

PROCEEDINGS OF THE STURGIS CITY COUNCIL

The Common Council of the City of Sturgis met in regular session starting at 6:30 p.m. on Tuesday, July 5, 2011 at the Erskine Building. Present: Mayor Mark Carstensen, Alderpersons, Clint Brengle, Joe DesJarlais, David Hersrud, Marcia Johnston, Jamie McVay, Tim Potts, Dane Sundstrom and Kelly Vasknetz. Also present City Attorney Greg Barnier. Absent: None

Mayor Mark Carstensen led everyone in the Pledge of Allegiance.

Announcements:

Mayor Carstensen thanked everyone that helped with all the activities during the 4<sup>th</sup> of July weekend. It was good family fun.

Motion by Hersrud, second by Potts and carried with all members voting yes to approve the amended agenda with the deletion of the two public hearings for transfers under old business for Schmid Investments, Sidehack and Gunner Lounge.

Motion by Brengle, second by Hersrud and carried with all members voting yes to approve the minutes from the regular council meeting on June 20, 2011.

Motion by Brengle, second by Hersrud and carried with all members voting yes to approve the following claims:

**Wages** – Ambulance \$12,067.22; Attorney \$2,741.19; Auditorium \$172.58; Buildings \$1,495.48; Cemetery \$2,694.74; City Manager \$1,397.37; Community Center \$13,519.43; Community Development \$3,509.75; Finance Office \$8,770.18; Fire Department \$2,010.22; Human Resource \$2,521.54; Library \$8,954.36; Liquor \$4,434.44; Mayor and Council \$3,014.01; Parks \$15,038.07; Police \$34,902.58; Rally \$4,003.55; Sanitary Service \$11,125.80; Streets \$8,330.96; Wastewater \$8,645.59; Water \$14,854.23; Federal Withholding \$15,689.24; FICA \$12,041.00.

**General** – A&B Business, \$151.18, repair; Affinity Media, \$1275.00, publ-rally; Amazon, \$753.38, supp; Amcon, \$390.31, merch for resale; Assoc Supply Co, \$392.30, supp; Avaya, \$36.39, util; Baker & Taylor, \$649.41, supp; Greg Barnier, \$375.27, travel; Best Western Ramkota Inn, \$211.98, travel; BH Power, \$1367.69, util; BH Chemical, \$994.66, supp; BH Harley Davidson, \$64.98, repair; BH Truck & Trailer, \$20.74, repair; Borders, \$116.66, supp; Buckle Tree, \$30.00, other; Jerry Burnham, \$2418.36, prof fee; Butte Electric, \$448.36, util; Century Business Products, \$391.06, supp; Chain Saw Center, \$229.27, repair; Chamber of Commerce, \$416.67, other; City of Sturgis Police Petty Cash, \$13.62, supp; Community Center Petty Cash, \$21.00, cc prog exp; Curt Corey, \$312.00, cc prog exp; Dakota Supply Group, \$241.20, supp; Daktronics, \$50.00, repair; Demco, \$44.18, supp; Wade Deuter, \$30.00, other; Dish Network, \$79.95, util; Double Star Computing, \$1406.93, repair; Ecolab Pest, \$169.00, maint; Joyce Ehlers, \$113.00, travel; Energy Lab, \$55.65, repair; Faith Independent, \$34.00, supp; Fedex, \$90.97, supp; Nicole Forrester, \$35.00, refund; Freeman Electric, \$4080.00, econ dev; Fry Comm, \$195.00, publ-rally; Gaylord Brothers, \$67.44, supp; Great Western Tire, \$25.00, supp; Gunderson & Palmer, \$185.00, other; Hampton Inn, \$556.00, travel; Hasler, \$629.00, repair; Heartland Papers, \$531.13, supp; Hills Materials, \$1197.40, supp; Ikon Office Solutions, \$696.86, supp; Integrity Sheet Metal, \$241.85, repair; J&L Services, \$210.00, repair; Jacobsen Ford, \$120.28, repair; Jenner Equipment, \$1290.21, repair; KT Connections, \$275.00, supp; Knecht Home Center, \$119.95, supp; Knology, \$2151.72, util; Charles Larsen, \$150.00, sale of cem lots; Cody Loftin, \$30.00, other; Marls, \$130.00, prof fee; Meade Co Auditor, \$2910.53, util; Candy Morrell, \$3311.09, maint; Motorcycle Events Assn, \$2500.00, publ-rally; Motoring USA, \$12,560.00, prof fee; Neve's Uniforms, \$97.88, supp; Northern Hills Sod Farm, \$24.00, supp; Owens Interstate, \$58.09, supp; P&P Enterprises, \$390.00, other; Pete Lien & Sons, \$85.25, repair; Julie Peterson, \$31.00, supp; Pitney Bowes, \$132.00, rent; Elvira Pittman, \$38.30, travel; Powerplan,

\$65.62, repair; Print Mark-et, \$809.04, publ; Purchase Power, \$214.19, supp; Ramaker & Assoc, \$1046.00, prof fee; Riding on Motorcycle Magazine, \$575.00, publ-rally; Rockingtree Floral, \$55.72, supp; Rockingtree Landscapes, \$225.00, supp; Rushmore Office, \$108.00, supp; Sacrison Asphalt, \$275.60, supp; Sand Creek Printing, \$253.75, supp; Fred Schmidt, \$30.00, other; SD Retailers Assoc, \$140.00, travel; Jeanie Shyne, \$113.00, travel; Source Interlink Enthusiast, \$3300.00, publ-rally; The Little Print Shop, \$89.00, supp; The Shopper, \$97.36, supp; Town-N-Country Plumbing, \$87.57, supp; Two Wheeler Dealer, \$215.00, repair; Vanway Trophy, \$43.75, supp; Matt Veal, \$30.00, other; Verizon, \$2230.33, util; Warne Chemical, \$247.00 repair; Wide Open Custom Plastic, \$425.00, vendor refund; James Williams, \$312.00, cc prog exp; Elaine Wolken, \$113.00, travel; Gabe Zeigler, \$2070.00 cc prog exp; Ziegler Building Center, \$49.50, sup; Zylstra Body, \$65.00, repair.

**Ambulance** – DB Billing, \$882.09, prof fee; Double Star Computing, \$195.00, repair; Hersrud, \$194.76, supp; Jacobsen Ford, \$96.98, repair; Key City Glass, \$392.20, repair; Knology, \$103.39, util; Office Depot, \$57.33, supp; Print Mark-et, \$57.58, publ; Regional Health, \$305.43, supp; Rockingtree Landscapes, \$225.00, supp; Verizon, \$68.26, util.

**Special Sales Tax** – Chamber of Commerce, \$10,416.67, chamber; SEDC, \$10,416.67, ind dev.

**Capital Improvement** – Brosz Engineering, \$2399.08, cap imp; Sacrison Paving, \$103,721.93, cap imp.

**Liquor** – Double Star Computing, \$1111.12, prof fee; Ecolab Pest, \$96.00, repair; Knology, \$163.32, util; M&B Enterprises, \$99.50, snacks for resale; North Country Business Product, \$613.46, repair; Okoboji Wines, \$422.50, off sale liquor; One Way Service Pros, \$75.00, repair; Print Mark-et, \$57.58, publ; Verizon, \$53.61, util.

**Water** – BH Power, \$1359.97, util; Butte Electric, \$781.42, util; Double Star Computing, \$551.33, repair; First Nat'l Bank Sioux Falls, \$15,325.46, prin,int; Knology, \$119.60, util; Candy Morrell, \$362.55, maint; Print Mark-et, \$57.58, publ; Verizon, \$1094.73, supp,util.

**Wastewater** – American Engineering Testing, \$2736.75, prof fee; AT&T Mobility, \$80.70, util; Bentz Equip, \$232.04, repair; BH Power, \$2382.08, util; Chain Saw Center, \$59.95, other; Double Star Computing, \$21.33, repair; Fastenal Co, \$57.88, repair; First Nat'l Bank Sioux Falls, \$4977.41, prin,int; Hersrud, \$747.94, repair; Candy Morrell, \$238.18, maint; Owens Interstate, \$135.50, supp; Print Mark-et, \$57.58, publ; Robert Telkamp, \$116.99, repair; Verizon, \$157.96, util.

**Sanitary Service** – A&J Surplus, \$210.00, repair; Dakota Radiator, \$80.00, repair; Double Star Computing, \$21.33, repair; Eddies Truck Sales, \$9.19, repair; Fastenal Co, \$77.44, supp; Great Western Tire, \$55.95, supp; MG Oil, \$1151.02, supp; Candy Morrell, \$238.18, maint; Northern Truck Equip, \$74.70, repair; Owens Interstate, \$98.62, repair; Powerplan, \$566.79, repair; Pressure Services, \$319.22, repair; Print Mark-et, \$54.58, publ; Qwest, \$60.05, util; Verizon, \$44.56, util.

**TIF #9 Palisades** – First Interstate Bank, \$39,855.82, other.

#### Committee Report:

Councilor Johnston reported that the Orlando Symphony is back and will be doing a “Teddy Bear” story time on Monday, July 11<sup>th</sup> at 10:00 am at the Library and a community family concert on Wednesday, July 13<sup>th</sup> at 6:00 pm at the Community Center. South Dakota Touring Artist Mary Wipf will do a week long residency with teens and tweens July 11-14 at the Library. Over 60 patrons are currently using Overdrive downloadable audio books and eBooks; over 300 items have been downloaded since March 28<sup>th</sup>. The Library had over 400 children and 167 adults attend programs in June. There are 253 children and tweens and 40 teens signed up for the summer reading programs.

