

**TITLE 2  
CONTRACTORS' LICENSING AND CONSTRUCTION REGULATIONS**

(This Title revised with Ordinance 2016-10, effective 12-28-2016)

Chapters:

- 2.01: General Provisions
- 2.02: Building Code and Construction Standards
- 2.03: Building Inspector and Building Permits
- 2.04: Licensing and Regulation of Construction Contractors
- 2.05: Electrical Contractor License
- 2.06: Plumbing Contractor License
- 2.07: Building and Structure Mover License
- 2.08: Licensing and Regulation of Public Excavations
- 2.09: Revocation of Licenses
- 2.10: Fences
- 2.11: Erosion Control Regulations
- 2.12: Miscellaneous
- 2.13: Appeal Process

**CHAPTER 2.01  
GENERAL PROVISIONS**

SECTIONS:

- 2.01.01: Scope and Purpose
- 2.01.02: Definitions for Title
- 2.01.03: Penalty

**2.01.01: SCOPE AND PURPOSE**

The purpose of this Title is to regulate the building of structures within the City and to provide reasonable standards to protect property and public welfare by regulating the design, construction, materials, location and maintenance of all buildings, within the City. The purpose of the Title also includes setting forth the licensing requirements for certain contractors and adopting certain uniform codes and regulations in the area of construction.

**2.01.02: DEFINITIONS FOR TITLE**

**ARSD:** Administrative Rules of South Dakota

**ASSISTANT BUILDING INSPECTOR:** The Assistant Building Inspector shall be any person appointed by the City Manager to assist the Building Inspector with his duties as provided by this Title.

**BEST MANAGEMENT PRACTICES (BMP'S):** Control measures which reduce or prevent the discharge of pollutants (defined at ARSD 74:52:01:35) to waters of the State of South Dakota.

**BUILDING CODE:** The specific Building Code adopted by the City of Sturgis.

**BUILDING INSPECTOR:** The Building Inspector shall be any person appointed by the City Manager including any designees to perform this duty as provided by this Title.

**CLEARING:** Any activity that causes the removal of the vegetative surface cover.

**CODES:** The current edition of any Uniform Code adopted by the City, or the Codified Law of South Dakota.

**CONSTRUCTION:** The act of construction including but not limited to, the rough framing, remodeling, shingling, siding, new construction, concrete, alteration, addition, repair, improvements, or erection of buildings, erection or installation of signs requiring a permit under the provisions of Title 30 of Sturgis City Ordinances, or installation of all construction required to possess a permit within the city.

**CONSTRUCTION STANDARDS:** The City approved specifications for the installation of streets, water, sewer and storm sewer improvements within the public right of way or established utility easements.

**CONTRACTOR:** Any person engaged in or performing construction activities as defined in this Title, or who oversees and/or participates in the act of commercial or residential construction and/or excavation on property other than that owned and occupied by that person, them as their primary residence, or occupied by the person as a Qualified Owner, and who is responsible to the owner for completion of the work. This definition includes any person who is engaged in the act of residential construction and/or excavation, not under contract with a general contractor, **on** any property other than that owned and occupied by them as their primary residence or for which the person is a Qualified Owner. This definition shall include any person who provides contracted construction activities for a fee.

**DRAINAGE WAY:** Any channel that conveys surface runoff throughout the City of Sturgis.

**ELECTRICIAN:** Any person who is licensed by the State of South Dakota and the City to perform electrical work which includes but is not limited to running conduit, installing wiring, terminating wiring, and installing electrical fixtures or motors.

**EROSION CONTROL PLAN (ECP):** A plan prepared for a specific site which dictates the specific measures and controls and their application sequence for the control of sediment and erosion on the site.

**FINAL STABILIZATION:** The return of a construction site to a finished condition in which all final improvements and vegetation has been placed and are functioning as planned in accordance with the Storm Water Pollution Prevention Plan and Erosion Control Plan submitted and approved for the site.

**FLAME RETARDANT OR FLAME RESISTANT TARP:** A tarp that has a physical marking or tag attached to it which shows that the tarp has been tested and declared flame resistant and/or flame retardant. Tarps not bearing this physical insignia shall not be considered Flame Retardant or Resistant.

**GENERAL RESIDENTIAL CONTRACTOR:** Any person who oversees and/or participates in the act of residential construction and/or excavation on property other than that owned and occupied by them as their primary residence and who is responsible for the final product.

**GRADING PERMIT:** A permit issued by the City of Sturgis for construction, excavation, grading, clearing and any other land disturbing activity.

**LAND DISTURBING ACTIVITY:** Any activity that involves grading, clearing, or the moving of topsoil, rock, or any other natural surface from a property.

**MUNICIPALITY:** Wherever the word “municipality” is used in the Uniform Building Code, it shall be held to mean the City of Sturgis, South Dakota.

**NORMAL BUSINESS HOURS:** 8:00 a.m. – 5:00 p.m. Monday through Friday, except days that are nationally recognized as a holiday.

**PERIMETER CONTROLS:** Erosion control measures that protect neighboring properties from storm water runoff and sedimentation.

**PERMANENT STRUCTURE:** A structure that is designed or intended for support, enclosure, shelter or protection of person or property. Said structure shall have a permanent roof that is supported by columns or walls and is maintained for 365 days a year and built in compliance with the Building Code for which the occupancy of the structure is being used.

**PERMANENT BARRIER:** A wall or fence which has been constructed as a permanent attachment to property and is a minimum 5'0" in height and has openings which are no larger than 4" in any direction.

**PERMANENT BUSINESS:** means a business use which is in physical operation and open to the public for a period equal to or greater than five (5) months from January 1 thru December 31 of the current year and resides at a fixed location within the City of Sturgis, consistent with the requirements of Section 18.10.02 of the Sturgis City Ordinances.

**PLUMBER:** Any person who is licensed by the State of South Dakota and the City to perform plumbing work which includes but is not limited to gas piping, water and sewer piping, installation of plumbing fixtures, including water heaters and reparation of piping or plumbing fixtures.

**QUALIFIED OWNER:** A person holding an ownership interest, as demonstrated by the records of the Equalization Office, Office of Secretary of State, IRS records and documents, or other comparable evidence of ownership, in the property listed as the worksite in the Permit application and for which the exemption is claimed.

**RESIDENTIAL SUBCONTRACTOR:** Any person who is engaged in the act of residential construction and/or excavation under supervision of a general contractor on property other than that owned and occupied by them as their primary residence. If the subcontractor is not under supervision of a general contractor, the subcontractor becomes the general contractor.

**SD DENR:** South Dakota Department of Environment and Natural Resources

**STABILIZATION:** The use of practice and methods that prevent exposed soils from eroding including but not limited to grass, trees, sod, mulch, or other materials which prevent erosion and assist the soil in the retention of moisture.

**STORM WATER POLLUTION PREVENTION PLAN (SWPPP):** A plan prepared for and approved by the SD DENR required to obtain a Storm Water Permit for construction which disturbs more than 1 acre of land or Industrial activities having a Standard Industrial Code (SIC) between 20 – 39.

**TEMPORARY BUSINESS:** means a business use which is in physical operation and open to the public at one or more locations for a period less than five (5) months from January 1 thru December 31 of the current year even though the business may have a permanent or fixed location within the City of Sturgis. This period of operation excludes the period of the annual Sturgis Motorcycle Rally.

**TEMPORARY STRUCTURE:** Any vending stand, reviewing stand, canopy tent, Truck and Trailer with or without awning, or other miscellaneous structure which is intended for use on a temporary basis.

**WATERCOURSE:** Any body of water including, but not limited to, lakes, ponds, streams, and other bodies of water delineated by the City.

**WATERWAY:** A channel that directs surface runoff water to a watercourse or to a public storm drain.

**WATERS OF THE STATE :** All waters within the jurisdiction of the state of South Dakota, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state, but not waste treatment systems, including treatment ponds, lagoons, or treated water distribution systems designed to meet the requirements of the Clean Water Act other than cooling ponds as defined by 40 C.F.R.:423.11 (m) (July 1, 1991)

### **2.01.03: PENALTY**

Any violation of the provisions 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. Said punishment may also include payment of any costs and/or restitution authorized by this Title and/or State law.

In addition to the general penalty as stated above, any cleanup required by the City for the removal of mud tracked onto the street from the site, extra cleaning of the storm sewers or drainage ways, etc., will be charged to the permit holder at a rate of 1 and ½ times the normal equipment rates and labor rate for the City.

Failure to pay any applicable fees within thirty (30) days of said notice may result in the revocation of any and all outstanding permits and licenses held through the City.

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

In addition, any person who commences any work toward erecting or constructing a building or structure or causes any alterations to an existing building or structure which requires a Building Permit under the terms of this Title before obtaining the necessary permit shall be subject to an administrative penalty fee, equal to eighty per cent (80%) of the amount of the permit fee required by this Title.

**CHAPTER 2.02**  
**BUILDING CODE AND CONSTRUCTION STANDARDS**

SECTIONS:

- 2.02.01: Adoption of Building Code
- 2.02.02: Authority of Building Inspector to Prepare Manual of Construction Guidelines
- 2.02.03: Additions, Alterations and Repairs
- 2.02.04: Maintenance
- 2.02.05: Historic Preservation
- 2.02.06: Alternate Materials and Methods of Construction
- 2.02.07: Modifications
- 2.02.08: Tests

**2.02.01: ADOPTION OF BUILDING CODE**

The City of Sturgis hereby adopts, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, including permits and penalties, conforming with Chapters 1 through 10 and Appendices E, G, H, J, K, M and P of the International Residential Building Code, 2012 Edition. In addition and for those same purposes, subject to the limitation of municipal authority established by SDCL 11-10-5, the 2012 Edition of the International Building Code including Appendices C, E, F, G, H, I and J, thereof, except such portions as are herein deleted, modified, or amended. Subsection 3.02, and the related information and explanation shown at Figure 301.2(5), are hereby amended to require a structure to be designed to meet or exceed the standard of a 40 pound ground snow load. One copy of each of the codes with all the amendments from the date on which this ordinance shall take effect, and the provisions thereof shall be controlling in the construction of all buildings and structures within the jurisdiction of the City.

