

## **CHAPTER 2 – OFFICES AND DEPARTMENTS, OFFICERS AND EMPLOYEES**

### **ARTICLE 4 - BOARDS AND COMMISSIONS**

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**Sections 2-4-101 to 2-4-199. Boards and commissions - general provisions.**

**Section 2-4-101 Advisory park board - membership and organization.**

The advisory park and recreation board shall consist of six (6) members appointed and subject to removal by the mayor. The initial terms shall be from one (1) to three (3) years, inclusive, with all subsequent appointments being for three (3) years. Appointments shall be made and expire on the first day of January of any given year. Appointments to fill vacancies shall be as in the case of other appointments for the unexpired term of the member whose term became vacant.

As soon as practicable after the initial appointments, the board shall organize by electing a chairman, secretary and other such officers as it deems appropriate. It shall adopt rules and regulations governing its proceedings and shall meet at such times as it shall determine. All meetings shall be open to the public.

**Source:** Ord. No. 1074, 1981.

**Cross reference:** Sections 5-2-101, et. seq., park board.

**Section 2-4-102 Advisory park board - powers and duties.**

The advisory park and recreation board shall act as an advisory group to the mayor and commission regarding planning and developing parks and their improvements in order to provide the most beneficial park system. They shall also act as an advisory group in the development and operation of the city recreation program. The board shall have such other powers and duties as may be referred to it by ordinance, resolution or by the mayor.

**Source:** Ord. No. 1074, 1981.

**Section 2-4-103 Repealed.**

**Source:** Ord. No. 1074, 1981.

**Statutory reference:** See generally SDCL 9-38-80, et. seq., recreation board - organization, powers and duties.

**Section 2-4-104 Repealed.**

**Source:** Ord. No. 1074, 1981.

**Section 2-4-105 Board of adjustment - membership and organization.**

The board of adjustment shall consist of five (5) regular members and two alternate members. It shall appoint one of its members as chairman, appoint a secretary and prescribe rules for conduct of its affairs. Members shall receive fifteen dollars (\$15.00) for each meeting attended as expense reimbursement.

Appointments shall be made by the mayor for three year terms and the appointment may be renewed at the end of each three year term at the discretion of the mayor. Any member may be removed during any current three year term by the city commission for cause upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose current term becomes vacant.

**Source:** Ord. No. 832, 1970; Ord. No. 712, Sec. 22 (A), 1962; and R.O. Pierre, 1957, 2.0111, Rev. of Ord., 1990; Ord. No. 1362, 1995; Ord. No. 1628, 2008; Ord. No. 1651, 2009; Ord. No. 1696, 2012.

**Cross reference:** Chapter 12, planning and zoning.

**Statutory references:** SDCL 11-4-12, preliminary report of zoning commission - hearings - final report; SDCL 11-4-13, board of adjustment to be provided - power to make special exceptions; and, SDCL 11-4-14, appointment and terms of board of adjustment - removal - vacancies.

**Cross reference:** Ch. 12, planning and zoning.

**Section 2-4-106 Board of adjustment - meetings.**

Meetings shall be held at the call of the chairman and at such other times as the board may determine. The chairman or, in his absence, the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.

The board shall keep minutes of its proceedings, showing the vote of each member on each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board or, if no office, with the city finance officer and shall be a public record.

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

**Statutory references:** SDCL 11-4-15, meetings of board of adjustment - administration of oaths and attendance of witnesses, and, SDCL 11-4-16, minutes and records of board adjustments.

**Sections 2-4-107 Board of adjustment - powers and duties.**

The powers and duties of the board of adjustment shall be as prescribed by SDCL chapter 11-4 and 11-6, and all acts amendatory thereof, relating to planning and zoning, and SDCL chapter 50-10 and all acts amendatory thereof, relating to airport zoning, and all other governing state law, and chapter 12 of this code, relating to planning and zoning, and all other ordinances and resolutions of the city amendatory or in addition thereto.

