

ORDINANCE NO. 724

AN ORDINANCE AMENDING ORDINANCE NO. 458 OF THE CITY OF STURGIS, WHICH PROVIDES FOR THE ESTABLISHMENT OF ZONING DISTRICTS WITHIN WHICH THE PROPER USE OF LAND AND NATURAL RESOURCES SHALL BE ENCOURAGED AND REGULATED; TO ESTABLISH MINIMUM STANDARDS FOR OPEN SPACE, BUILDING AND POPULATION DENSITY; TO REGULATE THE OCCUPANCY AND USE OF DWELLINGS, BUILDINGS AND STRUCTURES, INCLUDING TENT AND TRAILER COACHES, THAT MAY HEREAFTER BE ERECTED, ALTERED OR MOVED; TO PROVIDE FOR THE ADMINISTRATION THEREOF; TO PROVIDE FOR A METHOD OF AMENDING; TO PROVIDE FOR THE COLLECTION OF FEES FOR THE FURTHERANCE OF THE PURPOSE OF THIS ORDINANCE; TO PROVIDE FOR PETITIONS AND PUBLIC HEARINGS; TO PROVIDE FOR APPEALS AND FOR THE ORGANIZATION AND PROCEDURE OF THE BOARD OF ADJUSTMENT; AND TO PROVIDE FOR PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF STURGIS, SOUTH DAKOTA, THAT ORDINANCE NO. 458 OF THE CITY OF STURGIS IS HEREBY AMENDED TO READ AS FOLLOWS:

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**TITLE 18**  
**CITY OF STURGIS ZONING ORDINANCE**

(Title 18, Articles I, II, III, and IV amended April 6, 2001, Ordinance 2000-28)

**ARTICLE I**  
**TITLE AND PURPOSES**

SECTION 1 – TITLE  
SECTION 2 - SHORT TITLE  
SECTION 3 - PURPOSES

**SECTION 1 - TITLE**

An Ordinance to provide for the establishment of zoning Districts within which the proper use of land and natural resources shall be encouraged and regulated; to establish minimum standards for open space, building and population density; to regulate the occupancy and use of dwellings, buildings and structures, including tent and trailer coaches, that may hereafter be erected, altered or moved; to provide for the administration thereof; to provide for a method of amending; to provide for the conflicts with other acts, ordinances or regulations; to provide for the collection of fees for the furtherance of the purpose of this Ordinance to provide for petitions and public hearings; to provide for appeals and for the organization and procedure of the Board of Adjustment; and to provide for penalties for the violation of this Ordinance and amending Ordinance No. 458.

**SECTION 2 - SHORT TITLE**

These regulations shall be known and may be cited as "THE CITY OF STURGIS ZONING ORDINANCE".

**SECTION 3 - PURPOSES**

It is the purpose of this Zoning Ordinance to promote the safety, health, morals, convenience and general welfare; to encourage the use of lands and natural resources in the city in accordance with their character, adaptability and suitability for particular purposes; to conserve social and economic stability, property values and the general character and trend of community development; to prevent excessive concentration of population; to lessen congestion on the public streets and highways; to facilitate adequate provision of streets and highways, sewage and drainage, water supply and distribution, educational and other public resources, by establishing herein standards for community development in accordance with these objectives and by providing for the enforcement of such standards.

## ARTICLE II DEFINITIONS

### Definitions:

For the purpose of this ordinance and in order to carry out the provisions and intentions as set forth herein, certain words, terms and phrases are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tense; words in the singular number include the plural and words in the plural include the singular; the word "lot" includes the partnership or corporation as well as an individual; the word "structure", the word "plot" or "parcel", the word "building" includes the word "structure", the term "shall" is always mandatory and not directory; and the word "may" is permissive. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

The following words, terms and phrases are hereby defined and shall be interpreted as such throughout this ordinance. Terms not herein defined shall have the meaning customarily assigned to them. Words or phrases, which herein are not defined, shall have their common meaning as described in a dictionary.

**Abandoned motor vehicle:** means any motor vehicle that is left in one location on public property or on private property without the consent of the owner thereof for a continuous period of more than seventy-two hours.

**Accessory Building:** A subordinate building, the use of which is incidental to that of the main or primary structure located on the same lot or parcel of land therewith.

**Accessory Use:** A use customarily incidental, appropriate and subordinate to the principal use or land or buildings and located upon the same lot or parcel of land therewith.

**Adult Entertainment Center:** An enclosed building or a part of an enclosed building, wherein an admission is charged for entrance into the facility, or for food, alcoholic beverages or other beverages intended for consumption within the facility, wherein may be observed or which contains 1 or more coin operated mechanisms which when activated permit a customer to view 1 or more live persons unclothed or in such attire, costume or clothing as to expose to view any portion of the areola of the female breast, or any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva or genitals. (Added effective 10/16/13, Ordinance 2013-13)

**Adults-Only Bookstore:** An establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined below, or an establishment with a segment or section devoted to the sale or display of such material, for sale to patrons therein. (Added effective 10/16/13, Ordinance 2013-13)

**Adults-Only Motion Picture Theater:** An enclosed building used regularly and routinely for presenting programs, material distinguished or characterized by an emphasis on matter depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined below, for observation by patrons therein. (Added effective 10/16/13, Ordinance 2013-13)

**Adult Oriented Business:** An adult entertainment center, adults-only bookstore, adult novelty store, adult video store, or adults-only motion picture theater; where 30% or more of the sales floor, merchandise value or total inventory, merchandise, or performances are characterized by a preponderance of nudity, sexual conduct, sadomasochistic abuse, and/or sexual excitement. (Added effective 10/16/13, Ordinance 2013-13)

**Adult Overlay District:** The Adult Overlay District shall be composed of any parcel immediately adjacent and having vehicle access from Mayer Ave., Sturgis Street, Hansen Drive, or Industry Road. (Added effective 10/16/13, Ordinance 2013-13)

**Agency:** The city council and any officer, employee, department, division, or other agency of the City of Sturgis, including boards and commissions, but excludes the municipal court.

**Alley:** A permanent minor right of way within a block set apart for public use, vehicular travel, and local convenience to provide access to the rear or side of the abutting lots or buildings.

**Alterations, Structural:** As applied to a building or structure, any change in the supporting members of a building; such as bearing walls, columns, beams or girders.

**Amusement and Recreation Business:** Any business whose primary function is entertainment, such as theaters, billiard halls, amusement rides, shows, site seeing tours, or any other entertainment or amusement, which may be authorized by the Common Council.

**Amend or Amendment:** Any repeal, modification or addition to a regulation; any new regulation; any change in the number, shape, boundary or area of a district or any repeal, abolition, change or addition to the Zoning Map.

**Antique vehicle:** means a vehicle registered with and licensed by the South Dakota State Division of Motor Vehicles of the Department of Revenue or the department of motor vehicles of any other state as an antique vehicle.

**Apartment House:** see Dwelling, Multiple Family

**Approved:** Refers to the approval of the City Council or their authorized agent.

**Architectural projection:** means any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, including without limitation a roof overhang, mansard, unenclosed exterior balcony, marquee, canopy, awning, pilaster, and fascia, but not including a sign.

**Area, Building:** The total areas taken on horizontal plane at the a main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, decks, etc.

**Assisted Living Facility:** A facility, which has individual dwelling or living units where care may not be provided by on duty medical personnel, this facility can also be capable of serving one or more meals a day to the occupants of the structure at one and the same time.

**Authorized emergency vehicle:** means every vehicle equipped with audible or visual signals meeting the requirements of South Dakota State Law and the City of Sturgis, as amended, and operated by a law enforcement personnel, city fire department personnel, ambulance personnel and every other vehicle defined as an authorized emergency vehicle by state law.

**Authorized service vehicle:** means such highway or traffic maintenance vehicles as are publicly owned and operated on a highway by or for a governmental agency, the function of which requires the use of service vehicle warning lights as prescribed by state law, and such other vehicles having a public service function, including without limitation, public utility vehicles and tow trucks, as determined by the state department of highways. Some vehicles may be designated as both an authorized emergency vehicle and an authorized service vehicle.

**Automobile Service Station:** Building or lot having pumps and storage tanks where fuels, oils or accessories for motor vehicles are dispensed, sold, or offered for sale at retail and repair service is conducted, and excluding the commercial storage of dismantled or wrecked motor vehicles or junk.

**Automobile Storage Garage, Private:** Accessory building, including a barn used for automobile storage, or a portion of a main building or building attached thereto, designed, arranged or used for housing private motor vehicles, including farm machinery and vehicles. A private automobile garage shall not be used for the commercial storage of dismantled or wrecked vehicles or junk.

**Automobile Parking Lot, Public:** Parcel of land, lot or portion thereof owned and/or operated by a governmental or official public agency for off-street motor vehicle parking, but excluding the storage of dismantled or wrecked vehicles, parts thereof or junk.

**Automobile Sales Lot:** Lot arranged, designed or used for storage and display for sale of any motor vehicle or any type of mobile home or farm implement, trailer, excluding the storage of dismantled or wrecked vehicles, parts thereof or junk.

**Automobile Wrecking:** The dismantling, storage, sale, crushing or dumping or use motor vehicles, trailers or parts thereof.

**Awning:** means an architectural projection roofed with flexible material, including without limitation fabric, supported entirely from an exterior wall of a building, and that may be retracted, folded, or collapsed against the face of the supporting building.

**Basement:** A story where the floor is more than three feet below the average grade of the adjoining ground.

**Bathroom:** Means a room with a tight fitting door containing a water closet and a lavatory, said room may also contain a shower, or bathtub.

**Bay Window:** Means a window projecting from the wall of a building containing windows on all walls of the projection. The projecting bay is floor to ceiling in height, is not more than one-half the width of the room from which it projects and is not less than fifty percent glass.

**Bed and Breakfast:** A private home which is used for temporary, less than thirty (30) days, accommodations for a charge to the public with not more than four (4) units or not more than a daily average of eight (8) persons per night and which no more than two (2) family style meals are served per 24 hour period.

**Bicycle:** means a vehicle propelled solely by human power through a chain, belt, or gears and that has at least one wheel more than fourteen inches in diameter.

**Bicycle or Walking Path:** Means a separate path that has been designated for use by non-motorized bicycles or pedestrians by traffic control device or other sign and that is separated from the roadway for other vehicular traffic by open space or a barrier.

**Board of Adjustments:** Shall otherwise be known as the City Council for the City of Sturgis

**Boarding, Lodging or Rooming House:** Dwelling or part thereof where, for compensation, lodging, meals or both are provided.

**Brush:** means woody shrubs not part of a planned and maintained landscape of either a highly structured manicured type or a natural appearance.

**Building:** Structure having a roof supported by columns or walls for the shelter, support or enclosure for persons, animals or chattels. A building may be pre-cut 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.

**Building, Accessory:** Structure having a roof supported by columns, posts, poles or walls for the shelter, support or enclosure of animals or chattels, subordinate and customarily incidental to the principal use of a lot, designed and intended or used as an accessory use.

**Building Code:** That code in effect adopted by the State of South Dakota and the City of Sturgis.

**Building Envelope:** means that area on any lot on which a structure can be erected consistent with existing setback requirements and is defined by the setback lines applicable to that lot. But no such line shall run closer than five feet from any property boundary, and to the extent required to avoid running closer than five feet to any property boundary, this line may run less than eight feet from the exterior wall of any protected structure.

**Building, Height of:** The vertical distance measured from the average elevation of the proposed finished grade along the front building line to the highest point of the roof surfaces of a flat roof, to the deck line of a Mansard roof, and to the mean height level between eaves and ridge of a gable, hip or gambrel roof not including chimneys or other similar structures.

**Building Inspector:** The individual authorized by the Building Official and the City to conduct inspections and issue permits.

**Building and/or Setback Line:** The setback line beyond which the foundation wall and/or any enclosed porch, vestibule or other enclosed portion of a building shall not project, except as provided in this ordinance.

**Building Official:** Administrator of the building codes adopted by the City of Sturgis.

**Building Site:** A single parcel of land under one ownership occupied or intended to be occupied by a building or structure.

**Building, Main and/or Principal:** Building which is considered the principal use of the lot on which it is situated. In any residential district, a dwelling shall be deemed a main building on which it is located.

**Business:** Means any profession, trade or occupation and all and every kind of calling, whether or not carried on for profit, except those organizations exempt from the federal income tax pursuant to section 501(c)(3) of the United States Internal Revenue Code as amended or renumbered; provided.

**Business, Place of:** means any location, building or portion thereof or premises in which or from which a business is carried on. The term includes but is not limited to an office, warehouse, yard, location where books and records are kept, the location from which business is solicited.

**Business, Proper Location:** No registration or license shall be issued unless and until the applicant for such license provides the city clerk with the address of the proposed location from which business will be conducted. The clerk shall cause inspection of the facilities, and buildings at the location listed shall meet all applicable building and fire codes and zoning restrictions currently in force within the city.

**Business, Service:** Any activities conducted for gain which render service primarily to other commercial and industrial enterprises, or which service and repair appliances and machines used in the home or business.

**Business, Service Type, Heavy:** A business, which may sell goods at retail, having a substantial portion of it's volume devoted to the repair of automotive or other motor driven equipment, machinery or parts, including the

fabrication thereof, but not for wholesale trade; and businesses dealing in building materials, woodworking, dry cleaning and the like.

**Care Home:** A rest and/or nursing home, convalescent home or boarding home for the 24 hour care of children or the aged, but excluding the facilities for the care of the “feeble-minded” or mental patients, epileptics, alcoholics or drug addicts.

**Charitable and Philanthropic Institutions:** A private, non-profit body, association or society not organized for the business of conducting a business, no part of its' net earnings of which inures to the benefit of any individual, and which provides volunteer aid or relief or religious, social, physical, recreational and/or benevolent services.

**Chattel:** Means any tangible, movable, personal property whatsoever, including, but not limited to: building materials, household furniture, appliances or motor vehicle parts, but not including duly licensed operable vehicles or recreational vehicles, boats, camper shells or off-the-road vehicles mounted thereon.

**City:** Means the City of Sturgis or the area within the territorial City limits of the City of Sturgis and such territory outside of this City over which the City has jurisdiction or control by virtue of any constitutional or charter provision, or any law.

**City clerk or city treasurer:** Means the director of finance and record.

**City council:** Means the elected officials of the City of Sturgis, South Dakota.

**Cleanable:** Means having a smooth, hard surface that is free from unsealed breaks and impervious to the amount of water that would be used in cleaning.

**Clinic:** A facility providing daily medical examinations and outpatient care only.

**Conduct:** Carryon means engage in, carryon, own, maintain, manage or operate any business, trade, art, profession, calling, employment, occupation or any commercial, industrial or professional pursuit, vocation or enterprise in this city.

**Construction project:** Means the erection, installation, alteration, repair, or remodeling of a building or structure upon real estate or any other activity for which a building permit is required under this code or an ordinance of the city.

**Coverage, Lot:** The lot area covered by all structures located therein, including the area covered by roofs.

**Day Care:** A place, home or institute for the daily (not more than 12 hours) care of children or the aged and is licensed by the State of South Dakota to provide said care.

**Deck:** Means an open platform, which is either freestanding or attached to a building or upon the roof of a building.

**Design Capacity:** The maximum number of persons permitted by the codes, which can be accommodated at anyone time with a reasonable degree of comfort, safety and convenience.

**Development:** Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

**District:** Area within which certain uses of land and buildings are permitted and certain others are prohibited; yards and open spaces may be required; lot areas, building height limits and other requirements are established;

all of the foregoing being identical for the district in which they apply.

**Dormitory:** A building or portion thereof used for sleeping purpose, in connection with a school; college or other institution.

**Dump:** A lot, parcel or tract of land, the premises of which are used primarily for disposal; by abandonment, discarding, dumping, reduction, burial, incineration or any other means and for whatever purpose; of garbage, sewage, trash, refuse, waste material of any kind, junk, discarded machinery, vehicles or parts thereof, offal or dead animals.

**Dwelling:** Building or portion thereof arranged or designed to provide living facilities for one or more families.

**Dwelling, Attached:** A building or portion thereof having two or more single family dwellings attached to each other.

**Dwelling Unit:** A Building or portion thereof arranged or designed to provide living facilities for not more than one family.

**Dwelling, Detached:** Building arranged or designed as a dwelling and entirely separated from any other building or structure by space on all sides

**Dwelling, Semi-Detached:** One of two buildings, arranged or designed as dwellings, located on abutting lots, separated from each other by a one hour separation wall extending from the basement floor and separated from any other building or structure by space on all sides.

**Dwelling, Single-Family:** A Building, or portion thereof, containing only one dwelling unit and occupied by only one family.

**Dwelling, Two Family:** A Building containing only two (2) dwelling units, arranged one above the other or side by side on a single lot.

**Dwelling, Multiple Family:** Building containing three (3) or more dwelling units, which is owned by an individual or corporation and can be rented for a period of not less than thirty (30) days or otherwise known as an apartment house.

**Dwelling Unit:** Is any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by the building code, for not more than one family, or congregate residence for 10 or less persons.

**Family:** An individual or two or more persons related by blood or marriage or a group of not more than five (5) persons (excluding servants) who need not be related by blood or marriage living together in a dwelling unit.

**Feasible:** The ability to construct an improvement on a site from the standpoint of physical capabilities. It does not include economic desirability.

**Filling Station:** A building or lot or part thereof supplying, and selling gasoline or other equivalent fuel for motor vehicles at retail direct from pumps and storage tanks.

**Firearm:** Any handgun, revolver, pistol, rifle, shotgun, or other instrument or device capable or intended to be capable of discharging bullets, cartridges, or other explosive charges.

**Floor area ratio:** The numerical value obtained by dividing the gross floor area of a building or buildings located on a lot or parcel of land by the total area of the lot or parcel of land.

**Food:** Any raw, cooked, or processed edible substance, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

**Fraternity or Sorority House:** A building housing the members of a fraternity or sorority group living together under a cooperative arrangement as distinct from boarding or lodging house.

**Frontage:** All the property on one side of a street between two intersection streets (crossing or terminating) measured along the line of the street, or if the street dead ended, then all the property abutting on one side between an intersecting street and the dead end of the street.

**Frontage, Building:** The horizontal, linear dimension of that side of a building that abuts a street, a parking area, a mall, or other circulation area open to the general public and that has either the primary window display of the enterprise or the primary public entrance to the building; in industrial districts, the building side with the primary entrance open to employees is the building frontage; where more than one use occupies a building, each such use having a primary window display or a primary public entrance for its exclusive use is considered to have its own building frontage, which is the front width of the portion of the building frontage occupied by that use.

**Frontage, Street:** The linear frontage of a lot or parcel abutting a private or public street that provides principal access to or visibility of the premises.

**Garage, Private:** Any garage building or part of a main building used for the storage of vehicles of those persons owning the property or for the storage of those persons occupying the property as their residence. Said building shall not be utilized for the purpose of leasing or renting space for storage of vehicles of those other than the owners or the occupants of the primary use of the property.

**Garage, Public:** Any garage not described as a private garage, available to the public, which is used for the storage motor vehicles.

**Garage, Repair:** A building, which contains facilities for the care, servicing and/or repair of motor vehicles.

**Garbage:** Animal or vegetable waste resulting from the preparation, cooking, and serving of food or the storage or sale of produce.

**Garbage Container:** A metal or other non-absorbent container equipped with a tightly fitting metal or non-absorbent lid or sealed plastic garbage bags, but does not include incinerators or ash pits.

**General Circulation:** Delivered to a substantial number of residences in the city and also otherwise made available for purchase or distribution.

**Grade, Established:** The elevation of the centerline of highways, streets, and roads as officially established by the City Council, its authorized agent or any public agency having jurisdiction over such highway, street or road.

**Grade, Finished:** The completed surfaces of lawns, walks and roads brought to grades as shown in official plans or designs thereto. When walls are parallel to and within five feet of a sidewalk, "grade" means the sidewalk level.

**Guest Room:** A room occupied or intended, arranged or designed for occupancy by one (1) or more guests.

**Hereafter:** Any time after the effective date of this code.

**Heretofore:** Any time previous to the effective date of this code.

**Historical Monuments and/or Structures:** Any antique structure or building existing contemporaneously with and commonly associated with an outstanding event or period of history and any structure or building which the relics and/or mementos of such event or period are housed and preserved.

**Home Occupation:** A gainful profession or occupation conducted entirely within a dwelling or accessory building by a member or members of the family residing on the premises and secondary to the principal use of the premises for dwelling purposes and in connection with, no display is used to advertise the business.

**Hospital:** An institution receiving in-patients and rendering medical, surgical and/or obstetrical care. The term "hospital" shall also include sanitariums and sanatoriums, including those wherein feebleminded and mental patients, epileptics, alcoholics and drug addicts are cared for or treated.

**Hotel:** A building in which lodging is offered to the public and in which room assignments are made for compensation and in which entrance to and exit from all rooms is made through an inside lobby or office supervised by a person in charge at all times.

**Hotel room, motel room, or other accommodation:** Any room or other accommodation in any hotel, apartment-hotel, motel, guest house, trailer court, or any such similar place to any person who for a consideration uses, possesses, or has the right to use or possess such room or other accommodation for a total continuous duration of less than one (1) month.

**Intersection:** The area embraced within the prolongation or connection of the lateral curb lines of two streets that join one another at, or approximately at, right angles or the area within which vehicles traveling upon different streets joining at any other angle may come in conflict, whether or not one such street crosses the other, but the term does not include the junction of any alley with a street. If a street includes two roadways thirty feet or more apart, every crossing of each roadway of such divided street by an intersecting street is a separate intersection. If such intersecting street also includes two roadways thirty feet or more apart, every crossing of such streets is a separate intersection. The farthest applicable points shall be used when measuring.

**Junk:** Accumulation of, or storage of material outside of an enclosed building; or used or discarded materials, house furnishings, appliances, machinery, vehicles or parts thereof with or without dismantling, processing, salvage, sale or other use or disposition of same.

**Junkyard/Salvage Yard:** Any land or building commercially used for the abandonment, storage, keeping, collecting or baling of paper, rags, scrap metals, other scrap or discarded materials, or for the abandonment, demolition, dismantling, storage or salvaging motor or other vehicles not in running condition, machinery or parts thereof.

**Loading Space:** A space within the main building or on the same lot therewith, providing for the standing, loading, or unloading of a truck.

**Law:** Any regulation, ordinance, provision of this code, or charter provision of the city; any rule, statute, or constitutional provision of the state which is binding; any regulation, statute, or constitutional provision of the United States which is binding on the state or its cities.

**License:** The written authority of the City issued by its duly authorized agent, employee or officer, conferring permission on some person to pursue and exercise a trade, occupation or business for a definite period of time within the City of Sturgis, under the conditions prescribed by the Ordinances of the City of Sturgis.

**Life Care Retirement Center:** A residential facility containing dwellings designed for and principally occupied by senior citizens or the disabled in a planned retirement community which includes a residential complex, an activity or community center, and a medical or nursing facility which is licensed by the state of South Dakota as an Intermediate Care Facility or a Skilled Nursing Center.

**Lot:** A parcel of land held under unified ownership in fee or co-tenancy or under legal control tantamount to such ownership, considered as a unit, used or proposed to be used, for a certain use or uses or occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of this ordinance, having at least the minimum areas required by this ordinance for a lot in the district in which the same is situated and having its principal frontage on a public highway, road, street or private road or right-of-way deemed adequate by the public agency having jurisdiction.

**Lot, Corner:** A lot of which at least two (2) adjoining sides abut for their full lengths on a street, provided that the interior angle at the intersection of two such sides is less than one hundred thirty-five (135) degrees.

**Lot, Depth:** The average distance from the street line of the lot to its rear line, measured in the general direction of the side lines of the lot.

**Lot, Double Frontage:** A lot which runs through a block from street to street and which has two non-intersecting sides abutting on two or more streets.

**Lot, Coverage, Percentage of:** The permissible percentage of "lot area" which may be covered by buildings, including covered porches and accessory buildings.

**Lot, Front of:** The line or lines of an interior or through lot, which abuts a street; in a corner lot, the shortest line that abuts a street. When the lines are of equal length, the lot shall be considered to front on that street having the longest block frontage.

**Lot, Interior:** A lot other than a corner lot, including a through lot.

**Lot Lines:** The lines bounding a lot, as hereinafter described.

**Lot Line, Front:** The line running along the front of the lot and separating it from the street. In a through lot, both lines abutting the street shall be deemed "front lot lines."

**Lot, Net Area of:** The total horizontal area included in the rear, side and front lot or proposed street lines. No alley, street, public way, private right-of-way, public land or any area proposed for the foregoing purposes shall be included in determining the net area of the lot.

**Lot, Record:** Land designated as separate and distinct parcel of land on a legally recorded subdivision plat or in a legally recorded deed filed among the land records in the office of Registrar of Deeds for Meade County, South Dakota

**Lot, Through:** An interior lot, fronting on two streets, roads or private ways on street, road or private way and an alley.

**Lot Line, Rear:** The line generally opposite or parallel to the front lot line, except in a through lot. If the rear lot line is less than ten (10) feet long or the lot is pointed at the rear, the rear lot line is assumed to be a line at least ten feet long lying wholly within the lot, parallel to the front lot line or if the front lot line is curved, parallel to the chord of the arc of said front lot line.

**Lot Line, Side:** Any lot line other than a front lot line or a rear lot line.

**Lot, Width of (Minimum at Building Line):** The least permissible width of a lot, measured horizontally along the front building line.

**Minimum Floor Elevation:** The lowest elevation permissible for the construction or other placement of any floor, including a basement floor.

**Mixed use:** A building, structure or premises occupied by or used by two (2) or more principal types of use, any of which is permitted in a district independent of other uses.

**Mobile or Manufactured Home:** A structure, transportable in one or more sections, that is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The chassis consists of the undercarriage, wheel assembly, and towing hitch assembly. The floor joists are structural members of the chassis. Two or more longitudinal I-beams complete the chassis/floor system.

**Mobile home park:** Any or tract of land designed, used, or intended to provide a location or accommodation for one or more mobile homes and upon which any mobile home or homes are parked or located, whether or not the lot or tract or any part thereof is held or operated for profit, but the term excludes automobile or mobile homes sales lots on which mobile homes are parked only for inspection and sale.

**Mobile Home Skirting:** A solid boarder constructed around the perimeter of a mobile home from the bottom of the mobile home to the finished grade.

**Mobile home space:** A plot of ground within a mobile home park designed for the accommodation of one mobile home and its accessory structures.

**Mobile Home Subdivision:** Any area, tract or site or plot of land subdivided for the purposes of individual ownership of separate lots, on which any number of lots or mobile homes may be provided for including accessory uses.

**Modular Home:** Any conventionally manufactured dwelling unit that is constructed in two (2) or more main sections and transported to and permanently assembled on a foundation at the site. The Chassis or frame for which the sections are transported, shall not be in part or whole required for the structural integrity of the building. Said frame, trailer or chassis shall be removed prior to placement of the structure on a permanent foundation.

**Motel, motor court, motor hotel, motor lodge:** A building in which lodging and boarding are offered to the public for compensation, and which has separate entrance to the exterior from each unit with at least one parking space for each unit.

**Motor Vehicle:** All land vehicles propelled or drawn by other than muscular power.

**Neighborhood shopping center:** A building containing three (3) or more tenant spaces of retail, personal service or restaurant use sharing off-street parking in the open between the building and the street. Neighborhood shopping centers do not exceed sixty thousand (60,000) square feet of gross floor area. Multi-tenant retail, personal service or restaurant use buildings or building complexes without parking, with enclosed parking, or with parking screened from the street by the building, shall not be a neighborhood shopping center.

**Newspaper:** A publication, having been in existence for at least six months, regularly printed and distributed no less than once a week, that contains news, opinions, advertisements, and other items of general interest.

**Non-conforming Use:** A building, structure or use of land existing at time of enactment of this Ordinance and which does not conform to regulations of the zoning district in which it is located.

**Notice or legal notice:** Any requirement for informing a person or persons, a segment of the public, or the public generally. A notice required to be published may be published in any newspaper of general circulation unless otherwise required by the charter, this code, or an ordinance.

