

## **CHAPTER 1-3**

### **THE MAYOR, CITY COUNCIL & COMMITTEES**

#### **1-3-1      REGULAR MEETINGS, WORKING SESSIONS OF THE CITY COUNCIL**

The Council shall meet in regular session on the first and third Mondays of each month at the City Hall at such hour and location as the Council shall fix from time to time. If a regular meeting day shall be a holiday, the regular meeting shall be held on the day following. The Mayor, any Council Member, any Appointed Officer, and the City Administrator may place an item on an Agenda. Except as otherwise provided by law, action may only be taken at the meeting on those items placed on the Agenda published 24 hours in advanced of the meeting; such restriction does not apply to revisions in supporting documentation, which are otherwise regulated by SDCL 1-27-1.16.

The City Council may also meet in informational meetings and working sessions, which shall be open to the general public to review and discuss matters pertaining to the affairs of the City Council provided that all discussions and conclusions thereon shall be informal. Agendas for informational meetings and working sessions of a quorum of the City Council shall be posted with at least 24 hours notice.

**Legislative History:**  
Ordinance #33, §26, 3/8/76.  
Ordinance #39, §1, 7/12/76.  
Ordinance #571, 1/1/19.

**Authority:**  
SDCL Ch. 9-8 generally.

#### **1-3-2      SPECIAL MEETINGS**

A special meeting of the City Council may be called by Mayor or in the Mayor's absence by the Acting Mayor, or by request of three (3) or more Council Members. Unless otherwise dictated by an emergency, notice of the meeting and Agenda shall be provided to the Mayor and Council members at least twenty-four (24) hours prior to the meeting.

**Legislative History:**  
1990 Revisions.  
Ordinance #571, 1/1/19.

**Authority:**  
SDCL Ch. 9-8 generally.

#### **1-3-3      OFFICE OF THE MAYOR**

The Mayor shall be elected from the City at large for a term of four years or until the successor is elected and qualified, beginning in the year 2003. The Mayor must be a qualified elector of the City and shall have resided therein for at least three months prior to the election. If the person has resided in an area annexed pursuant to SDCL Chapter 9-4, for at least three months prior to the election, such person may hold municipal office.

**Legislative History:**  
1990 Revisions.  
Ordinance #33 & 16 in part.3/8/76.  
Ordinance #306, 6/5/01.  
Ordinance #508, 1/1/14.  
Ordinance #571, 1/1/19.

**Authority:**  
SDCL § 9-8-4.

## 1-3-4

### DUTIES OF THE MAYOR

The Mayor shall be the Chief Executive Officer/Administrator for the City and have the power and duties as prescribed by the laws of the State of South Dakota and the Ordinances of the City of Brandon, including but not limited to:

1. To appoint all Officers of the City, with such appointments to be approved by the City Council;
2. To supervise all Appointed Officers and City employees; and
3. Except as otherwise provided by law, to remove from office any Appointed Officer, and with City Council consent, to remove any Committee, Board or Commission Member;
4. To appoint City Council and other members to Committees, Boards and Commissions. Individuals appointed must be residents or owners of businesses with a physical presence in the City;
5. To preside over City Council meetings;
6. To represent the City in inter-governmental relationships;
7. To execute contracts;
8. To suppress disorder and to keep the peace;
9. To at least annually provide the Council with information relative to the affairs of the City and recommend for their consideration such measures as he deems expedient;
10. To vote at a City Council meeting where there is a tie, except as to one to expend or appropriate money;
11. To veto any Ordinance or Resolution, in whole or part, passed by the City Council, which veto the City Council may later override by two-thirds majority of the full Council at the next Council meeting;
12. To, when necessary, call upon every inhabitant of the City over the age of 18 years to aid in the enforcing of laws and ordinances;
13. To release any person imprisoned for violating a City ordinance or release any fine or penalty for violation thereof; and
14. To perform other duties specified by the Council.

