

HOME RULE CHARTER

ARTICLE II - CITY COMMISSION

Section 2.01 – **General Powers and Duties.** All powers of the City shall be vested in the City Commission except as otherwise provided by law or this Charter, and the Commission shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City, by law. The Commission shall act as a policy making, oversight and legislative body, overseeing management and administrative issues, which are hereafter assigned to the Department Heads; the Chief of Police, Public Works Director and the Finance Officer, who shall be appointed by the majority of the Commission..

Section 2.02 – **Composition, Eligibility, Terms, Powers and Duties.**

1. **Composition.** There shall be a City Commission composed of the Mayor and four (4) Commission Members (Commissioners) to be elected by the voters of the City at large.
2. **Eligibility.** No person shall be eligible for nomination or election as a member of the board unless he shall be a citizen of the United States, shall have been a resident of the city for at least three months prior to the election and a registered voter of the municipality.
3. **Terms.** The terms of Commission members and the Mayor shall be for three (3) years beginning the first regular City Commission meeting in the month following their election.
4. **Continuation of Terms of Present Elected City Commissioners.** The present City Commissioners and Mayor, upon the successful adoption of this charter by the voters of the City of Pierre, shall continue in office for the remainder of their respective terms and may seek re-election if not prohibited by the terms of this charter. The present City Commissioners and Mayor shall continue in office until their current term is expired.
5. **Powers and Duties.** The Commission shall designate by a majority vote one member who shall be known as the “Public Safety Commissioner”; one who shall be known as the “Public Works Commissioner”, one who shall be known as the “Public Utilities Commissioner”; and one who shall be known as the “Parks, Recreation and Public Property Commissioner”.
6. The Commission by resolution shall establish the powers and the duties of the Commission (Commissioners) and of the Mayor in addition to those assigned by the Charter.

Section 2.03 – **Mayor.**

1. The Mayor shall have the powers and duties as a Commission Member, including the power to vote, and in addition, shall preside at the meetings of the Commission, represent the City in intergovernmental relationships, appoint with the advice and consent of the Commission

the members of citizen advisory boards, committees, and commissions, and perform other duties specified by the Commission. 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:

- a. preside at all meetings of the board;
 - b. have general supervision of all departments, agencies, officers and general employees;
 - c. temporarily, in the absence or inability of a Commissioner, take charge of the department of such Commissioner;
 - d. ensure that the conditions of the grant of any franchise or privilege are faithfully complied with and performed.
 - e. grant all licenses or permits, except as such are required by ordinance to be granted by the board or by some other department or officer;
 - f. prepare and present to the board annually, and from time to time, reports relative to the affairs of the city and shall recommend for its consideration such measures as he may deem expedient.
2. The Commission shall elect from among its members an acting President, who shall act as Mayor during the absence or the disability of the Mayor, and if a vacancy occurs, shall become Mayor for the remainder of the unexpired term.

Section 2.04 – Compensation-Expenses. The City Commission may determine the annual salary of the Mayor and Commission members by motion. The Mayor and Commission Members shall receive their actual and necessary expenses incurred in the performance of their duties of office.

Section 2.05 – Prohibitions-Holding Other Office. Except where authorized by law, no Commission member shall hold any other public office, which is in conflict with the office of City Commissioner, during the term for which the member was elected to the Commission. No Commission member shall hold any other City office or City employment during the terms for which the member was elected to the Commission. No former Commission 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 Commission. Nothing in this section shall be construed to prohibit the Commission from selecting any current or former Commission member to represent the City on the governing board of any regional or intergovernmental agency.

Section 2.06 – Vacancies, Forfeiture of Office, Filling of Vacancies.

1. Vacancies. The office of a Commission 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.
2. Recall. The power of recall of the Mayor or Commission (Commissioners) Members shall be allowed as set forth in SDCL Title 9.
3. Forfeiture of Office. The Mayor or a Commission Member shall forfeit that office if the Mayor or Commission Member:
 - a. Lacks at any time during the term of office for which elected any qualification for the office prescribed by this Charter or by law.
 - b. Violates any expressed prohibition in Section 7.02 of this Charter.
 - c. Fails to maintain residency within the city limits.
 - d. Is convicted of a felony.
 - e. Fails to attend at least fifty percent (50%) of the regular meetings of the Commission during a fiscal year, or three consecutive regular meetings of the Commission, without being excused by the Commission.
4. Filling of Vacancies. A vacancy in the office of City Commission 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 Commission by a majority vote of all its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. Notwithstanding the requirement in Section 2.11, if at any time the membership of the Commission is reduced to less than four (4), the remaining members may by majority action appoint additional members to raise the membership to five (5).