**Noxious Matter/Hazardous Material:** Material (in gaseous, liquid, solid, particulate or any other form) which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the social, economic or psychological well-being of individuals.

**Nudity:** The showing of the human male or female genitals, pubic area or buttocks, or areola or nipple of the female breast with less than a fully opaque covering, or the depiction of covered male genitals in a discernibly turgid state. (Added effective 10/16/13, Ordinance 2013-13)

**Nursing Home:** A residential health care facility which provides institutional lodging, nursing care, personal care and supervision to aged, chronically ill, physically infirm, or convalescent patients who are not related to the owner or administrator of the facility.

**Obstruction:** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

**Occupant:** Any person living in, sleeping, possessing, or otherwise using any land, building, or part thereof.

**Open space:** That area of a lot, tract, or parcel not devoted to any building, structure, accessory use, roadway or parking facility.

**Open Space, usable:** Open space within a lot, tract, parcel, or development site excluding areas devoted to roadways and parking. At least one-half of all areas designated as usable open space must have a slope of less than ten percent.

**Owner:** A person as defined by this code, who, alone, jointly or severally with others, or in a representative capacity (including, without limitation, an authorized agent, executor, or trustee) has legal or equitable title to any property in question.

**Parking Lot:** An off-street facility including parking spaces along with adequate provisions for drives and aisles for maneuvering and giving access, and for entrance and exit, all laid out in a way to be usable for the parking of more than six (6) motor vehicles or trailers.

**Parking Space:** An off street space available for the parking of one (1) motor vehicle and having not less than a 10 foot width and 20 foot depth (200 sq. ft.) exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having access to a street or alley.

**Passive park:** A plot of land that is landscaped, maintained as open space, serves a neighborhood, and is used as an informal gathering place for relaxation and play. Permitted improvements include walking paths and sitting areas with bench and chairs only.

**Person:** A natural person, corporation, firm, partnership, association, organization, and any other group acting as a unit as well as individuals. It also includes an executor, administrator, trustee, receiver, or other representative appointed according to law. Whenever the word "person" is used in any provision of this code prescribing a penalty or fine as to partnership or associations, the word includes the partners or members thereof, and as to

corporations, includes the officers, agents, or members thereof who are responsible for any violation of such section.

**Plat:** A map, generally of a subdivision, showing the location, boundaries, and ownership changes of lot divisions. To plat means to subdivide.

**Plot plan:** A diagram of a lot, as seen from above, showing the outline of all structures on the lot and indicating the distance of the structures from the borders of the lot.

**Principal Use:** The specific primary purpose for which land or a building is utilized.

**Primary, Primarily, Principal, or Principally:** More than half, if used in a quantifiable context, and first in rank, importance, or value, if used in a context where ranking is possible but quantification is not.

**Property:** Real, tangible, and intangible personal property.

**Proximate cause:** That which, in natural and continuous sequence, unbroken by an efficient, intervening cause, produced the result complained of and without which the result would not have occurred.

**Public authority:** The City of Sturgis, State of South Dakota, or the United States, any of their agencies or instrumentality's, and any body or official thereof possessing power or authority delegated by the public authority.

**Public Uses:** Public parks, schools and administrative, cultural and service buildings not including public land or buildings devoted solely to the storage and maintenance of equipment and material.

**Public Utility:** Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under state or municipal regulations, to the public electricity, gas, steam, communication, telegraph, transportation or water.

**Public Right-of-Way:** The entire area between property boundaries which is: owned by a government, dedicated to public use, or impressed with an easement for public use; primarily used for pedestrian or vehicular travel; and publicly maintained, in whole or in part, for such use. "Right-of-way" includes without limitation the public street, shoulder, gutter, curb, sidewalk, sidewalk area, parking or parking strip, and any other public way.

**Public way:** Any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.

**Quarry:** A lot or parcel or portion thereof used for the purpose of extracting stone, sand, minerals, gravel or top soil for sale as an industrial operation and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made.

**Recreational Facilities:** Country clubs, riding stables, golf courses, amusement rides and any other recreational facilities or centers public or private.

**Recreational Vehicle:** Any vehicle or structure capable of being mounted on, attached to or towed with a hitch by a conventional motor vehicle and for which no special road travel permit is required and having a body width not exceeding eight (8) feet exclusive of appendages (door knobs, handles, window or door sills, vents, etc. and including travel trailers, camping trailers, fifth wheel trailers, pickup campers, motor-homes and intended for temporary or transient living and/or sleeping quarters.

**Regulatory Flood:** A flood which is representative of large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur in a particular stream. The regulatory flood

generally has a frequency of approximately 100 years determined from an analysis of floods on a particular stream and other streams in the same general region.

**Retail cluster shopping center:** A shopping center containing less than sixty thousand (60,000) square feet of gross floor area, but without common open parking between the building and the street.

**Rubbish:** The term "rubbish" shall include paper, boxes, and cartons, all household wastes other than garbage, grass clippings, tree leaves, waste building materials or there similar materials not regulated by the Environmental Protection Agency.

**Sadomasochistic Abuse:** Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed. (Added effective 10/16/13, Ordinance 2013-13)

**Sanitary Sewer:** A municipal or community sewage disposal system or a type approved by the State Department of Environment and Natural Resources.

**School, Private:** An institution of learning that is not tax supported, including colleges and universities.

**School, Public:** A tax-supported institution of learning, including collages and universities.

**Setback:** The distance required in these regulations between the property line of the frontage road and the front building line.

**Sewerage, Private:** An on-site method of sewage treatment, designed, installed operated and maintained by the owner of the premises in accordance with the requirements and standards of the Department of Environment and Natural Resources

**Sewerage, Public:** A sanitary system owned, operated and maintained by a public agency, whereby waterborne wastes from sanitary facilities in dwellings, accessory buildings, business or industrial establishments or any combination thereof are conducted through pipes too a sewage treatment plant and disposal system approved by the Department of Environment and Natural Resources as to design and construction and operated and maintained in accordance with the standards and requirements of said department.

**Sexual Conduct:** Acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's unclothed genitals, pubic area, buttocks or, if such person be a female, her breast. (Added effective 10/16/13, Ordinance 2013-13)

**Sexual Excitement:** The condition of human male or female genitals when in a state of sexual stimulation or arousal. (Added effective 10/16/13, Ordinance 2013-13)

**Sidewalk:** A slab of concrete utilized for pedestrian foot traffic, which is located within the public right of way and is a minimum of four (4) feet in width.

**Sidewalk area:** Means the area between the curb of a street and the adjacent property lines.

**Site plan:** Means a plan drawn to scale showing uses and structures proposed for a parcel of land as required by the applicable regulations. It includes lot lines, streets, building sites, reserved open space and other specific development proposals, similar to a plot plan.

**Spot zoning:** Means the singling out of a lot or a small area for a zoning change which is out of harmony with the comprehensive plan and surrounding land to secure special benefits for a particular property owner without regard for the rights of adjacent landowners.

**Story:** That portion of a building included between the surface of any floor and the surface of the next floor above. Except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than 6 feet above grade, as defined herein, for more than 50 percent of the total perimeter or is more than 12 feet above the grade, as defined herein, at any point, such usable or unused under-floor space shall be considered as a story.

**Story, First:** The lowest story in a building that qualifies as a story, as defined herein, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than 4 feet below grade, as defined herein, for more than 50 percent of the total perimeter, or not more than 8 feet below grade, as defined herein, at any point.

**Story, Half:** A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

**Street Grade:** The officially established grade of the street upon which a lot fronts or in its absence the established grade of other street upon lots abuts, at the midpoint of the frontage of the lot thereon. If there is no official established grade, the existing grade of the street at such midpoint shall be taken as the street grade.

**Street Intersection:** Any street which joins another street at an angle, whether or not it crosses the other.

**Street Line:** The legal line between street right-of-way and abutting property.

**Street Private:** A thoroughfare which affords the principal means of access to abutting property.

**Street Public:** Any existing public or dedicated right-of-way thirty feet or more in width, approved and accepted by the City Council or a private street deemed adequate for access purposes but not accepted by the city for public maintenance.

**Street, Proposed:** Any proposed right of way or proposed widening or extension of any street or public right-of-way, including a private street.

**Street, Centerline of:** A line established as a centerline of a street by the City Council, or any state county or other official or public agency having jurisdiction thereof and shown as such on an officially adopted or legally recorded map, or if there be no centerline established or if there exists conflict among several maps, the centerline of a street shall be line lying midway between the street right-of-way lines thereof. When the street lines are indeterminate and pavement or a well defined traveled way exists, the centerline is assumed to be a line midway between the edges of such pavement or traveled way.

**Street Line:** A line defining the edge of an existing street right of way and separating it from abutting property, or the edge of a new street right-of-way or proposed widening or extension of an existing street on a plan adopted by the City Council or any other official or public agency having jurisdiction.

**Structure:** Anything constructed or erected between the ground and sky, the use of which requires permanent location on the ground or attachment to something having permanent location on the ground.

**Subdivision:** The division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or building development for residential, industrial,

commercial, or other use.

**Supplemental District:** A zoning district to be mapped as an overlay to a use district and which modifies or supplements the regulations of the general district in recognition of distinguishing circumstances such as historic preservation or unit development while maintaining the character and purposes of the general use district area over which it is superimposed.

**Temporary housing:** Any mobile home, tent, camper, or other structure used for human shelter that is designed to be transportable and is not connected to another structure, or to any utilities system.

**Temporary outside displays and sales:** means the display or sale of goods or merchandise not in or from an enclosed permanent building to be conducted for no more than 24 days at a single location one time in a calendar year.

**Temporary structure:** Any structure, building or edifice which is not placed on a foundation and is utilized for a period of less than 30 days.

**Tent and tent activities:** Any canopy, temporary structure, enclosure or shelter constructed of fabric or pliable material. Tents, canopies and temporary membrane structures shall not be used for a period of more than 30 days at a single location.

**Transient Merchant:** Any person whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling, or delivering goods, services, wares and merchandise, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, shops or any streets, alleys or other places for the exhibition and sale of such goods, wares and merchandise, privately; provided, that such definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery. The term "transient merchant" shall include the terms "itinerant merchant" and "itinerant vendor".

**Transfer of development rights (TDR):** The removal of the right to develop or build on land in one area and the transfer of that right to another area or district where such transfer is permitted.

**Use:** The principal purpose, by right for which a lot and/or the main building thereon is designed, arranged or intended and for which it may be used, occupied or maintained.

**Use, Accessory:** A subordinate use which is incidental to and customarily found in connection with the principal use, and located on the same lot with the principal building or use. An accessory use shall not exceed one-fourth of the use or area of the main business or building.

**Use, Non-Conforming:** A use, a building, structure, parking lot use, sign or portion thereof which was lawfully established but which, due to the application of this title, no longer conforms to the regulations of the zone in which it is located, as defined in this title.

**Use, permitted:** A use which is listed as permitted by right in a zoning district. Non specified uses which are similar to those specified are also permitted, by right, except as otherwise restricted within this chapter.

**Use, conditional:** The use of land not the principal use and not in conformity with the regulations for the district in which the use is proposed, due to the specific nature and unique characteristics of the use, requires special standards and discretionary review to insure conformance with the purpose of the Zoning Regulations.

**Utilities:** Municipal, franchised and contracted utilities.

**Utility Lot:** Any platted lot used exclusively for the placement of utilities, public works, wells, water storage, sewer systems, telecommunications stations, electrical substations, high-pressure gas stations, and any other utility services approved by the City Council. Such lots are only intended to be improved with the utility and any structures needed in conjunction with the utility. (Added effective 10/16/13, Ordinance 2013-13)

**Variance:** A relaxation of a restriction of the code, granted by the Board of Adjustment, where by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary or exceptional situation, condition or circumstance of a particular property, the literal enforcement of the code restriction, would result in unnecessary hardship, or when the relaxation of a restriction of the code, granted by the Board of Adjustment shall provide a quantifiable benefit to the City and the surrounding neighborhood of the parcel. (Revised by Ordinance 2013-20, effective 12-4-2013)

**Vested right:** A right which has been legally established and cannot be revoked by subsequent conditions or changes in law without due process of law. There is no vested right to an existing zoning designation.

**Way:** A street or alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

**Wayside Stand:** A structure designed, arranged or used for the display or sale of agricultural products grown or produced only on the premises upon which such stand is located.

**Yard:** Open space, located on the same lot with a building or group of buildings, lying between the building or outer building of a group and the nearest lot or street line, unoccupied and unobstructed from the ground upward.

**Yard, Front:** Yard, extending across the full width of a lot, between the front lot line (or the proposed front street line if such line falls within the lot) and the nearest line of the building or the enclosed portion thereof. The depth of the yard is the shortest horizontal distance between the existing front lot line or proposed front street line and the nearest point of the building or enclosed portion thereof.

**Yard, Rear:** Yard, extending across the full width of the lot between the rear lot line and the nearest line of the building, porch or projection thereof. The depth of the rear yard is the shortest horizontal distance between the rear lot line or proposed front street line and the nearest point of the building, porch or enclosed portion thereof. When the rear lot line is less than ten feet long or when the lot is pointed at the rear, the depth of the rear yard is measured to an assumed rear lot line, as defined under "Lot Line, Rear."

**Yard, Side:** Yard, between the side lot line (or proposed side street line, if such line falls within the lot) and the nearest line of the building, porch or projection thereof, extending from the front yard to the rear yard, or if in the absence of either such yards, to the front lot line and the rear lot line. The width of the side yard is the shortest distance between the side lot line and the nearest point of the building, porch or projection.

**Zero lot line:** A development form in which a building is sited on one or more lot lines with no yard, or zero setback. The intent is to allow more flexibility in site design and to increase the amount of usable open space on the lot.

**Zoning Certificate:** A written statement issued by the Building Official authorizing buildings, structures and uses thereof and the use of land or the changes in use in accordance with the provisions of this ordinance and for the purpose of carrying out and enforcing its provisions.

**Zoning Map:** The Zoning Map for the City of Sturgis, Meade County, South Dakota as on file at the City Finance Office, initially dated January, 2001 including sections or portions thereof, adopted as part of this ordinance, together with all amendments, modifications and changes thereto subsequently adopted. (Revised by Ordinance 2013-20, effective 12-4-2013)

**ARTICLE III  
ZONING DISTRICTS AND MAP**

**SECTION 1 - ESTABLISHMENT OF ZONING DISTRICTS**

For the purpose of promoting the public health, safety, morals, convenience and the general welfare of the community, the City of Sturgis is hereby divided into districts of sixteen (16) different types, each being of such number, shape kind and area and common unity of purpose and adaptability of use that are deemed most suitable to carry out the purpose of this ordinance.

The area of property lying within each district is shown on the Official Zoning map on file in the City Finance Office.

1. Agricultural Zoning District (AG)
2. Park Land
3. Public Land
4. Medium Density Residential Housing
5. Low Density Residential Housing
6. Multi-Family Residential (R-3)
7. Mobile Home 1 (MH-1)
8. Mobile Home 2 (MH-2)
9. General Commercial (GC-1)
10. Retail Commercial (GC-2)
11. Single Family Residential/Office Commercial
12. Highway Service (HS)
13. General Industrial (GI)
14. Open Space (OS)
15. Transitional Zoning District (NU)

**RV, CAMPGROUND AND RECREATIONAL VEHICLE PARK (RV)**

**(This Zoning District established effective August 5, 2006, Ordinance 2006-14)**

Lot 4E, Parks Subdivision City of Sturgis, Meade County, South Dakota, as shown on the plat filed in Plat Book 20 on Page 326.

Lots 14, 15, 16, Block 2 of Lot F of the South Half of the Southeast Quarter of Section 4, Township 5 North, Range 5 East of the Black Hills Meridian, City of Sturgis, Meade County, South Dakota, as shown by the Plat recorded in Plat Book 3 on Page 36.

Lot F of the Northwest Addition to the City of Sturgis, in the Southwest Quarter of Section 4, Township 5 North, Range 5 East of the Black Hills Meridian, City of Sturgis, Meade County, South Dakota

**SECTION 2 - ZONING MAP**

The location and boundaries of the zoning districts established by this Ordinance are denoted and defined as shown in the map entitled "Zoning Map of the City of Sturgis, Meade County, South Dakota", adopted the 12th day of February, 2001, and as subsequently amended, and certified by the City Finance Officer . The said map, together with everything shown thereon is hereby incorporated into this Ordinance as if fully set forth and described herein.

The Zoning Map shall be kept and maintained by the Finance Office and shall be available for inspection and examination by members of the public at all reasonable times as any other public record.

(Section 1 & 2 revised by Ordinance 2013-20, effective 12-4-2013)

**SECTION 3 - SCOPE OF REGULATIONS**

The regulations applying to each district include specific limitations on the use of land and structures, height and bulk of structures, density of population, lot area, yard dimension and area of lot that can be covered by structures.

**Manufactured Home and Residential Zoned areas:**

Outside activities and uses are prohibited in the above districts unless specifically provided otherwise, all activities, storage, and displays shall be conducted entirely within an enclosed structure.

**(A) Exceptions: Garage and Yard sales/holiday decorations:**

No commercial activities shall be permitted within these districts unless the business has been reviewed by the City Planning Commission and City Council and a conditional use permit is granted.

**SECTION 4 - RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES**

Where uncertainty exists with respect to the precise location of any of the aforesaid districts shown on the Zoning Map, the following rules shall apply:

1. Boundaries shown as following or approximately following streets, highways or alleys shall be construed to be following the center lines of such streets, highways or alleys.
2. Boundaries shown as following or approximately following platted lot lines or other property lines, such lines shall be construed to be said boundary lines.
3. Boundaries shown as following or approximately following railroad lines shall be construed to lie midway between the main tracks of such railroad lines.
4. Boundaries shown as following or approximately following the center line of streams, rivers or other continuously flowing or non-flowing water courses shall be construed as following the channel center line of such water courses and the said boundaries shall be deemed to be at the limit of the jurisdiction of the City unless otherwise indicated.

5. Boundaries shown as following or closely following the limits of political jurisdictions shall be construed as following such limits.
  
6. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the governing body.
  
7. Whenever any street, alley or other public easement is vacated, the district classification of the property to which the vacated portions of land accrue shall become the classification of the vacated land.

**ARTICLE IV  
DISTRICT REGULATIONS**

**TITLE 18.05.01  
AG.1 – AGRICULTURAL AND CONSERVATION DISTRICT**

**A. DEFINITION:**

This District is intended to protect agricultural lands and to preserve the natural beauty and open character of forested and other natural growth areas from incompatible land uses.

No temporary Merchants

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

**B. PERMITTED USES:**

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

**C. USES PERMITTED ON REVIEW:**

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

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

(Revision of 18.04.01 (c) effective Sept. 9, 2004 – Ordinance 2004-13)

**D. AREA REGULATIONS:**

Any structure or use permitted shall be agricultural in nature.

- 1) Front Yard: All lots in this district shall have a minimum building set back of fifty feet 50'-0")from any public R.O.W.
- 2) Side Yard: All lots in this district shall have a minimum building setback of 50'-0" from any adjoining property line.
3. Rear Yard: All lots in this district shall have a minimum building setback of not less than 50'-0".
4. Lot Width: All lots used for this zoning designation shall consist of not less than 10 acres.
5. Lot Area: All lots used for this zoning designation shall consist of not less than 10 acres.
6. Maximum Lot Coverage: All lots in this district shall not have more than 5% of its total area covered by permanent structures.

**E. HEIGHT REGULATIONS:** No structure shall exceed two and one-half (30) stories or 50 feet in height.

**F. OFF STREET PARKING:** No off street parking is required for this district.

**G. FLOOD PLAIN REQUIREMENTS:** Any structure constructed within this district must have its first floor elevation constructed above the base flood elevation stated on the city's firm map.

**H. RURAL SERVICE DISTRICT:** All property located within the Agricultural and Conservation District shall be and is hereby classified as "rural property" as that term is defined in SDCL Chapter 9-21A-2 and shall be construed to be a "rural service district" pursuant to SDCL 9-21A. Consistent with SDCL 9-21-A-6, the City hereby determines that the tax levy and assessment value on the agricultural land annexed shall not exceed the average tax levy average assessed value on unannexed agricultural land in adjoining townships in the county as long as the annexed agricultural land remains rural property as defined by SDCL Chapter 9-21A.

("H" effective 8-26-09, Ordinance 2009-13)

**TITLE 18.05.02**  
**PARK -- PARK LAND ZONING**

**(A) DEFINITION:**

This district is intended to be used for public recreation on publicly owned land.

This district may be found intermixed with other zoning districts.

Intermixing of this zoning district shall not be construed as spot zoning.

**(B) PERMITTED USES:**

1. Public recreation areas (to include but not be limited to playgrounds, picnic areas, bike paths or similar uses)
2. Public areas which are used for baseball, softball, football, soccer or similar recreational uses.
3. Uses, which are entertaining or recreational in nature and are approved by the parks board and Sturgis City Council.
4. Permanent structures may be permitted in this zoning district if they are incidental to the primary use.
  - a. Said structures may be restrooms, equipment storage facilities, shelters, picnic areas, concession stands etc.
  - b. No facilities may be constructed for sleeping within this zoning district unless they are associated with an organized (licensed) campground.
5. Campgrounds (public).
6. Temporary structures in association with an event authorized by the Sturgis Park Board and Sturgis City Council. Said structures must be removed within 24 hours of the close of said event unless otherwise authorized by the Sturgis City Council.
7. When in the best interest of the public, parking areas may be designated on park land to facilitate an event.

**(C) USE ON REVIEW:**

When in the best interest of the public, uses, which are not listed above but are recreational or entertaining in nature, may be permitted under a conditional use permit and approval of the park board and Sturgis City Council.

**(D) AREA REGULATIONS:**

The following requirement shall apply to all uses permitted in this district, except as provided in Article V, Section 4.

1. Front yard: all lots utilized for parks & recreation shall not have structures located closer than 10'-0" to any public R. O. W
2. Side yard: there is a 10' minimum side yard requirement for this district. Water from these lots may not drain onto any adjacent property.
3. Rear yard: each lot or area shall have not less than 10'-0" setbacks for all structures.
4. Lot width: all lots used for parks shall not be less than 75 feet in width.
5. Lot area: all lots used for parks shall not be less than 10,000 sq. ft. in area.
6. Maximum lot coverage: the maximum area that can be covered by permanent structures on parkland shall not exceed more than 10% of the overall parcel of land.

**(E) TEMPORARY STRUCTURES:**

Temporary canopies, tents, awnings, etc. May be set up on parklands.

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

**(F) HEIGHT REGULATIONS:**

No principal or accessory building or structure shall exceed one (1) story or 18'-0" in height.

**(G) OFF STREET PARKING:**

When park land exceeds 10,000 sq. feet in area, a minimum of one (1) hard surface parking space shall be provided for each 1,000 sq. ft. of park area.

**(H) FLOOD PLAIN REQUIREMENT:**

Any building constructed within the designated 100 year flood zone as stated on the city's firm map, shall have its first floor elevation at not less than 1'-0" above the flood elevation designated on the firm map.

In addition, any improvements within the flood area must comply with the city's floodplain ordinance included here in Article VIII.

**TITLE 18.05.03**  
**PUBLIC- PUBLIC LAND ZONING DISTRICT**

**(A) DEFINITION:**

This district will consist of land, which owned by a government entity and is not classified in another zoning district.

This land may be intermixed among the other zoning districts. In this case if intermixing takes place it shall not be construed as spot zoning.

**(B) PERMITTED USES:**

1. Federal, state, county or city owned buildings.
  - a. Structures that house the following shall be permitted: police, fire, public works, court houses, city hall, community centers, etc. or any similar in use which is in the best interest of the public.
2. Federal, state, county or city owned storage yards or maintenance facilities.
3. Public land designated as no use areas.
4. Public parking lots or areas.
5. Public water ways, drainage's or spillways.
6. Public landfills, sewer lagoons, water treatment facilities, or similar uses.
7. Temporary structures are permitted on lots zoned for government use, but may be erected for a period not to exceed twelve (12) calendar days at a time.

**(C) USES PERMITTED ON REVIEW:**

Uses on review may be granted for items, which are, similar in nature to the primary uses listed, but must be an accessory use to the primary use.

**(D) AREA REGULATIONS:**

The following requirements shall apply to all uses permitted in This district, except as provided in article v. Section 4.

1. Front yard: none required
2. Side yard: none required
3. Rear yard: none required
4. Lot width: the minimum lot width required shall be not less than 100 feet.
5. Lot area: the minimum lot area shall be not less than 10,000 sq. ft.
6. Maximum lot coverage: permanent main and accessory buildings shall cover not more than 65% of the lot area.

**(E) HEIGHT REGULATIONS:**

No building or structure shall exceed 4 and one half (4 ½ ) stories or 50 feet in height.

**(F) OFF STREET PARKING:**

Hard surface off street parking shall be provided at a ratio of not less than one parking space for each 200 sq. feet of building area and not less than one space for each employee.

**(G) FLOOD PLAIN REQUIREMENTS:**

Any building constructed within this district, on lots located within the 100 year flood plain as shown on the city's firm map shall have the first floor constructed at least 1'-0" above the flood plain elevation stated on the firm map.

**(H) LANDSCAPING:**

Landscaping shall be provided in quantities as described in Title 18, Article IX.

(18.05.04 & 18.05.05 revised by Ordinance 2015-01, effective 02/04/2015)

**TITLE 18.05.04  
MEDIUM DENSITY RESIDENTIAL HOUSING**

**(A) DEFINITIONS:**

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

No temporary merchants will be permitted

No temporary structures in association with temporary Merchants shall be permitted in this district.  
Exception: temporary structures which are in conjunction with an event of three (3) days or less may be permitted.

**(B) PERMITTED USES:**

1. Detached single-family homes which are of conventional construction and are constructed as per the adopted building code on site.
2. Attached single family dwellings, which are intended for sale or lease to more than one but less than eight individual families. Said structures shall not be more than two stories in height (for the purpose of this section these homes shall have a separation wall of not less than one—hour construction which goes from foundation to the underside of the roof line which clearly divides the dwellings into individual single family dwelling units.
3. Detached single-family manufactured homes which shall be placed on a foundation, (excluding manufactured homes which are mobile in nature) and are built in compliance with the codes adopted by the City of Sturgis and the State of South Dakota.
4. Temporary buildings for uses incidental to construction work, which buildings shall be immediately adjacent to said construction work and which buildings shall be removed upon completion or abandonment of construction work.
5. Transportation and utility easements, alleys, and rights-of-ways.
6. A maximum of two structures for storage which is a single story and less than 144 square feet in area may be permitted without a building permit and/or being placed on a foundation.
7. All accessory storage structures must have a minimum of 3 foot set back from side and/or rear property lines. No structures are allowed within the front setback of any property in this district.
8. Small agricultural gardens.
9. Signs, as regulated in Title 18, Article 5, Section 8.

**(C) USES PERMITTED ON REVIEW:**

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

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

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

**(D) AREA REGULATIONS:**

1. FRONT YARD: All lots shall have a minimum of not less than ten (10) feet from property lines.
2. SIDE YARD: All interior lots with single story structures shall have a minimum side yard of not less than five (5) feet from property line to the wall of the structure. In addition, any structure with two (2) or more stories or having an eave height of more than eighteen (18) feet above finished grade shall have one (1) foot of side yard for each two (2) feet of eave height above finished grade.
3. CORNER LOT SIDE YARD: All lots which have side yard abutting a street shall have a minimum setback of not less than eighteen (18) feet from the property line.
4. REAR YARD: All lots shall have a minimum rear yard of not less than ten (10) feet from property lines.
5. LOT WIDTH: All lots used in this zoning designation shall have a minimum lot width of not less than fifty (50) feet.
6. LOT AREA: Shall have a minimum area of not less than 6000 sq. ft.
7. MAXIMUM LOT COVERAGE: All lots shall not have more than 45% of its total area covered by permanent structures.
8. ALLEY GARAGE SET BACK: Minimum of a ten (10) foot setback when accessed from public alley with no parking allowed within said setback.

**(E) HEIGHT REGULATIONS:**

No structure shall exceed two and one-half (2 ½) stories in height.

