

**TITLE III: ADMINISTRATION**

Chapter

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## CHAPTER 30: CITY GOVERNMENT

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#### *CITY COUNCIL*

### **§ 30.01 POWER TO GOVERN.**

The city shall be governed by a Mayor and 6 Alderpersons, and these men and women shall be called the Governing Body or City Council.

(Prior Code, § 2.08.010)

**§ 30.02 ALDERPERSONS; ELIGIBILITY AND TENURE; DUTIES AND POWERS.**

(A) *Eligibility and tenure.* Two Alderpersons shall be elected at large from each ward for a term of 2 years and until their successors are elected and qualified. There shall be 1 Alderperson elected from each ward at each annual election for the regular term. Each Alderperson shall be a resident and a qualified elector of the ward from which he or she is elected, and shall have resided in the city at least 9 months prior to his or her election.

(Prior Code, § 2.08.020)

(B) *Duties and powers.*

(1) The duties of the City Council members shall be as prescribed by the laws of the state, and other such duties as are prescribed by this code, or which may be prescribed by this code, or which may be prescribed by the City Council itself.

(2) The Council shall determine its own rules of procedure, and punish its members for disorderly conduct, and with the concurrence of 4 Alderpersons, may expel a member.

(3) The Council shall meet at regular meetings at the city hall at the hour of 7:30 p.m., on the first and third Mondays of each month. When such Mondays fall upon a legal holiday as recognized by state or federal law, the meeting shall be held at the same time and place on the following day.

(4) The Council may hold special meetings at any time upon 1-day's notice; such meetings shall be held at the city hall, and shall be called by the City Finance Officer when requested by the Mayor or 2 Alderpersons. When a special meeting is called, the City Finance Officer shall immediately contact all of the members of the Council, and the Mayor. This may be done in person orally or in writing or by telephone. The time, place and purpose of the meeting shall be notified to the Alderpersons and the Mayor by the City Finance Officer. If the City Finance Officer finds it impossible to contact any of the Council members personally, he or she or the Chief of Police shall leave a written notice of the meeting and its purpose at the residence of any such Council member.

(Prior Code, § 2.08.030)

**§ 30.03 SPECIAL AND REGULAR MEETINGS.**

(A) *How conducted.* Except as provided in this chapter, special meetings and regular meetings shall be conducted in the same manner, and the Council shall sit with open doors and keep a journal of its proceedings; a majority of the Alderpersons elected shall constitute a quorum if present.

(B) *Failure to attend.* It is unlawful for any Alderperson to wilfully or without reasonable cause fail to attend any regular or duly called special meeting of the Council for the purpose of preventing a quorum of the Council; and such Alderperson shall be penalized and forfeit to the city the sum of \$100 for each meeting which he or she shall for the reason fail to attend, which penalty shall be collected for the city upon the complaint of 4 Alderpersons; any court having jurisdiction.

(C) *Business transacted at special meetings.* No business shall be transacted at any special meeting except that which was mentioned in the notice thereof, but when the Mayor and all of the Alderpersons are present at a special meeting, and all of the Alderpersons concur in the vote, then the business transacted shall be valid, even though the meeting was not called as provided in this chapter, and the business transacted was different than that for which the meeting was called.  
(Prior Code, § 2.08.040)

**§ 30.04 COMPENSATION.**

Each Council member shall receive compensation for each month serving on Council and for each Council meeting, as set by ordinance from time to time.  
(Prior Code, § 2.16.010) (Ord. 196, passed 1-15-2007)

***MAYOR***

**§ 30.20 ELIGIBILITY; TERM.**

The chief executive officer of the city shall be the Mayor, who shall be elected from the city at large for a term of 2 years and until his or her successor is elected and qualified. He or she must be a qualified elector of the city and have resided therein for at least 9 months before his or her election.  
(Prior Code, § 2.04.010)

**§ 30.21 DUTIES AND POWERS.**

(A) The Mayor of the city shall have those duties as prescribed by the laws of the state, this code and the City Council.

(B) He or she shall appoint all appointive officers of the city, but such appointments must be approved by the City Council.

(C) Except as otherwise provided by law, he or she shall have the power to remove from office an officer appointed by him or her.

