

## **CHAPTER 2 – GOVERNMENTAL ORGANIZATION & ADMINISTRATION**

### **ARTICLE 2 - MAYOR, COMMISSION AND PROCEDURES**

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## **Sections 2-2-101 to 100, inclusive. Mayor and commission - general provisions.**

### **Section 2-2-101 Board of commissioners - membership.**

The general government of the city shall be vested in a board of commissioners consisting of the mayor and four commissioners elected at large.

**Statutory reference:** SDCL 9-9-1, commission composition.

### **Section 2-2-102 Board of commissioners - duties.**

The mayor and commissioners shall have such authority and perform such duties as are prescribed by the statutes of the state and the city ordinances.

**Source:** R.O. Pierre, 1957, 1.0205

### **Section 2-2-103 President of the board.**

The Mayor shall be president of the board and shall have a vote upon all questions, but shall not have the right of veto.

**Statutory reference:** SDCL 9-9-7, mayor as president and voting power.

**Section 2-2-104 Acting president of the board.**

In case the mayor is unable to perform the duties of his office because of absence or sickness, the board by majority vote shall appoint one of its members to be "acting president of the board of commissioners." The commissioner so appointed shall be invested with all the powers and perform all the duties of the mayor during such absence or sickness.

**Source:** R.O. Pierre, 1957, 1.0206

**Statutory reference:** SDCL 9-9-8, acting president.

**Section 2-2-105 Committees.**

The mayor may appoint such committees of the members of the board as he deems desirable to accomplish an efficient division of the work and duties to be performed by the commission.

**Source:** R.O. Pierre, 1957, 1.0207

**Section 2-2-106 Terms of office.**

The term of office of the mayor and each member of the commission is three years.

**Source:** Ord. No. 1230, 1989.

**Statutory reference:** SDCL 9-9-3, terms of office.

**Section 2-2-107 Eligibility for office.**

No person is eligible for nomination or election as a member of the commission, including as mayor, unless he is a citizen of the United States, a qualified elector of the city and shall have been a resident of the city for at least three months prior to the election.

**Statutory reference:** SDCL 9-9-2, qualifications of commissioners; SDCL 9-14-2, qualified elector.

**Source:** Rev. of Ord., 1990.

**Section 2-2-108 Oath and bond of commissioners.**

Before taking up their duties, the mayor and each commissioner must take and file an oath and execute a bond as provided by state law.

**Statutory reference:** SDCL 9-9-4, oath of office; and SDCL 9-9-5, bond requirement.

**Section 2-2-109 Board of Commissioners - resignation and vacancies.**

The resignation of the mayor or any commissioner must be submitted in writing to the board of commissioners.

If the mayor or any commissioner moves his residence from the territorial limits of the city, his office shall be deemed vacant.

In case of a vacancy in the office of mayor, the board of commissioners shall by a majority vote of its members appoint one of its number as acting president until the election of a mayor.

In case of any vacancy from any cause in the office of mayor or any commissioner the same shall be filled by election for the unexpired term.

The remaining members shall appoint a replacement to serve until the next annual municipal election. There shall not be a special election held to fill a vacancy before the date of the annual

**Statutory reference:** SDCL 9-9-6, filling vacancies, resignation and removal; and SDCL 9-9-8, acting president during vacancy, 9-13-14.1, filling of vacancies.

**Source:** Rev. of Ord., 1990.

**Section 2-2-110 Board's general powers and duties.**

The board constituted of the mayor and commissioners shall have control of all departments of the city and to that end shall have power to make and enforce such rules and regulation as it may see fit and proper for the organization, management, and operation of the departments of the city and of whatever agencies may be created for the administration of its affairs.

The board shall have the power to summon and compel the attendance of witnesses and the production of books and papers whenever it may be necessary to enforce the powers conferred by this section shall be signed by the mayor and attested by the finance officer, and shall be served by its policemen or by the sheriff of the county.

**Statutory reference:** SDCL 9-9-9, board's general oversight; and SDCL 9-9-10, witnesses and evidence - execution and service of process.

