

PROCEEDINGS OF THE STURGIS CITY COUNCIL

The Common Council of the City of Sturgis met in regular session starting at 6:00 p.m. on Monday, December 19, 2016 at the Erskine Building. Present: Mayor Mark Carstensen, Alderpersons Jason Anderson, Mike Bachand, Rhea Crane, Rod Bradley, Tony Dargatz, Steve Keszler, David Martinson and Ronald Waterland. Also present: City Manager Daniel Ainslie and City Attorney Greg Barnier. Absent: None.

Motion by Dargatz, second by Crane and carried with all members present voting yes to approve the agenda with the exception of tabling 10c-Scott Sabers variance.

Motion by Martinson, second by Keszler and carried with all members present voting yes to go into executive session for two legal cases, two contracts and two personnel at 6:01 pm.

Motion by Bachand, second by Dargatz to return to regular session at 6:28 pm.

Mayor Mark Carstensen led everyone in the Pledge of Allegiance.

Announcements:

- Ambulance Director Shawn Fisher and Mayor Mark Carstensen presented 8 diplomas to Paramedic Students that completed the online paramedic classes.
- Mayor Carstensen presented a check for \$1608 to the Sturgis Optimist Toy Drive from City Employees.

Informational Reports:

- Library Board – 11/30/16 minutes
- Change of date of first meeting in January 2017 from January 3rd to January 9th.

City Manager Ainslie reported:

- Payroll Changes – within budget:
 - 1.Planning Coordinator – Laura Abernathy - \$21.52.
 - 2.Community Center – Front Desk Attendant – Josie Berglund - \$8.75.

Motion by Bradley, second by Waterland and carried with Carstensen, Anderson, Bachand, Bradley, Crane, Keszler, Martinson and Waterland voting yes, Dargatz abstaining, to approve the following items on the consent calendar with the exception of the removal of f:

- a. Consideration to approve the minutes from the December 5, 2016 regular council
- b. Consideration to approve Resolution 2016-68 – Plat of Tract A & B of Sturgis Dragway Subdivision

**RESOLUTION 2016-68
RESOLUTION APPROVING PLAT**

WHEREAS, the statues of the State of South Dakota require that plats of property within the jurisdiction of the City of Sturgis be submitted to the governing body for approval before the same are recorded in the Office of the Register of Deeds; and

WHEREAS, the City of Sturgis Planning and Zoning have presented to the Common Council of the City of Sturgis a plat of the following described real property for Bobby Lee Lippold, Thelma Lippold & Devorah A. Lopez.:

PLAT OF TRACT A REVISED AND TRACT B OF STURGIS
DRAGWAY SUBDIVISION AND DEDICATED PUBLIC RIGHT-OF-

WAY. FORMERLY TRACT A OF STURGIS DRAGWAY
SUBDIVISION AND A PORTION OF LOT 1 OF SECTION 6 AND OF
THE S ½ OF THE NE ¼ OF SECTION 6. ALL LOCATED IN
TOWNSHIP 5 NORTH, RANGE 6 EAST, BLACK HILLS MERIDAN,
MEADE COUNTY, SOUTH DAKOTA

WHEREAS, said plat meets the requirements of the statutes in all things, now therefore,

BE IT RESOLVED by the Common Council of the City of Sturgis, South Dakota, that the
within and foregoing plat is hereby approved.

Dated this 19th day of December, 2016.

Published: 12-28-2016

Effective: 01-18-2017

- c. Consideration to approve write offs of uncollectible water-sewer-garbage accounts
- d. Consideration to approve write offs of checks written in 2015
- e. Consideration to approve Resolution 2016-69 – Contingency Transfer – Insurance & Grants

**RESOLUTION 2016-69
SUPPLEMENTAL APPROPRIATIONS
CONTINGENCY TRANSFERS
INSURANCE AND GRANT SUPPLEMENTS
2016 FISCAL BUDGET**

WHEREAS, it appears that there will be insufficient funds in the 2016 Budget, to carry out the
indispensable functions of government. It is proposed that the following Supplemental Contingency Transfer
Appropriations and Insurance and Grant supplements be adopted. This will become effective immediately
upon passage.

CONTINGENCY:

FROM: 101-41100-42910 Contingency – \$10,000

TO: Planning & Permitting – 101-4196-41100 - Wages - \$10,000

INSURANCE: Police: 101-4211-43400 Machinery and Equipment - \$32,384.14

GRANTS: Police: 101-4211-43400 Machinery and Equipment - \$5,632.00

Dated this 19th day of December 2016.

Published: 12-28-2016

Effective: Immediately

~~f. Consideration to approve the Professional Services Agreement with Buxton.~~

Motion by Bradley, second by Waterland and carried with all members present voting yes to
approve the Professional Services Agreement with Buxton.

Motion by Bradley, second by Martinson and carried with Anderson, Bachand, Bradley, Crane,
Dargatz, Keszler, Martinson and Waterland voting yes, Carstensen abstaining, to approve the
following claims: There are 2016 and 2017 claims approved.

WAGES – Ambulance \$25,842.15; Attorney \$3354.50; Auditorium \$183.56; Buildings \$1083.56;
Cemetery \$2555.75; City Manager \$5011.44; Community Center \$10,354.76; Finance Office
\$10,356.63; Fire Department \$199.90; Human Resource \$2525.96; Library \$8633.78; Liquor

\$6596.13; Mayor and Council \$3554.50; Parks \$7823.89; Planning & Permitting \$7230.94; Police \$40,023.47; Rally \$6676.91; Recreation \$3336.19; Sanitary Service \$14,210.17; Streets \$11,966.71; Wastewater \$8802.63; Water \$12,731.71; Federal Withholding \$19,516.08; FICA \$13,975.11.

COMBINED CASH FUND – First Interstate Bank, \$5000.00, ATM cash.

GENERAL – A&B Business, \$346.28, sup; A&B Welding, \$4.96, sup; Mark Alley, \$500.00, insur; Amcon Distributing, \$434.07 merch for resale; Greg Barnier, \$500.00, insur; Bear Butte Valley Water, \$117.10, util; Belle Joli Winery, \$367.50, sup; Elvira Bender, \$500.00, insur; Bentz Equipment, \$1226.32, repair; Ann Bertolotto, \$990.06, insur; BH Chemical, \$859.52, sup; BH Energy, \$14,521.52, util; Buckle Tree, \$195.49, sup; Fay Bueno, \$372.58, insur; Campbell Supply, \$536.88, sup; Mark Carstensen, \$75.00, wedding; Caselle, \$1479.00, prof fee; CBH Cooperative, \$10,320.86, sup; Century Business, \$144.80, repair; City of Sturgis Water Dept, \$1504.19, util; Coca Cola, \$534.50, merch for resale; Creative Product Sourcing, \$3258.73, other; Culligan of the BH, \$38.00, sup; Dakota Hardware, \$287.84, sup; Double Star Computing, \$4481.76, prof fee; Judy Duprel, \$698.00, insur; Kathy Dykstra, \$500.00, insur; EB Communications, \$70.00, repair; Ecolab Pest, \$164.26, maint; Epic Outdoor Advertising, \$1100.00, rental; First Interstate Bank, \$45,025.85, sup; Godfrey Brake Service, \$156.40, repair; Great Western Tire Co, \$231.95, repair; Holiday Inn Express, \$175.00, other; Homeslice Media Group, \$2680.00, prof fee; Jake's Collison Repair, \$3056.00, repair; KT Connections, \$952.28, prof fee; Ron Ledford, \$30.00, other; Lynn's, \$126.26, sup; Meade Co Auditor, \$4193.65, util; Midco Business, \$117.60, util; Mobile Mini, \$88.54, sup; Montana Dakota Utilities, \$6078.18, util; Motionsoft, \$450.00, prof fee; Nebraska Salt & Grain, \$1977.71, sup; Northern Hills Vet Clinic, \$559.60, prof fee; Brad Olson, \$317.68, insur; Owens Interstate, \$964.69, sup; Julie Peterson, \$54.78, other; Petty Cash, \$51.20, other; Marty Plaggemeyer, \$500.00, insur; Regional Health, \$25.00, prof fee; Robert Sharp & Assoc, \$1001.15, publ-rally; Rushmore Office Supply, \$555.95, sup; Sacrison Asphalt, \$489.60, sup; Sand Creek Printing, \$514.41, sup; Sanitation Products, \$175.20, repair; SD Dept of Corrections, \$61.20, other; SD State Bar, \$415.00, prof fee; Servall Towel, \$410.59, sup; Shopko, \$191.74, sup; Signs Now, \$1878.50, merch for e-comm; Carter Smith, \$403.20, insur; Heath Soelzer, \$24.17, refund; Christina Steele, \$500.00, insur; Sturgis Coffee Co, \$627.90, sup; Sturgis Napa, \$1629.77, repair; Sturgis Optimist Toy Drive, \$1608.00, employee donation; Summerset Police Dept, \$4500.00, equip; The Knuckle Saloon, \$1610.00, other; Titles of Dakota Appraisal, \$4000.00, prof fee; Tom's T's, \$319.92, sup; Town-N-Country Plumbing, \$157.35, repair; Steve Tucker, \$500.00, insur; Turbiville Industrial Electric, \$24.20, repair; Twilight First Aid, \$149.56, sup; Vast Business, \$2020.59, util; West Payment Center, \$207.93, prof fee; West River Electric Assn, \$236.43, util; Jacob West, \$82.00, refund; Western Communications, \$1155.00, repair; Kathryn Wood, \$95.34, sup.

