

AGENDA	Thursday, November 8, 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 II. City Council (start at Section 2.08. City Clerk)
 - i. Public Input

 - B. Article III. Mayor (as time permits)
 - ii. Public Input

 - C. Article IV. Departments, Offices, and Agencies (as time permits)
 - iii. Public Input

 - D. Article V. Financial Procedures (as time permits)
 - iv. Public Input

3. Adjournment

Date: 2012-11-08
SIRE Meeting ID: 1825
Meeting Type: Charter Revision Commission

YouTube:<https://youtu.be/JNstsZy0Bro>
Agenda Item: Not Assigned
Item ID: 65300

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

Revised Ordinances of Sioux Falls, SD

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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Revised Ordinances of Sioux Falls, SD

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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Date: 2012-11-08
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Meeting Type: Charter Revision Commission

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Item ID: 65302

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Revised Ordinances of Sioux Falls, SD

ARTICLE IV. DEPARTMENTS, OFFICES, AND AGENCIES**Section 4.01. General provisions.**

(a) *Creation of departments.* The mayor may establish city departments, offices, or agencies in addition to those created by this charter by filing an executive order which may also provide that any funds previously appropriated to perform a function which is being transferred may thereby be transferred to the new major organizational unit performing such function, with such order becoming effective after the expiration of 25 days from the date it is filed, unless action is taken to nullify the executive order by a vote of six (6) or more members of the city council. The mayor may prescribe the functions of all departments, offices, and agencies, except that no function assigned by this charter to a particular department, office, or agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

(b) *Direction by mayor.* All departments, offices, and agencies under the direction and supervision of the mayor shall be administered by one (1) or more officers appointed by and subject to the direction and supervision of the mayor. The appointment by the mayor of any officer or employee having final authority over more than five (5) percent of the city's employees or budget shall only be effective with the advice and consent of the council. The mayor may appoint one (1) person as the head of two (2) or more departments.

(4-11-00, § E)

Section 4.02. Personnel system.

(a) *Appointments and promotions.* All appointments and promotions of city officers and employees shall be made solely on the basis of merit and fitness.

(b) *Civil service system.* The city council shall provide by ordinance for the establishment, regulation, and maintenance of a civil service system governing personnel policies necessary to effect the administration of the employees of the city's departments, offices, and agencies. The city council shall provide by ordinance for classification and pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training, civil service appeal procedures to address grievances of employees, and relationship with employee organizations.

(Ref. of 5-7-96)

Section 4.03. Legal officer.

There shall be a legal officer of the city appointed by the mayor effective with the advice and consent of the council. The legal officer shall serve as chief legal advisor to the city council, the mayor and all city departments, offices and agencies, shall perform any other duties prescribed by state law, by this charter or by ordinance, and shall handle or monitor the representation of the city in legal proceedings.

(4-11-00, § F)

Section 4.04. Planning.

Consistent with all applicable federal and state laws with respect to land use, development, and environmental protection, the city council shall:

- (1) Designate an agency or agencies to carry out the planning function and such decision-making responsibilities as may be specified by ordinance;
- (2) Adopt a comprehensive plan and determine to what extent zoning and other land use control ordinances must be consistent with the plan; and
- (3) Adopt development regulations, to be specified by ordinance, to implement the plan.

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Revised Ordinances of Sioux Falls, SD

ARTICLE V. FINANCIAL PROCEDURES**Section 5.01. Fiscal year.**

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

Section 5.02. Submission of budget and budget message.

On or before the 1st day of August of each year, the mayor shall submit to the city council a budget for the ensuing fiscal year and an accompanying message.

(Ref. of 5-7-96)

Section 5.03. Budget message.

The mayor's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the city's debt position and include such other material as the mayor deems desirable.

Section 5.04. Budget.

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

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

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

(4-13-04, § D; 4-8-08, § C; 4-13-10, § A)

Section 5.05. City council action on budget.

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

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

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

(c) *Adoption.* The city council shall adopt the annual appropriation ordinance for appropriated funds for the ensuing fiscal year on or before the 30th day of September of the fiscal year currently ending. The annual appropriation ordinance shall make appropriations by fund and department or organizational unit. It is not necessary to appropriate funds to be expended from a proprietary or trust 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 adopted by resolution on or before the 30th day of September of the fiscal year currently ending and published at the same time as publication of the annual appropriation ordinance. If the city council fails to adopt the budget by this date, the budget proposed by the mayor shall go into effect.

(d) The city council 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.

(4-10-12, § B)

Section 5.06. Reserved.

(4-13-04, § E; 4-8-08, § D; 4-10-12, § B)

Editor's note:

The removal of this section was approved by the voters of Sioux Falls at a municipal election held on April 10, 2012.

Section 5.07. Amendments after adoption.

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

(b) *Emergency appropriations.* To meet a public emergency affecting life, health, property, or the public peace, the city council or mayor may make emergency special appropriations. Such appropriations may be made by emergency ordinance or declaration. To the extent that there are no

available unappropriated revenues or a sufficient fund balance to meet such appropriations, the council may by such emergency ordinance or declaration authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency special appropriation was made.

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

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

(e) *Limitation; effective date.* No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

(Ref. of 5-7-96; 4-8-08, § E)

Section 5.08. Lapse of appropriations.

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

Section 5.09. Administration of the budget.

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

Section 5.10. Overspending of appropriations prohibited.

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

end of the fiscal year, but only if such action is made or approved by ordinance.

Section 5.11. Capital program.

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

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

(1) A clear general summary of its contents;

(2) Identification of the five-year goals of the city;

(3) A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for each;

(4) Cost estimates and recommended time schedules for each improvement or other capital expenditure;

(5) Method of financing, upon which each capital expenditure is to be reliant;

(6) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired;

(7) A commentary on how the plan addresses the financial sustainability of the city and the region of which it is a part; and

(8) Methods to measure outcomes and performance of the capital plan related to the long-term goals of the city.

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

(Ref. of 5-7-96; 4-8-08, § F)

Section 5.12. City council action on capital program.

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

(1) The times and places where copies of the capital program are available for inspection by the public, and

(2) The time and place, not less than two weeks after such publication, for a public hearing on the capital program.

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

(Ref. of 5-7-96; 4-8-08, § G)

Section 5.13. Public records.

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

(4-8-08, § H)

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