

## CHAPTER II

### OFFICERS AND DUTIES

#### ARTICLE I. ELECTIVE OFFICERS

2-101. OFFICERS TO BE ELECTED. There shall be elected in the City of Gwinner the following officers: a Mayor, four (4) Aldermen, and Municipal Judge.

2-102. TERM OF ELECTIVE OFFICERS. The elective officers of the City of Gwinner, unless otherwise specified, shall hold their respective offices for four (4) years and until their successors are elected and qualified.

2-103. QUALIFICATIONS OF ELECTIVE AND APPOINTIVE OFFICERS. No person shall be eligible to hold an elective municipal office unless he is a qualified elector of the City of Gwinner and unless he has been a resident thereof for at least nine (9) months preceding the election, and is able to read and write the English language. No person shall be eligible to hold an appointive office unless he is a citizen of the United States. No person in default to the City of Gwinner shall be eligible to any office.

2-104. MAYOR: TERM OF OFFICE. The chief executive officer of the City is the Mayor, who shall hold his office for four (4) years and until his successor is elected and qualified.

2-105. SAME: compensation of. The Mayor shall receive such compensation as the City Council may, by ordinance direct; but his compensation shall not be changed during his term of office.

2-106. DUTIES OF. The Mayor shall preside at all meetings of the City Council, but shall not vote except in case of a tie, when he shall give the deciding vote. He shall perform all such duties as are or may be prescribed by law or by the City Ordinances, and shall take care that the laws and ordinances are faithfully executed. The Mayor, at any time, may examine and inspect the books, records, and papers of any agent, employee, or officer of the City.

2-107. ALDERMEN: TERM OF OFFICE. Aldermen shall hold their office for four (4) years and until their successors are elected and qualified, provided, however, that the Aldermen elected shall alternate in their respective terms of office by electing only one-half (1/2) the number of Aldermen in any one election.

2-108. SAME: DUTIES OF. Each Alderman shall perform the duties provided by law and the ordinances of the City. He shall attend all regular and special meetings of the City Council, and of his particular committee, and of the Board of Equalization, unless absent from the City or excused by the Mayor.

2-109. MUNICIPAL JUDGE, JURISDICTION OF. The Municipal Judge shall have exclusive jurisdiction of, and it shall be his duty to hear, try, and determine all offenses against the ordinances of the City.

The Municipal Judge shall perform all the duties prescribed by law and the ordinances of the City and shall make a full report, in writing under oath, of his proceedings in all actions or matters in which the City of Gwinner is a party or interested to the City Council monthly and such report shall contain the names of the parties to the action or proceeding, the judgment entered, the amount of such judgment and all costs, the amount of fine and costs paid, if any, and the disposition thereof together with an itemized statement of the fees of said Municipal Judge and as the case may be and of all officers and witnesses with the names of each, which report shall be accompanied by the duplicate receipt of the City Auditor for the amount of fine, criminal fees, and money so collected in behalf of the City.

He shall at no time retain or withhold from the moneys coming to his hands from fines any portion thereof, under color or claim of any portion thereof being due to him, for his fees or costs, but at the time of making his report and returning the moneys collected for such fines, he shall present for the action of the Council, a bill for such fees and costs and for any breach thereof he shall be subject to a like fine as hereinafter provided for.

He shall keep his office open at all reasonable hours, excepting Sunday and legal holidays, for the transactions of the business of his office.

If any Municipal Judge shall neglect or refuse to pay over to the City Auditor on or before the last day of the succeeding month the money collected by him during any previous month, or shall refuse to allow the Mayor, the City Council, or any of its committees to examine his records in regard to such matters he shall be deemed guilty of willful neglect in office and may be removed therefrom according to law.

In all cases not herein otherwise provided for, the process and proceedings before such Municipal Judge shall be governed by the Laws of the State regulating the process and proceeding in such Courts.

2-110. MUNICIPAL JUDGE, COMPENSATION OF. As full compensation for his services the Municipal Judge shall be paid the fees allowed justices of the peace for similar services, under the laws of the State. Such fees, and all fees and costs incurred in their Courts for which the City may be liable, shall be audited and paid in the same manner as other claims against the City.

2-111. OATH OF OFFICERS. All officers of the City, whether elected or appointed, shall before entering upon the duties of their respective offices, take and subscribe the oath of office prescribed in Section 211 of the constitution. Such oath shall be filed in the office of the City Auditor, except in the case of the Auditor who shall file his oath of office with the County Auditor of Sargent County.

2-112. RETIRING OFFICER TO TURN OVER BOOKS. Any person having been an officer of the City shall within five (5) days after notification and request, deliver to his successor in office all property, books, and effects of every description in his possession, belonging to the City or appertaining to his office; and upon his refusal to do so shall be liable for all damages caused thereby, and to such penalty as is hereinafter prescribed.