SPECIAL SALES TAX – Montana Dakota Utilities, \$21.75, util; Vast Business, \$320.50, util.

CAPITAL IMPROVEMENT – Baseline Surveying, \$1400.00, improve; Dakota Hardware, \$28.47, improve; First Interstate Bank, \$10.00, improve; Fourfront Design, \$3274.35, improve.

BUSINESS IMPROVEMENT DISTRICT – Campbell Supply, \$40.26, sup.

LIQUOR – A&B Welding, \$10.23, sup; Amcon Distributing, \$660.33, cig for resale; Arctic Glacier USA, \$180.41, merch for resale; Belle Joli Winery, \$588.00, off sale liquor; BH Chemical, \$52.95, repair; BH Security & System, \$252.86, other; Cask & Cork, \$447.66, off sale liquor; City of Sturgis Water Dept, \$267.61, util; Coca Cola, \$938.75, pop for resale; Dakota's Best Distributing, \$147.00, snacks for resale; Double Star Computing, \$153.33, prof fees; Ecolab Pest, \$110.75, repair; Fat Boys, \$1581.00, off sale liquor; First Interstate Bank, \$5058.02, ATM cash; Fisher Beverage, \$3828.47, off sale beer; Gold Pan Pizza, \$86.28, refund; Homeslice Media Group, \$5942.00, publ; Johnson Western Wholesale, \$7957.21, off sale liquor; KT Connections, \$67.93, prof fee; Jerry Klusak, \$432.92, insur; LPA Retail Systems, \$1030.00, prof fee; M&B Enterprises, \$169.00, snacks for resale; Mobile Mini, \$209.93, sup; Montana Dakota Utilities, \$184.63, util; Okoboji Wines, \$33.00, off sale liquor; Quality Brands of BH, \$5780.64, off sale beer; Republic Beverage Co, \$33,159.58, off sale liquor; Roscoz, \$12.00, refund; Rushmore Office

Supply, \$383.17, sup; Servall Towel, \$271.29, sup; Southern Glazer's of SD, \$1080.15, off sale liquor; Vast Business, \$287.33, util; Weimer's Diner, \$85.00, merch for resale.

WATER SYSTEM OPERATIONS – Armstrong Extinguishers, \$25.00, repair; BH Energy, \$9364.18, sup; Buckle Tree, \$84.98, sup; Campbell Supply, \$121.38, repair; CBH Cooperative, \$507.91, sup; City of Sturgis Water Dept, \$157.45, util; Credit Collections Bureau, \$55.83, prof fee; Dakota Hardware, \$19.19, sup; Double Star Computing, \$239.58, prof fee; First Interstate Bank, \$168.32, repair; G&H Distributing, \$235.73, repair; Grocery Mart, \$3.39, sup; Hawkins, \$5481.50, repair; HD Supply Waterworks, \$1038.00, sup; Midcontinent Testing Lab, \$147.00, prof fee; Mobile Mini, \$44.27, sup; Montana Dakota Utilities, \$258.10, util; North Central Supply, \$360.00, sup; Owens Interstate, \$19.44, repair; Petty Cash, \$16.89, sup; Rushmore Office, \$100.99, sup; Sand Creek Printing, \$128.08, sup; SD Assn of Rural Water, \$1200.00, prof fee; SD DENR, \$48.00, travel; Servall Towel, \$23.90, repair; Kyle Stumpf, \$346.68, insur; Sturgis Napa, \$64.95, repair; Vast Business, \$140.32, util.

WASTEWATER – American Engineering Testing, \$1838.80, prof fee; Campbell Supply, \$44.00, sup; CBH Cooperative, \$17.00, sup; City of Sturgis Water Dept, \$21.50, util; Double Star Computing, \$239.58, prof fee; KT Connections, \$67.93, prof fee; PKG Contracting, \$117,357.60, cap impr; Sand Creek Printing, \$128.08, sup; SD DENR, \$48.00, prof fee; Sturgis Napa, \$5.80, repair; Twilight First Aid, \$29.18, sup.

SANITARY SERVICE – Andrew Barff, \$279.48, insur; BH Energy, \$12.00, util; Butler Machinery, \$1208.14, repair; Campbell Supply, \$24.97, repair; Century Business, \$279.40, prof fee; City of Belle Fourche, \$19,327.21, other; Dakota Hardware, \$31.99, repair; Dale's Tire, \$484.52, sup; Diesel Machinery, \$688.18, repair; Double Star Computing, \$239.58, prof fee; First Interstate Bank, \$146.79, insur; Great Western Tire, \$1591.54, sup; KT Connections, \$67.93, prof fee; Kieffer Sanitation, \$1026.00, other; Owen's Interstate, \$603.06, repair; Rushmore Office, \$23.10, sup; Sand Creek Printing, \$128.08, sup; Sheehan Mack, \$170.97, repair; Sturgis Napa, \$693.25, repair; Swana, \$212.00, prof fee; Twilight First Aid, \$29.19, sup; West River International, \$62.88, repair.

AMBULANCE – A&B Welding, \$290.94, sup; BH Energy, \$672.89, util; City of Sturgis Water Dept, \$55.33, util; Coca Cola, \$8.04, sup; Dakota Hardware, \$80.90, sup; Double Star Computing, \$153.33, prof fee; First Interstate Bank, \$2005.80, sup; KT Connections, \$67.93, prof fee; Lynn's Dakotamart, \$18.99, sup; Montana Dakota Utilities, \$184.72, util; Regional Health, \$89.00, prof fee; Simpson's Printing, \$5644.00, other; Sturgis Napa, \$86.64, repair; Vast Business, \$166.74.

Motion by Waterland, second by Dargatz and carried with all members present voting yes to approve a one year Use on Review for Brandy Nikkila for an in-home daycare at 2020 and 2030 Park Ave.

Motion by Bradley, second by Bachand and carried with all members present voting yes to approve an 8' 9" east side setback variance for MHI Investments for a carport structure at 1423 Main. There will be a fine to the landowner and contractor for building this structure without a building permit.

Motion for a variance for Scott Sabers for all setbacks at 2327 Junction Ave was tabled.

Motion by Waterland, second by Crane and carried with all members present voting yes to approve second reading of Ordinance 2016-12 - Title 14 – Parks and Recreation.

