

Publish: October 19, 2016

NOTICE OF PUBLIC HEARING  
UPON APPLICATION FOR SALE OF  
ALCOHOLIC BEVERAGES

NOTICE IS HEREBY GIVEN that the Common Council of the City of Sturgis, South Dakota, will meet in regular session at the Erskine Building, 1300 Sherman Street, on the 7th day of November, 2016 at 6:30 pm to consider the following liquor and wine license renewal applications for the calendar year 2017:

Package (off-sale) Liquor

1. City of Sturgis, dba Sturgis Liquor – 1075 Lazelle
2. City of Sturgis, dba Sturgis Liquor Annex – 1057 Dudley Street

Retail (on-sale w/Sunday Sales) Liquor

- a. American Legion Mead Post 33/ VFW Paha Sapa Post 2730 – 868 Main St
- b. Low Country Oysters of Sturgis, LLC dba The Beaver Bar – 12976 Highway 34
- c. KSLB & D dba Iron Horse Saloon – 888 Junction Ave.
- d. Lonbar LLC – 2715 Lazelle
- e. Homeslice Management, LLC dba Loud American Roadhouse – 1305 Main St
- f. PSI Enterprises, LLC dba Oasis Bar & Lounge – 1145 Main St
- g. One Eyed Jacks Saloon of Sturgis Inc dba One Eyed Jack's Saloon – 1304 Main St
- h. Schmid Investments dba Sidehack Saloon – 1027 Lazelle Street
- i. Key City Enterprises dba The Knuckle Saloon – 931 1<sup>st</sup> Street

Wine (on-off sale) License

- a. CBH Cooperative – Cenex-C-Store – 2030 Lazelle Street
- b. Days Inn Campground – 2501 Avalanche Rd
- c. Fresh Start Convenience Store, Inc. – 2620 Lazelle St.
- d. Kan-Meyer Inc dba Grocery Mart – 2216 Junction Ave
- e. Sheree D Schriver dba Jambonz Grill & Pub – 2214 Junction Ave.
- f. Sturgis Water Works Com LLC dba JJ Davenport's Restaurant – 1020 Junction
- g. Lynn's Discount Foods, Inc. dba Lynn's Dakota Mart – 1111 Lazelle St
- h. Moyle Petroleum dba Common Cents – 2421 Junction Ave
- i. Billy Fields & Jason Fields dba Rosco'z – 976 Lazelle
- j. Dungeon Bar dba Royal Flush Casino and Sports Bar – 1030 Main Street
- k. Shopko Stores Operating Co. LLC – 2105 Lazelle Street
- l. MAJR, LLC dba Sturgis Coffee Company – 2275 Lazelle Street
- m. Sturgis Wine Company LLC dba Sturgis Wine Company – 1117 Main Street
- n. Key City Enterprises dba The Knuckle Saloon – 931 1<sup>st</sup> Street
- o. Luke & Rebecca Ortiz, Tamarack Inc dba Total E'Clips Salon – 920 1<sup>st</sup> St
- p. Willie Nillie Inc. dba Willie Nillie – 2715 Lazelle Street

NOTICE IS FURTHER GIVEN that any person(s) or their attorney who are interested in the approval or rejection of any such application may appear and be heard. Individuals needing assistance pursuant to the *Americans with Disabilities Act* should contact the City of Sturgis Finance Officer (605.347.4422) in advance of the meeting to make any necessary arrangements.

Published once at the total approximate cost of

# Citizen Request to be on City Council Agenda

City of Sturgis  
1040 2<sup>nd</sup> Street, Ste 103, Sturgis, SD 57785  
Phone: (605) 347-4422 Fax: (605) 347-4861  
Email: fayb@sturgisgov.com



City Council Meetings are the First & Third Monday of Each Month  
(Exception: When Monday is a holiday, then the meeting will be on Tuesday)

Agenda Requests must be presented to the Finance Office by **5pm 10 DAYS** prior to Monday Council.

Meeting Date: November <del>7<sup>th</sup></del> 2016			
Agenda Item: Pappy Hoel Half-Mile Race			
Name: Myrick Robbins, Sturgis Motorcycle Museum			
Address: 999 Main St.	City: Sturgis	State: SD	Zip: 57785
Phone: 605-347-2001			

Purpose: Sturgis Motorcycle Museum would like to take over managing the Pappy Hoel Half-Mile races from Coe Meyer.
Background Information:

Other Comments:
-----------------

Please submit this form via e-mail to: Fay Bueno, Finance Officer: <a href="mailto:fayb@sturgisgov.com">fayb@sturgisgov.com</a> and Daniel Ainslie, City Manager: <a href="mailto:dainslie@sturgisgov.com">dainslie@sturgisgov.com</a> OR may be delivered to City Hall at the above address.
--



## Council Report

Meeting Date:	November 7, 2016
Agenda Item:	First Reading of Title 2, Contractor Licensing and Construction Regulation
Prepared By:	City Attorney Greg Barnier

