

TITLE III: ADMINISTRATION

Chapter

30. BOUNDARIES

31. FORM OF GOVERNMENT; ELECTIONS

32. INDIVIDUAL OFFICIALS

33. FIRE DEPARTMENT

34. UNIFORM NATIONAL CODE

**35. DEPARTMENTS, COMMITTEES, BOARDS AND
COMMISSIONS**

36. TAXES

Section

30.01 Regulating boundaries

CHAPTER 30: BOUNDARIES

§ 30.01 REGULATING BOUNDARIES.

(A) The Town of Pickstown shall include all territory embraced within the original townsite as designated by the U.S. Army Corps of Engineers per the 1986 plat, and all adjacent territory that shall hereafter be legally annexed thereto.

(B) No trust lands will be established within the town boundaries.
(1986 Code, Title 1, § 1)

Section

- 31.01 Board of Trustees
- 31.02 Regulation of officials
- 31.03 Regulating officials
- 31.04 Appointment of other town officers
- 31.05 Public employees
- 31.06 Conflict of interest
- 31.07 Meetings
- 31.08 Quorum; majority required for action

CHAPTER 31: FORM OF GOVERNMENT; ELECTIONS

§ 31.01 BOARD OF TRUSTEES.

(A) The Town of Pickstown shall be governed by 5 Trustees. These persons shall be the governing board, called the Town Board of Trustees. One person shall be chosen from among the Trustees to serve as Town Board President.

(B) The President of the Board of Trustees, with the approval of the Trustees, at the first meeting in May of each year, may appoint 1 or more member(s) of the Board of Trustees to act in a supervisory capacity in the Departments of Water, Electrical, Street, Liquor, Police, Garbage and other departments of the town, and that Trustee, so appointed, shall have supervision over the department to which he or she is named as supervisor, and shall from time to time as requested by the Trustees, report as to the condition and matters in that department.
(1986 Code, Title 3, § 1)

§ 31.02 REGULATING ELECTIONS.

(A) The Town of Pickstown shall consist of 1 ward for the purposes of voting.

(B) All elections, whether general or special shall be held in 1 voting precinct.
(1986 Code, Title 2, § 2)

§ 31.03 REGULATING OFFICIALS.

The Town Board President, with the approval of the Trustees, may appoint the Municipal Finance Officer, Town Attorney, Law Enforcement Officer and Superintendent of Public Utilities; who shall enter upon the discharge of their duties as soon as they have been duly qualified and shall hold office until appointment and qualification of their successors. Salaries of officers shall be fixed by resolution. (1986 Code, Title 4, § 1)

§ 31.04 APPOINTMENT OF OTHER TOWN OFFICERS.

(A) The governing board shall, by resolution, appoint other town officers as may be necessary, and at a salary or wage as may be deemed appropriate.

(B) The governing board shall set, by resolution, the compensation of the appointed officers. (1986 Code, Title 9, § 6)

§ 31.05 PUBLIC EMPLOYEES.

(A) The governing board shall, by resolution, authorize the appointed officials to employ personnel as necessary to carry out the functions of the respective offices. The governing body shall approve the employment of all personnel.

(B) The governing board shall, by resolution, establish the wage or salary and personnel policies for employees. (1986 Code, Title 10, § 1)

§ 31.06 CONFLICT OF INTEREST.

(A) No municipal official may participate in discussing or vote on any issue in which the official has a conflict of interest. Each official shall decide if any potential conflict of interest requires such official to be disqualified from participating in discussion or voting. However, no such official may participate in discussing or vote on an issue if the following circumstances apply:

(1) The official has a direct pecuniary interest in the matter before the governing body; or

(2) At least 2/3 of the governing body votes that an official has an identifiable conflict of interest that should prohibit such official from voting on a specific matter.

(B) If an official with a direct pecuniary interest participates in discussion or votes on a matter before the governing body, the legal sole remedy is to invalidate that official's vote. (SDCL § 6-1-17)

§ 31.07 MEETINGS.

(A) The board shall hold regular meetings at such times as may be provided by ordinance.