#### Management Team Report:

Motion by Brengle, second by Vasknetz and carried with all members voting yes to approve the following new hires and wage increases: **Police:** Patrol Officer (Class A)-Dylan Ciscoe-\$17.75. **Liquor Store:** Seasonal-Part time: Jean Kusser-\$9.00, Brian Littleton and Mike DeLancey-\$8.25, Calvin Wheeler, Melissa Terhune, Bonnie Jones, Noka Provancial Beck, Sandy Erickson, Tammy Bachand and Tiffany Smith-\$8.00. **Rally: Temporary**-Media Center-Joyce Kaubisch-\$8.00, Photo Tower-Lacey Iverson-\$8.00. **Community Center:** Office Manager-Judy Duprel-\$11.01; **Community Center Rally help:**

Custodial-Patty Sanderson and Jeremy Gutierrez-\$8.50; Custodial-Auditorium-Yolanda Daniels, Diana Daniels, Maxwell Downs, Vicki Heimer-\$8.50; Current part-time employees Rally-Allison Anderson, Taber Baldwin, Wayne Berglund, Gunner Berglund, Eli Bueno, Rebecca Clausen, Sally Clement, Bryan Cooley, Kristine Estes, Jarrett Fowler, Mandy Goodro, Lacey Hinker, Leah Hinker, Bethany Jensen, Shannon Lensegrav, Nodia Lippert, Brenda Martinson, Diane Moravec, John Paul, Bennett Prosser and Nolan Schneider-\$8.50; **Rally Inspectors:** Bob Hood, Sue Regan, Jamalee Stone, Ashley Johnson, Kayla Cline, Lisa Anderson and Erin Williams-\$10.50. **Sanitation**-Rubble Site Operator- (TBD) \$11.50.

Finance Officer Fay Bueno reported that as of June 30, 2011 overall sales tax is up 5.8% over last year.

Public works director Randy Nohava reported that the overlay program is 90% complete.

Community Development Coordinator Rick Bush gave an overview of the 2011 Rally Inspectors' incentive plan. Motion by Hersrud, second by Potts and carried with all members voting yes to approve the 2011 Rally Inspectors' incentive plan.

Motion by Brengle, second by McVay and carried with all members voting yes to set a public hearing date of August 1, 2011 for a variance for an 80 foot flag pole-1175 W. Woodland-John Lawson-Sturgis RV Park.

Motion by Hersrud, second by DesJarlais and carried with all members voting yes to approve second reading of Ordinance 2011-01 – Title 3 – Licensing and Regulation of Alcohol, Malt Beverages and Drinking Establishments.

### **Ordinance 2011-01**

#### **TITLE 3**

### **LICENSING AND REGULATION OF ALCOHOL, MALT BEVERAGES AND DRINKING ESTABLISHMENTS**

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 3, Licensing and Regulation of Alcohol, Malt Beverage and Drinking Establishments, is hereby enacted as follows:

Chapters:

- 3.01: General Provisions
- 3.02: Licensing and Sales of Malt Beverages
- 3.03: Full Service, On Sale and Malt Beverage Restaurant License
- 3.04: Structure Requirements, On Sale Establishments

#### **CHAPTER 3.01**

#### **GENERAL PROVISIONS**

#### **SECTIONS:**

- 3.01.01: Scope and Purpose
- 3.01.02: Definitions
- 3.01.03: Penalty

#### **3.01.01: SCOPE AND PURPOSE**

This Title shall set forth licensing requirements related to the sale of alcohol and malt beverages and shall regulate drinking establishments and the sale of alcohol and malt beverages within the City.

### **3.01.02: DEFINITIONS**

A term that is defined in a specific section of this chapter is to be first given the meaning therein defined. If a term is not defined in a specific section the term is to be defined using the definitions below in this section. If a term is not defined in this section the term is to be given the meaning as defined in Title 35 of the South Dakota Codified Laws, SDCL. If a term is not provided for in the SDCL the term is to be given its plain and ordinary meaning.

**ALCOHOLIC BEVERAGE:** Any distilled spirits, wine, and malt beverages as defined in this chapter.

**BAR:** Any permanent installed counter within the restaurant area from which alcoholic beverages are regularly served to customers by a person employed by the facility and is tending bar or drawing or mixing or otherwise preparing alcoholic beverages for consumption within the facility.

**BEER GARDEN:** A designated area within the premises of a licensed on sale dealer, identified in the license application, adjacent to the permanent structure on the premises, and separated and defined by the temporary or permanent barriers required by this Ordinance. A Beer Garden shall not include a deck or patio area as defined in this Ordinance, and the area may be covered or uncovered. The total area of a beer garden may not exceed the footprint of the qualified, permanent structure located on the licensed premises.

**BUILDING/STRUCTURE:** Structure having a roof supported by columns or walls for the shelter, support or enclosure for persons, animals or chattels. A building may be precut or prefabricated, or it may be made up of mobile modules or sections, factory fabricated and transportable by rail or truck to a building site, and designed to be incorporated into a structure upon a permanent foundation on the said site.

**BULK CONTAINER:** Any package or any container within which container is one or more packages.

**BUSINESS:** Means any activity, trade, calling, profession, or occupation, whether sole proprietorship, partnership, corporation, limited liability company or other recognized entity, which regularly provides delivery of products and/or services from an address or other location(s) within the corporate limits of the City of Sturgis. Business includes "home occupations" which involve the sale of goods or services as described in this definition.

**DECK:** Any walking surface, covered or uncovered, which is attached to the exterior of a structure and is elevated above finish grade. Decks shall have at least one access attached to a permanent structure for which malt beverage or alcohol is served or consumed.

**DISTILLED SPIRITS:** Ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use, containing not less than one-half of one percent (0.5%) of alcohol by weight

**EVENT:** An organized occurrence or happening lasting four (4) or more consecutive days or where the City provides extraordinary services, including but not limited to sanitation services, law enforcement or traffic control.

**FLOOR:** An area that is surrounded by exterior walls and a roof of the building or portion thereof.

**MALT BEVERAGE:** A beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared there from, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human consumption containing not less than one-half of one percent (0.5%) of alcohol by weight.

**MINOR:** Any person who is under the age of twenty-one (21).

**OFF-SALE:** The sale of any alcoholic beverage for consumption off the premises where sold.

**ON-SALE:** The sale of any alcoholic beverage for consumption only upon the premises where it is sold.

**ON-SALE DEALER.** Any person who sells, or keeps for sale, any alcoholic beverage for consumption on the premises where sold.

**OPERATION:** In action, functioning.

**PACKAGE:** The bottle or immediate container of any alcoholic beverage.

**PACKAGE DEALER:** Any person other than a distiller, manufacturer, or wholesaler, who sells, or keeps for sale, any alcoholic beverage for consumption off the premises where sold.

**PATIO:** Any finished walking surface which is at grade and is covered or uncovered. Patios shall have one access attached to a permanent structure for which malt beverage or alcohol is served or consumed.

**PUBLIC PLACE:** Any location that the local, state, or national government maintains for the use of the public, such as a highway, park, or public building.

**RESTAURANT:** A room and/or structure regularly, and in bona fide manner, used and kept open for the serving and/or preparing of meals to guests for compensation which has suitable table accommodations for at least fifty (50) guests therein at one and the same time; and a kitchen connected therewith containing conveniences for cooking sufficient to provide preparation and cooking of meals in a bona fide manner for fifty (50) or more guests at one and the same time. Facilities who serve only prepackage foods or items that can be heated in a microwave or small pizza or toaster ovens will not be considered a restaurant.

**RETAIL LICENSE:** Any on-sale or off-sale license issued under the provisions of this chapter.

**RETAILER OR RETAIL DEALER:** Any person who sells alcoholic beverages for other than resale.

**ROOF:** Any structural element or group of elements which are structural in nature and are covered with a material(s) that is (are) weather resistant. The roof shall be the top most element of the structure that meets the requirements of the current adopted building code.

**SALE:** The transfer, for a consideration, of title to any alcoholic beverage.

**SPECIAL EVENT LICENSE:** For purposes of this ordinance, a special event within the municipality is defined as an event or activity conducted by any generally recognized civic, charitable educational fraternal or veterans organization with an active chapter located within the City, or a wedding reception or other private family gatherings, or an event at a specified location within the City, or an event hosted at a

hotel-convention facility having at least 75 beds for guests at the facility and with kitchen and dining facilities on site capable of providing meals in a convention hall facility with seating for at least 300 guests, which special event is projected by the applicant to bring at least 50 out of town guests to the motel convention facility. To obtain the Special Event License the civic, charitable, educational, fraternal or veterans organization, or for use at a specified location within the City or a hotel-conventional facility a license holder having a license already issued by the City pursuant to SDCL 35-4-2(4), (12), or (16), shall submit an applications stating their qualifications for a Special Event License on a form consistent with the requirements of SDCL 35-4-124 and providing all additional information required by the City Finance Office to meet the requirements of this ordinance. A Special Event License only be issued to a current Sturgis license holder only for the same class of license previously issued to the licensee by the City of Sturgis

**TO SELL AND SERVE ALCOHOLIC BEVERAGES:** to take orders for alcoholic beverages and to deliver alcoholic beverages to customers as a normal adjunct of waiting tables. This term does not include tending bar or drawing or mixing alcoholic beverages.

**WALL:** Any wall or element of a wall, or any member or group of members, structural or non-structural, which defines the boundaries of a building and which is opaque in nature with the exception of windows or doors and supports a roof and/or floor above.

**WINE:** Any liquid either commonly used, or reasonably adapted to use, for beverage purposes, and obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar and containing not less than one-half of one percent (0.5%) of alcohol by weight but not more than twenty- four percent (24%) of alcohol by weight

**3.01.03: PENALTY**

Any violation of the provisions of this Title is a Class 2 Misdemeanor punishable by a maximum fine of five hundred dollars (\$500.00) and/or incarceration in the County jail for a period not to exceed thirty (30) days.

In addition, any person holding a license under this Title who is found to be in violation of any provisions of this Title shall face the possibility of revocation or non-renewal of any license.