**2.02.02: AUTHORITY OF BUILDING INSPECTOR TO PREPARE MANUAL OF CONSTRUCTION GUIDELINES**

The Building Inspector shall be authorized to prepare and compile a manual containing guidelines for compliance with this Title and the Building Codes adopted herein. One copy of said manual shall be available for review at the Building Inspection Office. Copies of the manual shall be available at the cost of the person requesting said copy.

**2.02.03: ADDITIONS, ALTERATIONS AND REPAIRS**

Any additions, alterations and/ or repairs to an existing nonconforming building, street and/or utilities may be made without requiring the existing building, street or city utilities to meet the provisions of this Title, provided that any addition, alteration or repair conforms to the provisions in the manual for new construction and does not make the existing installation unsafe.

**2.02.04: MAINTENANCE**

Following approval through the Building Permit process, all devices or safeguards required by this Title or any other state law or City Ordinance shall be maintained in conformance with this Title.

**2.02.05: HISTORIC PRESERVATION**

After receipt of the Permit application and with prior written authorization of the Building Inspector,

repairs, alteration and additions necessary for preservation or continued use of the building may be made even if these repairs, alteration and additions are not in conformance to the requirements of this Title. The Building Inspector's authorization is conditional upon the following:

- A. Completion of all requirements of SDCL § 1-19A-11.1;
- B. The building or area having been designated by action of the legally constituted authority of the jurisdiction as having special historical or architectural significance;
- C. Any unsafe conditions are corrected; and
- D. The restored building or area will not be more hazardous, based on life, safety, fire safety and sanitation regulations, than the existing construction.

#### **2.02.06: ALTERNATE MATERIALS AND METHODS OF CONSTRUCTION**

The provisions of this Title are not intended to prevent the use of other materials or methods of construction not specifically prescribed by this Title, provided any alternate has been approved and its use authorized by the Building Inspector. The City may require sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use. All alternate materials or methods of construction must meet or exceed the requirements of this ordinance or the applicable codes adopted by the City and the State of South Dakota.

#### **2.02.07: MODIFICATIONS**

When there are practical difficulties involved in carrying out the provisions of this Title, the Building Inspector may grant modifications to a permit for individual cases upon receipt of a written request and after a proper review has been completed by the Inspections Office.

#### **2.02.08: TESTS**

Whenever there is insufficient evidence of compliance with any provision of this Title or any evidence that material or construction does not conform to the requirements of this Title or to industry standards, the Building Inspector may require tests as proof of compliance to be made at the expense of the property owner and at no expense to the City. All tests shall be made by an approved agency and all reports shall become property of the City.

**CHAPTER 2.03**  
**BUILDING INSPECTOR AND BUILDING PERMITS**

SECTIONS:

SECTIONS:

- 2.03.01: Establishment of the Office of Building Inspector
- 2.03.02: Authority of Building Inspector to Enforce
- 2.03.03: Right of Entry
- 2.03.04: Stop Orders
- 2.03.05: Liability
- 2.03.06: Cooperation of Officials and Officers
- 2.03.07: Permit Required
- 2.03.08: Application for Permit
- 2.03.09: Fees
- 2.03.10: Permit Issued
- 2.03.11: Expiration of Permit
- 2.03.12: Permit Must Be Posted
- 2.03.13: Certificate of Occupancy
- 2.03.14: Temporary Structure Permit Required
- 2.03.15: Requirements for Temporary Structures
- 2.03.16: Exempt Temporary Structures
- 2.03.17: Temporary Secondary Retail Structure Permit

**2.03.01: ESTABLISHMENT OF THE OFFICE OF BUILDING INSPECTOR**

There shall be designated a Building Inspector, who shall perform those duties and hold such authority as herein set forth, subject to the supervision of the City Manager. The City Manager may designate someone within the City to with the duties of Building Inspection.

**2.03.02: AUTHORITY OF BUILDING INSPECTOR TO ENFORCE**

The Building Inspector or designee shall enforce all provisions of this Title. The Building Inspector may request that the City Manager appoint any number of technical officers, deputy inspectors and other employees as is necessary to assist the Building Inspector with enforcement of this Title.

The Building Inspector or designee shall enforce all laws relating to the construction, alteration, removal and demolition of all buildings and structures within the City.

The Building Inspector or designee shall make an examination of any and all plans and specifications for structures to be built within the City, or alterations to be made in or upon any existing structures which will materially change said structures, in order to determine if said plans, specifications or alterations are in conformance with this Title.

The Building Inspector or designee shall make an examination of all applications for building permits and shall determine after said examination whether or not a permit should be granted to such applicant.

The Building Inspector or designee shall have the authority to issue building permits after the completed application has been determined in accordance with this Title, and after all required fees have been received.

The Building Inspector or designee shall have the authority to deny issuance of any permit. Said denial may be based upon failure to comply with any applicable provision of this Title, **or any** provision of any applicable Building Code or manual.

The Building Inspector or designee shall have the authority to order the removal of any existing building or structure which was unlawfully built or which in the opinion of the Building Inspector is dangerous and/or a safety hazard to the public.

The Building Inspector or designee shall have the authority to require specific testing and inspections in connection with the performance of construction work within the City.

The Building Inspector or designee may be authorized to enforce the Nuisance, Temporary Structure, and Temporary Merchants Ordinances, and also the City Beautification and Regulation of Advertising Ordinance of the City.

The Building Inspector or designee shall be subject to the supervision of the City Manager and hold any and all other duties and powers as specifically granted by any ordinance of the City.

### **2.03.03: RIGHT OF ENTRY**

The Building Inspector or designee shall have the authority to enter upon property in the event it is necessary to make an inspection and/or to enforce the provisions of this Title or when the Building Inspector or other official of the City has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this or any Title of the Sturgis City Ordinances which makes the building or premises unsafe, dangerous or hazardous.

In exercising the aforementioned authority, the Building Inspector or designee shall take all reasonable steps possible to do the following:

- A. Enter the building or premises at a reasonable hour;
- B. In the event the premise is occupied, present his or her credentials to the occupant and request entry; and
- C. In the event the premise is unoccupied, make reasonable effort to locate the owner or other person having charge or control of the building or premises, if known, and request entry.

In the event, entry is refused, the Building Inspector shall proceed with any and all recourse and remedies provided by law to secure entry.

### **2.03.04: STOP ORDERS**

In the event any work is being done contrary to the provisions of this Title, or other pertinent laws or ordinances implemented through the enforcement of this Title, the Building Inspector may order the work stopped by notice in writing served on any persons involved in performing the work. Upon receipt of the written notice, any persons shall immediately stop such work until the Building Inspector authorizes the work to continue.

### **2.03.05: LIABILITY**

The Building Inspector or designee is charged with the enforcement of this Title, acting in good faith and without malice in the discharge of the duties required by this Title or other applicable law or ordinance and shall not thereby be rendered personally liable for damages that may occur to persons or property as result of an act or by reason of an act or omission in the discharge of such duties. This Title shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building, premises or contracting on City land for damages to persons or property caused by defects, nor



shall the Building Inspector or the City be held as assuming any such liability by reason of the inspections authorized by this Title or any permits or certificates issued under this manual.

### **2.03.06: COOPERATION OF OFFICIALS AND OFFICERS**

The Building Inspector or designee may request, and shall receive, the assistance and cooperation of other officials of the City so far as it is required for discharge of the duties required by this Title or other applicable laws or ordinances.

### **2.03.07: PERMIT REQUIRED**

Before any person may erect or cause to be erected or constructed a building or structure within the City or causes any alterations to any existing building or structure within the City, they must obtain a Permit from the Building Inspector or designee if improvements or alterations are more than Five Hundred Dollars (\$500.00). An alteration of a building or structure shall for the purpose of this Title include but is not limited to a change to or removal of any partition, interior or exterior wall, ceiling, windows, structural member of roof system or floor, any roof repair or replacement, any deck repair or replacement, any siding repair or replacement, placement of any hard surface material including concrete or asphalt, or any digging or excavation within any Right of Way or any public easement. A Permit is not required for painting, floor coverings, soffet, gutters, and fascia or minor on-going maintenance type repairs.

### **2.03.08: APPLICATION FOR PERMIT**

To obtain a Permit from the Building Inspector or designee, the applicant must make application to the Building Inspector on forms to be furnished by the City. He or she shall include with said application the following information:

- A. A sketch or drawing of the outside wall of the floor of said improvement to be built, drawn at scale of at least  $\frac{1}{4}'' = 1.0''$  showing all measurements, the distance from property lines, distance from buildings or structures on the same parcel of land and distance from back of curb or from edge of streets;
- B. The name of the owner of the real property to be improved;
- C. The name of the contractor doing the work,
- D. If a Contractor License exemption is claimed by applicant on the basis that the work described in the application is at applicant's primary residence, so state.
- E. If a Contractor License exemption is claimed by applicant on the basis the applicant is a Qualified Owner of commercial property, so state.
- F. For an applicant claiming the Qualified Owner exemption from a Contractor License, provide proof of insurance consistent with the requirements of subsection 2.04.04 of this Title.
- G. The legal description of the property being improved;
- H. The parcel number given to the property by Meade County;
- I. The general description of the improvement and what type of building improvement is to be made;
- J. Plans for the installation of plumbing, electrical wiring, etc; and
- K. Such other information the Building Inspector or designee may request so that he/she may determine if said improvement complies with the Ordinances of the City of Sturgis and the Laws of the State of South Dakota.

