the principal office of the public body holding the meeting. The notice shall also be posted on the public body's website upon dissemination of the notice, if such a website exists. For special or rescheduled meetings, the information in the notice shall be delivered in person, by mail, by email, or by telephone, to members of the local news media, who have requested notice. For special or rescheduled meetings, all public bodies shall also comply with the public notice provisions of this section for regular meetings to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

1-25-1.2. Teleconference defined.

For the purpose of this chapter, a teleconference is information exchanged by audio or video medium.

1-25-2. Executive or closed meetings. Executive or closed meetings may be held for the sole purpose of:

- 1) Discussing the qualifications, competence, performance, character or fitness of any

public officer or employee or prospective public officer or employee. The term “employee” does not include any independent contractors.

2) Discussing the expulsion, suspension, discipline, assignment of or the educational program of a student;

3) Consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters;

4) Preparing for contract negotiations or negotiating with employees or employee representatives;

5) Discussing marketing or pricing strategies by a board or commission of a business owned by the state or any of its political subdivisions, where public discussions would be harmful to the competitive position of the business.

However, any official action concerning such matters shall be made at an open official meeting. An executive or closed meeting shall be held only upon a majority vote of the members of such body present and voting, and discussion during the closed meeting is restricted to the purpose specified in the closure motion. Nothing in 1-25-1 or this section may be construed to prevent an executive or closed meeting if the federal or state Constitution or the federal or state statutes require or permit it. A violation of this section is a Class 2 misdemeanor.

SDCL 9-34-19. Executive Sessions (Municipal and Counties). Any documentary material or data made or received by a municipal corporation, county, or an economic development

corporation receiving municipal or county funds, for the purpose of furnishing assistance to a business, to the extent that such material or data consists of trade secrets or commercial or financial information regarding the operation of such business, is not a public record. Any discussion or consideration of such trade secrets or commercial or financial information by a municipal corporation or county may be done in executive session closed to the public.

1-25-6. Duty of states attorney. If a complaint alleging a violation of chapter 1-25 is made pursuant to § 23A-2-1, the state’s attorney shall take one of the following actions:

(1) Prosecute the case pursuant to Title 23A;

(2) Determine that there is no merit to prosecuting the case. Upon doing so, the state’s attorney shall send a copy of the complaint and any investigation file to the attorney general. The attorney general shall use the information for statistical purposes and may publish abstracts of such information, including the name of the government body involved for purposes of public education; or

(3) Send the complaint and any investigation file to the South Dakota Open Meetings Commission for further action.

1-25-6.1. Duty of state’s attorney (County Commission Issues). If a complaint alleges a violation of this chapter by a board of county commissioners, the state’s attorney shall take one of the following actions:

(1) Prosecute the case pursuant to Title 23A;

(2) Determine that there is no merit to prosecuting the case. The attorney general shall use the information for statistical purposes and may publish

abstracts of the information as provided by § 1-25-6;

(3) Send the complaint and any investigation file to the South Dakota Open Meetings Commission for further action; or

(4) Refer the complaint to another state's attorney or to the attorney general for action pursuant to § 1-25-6.

SDCL 1-25-7. Referral to OMC. Upon receiving a referral from a state's attorney or the attorney general, the South Dakota Open Meetings Commission shall examine the complaint and investigatory file submitted by the state's attorney or the attorney general and shall also consider signed written submissions by the persons or entities that are directly involved. Based on the investigatory file submitted by the state's attorney or the attorney general and any written responses, the commission shall issue a written determination on whether the conduct violates this chapter, including a statement of the reasons therefor and findings of fact on each issue and conclusions of law necessary for the proposed decision. The final decision shall be made by a majority of the commission members, with each member's vote set forth in the written decision. The final decision shall be filed with the attorney general and shall be provided to the public entity and or public officer involved, the state's attorney, and any person that has made a written request for such determinations. If the commission finds a violation of this chapter, the commission shall issue a public reprimand to the offending official or governmental entity. However, no violation found by the commission may be subsequently prosecuted by the state's attorney or the attorney general. All findings and public censures of the commission shall be public records pursuant to § 1-27-1. Sections 1-25-6 to 1-25-9, inclusive, are not subject to the provisions of chapter 1-26.

1-25-8. OMC Members. The South Dakota Open Meeting Commission shall be comprised of five state's attorneys appointed by the attorney general. Each commissioner shall serve at the pleasure of the attorney general. A chair of the commission shall be chosen annually from the membership of the commission by a majority of its members.

1-25-9. OMC Conflicts. No member of the commission may participate as part of the commission or vote on any action regarding a violation of this chapter if that member reported or was involved in the initial investigation, is an attorney for anyone who reported or was involved in the initial investigation, or represents or serves as a member of the governmental entity about whom the referral is made. The provisions of this section do not preclude a commission member from otherwise serving on the commission for other matters referred to the commission.

1-27-1.16. Meeting packets and materials. If a meeting is required to be open to the public pursuant to § 1-25-1 and if any printed material relating to an agenda item of the meeting is prepared or distributed by or at the direction of the governing body or any of its employees and the printed material is distributed before the meeting to all members of the governing body, the material shall either be posted on the governing body's website or made available at the official business office of the governing body at least twenty-four hours prior to the meeting or at the time the material is distributed to the governing body, whichever is later. If the material is not posted to the governing body's website, at least one copy of the printed material shall be available in the meeting room for inspection by any person while the governing body is considering the printed material. However, the provisions of this section do not apply to any printed material or record that is specifically exempt from disclosure under the provisions of this chapter or to any printed material or record

regarding the agenda item of an executive or closed meeting held in accordance with § 1-25-2. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to printed material, records, or exhibits involving contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-1.17. Draft minutes. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes

of contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-1.18. Working group reports. Any final recommendations, findings, or reports that result from a meeting of a committee, subcommittee, task force, or other working group which does not meet the definition of a political subdivision or public body pursuant to § 1-25-1, but was appointed by the governing body, shall be reported in open meeting to the governing body which appointed the committee, subcommittee, task force, or other working group. The governing body shall delay taking any official action on the recommendations, findings, or reports until the next meeting of the governing body.

Section 6. City Ordinance Establishing Rules for Boards and Commissions

- Section 30.025 Creation of Agencies, Authorities, Committees, Boards, Commissions and Districts
- Section 30.026 Rules for Boards and Commissions
- Recodification Adopting Ordinance #93-12

§ 30.025 Creation of Agencies, Authorities, Committees, Boards, Commissions and Districts.

(a) The council may create agencies, authorities, committees, boards, commissions and districts to assist in the conduct of the operation of the city government with those duties as the council may specify not inconsistent with the city charter or Code of Ordinances.

(b) Membership and selection of members shall be as provided by the council if not specified by the city charter or Code of Ordinances.

(c) Any agency, authority, committee, board, commission or district so created shall cease to exist upon the accomplishment of the special purpose for which it was created or when abolished by a majority vote of the council.

(d) No agency, authority, committee, board, commission or district so appointed shall have powers other than advisory to the council or the mayor except as otherwise specified by the city charter or Code of Ordinances.

(e) Except as otherwise provided by this Code or state law, any person appointed to any city agency, authority, board, committee, commission or district

authorized by this Code shall not serve more than two consecutive full or partial terms of office on the agency, authority, board, committee, commission or district.

(f) Citizen appointees who miss more than 50% of the board meetings in any calendar year may be removed by the mayor for cause.

(g) Except as otherwise provided by this Code or state law, the council may remove any member of an agency, authority, board, committee, commission or district appointed by the council for cause.

(h) Members of agencies, authorities, boards, committees, commissions or districts shall be registered voters of the city unless otherwise specified.

(i) Any vacancy on any board shall be filled for the unexpired term of the member vacating the board in the same manner as is required for a regular appointment.

(1992 Code, § 2-26) (Ord. 50-95, passed 3-20-1995; Ord. 26-99, passed 3-1-1999; Ord. 179-07, passed 11-19-2007)

§ 30.026 Rules for Boards and Commissions.

ORDINANCE NO. 93-12

Bylaws or rules of procedure for any agency, authority, board, committee, commission or district must contain the following.

(a) Each member of a city agency, authority, board, committee, commission or district shall, upon assuming office, receive a CD of orientation materials regarding, at a minimum, the form of city government, the city's conflicts of interest ordinance, the state open meeting laws and the basic rules of parliamentary procedure. These materials shall also be available online.

(b) A uniform format for the agenda shall be established. A printed agenda shall be prepared in advance of all meetings of city agencies, authorities, boards, committees and commissions. Each agenda shall contain, at a minimum, a time and place of the meeting and specific descriptions of the topics to be discussed.

(c) A uniform format shall be established for the taking of minutes. A set of minutes of all meetings of city agencies, authorities, boards, committees and commissions shall be kept and filed with the city clerk. Minutes shall contain, at a minimum, a record of attendance, actions taken, numerical results of votes taken and specific descriptions of items discussed.

(1992 Code, § 2-26.1) (Ord. 82-97, passed 11-17-1997; Ord. 102-07, passed 6-18-2007)

AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, REVISING, AMENDING, RESTATING, CODIFYING, AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF SIOUX FALLS, SOUTH DAKOTA; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; AND PROVIDING FOR THE MANNER OF AMENDING THE CODE.