(B) Special meetings of the board may be held at any time upon call of the president or clerk by oral or written notice to the members present within the municipality.
(SDCL § 9-7-6)

§ 31.08 QUORUM; MAJORITY REQUIRED FOR ACTION.

A majority of the members of the board shall constitute a quorum, but no act of the board shall be effective unless assented to by a majority of the members.
(SDCL § 9-7-7)

Section

General Provisions

CHAPTER 32: INDIVIDUAL OFFICIALS

- 32.01 Superintendent of Public Utilities
- 32.02 Law Enforcement Officer
- 32.03 Town Attorney
- 32.04 Municipal Finance Officer

Removal from Office; Vacancies

- 32.15 Grounds for removal
- 32.16 Vacancies in office
- 32.17 Vacancies due to temporary resignation; temporary replacement and term
- 32.18 Officer's discharge of duties when elected to fill a vacancy

GENERAL PROVISIONS

§ 32.01 SUPERINTENDENT OF PUBLIC UTILITIES.

(A) The Superintendent of Public Utilities shall have the general supervision of the entire water, sewer, electrical systems and solid waste disposal site of the Town of Pickstown as governed by the Board of Trustees.

(B) He or she would be responsible for enforcement of all building codes adopted by the Town of Pickstown and shall assist with other duties ordinarily undertaken by an officer or which are prescribed for him or her by this chapter or by the laws of the State of South Dakota.

(C) While attending those duties, he or she shall have all those powers of a town police officer in respect to enforcing this section of the town or laws of the State of South Dakota.
(1986 Code, Title 8, § 5)

§ 32.02 LAW ENFORCEMENT OFFICER.

(A) The Board of Trustees may appoint a Law Enforcement Officer or contract services with the County Sheriff's Department or other contract approved by the Board of Trustees.

(B) The Law Enforcement Officer shall see that the ordinances of the Town of Pickstown and the laws of the State of South Dakota are enforced within the town.

(C) His or her duties shall include all those which are ordinarily undertaken by a Chief of Police and all those provided by these ordinances and the laws of the State of South Dakota.
(1986 Code, Title 7, § 4)

§ 32.03 TOWN ATTORNEY.

In addition to those duties prescribed for a Town Attorney by South Dakota law, the Town Attorney shall represent the town in all matters of town business, prepare ordinances, notices or other papers as are incidental to the affairs of the town, to represent the town in litigation in which the town is named as a party. It is expressly understood that in cases or matters involving special assessments, bond issues, local improvements, revisions of ordinances and litigation, except in magistrate court, the Town Attorney shall be entitled to reasonable compensation to be fixed by the governing body, in addition to the Town Attorney's annual salary. In case of the absence of the Town Attorney or his or her incapacity, or in matters deemed by the governing body to be of great importance to the town, or matters in which the town governing body deems the Town Attorney needs assistance, a special attorney may be employed at reasonable pay as shall be directed by them.
(1986 Code, Title 6, § 3)

§ 32.04 MUNICIPAL FINANCE OFFICER.

The governing board of any municipality may, by resolution of the governing board, combine the duties of the Treasurer and Auditor/Clerk under 1 officer who shall be known as the Municipal Finance Officer. The Municipal Finance Officer shall be subject to those laws applicable to the Treasurer and Auditor/Clerk except where duplicated records are required. The Municipal Finance Officer shall keep the regular books of account; supervise accounting system; keep a record of governing board proceedings, draw and countersign all warrants, keep the corporate seal; countersign all contracts; audit and adjust all claims against the municipality before they are allowed by the governing boards; keep a book in which he or she shall enter all contracts; certify annual tax levy to county auditor; maintain special assessment record; file bonds of all employees and officials of the municipality; prepare, publish and file annual financial report; maintain bond records; prepare the budget before September 1 of each year and submit it to the governing board; and maintain a file of annual inventories. The Municipal

Finance Officer shall also receive monies of municipality and maintain cash receipts journal, issue prenumbered receipts, invest surplus cash balances of the municipality, maintain a warrant register listing all warrants issued by funds, report to the governing board giving a full and detailed account of all receipts and expenditures since his or her last report and maintain register of all warrants not paid for want of funds.

(1986 Code, Title 5, § 2)

REMOVAL FROM OFFICE; VACANCIES

§ 32.15 GROUNDS FOR REMOVAL.

