

HOME RULE CHARTER FOR THE CITY OF SPRINGFIELD

THE PREAMBLE

We, the people of Springfield, in the County of Bon Homme and the State of South Dakota, in order to secure for ourselves the benefits of municipal home rule and to exercise all the powers of local self-government under the Constitution and the laws of the State of South Dakota, pursuant to the provisions of Article IX of the Constitution of the State of South Dakota and as defined by Chapter 6-12 South Dakota Compiled Laws do hereby adopt this Charter for the City of Springfield.

ARTICLE I

Incorporation-Boundaries-Annexation-Form

SECTION 101: Incorporation

The inhabitants of the City of Springfield within the corporate limits as defined in Section 102 of this Charter or subsequently altered by annexation shall be known as the "City of Springfield" and continue to be a municipal body politic and corporate in perpetuity.

SECTION 102: Boundaries

The boundaries of the City of Springfield are hereby established and declared to be those that exist at the time of the adoption of this Charter and as annexed subsequently.

SECTION 103: Annexation

The Common Council of the City of Springfield shall have the power to annex any territory contiguous to the City of Springfield provided, however, that said annexation shall be in accordance with State law.

SECTION 104: Form

The form of government established by this Charter shall be the "Mayor-Alderman Form".

ARTICLE II

Powers-Construction-Intergovernmental Relations

SECTION 201: Powers

The city shall have all powers possible for a city to have under the Constitution and laws of the State of South Dakota as fully and completely as though they were specifically enumerated in this Charter. (The city specifically shall have the power to obtain by purchase, gift, grant or otherwise, to operate either with its own staff or by contract with an agency public or private within or without the State of South Dakota, and to sell, lease, grant, donate or convey to any agency public or private within or without the State of South Dakota that institution, buildings, grounds and personal property presently known as the University of South Dakota at Springfield, or its successors.)

SECTION 202: Construction

The powers of the city under this Charter shall be construed liberally in favor

of the city, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way whatsoever the general power stated in this article. Unless granted by this Charter to some other officer or body, all powers shall be vested in the Common Council.

SECTION 203: 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 or more states, civil divisions, or public agencies thereof or the United States or any agency thereof.

ARTICLE III

Common Council

SECTION 301: Composition

There shall be a Common Council of six aldermen elected by the qualified voters of the city by wards, and a Mayor elected at large on a nonpolitical ballot. There shall be two Aldermen from each of three wards.

SECTION 302: Qualifications

Every qualified voter of the city shall be eligible to be a member of the Common Council. Qualified voters shall be as determined by relevant State laws pertaining to general elections.

SECTION 303: Election and Terms

The regular election of members of the Common Council shall be held on the second Tuesday of April in each year or as provided by State law.

The present members of the Common Council in office at the effective date of this Charter shall continue to hold office until the expiration of the terms to which they were elected. Commencing at the first annual municipal election under this Charter and at all subsequent annual municipal elections three members of the Common Council shall be elected; each of the three candidates receiving the majority number of votes shall serve a two-year term. Commencing at the second annual election under this Charter and at two-year intervals thereafter there shall be elected a Mayor who shall serve a two-year term. All council terms shall commence at the first regular council meeting in the month following the annual city election.

SECTION 304: Compensation, Expenses

The Common Council may determine the compensation for the mayor and aldermen by resolution or ordinance. Members of the Common Council shall receive their actual and necessary expenses incurred in the performance of their duties of office.

SECTION 305: General Powers and Duties

All powers of the city shall be vested in the Common Council, except as otherwise provided by this Charter, and the Common Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

SECTION 306: Prohibitions

Holding Other Office: No member of the Common Council shall hold any other city or appointive office, or other city employment, for additional compensation as referred to in Section 304, during the term for which he was elected to the Common Council. ~~This section, however, does not apply to employees of an educational institution that may be acquired by the city under Section 201,~~ any other subsidiary enterprise acquired by the city that is not directly related to the specific functions of municipal government per se, nor any employment in an enterprise acquired or sponsored by the city through industrial revenue bonding arrangements. This section shall not apply to members of the Common Council as it relates to committee appointments related to the functions and operations of the municipal government; nor shall it apply to officers or members of the volunteer fire department.

