

## CHAPTER 30: MAYOR AND CITY COMMISSIONERS

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### **GENERAL PROVISIONS**

#### **§ 30.01 QUALIFICATIONS OF CITY COMMISSIONERS.**

No person shall be eligible to nomination of election as a member of the City Commission unless he or she shall be a citizen of the United States and shall be a resident and voter of the city. (Prior Code, § 2.04.010)

#### **§ 30.02 TERMS OF OFFICE.**

(A) The election for mayor and the election for commissioner shall be held on the second Tuesday of April in the applicable year.

(B) The term of office for the mayor shall be for five years. A mayor shall be elected for a term of five years in the 2023 election, and for a same term every five years thereafter.

(C) The term of office for each commissioner elected at-large to office shall be for five years commencing with the commissioner election in 2019.

(1) A commissioner at-large shall be elected for a five year term in 2019 and for a same term every five years thereafter.

(2) A commissioner at-large shall be elected for a five year term in 2020 and for a same term every five years thereafter.

(3) A commissioner at-large shall be elected for a five year term in 2021 and for a same term every five years thereafter. 2018 S-1

(4) A commissioner at-large shall be elected for a five year term in 2022 and for a same term every five years thereafter. (Ord. 1053, passed 5-29-2018)

**§ 30.03 OATH OF OFFICE.**

Before entering upon the discharge of his or her duties the Mayor and each City Commissioner shall take and file an oath to support the Constitution of the United States and of the state faithfully to discharge the duties of his or her office, and that he or she is not under direct or indirect obligation to appoint or elect any person to any office, position or employment under the government of the city. (Prior Code, § 2.04.030)

**§ 30.04 BOND.**

Before entering upon the discharge of his or her duties the Mayor and each City Commissioner shall execute a bond payable to the city in the sum as required by statute. Such bond shall be given and executed by a surety company authorized by law to transact business in this state and filed in and remain a permanent record of the office of the Auditor. Such bond shall be conditioned that the principal thereof shall account for and pay over and deliver to his or her successor in office and to the city any and all money or property belonging to it or which shall come into his or her hands by reason of his or her office and well and faithfully perform the duties of his or her office according to the laws of the state and the ordinances of the city. (Prior Code, § 2.04.040)

**§ 30.05 VACANCIES.**

The resignation of the Mayor or any City Commissioner shall be in writing to the Board. The permanent removal of the Mayor or any City Commissioner shall create a vacancy in his or her office. In case of any vacancy from any cause in the office of Mayor the same shall be filled by majority vote of the remaining City Commissioners to serve until the next annual election or by special election. In the event of the resignation of a City Commissioner, the remaining City Commissioners shall appoint a replacement by majority vote to serve until the next annual election or by special election. (Prior Code, § 2.04.050) (Ord. 1051, passed 4-16-2018)

**§ 30.06 MAYOR.**

The Mayor shall be President of the City Commission and shall have a vote upon all questions, but shall not have the right of veto. (Prior Code, § 2.04.060) (Ord. 1051, passed 4-16-2018)

**§ 30.07 ABSENCE OR DISABILITY OF MAYOR.**

In case the Mayor is unable to perform the duties of his or her office by reason of absence or sickness, the Board shall appoint by a majority vote of all members thereof one of its members to act in his or her stead, whose official designation shall be “acting President of the Board of Commissioners.” The City Commissioner so appointed shall be invested with all the powers and shall perform all the duties of the Mayor during such absence or sickness. (Prior Code, § 2.04.070) (Ord. 1051, passed 4-16-2018)

**§ 30.08 CITY COMMISSION COMPELLING ATTENDANCE OF WITNESSES AND PRODUCTION OF EVIDENCE; EXECUTION AND SERVICE OF PROCESS.**

The City Commissioners shall have the power to summon and compel the attendance of witnesses and the production of books and papers whenever it may be necessary for the effective discharge of its duties. All process necessary to

enforce the powers conferred by this section and SDCL § 9-9-9 shall be signed by the Mayor and attested by the Auditor, and shall be served by its police officer or by the sheriff of the county. (Prior Code, § 2.04.090)

**§ 30.09 MEETINGS OF THE CITY COMMISSIONERS AND ORDER OF BUSINESS.**

(A) The City Commission shall hold meetings at such day, time, and place as designated by the City Commission. Unless otherwise designated by the City Commission, the meeting shall be held on the first and third Mondays of the month in the evening at 7:00 p.m. at the Canton Depot. A regular meeting may be adjourned from day to day until all of the business of the city to be transacted at such meeting has been transacted and an adjournment of such regular meeting without definite date shall be an adjournment to the next regular meeting. (Ord. 1057, passed 11.13.18) (Ord. 1060, passed 2.19.19)

(B) Special meetings may be called by the Mayor or by any two City Commissioners at any time, to consider only such matters as shall be mentioned in the call for such meetings by written notice thereof given to each member of the City Commission then in the city.

(C) At all regular meetings after the same have been called to order, the business of the meeting shall be considered in the following order:

- (1) Calling the roll;
- (2) Consent calendar;
  - (a) Approve minutes;
  - (b) Set hearings;
  - (c) Month end reports;
  - (d) Warrants; and
  - (e) Other routine business.
- (3) Old business;
- (4) New business;
- (5) Other business; and
- (6) Executive session.

(D) Any member of the City Commission may request at the opening of the meeting that an item on the consent calendar be moved to the regular agenda.