2-113. MUNICIPAL JUDGE, CONTRACTING WITH COUNTY. The City Council upon written agreement with the County of Sargent and State of North Dakota may contract with the County and State for Municipal Judge services to be performed by the Judge of the District Court under such terms and conditions as agreed by the City Council and allowed under the laws of the State. While any such agreement is in force, any reference to the Municipal Judge in these ordinances shall also include and pertain to and apply to the Judge of the District Court. Further, the election and salary of the Municipal Judge shall be suspended while the Judge of the District Court acts as the Municipal Judge.

## ARTICLE II. APPOINTIVE OFFICERS

2-201. OFFICERS APPOINTED, WHEN, HOW. At the first regular meeting of the City Council, after the election for Mayor, or within a reasonable time thereafter, the Mayor shall appoint a City Auditor, a City Superintendent of Water and Sewerage, a City Attorney, a City Street Commissioner, a Chief of Police, and as soon thereafter as possible appoint such other officers or boards as the City Council shall deem necessary, provided, the Mayor may remove any officer appointed by him whenever he shall be of the opinion that the interests of the City demand such removal, but at the next regular meeting the Mayor shall submit in writing his reasons for removal of said officer.

2-202. VACANCY CAUSED THROUGH REMOVAL BY MAYOR, HOW FILLED. A successor, ad interim, may be appointed by the Mayor to fill a vacancy caused by the removal of any officer by the Mayor, who shall qualify and be subject to the same liabilities and vested with the same rights of a duly appointed and confirmed officer until the next regular meeting of the City Council. The Council shall, at such meeting, proceed to ballot on the appointment as is hereinbefore provided for original appointment. In case of a vacancy for any other cause the same shall be filled in like manner as an original appointment.

2-203. TERM OF OFFICE OF APPOINTED OFFICERS. All appointed officers shall, unless sooner removed according to law, hold their respective offices for two (2) years, and until their successors are appointed and qualified; the term of office shall commence on the first day of May succeeding their appointment, except for such offices as are in these ordinances specifically provided otherwise.

2-204. POSTPONEMENT OF APPOINTMENTS. The Council may upon the concurrence of two-thirds (2/3) of the Aldermen present postpone action on such appointments or any of them to a special session of the Council to be held not later than one (1) week from the date of such adjournment.

2-205. CITY ASSESSOR: APPOINTMENT OF. The Mayor shall at the first meeting of the Council in September of each odd numbered year appoint a City Assessor as prescribed by the laws of the State of North Dakota; said appointment shall be confirmed and approved by the majority ballot of all the Aldermen elected, and in case of a failure of the Council to confirm and approve any such appointment, the Mayor shall immediately and at such meeting, make another appointment to be acted on in like manner by the Council and shall so proceed until the office is filled. The Mayor can a second time submit the name of any appointee, who has once failed of confirmation and approval by stating in writing with such appointment his reasons therefore; but an appointee twice rejected by the Council cannot a third time be appointed by the Mayor during the same term of his office as Mayor.

2-206. SAME: DUTIES OF. The City Assessor shall perform all duties necessary for the assessing of property within the City Limits for the purpose of levying City, County, School, and State Taxes.

2-207. CHIEF OF POLICE, DUTIES OF. The Chief of Police shall perform such duties as shall be prescribed by the City Council and Chapter III Article II for the preservation of the peace. All police officers of the City shall, within the City Limits and for a distance of one and one-half (1 1/2) miles in all directions within the State next outside the City Limits, perform the duties and exercise the power of Peace Officers as defined and prescribed by the Laws of the State; and shall also have power, and it shall be their duty, to serve and execute any warrants, writs, process, order, or notice issued to them by the Municipal Judge within said City in any civil or criminal action or proceeding for or on account of a violation of any City ordinances, or in any action or proceeding in which the City is a party or beneficially considered; and in addition thereto shall perform such duties as shall be prescribed by the ordinances of the City.

2-208. AUDITOR, DUTIES OF. It shall be the duty of the City Auditor in connection with his other duties:

1. To be present and keep a correct journal of the proceedings of each meeting of the City Council.
2. To make a correct record of the same, engross all ordinances and record the same in a book for ordinances.
3. To furnish the several committees copies of resolutions, and other matters that may be referred to them, unless the original papers are furnished, and to do such other clerical duties as may be prescribed by the City Council.