### **2.03.09: FEES**

Upon making application for a Permit, any applicant shall pay the appropriate permit fee to the City. If for any reason beyond the applicant's control he/she or it does not construct the proposed project for which

the permit was issued, the amount of the permit less a Fifty Dollars (\$50.00) administrative fee may be refunded to the applicant.

The amount of an applicant’s Permit fee shall be determined by reference to the following schedule. All such fees shall be paid to the Building Inspector or designee who shall remit the fees to the Finance Officer to be deposited into the general fund of the City.

**Permit Fee Schedule**

<b>Total Valuation</b>	<b>Fees</b>
\$501 to \$2,000 .....	\$20.00 plus \$2.50 for each additional \$100 in valuation or fraction thereof up to \$2,000
\$2,001 to \$25,000 .....	\$57.00 plus \$10.50 for each additional \$1,000 in valuation or fraction thereof up to \$25,000
\$25,001 to \$50,000 .....	\$298.00 plus \$7.50 for each additional \$1,000 in valuation or fraction thereof up to \$50,000
\$50,001 to \$100,000 .....	\$485.00 plus \$4.50 for each additional \$1,000 in valuation or fraction thereof up to \$100,000
\$100,001 to \$500,000 .....	\$710.00 plus \$4.00 for each additional \$1,000 in valuation or fraction thereof up to \$500,000
\$500,001 to \$1,000,000 .....	\$2,310.00 plus \$3.75 for each additional \$1,000 in valuation or fraction thereof up to \$1,000,000
\$1,000,001 and UP.....	\$4,185.00 plus \$2.25 for each additional \$1,000 in valuation or fraction thereof.

**2.03.10: PERMIT ISSUED**

The Building Inspector or designee, upon receiving said application and fee, shall examine the same. If the application is completed, the proper fee is paid, and the improvement conforms to the ordinances and laws of this City, he/she shall issue a Permit to the applicant, which shall entitle the applicant to proceed with the improvement.

If the Building Inspector or designee, upon examination of the application, finds that the application is not complete, or other information is necessary before a decision can be rendered thereon, the Building Inspector may request the additional information from the applicant without the necessity of obtaining a new application or fee.

If the Building Inspector or designee, finds that the improvement applied for does not conform to the Ordinances of the City of Sturgis or the laws of the State of South Dakota, he/she shall reject the application by noting that fact upon the application and returning one copy of the application to the applicant. The other copy of the application shall be retained in the files of the Building Inspector.

**2.03.11: EXPIRATION OF PERMIT**

Any Permit issued prior to the effective date of this Ordinance shall expire within one year following the effective date of this ordinance.

Any Permit issued under this Title for building of a residence shall expire one year (365 days) from the date of issuance. Any Permit issued under this title for the purpose of constructing any commercial building shall expire two years (730 days) from the date of issuance. No building shall be done under authority of any expired Permit. If the improvement is not completed on the expiration date, a further application for a Permit to complete such structure may be made under the same procedure set forth herein for obtaining the original Permit.

**2.03.12: PERMIT MUST BE POSTED**

A Permit which has been lawfully issued shall be posted in a conspicuous place upon the premises at all times from the beginning until the completion of such construction, alteration or repair. No person shall do any building in the City without the Permit posted as required.

**2.03.13: CERTIFICATE OF OCCUPANCY**

No owner may cause or allow a newly constructed or remodeled building to be occupied, or allow the premises of a remodeled building to be occupied, after a change of occupancy classification as defined in the Building Code has occurred, unless the owner shall first obtain a Certificate of Occupancy from the Building Inspector. Upon completion of the building, remodeling, or prior to change of occupancy, if the building is found to be in compliance with the City of Sturgis Ordinances and laws of the State of South Dakota by the Building Inspector, the Certificate of Occupancy shall be provided. No person shall permit a newly constructed or remodeled structure with a change of Classification Use to be occupied without first obtaining an occupancy Certificate as provided herein.

**2.03.14: TEMPORARY STRUCTURE PERMIT REQUIRED**

Temporary structures, such as vending stands, reviewing stands, canopies, tents, Trucks and Trailers with or without awnings, and miscellaneous structures may be erected in areas zoned Highway Service and General Commercial, provided that a special temporary structure permit is obtained for each temporary structure. Said permit shall be issued by the Building Inspector or his/her designee for a period not to exceed 30 days per location. This 30 day time frame shall include set up and tear down time.

For the purpose of this Section "location" shall be the site on which the temporary structure is first constructed or placed. A temporary structure may not be disassembled and reconstructed or moved to a different location on the same property or parcel of land, or an adjacent parcel of land, after an initial permit is issued for the structure.

No vendor, solicitor, temporary merchant or landowner shall begin to erect or allow the erection of a Temporary Structure, as defined in this chapter, for use during the Sturgis Motorcycle Rally more than seven (7) days prior to the beginning date of the temporary vending permit establishing the location of the temporary structure, or leave it erected more than four (4) days after the expiration of the temporary vending permit. Furthermore, the vendor, solicitor, temporary merchant or landowner shall be permitted to operate a temporary business from the temporary structure only during the specified dates of the temporary vending permit, and shall not be required to obtain a Temporary Structure permit so long as the business is in compliance with all other city ordinances, state and federal laws the vendor, solicitor, temporary merchant or landowner possesses a valid vending license issued by the City of Sturgis.

**2.03.15: REQUIREMENTS FOR TEMPORARY STRUCTURES**

The following requirements shall apply to all temporary structures, except those specifically exempted above.

- A. The structural frame of all temporary structures shall be made of steel, aluminum, PVC or wood. If constructed of wood, the smallest wood member shall not be less than 2" by 4" in width.
  1. Wood used for the interior and exterior skins of a temporary structure may be as follows: ½" plywood, ½" chipboard, or particleboard.
  2. Wood, as defined above, may also be used for shelving temporary structure.
  3. Tarps, which are utilized on temporary structures, which are occupied by temporary

- merchants, shall be flame retardant or flame resistant as defined in this Ordinance. All tarps not complying with this ordinance shall be removed.
- B. All temporary structures shall be removed upon expiration of the time limit stated on the Temporary Structure permit.
  - C. If the structure is not removed by the expiration date stated on the permit, the City may remove the structure without further notice to the owner and shall charge the cost of the removal to the owner. At the time the permit is issued, the Building Inspector or his designee shall provide the owner with a copy of this Ordinance. The owner or occupant of the temporary structure shall sign the permit, which will constitute sufficient notice that the structure shall not be placed for more than 30 days. The City may bring action in magistrate or circuit court for the recovery of costs incurred for the removal of said structure or structures.
  - D. In the event that a structure erected pursuant to this Section is not removed by the expiration date and the City is forced to make repeated contacts with the owner of the property upon which the structure is erected or the individual who applied for the permit, the Building Inspector shall not issue subsequent permits under this Section to the owner of the property for the location unless the Building Inspector has reached an agreement with the owner of the property to assure the owner's future compliance with any temporary structures erected at that location.
  - E. Temporary structures or appendages thereof shall not be placed closer than 5'0" to any public alley. (Exception: When the property owner provides a permanent barrier which is a minimum height of 5'0" between the temporary structure and the public right of way, the temporary structure may be placed closer than 5'0" to the public right of way. No sales may be permitted through the permanent barrier.)
  - F. The permit hereinbefore described may be suspended or revoked if at any time the structure or its occupants are in violation of the Ordinances of the City of Sturgis or the laws of the State of South Dakota.
  - G. Temporary structures may not be used for housing permanent or seasonal businesses unless within the exemption of subsection 2.03.16.

### **2.03.16: EXEMPT TEMPORARY STRUCTURES**

After a Permit application has been received, the following temporary structures shall be exempt from the requirements set forth in the preceding Section.

- A. A temporary structure being used for the purpose of a temporary office during a construction project;
- B. A temporary structure being used for the purpose of a realty office in a new development;
- C. Temporary storage buildings used in conjunction with a permanent retail or wholesale business or residence, provided that said structures meet the setback requirements for the zoning district in which they are placed; and shall not exceed 120 Sq. Feet.
- D. Temporary storage buildings owned by a business that rents or sells them at one location to the general public.
- E. In conjunction with a permanent business as defined herein, the permanent business shall be allowed one (1) Temporary Structure to be located on the property. Furthermore, the business operating in or from the Temporary Structure shall be selling or vending items of like nature to which the permanent business sells or vends.

### **2.03.17: TEMPORARY SECONDARY RETAIL STRUCTURE PERMIT**

For a time period longer than allowed by subsection 2.03.14 above, for an area open for retail display and/or sale of goods and products available through the primary business located on that same parcel, a Temporary Secondary Retail Structure permit may be issued as provided

for in this subsection.

- A. A Permit application fee of \$50.00 shall be submitted with the application form and required documents.
- B. The area of retail sales and display described in the permit shall be located on same property parcel as the primary retail business.
- C. Any permit for use of a temporary retail structure under this subsection, to be used in conjunction with the sale of alcoholic beverages on any premises licensed under SDCL Chapter 35-4 or under City Ordinance Title 3, whether off-sale or on-sale, shall not change or abate the other applicable structure requirements contained in Title 3 of Sturgis City Ordinances.
- D. The size of a Temporary Secondary Retail Structure allowed by this permit shall be limited so that the entire temporary structure and appurtenance is placed in compliance with all setback requirements (front, side and rear) as would apply to a new permanent structure on that parcel.
- E. The size of a Temporary Secondary Retail Structure shall also be limited so not to exceed the “footprint” of the ground floor (1<sup>st</sup> floor) of the primary business retail area located on the parcel
- F. A permit shall be valid only within the calendar year it is issued, for erection and use of a qualifying temporary structure between the dates of May 1 and September 30 of each year.
- G. For an annual permit application which discloses in sufficient detail, in a separate Building Permit application for the structure, that the snow load rating of the structure is properly designed to accommodate the normal load required by Title 2 and the Building Code, a permit may be issued to allow erection and operation from April 1 through October 31 of that year.

