

Title III: Administration

Chapter

- 30. General Provisions
- 31. Boards and Commissions
- 32. Fire Department
- 33. Law Enforcement
- 34. Finance and Revenue
- 35. Plans, Programs and Projects

Big Stone City – Administration

Chapter 30: General Provisions

Sections

Elections

- 30.01 Wards Established
- 30.02 Voting precincts

Mayor and City Council

- 30.15 Elections and duties
- 30.16 Regular meetings
- 30.17 Special Meetings
- 30.18 President and Vice President
- 30.19 Council procedure
- 30.20 Departments and supervisors

Officers and Employees

- 30.35 Officers
- 30.36 Duties
- 30.37 Special Duty of City Attorney
- 30.38 Salaries
- 30.39 Bonds
- 30.40 Termination of employment
- 30.41 Employee benefits

Elections

§ 30.01 Ward Established.

The city shall be and hereby is divided into three election wards with boundaries as follows.

(A) *First Ward.* All that portion of the city, south of a line running east and west through the center of Main Street from the state line to the west line of the corporate limits and that portion of the city within and

Big Stone City – Administration

bounded by a line beginning at that corner of Main Street and Cornell Avenue, thence north along Cornell Avenue to Tioga Street, thence west along Tioga Street to Second Avenue, thence north on Second Avenue to Walnut Street, thence west along Walnut Street to Third Avenue, thence south along Third Avenue to Highway 109, thence south on Highway 109 to Main Street. All that portion of the city lying South of Main Street.

(B) *Second Ward*. All that portion of the city lying north of Olive Street, thence North Third Avenue and Walnut Street and west of the first ward and west of a line beginning in the center of the corner of Walnut Street and Second Avenue running north on Second Avenue/High Street to North Street, thence east to Lake Street, thence north along Lake Street to the north boundary of the city.

(C) *Third Ward*. All the portion of the city lying north of the first ward and east of the second ward. (Prior Code, § 1-2-1) (Ord. 2021-13, passed 12-6-2021)

§ 30.02 Voting Precincts.

All the territory of the city, having been heretofore divided into continuous wards, be and the same is hereby consolidated into and as one voting precinct or polling precinct for voting and polling purpose at any and all elections. (Prior Code, § 1-2-2)

Mayor and City Council

§ 30.15 Elections and Duties.

The city shall be governed by a Mayor and City Council, who shall be elected and perform such duties as are prescribed by the laws of the state.

(Prior Code, § 1-3-1)

Statutory reference:

Similar provisions, see SDCL Ch. 9-8

§ 30.16 Regular Meetings.

The regular meetings of the governing body of the city shall be held on the first Monday of each month at the city offices or at such place as the governing body may select within the said city, except when such Monday is a legal holiday, and in that case, the meeting shall be held on the next day not a holiday. Any meeting may be adjourned from day to day and shall be open to the general public. During the months of

General Provisions

April and October of each calendar month, the City Council meeting shall start at 6:30 p.m. During the months of November to December and January to March of each calendar year, the City Council meetings shall start at 5:30 p.m.

(Prior Code, § 1-3-2) (Ord. 2020-07, passed 10-5-2020)

Statutory reference:

Similar provisions, see SDCL Ch. 9-8

§ 30.17 Special Meetings.

Special meetings of the City Council may be called at any time unless members of the Council are absent from the city, and a quorum cannot be obtained by the Mayor. The President of the City Council and any three members may call a meeting to consider any such matters as shall be mentioned in the notice for such meeting. Written notices stating the time and place of holding the meeting and the matters to be considered shall be issued by the Finance Officer. The notices may be given by the Finance Officer, the Mayor or designated person by telephone upon each member of the City Council who can be located at least one hour before the time specified for such meeting.

(Prior Code, § 1-3-3)

Statutory reference:

Similar provisions, see SDCL Ch. 9-8

§ 30.18 President and Vice President.