Section 2.07 – Judge of Qualifications. The City Commission shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office. The Commission 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 Commission 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 or more newspapers of general circulation in the City at least seven (7) days in advance of the hearing. Decisions made by the Commission under this section shall be subject to judicial review.

Section 2.08 – Finance Officer. The City Commission shall appoint an officer of the City who shall have the title of Finance Officer. The Finance Officer shall give notice of Commission meetings to its

members and the public, keep the journal of its proceedings and perform such other duties as are assigned by this Charter or by the Commission or by state law.

Section 2.09 – Investigations. The City Commission 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 Commission shall be a misdemeanor punishable by a fine and/or jail sentence to be established by resolution of the Commission.

Section 2.10 – Independent Audit. The City Commission 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 Commission 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 30 days after the beginning of such fiscal year. If the Department of Legislative Audit makes such an audit, the Commission may accept it as satisfying the requirements of this section.

Section 2.11 – Procedure.

1. **Meetings.** The Commission shall meet regularly at such times and places as the Commission may prescribe by rule. Special meetings may be held on the call of the Mayor or of two (2) or more members and, whenever practicable, upon no less than twenty-four (24) hours notice to each member. Except as allowed by state law, all meetings shall be public; however, the Commission may recess for the purpose of discussing in a closed or executive session limited to its own membership, appropriate city staff and any other persons requested by the Commission to attend, any matter dealing with personnel issues, any matter which would tend to defame or prejudice the character or reputation of any person, or any legal, contractual, or financial matter, which in the discretion of the Commission should not be discussed in public. No action shall be taken in executive session on any subject discussed. All actions on any matter discussed in executive session shall be voted upon in open and public session.
2. **Rules and Journal.** The City Commission 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.
3. **Voting.** Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Three members of the Commission 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 Commission. No action of the Commission, except as otherwise provided in the Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of its members, unless otherwise specified in state statute.

Section 2.12 – **Action Requiring an Ordinance.** In addition to other acts required by law or by specific provision of this Charter to be enacted by ordinance, those acts of the City Commission shall be by ordinance which:

1. Adopt, amend or repeal an existing ordinance or establish, alter, or abolish any City department, office or agency;
2. Levy taxes;
3. Grant, renew or extend a franchise;
4. Regulate land use and development;
5. Amend or repeal any ordinance previously adopted;
6. Establish and regulate the conduct of elections;

Acts other than those referred to in Section 2.12 may be enacted either by ordinance, by resolution or by motion.

Section 2.13 – **Ordinances and Resolutions in General.** City ordinances and resolutions shall be introduced, published, enacted, recorded, and codified as provided in state law; however, the City Commission may by ordinance amend such requirements.

Section 2.14 – **Emergency Ordinances.** To meet a public emergency affecting life, health, property or the public peace, the City Commission 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 4.06(b). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least two-thirds (2/3) of its members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made pursuant to Section 4.06(b) shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Section 2.15 – Codes of Technical Regulations. The City Commission may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

1. The requirements of Section 2.13 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance.
2. A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the City Finance Officer pursuant to Section 2.16(a).
3. The City Finance Officer shall make copies of any adopted code of technical regulations available for distribution or for purchase at a reasonable price.

Section 2.16 – Authentication and Recording; Codification; Printing.

1. Authentication and Recording. The City Finance Officer shall authenticate by signing and shall record in full in a properly indexed book or file kept for that purpose, all ordinances and resolutions adopted by the City Commission.
2. Codification. The City Commission shall provide for the preparation of a general codification of all City ordinances having the force and effect of law. The general codification shall be adopted by the Commission by ordinance and shall be published promptly in bound, electronic, or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of South Dakota, and such codes of technical regulations and other rules and regulations as the Commission may specify. This compilation shall be known and cited officially as the Pierre City Code of Ordinances. Copies of the Code shall be furnished to City officers, placed in libraries and public office, for free public reference and made available for purchase by the public at a reasonable price fixed by the Commission.
3. Printing of Ordinances and Resolutions. The City Commission shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and charter amendments shall be distributed or sold to the public at reasonable prices as fixed by the Commission. Following publication of the first Pierre City Code of Ordinances and at all times thereafter, the ordinances, resolutions and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The Commission shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or addition to the provisions of the Constitution and other laws of the State of South Dakota, or the codes of technical regulations and other rules and regulations included in the code. The City Commission may authorize an electronic form of such Code of Ordinances for distribution to the public.