ORDINANCE 2016-12

AN ORDINANCE AMENDING TITLE 14- PARKS

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 14 –Parks Chapter 14.01 General Provisions-Section 14.01.01 Scope and Purpose; 14.02 – Park Board-Section 14.02.01 - Park Board Established; 14.02.02 - Members, Appointment, Compensation, Bond; 14.02.03 - President, Vice President, Secretary; 14.02.04 – Meetings; 14.02.05 - Powers and Duties; 14.02.06 - Under Authority of City Manager; 14.02.07 - Duties of the President; 14.02.08 - City Council may Prescribe Rules; 14.02.09 - City Manager may Close Park Areas; 14.02.10 - Illegal to Enter Closed Park. Chapter 14.03 – Section 14.03.01 - Lease Agreement and Liability Waiver Required; 14.03.02 – Fees; 14.03.03 - Ticket Sales ; 14.03.04 - Deposit Required; 14.03.05- Surety Bond; Chapter 14.04- Section 14.04.01 - Power and Authority. Chapter 14.05- Urban Forestry Board - Section14.05-01 - Creation of Board and Statement of Purpose; 14.05.02- Urban Forestry Board Established; 14.05.04 - Trees on Public Property; 14.05.07 - Interference with City Parks Department; Chapter 14.06 – Rules and Regulation - 14.06.01: Hours; 14.06.02: Illegal to Enter or Remain; 14.06.03: Deposit Required for Use of Shelters; 14.06.04: Pets and Animals; 14.06.05: Wildlife and Vegetation; 14.06.06: Metal Detectors 14.06.07; Authority of City Park Board to Regulate. Chapter 14.07 – Appeal Process be amended to read as follows:

TITLE 14 PARKS

Chapters:

- 14.01: General Provisions
- 14.02: Park Board
- 14.03: Use of the Fairgrounds
- 14.04: Authority of Chief of Police to Limit Motor Vehicles in Parks
- 14.05: Urban Forestry Board
- 14.06: Rules and Regulations
- 14.07: Appeal Process

Chapter 14.01 GENERAL PROVISIONS

SECTIONS:

- 14.01.01: Scope and Purpose
- 14.01.02: Definitions
- 14.01.03: Penalty

14.01.01: SCOPE AND PURPOSE

The purpose of this Title is to set forth those regulations necessary for the administration, maintenance, management and operation of the City Parks Areas.

Chapter 14.02 PARK BOARD

SECTIONS:

- 14.02.01: Park Board Established
- 14.02.02: Members, Appointment, Compensation, Bond
- 14.02.03: President, Vice President, Secretary
- 14.02.04: Meetings
- 14.02.05: Powers and Duties
- 14.02.06: Under Authority of City Manager
- 14.02.07: Duties of the President
- 14.02.08: City Council may Prescribe Rules
- 14.02.09: City Manager may Close Park Areas
- 14.02.10: Illegal to Enter Closed Park

14.02.01: PARK BOARD ESTABLISHED

There is hereby created for the City, a Park Board consisting of five (5) members. An additional liaison position shall be filled either the Mayor or a member of the City Council.

14.02.02: MEMBERS, APPOINTMENT, COMPENSATION, BOND

All members of the Park Board shall be appointed by the City Manager and confirmed by the City Council. The term of each of the appointed members shall be for three (3) years. Thereafter, appointment of each member shall be for terms of three (3) years so that there will be an overlapping of tenure. The members of the Park Board are to serve without compensation. Each member of the Board before entering upon his official duties shall take and file an oath in the Finance Office in the usual form required from such appointive officers of the City to uphold City ordinances and the laws of the state.

14.02.03: PRESIDENT, VICE PRESIDENT, SECRETARY

The Board shall elect from its number a President, Vice President, each of whom shall serve for a term of one (1) year or until a successor is elected and qualified, except and unless the said officer so elected is removed from the Park Board before the end of his or her term. The Board shall also designate a Secretary. Said Secretary does not need to be a member of the Board.

14.02.04: MEETINGS

The Vice President shall act in the absence or disability of the President.

In the event of death, retirement or removal of an officer from the Park Board, a successor shall be elected immediately.

The Secretary of the Board shall keep a record of its proceedings to be filed promptly after preparation with the City Finance Office made available upon request as required by City policy and state law.

The Park Board shall determine the time of its regular meetings and the number, and the board may hold as many special meetings as it deems proper.

Three (3) members shall constitute a quorum for the transaction of business, but an affirmative vote of at least three (3) members shall be necessary to authorize any action of the Board. All officers of the Park Board shall vote on all matters along with other members of the Board.

14.02.05: POWERS AND DUTIES

The Park Board shall have all the combined powers and duties that a Park Board would have as provided by Chapter 9-38 of the Statutes of the State of South Dakota, and acts amendatory thereto.

14.02.06: UNDER AUTHORITY OF CITY MANAGER

The Park Board shall be under the control and supervision of the City Manager and any City funds to be expended for the management, supervision and improvement of the City parks areas shall be spent only upon following City purchasing policy and within the adopted Parks budget which shall be reviewed by the Park Board and approval by the City Council. All vouchers submitted for expenditures for the management, supervision and improvement of the City parks areas shall be available for review by the Park Board at a regular or special meeting and submitted to the City Council for its approval or rejection.

14.02.07: DUTIES OF THE PRESIDENT AND THE BOARD

It shall be the duty of the President of the Park Board to preside at all meetings of the Park Board. It shall be the duty of the Board to report to the City Council, upon request, advising the Council of all

actions taken by the Park Board. Each year, the Board shall present to the City, a budget for the recommended and estimated expenditures for the operation and improvement of the City's park system for the following calendar year.

14.02.08: CITY COUNCIL MAY PRESCRIBE RULES

The City Council may direct the City Manager to prescribe any rules, regulations, and responsibilities of the said Park Board by amendment to this Title.

14.02.09: CITY COUNCIL MAY CLOSE PARKS AREAS

The City Council, at its discretion may, by resolution, close any or all of the park areas in the City to any use or activity whatsoever and prohibit any persons except those authorized by the Chief of Police of the City to enter the park area. In the event that the City Council desires to close any park area, it shall consider the recommendation of the City Manager before considering a resolution specifying the park area being closed and the times it shall be closed. During extraordinary circumstances, Park Areas may be closed by the City Manager or Chief of Police until a regularly scheduled City Council Meeting.

14.02.10: ILLEGAL TO ENTER CLOSED PARK

It shall be a violation of this Ordinance, subject to the punishment set forth above, for any person to enter any park area that has been closed by the City Council as authorized by this Chapter.

**Chapter 14.03
USE OF THE FAIRGROUNDS**

SECTIONS:

14.03.01: Lease Agreement and Liability Waiver Required

14.03.02: Fees

14.03.03: Ticket Sales

14.03.04: Deposit Required

14.03.05: Liability Wavier and Release from Liability

14.03.06: Liability Insurance

14.03.01: LEASE AGREEMENT AND LIABILITY WAIVER REQUIRED

No person may use the Fairgrounds of the City, or any other City owned property designated by the City Manager to fall under the provisions of this Chapter, for any purpose whatsoever, without first signing a Lease Agreement and/or a Liability Waiver and Release from Liability, as the City deems necessary based upon the anticipated use.

In the event the fairgrounds or any other City owned property designated by the City Manager to fall under the provisions of this Chapter, are being used for an event, said person shall also agree that all event participants shall sign waivers provided by the City.

In the event said person is using the fairgrounds or any other City owned property designated by the City Manager to fall under the provisions of this Chapter, for practice of an activity, but not an event, said person shall sign the Liability Waiver and Release from Liability.

Upon City Manager approval of the use of the facility, the Lease Agreement and Liability Waiver and Release from Liability forms will be provided for applicant's signature and upon completion maintained on file at the City Finance Office.

14.03.02: FEE

No person shall be entitled to use the Fairgrounds or any other City owned property designated by the City Manager to fall under the provisions of this Chapter, without either paying a fee set by the City or by making arrangements in the form of a written rental agreement with the City for use of the property by contribution of labor and/or materials in lieu of a fee.

14.03.03: TICKET SALES

Each lease contract may include a ticket sales and expense reporting requirement. If not stated within the lease contract, then within fifteen (15) days from the completion of the event, lessee may provide an accounting to the City of all tickets sold and all other revenue received for the use of the Fairgrounds. In the event that labor and/or materials are contributed in lieu of cash, then the contribution of labor and/or materials shall be made at the time and in a manner specified in the lease contract for that use.

14.03.04: DEPOSIT REQUIRED

The City Manager may require as a condition for the use of the Fairgrounds, or any other City owned property designated by the City Manager to fall under the provisions of this Chapter payment of a deposit in the sum of One Thousand Dollars (\$1000.00) in addition to the amount required in the rental agreement.

The deposit shall be returned to the applicant/lessee within ten (10) days after the end of the lease term set forth in the Lease Agreement, provided that the applicant/lessee has cleaned the premises within forty-eight (48) hours after the end of the lease term, and left the premises in the same condition as it existed at the commencement of the lease term.