**CHAPTER 3.02  
LICENSING AND SALES OF ALCOHOL AND MALT BEVERAGES**

**SECTIONS:**

- 3.02.01: License Required for Sale of Alcoholic or Malt Beverage
- 3.02.02: Wholesale License Fee
- 3.02.03: Submission of Invoices and Assessment of Fees
- 3.02.04: Delivery and Sale Required Within City
- 3.02.05: Consequences for Failure to Timely Pay City
- 3.02.06: Maintenance of Records and Inspection by Dealer
- 3.02.07: Limitation of One License per Location
- 3.02.08: Classification and Fees required for Alcoholic Beverage, Malt Beverage, Wine Licenses and Renewals
- 3.02.09: Special Event License Requirements
- 3.02.10: Consumption Only Permit
- 3.02.11: Hours of Operation

- 3.02.12: Authorized Number of On Sale Malt Beverage Licenses
- 3.02.13: Off or On Sale Sales on Sunday or Memorial Day Pursuant to Statute
- 3.02.14: Action by Council
- 3.02.15: Character Requirements for License
- 3.02.16: Area Limited
- 3.02.17: Kegs of Malt Beverage – Retail Sale – Records
- 3.02.18: Consuming, Blending, Possessing Alcoholic Beverages in Public Places – Disposal of Containers of Alcoholic Beverages Restricted
- 3.02.19: Open Containers Permitted Upon Approval
- 3.02.20: Weapons Prohibited on Premises Where Sold
- 3.02.21: Annual Review of Licenses
- 3.02.22: Annual Review of Applications
- 3.02.23: Sales with License Only
- 3.02.24: Additional Fee for Video Lottery Machine Holders
- 3.02.25: Traffic in Alcoholic Beverages Prohibited
- 3.02.26: Persons under Twenty-One Barred from On-Sale Premises
- 3.02.27: Violation as Ground for Revocation or Suspension of License – Multiple Licenses

### **3.02.01: LICENSE REQUIRED FOR SALE OF ALCOHOLIC OR MALT BEVERAGE**

No person shall sell, keep for sale, exchange, barter or distribute any alcoholic or malt beverage without having obtained a license as required by the provisions of the State Liquor Control Law SDCL Title 35 and by Sturgis City Ordinance, Title 3.

Any person who intends to sell, keep for sale, exchange, barter or distribute any alcoholic or malt beverage shall make an application for license under provisions of the State Liquor Control Law, SDCL 35 to the City of Sturgis Finance Officer.

Upon issuance of said license, the licensee shall be given a copy of Sturgis City Ordinance Title 3 and sign a statement verifying that he or she has received a copy of Title 3. It shall be the responsibility of each licensee to acknowledge in writing they have read and understood Title 3. Any violation of Title 3 of the City Ordinance Code shall be subject to the general penalty set out at 3.01.03 of Title 3.

### **3.02.02: WHOLESALE LICENSE FEE**

The City does hereby impose a fee of five percent (5%) of the wholesale purchase price, plus freight, for all malt beverages as defined by SDCL 35-1-1, as amended, delivered to the following persons:

Any person holding a Malt Beverage Retailer's License, issued pursuant to SDCL 35-4-2 (16);

Any person holding a Malt Beverage Package Dealer's License, issued pursuant to SDCL 35-4-2 (17); or

Any person holding a Special Malt Beverage Retailer's License, issued pursuant to SDCL 35-4-11.4.

The authority for the imposition of this fee is contained in SDCL 35-4-60.2.

### **3.02.03: SUBMISSION OF INVOICES AND ASSESSMENT OF FEES**

All malt beverage wholesalers, as defined by SDCL 35-1-1, and licensed, pursuant to SDCL 35-4-2, shall provide a copy to the Finance Officer of all invoices for sales of malt beverages delivered to the malt

beverage dealers, as described in Section 3.02.02 herein, within the City, on or before the 5th day of each month for all sales made in the City for the prior month.

The Finance Officer shall on the 15th day of each month, or on the first working day thereafter, send a statement to each malt beverage dealer, assessing the fee required hereunder, based upon all invoices received by the City for malt beverages delivered to the dealer for the prior calendar month. The dealer shall have a period of ten (10) days within which to pay to the City the fee required hereunder. In the event of the failure by the dealer to pay the required fee within said ten (10) day time period, the Finance Officer shall notify the malt beverage wholesalers, in writing, by first-class mail, postage prepaid at Sturgis, South Dakota, of the fact that this fee has not been paid and that the license holder is in violation of the terms of this Title. A copy of the notice sent to the malt beverage wholesaler shall be sent to the dealer who is in default. The wholesalers shall not deliver any malt beverage to the dealer who is in default under the terms of this Title until such time as the wholesalers are notified by the City that all fees owing to the City have been paid in full.

**3.02.04: DELIVERY AND SALE REQUIRED WITHIN CITY**

No malt beverage dealer, as described in Section 3.02.02 herein, shall sell any malt beverages that have not been delivered to the malt beverage dealer within the City for sale within the City.

**3.02.05: CONSEQUENCES FOR FAILURE TO TIMELY PAY CITY**

No malt beverage dealer’s license, as described in Section 3.02.02 herein, shall be renewed until all fees owing pursuant to this Title have been paid in full.

In addition to the termination of the malt beverage sales to the premises affected and/or non-renewal of a license, the City may take any civil action authorized by the statutes of the State of South Dakota to collect the charges imposed by this Chapter.

**3.02.06: MAINTENANCE OF RECORDS AND INSPECTION BY DEALER**

The Finance Officer shall maintain an accurate record, using the information supplied by the malt beverage wholesaler of the sales made to the individual malt beverage dealers in the City. The records, including copies of wholesalers’ invoices, maintained by the Finance Officer concerning any malt beverage dealer shall be open to inspection only by that dealer or his or her designee during normal business hours.

**3.02.07: LIMITATION OF ONE LICENSE PER LOCATION**

No person shall hold both an On-Sale Liquor Dealer’s License, issued pursuant to SDCL 35-4-2 (4) and a Malt Beverage Retailer’s License or Malt Beverage Package Dealer’s License, issued pursuant to SDCL 35-4-2 (16) and (17), for the same location.

**3.02.08: CLASSIFICATION AND FEES REQUIRED FOR ALCOHOLIC BEVERAGE, MALT BEVERAGE AND WINE LICENSES AND RENEWALS**

A. The following classifications and fees are established for licenses for sales of distilled spirits, wines, and malt beverages

Annual License	<i>Initial Fee</i>	<i>Renewal Fee</i>
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1. On-sale dealer: Any person who sells or keeps for sale any alcoholic beverage, other than pursuant to another license under this chapter, for consumption on the premises where sold	\$1.00 per City resident, determined by last U.S. Census	\$1,500
2. On-sale dealer (full-service restaurant)	Market price as set by City Council	\$1,500
3. Off-sale dealer: Any person who sells or keeps for sale any alcoholic beverage for consumption off the premises where sold	\$500	\$500
4. Malt beverage retailer: Any person who sells or keeps for sale, other than resale, malt beverages as both package dealers and on-sale dealers	\$300	\$300
5. Off-sale malt beverage package dealer: Any person who keeps for sale or sells malt beverages for consumption off the premises where sold	\$200	\$200
6. On and Off Sale malt beverage and SD Farm wine license.	\$325	\$325
7. Off-sale malt beverage and off-sale South Dakota wine package dealer: an off-sale malt beverage package dealer who also keeps for sale or sells wines produced pursuant to SDCL chapter 35-12 for consumption off the premises where sold	\$225	\$225
8. Wine retailers, being both package dealers and on-sale dealers	\$500	\$500
Special Event Licenses	Initial Fee	Renewal Fee
9. Special malt beverage or on- sale wine license (non-profit, civic, charitable or fraternal organizations only)	\$50 per day per type of beverage up to 15 consecutive days	N/A
10. Special off-sale wine dealers license (Fair Board, public, civic, charitable, educational or fraternal organization in conjunction with special event within city, selling licensed South Dakota wines only	\$50 per day per type of beverage up to 15 consecutive days	N/A
11. Special malt beverage retailer and/or on-sale wine retailer license (community playhouse for non-profit organization in conjunction with a theatrical production only)	\$50 per day per type of beverage up to 15 consecutive days	N/A
12. Special on-sale liquor dealer license. (Fair Board, public, civic, charitable, educational or fraternal organization in conjunction with special event within city, selling licensed on-sale liquor.)	\$100 per day per type of beverage up to 15 consecutive days	N/A

B. An off-sale license may be authorized for premises where the sale of liquor constitutes less than 40% of the gross business transacted on the premises, provided that:

1. The area in which liquor is displayed for sale is located within a building located on the premises and is separated from the remaining premises by partitions or walls at least 7 feet in height, and that the liquor area shall be physically closed during times when off-sale service is prohibited by the South Dakota Liquor Control Law;

2. Store personnel shall be physically present within the confines of the Liquor Sales Department at all times it is open to the public; and

3. The licensee shall not permit any person less than 21 years old to loiter in the liquor display and sale area.

### **3.02.9: SPECIAL EVENT LICENSE REQUIREMENTS:**

A. A special malt beverage retailer's license may be issued in conjunction with a special event, as defined at Section 3.01.02 herein, within the City to any qualified civic, charitable, educational, fraternal, or veterans organization or any qualified licensee licensed pursuant to SDCL §35-4-2(4), (6), or (16) in addition to any other licenses held by the special events license applicant;

B. A special on-sale wine retailer's license may be issued in conjunction with a special event, as defined in Section 3.01.02 herein, within the City to any qualified civic, charitable, educational, fraternal, or veterans organization or any qualified licensee licensed pursuant to SDCL §35-4-2(4), (6), or (12) or SDCL Ch. 35-12 in addition to any other licenses held by the special events license applicant;

C. A special on-sale license may be issued in conjunction with a special event, as defined in Section 3.01.02 herein, within the City to any qualified civic, charitable, educational, fraternal, or veterans organization or any qualified licensee licensed pursuant to SDCL §35-4-2(4), (6), or (16) in addition to any other licenses held by the special events license applicant; or

D. A special off-sale package wine dealer's license may be issued in conjunction with a special event, as defined in Section 3.01.02 herein, within the City to any qualified civic, charitable, educational, fraternal, or veterans organization or any qualified licensee licensed pursuant to SDCL §35-4-2(3), (5), (12), (17A), or (19) or SDCL Ch. 35-12 in addition to any other licenses held by the special events license applicant. A special off-sale package wine dealers licensee may only sell wine manufactured by a farm winery that is licensed pursuant to chapter 35-12.

E. The fee for each special malt beverage retailer's license, special on-sale wine retailer's license, and special off-sale package wine dealer's license will be fifty dollars (\$50.00) per day. The fee for each special on-sale liquor license shall be one hundred dollars (\$100.00) per day.

F. A public hearing is required before approval and issuance of any license under this section.

G. Any licenses issued pursuant to this section may be issued for a period of time established by the city council not exceeding fifteen (15) consecutive days.

H. Any non-profit licensee under this section may not be issued more than five (5) Special Event Licenses for a total of fifteen (15) days during a single calendar year.

I. This license may be issued pursuant all additional requirements of SDCL § 35-4-124, including the procedural regulations adopted by a Resolution of the Council.