WHEREAS, SDCL 9-19-16 authorizes the City to revise, amend, restate, codify, and compile any existing ordinances and all new ordinances not heretofore adopted or published and to incorporate such ordinances into one ordinance in book form;

WHEREAS, every 20 years, the City Charter Section 2.14 has authorized a general compilation, revision, and codification of the ordinances of the City of a general and permanent nature and publication of such ordinance in book form (hereinafter "the recodification");

WHEREAS, the last recodifications occurred in 1972 and 1992, respectively;

WHEREAS, the present and permanent ordinances of the City are inadequately arranged and classified and are insufficient in form and substance, which has resulted in this recodification being conducted; and

BE IT ORDAINED BY THE CITY OF SIOUX FALLS, SD:

Section 1. Pursuant to SDCL 9-19-16 and the City Charter Section 2.14, the Code entitled "The Code of Ordinances of Sioux Falls, South Dakota," (hereinafter "the Code") published by American Legal Publishing, consisting of Titles I, III, V, VII, IX, XI, XIII, and XV, each inclusive, is adopted.

Section 2. All prior ordinances pertaining to the subjects treated in such Code shall be deemed repealed from and after the effective date of this ordinance except as they are included and reordained in whole or in part in such Code; provided, such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds of or borrowing of money, authorizing the purchase of sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall such repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the Code.

Section 3. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance of the City shall be punished by a fine of not more than \$500.00, or by imprisonment for not more than 30 days, or both. Each act of a violation and each day upon which any such violation shall occur shall constitute a separate offense. The

penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisances, injunctive relief, and revocation of licenses or permits.

Section 4. Additions or amendments to the Code, when passed in the form as to indicate the intention of the City Council to make the same a part of the Code, will be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 5. Ordinances adopted after January 1, 2013, which amend or refer to ordinances that have been codified in the Code, shall be construed as if they amend or refer to like provisions of the Code.

Section 6. The City shall publish the Ordinance, without attachment, after its passage. The attachment is on file and available for inspection in the office of the City Clerk.

Date adopted: 12/04/12

Section 7. Boards and Committees

- Major Duties
- Membership
- Liaisons

Please list community volunteer service relevant to your choice(s):

3. I would like to serve in the indicated position(s) because:

4. The following references may be contacted:

Name: _____

Name: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

5. Please submit a resume and/or a brief autobiography.

6. I understand the role and responsibility of membership on these Boards or Commissions and am willing to serve. In applying for appointment, I understand that the Mayor may contact the references listed. I also understand that I might be contacted by citizens or other board members at the address I indicated on the other side of this application.

Signature

Please return application to:

**Mayor's Office
224 West Ninth Street
P.O. Box 7402
Sioux Falls, SD 57117-7402**

Your application will be kept on file for three years. Thank you for applying.

The City of Sioux Falls does not discriminate on the basis of race, color, religion, sex, sexual orientation, national origin, creed, ancestry, pregnancy, age, genetic information, or disability in the selection of those chosen to serve on a City Board or Committee.

City Boards and Committees

The Mayor's Office administers the board appointment process. Applications for serving on boards and committees are available to interested citizens through the Mayor's Office. Applications are reviewed by the Mayor's Office, and advice and consent of the City Council is sought before citizens are appointed to boards and committees.

A complete membership listing (including term expirations) is kept in the Mayor's Office.

ADA Accessibility Review Board

Major Duties

The Board shall advise the Mayor on matters pertaining to universal accessibility by monitoring the progress of the City transition plan and encouraging the incorporation of universal access into the design of city facilities.

Membership

Seven members/four-year terms

Liaison

City Attorney

Accessible Housing Advisory Board

Major Duties

The Committee is to provide citizen input on the identification of local priorities and recommendations for the allocation of financial resources for inclusion in the annual plan for Planning & Development Services.

Membership

Eleven members/three-year terms

Liaison

Housing Manager

Airport Authority Board

Major Duties

The Airport Authority will manage and operate the Sioux Falls Regional Airport under the authority provided in SDCL 50-6A.

Membership

Five members/five-year terms

Liaison

Mayor's Office

Arena/Convention/Entertainment Center Board

Major Duties

Under the direction of the Mayor, the Board shall supervise the activities and entertainments and use of the various facilities.

Membership

Seven members/five-year terms

Liaison

Director of Finance

Board of Ethics

Major Duties

The purpose of this Board is to regulate conflicts of interest of officers and employees of the City.

Membership

Five members/four-year terms

Liaison

City Attorney

Board of Health

Major Duties

The Board of Health shall exercise general supervision over the health of the city with full power to take all steps and use all measures necessary to promote the general

cleanliness and healthfulness of the city and the general health and well-being of the people in the community served.

Membership

Fifteen members/three-year terms

Liaison

Public Health Director

Board of Museum Trustees

Major Duties

The Board is responsible for the development and operation of a museum system in the city. They make policies for the operation of the system and advise the Mayor on personnel.

Membership

Ten members/three-year terms (five appointed by City)

Liaison

Director of Siouland Libraries

Board of Historic Preservation

Major Duties

The purpose of this Board is to preserve, promote, and develop the historical resources of the city.

Membership

Ten members/three-year terms

Liaison

Director of Planning & Development Services

Building Board of Appeals

Major Duties

The purpose is to determine the suitability of alternate materials and methods of construction, and to provide for reasonable interpretations of the provisions of the International Residential Code, International Building Code, International Existing Building Code, and International Fire Code.

Membership

Five members/three-year terms

Liaison

Director of Planning & Development Services

Business Improvement District Board—Main Street

Major Duties

The Board shall make recommendations to the governing body for the establishment of a plan or plans for improvements in the business area.

Membership

Six members/three-year terms

Liaison

Director of Planning & Development Services

Charter Revision Commission

Major Duties

The Commission will report to City election authorities regarding proposed amendments to the Home Rule Charter.

Membership

Five members

Liaison

City Attorney

City Naming Committee

Major Duties

The Committee advises the Mayor and City Council regarding the naming, renaming, or commemorative designation of City property, including building facilities and interior spaces thereof.

Membership

Nine members/three-year terms (six members are Directors)

Liaison

Director of Planning & Development Services

Civil Service Board

Major Duties

The Civil Service Board shall adopt, amend, and enforce a code of rules and regulations providing for appointment and employment in all positions in the classification as set forth in this title classified civil service of the city based on merit, efficiency, character, and industry, and shall make investigations concerning the enforcement and effect of the rules so adopted.

Membership

Four members/five-year terms

Liaison

Director of Human Resources

Commission on Human Relations

Major Duties

The purpose is to carry forward the policies of the City in the field of human relations, to promote civil rights, and to enforce the provisions of Chapter 98 of the Code of Ordinances of Sioux Falls, SD.

Membership

Eleven members/five-year terms

Liaison

City Attorney

Disability Awareness Commission

Major Duties

The Commission shall advise the Mayor on disability awareness matters; educate the public to heighten awareness of physical, social, and economic barriers for people with disabilities; and organize public awareness activities.

Membership

Nine members/three-year terms

Liaison

City Attorney

Electrical Board of Appeals and Examiners

Major Duties

The Board shall examine all applicants for an electrical license, to review interpretations, or accept alternates to the National Electrical Code.

Membership

Five members/three-year terms

Liaison

Director of Planning & Development Services

Employee's Retirement System Board of Trustees

Major Duties

This Board of Trustees exercises discretionary authority control over the management and administration of this system.

Membership

Seven members/four-year terms

Liaison

Director of Human Resources

Experience Sioux Falls BID Board

Major Duties

The Board shall review and tentatively approve an annual budget prepared by the Convention and Visitors Bureau (CVB) executive director for the use of the occupation tax collected by the BID for marketing and promotion of the visitor industry in the city of Sioux Falls.

Membership

Eleven members/three-year terms

Liaison

Director of Finance

Falls Community Health Center Governing Board

Major Duties

The Board shall exercise a general supervision of the health of the city with full power to take all steps and use all measures necessary to promote the general cleanliness and good health of the community. The Board is authorized with approval of the City Council to employ the staff necessary to carry out the duties of the health officer. The Board shall equip a public health lab, whose services shall be available to the medical profession of the state for bacteriological, chemical, and pathological examinations.

Membership

Eleven members/three-year terms

Liaison

Public Health Director

Firefighters' Pension Fund Board of Trustees

Major Duties

The duties of this board shall be to administer, manage, and operate the Pension Fund.

Membership

Five members/three-year terms

Liaison

Director of Human Resources

Housing and Redevelopment Commission

Major Duties

The Board establishes policy and provides oversight for the administration of federal, state, and local housing assistance programs and the development and/or management of housing or redevelopment projects in Sioux Falls.

Membership

Five members/five-year terms

Liaison

Mayor

Infrastructure Review Advisory Board

Major Duties

The Board shall advise the mayor regarding fees and regulations relating to engineering design standards, subdivision and infrastructure construction requirements, excavation and grading, and subdivisions with the intent of recommending the elimination of unnecessary regulations and the adoption of only those regulations necessary for the health, safety, and welfare of the citizens of Sioux Falls.

Membership

Seven members/three-year terms

Liaison

Director of Public Works

Investment Advisory Board

Major Duties

The Board shall advise the Mayor on City investment policy.

Membership

Five members/indefinite terms

Liaison

Director of Finance

Library Board of Trustees

Major Duties

Some of the Board's duties include adopting library policies, planning services, reviewing budgets, and advocating for library service.