Background Information:	<p>The City of Sturgis has an ordinance which regulates the licensing of Construction and other contractors, adopts the Uniform Building Code and contains other building and construction activities regulations. In conjunction with the ordinance and the required activities, the City has employed a Building Inspector for a number of years. The revisions as proposed are intended to clarify the manner in which the a\several activities regulated by the Ordinance are to be conducted.</p> <p>The revisions include:</p> <ol style="list-style-type: none"> <li>1. Removing the requirement for a contractor to provide a performance bond, and clarify the requirement for contractor insurance.</li> <li>2. Removing the contractor testing requirement.</li> <li>3. Expand somewhat the work which a qualifying owner can do on his/her residential or commercial property without having a Contractor license.</li> <li>4. Include a definition of a Residential Contractor and clarify what a general contractor means.</li> <li>5. Identify in more detail the type of work which requires getting a permit.</li> <li>6. Clarify that for all license application process will be very similar for all types of licenses issued by the City.</li> <li>7. Clarify that, as is several other ordinances, an appeal from a Building Inspector decision is first reviewed by the City Manager.</li> <li>8. Clarify language to remove references to Departments or staff positions that are not consistent with current job descriptions.</li> <li>9. Clarify that nuisance building will be subject only to the procedure of Tittle 12</li> </ol>
Cost, Benefit or Risks:	<p><u>Strengths:</u> Adopting these revisions to Title 2 will provide a more accurate description of the manner in which the Building Inspector or a designee will perform these tasks. The revisions will also eliminate unneeded testing and make licensing requirements consistent for the trades needing licenses.</p> <p><u>Risks:</u> Predicting the future results of an ordinance change is always difficult. At this time, however, it appears that what may result from the revisions may be that a small additional amount of employee time will be required to ensure compliance with the additional permits that may be issued.</p> <p><u>Budget impact:</u> No negative significant financial impact to the City is anticipated as a result of adopting the proposed revisions.</p>

Recommendation:	<p>Based on this assessment, Legal &amp; Finance members are recommending approval of First Reading of these revisions to Title 2 at the meeting on November 7, 2016. Staff will draft any additional revisions to the proposed language before Second Reading which are identified by further review by Legal &amp; Finance members or Council members, and after comments received during public meetings.</p>
-----------------	--

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

(This Title replaces the previous Title 2 and 26 in their entirety effective 8/18/07, Ordinance 2007-20)

Chapters:

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

**CHAPTER 2.01**  
**GENERAL PROVISIONS**

SECTIONS:

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

**2.01.01: SCOPE AND PURPOSE**

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

**2.01.02 DEFINITIONS**

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

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

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

~~**CONTRACTOR:** Any contractor Title currently licensed as required by the City of Sturgis Ordinances.~~

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

**QUALIFIED OWNER:**

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

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

**SECTIONS:**

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

**2.02.01: ADOPTION OF BUILDING CODE**

The City of Sturgis hereby adopts, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, including permits and penalties, conforming with Chapters 1 through 10 and Appendices E, G, H, J, K, M and P of the International Residential Building Code, 2012 Edition. In addition, and for those same purposes, subject to the limitation of municipal authority established by SDCL 11-10-5, the 2012 Edition of the International Building Code including Appendices C, E, F, G, H, I and J, thereof, except such portions as are herein deleted, modified, or amended. Subsection 3.02, and the related information and explanation shown at Figure 301.2(5), are hereby amended to require a structure to be designed to meet or exceed the standard of a 40 pound ground snow load. One copy of each of the codes with all the amendments from the date on which this ordinance shall take effect, and the provisions thereof shall be controlling in the construction of all buildings and structures within the jurisdiction of the City. (2.02.01 amended by Ordinance 2013-25, effective 2/5/2014)

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

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

**2.02.05: HISTORIC PRESERVATION**

~~After receipt of the Permit application and with approval of the Building Inspector~~ Any repairs, alteration and additions necessary for preservation or continued use may be made ~~although not in~~ ~~without~~ conformance to the requirements of this Title. ~~, with authorization from the City Council.~~ ~~City Council~~ **Building Inspector** authorization is conditional upon the following:

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

**2.02.07: MODIFICATIONS**

When there are practical difficulties involved in carrying out the provisions of this Title, the **Building Inspector** ~~City~~ may grant modifications **to a permit** for individual cases upon receipt of a written request and after a proper review has been completed by the ~~Engineering and Inspections Office.~~ ~~with review and recommendations from the Public Works Committee and any other committee or department of the City as directed by the City Council.~~

**2.02.08: TESTS**

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

**CHAPTER 2.03**

## BUILDING INSPECTOR AND BUILDING PERMITS

### SECTIONS:

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

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

There shall be designated a Building Inspector, who shall perform those duties and hold such authority as herein set forth, subject to the supervision of the City Manager. The City Manager may designate **someone within the City to assist in carrying**, as needed, ~~an Assistant Building Inspector to carry~~ **with the** duties of Building Inspection.

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

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

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

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

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

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

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

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

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

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

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

(2.03.01 & 2.03.02 amended by Ordinance 2013-25, effective 2/5/2014)

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

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

violation of this or any Title of the Sturgis City Ordinances which makes the building or premises unsafe, dangerous or hazardous.