(2.03.14 to 2.03.17 revised with Ordinance 2017-04, effective 05/31/2017)

**CHAPTER 2.04**  
**LICENSING AND REGULATION OF CONSTRUCTION CONTRACTORS**

**SECTIONS:**

- 2.04.01: License Required for Construction
- 2.04.02: Application of Chapter
- 2.04.03: Application for Contractor's License
- 2.04.04: Insurance Required for Construction
- 2.04.05: Contractor License Fee
- 2.04.06: Contractor License Term and Renewal
- 2.04.07: Required Inspections
- 2.04.08: Notice and Cost of Inspections

**02.04.01: LICENSE REQUIRED FOR CONSTRUCTION**

No person shall perform construction work within the City, on any property other than the person's current primary residence, or property for which the person meets the requirements of a Qualified Owner, until he/she has applied for and obtained a Contractor License from the Building Inspector's Office. Construction work subject to this requirement shall include but is not limited to framing, moving or replacing cabinets or millwork, replacement of roofing, doors, windows; installation or repair of insulation, sound systems, flooring, carpets, wall coverings, paint subfloor or floor coverings of vinyl, tile or stone; retaining walls or fences with a height at or above four (4) feet above the original grade; placement or installation of paving or walkway material (such as concrete, blacktop, paving stones, etc.) or other material for use as a non-natural walking or driving surface. To qualify for an exemption from this license requirement, all construction work described in the permit must be performed by the person claiming the exemption, or by a legal employee working in the presence of and under the direct supervision of either the residential owner or, for non-residential property, in the presence of and under the direct supervision of the Qualified Owner.

**2.04.02: APPLICATION OF CHAPTER**

For purposes of this Chapter, construction work shall not include electrical work, plumbing work or work completed by a person on a residential structure owned and occupied by said person as their primary residence.

**2.04.03: APPLICATION FOR CONTRACTOR LICENSE**

To obtain a license from the Building Inspector, the applicant must make application to the Inspection Office in duplicate on forms to be furnished by the City. All requested information must be included and any incomplete application will not be processed and the license shall not be issued. Said application shall contain or be accompanied by the following information:

- A. The applicant's name, address and phone number;
- B. The name, address, and phone number of the company in whose name the application is being made, if different than set forth above;
- C. Proof of any state licenses held by the applicant;
- D. The applicant's state excise tax number;
- E. Proof of insurance as required by subsection 2.04.04;
- F. Payment of applicable fee; and
- G. Verification of any State required bond.

**2.04.04: INSURANCE REQUIRED FOR CONSTRUCTION**

Any applicant desiring to be licensed as a contractor shall be required to produce a certificate of insurance stating that the applicant has manufactures contractors liability insurance, including products and completed operations and property damage insurance; in the amount not less than One Million Dollars (\$1,000,000.00) per occurrence with an aggregate of not less than two million dollars (\$2,000,000). The insurance requirements set forth in this Section shall be maintained during the term of the license. Failure to maintain the required insurance may result in suspension or revocation of any license issued.

Any applicant claiming an exemption from the Contractor License requirement as a Qualified Owner for work to be done on of non-residential property, shall be required to produce a certificate of insurance stating that the applicant has general liability and property damage insurance coverage in the amount not less than One Million Dollars (\$1,000,000) per occurrence with an aggregate of not less than two million dollars (\$2,000,000). In the alternative the required coverage may be based on the value of the work stated in the Permit application, as approved by the Building Inspector.

An applicant claiming an exemption as a Qualified Owner shall also provide, as required by law, proof of coverage for workers' compensation insurance for any and all of applicant's employees, working under applicant's supervision, at the job site stated in the Permit application. The insurance requirements set forth in this Section shall be maintained during the term of the Permit. Failure to maintain the required insurance may result in suspension or revocation of any Permit issued.

#### **2.04.05: CONTRACTOR LICENSE FEE**

With the application for a Contractor's License, said applicant shall pay a fee of One Hundred and Twenty Five Dollars (\$125.00).

#### **2.04.06: CONTRACTOR LICENSE TERM AND RENEWAL**

Any Contractor license issued shall be valid for twelve calendar months from the date of issuance. Any license may be renewed by the licensee prior to expiration by submitting a completed application and the necessary fee to the Building Inspector. Upon a determination by the Building Inspector that the application is in compliance with all applicable Sections of this Title, the license shall be issued. Any person working within the City with an expired license shall be considered to be unlicensed in violation of this Title.

#### **2.04.07: REQUIRED INSPECTIONS**

Due to the fact that inspections vary depending on whether the project is or includes a structure, street, sewer, water, etcetera, contractors shall be required to contact the Building Inspector's Office to acquire a list of required inspections for each individual project. In the event any contractor fails to call for an inspection, the project may be stopped until an inspection can be made.

The specific inspections required for each project shall be determined by the Building Inspector's Office. The Building Inspector's Office should include guidelines with the Manual of Construction Guidelines, addressing the type of inspections needed for certain projects. However the Building Inspector's Office shall maintain the discretion and authority to require any necessary testing and/or inspections depending on any individual project.

#### **2.04.08: NOTICE AND COST OF INSPECTIONS**

A minimum of twenty-four (24) hours' notice shall be given prior to any required inspection. The cost for an inspection shall be as set forth in the following schedule of Inspection Fees:

- Inspections outside of normal business hours .....\$50.00/hr  
(minimum charge – 1 hrs.)
- Inspections made on a holiday .....\$50.00/hr  
(minimum charge – 2 hrs.)
- Re-inspection fees .....\$50.00/hr  
(minimum charge – ½ hr.)
- Inspections for which no fee is specifically indicated .....\$50.00/hr  
(minimum charge – 1 hr.)
- Additional plan review required by changes, additions,  
or revisions to plans ..... \$50.00/hr  
(minimum charge – 1/2hr.)
- For use of outside consultants for plan checking,  
inspections or both ..... Actual cost

All Inspection Fees shall be collected by the Building Inspection’s Office and remitted to the City Finance Office.



**CHAPTER 2.05  
LICENSING OF ELECTRICAL CONTRACTORS**

SECTIONS:

- 2.05.01: License Required for Electrical Construction
- 2.05.02: Application for Electrical Construction License
- 2.05.03: Electrical Construction License Term and Renewal
- 2.05.04: Insurance Required for Electrical Construction
- 2.05.05: Electrical Construction Fees
- 2.05.06: Public Liability Not Created

**2.05.01: LICENSE REQUIRED FOR ELECTRICAL CONSTRUCTION**

Before any person, including an Apprentice Electrician, Class B Electrician, Journeyman Electrician, and/or Electrical Contractor may engage in the business of installing any electrical wiring or constructing or installing electrical apparatus or machinery in any structure or upon any premises other than the person's primary residence, within the limits of the City, he/she must be licensed under the laws of the State of South Dakota and shall obtain a license from the Building Inspector as set forth in this Chapter.

Licenses shall be issued in the name of the individual or the firm, and it shall be posted in a conspicuous place in the place of business of the licensee.

**2.05.02: APPLICATION FOR ELECTRICAL CONSTRUCTION LICENSE**

To obtain a license from the Building Inspector, the applicant must make application to the Inspection Office in duplicate on forms to be furnished by the City. All requested information must be included and any incomplete application will not be processed and the license shall not be issued. Said application shall include or be accompanied by the following:

- A. Proof that applicant is licensed under the laws of South Dakota;
- B. The applicant's state excise tax number;
- C. Proof of any insurance or undertaking required by the State;
- D. The applicant's name, address and phone number;
- E. Payment of applicable fee, and
- F. The name, address and phone number of the applicant's contact person.

**2.05.03: ELECTRICAL CONSTRUCTION LICENSE TERM AND RENEWAL**

Any license issued shall be valid for twelve calendar months from the date of issuance. Any license may be renewed by the licensee prior to its expiration by submitting a completed application and the necessary fee to the Building Inspector. Upon a determination by the Building Inspector that the application is in compliance with all applicable Sections of this Title, the license shall be issued. Any person completing work under an expired license shall be considered to be unlicensed in violation of this Title.

**2.05.04: INSURANCE REQUIRED FOR ELECTRICAL CONSTRUCTION**

Any applicant desiring to be licensed as an electrical contractor shall be required to produce a certificate of insurance naming the City of Sturgis as the holder stating that the applicant has contractors liability insurance, including products and completed operations and property damage insurance; in the amount not less than One Million Dollars (\$1,000,000.00) per occurrence with an aggregate of not less than two million dollars (\$2,000,000). The insurance requirements set forth in this Section shall be maintained during the term of the license. Failure to maintain the insurance may result in suspension or revocation of any license issued.

#### **2.05.05: ELECTRICAL CONSTRUCTION FEES**

Upon making application for an Electrical Construction License, said applicant shall pay the applicable fee as set forth below:

- A. Electrical Contractor: \$125.00

#### **2.05.06: PUBLIC LIABILITY NOT CREATED**

Consistent with the provisions of SDCL 36-16-36, this Chapter shall not be construed to relieve from or reduce the responsibility or liability of any party owning, operating, controlling, installing, altering, or repairing any electrical system or equipment for damages or injuries to persons or property nor shall the City be held as assuming any liability by reason of any of the Sections of this Chapter.