(D) Within the jurisdiction of the municipality he or she shall have all the powers conferred by law upon sheriffs to suppress disorder and keep the peace.

(E) He or she shall have the power, when necessary, to call upon every male inhabitant of the city over the age of 18 years to aid in the enforcing of laws and ordinances.

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(F) He or she may release any person imprisoned for violating a city ordinance or remit any fine or penalty for violation thereof.

(G) He or she shall annually and from time to time give the Council information relative to the affairs of the city and recommend for their consideration such measures as he or she deems expedient.

(H) He or she shall have the power to sign or veto any ordinance or measure passed by the City Council and the power to veto any part or item of an ordinance or resolution appropriating money.  
(Prior Code, § 2.04.020)

**§ 30.22 COMPENSATION.**

The Mayor shall receive compensation for each month serving as Mayor and for each Council meeting, as set by ordinance from time to time.  
(Prior Code, § 2.16.010) (Ord. 196, passed 1-15-2007)

***APPOINTIVE OFFICERS*****§ 30.35 APPOINTMENT.**

The Mayor with the approval of the Council shall appoint the following officers who shall enter upon the discharge of their duties as soon as they have duly qualified, and shall hold office until the appointment and qualification of their successors. Salaries of such officers may be fixed by resolution.  
(Prior Code, § 2.12.010)

**§ 30.36 CITY ATTORNEY.**

(A) In addition to those duties prescribed for a city attorney by state law, the City Attorney shall represent the city in all matters of city business; prepare such ordinances, notices or other papers as are incidental to the affairs of the city; advise the city officials with respect to legal affairs of the city; and represent the city in all litigation in which the city is named as a party. But it is expressly understood that in cases or matters involving special assessments, bond issues, local improvements, revision of ordinances and litigation, except in magistrate court, the City Attorney shall be entitled to reasonable compensation to be fixed by the Governing Body in addition to the City Attorney's yearly salary.

(B) In case of the absence of the City Attorney or of his or her incapacity, or in matters deemed by the Governing Body to be of great importance to the city, or matters in which the Governing Body deems the City Attorney needs assistance, a special attorney may be employed at such reasonable pay as shall be directed by the Governing Body.

(C) In addition to any reasonable compensation the City Attorney shall receive from the city for working on matters involving special assessment, bond issues, local improvements, revision of ordinances, and litigation, except in magistrate court, the City Attorney shall receive a monthly salary that is paid quarterly. This salary shall be set by City Council resolution.

(Prior Code, § 2.12.020) (Ord. 108, passed - -1993)

### **§ 30.37 CITY FINANCE OFFICER.**

(A) The City Finance Officer shall have all those duties and responsibilities as are prescribed for him or her by state law, this code and the City Council.

(B) The City Finance Officer shall have charge of figuring, billing, mailing and collecting of the city water bills. The duties of the City Finance Officer other than those concerned by the South Dakota Code and any other duties which the Mayor or Council shall impose upon him or her, or are otherwise provided for in this code.

(C) Salary shall be set by resolution and payable semimonthly.

(Prior Code, § 2.12.030)

### **§ 30.38 CHIEF OF POLICE.**

(A) The Chief of Police shall have the general supervision of all the members of the police force, and shall see that this code and the laws of the state are enforced within the city.

(B) His or her duties shall include all those which are ordinarily undertaken by a chief of police and all those provided by this code and the laws of the state.

(C) He or she shall receive a salary set by resolution and payable semimonthly.

(Prior Code, § 2.12.040)

### **§ 30.39 STREET SUPERINTENDENT.**

(A) It shall be the general duty of the Street Superintendent to provide the necessary care and supervision to keep the streets in a good and travelable condition.

(B) Among the other duties customarily owed by street superintendents to the city, or prescribed for him or her by this code or the laws of the state, the Street Superintendent shall see that the streets of the city are kept clean, and that the snow is removed from same as quickly as possible after a snowfall.

(C) While attending his or her duties, the Street Superintendent shall have all those powers that a city police officer might have in respect to enforcing this code or the laws of the state.

(D) He or she shall be paid a salary set by resolution and payable semimonthly.  
(Prior Code, § 2.12.050)

#### **§ 30.40 WATER SUPERINTENDENT.**

(A) The Water Superintendent shall have the general supervision of the entire water and sewer system of the city, and any excavations made within the city regarding the same.