A specification of the powers and duties of the board shall include, but not be limited to, the following:

- 1) Concerning its regulation of airport zoning pursuant to article 11 of chapter 12 of this code:
  - A) hearing and deciding appeals from any order, requirement, decision, or determination made by the airport manager;
  - B) hearing and deciding special exemptions to the terms of said article 11;
  - C) hearing and deciding specific variances as may be allowed by said article 11.
- 2) Concerning its regulation of zoning pursuant to article 1 to 10 inclusive, of chapter 12 of this code:
  - A) issuing special permits for any of the uses which require such permits, or for the extension of use, as it existed at the time chapter 12 went into effect, into a contiguous or more restricted district, but not for any other purpose or use. A special permit shall not be granted unless the board finds that the use for which the permit is sought will not be injurious to the neighborhood or detrimental to the public welfare.

B) varying or adapting any regulation of said chapter 12 when any such regulation results in practical difficulty or unnecessary hardship that would prohibit the owner from the reasonable use of the land or building involved, but in no other case.

No variance of any regulation shall be granted by the board unless it finds:

(i) that there is proof of the hardship, and the conditions and circumstances are peculiar to such land or buildings, and that these conditions and circumstances do not generally apply to the neighborhood;

(ii) that the variance granted by the board is the minimum variance possible to accomplish the purpose of providing for the reasonable use of the land or building; and,

(iii) that the granting of the variance does not change the essential character of the neighborhood and shall be in accordance with the general purpose and intent of the zoning ordinance.

**Source:** Ord. No. 712, Sec. 22 (B), 1962; and, R.O. Pierre, 1957, 2.0111.

**Statutory references:** SDCL 11-4-13, board of adjustment to be provided - power to make special exceptions; SDCL 11-4-17, appeals to board of adjustment - exceptions and variances; SDCL 11-4-18, rules of board of adjustment; SDCL 11-4-19, taking appeals to board of adjustment - notice transmittal of papers to board; SDCL 11-4-20, stay of proceedings by appeal to board of adjustment - certificate of imminent peril to life or property - restraining order staying proceedings; SDCL 11-4-21, notice and hearing by board of adjustment - appearance at hearing; SDCL 11-4-22, disposition of appeals by board of adjustment; SDCL 11-4-23, vote required to reverse or to grant exception or variance; and SDCL 11-4-17, certified copies returned on certiorari - contents of return.

### **Section 2-4-108 Board of adjustment - procedures.**

The board shall act in strict compliance with the procedures prescribed by state law and the zoning ordinances of the city. The appeals and application made to the board shall be made in writing on forms prescribed by the board. Each appeal or application shall be accompanied by a fee of fifty dollars (\$50) and shall state the interpretation that is claimed, the use for which the permit is sought, or the details of the variance applied for, and the reasons why the variance should be granted.

**Source:** Ord. No. 712, Sec. 22 (C), 1962; Ord. No. 1297, 1992; Ord. No. 1567, 2005; Ord. No. 1628, 2008;

**Statutory references:** SDCL 11-4-18, rules of board of adjustment; SDCL 11-4-21, stay of proceedings by appeal to the board of adjustment - certificate of imminent peril to life or property - restraining order staying proceedings; SDCL 11-4-22, disposition of appeals by board of adjustment; and, SDCL 11-4-23, vote required to reverse or to grant exception or variance.

**Section 2-4-109 Board of public library trustees - membership and organization.**

The board of library trustees shall consist of five members appointed by the mayor with the confirmation of the city commission.

All terms shall be effective and expire the first of October.

Of the initial appointments, one shall be for one year, two for two years, and two for three years. Thereafter, all appointments shall be for terms of three years or until successors shall be appointed and confirmed. The library trustees shall receive no compensation for their services.

**Source:** R.O. Pierre, 1957, 1.0701; Rev. of Ord., 1990.

**Statutory reference:** SDCL 14-4-3, composition of municipal board - confirmation of appointments - terms of trustees - no compensation.

**Section 2-4-110 Board of library trustees - powers and duties.**

The board shall have all of the powers and duties prescribed by SDCL chapter 14-2 and all acts amendatory thereof, relating to libraries, and all other governing state laws.

The board shall, immediately upon the trustees appointment and confirmation, or upon the appointment and confirmation in each year of successors to the retiring trustees, meet and organize by electing from the members thereof a president and secretary.

It shall also appoint the librarian and other persons necessary for the care of the public library. It shall also make all necessary rules and regulations pertaining to the use and circulation of the books and periodicals of such library and also relating to the duties of the officers and management of the library building, library and reading rooms as are not inconsistent with the state law subject to the approval of the commission.