**Source:** Rev. of Ord., 1990.

**Section 2-2-111 Mayor's functions and duties.**

The mayor shall be the chief executive and administrative officer of the city government, shall enforce the laws of the city and require the faithful performance of all administrative duties, and shall:

- 1) preside at all meetings of the board;
- 2) have general supervision of all departments, agencies, officers and general employees;
- 3) temporarily, in the absence or inability of a commissioner, take charge of the department of such commissioner;
- 4) insure that the conditions of the grant of any franchise or privilege are faithfully complied with and performed;
- 5) 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;
- 6) 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.

**Source:** Rev. of Ord., 1990; Ord. No. 1565, 2005

**Section 2-2-112 Designation of commissioners' functions.**

Each member of the Commission shall be assigned to a special functional area of responsibility as may be determined by the Commission by motion or resolution. Each Commissioner's area of responsibility shall be established so as to provide an equitable division of responsibility among the members for the efficient administration of the City's offices. Wherever in this Code responsibility or authority is delegated to a named Commissioner, it shall be deemed to be the commissioner assigned to that particular office or area of responsibility.

**Source:** R.O., Pierre, 1957, 1.0208; ord. No. 1565, 2005

**Statutory reference:** SDCL 9-9-18, designating commissioner responsibilities.

**Section 2-2-113 Police and fire commissioner's responsibilities. (Repealed)**

**Source:** Rev. of Ord., 1990; Ord. No. 1323, 1993; Ord. No. 1565, 2005

**Statutory reference:** SDCL 9-9-21.

**Section 2-2-114 Streets and public property commissioner's responsibilities. (Repealed)**

**Source:** Ord. No. 1082, 1982; Rev. of Ord., 1990; Ord. No. 1299, 1992; Ord. No. 1565, 2005

**Statutory reference:** SDCL 9-9-22.

**Section 2-2-115 Waterworks and sewerage (utilities) commissioner's responsibilities. (Repealed)**

**Source:** Rev. of Ord., 1990; Ord. No. 1323, 1993; Ord. No. 1299, 1992; Ord. No. 1323, 1993; Ord. No. 1565, 2005

**Statutory reference:** SDCL 9-9-23.

**Section 2-2-116 Finance and revenue commissioner's responsibilities. (Repealed)**

**Source:** Ord. No. 1082, 1982; Rev. of Ord., 1990; Ord. No. 1565, 2005

**Statutory reference:** SDCL 9-9-24.

**Section 2-2-117 Individual contests required when more than one seat vacant on Board of Commissioners. (Repealed)**

**Source:** Ord. No. 1384B, 1996; Ballot Initiative June 2010.

**Sections 2-2-118 to 199, inclusive. Reserved.**

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**Sections 2-2-201 to 299, inclusive. Commission procedures – general provisions.**

**Section 2-2-201 Regular board meetings.**

The regular weekly meetings of the board shall be held at the chambers of the commissioners in the city hall on Tuesday of each week beginning at 5:30 o'clock P.M., except when any such Tuesday shall be a holiday, and in that event the meeting shall be held at 5:30 P.M. on the following day.

**Source:** R.O. Pierre, 1957, 1.0201, Ord. No. 1261, 1990.

**Statutory reference:** SDCL 9-9-11, regular board meetings.

**Section 2-2-202 Special board meetings.**

Special meetings of the board may be called at any time by the mayor or by any two commissioners to consider only such matters as shall be mentioned in the call for any such meeting.

**Source:** R.O. Pierre, 1957, 1.0202.

**Statutory reference:** SDCL 9-9-12, special board meetings.

**Section 2-2-203 Notice of special meetings.**

In case of special meetings, the finance officer shall issue notices in writing, stating the time and place of holding such meeting and the matters to be considered, which shall be served upon each member of the board at least one hour before the time specified for such meeting.

**Source:** R.O. Pierre, 1957, 1.0203, Rev. of Ord., 1990.

**Statutory reference:** SDCL 9-9-12, special board meetings.

**Section 2-2-204 Board meetings open to public - journal of proceedings.**

All sessions of the board shall be open to the public and it shall be the duty of the finance officer or his representative to attend all board meetings and keep a journal of its proceedings.

