

# CITY OF BROOKINGS CHARTER

## PART I CHARTER

### PREAMBLE

We, the people of the City of Brookings, 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, Section 2 of the South Dakota Constitution and the procedural requirements of SDCL Chapter 6-12. By this action, the City of Brookings will acknowledge treat-inclusive citizencommunity participation as an integral part of effective and trusted governance.

### ARTICLE I. POWERS OF THE CITY

#### Sec. 1.01. Powers of the City.

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

#### Sec. 1.02. Construction.

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

#### Sec. 1.03. Intergovernmental Relations.

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

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

~~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.~~

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**Sec. 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.~~

**Sec. 1.05. New Taxes.**

Any tax which is approved by the City Council may be submitted by the City Council to a vote of the people for approval or disapproval before it becomes effective. Any tax which is approved by the City Council may also be referred to a vote of the people by referendum for approval or disapproval.

**ARTICLE II. CITY COUNCIL**

**Sec. 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 which are hereafter assigned to a City Manager.

**Sec. 2.02. Composition, Eligibility, Terms, Powers and Duties.**

- a. *Composition.* There shall be a City Council composed of the Mayor and six (6) Council Members to be elected by the voters of the City at large.
- b. *Eligibility.* Only the registered voters of the City who have resided in the City for at least six months immediately prior to the date of election shall be eligible to hold the office of Council Member or Mayor.
- c. *Terms.* The terms of Council Members and the Mayor shall be for three (3) years ~~following the completion of the terms as provided in Section 9.05.~~
- d. The Council by resolution or ordinance shall establish the powers and the duties of the Council and of the Mayor in addition to those assigned by the Charter.

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**Sec. 2.03. Mayor.**

The Mayor shall have the powers and duties as a Council Member, including the power to vote, and in addition, shall preside at the meetings of the Council, represent the City in intergovernmental relationships, appoint, with the advice and consent of the Council, the members of citizen advisory boards, committees, and commissions, present an annual state of the City message, and perform other duties specified by the Council. The Mayor shall be recognized as head of the government for all ceremonial purposes and by the Governor for the purpose of military law. The Mayor shall have no administrative duties. The Council shall elect annually, from among its members, a Deputy Mayor who shall act as Mayor during the absence or the disability of the Mayor, or until a vacancy in the office of Mayor is filled.

**Sec. 2.04. Compensation; Expenses.**

~~The initial annual salary for Council Members of the City Council shall be \$3,600.00 and shall be \$4,800.00 for the Mayor.~~ The Council, by resolution approved by at least five Council Members, may increase the salaries of the Council Members and of the Mayor provided that no such resolution shall become effective until the date of commencement of the term of the Council Member or Mayor elected at the next regular election. The Mayor and Council Members shall receive their actual and necessary expenses incurred in the performance of their duties of office.

**Sec. 2.05. Prohibitions.**

- (a) *Holding Other Office.* Except where authorized by law, no Council member shall hold any other elected public office during the term for which the member was elected to the Council. No Council member shall hold any other City office or City employment during the terms for which the member was elected to the Council. No former Council member shall hold any compensated appointive office or employment with the City until one year after the expiration of the term for which the member was elected to the Council. Nothing in this section shall be construed to prohibit the Council from selecting any current or former Council member to represent the City on the governing board of any regional or intergovernmental agency.
- (b) *Appointments and Removals.* The City Council or any of its members shall not in any manner control or demand the appointment or removal of any City administrative officer or employee whom the City Manager or any subordinate of the City Manager is empowered to appoint, however the Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officer or employee.
- (c) *Interference with Administration.* Except for the purpose of inquiries and investigations under Section 2.09, the Council or its members shall deal with the City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

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**Sec. 2.06. Vacancies; ~~Recall~~; Forfeiture of Office; Filling of Vacancies.**

