

# **CITY OF WATERTOWN**

## **HOME RULE CHARTER**

Adopted: 2001

Amended: 2008 and 2019

P.O. Box 910

Watertown, SD 57201

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## PREAMBLE

We the people of the City of Watertown, in order to establish a more representative and effective city government, do adopt this Charter in accordance with the Home Rule power granted in Article IX, Section 2 of South Dakota Constitution and the procedural requirements of SDCL Chapter 6-12.

## 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 Constitutions of this state and of the United States. It is the intention of this Charter to confer upon the city every power it may have under law, as fully and completely as though the power was specifically mentioned.

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

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

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

**Section 1.04. Limitations.** Except to the extent otherwise authorized by SDCL Title 9, as such Title 9 exists at the time of the adoption of this Charter, 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,

or any other act prohibited by SDCL 6-12-6 as it exists at the time of the adoption of this Charter.

**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, including by way of illustration, and not in limitation, sales, use or other ad valorem taxes on internet sales or purchases.

## 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 City Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law. The City Council shall act as a part-time, policy making and legislative body, avoiding management and administrative issues which are hereafter assigned to a city manager.

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

- a. *Composition.* There shall be a City Council composed of the mayor elected at large and six (6) members. One (1) council member shall be elected at large, and one (1) council member shall be elected by the voters of each of the five (5) wards of the City of Watertown. Upon the succeeding municipal election following adoption of amendments to this Charter that change the form of government, references to “City Council” herein shall be construed to include both the mayor and council members.
- b. *Eligibility.* No person is eligible to be nominated, elected or appointed as a mayor or as a council member unless such person is a citizen of the United States, a voter of and resident of the City of Watertown, and, if a council member elected by the voters of a ward, a voter of and resident of the ward for which such person is to hold office.
- c. *Terms.* The term of council members and the mayor shall be for two (2) years, unless the City of Watertown adopts an ordinance establishing the term of office not to exceed five (5) years. The mayor and council members shall hold office until successors are elected and qualified.
- d. *Continuation in office.* The present council members and mayor, upon the successful adoption of amendments to this Charter that change the form of government, shall continue in office until the first municipal election following adoption of such amendments and may seek reelection if not prohibited by the terms of this Charter. At the first municipal election following adoption of a change in form of government, members of the City Council shall be elected to terms that are staggering, as follows: council members elected from Wards B, C, and E shall be elected to an initial two-year term; council members elected from Wards A and D, as well as the at-large council member and the mayor, shall be elected to an initial four-year term. Thereafter, the terms of council members and the mayor shall be determined pursuant to Section 2.02c. of this Charter.
- e. *Powers and duties.* The City Council by ordinance shall establish the powers and the

duties of the City Council and of the mayor in addition to those assigned by this Charter.

**Section 2.03. Mayor.** In the period following adoption of amendments to this Charter that change the form of government, the mayor shall continue to exercise all the powers and duties, and be subject to the limitations, as expressed in the Charter prior to the adoption of such amendments until the succeeding municipal election. Thereafter, the mayor shall have all the powers and duties as a council member, including the power to vote. In addition, the mayor shall preside at the meetings of the City Council, represent the city in intergovernmental relationships, appoint with the advice and consent of the City Council the members of citizen advisory boards, committees, and commissions, present an annual state of the city message, and perform other duties as specified by the City Council. The mayor shall be recognized as head of the government for all ceremonial purposes and by the Governor for the purpose of military law. The mayor shall have no administrative duties. The City Council shall elect annually, from among council members, a deputy mayor who shall act as mayor during the absence or the disability of the mayor, or until a vacancy in the office of mayor is filled.

**Section 2.04. Compensation-Expenses.** The City Council shall determine the annual salary of the mayor and council members by motion. The mayor and council members shall receive their actual and necessary expenses incurred in the performance of their duties of office.