At the first meeting of City Council in May of each year and after the qualification of the newly elected members, the Council shall elect from among its own members, a President and a Vice President of the Council, whose duties are prescribed by the laws of the state.

(Prior Code, § 1-3-4)

Statutory reference:

Similar provisions, see SDCL Ch. 9-8

§ 30.19 Council Procedure.

Robert's Rules of Order, as revised from time to time, shall be the standard for procedure by which all meetings of the City Council are governed. The Council, by majority vote of its membership, may adopt procedural rules differing from *Robert's Rules of Order*.

(Prior Code, § 1-3-5)

Statutory reference:

Similar provisions, see SDCL Ch. 9-8

Big Stone City Administration

§ 30.20 Departments and Supervision.

The following administrative departments are hereby established under the executive office of the Mayor:

(A) Public Safety;

(B) Streets and Alleys;

(C) Water;

(D) Sewer;

(E) Electric;

(F) Liquor;

(G) Parks and Recreation;

(H) Landfill.

(Prior Code, § 1-3-6)

Statutory reference:

Similar provisions, see SDCL Ch. 9-8

§ 30.21 Duties or Supervisors.

Each Council member or Mayor in fulfillment of the provisions of § 30.20 of this chapter shall;

(A) Act in a supervisory capacity for each department;

(B) Keep a constant and careful watch over the performance of all duties of all employees and officials, over all activities, and over all equipment of their respective departments; and

(C) Perform all other duties as may be specified provided in this section or by the Mayor or the Council.

(Prior Code, § 1-3-7)

Statutory reference:

Similar provisions, see SDCL Ch. 9-8

General Provisions

Officers and Employees

§ 30.35 Officers.

There shall be appointed by the Mayor and ratified by the City Council on the first Monday of May of each year, a Finance Officer, a City Attorney and an administrative official who shall hold office until the first Monday in May of the year following their appointment.

(Prior Code, § 1-4-1)

Statutory reference:

Similar provisions, see SDCL § 9-14-3

§ 30.37 Duties.

Each appointive officer shall perform such duties as prescribed by this code and state statutes. Other duties may from time to time be described by the City Council and the Mayor.

(Prior Code, § 1-4-2)

Statutory references:

Similar provisions, see SDCL Ch. 9-14

§ 30.37 Special Duty of City Attorney.

The City Attorney, in addition to those duties prescribed for him or her by state law, shall have the special duty to make or cause to be made proper designations of any ordinance or amendment thereto, and shall see that the organization and numbering of all ordinances is kept as uniform as possible and keeping with the organization of this code. In order to carry out this duty, the City Attorney shall have the power to change any of the numbering designations of any of the city ordinances without having to pass an ordinance amending, providing that in so doing the substance of any ordinance shall not be changed.

(Prior Code, § 1-4-3)

Statutory reference:

Similar provisions, see SDCL § 9-14-22

§ 30.38 Salaries.

The salaries of all municipal officers and employees shall be fixed by a resolution of the City Council. A list of all salaries shall be on file, open to the public inspection, with the Finance Officer.

(Prior Code, § 1-4-4)

Statutory references:

Similar provisions, see SDCL § 9-14-28

Big Stone City Administration

§ 30.39 Bonds.

All appointive officers, before entering upon the discharge of their duties, shall take and subscribe an oath or affirmation in the form required by the Constitution of this state and file the bond as may be required by law. The premium of such bond is to be paid for by the city.

(Prior Code, § 1-4-5)

Statutory reference:

Similar provisions, see SDCL §§ 9-14-6 to 9-14-9

§ 30.40 Termination of Employment.

All employees who have worked continually for the city for one full year or more, may not be discharged without having been given at least two weeks notice before pay is terminated. This section shall not apply, however, to any employee discharged for cause, malfeasance or misfeasance.

(Prior Code, § 1-4-6)

Statutory reference:

Similar provisions, see SDCL §§ 9-14-2 to 9-14-6

§ 30.41 Employee Benefits.