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

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

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

#### **2.03.05: LIABILITY**

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

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

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

#### **2.03.07: BUILDING PERMITS REQUIRED**

Before any person may erect or cause to be erected or constructed a building or structure within the City or causes any alterations to any existing building or structure within the City, they must obtain a building permit from the Building Inspector or designee if improvements or alterations are more than Five Hundred Dollars (\$500.00). ~~which alteration costs more than Three Hundred Dollars (\$300.00), he/she must first obtain a Building Permit from the Building Inspector.~~ An alteration of a building or structure shall for the purpose of this Title include but is not limited to a change to or removal of any partition, interior or exterior wall, ceiling, windows, structural member of roof system or floor, any roof repair or replacement, any deck repair or replacement, any siding repair or replacement, placement of any hard surface material including concrete or asphalt, or any digging or excavation within any Right of Way or any public easement. A permit is not required for ~~Examples of work not requiring permits are:~~ painting, floor coverings, soffet, gutters, and facia or minor on-going maintenance type repairs.

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

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

- A. A sketch or drawing of the outside wall of the floor of said improvement to be built, drawn at scale of at least ¼" = 1.0" showing all measurements, the distance from property lines, distance from buildings or structures on the same parcel of land and distance from back of curb or from edge of streets;
- B. The name of the owner of the real property to be improved;
- C. The name of the contractor, if any, doing the work,
- D. If a Contractor License exemption is claimed by applicant on the basis that the work described in the application is at applicant's primary residence, so state.
- E. If a Contractor License exemption is claimed by applicant on the basis the applicant is a Qualified Owner of commercial property, so state.
- F. For an applicant claiming the Qualified Owner exemption from a Contractor License, provide proof of insurance consistent with the requirements of subsection 2.04.04 of this Title.
- G. The legal description of the property being improved;
- H. The parcel number given to the property by Meade County;
- I. The general description of the improvement and what type of building improvement is to be made;
- J. Plans for the installation of plumbing, electrical wiring, etc; and
- K. Such other information the Building Inspector or designee may request so that he/she may determine if said improvement complies with the Ordinances of the City of Sturgis and the Laws of the State of South Dakota.

**2.03.09: FEES**

Upon making application for a building permit, any applicant shall pay the appropriate permit fee to the City. If for any reason beyond the applicant's control he/she or it does not construct the proposed project for which the permit was issued, the amount of the permit less a Fifty Dollars (\$50.00) administrative fee ~~may~~ shall be refunded to the applicant.

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

City of Sturgis, South Dakota Building Permit Fee Schedule

Total Valuation	Fees
<del>\$300 to \$500</del> .....	<del>\$20.00</del>
\$501 to \$2,000.....	\$20.00 plus \$2.50 for each additional \$100 in valuation or fraction thereof up to \$2,000
\$2,001 to \$25,000.....	\$57.00 plus \$10.50 for each additional \$1,000 in valuation or fraction thereof up to \$25,000
\$25,001 to \$50,000.....	\$298.00 plus \$7.50 for each additional \$1,000 in valuation or fraction thereof up to \$50,000
\$50,001 to \$100,000.....	\$485.00 plus \$4.50 for each additional \$1,000 in valuation or fraction thereof up to \$100,000
\$100,001 to \$500,000.....	\$710.00 plus \$4.00 for each additional \$1,000 in valuation or fraction thereof up to \$500,000
\$500,001 to \$1,000,000.....	\$2,310.00 plus \$3.75 for each additional \$1,000 in valuation or fraction thereof up to \$1,000,000
\$1,000,001 and UP.....	\$4,185.00 plus \$2.25 for each additional \$1,000 in valuation or fraction thereof.

**2.03.10: BUILDING PERMIT ISSUED**

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

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

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

**2.03.11: EXPIRATION OF BUILDING PERMIT**

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

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

**2.03.12: BUILDING PERMIT MUST BE POSTED**

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

**2.03.13: CERTIFICATE OF OCCUPANCY**

~~Before an~~ No owner may cause or allow a newly constructed or remodeled building to be occupied, or allow occupy the premises of a remodeled building to be occupied, after a change of occupancy classification as defined in the Building Code has occurred, unless the owner he/she shall first obtain a certificate of occupancy from the Building Inspector. The Building Inspector shall issue an occupancy certificate upon completion of the building or remodeling, or prior to change of occupancy, if the building is found to be in compliance with the City of Sturgis Ordinances and laws of the State of South Dakota, by the Building Inspector, the certificate of occupancy shall be provided. No person shall permit a newly constructed or remodeled structure with a change of classification use to be occupied without first obtaining an occupancy certificate as provided herein.