(B) The Water Superintendent shall also have all those duties ordinarily undertaken by such an officer or which are prescribed for him or her by this code or the laws of the state.

(C) He or she shall be paid a salary set by resolution and payable semimonthly.  
(Prior Code, § 2.12.060)

#### **§ 30.41 MANAGER OF CITY LIQUOR STORE.**

(A) The manager of the city liquor store shall act under the direction of the Mayor and the City Council to see that the store is operated in a good businesslike manner, utilizing accounting and inventory methods approved of by the Council.

(B) The manager of the store shall from time to time and at least once each year report to the City Council of the general condition and needs of the store.

(C) He or she shall be paid a salary set by resolution and payable semimonthly.  
(Prior Code, § 2.12.070)

#### **§ 30.42 CITY SUPERINTENDENT.**

(A) The City Superintendent shall act under the direction of the Mayor and the City Council charged with supervision over the Street Superintendent, the Water Superintendent, and any other appointive city officers and employees that might be placed under his or her control by resolution of the City Council, to insure that the city streets are properly maintained, cleaned, cleared of snow, drained and otherwise

kept in a good and travelable condition and properly marked with signs and other devices for regulating traffic and parking; to insure that the city water system, including wells, mains and storage tanks, is kept maintained and operational; to insure that the city sewer system, lagoon and waste-disposal facilities are kept in a state of repair and entirely operational; to insure that city-owned property, grounds and buildings are properly maintained and that city recreational facilities including the park, swimming pools and ball fields are kept in an attractive and serviceable condition; to insure that the city-owned equipment, tools, motor vehicles, mowers, tractors, trucks and heavy equipment are kept in a state of repair and at all times operational; and further to insure that the city is kept free of waste, litter, debris, junk, wreckage, old car bodies, unauthorized structures and outbuildings, unkept foliage, shrubbery and trees, and in general to see the elimination of nuisance and the maintenance of an orderly, neat and attractive city proper within the municipal limits.

(B) While acting in the conduct of his or her duties, the City Superintendent shall have the power and authority of a city police officer in respect to enforcing this code and the laws of the state.

(C) The City Superintendent shall be appointed by the Mayor with the approval of the City Council to serve at the pleasure of the Mayor subject to his or her removal upon 30-days' notice, and shall be paid a salary or wage commensurate with his or her qualifications and capabilities and in keeping with the existing city pay scale, to be determined at the time of hiring by resolution of the City Council, salary to be payable semimonthly.

(Prior Code, § 2.12.080)

**§ 30.43 AIRPORT MANAGER.**

(A) There shall be the Office of Airport Manager, who shall be appointed by the Mayor and approved by the Council.

(B) The duties of the Airport Manager, acting under the advisement of the City Council and the Mayor, are to supervise and manage the airport, making complaints upon violation of the rules set forth in Chapter 52 of this code, and he or she shall be in attendance at said airport at reasonable hours.

(C) The Airport Manager's salary shall be set by Council resolution.

(Prior Code, § 2.12.090) (Ord. 109, passed - -1993)

**§ 30.44 OTHER APPOINTIVE OFFICERS AND EMPLOYEES.**

The Governing Board shall by resolution appoint such other city officers or employees as may be necessary and at such salary or wage as may be deemed appropriate.

(Prior Code, § 2.12.100)



## CHAPTER 31: CITY ORGANIZATIONS

### Section

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- 31.02 Duties
- 31.03 Authority to appoint committees
- 31.04 Violation of regulations unlawful

#### *Planning and Zoning Commission*

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- 31.53 Unlawful to resist or hinder officers
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***CIVIL DEFENSE COUNCIL*****§ 31.01 MEMBERS.**

In addition to their regular duties as Council members, the City Council members shall also act as the members of the Civil Defense Council for the city.

(Prior Code, § 2.32.010)

**§ 31.02 DUTIES.**

It shall be the duty of the Civil Defense Council to make arrangements for civilian defense within the city in the event of war or national emergency. The Council shall have the power to make such rules and regulations governing the conduct of the residents of the city as it may deem necessary or expedient with regard to bomb shelters, fires, radiation, blackouts, radio contacts or releases, or other precautionary or safety measures recommended by federal and state civil defense officials.