**(F) OFF STREET PARKING:**

A minimum of one 400 sq. ft. of hard surface parking with an eight (8) foot minimum width, which must be configured in a manner to hold at least two automobiles, must be provided for each single family home. All drives and parking pads must be hard surfaced, including those drives that connect a driveway or parking pad to a right of way. Hard surfaces include asphalt or concrete, other materials such as brick or pavers may be used subject to review by the Building Inspector.

**(G) FLOOD PLAIN REQUIREMENTS:**

Any structure constructed within this district must have its first floor elevation one foot above the base flood elevation stated on the FEMA FIRM map. All property improvements and uses are subject to current FEMA requirements.

**(H) TOWNHOME REGULATIONS**

The following regulations shall apply to any lot containing townhomes.

**1. AREA REGULATIONS:**

**FRONT YARD:** All lots shall have a minimum of not less than ten (10) feet from the front property line to the front of the structure.

**SIDE YARDS:** All interior lots shall have a minimum of not less five (5) feet from the side property line to the structure wall. Structures which are two (2) or more stories in height or have an eave height of more than eighteen (18) feet above finished grade shall have an additional one (1) foot of side yard for each two (2) feet of eave height above finished grade.

**SIDE YARDS ON CORNER LOTS:** All lots which have a side yard abutting a street shall have a minimum side yard setback of not less than eighteen (18) feet from the property line to the structure.

**REAR YARD:** All lots shall have a minimum rear yard of not less than ten (10) feet from the property line to the primary residential structure.

**LOT WIDTH:** All lots shall have a minimum lot width of not less than thirty five (35) feet.

**LOT AREA:** All lots shall have a minimum lot area of not less than 3500 sq. ft.

**MAXIMUM LOT COVERAGE:** All lots shall not have more than 50% of its total lot area covered by permanent structures.

**2. HEIGHT REGULATIONS:**

No structure shall exceed two and one-half (2 ½) stories in height.

**3. OFF STREET PARKING:**

A minimum of one 400 sq. ft. of hard surface parking (8' minimum width, which must be configured in a manner to hold at least two automobiles) must be provided for each single family home. All drives and parking pads must be hard surfaced, including those drives that connect a driveway or parking pad to a right of way. Hard surfaces include asphalt or concrete, other materials such as brick or pavers may be used subject to review by the Building Inspector.

**4. FLOOD PLAIN REQUIREMENTS:**

Any structure constructed within this district must have its first floor elevation one foot above the base flood elevation stated on the FEMA FIRM map. All property improvements and uses are subject to current FEMA requirements.

**TITLE 18.05.05**  
**LOW DENSITY RESIDENTIAL HOUSING**

**(A) DEFINITION:**

This district is intended to be used for single-family residential development with low population densities. Additional permitted uses will be reviewed by the city planning commission and city council. Recreational, religious and educational facilities may be permitted under a use on review because; they are normally required to provide the basic elements of balanced and attractive residential area.

No temporary merchants are permitted.

No temporary structures in association with temporary merchants shall be permitted in this district

Exception: Temporary structures, which are in conjunction with an event of three (3) days or less may be permitted.

**(B) PERMITTED USES:**

1. Detached single-family homes which are of conventional construction and are constructed as per the adopted building code on site.
2. Attached single family dwellings, which are intended for sale or lease to more than one but less than eight individual families. Said structures shall not be more than two stories in height (for the purpose of this section these homes shall have a separation wall of not less than one—hour construction which goes from foundation to the underside of the roof line which clearly divides the dwellings into individual single family dwelling units.
3. Detached single-family manufactured homes which shall be placed on a foundation, (excluding manufactured homes which are mobile in nature) and are built in compliance with the codes adopted by the City of Sturgis and the State of South Dakota.
4. Temporary buildings for uses incidental to construction work, which buildings shall be immediately adjacent to said construction work and which buildings shall be removed upon completion or abandonment of construction work.
5. Transportation and utility easements, alleys, and rights-of-ways.
6. A maximum of two structures for storage which is a single story and less than 144 square feet in area may be permitted without a building permit and/or being placed on a foundation.
7. All accessory storage structures must have a minimum of 3 foot set back from side and/or rear property lines. No structures are allowed within the front setback of any property in this district.
8. Small agricultural gardens.
9. Signs, as regulated in Title 18, Article 5, Section 8.

**(C) USES PERMITTED ON REVIEW:**

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

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

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

**(D) AREA REGULATIONS:**

1. FRONT YARD: all lots shall have a minimum of not less than twenty five (25) feet from property lines.
2. SIDE YARD: all interior lots shall have a minimum side yard of not less than eight (8) feet from property line to the wall of the structure. In addition, the distance from the edge of the eave to the property line shall be at least six (6) feet. Structures which are two (2) or more stories in height or have an eave height of more than eighteen (18) feet above finished grade shall have an additional one (1) foot of side yard for each two (2) feet in eave height above finished grade.
3. SIDE YARD ON CORNER LOTS: all lots which have side yard abutting a street shall have a minimum yard setback of not less than eighteen (18) feet from the property line.
4. REAR YARD: all lots shall have a minimum rear yard of not less than ten (10) feet from property lines.
5. LOT WIDTH: all lots used in this zoning designation shall have a minimum lot width of not less than one hundred (100) feet.
6. LOT AREA: shall have a minimum area of not less than 7,000 sq. ft.
7. MAXIMUM LOT COVERAGE: all lots shall not have more than 40% of its total area covered by permanent structures.
8. ALLEY GARAGE SET BACK: Minimum of a ten (10) foot setback when accessed from public alley with no parking allowed within said setback.

**(E) HEIGHT REGULATIONS:**

No structure shall exceed two and one-half (2 ½) stories in height.

**(F) OFF STREET PARKING:**

A minimum of one 400 sq. ft. of hard surface parking with an eight (8) foot minimum width, which must be configured in a manner to hold at least two automobiles, must be provided for each single family home. All drives and parking pads must be hard surfaced, including those drives that connect a driveway or parking pad to a right of way. Hard surfaces include asphalt or concrete, other materials such as brick or pavers may be used subject to review by the Building Inspector.

**(G) FLOOD PLAIN REQUIREMENTS:**

Any structure constructed within this district must have its first floor elevation one foot above the base flood elevation stated on the FEMA FIRM map. All property improvements and uses are subject to current FEMA requirements.

**(H) TOWNHOME REGULATIONS:**

The following regulations shall apply to any lot containing townhomes.

**1. AREA REGULATIONS:**

FRONT YARD: All lots shall have a minimum of not less than twenty five (25) feet from the front property line to the front of the structure.

SIDE YARDS: All interior lots shall have a minimum of not less eight (8) feet from the side property line to the structure wall.

SIDE YARDS ON CORNER LOTS: All lots which have a side yard abutting a street shall have a minimum side yard setback of not less than eighteen (18) feet from the property line to the structure.

REAR YARD: All lots shall have a minimum rear yard of not less than twenty five (25) feet from the property line to the primary residential structure.

LOT WIDTH: All lots shall have a minimum lot width of not less than seventy five (75) feet.

LOT AREA: All lots shall have a minimum lot area of not less than 7000 sq. ft.

MAXIMUM LOT COVERAGE: All lots shall not have more than 45% of its total lot area covered by permanent structures.

**2. HEIGHT REGULATIONS:**

No structure shall exceed two and one-half (2 ½) stories in height.

**3. OFF STREET PARKING:**

A minimum of one 400 sq. ft. of hard surface parking with an eight (8) foot minimum width, which must be configured in a manner to hold at least two automobiles, must be provided for each single family home. All drives and parking pads must be hard surfaced, including those drives that connect a driveway or parking pad to a right of way. Hard surfaces include asphalt or concrete, other materials such as brick or pavers may be used subject to review by the Building Inspector.

**4. FLOOD PLAIN REQUIREMENTS:**

Any structure constructed within this district must have its first floor elevation one foot above the base flood elevation stated on the FEMA FIRM map. All property improvements and uses are subject to current FEMA requirements.

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

**(A) DEFINITION:**

This residential district is intended to promote and encourage the establishment and maintenance of suitable environment for urban residence in areas appropriate by location and character for the occupancy of high-density, multi-family dwellings. One of the important purposes of this district is to create adequate standards for residential development in order to prevent overcrowding and unhealthy housing conditions. In no case shall there be more than twenty (20) dwelling units (apartments) per acre.

No temporary merchants are permitted.

No temporary structures associated with temporary merchants may be permitted in this district.

Exception: Temporary structures, which are in conjunction with an event of three (3) days or less may be permitted.

**(B) PERMITTED USES:**

- a. Any use permitted in r-1 & r-2 districts.
- b. High density apartment buildings and/or complexes.
- c. Group homes, congregate housing complexes.

**(C) USES PERMITTED ON REVIEW:**

Any use permitted on review in r-1 & r-2 districts.

Buildings which are constructed as an accessory use to the complex such as an office, laundry, storage, recreation or community building, etc.

Home occupations.

Townhomes subject to the regulations set forth in subsection (I) below.

(#5 added effective 11/2/07, Ordinance 2007-37 – there is no #4)

**(D) AREA REGULATIONS:**

- a. FRONT YARD: All lots shall have a minimum of not less than 25'-0" from property lines.
- b. SIDE YARD: All interior lots with single story structures shall have a minimum side yard of not less than 10'-0" from property lines. Any structure two (2) or more stories or having an eave height of 18'-0" or more shall have 1'-0" of side yard for each two (2) feet of eave height above finished grade.
- c. CORNER LOT SIDE YARD: All lots which have side yard abutting a street shall have a minimum yard setback of not less than 18'-0" from the property line.
- d. REAR YARD: All lots shall have a minimum rear yard of not less than 25'-0" from property lines.
- e. LOT WIDTH: All lots used in this zoning designation shall have a minimum lot width of not less than 75'.
- f. LOT AREA: Shall have a minimum area of not less than 7,000 sq. ft. or not less than 2,000 sq. ft. per dwelling unit whichever is greater.
- g. MAXIMUM LOT COVERAGE: All lots shall not have more than 45% of its total area covered by permanent structures.

**(E) HEIGHT REGULATIONS:**

No structure shall exceed three (3) stories or 45' in height. No accessory structures shall exceed one (1) story or 18' in height.

**(F) OFF STREET PARKING:**

A minimum of one 20' x 20' hard surface parking must be provided for each single family dwelling.

All drives used for parking or movement of motor vehicles shall be hard surfaced.

**(G) FLOOD PLAIN REQUIREMENTS:**

Any structure constructed within this district must have its first floor elevation one foot above the elevation stated on the city's firm map.

**(H) LANDSCAPING:**

When there is a structure constructed with four (4) or more dwelling units landscaping shall be required as per Title 18, Article IX.

**(I) TOWNHOME REGULATIONS:**

The following regulations shall apply to any lot containing townhomes.

**1. AREA REGULATIONS:**

**FRONT YARD:** All lots shall have a minimum of not less than 25'-0" from the front property line to the front of the structure.

**SIDE YARDS:** All interior lots shall have a minimum of not less than 8'-0" from the side property line to the structure. Structures which are two (2) or more stories in height or have an eave height of more than eighteen (18) feet above finished grade shall have 1'-0" of side yard for each two (2) feet of eave height above finished grade.

**SIDE YARDS ON CORNER LOTS:** All lots which have a side yard abutting a street shall have a minimum side yard setback of not less than 18'-0" from the property line to the structure.

**REAR YARD:** All lots shall have a minimum rear yard of not less than 25'-0" from the property line to the primary residential structure.

**LOT WIDTH:** All lots shall have a minimum lot width of not less than 25'-0".

**LOT AREA:** All lots shall have a minimum lot area of not less than 2500 sq. ft.

**MAXIMUM LOT COVERAGE:** All lots within this zoning designation shall not have more than 55% of its total lot area covered by permanent structures.

**2. HEIGHT REGULATIONS:**

No structure shall exceed two and one-half (2 ½) stories in height.

**3. OFF STREET PARKING:**

A minimum of one 20' x 20' hard surface off-street parking area must be provided for each single family unit. All drives used for the parking of motor vehicles shall be hard surfaced.

**4. FLOOD PLAIN REQUIREMENTS:**

Any structure shall have a first floor elevation one foot above the flood plain elevation shown on the most current city firm (flood insurance rate map).

(#I added effective 11/2/07, Ordinance 2007-37)

**TITLE 18.05.07****MH-1 - MANUFACTURED SINGLE FAMILY-HOMES, MODERATE DENSITY****(A) DEFINITION:**

This district is to provide for medium density residential development. The principal uses shall be manufactured homes which are mobile in nature with approved skirting and are functionally compatible with intensive residential uses. This district is for those who individuals who own their lots. In no case shall there be more than nine-(9) lots per acre.

No temporary merchant's may be permitted in this district, nor shall any temporary structure which is in conjunction with said merchant. .

Exception: Temporary structures, which are in conjunction with an event of three (3) days or less may be permitted.

For the purpose of this section a mobile home shall be defined as a dwelling unit which is fabricated in one or more sections at a location other than the home site and has a manufactures serial number in addition to being designed to be towed on its own chassis. A perimeter frame or the placement of such a unit upon a permanent foundation shall not be construed as creating a dwelling unit as elsewhere defined in the city ordinances. Approved skirting shall consist of a solid boarder of wood, PVC plastic or like material which is weather resistive and is installed around the perimeter of the unit from the bottom the mobile home to below grade, creating a weather tight barrier. Approved skirting must be installed before the mobile home may be occupied.

**(B) PERMITTED USES:**

1. Detached single-family manufactured homes which are mobile in nature with approved skirting
2. Temporary buildings for uses incidental to construction work, which buildings shall be immediately adjacent to said construction work and which buildings shall be removed upon completion or abandonment of the construction work.
3. Accessory uses and buildings as regulated in title 18, article v, section 2, provided such uses are incidental to the principal use and do not commonly include any commercial activity. Any accessory building shall be located on same lot with the principal use and may not be located closer than six feet to the principal use.
4. Transportation and utility easements, alleys and r.o.w.'s.
5. Signs as regulated in Title 18, Article V, Section 8.

**(C) USES PERMITTED ON REVIEW:**

1. Accessory buildings such as laundry buildings, recreational buildings, etc.
2. Home occupations.

**(D) AREA REGULATIONS:**

1. FRONT YARD: All lots shall have a minimum of not less than 25' 0" from property lines.
2. SIDE YARD: All interior lots shall have a minimum side yard of not less than 10'-0' from property lines.
3. CORNER LOT SIDE YARD: All lots which have side yards abutting a street shall have a minimum yard setback of not less than 18'-0" from the property line.
4. REAR YARD: All lots shall have a minimum rear yard of not less than 25'-0" from property lines.
5. LOT WIDTH: All lots used in this zoning designation shall have a minimum lot width of not less than 75'.
6. LOT AREA: Shall have a minimum area of not less than 7,000 sq. ft.

7. MAXIMUM LOT COVERAGE: All lots shall not have more than 35% of its total area covered by permanent structures.

**(E) HEIGHT REGULATIONS:**

Accessory structures shall exceed one (1) story or 18' in height.

**(F) OFF STREET PARKING:**

A minimum of one 20' x 20' hard surface parking must be provided for each single family home.

All drives intended for vehicle movement shall be hard surfaced.

**(G) FLOOD PLAIN REQUIREMENTS:**

Any structure constructed within this district must have its first floor elevation one foot above the elevation stated on the city's firm map.

All mobile homes must be anchored as per the requirements of the city's flood ordinance or as per FEMA guidelines for flood plain management whichever is more restrictive.

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

**(A) DEFINITION:**

This district is to provide for high density residential development. The principal use of land is for manufactured homes (mobile homes) which are functionally compatible with intensive residential uses. This district primarily used for mobile home courts or those individuals who rent their lots.

No temporary merchants are permitted in this district, nor shall any temporary structure which is in conjunction with said merchant.

Exception: temporary structures, which are in conjunction with an event of three (3) days or less maybe permitted.

For the purpose of this section a manufactured or mobile home shall be defined as a dwelling unit which is fabricated in one or more sections at a location other than the home site and has a manufactures serial number in addition to being designed to be towed on its own chassis. A perimeter frame or the placement of such unit upon a permanent foundation shall not be construed as creating a dwelling unit as elsewhere defined in the city ordinances.

**MOBILE HOME COURT:** Any area, tract, site or plot of land which has three (3) or more lots which are under common ownership and which mobile homes are to be placed or located for year round occupancy.

Approved skirting shall consist of a solid boarder of wood, PVC plastic or like material which is weather resistive and is installed around the perimeter of the unit from the bottom of the unit to below grade, creating a weather tight barrier.

Skirting must be installed before the mobile home may be occupied.

**(B) PERMITTED USES:**

- Detached single-family manufactured homes which are mobile in nature with approved skirting.
2. Temporary buildings for uses incidental to construction work, which buildings shall be immediately adjacent to said construction work and which buildings shall be removed upon completion or abandonment of the construction work.
  3. Accessory uses and buildings as regulated in Title 18, Article V, Section 2, provided such uses are incidental to the principal use and do not commonly include any commercial activity. Any accessory building shall be located on same lot with the principal use and may not be located closer than six feet to the principal use.
  4. Transportation and utility easements, alleys and r.o.w's.
  5. Signs as regulated in Title 18, Article V, Section 8.

**(C) USES PERMITTED ON REVIEW:**

1. Accessory buildings such as laundry buildings, recreational buildings, etc.
2. Home occupations.

**(D) AREA REGULATIONS:**

1. **FRONT YARD:** All lots shall have a minimum of not less than 10'-0" from property lines.

2. SIDE YARD: All interior lots shall have a minimum side yard of not less than 10'-0' from assumed property lines.
3. CORNER LOT SIDE YARD: All lots which have side yards abutting a street shall have a minimum yard setback of not less than 18'-0" from the property line.
4. REAR YARD: All lots shall have a minimum rear yard of not less than 10'-0" from assumed property lines.
5. LOT WIDTH: All lots used in this zoning designation shall have a minimum lot width of not less than 50'.
6. LOT AREA: Shall have a minimum area of not less than 5,000 sq. ft.
7. MAXIMUM LOT COVERAGE: All lots shall not have more than 35% of its total area covered by permanent structures.

**(E) HEIGHT REGULATIONS:**

No accessory structures shall exceed one (1) story or 18' in height.

**(F) OFF STREET PARKING:**

A minimum of one 20' x 20' hard surface parking must be provided for each single family home. All drives utilized for vehicle traffic and/or parking shall be hard surfaced.

**(G) FLOOD PLAIN REQUIREMENTS:**

Any structure constructed within this district must have its first floor elevation one foot above the elevation stated on the city's firm map.

All mobile homes must be anchored as per the requirements of the city's flood ordinance or as per fema guidelines for flood plain management whichever is more restrictive.

**TITLE 18.05.09**  
**GC-1-GENERALCOMMERCIAL DISTRICT**

**(A) DEFINITION:**

This district is for personal and business services including general retail business.

**(B) PERMITTED USES:**

1. Retail establishments, including incidental manufacturing of goods for retail sales on the premises, providing there are five or fewer employees engaged in the manufacturing of the product or less than 10% of the total building are.
2. Drinking and/or dining establishments. Exception: no drive-in type or fast food establishments are permitted.
3. Service and repair establishments, excluding automotive, motorcycle & truck repair.
4. Personal service establishment.
5. Medical offices.
6. Motel and hotels.
7. Offices.
8. Financial institutions.
9. Private clubs or lodges.
10. Newspaper printing firms or print shops.
11. Churches.
12. Commercial recreational structures such as, theaters, bowling alleys, poolroom's, but not including miniature golf courses, driving ranges and similar uses.
13. Temporary retail business that operate as transient or temporary merchants.
  - (a) The following items, which are related to the above temporary business, shall not protrude beyond the property line into the public r.o.w.
    - (1) Canopies, signs, overhangs, anchors, guide wires or any item similar in nature.
    - (2) Merchants which are temporary in nature shall not be permitted to erect a tent, canopy, shelter or similar structure which is closer than 5'-0" to the property line which abuts a public right of way.
  - (b) Exception: garbage cans, planters, temporary signs, which are approved by city council, and/or canopies, which are approved by city council.

**(C) USES PERMITTED ON REVIEW:**

1. Auditoriums, libraries, art galleries, public and private schools and other public oriented buildings.
2. Any other store/shops for retail trade or for rendering personal, professional or business services which do not produce more noise, dust, odor, vibration, blast or traffic than those enumerated under permitted uses.
3. Dwellings and/or Congregate residences

For the purpose of General Commercial Zoning the following definitions and regulations shall apply:

**DEFINITIONS:**

**Dwelling:** is any building or portion thereof that contains not more than two dwelling units.

**Dwelling Unit:** is any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by the building code. A single dwelling unit shall not be occupied by more than one family or 10 unrelated persons.

**Congregate Sleeping Rooms:** is any building or portion thereof containing individual sleeping rooms for temporary occupancy with a centralized eating, cooking, and sanitation facilities. Said sleeping facilities shall not accommodate more than 10 persons.

**SCOPE:**

For the purpose of General Commercial Zoning, dwellings, dwelling units and congregate sleeping rooms meeting the following guidelines may be permitted as uses permitted upon review, subject to Title 18, Article VII, Section 4.

**REGULATIONS:**

On all floors of buildings containing dwelling units, each floor shall be required to have a minimum of two egress routes. Each sleeping room within a dwelling unit shall also be required to have a minimum of one egress window. All dwellings units shall comply with all other requirements of the Uniform Building Code and the Sturgis Fire District as described by ordinance.

In buildings containing congregate sleeping rooms for temporary use, all floors in said building shall have two means of egress. Although individual sleeping rooms will not be required to have an egress window, an access door shall exit into a hallway leading to an egress or exit point.

Buildings containing congregate sleeping rooms for temporary use shall also be required to install a central fire alarm system with smoke detectors in each room and in hallways. Pull stations for the fire alarm system shall also be installed on each floor and at exit points within the structure. Said sleeping rooms may be occupied by only those individuals who are employed by the business occupying the structure. Said sleeping rooms may not be rented to or utilized by the general public.

When the Uniform Building Code requires the structure to be protected by a fire suppression system the above requirements will be enforced in addition to those requirements dictated by the code.

The property owner shall be required to comply with all building department requirements prior to obtaining a certificate of occupancy from the building official.

**(18.05.09(C) amended effective Dec. 26, 2003, Ordinance 2003-16)**

**(D) AREA REGULATIONS:**

The following requirements shall apply to all uses permitted in this district except as provided in Article V, Section 4.

1. **FRONT YARD:** A front yard of not less than twenty-five (25') shall be required in all cases.
2. **SIDE YARD:** A side yard of not less than ten (10') is required unless a commercial district abuts a residential zoned area. In such case side yards shall not be less than twenty-five (25') feet. (This section also applies to corner lots.)
3. **REAR YARD:** Where a commercial building is to be serviced from the rear, there shall be provided an alley way, service court, rear yard or combination thereof, neither of which shall be less than thirty (30) feet in depth. Exclusive of any public R.O.W. the depth of a rear yard for which the building is not serviced from the rear, shall be not less than fifteen (15) feet exclusive of the public R.O.W.

**EXCEPTION:** The above listed front and sideyard setback requirements will not be applicable for permanent structures which are located on Main Street between Middle Street and Fourth Street. In addition the area lying on the south side of Lazelle Street between Junction and Fourth Street and the area lying on the north side of Sherman Street between Junction and Fourth Streets the front and sideyard setbacks will not be applicable.

**(A) TEMPORARY STRUCTURES:**

1. Temporary structures shall not be placed closer than 5'-0" of any rear property line abutting any public R.O.W.
2. No appendage such as overhangs, canopies, and support's, guide wires, poles, posts, stakes, signs, etc. may be placed closer than 5'-0" of any public R.O.W. to the rear of the structure.
3. The chief of police or the building official or their designees shall have the power to order the stand or any portion of the stand, which is in violation of this section removed immediately.
4. Any violation of this section shall be considered a class 2 misdemeanor for each day in violation
4. LOT WIDTH: Each lot shall have a width abutting the street of not less than fifty (50) feet.
5. LOT AREA: In no case shall there be a lot area of not less than 7,000 sq. ft.
6. MAXIMUM LOT COVERAGE: Permanent main and accessory buildings shall cover not more than 75% of the total lot area.

**(E) HEIGHT REGULATIONS:**

No building shall be constructed more than four & one-half (4 ½) stories or 50 feet in height.

**(F) OFF STREET PARKING:**

As regulated in article v, sections 5 and 7.

All areas utilized for vehicle travel and/or parking shall be hard surfaced material.

**(G) FLOOD PLAIN REQUIREMENTS:**

Any building constructed within this district, on lots located within flood plain areas as shown on the city's firm map shall also be subject to the provisions and requirements contained in the city's floodplain ordinance included in Article VIII.

**(H) LANDSCAPING**

Landscaping shall be installed as per Title 18, Article IX.

**TITLE 18.05.10**  
**GC-2 - RETAIL COMMERCIAL DISTRICT**

**(A) DEFINITION:**

This commercial district is intended to provide an area for retail sales and similar activities year round where there in general are no activities or sales conducted outside of the structure. This area should be aesthetically pleasing and unless otherwise approved by the planning commission and city council, there are to be no items stored, displayed or sold out side of the structure. Adequate parking and visibility for the business located on the property shall be provided in all cases.

There will be no temporary structures permitted in this district. (Exception: seasonal green houses or similar garden type structures, which may be an accessory to the existing business)

Transient/temporary merchants may be permitted in this district but, they shall operate entirely within an enclosed permanent structure. In no case shall a transient/temporary merchant be permitted to operate on the exterior of the structure. In no case shall this district have businesses such as lumber sales, new & used car sales, service & repair stations or similar uses.

**(B) PERMITTED USES:**

ales establishments, including manufacturing of Goods for retail sales on the premises, providing there are fewer than five employees engaged in the manufacturing of the product and in no case more than 10% of the building area is utilized for manufacturing.

2. Financial institutions.
3. Drinking & dining establishments.
4. Convenience stores

**(C) USES PERMITTED ON REVIEW:**

1. Private clubs or lodges.
2. Hotels & motels.
3. Churches.
4. Office buildings
5. Gas stations, which are an accessory use to the primary business.

**(D) AREA REGULATIONS:**

1. FRONT YARD: a minimum setback of twenty-five (25') from the front property line shall be maintained.
2. SIDE YARD: There shall be a minimum setback of not less than 10' from property lines. When a commercial district abuts a residential zoned area the side yards shall not be less than 25 feet. This section shall also apply to corner lots.)
3. REAR YARD: A rear yard of not less than fifteen 15' exclusive of any public R.O.W this area shall be left unobstructed to allow for deliveries to the rear of the building.
4. LOT WIDTH: Each lot shall have a width abutting the street of not less than 75'.
5. LOT AREA: No structures shall be constructed in this district with a lot area of less than 10,000 sq. Ft.
  - a. Existing structures may be utilized for business's but in no case may the lot area be less than 10,000 sq. ft.
6. MAXIMUM LOT COVERAGE: Permanent main and accessory buildings shall cover not more than 60% of the property.

**(E) HEIGHT REGULATIONS:**

No building shall be constructed more than four & one-half (4 1/2) stories or fifty 50' in height.

**(F) OFF STREET PARKING:**

1. As regulated in article v, sections 5 and 7.
2. All areas utilized for vehicle travel and parking shall be of hard surfaced material.

**(G) LANDSCAPING:**

All property developed in this district shall comply with the landscaping requirements of Title 18, Article IX.

**(H) FLOOD PLAIN REQUIREMENTS:**

Any building constructed within this district, on lots located within flood plain areas as shown on the city's firm map shall also be subject to the provisions and requirements contained in the city's flood plain ordinance included in Title 18, Article VIII.

**TITLE 18.05.11****GC-3 - SINGLE FAMILY RESIDENTIAL/OFFICE COMMERCIAL DISTRICT****(A) DEFINITION:**

This commercial district is intended to provide a place for those types of institutional and commercial activities that are low profile and service oriented in nature and are surrounded by landscaped yards and open areas. Land, space and aesthetic requirements of this district are intended to make the following uses desirable either in a central business location or a suburban location near or integrated with a residential neighborhoods.

No outdoor sales or services may be provided at any time. No temporary or transient merchants will be permitted in any case.