**Source:** Rev. of Ord., 1990.

**Statutory reference:** SDCL 9-9-13, meetings open and journal; and, SDCL 9-14-17, duties of auditor.

**Section 2-2-205 Quorum and vote required for action.**

A majority of the board shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time and compel the attendance of absentees under such penalties as may be prescribed by ordinance. No action of the board shall be effective unless upon a vote of a majority of such quorum.

**Statutory reference:** SDCL 9-9-14, quorum and vote required.

**Section 2-2-206 Commissioner's absence and board action.**

No final action shall be taken in any matter concerning the special department of any absent commissioner unless such business has been made a special order of the day, or such action is taken at a regular meeting of the board.

**Statutory reference:** SDCL 9-9-15, absence of commissioner and board action.

**Section 2-2-207 Commissioner's votes recorded.**

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.

**Statutory reference:** SDCL 9-9-16, recording of votes.

**Section 2-2-208 Majority vote required for passage of measures.**

The concurrence of a majority of all the members of the board shall be necessary to the passage of any such ordinance or proposal, and it shall require the affirmative vote of all the commissioners to sell any city property.

**Statutory reference:** SDCL 9-9-17, vote required.

**Section 2-2-209 Agenda.**

Whenever possible, all reports, communications, ordinances, resolutions, contract documents, or other matters to be submitted to the commission shall, at least twenty-four hours prior to each commission meeting, be delivered to the finance officer, whereupon the finance officer shall immediately prepare and post a proposed agenda and notice of meeting for such matters according to the order of business and furnish each member of the commission, the mayor, and the city attorney with a copy of the same prior to the commission meeting.

**Source:** Rev. of Ord., 1990.

**Section 2-2-210 The President's Duties.**

The president shall preserve strict order and decorum at all regular and special meetings of the commission. He shall state every question coming before the commission, announce the decision of the commission on all subjects and decide all questions of order, subject, however to an appeal to the commission, in which event a majority vote of the commission shall govern and conclusively determine such question of order. He shall vote on all questions, his name being called last. He shall sign all ordinances and resolutions adopted by the commission during his presence. In the event of the absence

of the president, the acting president shall sign ordinances or resolutions as then adopted.

**Statutory reference:** SDCL 9-9-20, mayor's area of responsibility.

**Section 2-2-211 Call to order - Presiding Officer.**

The mayor shall take the chair precisely at the hour appointed for the meeting, and shall immediately call the commission to order. In the absence of the mayor, the finance officer or his assistant, shall call the commission to order, whereupon the acting president shall preside over the meeting. Upon the arrival of the mayor, the president shall immediately relinquish the chair upon the conclusion of the business immediately before the commission.

**Source:** Rev. of Ord., 1990.

**Statutory reference:** SDCL 9-9-20, mayor's area of responsibility.

**Section 2-2-212 Roll Call.**

Before proceeding with the business of the commission, the finance officer or his assistant, shall take the roll of the members, and the names of those present shall be entered in the journal.

**Source:** Rev. or Ord., 1990.

**Section 2-2-213 Order of Business.**

Promptly at the hour set by law on the day of each regular meeting, the members of the commission, the finance officer, city attorney and mayor shall take their regular stations in the commission chambers, and the business of the commission shall be taken up for consideration and disposition in the following order:

1. Special Business.
2. Approval of the Consent Calendar.
3. Unfinished business.
4. New business.
5. Other business.
6. Budget session.
7. Executive Session.

8. Adjournment.

**Source: Rev. or Ord., 1990.**

**Section 2-2-214 Reading of Minutes.**

Unless a reading of the minutes of a commission meeting is requested by a member of the commission, such minutes may be approved without reading if the finance officer has previously furnished each member with a copy thereof.

**Source: Rev. or Ord., 1990.**

**Section 2-2-215 Rules of Debate.**

**(a) Presiding Officer May Debate and Vote.**

The mayor, or such other member of the commission, as may be presiding, may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed on all members and shall not be deprived of any of the rights and privileges of a commissioner by reason of his acting as the presiding officer.