**3.02.10: CONSUMPTION ONLY PERMIT.**

- A. The fee for this permit is five dollars (\$5.00) per day.
- B. This permit allows the applicant to provide alcoholic beverages free of charge during the applicant’s rental of the City Auditorium.
- C. The application permit must be completed and filed with the Finance Office at least thirty (30) days prior to the first day of rental of a facility described above, and must be accompanied by a signed Rental Agreement and other documents required by City Policy.
- D. The applicant must be at least twenty-one (21) years of age and provide an acceptable form of identification, together with a signed Hold Harmless Agreement.
- E. This permit allows, with City Council’s approval, the consumption of any alcoholic beverages on the City Auditorium property or by an individual or a nonprofit corporation within the City. The length of the brown bag permit may not exceed twenty-four (24) hours. Hours of consumption may not exceed those permitted for on-sale licensees.

**3.02.11: HOURS OF OPERATION.** The following table establishes the hours during which alcoholic beverages may be sold and the holidays when alcoholic beverages may not be sold for each class of license:

Type of License	Hours	Days	Holidays
1. On-sale dealer	12 midnight to 2:00 a.m. and 7:00 a.m. to 12 midnight	Monday through Sunday	No Christmas Day Sales.
2. On-sale dealer (full restaurant licensee)	12 midnight to 2:00 a.m. and 7:00 a.m. to 12 midnight	Monday through Sunday	No Christmas Day sales.
3. Off-sale dealer	7:00 a.m. to 12 midnight	Monday through Sunday	No Christmas Day sales.
4. Malt beverage retailer	12 midnight to 2:00 a.m. and 7:00 a.m. to 12 midnight	Monday through Sunday	N/A
5. Off-sale malt beverage package dealer	12 midnight to 2:00 a.m. and 7:00 a.m. to 12 midnight	Monday through Sunday	N/A
6. Off-sale malt beverage and off-sale South Dakota wine package dealer	12 midnight to 2:00 a.m. and 7:00 a.m. to 12 midnight	Monday through Sunday	N/A
7. Wine retailers, being both package dealers and on-sale dealers	12 midnight to 2:00 a.m. and 7:00 a.m. to 12 midnight	Monday through Sunday	N/A
8. Special malt beverage or on-sale wine license	Set by Council, not to exceed times for on-sale licensee		N/A
9. Special off-sale	Set by Council, not to exceed		N/A

package wine dealers license (SD farm winery)	times for on-sale licensee		
10. Special malt beverage retailer and/or on-sale wine retailer license (community playhouse for non-profit organization in conjunction with a theatrical production only)	Not more than one hour prior to commencement of a performance or at any time after performance is concluded		N/A

**3.02.12: AUTHORIZED NUMBER OF ON SALE MALT BEVERAGE LICENSES**

The number of On Sale Malt Beverage Licenses authorized by the City shall be 21. Said limitation shall not include any on-sale licenses issued as a Restaurant Malt Beverage License.

**3.02.13: OFF OR ON SALE SALES ON SUNDAY OR MEMORIAL DAY PURSUANT TO STATUE**

Off -sale or on -sale Licensees holding such valid licenses within the City may, pursuant to SDCL 35-4-81.1 sell alcoholic beverages on Sunday and also on Memorial Day within the municipality during hours otherwise allowed by South Dakota statute.

**3.02.14: ACTION BY COUNCIL.**

The common council may approve or disapprove an application for a license or a Special Event License depending on whether the council finds the applicant a suitable person to hold the license and whether the council considers the proposed location suitable. The common council may, in their discretion, require the applicant to appear personally at any meeting of the council and to answer any question which may be asked pertaining to the applicant or the place of business which may in any way pertain to the carrying on of the business applied for.

**3.02.15: CHARACTER REQUIREMENTS FOR LICENSEES.**

Any licensee or Special Event License under this chapter and SDCL Title 35 must be a person of good moral character, who has never been convicted of a felony. If the licensee is a corporation, the managing officers thereof must have like qualifications.

**3.02.16: AREA LIMITED.**

The common council shall not approve any application for “on-sale” or “off-sale” license to sell any alcoholic beverages in the city at any place of business unless that place of business is located in an area described as a commercial area on the zoning use district map of the city.

**3.02.17: KEGS OF MALT BEVERAGE – RETAIL SALE – RECORDS.**

No keg of malt beverage may be sold at retail in this state unless the licensee who sold the keg records the name address and drivers license number of the person to whom the keg is sold and has provided for the identification of the keg. Each licensee shall maintain such sales records for one year and shall make the records upon request to any duly authorized officer or representative of any city, county or state agency

responsible for enforcing this section or for enforcing South Dakota Codified Laws pertaining to consumption of alcohol.

The identification provided for in this section may not be permanent or damaging to the structure of the keg. For the purposes of this section, the term, keg, means an eight or sixteen gallon reusable plastic or metal container.

**3.02.18: CONSUMING, BLENDING, POSSESSING ALCOHOLIC BEVERAGES IN PUBLIC PLACES; DISPOSAL OF CONTAINERS CONTAINING ALCOHOLIC BEVERAGES RESTRICTED.**

A. It is unlawful for any person to consume any alcoholic beverage upon the premises of a licensed on-sale dealer if the alcoholic beverage was not purchased from the on-sale dealer.

B. It is unlawful for any person to consume any distilled spirits in any public place, other than upon the premises of a licensed on-sale dealer.

C. For the purposes of this section, the term “public place” means any place, whether in or out of a building, commonly and customarily open to or used by the general public, and any street, or highway.

D, Exceptions to this subsection are provided for in Section 4-14 of this chapter.

E. Any person violating the provisions of this section is guilty of a Class 2 misdemeanor.

**3.02.19: OPEN CONTAINER PERMITTED UPON APPROVAL.**

Notwithstanding anything herein to the contrary:

A. No regular on-sale malt beverage licensee may sell or allow to be consumed any malt beverage outside the building of the licensed premises unless the licensee’s business operates out of a permanent structure and the consumption of the malt beverage occurs in an outdoor designated area located on the premises of the licensee and is approved by the common council.

B. The sale and consumption of alcoholic beverages may be permitted on a sidewalk or walkway subject to a public right-of-way abutting a licensed premises, provided that the license holder derives more than fifty percent of its gross receipts from the sale of prepared food for consumption on the licensed premises. The sidewalk or walkway subject to a public right-of-way shall be immediately adjacent to and abutting the licensed premises. This section does not apply to any federal-aid eligible highway unless approved in accordance with the applicable requirements for the receipt of federal aid, and does not waive the requirements set out in Chapter 15.06 of the Sturgis Ordinances.

C. The common council may, in its discretion, for community designated events, permit open containers in public places upon such terms and conditions consistent with the laws of the State of South Dakota and this Ordinance as the council may impose.

**3.02.20: WEAPONS PROHIBITED ON PREMISES WHERE SOLD.**

All license holders shall post the following notice at all entrances to their establishment in bold capital letters at least 3/4 of an inch high:

***IT IS UNLAWFUL TO ENTER THIS ESTABLISHMENT WITH ANY WEAPON.***

**3.02.21: ANNUAL REVIEW OF LICENSES.**

Annually the City Council shall review all liquor and/or malt beverage licenses issued by the City. Any person not complying with all applicable provisions of Title 3 and any other Sturgis City Ordinance may be subject to revocation or non-renewal of license.

**3.02.22: ANNUAL REVIEW OF APPLICATIONS.**

Annually, the City Council shall review applications for malt beverage and/or alcohol licenses. Issuance of any license or Special Event License shall be subject to a determination by City Council as to whether or not the permanent structure on the premises and the proposed location is fitting for the type of business that has been presented and is proposed to be operated at the legal description set forth in the application

submitted pursuant to Section 3.02.01. The City Council shall take into consideration the location of any new or transferred license and its location in relationship to any residentially zoned area, school, daycare, church, place of worship, and/ or similar uses and such other location issues as the City Council may deem appropriate in reviewing and issuing a new or transferred license.

**3.02.23: SALES WITH LICENSE ONLY.**

Malt beverage and/or alcohol may be sold and/or consumed only at locations shown on the license issued by the City and is on file with the City Finance Officer and the Department of Revenue of the State of South Dakota. Property for which a permanent license is in existence at the time of adoption of this Title shall be permitted to continue their operations as they have in the past until said time that the license has been transferred or revoked by the City Council. In addition, these properties shall comply with the regulations, which were in effect at the time of issuance of their license.

**3.02.24: ADDITIONAL FEE FOR VIDEO LOTTERY MACHINE HOLDERS.**

An additional license fee is hereby imposed in the amount of \$50.00 for each video lottery machine on the licensed premises, which fee shall be applicable to all classes of licenses enumerated under SDCL 35-4-2(4), 35-4-2(11), 35-4-2(14) and 35-4-2(17), which involve convention facility, on-sale and malt beverage retailers, provided that not more than one fee shall be imposed per location. and the fee shall be paid at the same time and in the same manner as the fees paid on licenses issued pursuant to SDCL § 35-4-2. All fees received under this section shall be deposited into the general fund of the city.

**3.02.25: TRAFFIC IN ALCOHOLIC BEVERAGES PROHIBITED.**

**No person shall produce, transport, store, or sell any alcoholic beverage except** as authorized under the provisions of this chapter and SDCL Title 35.

**3.02.26: PERSONS UNDER TWENTY-ONE BARRED FROM ON-SALE PREMISES.**

As prohibited by SDCL 35-4-79, no On-Sale licensee shall permit any person less than twenty-one years old to loiter on the licensed premises or to sell, serve, dispense or consume alcoholic beverages on such premises, unless the presence of the person under the age of twenty one is authorized by the exception language of either SDCL 9-1-1 or SDCL 9-1-1.1.

**3.02.27: VIOLATION AS GROUND FOR REVOCATION OR SUSPENSION OF LICENSE – MULTIPLE LICENSES.**

The common council may revoke or suspend any license issued under this chapter and SDCL Title 35 upon proof of violation by the licensee, by the licensee's agents or employees, or by the manager or contractual operators of retail establishments and their agents or employees operating under a City license, of any of the following:

- (1) Any provision of SDCL Title 35;
- (2) Any rule promulgated pursuant to SDCL Title 35; or
- (3) Any ordinance or regulation relevant to alcoholic beverage control that has been adopted by the City.

For any licensees with multiple alcoholic beverage licenses for the same premises, upon suspension or revocation of any license issued pursuant to this chapter or SDCL Title 35, such licensee shall cease operation under all alcoholic beverage licenses held by such licensee for the same premises for the same period as the suspension or revocation.