No temporary structures in association with temporary merchants may be permitted in this district.

**(B) PERMITTED USES:**

Art galleries or business's similar in nature.

Assembly halls for non-profit corporations but not including the serving or dispensing of alcoholic beverages.

Hospitals, sanitariums, medical offices, not including veterinary establishments, with pharmacies allowed as accessory use to permitted medical facilities.

Laboratories for medical research and testing.

Libraries.

Museums.

Office buildings in which no activity is carried on catering to retail trade with the general public and no stock or goods are maintained for sale to customers. These shall include, but not necessarily be limited to doctors, dentist, lawyers, architects, chiropractors, engineers, real estate office, insurance, appraisers, accountants, single chair barber shops or similar uses.

Financial institutions.

Single family on site, detached conventionally built homes. (Manufactured homes which are mobile in nature will not be permitted.)

No multi-family or attached single family dwellings will be permitted in this district.

**(C) USES PERMITTED ON REVIEW:**

Any retail or wholesale office where sales are conducted totally off premises.

Other uses which are consistent with the land, space and aesthetic requirements of a residential neighborhood. (Not to include manufactured housing.)

**(D) AREA REGULATIONS:**

The following requirements shall apply to all uses permitted in this district except as provided in Article V, Section 4.

**FRONT YARD:** A minimum setback of 25' from property lines shall be required.

**SIDE YARD:** There shall be a minimum setback of not less than 10' from property lines. When a commercial district abuts a residential zoned area the side yards shall not be less than 25 feet.

**CORNER LOT SIDE YARD:** All lots which have side yards abutting a street shall have a minimum yard setback of not less than 18'-0" from the property line.

REAR YARD: Where a commercial building is to be serviced from the rear, there shall be provided an alley way, service court, rear yard or combination thereof, neither of which shall be less than thirty (30) feet in depth exclusive of any public R.O.W. the depth of a rear yard which abuts a residential district or where the building is not serviced from the rear, shall be not less that fifteen (15) feet exclusive of the public R.O.W.

LOT WIDTH: Each lot shall have a width abutting the street of not less than fifty (75) feet.

LOT AREA: There shall be a lot area of not less than 7,500 sq. ft. maximum lot coverage: permanent main and accessory buildings shall cover not more than 50% of the total lot area.

**(E) HEIGHT REGULATONS:**

No building shall be constructed more than two & one-half (2 ½) stories or 35 feet in height.

**(F) OFF STREET PARKING:**

No parking in any case will be permitted in front of buildings within this zoning district. All areas utilized for vehicle parking or travel shall be hard surface materials.

AS REGULATED IN ARTICLE V, SECTIONS 5 AND 7.

**(G) FLOOD PLAIN REQUIREMENTS:**

Any building constructed within this district, on lots located within flood plain areas as shown on the city's firm map shall also be subject to the provisions and requirements contained in the city's flood plain ordinance included in Article VIII.

**(H) LANDSCAPING:**

Landscaping shall be installed as per Title 18, Article IX.

**TITLE 18.05.12**  
**HS-1 - HIGHWAY SERVICE:**

**(A) DEFINITION:**

This district is established for the accommodation of those herein specified retail and business service activities that serve persons in automobiles traveling on streets and highways, and typically may be located along major street intersections or highway interchanges. These businesses generate a considerable volume of vehicular traffic originating within the community or traveling into the community.

Utility Lot: Any platted lot used exclusively for the placement of utilities, public works, wells, water storage, sewer systems, telecommunications stations, electrical substations, high-pressure gas stations, and any other utility services approved by the City Council. Such lots are only intended to be improved with the utility and any structures needed in conjunction with the utility.

(Definition added effective 8/4/07, Ordinance 2007-15)

**(B) PERMITTED USES:**

1. All those permitted in gc-1 and gc-2. (Not to include single family homes.)
2. Garden centers, green houses and nurseries
3. Churches.
4. Drinking & dining establishments including fast food or drive-in establishments.
5. Service stations/convenience stores.
6. Recreational uses such as amusement parks, bowling alleys, ice rinks.
7. Wholesale and distribution centers not exceeding 10,000 sq. ft. in building size or storage area.
8. Temporary or transient business's.
9. Building material sales.
10. New & used car sales lots (including motorcycle sales & service).
11. Large retail outlets or mercantile stores.

**(C) USES PERMITTED ON REVIEW:**

1. Open storage uses which shall comply with the following provisions:
  - A. All open storage or display of merchandise, material or equipment shall be screened by adequate ornamental fencing at the side and rear of the lot on which said open storage or display occurs; provided, that screening shall be seven (7) feet in height.
  - B. All of the lot used for parking of vehicles, for the storage and display of merchandise and all driveways used for vehicle ingress and egress shall be constructed of hard surface materials such as concrete or asphalt and maintained in good conditions.
  - C. Driveways shall not exceed twenty-five (25) ft. in width, exclusive of curb returns unless otherwise approved by the city street committee and city engineer.
  - D. Outdoor lighting, when provided, shall have an arrangement of reflectors and an intensity of lighting, which will not interfere with adjacent land uses, or the use of adjacent streets, and shall not be of flashing or intermittent type.
2. Any other use similar in character to those enumerated above and which in the opinion of the common council will not be injurious to the district.
3. Outdoor advertising.
4. Outdoor recreational uses which are similar in nature and are not harmful to the existing surrounding uses.
5. Dwellings and/or Congregate residences
6. Utility Lots subjected to the following requirements:

- A. Platted access not less than sixteen (16) feet in width which may be either dedicated public right of way or utility access easement.
  - B. Each lot shall have a width abutting the street of not less than fifty (50) feet.
  - C. There shall be a lot area of not less than five thousand (5,000) square feet.
  - D. Any buildings shall not cover more than seventy five percent (75%) of the total lot area.
7. Utilities, public works, wells, water storage, sewer systems, telecommunications stations, electrical substations, high-pressured gas stations, and any other utility services approved by the City Council.

(Items 6 & 7 added effective 8/4/07, Ordinance 2007-15)

For the purpose of Highway Service Zoning the following definitions and regulations shall apply:

#### **DEFINITIONS:**

**Dwelling:** is any building or portion thereof that contains not more than two dwelling units.

**Dwelling Unit:** is any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by the building code. A single dwelling unit shall not be occupied by more than one family or 10 unrelated persons.

**Congregate Sleeping Rooms:** is any building or portion thereof containing individual sleeping rooms for temporary occupancy with a centralized eating, cooking, and sanitation facilities. Said sleeping facilities shall not accommodate more than 10 persons.

#### **SCOPE:**

For the purpose of Highway Service Zoning, dwellings, dwelling units and congregate sleeping rooms meeting the following guidelines may be permitted as uses permitted upon review, subject to Title 18, Article VII, Section 4.

#### **REGULATIONS:**

On all floors of buildings containing dwelling units, each floor shall be required to have a minimum of two egress routes. Each sleeping room within a dwelling unit shall also be required to have a minimum of one egress window. All dwellings units shall comply with all other requirements of the Uniform Building Code and the Sturgis Fire District as described by ordinance.

In buildings containing congregate sleeping rooms for temporary use, all floors in said building shall have two means of egress. Although individual sleeping rooms will not be required to have an egress window, an access door shall exit into a hallway leading to an egress or exit point.

Buildings containing congregate sleeping rooms for temporary use shall also be required to install a central fire alarm system with smoke detectors in each room and in hallways. Pull stations for the fire alarm system shall also be installed on each floor and at exit points within the structure. Said sleeping rooms may be occupied by only those individuals who are employed by the business occupying the structure. Said sleeping rooms may not be rented to or utilized by the general public.

When the Uniform Building Code requires the structure to be protected by a fire suppression system the above requirements will be enforced in addition to those requirements dictated by the code.

The property owner shall be required to comply with all building department requirements prior to obtaining a certificate of occupancy from the building official.

(Amended effective November 28, 2003, Ordinance 2003-11)

**(D) AREA REGULATIONS:**

The following requirements shall apply to all uses permitted in this district except as provided in Article V, Section 4.

1. **FRONT YARD:** A minimum setback of 35' from property lines shall be required.
2. **SIDE YARD:** There shall be a minimum setback of not less than 10' from property lines. When a highway service district abuts a residential zoned area the side yards shall not be less than 25 feet.
3. **REAR YARD:** where a commercial building is to be serviced from the rear, there shall be provided an alley way, service court, rear yard or combination thereof, neither of which shall be less than thirty (30) feet in depth exclusive of any public R.O.W the depth of a rear yard which abuts a residential district or where the building is not serviced from the rear, shall be not less that fifteen (15) feet exclusive of the public R. O. W.

**(A) TEMPORARY STRUCTURES**

1. Temporary structures shall not be placed closer than 5'-0" of any property line abutting a public R.O.W.
  2. No appendage such as overhangs, canopies, and supports, guide wires, poles, posts, stakes, signs, etc. May be placed closer that 5'-0" of any R.O.W.
  3. The chief of police or building official or their designee's shall have the power to order the stand or any portion of the stand which is within 5'-0" of any alley R.O.W removed immediately.
  4. Any violation of this section shall be considered a class 2 misdemeanor.
4. **LOT WIDTH:** Each lot shall have a width abutting the street of not less than one hundred (100) feet.
  5. **LOT AREA:** There shall be a lot area of not less than 10,000 sq. ft.
  6. **MAXIMUM LOT COVERAGE:** Permanent main and accessory buildings shall cover not more than 75% of the total lot area.

**(E) HEIGHT REGULATIONS:**

No building shall be constructed more than four & one-half (4 ½) stories or 60 feet in height.

**(F) OFF STREET PARKING:**

As regulated in Article V.

All areas utilized for vehicle travel or parking shall be of hard surface materials.

**(G) FLOOD PLAIN REQUIREMENTS:**

Any building constructed within this district, on lots located within flood plain areas as shown on the city's firm map shall also be subject to the provisions and requirements contained in the city's flood plain ordinance included in Article VIII.

**(H) LANDSCAPING:**

Landscaping shall be installed as per Title 18, Article IX.

**TITLE 18.05.13**  
**GI-1 GENERAL INDUSTRIAL**

(Title 18.05.13 replaced in entirety effective April 4, 2012, Ordinance 2012-03)

(Title 18.05.13 replaced in entirety effective October 16, 2013, Ordinance 2013-13)

**(A) PURPOSE:**

This industrial district is established to provide areas which the principal use of land is for manufacturing and assembly plants, processing, storage, large warehousing, wholesaling and distribution in which operations are conducted and Adult Oriented Businesses so that noise, odor, dust and glare area and other adverse secondary impacts can be controlled or limited.

No temporary structures may be permitted without approval of the governing body.

In addition, a portion of this zone shall consist of an Adult Overlay District to provide areas where an Adult Oriented Businesses may locate. An Adult Oriented Business, as described in the Definition section of this ordinance, may be allowed to occur within the Adult Overlay District only as a conditional use.

**(B) PERMITTED USES:**

Large scale contractor's equipment storage yards.

Building material wholesale, storage and distribution centers.

Public utility service yards of electrical receiving or transforming stations.

Freighting or trucking yards or terminals.

Large/small manufacturing facilities.

Building material display & sales.

New and used car sales.

Truck, trailer, u-haul type rental and sales.

Farm implement and machinery sales.

Motorcycle sales and repair shops.

Animal hospitals, pet shops, kennels, etc.

Service and repair garages.

Manufactured home sales.

Wholesale warehouses for the distribution and sale of goods.

Large retail outlets or mercantile businesses which require large parking areas in conjunction with larger storage buildings.

**(C) CONDITIONAL USE ON REVIEW:**

The planning commission may authorize special uses and a conditional use permit for the location and operation thereof.

Utility Lots subjected to the following requirements:

Platted access not less than sixteen (16) feet in width which may be either dedicated public right of way or utility access easement.

Each lot shall have a width abutting the street of not less than fifty (50) feet.

There shall be a lot area of not less than five thousand (5,000) square feet.

Any buildings shall not cover more than seventy five percent (75%) of the total lot area.

Utilities, public works, wells, water storage, sewer systems, telecommunications stations, electrical

substations, high-pressured gas stations, and any other utility services approved by the City Council.

#### RESIDENTIAL CONDITIONAL USE:

A "residential conditional use," as described herein, means a temporary residential use that is secondary in nature to a primary permitted use of the structure in the General Industrial District. To be permitted, the applicant must show, that because of its characteristics and location with reference to surroundings, street or highway width, traffic generation or other demands on public services, the use requires special consideration relative to placement at specific locations in the zone to insure that proper integration with other existing or permitted uses in the same zone or zones can be done safely. If such use is approved, then considering the characteristics of the individual site and the proposed location within the zone where proposed, it shall be approved with conditions to insure proper integration with other existing or permitted uses in the same zone or zones, and that the proposed use is a significant and integral part of the proposed use of the property for a period of 12 months.

Residential use when the secondary in nature to a conforming permitted use in the General Industrial District.

Such secondary use shall not exceed 1000 square feet in size including any designated entry or exit areas. The any area permitted for residential use shall be contained within an existing building or provided for in the plans submitted for new construction in the General Industrial Zone.

#### ADULT ORIENTED BUSINESS:

The Planning Commission may recommend and the City Council may authorize an annual Conditional Use for Adult Oriented Business fronting upon and having vehicle access from Mayer Avenue, Sturgis Street, Hansen Drive or Industry Road, and selling merchandise as defined in this title subject to the following requirements:

A sexually oriented business shall not be permitted to operate within 300 feet of:

- A single family residence, church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
  - A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
  - A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within Sturgis which is under the control, operation, or management of Sturgis park and recreation authorities;
- Auditoriums, convention centers, fairgrounds, museums, art or music centers, and theaters.
- b. For the purposes of paragraph 1, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where an adult oriented business is conducted, to the nearest property line of the premises of those facilities or boundaries outlined in paragraph 1. (Compare preceding to #4 below.)
  - c. An adult oriented business shall not be permitted to operate within 300 feet of another adult oriented business.
  - d. For the purposes of paragraph 3 of this section, the distance between any 2 adult oriented businesses shall be measured in a straight line without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.
  - e. Signage: All adult oriented businesses operating within the Adult Overlay District, and all other existing adult oriented businesses uses in operation on September 10, 2012, shall comply with all

sign requirements established by Title 30 of the Sturgis City Ordinance, and all sign requirements included within this title, in addition to the following sign requirements:

1. No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from persons walking or driving by the premises;
  2. Window areas shall be covered and opaque.
  3. Any billboards or on premises signs located within the Adult Overlay district shall be subject to the requirements of 5(a) and 5(b) above.
- f. *Severability of provisions and applications.* If a part of this chapter is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this chapter is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid application.

#### **(D) AREA REGULATIONS:**

The following requirements shall apply to all uses permitted in this district except as provided in Article V, Section 4.

**FRONT YARD:** A minimum setback of 25 feet (25') from property lines shall be required.

**SIDE YARD:** A minimum setback of ten feet (10') from property lines shall be required except in the event the building being placed on the property and/or the occupying use qualifies as a High Hazard (Group H) as that term is defined and recognized by the 2006 International Building Code, or subsequent code adopted by the City. In the event the building and/or occupying use qualifies as High Hazard (Group H), a minimum setback of twenty five feet (25') from the property lines shall be required. **WHERE AN INDUSTRIAL BUILDING IS TO BE SERVICED FROM THE SIDE YARD OR REAR YARD AND WHEN NO REAR ALLEY IS PROVIDED, AT LEAST ONE OF THE SIDE YARD SETBACKS SHALL BE A MINIMUM OF THIRTY (30) FEET FOR SIDE SERVICE AND TWENTY FIVE (25) FEET FOR REAR SERVICE.**

**REAR YARD:** Where an industrial building is to be serviced from the rear, and an alley way is provided, the service court, rear yard setback or combination thereof shall not be less than thirty feet (30') in depth exclusive of any public right of way. The depth of a rear yard which abuts a residential district or where the building is not serviced from the rear shall be not less than fifteen feet (15') exclusive of the public right of way.

**LOT WIDTH:** Each lot shall have a width abutting the street of not less than one hundred feet (100').

**LOT AREA:** There shall be a lot area of not less than ten thousand (10,000) square feet.

**MAXIMUM LOT COVERAGE:** Permanent main and accessory buildings shall cover not more than seventy five percent (75%) of the total lot area.

#### **(E) HEIGHT REGULATIONS:**

No building shall be constructed more than four & one-half (4 1/2) stories or 60 feet in height.

#### **(F) OFF STREET PARKING:**

As regulated in Article V.

All areas utilized for vehicle travel or parking shall be of hard surface material.

#### **(G) FLOOD PLAIN REQUIREMENTS:**

Any building constructed within this district, on lots located within flood plain areas as shown on the city's firm map shall also be subject to the provisions and requirements contained in the city's flood plain ordinance included in Article VII.

(Title 18.05.13 replaced in entirety effective April 4, 2012, Ordinance 2012-03)

(Title 18.05.13 replaced in entirety effective October 16, 2013, Ordinance 2013-13)

**TITLE 18.05.14**  
**OS-1 – OPEN SPEACE OR FLOOD PLAIN DISTRICT**

**(A) DEFINITION:**

This district is for the protection of drainage ways to permit the unimpeded flow of surface run-off without endangering life and health or causing property damage due to flooding by not allowing structures in this district which generally located in the flood plain.

No temporary structures or merchants may be permitted.

**(B) PERMITTED USES:**

Agricultural uses such as general farming, pasture, grazing, horticulture, truck farming, forestry, sod farming and other wild crop harvesting.

Industrial-commercial loading areas, parking areas.

Private and public recreational uses not classified as park land such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, etc.

Storage of materials by the City of Sturgis, that are not flood buoyant, flammable, explosive or injurious to human or animal life.

**(C) USES PERMITTED ON REVIEW:**

The following uses may be permitted on review by the governing body in accordance with provisions contained in Article VII, Section 4.

No permit shall be issued for the construction of any building or structure including railroads, streets, utility lines or for any such use within this district.

**TITLE 18.05.15**  
**NU - TRANSITIONAL DISTRICT**

**(A) DEFINITION:**

This district is applicable to certain lands in which the construction of permanent structures is prohibited pending study and survey of lands involved by the governing body. The status may be applied to newly annexed land area until a study is conducted to determine the best land use for the area or if the area does not have a designation in the comprehensive plan.

The investigation or study shall not be longer than three months or 120 days.

In no event shall a parcel of land stay in a NU district for more than one year.

No structures or merchants may be permitted.

**TITLE 18.04.16**  
**FAIR-FAIRGROUNDS DISTRICT**

**(A) DEFINITION:**

This district is applicable to certain lands, which are owned and operated by the City of Sturgis. Said land shall be intended for public recreation and entertainment.

Amenities which are incidental to the use of this land shall be permitted in association with an event. (Example: Portable Toilets, Water tanks for livestock, portable corrals, etc.)

**(B) PERMITTED USES:**

1. Public recreation areas (To include but not be limited to, baseball/softball fields, playgrounds, swimming pools, etc.)
2. Temporary structures
3. Temporary liquor/malt beverage structures
4. Temporary Merchants
5. Sporting or Entertainment Events (To include but not limited to, horse racing, rodeos, car/motorcycle racing, concerts, circus's, etc.)
6. Public entertainment
7. Livestock Sales

**(C) USE ON REVIEW:**

Uses, which are not listed above and are recreational or entertaining in nature, may be permitted under a conditional use permit when approved by the Sturgis Park Board and the Sturgis City Council.

**(D) AREA REGULATIONS:**

The following requirements shall apply to all uses permitted in this district, except provided in Article V, Section 4:

1. FRONT YARD: All property utilized in this zoning district shall have no permanent structures located closer than 25' -0" to any public dedicated Right-of-Way.
2. SIDE YARD: There shall be a side yard of not less than 25' -0" for permanent structures located in this district.
3. REAR YARD: There shall be a rear yard of not less than 25'-0" for permanent structures located in this district.
4. LOT WIDTH: Property utilized for recreational uses within this district shall be abut a public Right-of-Way or public access road for a width of not less than 100'-0".
5. LOT AREA: Parcels of land receiving a Fairgrounds designation shall be not less than one (1) acre in area.
6. LOT COVERAGE: Permanent structures will not be permitted to encompass more than 25% of overall parcel of land.

**(E) TEMPORARY STRUCTURES:**

Temporary structures, canopies, tents, awnings, etc. may be set up on this property when in conjunction with an event authorized by the City of Sturgis.

Temporary structures may be erected for a time limit, which shall be set by the Sturgis Park Board and Sturgis City Council. Said temporary structure must be removed from the property within 48 hours of the close of an event unless otherwise permitted by the City Council.

**(F) HEIGHT REGULATIONS:**

No principal or accessory building or structures shall be constructed which exceeds 45' -0" in height.

Temporary structures which are erected for an event may be permitted to exceed the 45'0" height at the discretion of the Sturgis Park Board and the Sturgis City Council.

**(G) FLOOD PLAIN REQUIREMENT:**

No Structures shall be constructed in a flood channel. Any building constructed in the 100 year flood plan outside of the actual flood channel shall be constructed not less than one foot above the base flood elevation found on the FIRM map for the City of Sturgis.

**TITLE 18.05.17**  
**RV - RV, CAMPGROUND AND RECREATIONAL VEHICLE PARK DISTRICT**

(Section 18.05.17 added effective 8/5/06, Ordinance 2006-15)

**(A) DEFINITION:**

This District is intended to provide for permanent and seasonal campgrounds and recreational vehicle parks. Facilities within this district shall be offering for rent spaces for overnight camping and for overnight parking of recreational vehicles such as camping trailers, motor homes and coaches. Any facility located within this district shall comply with all applicable laws and regulations, including any State of South Dakota Department of Health requirements for the operation of a campground, recreational vehicle park or other such facility.

Setbacks shall be the distance from any facility's property line to camping or parking sites and shall not include access roads or driveways.

**(B) PERMITTED USES:**

Recreational vehicle park.

Small retail convenience stores providing products and services normally associated with a campground or recreational vehicle park.

Recreational vehicle dumping sites which are connected to the City Waste Water Collection system and which have been approved by the Sturgis Public Works Director.

**(C) USES PERMITTED ON REVIEW:**

1. Temporary vending for a period not to exceed 14 calendar days per year in conjunction with a specific event.

**(D) AREA REGULATIONS:**

A campground or recreational vehicle park shall have a minimum area of two (2) acres.

Retail and temporary vending area shall not exceed a total of two thousand (2000) square feet or one percent (1%) of the gross area of the campground or recreational vehicle park, whichever is greater.

Any facility shall have a minimum front setback of twenty five (25') feet from the public right-of-way.

Any facility shall have a minimum of ten (10') feet side yard setback. If the side yard abuts a public right-of-way such as a side street it shall have a minimum side yard setback of eighteen (18') feet. If the side yard abuts any residential zoning it shall have a minimum side yard setback of twenty five (25') feet.

Any facility shall have a minimum of ten (10') feet rear yard setback. If the rear yard abuts any residential district it shall have a minimum rear yard setback of twenty five (25') feet.

Any facility shall have a minimum of one hundred (100') feet of frontage on a dedicated public right-of-way.

**(E) HEIGHT REGULATIONS:**

No structure shall exceed two and one-half (2 ½) stories in height.

**(F) OFF STREET PARKING:**

Each facility or campground within this district shall provide sufficient on- premise parking, maneuvering, and loading space so that all parking, maneuvering and loading of camping units incidental to the use of the facility shall be undertaken without the use of any public right-of-way, street, alley or any private property not a part of the facility.

**(G) UTILITY REQUIREMENTS:**

Each campground, recreational vehicle park or any other such type facility located within this district shall be connected to the municipal water supply for the City of Sturgis, the Sturgis Municipal Waste Water Collection System, and will be serviced by the Sturgis Solid Waste Collection Department.

**(H) SCREENING**

Each campground, recreational vehicle park or any other such type facility located within this district which abuts a residential district shall provide a screening in the form of a solid fence, hedge, or provide for other appropriate means of shielding the facility from the adjacent residential properties. Plans for compliance with this screening requirement shall be approved by the Planning Commission and City Council prior to beginning construction of the facility.

**(I) SIGNAGE**

Total signage not exceeding one (1) square foot of surface for each one (1) lineal foot of lot frontage shall be allowed. Signs erected in conjunction with a facility permitted by this Title shall comply with any and all applicable provisions of Title 30, City Beautification and Regulation of Advertising of the Sturgis City Ordinances.

**(J) FLOOD PLAIN REQUIREMENTS**

Any building constructed within this district, on lands located within the Flood Plain areas as shown on the City's FIRM Map, shall be subject to the additional provisions and requirements contained in the City's Flood Plain Ordinance included in Article VIII.

(Section 18.05.17 added effective 8/5/06, Ordinance 2006-15)

**TITLE 18.05.18**  
**TEMPORARY CAMPING AT A RESIDENCE WITHIN THE CITY**

## Sections:

18.05.18.01	Purpose
18.05.18.02	Definitions
18.05.18.03	Penalty
18.05.18.04	Activity Authorized
18.05.18.05	Density Limitations
18.05.18.06	Setback from Public Streets, Sidewalks and Lot Lines
18.05.18.07	Campsite Area
18.05.18.08	Parking
18.05.18.09	Soil and Ground Cover Requirements
18.05.18.10	Water Service and Plumbing
18.05.18.11	Electrical System
18.05.18.12	Wastewater Disposal, Gray Water Disposal and Portable Toilets
18.05.18.13	Toilet and Bathing Facilities
18.05.18.14	Fire Protection
18.05.18.15	Barbecue Pits, Fireplaces, Stoves and Cooking Fires
18.05.18.16	Garbage and Rubbish Storage, Disposal and Vermin Control
18.05.18.17	Reporting Communicable Disease
18.05.18.18	Pet Kennels and Control of Animals
18.05.18.19	Camping Cabins

**18.05.18.01: Purpose**

The purpose of these provisions is to establish and regulate temporary non-public camping activities or camping not otherwise subject to state regulation within the City of Sturgis. Any homeowner seeking to provide temporary non-public camping as described in this ordinance shall be subject to the requirements of this ordinance. Non-profit organizations and licensees exempted from state campground license requirements by SDCL 34-18-20 that conduct non-public camping activities within the City shall be subject to the requirements of this ordinance.

**18.05.18.02: Definitions**

**A. Temporary Camping:** As used in this subdivision, temporary camping shall mean for a period not to exceed 15 consecutive days within any 30 day period.

**B. Residential Parcel:** A plot of land within the city shown on the Equalization Office records to be taxed as one parcel, containing a single family home, used or occupied by the owner as a residence year round together with any accessory buildings, and including such open spaces as may be required under the provisions of this ordinance, having its principal frontage on a public highway, road, street or private road or right-of-way as meets the requirements of Title 18 and Title 19 of Sturgis City Ordinances.

**C. Camping unit:** Any trailer, tent camper, camper, camping cabin, tent, recreational park trailer, self-contained recreational vehicle or other equipment that may be used by the traveling public at individual campsites located at campgrounds or areas used by the public as campgrounds;

**D. Campsite:** A specific parcel of land in a campground intended for occupancy and use by a camping unit or units.

**E. Pre-existing Non-Conforming Use:** A use of an improvement to real property, such as a building, structure, parking lot use, sign or portion thereof, or of the residential property, which was lawfully established prior to the

passage of this Ordinance but which, due to the application of Chapter 18.05 of Sturgis City Ordinances, is no longer authorized to continue.

**F. Temporary structure:** Any structure, building, enclosure, weather shelter or provision of water, electrical sewer or other utility services which is not placed on a foundation and is utilized for a period of less than 30 days.

**18.05.18.03: Penalty**

As provided for at SDCL 9-19-3 and SDCL 22-6-2(2), any person found to be guilty of violating any of the provisions of this Ordinance shall be subject to a maximum punishment of a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment for a period not exceeding thirty (30) days, or by both such fine and imprisonment. Each day of temporary camping in violation of this ordinance shall constitute a separate violation. In addition, a violation of this ordinance may be subject to the nuisance abatement provisions contained in Title 12 of the Sturgis City Ordinances.