(Prior Code, § 2.32.020)

**§ 31.03 AUTHORITY TO APPOINT COMMITTEES.**

The Civil Defense Council shall have the authority to appoint committees of residents for the purpose of carrying the duties and authority of the Defense Council.

(Prior Code, § 2.32.030)

**§ 31.04 VIOLATION OF REGULATIONS UNLAWFUL.**

It is unlawful for any person to disregard or violate any regulation promulgated by the Defense Council or its duly authorized committees.

(Prior Code, § 2.32.040) Penalty, see § 10.99

***PLANNING AND ZONING COMMISSION***

**§ 31.20 ESTABLISHMENT; PURPOSE.**

There is created a City Planning and Zoning Commission established for the purpose of developing and proposing a comprehensive plan for the growth, development and the use of land within the city and an extraterritorial limit of ½ mile north and west, and an area south and east to encompass the city lagoon, airport and golf course.

(Prior Code, § 2.28.010)

**§ 31.21 MEMBERSHIP; TERMS.**

The Planning and Zoning Commission shall consist of vice members appointed by the Mayor and confirmed by the City Council. The term of each of the members shall be for 5 years, except that when the Planning and Zoning Commission is first appointed, approximately ½ of the members shall be appointed for 3 years and the balance of the members shall be appointed for 5 years. Administrative officials may be appointed as ex-officio members of the Commission.

(Prior Code, § 2.28.020)

**§ 31.22 FUNCTION, DUTIES AND POWERS.**

It shall be the function and duty of the Planning and Zoning Commission to propose a comprehensive plan for the physical development of the city and the surrounding area of (see § 31.20) miles in accordance with SDCL Ch. 11-4 and 11-6. The Planning Commission shall have all the powers granted to planning and zoning commissions under SDCL Ch. 11-4 and 11-6, unless otherwise restricted by the City Council.

(Prior Code, § 2.28.030)

**§ 31.23 APPROPRIATIONS FROM CITY COUNCIL.**

The City Council may appropriate such sums of money to a planning and zoning fund as may be deemed necessary from time to time by the City Council.

(Prior Code, § 2.28.040)

***BOARD OF HEALTH*****§ 31.35 MEMBERSHIP; TERMS.**

The Board of Health shall consist of 6 members appointed by the Mayor and approved by the City Council, who shall serve for 2 years, and until their successors are appointed and qualified.  
(Prior Code, § 2.24.010) (Am. Ord. 139, passed 8-19-1996)

**§ 31.36 POWERS.**

The Board of Health shall have the power to do all things necessary for the prevention of the spread of diseases which they should deem to be detrimental to the community upon approval by the City Council. The Board of Health shall have the power to call attention to and help eliminate all public nuisance violations found in Chapter 95 of this code of ordinances.  
(Prior Code, § 2.24.020) (Am. Ord. 139, passed 8-19-1996)

**§ 31.37 OPERATION OF BOARD.**

The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. At least 3 members shall be present to make a quorum for the transaction of business.  
(Prior Code, § 2.24.030) (Am. Ord. 139, passed 8-19-1996)

***FIRE DEPARTMENT*****§ 31.50 FIRE CHIEF.**

(A) *Nomination of Fire Chief.* As soon as it is practical after the organization of the City Council each May, the Fire Department members of the city shall nominate a Fire Chief, who, on being confirmed by the City Council, shall hold such office until the election and confirmation of his or her successor.  
(Prior Code, § 2.20.010)

(B) *Duties of Fire Chief.*

(1) The Fire Chief shall, in all cases of fire, have charge of all the members of the Fire Department, and of all persons present at the fire, and shall take the proper means of extinguishing the fires, protecting the property endangered as a result of fire. It shall also be the Fire Chief's duty to help

secure the observance of all city ordinances and regulations respecting fires. After the fire trucks have been withdrawn from the fire, he or she shall see that all precautions reasonably necessary to keep the fire from flaring up again are taken.

