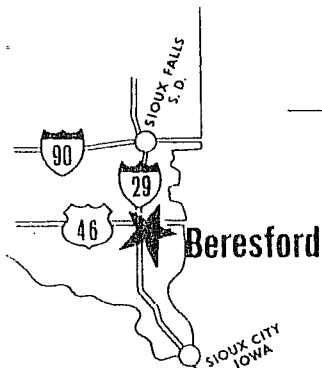


# City Of Beresford



101 N. Third  
Beresford, S.D. 57004-1796  
PHONE: (605) 763-2008  
FAX: (605) 763-2329

September 22, 1998

Joyce Hazeltine  
Secretary of State  
State Capitol - Suite 204  
500 East Capitol  
Pierre, SD 57501-5077

Re: Home Rule Charter

Dear Ms. Hazeltine:

Enclosed please find a certified copy of a Home Rule Charter which was adopted by the citizens of the City of Beresford at a special election held on Tuesday, September 8, 1998. The results of the election were canvassed by the City Council at their regular meeting held on the evening of September 7, 1998. The filing of this certified copy of the Home Rule Charter is meant to comply with the provisions of SDCL 6-12-11.

If you have any questions, please feel free to contact the undersigned.

Yours very truly,

Curtis Kludt  
City Finance Officer

CK/jw  
Enc.

# Secretary of State

State Capitol, Ste 204  
500 East Capitol Avenue  
Pierre, South Dakota  
57501-5070  
sdsos@sos.state.sd.us



JOYCE HAZELTINE  
Secretary of State

TOM LECKEY  
Deputy

September 25, 1998

TO: CURTIS KLUDT  
CITY OF BERESFORD  
101 N THIRD  
BERESFORD SD 57004

FROM: Corporations/Penny

RE: CITY OF BERESFORD HOME RULE CHARTER

The documents on behalf of the above named have been received and filed on September 25, 1998.

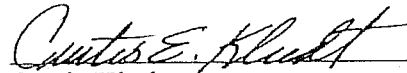
Thank you.

CERTIFICATION

I, Curtis Kludt, City Finance Officer for the City of Beresford, South Dakota, hereby certify that the foregoing Home Rule Charter is a true and correct copy of the Home Rule Charter adopted by the citizens of Beresford at a special election held on September 8, 1998 and that the foregoing constitutes the Home Rule Charter in effect for the City of Beresford.

Dated the 23rd day of September, 1998.

CITY OF BERESFORD



\_\_\_\_\_  
Curtis Kludt  
City Finance Officer

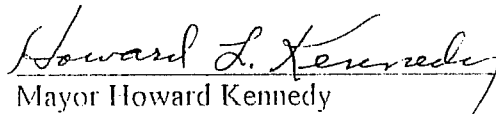
(SEAL)

RESOLUTION 98-17

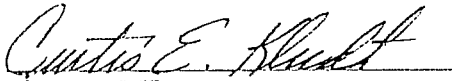
BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF BERESFORD, SOUTH DAKOTA, THAT the City Council, deeming it to be in the best interest of the City of Beresford and its residents, proposes to provide a Home Rule Charter as set forth in the proposed Charter which is attached to and by this reference incorporated in this Resolution as if fully set forth herein. Pursuant to SDCL 6-12-8, the question of adoption of the proposed Charter is hereby submitted to the voters at a special election to be held on Tuesday, September 8, 1998.

Adopted this 20th day of July, 1998.

CITY OF BERESFORD

  
\_\_\_\_\_  
Mayor Howard Kennedy

ATTEST:

  
\_\_\_\_\_  
Finance Officer

Votes:     5         0  
          For         Against

ARTICLE I

POWERS OF THE CITY

**Section 1.01 - Powers of the City:** The City shall have all powers it may now or hereafter be possible for a municipal corporation in this State to exercise in harmony with the Constitutions of this State and of the United States. It is the intention of this Charter to confer upon the City every power which it would have if the power were specifically mentioned. The City shall have every power except those specifically denied or by this Charter, the Constitution or the general laws of the state.

**Section 1.02 - Construction:** This Charter shall be construed liberally in favor of the City and the specific mention of particular municipal powers in other Sections of this Charter does not limit the powers of the City to those so mentioned.

**Section 1.03 - Intergovernmental Relations:** The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one (1) or more states or any state division or agency, or the United States or any of its agencies or any township, county 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.

**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; or
3. Permit increased gaming.

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.