**CHAPTER 3.03  
FULL-SERVICE ON SALE AND MALT BEVERAGE RESTAURANT LICENSE**

## SECTIONS

- 3.03.01: Scope and Purpose
- 3.03.02: Definitions Applicable to this Chapter
- 3.03.03: Annual Reports
- 3.03.04: License Renewals
- 3.03.05: Only Retail, On-Sale Service Permitted
- 3.03.06: Full-Service Restaurant License Fees
- 3.03.07: Registry of Full-Service Restaurant On-sale Licensees
- 3.03.08: Issuance of new Full-Service Restaurant Licenses restricted
- 3.03.09: Requirements for Restaurant Malt Beverage License
- 3.03.10: Scope of Restaurant Malt Beverage License
- 3.03.11: Status of Existing Restaurant Holding On-Sale License

### **3.03.01: LICENSE APPLICATION REQUIREMENTS.**

An applicant for a full-service restaurant on-sale license shall provide sufficient documentation to the municipality with an application form provided by the municipality to prove that the primary source of revenue from the operation of the restaurant will be derived from the sale of prepared food and nonalcoholic beverages and not from the sale of alcoholic beverages. The supporting documentation concerning the primary source of revenue submitted pursuant to this section is confidential.

### **3.03.02: DEFINITIONS APPLICABLE TO THIS CHAPTER.**

For purposes of application of this Chapter only, the following terms as used within this Chapter shall have the following meanings.

**Bar:** Any permanently installed counter within the restaurant area from which alcoholic beverages are regularly served to customers by a person who is tending bar or drawing or mixing alcoholic beverages;

**Full-service restaurant:** Any restaurant at which a waiter or waitress delivers food and drink offered from a printed food menu to patrons at tables, booths, or the bar. Any restaurant that only serves fry orders or food such as sandwiches, hamburgers, or salads is not a full-service restaurant;

**Restaurant:** Any area in a building maintained, advertised, and held out to the public as a place where individually priced meals are prepared and served primarily for consumption in such area and where not more than forty percent of the gross revenue of the restaurant is derived from the sale of alcohol or alcoholic beverages. The restaurant shall have a dining room or rooms, a kitchen, and the number and kinds of employees necessary for the preparing, cooking, and serving of meals.

### **3.03.03: ANNUAL REPORTS.**

The full-service restaurant on-sale licensee shall submit an annual report and supporting documentation to the City on forms provided by the City of the annual sales of the full-service restaurant, which includes an oath verifying the validity of the information provided in the report. The report and the supporting documentation submitted pursuant to this section are confidential. The report shall contain the annual gross sales of the licensee for the following two categories:

1. Food and nonalcoholic beverage sales; and
2. Alcoholic beverages sales.

### **3.03.04: LICNESE RENEWALS.**

When renewing a full-service restaurant on-sale license, the City shall condition the license renewal upon receiving documentation that not more than forty percent of gross sales from the preceding twelve months operation of the full-service restaurant is derived from the sale of alcohol or alcoholic beverages.

**3.03.05: ONLY RETAIL, ON-SALE SERVICE PERMITTED.** A full-service restaurant on-sale licensee may only serve alcoholic beverages for on-premise consumption in the bar and dining room area of the restaurant.

**3.03.06: FULL-SERVICE RESTAURANT LICENSE FEES.**

As required by State law, the license fee charged for a full-service restaurant on-sale license shall be at or above the current fair market value for such license as determined herein. However, any fair market value so established shall be a minimum of one dollar for each person residing within the City as measured by the last preceding decennial federal census.

The license fee shall be initially established by Resolution within ninety (90) days of the initial adoption of this Chapter. Subsequent changes in the license fee shall not be made for a period of ten (10) years from the effective date of adoption of this Chapter unless a population growth reported by the Federal decennial census requires an increase in the fee.

Fair Market Value for full-service restaurant license shall be established as follows:

- A. Within 90 days of the effective date of this Chapter and as required by State statute, each licensee within the City who owns an on-sale license issued pursuant to SDCL 35-4-2 (4) or (6) as of January 1, 2008, and who purchased the license or had the license transferred to such licensee at any time between January 1, 2003, and January 1, 2008, shall report the amount originally paid for the on-sale license to the Finance Office on forms provided by the City. Any form submitted pursuant to this provision shall be signed under oath and shall include the documents establishing the amount originally paid for the on-sale license. If the transaction for the purchase of the on-sale license included real or personal property, the full market value of the real or personal property on the date of the original sale shall be deducted from the total transaction price to determine the amount paid by the licensee for the on-sale license. The burden of establishing the amount paid for the license shall be on the licensee. Any licensee contesting the fair market value of the real or personal property may appeal the valuation adopted by the City to circuit court.
- B. For purposes of this section, the term, "Current Fair Market Value" means the documented price of the on-sale license most recently sold between January 1, 2003, and January 1, 2008, through an arm's length transaction, less the value of any real or personal property included within the transaction.

**3.03.07: REGISTRY OF FULL-SERVICE RESTAURANT ON-SALE LICENSEES.** The City shall maintain a registry of each full-service on-sale restaurant license that is being offered for sale and the City shall furnish a copy of the registry to anyone who requests a new-full service restaurant on-sale license. The existing full-service restaurant on-sale licensee is responsible for registering with the City that the full-service restaurant on-sale license is for sale.

**3.03.08: ISSUANCE OF NEW FULL-SERVICE RESTAURANT LICENSE RESTRICTED.**

The City may only issue a new license pursuant to this Chapter if no on-sale license is on the registry or a person desiring to purchase an on-sale license listed on the registry provides documentation showing that the person is unable to purchase the on-sale license at the price established pursuant to this Chapter and on terms satisfactory to both the potential buyer and seller. The price of any on-sale license registered as “for sale” with the City shall be sold at the current fair market price set by the City pursuant to a Resolution adopted in accordance with this Chapter.

**3.03.09: REQUIREMENTS FOR RESTAURANT MALT BEVERAGE LICENSE.**

A Restaurant Malt Beverage License shall only be issued to the owner of a permanent business whose business qualifies as a bona fide restaurant. A bona fide restaurant shall at a minimum meet the following requirements:

- A. Provide and keep open seating for at least fifty (50) people at all times;
- B. Have a kitchen therein with sufficient equipment to prepare and provide meals in a bona fide manner for fifty (50) people at all times. Facilities that only have a grill and/or serve only prepackaged foods or items that can be heated in grease, a microwave, crock pot or small pizza or toaster ovens will not be considered to have sufficient equipment; and
- C. Employ and have on hand at all times bona fide restaurant personnel of at least one cook or chef, one waitress and one host or hostess.

**3.03.10: SCOPE OF RESTAURANT MALT BEVERAGE LICENSE.**

A Restaurant Malt Beverage License shall authorize the restaurant to sell malt beverages from its permanent, year-round premises only. The license shall not authorize the restaurant to sell malt beverages from an expanded area of its premises, including but not limited to the sale of malt beverages from an attached or unattached temporary drinking establishment or beer garden.

**3.03.11: STATUS OF EXISTING RESTAURANT HOLDING ON-SALE LICENSE.**

Any person holding an on-sale license at the time of enactment of the amendments to this Chapter creating the Restaurant Malt Beverage License shall be deemed to be a holder of an on-sale license *not* subject to the limitation set forth in Section 3.02.12 regardless of whether said licensee qualifies as a restaurant under the requirements of Section 3.03.09.

**Chapter 3.04  
STRUCTURE REQUIREMENTS, ON SALE ESTABLISHMENTS**

SECTIONS:

- 3.04.01: Mandatory Compliance with State and Local Licensing Laws
- 3.04.02: General Requirements and/or Limitations Mandatory Compliance with Chapter 3.04
- 3.04.03: Construction Requirements
- 3.04.04: Wall, Floor and Roof Requirements
- 3.04.05: Window Requirements
- 3.04.06: Deck, Patio and Beer Garden Requirements
- 3.04.07: Restroom Requirements

- 3.04.08: Exit Requirements
- 3.04.09: Occupancy Requirements/Limitations
- 3.04.10: Inspection Required Prior to Sales
- 3.04.11: Appeal Process

**3.04.01: MANDATORY COMPLIANCE WITH STATE AND LOCAL LICENSING LAWS.**

No person shall sell, keep for sale, exchange, barter or distribute any alcoholic or malt beverage without having obtained a license pursuant to the provisions of the State Liquor Control Law SDCL Title 35 and Sturgis City Ordinance, Title 3.

Any person who intends to sell, keep for sale, exchange, barter or distribute any alcoholic or malt beverage shall make an application for license under provisions of the State Liquor Control Law, SDCL 35, and to the City Finance Officer.

All malt beverage and/or alcohol licenses may be issued only if the proposed license is in compliance with zoning requirements and all other City Ordinances.

**3.04.02: GENERAL REQUIREMENTS AND/OR LIMITATIONS.**

- A. All Federal, State and Local laws shall be complied with at all times.
- B. In the event a fight or civil disturbance occurs within the temporary drinking establishment where police are called to assist, the establishment shall temporarily cease selling of all malt beverage/alcohol, until the disturbance is under control and the Police Department of the City has granted permission to reestablish sales.
- C. Beverage cans, trash and other debris, which is collected during an event, shall be bagged and removed from the property on a daily basis to prevent the accumulation of pests and to deter unwanted smell as required by City Ordinance 11.04.
- D. It shall be unlawful for any person to permit illegal nudity, lewd or indecent acts, exhibitions, or any other behavior in violation of City Ordinance Chapter 12.10 and/or Chapter 12.11 to take place within their establishment.
- E. Any structure from which alcoholic beverages are sold or served shall be constructed in compliance with this ordinance and all City Building and/or Fire Codes, and other applicable Ordinances.
- F. It shall be unlawful for any person to allow the distribution, sale and/or consumption of malt beverage and/or alcohol by a minor in their establishment.
- G. It is the policy of the City Council that no on-sale malt beverage and/or alcohol license will be issued to any business where gasoline, blended gasoline and/or diesel fuel is stored, sold and/or dispensed.

- H. No person who has been issued a license for alcoholic beverages under this Title may permit any illegal activity within the licensed premises or on adjoining property subject to the control of the licensee.
- I. No person who has been issued a malt beverage and/or alcohol license shall permit prostitution as prohibited by SDCL Chapter 22-23. In addition to the penalty set forth in this Title, any person who permits illegal prostitution to take place within their drinking establishment shall be subject to possible revocation or non-renewal of their malt beverage and/or alcohol license.