4. To collect water, sewer and garbage charges, license and permit fees, and all other municipal charges which the City Council shall from time to time make.
5. To cause department heads or other employees having control or custody of municipal funds, accounts, claims or bills to provide such City Auditor with full report thereof.
6. To keep the corporate seal and all papers and records of the City.
7. To draw and countersign all orders on the treasury in pursuance of any order or resolution of the governing body and keep a full and accurate account thereof in books provided for that purpose.
8. To examine and countersign all bonds, orders, or other evidence of indebtedness of the City before the same become valid.
9. To keep regular books of account in which he shall enter all indebtedness of the City and which at all times shall show the financial condition of the City, the amount of bonds, orders, certificates, or other evidences of indebtedness issued by the governing body, the amount of all bonds, orders, certificates, or other evidences of indebtedness which have been redeemed, and the amount of each outstanding.
10. To make and keep a list of outstanding city bonds, orders, certificates, or other evidences of indebtedness showing to whom and for what purpose the same were issued, when and where each is payable, the rate of interest each bears, and to recommend such action to the governing body as will secure the punctual payment of the principal and interest of such bonds or other indebtedness.
11. To countersign all contracts made in behalf of the City if the necessary bonds have been provided to pay the liability incurred thereunder, to countersign certificates of work authorized by any committee of the governing body, or by any city officer. Each contract made in behalf of the City or to which the City is a party shall be void unless countersigned by the Auditor.
12. To keep account with all receiving and disbursing officers of the City showing the amount they have received from the different sources of revenue, and the amount which they have disbursed under the direction of the governing body.
13. To make a list of all certificates for the payment of which special taxes are to be levied in each year in time for the same to be inserted in the tax roll in the form of a schedule of special taxes and to certify to the correctness thereof.
14. To receive all moneys being owed to the City and keep accurate and detailed accounts thereof.

15. To prepare and submit to the governing body of the City a written report each month showing the condition of the several funds of the City and of all outstanding contracts and claims which may be payable out of any such funds.

16. To prepare and submit to the governing body a report in July, October, January, and April of each year showing a full, clear, and complete statement of all the taxes and other revenues collected and expended for the preceding three (3) months, and indicating the respective sources from which the moneys are derived and the disposition made thereof.

17. To prepare and submit a report, on or before January 10 and July 10 of each year, showing the receipts and expenses of the City for the six-month periods ending December 31 and June 30, respectively. Such report shall include a statement of the financial condition of all municipal funds as of the date for which it is given, and shall be kept on file in the office of the City Auditor as a permanent public record. Certified copies of the report shall be forwarded to and kept on file in the offices of the County Auditor and the County Treasurer and shall be open to public inspection and examination.

18. To prepare and submit a detailed statement, on or before the 10th day of July in each year, showing the expenses of the City during the last fiscal year and an estimate of the expenses for the ensuing fiscal year and the income for that year from sources other than taxes.

19. To perform such other duties as may be prescribed by other sections of these Revised ordinances.

20. To assume all functions and duties of the office of City Auditor where indicated in other chapters of the ordinances of the City of Gwinner.

2-209. SUPERINTENDENT OF WATERWORKS AND SEWERAGE, DUTIES OF. There is hereby created in the City of Gwinner the position of Waterworks and Sewerage Superintendent whose duties shall be as hereinafter set forth, and as provided by any other ordinances of the City of Gwinner.

For the purpose of brevity the Waterworks and Sewerage Superintendent shall be referred to in this article as Waterworks Superintendent or Sewerage Superintendent, whichever may appear.

1. It shall be the duty of the Superintendent of Waterworks to take and have charge and management of the city waterworks and any and all property pertaining thereto. It shall be his duty to protect the same from unnecessary damage or loss and keep said waterworks in good running order and repair; and he shall personally superintend and direct all work pertaining to the further extension of said waterworks system and all repairs upon the same of every kind and nature, and he shall make a monthly report to the City Council, or oftener if required, of all matters as will at all times show the true

condition and state of his office, and he shall perform such other duties as shall be required of him by the committee on water or by said City Council.

2. Said superintendent shall make the necessary purchases of material and supplies for use in his department upon order of the committee on water or of the City Council. He shall at all times and in all things pertaining to the superintendence, management and care of said waterworks be subject to the supervision and direction of the City Council and of its committee on water.

3. It shall be the duty and power of the Superintendent of the Waterworks to exercise general control and management of all waterworks to exercise general control and management of all waterworks property of the City, and supervise and manage the repairs of the same upon the advice of the committee on water.

4. It shall be the duty of the Waterworks Superintendent to supervise the making of all connections with the waterworks system, which shall include both water and sewer main, and shall follow the instructions of the City Auditor in turning on or turning off the water for any consumer. The Waterworks Superintendent shall see that all of the provisions of the ordinances pertaining to the sewer and water utility, insofar as the construction, reconstruction and maintenance of the waterworks and sewerage system are complied with.

5. The Waterworks Superintendent shall keep an accurate record showing when and where all connections are made with the city waterworks and sewerage system and the location in the streets and alleys of all valves, cut-offs, connections and other matter connected with the city waterworks and sewerage system. He shall make and file with the City Auditor a full report in writing at the close of each month of all the work in his office, which report shall be a detailed outline for the information of the governing body and the City Auditor.

6. It shall be the duty of the Superintendent of Waterworks to report promptly to the Health Officer all violations of health ordinances which come to his notice and render any practical assistance to the Health officer which the Health Officer may require.

The Mayor may appoint an Assistant Superintendent of Waterworks and Sewerage when he deems it necessary, subject to the approval of the City Council.

2-210. STREET COMMISSIONER, DUTIES OF. There is hereby created within the City of Gwinner the position of Street Commissioner. The duties of the Street Commissioner shall be as hereinafter provided and as provided by any other ordinances of the City of Gwinner.