Membership

Seven members/three-year terms (four appointed by City)

Liaison
Director of Siouxland Libraries

Mechanical Board of Appeals and Examiners

Major Duties

Each member shall be qualified by experience and training to pass upon matters pertaining to mechanical design, construction, and maintenance, and the public health aspects of mechanical systems, and who are not employees of the jurisdiction to determine alternate materials and methods of mechanical construction, and members will be able to provide for reasonable interpretations of the provisions of the International Mechanical Code and International Fuel Gas Code, and to examine licensure for mechanical contractor.

Membership

Five members/three-year terms

Liaison

Director of Planning & Development Services

Multi-Cultural Center Board

Major Duties

The Board shall advise, govern, oversee policy and direction, and assist with the leadership and general promotion of MCC so as to support the organization's mission and needs.

Membership

Thirteen members/three-year terms
(one Mayoral appointment)

Liaison

Mayor's Office

Parks and Recreation Board

Major Duties

To establish, improve, care for, regulate, and manage a system of public parks, zoological parks, parkways, and boulevards and to operate a system of public recreation,

playgrounds, and children's parks in and for the city.

Membership

Seven members/five-year terms

Liaison

Director of Parks and Recreation

Planning Commission

Major Duties

It shall be a function and duty of the Planning Commission to make and adopt a master plan for the physical development of the municipality.

Membership

Nine members/five-year terms

Liaison

Director of Planning & Development Services

Plumbing Board of Appeals and Examiners

Major Duties

The Board examines applicants for plumbing licenses to determine alternate materials and methods of plumbing construction and to provide reasonable interpretation of the Uniform Plumbing Code.

Membership

Five members/three-year terms

Liaison

Director of Planning & Development Services

Property Maintenance Board of Appeals

Major Duties

This Board shall hear appeals from any person directly affected by a decision of a code official or a notice and order issued pursuant to the International Property Maintenance Code.

Membership

Three regular members/three-year terms.
Two or more alternate members/serve during the absence or disqualification of a regular member.

Liaison

Director of Planning & Development Services

**Public Parking
Advisory Board**

Major Duties

The Public Parking Advisory Board shall provide input and recommendations to the Executive Director of Public Parking relative to the parking rates, fees, and fines.

Membership

Seven members/five-year terms

Liaison

Public Parking Manager

**Public Transit
Advisory Board**

Major Duties

The Board acts as a liaison between Sioux Area Metro (SAM) and the City Council. The board reviews monthly financial and operations reports and provides a forum for public discussion of transit issues.

Membership

Seven members/three-year terms

Liaison

Director of Planning & Development Services

**School Traffic Safety Advisory
Committee (a.k.a. PATH)**

Major Duties

The Committee shall periodically review all activities connected with the School Traffic Safety Program and to prepare recommendations for the Mayor and/or the Sioux Falls Board of Education of changes or additions to the School Traffic Safety Program.

Membership

Eighteen members/four-year terms

Liaison

Principal Traffic Engineer

**Sioux Falls Regional
Emergency Medical Services
Authority (REMSA)**

Major Duties

To establish and monitor the administrative, operational, and financial structure of a medically competent, timely, prehospital emergency medical services system within the region of its authority; and will operate under the authority of SDCL 34-11B.

Membership

Five members/five-year terms

Liaison

Public Health Director

Sioux Falls Sports Authority

Major Duties

The Sports Authority shall recruit major sporting events to the Sioux Falls area. The organization attracts international, national, regional, and state sporting events by operating, leasing, enhancing, or owning sports facilities in the Sioux Falls area.

Membership

Fifteen members/three-year terms (five appointed by the Mayor)

Liaison

Mayor's Office

**Solid Waste
Planning Board**

Major Duties

The purpose of this Board is to review the current waste stream of the users of the Sioux Falls landfill and investigate how the waste stream may vary in the future and analyze how current and future recycling efforts may

impact on the waste stream; assess the availability of markets and potential markets for recyclable materials on the local, regional, and national scale, including collection sites, actual recycling operations, prices, and any related matters; develop plans for public education programs for waste reduction and recycling; develop plans and pilot projects to achieve waste reduction and recycling goals and provide economic, environmental, and social cost benefit analysis for each project; assess current ordinances and statutes and recommend appropriate changes; review and analyze alternative methods (other than landfilling) for disposal of “special wastes,” i.e., hazardous waste generated by households and small-quantity generators, waste oil, tires, batteries, pesticides, and any other problem wastes, and make ongoing reports to the Mayor of its findings and recommendations.

Membership

Thirteen members/three-year terms

Liaison

Director of Public Works

Visual Arts Commission

Major Duties

The Visual Arts Commission shall act as an advisory body to the Mayor and City Council on matters pertaining to visual art.

Membership

Seven members/three-year terms

Liaison

Director of Planning & Development Services

**Washington Pavilion
Management, Inc.
Board of Trustees**

Major Duties

The purpose of this Board is to manage the affairs of the Washington Pavilion Corporation.

Membership

Five members/three-year terms (two appointed by the City)

Liaison

Director of Finance

Zoning Board of Adjustment

Major Duties

The powers are to hear and decide appeals relative to errors, variances, or special exceptions. Most commonly the Zoning Board of Adjustment hears appeal cases in which the requirements of the zoning ordinance cause a particular difficulty to the property owner.

Membership

Five members/three-year terms

Liaison

Director of Planning & Development Services

**Zoological Society
of Sioux Falls**

Major Duties

The purpose of this Board is to be responsible for the operation, management, maintenance, planning, and development of the Great Plains Zoo & Delbridge Museum.

Membership

Eighteen members/three-year terms (three appointed by the City)

Liaison

Director of Parks and Recreation

Section 8. Agendas

- Memo
- Sample Board or Committee Meeting Agenda
- Sample City Council Meeting Agenda

Memorandum

To: City Advisory Boards
Subject: Agenda Format

The following agenda is the format that City of Sioux Falls Advisory Boards are encouraged to follow.

The agenda shows how to conduct your meetings:

- The sequence of events
- The language to be used
- How to take attendance
- How to word a motion
- How to keep track of the vote

It is important for the person recording the meeting to note that attendance-taking and vote-taking during a meeting is vital to a properly conducted meeting.

Sample Agenda

(Board or Committee Name)
(Meeting Location)
(Meeting Time)

Approval of Minutes of Last Meeting

Sample Language

A motion was made and seconded to approve the minutes of (date), (with or without amendments). Yeses, 5; Noes, 1.

Unfinished Business

- Give specific descriptions of topics to be discussed.
- Number or letter the items: 1, 2, 3, or A. B. C.
- If a vote is taken, use the following:

Sample Language

A motion was made and seconded to approve/deny the (list item). Yeses, 6; Noes, 0.

New Business

- Give specific descriptions of topics to be discussed.
- Number or letter the items: 1, 2, 3, or A. B. C.
- If a vote is taken, use the following:

Sample Language

A motion was made and seconded to approve/deny (list item). Yeses, 4; Noes, 2.

Public Input

If meetings are open to the public, limit the speaking time. (Five minutes per person is standard.)

Adjournment

The motion to adjourn the meeting is as follows:

Sample Language

A motion was made and seconded to adjourn meeting at 8:30 p.m. Yeses, 6; Noes, 0.



City of Sioux Falls Council Meeting Agenda

Carnegie Town Hall, 235 West Tenth Street
MEETING OF Monday, June 14, 2010, at 7:00 p.m.

ROLL CALL #3

MEMBERS PRESENT/ABSENT OFFICIAL AGENDA

Council Member Brown
Council Member Entenman
Council Member Erpenbach
Council Member Jamison
Council Member Litz
Council Member Rolfling
Council Member Aguilar
Council Member Anderson Jr.
Mayor Mike T. Huether

INVOCATION

A. Pastor John Christopherson, First Lutheran Church

PLEDGE OF ALLEGIANCE

A. World Refugee Day - June 20, 2010

APPROVAL OF CONSENT AGENDA

MINUTES

A. Informational Meeting of Monday, June 14, 2010, at 4:00 p.m.

B. Regular City Council Meeting of Monday, June 14, 2010, at 7:00 p.m.

COMMUNICATIONS

1. A communication was received from the Diversity Kiwanis Club of Sioux Falls stating its intent to sell raffle tickets on June 19, 2010. Tickets will be \$5.00 each. Prizes include: framed Native American paintings and prints, a Native American drum, a hand-made large dream catcher, a hand-beaded head piece, a Star quilt, two free tickets to the Old Towne Dinner Theater, a gift certificate from Ballroom at the Bridges, a framed print from Shannon Dyce Photography, and possibly more (approximate value of prizes is \$1,000.00). Proceeds will be used to buy equipment, supplies or make a monetary donation to the Boys & Girls Club of Wagner, and the Suzanne Big Crow Boys & Girls Club in Pine Ridge.
2. A communication was received from Chivilla Bay requesting permission to consume, but not sell, liquor

and wine at Chivilla Bay, 5015 S. Western Ave., Suite 250, on Wednesday, June 16, 2010, from 4:00 p.m. to 8:00 p.m. for the Grand Opening and Ribbon Cutting Ceremony at Chivilla Bay.

CONSENT AGENDA ITEMS

APPROVAL OF REGULAR AGENDA

PUBLIC INPUT

PETITIONS

3. POSTPONE DEFINITELY (from June 7, 2010 meeting): CONDITIONAL USE PERMIT APPEAL (2010-04-06): NORTHWEST CORNER OF W. 85TH STREET AND S. WINESAP AVENUE. THE CONDITIONAL USE PERMIT WAS TO CONSTRUCT AN ASSISTED LIVING FACILITY. APPROVED AT THE MAY 5, 2010, PLANNING COMMISSION MEETING WITH A VOTE OF 4-YES, 1-NO.