In the event, any damage has occurred to the premises during the term of the lease, whether said damage was caused by applicant/lessee or a guest or invitee; the City shall deduct the cost of any damage from the deposit. The balance, if any, shall be returned to the applicant/lessee.

14.03.05: LIABILITY WAIVER AND RELEASE FROM LIABILITY

The Liability Waiver and Release from Liability required by the City to be signed by all persons using the fairgrounds or any other City owned property designated by the City Manager to fall under the provisions of this Chapter, and all event participants shall include language to address the following concerns which shall apply to all event participants and his/her/its heirs and/or assigns.

- A. Any person signing said document will immediately upon entering the premises inspect the area and agree that if at any time he/she feels that anything on the premises is unsafe, he/she will immediately advise the Parks Director and will leave the area until the condition is remedied.
- B. Any person signing said document waives, discharges, and covenants not to sue the City or any department thereof or any lessees of the Sturgis Fairgrounds and its directors, officers, agents and employees.
- C. Any person signing the document agrees to indemnify and save and hold harmless the RELEASEES from any loss, liability, damage, or costs they have incurred arising out of or related to the use of said property whether caused by the negligence of the RELEASEES or otherwise.
- D. Any person signing the document assumes full responsibility for any risk of bodily injury, death or property damage arising out of or related to the use of the designated properties.
- E. Any person signing the document agrees that the document, extends to all acts of negligence by the RELEASEES.

AUTHORITY OF CHIEF OF POLICE TO LIMIT MOTOR VEHICLES IN PARK AND RECREATION AREAS

SECTIONS:

- 14.04.01: Power and Authority
- 14.04.02: Sturgis Bike Path
- 14.04.03: Bear Butte Creek
- 14.04.04: Exemptions
- 14.04.05: Racing and Competitive Competition Prohibited

14.04.01: POWER AND AUTHORITY

The City Manager, after consultation with the Chief of Police and Parks Superintendent, shall have the power and authority, when deemed necessary for public health and safety, to determine the types and numbers of motorized vehicles allowed in the parks area of the City at any time. In the event the City Manager deems it necessary to limit the number and/or type of motorized vehicles in any park area in the City, he shall cause to be posted at the entrance to the park area affected by the restriction, a sign providing for the types of vehicles allowed and the period of time for which the restriction is imposed.

CHAPTER 14.05 URBAN FORESTRY BOARD AND TREES

SECTIONS:

- 14.05.01: Creation of Board and Statement of Purpose
- 14.05.02: Urban Forestry Board Established
- 14.05.03: Street Trees
- 14.05.04: Trees on Public Property
- 14.05.05: Trees on Private Property
- 14.05.06: Storage of Wood
- 14.05.07: Interference with City Parks Department

14.05.01: CREATION OF BOARD AND STATEMENT OF PURPOSE

The City hereby finds and determines that in order to protect existing neighborhoods, promote good design in new areas, and provide for sensitive and compatible development in existing commercial areas, the Urban Forestry Board shall be created to review and make recommendations on City tree plans and developed, created, or approved by the City Park Board. The purpose and intent for regulating the planting, removal, and maintenance of trees, brushes, shrubs, and other woody vegetation, on public and private property are threefold:

- A. To protect and increase property rights and values;
- B. To enhance and conserve the City's aesthetic environment and physical characteristics of the land.
- C. To generally protect and enhance the quality of life and general welfare of the City.

14.05.02: URBAN FORESTRY BOARD ESTABLISHED

There is hereby created and established an Urban Forestry Board, which shall consist of five (5) persons. Members of the City Park Board may also be appointed to the Urban Forestry Board..

It shall be the responsibility of the Board to review and make recommendations on the City tree plan.

The Board shall consider, investigate and make findings, reports and recommendations upon any special matter or question coming within the scope of its work.

14.05.04: TREES ON PUBLIC PROPERTY

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within public right-of-way and on public grounds, as it may determine.

Any living tree within the public right-of-way and on public grounds shall not be removed without permission from the City Manager or his/her designee.

- The minimum height of branches extending over the sidewalks in the City shall be seven (7) feet.
- The minimum height for branches extending over the public right-of-way shall be fourteen (14) feet.

The City Manager may remove or cause or order to be removed, any tree or part thereof which is in unsafe condition or which by reason of its nature is injurious to private property, sewers, electric power lines, gas lines, water lines or other public improvements, or is infested with any pest. This Section shall not prohibit the planting of street trees by owners of adjacent property provided that the selection and location of said tree is made in accordance with this ordinance.

14.05.07: INTERFERENCE WITH CITY PARKS DEPARTMENT

It shall be unlawful for any person to prevent, delay, or interfere with any City Department employees or agents engaged in the planting, cultivating, mulching, pruning, spraying, inspecting, or removing of any street trees, park trees or trees on private grounds, as authorized in this Chapter.

**Chapter 14.06
RULES AND REGULATIONS**

SECTIONS:

- 14.06.01: Hours
- 14.06.02: Illegal to Enter or Remain
- 14.06.03: Deposit Required for Use of Shelters
- 14.06.04: Pets and Animals
- 14.06.05: Wildlife and Vegetation
- 14.06.06: Metal Detectors
- 14.06.07: Authority of City Park Board to Regulate

14.06.01: HOURS

The City Parks areas shall be open to the public from 5:00 a.m. to 10: 00 p.m. each day.

14.06.02: ILLEGAL TO ENTER OR REMAIN IN CLOSED PARK AREA

No person, other than law enforcement officers or other individuals participating in activities authorized by the City, may enter, be present in or remain within any City park area, including restrooms, parking areas or other support facility areas within park area boundaries, during the time that such park area is not open to the public. This prohibition does not apply to traffic moving through such park area on a designated and developed public right of way. Any person found in violation of this subsection shall be subject to the penalties as set forth at subsection 14.01.03 herein.

14.06.03: DEPOSIT REQUIRED FOR USE OF SHELTERS

Any person desiring to use any shelter located in any City Park Area shall pay a deposit of twenty dollars (\$20.00) to secure cleanup of the shelter and return of the key. The deposit shall be paid to the Finance Office and shall be returned to the person having paid said deposit upon return of the key and proper cleanup of the Shelter.

14.06.04: PETS AND ANIMALS

Any pet allowed by City Ordinance 32.02.03 and present within any City Park, Bike Path or cemetery shall be on a leash no longer than ten (10) feet. Any person bringing a pet within any City Park, Bike Path or cemetery shall clean up after the pet, consistent with City Ordinance 12.02.01 (CC).

No horses shall be allowed within any City Park, or Bike Path except as authorized by the City Manager or resolution of the City Council.

14.06.05: WILDLIFE AND VEGETATION

Any wildlife and/or vegetation, living or dead, located within any City Park Area shall not be disturbed by any person or any person's pet. All wildlife and vegetation shall be left where found.

14.06.06: METAL DETECTORS

The use of metal detectors or other such devices used to locate buried materials shall be prohibited within any City Park Area unless specifically authorized by the City Manager or her/her designee.

14.06.07: AUTHORITY OF CITY PARK BOARD TO REGULATE

The City Manager shall be authorized to establish any additional rules and/or regulations found by the Board to be necessary to assure the public safety, protection and enjoyment of the City Parks and to maintain the Parks. Any additional rules and/or regulations established by the City Manager shall be posted in the Parks in a manner sufficient to inform the public.

**Chapter 14.07
APPEAL PROCESS**

Any person aggrieved by a decision made under this Title shall be entitled to have said decision reviewed by the City Manager. If after review, the person is unsatisfied, he or she may appeal the decision to the City Council. The process shall be as follows:

- A. An aggrieved person shall first file a written request for review with the City Manager setting forth the basis for which he or she believes the decision to be in error. The writing shall also include the person's name and mailing address.
- B. Upon receipt of a written request for review, the City Manager shall review the decision and mail a written response to the aggrieved person within twenty (20) days.
- C. If the aggrieved person is not satisfied with the decision of the City Manager following review, he or she may file a notice of appeal with the City Finance Officer. There shall be no fee assessed for filing an appeal.
- D. Upon receipt of a notice of appeal, the Finance Officer shall notify the City Council and a public meeting shall be held within thirty (30) days after the date said appeal was filed. The Council shall provide notice to the person specifying the time, date, and location of the meeting to hear the appeal.
- E. The Council may notify the aggrieved person of its decision following the hearing, however, the Council shall issue a written decision to the person within twenty (20) days of the hearing. The Council may affirm or reverse or modify the decision which caused the appeal.