Any officer may be charged, tried and removed from office for misconduct, malfeasance, nonfeasance, crimes in office, drunkenness, gross incompetency, corruption, theft, oppression, or gross partiality.

(SDCL § 3-17-6)

§ 32.16 VACANCIES IN OFFICE.

The removal of any elected or appointed official from the municipality for which he or she was elected or appointed, or an appointed officer's failure to qualify within 10 days after his or her election appointment, causes a vacancy in the office.

(SDCL § 9-14-10)

§ 32.17 VACANCIES DUE TO TEMPORARY RESIGNATION; TEMPORARY REPLACEMENT AND TERM.

(A) If any member of a governing body or any other elected officer of a municipality, who is incapacitated by an illness or an accident which causes the member or officer to be unable to attend meetings of the governing body or fulfill the duties of the office, the member may elect to temporarily resign from the governing body or office.

(B) Notice of temporary resignation may be given in the same manner as giving notice of resignation from the governing body or office. If the member or officer is unable to give notice, the member's or officer's spouse or guardian or any person who has durable power of attorney for the member or officer may give notice of resignation.

(C) A temporary replacement may be made in accordance with the provisions of statute applying to the governing body or office. The temporary member or officer shall serve until the member or officer is able to fulfill the requirements of office or until the expiration of the member's or officer's term, whichever comes first.

(SDCL § 3-4-9)

§ 32.18 OFFICER'S DISCHARGE OF DUTIES WHEN ELECTED TO FILL A VACANCY.

Each elective municipal officer, if elected to fill a vacancy, shall begin discharging the duties of the office as soon as the officer has qualified. Except as otherwise provided, each officer, if elected for a full term, shall begin discharging the duties of the office on the first meeting of the month next succeeding the election or as soon thereafter as the officer has qualified.

(SDCL § 9-14-5)

Section

- 33.01 Volunteer Fire Department
- 33.02 Compensation **CHAPTER 33: FIRE DEPARTMENT**
- 33.03 Officer
- 33.04 Duties of Fire Chief
- 33.05 Powers of Chief
- 33.06 Chief may remove buildings
- 33.07 Fire hazards
- 33.08 Interfering with Fire Department
- 33.09 False alarm
- 33.10 Duties of Law Enforcement Officer
- 33.11 Fire apparatus kept in town
- 33.12 Force and effect

§ 33.01 VOLUNTEER FIRE DEPARTMENT.

There shall be and is hereby established what shall be known as the Pickstown Volunteer Fire Department, which shall consist of not less than 15 volunteer firefighters.
(1986 Code, Title 30, § 7.01)

§ 33.02 COMPENSATION.

No member of the fire company shall receive any compensation for his or her services therein, provided, however, that no member of the Fire Department shall be compelled to pay any poll tax while a member.
(1986 Code, Title 30, § 7.02)

§ 33.03 OFFICER.

The officers of the Fire Department shall embrace a Chief, Assistant Chief, Captain, Secretary/Treasurer and other officers as the Fire Department shall deem necessary. The Fire Department shall be governed by the constitution and bylaws thereof approved by the Town Board of Trustees.

(1986 Code, Title 30, § 7.03)

§ 33.04 DUTIES OF FIRE CHIEF.

The Fire Chief shall be responsible for the discipline and proper conduct of the Fire Department, the enforcement of all laws and regulations pertaining thereto, and for the care and condition of the property of the Department. He or she shall have command of all members of the Fire Department and in case of his or her absence, the Assistant Fire Chief, or other officer placed in command shall have the same powers as the Fire Chief would have. At all fires, he or she shall have full power of a law enforcement officer. He or she shall make a report to the Town Board of Trustees at its meeting in each month of all fires that have taken place in the preceding month, giving the causes thereof, the names of the owners and occupants and the amount of loss. He or she shall also report on the condition of the fire equipment.

(1986 Code, Title 30, § 7.04)

§ 33.05 POWERS OF CHIEF.