**18.05.18.04: Activity Authorized**

Any non-public camping for more than 2 consecutive nights on a residential parcel, or public camping limited to one camping unit, occurring within the City, shall require that the property owner limit those activities in compliance with the requirements of this Ordinance unless otherwise licensed by the State of South Dakota. Any non-public campsite or public camping with one camping unit shall be located only on a residential parcel having a single family home, and shall only be for use by camping units, and shall not include the use of any temporary structure. No camping shall be permitted on any undeveloped lot, parcel, or non-residential parcel adjoining the residential parcel as defined herein, or on any other unimproved or vacant lot or nonresidential parcel. A pre-existing, non-conforming camping use on non-commercial property, which the property owner can demonstrate was established and has existed continuously during each annual Rally since August 1, 2011, may continue so long as that pre-existing use on that parcel does not change or expand. No more than 19 campers may be allowed at any campsite, subject to state law and regulations.

**18.05.18.05: Density limitations**

No temporary non-public camping activities permitted by this ordinance shall authorize more than 19 campers to stay on any residential parcel. In addition to meeting all setback requirements stated in this ordinance, non-public camping activities shall be located at one campsite on the residential parcel or be licensed by the State of South Dakota.

**18.05.18.06: Setback from public streets, sidewalks and lot lines**

Any camping unit located within a campsite as permitted by this ordinance shall have a front setback at least five (5) feet from the back of the sidewalk or the front lot line, and shall be located so as to allow a ten (10) foot access lane to an entry door of the residence. Similar to the Temporary Structure requirement of Section 2.03.15 of Sturgis City Ordinances, any camping unit allowed by this ordinance shall not be located within five (5) feet of any public Right of Way, any easement dedicated for public use, or any publicly owned property, specific prior authorization by the City Council.

**18.05.18.07: Campsite area**

The campsite area is defined as the area defined by the combination of all setback and access requirements on the subject residential parcel. All camping units, equipment, storage containers, food and beverage items, temporary sanitation facilities, cooking area and related material or equipment shall be located within this campsite area. Only one campsite area per residential parcel shall be allowed.

**18.05.18.08: Parking**

The homeowner shall provide sufficient temporary parking for all those persons provided temporary non-public camping on that residential parcel.

**18.05.18.09: Soil and ground cover requirements**

The soil must provide sufficient slope to ensure that no drainage or runoff caused by camping activities will go onto the adjoining property. Ground cover shall be grass, landscaping or hardscape.

**18.05.18.10: Water service and Plumbing**

No permanent separate, non-residential water supply or service facilities shall be permitted to be constructed or located outside the residence on the parcel. During the period of temporary non-public camping, the homeowner may provide temporary water service from the residence as may otherwise be permitted on a construction site by Title 2 of the Sturgis City Ordinances and by Title 17, the Sturgis Municipal Utility Regulations. A pre-existing, non-conforming camping use on non-commercial property, which the property owner can demonstrate was established and has existed continuously during each annual Rally since August 1, 2011, period prior to the enactment of this Ordinance, may continue so long as that pre-existing use does not change or expand.

**18.05.18.11: Electrical system**

No permanent separate, non-residential electrical service facilities shall be permitted to be constructed or located outside the residence on the parcel. During the period of temporary non-public camping, the homeowner may provide a temporary electrical service as permitted on a construction site by the IBC as adopted under Title 2 of the Sturgis City Ordinances. A pre-existing, non-conforming camping use on non-commercial property, which the property owner can demonstrate was established and has existed continuously during each annual Rally period since August 1, 2011, may continue so long as that pre-existing use does not change or expand.

**18.05.18.12: Wastewater disposal, gray water disposal and portable toilets**

No permanent separate, non-residential waste water or gray water facilities shall be located outside the residence on the parcel where the campsite is located. During the period of temporary non-public camping, the homeowner may provide temporary self-contained portable toilet facilities of the type required to be provided on a construction site by Title 2 of the Sturgis City Ordinances. No waste water or gray water resulting from temporary camping shall be permitted to be disposed of in any storm sewer drainpipe or other drainage. All waste water and gray water shall be disposed of only at an approved dump station or similar facility open to the public. A pre-existing, non-conforming camping use on non-commercial property, which the property owner can demonstrate was established and has existed continuously during each annual Rally period since August 1, 2011, may continue so long as that pre-existing use does not change or expand.

**18.05.18.13: Toilet and bathing facilities**

No permanent separate, non-residential toilet and bathing facilities shall be permitted to be located outside the residence on the parcel. All waste water or gray water resulting from any temporary toilet or bathing facilities for camping shall be disposed of only at an approved dump station or similar facility open to the public, or by the use of a temporary type facility permitted on a construction site by the IBC as adopted under Title 2 of the Sturgis City Ordinances. A pre-existing, non-conforming camping use on non-commercial property, which the property owner can demonstrate was established and has existed continuously during each annual Rally period since August 1, 2011, may continue so long as that pre-existing use does not change or expand.

**18.05.18.14: Fire protection**

The Open Fire requirements of Sturgis City Ordinance Chapter 9.04 shall remain in effect at all times at the residential parcel at which any temporary non-public camping may occur. No open fire of any kind shall be permitted during the period in which a Burning Ban is in effect within the City of Sturgis.

**18.05.18.15: Barbecue pits, fireplaces, stoves and cooking fires**

During the period of temporary camping, only a temporary, contained fire structure of a type permitted by Title 2 of Sturgis City Ordinances shall be allowed.

**18.05.18.16: Garbage and rubbish storage, disposal and vermin control**

No permanent separate garbage or rubbish containers or facilities shall be permitted to be constructed outside the residence on the parcel. During the period of temporary non-public camping, the homeowner shall provide the necessary temporary sanitation and garbage service of the type permitted and subject to the requirements of Title 11 of Sturgis City Ordinances. The rates as set forth in subdivision 11.04, and the authority to require additional waste disposal totes as provided for at 11.04.10, shall apply to all residences at which temporary camping occurs.

**18.05.18.17: Reporting communicable disease**

During the period of temporary non-public camping, the homeowner shall be obligated to comply with all health reporting requirements of state law and Title 11.02 of Sturgis City Ordinances.

**18.05.18.18: Pet kennels and control of animals.**

No separate, non-residential pet or kennel facilities shall be permitted to be constructed or located outside the residence on the parcel. During the period of any temporary non-public camping, any animal at the campsite will be subject to the provisions of Title 32 of Sturgis City Ordinances, concerning animals and animal control authority of the City.

**18.05.18.19: Camping cabins**

Camping cabins as defined in South Dakota Administrative Rule 44.02.12.24, or any temporary structure intended for similar or like use, shall not be permitted at any temporary campsite.

(Title 18.05.18 added in entirety by Ordinance 2012-12, effective 8-1-12)

**ARTICLE V  
SUPPLEMENTARY REGULATIONS APPLYING TO A SPECIFIC, TO SEVERAL  
OR TO ALL DISTRICTS**

**SECTION 1 - DEVELOPMENT STANDARDS FOR USES PERMITTED ON REVIEW**

In order to accomplish the general purpose of this Ordinance, it is necessary to give special consideration to certain uses because they are unique in nature, require large land areas, are potentially incompatible with existing development or because the effects of such uses cannot definitely be foreseen.

The following uses shall be subject to compliance with the regulations in this section and with the procedure for authorizing uses permitted on review as set forth in Article VII, Section 4.

**A. PLANNED UNIT DEVELOPMENT:**

1. **GENERAL DESCRIPTION:** The regulations established in this sub-section are intended to provide optional methods of land development which encourage more imaginative solutions to environmental design problems. Planned Development areas thus established would be characterized by a unified building and site development program, open space for recreation and the provision for commercial, religious, educational and cultural facilities which are integrated with the total project by unified architectural and open space treatment. In order to accomplish these objectives, the customary district regulations may be modified, provided that overall population densities do not exceed the densities of specific residential districts.

A planned unit development, occupying one (1) acres or more, shall be permitted in the General Residential (GR) 1 and (GR) 2 Districts, the Single Family Residential/Office Commercial District and the General Commercial District.

2. **PERMITTED PRINCIPAL AND ACCESSORY USES AND STRUCTURES:**

The following uses are permitted:

- a. Single-family detached dwelling.
- b. Two-family dwelling and semi-detached dwelling.
- c. Multiple-family and attached dwellings.

The number of dwelling units permitted shall be determined by dividing the net development area by the minimum lot area per family required by the District or Districts in which the area is located. Net development area shall be determined by subtracting the area set aside for churches, schools, commercial use and street right-of-way from the gross development area. The area of land set aside for common open space or recreational use shall be included in determining the number of dwelling units permitted.

- d. Commercial Uses.

For each one hundred (100) dwelling units in the development plan, one (1) acre may be set aside for the following commercial uses:

- (1) Food markets including specialty foods such as:
  - (a) Bakery goods
  - (b) Delicatessen goods
  - (c) Meat market
- (2) Drug stores or fountains including:
  - (a) Book and reading matter
  - (b) Stationery
  - (c) Tobacco
  - (d) Vanity goods
  - (e) Pharmacy
- (3) Bakeries whose products are sold only at retail and on the premises
- (4) Banks
- (5) Barber shops and/or beauty shops
- (6) Cleaning and pressing collection stations
- (7) Gift shops
- (8) Self-service laundries
- (9) Service or filling stations
- (10) Shoe repair and shoeshine services
- (11) Professional and business offices
- (12) Name plate and sign, as regulated in Article V, Section 8
- (13) Accessory buildings and uses customarily incidental to the above uses

e. Educational uses

f. Community facilities uses such as churches and other religious institutions and non-profit clubs such as country clubs, swimming and/or tennis clubs.

### 3. RECREATIONAL USES:

The amount of land set aside to provide for permanent usable open space and recreational use may be up to fifteen (15) percent of the gross development area. For good cause, this requirement may be met by a Recreation Payment in Lieu contained in the Development Agreement, or waived by the City. A Recreation Payment in Lieu is a payment by the developer, proportionate to the value of the land that would meet the recreational use standard of this chapter, set forth in the development agreement, and intended for use by the City to develop and maintain the recreation facilities available to the residents of the City of Sturgis. Recreation uses may include a community center, a golf course, a swimming pool, ~~or~~ parks, playgrounds, recreational trail, bike path or other public recreational uses. Any structure involved in such uses shall have a twenty five (25) foot setback from all property lines.

### 4. AREA REGULATIONS:

All building setbacks from street right-of-way lines and from the periphery of the project shall be subject to the approval of the governing body.

### 5. DEVELOPMENT AGREEMENT:

Before the modification of the zoning requirements sought by the applicant for a Planned Unit Development may be approved, the applicant/developer shall submit a fully executed Development Agreement for consideration and review by Planning and Zoning Board, and approval by the City Council.

### 6. OFF-STREET PARKING:

As regulated in Article V, Section 5.

7. ADMINISTRATIVE PROCEDURE FOR A PLANNED UNIT DEVELOPMENT:

In addition to the administrative requirements set forth in Article VII, a Planned Unit Development shall not be permitted until the following conditions have been complied with:

There shall have been filed with the governing body a written application for approval, which application shall be accompanied with the following information and documents:

a. The application must be accompanied by an overall development plan showing the use or uses, dimensions and locations of proposed sites and other open spaces with such other pertinent information as may be necessary to determine the contemplated arrangement or use which makes it desirable to apply regulations and requirements differing from those ordinarily applicable under this Ordinance. The applicant shall obtain written comments on the proposed development plan from the Fire Department, South Dakota Department of Water and Natural Resources, all utility companies, Building Inspector and Recreation department and submit these with the applications.

The proposed development plan shall be prepared by and have the seal of an architect or engineer duly registered to practice in the State of South Dakota.

b. The governing body shall review the conformity of the proposed development and shall recognize principles of civic design, land use planning and site planning. The governing body may impose conditions regarding layout, circulation and performance of the proposed development and may require that appropriate deed restrictions be filed.

c. The tract or parcel of land involved must be either in one ownership or the subject of an application filed jointly by the owners of all the property included or filed by any governmental agency.

d. The proposed development must be designed to produce an environment of stable and desirable character not out of harmony with its surrounding neighborhood and must provide standards of open space and areas for parking adequate for the occupancy proposed. It must include provisions for recreation areas to meet the needs of the anticipated population.

e. This proposed development may contain commercial and professional uses as an integral part of a residential development. Such uses shall be planned and gauged primarily for the service and convenience of residents and people working within, although not residents of the Planned Development and shall be authorized only to the extent that such uses are not available to the residents in reasonable proximity.

f. Upon the abandonment of a particular project authorized under the section or upon the expiration of three years from the authorization hereunder of a Planned Development which has not been completed or commenced and an extension of time for completion granted the authorization shall expire and the land and structures thereon may be used without such approval for any other lawful purpose permissible within the size, height and area district in which the Planned Development is located.

g. A Development Agreement, prepared with language confirming that all of the forgoing representations, plans and requirements for the Planned Unit Development are accepted by the applicant/developer, and signed by the applicant/developer and an authorized City official.

h. After the Development Agreement is signed and the Planned Unit Development project is approved by the City Council, a plat of the Development as finally approved shall be recorded and

shall show building lines, common land, streets, easements and other applicable features required by the Ordinance regulating the subdivisions of land. No building permit shall be issued until a final plat of the proposed Development is approved and recorded.

(Article V, Section 1A replaced by Ordinance 2012-14, effective 8-21-2012)

**B. CHURCHES, SCHOOLS, LIBRARIES AND MEDICAL FACILITIES**

Churches, schools, libraries and medical facilities are permitted int the GR-General Residential District and MR-Mobile Home and Residential District upon review by the governing body provided all of the following provisions are met:

1. AREA REGULATIONS:

- a) Front Yard: All structures shall have a front yard of not less than thirty five (35) feet and in no case shall an accessory building be located to extend into the front yard.
- b) Side Yard: All structures including buildings accessory thereto shall set back a minimum of thirty five (35) feet from all side property lines.
- c) Rear Yard: All structures including accessory buildings shall have a rear yard of not less than twenty five (25) feet.
- d) Lot Width: All structures shall be on lots which abut at least one street for a minimum of one hundred (100) feet.
- e) Lot Area: All structures shall have a lot area of not less than ten thousand (10,000) square feet.
- f) Maximum Lot Coverage: Main and accessory buildings shall cover not more than seventy five percent (75%) of the lot area.

2. HEIGHT REGULATIONS

No structure shall exceed four and one-half (4 ½) stories or forty five (45) feet in height except as provided in Article V, Section 3.

3. OFF-STREET PARKING

As regulated in Article V, Section 5

**C. MOBILE HOME PARKS**

- 1. The following property development shall apply for all mobile home parks.
  - a. No parcel of land containing less than one (1) acre and less than ten (10) mobile home spaces, available at the time of first occupancy, may be used for the purpose permitted in the mobile home park.

- b. The mobile home park shall be subject to the density provisions of the district in which it is located, provided, however, there shall be not less than four thousand five hundred (4,500) square feet of lot area for each space provided on the site. This space ration shall include access roads, automobile parking, accessory building space and recreational area.
- c. The mobile home park shall be located on a well drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water. All parts of the site upon which mobile home sites are to be provided shall be above the regulatory flood protection elevation and shall meet all requirements of the City's flood plain ordinance in Article VIII if applicable.
- d. Yards:
- (1) Each mobile home park shall have a front yard of twenty five (25) feet extending for the full width of the parcel devoted to said use.
  - (2) Each mobile home park shall have a rear yard and a side yard on both sides of the parcel devoted to said use of not less than ten (10) feet.
  - (3) Where a side or rear yard abuts a street, the yard shall be not less than twenty five (25) feet and all yards shall be landscaped and maintained.
- e. No building or structure erected or stationed in this park shall have a height greater than one (1) story or fifteen (15) feet.
- f. A mobile home park shall be entirely enclosed on the rear lines and side lot lines, exclusive of driveways, at its external boundaries by a solid wall, fence or evergreen hedge not less than seven (7) feet in height. Such wall, fence or hedge shall not be constructed or planted within the required front yard setback.
- g. Each mobile home park shall be permitted to display on each street frontage, one identifying sign of a maximum size of nine (9) square feet. Said sign shall contain thereon only the name and address of the mobile home park and may be lighted by indirect lighting only.
2. Each mobile home park shall be of sufficient size that, in addition to the mobile home space, the following areas shall be provided.
- a. Each mobile home space shall be at least forty (40) feet wide and such space shall be clearly defined by permanent markers.
  - b. There shall be a front yard setback of ten (10) feet from all access roads within the mobile home park.
  - c. Mobile homes shall be harbored on each space so that there shall be at least a twenty (20) foot clearance between mobile homes or appurtenances, provided, however, with respect to mobile homes parked end to end, the end to end clearance shall be not less

than ten (10) feet. No mobile home shall be located closer than twenty (20) feet from any building within the mobile home park.

d. There shall be at least one (1) paved, off-street parking space for each mobile home space, which shall be on the same site as the mobile home served and may be located in the rear or side yard of said mobile home space.

e. Each mobile home space shall be provided with a paved patio of at least two hundred (200) square feet and have a storage locker of at least one hundred (100) cubic feet. Storage lockers may be located in locker compounds.

### 3. GENERAL PROVISIONS

a. There shall be established and maintained within each park an automobile parking area for the use of guests. The number of spaces within this area shall be equal to one (1) for every four (4) trailer sites.

b. Access roads within a mobile home park shall be paved to a width of not less than twenty four (24) feet. Where access roads are paved to a width of thirty five (35) feet or more, the required guest parking area shall be waived.

c. Mobile home spaces may abut upon a driveway of not less than twenty (20) feet in width, which shall have unobstructed access to the access road within the mobile home park. Vehicular access shall be provided from a public street, and all dead-end driveways shall include adequate vehicular turning space.

d. A minimum of six (6) inches of compacted gravel or other suitable pavement material shall be installed for each trailer space. Size of pads shall be at least ten (10) feet by forty five (45) feet but in no case smaller than the mobile home occupying the site.

e. Walkways not less than three (3) feet wide shall be provided from the mobile home spaces to the service building.

f. Each mobile home space shall be provided with a water meter and a connection to a sanitary sewer.

g. There shall be provided a park and recreation area having a minimum of one hundred and fifty (150) square feet for each mobile home space.

Areas shall be consolidated into usable areas with minimum dimensions of not less than thirty (30) feet.

h. Axles and wheel drums, or similar devices, shall not be removed from mobile homes. Mobile homes shall not be attached to or placed on the ground in a manner that would prevent or obstruct their ready movement, except for the purpose of making repairs.

- i. Trailers, with or without toilet facilities, that cannot be connected to a sanitary sewer shall not be permitted in a mobile home park.
  - j. Entry way and other similar enclosed structures shall be subject to a building permit and shall meet all setback requirements.
  - k. Mobile homes shall not be used for commercial, industrial or other non-residential uses within the mobile home parks.
4. APPLICATION FOR PERMIT

An application for a mobile home park permit shall be as regulated hereunder and as in the Uniform Building Code.

The application for a permit shall be filed with and issued by the Building Inspector. Each application shall be accompanied by three (3) copies of the plot plan drawn to scale, and prepared by a licensed engineer or architect. Such copies shall be reviewed and approved by the governing body, the South Dakota Department of Water and Natural Resources and the City Engineer or Building Inspector. The following information shall be shown:

- a. The location and legal description of the proposed mobile home park.
- b. Plans and specifications of all buildings, improvements and facilities constructed or to be constructed within the mobile home park.
- c. The proposed use of buildings shown on the site.
- d. The location and size of all mobile home spaces.
- e. The location of all points of entry and exit for motor vehicles and internal circulation pattern.
- f. The location of all landscaping to be provided.
- g. The location of all lighting standards to be provided.
- h. The location of all walls and fences and the indication of their height and the materials of their construction.
- i. The name and address of the applicant.
- j. Such other architectural and engineering data as may be required to permit the City Engineer or Building Inspector and governing body to determine if the provisions of this Ordinance are being complied with.

A time schedule for development shall be prepared, which shall demonstrate the applicant's readiness and ability to provide the proposed services, and all required improvements and facilities shall be installed within one (1) year.

**D. OTHER USES PERMITTED ON REVIEW****1. CEMETERY:**

- a. The site proposed for a cemetery shall not interfere with the development of a system of collector and larger streets in the vicinity of such site. In addition, such site shall have direct access to a thoroughfare.
- b. Any new cemetery shall be located on a site containing not less than twenty (20) acres.
- c. All other structures including but not limited to mausoleum, permanent monument or maintenance building shall be set back not less than twenty five (25) feet from any property line or street right-of-way line.
- d. All graves or burial lots shall be set back not less than twenty five (25) feet from any property line or street right-of-way line.
- e. All required yards shall be landscaped and maintained.

**2. DRIVE-IN THEATER:**

- a. The site must have direct access to a major public road.
- b. In addition to the required setbacks from streets and highways, all yards shall be planted and maintained as a landscaped strip.
- c. The theater screen shall not be visible from any public street within fifteen hundred (1,500) feet. In addition, cars parked in the viewing area shall be screened on all sides by a wall, fence or densely planted evergreen hedge not less than six (6) feet in height.
- d. Loading space for patrons waiting admission to the theater shall be equal to twenty (20) percent of the capacity of the theater. All entrances and exits shall be separated and internal circulation shall be laid out to provide one-way traffic.
- e. Sale of refreshments shall be limited to patrons of the theater.
- f. No central loudspeakers shall be permitted.
- g. All parking areas and access ways shall be adequately lighted, provided, however, that such lighting shall be shielded to prevent any glare or reflection onto a public street or onto neighboring properties.
- h. Amusement parks or kiddylands shall be limited to patrons of the theater.
- i. The connecting driveways shall be surfaced with permanent paving, maintained in good condition and free of all weeds, dust, trash and other debris.

### 3. PUBLIC AND PRIVATE UTILITIES AND SERVICE:

Where permitted, public and private utilities and services shall be subject to the following requirements:

- a. South Dakota Department of Water and Natural Resources Report - Application for permission to operate water works and/or sewage treatment plants shall be accompanied by a report and a recommendation from the South Dakota Department of Water and Natural Resources. Such recommendations as to design and construction, type of treatment, source of water, standards for testing and sampling and standards for the quality of effluent shall be incorporated into and made a part of the application.
- b. Lot Area and Location - The required lot area and location shall be specified as part of the application and shall be determined in relating to the proposed use, the intensity of such use and the effects of such use upon the environment.
- c. Fencing and/or Screening - Where findings indicate that a hazard may result or that interference with the development or use and enjoyment of surrounding residential properties may ensue, fencing or screening with an evergreen hedge or other shielding material may be required in a manner consistent with such findings.

### 4. PRIVATE DAY NURSERIES AND KINDERGARTENS:

- a. A fenced play area shall be provided. No portion of the fenced play area shall be located closer than thirty five (35) feet to any public street.
- b. In addition to the requirements above, the facilities, operation and maintenance shall meet the requirements of the Department of Social Services.

### 5. AUTOMOBILE WRECKING AND JUNK YARDS:

- a. Location - Because of the tendency for salvage yards to promote the breeding of vermin, no such operation shall be permitted closer than three hundred (300) feet from any established residential district.
- b. Screening - All outdoor storage of salvage and wrecking operations shall be conducted entirely within an enclosed opaque fence or wall, excepting driveway areas, having a minimum height of eight (8) feet. Storage between the street and such fence or wall is expressly prohibited. Any fence or wall erected for screening purposes shall be within the buildable area of the lot and shall be properly painted or otherwise maintained in good condition.
- c. Off-Street Parking - As regulated in Article V, Section 5.
- d. Ingress and Egress - The number of vehicular access driveways permitted on any single street frontage should be limited to:

(1) One (1) driveway where the parcel to be used has a maximum street frontage of one hundred (100) feet or less.

(2) Two (2) driveways where the street frontage exceeds one hundred (100) feet.

Driveways used for ingress and egress shall be limited to twenty five (25) feet in width, exclusive of curb returns.

6. RECREATIONAL FADS:

An application for a permit for recreational fads including trampoline centers, kart tracks and similar recreation activities not specifically covered by these regulations, shall be reviewed by the governing body.

7. ON-LOT SEWAGE DISPOSAL SYSTEM:

Any use involving a principal structure which is not served by a sanitary sewer, in addition to other requirements, shall have an approved on-lot sewage disposal system. Plans and specifications for the on-lot sewage disposal system shall be approved by the South Dakota Department of Water and Natural Resources. The approval may be made contingent upon an agreement that the structure will be connected to a sanitary sewer when plans indicate that such sewer will be extended or constructed and become available. The approval may further stipulate an increase in lot size to assure appropriate septic field, drainage and relation to abutting development or any classified stream.

**ARTICLE V****SECTION 2 - ACCESSORY USES**

The uses of land, buildings and other structures permitted in each of the districts established by this Ordinance are designated by listing the principal uses permitted. In addition to such principal uses, this section shall regulate uses customarily incidental to any principal use permitted in the District.

**A. GENERAL PROVISIONS:**

Each permitted accessory use shall:

1. Be customarily incidental to the principal use established on the same lot.
2. Be subordinate to and serve such principal use.
3. Be subordinate in area, extent and purpose to such principal use.
4. Contribute to the comfort, convenience or necessity of users of such principal use.

**B. PERMITTED ACCESSORY STRUCTURES:**

Accessory uses shall be permitted as specified above and such accessory uses shall be applicable to the principal use.

**ARTICLE V**  
**SECTION 3 - HEIGHT**

The following requirements are intended to provide exceptions or qualify and supplement, as the case may Be, the specific district regulations set forth in Article IV herein:

- A. In measuring heights, a habitable basement or attic shall be counted as a half story.
- B. The following structures or parts thereof are hereby exempt from the height limitations set forth in the zoning districts.
  - 1. Agricultural buildings - barn, silo, windmill but not including dwellings.
  - 2. Chimneys, smokestacks, penthouse, spires, flagpoles, ventilators, skylights, derricks, conveyors and cooling towers.
  - 3. Radio and television antennae and towers, observation towers and power transmission towers.
  - 4. Water tanks and standpipes.
  - 5. Other similar and necessary mechanical appurtenances pertaining to and necessary to the permitted uses of the districts in which they are located, provided that they are not used for human occupancy.
- C. Churches, schools, hospitals, sanatoriums and other public and semi-public buildings may exceed the height limitations of the District if the minimum depth of the front, side and rear yards required in the District is increased one (1) foot for each two (2) feet by which the height of such public or semi-public structure exceeds the prescribed height limit.

**ARTICLE V****SECTION 4 - YARD, BUILDING SETBACK AND OPEN SPACE EXCEPTIONS**

The following requirements are intended to provide exceptions or qualify and supplement, as the case may be, the specific district regulations set forth in Article IV herein:

A. No yard, open space or lot area required for a building or structure shall, during its life, be occupied by any other building or structure except:

1. Awnings and canopies, as provided for in the Uniform Building Code.
2. Bay windows and chimneys, not to exceed two (2) feet, in front and rear yards.
3. Driveways, curbs, sidewalks and steps, provided, however, steps or stairs to dwelling, non-enclosed, not to exceed three (3) feet.
4. Fences, walls and hedges, subject to the regulations as set forth in this section.
5. Flagpoles.
6. Garbage disposal equipment, non-permanent.
7. Landscape features, planting boxes and recreational equipment.
8. Open fire escapes may extend into any required yard not more than five (5) feet.
9. Parking space subject to the regulations set forth in Article V, Section 8.
10. Signs, subject to the regulations set forth in Article V, Section 8.
11. Terraces (open) and porches (non-enclosed) not to exceed six (6) feet in front or rear yard.
12. Trees, shrubs, flowers and other plants subject to the vision requirements in this section.
13. Eaves and overhangs may extend up to 24" into any required yard.

B. The following regulations provide for the maximum safety of persons using sidewalks and streets, and for the maximum enjoyment of the use of property

1. On any corner lot where a front and side yard is required, no wall, fence, sign, structure, or any plant growth which obstructs sight lines at elevations between two and one-half (2 1/2) feet and ten (10) feet above the crown of the adjacent roadway shall be placed or maintained within a triangle formed by measuring from the pint of intersection of the front and exterior side lot lines a distance of twenty five (25) feet along the front and side lot lines and connecting the points so established to form a sight triangle on the area of the lot adjacent to the street intersections.