(2.03.13 amended by Ordinance 2013-25, effective 2/5/2014)

### **2.03.15: REQUIREMENTS FOR TEMPORARY STRUCTURES**

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

- A. The structural frame of all temporary structures shall be made of steel, aluminum, PVC or wood. If constructed of wood, the smallest wood member shall not be less than 2" by 4" in width.
  1. Wood used for the interior and exterior skins of a temporary structure may be as follows: ½" plywood, ½" chipboard, or particleboard.
  2. Wood, as defined above, may also be used for shelving temporary structure.
  3. Tarps, which are utilized on temporary structures, which are occupied by temporary merchants, shall be flame retardant or flame resistant as defined in this Ordinance. All tarps not complying with this ordinance shall be removed.
- B. All temporary structures shall be removed upon expiration of the time limit stated on the Temporary Structure permit.
- C. If the structure is not removed by the expiration date stated on the permit, the City may shall remove the structure without further notice to the owner and shall charge the cost of the removal to the owner. At the time the permit is issued, the Building Inspector or his designee shall provide the owner with a copy of this Ordinance. The owner or occupant of the temporary structure shall sign the permit, which will serve as an acceptance of service, which will constitute sufficient notice that the structure is shall not to be placed for more than 30 days. The City may bring action in magistrate or circuit court for the recovery of costs incurred for the removal of said structure or structures.
- D. In the event that a structure erected pursuant to this Section is not removed by the expiration date and the City is forced to make repeated contacts with the owner of the property upon which the structure is erected or the individual who applied for the permit, the Building Inspector shall not issue subsequent permits under this Section to the owner of the property for the location unless the Building Inspector has reached an agreement with the owner of the property to assure the owner's future compliance with any temporary structures erected at that location.
- E. Temporary structures or appendages thereof shall not be placed closer than 5'0" to any public alley. (Exception: When the property owner provides a permanent barrier which is a minimum height of 5'0" between the temporary structure and the public right of way, the temporary structure may be placed closer than 5'0" to the public right of way. No sales may be permitted through the permanent barrier.)
- F. The permit hereinbefore described may be suspended or revoked if at any time the structure or its occupants are in violation of the Ordinances of the City of Sturgis or the laws of the State of South Dakota.
- G. Temporary structures may not be used for housing permanent or seasonal businesses unless within the exemption of subsection 2.03.16.

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

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

- A. A temporary structure being used for the purpose of a temporary office during a construction project;

- B. A temporary structure being used for the purpose of a realty office in a new development;
- C. Temporary storage buildings used in conjunction with a permanent retail or wholesale business or residence, provided that said structures meet the setback requirements for the zoning district in which they are placed; and shall not exceed 120 Sq. Feet.
- D. Temporary storage buildings owned by a business that rents or sells them at one location to the general public.
- E. In conjunction with a permanent business as defined herein, the permanent business shall be allowed one (1) Temporary Structure to be located on the property. ~~so long as it shall not to exceed 600 Square Feet~~ Furthermore, the business operating in or from the Temporary Structure shall be selling or vending items of like nature to which the permanent business sells or vends.

## CHAPTER 2.04 LICENSING AND REGULATION OF CONSTRUCTION CONTRACTORS

### SECTIONS:

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

### **02.04.01: LICENSE REQUIRED FOR CONSTRUCTION**

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

### **2.04.02: APPLICATION OF CHAPTER**

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

### **2.04.03: APPLICATION FOR CONTRACTOR'S LICENSE**

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

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

#### **2.04.04: INSURANCE AND BOND REQUIRED FOR CONSTRUCTION**

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

**Any applicant claiming an exemption from the Contractor License requirement as a Qualified Owner for work to be done on of non-residential property, shall be required to produce a certificate of insurance stating that the applicant has general liability and property damage insurances; in the amount not less than One Million Dollars (\$1,000,000) per occurrence with an aggregate of not less than two million dollars (\$2,000,000) or as required by the Building Inspector. Additionally, workers' compensation insurance for all employees of the Qualified Owner. The insurance requirements set forth in this Section shall be maintained during the term of the license. Failure to maintain the required insurance may result in suspension or revocation of any license issued.**

#### **2.04.05: CONTRACTOR'S LICENSE FEE**

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

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

Any ~~General Contractor's~~ license issued shall be valid **for twelve calendar months from the date of issuance.** ~~the calendar year and shall expire at midnight on December 31<sup>st</sup>. Any license may be renewed by the licensee contractor prior to expiration by submitting a completed application and the necessary fee to the Building Inspector. Upon a determination by the Building inspector that the application is in compliance with all applicable Sections of this Title, the license shall be issued. for the subsequent calendar year. Any person working within the City with an expired license shall be considered to be unlicensed in violation of this Title.~~

(2.04.05 & 2.04.06 amended by Ordinance 2013-25, effective 2/5/2014)

#### **2.04.07: TESTING REQUIREMENTS**

~~Any person seeking a Contractor's License within the City shall be required to take a Contractors' Test. The test shall consist of not less that fifty questions on general provisions of the applicable Building Code as adopted by the City. The test will be open book and all applicants will be given two hours to complete the written test.~~

~~Any person whose Contractor's License expired by failure to renew on December 31<sup>st</sup> shall be entitled to a grace period of one (1) month during which the Contractor's License may be renewed without retesting. Any contractor however that fails to renew an expired license by January 31<sup>st</sup> of the year following the issuing year of the license shall be required to retake the contractor's test and pay an additional retaking test fee of Twenty Five Dollars (\$25.00).~~