**3.04.03: CONSTRUCTION REQUIREMENTS.**

All structures utilized for drinking establishments after the adoption of this Ordinance shall comply with the current adopted addition of the International Uniform Building Code as set out in Title Two (2) of the Sturgis City Ordinances.

As an exception to the above, establishments, which are in existence at the time of the adoption of this ordinance, will be permitted to continue their use without complying with the current adopted building code. But at any time said establishment becomes unsafe and/or a permit is taken out to remodel, alter or add on to any portion of said facility, the entire establishment shall be brought into compliance with the current adopted codes and this ordinance.

**3.04.04: WALL, FLOOR AND ROOF REQUIREMENTS.**

Any floor of an On-Sale establishment shall be constructed of elements, which are structural or non-structural in nature and covered by material(s) which create a hard non-absorbent surface.

Any roof of an On Sale establishment may not be occupied or utilized as a floor. Any walls of an On Sale establishment shall be solid in nature with the exception of areas for windows and exits. Walls shall run from grade to the roof of the structure. Any walls shall be constructed to comply with the requirements of the International Building Code.

**3.04.05: WINDOW REQUIREMENTS.**

For the purpose of this Section, all requirements that apply to windows or other openings in the walls of an On-Sale establishment shall be those established by the Building Code adopted at Title 2, Chapter 2 of the Sturgis City Ordinances.

**3.04.06: DECK, PATIO AND BEER GARDEN REQUIREMENTS.**

Malt beverage and/or liquor shall only be served upon decks and/or patios permanently connected to the structure of a drinking establishment. The requirements for service of alcohol upon a permanent deck and/or patio for all times of the year shall be as follows:

- A. Any patio or beer garden shall be surrounded by a physical barrier, which is continuous with the exception of the exit and entrance points, and the deck and/or patio shall be surrounded by a 42" high continuous railing, or a comparable permanent barrier with the exception that the railing may have a break for approved ingress and egress points. One of the ingress or egress points shall be attached to the attached permanent structure.

- B. Any deck for which the traffic surface is not more than two (2) feet above grade shall have the 42" perimeter barrier meeting IBC requirements.
- C. Any patio shall be constructed of concrete, rock, asphalt or similar non-absorbent hard surface materials;
- D. Any deck shall be constructed as required by the Building Code adopted by the City of Sturgis.
- E. Any deck, patio or beer garden shall have a minimum of one entrance/exit, which has access to the structure to which it is attached; and
- F. Compliance with all applicable provisions of this Title.

**3.04.07: RESTROOM REQUIREMENTS.**

It is recognized by the City Council that during the Sturgis Motorcycle Rally On Sale establishments have a substantially larger need for sanitary plumbing fixtures than during normal operations, and in consideration of the same, the following requirements are hereby established to determine the number of permanent restroom fixtures and temporary restroom fixtures that will be required of an On Sale establishment:

Restrooms for permanent structures and patios and/or decks for which alcohol and/or malt beverage is served or consumed will be determined as follows (in no case shall there be less than two permanent restroom fixtures for each sex):

- A. One restroom fixture shall be added for each sex per each additional 50 occupants within the structure and on the deck/patio combination. The occupancy load shall be based upon the International Building Code wherein occupancy is determined on the basis of 1 person per 7 square feet within the structure and on the deck/patio combined.
- B. When three or more fixtures are required for each sex, the women's restroom shall be required to have one additional fixture more than the men's.
- C. All restroom's hand sinks shall be installed at the ratio as determined by the Uniform Plumbing Code.

For determining the number of temporary restroom facilities to be added during the period one week before the Rally and the official Rally period, the occupancy rate for the permanent structures and the deck/patio combined shall be determined as 1 person per 7 square feet. The same ratios as above shall then be applied and any additional fixtures required by the occupancy rate shall be provided in the form of portable restroom facilities. Portable restroom facilities shall be located upon the real property of the On Sale establishment as a condition of meeting the requirements for the liquor license.

**3.04.08: EXIT REQUIREMENTS.**

All exits of any On Sale establishment must meet or exceed the requirements which are laid out in the Uniform Building Code adopted by the City.

**3.04.09: OCCUPANCY REQUIREMENTS/LIMITATIONS.**

At no time shall the owner/operator exceed the occupant load, which is issued by the Building Inspector and/or Fire Chief. Due to public safety issues, if at any time the Chief of Police, the City Building Official, City Fire Chief or their designees finds that the permitted occupant load has been exceeded, he/she may have the sale of alcohol stopped until the occupant load is decreased to the permitted occupant load.

The occupant load for an On Sale establishment and decks, patios and beer gardens shall be figured as follows:

Maximum occupant load: One (1) occupant per each seven (7) square feet of interior floor area or exterior deck or patio.

This formula will not include areas such as restrooms, employee work or service areas or other areas, which are not commonly visited by the public.

#### **3.04.10: INSPECTION REQUIRED PRIOR TO SALES.**

Before the owner/operator may begin sale of alcohol, he/she shall be required to have the establishment inspected by the Chief of Police, the Building Inspector and the Fire Chief.

#### **3.04.11: APPEAL PROCESS.**

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

- A. An aggrieved person shall first file a written request for review with the Chief of Police, Building Inspector or Fire Chief setting forth the basis for which he or she believes the Chief of Police, Building Inspector or Fire Chief's 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 Chief of Police, Building Inspector or Fire Chief shall review his or her 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 Chief of Police, Building Inspector or Fire Chief following review, he or she may file a notice of appeal with the Finance Officer. There shall be a one hundred dollar (\$100.00) fee assessed for filing an appeal, which shall be paid to the Finance Office at the time of filing the notice of appeal.
- D. Upon receipt of a notice of appeal, the Finance Officer shall notify the City Manager.
- E. After notification of the City Manager by the Finance Officer, the Appeal shall follow the Appeal provision of Title 36, Code Enforcement.

Dated this 5th day of July, 2011.

First reading: June 6, 2011

Second reading: July 5, 2011  
Adopted: July 5, 2011  
Published: July 13, 2011  
Effective: August 3, 2011

Motion by Potts, second by DesJarlais and carried with Carstensen, DesJarlais, Hersrud, Johnston, McVay, Potts, Sundstrom and Vasknetz voting yes and Brengle abstaining to approve the transfer of name for an on/off sale wine license for Chives Bistro. (They will be an LLC)

Motion by McVay, second by Johnston and carried with Carstensen, DesJarlais, Hersrud, Johnston, McVay, Potts, Sundstrom and Vasknetz voting yes and Brengle abstaining to approve the transfer of an on/off sale malt beverage owned by Mike Bachand to Country Store, Inc. (BJ's).

Motion by DesJarlais, second by Brengle and carried with all members voting yes to approve second reading of Ordinance 2011-04 – Title 13 – Offenses & Regulations-Chapter 13.02-Offense.

**ORDINANCE 2011-04**  
**AN ORDINANCE AMENDING TITLE 13, OFFENSES & REGULATIONS**  
**CHAPTER 13.02-OFFENSE**

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 13, – Offenses & Regulations, Chapter 13.02- Offense is hereby amended to read as follows:

- 13.02.01: Disorderly Conduct
- 13.02.02: Causing or Engaging in Riot
- 13.02.03: Resisting, Assisting to Resist, Escaping from or Assaulting an Officer
- 13.02.04: Impersonating an Officer
- 13.02.05: Lurking about Premises
- 13.02.06: Hindering or Molesting Passerby
- 13.02.07: Playing in Streets
- 13.02.08: Trespass and Unauthorized Use of Property
- 13.02.09: Open Containers
- 13.02.10: Use of Mechanical and Electronic Sound Amplification Devices
- 13.02.11: Motorcycle and Automobile Dynometers
- 13.02.12: Pedestrian Interference and Aggressive Solicitation

**13.02.01: DISORDERLY CONDUCT**

No person shall intentionally cause serious public inconvenience, annoyance or alarm to any other person or creates a risk thereof by:

- A. Engaging in fighting or in violent or threatening behavior or inciting others to do the same;
- B. Making unreasonable noise or inciting others to do the same;
- C. Disturbing any lawful assembly or meeting of persons without lawful authority, or inciting others to do the same;
- D. Obstructing vehicular or pedestrian traffic;

**13.02.02: CAUSING OR ENGAGING IN A RIOT**

No person shall cause or engage in a riot or incite a mob to destroy property or injure persons, nor shall any person commit or suffer to be committed in any house or building or premises by him occupied any rioting, quarreling, fighting, reveling, drunkenness, loud or boisterous conduct calculated to or which disturbs the neighborhood or annoys any person.

**13.02.03: RESISTING, ASSISTING TO RESIST, ESCAPING FROM OR ASSAULTING AN OFFICER**

No person shall in any way willfully resist, or aid or assist any person to resist or to escape from any law enforcement officer, or to assist any person to assault any law enforcement officer, or shall in any way interfere with a law enforcement officer, in making an arrest or in the discharge of his duties.

**13.02.04: IMPERSONATING AN OFFICER**

No person not duly authorized to exercise the duty conferred by Ordinance upon police officers of this City, shall wear a police officer's badge, or represent himself as being a police officer, or attempt to exercise the duties of a police officer.

**13.02.05: LURKING ABOUT PREMISES**

No person shall lurk or wait or conceal himself in or about any house or other building, or in or about any yard, street, alley or other public place, who being so found shall be unwilling or unable to give an explanation for his conduct consistent with a legitimate purpose.

**13.02.06: HINDERING OR MOLESTING PASSERBY**

No person shall upon any street, or at the entrance of any building on any such street, alley or sidewalk, wrongfully hinder, impede or molest any passerby, or use any rude, obscene, vulgar, indecent or threatening language to any passerby, or by any indecent act, gesture or noise molest, annoy or insult or put in fear any person passing or attempting to pass on such street, alley or sidewalk or through the entrance to such buildings.

**13.02.07: PLAYING IN STREETS**

No person shall fly any kite, play any game, or engage in any exercise which obstructs or interferes with the use of the streets for traffic or passage, or endangers the safety and lives of those thereon.