SECTION 307: Vacancies; Forfeiture of Office; Filling of Vacancies

(A) Vacancies: A member of the Common Council shall vacate his office upon his death, resignation or removal from office in any manner authorized by State law or forfeiture of his office.

(B) Forfeiture of Office: A member of the Common Council shall forfeit his office if he: 1) lacks any qualification at any time during his term of office for the office prescribed by this Charter or by State law, 2) violates any express prohibition of this Charter, 3) is convicted of a felony, 4) fails to attend three consecutive regular meetings of the Common Council without being excused by the Council, or 5) loses residence in the ward from which he was elected.

(C) Filling of Vacancies: In case of a vacancy for any cause in the position of member of the Common Council, the Mayor with the approval of the Common Council shall appoint a qualified person to fill the vacancy until the next regular election of the City of Springfield, at which time, the vacancy shall be filled by election for the unexpired term, if any. In the case of a vacancy for any cause in the position of Mayor, the Common Council shall, by majority vote of its full number, appoint a member of the Common Council to fulfill the unexpired term. Despite the quorum provisions hereof, if at any time the membership of the Common Council is reduced to less than four, the remaining members may, by majority action, appoint additional members to raise the Common Council membership to six Alderman and one Mayor.

SECTION 308: Judge of Qualifications

The Common Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths, and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand and notice of such hearing shall be published in one or more local newspapers of general circulation in the city at least one week in advance of such hearing. Decisions made by the Common Council under this Section shall be subject to review by the proper judicial authority.

SECTION 309: Finance Officer

There shall be an officer of the city who shall have the title of Finance Officer. The Finance Officer shall have all powers and responsibilities granted to the office by South Dakota law and may be assigned such other powers and duties as deemed appropriate by the Common Council.

SECTION 310: Investigations

The Common 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. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Common Council shall be guilty of a misdemeanor and punishable by a fine or imprisonment or both within the limits established by State law.

SECTION 311: Independent Annual Audit

The Common Council shall provide for an independent periodic audit of all city accounts at intervals as it deems necessary and in compliance with State law. Such audits may be performed by the appropriate State agency in charge of such work or by certified public accountants selected by the Common Council. Such certified public accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the city government.

SECTION 312: Council Procedure

(A) Meetings: The Common Council shall meet regularly at least once in every month at such times and places as the Common Council may prescribe. Special meetings may be held on the call of the Mayor or of three or more of its members. The matters contained in the notice of call for special meetings should, whenever practical, be the only matters discussed at a special meeting. If it is deemed necessary to discuss other matters to serve the purposes of practicality, to eliminate the expense incurred for an additional special meeting, or to meet demands for urgency, this limitation for special meetings shall not apply. However, any matter not contained in the notice of call for the special meeting must be, prior to council discussion or consideration, approved as an addition to the meeting agenda by a majority vote of members present. All meetings shall be public. However, the Common Council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter which would tend to defame or prejudice the character or reputation of any person, for personnel matters, for discussing litigation matters, or for any matter pertaining to the purchase of property, provided the general subject matter for consideration shall be expressed in the motion calling for such session and that final action thereon shall not be taken by the Common Council until they reconvene in public session.

The Common Council shall hold an organizational meeting at the first regular meeting in the first month following the annual city election. At such organizational meeting, newly elected members of the Common Council shall be sworn in and a president and vice-president elected. Committee assignments and responsibilities and special appointments shall be made at such organizational meeting. The president shall be Acting Mayor in the event of the absence or temporary disability of the Mayor.

(B) Rules and Journal: The Common 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 and published as required by State law.