The Fire Chief may prescribe limits in the vicinity of a fire within which no person except those residing therein, members of the Fire Department, Police Force and those admitted by the Chief or his or her subordinate, shall be permitted to come. The Chief or officer having charge at any fire may call upon any person present to assist the firefighters in their duties. The Fire Chief shall have the power to cause the removal of all wires or to turn off all current interfering with the work of the Fire Department.

(1986 Code, Title 30, § 7.05)

§ 33.06 CHIEF MAY REMOVE BUILDINGS.

The Fire Chief, during the progress of any fire, whenever in his or her judgment it becomes necessary to check or control the same, shall have power to order any fence, building or structure of any kind to be torn down and removed. He or she shall have power to cause any building or structure to be blown up for the purpose of checking or extinguishing a fire.

(1986 Code, Title 30, § 7.06)

§ 33.07 FIRE HAZARDS.

It shall be the duty of the Fire Chief, along with the Town Board of Trustees, and the other Fire Department members, to promote a yearly program to eliminate any fire hazards within the town, and the Fire Chief himself or herself may notify the owner or occupant of any building which he or she deems unsafe and a fire hazard, of the condition and order him or her to repair the same or remove it from the town within 1 week from the time of receiving the notice, and if the owner or occupant shall refuse to comply with the notice, then the Fire Chief shall report the same to the Trustees and if the order be approved by the Town Board, he or she shall proceed to carry out the same to be done and the expense thereof shall be paid by the person or persons so failing to comply.
(1986 Code, Title 30, § 7.07)

§ 33.08 INTERFERING WITH FIRE DEPARTMENT.

No person shall willfully hinder or interfere with any town officer or firefighter in the performance of his or her duty at, going to, or returning from any fire, or while attending to his or her duty as a member of the Fire Department, nor willfully or negligently drive any motor vehicle or other vehicle across or upon any hose.
(1986 Code, Title 30, § 7.08) Penalty, see § 10.99

§ 33.09 FALSE ALARM.

No person shall knowingly give a false alarm or false report of a fire.
(1986 Code, Title 30, § 7.09) Penalty, see § 10.99

§ 33.10 DUTIES OF LAW ENFORCEMENT OFFICER.

In the vicinity of a fire, it shall be the duty of the Law Enforcement Officer and his or her assistants to preserve order, protect property and give any other assistance needed.
(1986 Code, Title 30, § 7.10)

§ 33.11 FIRE APPARATUS KEPT IN TOWN.

No fire apparatus shall be taken out of town unless under regulations as the Chief may establish, nor shall any fire apparatus be applied to any private use, nor taken from the house where it shall be usually kept, except in case of an alarm of fire, without the permission of the Chief.
(1986 Code, Title 30, § 7.11) Penalty, see § 10.99

§ 33.12 FORCE AND EFFECT.

All rules and regulations concerning the Fire Department, when adopted by the Town Board of Trustees, shall have the same force and effect as ordinances.
(1986 Code, Title 30, § 7.12)

Section

- 34.01 Adoption by reference
- 34.02 National codes **CHAPTER 34: UNIFORM NATIONAL CODE**
- 34.99 Penalty

§ 34.01 ADOPTION BY REFERENCE.

Adoption by reference of uniform national codes and rules and regulations for the governing thereof.
(1986 Code, Title 41, § 1.01) Penalty, see § 34.99

§ 34.02 NATIONAL CODES ADOPTED.

The following national codes, and all amendments thereto, are hereby adopted by this town and copies of each are placed in the office of the Finance Officer of this town: *Uniform Building Code* and all amendments thereto.
Penalty, see § 34.99

§ 34.99 PENALTY.

Any person violating any provision of the regulations adopted in this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not to exceed \$100 and assessed the court costs of prosecution. Each day any violation of any section continues shall constitute a separate and distinct offense and shall be punishable as that.
(1986 Code, Title 41, § 1.03)

Section

Planning and Zoning Commission

CHAPTER 35: DEPARTMENTS, COMMITTEES, BOARDS AND COMMISSIONS

- 35.01 Generally
- 35.02 Powers and duties
- 35.03 Election of Chairperson
- 35.04 Meetings
- 35.05 Funds; expenditures

PLANNING AND ZONING COMMISSION

§ 35.01 GENERALLY.