1. It shall be the duty of the Street Commissioner acting under the direction of the Street Committee, of the Council, or the Council as a whole, to superintend the construction, repairs, and cleaning of the streets, alleys, sidewalks, culverts, bridges,

and direct the grading, working, and improving of streets, alleys, and public places within the limits of said city.

2. It shall further be the duty of the Street Commissioner to keep in repair and protect and he shall be responsible for all machinery and tools belonging to his department.

3. All materials and supplies used by his department shall be purchased by him on the written order of the Chairman of the Street Committee or by the City Auditor on authority granted by the City Council as a whole.

4. He shall see that the streets and alleys are kept clean and free from filth, manure, paper and other rubbish and from all obnoxious weeds. He shall see that the streets of the city are kept in the best repair practical.

5. It shall be the duty of the Street Commissioner to report promptly to the Health Officer all violations of health ordinances which come to his notice and render any practical assistance to the Health Officer which the Health Officer may require.

6. The Street Commissioner shall have the power, and it is hereby made his duty when the condition of any sidewalk is such as to render it dangerous to the public, to take such measures as shall prevent the use of the same, and shall post danger signals thereon, and shall at once repair the same under the direction of the Street Committee.

Whenever any excavation is open in the streets for plumbing ditches or otherwise, it shall be the duty of the Street Commissioner to see that the person charged with the responsibility for opening such street or sidewalk or boulevard shall cause the same to be properly protected with suitable barriers to prevent accident or injury to the passing public.

In the event that such opening is to remain uncovered or unfilled during the night or otherwise dark hours, it shall be the duty of the Street Commissioner to see that a flare or flares, such as may be necessary to properly safeguard the general public, shall be placed upon the said excavation.

The Mayor may appoint an Assistant Street Commissioner when he deems it necessary, subject to the approval of the City Council.

2-211. HEALTH OFFICER, DUTIES OF. The Health officer shall be a competent physician. He shall perform such duties as may be conferred upon him by law or by the ordinances of the City. Before entering upon the duties of his office he shall take the usual oath of office and give a bond to the City in the amount provided by this code. He shall receive such compensation for his services as the City Council may determine.



He shall be a member of the Board of Health. It shall be his duty to make and publish suitable rules and regulations tending to promote the health of the inhabitants of the City. He shall promptly report to the Mayor and the City Council all violations of said rules and regulations and city ordinances and state laws tending to promote the health of the City.

2-212. CITY ENGINEER, APPOINTMENT OF. A City Engineer may be appointed by the Mayor whenever necessary and his salary fixed by the Mayor in his order of appointment which appointment and salary shall be subject to the approval of the City Council.

2-213. CITY ENGINEER, QUALIFICATIONS OF. The City Engineer shall have the qualifications prescribed by law and shall be duly registered as a professional engineer in the State of North Dakota. The City Engineer shall perform the duties pertaining to his office as shall be prescribed by law and the ordinances of the City of Gwinner.

2-214. REPLACEMENT OF CITY ENGINEER, WHEN NECESSARY. Provided, however, that whenever in the judgment of the Mayor and City Council it shall be necessary or for the best interests of the City that the construction of any special work of public improvement in said city shall be planned or constructed by or under the supervision of any Civil Engineer other than the City Engineer, which other engineer shall be specially qualified and expert in the particular line of such work of public improvement, a consulting engineer may be employed by the City for such special work of public improvement, and when so employed shall have the sole custody and supervision of the planning and construction of such work or public improvement and shall in that particular regard report and account to the City Council as required generally of the City Engineer and shall receive such compensation as may be fixed by the City Council.

2-215. CITY ATTORNEY, DUTIES OF. The City Attorney shall conduct all the law business of the City and of the departments thereof and all law business in which the City shall be interested; he shall, when requested furnish written opinions upon the subjects submitted to him by the City Council or any other department. It shall also be his duty to draft all ordinances, bonds, contracts, leases, conveyances, and such other instruments as may be required by the officers of the City; to examine and inspect tax and assessments rolls and all other proceedings in reference to the levying and collection of taxes and to perform such other duties as may be prescribed by the Council or ordinances.

2-216. CITY DOG CATCHER: APPOINTMENT OF. The Mayor may appoint whenever he deems it necessary a dog catcher and shall in his order of appointment fix his compensation which appointment and compensation shall be subject to the approval of the City Council.

2-217. OTHER OFFICERS: APPOINTMENT OF. The Mayor may appoint special policemen and other necessary officers when he deems it necessary and fix their

compensation in the order of appointment which appointment and compensation shall be subject to the approval of the City Council.

### ARTICLE III. SALARIES OF OFFICERS.

2-301. SALARIES OF OFFICERS, AMOUNT. The following named officers of the City of Gwinner shall receive salaries as follows:

Mayor ----- \$300/year  
Aldermen ----- \$300/year

The salaries of the Auditor, Assessor, City Attorney, Fire warden, Chief of Police, Street Commissioner, and Superintendent of Waterworks and Sewerage shall be fixed by the Mayor at time of appointment, subject to the approval of the City Council.