2. In any required front yard, except as provided in 1 above, no fence, wall, hedge, or yard ornament shall be permitted above the height of three and one-half (3 1/2) feet.

C. The purpose here is to clarify certain conditions pertaining to the use of lots and access points.

1. In Residential Districts, if twenty-five (25) percent or more of the lots on one side of the street between two intersecting streets are improved with buildings all of which have observed an average setback line of greater than twenty five (25) feet, and no building varies more than five (5) feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings; but, this regulation shall not require a front yard of a greater depth than fifty (50) feet.
2. Division of a lot - No recorded lot shall be divided into two or more lots by platting or metes and bound description unless such division results in the creation of lots each of which conforms to all of the applicable regulations of the district in which the property is located. No reduction in the size of a recorded lot below the minimum requirements of this Ordinance shall be permitted.
3. Dwelling on small lots - Where there are existing recorded lots which do not meet the minimum lot area requirement and are under separate ownership - single - family dwellings only may be constructed as long as side yard shall be not less than four (4) feet and the sum of the side yards shall not be less than eight (8) feet and as long as all other requirements, except lot size, are met.
4. Principal uses without buildings - Where a permitted use on land involves no structures, such use, excluding agricultural uses, shall nonetheless comply with all yards and minimum lot area requirements applicable to the district in which located, as well as obtain any other license or permit applicable to that particular use.
5. Where the dedicated street right-of-way is less than fifty (50) feet, the depth of the front yard shall be measured starting at a point twenty five (25) feet from the center line of the street easement.
6. No dwelling shall be erected on a lot which does not abut on at least one street for at least fifty (50) feet with the exception of lots fronting a cul-de-sac in which case a minimum width of fifty (50) feet measured at the front building line will be required. A street shall form the direct and primary means of ingress and egress for all dwelling units. Alleys, where they exist, shall form only a secondary means of ingress and egress.
7. An attached or detached private garage which faces on a street shall not be located closer than twenty-five (25) feet to the street right-of-way line. Where the garage faces a side street on a corner lot this distance shall be eighteen (18) feet.
8. Accessory buildings shall not be located in any required front yard.

**ARTICLE V****SECTION 5 - MINIMUM OFF-STREET PARKING REQUIREMENTS**

(Article V, Section 5 (A) revised by Ordinance 2013-20, effective 12-4-2013)

A. OFF-STREET PARKING REQUIREMENTS GENERAL:

In all districts, except that portion of the General Commercial District described as follows:

(As illustrated on the zoning map on file at the City of Sturgis Finance Office.)

At any time any building or structure is erected or enlarged or increased in capacity, there shall be provided off-street parking spaces for automobiles in accordance with the following requirements:

(Title 18, Article V, Section 5 amended effective 5/20/05, Ordinance 2005-10)

1. All church structures existing at the effective date of this ordinance shall be allowed to increase their present seating capacity by twenty five (25) percent without increasing their present off-street parking facilities.
2. Off-street parking for other than residential use shall be either on the same lot or within six hundred feet of the building it is intended to serve measured from the nearest point of the building to the nearest point of the off-street parking lot, provided, however, churches may establish joint parking facilities not to exceed fifty (50) percent of the required spaces, with institutions and agencies that do not have a time conflict in parking demand. The joint parking facilities shall be located no further than four hundred (400) feet from the church sanctuary.
3. Residential off-street parking space shall consist of a parking lot, driveway, garage or combination thereof and shall be located on the lot they are intended to serve.
4. For uses not specifically mentioned herein, off-street parking requirements shall be interpreted by the governing body.
5. Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.
6. Off-street parking existing at effective date of these regulations in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or use.
7. Two or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces shall be not less than the sum of the requirements for the several individual uses computed separately.
8. The required off-street parking shall be for occupants, employees, visitors and patrons and shall be limited in use to motor vehicles. The storage of merchandise, motor vehicles for sale or the repair of vehicles on such parking area is prohibited.
9. Every company car, truck, tractor and trailer normally stored at the plant site shall be provided with off-street parking space in an area reserved for the use as determined by the governing body.
10. In cases of dual functioning of off-street parking where operating hours do not overlap, the governing body may grant an exception.
11. The minimum number of off-street parking spaces shall be determined in accordance with the following:

TABLE OF PARKING SPACES REQUIREDUSESPARKING SPACES REQUIRED

Automobile wrecking, junk or salvage yard which offers for sale to the public any new or used merchandise.	One (1) space for each two (2) employees, plus one (1) space for each ten thousand (10,000) square feet of lot area, or two (2) spaces for each one hundred (100) square feet of floor area, whichever is the greater.
Banks, business or professional offices.	One (1) per three hundred (300) square feet of usable floor area, plus one (1) per each three (3) employees.
Barber shop or beauty parlor.	Two (2) per barber or beauty shop chair.
Boarding or rooming house.	One (1) space for each three (3) boarders. One (1) for each two (2) guests provided overnight accommodations.
Bowling Alleys.	Two and one half (2 1/2) per alley.
Churches.	One (1) per four (4) seats; or one (1) per thirty (30) square feet of usable floor area of auditorium, whichever is greater.
Commercial recreation uses.	One (1) per three (3) patrons, based on the design capacity of the facility.
Commercial or trade schools.	One (1) per three (3) students plus two (2) per three (3) employees.
Country clubs.	One (1) per five (5) members.
Dormitories, fraternity or sorority.	One (1) per each three (3) permanent residents.
Dwellings (single, two-family and semi-detached).	Two (2) per dwelling unit.
Dwellings, (multiple-family and attached).	One and one-fourth (1 1/4) spaces per dwelling unit for the first twenty (20) units, plus one (1) space for each dwelling unit exceeding twenty (20) units.
Establishments for sale and consumption, on the premises, of beverages, food or refreshment.	One (1) per each employee, plus one (1) per two hundred (200) square feet of usable floor space.
Gasoline service stations.	One (1) parking space for each employee, plus two (2) spaces for each service bay.
Governmental office buildings.	One (1) per three hundred (300) square feet of usable floor area, plus one (1) per each three (3) employees. Every governmental vehicle shall be provided with a reserved off-street parking space.

USESPARKING SPACES REQUIRED

Homes for the aged, sanatoriums, convalescent or nursing homes.	One (1) space for each four (4) patients beds; plus one (1) space for each staff doctor, plus one (1) space for each two (2) employees including nurses.
Hospitals.	One (1) per three (3) patient beds, exclusive of bassinets, plus one (1) space for each two (2) employees including nurses on the maximum working shift, plus adequate area for parking emergency vehicles.
Hotel	One (1) per two (2) rooms or suite, plus two (2) per three (3) employees.
Hotel (apartment)	One (1) parking space for each two (2) individual rooms or apartments.
Industrial Establishments	One (1) per two (2) employees on the combined two largest successive shifts, plus adequate parking space for customer and visitor vehicles as determined by the governing body.
Library	One (1) for each four hundred (400) square feet of floor space.
Medical Clinics	Three (3) patient parking spaces per staff doctor; plus one (1) per staff doctor; plus two (2) per three (3) other employees.
Mortuaries or funeral parlors	Five (5) spaces per parlor or chapel unit, or one (1) per four (4) seats, whichever is greater.
Motels and tourist courts	One (1) per guest bedroom.
Private clubs, lodge or union headquarters	One (1) per three (3) members based on the design capacity of the facility.
Retail stores, supermarkets, department service establishments except as otherwise specified herein.	One (1) per two hundred (200) square feet of retail floor space, plus one (1) per employee.
Elementary, junior high and the equivalent private or parochial schools	Two (2) spaces per three (3) teachers and employees normally engaged in or about the building or grounds; plus one (1) space for each one hundred and fifty (150) square feet of seating area, including aisles, in any auditorium.

USES

PARKING SPACES REQUIRED

<p>Senior high schools and the equivalent private or parochial schools.</p>	<p>Two (2) spaces per three (3) teachers and employees normally engaged in or about the building or grounds, plus one (1) space per five (5) students, or one (1) space for each one hundred and fifty (150) square feet of seating area, including aisles, in any auditorium, gymnasium or cafeteria intended to be used as an auditorium, whichever is the greater.</p>
<p>Kindergartens, day schools and the equivalent private or parochial schools.</p>	<p>Two (2) parking spaces per three (3) teachers and employees normally engaged in or about the building or grounds, plus one (1) off-street loading space per eight (8) pupils.</p>
<p>Shopping Centers</p>	<p>There shall be a ratio of four (4) square feet of parking (including driveways required for ingress and egress and circulation ) to each one (1) square foot of store area.</p>
<p>Stadiums and sports</p>	<p>One (1) per four (4) seats or twelve (12) feet of benches.</p>
<p>Swimming Pools</p>	<p>One (1) per thirty (30) square feet of water area.</p>
<p>Theaters, auditoriums, and places of assembly with fixed seats.</p>	<p>One (1) per three (3) seats.</p>
<p>Theaters, auditoriums and places of assembly without fixed seats.</p>	<p>One (1) per three (3) people based on the design capacity of the structure.</p>
<p>Wholesale establishments and business services.</p>	<p>One (1) for every fifty (50) square feet of customer service area, plus two (2) per three (3) employees based on the design capacity of the largest shift.</p>

**B. OFF-STREET PARKING LOT LAYOUT, CONSTRUCTION AND MAINTENANCE:**

Wherever the required off-street parking requires the building of a parking lot, and wherever a parking lot is built, such parking lot shall be laid out, constructed and maintained in accordance with the following regulations:

1. Except for parcels of land devoted to one (1) and two (2) family uses, all areas devoted to off-street parking shall be so designed and be of such size that no vehicle is required to back into a public street to obtain egress.
2. Each parking space shall be not less than two hundred (200) square feet in area and shall be a definitely designated stall adequate for one motor vehicle.

3. In any determination of parking requirements as set forth in this section, where the resultant figure contains a fraction, any fraction less than one-half may be dropped and any fraction one-half or more shall be counted as one (1) parking space.
4. Clearly defined driveways used for ingress and egress shall be confined to and shall not exceed twenty five (25) feet in width, exclusive of curb returns.
5. All areas devoted to permanent off-street parking as required under this section shall be of a hard-surface construction of either asphalt or concrete and maintained in such a manner that no dust will result from continuous use.
6. The parking lot shall be drained to eliminate surface water.
7. Where the parking lot abuts side lot lines of a Residential District, there shall be established a setback line ten (10) feet from such side lot line.
8. Where the parking lot is contiguous to a Residential District which has common frontage in the same block with the parking lot, there shall be established a setback line of twenty five (25) feet from the street lot line.
9. Where the parking lot lies across the street and opposite a Residential District, wherein the lots front on such street, there shall be established a setback line twenty five (25) feet from the street lot line.
10. Where the parking lot abuts rear property lines of a Residential District, there shall be established a setback line five (5) feet from the rear lot line.
11. Where parking is to be provided in the front yard of a multiple-family dwelling, there shall be established a setback line ten (10) feet from the street lot line. The land between the setback line and the lot line in a parking lot is for the purpose of this Ordinance called a buffer strip. The ground in the front buffer strip shall be prepared and shall be planted with trees, shrubs and grass.
12. Plans for the layout of a parking lot must be approved by the governing body.
13. The governing body shall have the authority to approve off-street parking in any district which is more restrictive than that required for the major land use it is intended to serve subject to the preceding conditions. The following conditions shall also apply:
  - a. The parking lot shall not have access from the more restrictive district.
  - b. All sides of the lot, except those openings for ingress and egress shall be enclosed with an opaque ornamental fence, wall or dense evergreen hedge having a height of not less than five (5) nor more than six (6) feet. Such fence, wall or hedge shall be maintained in good condition. Bumper stops shall be provided so as to prevent any vehicle from projecting over the buffer strip.
  - c. The intensity of light and arrangement of reflectors shall be such as not to interfere with Residential Districts.
  - d. No sign of any kind shall be erected except information signs used to guide traffic and to state the conditions and terms of the use of the lot. Only non-intermittent white lighting of signs shall be permitted.

**ARTICLE V**

**SECTION 6 - STORAGE AND PARKING OF TRAILERS AND COMMERCIAL VEHICLES**

Commercial vehicles and trailers of all types, shall not be permanently parked or stored on any lot occupied by a dwelling or on any lot in any Residential District except in accordance with the following provision:

- A. Not more than one commercial vehicle per family living on the premises, which does not exceed two (2) tons rated capacity, shall be permitted; and in no case shall a commercial vehicle of over two (2) tons, used for hauling gasoline or liquefied petroleum products be permitted. In no case shall any vehicle containing explosives be permitted.

**ARTICLE V****SECTION 7 - OFF-STREET LOADING AND UNLOADING REQUIREMENTS**

In all districts and on the same premises with every building, structure or part thereof, erected and occupied for manufacturing, storage warehouse goods, display, a department store, a wholesale store, a market, a hotel, a hospital or other uses similarly involving the receipt or distributions of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading service adjacent to the opening used for loading and unloading in order to avoid undue interference with public use of the streets or alleys.

Off-street loading and unloading spaces shall be provided as follows:

1. One (1) off-street loading and unloading space shall be provided for buildings up to and including twenty thousand (20,000) square feet of floor area, plus one additional off-street loading and unloading space for each additional twenty thousand (20,000) square feet of floor area up to and including one hundred thousand (100,000) square feet.
2. There shall be provided an additional off-street loading and unloading space for each additional forty thousand (40,000) square feet of floor area in excess over one hundred thousand (100,000) square feet.
3. Where trailer trucks are involved, such loading and unloading space shall be an area twelve (12) feet by forty (40) feet with a fourteen (14) foot height clearance and shall be designed with appropriate means of truck access to a street or alley as well as adequate maneuvering area.
4. All areas devoted to permanent off-street loading and unloading as required under this section shall be of a sealed-surface construction and maintained in such a manner that no dust will result from continuous use.

(Signs, Billboards and Other Advertising Structures Section Transferred to Title 30 of Sturgis City Ordinances.)

**ARTICLE V****SECTION 8 - GASOLINE SERVICE STATIONS**

The following regulations shall apply to all gasoline service stations:

1. There shall be a building setback from all right-of-way lines a distance of not less than forty (40) feet.
2. Service stations shall not be constructed closer than fifty (50) feet to any Residential District.
3. The minimum distance between the intersection of right-of-way lines at a corner lot and the driveway to a service station shall not be less than forty (40) feet.
4. A raised curb at least six (6) inches in height shall be constructed on all street property lines, except at driveway openings.
5. The length of curb openings shall not exceed thirty (30) feet.
6. When two curb openings are giving access to a single street, they shall be separated by an island with a minimum dimension of twenty five (25) feet at both the edge of the pavement and the right-of-way line. Curb cuts for driveways shall not be located closer than ten (10) feet to any adjoining property line.
7. To insure that sufficient room be provided on either side of the pumps without intruding upon sidewalks or on adjoining property, gasoline pumps shall not be located closer than fifty (50) feet from any Residential District.
8. Gasoline pumps shall not be located closer than fifteen (15) feet to any public right-of-way line.
9. A masonry wall or solid fence shall be constructed when service station property abuts property zoned for residential purposes. Such wall shall be not less than six (6) feet in height and all required yards shall be landscaped and maintained.
10. Off-Street Parking - As regulated in Article V, Section 5.
11. Signs - As regulated in article V, Section 8.

**ARTICLE V****SECTION 9 - CUSTOMARY HOME OCCUPATION**

This section defines customary home occupations and prescribes the conditions under which such occupations shall be permitted.

A. A customary home occupation is a gainful occupation or profession conducted by members of the family residing on the premises and conducted entirely within the dwelling. In connection with a home occupation, no stock in trade shall be displayed outside the dwelling, and no alteration to any building shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential unit, including permitted accessory buildings.

B. The following occupations subject to the requirements of the above paragraph are permitted as customary home occupations:

1. Antiques, provided, however, that outdoor display is prohibited.
2. Artist, sculptor, author.
3. Barber shop and beauty shop operated by only tow (2) members of the residence.
4. Dressmaker, milliner, seamstress, tailor, interior decorator.
5. Professional office of a physician, dentist, lawyer, engineer, architect or accountant within a dwelling occupied by the same, provided that not more than one paid assistant shall be employed.
6. Teaching, including tutoring, musical instruction or dancing, but limited to one pupil per teacher at any given time.
7. Not more than twenty five (25) percent of the floor area in the structure can be sued for customary home occupations.
8. Any other similar use which the governing body deems to be a home occupation.

**ARTICLE V****SECTION 10 - TEMPORARY USES**

The regulations contained in this section are necessary to govern the operation of certain transitory or seasonal uses, non-permanent in nature.

A. Application for a Temporary Use Permit shall be made to the Building Inspector and shall contain the following information:

1. A survey or legal description of the property to be used, rented or leased for a temporary use, including all information necessary to accurately portray the property.
2. A description of the proposed use.
3. Sufficient information to determine the yard requirements, setbacks sanitary facilities and availability of parking space to service the proposed use.

B. The following uses are deemed to be temporary uses and shall also be subject to the specific regulations and time limits which follow and to the regulations of any district in which such use is located:

1. Carnival or Circus - In any non-residential district, a Temporary Use Permit may be issued for a carnival or circus, but such permit shall be issued for a period of not longer than fifteen (15) days. Such a use shall set back from all Residential Districts a distance of one hundred (100) feet or more.
2. Temporary Buildings - In any district, a Temporary Use Permit may be issued for a contractor's temporary office and equipment sheds incidental to a construction project. Such office or shed shall not contain sleeping or cooking accommodations. Such permit shall be valid for not more than one (1) year but may be renewed a maximum of two one-year extensions. However, such office or shed shall be removed upon completion of the construction project or upon expiration of the Temporary Use Permit, whichever occurs sooner.
3. Real Estate Sales Office - In any district, a Temporary Use Permit may be issued for a temporary real estate sales office in any approved new subdivision. Such office shall contain no sleeping or cooking accommodations. Such permit shall be valid for not more than one (1) year, but may be renewed a maximum of three (3) one-year extensions. Such office shall be removed or converted to a conforming use upon completion of the development of the subdivision or upon expiration of the Temporary Use Permit, whichever occurs sooner.

**ARTICLE V**  
**SECTION 11 - TENTS**

No tent shall be used, erected or maintained as living quarters.

**ARTICLE V**  
**SECTION 12 - SWIMMING POOLS**

The following regulations shall apply to swimming pools:

- A. A private swimming pool shall be any pool or open tank not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than one and one-half (1 1/2) feet. Private swimming pools are permitted in any Residential District provided:
1. The pool is intended and is to be used solely for enjoyment of the occupants of the property on which it is located and their guests.
  2. No swimming pool or part thereof, excluding aprons, walks and equipment rooms, shall protrude into any required front or side yards.
  3. The swimming pool area shall be so walled or fenced so as to prevent uncontrolled access by children from the street or from adjacent properties. Said fence or wall shall be not less than five (5) feet in height and maintained in good condition.
- B. A community or club swimming pool not open to the public shall be any pool constructed by an association of property owners, or by a private club for use and enjoyment by members of the association or club and their families and guests. Community and club swimming pools shall comply with the following conditions and requirements:
1. The pool is intended solely for the enjoyment of the members and families and guests of members of the association or club under whose ownership or jurisdiction the pool is operated.
  2. The pool and accessory structures thereto, including the areas used by the bathers, shall be not closer than fifty (50) feet to any property line of the property on which located.
  3. The swimming pool and all of the area used by the bathers shall be so walled or fenced so as to prevent uncontrolled access by children from the street or adjacent properties. Said fence or wall shall be not less than five (5) feet in height and maintained in good condition. The area surrounding the enclosure, except for the parking spaces, shall be suitably landscaped with grass, hardy shrubs and trees, and maintained in good condition.

**ARTICLE V**

**SECTION 13 - LIGHTING**

Lighting of all types shall be directed so as to reflect away from all residential districts, and shall be so situated so as not to reflect directly onto any public rights-of-way.

**ARTICLE V****SECTION 14- DOWNTOWN OVERLAY DISTRICT**

(Article V, Section 15 added in entirety by Ordinance 2013-03, effective 03-05-2013)

- 18.5.15.01: General Description
- 18.5.15.02: Boundaries
- 18.5.15.03: Design Guidelines
- 18.5.15.04: Permit Process
- 18.5.15.05: Change of Occupancy and Temporary Vending Permits
- 18.5.15.06: Demolition Permit
- 18.5.15.07: Permitted Uses

**18.5.15.01 General Description.**

The Downtown District Overlay Zoning is added as an overlay district to the existing zoning and signage for this area. All provisions of the underlying district zoning are applicable. In instances where the Downtown Overlay Zoning District requirements or allowances contradict the underlying zoning district or signage regulations, the Downtown District Overlay Zoning shall be controlling. When a building or feature identified within this overlay or within the underlying zoning district is replaced, the replacement shall conform to the regulations. This district is intended to preserve and enhance the unique character of the area the district encompasses by establishing special standards that address aesthetics, access, site development, screening, landscaping, and parking.

**18.5.15.02 Boundaries.**

The Downtown Overlay District is generally located within the following boundaries:

Property located north of Sherman Street to and including properties fronting Lazelle, on the east properties fronting Middle Street and to the west, properties fronting 4<sup>th</sup> Street.

**18.5.15.03 Design Guidelines.****1. General Building Design**

The architecture of buildings in this zone should generally reflect an urban main street quality. While variations in architectural style and interest will be accommodated, the built environment should be developed to a human scale and encourage pedestrian circulation.

The following general building design criteria apply to development within this zone:

Buildings within the same development complex or setting should consistently use colors, materials, textures, patterns, and rhythms found with other buildings in the complex.

The perceived mass of a building should be broken down by using building façade articulation, variations in roof forms, mass and void techniques, modification of textures and colors, deep set windows, wide building arcades, the accenting of building entries, and the use of building focal points or vertical accents. All elevations of the building should express consistent architectural detailing and character.

Development design should encourage walking and biking rather than driving between businesses.

**Awning and Arcade Design**

Sign lettering and/or logos should comprise no more than 30% of the total exterior surface of an awning or canopy, and shall be included in the calculation of the allowable sign area. Existing awnings or canopies that exceed this requirement may remain until they are replaced.

Awnings may be provided along the entire frontage of commercial buildings. Marquees are encouraged where appropriate.

Awnings or canopies shall be hung above the display window space at least 8-10 feet above the public walkway with a minimum 8-foot vertical clearance. They may extend 6-8 feet over the walkway from the building's face.

#### Fenestration

Buildings should meet the ground with a solid base treatment that creates a visual transition from sidewalk to building wall.

Windows shall not be opaque.

Building entrances should be defined for ease of use. Weather protection features are also encouraged.

Display windows on the ground floor of retail and commercial buildings shall be the predominant surface on the first story. New commercial construction should provide a minimum of forty percent of the first floor wall surface in windows that face the street.

#### Building Materials

Structures' facades should consist of durable and natural appearing materials.

The use and design of materials in the composition of structures shall consider pedestrian level durability.

#### Building Massing and Articulation

Flexibility in the division of larger buildings into smaller tenant spaces should be considered in the design and articulation of storefront modules.

Facades should be well composed and articulated with a variety of materials and forms.

Cornice lines, accent bands and other façade elements can create interesting shadow effects, contributing to the visual interest of a facade.

Building entrances should be designed in a manner which breaks up the building mass and aids in pedestrian orientation.

Building forms should be articulated by varying roof heights and wall planes. Long, unbroken volumes and large, unarticulated wall and roof planes are not appropriate.

The layout of primary buildings and outlot buildings should be varied to achieve an interesting visual environment.

Multiple-story taller buildings may be acceptable where compatible with adjoining uses and designed to minimize the appearance of building bulk and mass. This can be accomplished through upper story setbacks, changes in building materials, and the articulation of building details.

#### Signage

Sign design for the Downtown Overlay District is not based on a specific theme or style, but rather should be an extension of the primary building quality and aesthetics.

Wall signs should be integrated to appear part of the building façade.

When there are multiple tenants for commercial uses, all signs should be consistent and architecturally integrated in the form of size, shape, color, materials, lighting, and placement.

Visible raceways and transformers for individual letters are discouraged.

In general, signs should enhance the visual interest and remain subordinate to the overall character of the downtown area.

Wall signs should be located on the upper portion of the first floor storefront and should be centered within an area uninterrupted by doors, windows, or architectural details.

Sign mounting brackets and support structures should match other fixture materials used on the façade of the building.

To convey a subtle appearance, the use of back-lit or reverse channel letters with halo illumination rather than internally-lit signs are encouraged.

Façade mounted fin signs should be perpendicular to the facade of the building and at least 8 feet above the sidewalk. The outside edge must be at least 2 feet from the curb line, and no more than 4 feet from the face of the building.

Window signs should be limited to 25% coverage of the window area, including temporary and "sale" signs. Seasonal window displays and seasonal lighting may exceed this coverage for a maximum of sixty days. Internally illuminated flashing signs in windows are prohibited.

Wall mounted signs located above the store front area, or signage should be integrated into the design of the facade, taking on characteristics of the scale, lines and features of the façade.

For two story buildings a horizontal transition element should be utilized between the first floor and upper stories. Typically, this is a location for signage, canopies or awnings. The detail should break the plane of the wall surfaces and create a frame for the first floor storefront design.

#### Parking Lots.

Surface parking lots should ideally not create significant gaps along the street and sidewalk. Any surface lot in the district should:

Use landscaping, trees, colonnades or other construction to maintain the line formed by buildings along the sidewalk.

Make sure there is adequate perimeter landscaping that is high enough to screen but low enough to let people feel safe.

Interior landscaping should especially include shade trees.

Provide adequate direction and information signs for motorists.

Lots should be hard surfaced (asphalt, concrete)

Parking lots fronting Main Street are allowable as long as they directly service an adjoining business and do not represent a majority of the landowner’s holding. Curb cuts into the parking area from Main Street would be allowable to allow vehicular ingress into the parking area.

Any newly developed or improved open space accessible to the public should generally:

Create a comfortable and interesting place to rest.

Let people clearly know it's there and that it's accessible.

Provide plenty of seating (about one linear foot for every 30 square feet of paved open space).

Have enough lighting to create a safe nighttime environment.

Use fountains or other water features.

Incorporate public art.

Landscaping

For the sake of visual continuity, large shade trees should be planted in the right-of-way every 25 feet to 35 feet along the curbline in order to create a continuous canopy.

A mix of ornamental and shade trees can be planted outside the right-of-way for both shade and visual variety.

Lighting

Lighting of building facades or the use of architectural lighting that results in hot spots on a building wall is highly discouraged.

The use of bollard lighting for pedestrian pathways and parking areas is encouraged and is preferable to lights mounted on walls, posts or standards.

Access, Parking and Circulation

Provide walkways adjacent to roadways, but separate from the curb whenever possible with landscaping, a bicycle lane, or on-street parking.

All multi-family dwelling units shall provide a minimum of 1 off street parking space per dwelling unit. For multi-family dwelling units of 5 and above, there shall be additional spaces for guest parking as provided in the following chart:

<i>Dwelling units</i>	<i>Guest Parking Spaces</i>
5-7	1
8-11	2
12-15	3
16-19	4
20-23	5
24-27	6
28 +	1 additional space per dwelling unit.

Open Space and Amenities

Outdoor common areas including hardscape plazas, green spaces, water features and play areas are desirable elements and should be treated as visual and functional focal points.

The use of public art is encouraged.

Integrate plazas and other spaces of varying scales to provide rest, relaxation and outdoor dining opportunities for shoppers and other visitors. Spaces should be conveniently positioned adjacent to walkways and buildings.

Site features should be varied in color, pattern and texture within a coordinated palette that relates to the building architecture. High quality materials and finishes should be used throughout.

Where practical, benches, water fountains and waste receptacles should be visually and functionally coordinated with the overall site design. The location of waste receptacles should be provided as part of the development plan.

Screening

Utility cabinets and pedestals should be located where they can be screened from view.

They should not be located within a landscaping island in a parking lot where they are subject to vehicle damage. Consideration should be given to accessibility for required service and maintenance of such facilities.

Dumpsters should be fully screened from view with durable building materials that are coordinated with the overall building design.

Rooftop mechanical equipment shall be screened by architectural elements and painted to match the color of the roof.

Where feasible, loading, service and equipment areas should not be visible from public roadways or parking areas.