(C) Voting: Voting, except on procedural motions and matters of routine business, shall be by roll call and the ayes and nays shall be recorded in the journal. Four members of the Common Council shall constitute a quorum, but a small 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 Common Council. All actions of the Common Council shall be valid and binding when adopted by a majority of the quorum present at that meeting except as otherwise provided for in this Charter.

SECTION 313: Action Requiring an Ordinance

In addition to other acts required by specific provision of this Charter to be done by ordinance, those acts of the Common Council shall be by ordinance which:

- 1) provide for a fine or penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- 2) levy taxes;
- 3) grant, renew, or extend a franchise;
- 4) regulate the rate charge for services by a public utility;
- 5) authorize the borrowing of money;
- 6) are provided for by State law; and
- 7) other discretionary matters at the option of the Common Council and not in violation of State law.

Acts other than those referred to in the preceding sentence may be accomplished either by motion, ordinance or by resolution. No ordinance of the Common Council shall be binding or valid unless adopted by the affirmative vote of the majority of the members present.

SECTION 314: Ordinances in General

(A) Form: Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The style of all ordinances shall be as follows: "An Ordinance (inserting the title)" followed by: "Be it Ordained by the City of Springfield", followed by the substance of the ordinance.

(B) Procedure: An ordinance may be introduced by any member of the Council. except as otherwise provided by this Charter ordinance, all procedural matters relating to ordinances shall be in conformity with State law.

(C) Publishing Municipal Ordinances: Ordinances shall be published in the manner provided by State law except that lengthy exhibits need not be published, but shall be referred to by reference.

SECTION 315: Emergency Ordinances

To meet a public emergency affecting the life, health, property, or the public peace or welfare, the Common Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes; grant, renew or extend a franchise; regulate the rate charged by any public utility for its services; or authorize the borrowing of money, except as provided in this Charter. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be designated plainly 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 the majority of members present shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other ordinances. It shall become effective upon adoption or at such later time as it may specify.

SECTION 316: Codes of Technical Regulations

The Common Council may adopt any standard code of technical regulations by reference thereto in the adopting ordinance. The procedure governing such an adopting ordinance shall be the same as prescribed for ordinances generally except that a copy of the technical regulations need not be published in the same manner as the adopting ordinance, provided that a copy of the technical regulations is available for review by the general public.

SECTION 317: Authentication and Recording

The Finance Officer shall authenticate by his signature and record in full all ordinances and resolutions adopted by the Common Council.

ARTICLE IV

City Administration

SECTION 401: Mayor

There shall be an officer of the city entitled the Mayor who shall be the chief executive and administrative officer of the city and who shall be responsible to the Common Council for the administration of all city affairs placed in his charge by this Charter.

SECTION 402: Powers and Duties of the Mayor

The Mayor shall be the chief executive and administrative officer of the city. He shall be responsible to the Common Council for the administration of all city affairs placed in his charge by or under this Charter by the Common Council, or by State law.

(A) He shall appoint, with the approval of the Common Council, and, when he deems it necessary, suspend or remove any one or all city employees and appointive administrative officers provided for by, or under, this Charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency. He shall appoint any standing committees, boards or commissions as deemed necessary by the Common Council; such appointments shall be made with approval of the Common Council.

(B) He shall direct and supervise the administration of all department offices and agencies of the city, except as otherwise provided by law.

(C) He shall serve as the principal advisor to the Common Council on all matters requiring the Council's attention; he shall have the right to attend all Council meetings and shall have the right to take part in all discussions, but shall have no vote except in case of a tie.

(D) He shall see that all laws, provisions of this Charter, and acts of the Common Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

(E) He shall have the Finance Officer, under his direction and control, prepare and submit the annual budget and capital program to the Common Council.

(F) He shall have the Finance Officer submit to the Common Council a complete report on the finances of the city as at the end of each fiscal year.