PC Staff Report

PC Exhibits

PC Minutes - Item 10

Jelken Packet to PC

Sylvester Packet to PC (1 of 2)

Sylvester Packet to PC (2 of 2)

Letters of Appeal

Esprit Packet to Council 6-8

Memo

Revised 1

Typical Green Section

INTRODUCTION AND ADOPTION OF ORDINANCES

Set a hearing date for Monday, June 14, 2010, at 7:00 p.m. on Items 4 through 9:

4. 1st Reading: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING SECTION 27-41 OF ARTICLE III OF CHAPTER 27, "PARKS AND RECREATION" OF THE REVISED ORDINANCES OF THE CITY BY REVISING RECREATION AND FACILITY FEES.

Ord. 1193

PowerPoint Presentation

5. 1st Reading: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED

ORDINANCES OF THE CITY BY AMENDING THE FEE SCHEDULE SET FORTH IN CHAPTER 23, LICENSES.

Ord. 1192

Overview

Exhibit

Memo

- 6. 1st Reading: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD. AMENDING THE REVISED ORDINANCES OF THE CITY BY AMENDING THE SCHEDULE OF RATES TO BE CHARGED BY THE CITY LIGHT AND POWER DEPARTMENT FOR FURNISHING ELECTRIC CURRENT FOR LIGHT AND POWER PURPOSES AS FOUND IN CHAPTER 41 "UTILITIES."

Ord. 1196

PowerPoint Presentation for Items 6-9 (Very long document will take approx. 2 mins to open)

- 7. 1st Reading: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED ORDINANCES OF THE CITY BY REVISING CHAPTER 18 THEREOF TO INCREASE RATES AT THE LANDFILL IN SECTIONS 18-30(a)(2, 3), 18-30(b)(2, 3), AND 18-30(g) WITH AN EFFECTIVE DATE OF JANUARY 1, 2011.

Ord. 1199

- 8. 1st Reading: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED ORDINANCES OF THE CITY REVISIONS TO WATER UTILITY RATES AND CHARGES AS FOUND IN CHAPTER 41 "UTILITIES."

Ord. 1197

- 9. 1st Reading: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED ORDINANCES OF THE CITY TO INCREASE WATER RATES AS FOUND IN CHAPTER 41 "UTILITIES."

Ord. 1198

Set a hearing for Monday, July 12, 2010, at 7:00 p.m. on Item 10:

- 10. 1st Reading: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, APPROVING THE RELEASE OF A PERMANENT DRAINAGE EASEMENT IN TRACT 6B, PARK SOUTH, AN ADDITION TO THE CITY OF SIOUX FALLS, IN SECTION 32-T101N-R49W OF THE 5TH P.M., MINNEHAHA COUNTY, SOUTH DAKOTA.

Ord. 1184

Exhibit

HEARINGS AND RESOLUTIONS

- 11. A RESOLUTION ADVISING, GIVING CONSENT, AND APPROVING THE MAYOR'S INTERIM SUCCESSOR(S) PURSUANT TO SECTION 2.03 OF THE CITY'S HOME RULE CHARTER.

Res. 1725

Executive Order

12. A RESOLUTION DECLARING IT NECESSARY TO LEVY AND LEVYING A SPECIAL FRONT FOOT ASSESSMENT FEE FOR STREET MAINTENANCE AND REPAIR.

Res. 1727

Set a hearing date for Monday, July 12, 2010, at 7:00 p.m. on Items 13 and

13. A PROPOSED RESOLUTION VACATING THE PUBLIC RIGHT-OF-WAY ON W. 23RD ST. FROM S. MINNESOTA AVE. TO S. SPRING AVE.

Res. 1716

Exhibit

Petition

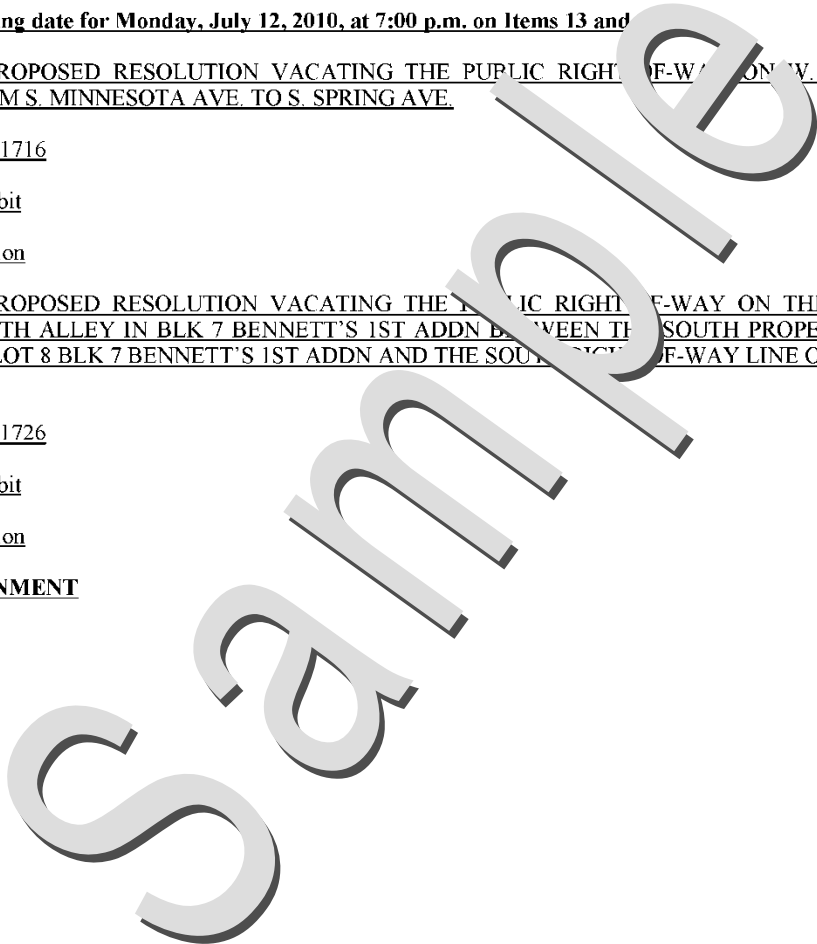
14. A PROPOSED RESOLUTION VACATING THE PUBLIC RIGHT-OF-WAY ON THE NORTH-SOUTH ALLEY IN BLK 7 BENNETT'S 1ST ADDN BETWEEN THE SOUTH PROPERTY LINE OF LOT 8 BLK 7 BENNETT'S 1ST ADDN AND THE SOUTH PROPERTY LINE OF W. 11TH ST.

Res. 1726

Exhibit

Petition

ADJOURNMENT



Section 9. Minutes

- Memo
- Sample Board or Committee Meeting Minutes
- Sample City Council Meeting Minutes

Memorandum

To: City Advisory Boards

Subject: Minutes Format

The following set of minutes is the format that City of Sioux Falls Advisory Boards are encouraged to follow.

The set of minutes shows how to conduct your meetings:

- The sequence of events
- The language to be used
- How to take attendance
- How to word a motion
- How to keep track of the vote

It is important for the person recording the meeting to note that attendance-taking and vote-taking during a meeting is vital to a properly conducted meeting.

Sample Minutes

(Board or Committee Name)
(Meeting Location)
(Meeting Time)

Members Present

Take roll call.

Members Absent

List members absent.

Guests Present

List guests present.

Approval of Minutes of Last Meeting

Sample Motion/Record the Vote Numerically

A motion was made by (name) and a second was made by (name) to approve the minutes of (date), (with or without amendments). Yeses, Smith, Jones, Black, Green, Red, 5. Noes, none.

Unfinished Business

- Give specific descriptions of topics to be discussed.
- Number or letter the items: 1, 2, 3, or A. B. C.
- If a vote is taken, use the following:

Sample Motion/Record the Vote Numerically

A motion was made by (name) and a second was made by (name) to approve/deny the (list item). Yeses, Smith, Jones, Black, Green, 4. Noes, Red, 1.

New Business

- Give specific descriptions of topics to be discussed.
- Number or letter the items: 1, 2, 3, or A. B. C.
- If a vote is taken, use the following:

Sample Motion/Record the Vote Numerically

A motion was made by (name) and a second was made by (name) to approve/deny the (list item). Yeses, Smith, Jones, Black, Green, Red, 5. Noes, none.

Public Input

If meetings are open to the public, limit the speaking time. (Five minutes per person is standard.)

Adjournment

The motion could be made to adjourn the meeting, as follows:

Sample Motion/Record the Vote Numerically

A motion was made by (name) and a second was made by (name) to adjourn the meeting at 8:30 p.m. Yeses, Smith, Jones, Black, Green, Red, 5. Noes, none.

OR:

If no motion is made, simply say: The meeting adjourned at 8:30 p.m.

The person designated to take the minutes should sign, as follows:

(Name)
(Title: Recording Secretary or Secretary)



City of Sioux Falls Council Meeting Minutes

Carnegie Town Hall, 235 West Tenth Street
MEETING OF Monday, June 14, 2010, at 7:00 p.m.