The Municipal Judge shall receive only such fees as are allowed by State Law.

2-302. SALARIES, PAID HOW. All salaries herein provided for shall be paid in monthly installments at the expiration of each month where such officers hold office for one (1) month or more. In temporary appointments where the compensation is fixed by the Mayor with the approval of the Council the compensation shall be paid upon the presentation and auditing of the bills of said special appointees. The compensation of the City Assessor shall be paid each year upon completion of the assessment.

### ARTICLE IV. CITY COUNCIL

2-401. REGULAR MEETINGS. The regular meetings of the City Council shall be held on the first Monday of each month, at 4:30 p.m. at the Community Center; and such meeting may be adjourned to any other time to attend to unfinished business or to secure a quorum.

In the event that the regular meeting date falls on a federally recognized holiday, then the regular meeting shall be automatically postponed to the following day at the same time and place.

2-402. SPECIAL MEETINGS. Special meetings may be called by the Mayor or by any three (3) or more Aldermen. Notice of such special meeting shall be served upon the Mayor and Aldermen not calling the meeting, at least six hours before the time of meeting either by copy delivered to them personally or by copy left at their usual place of abode or business or with some member of the family at least twelve years of age, which notice shall specify the time, place and object of such meeting, and shall be signed by the Mayor or the Aldermen calling such meeting; and it shall be the duty of the Chief of Police or any policeman to serve the same.

2-403. CALL TO ORDER. The Mayor shall, at the hour of meeting, call the council to order; he shall then preserve order and decorum and decide all questions of order, subject to an appeal to the Council.

2-404. ATTENDANCE OF ALDERMEN. Any Aldermen neglecting to attend any regular, special or adjourned meeting of the City Council after having received cue notice of such meeting as provided in Section 2-402 and remaining in attendance until the adjournment of such meeting, unless excused for such non-attendance by the City Council, shall be subject to a fine of not less than Fifty Dollars for the first offense, and not less than One Hundred Dollars for the second, or any subsequent offense, and for a third or subsequent offense may be expelled from office with the concurrence of two-thirds of the Aldermen elect.

2-405. CALLING ROLL OF MEMBERS. As soon as the Council shall be called to order the Auditor shall call the names of the members in alphabetical order, noting who are present and who are absent, and record the same in the proceedings of the Council; and if it appear that there is not a quorum present the fact shall be entered in the journal and the Council shall stand adjourned.

2-406. VOTING AT MEETINGS. No member of the City Council shall be excused from voting, except by a majority of the Council present at such session.

2-407. ADJOURNMENT OF MEETINGS. The Council may at regular meetings adjourn to such time as may be agreed upon, and at such adjourned meeting may do any business that might be done at a regular meeting.

2-408. MOTION TO ADJOURN. A motion to adjourn shall always be in order, but a motion to adjourn shall not be received when the council are voting on another question.

2-409. RULES OF ORDER OF BUSINESS. At each regular meeting of the Council the order of business shall be as follows:

1. Reading and correcting the minutes of the last preceding meeting.
2. Receiving petitions, memorials, remonstrance's, and other communications.
3. Reports of committees may be made and considered, first from standing committees and next from special committees.
4. Unfinished Business.
5. Amending, rescinding, or adopting ordinances.
6. Accounts may be introduced and acted upon.
7. Miscellaneous business.

2-410. RULES OF PROCEDURE: COUNCIL. The general rules of Council procedure shall be as follows:

1. Order Preserved. The presiding officer shall preserve order and decorum, prevent personalities or the impugning of members' motives, confine members in debate to the

question under discussion and shall decide all points of order subject to an appeal to the Council.

2. Right of Appeal. Any member may appeal to the Council from a ruling of the presiding officer. If the appeal is seconded the member making the appeal may briefly state his reason for the same, and the presiding officer may briefly explain his ruling; but there shall be no debate on the appeal and no other member shall participate in the discussion. The presiding officer shall then put the question, "Shall the decision of the chair be sustained?" If a majority of the members present vote aye, then the ruling of the chair is sustained; otherwise it is overruled.

3. Right of Floor. When any member is about to address the council he need not rise from his seat, but shall respectfully address the presiding officer by title, and when recognized by the chair shall confine himself to the question under debate, avoid personalities and refrain from impugning the motives of any other members' argument or vote.

4. Stating of Motion; Resolutions Written. When a motion is made it shall be stated by the presiding officer or read by the Auditor previous to debate. All resolutions shall be reduced to writing, and any resolution may be withdrawn by consent of the City Council before discussion or amendment.

5. Debate Limitation. No member shall speak more than twice at the same meeting on any question except by leave of the City Council. No speaker shall address the council for a period longer than five minutes without permission. It shall be the duty of the presiding officer to call the speaker to order upon the expiration of such time limit. This rule may be suspended at any time by a majority vote of the Council.