**Section 2.05. Prohibitions.**

- a. *Holding other office.* Except where authorized by law, no member of the City Council shall hold any other elected public office during the term for which the member was elected to the City Council. No member of the City Council shall hold any other city office or city employment during the terms for which the member was elected to the City Council. No former City Council member shall hold any compensated appointive office or employment with the city until one year after the expiration of the term for which the member was elected to the City Council. Nothing in this section shall be construed to prohibit the City Council from selecting any current or former City Council member to represent the city on the governing board of any regional or intergovernmental agency or from completing an unexpired term of the mayor.
- b. *Appointments and removals.* 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 city manager or any subordinate of the city manager is empowered to appoint, but the City Council may express its views and fully and freely discuss with the city manager 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 City Council or its members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the City Council nor its members shall give orders to any such officer or employee, either publicly or privately.

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

- a. *Vacancies.* The office of a council member or mayor shall become vacant upon the person's death, resignation, removal from office or forfeiture of office in any manner authorized by law.
- b. *Recall.* The power of recall of the mayor or council members shall be allowed as set forth in SDCL Title 9, as amended from time to time.
- 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 8.02 of this Charter.
  - 3. Fails to maintain residency within the city limits, or in the case of council members elected by ward, fails to maintain residency within that ward.
  - 4. Is convicted of a felony.
  - 5. Fails to attend at least eighty-five percent (85%) of all regular and special meetings of the council during a fiscal year, or three consecutive regular meetings of the council, without being excused by the council.
- d. *Filling of vacancies.* A vacancy in the office of mayor or in the office of a council member shall be filled by appointment by the remaining members of the City Council until the next annual municipal election. If appointment is for replacement of a council member, the appointment must be a person from the same ward.

**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. It shall determine its own rules of procedure, punish its members for disorderly conduct, and, with the concurrence of two-thirds of City Council members elected thereto, may expel a member. The City Council shall have the power to set additional standards of conduct for its members beyond those specified in the Charter and may provide for such penalties as it deems appropriate, including forfeiture of office. In order to exercise these powers, the City Council shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member of the City Council charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the city at least 7 days in advance of the hearing. Decisions made by the City Council under this section shall be subject to judicial review.

**Section 2.08. 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 City Council shall be an ordinance violation punishable by a fine and/or jail sentence to be established by ordinance.

**Section 2.09. 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 from 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 City Council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding five 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 City Council may accept it as satisfying the requirements of this section.

**Section 2.10. Procedure.**

- a. *Meetings.* The City Council shall hold its regular meetings on the first Monday of each month and at such other times and places as the City Council may prescribe by rule. If the City Council meets more than once a month, it may designate which meeting is the regular monthly meeting. If it does not so designate one, the first meeting of the month is the regular monthly meeting. Special meetings may be called in the manner prescribed by ordinance.
- 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 nos shall be recorded in the journal. A majority of members of the City Council shall constitute a quorum to do business, but a smaller number may adjourn from time to time and may compel the attendance of absentees under such penalties as may be prescribed by ordinance. Each council member and the mayor shall have an equal vote. All actions of the City Council shall be by a majority of those present, unless otherwise provided by state statute, ordinance or this Charter.

**Section 2.11. 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; and
4. 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.

**Section 2.12. Ordinances and resolutions in general.** City ordinances and resolutions shall be introduced, published, enacted, recorded, and codified as provided in state law; however, the City Council may by ordinance amend such requirements.

**Section 2.13. Emergency ordinances.** To meet a public emergency affecting life, health, property or the public peace, the City Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, or authorize the borrowing of money except as provided in Section 5.06b. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least two-thirds of the members of the City Council present shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made pursuant to Section 5.06b shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

**Section 2.14 Charter Revision Commission.** The City Council shall establish a Charter Revision Commission in the year 2027, and every eight (8) years thereafter, for the limited and exclusive purpose of determining which, if any, provisions of the Watertown Home Rule Charter should be amended. The rules governing the Home Rule Charter Revision Commission are contained in "*Chapter 7.19 Home Rule Charter Revision Commission,*" of the Revised Ordinances of the City of Watertown.

