

### **TITLE III: ADMINISTRATION**

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- 31. OFFICIALS AND EMPLOYEES**
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## CHAPTER 30: MAYOR AND CITY COUNCIL

Section

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## **GENERAL PROVISIONS**

### **§ 30.01 MAYOR; DUTIES.**

(A) The Mayor shall preside at all meetings of the Council, but shall have no vote, except in the case of a tie.

(B) (1) He or she shall perform such other duties as may be prescribed by the laws and ordinances, and take care that such laws and ordinances are faithfully executed.

(2) He or she shall annually and from time to time give the Council information relative to the affairs of the city, and shall recommend for its consideration such measures as he or she may deem expedient.

(3) He or she shall have the power to sign or veto any ordinance or resolution passed by the Council, and the power to veto any part or item of an ordinance or resolution appropriating money.

(B) In the event of such vote, a two-thirds' vote of the Council shall be necessary to pass such ordinance or resolution over the veto.

(Prior Code, § 2.04.010)

*CITY COUNCIL***§ 30.15 LENGTH OF TERMS.**

In accordance with SDCL § 9-8-4, the City Council shall consist of the Mayor elected at large and two Council members elected from and by the voters of each ward of the municipality. The term of office shall be for four years. The Mayor and Council members shall hold office until successors are elected and qualified. At the first election of Council members, the Council shall stagger the initial terms of the Council members in each ward to provide that the two Council members are not up for reelection in the same year. A person may hold office for more than one term.  
(Ord. 1998-7-1, passed 7-20-1998)

**§ 30.16 MEETINGS.**

Regular meetings of the governing body shall be held on the first Monday of each month at 7:00 p.m. CST at the City Finance Office, unless otherwise rescheduled.

**§ 30.17 NOTICE OF SPECIAL MEETINGS.**

(A) The city's Finance Officer shall issue written notice of each special meeting, stating by what authority the meeting is called, the time and place of holding such meeting and the matters to be considered.

(B) Such notice shall be personally served upon each member of the Council then in the city; provided, however, that, notice of the special meeting may be waived either by attendance at such meeting or by waiver in writing, filed with the city's Finance Officer. Such notice shall be served at least 24 hours prior to the time of holding of such meeting.  
(Prior Code, § 2.08.020)

**§ 30.18 PRESIDENT AND VICE PRESIDENT.**

(A) At the first regular meeting after the annual election in each year and after the qualification of the newly elected Council members, the Council shall elect from among its own members a President and Vice President, who shall hold their respective offices for the municipal year.

(B) The President of the Council, in the absence of the Mayor, shall be presiding officer of the Council and, during the absence of the Mayor from the city or his or her temporary disability, shall be Acting Mayor and possess all of the powers of the Mayor.

(C) In the absence or disability of the Mayor and President of the Council, the Vice President shall perform the duties of the Mayor and President of the Council.  
(Prior Code, § 2.08.030)

**§ 30.19 SUPERVISION OF DEPARTMENTS.**

The Mayor, with the approval of the Council, at the first meeting in May of each year, shall appoint two members of the Council to act in a supervisory capacity in each of the departments of water, street, liquor, police, fire and any other departments of the city, and such Council members so appointed shall have supervision over the department to which they are named as supervisors, and shall from time to time and as requested by the Council, report as to the condition and matters in the department.  
(Prior Code, § 2.08.040)

**§ 30.20 VOTING; CONDUCT OF BUSINESS.**

(A) The purpose of this section is to clarify the necessary number of votes that permit the Council to conduct business and act on behalf of the city.

(B) The section became effective immediately upon passage.

(C) A quorum of the Council shall be present to conduct official business on behalf of the city. A simple majority of said quorum is required to act officially on behalf of the city, unless otherwise specified in the state's codified laws.

(D) Council members are expected to vote on all business before the Council unless a conflict of interest exists. If a conflict of interest does exist, the intent to abstain shall be announced before a vote is taken. If a Council member abstains from voting, then three affirmative votes on the part of the remaining Council members shall be sufficient to pass the motion, except as noted by the city.  
(Ord. 2005-2-1, passed 3-7-2005; Ord. 2006-4-8, passed 5-1-2006)



## CHAPTER 31: OFFICIALS AND EMPLOYEES

### Section

- 31.01 Compensation
- 31.02 City Attorney; duties

#### § 31.01 COMPENSATION.

(A) The annual salaries of the appointive officers and all other employees of the city shall be set according to the salary schedule as adopted by the governing body with provisions for cost of living increases to be determined from time to time at the discretion of the governing body.

(B) The salaries mentioned in division (A) above shall be paid from such funds as may be determined by the governing body by appropriation ordinance or other action or resolution of the governing body.

(Prior Code, § 2.16.010)

#### § 31.02 CITY ATTORNEY; DUTIES.

The duties of the City Attorney shall be as follows.

(A) When required by the Council or any officer of the city, the City Attorney shall furnish an opinion upon any matter relating to the affairs of the city or the official duties of such officer, conduct the prosecutions of all actions or proceedings arising out of the violation of any ordinance, represent the city in all actions or proceedings to which it may be a party and perform such other professional services incident to his or her office as may be required by ordinance or directed by the Council.

