

AGENDA	Thursday, October 11, 2012
Charter Revision	3:30 p.m.
Commission Working	Carnegie Town Hall
Session	235 West 10th Street

NOTE: There will be no audio or video recording of this meeting.
Meeting notes will be available on SIRE upon completion.

1. Call To Order

2. Review The Charter For The City Of Sioux Falls
 - A. Article I. Powers of the City
 - i. Public Input

 - B. Article II. City Council
 - ii. Public Input

 - C. Article III. Mayor
 - iii. Public Input

3. Open Discussion

4. Adjournment

Date: 2012-10-11
SIRE Meeting ID: 1818
Meeting Type: Charter Revision Commission

YouTube:<https://youtu.be/JNstsZy0Bro>
Agenda Item: Not Assigned
Item ID: 65126

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

Revised Ordinances of Sioux Falls, SD

ARTICLE I. POWERS OF THE CITY**Section 1.01. Powers of the city.**

The city shall have all powers possible for a city to have under the constitution and laws of this state as fully and completely as though they were specifically enumerated in this charter.

Section 1.02. Construction.

The powers of the city under this charter shall be construed favorably in support of the charter and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted in this article.

Section 1.03. Intergovernmental relations.

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

The city retains and reserves its right to Joint Exercise of Governmental Powers as set forth in SDCL Title 1. Further the city adopts and ratifies each and every contract and agreement entered into by virtue of that power under any prior city organization or form of government.

Section 1.04. Limitations.

Nothing in this charter shall be construed to permit the city to do any of the following:

- (1) Levy a personal or corporate income tax,
- (2) Issue more liquor licenses,
- (3) Permit increased gaming, or
- (4) Incur additional debt,

unless and except to the extent otherwise authorized to any city established as a SDCL Title 9 authorized form of city government.

Section 1.05. New taxes.

Any new form or type of taxation which is approved by the city council must be referred to a vote of the people before it can become effective. This does not apply to new or increased fees or increases in existing taxes.

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ARTICLE II. CITY COUNCIL**Section 2.01. General powers and duties.**

All powers of the city shall be vested in the city council, except as otherwise provided by law or this charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law. The council shall act as a part-time, policy making and legislative body, avoiding management and administrative issues.

Section 2.02. Composition, eligibility, election, and terms.

(a) *Composition.* There shall be a city council composed of the mayor and eight (8) members. Three (3) council members shall be nominated and elected by the voters of the city at large, and five (5) shall be nominated and elected by the voters of each of the five (5) council districts, as provided in article VI.

(b) *Eligibility.* Only the registered voters of the city who have resided in the city for at least six (6) months immediately prior to the date of election shall be eligible to hold the office of council member or mayor.

(c) *Election and terms.* The terms of council members shall be four (4) years beginning on the third Monday of May following the official canvass of any final council or mayoral election, whichever is later, and shall continue until a successor has been elected and takes office. No council member may serve more than two (2) full or partial terms consecutively; however, a council member may immediately thereafter be eligible to be a candidate for mayor. The two consecutive term limit shall apply regardless of whether a council member has served as a district or an at large council member or both.

(4-11-00, § A)

Section 2.03. Mayor.

The mayor shall serve as a member of the city council. In the absence of the mayor for purposes of city council meetings, the city council shall designate one (1) of its members as acting mayor, with the duties but not the powers of that office. In case of emergencies or for purposes of day-to-day administrative duties and functions if the mayor is temporarily unavailable, the mayor shall propose to designate an interim successor by executive order, listing not less than three (3) nor more than seven (7) interim successors. The selection of interim successors in the executive order shall be at the mayor's discretion from among department heads or city employees; however, the number and order of proposed interim successor designees shall not be effective without the advice and consent of the city council.

(4-13-04, § B)

Section 2.04. Compensation; expenses.

The annual salary of the mayor and part-time council members is set in section 9.05, and shall be automatically adjusted annually for inflation or deflation, as determined by a generally accepted federal government index (e.g., CPI-U). The mayor and council members shall receive their actual and

necessary expenses incurred in the performance of their duties of office. The mayor, but not the council members, shall participate in the city's employee benefits programs which are available to other management employees, excluding the city pension system. However, upon taking office the mayor may elect to participate in the employees' retirement system, if allowed by ordinance, or may elect not to participate in the employees' retirement system.

(4-8-08, § A)

Section 2.05. Prohibitions.

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

(b) *Appointments and removal.* Neither the city council nor any of its members shall in any manner control or demand the appointment or removal of any city administrative officer or employee whom the mayor or any subordinate of the mayor is empowered to appoint, but the council may express its views and fully and freely discuss with the mayor anything pertaining to appointment or removal of such officers and employees.

(c) *Interference with administration.* Except for the purpose of inquiries and investigations under section 2.09, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the mayor solely through the mayor and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.

(4-13-04, § A; 4-8-08, § B)

Section 2.06. Vacancies; forfeiture of office; filling of vacancies.

(a) *Vacancies.* The office of mayor or of a council member shall become vacant upon the person's death, resignation, removal from office or forfeiture of office in any manner authorized by law.

(b) *Recall.* The power of recall of the mayor and council members shall be allowed as set forth in SDCL Title 9.

(c) *Forfeiture of office.* The mayor or a council member shall forfeit that office if the mayor or council member[:]

- (1) Lacks at any time during the term of office for which elected any qualification for the office prescribed by this charter or by law,
- (2) Violates any expressed prohibition in section 7.02 of this charter,
- (3) Fails to maintain residency within city limits, or in the case of council members elected by district, fails to maintain residency within that district; however, any council member may complete their elected term of office if residency outside their district is caused during their term of office by a district adjustment pursuant to Section 6.02.