~~Each applicant shall be required to pass their respective test with a minimum of 70 percent (70%) to receive a Contractor's License. If an applicant fails the test, he/she may retest again any time thereafter. However if the applicant fails a second time, the applicant must wait sixty (60) days from second test date in order to retest. If an applicant has failed the test twice, and is taking a test for the third time, the applicant shall be required to pay a new application fee. In addition, if the applicant does not retest within ninety (90) days of the first test, the applicant will be required to pay an additional application fee.~~

~~Each applicant shall pre register for testing. A schedule for test dates shall be available at the time of the application.~~

#### **2.04.08: REQUIRED INSPECTIONS**

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

The specific inspections required for each project shall be determined by the **Building Inspector's** Office. The **Building Inspector's** Office should include guidelines with the Manual of Construction Guidelines, addressing the type of

inspections needed for certain projects however the **Building Inspector's**. Office shall maintain the discretion and authority to require any necessary testing and/or inspections depending on any individual project.

#### 2.04.09: NOTICE AND COST OF INSPECTIONS

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

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

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

### CHAPTER 2.05 LICENSING OF ELECTRICAL CONTRACTORS

#### SECTIONS:

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

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

Any license issued shall be valid for **twelve calendar months from the date of issuance.** ~~the calendar year and shall expire at midnight on December 31<sup>st</sup>.~~ Any license may be renewed by the **licensee Building Inspector** prior to its expiration **by submitting a completed application and the necessary fee to the Building Inspector. Upon a determination by the Building inspector that the application is in compliance with all applicable Sections of this Title, the license shall be issued.** ~~upon proof of compliance with all applicable Sections of this Title. If a person renews his or her license prior to its expiration on December 31<sup>st</sup>, said license shall be valid for the subsequent calendar year.~~ Any person completing work under an expired license shall be considered to be unlicensed in violation of this Title.

#### 2.05.04: INSURANCE ~~AND BOND~~ REQUIRED FOR ELECTRICAL CONSTRUCTION

~~Any person desiring to obtain an electrical construction license shall be required to produce a certificate of insurance stating that the applicant has liability insurance in an amount not less than required by applicable state law. In addition, before the issuance of any license, the applicant shall be required to comply with and prove such compliance with any bond requirements of the Building Code as adopted by the City.~~

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

#### 2.05.05: ELECTRICAL CONSTRUCTION FEES

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

- A. Electrical Contractor: \$125.00 ~~initial license \$100.00 annually thereafter.~~
- B. ~~Journeyman Electrician: \$10.00 annually~~
- C. ~~Class B Electrician: \$5.00 annually~~
- D. ~~Apprentice Electrician: \$5.00 annually~~

~~Any Electrical Contractor that fails to renew his/her license prior to December 31<sup>st</sup> of each year will be charged a Twenty Five Dollar (\$25.00) reinstatement fee.~~

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

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

## **CHAPTER 2.06 LICENSING OF PLUMBING CONTRACTORS**

### **SECTIONS:**

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

### **2.06.01: LICENSE REQUIRED FOR PLUMBING CONSTRUCTION**

No person shall perform plumbing construction work within the limits of the City, on any property other than the person's primary residence until he/she is licensed by the State to perform such work as described in the South Dakota State Plumbing laws, ~~which may be obtained from the State Plumbing Commission, 216 East Capital Street, Pierre, South Dakota 57501~~ and obtains a Plumbing Construction License from the Building Inspector's Office.

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

Any license issued shall be valid for ~~twelve calendar months from the date of issuance the calendar year and shall expire at midnight on December 31<sup>st</sup>.~~ Any license may be renewed by the licensee ~~Building Inspector~~ prior to its expiration by ~~submitting a completed application and the necessary fee to the Building Inspector. Upon a determination by the Building inspector that the application is in compliance with all applicable Sections of this Title, the license shall be issued. upon proof of compliance with all applicable Sections of this Title. If a person renews his or her license prior to its expiration on December 31<sup>st</sup>, said license shall be valid for the subsequent calendar year.~~ Any person completing work under an expired license shall be considered to be unlicensed in violation of this Title.

### **2.06.04: INSURANCE ~~AND BOND~~ REQUIRED FOR PLUMBING CONSTRUCTION**

~~Any person desiring to obtain a plumbing construction license shall be required to produce a certificate of insurance stating that the applicant has liability insurance, including products and completed operations and property damage insurance in an amount not less than that required by any applicable state statutes or administrative rules and regulations established by the State Plumbing Commission or in the event that no such applicable regulations and/or statutes exist in an amount not less than~~

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

~~In addition, before the insurance of the license, the applicant shall be required to comply with and prove such compliance with any bond requirements of the applicable Building Code adopted by the City.~~

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

#### **2.06.05: PLUMBING CONSTRUCTION LICENSE FEES**

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

- A. Plumbing Contractor/Sewer and Water Installer Contractor: \$125.00 initial \$100.00 annually thereafter
- ~~B. Journeyman Plumber: \$10.00~~
- ~~C. Apprentice Plumber: \$5.00~~

Any Plumbing Contractor that fails to renew his/her license prior to December 31<sup>st</sup> of each year will be charged a Twenty Five (\$25.00) reinstatement fee.