**Source:** R.O. Pierre, 1957, 1.0702; Rev. of Ord., 1990.

**Statutory reference:** See generally, SDCL 14-4 2, powers and duties of board of library trustees.

**Section 2-4-111 Board of library trustees - control of library funds by the city treasurer.  
(REPEALED)**

**Source:** R.O. Pierre, 1957, 1.0703; Rev. of Ord., 1990.

**Statutory reference:** SDCL 14-4-6, tax proceeds kept in separate fund.

**Section 2-4-112 Board of library trustees – reports of the board and city treasurer. (REPEALED)**

**Source:** R.O. Pierre, 1957, 1.0704; Rev. of Ord., 1990.

**Statutory reference:** SDCL 14-415, annual report to state commission.

**Section 2-4-113 Planning commission - membership and organization.**

The planning commission shall consist of seven (7) members appointed by the mayor and confirmed by the city commission. The term of each member shall be for five years.

Three of the initial members shall be appointed for terms of three years and the other four for five years. Thereafter, all terms, as aforesaid, shall be for five years. The mayor, with the confirmation of the city commission, may remove any member for cause upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

The commission shall elect its chairman from among its membership for a term of one year with eligibility for reelection, and may fill such other offices it may create in a manner prescribed by its rules. Members shall receive payment as set forth by the City Commission for each meeting attended as expense reimbursement.

All terms of its members and its officers shall expire on the first day of July in any given year.

**Source:** Ord. No. 749, Sec. 1, 1965; Ord. 1153, 1985, Rev. of Ord., 1990; Ord. No. 1362, 1995; Ord. No. 1628, 2008;

**Statutory reference:** SDCL 11-6-4, composition, appointment and terms of planning commission members - exofficio members - vacancies - removal of member.

**Cross reference:** Ch. 12, planning and zoning.

**Section 2-4-114 Planning commission - meetings.**

The commission shall hold at least one regular meeting each month and shall adopt rules for transaction of its business. It shall keep a record of its resolutions, transactions, findings, and determinations which shall be a public record to be kept in its office or, if no office, with the city finance officer.

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

**Statutory reference:** SDCL 11-6-6, meetings of planning commission - rules - record of proceedings.

**Section 2-4-115 Planning commission - authority to act as zoning commission.**

As provided in SDCL 11-4-11 and 11-6-13, the planning commission shall be appointed and have all the powers and duties granted zoning commissions pursuant to state law and the ordinances of the city, and the planning commission is hereby authorized and directed to carry out such powers and duties.

**Source:** Ord. No. 749, 1965; and Ord. No. 694, 1960; Rev. of Ord., 1990.

**Section 2-4-116 Planning commission - powers and duties.**

The powers and duties of the planning commission shall be as prescribed by SDCL chapter 11-4 and 11-6, and all acts amendatory thereof, relating to planning and zoning, and all other governing state laws, and chapter 13 of this code, relating to planning and zoning, and all other ordinances and resolutions of the city amendatory or in addition thereto.

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

**Section 2-4-117 Housing and redevelopment commission - membership and organization.**

The housing and redevelopment commission shall consist of five members appointed by the mayor with the confirmation of the city commission. The initial appointees shall be appointed for terms of one to five years, inclusive, and thereafter all appointments shall be for five year terms. Vacancies shall be filled in the same manner in which original appointments are made. Members shall hold office until their successors are appointed and qualified.

To be eligible for appointment, members must be residents of the area of operation of the commission. Certificates of appointment shall be filed with the city finance officer. New certificates shall be immediately filed in all cases of changes of members.

Members may be removed by the city commission for inefficiency or neglect of duty or misconduct in office, but only after public hearing and written charges being given at least ten days prior to such hearing. Members may be heard in person or by counsel at any such hearing. Other procedures concerning any such removal are provided in SDCL 11-7-14.

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

**Statutory references:** SDCL 11-7-11, composition of commission - public officers and employees ineligible; SDCL 11-8-12, appointment and terms of commissioners - vacancies; SDCL 11-7-13, tenure of commissioners - certificate of appointment; and, SDCL 11-7-14, removal of commissioner from office - notice and hearing - suspension pending final action - record of proceedings.