Adopted this 19th day of December, 2016.

First reading: 12-05-2016
Second reading: 12-19-2016
Adopted: 12-19-2016
Published: 12-28-2016
Effective: 01-18-2016

Motion by Bachand, second by Anderson and carried with all members present voting yes to approve second reading of Ordinance 2016-13 - Title 18 – Zoning – In-home businesses and paving.

ORDINANCE 2016-13

AN ORDINANCE AMENDING TITLE 18- ZONING

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 18 – Zoning- Article II Definitions; 18.05.01 Ag.1 – Agricultural and Conservation District; Title 18.05.02 Park- Park Land Zoning; Title 18.05.04 Medium Density Residential Housing; Title 18.05.05 Low Density Residential Housing; Title 18.05.06 R-3 Multi-Family Dwellings, High Density District; Title 18.05.07 MH-1 – Manufactured Single Family-Homes, Moderate Density; Title 18.05.08 MH-1 – Manufactured Single Family-Homes, High Density; Article VII Section 2- Notice Procedure for Applications for Uses on Review, Conditional Uses and Variances be amended to read as follows:

ARTICLE II DEFINITIONS

At Home Business: Any retail or commercial type business offering any goods or services in a residentially zoned district.

TITLE 18.05.01 AG.1 – AGRICULTURAL AND CONSERVATION DISTRICT

A. DEFINITION:

This District is intended to: protect agricultural lands and to preserve the natural beauty and open character of forested and other natural growth areas from incompatible land uses; or a transition area where future development within the municipal limits will likely occur; or an area of transition from heavily developed land to forested lands.

No temporary Merchants.

No temporary structures in association with temporary merchants are permitted in this district.

B. PERMITTED USES:

1. Agricultural uses such as general farming, pasture, grazing, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting, including roadside stands exclusively for the sale of products raised on the premises, but excluding commercial feed lots. All of the above uses shall be conducted on land without more than one residential structure. 2. Transportation and utility easements, utility substations, alleys and public R.O.W.'s. 3. Accessory structures which are utilized for short term storage of products or livestock.

C. USES PERMITTED ON REVIEW:

Uses on review which are agricultural in nature and do not involve the construction of more than one residential structure or are not harmful in nature to the area may be permitted in accordance with provisions of Title 18, Article VII, Section 4.

Uses on review which are campgrounds temporary in nature, the running of which are not harmful in nature to the area, may be permitted in accordance with provisions of Title 18, Article VII, Section 4.

Any structure or use permitted shall be agricultural in nature. 1) Front Yard: All lots in this district shall have a minimum building set back of fifty feet (50'-0") from any public R.O.W. 2) Side Yard: All lots in this district shall have a minimum building setback of 50'-0" from any adjoining property line. 3. Rear Yard: All lots in this district shall have a minimum building setback of not less than 50'-0". 4. Lot Width: All lots used for this zoning designation shall consist of not less than 5 acres. 5. Lot Area: All lots used for this zoning designation shall consist of not less than 5 acres. 6. Maximum Lot Coverage: All lots in this district shall not have more than 5% of its total area covered by permanent structures. 7. Lawn and various vegetation shall be maintained at a height of not more than 8" for at least 5' from any public right of way. The remaining property may be maintained in a natural state where the height is higher than other zones in the Community. All site triangles must be maintained in a safe manner as described in City of Sturgis Ordinances.

E. HEIGHT REGULATIONS: No structure shall exceed two and one-half (2 ½) stories or 50 feet in height.

TITLE 18.05.02 PARK -- PARK LAND ZONING

(E) TEMPORARY STRUCTURES:

TITLE 18 - 29 Temporary canopies, tents, awnings, etc. May be set up on parklands.

1. All temporary structures may not be erected for a period of more than 2 days unless otherwise approved by the City Manager.

TITLE 18.05.04 MEDIUM DENSITY RESIDENTIAL HOUSING

(A) DEFINITIONS:

This is a residential district to provide for medium population density the principal uses of land is for one and two-family residential uses. Certain uses which are more compatible with intensive residential uses than with commercial uses permitted. The city planning commission and city council may permit recreation, religious, education and other related uses in keeping with the residential character of the district on review.

(C) USES PERMITTED ON REVIEW:

The governing body in accordance with provisions contained in Title 18, Article VII, Section 4 may permit the following uses on review:

1. Churches or similar places of worship, with accessory structures but not including missions, revivals, tents or similar structures. (For the purpose of this section, missions, revivals or similar uses shall be known as any activity which takes place outside the permanent structure which causes more traffic, noise etc. than the primary use.) This section is not intended to prohibit activities such as preschool, Sunday school, or similar activities which may take place outside the structure. 2. Schools public or private. 3. Public parks, playgrounds and play fields, and neighborhood and

municipal buildings and uses in keeping with the character and requirements of the district. 4. Libraries, museums, and historical monuments or structures. 5. Utility substations. 6. Golf courses, or country clubs, with adjoining grounds of not less than sixty (60) acres. 7. Cemeteries. 8. A planned residential development as regulated in Title 18, Article, Section 1-a. 9. Home occupations which are clearly incidental in nature and which no display except for regulated signage will be permitted on the exterior of the building being utilized in part for any purpose other described above or as described in Title 18, Article V, Section 10. 10. Day care homes or group homes either for children or adults. 11. Townhomes subject to the regulations set forth in subsection (h) below. 12. At Home Businesses subject to the use on review process outlined in Article VII Section 2.

TITLE 18.05.05 LOW DENSITY RESIDENTIAL HOUSING

(C) USES PERMITTED ON REVIEW:

The governing body in accordance with provisions contained in Title 18, Article VII, Section 4 may permit the following uses on review:

1. Churches or similar or places of worship, with accessory structures but not including missions, revivals, tents or similar structures. (For the purpose of this section, missions, revivals or similar uses shall be known as any activity which takes place outside the permanent structure which causes more traffic, noise etc. than the primary use.) This section is not intended to prohibit activities such as preschool, Sunday school, or similar activities which may take place outside the structure. 2. Schools public or private. 3. Public parks, playgrounds, play fields, and neighborhood buildings and uses in keeping with the character and requirements of the district. 4. Libraries, museums, and historical monuments or structures. 5. Utility substations. 6. Golf courses, or country clubs, with adjoining grounds of not less than sixty (60) acres, but not including miniature courses. 7. Cemeteries. 8. A planned residential development as regulated in Title 18, Article, Section 1-A. 9. Home occupations which are clearly incidental in nature and which no display except for regulated sign will be permitted on the exterior of the building being utilized in part for any purpose other described above or as described in Title 18, Article V, Section 10. 10. Day care homes or group homes either for children or adults. 11. At Home Businesses subject to the use on review process outlined in Article VII Section 2. 12. Townhomes subject to the regulations set forth in subsection (h) below.

TITLE 18.05.06 R-3 MULTI-FAMILY DWELLINGS, HIGH DENSITY DISTRICT

(C) USES PERMITTED ON REVIEW:

1. Accessory buildings such as laundry buildings, recreational buildings, etc. 2. At Home Businesses subject to the use on review process outlined in Article VII Section 2.

TITLE 18.05.07 MH-1 - MANUFACTURED SINGLE FAMILY-HOMES, MODERATE DENSITY

(C) USES PERMITTED ON REVIEW:

1. Accessory buildings such as laundry buildings, recreational buildings, etc. 2. At Home Businesses subject to the use on review process outlined in Article VII Section 2.

TITLE 18.05.08 MH-2 - MANUFACTURED SINGLE FAMILY-HOMES, HIGH DENSITY

(C) USES PERMITTED ON REVIEW:

1. Accessory buildings such as laundry buildings, recreational buildings, etc.
2. At Home Businesses subject to the use on review process outlined in Article VII Section 2.