(2) It shall be the duty of the Fire Chief or a representative of him or her to report to the Mayor or City Council, the condition of the fire engines and other Fire Department equipment, and to make such recommendations for additional alterations and improvements of the same as he or she may deem expedient at least once a year.

(3) It shall be the duty of the Fire Chief, along with the City Council and the other Fire Department members, to promote a yearly program to eliminate any fire hazards within the city, and the Fire Chief himself or herself may notify the owner or occupant of any building which he or she deems unsafe and a fire hazard of the conditions and order him or her to repair the same or remove it from the city within a week from the time of receiving the notice; and if the owner or occupant shall refuse to comply with the notice, then the Fire Chief shall report the same to the City Council, and if the order be approved by the Council, he or she shall proceed to carry out the same to be done and the expense thereof shall be paid by the person or persons so failing to comply.

(Prior Code, § 2.20.020)

(C) *Fire Chief subject to direction of Council.* The Fire Chief shall at all times be subject to the control and direction of the City Council in matters pertaining to the Fire Department.

(Prior Code, § 2.20.030)

**§ 31.51 DEPARTMENT MEMBERS; DUTIES.**

It shall be the duty of all members of the City Fire Department to keep the Fire Department equipment in a serviceable and clean condition and to go with due haste to all fires and remain there until dismissed by order of the Fire Chief.

(Prior Code, § 2.20.040)

**§ 31.52 ASSISTANT CHIEFS.**

(A) The Fire Department members may elect an Assistant Fire Chief who, upon being approved by the City Council, shall have the same power and perform the same duties as the Fire Chief, in case of disability or temporary absence of the Fire Chief.

(B) The Second Assistant Chief shall, at the discretion of the Chief, aid him or her in the discharge of his or her duties; in the event of the absence of the First Assistant Chief, the Second Assistant Chief shall perform the duties of the First Assistant Chief, and in the absence of both the First Assistant and the Chief, the Second Assistant Chief shall perform the duties set out for the office of Chief.

(C) The department Captain shall, at the discretion of the Chief, aid him or her in the discharge of his or her duties. The Department Captain shall perform the duties set out for the office of Chief in the absence of the Second and First Assistant Chiefs.

(Prior Code, § 2.20.050) (Ord. 78, passed - -1986)

### **§ 31.53 UNLAWFUL TO RESIST OR HINDER OFFICERS.**

(A) The Fire Chief and Assistant Fire Chief shall, at and during the time of all fires, have the powers of the Chief of Police, and any person who shall resist any such officer in the lawful discharge of his or her duty at such time shall be subject to like penalty as for resisting a peace officer.

(B) It is unlawful for any person to wilfully offer any hindrance to any officer or firefighter in the performance of his or her duty at a fire, or injure wilfully any fire engine or fire-fighting apparatus while going to or at a fire, or remove any parts of the apparatus, or shall give any false alarms or shall willingly drive any vehicle over any hose or other fire equipment belonging to the Fire Department, or to wilfully disobey any command of the Fire Chief relating to the fighting of any fire.

(Prior Code, § 2.20.060) (Ord. 78, passed - -1986) Penalty, see § 10.99

### **§ 31.54 FORCE OF DEPARTMENT REGULATIONS.**

All rules and regulations concerning the Fire Department, when adopted by the City Council, shall have the same force and effect as ordinances.

(Prior Code, § 2.20.070)

## CHAPTER 32: GENERAL POLICIES; FINANCE

### Section

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***PRISONERS*****§ 32.01 CONVERSATIONS WITH PRISONERS.**

(A) It is unlawful for any person to loiter, loaf or spend his or her time, unless in some necessary occupation, in the immediate vicinity of the city jail.

(B) It is unlawful for any person to converse with any person or persons while confined in the city jail without first having obtained the permission of the Chief of Police or the officer in charge, or to furnish any prisoner with any material thing whatsoever, provided that any person confined in the city jail shall have the right to have an attorney-at-law called for them, upon the request of the person confined, at any reasonable time. Any such attorney shall be permitted by the Chief of Police or the officer in charge, to have free communication with the prisoner calling him or her.

(C) Any prisoner confined in the city jail at any reasonable time may have a resident clergyperson or his or her spiritual advisor called.

(D) No conversation shall be had between any prisoner and his or her friends or relatives without the consent of the officer in charge and in his or her presence.