**Section 2.02 - Composition, Eligibility, Terms, Bond Required, Designation of Areas of Responsibility, Powers and Duties:**

a. **Composition:** There shall be a City Council composed of the Mayor and six (6) Council members. Two Council members shall be elected from each of the three Wards for the City. The Mayor shall 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 and Ward shall be eligible to hold the office of Council member or Mayor. Any person to be nominated, elected or appointed to any such position shall be a citizen of the United States.

c. **Terms:** The terms of Council member and the Mayor shall be for two (2) years beginning with the first regular City Council meeting in May following the election.

d. **Continuation of Terms of Council Members:** The present City Council members and Mayor, upon the successful adoption of this Charter by the voters of the City of Beresford, shall continue in office for the remainder of their respective terms and may seek re-election if not prohibited by the terms of this Charter.

**Section 2.03 - Mayor:** The Mayor shall serve as a member of the City Council. In the absence of the Mayor the City Council shall designate one of its members as president with the duties to be the same as the Mayor's.

a. **Powers and duties of Mayor - Veto Power.** The Mayor shall preside at all meetings of the Council but shall have no vote except in case of a tie. The Mayor shall perform such other duties as may be prescribed by the laws and ordinances, and take care that such laws and ordinances are faithfully executed. The Mayor shall annually and from time to time give the Council information relative to the affairs of the City, and shall

recommend for their consideration such measures as he may deem expedient. The Mayor shall have the power to sign or veto any ordinance or resolution passed by the Council, and the power to veto any part or item of an ordinance or resolution appropriating money.

**Section 2.04 - Compensation; Expenses:** The City Council may determine the annual salary of the Mayor and Council members by resolution, but no resolution increasing such salary shall become effective until the date of commencement of the term of the Council members 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.

**Section 2.05 - Prohibitions:**

- a. **Holding Other Office:** Except where authorized by law, no Council member shall hold any other elected public office during the term for which the member was elected to the Council. No Council member shall hold another 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 six months 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.

**Section 2.06 - Vacancies; Forfeiture of Office; Filling of Vacancies:**

- a. **Vacancies:** The office of a Council member or Mayor shall become vacant upon the person's death, resignation, removal from office or forfeiture of office in any manner authorized by law.
- 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 within the Ward from which the Council member was elected.
  4. Is convicted of a felony.
  5. Fails to attend 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:** A vacancy in the office of 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. Notwithstanding the requirement in §2.11, if at any time the membership of the Council is reduced to less than four, the remaining members may by majority action appoint additional members to raise the membership to four.

**Section 2.07 - Judge of Qualifications:** The City Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office. The City Council shall have the power to set additional standards of conduct for its members beyond those specified in the Charter and may provide for such penalties as it deems appropriate, including forfeiture of office. In order to exercise these powers, the Council shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in a legal newspaper for the City at least seven days in advance of the hearing. Decisions made by the Council under this section shall be subject to judicial review.

**Section 2.08 - Finance Officer:** The Mayor shall appoint an officer of the City who shall have the title of Finance Officer.



The City Council shall approve such appointment. The Finance Officer 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, City Ordinance, the Council or state law.

**Section 2.09 - Investigations:** The City Council may make investigations in to 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 misdemeanor punishable by a fine and/or jail sentence to be established by resolution of the Council.

**Section 2.10 - Independent Audit:** The City Council shall provide for an independent bi-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 two 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 state auditor general makes such an audit, the Council may accept it as satisfying the requirements of this section.

**Section 2.11 - Procedure:**

- a. **Meetings:** The Council shall meet regularly at such times and places as the Council may prescribe by Ordinance. Special meetings may be held on the call of the Mayor or of 3 or more members and, whenever practicable, upon no less than twenty-four (24) hours notice to each member. Except as allowed by state law, all meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session limited to its own membership, legal counsel and other persons invited by the Council, any matter which would tend to defame or prejudice the character or reputation of any person, any matter concerning personnel or collective bargaining matters or any threatened or pending litigation, if the general subject matter for consideration is expressed in the motion calling for such session and final action on such motion is not taken by the Council until the

matter is placed on the agenda.

- b. **Rules and Journal:** The City Council shall 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. 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 the preceding sentence and in §2.06, shall be valid or binding unless adopted by the affirmative vote of 4 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, 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.

**Section 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 procedures.

**Section 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 §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 4 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 §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 ordinance.

**Section 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 §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 Finance Officer pursuant to §2.16(a).

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

**Section 2.16 - Authentication and Recording; Codification; Printing.**

- a. **Authentication and Recording:** The Finance Officer shall authenticate by signing and shall record in full in a properly indexed book kept for the purpose all

ordinances and resolutions adopted by the City Council.

- b. **Codification:** Within five years after adoption of this Charter and at least every twenty 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, 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 Beresford 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 fixed by the Council.
- c. **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 fixed by the Council. Following publication of the first Beresford 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 or technical regulations and other rules and regulations included in the code.