ARTICLE VII SECTION 2 – NOTICE PROCEDURE FOR APPLICATION FOR USES ON REVIEW, CONDITIONAL USES AND VARIANCES

1. Typical Notice Procedure

Any applicant for a use on review, conditional use or variance shall complete the necessary forms provided by the City Manager or his or her designee. Upon the completion of all required materials, the City shall provide a written notice of the applicant's intentions and an analysis of the impact of the proposal to owners of all parcels located within the area required to receive notice. The notice shall include the scheduled date when the item shall be discussed at the Planning and Zoning Commission. The notice shall state that any recipient opposed to the proposed application should notify the City of Sturgis, and that without giving notice as directed to the City of their objection, the property owner will be understood to have no objection to the application. In addition to the application fee, the applicant shall be responsible at the time of submitting the application for payment of the cost of notice by certified mail to all required parcels as well as an administrative fee of 10% of the cost of notice by certified mail.

2. At Home Business Use on Reviews

The City recognizes that At-Home Businesses can be a part of a healthy, vibrant community. The provisions of this Use on Review Procedure are solely related to the application of this title. These provisions do not in any way override or alter private property use agreements or covenants which may be in existence.

At home businesses are required to proceed with the Use on Review process if any of the following attributes applied:

1. The business would have one or more non-resident employees
2. The business would have one or more customers who would visit the at home business
3. The business would have business inventory, storage, etc. visible from the public right of way
4. The business would create any increase in the amount of traffic, noise or odor typical of a residential neighborhood
5. The business would create a perceived or actual decrease in the expected safety in a neighborhood
6. The business would require any type of land or premises approval from the state or federal government (this does not imply a professionally licensed individual)
7. There has been a verified complaint to the Planning and Permitting Office regarding an At Home Business regarding an impact of similar nature though not specifically listed to those listed above.
8. In no circumstance would a residential camping or home leasing qualify as an at home business requiring a use on review.

During the initial use on review, the applicant shall be required to:

1. Pay all costs associated with the City sending a certified letter to all landowners within 200' of the subject property.

2. Have place on their property in a place clearly visible from the busiest public right of way a sign provided by the City stating that the property is under consideration of a use on review. Said sign shall be placed for not less than 21 days

Following final approval by the Common Council and completion of each 365-day period, the City shall list the At Home Business name, property address and type of business in the monthly community newsletter. The listing shall indicate that the at home business is under its annual use on review. Should there be any complaint throughout the 365-day period or should negative comments arise after the notice in the Community Newsletter, the Planning and Permitting Department shall present the use on review to the Planning and Zoning Commission. Should the Commission approve another year, no further action is required until 365 days has passed. Should the Commission recommend disapproval, the Use on Review denial shall be submitted to the Common Council for final consideration.

Should a business be required to complete a Use on Review process all the following conditions will be applied:

1. Copies of all South Dakota State Sales Tax returns shall be submitted to the City Finance Office (these records shall be retained and considered confidential)
2. No signage on the property (with the exception of vehicles) shall be visible from a public right of way
3. The actual average daily vehicle count of the subject property shall not exceed 1.25 times the AADT (Annual Average Daily Traffic) for the type of subject property. In circumstances where the subject business is of significant importance to the community, the limit maybe extended but shall in no circumstance exceed 3.0 times the AADT for the type of subject property.
4. The subject property shall not create noise beyond the times of 7:00 am through 9:00 pm. In addition, the types of sounds nor the volumes of those sounds created during these hours shall not exceed those typical in a residential neighborhood.
5. No odor beyond that typical of a residential neighborhood shall be permissible.
6. If the business causes an impact to the utility services beyond those typical of a residence, then all utility rates shall be charged as Commercial (two separate unit charges for all City utilities).
7. The County may assess portions of the property at commercial versus residential rates.
8. All Use on Reviews shall be applicable for one year. At the expiration of one year, they shall be completed again.

3. Paving Requirements

A Use on Review can be applied for to allow any property owner in any district to not complete the hard-paving requirement of the construction. In reviewing the application, the Planning and Permitting Staff and Common Council shall consider if the required paving area is connected to a paved public right of way. At no time, should the required hard paving area be less than 30' if it is connected to a paved public right of way. Any approval of the Use on Review will be reviewed if existing conditions change (thereby requiring the paving of the area). Such a cause for a review would be if the adjoining public right of way is paved or if excess dirt and debris is brought onto a public right of way. This Use on Review shall be granted by Planning and Permitting staff with the applicant being able to appeal a denial to the Common Council.

Adopted this 19TH day of December, 2016.

First reading: 12-05-2016
Second reading: 12-19-2016
Adopted: 12-19-2016
Published: 12-28-2016
Effective: 01-18-2017

Motion by Crane, second by Martinson and carried with all members present voting yes to approve second reading of Ordinance 2016-14 - Title 31 – Licensing of Temporary Businesses.

ORDINANCE 2016-14

AN ORDINANCE AMENDING TITLE 31- LICENSING OF TEMPORARY BUSINESSES

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 31 –Licensing of Temporary Businesses- Chapter 31.01 – General Provisions – Section; 31.01.01: Scope and Purpose; 31.01.02: Definitions; 31.01.03: Penalty. Chapter 31.02 - Licensing and Regulation of Vendors, Peddlers, Solicitors, Transient Businesses, Trades and Merchants- 31.02.01: Sales and Marketing within the Right of Way; 31.02.02: Peddling in Parks. 31.02.03: Licensing of Vendors, Peddlers, Solicitors, Transient Businesses, Trades and Merchants; 31.02.03.01: Vendor License Required; 31.02.03.03: Property Vending Map; 31.02.03.04: Fee and Duration of License; 31.02.03.05: Issuance; 31.02.03.07: Exemptions from the Vendor License Fee; 31.02.03.08: Refund Fee for Transient Merchant License; be amended to read as follows:

TITLE 31 LICENSING OF TEMPORARY BUSINESSES

CHAPTERS:

31.01: General Provisions
31.02: Licensing and Regulation of Vendors, Peddlers, Solicitors, Transient Businesses, Trades and Merchants.

CHAPTER 31.01 GENERAL PROVISIONS

SECTIONS:

31.01.01: Scope and Purpose
31.01.02: Definitions
31.01.03: Penalty

31.01.01: SCOPE AND PURPOSE

SDCL 9-34 provides the authority for municipal licensing of many non-traditional businesses which can have a negative impact the health and public safety of residents of a municipality. That legislation specifically allows municipalities to license and regulate activities such as exhibitions, second hand stores, tattoo services, piercing services, fortune tellers and mind readers, auctioneers, transient merchants, peddlers, solicitors, pawnbrokers, ticket scalpers and food preparation and sales. The City of Sturgis, population of about 6,700, is home to one of the largest tourist events in the U.S., the annual Sturgis® Motorcycle Rally™. The event has had an annual attendance estimated to range from 250,000 persons to over 500,000 persons participating. Tourists travel

from across the United States and from other parts of the world to be in the Sturgis community area each year for it. They come to participate in the buying and selling of many and varied items, to attend concert activities, to camp and to travel throughout western South Dakota, and to meet others from around the world and socialize in a unique tourist environment.

The City of Sturgis is the epicenter of the Rally, and faces significant responsibilities in hosting this large event every year. The primary focus of the municipal activities is to provide a safe, healthy and friendly atmosphere that will allow the Rally™ to flourish and grow. To accomplish this aim, the City incurs costs each year of well over \$1,000,000. Those costs are incurred to provide needed trash collection, recycling, water service, sewer service, adequate police and public safety staff, necessary ambulances service and similar needed services. To offset those very substantial costs and avoid an unfair burden on property tax payers in the community, the City has adopted and subsequently revised this ordinance to follow that statutory authority to license and assess fees to those who vend, sell, display and market during the annual Rally™. It is the intent of the Council, in following that statutory authority, that those who operate temporary businesses and who are the primary beneficiaries of the business and marketing that results from a stable Rally™ event will bear the majority of the costs associated with providing and maintaining that safe venue each and every year.