(A) Vacation benefits.

(1) Those employees who have at least on year of service from the date of hire as full-time employees of the city will be eligible for five days of vacation. Those employees who have worked with the city for more than on year will be eligible for the following vacation days commencing on their anniversary date of hiring:

| <i>Years of Service</i> | <i>Vacation Days</i> |
|-------------------------|----------------------|
| 2 to 3 | 10 |
| 4 to 6 | 11 |
| 7 to 9 | 13 |
| 10 | 15 |
| 11 | 16 |
| 12 | 17 |
| 13 | 18 |
| 14 | 19 |
| 15 | 20 |

General Provisions

(2) The vacation days earned by each employee on their anniversary date must be used before the employee's next anniversary date or the employee forfeits the days off and the right to compensation for those days not taken.

(3) Employees must give notice of scheduled vacation days at least two weeks in advance.

(B) *Sick leave.* Any full-time employee may be eligible for one-half pay per sick week, for up to 13 weeks, for any illness or accident, not job related, from the city. Said one-half day per week will become effective on the eighth day that the employee is unable to work. To become eligible for this benefit, the employee must submit to the office of the City Auditor a statement from a medical doctor noting the employee's illness or injury. Upon the employee's return to work, said employee must present the City Auditor's office with a statement from a medical doctor indicating that the illness or injury which caused the employee to be absent from work no longer prohibits the employee from working. Further, to be eligible for the one-half pay per week mentioned above, full-time employees must have been employed by the city for a period of at least six months.

(C) *Holiday benefits.* Any full-time employee who does not work on one of the below described holidays may be eligible to receive a holiday benefit consisting of eight hours straight time pay at his or her regular rate of pay. Said holidays are: New Year's Day; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving; and Christmas. Those employees who work on any of these actual holidays will be paid one and a half times their regular rate of pay for the hours actually worked in addition to their eight hours of holiday pay. Any employee who works eight or more hours on any given holiday, may elect to waive the eight hours of regular holiday pay and take a day off with pay within two weeks following the holiday. If one of the described holidays falls within an employee's paid vacation, said employee will be granted an extra day off.

(D) *Health insurance.* The city will pay full health insurance coverage of both the full-time employee and his or her dependents after said employee has one year of full-time service for the city.

(E) *Employee personal days.*

(1) Any full-time employee of the city will become eligible after one year of employment for three and a half days (28 hours) of personal leave at the employee's regular pay rate. Personal days will not accumulate from year to year and employees will not be compensated for hours not used. Personal days may be taken at any time.

(2) Regular full-time city employees will be allowed to take three working days for a funeral for immediate members of the family only.

(F) *Call out time.* Any full-time employee of the city who is called to work at any time other than their regular scheduled hours will be paid for a minimum of two hours at regular pay for hours actually worked.

Big Stone City - Administration

(G) *Pay periods and overtime.* Employees of the city will be paid every two weeks with each work week beginning at 12:01 a.m. Monday and ending 12:00 a.m. Sunday. Employees will be paid on Tuesdays following the end of the two-week pay period. If the Monday before a pay day is a holiday, pay day will be changed to Wednesday. Employees on hourly pay will be paid at regular pay for hours actually worked up to 40 hours per described work week. Hours over 40 will be paid at the overtime rate of one and one-half times their regular pay rate.

(Ord. 239, passed 3-21-19)

Chapter 31: Boards and Commissions

Section

Generally

31.01 Consolidation of Board of Equalization

31.02 Planning and Zoning Commission

Health and Public Safety

31.15 Oversight generally

Generally

§ 31.01 Consolidation of Board of Equalization.

(A) There is established a consolidated Board of Equalization in accordance with SDCL § 10-11-68 for real property within the city.

(B) The consolidated Board consists of five members of the County Board of Commissioners. The Mayor of the city will sit on this Board as designated by SDCL § 10-11-68

(C) Any per diem or compensation for a member of the consolidated Board shall be paid by each member's own entity.