**13.02.08: TRESPASS AND UNAUTHORIZED USE OF PROPERTY**

No person shall lodge, use, enter or occupy any barn, garage, shed, shop or other house or building or structure, or enter or remain in such a building or structure surreptitiously without permission of the owner or person entitled to possession. No person shall lodge, use, enter or occupy any automobile, truck, railroad car or other vehicle or structure, or enter or remain in any such vehicle or structure surreptitiously, without permission of the owner or person entitled to possession.

No person shall knowingly enter upon any privately owned real property which is not open to the use of the public, unless he has first obtained the consent of the owner or person in possession or control thereof.

Any person who, knowing that he or she is not privileged to do so, enters or remains in any place where notice against trespass is given by:

- A) Actual communication to the person who subsequently commits the trespass, or
- B) Posting in a manner reasonably likely to come to the attention of trespassers, or
- C) Fencing or other enclosure which a reasonable person would recognize as being designed to exclude trespassers, is guilty of trespass.

No person shall camp or otherwise lodge in any public way, park public place or on any property owned by the public which is not specifically designated as an area authorized for camping or other lodging, unless authorized by the City Council.

Dated this 5<sup>th</sup> day of July, 2011

First reading: June 20, 2011

Second reading: July 5, 2011

Adopted: July 5, 2011

Published: July 13, 2011

Effective: August 3, 2011

Motion by Vasknetz, second by Johnston and carried with all members voting yes to approve second reading of Ordinance 2011-05-Title 14-Parks & Recreation-Chapter 14.03-Use of Fairgrounds.

**ORDINANCE 2011-05**  
**AN ORDINANCE AMENDING TITLE 14 PARKS & RECREATION**  
**CHAPTER 14.03-USE OF THE FAIRGROUNDS**

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 14, Parks and Recreation-Chapter 14.03-Use of the Fairgrounds – is hereby amended to read as follows:

**Chapter 14.03**

**USE OF THE FAIRGROUNDS**

**SECTIONS:**

- 14.03.01: Lease Agreement and Liability Waiver Required
- 14.03.02: Fees
- 14.03.03: Tickets
- 14.03.04: Bond and Insurance—Generally
- 14.03.05: Surety Bond
- 14.03.06: Liability Insurance
- 14.03.07: Use of Funds
- 14.03.08: Sturgis Half-Mile Committee Created
- 14.03.09: Committee Make-up
- 14.03.10: Responsibility and Authority
- 14.03.11: Coordination with other City Departments

**14.03.01: LEASE AGREEMENT AND LIABILITY WAIVER REQUIRED**

No person may use the Fairgrounds of the City, or any other City owned property designated by the City Council to fall under the provisions of this Chapter, for any purpose whatsoever, without first signing a

Lease Agreement and/or a Liability Waiver and Release From Liability, as the City deems necessary based upon the anticipated use.

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

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

The Lease Agreement and Liability Waiver and Release From Liability may be requested from the Parks Director or Finance Officer.

**14.03.02: FEE**

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

**14.03.04: DEPOSIT REQUIRED**

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

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

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

**14.03.05: LIABILITY WAIVER AND RELEASE FROM LIABILITY**

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

- A. Any person signing said document will immediately upon entering the premises inspect the area and agree that if at any time he/she feels that anything on the premises is unsafe, he/she will immediately advise the Parks Director and will leave the area until the condition is remedied.

- B. Any person signing said document waives, discharges, and covenants not to sue the City or any department thereof or any lessees of the Sturgis Fairgrounds and its directors, officers, agents and employees.
- C. Any person signing the document agrees to indemnify and save and hold harmless the RELEASEES from any loss, liability, damage, or costs they have incurred arising out of or related to the use of said property whether caused by the negligence of the RELEASEES or otherwise.
- D. Any person signing the document assumes full responsibility for any risk of bodily injury, death or property damage arising out of or related to the use of the designated properties.
- E. Any person signing the document agrees that the document, extends to all acts of negligence by the RELEASEES..

#### **14.03.06: LIABILITY INSURANCE**

Any applicant/lessee shall be required to purchase liability insurance, designating the City of Sturgis as a named insured, which shall cover all operations and activities held on the leased premises during the term of the lease. The liability insurance policy shall be with a reputable insurance company licensed to do business in the State of South Dakota. Said policy shall be in the minimum amount of Fifty Thousand Dollars (\$50,000.00) property damage, Five Hundred Thousand Dollars (\$500,000.00) personal injury per person, with an aggregate of at least One Million Dollars (\$1,000,000.00), or a combined single limit of One Million Dollars (\$1,000,000.00). The City shall be named as additional insured on said policy. Said policy on insurance shall be provided to the City at least three (3) days before the beginning of the lease term and must be approved by the City and the City Attorney.

Dated this 5<sup>th</sup> day of July, 2011

First reading: June 20, 2011

Second reading: July 5, 2011

Adopted: July 5, 2011

Published: July 13, 2011

Effective: August 3, 2011

The following organizations made written requests and came before the council to request these funds for 2012:

The Chamber of Commerce - \$130,000 and Impact Youth Mission \$1,000.

Mr. Doug Kinniburgh of the South Dakota Department of Transportation announced that beginning Monday, July 18, the South Dakota Department of Transportation will change the traffic flow on Lazelle Street in Sturgis from 8<sup>th</sup> Street to Nellie Street. In order to help facilitate traffic flow during the Sturgis Rally, the DOT will change the center two-way left turn lane on Lazelle Street from 8<sup>th</sup> Street to Nellie Street to an eastbound thru lane. Left turns will only be permitted at controlled intersections. Traffic flow will be returned to its normal operations on Wednesday, August 17, 2011. Chief of Police Jim Bush stated that the City is concerned about how emergency vehicles will be able to travel east, as they have always used the turn lane to move quickly thru traffic. Also, his other concern was the safety of pedestrians trying to cross Lazelle Street. Mr. Kinniburgh assured the Council that if this change to traffic flow does not work they will be able to switch back in a timely manner.

Motion by McVay, second by DesJarlais and carried with Carstensen, DesJarlais, Hersrud, Johnston, McVay, Potts, Sundstrom and Vasknetz voting yes and Brengle abstaining to set a public hearing date of July 18, 2011 for an application for a Retail (on/off sale) Wine license and a Retail (on/off sale) Malt Beverage license for Sturgis Water Works Co, LLC- J.J. Davenport's.

Motion by DesJarlais, second by Vasknetz and carried with Carstensen, DesJarlais, Hersrud, Johnston, McVay, Potts, Sundstrom and Vasknetz voting yes and Brengle abstaining to set a public hearing date of July 18, 2011 for an application for a Special Events Wine and Malt Beverage license for Sturgis Wine Company at the Sturgis Community Center, August 6-13 2011.

Motion by McVay, second by DesJarlais and carried with all members voting yes to set a public hearing date of August 1, 2011 for a request for allowing open container during the Sturgis Mustang Rally on Saturday, September 3, 2011.

Brengle introduced the following written resolution and moved its adoption:

**RESOLUTION 2011 - 17**

**A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AGREEMENT AND EXECUTE ALL NECESSARY DOCUMENTS TO ADMINISTER THIS AIRPORT IMPROVEMENT GRANT PROJECT FROM THE SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION – AERONAUTICS DIVISION FOR THE FENCING PROJECT AT THE AIRPORT.**

WHEREAS, the City of Sturgis desires to enter into a grant agreement with the South Dakota Department of Transportation – Aeronautics Division for airport improvements project, Disadvantaged Business Enterprise (DBE) Program and,

WHEREAS, the parties do hereby acknowledge that both parties desire to enter into such terms and conditions as specified by the agreements;

NOW THEREFORE, the Mayor is hereby authorized to execute the agreement the Mayor is authorized to execute all documents necessary to administer the grant and effectuate above intended purposes.

Dated this 5th day of July, 2011.

Published: 07-13-11

Effective: 08-03-11

McVay seconded the motion for the adoption of the foregoing resolution with all members voting yes and the resolution was declared passed and adopted.

DesJarlais introduced the following written resolution and moved its adoption:

**RESOLUTION 2011 -18**  
**RESOLUTION AUTHORIZING CLOSURE OF CITY PARKS**

WHEREAS, the Sturgis Motorcycle Rally will be held in the City of Sturgis, South Dakota, in August 2011; and

WHEREAS, it appears necessary and in the best interests of public safety to provide limited access to the City Park;

NOW THEREFORE, BE IT RESOLVED that Woodle Field and the surrounding parking lot, and the Hills & Plains Soccer Field and surrounding area, will be closed from 8 a.m. on August 1, 2011 through 8 a.m. on August 15, 2011, both dates inclusive, and that all other City Parks shall remain open for day use only between the hours of 6 a.m. and 10 p.m. except that at the direction of the city park supervisor, the aforementioned park areas may be opened for Rally purposes at any other time, depending on schedules between August 1, 2011 and August 15, 2011 from 8 a.m. to 5 p.m.

Dated this 5th day of July, 2011

Published: 07-13-11

Effective: 08-03-11

Hersrud seconded the motion for the adoption of the foregoing resolution with all members voting yes and the resolution was declared passed and adopted.

DesJarlais introduced the following written resolution and moved its adoption:

**RESOLUTION 2011-19**  
**RESOLUTION AUTHORIZING TEMPORARY PLACEMENT OF BANNERS**  
**OVER THE PUBLIC RIGHT OF WAY**

WHEREAS, pursuant to Title 30, Sturgis City Council has the authority to approve banners over the public right of ways.

WHEREAS the City of Sturgis has contracted with sponsors with regards to banners being placed during the 2011 Sturgis Motorcycle Rally.

NOW THEREFORE, BE IT RESOLVED, that banners may be displayed over the following public right of ways from August 1, 2011, to August 16, 2011.

Main Street between Junction and Middle Street  
Main Street between Junction and First Street  
Main Street between First and Second Street  
Main Street between Second and Third  
Main Street between Third and Fourth  
Junction Avenue between Glover and Harmon Street  
Junction Avenue between Sherman and Main Street  
Junction Avenue between Main and Lazelle Street  
Ballpark Road between Junction Avenue and the Railroad Track  
Lazelle near McDonald's (City promotion only)  
Lazelle near City Park (City promotion only)

Dated this 5th day of July, 2011.

Published: 07-13-11

Effective: 08-03-11

McVay seconded the motion for the adoption of the foregoing resolution with all members voting yes and the resolution was declared passed and adopted.