### **ARTICLE III.**

#### **CITY MANAGER**

**Section 3.01. Appointment; Qualification; Compensation.** The City Council by the affirmative vote of a majority of City Council members shall appoint a city manager and fix the manager's compensation. In the period following the adoption of a change in form of

government and prior to the succeeding municipal election, the existing city council may hire an individual whose appointment as city manager shall become effective upon the commencement of the terms of City Council members elected at such succeeding municipal election. The City Council shall conduct a review of the performance of the city manager at least annually. The city manager shall be appointed solely on the basis of executive and administrative qualifications, professional employment experience, and educational background. The city manager need not be a resident of the City or state at the time of appointment but may reside outside the City while in office only with the approval of the council.

**Section 3.02. Removal.** The city manager may be suspended by a resolution approved by the affirmative vote of a majority of the members of the City Council which shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon the city manager. The city manager shall have fifteen days in which to reply thereto in writing. The city manager may request and shall be afforded a public hearing, and the City Council shall set a time for a public hearing upon the question of the city manager's removal. After the public hearing, if one is requested, the City Council by the affirmative vote of a majority of its members may adopt a final resolution of removal. The city manager shall continue to receive full salary until the effective date of a final resolution of removal.

**Section 3.03. Acting City Manager.** By letter filed with the finance officer, the city manager shall designate a city officer or employee to exercise the powers and perform the duties of city manager during the manager's temporary absence or disability. The City Council may revoke such designation at any time and appoint another officer of the City to serve until the city manager returns.

**Section 3.04. Powers and Duties of City Manager.** The city manager shall be the chief administrative officer of the city, responsible to the City Council for the administration of all city matters placed in the manager's charge by or under this Charter or city ordinance. The city manager shall:

1. Appoint and, when necessary in their discretion, suspend or remove all employees and appointive administrative officers of the city except as otherwise provided by this Charter or by law. The city manager may authorize any administrative employee or officer subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that employee or officer's department, office, or agency.
2. Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law;
3. Attend all City Council meetings, except when the council is in executive session to consider a personnel matter concerning the city manager's performance or employment and a majority of the council chooses to disallow the city manager's attendance. In all instances when the city manager is in attendance, the manager shall have the right to participate in council

discussion but shall not vote.

4. See that all laws, provisions of this Charter and acts of the City Council subject to enforcement by the city manager or by employees or officers subject to the manager's direction and supervision are faithfully executed;
5. Prepare and submit the annual budget and capital program to the City Council;
6. Submit updates annually on the date specified by the City Council to a five-year capital plan in such form as the city manager deems desirable or the City Council may require;
7. Submit updates annually on the date specified by the City Council to a five-year financial plan in such form as the city manager deems desirable or the City Council may require;
8. Submit to the City Council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;
9. Make such other reports as the City Council may require concerning the operations of city departments, offices and agencies subject to the city manager's direction and supervision;
10. Keep the City Council fully advised as to the financial condition and future needs of the city;
11. Sign all warrants for payment of money, and the same shall be countersigned by the finance officer, but no warrant shall be issued until the claim therefor has been approved by the City Council, except as may be otherwise provided by ordinance or resolution;
12. Sign all contracts on behalf of the city, and the same shall be countersigned by the finance officer, but no contract shall be executed until such contract has been approved by the City Council, except as may be otherwise provide by ordinance or resolution;
13. Be the personnel director of the city;
14. Make recommendations to the City Council concerning the affairs of the city;
15. Provide staff support services for the mayor and council members; and
16. Perform such other duties as are specified in this Charter or as may be required by the City Council.

## ARTICLE IV

### **DEPARTMENTS, OFFICES AND AGENCIES**

**Section 4.01. General provisions.** The City Council may establish city departments, offices or agencies in addition to those created by this Charter and may prescribe the function of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued or, unless this Charter specifically so provides, assigned to any other.