(G) He shall through the Finance Officer keep the Common Council fully advised as to the financial condition and future needs of the city and make such recommendations to the Common Council concerning the affairs of the city as he deems proper or as the Common Council shall require.

(H) He shall make such other reports as the Common Council may require concerning the operations of city government subject to his direction and supervision.

(I) He shall execute on behalf of the city when authorized by the Common Council all agreements, contracts, bonds, deeds and other documents necessary to be executed.

He shall countersign all orders, checks and warrants authorized by the Common Council and drawn on the city treasury for payment on monies, which signature may be by facsimile.

(J) He shall have the power to sign or veto any motion, ordinance or resolution passed by the Common Council and the power to veto any part or item of an ordinance or resolution appropriating money. If the Mayor vetoes any motion, ordinance or resolution, it shall be presented by the Finance Officer with the Mayor's written objection to the next meeting of the Common Council and may be reconsidered. If it shall pass by a two-thirds vote of the aldermen present, it shall be published and become effective notwithstanding the Mayor's disapproval.

(K) He shall perform such other duties as are specified in this Charter as may lawfully be required by the Common Council, or as may be required by State law.

SECTION 403: Creation of Departments

The Common Council may establish city departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies provided; however, that there shall be no more than ten departments, offices and agencies each of which will be headed by or under the direction or supervision of a single executive who is appointed by and removed by and directly responsible to the Mayor. Committees and boards appointed and selected by the Common Council shall not be included in the above numerical limitations. Those boards and commissions of the city in existence as of the date of the adoption of this Charter shall continue in existence and retain the responsibilities and authority granted to them unless the Common Council by ordinance changes the responsibilities or authority of the boards or commissions.

SECTION 404: Administrative Policies

It shall be the policy of the city to recruit, select, and advance employees on the basis of merit and fitness and without discrimination against any employee or applicant for employment because of race, national origin, creed, color, religion, sex or any other nonmerit factor.

SECTION 405: Purchasing and Contracting

The Mayor may, subject to any regulations which the Common Council may prescribe and within the amounts of the budget appropriations, make purchases and enter into contracts on behalf of the city. Every such contract and purchase exceeding an amount to be established by the Common Council shall require the prior approval of the Common Council. The Mayor may transfer to or between the departments, offices and agencies, or sell surplus or obsolete supplies, materials and equipment, subject to such regulations as the Common Council may prescribe. The city shall have the power to require all bidders to post bonds to secure the performance of any contract and all claims for labor and material used in the work. The city shall have the power to reject any supplies, as well as any other public work, and buy supplies on the open market at a price less than the lowest bid received, or if no bids are received, it may direct the purchase of supplies in the open market.

SECTION 406: City Attorney

There shall be an officer of the city entitled City Attorney. The Common Council shall appoint the City Attorney, who must be licensed to practice law in South Dakota, for an indefinite term and fix his compensation. The City Attorney shall be the chief legal advisor to the Common Council, Mayor and all city departments, offices and agencies and shall represent the city in all legal proceedings and

SECTION 1007: Effective Date of Charter

If the majority of votes cast on the question of adoption of this Charter shall be in the affirmative, this Charter shall take effect immediately after certification of the results of said election provided, however, that members of the present Common Council shall continue in their offices until new members are elected and seated as provided in this Charter and that all members of the present boards and commissions shall continue in their capacities until the Common Council meets and implements the provisions of this Charter.

shall perform such other duties as prescribed by this Charter, the Common Council or the Mayor. The City Attorney may appoint such Deputy City Attorneys as he deems advisable and may secure additional legal services as he may deem necessary subject to approval by the Common Council.

ARTICLE V

Finance and Taxation

SECTION 501: Fiscal Year

The fiscal year of the city shall begin on the first day of January and end on the last day of December or as otherwise determined by State law.