31.01.02: DEFINITIONS

A) **VENDOR**: For the purpose of this Section, a vendor is any person, firm, corporation, partnership association, business, service provider or retailer as defined by SDCL10-45-1, or operating as a retailer as defined in SDCL10-45-1, and not exempt as defined in Subsection 31.02.03.07 herein, not operating throughout the year within the City and which, in conjunction with an event where the City invests more than \$100,000 in hosting the event engages in temporary or transient business in the City selling or displaying goods, wares, merchandise or services, including automated teller services, or a permanent business person, firm or corporation which is located within the City limits away from its or its usual operating place of business and who, for the purpose of carrying on such business, hires, leases, or occupies any room, building, structure, or space for the exhibition or sale of such goods, wares, merchandise, or services during any days of the event. The person, firm or corporation so engaged in business as defined by SDCL 45-10-1, or operating as a retailer as defined in SDCL 45-10-1, unless exempt as defined in Subsection 31.02.03.07 herein, shall not be relieved from the provisions of this Section by reason of association with any local dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with or as a part of or in the name of any local dealer, trader, merchant or auctioneer.

(31.01.02 A, revised by Ordinance 2015-17, effective 1/27/16)

B) **VENDING AREA**: This is defined as the area in which all of the related and supportive activities for the operation of a business granted a temporary business license under this Title can be found. The area shall include the area for keeping all materials, equipment, inventory, components and other items related to the temporary business if located on the same premises. This definition shall also include any area used by the business to assemble, display, market, demonstrate or provide a tryout of any of the goods or services displayed, offered for sale or otherwise made available to consumers the licensed temporary business. The definition shall also include the area for meeting with potential or actual clients, buyers, or customers, and shall also include the space needed to prepare the goods or services for transfer to the client, buyer or customer, as well as all of the area used in any manner for preparing, cooking, serving or consuming any food or other consumable product offered for sale to purchasers or given away at no charge to Rally attendees. The

common area shared by written agreement between three or more food vendors for their customers to be seated at tables and eat the food products they have purchased from those vendors shall not be included as Vending Area.

- C) YEAR: A twelve (12) month period.
- D) BUSINESS: The activity of buying & selling.
- E) OPERATION: In action, functioning, conducting business as defined within SDCL 10-45-1 or acting as a retailer as defined within SDCL 10-45-1.
- F) EVENT: An organized occurrence or happening where the City provides extraordinary services, including but not limited to sanitation services, law enforcement or traffic control. Includes, but is not limited to, the annual Sturgis® Motorcycle Rally™.

31.01.03: PENALTY

A violation of this ordinance may occur daily, and shall be punishable by a civil penalty of 80% of the combined cost of a Vendor License and the Special Sanitation Fee, plus a separate administrative fee of \$75.00, to be paid before a Vendor License can be issued to the vendor in violation. To avoid additional civil penalty fees for each separate day of operation violation of this ordinance, the vendor shall be required to obtain a valid Vendors License from the City Finance Office within 12 hours of the issuance of the Citation. No right to appeal this penalty to the City Council shall exist until the full payment of the penalty assessed against the Vendor has been paid to the City and verified by the Finance Office. Any Vendor exercising the right to appeal this penalty provision shall file its request for refund within 30 days of the issuance of the license, and the Vendor may appear in person at the time of the public hearing before the Council, or may be represented by an attorney licensed to practice in South Dakota. In addition to statements by the Vendor during such public hearing, the Council shall consider and determine the credibility of any written material in regard to the appeal submitted to the Council prior to the close of the public hearing.

The Penalty for a violation of this ordinance for an ATM as identified in Section 31.02.03.04 (B) 2 shall total \$75.00.

Any vendor found to be operating without a Vendor License and Special Sanitation Fee twice within a 24 month period shall be prohibited from obtaining a Vendor License in the future unless the Vendor License application is accompanied by combined payment of the administrative penalty and administrative fee set forth in the preceding paragraph, for each separate violation of this ordinance. Any person or entity who is required to obtain a Vendor License and Special Sanitation Fee and who knowingly allows an unlicensed vendor to conduct or engage in business on property they own or which is subject to their control shall be prohibited from obtaining a Vendor License for a period of 400 days after the date of violation.

In addition to the civil penalty and administrative fee set forth above, a violation of this Title is a Class 2 Misdemeanor, punishable by the maximum punishment set forth by the laws of the State of South Dakota pursuant to SDCL 22-6-2.

In addition, any violation of the provisions of this Title may result in the revocation and/or suspension of any license issued pursuant to any Section of this Title.

CHAPTER 31.02

LICENSING AND REGULATION OF VENDORS, PEDDLERS, SOLICITORS, TRANSIENT BUSINESSES, TRADES AND MERCHANTS

SECTIONS:

31.02.01: Sales and Marketing within the Right of Way

31.02.02: Peddling in Parks

31.02.03: Licensing of Vendors, Peddlers, Solicitors, Transient Businesses, Trades and Merchants

31.02.03.01: Vendor License Required

31.02.03.02: Application

31.02.03.03: Fee and Duration of License

31.02.03.04: Issuance

31.02.03.05: Prohibition of Sale of Glass Beverage Containers and Products

31.02.03.06: Exemptions from the Vendor License Fee

31.02.03.07: Refund Fee for Transient Merchant License

31.02.03.08: Required Documentation of Sales Activities

31.02.01: SALES AND MARKETING WITHIN THE RIGHT OF WAY

No person may display, market, offer in exchange for donation or sale, or sell any goods, services or merchandise in person or from a cart, wagon, automobile, truck or other vehicle in the streets, thoroughfares, or while within any other public Right of Way, of the City. This Section does not apply to the delivery of farm or garden products, where the order for same was placed in advance, nor does it apply to drayage or the delivery of goods sold in the regular course of an established business. Nothing in this paragraph shall prohibit the City from entering into a contract for the sale of ice cream and sundries for immediate sale on conditions agreed to by the Common Council, or prohibit the City from entering into a lease agreement to allow the display or sale of goods or services in the Public Right of Way.

A person may market (not sell) their products or services if they have a temporary vendor location or permanent business location within the City of Sturgis and have paid for an additional Special Sanitation fee as well as an additional \$100 merchandising fee. At no time shall this allow the vendor to obstruct pedestrian or vehicular traffic flow.

31.02.02: PEDDLING IN PARKS

It shall be unlawful for any peddler or other person excepting a person occupying a portion of the park under a valid concession or lease agreement to display goods or services, sell or offer to sell, to any person within any municipal park of the City, any goods, wares, merchandise, books, pictures, novelties, souvenirs or trinkets or any other article of commerce and trade, including goods of his own production or manufacture. This provision shall not include sales by the City or any organization having an approved lease agreement with the City.

31.02.03: LICENSING OF VENDORS, PEDDLERS, SOLICITORS, TRANSIENT BUSINESSES, TRADES AND MERCHANTS

31.02.03.01 Vendor License Required

Any firm, person, or corporation which intends to operate a temporary business as set forth in the definition of Vendor in this Title within the corporate limits of the City of Sturgis in conjunction with an event where the City invests more than \$100,000 in hosting the event shall be required to purchase a vendor license for each structure, stand, tent, vehicle, booth, location or place which is

used by such merchant for the sale or distribution of goods. The person so engaged shall not be relieved from the provisions of this Section by reason of association with any local operating business, dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with or as a part of or in the name of any local dealer, trader, merchant, auctioneer or business. The vendor license must be posted in each individual vendor location during operation.

31.02.03.04 Fee and Duration of License

- A) A temporary business shall pay a Vendor License fee based on location and size of the overall vending area as set forth below together with the Special Sanitation Fee at the rate established and required by Title 11 of Sturgis City Ordinances for each twelve (12) consecutive day period, or portion thereof, in any calendar year. The combined fee shall be paid at the Finance Office at the time the application is submitted for approval. The Finance Officer shall note on the license the time period for which it is effective. A business may purchase only two (2) vendor licenses per location per twelve (12) month period.
- B) The license fee for each vending area, for payment of both the Vendor License fee and the Special Sanitation fee, shall be as follows:
1. ATM machine/equipment, area of 25 square feet or less, \$100.00
 2. Vending area of 100 square feet or less, \$560.00
 3. Vending area of 101 to 400 square feet, \$850.00
 4. Vending area of 401 to 800 square feet, \$1000.00
 5. Vending area of 801 to 1200 square feet or less, \$1200.00
 6. Vending area of more than 1200 square feet, \$1500.00

Each vending area separated by a distance of three (3) feet or more from another vending area shall be subject to a separate license fee. Regardless of any shared resources, expenses or any corporate affiliation or other cooperative business activities, each temporary business shall be required to obtain a separate temporary business license.