There is hereby created the Planning and Zoning Commission of the Town of Pickstown, South Dakota. This Commission shall consist of 5 members to be appointed by the President of the Board of Trustees and confirmed by the Board of Trustees. The term of each of the appointed members shall be for 5 years, except that when the Commission is first appointed, 3 of the members shall be appointed for 3 years, and the balance of the members shall be appointed for 5 years. Thereafter, appointment of each member shall be for terms of 5 years so that there will be overlapping tenures. Administrative officials of the town may be appointed as ex-officio members of the Commission. Any vacancy in a membership shall be filled for the unexpired term by the President of the Board of Trustees in the same manner as for appointment, and the President, with the confirmation of the Board of Trustees, shall after public hearing, have authority to remove any member for cause, which cause shall be stated in writing and made a part of the record of the hearing.
(Ord. 89-64, passed 5-24-1989)

§ 35.02 POWERS AND DUTIES.

The Commission shall have all the powers and shall exercise the functions and duties as conferred upon it by the laws of the State of South Dakota.
(Ord. 89-64, passed 5-24-1989)

§ 35.03 ELECTION OF CHAIRPERSON.

The Commission shall elect its Chairperson from among its members for a term of 1 year with eligibility for reelection, and may fill other offices as it may create in a manner prescribed by the rules of the Commission.

(Ord. 89-64, passed 5-24-1989)

§ 35.04 MEETINGS.

The Commission shall hold at least 1 regular meeting each month and shall adopt rules for transaction of its business and keep a record of its resolutions, transactions, findings and determinations, which shall be a public record.

(Ord. 89-64, passed 5-24-1989)

§ 35.05 FUNDS; EXPENDITURES.

The Board of Trustees shall appropriate money to a fund for the expenditures of the Commission. The expenditures of the Commission, exclusive of those made from funds received by gift, shall be within the amounts appropriated for the purpose by the Board of Trustees. The Board of Trustees shall provide the funds, equipment and accommodations necessary for the Commission's work. The Board of Trustees may include in the appropriation funds to provide compensation for members of the Commission.

(Ord. 89-64, passed 5-24-1989)

Section

Municipal Sales and Service Tax
CHAPTER 36: TAXES

- 36.01 Purpose
- 36.02 Effective date and enactment
- 36.03 Use tax
- 36.04 Collection
- 36.05 Interpretation

- 36.99 Penalty

MUNICIPAL SALES AND SERVICE TAX

§ 36.01 PURPOSE.

The purpose of this subchapter is to provide additional needed revenue for the municipality of Pickstown, Charles Mix County, South Dakota, by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL § 10-52 entitled Uniform Municipal Non Ad Valorem Tax Law, and acts amendatory thereto.
(Ord. 2005-141, passed 9-14-2005)

§ 36.02 EFFECTIVE DATE AND ENACTMENT.

From and after January 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 Municipality of Pickstown, Charles Mix County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL § 10-45 and acts amendatory thereto.
(Ord. 2005-141, passed 9-14-2005) Penalty, see § 36.99

§ 36.03 USE TAX.

In addition there is hereby imposed as 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 the January 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 South Dakota Use Tax Act, SDCL § 10-46, and acts amendatory thereto.

(Ord. 2005-141, passed 9-14-2005) Penalty, see § 36.99

§ 36.04 COLLECTION.

The tax is levied pursuant to authorization granted by SDCL § 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the state sales tax and under additional rules and regulations as the Secretary of Revenue and Regulation of the State of South Dakota shall lawfully prescribe.

(Ord. 2005-141, passed 9-14-2005)

§ 36.05 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 South Dakota Retail Occupational Sales and Service Act, SDCL § 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL § 10-46 and acts amendatory hereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

(Ord. 2005-141, passed 9-14-2005)

§ 36.99 PENALTY.

Any person failing or refusing to make reports or payments prescribed by this subchapter 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 fine and imprisonment. In addition, all collection remedies authorized by SDCL § 10-45, and acts amendatory thereto, and SDCL § 10-116, and acts amendatory thereto are hereby authorized for the collection of these excise taxes by the Department or Revenue and Regulation.

(Ord. 2005-141, passed 9-14-2005)