6. Member Called to Order. When a member is called to order, he shall not proceed until the question of order is decided.

7. Division of Question. If the question contains two or more divisible propositions, the presiding officer may, and upon request of a member shall, divide the same, but a motion to strike out a provision and insert a substitution is not divisible.

8. Voting Procedure: Demand for Roll Call. All questions except passage of ordinances shall be put in this form: "Those who are in favor of the motion (state the question) say 'Aye', those opposed say 'No'." In doubtful cases, or before the question is decided, any member may call for ayes and nays for roll call, and when the ayes and nays are so called for the order, the fact shall be entered in the minutes with the names of those persons voting and the nature of their vote. The ayes and nays shall in all cases be ordered upon passage of all ordinances, resolutions, expenditure of funds, or sale of property, and when called for by one member.

9. Reconsideration. After the decision on any question, any member who voted with the majority may move a reconsideration of any action at the same or the next succeeding meeting; provided, however, that a resolution authorizing or relating to any contract may be reconsidered at any time before the final execution thereof. A motion to reconsider shall require the same number of votes as is required to adopt an ordinance or resolution. After a motion for reconsideration has once been acted on, no other motion for a reconsideration thereof shall be made without unanimous consent.

10. Precedence Motion to Adjourn. A motion to adjourn shall always be in order except when a vote is being taken.

11. Precedence of Motions. When a question is before the Council no motion shall be entertained except the following:

- a. To adjourn.
- b. To fix the hour of adjournment.
- c. For the previous question.
- d. To lay on the table.
- e. To postpone to a certain day.
- f. To postpone indefinitely.
- g. To refer to a committee.
- h. To amend.

These motions shall have precedence in the order indicated. Any such motion, except a motion to amend, shall be put to a vote without debate.

12. Interrupting Speaker. When any member is speaking, no member shall entertain any private discussion or in any way interrupt the speaker except as to a question of order.

13. Member Moving Resolution or Motion. In all cases where a resolution or motion shall be entered on the minutes, the name of the member moving the same shall be entered on the minutes.

14. Remarks of Councilman--When Entered in Minutes. A councilman may request, through the presiding officer, the privilege of having an abstract of his statement on any subject under consideration by the Council entered in the minutes. If the Council consents thereto, such statement shall be entered in the minutes.

15. Synopsis of Debate--When Entered in Minutes. The Clerk may be directed by the presiding officer, with consent of the Council, to enter in the minutes a synopsis of the discussion on any question coming regularly before the Council.

16. Ordinances and Resolutions. All ordinances and resolutions shall be introduced in the Council only in written form unless the Council consents to an oral introduction with written form to be provided at the next regular meeting with reservation of approval to the written form.

17. Amendments. It shall be in order to amend an ordinance at any time when not in the hands of a committee. If an ordinance after its second reading is referred to a committee to be amended, it shall be laid over for further consideration at the next council meeting. A motion to amend an amendment shall always be in order but shall be limited to a single amendment of an amendment.

18. Excusal from Attendance. No member shall be excused from attendance at a Council meeting, except upon roll call, and by a vote of the majority of the members present.

19. Excusal During Meeting. Any member desiring to be excused while Council is in session shall obtain such permission from the presiding officer.

20. Anonymous Communications. Unsigned communications shall not be introduced in Council meetings.

21. Auditor and Employees. The Auditor and other officers and employees of Council shall be under the control and direction of the Chair during the sessions of Council.

22. Petitioners to Pay Costs. Whenever application is made for the grant of a franchise right, change of street name, amendment of zoning ordinance, street vacation, or for any other grant, right, franchise, or privilege, resulting in special benefit to the applicant, the Auditor shall require an amount estimated to be sufficient to pay the costs of any advertising, recording, printing, mimeographing or other special services arising by reason of such application. Any unused balance of such deposit shall be refunded to the petitioners on voucher of the Auditor.

23. Election of Officers. A majority of all members elected to the Council shall be required to elect a President and Vice-President.

24. Claims and Accounts: Allowance of. All demands, claims or accounts against the City of Gwinner shall be handled as set forth in Article V of Chapter 2, Revised Ordinances.

25. Robert's Rules of Order. Any question of procedure not covered herein shall be governed by Robert's Rules of Order.

26. Standing Rules: How Changed. No standing rules of order of the Council shall be repealed, rescinded, changed, or suspended except by a vote of the two-thirds (2/3) majority of the members of the Council; nor shall any new rule be added thereto except by like vote.

27. Liability of City. No city officer shall make any account or incur any liability on account of the city without first presenting the same to the Council and obtaining authority therefore.

2-411. PRESIDENT AND VICE-PRESIDENT OF COUNCIL, SELECTION, DUTIES OF. The City Council shall at the first regular meeting after the annual election in each year elect from its own members a President and Vice-President, who shall hold office for the municipal year. The President of the Council shall, in the absence or temporary disability of the Mayor, be presiding officer of the Council and shall during the absence of the Mayor from the City or his temporary disability be acting Mayor and shall possess all powers of Mayor. In the absence or disability of the Mayor and President of the Council, the Vice-President shall perform the duties of Mayor and President of the Council.