Outdoor storage areas should be located behind or beside buildings and be shielded from view of the street.

#### Mixed-Use Development

Mixed use development is highly encouraged, specifically providing commercial retail on the street level and residential/office uses on second and higher stories.

The residential portion of a mixed use building should incorporate typical residential features such as porches and balconies that offer façade articulation and transparency.

Residential balconies should be recessed and not overhang above the public right of way.

Additions should be designed so as not to obscure, alter or destroy the character of the original building when viewed from a public right-of-way.

Setbacks

All new construction shall have lot coverage of at least (50%) of the lot area.

All new buildings constructed are encouraged to have set backs of at least 10 feet from the street right of way.

All new buildings should be setback from alleyways at least 25 feet to allow for parking.

Snow removal areas

For any multi-family dwelling of 3 or more units, a snow removal area shall be designated that will not interfere with the normal requirements for parking, sight triangles or landscaping.

Garbage collection areas

For any multi-family dwelling of 3 or more units, a garbage collection area shall be designated. The designated garbage area must be screened.

#### **18.5.15.04 Permit Process**

All proposed developments within this zoning overlay district shall apply for a building permit through the City Building Inspections Office. The plan review shall include the proposed development's consistency with the guidelines established in this Ordinance. If the City staff believes that the project is insufficient, the project will be referred to the Planning and Zoning Commission for approval. If the project does not receive approval from the Planning and Zoning Commission, the developer may appeal the denial to the City Council.

#### **18.5.15.05 Change of Occupancy and Temporary Vending Permits**

Effective January 1, 2014 all structures located within the Downtown Overlay District shall be inspected to show the structure meets all State electrical and plumbing requirements whenever a change of occupancy as defined in the 2006 International Building Code occurs or when a temporary vending permit is requested for any area within the structure. Any deficiencies found that threaten the safety of occupants shall be rectified in accordance with State electrical and plumbing code requirements before a certificate of occupancy may be issued for a change in

use or before a Temporary Vending Permit may be issued. Once a property has been inspected as required by this ordinance and found to be in compliance, and any subsequent temporary occupancy from year to year is unchanged, then no further inspection is required as a result of the temporary occupancy. This requirement shall not apply to an application for a Temporary Vending Permit for areas completely outside of the building.

Effective January 1, 2014 all structures located within the Downtown Overlay District shall be inspected, by the City Building Official or designee of made by the City Manager, whenever a change of occupancy occurs or a Temporary Vending Permit is requested, to ensure compliance with the requirements of the 2006 International Building Code and that the structure meets all for structural and mechanical requirements. Any deficiencies found that threaten the safety of occupants shall be rectified before a certificate of occupancy may be is issued for a change in use or before a temporary vending license may be is issued. Once a property has been inspected as required by this ordinance and found to be in compliance, and any subsequent temporary occupancy from year to year is unchanged, then no further inspection is required as a result of the temporary occupancy. All property owners shall apply for a review at least 30 days prior to a certificate of occupancy permit or temporary vending permit is desired to be issued. This requirement shall not be necessary if the Temporary Vending Permit is requested for an area completely outside of the building.

#### **18.5.15.06 Demolition Permit**

Before a demolition permit is authorized within the overlay district, the applicant shall also apply for a building permit for a replacement building that complies with this title. If construction is not completed within 18 months, no temporary vending permit(s) shall be issued for the entire property until construction is completed.

#### **18.5.15.07 Permitted Uses**

Residential units, either single family or multifamily shall be permitted uses within the district. The design of new buildings should coincide with the standards previously described. Residential units shall be allowed on the upper levels throughout the district. Ground floor units shall be allowed on Main Street between Middle and Junction and on Main Street between 2<sup>nd</sup> and 4<sup>th</sup>.

Automotive, Motorcycle, ATV, etc. dealerships shall be conditionally permitted uses within the district. All proposed dealerships shall have adequate parking and off street and off alley service area.

(Article V, Section 15 added in entirety by Ordinance 2013-03, effective 03-05-2013)

**ARTICLE VI**  
**NONCONFORMING BUILDINGS, STRUCTURES AND USES OF LAND**

Any otherwise lawful use of land or structure existing at the time of adoption of these regulations may be continued, maintained and repaired, except as otherwise provided in this article.

**A. CONTINUANCE OF NONCONFORMING USES:**

The lawful operation of a nonconforming use as such use existing on the effective date of this Ordinance, or any amendment thereto, by which the use became a nonconforming use, may be continued; provided, however, that the number of dwelling units in a nonconforming dwelling use shall not be increased over or exceed the number of dwelling units existing in the nonconforming use on the effective date of this Ordinance.

**B. EXTENSION OF NONCONFORMING USES IN STRUCTURES:**

A nonconforming use in a structure may be extended throughout the structure provided no structural alterations, except those required by law or ordinance, are made therein.

**C. CHANGES IN NONCONFORMING USES:**

The nonconforming use of a building may be changed to another nonconforming use that is in the same (or higher) use group as the previous nonconforming use until the building is removed; provided, however, that a Certificate of Occupancy must be obtained before the change is made.

**D. TERMINATION OF NONCONFORMING USES:**

Except as hereinafter provided, a nonconforming use that has been abandoned or discontinued for more than one (1) year shall not hereafter be reestablished. In the event of such discontinuance or abandonment for more than one (1) year, the Building inspector shall give notice to the property owner by registered or certified mail that the nonconforming use is to be eliminated within a time frame set by the Common Council in each instance.

**E. OPEN LAND NONCONFORMING USE OF:**

A nonconforming use not enclosed in a building or structure, or one in which the use of the land is a use exercised principally out-of-doors and outside of a building or structure shall, after three (3) years from the date of notification, become a prohibited and unlawful use and shall be discontinued.

**F. DESTRUCTION, DAMAGE OR OBSOLESCENCE OF STRUCTURE:**

The right to operate and maintain any nonconforming use shall terminate whenever the structure, or structures, in which the nonconforming use is operated and maintained, are damaged, destroyed or become obsolete or substandard beyond the limits hereinafter established for the termination of nonconforming structures.

**G. CONTINUANCE OF NONCONFORMING STRUCTURES:**

Except as hereinafter provided, any nonconforming structures may be occupied and operated and maintained in a state of good repair.

**H. ENLARGEMENT OR EXTENSION OF NONCONFORMING STRUCTURES:**

A nonconforming structure in which a nonconforming use is operated shall not be enlarged or extended; a nonconforming structure in which only permitted uses are operated may be enlarged or extended if the

enlargement or extension can be made in compliance with all of the provisions of this Ordinance established for structures in the district in which the nonconforming structure is located.

I. RESTORATION OF DAMAGED NONCONFORMING STRUCTURES:

A nonconforming structure damaged in any manner and from any cause whatsoever to the extent of not more than fifty percent (50%) of its replacement cost may be restored, provided restoration is completed within one (1) year of the date of the damage; provide that if a nonconforming residential structure is damaged to the extent of more than 50 percent (50%) of its replacement cost it may be restored by the person who is the owner of the nonconforming structure at the time that it became a nonconforming use and may restore said structure providing restoration is completed within one (1) year from the date of the damage.

**ARTICLE VII  
ADMINISTRATION AND ENFORCEMENT**

**ARTICLE VII  
SECTION 1 - ORGANIZATION**

**A. ADMINISTRATIVE OFFICER:**

The provisions of this Ordinance shall be administered by the City Engineer or Building Inspector who shall:

1. Issue all building permits and make and maintain records thereof.
2. Issue all certificates of occupancy and make and maintain records thereof.
3. Issue and renew where applicable all Temporary Use Permits and make and maintain records thereof.
4. Maintain and keep current Zoning Maps and records of amendments thereto.
5. Conduct inspections as prescribed by this Ordinance and such other inspections as are necessary to ensure compliance with the various provisions of this Ordinance.
6. Issue all Mobile Home Park permits and make and maintain records thereof.

**B. BOARD OF ADJUSTMENT:**

1. The establishment of a Board of Adjustment, hereafter referred to as the "Board" or "The Council" is hereby authorized. The Board shall be composed of the Sturgis City Council.
2. The Mayor shall act as chairman of the Board and the City Auditor shall act as secretary. The Board shall meet at the call of the chairman, and at such other items as the Board may determine at a fixed time and place. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Auditor and shall be a public record. It shall have the power to call on any other departments for assistance in the performance of its duties, and it shall be the duty of such other departments to render all such assistance as may be reasonably required.

"In the case of all appeals, the concurring vote of at least two-thirds of the members of such board as so composed shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the appellant on any matter upon which it is required to pass under any zoning ordinance, or to effect any variation in such ordinance."

3. Powers of the Board of Adjustment:

The Board has the authority to compel the attendance of witnesses at hearings and to administer oaths, and in the furtherance of their duties shall have the following powers:

- a. The Board shall have the power to hear and decide appeals wherein it is alleged there is an error in any order, requirement, decision or determination made by an administrative official.

- b. To hear and decide, in accordance with the provisions of any such Ordinance, requests for special exceptions or for interpretation of the Zoning Map.
- c. Where there are practical difficulties or unnecessary hardships of carrying out the strict letter of this Ordinance, in any way, the Board shall have the power, in passing upon appeals, to authorize such variance from the terms of this Ordinance as will not be contrary to the public interest and so that the intent of the Ordinance shall be observed and substantial justice done.
- d. Establish such rules of procedure as are necessary to the performance of its functions hereunder.
- e. Review and decide all applications for Uses Permitted on Review in accordance with Article V, Section 1 and this Article.
- f. Study and report on all proposed amendments to this Ordinance; further, to review annually this Ordinance and on the basis of such review, suggest amendments thereto.

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

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

**ARTICLE VII****SECTION 3 - VARIANCES**

The purpose of the variance is to modify the strict application of the specific requirements of this Ordinance in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his lot as the Zoning Ordinance intended.

**A. APPLICATION:**

An application shall be filed with the governing body for review. Said application shall show the location and intended use of the site, the names of the property owners and existing land uses within two hundred (200) feet, and any other material pertinent to the request which the governing body may require.

**B. PUBLIC HEARING:**

"Upon receipt of an application and fee, the Board shall give notice of public hearing within thirty five (35) days. Such notice of the time place of such hearing shall be published in the legal newspaper of the City ten (10) days prior to that public hearing. The Board shall consider and decide all applications for variance within thirty (30) days of such public hearing and in accordance with the standards provided below."

**C. STANDARDS FOR VARIANCES:**

In granting a variance, the Board shall ascertain that the following criteria are met:

1. Variances shall be granted only where special circumstances or conditions (such as exceptional narrowness, topography, or when the relaxation of a restriction of the code, granted by the Board of Adjustment shall provide a quantifiable benefit to the City and the surrounding neighborhood of the parcel) are fully described in the finding of the Board.
2. Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.
3. For reasons fully set forth in the findings of the board, the aforesaid circumstances or conditions are such that the strict application of the provisions of the Ordinance would deprive the applicant of any reasonable use of his land. Mere loss in value shall not justify a variance, there must be a deprivation of beneficial use of land.
4. Any variance granted under the provisions of this section shall be the minimum adjustment necessary for the reasonable use of the land.
5. The granting of any variance is in harmony with the general purposes and intent of this Ordinance and will not be injurious to the neighborhood, detrimental to the public welfare or in conflict with the comprehensive plan for development.
6. A fee of one hundred dollars (\$100.00) due and payable at the time of the appeal shall be paid to the City Treasurer to cover the costs of notices and other expense incidental to the hearing.

**(Article VII, section 2 (c)(6) amended effective Nov. 28, 2003, Ordinance 2003-12)**

7. Any subdivision of land within the City of Sturgis or one mile thereof after January 1, 1993, shall not be eligible for variances under the provisions set forth in this Ordinance.

**(Article VII, section 3 (B) (C-1) revised by Ordinance 2013-20, effective 12-4-2013)**

**D. REQUIREMENTS FOR THE GRANTING OF A VARIANCE:**

Before the Board shall have the authority to grant a variance, the person claiming the variance has the burden of showing:

1. That the granting of the permit will not be contrary to the public interest.
2. That the literal enforcement of the Ordinance will result in unnecessary hardship.
3. That by granting the permit contrary to the provisions of the Ordinance, the spirit of the Ordinance will be observed.
4. That by granting the permit / substantial justice will be done.

**E. COURT REVIEW OF BOARD:**

1. Any person / firm or corporation aggrieved by any decision of the Board may present to the court of competent jurisdiction a petition fully verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of illegality.

Such petition shall be presented to the court within thirty (30) days after publication, in the City's legal newspaper/of the minutes of the board action. Such petition shall not be filed with respect to the decision of the Building Inspector or any administrative officer without recourse to the Board.

2. Upon presentation of such petition the court may allow a writ of certiorari directed to the Board to review such decision of the Board. The Board shall be required to turn over to the court certified copies of all papers acted on by it, and any other information as may be pertinent and material to show the grounds of the decision appealed from.

If upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

3. Costs shall not be allowed against the Board unless it shall appear to the court that the Board acted with gross negligence or in bad faith or with malice in making the decision appealed from.

**ARTICLE VII**

**SECTION 4 - CERTIFICATE OF OCCUPANCY**

No new building shall be occupied and no change in use of a building or part of a building shall be made until after the Building Inspector shall have issued a certificate of occupancy therefore as regulated in the Uniform Building Code of the City of Sturgis.

**ARTICLE VII****SECTION 5 - PROCEDURE FOR AUTHORIZING USES PERMITTED ON REVIEW**

(Article VII, Section 4 replaced in entirety effective October 16, 2013, Ordinance 2013-13)

The following procedure is established to integrate property the Uses Permitted on Review with other land uses located in the district. These uses shall be reviewed by the governing body and authorized or rejected under the following procedure:

A. **APPLICATION:**

An application shall be filed with the governing body for review. Said application shall show the location and intended use of the site, the names of the property owners and existing land uses within two hundred (200) feet, and any other material pertinent to the request which the governing body may require.

**Application - - Filing.**

Any person desiring a conditional use permit provided for in this chapter may file an application with the Planning and Permitting Department, except that no application shall be filed or accepted if final action has been taken within one year prior thereto on an application requesting the same, or substantially the same permit.

2. **Application - - Information required.**

An application for a conditional use permit shall contain the following information:

- a) Name and address of the applicant and of all persons owning any or all of the property proposed to be used; Clear evidence that the applicant is the owner of the premises involved, or has written proof of permission from the owner or owners that they consent to the use proposed in such application;
- b) Location of subject property (address or vicinity), and the legal description of the property involved;
- c) The nature of the proposed use, indicating the primary business use to be permitted, and purpose for which such building, structure or improvement is to be erected, constructed, or as proposed to be altered, enlarged, moved, occupied or used;
- d) A statement of the nature, condition and development of the property for which the conditional use permit is being applied for and the nature, condition and development of the adjacent uses, buildings and structures;
- e) Provide a site plan drawn to a scale satisfactory to and provide at least 5 copies indicating the area and dimensions of the site or location of the proposed use, and showing the location and dimensions of all structures, yards, walls, fences, parking and loading facilities, landscaping, and other development features;
- f) Describe the dimensions and state of improvement of the adjoining streets and highways providing access to the proposed site of the requested use;
- g) List all other permits-applied for and/or secured in compliance with the provisions of other applicable ordinances for the subject property;
- h) Provide a list, certified to be correct by affidavit or by a statement under penalty of perjury, of the names and addresses of all persons who are shown on the latest available assessment roll of Meade County as owners of the subject parcel of land and as owning property within a distance of 300 feet from the exterior boundaries of the parcel of land to be occupied by the use. One copy of said map shall indicate where such ownerships are located,
- i) Provide Proof satisfactory to the Planning and Permitting Department that water will be available in quantities and pressures required by the Water Ordinance,
- j) Provide such other information as the director may require, including necessary verification of the accuracy of all information, maps and lists submitted.

3. **Application--Burden of proof.**

In addition to the information required in the application by Section 22.56.030 the applicant shall substantiate the following facts:

- a) That the requested use at the location and in the proposed structure will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, or
- b) Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, or
- c) Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare; and
- d) That the proposed site and structure is adequate in size and shape to accommodate the yards, fences, parking and loading facilities, landscaping and other development features required in order to integrate said use with the uses in the surrounding area.
- e) That the proposed site is adequately served by highways or streets of sufficient width, and improved as necessary to carry the kind and quantity of traffic such use would generate, and
- f) That the proposed site is adequately served by other public or private service facilities as are required.
- g) That at no time may any area authorize for a conditional use permit for a secondary residential use exceed 1000 square feet.
- h) That the structure subject to the Conditional Use Permit shall meet all applicable City Ordinances, International Building Codes and State Regulations that apply.

4. **Application--Fee and deposit.**

When an application is filed, it shall be accompanied by the filing fee and deposit as required.

5. **Application--Denial for lack of information.**

An application for a conditional use permit may be denied without hearing if such application does not contain the information required by this chapter.

6. **Application--Public hearing required--Exception.**

In all cases where an application for a conditional use permit is filed in proper form, the public hearing shall be held pursuant to the procedure herein unless the application is withdrawn.

B. PUBLIC HEARING:

"Upon receipt of an application, the Board shall give notice of public hearing within thirty-five (35) days. Such notice of the time and place of such hearing shall be published in the legal newspaper of the City ten (10) days prior to that public hearing. The Board shall consider and decide all applications for uses permitted on review within thirty (30) days of such public hearing and in accordance with the standards provided below."

The Board or City Planning Commission may require the applicant to give notice to all property owners affected by the granting of the relief request. The form and content of the notice shall be as prescribed by the Board and/or Planning Commission.

1. **Grant or denial--Findings and decision at public hearing.**

An application for a conditional use permit may be approved where the information submitted by the applicant and/or presented at public hearing substantiates the following findings:

That the proposed use will be consistent with the adopted general plan for the area.

That the requested use at the location proposed will not:

Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area; or

Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site; or

Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare;  
or

That the proposed use is significant and integral part of the planned primary use of the structure for the next twelve months.

That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and

That the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; and by other public or private service facilities as are required.

The application shall be denied where the information submitted by the applicant and/or presented at public hearing fails to substantiate all such findings that are required by this chapter.

C. **RESTRICTIONS:**

In the exercise of its approval, the governing body may impose such conditions regarding the location, character or other features of the proposed use or buildings as it may deem advisable in the furtherance of the general purposes of the Ordinance.

1. **Permit--Additional conditions imposed when.**

In approving an application for a conditional use permit, the decision shall state the conditions as necessary to insure that such use will be in accord with the findings.

Such Conditions may involve any pertinent-factors affecting the establishment, operation and maintenance of the requested use, including, but not limited to:

Special yards, open spaces and buffer areas;

Fences and walls;

Parking facilities, including vehicular ingress and egress and the surfacing or parking areas and driveways to specified standards;

Street and highway dedications and improvements, including sidewalks, curbs and gutters;

Water supply and fire protection in accordance with the provisions of this ordinance;

Landscaping and maintenance of grounds;

Regulation of nuisance factors such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances and radiation;

Regulation of operating hours for activities affecting normal neighborhood schedules and functions;

Regulation of signs, including outdoor advertising;

A specified validation period limiting the time in which development may begin;

Provisions for a bond or other surety that the proposed conditional use will be removed on or before a specified date;

A site plan indicating all details and data as prescribed in Title 18.

Such other conditions as will make possible the development of the proposed conditional use in an orderly and efficient manner and in general accord with all elements of the general plan and the intent and purpose of this Title 18.

D. **ISSUANCE OF PERMIT:**

Unless specifically modified by a conditional use permit, all regulations prescribed in the zone in which such conditional use permit is granted shall apply. Upon completion of the necessary application, hearing and approval of the governing body, the Building Inspector shall issue the building Permit subject to all applicable rules, regulations and conditions.

E. **VALIDITY OF PLANS:**

All approved plans, conditions, restrictions and rules made a part of the approval of the governing body shall constitute certification on the part of the applicant that the proposed use shall conform to such regulations at all times.

## F. TIME LIMIT:

All applications for Uses Permitted on Review shall be decided within thirty (30) days of the date of public hearing.

1. **Expiration date of unused permits.**

A permit which is not used within the time specified in such permit, or, if no time is specified, within two years after the granting of the permit, becomes null, void and of no effect at all. A permit issued may be extended for a period of not to exceed one year, provided an application requesting such extension is filed prior to such expiration date. In the case of a nonprofit corporation organized to provide low-income housing for the poor or elderly, there may be an additional one-year extension, provided that an application requesting such extension is filed prior to the expiration of the first such extension. In the case of a conditional use permit filed and heard concurrently with a land division, the limits and extensions allowed shall be concurrent and consistent with those of the land division. A conditional use permit shall be considered used, within the intent of this section, when construction or other development authorized by such permit has commenced that would be prohibited in the zone if no permit had been granted.

2. **Expiration following cessation of use.**

A conditional use permit granted by the Council shall automatically cease to be of any force and effect if the use for which such conditional use permit was granted has ceased or has been suspended for a continuous period of 12 months.

(Article VII, Section 4 replaced in entirety effective October 16, 2013, Ordinance 2013-13)

**ARTICLE VII****SECTION 6 - AMENDMENTS UPON APPLICATION BY PROPERTY OWNER**

The regulations, restrictions, boundaries and options set forth in this Ordinance may be amended, supplemented, revised or repealed from time to time as conditions warrant, upon application by the property owner and subject to the following conditions:

**A. APPLICATIONS:**

An application for an amendment shall be filed with the City Office of Planning and Permitting. The above mentioned application shall be obtained from the office of Planning and Permitting and when completed and submitted shall demonstrate written consent of property owners constituting at least sixty percent (60%) of the total assessed value of all the property located within 150 feet from any part of such proposed amended district. The required notice distance shall not include intervening streets and alleys or other public property.

**B. PUBLIC HEARING:**

Upon receiving the application, the Planning and Zoning Commission shall file with the governing body, a preliminary report and shall hold hearings, notice of which shall be published in a manner to allow the public hearing to be held one week prior to the date of making the preliminary report to the governing body.

The governing body may adopt any changes in the regulations, restrictions or boundaries after having published notice of hearing at least one week prior to the date of adoption of any amendments in the ordinance as notice of the time and place where all persons interested shall be given a full, fair and complete hearing. The ordinance, if adopted, shall be adopted as other ordinances with the same publications requirements.

**C. TIME LIMIT:**

The report of the Planning and Zoning Commission regarding any such proposed amendment upon application shall be submitted to the governing body within thirty (30) days of the public hearing before the Planning and Zoning Commission.

**D. STANDARDS FOR AMENDMENTS UPON APPLICATION:**

THE FOLLOWING CONDITIONS SHALL BE MET FOR ALL AMENDMENTS:

- A. The proposed amendment shall be necessary because of substantially changed or changing conditions of the area and districts affected.
- B. The proposed amendment shall be consistent with the intent and purposes of this ordinance.
- C. The proposed amendment shall not adversely affect any other part of the city, nor shall any direct or indirect adverse effects result from such amendment.
- D. The proposed amendment shall be consistent with the comprehensive plan as adopted by the City of Sturgis, including, but not limited to, the major road plan, land use plan, community facilities plan and other portions of the comprehensive plan.

(Revision effective May 12, 1997, Ordinance 1997-06)  
(Section 6 revised by Ordinance 2013-20, effective 12-4-2013)

**ARTICLE VII  
SECTION 7 - FEES**

Fees for all permits required herein, and fees required for filing of appeals and fees for applications for amendments to this Zoning Ordinance shall be established as follows and be collected by the following:

	FEES	COLLECTED BY
<u>Building Permits</u>	As regulated by Ordinance	City Finance Officer and credited to the general fund
<u>Variances</u>	\$100.00	City Finance Officer and credited to the general fund
<u>Amendments</u>	\$25.00	City Finance Officer and credited to the general fund
<u>Temporary Use Permits</u>	\$10.00	City Finance Officer and credited to the general fund
<u>Mobile Home Park Permit</u>	\$25.00	City Finance Officer and credited to the general fund
<u>Use on Review Permit</u>	\$100.00	City Finance Officer and credited to the general fund
<u>Zoning Amendment</u>	\$250.00	City Finance Officer and credited to the general fund

(Title 18, Article VII Section 6 amended effective Nov. 28, 2003, Ordinance 2003-12)

**ARTICLE VII  
SECTION 8 - PENALTIES**

It shall be unlawful to erect, construct, reconstruct, alter, maintain or sue any building or structure, or to use any land in violation of any regulation in this Ordinance. Any person, firm, association or corporation who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any of the provisions of this Ordinance shall, upon conviction thereof, be subject to a fine of one hundred (100) dollars together with the cost of the action; every day of violation shall constitute a separate offense. Compliance therewith may also be enforced by injunctive order at the suit of the city or the owner or owners of real estate within the district affected by the regulation of this Ordinance.

**ARTICLE VII  
SECTION 9 - VALIDITY**

Should any section, clause or provision of this Ordinance be declared by the Court to be unconstitutional or invalid, this judgment shall not affect the validity of the Ordinance as a whole or any other part other than the part judged invalid.

**ARTICLE VII  
SECTION 10 - CONFLICTS WITH OTHER LAWS**

In the interpretation and application of the provisions of this Ordinance, these provisions shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety and the general welfare. Whenever the requirements of the Ordinance are a variance with the requirements of other lawfully adopted rules, regulations or Ordinance, the most restrictive, or that imposing the higher standards shall govern.

**ARTICLE VII  
SECTION 11 - REPEALER**

Any Ordinance or Code now in effect that conflicts with any provisions of this Ordinance is hereby repealed, held to be invalid and to no effect.

(Passed by the Common Council of the City of Sturgis on this 2nd day of March, 1987)

**ARTICLE VIII  
REGULATIONS CREATING FLOODWAY AND FLOODWAY FRINGE DISTRICTS, DEFINING THE  
SAME AND SETTING FORTH REGULATIONS THEREOF**

**ARTICLE VIII****SECTION 1.0 - STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES****1.1 STATUTORY AUTHORIZATION**

The Legislature of the State of South Dakota has in SDCL 9-12-13 and SDCL 11-4, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, be it ordained by the Common Council of the City of Sturgis, South Dakota as follows:

**1.2 FINDINGS OF FACT**

- (1) The flood hazard areas of the City of Sturgis, are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extra ordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in areas of special hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proved, elevated or otherwise protected from flood damage also contribute to the flood loss.

**1.3 STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets and bridges, located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- (8) To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

## 1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

**ARTICLE VIII**  
**SECTION 2.0 - DEFINITIONS**

**"Appeal"** means a request for a review of the Sturgis City Engineer's interpretation of any provisions of this ordinance or a request for a variance.

**"Area of Special Flood Hazard"** means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

**"Base Flood"** means the flood having a one percent chance of being equalled or exceeded in any given year.

**"Development"** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

**"Existing Manufactured Home Park or Manufactured Home Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this ordinance.

**"Expansion to an Existing Manufactured Home Park or Manufactured Home Subdivision"** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

**"Flood" or "Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land area from:

- (1) The overflow of inland or tidal waters and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

**"Flood Insurance Rate Map" (FIRM)** means the official map on which the Federal Emergency Management Agency has delineated both the areas of special hazards and the risk premium zones applicable to the community.

**"Flood Insurance Study"** means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation.

**"Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**"Highest Adjacent Grade"** means the highest natural elevation of the ground surface prior to construction next to the proposed wall of a structure.

**"Manufactured Home"** means a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when connected to the required utilities. For Flood Plain Management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles, placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

**"Mobile Home"** means manufactured home.

**"New Construction"** means structures of which the "start of construction" commences on or after June 1, 1977.

**"Manufactured Home Park or Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"Start of Construction"** means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a structure (other than a manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of a structure or any part thereof on its piling or foundation. For manufactured homes not within a manufactured home park or manufactured home subdivision, "start of construction" means the affixing of the manufactured home to its permanent site. For manufactured homes within manufactured home parks or manufactured home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the manufactured home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

**"Structure"** means a walled and roofed building or manufactured home that is principally above ground.

**"Substantial Improvement"** means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) before the improvement or repair is started, or
- (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
- (2) any alteration of a structure listed on the National Register of Historic Places or a state Inventory of Historic Places.