SECTION 502: Submission of Proposed Annual Budget

The Finance Officer under the direction and control of the Mayor, shall submit annually on the date specified by the Common Council a proposed annual budget. Said proposed annual budget shall provide for a complete financial plan for all city funds, activities, programs, departments, offices and agencies for the ensuing fiscal year and shall be in such form as the Mayor deems desirable or the Council may require. The total of proposed expenditures shall not exceed the total of estimated income.

SECTION 503: Council Action on the Budget

The Common Council shall cause to be published in a newspaper of general circulation in the city, a general summary of the budget as required by State law. The Common Council may adopt the budget with or without amendment. The Common Council may insert new items of expenditure or may increase, decrease or strike out items of expenditure, except that no item of appropriation for debt service shall be reduced. The budget and the annual appropriation ordinance for the ensuing fiscal year shall be adopted and implemented by the Common Council in the manner established by State law.

SECTION 504: Amendments After Budget 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 Common Council by ordinance may make supplemental appropriations up to the amount of such excess.

(B) Emergency Appropriations: To meet a public emergency affecting life, health, property or the public peace or welfare, the Common Council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of Section 315. To the extent that there are no available unappropriated revenues to meet such appropriations, the Common Council may by such emergency appropriation authorize the borrowing of funds for such emergency in the manner provided by State law.

(C) Transfer of Appropriations: At any time during the fiscal year, the Common Council may transfer part or all of any unencumbered appropriation balance between programs within a department, office or agency, and the Common Council may transfer part or all of any unencumbered appropriation balance from one department, office or agency to another provided, however, that no appropriation for debt service may be reduced or transferred.

SECTION 505: 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. However, an appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned.

SECTION 506: Administration of Budget

The Mayor shall be responsible to the Common Council for the administration and implementation of the adopted budget within the budgetary limits contained within the budget.

SECTION 507: Ad Valorem Taxation Limitation

The Common Council shall have the power to impose any non-ad valorem tax by ordinance adopted by a majority vote of its members present. "Non-ad valorem tax" shall mean any tax other than an ad valorem personal or real property tax.

SECTION 509: Power to Incur Bonded Indebtedness

The city may incur indebtedness by issuing its negotiable bonds and notes in anticipation of bonds to finance, in whole or in part, any permanent municipal improvement in accordance with procedural and referendum requirements of State law. The total outstanding debt of the city shall not exceed the limitations established by the State Constitution and State laws for cities of the same class as Springfield. Tax levies required to repay principal and interest on general obligation bonds shall not be included within any ad valorem tax limitations.

SECTION 510: Special Assessments

The Common Council shall have the authority and power to levy and collect special assessments upon property for special benefits incurring to such property as a consequence of any municipal public work, service or improvement, and to provide for the payment of all or any part of the cost of the work, service or improvement out of the proceeds of such special assessments.

ARTICLE VI

Planning

SECTION 601: Boards and Commissions

The Common Council may appoint planning boards and commissions as deemed necessary. The powers, duties and scope of activity of such boards and/or commissions shall have no authority to employ persons, disburse monies, make contracts or exercise administrative authority in any manner, but all such employees engaged in planning matters and all disbursements, contracts, and administrative duties shall be under the supervision of the Mayor.

SECTION 602: Comprehensive Development Plan

The Common Council may adopt and may from time to time modify a comprehensive development plan setting forth in graphic and textual form policies to govern the future development of the city. Such plan may cover the entire city and such adjacent area as permitted by State law and all of its functions and services, or

may consist of a combination of plans governing specific functions and services or specific geographic areas.

SECTION 603: Adoption of the Development Plan

The Common Council shall have the authority to adopt at its discretion, the development plan or amendments thereto. The Council shall hold public hearings on the proposed amendments to the comprehensive plan and may adopt such amendments by ordinance. The comprehensive development plan shall serve as a guide to all future Council action concerning land use and development regulations, urban renewal programs, and expenditures for capital improvements.

SECTION 604: Implementation of the Development Plan

The Common Council may by ordinance adopt land use and development regulations, including, but not limited to, zoning and subdivision regulations to implement the development plan.