(Prior Code, § 1.24.010) Penalty, see § 10.99

**§ 32.02 IMPRISONMENT AND WORK TO PAY OFF FINE; REFUSAL TO FOLLOW ORDER.**

(A) Every person who has been arrested for the violation of this code and the person charged having been found guilty thereof and being ordered by the court of conviction to pay a fine, may be committed to the county or city jail until such fine shall be fully paid; or may, upon the order of the court before whom the conviction was had, be required to work for the city at such labor as his or her strength will permit, for not to exceed 10 working hours each day, and for such work the person so working shall be allowed \$2 for each day's work on the account of his or her fine, exclusive of his or her board, until such fine and costs shall be fully paid.

(B) Any person who shall refuse to follow the order of the court which convicted him or her to work for the city under the conditions of division (A) of this section shall be held to be in contempt of the court and to be subject to further fines and imprisonment.

(Prior Code, § 1.24.020)

***RETAIL SALES AND SERVICE TAX AND USE TAX*****§ 32.20 PURPOSE.**

The purpose of this subchapter is to provide additional needed revenue for the city by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the state, by SDCL Ch. 10-52, entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto. (Prior Code, § 3.08.010) (Ord. 79, passed - -1986; Am. Ord. 172, passed 8-4-2003; Am. Ord. 183, passed 8-1-2005)

**§ 32.21 EFFECTIVE DATE AND ENACTMENT OF TAX.**

From and after the first day of January, 2004, there is imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by 2% on the gross receipts of all persons engaged in business within the jurisdiction of the city who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL Ch. 10-45, and all acts amendatory thereto. (Prior Code, § 3.08.020) (Ord. 79, passed - -1986; Am. Ord. 172, passed 8-4-2003; Am. Ord. 183, passed 8-1-2005) Penalty, see § 32.99

**§ 32.22 USE TAX.**

In addition, there is imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the city of tangible personal property of services purchased from and after the first day of January, 2004, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL Ch. 10-46, and acts amendatory thereto. (Prior Code, § 3.08.030) (Ord. 79, passed - -1986; Am. Ord. 172, passed 8-4-2003; Am. Ord. 183, passed 8-1-2005) Penalty, see § 32.99

**§ 32.23 COLLECTION.**

Such tax is levied pursuant to authorization granted by SDCL Ch. 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the state sales tax and under such additional rules and regulations as the Secretary of Revenue and Regulation of the State of South Dakota shall lawfully prescribe. (Prior Code, § 3.08.040) (Ord. 79, passed - -1986; Am. Ord. 172, passed 8-4-2003; Am. Ord. 183, passed 8-1-2005) Penalty, see § 32.99

**§ 32.24 INTERPRETATION.**

It is declared to be the intention of this subchapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL Ch. 10-45, and acts amendatory thereto and the South Dakota Use Tax SDCL Ch. 10-46, and acts amendatory hereto and that this shall be considered a similar tax except for the rate thereof to that tax.

(Prior Code, § 3.08.050) (Ord. 79, passed - -1986; Am. Ord. 80, passed - -1986; Am. Ord. 172, passed 8-4-2003; Am. Ord. 183, passed 8-1-2005)

***FISCAL PROVISIONS GENERALLY*****§ 32.40 CAPITAL IMPROVEMENT PLANNING.**

The city shall annually update a priority schedule of necessary municipal capital improvements. These improvements shall be projected for a period of 5 years and so prepared as to show the general description, justification and estimated cost of each individual capital improvement. The priority schedule shall also include a proposed method of financing and the year in which each project is to be undertaken.

(Prior Code, § 3.04.010) (Ord. 62, passed - -1982)

***PROPERTY TAX*****§ 32.55 PURPOSE.**

The purpose of this subchapter is to promote economic development within the city area. SDCL § 10-6-35.2 allows for a property tax benefit on new construction of structures or additions which have an assessed value of \$30,000 or more. This subchapter will grant a special tax classification to all new industrial or commercial structures or structure additions which have an assessed value of \$30,000 or more. In order to qualify for the special tax classification; such structures must be located within 3 miles of the city's corporate limits or within the city limits itself.