- (a) *Vacancies.* The office of a Council Member or Mayor shall become vacant upon the person's death, resignation, removal from office or forfeiture of office in any manner authorized by law.
- (b) *Recall.* The power of recall of the Mayor or Council Members shall be allowed as set forth in SDCL Title 9.
- (c) *Forfeiture of Office.* The Mayor or a Council Member shall forfeit that office if the Mayor or Council Member:
1. Lacks at any time during the term of office for which elected any qualification for the office prescribed by this Charter or by law.
  2. Violates any expressed prohibition in Section ~~78~~.02 of this Charter.
  - ~~3.~~ ~~3.~~—Fails to maintain residency within the city limits.
  - ~~4.~~ ~~4.~~—Is convicted of a felony.
  - ~~5.~~ ~~5.~~ Fails to attend at least fifty percent (50%) of the regular meetings of the Council during a fiscal year, or three consecutive regular meetings of the Council, without being excused by the Council.
- (d) *Filling of Vacancies.* Except as provided below, a vacancy in the office of Mayor or of a City Council Member shall be filled for the remainder of the unexpired term at the next regular City election. 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. However, if the vacancy occurs less than sixty days prior to the next regular City election, then the person appointed to fill the vacancy shall continue to serve and the vacancy shall be filled at the regular City election immediately following the next regular City election. 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 shall, within sixty (60) days, fill the vacancies by appointment or call for a special election to fill the vacancies.

**Sec. 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 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.

**Sec. 2.08. Clerk.**

~~The City Council shall appoint an officer of the City who shall have the title of Clerk~~  
The City Manager shall recommend the appointment of a City Clerk, subject to advice and confirmation by the City Council. The Clerk will be supervised by the City Manager in consultation with the City Council. The Clerk shall give notice of Council meetings to its members and the public, keep the journal of its proceedings and perform such other duties as are assigned by this Charter or by the Council or by state law.

**Sec. 2.09. Investigations.**

The City Council may ~~authorize~~make investigations into the affairs of the City and the conduct of any City department, office or agency. A qualified third party shall conduct such investigations and shall report its findings to the City Council. ~~For~~ for this purpose, the investigating party 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 misdemeanor~~ punishable by a fine and shall be subject to legal and equitable remedies as ~~and/or jail sentence to be~~ established by ~~resolution of the~~ the City Council.

**Sec. 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 officials or 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 30 days after the beginning of such fiscal year. If the Department of Legislative Audit makes such an audit, the Council may accept it as satisfying the requirements of this section.

**Sec. 2.11. Procedure.**

- a. *Meetings.* The Council shall meet regularly at such times and places as the Council may prescribe by rule. Special meetings may be held on the call of the Mayor or of four (4) or more members and, whenever practicable, upon not less than twenty-four (24) hours notice to each member. Except as allowed by state law, all meetings shall be public.
- b. *Rules and Journal.* The City Council shall conduct all meetings under the provisions of Roberts Rules of Order with the exception of any conflict with this Charter, City Ordinance, State or Federal statute, determine its own rules and order of business and shall provide for keeping a 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 of City Council proceedings. Four 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. No action of the Council, except as otherwise provided in ~~this~~ the Charter or the preceding sentence and in Section 2.06 of this Charter,

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shall be valid or binding unless adopted by the affirmative vote of [four \(4\)](#) or more members of the Council.

**Sec. 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. Levy taxes;
3. Grant, renew or extend a franchise;
4. Regulate land use and development;
5. Amend or repeal any ordinance previously adopted;
6. Establish and regulate the conduct of elections;

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

**Sec. 2.13. Ordinances and Resolutions in General.**

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

**Sec. 2.14. Emergency Ordinances.**

To meet a public emergency affecting life, health, property or the public peace, the City Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, or authorize the borrowing of money except as provided in [Section 5.06\(b\)4.06\(b\)](#). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance, and shall contain, after the enacting clause, a declaration stating that an emergency exists, ~~and~~ describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment, or rejected at the meeting at which it is introduced, but the affirmative vote of at least [five \(5\)](#) members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance ~~except one made pursuant to Section 4.06(b)~~ shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

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**Sec. 2.15. Codes of Technical Regulations.**

The City Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally, except that:

1. The requirements of Section 2.13 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance.
2. A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to Section 2.16(a).

Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

**Sec. 2.16. Authentication and Recording; Codification; Printing.**

- a. *Authentication and Recording.* The City Clerk shall authenticate by signing and shall record in full in a properly indexed book kept for that purpose all ordinances and resolutions adopted by the City Council.
- b. *Codification.* Within three years after adoption of this Charter, and at least every ten years thereafter, the City Council shall provide for the preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, together with pertinent provisions of the Constitution and other laws of the State of South Dakota, and such codes of technical regulations and other rules and regulations as the Council may specify. This compilation shall be known and cited officially as the Brookings City Code of Ordinances. Copies of the Code shall be furnished to City officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price established~~fixed~~ by the Council. The term "City Council" or "Council" ~~shall~~ replaces and means the term "City Commission" or "Commission" in the Code of Ordinances.
- c. *City Charter Review.* The City Council shall provide for a review of the City Charter at least every ten years, and more frequently if the City Council determines the circumstances warrant a City Charter review.
- d. *Printing of Ordinances and Resolutions.* The City Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices as established~~fixed~~ by the Council. Following publication of the first Brookings City Code of Ordinances and at all times thereafter, ~~†~~ The ordinances, resolutions and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be

suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or addition to the provisions of the Constitution and other laws of the State of South Dakota, or the codes of technical regulations and other rules and regulations included in the eCode.

## ARTICLE II ~~A~~. CITY MANAGER

### Sec. ~~32A~~.01. Appointment; Qualifications; Compensation.

The City Council by the affirmative vote of four (4) or more members of the Council shall appoint a City Manager for an indefinite term and fix the manager's compensation. The City Council shall conduct a review of the performance of the City Manager at least annually. The City Manager shall be appointed solely on the basis of executive and administrative qualifications and professional employment experience ~~as a city manager or assistant city manager~~. The Manager need not be a resident of the City or the State of South Dakota at the time of appointment, but must establish residency within the City of Brookings within 90 days of appointment unless an extension to establish residency is approved by the City Council ~~may reside outside the City while in office only with the approval of the Council~~.

### Sec. ~~32A~~.02. Removal and Resignation.

The City Manager may be suspended by a resolution approved by the affirmative vote of four (4) or more Members of the City Council which shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon the City Manager. The City Manager shall have fifteen days in which to reply thereto in writing. The City Manager may request and ~~will~~ shall be afforded a public hearing, and the City Council shall set a time for a public hearing upon the question of the City Manager's removal. After the public hearing, if one is requested, the City Council by the affirmative vote of four (4) of its total membership may adopt a final resolution requesting the resignation of the City Manager or, alternatively, removal of the City Manager if the City Manager declines to resign ~~of removal~~. The City Manager shall continue to receive full salary until the effective date of a final resolution of removal or resignation.

### Sec. ~~32A~~.03. Acting City Manager.

By letter filed with the City Clerk, the City Manager shall designate a City officer or employee to exercise the powers and perform the duties of City Manager during the City Manager's temporary absence or disability. The City Council may revoke such designation at any time and appoint another officer of the City to serve until the City Manager returns.

### Sec. ~~32A~~.04. Powers and Duties of City Manager.

The City Manager shall be the chief administrative officer of the City, responsible to the Council for the administration of all city matters placed in the City Manager's charge by or under this Charter. The City Manager shall:

1. Appoint and, when necessary in their discretion, suspend or remove all city employees and appointive administrative officers provided for by or under this Charter. The City



Manager may authorize any administrative employee or officer subject to the [City Manager's](#) direction and supervision to exercise these powers with respect to subordinates in that employee or officer's department, office or agency;

2. Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law;
3. Attend all City Council meetings. The City Manager shall, except when the governing body may be considering suspension or removal of the City Manager, have the right to take part in discussion but shall not vote;
4. See that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by the City Manager or by employees or officers subject to ~~the~~ [the City Manager's](#) direction and supervision, are faithfully executed;
5. Prepare and submit the annual budget and capital program to the City Council;
6. Submit updates annually on the date specified by the City Council a ~~ten~~ [five](#)-year capital program in such form as the City Manager deems desirable or the Council may require;
7. Submit updates annually on the date specified by the City Council a ~~ten~~ [five](#)-year financial plan in such form as the City Manager deems desirable or the Council may require;
8. ~~Keep the City Council fully advised as to the financial condition and future needs of the City~~ [Submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;](#)
9. Make such other reports as the City Council may require concerning the operations of City departments, offices and agencies subject to the City Manager's direction and supervision;
- ~~10. Keep the City Council fully advised as to the financial condition and future needs of the City;~~
- ~~10~~1. Sign all warrants for the payment of money, and the same shall be countersigned by the ~~Finance Director~~ [Clerk](#), but no warrant shall be issued until the claim therefor has been approved by the City Council, except as may be otherwise provided by ordinance or resolution;
- ~~11~~2. ~~Oversee and assert final authority over operations and decisions regarding personnel~~ [Be the personnel director of the City;](#)
- ~~13~~2. ~~Update~~ [Make recommendations to](#) the City Council ~~on all matters concerning the affairs~~ of the City;
- ~~14~~3. ~~Assist the City Council to develop long term goals for the City and strategies to implement these goals;~~
- ~~15~~4. ~~Encourage and provide staff support for partnerships with community organizations and for regional and intergovernmental cooperation and equitable programming;~~

165. Promote partnerships among the City Council, staff and community members in developing public policy and building a sense of community;

1476. Provide staff support services for the Mayor and Council members; and

1857. Perform such other duties as are specified in this Charter or as may be required by the City Council.

#### ARTICLE IVH. DEPARTMENTS, OFFICES AND AGENCIES

##### Sec. 43.01. General Provisions.

- a. *Creation of Departments.* The City Council may establish City departments, offices or agencies in addition to those created by this charter and may prescribe the function of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued or, unless this Charter specifically so provides, assigned to any other.
- b. *Supervision.* All departments, offices and agencies under the direction and supervision of the City Manager shall be administered by an officer or employee appointed by and subject to the direction and supervision of the City Manager. With the consent of Council, the City Manager may serve as the head of one or more of such departments, offices or agencies, or may appoint one person as the head of two or more of such departments, offices or agencies.

##### Sec. 43.02. City Attorney~~Legal Officer~~.

The City Manager shall recommend the appointment of a City Attorney, subject to advice and confirmation by the City Council. The City Attorney will be supervised by the City Manager in consultation with the City Council. There shall be a legal officer of the City appointed by the City Council. The City Attorney~~legal officer~~ shall serve as chief legal advisor to the Council and all City departments, offices and agencies; shall represent the city in all legal proceedings and shall perform any other duties prescribed by state law, by this Charter or by ordinance. The City Attorney must be an attorney licensed by the State of South Dakota.

##### Sec. 43.03. Copying of Public Records.

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

#### ARTICLE IV. FINANCIAL PROCEDURES

##### Sec. 54.01. Fiscal Year.

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

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**Sec. ~~54.02~~. Submission of Budget and Budget ~~Message~~Narrative.**

On or before the ~~30<sup>th</sup> first~~ day of ~~September~~August of each year, the City Manager shall submit to the City Council a budget for the ensuing fiscal year and ~~an accompanying message~~a budget narrative.

**Sec. ~~54.03~~. Budget.**

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the City Council may require. ~~The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax 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 current fiscal year. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, 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 estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year.~~ 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~~al~~ unit, and program, purpose or activity, and the method of financing such expenditures.
2. Proposed capital expenditures during the ensuing fiscal year; detailed for each fund by organization~~al~~ unit when practicable, and the proposed method of financing each such capital expenditure.
3. The long-term financial impact of the proposed budget, including future debt service requirements and the impact on fund balances. 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.

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.