**Section 4.02. Supervision.** All departments, offices and agencies under the direction and supervision of the city manager shall be administered by an officer or employee appointed by, and subject to the direction and supervision of, the city manager.

**Section 4.03. City attorney.** There shall be a legal officer of the city appointed by the city manager. Both the appointment and removal of the legal officer by the city manager shall be subject to the advice of the City Council. The city attorney shall serve as the chief legal advisor to the City Council and all city departments, offices and agencies. The city attorney shall represent the city in all legal proceedings, or monitor all legal proceedings involving the city, and shall perform any other duties prescribed by state law, by this Charter, or by ordinance.

**Section 4.04. City finance officer.** The city manager shall appoint an officer of the city who shall have the title of city finance officer. Both the appointment and the removal of the city finance officer shall be subject to the advice of the City Council. The city finance officer shall give notice of City 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 City Council or by state law.

**Section 4.05. Planning.** Consistent with all applicable federal and state laws with respect to land use, development, and environmental protection, the City Council shall:

1. Designate the city manager to carry out the planning function and such decision-making responsibilities as may be specified by ordinance, utilizing departments, a department, agencies, or an agency, as the city manager deems necessary;
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.

## 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 first regular meeting in September, the city manager shall submit to the City Council a budget for the ensuing fiscal year and an accompanying budget message.

**Section 5.03. Budget.** The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the City Council may require. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding two fiscal years. It shall indicate in separate sections:

1. The proposed goals, objectives and expenditures for current operations during the ensuing fiscal year, detailed for each fund by organization unit, program, purpose or activity, and the method of financing such expenditures.
2. Proposed capital expenditures during the ensuing fiscal year; detailed for each fund by organization unit when practicable, and the proposed method of financing each such capital expenditure.

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

**Section 5.04. City council action on budget.**

- a. *Budget hearings.* The City Council may schedule public hearings at appropriate times and may direct changes in the city manager's proposed budget.
- b. *Adoption.* The City Council shall adopt the final budget for the next fiscal year on or before the 30th day of September. If it fails to adopt the budget by this date, the budget proposed by the city manager shall go into effect.

**Section 5.05. Appropriation and revenue ordinances.**

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

1. Shall, no later than its first regular meeting in September of each year or within 10 days thereafter, introduce the annual appropriation ordinance for the ensuing fiscal year, in which it shall appropriate the sums of money necessary to meet

all lawful expenses and liabilities of the municipality. The ordinance shall specify the function and subfunction as prescribed by the department of legislative audit for which the appropriations are made and the amount appropriated for each function and subfunction, which amount shall be appropriated from the proper fund. It is not necessary to appropriate revenue to be expended from an enterprise or trust and agency fund if the fund is not supported or subsidized by revenue derived from the annual appropriated tax levy. However, an annual budget for these funds shall be developed and published no later than the last day of December of each year, and

2. Shall adopt any other ordinances required to authorize new revenues or to amend the rates or other features of existing taxes or other revenue sources.

### **Section 5.06. Amendments after budget adoption.**

- a. *Supplemental appropriations.* If during the fiscal year the city manager and the finance officer certify that there are available for appropriation revenues in excess of those estimated in the budget, the City Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.
- b. *Emergency appropriations.* To meet a public emergency affecting life, health, property, or the public peace, the City Council may make emergency 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 City 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 city manager or the finance officer that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the city manager or the finance officer shall report to the City Council without delay, indicating the steps to be taken. The City Council shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may by ordinance reduce one or more appropriations.
- d. *Transfer of Appropriations.* At any time during the fiscal year the City Council may transfer part or all of the unencumbered appropriation balance from one department to the appropriation for other departments. The city manager or the finance officer may transfer part or all of any unencumbered appropriation balances among programs within a department upon approval by the City Council.
- e. *Limitation; effective date.* No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law

to be appropriated or by more than the amount required by law to be appropriated, or by more than the amount of the unencumbered balance thereof. The emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

**Section 5.07. 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 5.08. Administration of budget.** The City Council shall provide the procedures for administering the budget.