(Prior Code, § 3.06.010) (Ord. 137, passed 2-19-1996)

**§ 32.56 TAXABLE VALUES.**

(A) Pursuant to § 32.55, the following formulas for taxable values are:

(1) Zero percent of the total property value for the first year following construction on such property;

(2) For the second year following construction, not more than 20% of the usual taxable value shall be used for tax purposes on the property;

(3) For the third year following construction, not more than 40% of the usual taxable value shall be used for tax purposes on the property;

(4) For the fourth year following construction, not more than 60% of the usual taxable value shall be used for tax purposes on the property; and

(5) For the fifth year following construction, not more than 80% of the usual taxable value shall be used for tax purposes on the property.

(B) These amounts are subject to change based on any changes made to SDCL § 10-6-35.2. (Prior Code, § 3.06.020) (Ord. 137, passed 2-19-1996)

***MUNICIPAL GROSS RECEIPTS TAX***

**§ 32.70 PURPOSE.**

The purpose of this subchapter is to provide additional needed revenue for the Municipality of Gregory, Gregory County, South Dakota, by imposing a municipal gross receipts tax pursuant to the powers granted to the municipality by SDCL Ch. 10-52A, and acts amendatory thereto. (Ord. 197, passed 2-5-2007)

**§ 32.71 EFFECTIVE DATE AND ENACTMENT OF TAX.**

From and after the first day of July 2007, there is hereby imposed a municipal gross receipts tax of 1% upon the gross receipts from the sale of leases or rentals of hotel, motel, campsites or other lodging accommodations within the municipality for periods of less than 28 consecutive days, the sale of alcoholic beverages as defined by SDCL § 35-1-1, establishments where the public is invited to eat, dine or purchase carry out prepared food for immediate consumption, and ticket sales or admissions to places

of amusement, athletic and cultural events. The tax applies to the gross receipts of all persons engaged in business within the jurisdiction of Gregory, Gregory County, South Dakota, who are subject to the South Dakota Retail Occupation Sales and Service Tax, SDCL Ch. 10-45, and acts amendatory thereto. (Ord. 197, passed 2-5-2007)

#### **§ 32.72 COLLECTION.**

The tax is levied pursuant to authorization granted by SDCL Ch. 10-52A and acts amendatory thereto, and shall be collected by South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue of the State of South Dakota shall lawfully prescribe. (Ord. 197, passed 2-5-2007)

#### **§ 32.73 INTERPRETATION.**

It is declared to be the intention of this subchapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL Ch. 10-45 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax. (Ord. 197, passed 2-5-2007)

#### **§ 32.74 USE OF REVENUE.**

Any revenues received under this subchapter may be used only for the purpose of land acquisition, architectural fees, construction costs, payment for civic center, auditoriums or athletic facility buildings, including the maintenance, staffing and operations of such facilities, and the promotion and advertising of the municipality, its facilities, attractions and activities. (Ord. 197, passed 2-5-2007)

#### **§ 32.75 SEPARABILITY.**

If any provision of this section is declared unconstitutional or application thereof to any person or circumstances held invalid the constitutionality of the remainder of this section and applicability thereof to other persons or circumstances shall not be affected thereby. (Ord. 197, passed 2-5-2007)

**§ 32.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person failing or refusing to make reports or payments prescribed by §§ 32.20 *et seq.* and the rules and regulations relating to the ascertainment and collection of the tax levied in §§ 32.20 *et seq.* shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$200 or imprisoned in the municipal jail for 30 days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL Ch. 10-45, and acts amendatory thereto, and SDCL Ch. 10-46, and acts amendatory thereto, are authorized for the collection of these excise taxes by the Department of Revenue and Regulation.

(Prior Code, § 3.08.060) (Ord. 79, passed - -1986; Am. Ord. 172, passed 8-4-2003; Am. Ord. 183, passed 8-1-2005)

(C) Any person failing or refusing to make reports or payments prescribed by §§ 32.70 through 32.75 and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be fined not more than \$200 or imprisoned in the municipal jail for 30 days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL Ch. 10-45, and acts amendatory thereto, are hereby authorized for the collection of these excise taxes by the Department of Revenue.

(Ord. 197, passed 2-5-2007)