**Legislative History:**  
1989 Revisions.  
Ordinance #571, 1/1/19.

**Authority:**  
SDCL Ch. 9-8 generally.

**Cross Reference**  
1-3-8(34)

## 1-3-5

### OFFICE OF CITY COUNCIL

The City is divided into three wards with two Council Members elected from each ward, one elected every two years to each serve a four year term. Each City Council Member shall be a resident and a qualified elector of the ward from which s/he is elected, and shall have resided in the City at least three months prior to the election. If the person has resided in an area annexed pursuant to SDCL Chapter 9-4, for at least three months prior to the election, such person may hold municipal office.

**Legislative History:**  
1990 Revisions.  
Ordinance No. 33 & 16 in part.3/8/76.  
Ordinance No. 306, 6/5/01.  
Ordinance No. 508, 1/1/14.  
Ordinance #571, 1/1/19.

**Authority:**  
SDCL § 9-8-4.

## 1-3-6

### DUTIES OF THE COUNCIL MEMBERS

The City Council shall be the general legislative and policy making body of the City, and have all powers and duties as prescribed by the laws of the State of South Dakota and the Ordinances of the City of Brandon, including but not limited to:

1. Adopt, amend, or repeal any Ordinance and Administrative Code;
2. Establish, alter, or abolish any City department, office or agency;
3. Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
4. Levy taxes;
5. Grant, renew or extend a franchise or license;
6. Regulate the rate charged for services by a public utility;
7. Authorize the borrowing of money by the City;
8. Convey or lease or authorize the conveyance or lease for a period of longer than one (1) year of any lands of the City;
9. Regulate land use, development, purchases and sales;
10. Approve employee hiring, wages and benefits and approve terminations of the City Administrator and Department Heads;
11. To fix by Resolution compensation and benefits for Appointed Officers, Elected Officials and employees; and
12. Establish and regulate the conduct of elections.

The City Council shall avoid management and administrative issues. The City Council Members may be appointed by the Mayor to serve on City Committees, Commissions, and Boards; such appointment does not confer power of the Council Member to supervise any City employee that oversees or is involved with any Committee, Commission, or Board.

**Legislative History:**

1990 Revisions.  
Ordinance No. 33 & 16 in part.3/8/76.  
Ordinance No. 306, 6/5/01.  
Ordinance No. 508, 1/1/14.  
Ordinance #571, 1/1/19.

**Authority:**

SDCL § 9-8-4.

## **1-3-7**

### **PRESIDING OFFICERS OF CITY COUNCIL**

At the first regular meeting after the annual election in each year or after the filling of a vacancy after qualification of the newly elected Council Member, the Council shall elect from among its own members, a President and Vice President who shall hold their respective offices for the Municipal year. The President of the Council, in the absence of the Mayor, shall be the presiding officer of the Council. During the absence of or in the event of temporary disability of the Mayor, the President shall be acting Mayor and possess all of the powers of Mayor. 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. When acting as Mayor, the President or Vice-President may still vote as a Council Member but cannot also vote as a Mayor to break a tie vote.

**Legislative History:**

1990 Revisions.  
Ordinance #571, 1/1/19.

**Authority:**

SDCL § 9-8-7.

## **1-3-8**

### **MAYOR & COUNCIL CHAIN OF COMMAND & AUTHORITY**

The official business and administration of the City shall be executed and implemented through a chain of command, with the Mayor as the Chief Executive Officer of the City and responsible for executing and implementing the official legislative decisions and

policies established by the City Council through the City's Appointed Officers, the City Administrator, the Department Heads, and Departments of the City. The Appointed Officials and City Administrator shall be directly accountable to the Mayor. The Department Heads shall be directly accountable to the City Administrator.

No single Council Member, or group of Council Members, shall have authority to:

1. Direct the actions of an Appointed Official, the City Administrator, any Department Head or any subordinate employee within the City;
2. Direct the day to day operations of the administration of the City; and
3. Direct the work of any City employee.

Nothing contained herein shall be deemed to impair the ability of the City Council to call any employee to speak before the City Council in Executive Session in respect to matters properly addressable in Executive Session as provided by law.

