

TITLE 1

CITY ADMINISTRATION

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CHAPTER 1-1: DEFINITIONS

1-1-1: Definitions.

The following phrases or words shall be construed as used in this code as follows:

- (a) "City" or "Municipality" = that political subdivision of the State of South Dakota known as the City of Gary, a municipal corporation.
- (b) "Code" = the 2008 Municipal Code of the City of Gary.
- (c) "Council" or "Governing Body" = the City Council for the City of Gary.
- (d) "Lot" = a parcel or tract of real property.
- (e) "May" = a permissive term allowing discretion as to whether an act will either be performed or refraining from doing an act.
- (f) "Ordinance" = this 2008 Municipal Code, Ordinance No. 2007-339 in revision of Ordinances of the City of Gary.
- (g) "Part-Time Employee" = an employee who works less than forty hours per week.
- (h) "Person" = any natural person or persons, non-profit or for-profit business, corporation, firm, venture or any other legal entity.
- (i) "Police" = any law enforcement officer required by law to enforce local ordinances and state statutes.
- (j) "SDCL" = South Dakota Codified Law (SDCL).
- (k) "Seasonal or Temporary Employee" = an employee who may work full time, but for a period of nine months or less.
- (l) "Shall" = a mandatory term requiring an act to be performed or to refrain from performing

an act.

(m) "State" = the State of South Dakota.

(n) "Street" = an alley, avenue, boulevard or traveled road.

1-1-2: Construction of Other Terms Not Defined Herein.

All other words or terms not specifically defined in section 1-1-1 or elsewhere in this Code shall be construed in their common and ordinary meanings unless the contrary is clearly indicated. The masculine gender includes the feminine and neuter.

1-1-3: Amendments and Repeal.

This ordinance or any chapter or section thereof may be amended in the manner and method provided by law. All earlier ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed except earlier appropriations, bonds, contracts entered into, and franchises granted, plus taxes, which have not been repealed or terminated.

1-1-4: Severability.

If any paragraph, phrase, provision, section or sentence of this code or the application thereof to any circumstances or persons shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional for any reason, then such judgment shall not affect, impair or invalidate the remainder of this ordinance or its application to other circumstances or persons, but rather, such judgment shall be confined to the paragraph, phrase, provision, section or sentence involved, or the application thereof to the circumstances and persons directly involved in the controversy in which the judgment was rendered and the remainder of this code shall not be affected thereby.

1-1-5: Penalty.

Any person in violation of any of the provisions of this ordinance, or failing to comply with any of the provisions thereof, shall be deemed guilty of a misdemeanor and shall upon conviction thereof, be punished by a fine not to exceed the sum of Five Hundred (\$500.00) Dollars unless specifically set forth otherwise herein. Each and every violation of the provisions of this ordinance shall constitute a separate offense, including but not limited to a daily basis. Furthermore, any person shall include the agent, clerk, employee or servant of any other person that violates any of the provisions of this ordinance, and that person shall be deemed guilty as a principal and shall be punished as provided herein.

1-1-6: Citation of Code.

This code may be cited as the Gary Municipal Code.

CHAPTER 1-2: WARDS AND ELECTIONS

1-2-1: Municipal Limits.

The municipal limits for the City of Gary shall include all of that area included on the city map maintained at the office of the City Finance Officer.

1-2-2: Wards.

The City of Gary, Deuel County, South Dakota, shall be governed by a Mayor and six aldermen representing three wards with two aldermen representing each ward and the city divided into the following three wards:

First Ward: The First Ward of said City shall constitute all that portion of the City of Gary lying west of Lac Qui Parle Street, south of Oak Avenue and north of Washington Avenue.

Second Ward: The Second Ward of the City shall constitute all that portion of the City of Gary lying north of Washington Avenue, east of Lac Qui Parle Street and west of Coteau Street; and all that portion of the City lying north of Oak Avenue, east of Herrick Street, and west of Coteau Street.

Third Ward: The Third Ward of the City shall constitute all that portion of the City of Gary lying east of Coteau Street; and all that portion of the City of Gary lying south of Washington Avenue.

1-2-3: Voting Precincts.