(Prior Code, § 2.04.100) (Ord. 1051, passed 4-16-2018)

**§ 30.10 CITY COMMISSION MEETINGS OPEN TO PUBLIC; JOURNAL OF PROCEEDINGS.**

All sessions of the City Commission shall be open to the public. Any closed meetings shall be held in accordance to SDCL § 1-25-2. The City Commission shall keep a journal of its proceedings. (Prior Code, § 2.04.110)

**§ 30.11 QUORUM OF CITY COMMISSION; MAJORITY VOTE REQUIRED FOR ACTION.**

A majority of the Board shall constitute a quorum for the transaction of all business, but a smaller number may adjourn from time to time and compel the attendance of absentees under such penalties as may be prescribed by ordinance. A majority of the Board is necessary to pass a measure or action. (Prior Code, § 2.04.120) (Ord. 1051, passed 4-16-2018)

**§ 30.12 RECORDING OF VOTES OF CITY COMMISSIONERS.**

The yeas and nays shall be taken upon the passage of all ordinances and upon any proposals to create a liability against the city or for the expenditure or appropriation of its money, and in all other cases at the request of any member, and shall be entered on the journal of its proceedings. (Prior Code, § 2.04.140)

**§ 30.13 MAJORITY VOTE REQUIRED FOR PASSAGE OF MEASURES; TWO-THIRDS VOTE FOR SALE OF REAL PROPERTY.**

The concurrence of a majority of all the members of the City Commissioners shall be necessary to the passage of any such ordinance or proposal. However, the two-thirds vote of all the City Commissioners elected is required to sell any city real property. (Prior Code, § 2.04.150)

**§ 30.14 AREAS OF RESPONSIBILITY.**

The areas of responsibility for the Mayor and Commissioners shall be controlled by SDCL § 9-9-20 through 9-9-24.(Prior Code, § 2.04.170) (Ord. 1051, passed 4-16-2018)

***ORDINANCES AND RESOLUTIONS***

**§ 30.15 AMENDMENTS.**

No ordinance shall be introduced providing for the amendment of any existing ordinance or section thereof unless the ordinance introduced shall contain the full text of the ordinance or section as proposed by the amendment. (Prior Code, § 2.04.220)

**§ 30.16 STYLE OF ORDINANCES; SUBJECT.**

(A) Ordinances must be in the following style:

(1) An Ordinance \_\_\_\_\_ (Insert Title);

(2) Be it ordained by City of Canton. The substance of the ordinance follows.

(SDCL § 9-19-6)

(B) Ordinances can only embrace one subject which must be expressed in its title. (SDCL § 9-19-5)

**§ 30.17 READINGS, PASSAGE AND PUBLICATION.**

(A) All ordinances shall be read twice by title with at least five days between each reading. The ordinances, if passed, shall be signed by the Mayor or acting mayor or President of the City Commissioners, and filed with the Finance Officer and published once.(SDCL § 9-19-7)

(B) (1) After being signed and filed, the ordinances must be published at least once in the official newspaper. The only exception to this is that an ordinance incorporating or adopting comprehensive regulations or a code promulgated, approved, and published by a recognized and established national organization prescribing building, electrical, plumbing, safety, fire, health, or milk regulations need not be published in newspaper but upon adoption of such an ordinance the auditor or clerk shall publish a notice of the fact of adoption once a week for two successive weeks in the official newspaper, and 20 days after the completed publication of such notice, unless the referendum shall have been invoked, such ordinance shall become effective. (SDCL § 9-19-7)

(2) The vote on the second reading of all ordinances must be recorded and published. (SDCL § 9-19-9)

(C) Amendments to a planning or zoning ordinance may be published without republishing the full ordinance in the section or subsection of the ordinance containing the change is published in its entirety. (SDCL § 11-4-8)

(D) Resolutions differ from ordinances in that any resolution may be passed after only one reading. The resolution must be recorded at length either separately or in the minutes of the meeting. The votes for and against the resolution must also be published. (SDCL § 9-19-8)

**§ 30.18 EFFECTIVE DATE OF ORDINANCES AND RESOLUTIONS.**

Unless an ordinance or resolution is drawn to take effect immediately upon passage, all ordinances and resolutions become effective on the twentieth day after passage and publication, unless suspended by operation of a referendum. (SDCL § 9-19-13)

**§ 30.19 COMPILATION OF ORDINANCES.**

(A) Municipalities can compile the ordinances of the municipality in book form provided that while compiling the ordinances they are not revised or amended. The Finance Officer shall furnish a free copy of the newly compiled book to the Circuit Clerk of Court and the county law library of each county in which the city is situated. (SDCL § 9-19-15)

(B) Every municipality also has the power to revise their ordinances once every five years. (SDCL § 9-19-16)

(C) (1) Upon the adoption of an ordinance which revises the ordinances of the municipality by the governing body, the auditor or clerk shall publish a notice of the adoption of the revised ordinances once in the official newspaper. Twenty days after the completed publication of the notice, unless the referendum is invoked, the ordinance shall become effective without publication in a newspaper.

(2) The governing body may publish the revised ordinances in book form. The auditor or clerk shall furnish a free copy of the book or the revised ordinances to the circuit clerk of court and the county law library of each county in which the city is situated. (SDCL § 9-19-17)

**§ 30.20 CONTINUATION IN FORCE OF ORDINANCES AFTER CHANGE IN FORM OF GOVERNMENT.**

Any ordinance or resolution of this city shall continue in force and effect the same as though no change of government has occurred. (SDCL § 9-11-10)