**(b) Getting the Floor - Improper References to be Avoided.**

Every member desiring to speak shall address the chair, and, upon recognition by the presiding officer, shall confine himself to the question under debate, avoiding all personalities and indecorous language.

**(c) Interruptions.**

A member, once recognized, shall not be interrupted when speaking unless it be to call him to order, or as herein otherwise provided. If a member, while speaking, be called to order, he shall cease speaking until the question of order be determined, and, if in order, he shall be permitted to proceed.

**(d) Privilege of Closing Debate.**

The commissioner moving the adoption of an ordinance or resolution shall have the privilege of closing the debate.

**(e) Motion to Reconsider.**

A motion to reconsider any action taken by the commission may be made only on the day such action was taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made by one of the prevailing side, but may be

seconded by any member, and may be made at any time and have precedence over all other motions. Nothing herein shall be construed to prevent any member of the commission from making or remaking any motion at a subsequent meeting of the commission.

**(f) Remarks of Commissioner - when entered in minutes.**

A commissioner may request, through the presiding officer, the privilege of having an abstract of his statement on any subject under consideration by the commission entered in the minutes. If the commission consents thereto, such statement shall be entered in the minutes.

**(g) Synopsis of Debate - when entered in minutes.**

The finance officer may be directed by the presiding officer, with consent of the commission to enter in the minutes a synopsis of the discussion on any question coming regularly before the commission.

**Source:** Rev. or Ord., 1990.

**Section 2-2-216 Addressing the Commission.**

Any person desiring to address the commission shall first secure the permission of the presiding officer to do so. Communication with the commission may be accomplished as follows:

**(a) Written communications.**

Interested parties or their authorized representatives may address the commission by written communications in regard to matters then under discussion.

**(b) Oral communications.**

Taxpayers or residents of the city, or their authorized legal representatives, may address the commission by oral communications on any matter concerning the city's business, or any matter over which the commission has control; provided, however, that preference shall be given to those persons who may have notified the finance officer in advance of their desire to speak in order that the same may appear on the agenda of the commission.

**(c) Reading of protests.**

Interested persons or their authorized representatives may address the commission by reading of protests, petitions, or communications relating to zoning, sewer and street proceedings, hearings on protests, appeals and petitions, or similar matters, in regard to matters then under consideration.

**Source:** Rev. of Ord., 1990.

**Section 2-2-217 Addressing the Commission after motion made. (Repealed)**

Source: Rev. of Ord., 1990.

**Section 2-2-218 Manner of addressing commission - time limit.**

Each person addressing the commission shall step up in front of the body, shall give his name and address in an audible tone of voice for the records, and unless further time is granted by the commission, shall limit his address to ten minutes. All remarks shall be addressed to the commission as a body and not to any member thereof. No person, other than the commission and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the commission without the permission of the presiding officer. No question shall be asked a commissioner except through the presiding officer.

**Section 2-2-219 Silence constitutes affirmative vote.**

Unless a member of the commission states that he is not voting, his silence shall be recorded as an affirmative vote.

**Section 2-2-220 Decorum.**

**(a) By commission members.**

While the commission is in session, the members must preserve order and decorum, and a member shall neither, by conversation or otherwise, delay or interrupt the proceedings or the pace of the commission nor disturb any member while speaking or refuse to obey the orders of the commission or its presiding officer, except as otherwise herein provided.

**(b) By persons**

Any person making personal, impertinent, or slanderous remarks or who shall become boisterous while addressing the commission shall be forthwith, by the presiding officer, barred from further audience before the commission, unless permission to continue be granted by a majority vote of the commission.

**Section 2-2-221 Enforcement of decorum.**

The chief of police, or such member or members of the police department as he may designate, shall be Sergeant-at-Arms of the commission meetings. He, or they, shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the commission meeting. Upon instructions of the presiding officer, it shall be the duty of the Sergeant-at-Arms, or any of them present, to place any person who violates the order and decorum of the meeting

under arrest, and cause him to be prosecuted under the provisions of this code, the complaint to be signed by the presiding officer.