ROLL CALL #3

MEMBERS PRESENT/ABSENT OFFICIAL AGENDA

Members Present:

Council Member Brown
Council Member Entenman
Council Member Erpenbach
Council Member Jamison
Council Member Litz
Council Member Roling
Council Member Aguilar
Council Member Anderson Jr.
Mayor Mike T. Huether

Members Present
No

INVOCATION

- A. Pastor John Christopherson, First Lutheran Church

PLEDGE OF ALLEGIANCE

- A. World Refugee Day - June 20, 2010

APPROVAL OF CONSENT AGENDA

A motion was made by Council Member Anderson and seconded by Council Member Jamison to approve the Consent Agenda.

Vote to approve: Roll Call: Ayes: Brown, Entenman, Erpenbach, Jamison, Litz, Roling, Aguilar, Anderson Jr. Noes, 0. **Motion passed.**

MINUTES

- A. Information Meeting - Monday, June 7, 2010, at 4:00 p.m.

- B. Regular City Council Meeting of Monday, June 7, 2010, at 7:00 p.m.

COMMUNICATIONS

1. A communication was received from the Diversity Kiwanis Club of Sioux Falls stating its intent to sell raffle tickets on June 19, 2010. Tickets will be \$5.00 each. Prizes include: framed Native American

paintings and prints, a Native American drum, a hand-made large dream catcher, a hand-beaded head piece, a Star quilt, two free tickets to the Old Towne Dinner Theater, a gift certificate from Ballroom at the Bridges, a framed photo from Shannon Dyce Photography, and possibly more (approximate value of prizes is \$1,000.00). Proceeds will be used to buy equipment, supplies or make a monetary donation to the Boys & Girls Club of Wagner, and the Suzanne Big Crow Boys & Girls Club in Pine Ridge.

2. A communication was received from Chivilla Bay requesting permission to consume, but not sell, liquor and wine at Chivilla Bay, 5015 S. Western Ave., Suite 250, on Wednesday, June 16, 2010, from 4:00 p.m. to 8:00 p.m. for the Grand Opening and Ribbon Cutting Ceremony at Chivilla Bay.

APPROVAL OF REGULAR AGENDA

A motion was made by Council Member Brown and seconded by Council Member Entenman to approve the Regular Agenda.

Vote to approve: Roll Call: Yeses, Brown, Entenman, Erpenbach, Jamis Rolfing, Aguilar, Anderson Jr., 8. Noes, 0. **Motion Passed.**

PUBLIC INPUT

Charles Santee, a citizen, is concerned that the bus company has not implemented the bus ordinance with the new fare rates.

PETITIONS

3. POSTPONE DEFINITELY (from June 7, 2010 meeting) OF CONDITIONAL USE PERMIT APPEAL (2010-04-06): NORTHWEST CORNER OF W. 85TH STREET AND W. MINNESOTA AVENUE. THE CONDITIONAL USE PERMIT WAS TO CONSTRUCT AN ASSISTED LIVING FACILITY. APPROVED AT THE MAY 5, 2010, PLANNING COMMISSION MEETING WITH A VOTE OF 4-YES, 1-NO.

PC Staff Report

PC Exhibits

PC Minutes - Item 10

Jelken Packet to PC

Sylvester Packet to PC (1 of 2)

Sylvester Packet to PC (2 of 2)

Letter to Appeal

Esprit Packet to Council

Memo

Revised landscape

Typical Screen Section

A motion was made by Council Member Rolfing and seconded by Council Member Aguilar to approve

Conditional Use Permit Appeal (2010-04-06): Northwest Corner of W. 85th Street and S. Minnesota Avenue.

A motion was made by Council Member Brown and seconded by Council Member Entenman to amend the main motion by adding the five stipulations outlined by Mike Cooper: 1. The applicant will provide a 30 foot setback along the west property line; 2. That landscaping in accordance with the revised landscaping plan showing the staggered double row of coniferous trees along the west property line, be installed and maintained as shown; 3. A temporary construction access be provided from S. Minnesota Ave. to the subject property; 4. Phase II of the proposed project not be constructed until W. 81st Street from S. Audie Ave. is completed to Minnesota Ave.; 5. All outdoor lighting and parking lot screening standards will be required to be met.

A motion was made by Council Member Rolfing and seconded by Council Member Litz to amend the amendment to the main motion to amend number 4 for Phase I not to be constructed until 81st Street to Minnesota Avenue is completed.

Council Member Rolfing withdrew his amendment. Council Member Litz withdrew his second.

Council Member Brown called point of order.

Vote to amend: Roll Call: Yeses, Brown, Entenman, Jamison, Rolfing, Aguilar, Anderson Jr., 6. Noes, Litz, 1. Council Member Erpenbach was excused from the meeting and did not vote on this item. **Motion Passed.**

Vote to approve as amended: Roll Call: Brown, Entenman, Jamison, Litz, Rolfing, Aguilar, Anderson Jr., 7. Noes, 0. Council Member Erpenbach was excused from the meeting and the vote on this item. **Motion Passed.**

INTRODUCTION AND ADOPTION OF ORDINANCES

Set a hearing date for Monday, June 21, 2010, at 7:00 p.m. on Items 4 through 9:

A motion was made by Council Member Brown and seconded by Council Member Entenman to set a hearing date for Monday, June 21, 2010 at 7:00 p.m. on Items 4 through 9.

Vote to set a hearing date: Roll Call: Yeses, Brown, Entenman, Erpenbach, Jamison, Litz, Rolfing, Aguilar, Anderson Jr., 8. Noes, 0. **Motion Passed.**

- 4. 1st Reading: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING SECTION 27-41 OF ARTICLE III OF CHAPTER 27, "PARKS AND RECREATION" OF THE REVISED ORDINANCES OF THE CITY BY REVISING RECREATION AND FACILITY FEES.

Ord. 1190

Power Point Presentation

- 5. 1st Reading: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED ORDINANCES OF THE CITY BY AMENDING THE FEE SCHEDULE SET FORTH IN CHAPTER 23, LICENSES.

Ord. 1192

Overview

Exhibit

Memo

- 6. 1st Reading: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED ORDINANCES OF THE CITY BY AMENDING THE SCHEDULE OF RATES TO BE CHARGED BY THE CITY LIGHT AND POWER DEPARTMENT FOR FURNISHING ELECTRIC CURRENT FOR LIGHT AND POWER PURPOSES AS FOUND IN CHAPTER 41 "UTILITIES."

Ord. 1196

PowerPoint Presentation for Items 6-9 (Very long document will take approx. 2 mins to open)

- 7. 1st Reading: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED ORDINANCES OF THE CITY BY REVISING CHAPTER 18 THEREOF TO INCREASE RATES AT THE LANDFILL IN SECTIONS 18-30(a)(2, 3), 18-30(b)(2, 3), AND 18-30(c)(2, 3) WITH AN EFFECTIVE DATE OF JANUARY 1, 2011.

Ord. 1199

- 8. 1st Reading: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED ORDINANCES OF THE CITY REVISING SEWER UTILITY RATES AND CHARGES AS FOUND IN CHAPTER 41 "UTILITIES."

Ord. 1197

- 9. 1st Reading: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED ORDINANCES OF THE CITY BY INCREASING WATER RATES AS FOUND IN CHAPTER 41 "UTILITIES."

Ord. 1198

Set a hearing date for Monday, July 12, 2011 at 7:00 p.m. on Item 10:

A motion was made by Council Member Jamison and seconded by Council Member Anderson Jr. to set a hearing date for Monday, July 12, 2011 at 7:00 p.m. on Item 10.

Vote to set a hearing date: Roll Call: Yeses, Breckenridge, Entenman, Erpenbach, Jamison, Litz, Rolwing, Aguilar, Anderson Jr., 8. Noes, 0. **Motion Passed.**

- 10. 1st Reading: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, APPROVING THE RELEASE OF A PERMANENT GRAVITY EASEMENT IN TRACT 6B, PARK SOUTH, AN ADDITION TO THE CITY OF SIOUX FALLS, IN SECTION 32-T101N-R49W OF THE 5TH P.M., MINNEAPOLIS COUNTY, SOUTH DAKOTA.

Ord. 1195

Exhibit

HEARINGS AND RESOLUTIONS

- 11. A RESOLUTION ADVISING, GIVING CONSENT, AND APPROVING THE MAYOR'S INTERIM SUCCESSOR(S) PURSUANT TO SECTION 2.03 OF THE CITY'S HOME RULE CHARTER.

Res. 1725

Executive Order

A motion was made by Council Member Aguilar and seconded by Council Member Erpenbach to adopt said Resolution 38-10.

Vote to adopt: Roll Call: Yeses, Brown, Entenman, Erpenbach, Jamison, Litz, Rolfing, Aguilar, Anderson Jr., 8. Noes, 0. **Motion Passed.**

RESOLUTION NO. 38-10

A RESOLUTION ADVISING, GIVING CONSENT, AND APPROVING THE MAYOR'S INTERIM SUCCESSOR(S) PURSUANT TO SECTION 2.03 OF THE CITY'S HOME RULE CHARTER.

BE IT RESOLVED BY THE CITY OF SIOUX FALLS, SD:

That it gives its advice and consent approving the Mayor's Executive Order No. 21 designating interim Mayoral successor(s).

Date adopted: 06/14/10

T. Huether

ATTEST:
Debra A. Owen
City Clerk

12. A RESOLUTION DECLARING IT NECESSARY TO LEVY AND LEVYING A SPECIAL FRONT FOOT ASSESSMENT FEE FOR STREET MAINTENANCE AND REPAIR.