(B) If the Council shall require the City Attorney to render assistance or perform services in connection with any revision of the ordinances, he or she shall receive such compensation in addition to his or her salary as may be agreed upon between the Council and him or her.

(Prior Code, § 2.12.030) (Ord. 367, passed - -1994)

*Statutory reference:*

*Related provisions, see SDCL § 9-14-22*



## CHAPTER 32: ORGANIZATIONS

### Section

#### *High Plains Arts Council*

- 32.01 Findings
- 32.02 Designation
- 32.03 Duties
- 32.04 Authorization to receive and distribute funds

#### *Consolidated Board of Equalization*

- 32.15 Established

#### *Cross-reference:*

*Officials and Employees, see Ch. 31*

*Police policy standard operating guidelines, see § 36.02*

### **HIGH PLAINS ARTS COUNCIL**

#### **§ 32.01 FINDINGS.**

(A) The artists and artistic institutions of the city contribute to and provide cultural, educational, entertainment and recreational benefits to and used by the citizens of the city.

(B) The establishment of the High Plains Arts Council has promoted and encouraged public programs to further the development and public awareness of and interest in the arts, which is essential to the public welfare.

(Prior Code, § 2.32.010) (Ord. 322, passed - -1987)

#### **§ 32.02 DESIGNATION.**

The city designates the High Plains Arts Council Inc. as the organization to assist the city in promoting and encouraging public programs to further the development and awareness of and interest

in the arts and to act in an advisory capacity to the city in connection with the artistic and cultural development of the city.

(Prior Code, § 2.32.020) (Ord. 322, passed - -1987)

### **§ 32.03 DUTIES.**

(A) In furtherance of the objectives of this subchapter, the High Plains Arts Council Inc. is to initiate, sponsor and conduct public programs to further the development and awareness of, and interest in, the arts.

(B) The High Plains Arts Council Inc. is to advise and assist the city in connection with such other artistic activities as may be referred to it by the city.

(Prior Code, § 2.32.030) (Ord. 322, passed - -1987)

### **§ 32.04 AUTHORIZATION TO RECEIVE AND DISTRIBUTE FUNDS.**

The Council authorizes the High Plains Arts Council Inc. to receive and distribute funds on behalf of the city.

(Prior Code, § 2.32.040) (Ord. 322, passed - -1987)

## ***CONSOLIDATED BOARD OF EQUALIZATION***

### **§ 32.15 ESTABLISHED.**

There is hereby established a Consolidated Board of Equalization with the County Board of Equalization, and that the Board will consist of the County Board of Commissioners, one representative from the Gettysburg School District governing board, and one member from the city governing board. (Res. 2020-11-2, passed 11-2-2020)

## CHAPTER 33: PUBLIC SAFETY AND LAW ENFORCEMENT

### Section

#### *Fire Department*

- 33.01 Established
- 33.02 Constitution and bylaws
- 33.03 Officers and members

#### *Police Department*

- 33.25 Members
- 33.26 Duties

#### *Cross-reference:*

*Police policy standard operating guidelines, see § 36.02*

### ***FIRE DEPARTMENT***

#### **§ 33.01 ESTABLISHED.**

There is established for city a Volunteer Fire Department which shall consist of a Chief, Assistant Chief, Secretary-Treasurer and such other members as may be from time to time determined by the Fire Department.

(Prior Code, § 2.20.010)

#### **§ 33.02 CONSTITUTION AND BYLAWS.**

The Fire Department may adopt such constitution and bylaws and rules for its regulations and government, subordinate to the ordinances of the city as it may deem best calculated to accomplish the object of its organization.

(Prior Code, § 2.20.020)

**§ 33.03 OFFICERS AND MEMBERS.**

The Fire Department shall provide a roster of its officers and members to the city, annually, wherein said roster will be approved by motion of the City Council.  
(Prior Code, § 2.20.030)

***POLICE DEPARTMENT*****§ 33.25 MEMBERS.**

The Police Department shall consist of a Chief of Police and such other police officers and employed by the city.  
(Prior Code, § 2.24.010) (Ord. 2009-10-10, passed 11-4-2009)

**§ 33.26 DUTIES.**

The Chief of Police and members of the Police Department shall perform such duties as shall be prescribed by the City Council for the preservation of the peace and any other duties which may from time to time be prescribed by the City Council.  
(Prior Code, § 2.24.020)

## CHAPTER 34: REVENUE AND FINANCE

### Section

- 34.01 Annual reports by boards
- 34.02 Contracts by Council members
- 34.03 Claims
- 34.04 Sale of personal property

#### **§ 34.01 ANNUAL REPORTS BY BOARDS.**

Each of the boards appointed and acting for the city in the administration of city affairs and the head of each department of the city shall make an annual report of its receipts, disbursements and activities to the Council as soon as practicable after the close of the fiscal year, which report shall be filed with the city's Finance Officer.