- (4) Is convicted of a felony, or
- (5) Fails to attend 50% of the regular monthly meetings of the council during a fiscal year, or three consecutive regular monthly meetings of the council, without being excused by the council.

(d) *Filling of vacancies.* A vacancy in the office of mayor or in the city council shall be filled for the remainder of the unexpired term, if any, at the next regular election following not less than 60 days upon the occurrence of the vacancy, but the council by a majority vote of all its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. If the council fails to do so within 30 days following the occurrence of the vacancy, the city election authorities shall call a special election to fill the vacancy, to be held not sooner than 90 days and not later than 120 days following the occurrence of the vacancy, and to be otherwise governed by law. Notwithstanding the requirement in section 2.11, if at any time the membership of the council is reduced to less than six (6), the remaining members may by majority action appoint additional members to raise the membership to six (6).

(4-13-04, § C)

Section 2.07. Judge of qualifications.

The city council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office. The council shall have the power to set additional standards of conduct for its members beyond those specified in the charter and may provide for such penalties as it deems appropriate, including forfeiture of office. In order to exercise these powers, the council shall have power to subpoena witnesses, administer oaths, and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one (1) or more newspapers of general circulation in the city at least seven (7) days in advance of the hearing. Decisions made by the council under this section shall be subject to judicial review.

Section 2.08. City clerk.

The city council shall appoint an officer of the city who shall have the title of city clerk. The city clerk shall give notice of council meetings to its members and the public, keep the minutes of its proceedings and perform such other duties as are assigned by this charter or by the council or by state law.

Section 2.09. Investigations.

The city council may make investigations into the affairs of the city and the conduct of any city department, office, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the council shall be a violation and punishable as provided in state law.

Section 2.10. Independent audit.

The city council shall provide for an independent annual audit of all city accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the city government or any of its officers. The council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, but the

designation for any particular fiscal year shall be made no later than 120 days before the expiration of such fiscal year. If the state makes such an audit, the council may accept it as satisfying the requirements of this section.

(4-11-00, § B)

Section 2.11. Procedure.

(a) *Meetings.* The council shall meet regularly at least once in every month at such times and places as the council may prescribe by rule. If the council meets more than once a month, it may designate which meeting is the regular monthly meeting. If they don't so designate one, the first meeting of the month is the regular monthly meeting. Special meetings may be held on the call of the mayor or of six (6) or more members and, whenever practicable, upon no less than twelve hours notice to each member. All meetings shall be public, except as allowed by state law.

(b) *Rules and journal.* The city council shall determine its own rules and order of business and shall provide for keeping of an accurate journal of its proceedings. This journal shall be a public record.

(c) *Voting.* Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Five (5) members of the council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. Each council member shall have an equal vote; the mayor shall only vote as necessary to break a tie. All actions of the council shall be by a majority of those present, except no ordinances or any action calling for the expenditure of money in excess of the state bids limits for municipalities or filling of vacancies as set forth in section 2.06 shall be valid or binding unless adopted by the affirmative vote of five (5) or more members of the council.

Section 2.12. Action requiring an ordinance.

In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the city council shall be by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter, or abolish any city department, office, or agency;
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Levy taxes, or impose or increase fees;
- (4) Grant, renew, or extend a franchise;
- (5) Regulate the rate charged for its services as a public utility;
- (6) Authorize the borrowing of money;
- (7) Convey or lease or authorize the conveyance or lease for a period of longer than one (1) year of any real property of the city;
- (8) Regulate land use and development;

- (9) Actions to establish the conduct of elections; and
- (10) Amend or repeal any ordinance previously adopted.

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

(Ref. of 5-7-96)

Section 2.13. Ordinances in general.

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

Section 2.14 Updating the Code of Ordinances.

The Code of Ordinances must be updated at least every twenty years, pursuant to the provisions of state law, as was done in 1972 and in 1992.

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ARTICLE III. MAYOR**Section 3.01. Executive power.**

The executive and administrative power of the city shall be vested in a mayor.

Section 3.02. Election and qualifications of mayor.

The mayor shall be elected for a term of four years by a direct vote of the people at the regular city election. No mayor shall serve more than two (2) full or partial terms consecutively; however, the mayor may immediately thereafter be eligible to be a candidate for council member. The mayor's terms shall begin on the third Monday of May following the official canvass of the mayor's election and shall continue until a successor has been elected and takes office.

(4-11-00, § C)

Section 3.03. Mayor's duties and responsibility.

The mayor shall, at the beginning of each calendar year, and may at other times give the council information as to the affairs of the city and recommend measures considered necessary and desirable. The mayor shall preside at meetings of the council, represent the city in intergovernmental relationships, appoint with the advice and consent of the council the members of the citizen advisory boards and commissions, present an annual state of the city message, and perform other duties specified by the council and by article III. The mayor shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law.

Section 3.04. Mayor's power to veto legislation.

Within four (4) business days after the adjournment of any council meeting, the city clerk shall present to the mayor the record of proceedings of the meeting and all ordinances and resolutions adopted at the meeting. The mayor, within seven days of receipt of an ordinance or resolution, shall return it to the city clerk with or without approval, or with a veto. If an ordinance or resolution is vetoed, the mayor shall attach a written statement explaining the reasons for the veto. Ordinances or resolutions vetoed by the mayor shall be considered at the next regular meeting of the council, and the council may pass the ordinance or resolution over the veto by the affirmative vote of six of its members. The effective date of an ordinance or resolution passed over the mayoral veto shall not be less than 20 days after the date of publication. The mayor's veto power shall extend to disapproving or reducing individual appropriation items in the budget or any ordinance or resolution, except appropriations for auditing or investigating any part of the executive branch. The mayor shall not have the power to veto any emergency ordinance.

(4-11-00, § D)

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