**CHAPTER 2.06  
LICENSING OF PLUMBING CONTRACTORS**

SECTIONS:

- 2.06.01: License Required for Plumbing Construction
- 2.06.02: Application for Plumbing Construction License
- 2.06.03: Plumbing Construction License Term and Renewal
- 2.06.04: Insurance Required for Plumbing Construction
- 2.06.05: Plumbing Construction License Fees

**2.06.01: LICENSE REQUIRED FOR PLUMBING CONSTRUCTION**

No person shall perform plumbing construction work within the limits of the City, on any property other than the person's primary residence until he/she is licensed by the State to perform such work as described in the South Dakota State Plumbing laws, and obtains a Plumbing Construction License from the Building Inspector's Office.

**2.06.02: APPLICATION FOR PLUMBING CONSTRUCTION LICENSE**

To obtain a license from the Building Inspector, the applicant must make application to the Inspection Office in duplicate on forms to be furnished by the City. All requested information must be included and any incomplete application will not be processed and the license shall not be issued. Said application shall include or be accompanied by the following:

- A. Proof that applicant is licensed under the laws of South Dakota;
- B. The applicant's state excise tax number;
- C. Proof of any insurance or undertaking required by the State;
- D. The applicant's name, address and phone number;
- E. Payment of applicable fee; and
- F. The name, address and phone number of the applicant's contact person.

**2.06.03: PLUMBING CONSTRUCTION LICENSE TERM AND RENEWAL**

Any license issued shall be valid for twelve calendar months from the date of issuance. Any license may be renewed by the licensee prior to its expiration by submitting a completed application and the necessary fee to the Building Inspector. Upon a determination by the Building Inspector that the application is in compliance with all applicable Sections of this Title, the license shall be issued. Any person completing work under an expired license shall be considered to be unlicensed in violation of this Title.

**2.06.04: INSURANCE REQUIRED FOR PLUMBING CONSTRUCTION**

Any applicant desiring to be licensed as a plumbing contractor shall be required to produce a certificate of insurance naming the City of Sturgis as the holder, stating that the applicant has contractor liability insurance, including products and completed operations and property damage insurance; in the amount not less than One Million Dollars (\$1,000,000.00) per occurrence with an aggregate of not less than two million dollars (\$2,000,000). The insurance requirements set forth in this Section shall be maintained

during the term of the license. Failure to maintain the insurance may result in suspension or revocation of any license issued.

**2.06.05: PLUMBING CONSTRUCTION LICENSE FEES**

Upon making application for a Plumbing Construction License, said applicant shall pay the applicable fee as set forth below:

- A. Plumbing Contractor/Sewer and Water Installer Contractor: \$125.00

**CHAPTER 2.07**  
**LICENSING AND REGULATION OF BUILDING AND STRUCTURE MOVERS**

SECTIONS:

- 2.07.01: License Required for Moving Buildings or Structures
- 2.07.02: Application for License
- 2.07.03: Insurance Required
- 2.07.04: Fee
- 2.07.05: Permit Required Before Moving
- 2.07.06: New Building or Mobile Home

**2.07.01: LICENSE REQUIRED FOR MOVING BUILDINGS OR STRUCTURES**

No person, except a licensed building and structure mover, shall move a building or structure into or within the City, and every person shall annually, before engaging in such occupation, obtain a license therefore pursuant to the provisions of this Chapter.

A building or structure for the purposes of this Chapter shall be defined to be any structure for which a building permit is required to be obtained before placement within the City.

**2.07.02: APPLICATION FOR LICENSE**

Any person requesting to be licensed as a building and structure mover, shall make written application therefore to the Building Inspector. Said application shall include or be accompanied by the following information:

- A. The name, address and telephone number of the Applicant;
- B. Payment of applicable fee;
- C. Verification of required insurance coverage

Any license issued under this Chapter shall be effective for a period of one year from the date of issuance.

**2.07.03: INSURANCE REQUIRED**

Any applicant desiring to be licensed as a Building Moving contractor shall be required to produce a certificate of insurance naming the City of Sturgis as the holder, stating that the applicant has manufactures contractors liability insurance, including products and completed operations and property damage insurance; in the amount not less than One Million Dollars (\$1,000,000.00) per occurrence with an aggregate of not less than two million dollars (\$2,000,000).

The insurance requirements set forth in this Section shall be maintained during the term of the license. Failure to maintain the insurance may result in suspension or revocation of any license issued.

**2.07.04: FEE**

Upon making application for or upon renewal of a license as a building and structure mover, any applicant shall pay a fee of One Hundred and Twenty Five Dollars (\$125.00).

**2.07.05: PERMIT REQUIRED BEFORE MOVING**

Before the owner of any building or structure shall be authorized to have a building or structure moved within the City by a licensed building and structure mover, he or she shall obtain a permit. Said owner shall make written application to the Building Inspector's Office and said application shall include or be accompanied by

the following information:

- A. Name, address and phone number of the owner;
- B. Name, address and phone number of the licensed building and structure mover;
- C. A description of the route to be taken in so moving the building or structure;
- D. The date and time of the proposed move; and
- E. The length of time the move is expected to take.

In determining whether or not to issue the permit, the Building Inspector shall take into consideration any applicable Section of this Title and/or Title 18 relating to planning and zoning and determine if the building or structure proposed to be moved would have a final location ~~is~~ in compliance with the standards set forth in this Title, and Title 18. The Building Inspector shall also take into consideration the proposed route and whether or not said route is the most reasonable route to be taken for the proposed move.

#### **2.07.06: NEW BUILDING OR MOBILE HOME**

Any owner of a new building or structure for which a building permit has been issued by the Building Inspector, or a mobile home as defined in Title 18, shall be required to obtain a permit pursuant to this Chapter before said new building or structure may be moved into the City.

**CHAPTER 2.08**  
**LICENSING AND REGULATION OF PUBLIC EXCAVATIONS**

SECTIONS:

- 2.08.01: License Required for Excavators
- 2.08.02: Application for Excavation Construction License
- 2.08.03: Excavation License Term and Renewal
- 2.08.04: Insurance Required for Excavation
- 2.08.05: Excavation Permit Fees
- 2.08.06: Permit Required Before Each Excavation
- 2.08.07: Excavation near Streets
- 2.08.08: Obstruction of Sewer Pipes, Manholes, Water Mains or Appurtenances
- 2.08.09: Excavation must be Refilled
- 2.08.10: Failure to Comply
- 2.08.11: Bond Non-Applicable to Utility Companies
- 2.08.12: Barricades, Guards, Lights, Etc. Required

**2.08.01: LICENSE REQUIRED FOR EXCAVATIONS**

No person shall perform any excavation upon publicly owned property within the limits of the City, until he/she is licensed by the City to perform such work through the Building Inspection Office.

**2.08.02: APPLICATION FOR EXCAVATION CONSTRUCTION LICENSE**

To obtain a license from the Building Inspector, the applicant must make application to the Inspection Office in duplicate on forms to be furnished by the City. All requested information must be included and any incomplete application will not be processed and the license shall not be issued. Said application shall include or be accompanied by the following:

- A. The applicant's state excise tax number;
- B. Proof of required insurance;
- C. The applicant's name, address and phone number;
- D. Payment of applicable fee of \$125.00;
- E. The name, address and phone number of the applicant's contact person.

**2.08.03: EXCAVATION LICENSE TERM AND RENEWAL**

Any license issued shall be valid for twelve calendar months from the date of issuance. Any license may be renewed by the licensee prior to its expiration by submitting a completed application and the necessary fee to the Building Inspector. Upon a determination by the Building Inspector that the application is in compliance with all applicable Sections of this Title, the license shall be issued. Any person completing work under an expired license shall be considered to be unlicensed in violation of this Title.

**2.08.04: INSURANCE REQUIRED FOR EXCAVATION**

Any applicant desiring to be licensed as a excavating contractor shall be required to produce a certificate of insurance naming the City of Sturgis as the holder, stating that the applicant has contractors liability insurance, including products and completed operations and property damage insurance; in the amount not less than One Million Dollars (\$1,000,000.00) per occurrence with an aggregate of not less than two million dollars (\$2,000,000). The insurance requirements set forth in this Section shall be maintained during the term of the license. Failure to maintain the insurance may result in suspension or revocation of any license issued.

**2.08.05: EXCAVATION PERMIT FEES**

For each separate excavation project or job, the licensee shall submit a permit form at the location and in the manner established by the Building Inspector, and shall submit a permit fee for each such application of \$150.00.

**2.08.06: PERMIT REQUIRED BEFORE EXCAVATION**

Before any licensed Excavator may perform any excavation upon public property, said licensor shall make written application to the Building Inspector's Office for an Excavation Permit and said application shall include or be accompanied by the following information:

- A. Name, address and phone number of the applicant/Licensed Excavator;
- B. Name, address and phone number of the owner of the property upon which the excavation is to be completed;
- C. The location of the desired excavation, including a list of the lots located in front of the desired location;
- D. The purpose for which the excavation is being made;
- E. The date and time of the proposed excavation; and
- F. The length of time the excavation is expected to take.

In determining whether or not to grant the permit, the Building Inspector shall take into consideration any applicable Section of this Title and whether the proposed excavation is in compliance with the standards set forth in this Title or the Building Code.

**2.08.07: EXCAVATIONS NEAR STREETS**

No person shall make or cause to be made any excavation of any lot or parcel of land without first assuring that the land is securely guarded so as to prevent the injury of any persons or animals passing upon or along the sidewalks, streets, alleys, public grounds, traveled path or roadway.