### **CHAPTER 2.07**

#### **LICENSING AND REGULATION OF BUILDING AND STRUCTURE MOVERS**

SECTIONS:

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

#### **2.07.02: APPLICATION FOR LICENSE**

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

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

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

#### **2.07.03: ~~BOND AND INSURANCE REQUIRED~~**

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

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

~~Any person requesting to be licensed as a building and structure mover shall provide the City with a bond to be approved by the City Finance Officer in the sum of Ten Thousand Dollars (\$10,000.00). Said bond shall be conditioned that the applicant of a license if granted will, in carrying on the business of moving buildings and structures in said City, conform to all requirements relating thereto, which are now, or may be hereafter established by the City, and that he or she will promptly repair and make good to the satisfaction of the City, any and all damage to any pavement, sidewalk, cross walk, hydrant, street, alley or other property done or caused by himself or herself, his or her servants or employees, in moving any building or structure, or in connection with the moving thereof and that he will immediately indemnify and save harmless the City against any and all liability for damages, costs or expenses, arising, or which arise, in favor of any person by reason of any negligence on his part, or on account of his servants or employees in connection with the moving of any building or structure, or the use of any public street or ground for that purpose.~~

~~Any bond submitted to the City in compliance with this Section shall be held by the City for the one year effective period of the license or in the case of a revocation of any license by the City, until the date of revocation. In addition to the required bond,~~

#### **2.07.05: PERMIT REQUIRED BEFORE MOVING**

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

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

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

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

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

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

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

#### **SECTIONS:**

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

#### **2.08.02: APPLICATION FOR EXCAVATOR'S CONSTRUCTION LICENSE**

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

- A. The applicant's state excise tax number;
- B. Proof of required insurance and bond;
- C. The applicant's name, address and phone number;
- D. Payment of applicable fee ~~of \$125.00-~~ .Purchase of a digging permit of \$150 per job;
- E. The name, address and phone number of the applicant's contact person.

#### **2.08.03: EXCAVATOR'S LICENSE TERM AND RENEWAL**

Any license issued shall be valid for ~~twelve calendar months from the date of issuance~~ the calendar year and shall expire ~~at midnight on December 31<sup>st</sup>~~. Any license may be renewed by the ~~licensee~~ Building Inspector prior to its expiration ~~by submitting a completed application and the necessary fee to the Building Inspector. Upon a determination by the Building inspector that the application is in compliance with all applicable Sections of this Title, the license shall be issued.~~ ~~upon proof of compliance with all applicable Sections of this Title.~~ If a person renews his or her license prior to its expiration

on December 31<sup>st</sup>, said license shall be valid for the subsequent calendar year. Any person completing work under an expired license shall be considered to be unlicensed in violation of this Title.

#### **2.08.04: INSURANCE AND BOND REQUIRED FOR EXCAVATION**

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

~~Before any license may be issued to any applicant, there shall be posted by the applicant a good and sufficient bond to be approved by the City Finance Officer in the sum of Ten Thousand Dollars (\$10,000.00). The bond shall be conditioned that such applicant shall fulfill all obligations set forth within this Chapter. Only one (1) bond is necessary for any number of authorized excavations as long as the bond is in full force and effect.~~

#### **2.08.05: EXCAVATION PERMIT OR'S LICENSE FEES**

For each separate excavation project or job, the licensee shall submit a permit form at the location and in the manner established by the Building Inspector, and shall submit a permit fee for each such application of \$150.00. Upon making any application for an Excavator's Construction License, said applicant shall pay a fee of One Hundred and Twenty Five Dollars (\$125.00). Upon making application for renewal of an Excavator's Construction License, said applicant shall pay a fee of One Hundred Dollars (\$100.00). Any Excavator that fails to renew his/her license prior to December 31<sup>st</sup> of each year will be charged a Twenty Five Dollar (\$25.00) reinstatement fee.

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

~~A contractor shall ensure that~~ No sewer pipes, manholes, water mains or appurtenances ~~thereto belonging to the City or the Sturgis Water Company, constituting a~~ **that are** part of the sewer system, shall be damaged in the process of making an excavation. If damage of any kind occurs during excavation, the **licensee** ~~person to whom the permit was issued~~ shall compensate the City ~~or the Sturgis Water Company~~ for the damage, including but not limited to compensation for the cost of any necessary repairs.

#### **2.08.09: EXCAVATIONS MUST BE REFILLED**

In refilling any excavation, the earth shall be thoroughly and completely compacted using machine compacting equipment. When the **licensee** ~~has~~ **excavation is** completely refilled **it** , the surface of the excavation shall not be any higher or lower than the original surface when the excavations were commenced and settling will be at a minimum. The **licensee** ~~Excavator~~ shall be completely responsible for any settling of any ditches that occur. In the event of any settling, the excavator shall be required to refill the ditch and compact it in such manner that the surface when refilled shall not be any higher or lower than the original surface when the excavations were commenced. The **licensee** ~~Excavator~~ shall, as soon as possible and in no case longer than 30 days after the start of such excavation, completely restore the street, alley, sidewalk, or other public place to the same condition as it was prior to the making of such excavation.