Subject to the above restrictions, the Mayor and Council Members may receive and consider relevant information from any source to perform the duties of his or her office. Draft, notes, recommendations and memoranda excluded from public record production under SDCL 1-27-1.7 shall be provided to the Mayor, Council Members, and the City Attorney on request, but shall not be disseminated to the public.

At the conclusion of the Mayor's or City Council's term, all non-public documents and electronic communications, shall be returned to the City or upon written consent by the City Attorney destroyed.

**Legislative History:**  
1990 Revisions.  
Ordinance #571, 1/1/19.

**Authority:**  
SDCL § 9-8-7.

## 1-3-9

### COUNCIL RULES AND REGULATIONS

In transacting business, the City Council shall be governed by these rules:

**RULE #1:** At the regular meetings the following order of business shall be observed unless otherwise approved by the majority of the Council Members:

1. The Mayor shall call to order and lead the Pledge.
2. Roll call and determination of quorum shall be made by the Finance Officer or if absent, by the City Administrator.
3. Revisions to and approval of the Agenda.
4. Approval of Minutes.
5. Approval of Claims.
6. Consent Calendar.
7. Visitors/timed items/public comment.
8. Old business.
9. Standing Committee Reports.
  - a. Golf Course.
  - b. Parks and Recreation.
  - c. Public Safety.
  - d. Administration.
  - e. Streets.
  - f. Water and Sewer.
10. "Other"/new business before the Council.
11. Executive Session, if applicable.
12. Adjournment.

**RULE #2:** The Mayor shall decide all questions of order subject to an appeal to and

majority vote otherwise by the Council.

**RULE #3:** The Mayor shall preserve decorum, and if any Council Member, employee, or public in attendance transgresses the rules of the Council, then the Mayor, may call to order, in which case the individual called to order shall immediately sit down and be silent, unless permitted to explain.

**RULE #4:** City Council Members and the Mayor shall be attentive at Council meetings and during such meetings shall not use cellphones or computers, tablets and the like to watch programing, to post or review social media, to read or send texts or emails, etc. unless to obtain information for purposes of the meeting or in case of an emergency.

**RULE #5:** Any Council Member may request at the opening of the meeting that an item on the consent agenda be moved to the regular agenda, and it shall be moved to the regular agenda.

**RULE #6:** Any ordinances, resolution or motion to expend or appropriate money, or to create liability shall be passed by a majority vote of the seated Council. Any motion to sell property must be by a two-thirds vote of the seated Council.

**RULE #7:** When a motion is made and seconded, it shall be deemed to be in possession of the Council, and shall be stated by the Mayor, previous to debate. The motion then shall not be withdrawn or amended except by the consent of the Council. After a motion is made, discussion shall pertain to the question under consideration. The Mayor shall limit discussion by Council Members and the public as deemed appropriate, except the majority of Council may by vote extend the discussion. The Mayor or any Council Member may call the motion for vote. Unless otherwise excused, every Council Member present shall vote on the motion. The vote on a motion shall be recorded by a yea and nay vote, and each vote may be separately recorded in alphabetical order if the Mayor, a Council Member or the Finance Officer requests a roll call. The Mayor shall declare whether the motion carries. No other business may be transacted unrelated to the motion once a motion has been called.

**RULE #8:** A Council Member at a subsequent Council meeting may move for reconsideration of any prior motion, but a motion to reconsider having been once put and lost, shall not again be renewed without a change in factual circumstance and may only be made by a Council member who was in the majority at the prior meeting when passed.

**RULE #9:** No account or other claim against the City shall be allowed or directed to be paid, unless the same shall be duly verified and shall have been duly examined and reported as correct by the person or committee having charge of the business out of which the claim arose.

**RULE #10:** Motions and Resolutions shall be entered on the minutes and filed with the City Finance Officer.

**RULE #11:** Reports of special or standing committees may be written or oral. Matters raised at Council meetings may be referred to committees.

**RULE #12:** In the event of veto by the Mayor pursuant to Brandon Ordinance 1-3-4(11), the City Council may override said veto by a vote of two-thirds of the full seated Council.