**Section 5.09. Overspending of appropriations prohibited.** No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the city manager or the city manager's designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of any 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.

**Section 5.10. Public records.** Copies of the budget, and appropriation and revenue ordinances shall be public records and shall be made available to the public at suitable places in the city.

## ARTICLE VI

### ELECTIONS

**Section 6.01. City elections.**

- a. *Regular elections.* The regular city election shall be held at the time established by state law or as established by ordinance of the City Council.
- b. *Registered voter defined.* All citizens legally registered under the Constitution and laws of the State of South Dakota to vote in the city shall be registered voters of the city within the meaning of this Charter.
- c. *Conduct of elections.* The provisions of the general election laws of the State of South

Dakota shall apply to elections held under this Charter or as set forth in any ordinance adopted by the City Council. All elections provided for by this Charter shall be conducted by the election authorities established by law. Candidates shall run for office without party designation. For the conduct of city elections, for the prevention of fraud in such elections, and for the recount of ballots in cases of doubt or fraud, the city council shall adopt ordinances consistent with law and this Charter, and the election authorities may adopt further regulations consistent with law, this Charter, and the ordinances of the council. Such ordinances and regulations pertaining to elections shall be publicized in the manner of city ordinances generally.

**Section 6.02. Initiative and referendum.** The powers of initiative and referendum are hereby reserved to the electors of the city. The provisions of the election law of the State of South Dakota, as they currently exist or may hereafter be amended or superseded, shall govern the exercise of the powers of initiative and referendum under this Charter.

## **ARTICLE VII**

### **WATERTOWN MUNICIPAL UTILITIES**

**Section 7.01. Management and control.** The management and control of the Watertown Department of Municipal Utilities is vested in the Municipal Utility Board as established by ordinance. The Municipal Utility Board may take any and all action it deems advisable in the furtherance of any utilities or enterprises now existing or hereafter acquired under its control as authorized by the City Council by ordinance.

## **ARTICLE VIII**

### **GENERAL PROVISIONS**

**Section 8.01. Conflicts of interest.** The use of public office for private gain is prohibited. The City Council shall implement this prohibition by ordinance. Rules or regulations to this end shall include but not be limited to: acting in an official capacity on matters which the official has a private financial interest clearly separate from that of the general public; the acceptance of gifts and other things of value; acting in a private capacity on matters dealt with as a public official; the use of confidential information; and appearances by city officials before other city agencies on behalf of private interests. The appearance of impropriety shall be avoided. Municipal officials shall be, at a minimum, restricted from conflict of interest to the same extent that state public officials are bound by state law; provided however, that the City Council may adopt an ordinance setting a stricter standard.

**Section 8.02. Prohibitions.**

- a. *Activities prohibited.*
  1. No person shall be appointed to, or removed from, or in any way favored or discriminated against with respect to any city position or appointive city



administrative office because of race, gender, age, disability, religion, country of origin, or political affiliation.

2. No person shall willfully make any false statement, certificate, mark, rating, or report in regard to any test, certification, or appointment under the provisions of this Charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.
  3. No person who seeks appointment or promotion with respect to any city position or appointive city administrative office shall directly or indirectly give, render, or pay any money, service, or other valuable thing to any person for or in connection with any test, appointment, proposed appointment or proposed promotion.
  4. No person shall knowingly or willfully solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose to be used in conjunction with any city election from any city employee. No city employee shall, directly or indirectly, contribute money on behalf of the candidacy of any candidate for nomination or election to any city office. The expression of private or personal views concerning candidates for political office is not prohibited hereby.
- b. *Penalties.* Any violation of this section shall be sufficient cause for the suspension, demotion, or termination of the employment of any city employee found to be in violation of this section. The City Council shall establish by ordinance such further penalties as it may deem appropriate.