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

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

All excavations shall, at all times, be at the same surface elevation as the original surface when the excavation was commenced and no excavation shall become a hazard for vehicular travel or pedestrian traffic. In the event that it comes to the attention of the City that any excavation is, or presents, a hazard to vehicular traffic or pedestrian traffic, the City shall call the telephone number noted on the permit application and advise the ~~licensee Excavator~~ **licensee Excavator** of the problem. The ~~licensee Excavator~~ **licensee Excavator** shall have a period of twenty-four (24) hours from the time of the telephone call to repair the excavation so as to eliminate the hazard. Notice under this provision shall be deemed to have been given by the City at the time the first call is made to the telephone number of the ~~licensee Excavator~~ **licensee Excavator**, regardless of whether personal contact is made with the ~~licensee Excavator~~ **licensee Excavator** as a result of the telephone call. In the event that the ~~licensee Excavator~~ **licensee Excavator** refuses or neglects to repair the hazard within the twenty-four (24) hour period, the City shall have the right to have its crews repair the hazard and the ~~licensee Excavator~~ **licensee Excavator** shall be responsible for all costs of labor, material, and machinery in making the required repairs. The ~~licensee Excavator~~ **licensee Excavator** shall pay the cost of these required repairs within thirty (30) days of the date he or she is billed for the services. In the event the ~~licensee Excavator~~ **licensee Excavator** does not pay within thirty (30) days, the City will not issue any additional permits pursuant to this Title to the ~~licensee Excavator~~ **licensee Excavator** until payment is received by the City in full. If payment is not received by the City within ~~thirty (30), sixty (60)~~ **thirty (30)** days of the date of billing, ~~then the person providing the bond to the Excavator pursuant to this Chapter shall be notified in writing and~~ **the City may proceed with** a claim made against ~~the bond filed by the licensee Excavator pursuant to this Chapter.~~ Said noncompliance and failure to pay may also result in revocation of the ~~Excavator's License~~ **Excavator's License** issued pursuant to this Chapter.

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

If at any time after the issuance of an Excavation Permit, the ~~City Engineer or the Building Inspector~~ shall find that the work ~~for which the bond was given and posted~~ does not pass a satisfactory test, or has not been timely or properly refilled, maintained, and restored to its original conditions, the ~~City Engineer or Building Inspector~~ shall notify the ~~licensee Excavator~~ **licensee Excavator** in writing of the failure.

If the deficiency does not constitute a hazard to vehicular traffic or pedestrian traffic, the ~~licensee Excavator~~ **licensee Excavator** shall have a period of twenty (20) days from the date of the written notification of the problem to correct or alleviate the problem. If the ~~licensee Excavator~~ **licensee Excavator** does not correct or alleviate the problem within said twenty (20) day time period, the City shall have the right to have to do the required repair and charge the ~~licensee Excavator~~ **licensee Excavator** for the labor, material, and equipment time in making the repairs. The City shall send a statement to the ~~licensee Excavator~~ **licensee Excavator** notifying him or her of the charges pursuant to this Section and the Excavator shall have a period of thirty (30) days to pay the charges in full. In the event that payment is not made within thirty (30) days, no further permits shall be issued pursuant to Section 2.08.05 ~~04.03~~ above until charges pursuant to this Section are paid in full. If the charges are not paid to the City within sixty (60) days after the date of billing, the City shall have the right to obtain full **reimbursement or** restitution from the ~~licensee Excavator or his bondsman.~~ **licensee Excavator**.

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

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

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

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

### **CHAPTER 2.09 REVOCATION OF LICENSES**

#### **SECTIONS:**

- 2.09.01: Authority to Revoke License
- 2.09.02: Revocation Process

#### **2.09.01: AUTHORITY TO REVOKE LICENSE**

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

- A. Incompetence in **the Contractor's** ~~his or her~~ ability to perform the work for which the person is licensed;

- B. Failure to comply with applicable City Ordinances, including adopted Building Codes;
- C. Failure to comply with applicable State Laws;
- D. Failure to pay applicable fees; ~~and~~
- E. Failure to submit or renew bond and/or insurance requirements.
- F. **Significant number of complaints regarding the Contractor's failure to meet building code or City Ordinance requirements during the term of the Contractor's license**