**Sec. ~~5.044.04~~. City Council Action on Budget.**

- a. *Budget Hearings.* The City Council ~~shall hold at least one~~may schedule public hearings ~~on the proposed budget at a convenient time to allow for public input. Additional hearings may be scheduled as needed. Notice of the time and place of such hearings shall be published in accordance with applicable laws at appropriate times and may direct changes in the City Manager's proposed budget.~~
- b. *Amendment Before Adoption.* ~~The City Council shall adopt the final 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 City Manager shall go into effect.~~After the public

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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 final budget on or before the 30<sup>th</sup> day of November of the fiscal year currently ending. If it fails to adopt the budget by this date, the budget proposed by the City Manager shall go into effect.
- d. “Publish” defined. As used in this article, the term “publish” means to print in the contemporary means of information sharing, which includes, but is not limited to, one or more newspapers of general circulation in the City, and, if available, ~~in~~ on the City’s official web site.

**Sec. 45.05. Appropriation and Revenue Ordinances.**

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

- a. ~~Shall, no later than its first regular meeting in September of each year or within 10 days thereafter, introduce the annual appropriation ordinance for the ensuing fiscal year, in which it shall appropriate the sums of money necessary to meet all lawful expenses and liabilities of the municipality. The ordinance shall specify the function and subfunction as prescribed by the Department of Legislative Audit for which the appropriations are made and the amount appropriated for each function and subfunction, which amount shall be appropriated from the proper fund. It is not necessary to appropriate revenue to be expended from an enterprise or trust and agency fund if the fund is not supported or subsidized by revenue derived from the annual appropriated tax levy. However, an annual budget for these funds shall be developed and published no later than the last day of December of each year.~~
- 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.~~To implement the adopted budget, the City Council shall adopt, prior to the beginning of the fiscal year:
- a. An appropriation ordinance making appropriations by department or major organizational unit and authorizing an allocation for each program or activity;
- b. A tax levy ordinance authorizing the property tax levy or levies and setting the tax rate or rates; and
- c. Any other ordinances required to authorize new revenues or to amend the rates or other features of existing taxes or other revenue sources.

**Sec. 54.06. Amendments After Adoption.**

- a. *Supplemental Appropriations.* If during the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, 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 may make emergency appropriations. Such

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appropriations may be made by emergency ordinance in accordance with the provisions of Section 2.14 of this Charter. 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 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 appropriation was made.

- c. *Reduction of Appropriations.* If at any time during the fiscal year it appears probable to the City Manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the City Manager, shall report to the City Council without delay, indicating the estimated amount of the deficit, ~~any remedial action taken by the Council and recommendations~~any remedial action taken by the City Manager, and recommendations as to any other steps to be taken. The City Council shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may by ordinance reduce one or more appropriations.
- d. *Transfer of Appropriations.* At any time during the fiscal year the City Council may by resolution transfer part or all of the unencumbered appropriation balance from one department or major organizational unit to the appropriation for other departments or major organizational units. The City Manager may transfer part or all of any unencumbered appropriation balances among programs within a department or organizational unit and shall report such transfers to the City 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 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.

**Sec. ~~54.07. Lapse of Appropriations~~Administration and Fiduciary Oversight of the Budget.**

~~Every appropriation shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered.~~The City Council shall provide by ordinance or resolution the procedures for administration and fiduciary oversight of the budget.

**Sec. ~~54.08. Administration of Budget.~~**

The City Council shall provide by ordinance or resolution the procedures for administering the budget.