**"Variance"** means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

**"Lowest Floor"** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

**ARTICLE VIII****SECTION 3.0 - GENERAL PROVISIONS****3.1 LAND TO WHICH THIS ORDINANCE APPLIES**

This ordinance shall apply to all flood plain areas in all zoning districts, as shown on FIRM Map.

**3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**

The areas of special flood hazard identified by the Federal Emergency Management Agency is a scientific and engineering report entitled "The Flood Insurance Study for the City of Sturgis, South Dakota", dated January 19, 1982, with an accompanying Flood Insurance Rate Map is hereby adopted by reference and declared to be part of this ordinance. The Flood Insurance Study is on file at the office of the Sturgis City Auditor at 1147 Sherman Street, Sturgis, South Dakota and the office of the Sturgis City Engineer at 1029 First Street, Sturgis, South Dakota.

**3.3 COMPLIANCE**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations.

**3.4 ABROGATION AND GREATER RESTRICTIONS**

This ordinance is not intended to repeal, abrogate, or impair any existing easement, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**3.5 INTERPRETATION**

In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

**3.6 WARNING AND DISCLAIMER OF LIABILITY**

In degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Sturgis, South Dakota, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

**ARTICLE VIII****SECTION 4.0 - ADMINISTRATION****4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT**

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. application for a Development Permit shall be made on forms furnished by the Sturgis City Engineer and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level, of the lowest floor (including basement ) of all structures;
- (2) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section 5.2-2; and
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

**4.2 DESIGNATION OF THE ADMINISTRATOR**

The Sturgis City Engineer is hereby appointed to administer and implement this ordinance by ranting or denying Development Permit applications in accordance with its provisions.

**4.3 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR**

Duties of the Administrator shall include, but not be limited to:

**4.3.1 Permit Review**

- (1) Review all Development Permits to determine that the permit requirements of this ordinance have been satisfied.
- (2) Review all development Permits to determine that all necessary permits have been obtained from Federal, State or local governmental agencies form which prior approval is required.
- (3) Review all development Permits to determine if the proposed development is located in the Floodway. If located in the Floodway, assure that the encroachment provisions of Section 5.3(1) are met.

**4.3.2 Use of Other Base Flood Data**

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Administrator shall obtain, review, and reasonably utilize any base flood elevation data available from a Federal, State, or other source, in order to administer Sections 5.2-1, SPECIFIC STANDARDS, Residential Construction, and 5.2-2 SPECIFIC STANDARDS, Non-residential Construction.

**4.3.3 Information to be Obtained and Maintained**

- (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
- (2) For all new or substantially improved floodproofed structures:
  - (i) Verify and record the actual elevation (in relation to mean sea level to which the structure has been floodproofed), and
  - (ii) Maintain the floodproofing certifications required in Section 4.1(3).
- (3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

#### 4.3.4 Alteration of Watercourses

- (1) Notify adjacent communities and the South Dakota Department of Water and Natural Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

#### 4.3.5 Interpretation of FIRM Boundaries

Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual filed conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 4.4.

### 4.4 VARIANCE PROCEDURE

#### 4.4.1 Appeal Board

- (1) The Common Council of the City of Sturgis, is hereby designated as the Appeal Board to hear and decide appeals and requests for variances from the requirements of this ordinance.
- (2) The Sturgis City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City Engineer in the enforcement or administration of this ordinance.
- (3) Those aggrieved by the decision of the Sturgis City Engineer, or any taxpayer, may appeal such decision to the Sturgis City Council, by filing a notice of appeal in writing, with the Sturgis City Auditor. Said notice of appeal shall specify the decision of the Sturgis City Engineer being appealed from. The Sturgis City Auditor shall present the notice of appeal to the Sturgis City Council at its next regularly scheduled meeting. Upon receipt of the notice of appeal, the Sturgis City Council shall give notice of public hearing within fifteen (15) days. Such notice of the time and place of such hearing shall be published in the legal newspaper of the City fifteen (15) days prior to the public hearing. The Sturgis City Council shall consider and decide appeals under this Section within thirty (30) days after the date of the public hearing, in accordance with the standards provided below:
- (4) In passing upon such appeals, the Sturgis City Council shall consider all technical evaluations, all relevant factors, and standards specified in other chapters of this ordinance, and :
  - (i) the danger that materials may be swept onto other lands to the injury of others;

- (ii) the danger to life and property due to flooding or erosion damage;
- (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (iv) the importance of the services provided by the proposed facility to the community;
- (v) the necessity to the facility of a waterfront location, where applicable;
- (vi) the availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;
- (vii) the compatibility of the proposed use with the existing and anticipated development;
- (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
- (x) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (xi) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.

(5) Upon consideration of the factors of Section 4.4-1(4) and the purposes of this ordinance, the Sturgis City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

(6) The Sturgis City Engineer shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency.

#### 4.4.2 Conditions for Variances

(1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level, providing items (i-xi) in Section 4.4-1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justifications required for issuing the variance increases.

(2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Section.

(3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(5) Variances shall only be issued upon:

- (i) a showing of good and sufficient cause;
- (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
- (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 4.4-1(4) or conflict with existing local laws or ordinances.

- (6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest flood elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

**ARTICLE VIII****SECTION 5.0 - PROVISIONS FOR FLOOD HAZARD REDUCTION****5.1 GENERAL STANDARDS**

In all areas of special flood hazards the following standards are required:

**5.1.1 Anchoring**

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE shall be elevated on a permanent foundation, such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties. Specific requirements shall be that:
  - (i) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;
  - (ii) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;
  - (iii) All components of the anchoring system be capable of carrying a force of 4,800 pound; and,
  - (iv) Any additions to the manufactured home be similarly anchored.

**5.1.2 Construction Materials and Methods**

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (3) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria:
  - (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - (ii) The bottom of all openings shall be no higher than one foot above grade.
  - (iii) Openings may be equipped with screens, louvers or other coverings or devices, providing that they permit the automatic entry and exit of flood waters.
- (4) Any structure shall be constructed on fill so that the first floor and the basement floor are above the regulatory flood-protection elevations. The fill, which shall include the access to the structure from a public street, shall have an elevation (no less than one foot below the regulatory flood protection elevation) for the particular area, and the fill shall extend no less than ten feet beyond the limits of any structure or building erected thereon. Where existing streets or utilities

are at elevations which make compliance with this provision impractical, or in other special circumstances, the Council may authorize other techniques or elevation.

### 5.1.3 Utilities

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters; and
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (4) Electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

### 5.1.4 Subdivision Proposals

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots of 5 acres (whichever is less).

## 5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 4.3-2, Use of Other Base Flood Data, the following provisions are required:

### 5.2.1 Residential Construction

- (1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

### 5.2.2 Non-residential Construction

- (1) New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement; or , together with attendant utility and sanitary facilities, shall:
  - (a) Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
  - (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

(c) Be certified by a registered professional engineer or architect that the standards of this subchapter are satisfied. Such certifications shall be provided to the official as set forth in Section 4.3-3(2).

5.2.3 Manufactured Homes

- (1) Manufactured homes shall be anchored and placed in accordance with Section 5.1.1.
- (2) No manufactured home shall be placed in a floodway.

5.3 FLOODWAYS

Located within areas of special flood hazard established in Section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (1) Prohibit encroachments, including fill, new construction , substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) If Section 5.3(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION.

**(Passed by the Common Council of the City of Sturgis on this 2nd day of March, 1987)**

**ARTICLE IX  
LANDSCAPE REGULATIONS**

Section 1 - Purpose and Objective  
Section 2 - Definitions  
Section 3 - Applicability  
Section 4 - Required Amount of Landscape Material  
Section 5 - General Requirements - Installation  
Section 6 - Site Distance for Landscaping Adjacent to Public Right-of-Ways  
Section 7 - Security Guarantee  
Section 8 - Exceptions  
Section 9 - Maintenance  
Section 10 - Plan Approval  
Section 11 - Enforcement  
Section 12 - Design Criteria Standards  
Section 13 - Penalty

**SECTION 1 -- PURPOSE AND OBJECTIVE**

The purposes and objectives of this Ordinance is to provide for the orderly, safe and healthful development of the area within the City of Sturgis in order to establish requirements of the installation and maintenance of landscape elements and other means of site improvements in off-street parking areas and other developed properties. The justification for such regulations is as follows:

- a. To aid regulating and controlling vehicular and pedestrian circulation in parking areas;
- b. To enhance the environmental and aesthetic conditions which exist in the Black Hills area;
- c. To protect and preserve the value of the property;
- d. To reduce the amount of storm water run-off from paved areas;
- e. To reduce heat and noise, wind and air turbulence and the glare of automobile lights;
- f. To reduce the level of carbon dioxide and return pure oxygen to the air;
- g. To reduce the glare of sunlight from parking lot pavements.

**SECTION 2 -- DEFINITIONS**

Access way: A paved area intended to provide ingress and egress of vehicular traffic from public right-of-way to an off-street parking area or loading area.

Adjacent: For the purpose of this section, adjunct is defined as an area where the property lines are contiguous, or are separated by a street, alley, easement or right-of-way.

Berm: A mound of dirt used for screening or landscaping purposes which is planted with low-lying shrubs or ground cover so as to prevent erosion.

Buffer: A visual screen, composed of masonry, wood or plantings or a combination thereof which will be a minimum of eighty percent (80%) opaque.

Frontage: Lineal distance measured along all abutting street right-of-way.

Ground cover: Low-growing plants planted in such a manner as to form a continuous cover over the ground.

Landscaping or landscape material: Trees, shrubs, ground cover, vines, grasses, earthen berm's or any combination thereof, installed in planting areas for the purpose of fulfilling the requirements of these regulations.

Living plant material: For the purpose of this ordinance, living plant material shall be known as all perennial plants and grass.

Parking lot: For the purpose of this ordinance a parking lot shall be any lot which is paved or unpaved for which any development, alteration or demolition has taken place and year around parking is permitted. Said lot may or may not facilitate a structure.

Reconstruction: Rehabilitation or replacement of structure or structures on property, which either have been damaged, altered or removed.

Street line: That line limiting the right-of-way of the street and being identical with the property line of persons owning property fronting on the street.

Substantial improvement: Any alteration or improvement to property which is equal to or more than 5% of the current property valuation as listed with the Meade County equalization office.

Unimproved or unpaved lot: Any vacant lot which is utilized for any purpose including but not limited to the following: storage of vehicles and/or materials, vending, selling of goods of any kind, and distribution of goods of any kind.

### **SECTION 3 -- APPLICABILITY**

The requirements and standards for the installation and maintenance of landscape elements, as set forth herein, shall apply to all areas within the City of Sturgis, which have been rehabilitated, demolished, altered, remodeled, or substantially improved and are located in the following zoning districts: Industrial, Highway Service, Commercial, Multifamily, Office Commercial/Residential or in any area where a parking lot abuts against a street right-of-way or a Residential zoned area.

Exception: Main Street running from Middle Street to Fourth Street shall be exempt from the requirements of this ordinance.

### **SECTION 4 -- REQUIRED AMOUNT OF LANDSCAPE MATERIAL**

The amount of landscape material required shall be as follows:

In large parking lots or parking areas of one hundred (100) or more spaces, interior planting areas shall be provided at the ratio of (1) such area for every twenty-five (25) parking spaces. Each planting area shall contain a minimum of two hundred (200) square feet of living plant material, which is perennial in nature. If no structures are existing in conjunction with said lot there shall be not less than 5% of the lot put into living landscape material in addition to the interior plantings.

All areas for parking which have ninety-nine (99) or fewer parking spaces shall provide landscaping (living plant material) on the perimeter, which is equal to or greater than 10% of the overall lot area.

In all cases lots utilized for parking shall be hard surfaced of either concrete or asphalt pavement.

All unimproved or unpaved lots within the above stated zoning districts which are used for other than parking shall provide a minimum landscaped area in the amount of not less than 10% of the total lot area if structures are

not constructed on the parcel. All landscaping shall be living plant material. If a structure is erected on the property other provisions in this ordinance will apply.

All properties other than those listed above a minimum of 10% of the property shall be covered by living plant material, which has been approved by the City Planning Committee.

## **SECTION 5 - - GENERAL REQUIREMENTS - INSTALLATION**

Unless otherwise permitted by the City Planning Commission and/or Council all landscape material shall be located in the required front yard of the lot in question.

All living plant material shall be selected from the City Parks Department plantings booklet unless otherwise approved by the urban forestry committee.

All required landscaping shall be installed as per plans, which shall be submitted to the planning commission for approval.

All landscaping shall be installed in a sound workman-like manner and according to accepted good planting procedures.

The following minimum standards shall be observed:

Deciduous trees: Trunk diameter shall be 1 1/2" at the time of planting

Evergreen trees: Trees shall be 4' in height at the time of planting.

Shrubs: Shrubs shall be 1' in height at the time of planting.

Ground cover: Ground cover shall be planted in such a manner as to present a finished appearance within a reasonable time not exceeding one (1) year from time of planting.

Grass: Grass areas shall be planted in species normally grown as permanent lawns within the area and shall present a finished appearance within a time period not exceeding one (1) year from date of planning.

Synthetic or artificial lawns or plants shall not be used in lieu of plant requirements.

Trees and shrubs shall be chosen from a list of plant material recommended by the local Urban Forestry Board.

If at the time of final inspection, all the requirements of these regulations have not been completed in satisfactory manner, a certificate of occupancy shall not be issued unless the builder or owner has provided a monetary security guarantee.

## **SECTION 6 -- SITE DISTANCE FOR LANDSCAPING ADJACENT TO PUBLIC RIGHT-OF-WAYS AND POINTS OF ACCESS**

When an access way intersects a public right-of-way or when the subject property abuts the intersection of two or more public right-of-ways, all landscaping within the triangle areas described herein shall provide unobstructed cross visibility at a level between three (3) feet and six (6) feet; provided however, that trees having limbs and foliage are trimmed in such a manner that no limbs or foliage extend into, or across the visibility area shall be allowed, provided they are so located and are of such a size so as to not create a traffic hazard.

A twenty-five (25) foot site triangle is required on both sides of an access-way formed by the intersection and the access-way and the public right-of-way. A thirty (30) foot site triangle is required at a corner by the intersection of two (2) or more public right-of-ways.

**SECTION 7 -- SECURITY GUARANTEE**

- a. If at the time of final inspection all the requirements of the landscape regulations are not completed in a satisfactory manner and approved by the Building Official or his designee, a certificate of occupancy shall not be issued unless the builder or owner has provided a monetary security guarantee or bond in an amount equal to the estimated cost of installation of the required improvements whereby the improvements will be made and installed without cost to the City in the event of default of the owner.
- b. If a security guarantee is being used, the required improvements shall be installed within nine (9) months from the date of issuance of an occupancy certificate. All required landscaping should be installed as per plans submitted. The City Attorney shall approve all bonds and other methods of guarantee.

**SECTION 8 -- EXCEPTIONS**

The City Council shall have the power to grant variances in special cases where there are unusual and practical difficulties or unnecessary hardships created in meeting the requirements of these regulations. The guidelines to be used in determining whether a variance should be granted are as follows:

- a. That the hardships or difficulties of meeting the requirements of these regulations are peculiar to that property, and not general in character.
- b. Financial hardship due to meeting the requirements of these regulations is not sufficient to show unnecessary hardship, unless the financial difficulties amount to confiscation of property.

**SECTION 9 -- MAINTENANCE**

The owner of the building or his manager or agent shall be responsible for the maintenance of all landscape areas which shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free from refuse and debris. Maintenance shall include the replacement of all dead plant material. In no case shall a landowner maintain less than 10% of the property with living plant material.

**SECTION 10 -- PLAN APPROVAL**

Although it is not required, it is recommended that a landscape architect or person of related profession prepares the plan. Two copies of the plans showing proposed landscape development shall be submitted to the Building Official at the time a building permit is required. Such plan shall consist of:

- a. A plot plan drawn to scale normally of not less than one (1) inch equals thirty (30) feet including dimensions and distances and clearly delineating any existing and proposed landscape development. Such plot plan shall also include drawings of the entire off-street parking area and the locations of the proposed building.
- b. In addition to indicating those areas to be landscaped, the plot plan shall indicate the types, locations and sizes of all landscaping materials to be used.
- c. This plan must be approved by the Planning Commission prior to issuance of a building permit.

**SECTION 11 -- ENFORCEMENT**

These regulations shall be a minimum standard and shall apply to the incorporated area of the City of Sturgis. The Building Official or his designated representative shall be the enforcing official.

1. The enforcing official is charged with the duty of administering the provisions of these regulations and securing compliance within. The enforcing official shall have the following responsibilities:

- a. To make such inspections as may be necessary to accomplish the purposes and intent of these regulations and to initiate appropriate action to bring about compliance with these regulations.
  - b. To order in writing as set out in the regulations the remedy of all conditions or violations of these regulations found to exist in or on any premises.
2. The enforcing official is authorized and directed to lawfully enter in upon all premises at reasonable times to determine their condition in so far as the provisions of these regulations exists, he shall take action as follows:
- a. Give written notice of the violation to the management agent or the owner of the property as shown by the records at Director of Equalization Office.
  - b. The notice shall include:
    - (1) A description of the location of the property involved, either by address or by legal description.
    - (2) A statement indicating the nature of the violation and reason or reasons why the notice of the violation is being issued.
    - (3) A specification of the section of sections of these regulations upon which the notice of violations is based.
    - (4) A general description of the things that are required to be done to bring the premises into compliance with the provisions of these regulations.
    - (5) The notice shall state that the property owner will have fifteen days to comply with the notice or appeal the decision to the City Legal & Finance Committee.
    - (6) Failure to comply with the notice will result in punishment as per a class II misdemeanor.

## **SECTION 12 -- DESIGN CRITERIA STANDARDS**

- a. Trees used in parking lots should be placed far enough back from the curb to accommodate the overhang of the automobile.
- b. When planters used in parking lot interiors, a surface area should be made available for aeration and water infiltration of at least twenty-five (25) square feet per tree. This will help ensure that the tree remains healthy and vigorous.
- c. If possible, the parking lot should be located to the rear or side of the building. This will reduce visual clutter and confusion along the street and open a better view to the building.
- d. Curb or some form of physical barrier should be installed around plant material located within the parking lot. This will reduce the possibility of damage to the plant material.

## **SECTION 13 -- PENALTY**

Any person violating this ordinance or portions thereof shall be subject to punishment as per a class II misdemeanor.

(Revision effective April 30, 1999, Ordinance 1999-07)

**TITLE 18  
ARTICLE X  
BUSINESS LICENSES**

SECTIONS:

- 18.10.01: Purpose
- 18.10.02: Definitions
- 18.10.03: License Required
- 18.10.04: Application-Issuance of Business License
- 18.10.05: Fee/ Term
- 18.10.06: Denial/ Revocation
- 18.10.07: Denial-Applicant right to appeal
- 18.10.08: Posting/ Inspection
- 18.10.09: Change of Location
- 18.10.10: Transfer
- 18.10.11: Prohibited Business Locations
- 18.10.12: Exemptions
- 18.10.13: Multiple Businesses
- 18.10.14: Same Business- Multiple Locations
- 18.10.15: Penalty

**18.10.01: PURPOSE.**

The purpose of the Business License is to provide an additional protection to the citizens and visitors of the City of Sturgis from fraud and misrepresentation; to ensure compliance with City ordinances; to administer proper land use, quality development and zoning in accordance with the Comprehensive Plan and to provide a database to define and monitor the progress of the local economy.

**18.10.02: DEFINITIONS.**

“**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.

**A. “Permanent Business” means** a business use which occurs for a period equal to or greater than five (5) months from January 1 thru December 31 of the current year in which the license is being applied for at a fixed location within the City of Sturgis. A “Permanent Business” may erect and utilize one Temporary Structure for their business operations from May through September each year. The primary method to determine the duration of operation shall be a review of Sales Tax reports.

**B. “Temporary Business” means** a temporary business use that occurs for a period less than five (5) months from January 1 thru December 31 of the current year in which the license is being applied for, even though the licensee may have a permanent or fixed location within the City of Sturgis. This definition does not include any business activities or operation during the Rally Period.

**C. “Business Establishment” means** a permanent business operating and open to the public at a fixed location within the City of Sturgis, and that is in compliance with Title 18-City of Sturgis Zoning Ordinance and Title 2- City of Sturgis Contractor’s licensing and Construction Regulations.

“**Person**” means any person, firm, corporation, association, partnership, venture, society, club, association, organization, or group of individuals carrying on business within the corporate boundaries of the city of Sturgis and that is not deemed exempt by this Title.

“**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.

“**Rally Period**” That period of time in the year which the business license is valid that excludes the Seven (7) published and official days of the Sturgis Motorcycle Rally, the Seven (7) days prior to and Four (4) days preceding the official date.

#### **18.10.03: License Required.**

No person, whether subject to the payment of tax or not, shall engage in any business within the city limits without first obtaining and being a holder of a valid and current business license pursuant to the provisions of this chapter.

#### **18.10.04: Application-Issuance of Business License.**

**A.** Application for a permanent business or temporary business license shall be made on the application form provided by the City of Sturgis and submitted to the City of Sturgis Finance Officer.

**B.** The business license application shall include all of the following information and such other information as the City deems reasonably necessary:

1. Name of Business
2. Name of applicant
3. Complete Street and mailing address of business location.
4. A brief description of the nature of the business.
5. Type of business entity. If the business is a corporation or limited liability company, the state where formed and the statutory agent’s name and address.
6. A list of any chemicals or hazardous materials or hazardous waste which will be used or stored by the business.
7. The name of the person in charge of the business and their contact information including email address. If the emergency contact is different than the person in charge of the business, the applicant shall supply the name and contact information for an individual who can be called in case of an emergency. This should be a telephone number that will be answered twenty-four (24) hours a day.
8. Number of employees both full time and part time.
9. If the business specified in this title is subject to a health or sanitary certification, the applicant shall produce such certificate or permit as part of the application.
10. State or local sales tax identification number.

**C.** The City Finance Officer, prior to issuance of a business license to any applicant, shall, with the assistance of the Community Development Department, determine that the location of the business as submitted by the applicant, is

properly zoned for the conduct of the business for which the license is sought; provided, however that it is the duty of the applicant to assure that the location of the proposed business complies with all the zoning and all other ordinances

of the city, in the event that it fails to so comply, any license issued, granted or approved by the city shall be null and void, and the city shall not be liable for loss, claim or damages whatsoever by reason of the applicant or the business for which a license was issued failing to comply with said ordinances, and regardless of whether a business license was in fact issued.

**D.** After receipt of a completed application and the license fee, the city finance officer shall review the application and, except as otherwise provided issue or deny the license within 5 working days after receipt of the completed application.

**E.** Nothing in this chapter shall prevent the City Finance Officer or other city official from requiring the applicant to provide any information necessary to ascertain whether the application is, or will be, in compliance with all city ordinances or state laws.

**18.10.05: Fee/ Term.**

**A. Fee:** Unless otherwise provided by this chapter, the required license fee for a Permanent Business License shall be at no cost.

**B.** All Temporary Businesses as defined in this Chapter, the required license fee for a Temporary Business License shall be \$25.00 per year not including the Rally Period, which is nonrefundable, whether or not the application is later denied. Temporary Vending licenses and Fees during the Rally period shall be governed separately by Title 31.02.03.

**C. Term:** Unless otherwise provided by this chapter, all licenses shall be for a period of one calendar year, beginning January 1<sup>st</sup> of each year and expiring the following December 31<sup>st</sup>, excluding the Rally Period.

**D.** Upon receipt of a written statement attesting to the loss, theft or destruction of an otherwise valid license, the Finance Officer shall reissue a license for the duration of the original license term upon receipt of a \$10.00 fee.

**18.10.06: Denial/ Revocation.**

**A.** Compliance with any other code and zoning provisions. The City Finance Officer shall not issue a City business license, and any license so issued shall be void and subject to immediate revocation by the city, to any person, firm or entity which operates or proposes to operate or conduct any business in violation of any city ordinance or State and Federal Laws. In addition, the City Finance Officer may deny any application for a business license where the applicant is not in compliance with all city ordinances or state statutes, as now or later amended.

**18.10.07: Denial- Applicant right to appeal.**

Any applicant denied a license by the City Finance Officer under this Chapter shall be entitled to have said decision reviewed by the City Manager. 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:

An aggrieved person shall first file a written request for review with the City Finance Officer setting forth the basis for which he or she believes the City Finance Officer's decision to be in error. The writing shall also include the person's name and mailing address.

Upon receipt of a written request for review, the City Finance Officer shall review his or her decision and mail a written response to the aggrieved person within twenty (20) days.

If the aggrieved person is not satisfied with the decision of the City Finance Officer following review, he or she may file a notice of appeal with the Finance Office. 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.

Upon receipt of a notice of appeal, the Finance Officer shall notify the City manager.

After notification of the City Manager by the Finance Officer, the Appeal shall follow the Appeal provision of Title 36, Code Enforcement.

**18.10.08: Posting – Inspection.**

A business license shall be conspicuously posted at the business for which it was issued, and shall be produced for inspection upon the request of any authorized city official; provided, however, that when the licensee has no permanent place of business, such person must either carry or attach and conspicuously display the license on any personal property which is an integral part of the business, and must produce the license for inspection upon request of any authorized city official.

**18.10.09: Change of Location.**

A business that possesses a current business license shall notify the City of Sturgis Finance Officer in writing of any change of address within ten (10) days of the change of address. There will be no fee associated with a change of address if the change occurs between January 1 and December 31, of the current year the business license is valid for.

**18.10.10: Transfer.**

No license issued under the provisions of this Chapter shall be transferable or assignable; provided that in the event of death of licensee, the surviving spouse, estate, or heir may operate the business under the existing license for the remaining term of the license. In the event of the sale, transfer, conveyance or gift of a business, the new owner shall be required to apply for and obtain a license for the duration of the license period, prior to commencing to conduct business in the city.

**18.10.11: Prohibited Business Locations.**

No person shall conduct business within the City of Sturgis in any structure or area where conducting such business is prohibited by law, by the City of Sturgis Zoning Ordinance, by applicable building code or applicable fire code. No business as defined in Section 18.10.02 shall use any location within the public Right-of-Way or in areas of the sight triangle that are determined to be a safety concern. Unless said business holds a valid permit for a sidewalk café and/or vending, issued by City of Sturgis in accordance with Title 15.06 Sidewalk Café and Vending.

**18.10.12: Exemptions.**

A business license shall not be required when:

- A. A garage or yard sale, providing that it does not last longer than 72 hours in any 30 consecutive day time period(s).
- B. Any business otherwise licensed under City Ordinance, Federal or State law that precludes requiring a business license for the business.
- C. Sales where the proceeds are to be used exclusively for religious, charitable or benevolent purposes. Written proof of charitable, non-profit status as declared by the IRS (i.e. 501(c) (3) documentation must be presented during application.
- D. Sales to wholesale or retail merchants, by sample, for future delivery made by representatives or established wholesalers or manufacturers.
- E. The sales of fruits, vegetables or farm or garden products in their natural state.
- F. The distribution of goods for which there is no charge.

1) All persons, firms or corporations distributing goods or performing a service for which there is no charge, shall be required to register with the City Finance Officer, their name, address, location of said distribution or service and goods which he/she or it is distributing or service which they are performing.

**G.** Sales by youth age 15 years and under selling lemonade and like items and incidentals thereto from property from which they reside.

**18.10.13: Multiple Businesses.**

Any person engaged in two (2) or more separate businesses operating at the same physical location and which are under the same ownership, shall be required to obtain one license for the main permanent business and for each subsequent business's at that location, but shall only be charged one (1) license fee.

**18.10.14: Same Business-Multiple Locations.**

Any person conducting the same business at two (2) or more permanent locations shall be required to obtain a separate license for each place of business.

**18.10.15: Penalty.**

Any violation of the provisions of this Title is a Class 2 Misdemeanor punishable by a maximum fine of four hundred dollars (\$400.00) and/or incarceration in the County jail for a period not to exceed thirty (30) days. In lieu of a Class 2 Misdemeanor any violation of this Title shall be subject to Title 36 Code Enforcement at the option of the City.

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.

(Title 18, Article X add in entirety by Ordinance 2011-02, effective 6-1-11)