(Res. 2021-11, passed 12-6-21)

§ 31.02 Planning and Zoning Commission.

(A) *Planning and Zoning Commission established.* There is hereby established a Planning and Zoning Commission. The Planning and Zoning Commission shall prepare a Comprehensive Plan and official controls for the purpose of promoting the health, safety and general welfare of the city.

(B) *Membership.* The Planning and Zoning Commission shall consist of five members appointed by the Mayor and confirmed by the Council.

Big Stone City - Administration

(C) *Terms of members.* The term of each member of the appointed members shall be for five years except that when a Planning and Zoning Commission is first appointed, two members shall be appointed for three years, and two members for five years. Thereafter, appointment of each member shall be for terms of five years. Any vacancy in a membership shall be filled for the unexpired term by the Mayor in the same manner as for appointment.

(D) *Chairperson and officers.* The Planning and Zoning Commission shall elect its chairperson from its membership for a term of one year with eligibility for re-election, and may fill such other offices as it may create in a manner prescribed by the rules of such Commission.

(E) *Appropriations.* The City Council shall provide such funds as are necessary and proper to plan, prepare and carry out a general municipal plan of development.
(Ord. 246. Passed 1-17-1995)

Health and Public Safety

§ 31.15 Oversight Generally.

The city is covered under the state's health and public safety rules as outlined in the South Dakota Municipal League handbook, Chapter 9.

Chapter 32: Fire Department

Section

- 32.01 Establishment
- 32.02 Name
- 32.03 Fire Department guidelines
- 32.04 Members
- 32.05 Terms of Office
- 32.06 Appointment of office
- 32.07 Meetings; dismissal and apparatus
- 32.08 Appropriation
- 32.09 Duties of Chief over members and apparatus
- 32.10 Keeping fire apparatus in readiness
- 32.11 Fire Zone
- 32.12 Financial estimate
- 32.14 Command in absence of Chief
- 32.15 Vacancy
- 32.16 Hindering firefighters and injuring fire apparatus
- 32.17 Driving over hose
- 32.18 Allowing use of fire apparatus
- 32.19 Duty of common carrier
- 32.99 Penalty

§ 32.01 Establishment.

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

(Prior Code, § 1-5-1)

§ 32.02 Name.

The Fire Department shall be known as the Fire Department of Big Stone City, South Dakota.

(Prior Code, § 1-5-2)

Big Stone City - Administration

§ 32.03 Fire Department Guidelines.

The Fire Department may adopt guidelines and rules for its regulation and government, subordinate to the ordinances of the city calculated to accomplish the object of its organization.
(Prior Code, § 1-5-3)

§ 32.04 Members.

The members of the Fire Department must be able-bodied persons of good moral character, duly elected by the active members of the Fire Department.
(Prior Code, § 1-5-4)

§ 32.05 Terms of Office.

The Chief, who shall be head of the Fire Department, Assistant Chief, Secretary, Treasure and captains shall hold office for a term of one year or until their successors shall be appointed and qualified.
(Prior Code, § 1-5-5)

§ 32.06 Appointment of Officers.

The officers shall be nominated by the active members of the Fire Department and elected by a majority Vote of the members present at the annual meeting of the Fire Department on the fourth Monday in December of each year. The names of such officers shall be reported to the Council and confirmed by it.
(Prior Code, § 1-5-6)

§ 32.07 Meetings; Dismissal of Members.

The Department shall meet at least once a month, upon the call of the Fire Chief. Any member not responding to such call unless absent from the city or upon other good cause shown to the satisfaction of the Chief of the Fire Department may be dismissed from said Department.
(Prior Code, § 1-5-7)

§ 32.08 Appropriation.

The City Council shall, in its annual appropriations, appropriate such amounts as he or she may deem necessary for the purpose of maintaining such Fire Department including equipment, ladders, trucks, hoses, and other apparatus and the attendance by members of the Fire Department at the state firefighter's tournament. Such appropriations shall also include any Fire Department vehicle repair that the council deems desirable.
(Prior Code, § 1-5-8)

Fire Department

§ 32.09 Duties of Chief Over Members and Apparatus.