**2.08.08: OBSTRUCTION OF SEWER PIPES, MANHOLES, WATER MAINS OR APPURTENANCES**

A contractor shall ensure that no sewer pipes, manholes, water mains or appurtenances that are part of the sewer system, shall be damaged in the process of making an excavation. If damage of any kind occurs during excavation, the licensee person shall compensate the City for the damage, including but not limited to compensation for the cost of any necessary repairs.

**2.08.09: EXCAVATION MUST BE REFILLED**

In refilling any excavation, the earth shall be thoroughly and completely compacted using machine compacting equipment. When the licensee has completely refilled it, the surface of the excavation shall not be any higher or lower than the original surface when the excavations were commenced and settling will be at a minimum. The licensee shall be completely responsible for any settling of any ditches that occur. In the event of any settling, the excavator shall be required to refill the ditch and compact it in such manner that the surface when refilled shall not be any higher or lower than the original surface when



the excavations were commenced. The licensee shall, as soon as possible and in no case longer than 30 days after the start of such excavation, completely restore the street, alley, sidewalk, or other public place to the same condition as it was prior to the making of such excavation.

In the event that the surface is of concrete or asphalt, the licensee shall be required to replace the concrete or asphalt which is disturbed because of the excavation. In the event that the surface is a maintained lawn, the licensee shall be required to replace the lawn with sod approved by the City. The width of the patch shall be at least two (2) feet wider than the width of the actual excavation, if the excavation is two (2) feet or less. The width of the patch shall be at least four (4) feet wider than the actual excavation, if the excavation is more than two (2) feet wide. In the event that the surface is of concrete or asphalt, all openings in the concrete or asphalt shall be mechanically cut with a saw.

If any settling of the ditch occurs within two (2) years after the excavation is backfilled, the licensee shall, at his or her expense, be required to remove the patch, if applicable, compact the ditch and replace the surface. The licensee shall be responsible for maintaining the excavation from the time the excavation is backfilled until the surface is restored. This maintenance shall include periodic visual inspection of the excavation to insure that the excavation is not settling or the fill is not being pushed out of the excavation due to, or from, traffic.

All excavations shall, at all times, be at the same surface elevation as the original surface when the excavation was commenced and no excavation shall become a hazard for vehicular travel or pedestrian traffic. In the event that it comes to the attention of the City that any excavation is, or presents, a hazard to vehicular traffic or pedestrian traffic, the City shall call the telephone number noted on the permit application and advise the licensee of the problem. The licensee shall have a period of twenty-four (24) hours from the time of the telephone call to repair the excavation so as to eliminate the hazard. Notice under this provision shall be deemed to have been given by the City at the time the first call is made to the telephone number of the licensee, regardless of whether personal contact is made with the licensee as a result of the telephone call. In the event that the licensee refuses or neglects to repair the hazard within the twenty-four (24) hour period, the City shall have the right to have its crews repair the hazard and the licensee shall be responsible for all costs of labor, material, and machinery in making the required repairs. The licensee shall pay the cost of these required repairs within thirty (30) days of the date he or she is billed for the services. In the event the licensee does not pay within thirty (30) days, the City will not issue any additional permits pursuant to this Title to the licensee until payment is received by the City in full. If payment is not received by the City within thirty (30), days of the date of billing, the City may proceed with a claim made against the licensee pursuant to this Chapter. Said noncompliance and failure to pay may also result in revocation of the License issued pursuant to this Chapter.

#### **2.08.10: FAILURE TO COMPLY**

If at any time after the issuance of an Excavation Permit, the Building Inspector shall find that the work does not pass a satisfactory test, or has not been timely or properly refilled, maintained, and restored to its original conditions, Building Inspector shall notify the licensee in writing of the failure.

If the deficiency does not constitute a hazard to vehicular traffic or pedestrian traffic, the licensee shall have a period of twenty (20) days from the date of the written notification of the problem to correct or alleviate the problem. If the licensee does not correct or alleviate the problem within said twenty (20) day time period, the City shall have the right to have to do the required repair and charge the licensee for the labor, material, and equipment time in making the repairs. The City shall send a statement to the licensee notifying him or her of the charges pursuant to this Section and the Excavator shall have a period of thirty (30) days to pay the charges in full. In the event that payment is not made within thirty (30) days, no further permits shall be issued pursuant to Section 2.08.05 above until charges pursuant to this Section are paid in full. If the charges are not paid to the City within sixty (60) days after the date of billing, the City

shall have the right to obtain full reimbursement or restitution from the licensee.

**2.08.11: BOND NON-APPLICABLE TO UTILITY COMPANIES**

No utility company which has been granted, by franchise or contract, the right to use the streets, alleys or other public places, shall be required to furnish bond for making any excavations in any public right-of-ways; provided that all Sections of this Chapter relating to excavations in public right-of-ways shall be binding upon such companies.

**2.08.12: BARRICADES, GUARDS, LIGHTS, ETC. REQUIRED**

Any person making any excavation within the city on either public or private ground, shall, during the progress and continuance of the work, erect, keep and maintain about and around the same by day and night, suitable guards and fences, lanterns and signals as to prevent injury to any person, animal, or vehicle on account of such excavation. The requirements of this Section shall be performed in accordance with the requirements set forth in the Manual on Uniform Traffic Control Devices.

**CHAPTER 2.09  
REVOCATION OF LICENSES**

SECTIONS:

2.09.01: Authority to Revoke License

2.09.02: Revocation Process

**2.09.01: AUTHORITY TO REVOKE LICENSE**

The Building Inspector or designee shall have the authority to revoke any license issued pursuant to this Title based upon any one or a combination of the following:

- A. Incompetence in the Contractor's performance of the work for which the person is licensed;
- B. Failure to comply with applicable City Ordinances, including adopted Building Codes;
- C. Failure to comply with applicable State Laws;
- D. Failure to pay applicable fees;
- E. Failure to submit or renew bond and/or insurance requirements.
- F. Significant number of complaints regarding the Contractor's failure to meet Building Code or City Ordinance requirements during the term of the Contractor's license

**2.09.02: REVOCATION PROCESS**

Any decision of the Building Inspector or designee to revoke a license issued under this Chapter shall be provided in writing with an explanation to the Licensee. Said Licensee may appeal the decision of the Building Inspector as set forth Chapter 2.13 within this Title.

**CHAPTER 2.10**  
**FENCES**

## SECTIONS:

- 2.10.01: Material Requirements for Fences
- 2.10.02: Height, Setback, and Construction Requirements for Fences
- 2.10.03: Permit Required for Fences
- 2.10.04: Application for Permit for Fences
- 2.10.05: Fee for Fence Permit
- 2.10.06: Unsafe or Hazardous Fences

**2.10.01: MATERIAL REQUIREMENTS FOR FENCES**

Fences may be constructed only as provided in this Chapter of natural material in its living state or of the following factory manufactured materials:

- A. Wood; subject to the following conditions or limitations:
  - 1. Wood which has a natural resistance to decay, such as redwood or cypress, or treated wood, may be used.
  - 2. Wood in its natural state shall not be used for posts.
  - 3. Plywood or other solid sheeting materials which are two feet (2'0") or wider shall not be permitted.
  - 4. Spacing of support posts on wood fences shall be no more than eight feet (8'0") on center. Such supports shall be embedded below grade not less than three feet (3'0") unless the post is embedded in concrete. If concrete is used, the post may be embedded below grade no less than two feet (2'0") and one (1) cubic foot of concrete.
  - 5. All wood in contact with the ground shall be treated.
  - 6. Chemical retention shall meet the American Wood Preservers Association Standard C23-92 for round poles and C24-93 for sawn timber. In no case shall there be less than .6 lbs of chemical retention per cubic foot of material.
  
- B. Hedges; subject to the following conditions or limitations:
  - 1. Hedges shall not be located in the first twenty-five feet (25'0") of any required front yard on an interior lot.
  - 2. Hedges located on a corner lot shall not be located within twenty-five feet (25'0") of the property corner abutting the right-of-way intersection.
  - 3. All hedges shall be maintained in a neat and orderly fashion and must be kept clean of all trash and other materials.
  - 4. When the Chief of Police, Building inspector or Code Enforcement Officer finds a hedge is causing a public safety hazard (visibility) the hazard shall be removed immediately upon notification by the Code Enforcement to the property owner.
  - 5. When the Chief of Police finds a hedge is causing a public safety hazard (visibility), the hazard shall be removed.
  
- C. Metal; subject to the following conditions or limitations
  - 1. Metal fences maybe of any manufactured metal product except barbed wire.
    - a. An exception to the above shall exist for security fences when approved by the City Planning Commission. Security fences may be constructed with barbed wire if the lowest strand of barbed wire is not less than eight fee (8'0") from the existing grade.
  - 2. Spacing of support posts for metal fences shall be no more than eight feet (8'0") on center.
  - 3. All supports shall be embedded in not less than one (1) cubic feet of concrete and extend below grade a minimum of two feet (2'0").

- D. Concrete, Masonry, or Rock; subject to the following conditions or limitations;
  - 1. Concrete, masonry, or rock fences may be constructed of cast in place concrete or any manufactured concrete product.
  - 2. Fences or walls constructed of concrete products shall be designed with reinforcement. Such design shall be in compliance with Building Code and approved by Engineering and Inspections Office.
  
- E. Poly Vinyl Chloride; subject to the following conditions or limitations;
  - 1. Fences constructed of PVC must meet or exceed the following ASTM requirements:
    - a. ASTM D256 Izond Impact (23 degrees C—5.0 ft lbs.) (0 degrees C—2.0 ft lbs.)
    - b. ASTM D638 Tensile Strength;
    - c. ASTM D648 Deflection Temp;
    - d. ASTM D695 Compressive Yield (8,780 psi);
    - e. ASTM D696 Thermal Expansion; and
    - f. ASTM D732 Shear Strength (6,870 psi).
  - 2. Posts for PVC fencing shall not be spaced more than eight feet (8'0").
  - 3. Posts shall be installed not less than two feet (2'0") below grade and imbedded in not less than one cubic foot of concrete.
  