All of the territory of the City having been divided into continuous wards; now therefore, all of the wards are hereby consolidated into one voting precinct or polling precinct for polling and voting purposes at any and all elections.

1-2-4: Duties and Term of Office.

The duties and term of office of the governing body and its members shall be in accordance with the statutes of the State of South Dakota and as prescribed by the ordinances of the City of Gary.

1-2-5: Oath of Office.

Any person elected as a member of the governing body at an annual or special city election shall be duly sworn in by an official of the city government before assuming their official duties as a member of the governing body, and be required to subscribe and take an affirmation of office or oath of loyalty as required by the statutes of the State of South Dakota.

CHAPTER 1-3: MAYOR AND CITY COUNCIL

1-3-1: Election and Duties.

The City of Gary 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 of South Dakota.

1-3-2: Regular Meetings.

The regular meeting of the governing body of the City shall be held on the first Monday of each month at the city building, 1113 Summit Street, or at such place as the governing body may select within the said City except when such Monday is a legal holiday, and then the meeting shall be held on the next day that is not a legal holiday. Hours of said meeting will be at 7:30 o'clock pm during the months of April, May, June, July, August, September, October and at 6:30 o'clock pm during the months of November, December, January, February and March. Any meeting may be adjourned from day to day and shall be open to the general public.

1-3-3: 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 Mayor or any two members may call a special meeting to consider any such matters as shall be mentioned in the notice for such meeting. Written notices stating the place and time of holding the special meeting and the matters to be considered shall be issued by the Finance Officer. The notices shall be served either verbally or in writing by the Finance Officer upon each member of the City Council who can be located at least one hour before the time specified for such meeting. In the alternative, a waiver of notice signed by all council members present reflecting a quorum at the special meeting shall be filed with the Finance Officer.

1-3-4: President and Vice-President.

At the first meeting of the 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 Vice-President of the council whose duties are prescribed by the laws of the State of South Dakota.

1-3-5: Council Procedure.

"Robert's Rules of Order" as revised from time to time shall be the standard floor procedure by which all meetings of the City Council are governed. The council may adopt procedures differing from "Robert's Rules of Order" by a majority vote of its membership.

1-3-6: Departments and Supervision.

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

- (1) alleys and streets;
- (2) cemetery;
- (3) golf course;
- (4) law enforcement;
- (5) library;
- (6) liquor;
- (7) municipal tree board;
- (8) parks;
- (9) sanitary; and
- (10) sewer and water.

1-3-7: Duties of Supervisors.

Each council member or Mayor in fulfillment of the provisions of the previous section:

- (1) shall act in a supervisory capacity for each department listed; and
- (2) shall keep a careful and constant watch over the performance of all duties of all employees and officials, and over all equipment and all activities of their respective departments; and
- (3) shall perform all other duties as may be specifically provided in this section or by the Mayor or by the council.

CHAPTER 1-4: EMPLOYEES AND OFFICERS

1-4-1: Officers.

The Mayor may appoint a Building Inspector, Finance Officer, Deputy Finance Officer, Chief of Police, City Engineer, Sewer and Water Superintendent, and a City Attorney, and such other committees and offices as may be provided by ordinance or state statute, including members of the ambulance and fire departments, and all of which shall be ratified by the City Council on the first Monday of May of each year, and all of whom shall hold office until the first Monday in May of the year following their appointment and until their successors shall be appointed and qualified unless their term is otherwise terminated by the Mayor with the consent of a majority of the City Council.

1-4-2: Duties.

Each appointed officer shall perform such duties as are prescribed by this code and state statutes, plus such other duties as may from time to time be prescribed by the City Council and the Mayor.

1-4-3: Special Duties of Building Inspector.

The Building Inspector shall be responsible for the following:

(1) to enforce all Ordinances of the City relating to the condition, construction, equipment and management of all structures within the City; and

(2) to maintain records on all matters pertaining to the enforcement and regulation of all Ordinances, and which records shall be at all times available for inspection by the City Council; and

(3) to regulate and supervise all alterations, demolition, erection, moving and repairs of buildings within the city.