Before acting on any proposed ordinance concerning land use and development regulations, urban renewal or expenditures for capital improvements, where such ordinance refers to matters covered by the comprehensive development plan, the Common Council shall refer the proposal to the City Planning Commissions which shall, within a period specified by the Common Council and prior to the public hearing on the proposed ordinance, report its recommendations.

SECTION 605: Board of Adjustment; Establishment and Procedure

(A) Establishment: The Common Council shall act as and perform all the duties and exercise the power as a Board of Adjustment. The Mayor shall be Chairman of the Board of Adjustment as so composed. The concurring vote of at least two-thirds of the members of the board as so composed shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the appellant on any matter upon which it is required to pass under any zoning ordinance or to effect any variation in such ordinance.

(B) Procedure: The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

ARTICLE VII

Nominations and Elections

SECTION 701: City Elections

(A) Regular Elections: The regular annual city election shall be held on the second Tuesday of April in each year or as required by State law.

(B) Qualified Voters: All citizens qualified by the Constitution and laws of the State of South Dakota to vote in the city and who satisfy the requirements for registration prescribed by such laws shall be qualified voters of the city within the meaning of this Charter.

(C) Conduct of Elections: Except as otherwise provided by this Charter or by

ordinance, the provisions of the general election laws of the State of South Dakota shall apply to elections held under this Charter.

SECTION 702: Mayor and Aldermen

Nominations for Mayor and Aldermen shall be by petition and there shall be no party designation on any such petition of any candidate or on any ballot in any municipal election. Each nominating petition shall be signed by the candidate. In electing a Mayor at large, the petition shall be signed by fifteen voters for each thousand or major fraction thereof of the population as shown by the last census. No petition need be signed by more than fifty voters. If the candidate is to be voted on by ward, the petition shall be signed by at least five per cent of the voters of the ward. This percentage shall be based on the whole number of voters voting in the ward at the last annual election. Qualified voters as used in this section shall mean voters who are qualified to vote in the election for which said petitions were filed. The nominating petition of each candidate shall be filed at the office of the Finance Officer during normal business hours or as provided by State law or by ordinance.

SECTION 703: Determination of Election Results

(A) Number of Votes: Every voter shall be entitled to vote for one candidate for Mayor and for as many candidates for Alderman as there are Aldermen to be elected from the ward in which the voter resides.

(B) Determination of Elected Officials: The candidates shall be elected by majority vote as required by State law.

SECTION 704: Ballots for Initiated or Referred Ordinances and Charter Amendments: An ordinance, resolution or action of the Common Council which is subject to the initiative and referendum procedures or a Charter amendment shall be presented by its title for voting by ballot. In all respects, Charter amendments shall follow the procedures required by State law for the initiative or referendum, or as may be provided by this Charter.

ARTICLE VIII

Initiative, Referendum, Recall

SECTION 801:

There are hereby reserved to the electors of the city powers of initiative, referendum and recall of elected officials. The provisions of the Constitution and laws of the State of South Dakota governing the initiative, referendum and recall of elected officials shall apply to the use thereof in the city.

ARTICLE IX

General Provisions

SECTION 901: Performance Bonds

The Mayor, Finance Officer, and such other officers and employees of the city as the Common Council may require, shall give bonds for the faithful performance of their duties in such amounts and with such surety as may be required by the Common Council. The premiums on such bonds shall be paid by the city.

SECTION 902: Oath of Office

The Mayor, every Alderman, the Finance Officer, City Attorney and such other

officers or employees as the Common Council may by ordinance require, shall, before entering upon the duties of their office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the Finance Officer.

"I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of South Dakota and the Charter of the City of Springfield, and that I will faithfully, impartially discharge the duties of the office of . . . according to the best of my ability."

The Mayor, City Attorney, and Finance Officer shall have the power to administer oaths required by this Charter.