### 2.09.02: REVOCATION PROCESS

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

### 2.10.01: MATERIAL REQUIREMENTS FOR FENCES

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

- A. Wood; subject to the following conditions or limitations:
  1. Wood which has a natural resistance to decay, **such as redwood or cypress**, or treated wood, may be used.
  2. Wood in its natural state shall not be used **for posts**.
  3. ~~Plywood or other solid sheeting materials which are two feet (2'0") or wider shall not be permitted.~~
- B. Hedges; subject to the following conditions or limitations:
  1. Hedges shall not be located in the first twenty-five feet (25'0") of any required front yard on an interior lot.
  2. Hedges located on a corner lot shall not be located within twenty-five feet (25'0") of the property corner abutting the right-of-way intersection.
  3. All hedges shall be maintained in a neat and orderly fashion and must be kept clean of all trash and other materials.
  4. When the City Forestry Board advises the Planning Commission if a dead hedge, the property owner shall be ordered to remove said hedge. Within thirty (30) days of the notice given to the owner. **(Removal recommended for coordination with Title 36, Code Enforcement.)**
  5. When the Chief of Police, Building inspector or Code Enforcement Officer finds a hedge is causing a public safety hazard (visibility) the hazard shall be removed **immediately upon notification by the Code Enforcement to the property owner.**
- F. Prohibited Materials:
  1. **Wood in its natural state shall not be used for posts.**
- G. Other materials may be approved by the **Building Inspector** ~~Planning Commission and the Engineering Office~~ when **the Building Inspector** ~~it~~ has been determined that the alternate material meet or exceed the requirements of the above materials.

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

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

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

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

### **2.10.03: PERMIT REQUIRED FOR FENCES**

In addition to the requirements of subsection 2.10.02, Before any person may erect or cause to be erected or constructed a fence four (4) feet or more above the natural grade of the site within the City, he or she must first obtain a building permit from the Building Inspector. The only Two exceptions to this requirement are if a temporary structure permit has been issued for the fence or if a plan for which a building permit has been issued includes the full description, location and value of the fence to be constructed. shall exist in cases where the fence being erected will be taken down within a period of six (6) months or less or where the fence is being erected in conjunction with a construction project.

### **2.10.06: UNSAFE OR HAZARDOUS FENCES**

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

- A. Whenever any portion of the fence, its appurtenance or its members has been damaged by fire, wind, flood, or other cause to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe.
  
- H. Whenever the fence, its appurtenance or its members or portion thereof is creating a traffic hazard because of visibility as determined under the setback requirements of Title 18 or by the Building Inspector by the Chief of Police.

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

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

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

Whenever, in the opinion of the Building Inspector, any building within the City shall have been damaged by fire, building collapse, decay or otherwise, to the extent of 50 percent of the value thereof, it shall be the duty of the Building Inspector to report the same in writing to the City Manager as a likely violation of Title 12 and/or Title 18. Council. The report shall be in writing and include a description of the building, its location, the circumstances of damage, decay or dilapidation, and the name of the owner, if known. The Finance Officer The Department of Planning & Permitting may shall issue a notice to be served upon the owner if within the state, or in case of his absence from the state, upon his agent if there be one, requiring said owner to appear before the City Council respond in writing within 15 days and show cause why said building should not be torn down or removed by the owner. The owner shall be given at least ten (10) days notice of the City Council Meeting. In case the owner cannot be found within the state, and there is no agent present, then said notice may shall be published in the official City newspaper once in the each week for four successive weekly issues of such newspaper. Upon completion of such publication and due proof thereof, placed on file with the Finance Officer, service of said notice shall be deemed valid and complete.

### **2.12.04: MEETING ADDRESSING THE REMOVAL OF DECAYING OR BURNED BUILDING**

At the City Council Meeting discussed in Section 2.03.18 the City Council shall hear evidence as to the condition of the building, the extent to which the building has been damaged and the present value of the building. If, in the judgment of the City Council, the building has been damaged to the extent of fifty percent (50%) of its value, then an order shall be entered of record condemning the building. The order shall further provide that the building be torn down or removed. The order shall specify the amount of time in which the building must be removed. The time shall be determined after

~~consultation with the Code Enforcement Officer and Building Inspector and Chief of Police. Failure to comply with the order of the City Council shall be deemed to be a violation this Ordinance and the City may prosecute accordingly. The City may also remove the building and take a lien against the real property upon which the building was located for all necessary expenses incurred by the City~~

### CHAPTER 2.13 APPEAL PROCESS

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

- A. Any person aggrieved by a decision of the Building Inspector, designee or other Department Head under this Title shall first file a written request for review with the City Manager setting forth the basis for which he or she believes the decision to be in error. The writing shall also include the person's name and mailing address.
- B. Upon receipt of a written request for review, the City Manager shall review the decision and mail a written response to the aggrieved person within twenty (20) days.
- C. If the aggrieved person is not satisfied with the decision of the City Manager following review, he or she may file a notice of appeal with the City Finance Officer. There shall be a ~~twenty-five dollar (\$25.00)~~ 100.00 **No** fee assessed for filing an appeal, which shall be paid to the Finance Office at the time of filing the notice of appeal.
- D. Upon receipt of a notice of appeal, the ~~Department of Planning & Permitting~~ **Finance Officer** shall notify the City Council and a public hearing shall be held at a regularly scheduled Council meeting within thirty (30) days after the date said appeal was filed. The City Finance Office shall provide notice to the person **at the mailing address they have provided** specifying the time, date, and location of the hearing.
- E. The City Council may notify the aggrieved person of its decision following the hearing, however, the Council shall issue a written decision to the person within twenty (20) days of the hearing. The Council may affirm or reverse the decision of the Building Inspector.

(This Title replaces the previous Title 2 and 26 in their entirety effective 8/18/07, Ordinance 2007-20)  
(Chapter 2.13 amended by Ordinance 2013-25, effective 2/5/2014)