

CHAPTER 30: MAYOR AND CITY COMMISSIONERS

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GENERAL PROVISIONS

§ 30.01 QUALIFICATIONS OF CITY COMMISSIONERS.

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

§ 30.02 TERMS OF OFFICE.

The term of office of the members of the City Commission excluding the Mayor shall be three years.
(Prior Code, § 2.04.020)

§ 30.03 OATH OF OFFICE.

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

§ 30.04 BOND.

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

§ 30.05 RESIGNATION OR REMOVAL OF MAYOR OR CITY COMMISSIONERS; FILLING OF VACANCIES.

The resignation of the Mayor or any City Commissioner shall be in writing to the City Commission. The permanent removal of the Mayor or any City Commissioner shall create a vacancy in his or her office. In case of any vacancy from any cause in the office of Mayor the same shall be filled by the election of a new Mayor by majority vote of the remaining City Commissioners. In the event of the resignation of a City Commissioner, the remaining City Commissioners shall appoint a replacement by majority vote.
(Prior Code, § 2.04.050)

§ 30.06 MAYOR AS PRESIDENT OF CITY COMMISSION; VOTING POWER.

The Mayor shall be presiding officer of the City Commission and shall have a vote upon all questions, but shall not have the right of veto.
(Prior Code, § 2.04.060)

§ 30.07 ABSENCE OR DISABILITY OF MAYOR; ACTING MAYOR WHILE VACANCY IN OFFICE.

In case the Mayor is unable to perform the duties of his or her office by reason of absence or sickness, the City Commission shall appoint by a majority vote of all members thereof one of its members to act in his or her stead, whose official designation shall be “acting President of the City Commissioners.” The City Commissioner so appointed shall be invested with all the powers and shall perform all the duties of the Mayor during such absence or sickness. In case of a vacancy in the office of Mayor, the City Commissioners shall appoint by majority vote of all the members thereof one of its number as acting Mayor, who shall be invested with all the powers and shall perform all the duties of the Mayor, (until the election of a Mayor) at the first regular meeting of the City Commission in the next ensuing May.
(Prior Code, § 2.04.070)

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

The City Commissioners shall have the power to summon and compel the attendance of witnesses and the production of books and papers whenever it may be necessary for the effective discharge of its duties. All process necessary to enforce the powers conferred by this section and SDCL § 9-9-9 shall be signed by the Mayor and attested by the Auditor, and shall be served by its police officer or by the sheriff of the county.
(Prior Code, § 2.04.090)

§ 30.09 REGULAR AND SPECIAL MEETINGS OF THE CITY COMMISSIONERS AND ORDER OF BUSINESS.

(A) The City Commission shall hold its meetings on the first and third Mondays of the month at such place as designated by the City Commission and shall convene at 7:00 p.m. A regular meeting may be adjourned from day to day until all of the business of the city to be transacted at such meeting has been transacted and an adjournment of such regular meeting without definite date shall be an adjournment to the next regular meeting.

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

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

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

(D) Any member of the City Commission may request at the opening of the meeting that an item on the consent calendar be moved to the regular agenda.
(Prior Code, § 2.04.100)

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

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

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

A majority of the City Commission shall constitute a quorum for the transaction of all business, but a smaller number may adjourn from time to time and compel the attendance of absentees under such penalties as may be prescribed by ordinance. A majority of the elected City Commissioners is necessary to pass a measure or action.
(Prior Code, § 2.04.120)

§ 30.12 RECORDING OF VOTES OF CITY COMMISSIONERS.

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

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

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

§ 30.14 MAYOR'S AREA OF RESPONSIBILITY.

(A) The Mayor shall have and exercise all powers and perform all the duties provided by the laws of this state and the ordinances of the city not in conflict therewith.

(B) The duties and powers of the Mayor shall be as follows:

(1) He or she shall be the presiding officer of the City Commission;

(2) He or she shall be the recognized head of the municipality for service of civil process and for military and ceremonial purposes;

(3) He or she may take command of the police of the municipality, appoint special police and govern the municipality by proclamation during times of public danger or emergency, and during such times he or she shall have such powers and authority to call for assistance, as are given to the Mayor by SDCL § 9-29-17;

(4) He or she shall have such further authority and perform such further duties as may be prescribed by ordinance or resolution not inconsistent with the provisions of this chapter, but in no case shall he or she have the right of veto.
(Prior Code, § 2.04.170)

ORDINANCES AND RESOLUTIONS

§ 30.15 AMENDMENTS.

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

§ 30.16 STYLE OF ORDINANCES; SUBJECT.

(A) Ordinances must be in the following style:

(1) An Ordinance _____ (Insert Title);

(2) Be it ordained by City of Canton. The substance of the ordinance follows.
(SDCL § 9-19-6)

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

§ 30.17 READINGS, PASSAGE AND PUBLICATION.

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

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

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

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

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

§ 30.18 EFFECTIVE DATE OF ORDINANCES AND RESOLUTIONS.

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

§ 30.19 COMPILATION OF ORDINANCES.

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

(B) Every municipality also has the power to revise their ordinances once every five years.

(SDCL § 9-19-16)

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

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

(SDCL § 9-19-17)

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

Any ordinance or resolution of this city shall continue in force and effect the same as though no change of government has occurred.

(SDCL § 9-11-10)