- F. Prohibited Materials:
  - 1. Wood in its natural state shall not be used for posts.
  
- G. Other materials may be approved by the Building Inspector when the Building Inspector has been determined that the alternate material meets or exceeds the requirements of the above materials.

#### **2.10.02: HEIGHT, SET BACK AND CONSTRUCTION REQUIREMENTS FOR FENCES**

The following requirements shall apply to all fences located within the City.

- A. No fence wall or hedge shall be permitted over the height of six feet (6'0") unless approved by the Planning Commission and City Council.
  
- B. On any interior lot, a fence, wall, hedge, or lawn ornament which is above the height of four foot (4 ft) and is opaque in nature shall not be permitted within the first twenty five feet (25'0") of any required front yard.
  
- C. On any corner lot, a fence, wall, hedge, or lawn ornament which is above the height of three foot (3') and is opaque in nature shall not be permitted within a site triangle which measures twenty-five feet (25'0") back in both directions from the property corner abutting an intersection.
  
- D. All fences must be constructed to manufacturer's recommendations or to industry standards and shall be capable of withstanding an eighty (80) mile an hour wind, as per the Building Code.

If any owner of record fails to abate a non-conforming or unsafe fence, wall, or hedge within 30 days after receipt of written notice from the Building Inspector or designee, certified mail, return receipt requested, the City shall have the right to go upon the property and abate the violation without further notice to the owner or occupant of record. The City may recover its costs of abatement as set forth in Title 36 or in any court of competent jurisdiction

**2.10.03: PERMIT REQUIRED FOR FENCES**

In addition to the requirements of subsection 2.10.02, before any person may erect or cause to be erected or constructed a fence four (4) feet or more above the natural grade of the site within the City, he or she must first obtain a building permit from the Building Inspector. The only two exceptions to this requirement are if a temporary structure permit has been issued for the fence or if a plan for which a building permit has been issued includes the full description, location and statement of value of the fence to be constructed.

**2.10.04: APPLICATION FOR PERMIT FOR FENCES**

To obtain a building permit for a fence from the Building Inspector, the applicant must make application to the Inspection Office in duplicate on forms to be furnished by the City. The permit application shall include the following information.

- A. The name of the owner of the property on which the fence is to be erected;
- B. The legal description and address of the property on which the fence is to be erected;
- C. The proposed height of the fence, wall or hedge;
- D. The type of material to be used in constructing the fence; and
- E. The person who will be erecting the fence's name and address.

**2.10.05: FEE FOR FENCE PERMIT**

Upon making application for a permit to build a fence, all applicants shall pay a fee of Twenty Five Dollars (\$25.00) for each permit requested.

**2.10.06: UNSAFE OR HAZARDOUS FENCES**

If at any time, in the opinion of the Building Inspector, a fence, wall, or hedge becomes unsafe to the public or person occupying the property, the City may order the fence removed. The time given to remove an unsafe fence, wall or hedge shall not exceed thirty (30) days from the date of notice. A fence shall be considered to be an unsafe or hazardous under the following circumstances, however, the City may find a fence is unsafe or hazardous under other circumstances not specifically listed herein:

- A. Whenever any portion of the fence, its appurtenance or its members has been damaged by fire, wind, flood, or other cause to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe.
- B. Whenever the fence, its appurtenance or its members or portion thereof is creating a traffic hazard because of visibility as determined under the setback requirements of Title 18 or by the Building Inspector.
- C. Whenever any portion of the fence, its appurtenance or its members or ornamentation on the fence is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting wind pressure as is stated in the building code for new structures.
- D. Whenever any portion of the fence, its appurtenance or its members has cracked, warped, buckled or settled to such an extent that the fence or portions of the fence are materially less resistant to

winds.

- E. Whenever the fence, its appurtenance or its members or any portion thereof, because of (1) dilapidation, deterioration, or decay; (2) faulty construction; (3) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such fence; (4) the deterioration, decay or instability of its foundation; or any other cause, is likely to partially or completely collapse.
- F. Whenever the fence, its appurtenance or its members list, lean or buckle to such an extent that the plumb line passing through the center of gravity does not fall inside the middle one third of the base of the fence.
- G. Whenever the fence, its appurtenance or its members or a portion thereof has been constructed in violation of any specific requirements of the Building Code, Ordinances of the City of Sturgis, or Laws of the State of South Dakota.
- H. Whenever the fence, its appurtenance or its members or portion thereof is creating a traffic hazard because of visibility as determined by the Chief of Police.

If any owner of record fails to abate a non-conforming or unsafe fence, wall, or hedge within 30 days after receipt of written notice from the Building Inspector, certified mail, return receipt requested, the City shall have the right to go upon the property and abate the violation without further notice to the owner or occupant of record. The City may recover its costs of abatement in any court of competent jurisdiction.

**CHAPTER 2.11**  
**EROSION CONTROL REGULATIONS**

**SECTIONS:**

- 2.11.01: Purpose and Application
- 2.11.02: Grading Permit Required
- 2.11.03: Application for Grading Permit
- 2.11.04: Exceptions to Permit Requirement
- 2.11.05: Fees
- 2.11.06: Grading Permit Issued
- 2.11.07: Expiration of Grading Permit
- 2.11.08: Best Management Practices Applicable to all Land Disturbances
- 2.11.09: Erosion Control Plan (ECP) Requirements
- 2.11.10: Final Stabilization Generally
- 2.11.11: Final Stabilization for Residential Construction
- 2.11.12: Final Stabilization for Agricultural Purposes
- 2.11.13: Additional Requirements
- 2.11.14: Stop Work Order

**2.11.01: PURPOSE AND APPLICATION**

During the construction process, soils are highly vulnerable to erosion by wind and water. Eroding soil endangers water resources by reducing the water quality and adversely affecting aquatic habitat for fish and other aquatic species. Eroded soils also increase the maintenance and repairs needed to maintain storm sewers, ditches, and other water carrying channels within the City. It decreases the life expectancy for holding ponds and other runoff management facilities. In addition, clearing and grading during construction causes the loss of topsoil and native vegetation necessary for terrestrial and aquatic habitat.

The purpose of this Chapter is to safeguard persons, protect property, and to prevent unnecessary damage to the environment within the City. This Chapter will promote the public welfare by guiding, regulating and controlling the design, construction, use, and maintenance of any development or activity that disturbs or breaks the topsoil or results in the movement of earth in the City.

Unless specifically exempted, these regulations shall apply to all lands within the City of Sturgis on which the vegetation is removed, disturbed or fill material has been brought onto a site.

**2.11.02: GRADING PERMIT REQUIRED**

Before any person may engage in a land disturbing activity effecting from one thousand (1,000) square feet up to one (1) acre, he/she must first obtain a Grading Permit from the Building Inspector.

**2.11.03: APPLICATION FOR GRADING PERMIT**

To obtain a Grading Permit from the Building Inspector, the applicant must make application to the Inspection Office in duplicate on forms to be furnished by the City. Said application must include or be accompanied by the following:

- A. The name of the owner of the real property proposed to be disturbed;
- B. The name of the contractor, if any, doing the work;



- C. The name, address, phone number, and emergency contact information for the person (s) responsible for the erosion control measures implementation and maintenance;
- D. The legal description of the property proposed to be disturbed;
- E. Documentation verifying that the property owner has obtained a General Permit for Storm Water Discharges associated with Construction Activities through the SD DENR as required by ARSD 72:52:11 for land disturbing activity of one (1) acre or more;
- F. Documentation verifying that the property owner has obtained a General Permit for Storm Water Discharges associated with Industrial Activities through SD DENR as required by ARSD 72:52:01 through 72:52:11. The requirements for this permit are governed by the Standard Industrial Code (SIC). There are no size (area) requirements for this permit;
- G. Documentation of the approval of the Storm Water Pollution Prevention Plan (SWPPP) by the City of Sturgis Engineering and Inspections office. The SWPPP is required for both D and E. above; and
- H. Such other information the Building Inspector may request so that he/she may determine if said improvement complies with the Ordinances of the City of Sturgis and/or the Laws of the State of South Dakota.

#### **2.11.04: EXCEPTIONS TO PERMIT REQUIREMENT**

No Grading Permit shall be required for the following activities:

- A. Any emergency activities that is immediately necessary for the protection of life, property, or natural resources.
- B. Existing nursery and agricultural operations as a permitted main or accessory use.
- C. Land disturbing activity less than 1000 square feet.

#### **2.11.05: FEES**

Upon making application for a Grading Permit, any applicant shall pay a fee in the amount of Twenty Five Dollars (\$25.00).

#### **2.11.06: GRADING PERMIT ISSUED**

The Building Inspector, upon receiving said application and fee, shall examine the same. If the application is completed, the proper fee is paid, and the proposed land disturbance conforms to the ordinances and laws of this City, he/she shall issue a Grading Permit to the applicant, which shall entitle the applicant to proceed with the land disturbance.

If the Building Inspector, upon examination of the application, finds that the application is not complete, or other information is necessary before a decision can be rendered thereon, the Building Inspector may request the additional information from the applicant without the necessity of obtaining a new application or fee.

If the Building Inspector finds that the land disturbance applied for does not conform to the Ordinances of the City of Sturgis or the laws of the State of South Dakota, he/she shall reject the application by noting

that fact upon the application and returning one copy of the application to the applicant. The other copy of the application shall be retained in the files of the Building Inspector.