**Section 2-2-222 Persons authorized to be within commission area.**

No person, except city officials, their representatives and newspaper reporters, shall be permitted within the area so set aside in front of the commission chamber without the express consent of the commission.

**Source:** Rev. of Ord., 1990.

**Section 2-2-223 Special committees.**

All special committees shall be appointed by the presiding officer, unless otherwise directed by the commission.

**Section 2-2-224 Standing committees.**

The only standing committee of the commission shall be the commission itself.

**Source:** Rev. of Ord., 1990.

**Section 2-2-225 Members may file protests against commission action.**

Any member shall have the right to have the reasons for his dissent from, or protest against, any action of the commission entered on the journal.

**Section 2-2-226 Claims against the city.**

No account or other demand against the city shall be allowed until the same has been considered by the commission.

**Source:** Rev. of Ord., 1990.

**Section 2-2-227 Ordinances, resolutions, motions and contracts.**

**(a) Preparation of ordinances.** Ordinances may be initiated by the electorate through petitions, by the Mayor or City Attorney, or by the Commissioner in charge. A Commissioner in charge may only initiate an ordinance where the subject matter directly involves his area of responsibility. All ordinances shall be prepared by the administrative staff with the advice and approval of the city attorney.

**(b) Prior approval by administrative staff.** All ordinances, resolutions and contract documents shall, before presentation to the commission, have been approved as to form and legality by the city attorney or his authorized representative, and shall have been examined and approved for administration by the mayor, or his authorized representative, where there are substantive matters of administration involved. All such instruments shall have first been referred to the head of the department under whose jurisdiction the administration of the subject matter of the ordinance, resolution or contract document would devolve and be approved by said department head; provided, however, that if approval is not given, then the same shall be returned to the mayor with a written memorandum of the reasons why such approval is withheld. In the event the questioned instrument is not redrafted to meet a department head objection, or objection is not withdrawn and approval in writing given, then the mayor shall so advise the commission and give the reasons advanced by the department head for withholding approval.

**(c) Introducing for passage or approval.**

(1) Ordinances, resolutions, and other matters or subjects requiring action by the commission must be introduced and sponsored by a member of the commission, and any commissioner may assume sponsorship thereof by moving that such ordinances, resolutions, matters or subjects be adopted; otherwise, they shall not be considered.

(2) No ordinance shall be put on its final passage on the same day on which it was introduced.

(3) The title of all ordinances shall have two separate readings, with at least five days intervening between first and second reading.

(4) No ordinance shall relate to more than one subject, which shall be clearly expressed in its title, and no ordinance, or section thereof, shall be amended or repealed unless the new ordinance contains the title of the ordinance or section amended or repealed, and when practicable all ordinances shall be introduced as amendments to existing ordinances or sections thereof.

(5) Upon the first reading of the ordinance, the presiding officer shall refer it to the commission.

**Source:** Rev. or Ord., 1990.

**Statutory reference:** SDCL 9-12-13, power to adopt zoning ordinance; SDCL 9-19-3, power to adopt, repeal and amend ordinances; SDCL 9-19-5, one subject expressed in title of ordinance; and SDCL 9-19-6, style of ordinance.

**Section 2-2-228 Report of committees. (REPEALED)**

**Source:** Rev. of Ord., 1990.

**Section 2-2-229 Resolutions to be filed with finance officer.**

All resolutions shall be filed with the finance officer and entered on the journal.

**Source:** Rev. or Ord., 1990.

**Section 2-2-230 Adjournment.**

A motion to adjourn shall always be in order and decided without debate, and any regular or special meeting may be adjourned to meet at a later date to be fixed at the time of adjournment.

**Source:** R.O. Pierre, 1957, 1.0204.

**Section 2-2-231 Parliamentary Procedure.**

Robert's Rules of Order are hereby adopted as the rules which shall govern the board's proceedings in all cases which are not covered by the procedures set out in this article.

**Sections 2-2-232 to 299, inclusive. Reserved.**