The Chief shall have sole charge and control over all members of the Fire Department at fires. He or she shall at all times have the general direction and management of the hose, chemical engine, hook and ladders, and other apparatus belonging to the Department. He or she shall report as necessary to the City Council the condition of the Fire Department and the apparatus belonging thereto, and recommend such alterations, improvements and additions thereto as he or she may deem necessary and expedient.

(Prior Code, § 1-5-10)

§ 32.10 Keeping Fire Apparatus in Readiness.

The Chief of the Fire Department shall see all apparatus is at all times in readiness and that all fire hoses are ready to use.

(Prior Code, § 1-5-11)

§ 32.11 Fire Zone.

The Chief or acting Chief in command may prescribe limits around any fire, and it shall be unlawful for any person, except those who reside therein, firefighters, law enforcement officers and those given admission by any officer of the Fire Department, to enter.

(Prior Code, § 1-5-12) Penalty, see § 32.99

§ 32.12 Investigation of Cause or Fire.

The Chief shall inquire into and investigate the cause of each fire that occurs in the city as soon as possible, and make a record of his or her proceedings, and file the same or copy thereof with the secretary of the Fire Department.

(Prior Code, § 1-5-13)

§ 32.13 Financial Estimate.

The Chief shall prepare in detail and submit to the Finance Officer on or before July 1 of each year, an estimate of the entire cost and expense of providing and maintaining the Fire Department during the current fiscal year. The Finance Officer shall present the Fire Chief's estimate of costs and expenses to the City Council.

(Prior Code, § 1-5-14)

Big Stone City - Administration

§ 32.14 Command in Absence of Chief.

If the Chief is absent from any fire, the Assistant Chief or Captain, or the most senior member on the scene, shall take charge of the organization and shall have and exercise all powers of Chief.

(Prior Code, § 1-5-15)

§ 32.15 Vacancy.

In the case of a vacancy in the Office of Chief, the Assistant Chief shall discharge the duties of the Chief until the vacancy is filled.

(Prior Code, § 1-5-16)

§ 32.16 Hindering Firefighters and Injuring Fire Apparatus.

Any person who shall willfully hinder or delay any officer or firefighter in the performance of his or her duties at a fire or shall willfully injure, deface or interfere with any of the fire apparatus belonging to the city shall be punished as set forth in § 32.99 of this chapter.

(Prior Code, § 1-5-17) Penalty, see § 32.99

§ 32.17 Driving Over Hose.

Any person who shall drive or pull a wagon or other vehicle over any unprotected hose of the Fire Department of the city when laid on a street or alley to be used at any fire, or alarm of fire, or while at practice without the consent of the Chief or such person as may be in command, shall, upon conviction, be punished as set forth in § 32.99 of this chapter.

(Prior Code, § 1-5-18) Penalty, see § 32.99

§ 32.18 Allowing Use of Fire Apparatus

Any person having charge of the fire apparatus who shall allow the same to be applied to personal use, without the consent of the Chief or in his or her absence, the Mayor of the city or the acting Chief, shall, upon conviction, be punished as set forth in § 32.99 of this chapter.

(Prior Code, § 1-5-19) Penalty, see § 32.99

Fire Department

§ 32.19 Duty of Common Carrier.

It shall be the duty of any common carriers engaged in commercial drayage and hauling in or about the city at any time during business hours to assist the Department or any division thereof with its apparatus to any fire within the city and City Council shall allow a reasonable compensation thereof.

(Prior Code, § 1-5-21)

§ 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 of this code of ordinances.

(B) A violation of § 32.11 shall be punishable by a fine of not more than \$200.

(Prior Code, § 1-5-12)

(C) A violation of § 32.16 shall, upon conviction, be punished by a fine of up to \$200.