**RULE #13:** Visitor/timed items/public comment shall be limited to 5 minutes per speaker, unless an extension of time is granted by the Mayor. The speakers shall wait to be called upon and shall provide their name and address. The City reserves the right to end public

comment after 45 total minutes and those who were unable to speak may be the first to speak at the next Council meeting if they leave their names with the City Administrator.

**RULE #14:** A motion to adjourn shall take precedence over all other motions. Upon passage, no further business shall be had before the Council at the meeting.

**RULE #15:** A motion to table must contain a date when the Agenda item will next be heard by the Council and any additional information the Council wants to be provided as to the item (if any).

**Legislative History:**  
1990 Revisions.  
Ordinance #571, 1/1/19.  
Ordinance #676, 2/15/23.

## 1-3-10

### QUORUMS

A majority of the Council Members holding office shall constitute a quorum to do business, but a smaller number may meet from time to time. The meetings where a quorum of the common Council is present shall be open to the public.

**Legislative History:**  
1990 Revisions.  
Ordinance #571, 1/1/19.

**Authority:**  
SDCL § 9-8-8.

**Cross Reference:**  
The Brandon City Code, § 9-2-3.

## 1-3-11

### STATEMENT OF FINANCIAL INTEREST

The Mayor and City Council Members shall, within 15 days after assuming office and then no later than the first day of January of every year the person continues to hold the office, file a statement of financial interest setting forth any additions or corrections to any previous statement of financial interest filed pursuant to SDCL § 12-25-30 or this Ordinance.

**Legislative History:**  
1990 Revisions.  
Ordinance #571, 1/1/19.

**Authority:**  
SDCL Ch. 9-8 generally.

## 1-3-12

### CODE OF CONDUCT

The stability and proper operation of the City's government depends on the public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people. The purpose of this code is to establish guidelines for ethical standards of conduct for City Council members and the Mayor (hereinafter "Elected Officials"), which involves acting in a manner that maintains their integrity and independence, yet is responsive to the interests and needs of those they represent. To that end, Elected Officials shall:

1. Support the United States and South Dakota State Constitutions, obey the laws of the United States and State of South Dakota, and the City of Brandon, and honor the letter and spirit of the law.
2. Demonstrate the highest standards of personal integrity, truthfulness, honesty and fortitude in all their public activities.
3. Serve as models of leadership and civility to the community, inspire public confidence in the government, and hold the integrity and

- independence of their offices.
- 4. Be fair and equitable in the treatment of the public and respectful of diverse opinions.
- 5. Perform the duties of the office diligently by
  - a. Pursuing policy goals they believe to be in the best interests of their constituents within the parameters of orderly decision-making, rules of the City council and open government;
  - b. Respecting the legitimacy of the goals and interests of other City council members and respecting the rights of others to pursue goals and policies different from their own;
  - c. Demanding and contributing to the maintenance of order and decorum in proceedings before the City Council;
  - d. Acting in a manner to not make personal attacks of others including other Elected Officials, Appointed Officers, City employees, and the public.
  - e. Acting with honesty, patience, dignity and courtesy to those with whom they deal in their official capacity, and requiring similar conduct of others subject to their direction and control;
  - f. Promptly handling the business of the City for which they are responsible;
  - g. Participating in scheduled meetings and activities;
  - h. Diligently discharging their legislative responsibilities;
  - i. Not making promises on behalf of the City or City Council; and
  - j. Being clear about representation of City or personal interests in dealings with public agencies and boards, and the public.
- 6. Support good government by every available legal and ethical means, to continue to inform and educate the citizenry about the affairs and processes of City government, and to make themselves available to citizens of the City so that they may ascertain and respond to the needs of the community.

In addition, Elected Officials shall not:

- 7. Discriminate, harass, or retaliate based upon race, gender, age, disability, religion, color, national origin, political affiliation, marital or veteran status, or other classification protected by law.
- 8. Fail to report to the City Administrator or City Attorney any claim of unlawful discrimination, harassment or retaliation or request for a reasonable disability accommodation.
- 9. Willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the City's Ordinances or the rules and regulations, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.
- 10. Directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with any test, appointment, or proposed appointment.
- 11. Knowingly or willfully solicit or assist in soliciting from any City employee any assessment, subscription, or contribution for any political party or political purpose to be used in conjunction with any City election.
- 12. Unlawfully restrict an employee's, citizen's or other elected official's exercise of rights as a citizen to express opinions or to cast a vote.
- 13. Engage in conduct that would be or would create a conflict of interest.