## **ARTICLE IX**

### **CHARTER AMENDMENT**

**Section 9.01. Proposal of amendment.** Amendments to this Charter may be framed and proposed:

1. In the manner provided by law, or
2. By ordinance of the City Council containing the full text of the proposed amendment (except Sections 1.04, 1.05, 2.01, 2.02, 2.03 and Article III cannot be so amended) and effective upon adoption, or
3. By report of a charter commission created by ordinance, or
4. By the voters of the city, when any 15 qualified voters initiate proceedings to amend the Charter by filing with the city clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the

petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed charter amendment. Promptly after the affidavit of the petitioners' committee is filed the city finance officer shall issue the appropriate petition blanks to the petitioners' committee. The petitions shall contain throughout their circulation the full text of the proposed charter amendment and must be signed by registered voters of the city in the number of at least 10 percent of those voting in the last preceding gubernatorial election.

**Section 9.02. Election.** Upon delivery to the city election authorities of the report of a charter commission pursuant to section 9.01c or delivery by the city finance officer of an adopted ordinance proposing an amendment pursuant to section 9.01b or a petition finally determined sufficient to propose an amendment pursuant to section 9.01d, the election authorities shall submit the proposed amendment to the voters of the city at an election. Such election shall be announced by a notice containing the complete text of the proposed amendment and published in one (1) or more newspapers of general circulation in the city at least 30 days prior to the date of the election. If the amendment is proposed by petition, the amendment may be withdrawn at any time prior to the thirtieth day preceding the day scheduled for the election by filing with the city finance officer a request for withdrawal signed by at least two-thirds of the members of the petitioners' committee. The election shall be held not less than 60 and not more than 120 days after the adoption of the ordinance or report or the final determination of sufficiency of the petition proposing the amendment. If no regular election is to be held within that period, the City Council shall provide for a special election on the proposed amendment; otherwise, the holding of a special election shall be as specified in the state election law.

**Section 9.03. Adoption of amendment.** If a majority of the registered voters of the city voting upon a proposed charter amendment vote in favor of it, the amendment shall become effective at the time fixed in the amendment or, if no time is therein fixed, 30 days after the initial canvas certifying its adoption by the voters.

## ARTICLE X

### TRANSITION/SEPARABILITY PROVISION

**Section 10.01. Officers and employees.**

- a. *Rights and privileges preserved.* Nothing in this Charter, except as otherwise specifically provided, shall affect or impair the rights or privileges of persons who are city officers or employees at the time of its adoption.
- b. *Continuance of office or employment.* All officers, employees and departments currently existing under the City of Watertown administrative structure will remain in that position after the implementation of this Charter unless and until the City Council shall take action to the contrary.
- c. *Personnel system.* An employee holding a city position at the time this Charter takes

full effect, who was serving in that same or a comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position but in all other respects shall be subject to the provisions of Article IV.

**Section 10.02. Departments, offices, and agencies.**

- a. *Transfer of powers.* If a city department, office, board, or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the city department, office, board, or agency designated in this Charter, or if the Charter makes no provision, designated by the City Council.
- b. *Property and records.* All property, records, and equipment of any department, office, board, or agency existing when this Charter is adopted shall be transferred to the department, office, board, 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 (1) or more departments, offices, boards, or agencies designated by the City Council in accordance with this Charter.

**Section 10.03. Pending matters.** All rights, claims, actions, orders, contracts, and legal administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on, or dealt with by the city department, office, board, or agency appropriate under this Charter.

**Section 10.04. State and municipal laws.** All city ordinances, resolutions, policies and regulations which are in force when this Charter becomes effective shall continue, except any ordinance is repealed to the extent it is inconsistent with this Charter or with ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of South Dakota permit, all laws relating to or affecting this city or its agencies, officers or employees, which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

**Section 10.05. Separability.** If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

**Section 10.06. Effective date.** This Charter shall become effective upon approval by the voters of the City of Watertown.