(Prior Code, § 1-5-17)

(D) A violation of § 32.18 shall, upon conviction, be punished by a fine of not less than \$5 nor more than \$50 for each and every offense and shall be liable to the city for any injustice thereby occurring to such apparatus.

(Prior Code, § 1-5-19)

Chapter 33: Law Enforcement

Section

33.01 Enforcement authority

33.02 Required aid

§ 33.01 Enforcement Authority.

Law enforcement for the city is provided under contract with the Grant County Sheriff's Department.

§ 33.02 Required Aid.

In the execution of the duties of any law enforcement officer in arresting any person accused or suspected of crime or any suppression of riot or unlawful assembly, or in the prevention of any offense against the city or state, said officer shall have the power when necessary to require the aid of any citizen; and it shall be unlawful for any person to refuse or willfully neglect to obey the summons of any law enforcement officer in such cases.

(Prior Code, § 1-6-3) Penalty, see § 10.99

Statutory reference:

similar provisions, see SDCL § 9-29-2

Chapter 34: Finance and Revenue

Section

General Provisions

34.01 Capital replacement reserve

Municipal Sales and Service Tax

34.15 Purpose

34.16 Effective date and enactment of tax

34.17 Use tax

34.18 Collection

34.19 Interpretation

34.99 Penalty

General Provisions

§ 34.01 Capital Replacement Reserve.

The City Council does hereby authorize the capital replacement reserve for the General Fund. This amount may not exceed 50% of the general fixed assets.
(Ord. 2010-03, passed 9-15-2010)

Municipal Sales and Service Tax

§ 34.15 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 SDCL § 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.
(Ord, 2008-02, passed 12-01-2008)

Big Stone City - Administration

§ 34.16 Effective Date and Enactment of Tax.

From and after July 1, 2009, there is hereby imposed as a municipal retail occupational sales tax service tax upon the privilege of engaging in business a tax measured by 2% on the gross receipts or all persons engaged in business within the jurisdiction of the city, who are subject to the State Retail Occupational Sales and Service Tax, being SDCL § 10-45 and acts amendatory thereto.
(Ord. 2008-02, passed 12-1-2008)

§ 34.17 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 person property or services purchased from and after July 1, 2009, 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 use Tax Act, being SDCL § 10-46, and acts amendatory thereto.
(Ord. 2008-02, passed 12-1-2008)

§ 34.18 Collection.

Such tax is levied pursuant to authorization granted by SDCL § 10-52 and acts amendatory thereto, and shall be collected by the State Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the state tax and under such additional rules and regulations as the Secretary of Revenue of the state shall lawfully prescribe.
(Ord. 2008-02, passed 12-1-2008)

§ 34.19 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 Retail Occupational Sales and Service Act, being SDCL § 10-45 and acts amendatory thereto and State Tax, being SDCL § 10-46 and acts amendatory hereto, and that shall be considered a similar tax except for the rate thereof to that tax.
(Ord. 2008-02, passed 12-1-2008)

§ 34.99 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.

Finance and Revenue

(B) Any person failing or refusing to make reports or payments prescribed by §§ 34.15 through 34.19 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 § 10-45, and acts amendatory thereto, and SDCL § 10-46, and acts amendatory thereto are hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation. (Ord. 2008-02, passed 12-1-2008)

Big Stone City - Administration

Chapter 35: Plans, Programs and Policies

Section

35.01 Identity theft program

35.02 County pre-disaster mitigation plan.

§ 35.01 Identity Theft Program.

The city has established an identity theft prevention program and can be found attached to Resolution 2009-04 as Exhibit A and is incorporated herein by reference.

(Res. 2009-04, passed 9-1-2009)

§ 35.02 County Pre-Disaster Mitigation Plan.

The City Council adopts the County Pre-Disaster Mitigation Plan 2020-2025.

(Res. 2020-05, passed 7-6-2020)

Big Stone City - Administration