In the event differences should arise between the Building Inspector and the owner of any building, or any person engaged in any alterations, construction, demolition, moving or repairs of any buildings regarding the interpretation of any Ordinances or the enforcement of Ordinances, then an appeal may be made to the City Council.

1-4-4: Special Duties of City Attorney.

The City Attorney 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 is possible and in keeping with the organization of this Code, together with those duties prescribed by state statute. Furthermore, in order to carry out his duties, 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 the prior ordinance provided that the substance of any ordinance shall not be changed thereby.

1-4-5: Special Duties of Finance Officer.

The Finance Officer shall be responsible for the following:

- (1) shall have the custody of all official documents and records; and
- (2) shall attend all meetings of the City Council and keep a record of all official proceedings; and
- (3) shall keep an accurate account of the city's indebtedness, and also an accurate record of all receipts and disbursements; and
- (4) shall audit and adjust all accounts presented to the City Council; and
- (5) shall prepare and certify all delinquent special assessment payments to the Deuel County Auditor annually and keep an accurate record of all special assessment payments; and
- (6) shall prepare a proposed budget and appropriation ordinance for the next fiscal year to be submitted to the City Council; and
- (7) shall supervise the accounting system or records for all departments and officers in accordance with the recommendations of the State Department of the Auditor General; and
- (8) shall prepare a report showing the financial condition of the city on the first day of January each year; and
- (9) shall conduct and supervise all city annual and special elections; and
- (10) shall also keep the ordinance books current, and shall issue all city licenses and permits as prescribed by city ordinances; and
- (11) shall keep the official seal of the city and perform as secretary for the various boards and commissions appointed by the Mayor; and
- (12) shall also prepare all official documents, including notice of all public hearings, election notices and proceedings, and ordinances and resolutions, and minutes of meetings; and
- (13) shall perform such other administrative duties of the office as is prescribed by ordinance or by the direction of the City Council.

The Finance Officer is authorized at their discretion to destroy canceled and paid warrants, duplicate receipts, duplicate special assessment tax receipts, duplicate water bills, paid claim vouchers, poll books, voter's registration lists, and miscellaneous petitions not pertaining to public improvements, when any of these items are over twenty (20) years old. Additionally, obsolete insurance policies, licenses and permit bonds, reports, requests, and miscellaneous items not required for permanent record purposes by the City may be destroyed within a reasonable time after having served their intent and purpose.

1-4-6: City Planning and Development Officer.

In the event such is desired, then a city planning and development officer may be employed by the City Council and such officer shall assist, coordinate, encourage and promote the city's economic and planning developments and projects, plus assume such other duties as is directed by the City Council.

1-4-7: Oath and Bonds.

All appointed officers shall take and subscribe an oath or affirmation in the form required by the Constitution of this State before entering upon the discharge of their duties, and shall file a bond as may be required by law. The premium of any such bond shall be paid for by the City.

1-4-8: Salaries.

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

1-4-9: Termination of Employment.

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

CHAPTER 1-5: FINANCIAL REGULATIONS

1-5-1: Annual Reports by Boards.

Each of the boards appointed and acting for the City in the administration of the City, including the ambulance and fire departments, shall make an annual report of its activities, disbursements and receipts to the Council as soon as practicable after the close of the fiscal year and file it with the City Finance Officer.

1-5-2: Contracts by Member of the Council.

No officer or member of the Council shall enter into any contract, make any purchase, or create any indebtedness against the City unless otherwise provided by State law.

1-5-3: Sale of Personal Property.

Whenever the Council deems it in the best interest of the City that personal property belonging to the City be sold which has been abandoned or is about to be abandoned for public use and is of the probable value of \$500.00 or more, then the personal property shall be sold to the highest bidder upon such terms as may be determined by the City Council.

1-5-4: Claims.

All claims against the City of Gary shall be in writing and upon forms provided by the City Finance Officer and in such form as required by state statute. All claims shall bear the approval of the Council member or person in charge of the department for which such services or supplies are furnished prior to its approval or passage by the Council.

1-5-5: Supplies.

Department heads shall have the authority to purchase supplies subsequent to the final approval of the City Council.