Res. 1727

A motion was made by Council Member Anderson and seconded by Council Member Entenman to adopt said Resolution 39-10.

Vote to adopt: Roll Call: Yeses, Brown, Entenman, Erpenbach, Jamison, Litz, Rolfing, Aguilar, Anderson Jr., 8. Noes, 0. **Motion Passed.**

RESOLUTION NO. 39-10

A RESOLUTION DECLARING IT NECESSARY TO LEVY AND LEVYING A SPECIAL FRONT FOOT ASSESSMENT FEE FOR STREET MAINTENANCE AND REPAIR.

BE IT RESOLVED BY THE CITY OF SIOUX FALLS, SD:

Section 1. It is necessary to levy and there shall be levied a special front foot assessment fee upon each lot, tract, and parcel of land fronting upon every street and part thereof, within the city of Sioux Falls, to be used to maintain and repair street surfacing or pavement.

Section 2. There is hereby assessed against each and every lot, tract, and parcel of land fronting upon every street or part thereof, one dollar (\$1.00) per front foot for the year 2011, which shall be apportioned as the assessment for maintaining of street surfacing or pavement. Front foot, for the purposes of this

Resolution, means the actual front of the premises as established by the buildings thereon, record title, and use of the property regardless of the original plat.

Section 3. The City Clerk shall certify such special front foot assessment fees to the County Auditors of Minnehaha and Lincoln Counties, SD, and the same shall be collected as municipal taxes for general purposes.

Section 4. This resolution is necessary for the immediate support of the municipal government and its existing public institutions and shall take effect upon its passage and publication.

Date adopted: 06/14/10.

Mike T. Huether
Mayor

ATTEST:
Debra A. Owen
City Clerk

Sample

Street Maintenance Assessment Summary

Year	Actual Revenue	Assessment, \$ Per Front Ft.
1992	\$1,043,061	\$0.40
1993	\$1,058,105	\$0.40
1994	\$1,100,155	\$0.40
1995	\$1,116,567	\$0.40
1996	\$1,414,956	\$0.50
1997	\$1,546,213	\$0.53
1998	\$1,473,268	\$0.50
1999	\$1,488,489	\$0.50
2000	\$1,514,684	\$0.50
2001	\$1,549,185	\$0.50
2002	\$1,612,007	\$0.50
2003	\$1,687,826	\$0.50
2004	\$1,724,590	\$0.50
2005	\$2,105,537	\$0.60
2006	\$2,516,296	\$0.70
2007	\$3,233,523	\$0.80
2008	\$3,769,540	\$0.90
2009	\$4,176,954	\$1.00

Set a hearing date for Monday, July 12, 2010 at 7:00 p.m. on Items 13 and 14:

A motion was made by Council Member Jamison and seconded by Council Member Brown to set a hearing date for Monday, July 12, 2010, at 7:00 p.m. on Items 13 and 14.

Vote to set a hearing date: Brown, Erpenbach, Jamison, Litz, Roling, Aguilar, Anderson Jr., 8. N. Y. O. M. **Passed.**

- 13. A PROPOSED RESOLUTION VACATING THE PUBLIC RIGHT-OF-WAY ON W. 23RD ST. FROM S. MINNESOTA AVE. TO SPRING AVE.

Res. 17

Exhibit

Petition

- 14. A PROPOSED RESOLUTION VACATING THE PUBLIC RIGHT-OF-WAY ON THE NORTH-SOUTH ALLEY IN BLK 7 BENNETT'S 1ST ADDN BETWEEN THE SOUTH PROPERTY LINE OF LOT 8 BLK 7 BENNETT'S 1ST ADDN AND THE SOUTH RIGHT-OF-WAY LINE OF W. 11TH

ST.

Res. 1726

Exhibit

Petition

ADJOURNMENT

A motion was made by Council Member Litz and seconded by Council Member Anderson Jr. to adjourn at 9:32 p.m.

Vote to adjourn: Roll Call: Yeses, Brown, Entenman, Erpenbach, Jamison, Litz, Rolfing, Aguilar, Anderson Jr., 8. Noes, 0. **Motion Passed.**

D. T. _____, CMC
Assistant Clerk

Sample

Section 10. Parliamentary Procedures

Parliamentary Procedures

How It All Began

Parliamentary procedure came to America with our colonial English ancestors. The term refers to the rules that have evolved over time to facilitate the democratic transaction of decision making in an organized group.

In 1801, Thomas Jefferson, while serving as vice president, saw the need for a written and uniform system of rules. He compiled the *Manual of Parliamentary Practice* which was immediately adopted by both the House and the Senate.

In 1876, Henry Martyn Robert, a practical, precise, and civic-minded engineer, put together a small book of rules specifically designed for non-legislative organizations.

That first *Robert's Rules of Order* was an almost instant success. Groups who adopted it as a parliamentary authority were now free from the turmoil of struggling with the rules governing their meetings.

Today we can be a part of any meeting in any state and know that, if *Robert's Rules of Order* is the adopted parliamentary authority, the rules will be the same. Motions are amended the same way whether the meeting takes place in California or in New York.

The Purpose of Parliamentary Procedure

Parliamentary law is the basis of all constitutional governments. By protecting and practicing correct parliamentary procedure, we also protect our democratic institutions. Parliamentary procedure protects the rights of people to join together to accomplish common goals and enables them to debate and take action in a fair manner with the least amount of controversy.

The rules of parliamentary procedure are based on common sense and logic. They

have evolved throughout centuries of usage and custom. Parliamentary rules protect:

- The right of the majority to decide;
- The right of the minority to be heard;
- The rights of individual members;
- The rights of absentees.

All of parliamentary procedure is built on the principle that there must be a careful balance of the rights of the organization as a whole, the rights of subgroups, and the rights of individual members.

Parliamentary procedure should be used to *help* and not *hinder* decision making. Robert said, "The assembly meets to transact business, not to have members exploit their knowledge of parliamentary law.

The Secretary and Minute Keeping

The secretary is responsible for the minutes of an organization, both the meetings of the membership and those of the executive board. Minutes are a written record of the meetings. Accurate minutes are of vital importance as they constitute the permanent record of proposals, decisions, and reports of the members and the executive board. Minutes are the *legal* record of the meetings of an organization and may be subpoenaed. Minutes should be written as concisely as possible.

A Guide for Writing Minutes

DO RECORD:

- All adopted and "lost" or defeated motions;
- Name of the maker of the motion;
- Names of all members reporting (officers, committee chairman, etc.).
- Names of all those elected or appointed;
- Number of votes on each side in a ballot or counted vote.

DON'T RECORD:

- Discussion or personal opinion;
- Name of the seconder of a motion;
- Motions withdrawn;
- Entire reports (state, "MR. Y, CHAIRMAN OF THE PERSONNEL POLICY COMMITTEE, REPORTED THE REPORT IS ATTACHED TO THE ORIGINAL OF THESE MINUTES.").

OTHER RESPONSIBILITIES

- Write the minutes as promptly as possible. Your notes will be easier to decipher.
 - A. Promptly send a copy to the president.
 - B. Alert the president to items of unfinished business.
- Prepare a summary of the Executive Board meetings and be prepared to report motions to the membership.
- Sign the minutes and record the date of approval.
- Be specific in recording corrections, noting the date, page, and line in which the correction appears. All corrections are made in red. Do not obliterate the original. Note the date of the correction. Minutes are usually corrected at the time of the reading but may be corrected at any time provided the correction receives a two-thirds vote. (Remember you are changing something already adopted which requires a two-thirds vote.)

Contents of Minutes

FIRST PARAGRAPH:

- Kind of meeting (regular or special).
- Name of the organization.
- Date and place of meeting.
- Presence of the president and secretary or the names of the substitutes.
- Presence of a quorum.

- Time the meeting was called to order.
- Whether the minutes of the previous meeting were approved or corrected.

Example

(Name of the organization)

Minutes

A (regular) meeting of the (name of the organization) was held on (date) at (place). The president and secretary were present. [Or "The vice president (name) presided in the absence of the president."] A quorum being present, the meeting was called to order at (time). The minutes of the previous meeting were approved as read [or "as corrected"].

BODY

- Reports given, including:
 - A. The name of the reporter;
 - B. Any related action taken.
- All main motions (those that propose action be taken).
- All points of order or appeal.
- Important announcements, such as the topic of the program and the name of the speaker (do *not* try to summarize the address).

Example

The treasurer's report showed a balance on hand of \$ _____. The report was filed for audit.

_____, chairman of the _____ committee reported. The report is filed with the minutes of this meeting. At the conclusion of the report, the chairman moved the adoption of the following resolution:

Whereas, The ____; be it

RESOLVED, That _____.

The resolution was adopted.

Under Unfinished Business, the motion postponed to this meeting "That _____" was lost [or "defeated"].

Under New Business, a motion by _____ was amended and adopted as follows:

“ _____ ”

The program was given by _____ who spoke on the subject of _____.

FINAL PARAGRAPH

- The adjournment and the time of adjournment.

Example

The meeting was adjourned at (time).

(signature of secretary)

Approved: (date)

[or]

Corrected: (date)

A. Introduction to Parliamentary Procedures

Can you afford to be without a working knowledge of parliamentary procedure? Is parliamentary law too complicated to be useful? Should we even use parliamentary procedure?

It is obvious that parliamentary procedure is necessary in our daily lives and activities. Membership organizations, whether they are governmental or educational, business or labor, social or fraternal, religious or secular, have a common goal in our country to govern themselves democratically and fairly, and to execute the will of the majority while protecting the minority.