2-412. APPOINTMENT OF COMMITTEES AND OFFICERS. The Mayor shall, as soon as practicable after his election, appoint the following standing committee, consisting of three (3) members each:

1. Buildings, grounds, and equipment
2. Streets and Alleys
3. Water and Sewer
4. Police and personnel

2-413. SPECIAL POLICEMEN, APPOINTMENT OF. The Mayor may in case of emergency or necessity appoint such special policemen as he may deem necessary for the preservation of the peace and good order of the City, which special policemen when appointed shall take oath as prescribed by law, and which appointment is subject to the approval of the City Council at its next regular session and in conformity with the City Ordinances and resolutions relative to appointments, and the appointment of special policemen.

2-414. MAYOR, POWER TO KEEP THE PEACE. The Mayor shall have power, when necessary, to call male inhabitants of the City over the age of eighteen (18) years to aid in enforcing the laws and ordinances of the City.

2-415. MAYOR MAY SUPPRESS DISORDER AND KEEP PEACE. The Mayor may exercise within the city limits the power conferred upon a sheriff to suppress disorder and keep the peace.

#### ARTICLE V. BILLS OR CLAIMS AGAINST THE CITY

2-501. DUTIES OF FINANCE COMMITTEE. The City Council shall review and audit all bills, claims and accounts against the City of Gwinner.

2-502. ITEMIZED STATEMENT, CERTIFICATE. No bill, claim or account against the City of Gwinner, except fixed salaries of officials and employees whose positions are continuing, shall be approved by the City Council or paid by the City Auditor unless an itemized voucher or bill shall have been filed and certified in substantially the following form:

#### CERTIFICATE

I do hereby certify that the within bill, claim, account or demand is just and true; that the money therein charged was actually paid for the purpose therein stated; that the services therein charged were actually rendered and of the value therein charged, and that no part of such bill, claim, account or demand has been paid; and that the goods therein charged were actually delivered and were of the value charged.

Department Approval  
Goods Received-Services Performed

Sign and Date Here

---

Official Position

If signed for a firm or company, show authority on this line.

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2-503. APPROVAL OF CLAIMS; BY WHOM. Every bill, claim or account coming before the City Council for consideration and approval except as otherwise provided, shall bear the approval of the head of the department for which the expense was incurred, and shall have been checked by the City Auditor as to correctness of extensions and additions.

2-504. EXAMINATION, INVESTIGATION, UNDISPUTED BILLS: HOW APPROVED. Before any bill, claim, or account is allowed and approved by the City Council, any Alderman may examine and question any bill, claim or account and may request the same held for further investigation. Such bills as are not questioned or held for further investigation may be approved by a single motion to cover all the bills, claims and accounts which have been found to be correct and proper charges against the City. The City Auditor shall certify on each bill, claim or account the date of approval and the amount for which the bill was approved by the City Council.

2-505. RECORDS KEPT REGARDING APPROVED BILLS. Except in the case of disputed or questioned bills, claims or accounts, the City Auditor's certificate showing the date of approval and the amount allowed by the City Council, shall constitute all the record required covering the consideration which has resulted in its approval. The minutes shall show any action taken by the Council in the case of disputed or questioned bills.

#### ARTICLE VI. PENALTY

2-601. PENALTY FOR FALSE CLAIM. Every person, firm or corporation who shall falsely certify and file with the City Auditor any false or fraudulent bill, claim or account against the City of Gwinner, or who shall violate any of the provisions of this article, shall upon conviction thereof be subject to fine of not exceeding Five Hundred Dollars (\$500.00) or imprisonment for a period of not exceeding Thirty (30) days, or both such fine and imprisonment in the discretion of the Court.

#### ARTICLE VII. FUNDS OF THE CITY



2-701. FUNDS. There is hereby established the following different funds for the said City of Gwinner:

**GENERAL FUNDS:**

General Government  
Public Safety  
Health and Sanitation  
Streets and Alleys  
Street Lighting  
Contingent  
Equipment Replacement  
Auditor special  
Water and sewer

**SPECIAL FUNDS:**

Library  
Airport  
Cemetery

**ARTICLE VIII. MODE OF CONDUCTING SPECIAL ELECTIONS**

2-801. SPECIAL ELECTION. That the City Council may by resolution order a special election when same becomes necessary for any reason.

2-802. NOTICE AND POLLS OPEN. That notice of said special election be given and said election be conducted in all things in the same manner as is now provided by the laws of the State of North Dakota, and the ordinances of this City, for the conduct of the regular annual city election, except when such special election is called on the same day as a general or primary election or other state wide election in which event the polls shall remain open during the hours that the polls are to remain open for such general or primary or other state wide election as the case may be.

2-803. PETITION OF CANDIDATES. That candidates for office to fill vacancies for which such special election may be called shall file petitions of nomination in the same manner and within the time prior to election date, as is now provided by law for candidates for office at the regular annual elections.