#### **2.11.07: EXPIRATION OF GRADING PERMIT**

All permits shall be issued for a period of one (1) year but may be renewed upon a site inspection and approval by the City Engineering and Inspections Office.

#### **2.11.08: BEST MANAGEMENT PRACTICES APPLICABLE TO ALL LAND DISTURBANCES**

Any person not required to obtain a Grading Permit but who is engaging in a land disturbing activity is required to apply effective Best Management Practices (BMP) as well as applicable items within Section 6 and penalties set forth in Section 7.

#### **2.11.09: EROSION CONTROL PLAN (ECP) REQUIREMENTS**

Any acceptable Erosion Control Plan (ECP) shall include the following requirements:

- A. A legible map identifying the area to be disturbed, slopes, and resources to be protected as well as the nearest downstream storm water inlet, drainage ways, and neighboring property lines. The minimum size of the map for a site up to 1 acre is 8 ½" x 11"; for sites disturbing more than 1 acre and industrial sites the minimum map size will be 11" x 17";
- B. The plan must be approved and BMP's must be in place before grading may begin;
- C. Documentation verifying that the property owner has obtained a General Permit for Storm Water Discharges associated with Construction Activities through the SD DENR as required by ARSD 72:52:11 for land disturbing activity of one (1) acre or more;
- D. Documentation verifying that the property owner has obtained a General Permit for Storm Water Discharges associated with Industrial Activities through SD DENR as required by ARSD 72:52:01 through 72:52:11. The requirements for this permit are governed by the Standard Industrial Code (SIC). There are no size (area) requirements for this permit;
- E. All BMP's necessary to achieve soil stabilization on the site, of any disturbed areas including stockpiles of any soil, rock, or any additional landscaping materials on the site.
- F. A designated entry/exit point, an on site concrete washout area, measures to protect the nearest downstream storm water inlets or drainage way, and detailed measures to be taken to prevent mud-tracking from vehicles and equipment into the street.
- G. Inclusion of the date for Final Stabilization, as defined below, by the grading permit holder.

#### **2.11.10: FINAL STABILIZATION GENERALLY**

Final Stabilization shall be considered attained for all soil disturbing activities at a site when either of the following criteria has been met:

- A. A uniform (e.g. evenly disturbed, without large bare areas) perennial vegetation cover with a minimum density of 70% of the native background vegetation for the area, has been established on all unpaved areas and areas not covered by a permanent structure or,
- B. Equivalent permanent stabilization measures, such as the use of riprap, retaining walls,

geotextiles, or other approved methods, have been employed.

When background native vegetation naturally covers less than 100% of the ground, the 70% coverage criteria is adjusted as follows: If native vegetation covers 50% of the ground, 70% of 50% ( $0.70 \times 0.50 = 0.35$ ) would require 35% total coverage for Final Stabilization. In an area where less vegetation is naturally found, less stabilization would be required.

Any Final Stabilization must be completed within one (1) year of Certificate of Occupancy, final inspection, or project completion, whichever occurs sooner.

#### **2.11.11: FINAL STABILIZATION FOR RESIDENTIAL CONSTRUCTION**

For individual residential construction lots final stabilization means that either:

- A. The homebuilder has completed final stabilization as specified above, or
- B. The homebuilder has established temporary stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization. In addition, the owner of the property shall be required to sign a statement stating they are aware of these responsibilities upon acquiring the water/sewer/garbage account for the property.

#### **2.11.12: FINAL STABILIZATION FOR AGRICULTURAL PURPOSES**

For construction projects on land used for agricultural purposes (e.g. pipelines across range or crop land, staging areas for road construction, etc.) Final Stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to a watercourse, and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria set forth in Section 2.11.09.

#### **2.11.13: ADDITIONAL REQUIREMENTS**

It shall be the responsibility of the grading permit holder to attain the approval of all required agencies for the crossing of any waterway associated with any grading project, (i.e. SD DENR, Corp of Engineers, FEMA, etc.).

ECP's and SWPPP's must be maintained on the site during the progress or the work.

If control measures implemented do not achieve stabilization, the permit holder may be required to submit an updated SWPPP or may be required to submit a ECP prepared by a qualified South Dakota licensed professional engineer.

The City's authorized representative may enter on to the site to make inspections as needed.

#### **2.11.14: STOP WORK ORDER**

Whenever the City Engineer, the City Building Official, or their designee finds a site maintained contrary to the provisions of this Title, the City Engineer, the Building Inspector, or their designee is authorized and directed to issue a "Stop Work Order" for the site.

Any "Stop Work Order" shall be in writing and issued to the permittee or assigned contractor. Upon issuance the cited work shall immediately cease. The "Stop Work Order" shall state the reasons for the

order and the conditions under which the cited work will be permitted to resume.

Any person who shall continue any work after having been served a “Stop Work Order”, except for the work required by the “Order”, shall be considered to be in violation of this Title and subject to any applicable penalty set forth herein.

## **CHAPTER 2.12 MISCELLANEOUS**

### **SECTIONS:**

- 2.12.01: Stair Railings and Grates
- 2.12.02: Permit to Place Building Material on Street
- 2.12.03: Removal of Decaying or Burned Building
- 2.12.04: Use of Concrete and Other Debris as Fill on Publicly Dedicated Rights-of-Way Prohibited
- 2.12.05: Operation of Vehicles with Lugs, Ice Spurs, or Similar
- 2.12.06: Operation of Construction Equipment or Vehicle Equipped with Outriggers

### **2.12.01: STAIR RAILINGS AND GRATES**

The owner of any building in the City that has a stairway leading from an adjacent sidewalk to the cellar or basement of the building shall guard such stairway with a substantial railing not less than three feet high. The entrance to such stairway shall be at right angles to the street from which such entry is made. Any person who has any permanent opening in any sidewalk for the purpose of letting light into any basement or cellar or for any other purpose, shall guard the same with a substantial cover.

### **2.12.02: PERMIT TO PLACE BUILDING MATERIAL ON STREET**

No person shall deposit and keep lumber, stone, brick or other materials for building in any public street, road, or alley, without a permit. Any person desiring to do the above mentioned shall make written application to Department of Planning and Permitting. The Department of Planning and Permitting shall have the power to issue a permit granting the permit holder the authority to keep lumber, stone, brick or other materials for building in the requested public area for a period not to exceed six months. The issuing of a permit shall also be subject to such other conditions or limitations, as the Department of Planning and Permitting may deem necessary under the circumstances. Before issuing any permit, the Department of Planning and Permitting shall take into consideration the free flow of vehicular and pedestrian traffic, the proper drainage of water, and the safety of persons and property and reasonable input from other City staff.

### **2.12.03: REMOVAL OF DECAYING OR BURNED BUILDING**

Whenever, in the opinion of the Building Inspector, any building within the City shall have been damaged by fire, building collapse, decay or otherwise, to the extent of 50 percent of the value thereof, it shall be the duty of the Building Inspector to report the same in writing to the City Manager as a likely violation of Title 12 and/or Title 18. The report shall be in writing and include a description of the building, its location, the circumstances of damage, decay or dilapidation, and the name of the owner, if known. The Department of Planning and Permitting may issue a notice to be served upon the owner if within the state, or in case of his absence from the state, upon his agent if there be one, requiring said owner to respond in writing within 15 days and show cause why said building should not be torn down or removed by the owner. In case the owner cannot be found within the state, and there is no agent present, then said notice may be published in the official City newspaper once in the weekly issues of such newspaper. Upon completion of such publication and due proof thereof, placed on file with the Finance Officer, service of said notice shall be deemed valid and complete.

### **2.12.04: USE OF CONCRETE AND OTHER DEBRIS AS FILL ON PUBLICLY DEDICATED RIGHTS-OF-WAY PROHIBITED**

No person shall use concrete, asphalt, wood, tree limbs or other solid debris as fill in on publicly

dedicated rights-of-way, streets, or alleys within the City.

**2.12.05: OPERATION OF VEHICLES WITH LUGS, ICE SPURS, OR SIMILAR**

Every solid, rubber tire on a vehicle moved on any highway, street, or alley within the City shall have a rubber on its entire traction surface at least one inch thick above the edge of the flange on the entire periphery.

No tire on any vehicle moved on any highway, street or alley within the City shall have on its periphery any block, stud, ice spur, flange, cleat, spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire. It shall be permissible, however, to use tire chains of reasonable proportions upon any vehicle when necessary for safety because of snow, ice, or other conditions.

**2.12.06: OPERATION OF CONSTRUCTION EQUIPMENT OR VEHICLES EQUIPPED WITH OUTRIGGERS**

All construction equipment or vehicles equipped with outriggers being used for construction purposes on the bituminous or concrete surface streets and alleys of the City shall have rubber padded or flat metal surface thereon.

It shall be unlawful to use construction equipment or vehicles equipped with outriggers having metal studs, lugs or an equivalent hard material upon the bituminous or concrete surfaced streets or alleys of the City.

**CHAPTER 2.13  
APPEAL PROCESS**

Any person aggrieved by a decision made by the Building Inspector, or other Department Head under this Title shall be entitled to have said decision reviewed by the City Manager before any appeal to the City Council. The process shall be as follows:

- A. Any person aggrieved by a decision of the Building Inspector, designee or other Department Head under this Title 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 the appeal.
- D. Upon receipt of a notice of appeal, the Finance Officer shall notify the City Council and a public hearing shall be held at a regularly scheduled Council meeting within thirty (30) days after the date said appeal was filed. The City Finance Office shall provide notice to the person, at the mailing address they have provided, specifying the time, date, and location of the hearing.
- E. The City 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 the decision of the Building Inspector.

**(This title revised with Ordinance 2016-10, effective 12-28-2016)**