**~~Sec. 4.09. Overspending of Appropriations Prohibited.~~**

~~No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the City Manager or the City Manager's designee first certifies that there is 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~~

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~~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 employee or officer who knowingly authorized or made such payment or incurred such obligation. Such employee or officer may also be liable to the City for any amount so paid. Except where prohibited by law, however, nothing in this Charter shall be construed to prevent the making of improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, but only if such action is made or approved by ordinance.~~

**Sec. ~~5.094.10~~. Public Records.**

~~Copies of the budget, and appropriation and revenue ordinances shall be public records and shall be made available to the public at suitable places in the City. Copies of the budget, capital improvement plan, independent audits, and appropriation and revenue ordinances shall be public records and shall be made available to the public at suitable places in the City, including the City's official web site.~~

**ARTICLE VI. ELECTIONS**

**Sec. ~~65.01~~. City Elections.**

- a. *Regular Elections.* The regular city election shall be held at the time established by state law or as established by ordinance of the City Council.
- b. *Registered Voter Defined.* All citizens legally registered under the Constitution and laws of the State of South Dakota to vote in the City shall be registered voters of the City within the meaning of this Charter.
- c. *Conduct of Elections.* The provisions of the general election laws of the State of South Dakota shall apply to elections held under this Charter or as set forth in any ordinance adopted by the City Council. All elections provided for by this Charter shall be conducted by the election authorities established by law. Candidates shall run for office without party designation. For the conduct of City elections, 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 and published in the manner provided for publication of City ordinances ~~generally~~.

**Sec. ~~65.02~~. Initiative and Referendum.**

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

**ARTICLE VI. BROOKINGS MUNICIPAL UTILITIES AND BROOKINGS MUNICIPAL HOSPITAL**

**Sec. 76.01. Management and Control.**

- a. *Management and Control of Brookings Municipal Utilities.* The management and control of the Brookings Municipal Utilities is vested in the Utility Board as established by a vote of the Brookings city voters on April 14, 1970. The Utility Board may take any and all action it deems advisable in the furtherance of any utilities or enterprises now existing or hereafter acquired under its control, including the borrowing of money, issuance of bonds and other forms of indebtedness.
- b. *Management and Control of Brookings Municipal Hospital.* The management and control of the Brookings Municipal Hospital is vested in a Hospital Board as established by Chapter 42 of the Code of Ordinances of the City of Brookings. The Hospital Board may take any and all action it deems advisable in the furtherance of the hospital or its related facilities under its control, including the borrowing of money, issuance of bonds and other forms of indebtedness.

**ARTICLE VII. GENERAL PROVISIONS**

**Sec. 78.01. 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 conflicts 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.

**Sec. 87.02. Prohibitions.**

- a. *Activities Prohibited.*
  1. No person shall be employed, 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, sex and gender identity, sexual orientation, age, disabilityhandicap, 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 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. The expression of private or personal views concerning candidates for political office is not prohibited [by this provision hereby](#). Violation of this section shall be grounds for discharge or other disciplinary action.
- b. *Penalties.* Any violation of this section shall be sufficient cause for the suspension, demotion, or termination of the employment of any City employee found to be in violation of this section. The City Council shall establish by ordinance such further penalties as it may deem appropriate.

[\(Ord. No. 17-06, § 1, 5-23-2006\)](#)

## **ARTICLE ~~VIII~~IX. CHARTER AMENDMENT**

### **Sec. ~~98~~01. Proposal of Amendment.**

Amendments to this Charter may be framed and proposed:

- a. In the manner provided by law, [by initiative or referendum](#), or
- b. By ordinance of the City Council containing the full text of the proposed amendment (except Sections 1.04, 1.05, 2.01, 2.02, 2.03 and 2.04 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



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proposed charter amendment and must be signed by registered voters of the City in the number of at least ten percent of those individuals actually voting in the City in the preceding gubernatorial election.

**Sec. ~~98~~.02. Election.**

Upon delivery to ~~other~~ 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 in an election. Such election shall be announced by a notice containing the complete text of the proposed amendment and published in ~~the news media 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 13th 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 ~~days~~ 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 ~~S~~state election law.

**Sec. ~~98~~.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 ~~provided~~~~fixed~~ in the amendment, or if no time is ~~provided~~ therein ~~fixed~~, 30 days after the initial canvas certifying its adoption by the voters.