Johnston introduced the following written resolution and moved its adoption:

**RESOLUTION 2011 -20  
RESOLUTION AUTHORIZING CLOSURE OF STREET  
FOR ANNUAL STURGIS MOTORCYCLE RALLY**

WHEREAS the Sturgis Motorcycle Rally will be held in the City of Sturgis, August 8, 2011 through August 14, 2011; and

WHEREAS it would be in the best interest for the City of Sturgis and its citizens that **Kinship Street from Lazelle Street to the entrance to the U.S. Post Office in the City of Sturgis be closed from August 7, 2011 through August 11, 2011 from Noon until 6:00 p.m. daily** to accommodate Special Events hosted by Rally Sponsors on these days.

Dated this 5th day of July, 2011.

Published: 07-13-11

Effective: 08-03-11

McVay seconded the motion for the adoption of the foregoing resolution with all members voting yes and the resolution was declared passed and adopted.

Prior to adoption of this resolution, Roger Schieman and Jim Dillavou, Manager of the UPS store requested that the Council reconsider closing 1<sup>st</sup> Street and 2<sup>nd</sup> Street from Main Street to Lazelle Street. They felt that it was an inconvenience to the citizens and the employees of UPS.

DesJarlais introduced the following written resolution and moved its adoption:

**RESOLUTION 2011 -21  
RESOLUTION AUTHORIZING CLOSURE OF STREETS  
FOR ANNUAL STURGIS MOTORCYCLE RALLY**

WHEREAS the Sturgis Motorcycle Rally will be held in the City of Sturgis, August 8, 2011 through August 14, 2011; and

WHEREAS due to the great number of motorcyclists in Sturgis, South Dakota, during this time, it would be in the best interest for the City of Sturgis and its citizens that a portion of Main Street in the City of Sturgis be designated for motorcycle traffic only during this time and that parking restrictions be placed in effect adjacent to the Main Street area; and

WHEREAS it is necessary for portions of First Street, Second Street, Third Street, and Fifth Streets be closed to normal automobile vehicle traffic for Rally displays and activities; and be designated for motorcycle traffic only during this time.

NOW, THEREFORE, BE IT RESOLVED: That **Main Street in the City of Sturgis, from its intersection with Middle Street to its intersection with Fourth Street**, shall be closed to all traffic with the exception of motorcycle traffic as specified in herein during a time period from **2 a.m. on Friday August 5, 2011 to 2 a.m. on Sunday, August 14, 2011**, and for such additional time if deemed necessary by the Chief of Police of the City of Sturgis and the City Council. The City Council of the City of Sturgis does hereby determine that it is necessary to close Main Street during the above time, in order to provide orderly traffic control and to ensure the safety of the citizens of the City of Sturgis and their guests. Only motorcycles, including two-wheel and three-wheel motorcycles, shall be allowed on Main Street during the above time period with the exception of maintenance vehicles, law enforcement vehicles, and fire

protection vehicles. Bicycles, skateboards, scooters, roller blades, and other similar conveyances shall not be allowed to use that portion of Main Street described during the above time period, as the presence of bicycles, skateboards, scooters, roller blades, and other similar conveyances present a safety hazard to pedestrians, motorcyclists, bicyclists and those riding skateboards, scooters, roller blades and other similar conveyances. A 14-foot fire lane for emergency vehicles shall be maintained throughout the closed area.

BE IT FURTHER RESOLVED that a portion of **First Street, from Sherman Street to Lazelle Street** shall be closed to motor vehicle traffic at **2 a.m. on Friday, August 5, 2011 to 2 a.m. on Sunday, August 14, 2011**, for parking and other rally activities to be determined by the Council.

BE IT FURTHER RESOLVED a portion of **Second Street from Sherman Street to Lazelle Street** shall be closed to all traffic with the exception of motorcycle traffic from **2 a.m. on Friday, August 5, 2011 to 2 a.m. on Sunday, August 14, 2011**, for motorcycle parking, and other rally activities to be determined by the Council. Bicycles, skateboards, scooters, roller blades and other similar conveyances shall not be allowed to use that portion of Third Street described during the above time period, as the presence of bicycles, skateboards, scooters, roller blades and other similar conveyances present a safety hazard to pedestrians, motorcyclists, bicyclists and those riding skateboards, scooters, roller blades and other similar conveyances. A 14-foot fire lane for emergency vehicles shall be maintained throughout the closed area.

BE IT FURTHER RESOLVED a portion of **Third Street from Sherman Street to the Lazelle Street** shall be closed to all traffic with the exception of motorcycle traffic from **2 a.m. on Friday, August 5, 2011 to 2 a.m. on Sunday, August 14, 2011**, for motorcycle parking, rally displays, and other rally activities to be determined by the Council. Bicycles, skateboards, scooters, roller blades and other similar conveyances shall not be allowed to use that portion of Third Street described during the above time period, as the presence of bicycles, skateboards, scooters, roller blades and other similar conveyances present a safety hazard to pedestrians, motorcyclists, bicyclists and those riding skateboards, scooters, roller blades and other similar conveyances. A 14-foot fire lane for emergency vehicles shall be maintained throughout the closed area.

BE IT FURTHER RESOLVED a portion of **Fifth Street from Lazelle Street to the Sturgis Community Center** be closed to normal traffic for rally display purposes for the time period from **2 a.m. on Monday, August 1, 2011 to 2 a.m. on Sunday, August 14, 2011**, and for such additional time if deemed necessary. That a 14-foot fire lane for emergency vehicles shall be maintained throughout the closed area.

BE IT FURTHER RESOLVED that **parking on the North side of Sherman Street from Fourth Street to Fifth Street** be designated for **public transit use only** during the time period from **2 a.m. on Friday, August 1, 2011 to 2 a.m. on Tuesday, August 16, 2011**, and for such additional time if deemed necessary.

BE IT FURTHER RESOLVED that four-wheel vehicular traffic shall be allowed through said alley between Main and Sherman Street from Middle Street through Fourth Street; and that the alley between Main Street and Lazelle Street, shall be open to four-wheel vehicular traffic from said Middle Street through Fourth Street.

BE IT FURTHER RESOLVED that while four-wheel vehicular traffic is allowed in the above said alleys, no parking is allowed in this area except for strict adherence to loading and unloading vehicles as set forth in Ordinance 2001-24 Chapter 16.05.07 (12) of the Sturgis City Ordinances.

Dated this 5th day of July, 2011.

Published: 07-13-11

Effective: 08-03-11

Vasknetz seconded the motion for the adoption of the foregoing resolution with all members voting yes and the resolution was declared passed and adopted.

DesJarlais introduced the following written resolution and moved its adoption:

**RESOLUTION 2011-22  
RESOLUTION AUTHORIZING TRAFFIC CONTROL DEVICES  
DURING STURGIS MOTORCYCLE RALLY**

WHEREAS, the City of Sturgis, Meade County, South Dakota, has jurisdiction to regulate and maintain their street system; and

WHEREAS, it appears necessary and in the best interest of public safety to establish temporary traffic control devices at the locations set forth herein.

NOW THEREFORE, BE IT RESOLVED that traffic control devices shall be placed at the following intersections between July 11, 2011, and August 14, 2011.

Nellie Street and Lazelle Street  
Middle Street and Lazelle Street  
1<sup>st</sup> Street and Lazelle Street  
3<sup>rd</sup> Street and Lazelle Street  
6<sup>th</sup> Street and Lazelle Street  
20<sup>th</sup> Street and Highway 14A  
Junction Avenue and Sherman Street  
Junction Avenue and Park Street

Dated this 5th day of July, 2011.

Published: 07-13-11

Effective: 08-03-11

McVay seconded the motion for the adoption of the foregoing resolution with all members voting yes and the resolution was declared passed and adopted.

Bregle introduced the following written resolution and moved its adoption:

**RESOLUTION 2011-23  
RESOLUTION AUTHORIZING TEMPORARY SIGN APPLICATIONS**

WHEREAS Category Exclusive sponsors purchase the sponsorship package both to enhance their corporate image and also increase their marketing efforts, and

WHEREAS Category Exclusive sponsors of the Sturgis Motorcycle Rally pay the City for sponsorship recognition, and those payments supplement the tax revenues received by the City, and

WHEREAS the payments received from the Category Exclusive sponsors of the Rally provide a source of revenue to the City which measurably exceeds the cost of services provided to those sponsors, and

WHEREAS the amount of revenue received from a Category Excusive sponsor in excess of actual cost provides funds for the City Budget that otherwise would have to be obtained through higher taxes, and

WHEREAS a key ingredient in marketing and business sales activity is display signage, and

WHEREAS the City of Sturgis has adopted Title 30, a sign ordinance, that permits a wide range of signage and display marketing throughout the year, and

WHEREAS Title 30 of the Sturgis Ordinances has a structured process in place to allow applications for temporary signs to be submitted and reviewed before allowing the placement or display of temporary signs promoting a temporary sale or event.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Sturgis City Council will hereby authorize Category Exclusive sponsors to submit application to the Community Development Department, consistent with the requirements of Section 30.04.05 of that Ordinance, for any temporary sign that the sponsor seeks to display for the period of July 8 through July 14, 2011.

Dated this 5<sup>th</sup> day of July, 2011.

Published: 07-13-11

Effective: 08-03-11

Hersrud seconded the motion for the adoption of the foregoing resolution with all members voting yes and the resolution was declared passed and adopted.

Motion by Brengle, second by Vasknetz and carried with all members voting yes to approve first reading of Ordinance 2011-06- An Ordinance amending Title 34, Flood Damage Protection.

Any other Business:

Motion by Potts, second by Brengle and carried with all members voting yes to go into executive session at 7:40 p.m. for legal.

Motion by Brengle, second by Potts and carried with all members voting yes to come out of executive session at 8:05 p.m.

Motion by McVay, second by DesJarlais and carried with Brengle, Carstensen, DesJarlais, Hersrud, Johnston, McVay, Sundstrom and Vasknetz voting yes and Potts abstaining to authorize the Mayor to sign a letter, after consultation with the Legal and Finance Committee, as to the City's response to the petition now on file to have land in the immediate area of Bear Butte transferred into trust status by the United States Secretary of the Interior.

Mayor Carstensen adjourned at 8:10 pm.

ATTEST: \_\_\_\_\_  
Fay Bueno, Finance Officer

APPROVED: \_\_\_\_\_  
Mark Carstensen-Mayor

Publish once at the total approximate cost