**ARTICLE IX. MISCELLANEOUS**

2-901. MAINTAINING CITY OFFICE ROOMS, EXPENSE OF. The City shall at its own cost, furnish, maintain, heat and light office rooms for the following named City officers: Municipal Judge, Chief of Police, Superintendent of Waterworks and Sewerage, and Street Commissioner.

2-902. OFFICIALS TO SUBMIT RECORDS TO WHOM. All officers, agents, or employees of the City shall at all times when required by the City Council, submit the books and papers of their respective offices and make a report of their transactions in such offices to the Mayor, City Council, or any standing or special committee thereof as the Council may direct.

2-903. OFFICIAL NEWSPAPER. The City Council shall annually, at its first meeting in May, or as soon thereafter as practicable, designate some newspaper published in the City as the Official Newspaper of the City of Gwinner and in such manner as is provided by the Law of the State. After any ordinance, notice, resolution or other proceeding has been published, a copy of the resolution, notice or ordinance publication, together with the affidavit of publication stating the length of time it has been published, shall be filed with the City Auditor. Such affidavit shall be conclusive evidence of the publication. The bill for the publication shall not be audited until such affidavit is filed.

2-904. FEES TO BE PAID FOR PUBLICATION IN OFFICIAL NEWSPAPER. The fees to be paid for any official publication shall not be in excess of that prescribed by the Law of the State for such publications.

#### ARTICLE X. CITY PROPERTY

2-1001. CITIES BUILDINGS: CONTROL OF. All City buildings, including the Fire Hall, Community Center and Police Station, shall be under the direct control of the Mayor and Council, and shall be subject to such regulations as shall be from time to time adopted relative thereto.

2-1002. SAME: OFFICES IN. The City Fire Hall shall be used by the Fire Department and the Police Department and for such further use as the Council may deem advisable and as would be consistent with the use of the Fire and Police Departments. The Fire Department and all property pertaining thereto shall be kept in the Fire Hall and the Fire Department shall have the right with its members to use and occupy that portion of the City Fire Hall and meeting room, all of which shall be under the direct charge of the Chief of the Fire Department.

2-1003. SALE OR LEASE OF CITY PROPERTY. If the City Council intends to convey, sell, or otherwise dispose of any municipal property, whether real or personal, and the property is estimated by the City Council to have a value of less than Five Thousand Dollars, said property may be sold at private sale by resolution of the City Council. In all other cases, the property may be sold, conveyed, or disposed of only at public sale; excepting, however, that real property may also be sold by nonexclusive listing agreements as provided in N.D.C.C. 40-11-04.2; and further excepting, however, that the City may sell property to another governmental unit by private sale in order to provide for the public welfare and in furtherance of proper governmental functions.

If the City Council intends to lease any municipal property, the council shall first, in its discretion, determine the minimum rental to be charged for said property, and may then lease said property for at least that amount by private agreement or by calling for bids. The council may accept or reject offers in excess of said minimum rental for good cause. If no acceptable offers are received, the City Council may then in its discretion, reduce the minimum rental to be charged for such property.

#### ARTICLE XI. DESTRUCTION OF BONDS, COUPONS, ETC.

2-1101. DOCUMENTS: WHICH MAY BE DESTROYED, DEFINED. The documents referred to in Sections 2-1102 and 2-1103 shall be construed to mean all bonds, bond coupons for interest, warrants, special assessment warrants, and any and all other documents evidencing debt and made or executed by the City of Gwinner; such documents do not include the following records which shall not be destroyed: 1) governing body's proceedings, 2) receipt and expenditure journals, and 3) payroll records.

2-1102. SAME: TIME TO BE KEPT. No such documents as hereinbefore defined shall be destroyed as hereinafter provided until ten (10) years have elapsed after their payment; provided that no such documents shall be destroyed until the right of action to determine the validity of such documents has run.

2-1103. SAME: PROCEDURE FOR DESTRUCTION. The governing body of the City of Gwinner desiring to destroy such documents as hereinbefore set forth shall at its first meeting in January of each year procure from the City Auditor a list of such documents which have been paid more than ten (10) years prior to such time or against which the right of action to determine the validity of such documents has run, which said list shall contain a full statement and description of the documents desired to be destroyed and thereupon shall check said documents with such lists, and if found correct the said governing body shall be resolution order that said documents be destroyed and shall in said resolution provide the manner of such destruction. The list provided for in this section shall be filed in the office of the City Auditor and retained as a permanent record.

2-1104. DESTRUCTION OF CITY RECORDS. After the same have first been offered to the State Historical Society, the City Auditor shall destroy by burning any of the following records, forms, or blanks after the same have become ten (10) years old:

1. Election poll books;
2. Election registration books;
3. Petitions of candidates;
4. All election forms, blanks, books, and records of any kind and description except abstracts of votes;
5. Assessment slips;
6. Claims vouchers which have been audited and paid;
7. Certificates of officials' bonds; and
8. Insurance policies which have become obsolete.

12.2014