**ARTICLE ~~IX~~. TRANSITION/~~SEPARABILITY SEVERABILITY~~ PROVISION**

**Sec. ~~109~~.01. Officers and Employees.**

- a. *Rights and Privileges Preserved.* Nothing in this Charter, except as otherwise specifically provided, shall affect or impair the rights or privileges of persons who are city officers or employees at the time of its adoption.
- b. *Continuance of Office or Employment.* Except as specifically provided by this Charter, if at the time this Charter or any amendment thereof takes full effect, a City administrative officer or employee holds any office or position which is or can be abolished by or under this ~~C~~harter, ~~they~~~~he or she~~ shall continue in such office or position until the ~~effective date~~~~taking effect~~ of ~~some a~~ specific provision under this Charter directing that ~~they~~~~he or she~~ vacate the office or position.
- c. *Personnel System.* An employee holding a city position at the time this Charter takes full effect, who was serving in that same or a comparable position at the time of its adoption,

shall not be subject to competitive tests as a condition of continuance in the same position but in all other respects shall be subject to the personnel system provided for in Article III.

**Sec. 109.02. Departments, Offices and Agencies.**

- a. *Transfer of Powers.* If a City department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter or, if this Charter makes no provision, as designated by the City Council.
- b. *Property and Records.* All property, records and equipment of any department, office or agency existing when this Charter or any amendment thereof is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, offices or agencies as designated by the City Council in accordance with this Charter.

**Sec. 109.03. 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, ~~conducted~~~~carried on~~ or ~~addressed~~~~dealt with~~ by the City department, office or agency appropriate under this Charter.

**Sec. 910.04. State and Municipal Laws.**

~~a. — In General.~~ All City ordinances, resolutions, orders and regulations which are in force when this amended Charter becomes effective shall continue, except any ordinance is repealed to the extent it is inconsistent with this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of South Dakota permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

**Sec. 9.05. Schedule.**

~~a. — Transition and Election Schedule. Three (3) members of the City Council and the Mayor shall be elected at the regular city election in 2003, with two (2) members of the City Council elected to serve until the regular city election in 2004, after which the three (3) year terms of their successors shall begin, and one (1) member and the Mayor elected to serve until the regular city election in 2006 after which the three (3) year terms of their successors shall begin.~~

~~Three (3) members of the City Council shall be elected at the regular city election in 2005, with one (1) member of the City Council elected to serve until the regular city election in 2006, after which the three (3) year term of their successor shall begin, and two (2) members elected to~~

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serve until the regular city election in 2008 after which the three (3) year terms of their successors shall begin.

At the regular city election in 2006 and thereafter vacancies shall be filled for three year terms with regular city elections being held annually.

~~b. *Temporary Ordinances.* In adopting ordinances as provided in Section 9.05(c), the City Council shall follow the procedures prescribed in Article II, except that at its first meeting or any meeting held within 60 days after the first City Council meeting of this Charter, the Council may adopt temporary ordinances to deal with cases in which there is an urgent need for prompt action in connection with the transition of government and in which the delay incident to the appropriate ordinance procedure would probably cause serious hardship or impairment of effective city government. Every temporary ordinance shall be plainly labeled as such but shall be introduced in the form and manner prescribed for other adopted ordinances. A temporary ordinance shall become effective upon adoption or at such later time preceding automatic repeal under this subsection as it may specify, and the referendum power shall not extend to any such ordinance. Every temporary ordinance, including any amendments made thereto after adoption, shall automatically stand repealed as of the 91st day following the date on which it was adopted, renewed or otherwise continued except by adoption in the manner prescribed in Article II of this Charter for ordinances of the kind concerned.~~

~~e. *Initial Expenses.* The initial expenses of the City Council, including the expense of recruiting a City Manager, shall be paid by the City on warrants signed by the Mayor and Clerk.~~

**Sec. ~~10.0-9.056.~~ Separability ~~SE~~ Severability.**

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of ~~this~~ the Charter or any of its provisions to any person or circumstance is held invalid, the application of ~~this~~ the Charter and its provisions to other persons or circumstances shall not be affected thereby.