We must, therefore, be fully aware that through the use of parliamentary procedure we will accomplish the following basic goals:

1. To get business done more effectively by using the most direct procedure.
2. To assure majority decisions while giving the minority full protection in the process.
3. To allow full and free discussion, equal time for all.
4. To treat all members equally and in an impartial and respectful manner.

B. Organizational Rules

In order to make effective use of parliamentary procedure, each organization should have a set of written rules. You could call these rules a “constitution,” “bylaws,” “ordinances,” “resolution,” or just a “set of rules.” The City follows Robert’s Rules of Order and the City Council’s Administrative Procedures Ordinance as set forth in Chapter 2 (exhibited in this section).

C. Agenda

A written agenda should always be prepared as a guide for meetings. The agenda should then be approved (with additions and deletions) by the members at the beginning of the meeting. A well-organized and detailed agenda, patterned after the order of business as set forth in the bylaws, is essential to the success of any meeting.

D. Record Keeping

In addition to the “set of rules,” each organization should keep a record of their actions, called “minutes.” Minutes are the official legal record of the organization after approval by the members. Minutes should contain:

1. In the first paragraph: a) name of organization; b) name of presiding officer; c) type of meeting; d) time of day called to order; e) date; and f) location of meeting.
2. All main motions that pass, as well as all main motions that are defeated.
3. Any other actions taken by the group whose recording is necessary to provide an accurate legal record of the organization’s actions.
4. Any actions that would contribute to the historical value of the organization.

E. Order of Business

Order of Business is set up in City Ordinance Sec. 2-14.

1. Roll call.
2. Invocation.
3. Pledge.
4. Proclamations.
5. Approval of consent agenda.
 - (a) Approval of minutes.

(b) Communications.

(c) Applications.

(d) Notice of hearings.

6. Approval of regular agenda.
7. Petitions.
8. Unfinished business.
9. Introduction and adoption of ordinances.
10. Hearings and resolutions.
11. Report of officers, boards, committees.
12. New business.
13. Items added after agenda deadline.
14. Public input.
15. Adjournment.

The agenda format for the City of Sioux Falls is best illustrated by the official Agenda for the Monday, May 8, 2000, meeting (exhibited in Section 6).

F. Introducing Business for Action

Remember that the intent (basic goals) are most important in the use of parliamentary procedure. Do not become overly concerned with the “right word” or proper “phraseology.” The intent is more important than language.

The typical steps in handling a motion are to start with recognition and end with the final decision. (Familiarize yourself with it.)

1. Address chairperson (get recognition)
2. Recognized
3. State motion
4. Second
5. Stated to group by chairperson

6. Discussion
7. Vote
8. Announcement of result (decision)

G. General Comments

1. Saving time without jeopardizing any one of the basic goals of parliamentary procedure is of utmost importance (i.e., handout of printed minutes in advance to members saves reading of minutes). Another time-saver is the use of unanimous consent. It can be used to pass routine matters by asking if there is any objection; if none, the matter stands approved. One objection will force a motion and a vote. Use to approve minutes, treasurer's reports, committee reports, etc. It is sometimes called General Consent. Sample: "If there are no objections, the treasurer's report will be approved by general consent."
2. There are about 84 different types of motions in the Robert's Rules of Order, 1990 edition. The number is far less when one considers the more frequently used motions. In order to rank motions in some order of importance, the "concept of precedence" has been established.
 - a. When a motion has been made, any motion of higher precedence may be proposed but no motion of lower precedence may be proposed. (There are always a few exceptions.)
 - b. Motions are discussed and voted upon in inverse order to their proposal. (The last motion made will be acted on first, etc.)
 - c. The ranking of the most commonly used motions is illustrated by the pyramid of parliamentary motions, followed by a description starting with the

lowest precedence (main motion) and ending with the highest precedence (fix time to adjourn) and a chart depicting the characteristics of motions.

Frequently Used Motions

1. **Main Motion**—To bring business before the organization, it can only be introduced if no other motion is pending.
2. **Postpone Indefinitely**—To dispose of a badly chosen main motion that cannot be either adopted or expressly rejected without possible undesirable consequences. If adopted, the main motion is killed.
3. **Amend**—To change or modify the wording of a motion so that it more closely expresses the will of the group.
4. **Amend Amendment**—To change or modify the wording of the amendment to the main motion so that the amendment will even more closely express the will of the group.
5. **Refer to Committee**—To allow a pending question for study and investigation by a smaller group. The committee will report back, so that the matter can be considered with more information at hand.
6. **Postpone Definitely**—To put off a pending motion within limits and to consider it at a definite future time. (Normally no later than the next meeting.)
7. **Limit or Extend Debate**—To give the group or number of members on each side a definite time limit of subject matter. It gives special control over debate on a pending subject matter.
8. **Previous Question (Close Debate)**—To consider end of debate and calling for an immediate vote on subject matter at hand.

-
9. **Lay on the Table**—To consider temporary disposition of the matter without debate in order to attend to a matter that needs immediate attention. To consider another motion in conflict with or on the same subject matter is not allowed. It is necessary to take the question from the table first. To lay on the table does not take the place of “postpone indefinitely or definitely.”
 10. **Withdraw or Modify a Motion**—A request by the person who made the motion to withdraw or modify the motion. If withdrawal or modification is requested before the motion is stated by the chair, the mover does not need the consent of the members.
 11. **Suspend the Rules**—To allow the members present to do something that they cannot do without violating one or more of their regular rules. The proposal is not allowed if in conflict with the organization’s bylaws (constitution), local, state, or national law.
 12. **Read Papers**—A request to read short, pertinent, printed matter in debate. If a member objects, then the group has to vote on allowing member to read or not to read. Sometimes used to stall or prolong debate and delaying business.
 13. **Point of Order**—To call attention to a mistake in procedure, or a violation of the rules. Chair must rule and enforce same.
 14. **Point of Information**—A request directed to the presiding officer for information relevant to the business at hand but not related to parliamentary procedure.
 15. **Parliamentary Inquiry**—A question directed to the presiding officer to obtain information on a matter of parliamentary law of the rules of the organization.
 16. **Objection**—To enable the members present to avoid a particular original main motion altogether when it believes it would be strongly undesirable for the motion even to come before the membership. An objection must be raised before debate or before a subsidiary motion has been stated.
 17. **Division of Question**—A request to divide a question that is complex in nature and each part separated will present a proper question for the members present to act upon if one of the other parts are adopted.
 18. **Division of Assembly**—A request for the chair to use a more accurate method of voting, either because the result appears close, or because the person doubts that a representative number of the members present have voted. It requires a vote be taken by rising.
 19. **Appeal**—To get a vote by the group on some procedural decision made by the chair. Members have no right to criticize the ruling of the chair unless they appeal. The question is then taken from the chair, and vested in the membership for final decision. The chair is allowed to participate to give reason for chair’s decision.
 20. **Call for Orders of the Day**—A member can request that the members present conform to its agenda or order of business.
 21. **Question of Privilege**—Permits a request or main motion relating to the rights and privileges of the membership or any individual for possible immediate consideration because of its urgency.
 22. **Recess**—A request to take a short intermission in the proceedings, after which business will immediately be resumed at the point where it was interrupted.

-
23. **Adjourn**—A request to close the meeting immediately.
 24. **Fix Time to Adjourn**—A request to adjourn to a future time or in advance of a time already set.
 25. **Reconsider**—A motion to bring back for further consideration. A motion which has already been voted on. This allows one to correct erroneous action taken earlier, new information on the question is available that could change

the vote, etc. This motion can be made only by a member from the prevailing side.

26. **Rescind, Repeal, or Annul**—A motion to allow the members to cancel or countermand an action previously taken or ordered. If approved, this motion's effect is to strike out or cancel an entire main motion, resolution, rule, section, or paragraph on an action taken previously.

Characteristics of Motions

Motions	Recognized	Second	Debatable	Amendable	Interrupt	Reconsider	Vote Needed
Main or Principal Motion	Y	Y	Y	Y	N	Y	Majority
Postpone Indefinitely	Y	Y	Y	N	N	Y+	Majority
Amendment (to pending motion)	Y	Y	Y	Y	N	Y	Majority
Amend the Amendment (to a pending motion)	Y	Y	Y	N	N	Y	Majority
Refer to a Committee	Y	Y	Y	Y	N	Y	Majority
Postpone to a Definite Time	Y	Y	Y	Y	N	Y	Majority
Limit or Extend Debate	Y	Y	N	Y	N	Y	Two-thirds
The Previous Question (Close Debate)	Y	Y	N	N	N	Y	Two-thirds
Lay on the Table/Take from Table	Y	Y	N	N	N	N	Majority
Withdraw or Modify a Motion	Y	Y/N	N	N	Y/N	Y/N	Majority
Suspend the Rules	Y	Y	N	N	N	N	Two-thirds
Read Papers	Y	Y/N	N	N	Y/N	Y	Majority
Point of Order	N	N	N	N	Y	N	Chair Response
Point of Information	N	N	N	N	Y	N	Chair Response
Parliamentary Inquiry	N	N	N	N	Y	-	Chair Response
Objection	N	N	N	N	Y	Y-	Two-thirds
Division of a Question	Y	Y	N	Y	N	N	Majority
Division of Assembly	N	N	N	N	Y	N	Demand by 1 member sufficient
Appeal	N	Y	Y/N	N	Y	Y	Neg. Majority required to reverse chair's decision
Call for Orders of the Day	N	N	N	N	Y	N	Demand by 1 member sufficient 2/3 majority to overrule
Question of Privilege	N	N	N	N	Y	N	Chair Rules
Question of Privilege by Motion	Y	Y	Y	Y	N	Y	Majority
Take Recess	Y	Y	Y/N	Y	N	N	Majority
Adjourn	Y	Y	N	N	N	N	Majority
Fix Time to Adjourn	Y	Y	Y/N	Y	N	Y	Majority
Rescind, Repeal, or Annul	Y	Y	Y	Y	N	Y-	Majority
Reconsider	Y	Y	Y/N	N	Y/N	Y	Majority

+ Affirmative Vote

- Negative Vote

Section 11. Public Relations

- Handling Citizen Complaints/Inquiries
- Media Relations

Handling Citizen Complaints/Inquiries

The Need for a Program

No matter how hard government tries it will always be the target of citizen complaints. We are an easy target, and just as in the business world, complaints are usually heard more than the compliments. And it is usually customer dissatisfaction that results in initiatives, citizen unrest about taxes and budgets, and pressure to change government.