**Section 2-4-118 Housing and redevelopment commission - officers, rules and meetings.**

The powers of the commission shall be vested in the members thereof in office at any given time, a majority of whom shall constitute a quorum for all purposes. The commission shall elect a chairman, secretary and treasurer from among its members and shall adopt such by-laws and other rules for the conduct of its affairs as it deems appropriate. It shall determine and fix a place for its regular meetings which shall be open to the public.

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

**Statutory reference:** SDCL 11-7-15, quorum of commission officers - rules - meetings open to public.

**Section 2-4-119 Housing and redevelopment commission - powers and duties.**

The powers and duties of the housing and redevelopment commission shall be as prescribed by SDCL chapter 11-7 and all acts amendatory thereof, relating to municipal housing and redevelopment, and all other governing state law, and this code and the ordinances and resolutions of the city.

The commission shall be a public body corporate and politic, exercising public and essential governmental functions, and shall have all the powers necessary or convenient to carry out the purposes of SDCL chapter 11-7 including the powers granted by SDCL 11-7-18 to 11-7-23, inclusive, in addition to other powers granted in said chapter, but not the power to levy or collect taxes or special assessments.

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

**Statutory reference:** SDCL 11-7, municipal housing and redevelopment and, 11-7-17, housing and redevelopment commissions created - findings and declaration of need required before exercise of powers.

**Section 2-4-120 Historic Preservation Commission - Creation.**

Whereas the city commission has determined that the historical, architectural, archaeological, paleontological, and cultural heritage of this city is among its most important assets, it is hereby declared to be the purpose of this ordinance to authorize the city commission to engage in a comprehensive program of historic preservation to promote the use and conservation of historic properties for the education, inspiration, pleasure and enrichment of the citizens of this city.

**Source:** Ord. No. 1239, 1989.

**Section 2-4-121 Historic Preservation Commission--Purpose.**

The city commission hereby establishes a joint historic preservation commission with the City of Ft. Pierre, with its mission to preserve, promote and develop the historical resources of the municipalities in accordance with the provisions of SDCL 1-19B.

**Source:** Ord. No. 1239, 1989; Ord. No. 1692, 2012.

**Section 2-4-122 Composition of Preservation Commission-Residence-Terms of Office.**

The historic preservation commission shall consist of not less than five nor more than ten members. Each appointment shall be separately approved by the governing body of each community with due regard to proper representation of such fields as history, architecture, urban planning, archaeology, paleontology, and law. All members of the historic preservation commission shall serve terms not to exceed three years, except that when the commission is first appointed the lengths of the terms shall be varied in such a fashion as to assure that no more than one-third each member shall be for a full three year term, unless the appointment is made to fill a vacancy. Not less than one nor more than three members of this commission shall be residents of Ft. Pierre with the remainder of the members to be residents of Pierre.

**Source:** Ord. No. 1239, 1989; Ord. No. 1692, 2012.

**Section 2-4-123 Duties of the Historic Preservation Commission.**

The duties and powers of the historic preservation commission hereby established shall be as provided by SDCL 1-19B and all acts amendatory thereof.

**Source:** Ord. No. 1239, 1989.

**Section 2-4-124 Arbor Board - Creation.**

There is hereby created the Arbor Board for the City of Pierre, South Dakota, which shall consist of six (6) members, appointed by and subject to removal by the Mayor. The initial terms shall be from one (1) to three (3) years, inclusive, with all subsequent appointments being for three (3) years. Appointments shall be made and expire on the first day of January of any given year. Appointments to fill vacancies shall be as in the case of other appointments for the unexpired term of the member whose term became vacant.

**Source:** Ord. No. 1117, 1983, Rev. of Ord., 1990.

**Section 2-4-125 Organization.**

As soon as practicable after the initial appointments, the Board shall organize by election a Chairman, Secretary and such other officers as it deems appropriate. It shall adopt rules and regulations governing its proceedings and shall meet at such times as it shall determine. All meetings shall be opened to the public.

**Source:** Ord. No. 1117, 1983.

**Section 2-4-126 Duties.**

The Arbor Board shall act as an advisory group to the Mayor and Commission regarding the planting and care of trees in the City of Pierre. The Board shall have such other powers and duties as may be referred to it by Ordinance, Resolution or by the Mayor.

**Source:** Ord. No. 1117, 1983, Rev. of Ord., 1990.

**Sections 2-4-127 to 199, inclusive. Reserved.**