**Legislative History:**

**Authority:**

## 1-3-13

### CONFLICTS OF INTEREST

Conflicts of interests are generally governed by SDCL Chapters 6-1, 5-18A to D, which are applicable to the City's Mayor and City Council Members. In addition, the Mayor and City Council Members shall not engage in conduct where there is a conflict of interest existing due to a relationship with the elected official's immediate family member. Immediate family members mean a spouse, parent, child, grandparent, grandchild or an individual claimed by that individual or spouse as a dependent for federal income tax purposes. Prohibited behavior includes, but is not limited to:

1. Acting in an official capacity on matters in which the official has a private financial interest clearly separate from that of the general public;
2. Accepting items or gifts of value under circumstances in which it could reasonably be inferred that the gift or item was intended or could reasonably be expected to influence the elected official in the performance of official duties or was intended as a reward for any official action;
3. Acting in a private capacity on matters dealt with as a public official using confidential information obtained through the public office; and
4. Appearing in an official City capacity before other City agencies on behalf of private interests.

When an Elected Official has reason to believe a conflict of interest may exist shall, then prior to any official action on the matter being taken, the Elected Official shall identify the matter under consideration, the nature of the potential conflict of interest and reason(s) why action the official may be able or unable to act in the matter. The Elected Official with the actual or potential conflict may request to be recused from the matter. If the other Council Members believe recusal should or should not occur, by majority vote the other Council Members may resolve the matter, with no vote being made by the official for whom the disclosure was made.

**Legislative History:**  
1990 Revisions.  
Ordinance #571, 1/1/19.

**Authority:**  
SDCL Ch. 9-8 generally.

## 1-3-14

### POWER OF COUNCIL TO JUDGE MEMBERS; BRIBERY

The Council Shall be the judge of the election and qualification of the Council Members. Issues regarding competency, qualifications, and conduct shall be discussed and decided in Executive Session. Based upon a finding that Brandon Ordinance 1-3-12 and/or 1-3-13 has been violated, the Council may impose a ban on the Council Member from providing further comment at a meeting, remove a Council Member from a meeting, privately reprimand, formally reprimand or censure a Council Member or remove a Council Member from the Council, as well as impose a fine of a Council Member up to \$500 per violation. Any motion to impose a public sanction on, to fine, or to expel a Council Member is to be made outside of Executive Session and require a two-thirds vote of the elected Council Members, with the Council Member who may be sanctioned not voting. Any Council Member who has been convicted or plead guilty to bribery related to the Council position shall vacate the office.

**Legislative History:**  
1990 Revisions.  
Ordinance #571, 1/1/19  
Ordinance #589, 6/19/19

**Authority:**  
SDCL Ch. 9-8 generally.



## 1-3-15

### **COMMITTEES, BOARDS & COMMISSIONS**

The City Council shall create those Boards, Commissions, Standing Committees and other Committees it deems appropriate and necessary for the transaction of business and the administration of the affairs of the City, with appointments to them being made by the Mayor and approved by the Council on an annual basis or when vacancies arise.

Appointments shall be made to keep as even a distribution as possible of Council Members on the Standing Committees, Commissions and Boards. The Mayor shall also appoint other members to each, and unless otherwise provided by law or ordinance, then members of the Committees, Boards and Commissions shall be residents of or own a business within the City of Brandon. The Mayor when making the appointment shall select a person to serve as Chair. The appointed member shall serve at the pleasure of the Mayor and may be removed by the Mayor with consent of the Council. Unless otherwise set forth by Ordinances or Resolution, the Committees, Commissions and Boards are not subject to Open Meeting law and recording requirements, and their meetings shall be based upon the Council's mission statement directed to them.

**Legislative History:**  
1990 Revisions.

**Authority:**  
SDCL Ch. 9-8 generally.