Within our own jurisdiction, we can take steps to become more responsive to our constituents. The time is ripe. Our citizens have become increasingly sensitive to customer service. City of Sioux Falls employees work hard at trying to satisfy its customers; however, there is always room for improvement.

EXECUTIVE ORDER

Subject: Electronic Work Request System

This amends Executive Order No. 07-30.

An internal communication tracking system has been established to effectively address citizen complaints and concerns.

Communications sent to the City via the www.siouxfalls.org website are received into the Electronic Work Request system. The citizen generating the communication chooses which department they want to receive the communication. Complaints or concerns received by phone may also be entered into the Electronic Work Request system for tracking purposes and assigned to the appropriate department. Call types are chosen by the originator, but can be changed by the Directors and/or their designees. The priority level on incoming communication is set at Level 3 (low), but can be changed by the Directors and/or their designees as they deem necessary to best meet citizen needs.

Directors and/or their designees may resolve the communication or assign the communication to the appropriate department/staff person for proper and timely resolution.

High	One business day or sooner (depending on urgency or severity of complaint/concern). If the matter is a threat to public health or safety, the person opening the communication should also contact any other appropriate departments/persons by phone to inform them of the nature of the complaint/concern.
Medium	Three business days.
Low	Five business days.

It will be the responsibility of each Director to ensure that all inquiries sent to their department are handled with courtesy and respect, in a timely and effective manner, and

with the highest quality of customer service. This work request system is not intended to replace any current or future communication tracking systems departments have established or may establish for their specific needs.

Source: EO #12-05 (04-12-12) Huether
 EO #07-30 (06-05-07) Munson
 EO #04-45 (07-14-04) Munson

Treating Your Constituents Like Customers

What follows below are some very general guidelines for handling complaints or inquiries from citizens.

When Communicating with an Angry Citizen

Do:

- Be patient and remain calm.
- Let the customer know you will listen.
- Let the customer explain the problem before you respond with the answer.
- Be sympathetic and show general concern.
- Get someone who can help if you cannot.
- Be courteous.
- Look at the problem from the customer's point of view.
- Make sure you know what the problem is.
- Remember, the problem is the third party; the customer is upset about a situation, not you.

- Respond or make certain a response is made in a timely manner.
- Make certain action is taken in a timely manner.

Don't:

- Be sarcastic.
- Intimidate the customer.
- Ignore the customer.
- Raise your voice.
- Transfer or refer the customer without explaining the problem to the other department or office.
- Make promises you may not be able to keep.
- Get angry.
- Be defensive.
- Put the customer on hold on the telephone while you research the answer. (Do offer to call back if you need more time to find the correct answer.)

Media Relations

The successful practice of media relations by local government is based on several basic principles:

- Knowing the news media in general and the characteristics and needs of the local media in particular.
- Being willing and able to understand the journalist's viewpoint.
- Building credibility through honesty, consistency, and availability.
- Respecting the agenda of the media, even though it is often at variance with that of local government.
- Dedicating sufficient staff time to plan and implement campaigns, develop and distribute information, and make media contacts.

The long-term goals of public information programs, which include media relations, should include the following:

- Developing and maintaining an informed citizenry that participates in the local government's decision-making process and uses City services effectively.
- Ensuring that local government services meet the needs of the various components of the community.
- Ensuring that citizens are aware of the depth and breadth of services of local government and the qualifications and dedication of the people providing those services.
- Fostering a sense of community among local citizens.

Media Tips: What to do When the Media Calls

1. Ask questions.

Determine the name of the publication or station. Find out what the story is about, the reporter's angle, when the deadline is. If you don't feel qualified to answer or are uncomfortable with the approach, feel free to suggest other angles or sources of information.

2. Be clear about who you are representing.

Yourself, the City Council, your bowling league, etc.

3. Be prepared to answer the standard Who, What, Where, Why, and How questions.

Have supporting facts and examples available.

4. Beware of manipulation.

Some reporters may ask leading questions, something like, "Would you say that . . ." or "Isn't it true . . ." followed by an idea for your agreement. Make your own statement.

5. Think first.

Think about the subject, your audience, and what message you want to convey. Don't be pressured into responding. If you need more time, tell the reporter you'll call them back.

6. Pause before answering questions.

. . . to think about what you want to say and the best way to say it. Do not report a negative. Make sure your comments are positive.

7. Be brief, to the point.

If the reporter wants to know more, he or she will ask. This is even more important with the broadcast media when you may have only 20 seconds to respond.

8. Never say "No comment."

The worst possible response to a reporter's question is "no comment." To a reporter, "no comment" means that the government official is hiding something, shielding someone, or otherwise avoiding a truthful answer

for devious reasons. A public official who consistently uses “no comment” soon gets branded as uncooperative and untruthful. Reporters also feel that it is fair to report that a source said “no comment,” which can destroy the official’s credibility with the public. A better answer is “I don’t have that information,” or “I can’t release that information right now,” or “Let me get back to you,” or any of a number of other similar answers, provided they are truthful.

9. Remember, it’s okay to admit you don’t know.

“I don’t know” is a legitimate answer. Reporters would rather have no answer than the wrong answer. Tell them you’ll get the information and call back. Or, refer them to someone else.

10. Always be honest.

Mark Twain said we should always tell the truth because it will please half the people and astonish the other half. This doesn’t mean that you have to tell media representatives everything you know—only that everything you tell them should be true. Deliberate attempts to mislead the news media will almost always backfire.

11. Don’t play favorites.

Over time, this approach generates resentment among others in the media.

12. Be consistent, no matter whether the news is good or bad.

Remember your public role. You are representing the local government and not yourself. It’s a bad idea to court the media when times are good and then hide when things go wrong.

13. Develop two-way relationships.

Getting to know the people in the media during times when there are no deadlines or crises builds rapport. Get to know them and their interests, and let them get to know you.

14. Be sincere in your approach.

Make sure the relationships are genuine. Trying to develop phony relationships is just a way of trying to manipulate the media, and it will sooner or later backfire.

15. Be positive in your attitude.

Don’t complain about every story in the newspaper and on television. Tell the media representatives when they do things right as well as when they do things wrong.

16. And a few more . . .

Use examples. This is a powerful way to communicate and helps the audience understand.

Develop a style. Most people underestimate the power of how you present information. If the interview is about a new and exciting program, act and sound excited. If it is bad news, show your concern. Your style should be consistent with your message.

Repetition. The more you repeat your message, the better your chances of getting that message into the story and to your audience.

Solicit feedback. Some reporters are reluctant to confess their ignorance or confusion and may go ahead and write a story the way they interpret it. To avoid this pitfall, never deliver a monologue. Solicit feedback from the reporter to be sure his or her interpretation is correct.

Handling Challenging Reporters

Reporters have the obligation to seek out news and then report it. Some aggressive reporters have a threatening style posing rapid-fire questions. Remember to control the situation. You have the

information the reporter wants. Think before you speak.

- Prepare an agenda on each subject the media may be interested in. This should include a list of three to five points you want to make.
- Write or verbally deliver quotable quotes of ten words or less.
- Listen carefully to the question. The reporter may have incorrect assumptions in the question. Give clear background information before answering the question.
- Avoid an argument with the reporter.
- If interrupted in mid-thought, proceed with your original answer before answering the new question.
- Challenge any effort to put words into your mouth.
- Don't just answer the questions; use the question as a springboard to sell your agenda.
- If you don't know the answer, say so. Do not speculate.
- If you cannot divulge information, state why in a matter-of-fact way.
- Be positive, not defensive.
- Always tell the truth.

On/Off the Record

The temptation will present itself at some time to feel the urge to go *off the record* with a comment or information. From the standpoint of both the local government official and the reporter, most conversations and interviews between the media and City officials should be *on the record*. That means that everything said by the person being interviewed can be directly attributed to that person in a news or feature story. Local government officials should always assume that they are talking to reporters on the record—even if interviewed in a phone call at home at night or on a weekend. Consistently speaking on the record adds to the credibility of the person as a news source, and provides reporters with the information they need to complete an assignment.

If a City official decides to provide information to a reporter under other than on-the-record conditions, those conditions must be made clear at the beginning of the conversation. Stating the conditions at the beginning of the interview also gives the reporter the opportunity to refuse the interview under those conditions and look elsewhere for information.