31.02.03.05 Issuance

Upon receipt of the application and payment of the fee described in this section and final approval, the Finance Officer shall issue a license to the applicant to operate as a vendor at a place described in the application and for the time for which the license fee has been paid in advance. Any applicant that has had their license issued who subsequently changes location and submits an amended application to show that change shall be charged a supplemental administrative fee of \$100.00 to obtain an amended license. Any vendor that changes location without obtaining an amended license as provided herein shall be subject to the penalty provisions set forth at section 31.01.03 of this Ordinance. This supplemental administrative fee shall also apply to organizations which are exempt from the Vendor License fee but are subject to the Special Sanitation fee imposed by ordinance 11.04.12.

31.02.03.07 Exemptions from the Vendor License Fee:

The exemptions to the requirement to purchase a vendor license are stated in paragraphs A through G below. Regardless of any shared resources, expenses, corporate affiliation or relationship, other cooperative business activities, or any contract or agreement between businesses, each temporary business shall be required to obtain a separate business vendor license. Each vending area separated by a distance of three (3) feet or more from another vending area shall be required to obtain a separate license fee.

All Sale, display, marketing or similar activities that are not specifically described within the following definitions shall not qualify for an exemption from the Vendor License fee.

- a) Sales where the applicant has demonstrated by verifiable documentation that the proceeds are to be used exclusively for religious, charitable or benevolent purposes. Written proof of such religious, charitable, or benevolent non-profit status as declared by the IRS (i.e. 501(c) (3) documentation) and compliance with the notice provisions of SDCL 22-25-25(6) when required, must be presented when the application is submitted. These exclusions still must comply with the Special Sanitation fee outlined in Title 11.
- b) Sales to wholesale or retail merchants, by sample, for future delivery made by representatives or established wholesalers or manufacturers.
- c) The sales of fruits, vegetables or farm or garden products in their natural state.
- d) Sales by youth age 15 years and under of lemonade and like items and incidentals occurring at and within the boundaries of property at they reside, shall be exempt from the Temporary Vendor License and Special Sanitation fees.
- e) Parking lots on private property, when Vendor License application states that parking of vehicles is the only sales or marketing activity to be conducted on the premises identified in the Vendor application, shall be exempt from the Temporary Vendor License and Special Sanitation fees.
- f) A business which has submitted a complete application as required by subsection 31.02.03.02 of this Title which shall include:
 - 1) Copies of applicant's South Dakota sales tax returns for the location within the City at which the Vendor seeks exemption, and
 - 2) Proof documenting that applicant has paid aggregate municipal sales tax from January 1st through July 31st of the calendar year for which the Vendor permit application is submitted, and that such tax payments by applicant equal or exceed the amount of the combined Vendor license and Special Sanitation fees which applicant would otherwise be required to pay under subsection 31.02.03.04 (B) above, and
 - 3) Verification by applicant that it also operates in all other respects in compliance with all state and federal laws and local ordinances,
Then that applicant is exempt from payment of the Vendor license and Special Sanitation fee required by Subsection 31.02.03.04.
- g) An automated teller service(s) provided by a bank or credit union, licensed by the State of South Dakota, through equipment located upon its own business premises.
- h) Retailers that are selling or displaying merchandise on the same parcel as a permanently established retailer within the City limits that sells the same products within its establishment on a year round basis.

31.02.03.08 Refund Fee for Transient Merchant License

The City of Sturgis is hereby authorized to refund a Temporary Vendor License fee, provided that written notice from the applicant requesting that the license be cancelled is received at the City Finance Office within 30 days of the conclusion of the event. The City Manager will decide on each individual request. Should a request be denied, the applicant may appeal the denial to the City Council. In addition, a Vendor may request a refund of the Vendor fee by Nov. 15 of each year of the event if the municipal sales tax paid as described in 31.02.03.07 (f) 2 from January 1 through July 31 and September 1 through Oct. 31 is equal to or greater than the Vendor fee that was paid for the event.

Adopted this 19TH day of December, 2016.

First reading: 12-05-2016
Second reading: 12-19-2016
Adopted: 12-19-2016
Published: 12-28-2016
Effective: 01-18-2016

City Manager Ainslie and Rally Director Cole explained the proposal for the pilot plan to have open container during the Rally. Also discussed was a plan that would be in place if they would have to rescind the open-container implementation due to an event. Nine citizens stated their opinion about having open container during the 2017 Rally. The majority was against the resolution.

A motion was made by Waterland to deny Resolution 2016-67 – Issuance of Open Container during 2017 Sturgis® Motorcycle Rally™, this motion died for lack of a 2nd.

A motion was made by Anderson to approve Resolution 2016-67 – Issuance of Open Container during 2017 Sturgis® Motorcycle Rally™, this motion died for lack of a 2nd.

A motion was made by Anderson, seconded by Waterland and failed with Anderson and Carstensen voting yes, Bachand, Crane, Dargatz, Keszler and Martinson voting nay and Bradley abstaining to approve Resolution 2016-67 – Issuance of Open Container during 2017 Sturgis® Motorcycle Rally™

Motion by Bradley, second by Waterland and carried with all members present voting yes to approve the debt financing package for a Capital Improvement Program from Pioneer Bank.

Motion by Waterland, second by Crane and carried with all members present voting yes to approve Resolution 2016-70 - SRF funding for the Sturgis Wastewater System Improvement Project.

RESOLUTION NO. 2016-70

RESOLUTION AUTHORIZING AN APPLICATION FOR FINANCIAL ASSISTANCE, AUTHORIZING THE EXECUTION AND SUBMITTAL OF THE APPLICATION, AND DESIGNATING AN AUTHORIZED REPRESENTATIVE TO CERTIFY AND SIGN PAYMENT REQUESTS.

WHEREAS, the City of Sturgis (the “City”) has determined it is necessary to proceed with improvements to its Sanitary Sewer System, including but not limited to the construction of a Membrane Bioreactor wastewater treatment facility. The project will also include relining approximately 31,500 feet of sewer main, replacement of the current influent line to the treatment facility, and removal of biosolids that have accumulated in an existing wastewater pond. (the “Project”);

WHEREAS, the City has determined that financial assistance will be necessary to undertake the Project and an application for financial assistance to the South Dakota Board of Water and Natural Resources (the “Board”) will be prepared; and

WHEREAS, it is necessary to designate an authorized representative to execute and submit the Application on behalf of the City and to certify and sign payment requests in the event financial assistance is awarded for the Project.

NOW THEREFORE BE IT RESOLVED by the City as follows:

1. The City hereby approves the submission of an Application for financial assistance in an amount not to exceed \$16,647,000 to the South Dakota Board of Water and Natural Resources for the Project.
2. The City Manager is hereby authorized to execute the Application and submit it to the South Dakota Board of Water and Natural Resources, and to execute and deliver such other documents and perform all acts necessary to effectuate the Application for financial assistance.
3. The City Manager is hereby designated as the authorized representative of the City to do all things on its behalf to certify and sign payment requests in the event financial assistance is awarded for the Project.

Adopted at Sturgis, South Dakota, this 19th day of December 2016.

Published: 12-28-2016

Effective: 01-18-2017

The following bids were received for cleaning services: S and C Cleaning - \$3000 a month; Candy Morrell - \$4500 (2017-2018) and \$4600 (2019-2020); D and D Cleaning - \$8159.96.

Motion by Dargatz, second by Keszler and carried with all members present voting yes to approve the low bid from S and C Cleaning for \$3000 a month for 2017-2020 Cleaning Services.

Any other business:

None

Motion by Bachand, second by Crane and carried with all members present voting yes to return to executive session for personnel at 9:23 pm.

Motion by Crane, second by Dargatz to return to regular session at 10:18 pm.

Motion by Bradley, second by Waterland and carried with all members present voting yes to approve the employment contract with the City Attorney, Greg Barnier.

Motion by Bradley, second by Waterland and carried with all members present voting yes to approve the employment contract with the City Finance Officer, Fay Bueno.

Motion by Waterland, seconded by Keszler and carried with all members present voting yes to adjourn the meeting at 10:24 pm.

ATTEST: _____
Fay Bueno, Finance Officer

APPROVED _____
Mark Carstensen, Mayor

Published once at the total approximate cost of \$