ARTICLE III

DEPARTMENTS, OFFICES AND AGENCIES

**Section 3.01 - General Provisions:** 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.

**Section 3.02 - Legal Officer:** There shall be a legal officer of the City appointed by the Mayor and approved by the City Council. The legal officer shall serve as chief legal advisor to the Council, and all city departments, offices and agencies and shall represent the City in all legal proceedings and shall perform any other duties prescribed by state law, by this Charter or by Ordinances.

## ARTICLE IV

### FINANCIAL PROCEDURES

**Section 4.01 - 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 4.02 - Submission of Budget and Budget Message:** On or before the 1st day of August of each year, the finance officer shall submit to the City Council a budget for the ensuing fiscal year and an accompanying message.

**Section 4.03 - 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. 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 fiscal year; detailed for each fund by organization unit when practicable, and the proposed method of financing each such capital expenditure.

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

**Section 4.04 - City Council Action on Budget:** 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 finance

officer shall go into effect.

**Section 4.05 - 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.

**Section 4.06 - Amendments After Adoption:**

- a. **Supplemental Appropriations:** If during the fiscal year the finance officer 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 revenues.
- b. **Emergency Appropriations:** To meet a public emergency affecting life, health, property, or the public peace, the City Council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of §2.14. 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 finance officer that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the finance officer 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 or more appropriations.
  
- d. **Transfer of Appropriations:** At any time during the fiscal year the City Council may by resolution transfer part of all of the unencumbered appropriation balance from one department or major organizational unit to the appropriation for other departments or major organizational units. The finance officer 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 serve 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.

**Section 4.07 - Lapse of Appropriations:** Every appropriation shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered.

**Section 4.08 - Administration of Budget:** The City Council shall provide by ordinance the procedures for administering the budget.

**Section 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 finance officer or the finance officer'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 4.10 - 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.

ARTICLE V

ELECTIONS

**Section 5.01 - City Elections.**

- a. **Regular Elections:** The regular City election shall be held at the time established by state law or as otherwise 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 by for the Charter shall be conducted by the election authorities established by law. Candidates shall run for office without party designation. For the conduct of City elections, 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.

**Section 5.02 - 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

BERESFORD MUNICIPAL UTILITIES

Section 6.01.

a. Management and Control of Beresford Municipal Utilities:

The management and control of the Beresford Municipal Utilities is vested in the City Council. The City Council 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. These powers shall not be limited except to the extent expressly prohibited by the Constitutions of the United States or State of South Dakota, or this Charter.

## ARTICLE VII

### GENERAL PROVISIONS

#### Section 7.01 - Conflicts of Interest:

- 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, including 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.

#### 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 hereunder, or in any manner 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 appointive City 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 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. 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.

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 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 the voters of the City, when any 50 qualified voters initiate proceedings to amend the Charter by filing with the finance officer an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed Charter amendment. Promptly after the affidavit of the petitioners' committee is filed, the 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 10% of those individuals actually voting in the City in the preceding gubernatorial election.

**Section 8.02 - Election:** Upon delivery by the finance officer of an adopted ordinance proposing an amendment pursuant to §8.01(b) or a petition finally determined sufficient to propose an amendment pursuant to §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 one 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 finance officer a request for withdrawal signed by at least a 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 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 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 takes full effect a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he or she shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he or she vacate the office or position.

c. Personnel System: An employee holding a City position at the time this Charter takes full effect, who was serving in that same or a comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position but in all other respects shall be subject to the personnel system [provided by ordinance.]

**Section 9.02 - Departments, Offices and Agencies:**

a. Transfer of Powers: If a City department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City departments, office or agency designated in this Charter or, if the Charter makes no provision, as designated by the City Council.

b. Property and Records: All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the departments, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in



the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, offices or agencies designated by the City Council in accordance with this Charter.

**Section 9.03 - Pending Matters:** All rights, claims, actions, orders, collective bargaining agreements, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City Department, office or agency appropriate under this Charter.

**Section 9.04 - State and Municipal Laws:**

- a. **In General:** All City ordinances, resolutions, orders and regulations which are in force when this Charter becomes effective shall continue except an ordinance is repealed to the extent it is inconsistent with this Charter or of ordinances or resolutions adopted pursuant hereto. To the extent that the Constitutions 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 hereto.

**Section 9.05 - Schedule:**

- a. **First Election:** At the time of its adoption, this Charter shall be in effect to the extent necessary in order that the first election of members of the City Council may be conducted in accordance with the provisions of this Charter. THE first election shall be held on the first Tuesday of April, 1999. The present City Council 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.
- b. **Time of Taking Full Effect:** The Charter shall be in full effect for all purposes on and after the date and time of its adoption.

**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 circumstances is held invalid, the application of this Charter and its provisions to other persons or circumstances shall not be affected thereby.