(Prior Code, § 3.04.010)

#### **§ 34.02 CONTRACTS BY COUNCIL MEMBERS.**

No officer or member of the Council shall enter into any contract, make any purchase or create any indebtedness against the city in excess of \$300 without first having submitted the matter of incurring such indebtedness or making such contract to the Council or having received authority of such Council therefor.

(Prior Code, § 3.08.010) (Ord. 2004-9-7, passed 9-20-2004)

#### **§ 34.03 CLAIMS.**

(A) All claims against the city shall be in writing and upon forms provided by the city's Finance Officer and in such form as required by statute of the state.

(B) Prior to passage or approval by the Council, claims shall bear the approval of the Council members.

(Prior Code, § 3.12.010) (Ord. 1997-3-2, passed - -1997)

**§ 34.04 SALE OF PERSONAL PROPERTY.**

(A) Whenever the Council deems it for the best interest of the city that personal property belonging to the city be sold, which property has been abandoned or is about to be abandoned for public use, the property shall be sold to the highest bidder upon such terms as may be determined by the Council.

(B) Notice of sale shall be given by publication once a week for three successive weeks in the official newspaper of the city which notice shall contain a description of the personal property to be sold and the time and place where bids will be received by the Council for the sale; and the Council may, at such time, sell the personal property to the highest and best bidder therefor or may, in its discretion, reject all bids.

(Prior Code, § 3.16.010)

## CHAPTER 35: TAXATION

Section

### *Sales and Service Tax*

- 35.01 Purpose
- 35.02 Effective date and enactment
- 35.03 Use tax
- 35.04 Collections
- 35.05 Interpretation

### *Beverage, Board and Bed Tax*

- 35.20 Enactment
- 35.21 Limitations
  
- 35.99 Penalty

## **SALES AND SERVICE TAX**

### **§ 35.01 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.

(Ord. 2005-7-5, passed 8-22-2005)

### **§ 35.02 EFFECTIVE DATE AND ENACTMENT.**

From and after 1-1-2006, there is hereby 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 state's retail occupational sales and service tax, SDCL Ch. 10-45, and acts amendatory thereto.  
(Ord. 2005-7-5, passed 8-22-2005)

### § 35.03 USE TAX.

In addition, there is hereby imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the municipality of tangible personal property or services purchased from and after 1-1-2006, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the state's Use Tax Act, SDCL Ch. 10-46, and acts amendatory thereto.  
(Ord. 2005-7-5, passed 8-22-2005)

### § 35.04 COLLECTIONS.

Such tax is levied pursuant to authorization granted by SDCL Ch. 10-52, and acts amendatory thereto, and shall be collected by the state's 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 shall lawfully prescribe.  
(Ord. 2005-7-5, passed 8-22-2005)

### § 35.05 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 state's Retail Occupational Sales and Service Act, SDCL Ch. 10-45, and acts amendatory thereto, and the state's 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.  
(Ord. 2005-7-5, passed 8-22-2005)

## ***BEVERAGE, BOARD AND BED TAX***

### § 35.20 ENACTMENT.

From and after 7-1-1994, there is hereby imposed a 2% tax on the sales of leases or rentals of hotel, motel, campsite or lodging accommodations, alcoholic beverages, prepared food for immediate consumption whether dine-in or carry-out, and ticket sales or admissions to places of amusement, athletic

or cultural events (except those exempt under SDCL § 10-45-13), or any combination thereof. This tax is in addition to and not in lieu of the 2% tax imposed by §§ 35.01 through 35.05 of this chapter. (Prior Code, § 3.22.010) (Ord. 357, passed - -1994; Ord. 2003-8-13, passed - -2003)

**§ 35.21 LIMITATIONS.**

The revenues received from the tax imposed by § 35.20 of this chapter shall be used only for the promotion, economic development and advertising of the city. (Prior Code, § 3.22.020) (Ord. 357, passed - -1994)

**§ 35.99 PENALTY.**

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

(B) Any person failing or refusing to make reports or payments prescribed by §§ 35.01 through 35.05 of this chapter and the rules and regulations relating to the ascertainment and collection of the tax herein levied 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 hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation. (Ord. 2005-7-5, passed 8-22-2005)



## CHAPTER 36: PLANS AND POLICIES

### Section

- 36.01 County Hazard Mitigation Plan
- 36.02 Police policy standard operating guidelines

#### **§ 36.01 COUNTY HAZARD MITIGATION PLAN.**

(A) The County Hazard Mitigation Plan is hereby adopted as the official plan of the city.

(B) The respective city official identified in the strategy of the plan is hereby directed to implement the recommended action assigned to them. These officials will report annually on the activities, accomplishments, and progress to the County Emergency Management.

(C) The City Planner will provide annual progress reports on the status of implementation of the plan to the Mayor and City Council. This report shall be submitted to the City Council by November 1 of each year.

(Res. passed 6-8-2020)

#### **§ 36.02 POLICE POLICY STANDARD OPERATING GUIDELINES.**

Pursuant to state statutes, the police policy standard operating guidelines are set out in final draft dated April 5, 2021, by the Chief of Police. The policy is hereby adopted by reference as if set out in full. A full copy of this policy can be found in the city office.

(Res. 2021-4-5, passed 4-5-2021)