SECTION 903: Charter Amendment

Amendments to this Charter may be framed and proposed: 1) by ordinance of the Common Council containing the full text of the proposed amendment or 2) by voters of the city.

Proposals for an amendment by the voters of the city shall be by petition containing the full text of the proposed amendment and shall be governed by the same procedures and requirements prescribed in this Charter for initiative petitions except that said petition shall be signed by ten percent of the qualified voters of the city; said percentage shall be based on the total number of votes cast for Governor at the most recent election. The election upon the proposed Charter amendment, regardless of method of proposal, shall be voted upon in the same manner provided by this Charter for initiative elections. If a majority of the qualified vote is in favor of it, the amendment shall be declared approved by the voters. All amendments to this Charter shall become effective at the first regular Common Council meeting following the annual municipal election unless otherwise provided therein. No Charter amendment that is rejected by a vote of the people may be referred again to a vote of the people until a period of one year has elapsed.

SECTION 904: Separability

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

SECTION 905: Personal Financial Interest

Any city officer or employee who has a substantial financial interest, either direct or indirect in any contract with the city or in the sale of any land, material, supplies or services to the city or to a contractor supplying the city shall make known that interest and shall refrain from voting upon or otherwise participating in his capacity as a city officer or employee in the making of such sale or in the making or performance of such contract. Any city officer or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his office or position. Violation of this section with the knowledge expressed or implied of the person or corporation contracting with or making a sale to the city shall render the contract or sale voidable by the Common Council.

SECTION 906: Prohibitions

- (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, creed, color, sex, national origin or political or religious opinions or affiliations, or any other factors in civil rights legislation.
- (2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel 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 his test, appointment, proposed appointment, promotion or proposed promotion.
- (4) No person who holds any compensated appointive city position shall make, solicit or receive any contribution to the campaign funds of any candidate for city office to take any part in the management, affairs or political campaign of any candidate for city office, but he may exercise his rights as a citizen to express his opinions and to cast his vote.
- (5) Any person who by himself or with others willfully violates any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punishable in the manner otherwise provided by this Charter, or as provided by State law. In addition, any person convicted under this section shall be ineligible for a period of five years thereafter to hold any city office or position and, if an officer or employee of the city, shall immediately forfeit his office or position.
- (6) The city may acquire by purchase, gift, condemnation or otherwise any property either within or without its boundaries that may be needed by the city for any public purpose. In acquiring property by exercise of the power of eminent domain, the city shall proceed according to State law.
- (7) The city may provide for punishment by fine or imprisonment or both within the limits allowed by State law for violations of this Charter or any ordinance adopted by the Common Council.

ARTICLE X

Transitional Provisions

SECTION 1001: 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 shall continue in such office or position until the taking effect of some specific provision under this Charter directly that he vacate the office of position.

(C) Personnel System: An employee holding a city position at the time this Charter takes full effect who was serving at that time 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 by the Common Council.

SECTION 1002: 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 the Charter makes no provision, designated by the Common 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 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 designated by the Common Council in accordance with this Charter.

SECTION 1003: Pending Matters

All rights, claims, actions, orders, 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 1004: State and Municipal Laws

All city ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed only to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted thereto.

To the extent that the Charter, Constitution, and laws of the State of South Dakota permit, all laws relating to or affecting this city or its agencies, offices or employees which are in force when this Charter becomes fully effective are superseded only to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

SECTION 1005: Governmental Immunity

The city expressly retains its right of governmental immunity from suit and liability as provided for in Section 27, Article III of the Constitution of South Dakota or in any other part of the Constitution or the State law, and noting in the implementation of this Charter shall be construed as any waiver, forfeiture or disclaimer of any right of governmental immunity from suit and liability.

SECTION 1006: Schedule

The first election under this Charter shall be held on the second Tuesday in April, 1985, and in the manner provided by this Charter. The first Common Council meeting for members of the Common Council elected under this Charter shall be held at the first regular Common Council meeting in May following the annual municipal election in April, 1985.