

and that without giving notice as directed to the City of their objection, the property owner will be understood to have no objection to the application. In addition to the application fee, the applicant shall be responsible at the time of submitting the application for payment of the cost of notice by certified mail to all required parcels as well as an administrative fee of 10% of the cost of notice by certified mail.

2. At Home Business Use on Reviews

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

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

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

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

1. Pay all costs associated with the City sending a certified letter to all landowners within 200' of the subject property.
2. Have place on their property in a place clearly visible from the busiest public right of way a sign provided by the City stating that the property is under consideration of a use on review. Said sign shall be placed for not less than 21 days

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

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

1. Copies of all South Dakota State Sales Tax returns shall be submitted to the City Finance Office (these records shall be retained and considered confidential)
2. No signage on the property (with the exception of vehicles) shall be visible from a public right of way

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

3. Paving Requirements

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

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 Motorecycle 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 1st of each year and expiring the following December 31st, 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)~~

Adopted this _____ day of December, 2016.

City of Sturgis

Mark Carstensen, Mayor

ATTEST:

Fay Bueno, Finance Officer

First reading: 12-05-2016

Second reading:

Adopted:

Published:

Effective:

City of Riders

1040 Harley-Davidson
Way, Suite 103
Sturgis, SD 57785



City Manager

Voice: (605) 347-4422
Fax: (605) 347-4861
dainslie@sturgisgov.com

Council Report

December 19, 2016

Daniel Ainslie, City Manager

Consideration to approve the Second Reading of Title 31 Temporary Vendor Licenses

Background

The Rally and Events Committee has held numerous meetings with local landowners. The purpose of these meetings is ensure a growing and thriving Sturgis® Motorcycle Rally™ in 2017 and for years to come. This has taken on several facets, several of which require modifications to the City's Temporary Vendor Ordinance.

The present Ordinance was developed after the Chamber assembled a Downtown Strategy Task Force. Every individual that applied was appointed to the task force. After more than a year of studying Downtown and the Rally, the Task Force prepared a list of policy changes. One area of policy changes included revising the vendor fees so that there was a tiered structure. This allowed smaller vendors to be able to pay a reduced rate compared to larger apparel or corporate vendors. The changes presented today, seek to better refine the vendor fee system that was established. Numerous items that were brought forward by land owners, vendors and City staff were taken into consideration and many of the suggestions are included in the attached draft.

Issue under consideration

The proposed modifications include the following policy modifications:

1. Vendor licenses would only be required if an event hosted within the City limits requires an investment to be made by the City in the amount of \$100,000 or more. Currently, this would require vendors fees for participants of the Sturgis® Motorcycle Rally™. The current ordinance requires vendor fees for any event lasting at least 4 days. This in effect would require vendor fees for both the Mustang and Camaro Rallies as well as the Sturgis® Motorcycle Rally™.
2. The Map requirement for vendors would be eliminated. While this requirement allowed for some additional information which was important for enforcement and for some public safety, it has proven to be a significant burden for vendors, landowners and Finance Office staff.
3. Further clarified that businesses could seek a reimbursement of Vendor fees paid if their municipal sales tax paid from Jan-July and September-October is equal to or greater than the Vendor License Fee and Special Sanitation fee. This will allow a larger number of vendors that are in business for longer periods of time to hopefully avoid having to pay for the license fee. It also provides an additional incentive for vendors to be open throughout the tourist season. In doing so, the additional sales tax generated will offset the revenue otherwise paid through the vendor fees which helps to pay for the services provided to the vendors by the City.
4. Provides a system to allow vendors to provide limited marketing along sidewalks. This is a growing issue that currently is entirely disallowed. By providing some allowance of this activity it provides vendors with a standard practice by which they can do the marketing activities in a less disruptive manner.

5. It alters the penalty for ATMs that are not compliant to the existing licensing system. The new penalty is more in line with the small footprint occupied by ATMs.
6. Provides some greater definition as to when storage areas are a part of the licensed area. This has been requested by vendors to ensure that storage areas not on scene are not required to be licensed.

The Second Reading of this proposed ordinance is the same as the First Reading.

Budget Impact

The proposed changes are not anticipated to greatly change the actual revenue collected by the Community. However, this is part of a significant number of alterations which are seeking to ensure that the Sturgis® Motorcycle Rally™ continues to grow and evolve and attract hundreds of thousands of attendees each year. As part of that effort, the number of attendees and vendors should continue on average to grow. As such, the total revenue generated each year by the Rally should grow.

Recommendation

Staff's recommends adopting the first reading of the Title 31 amendments.

Approved:



Daniel Ainslie, City Manager

ORDINANCE 2016-14

AN ORDINANCE AMENDING TITLE 31- LICENSING OF TEMPORARY BUSINESSES

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

TITLE 31 LICENSING OF TEMPORARY BUSINESSES

CHAPTERS:

31.01: General Provisions

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

CHAPTER 31.01 GENERAL PROVISIONS

SECTIONS:

31.01.01: Scope and Purpose

31.01.02: Definitions

31.01.03: Penalty

31.01.01: SCOPE AND PURPOSE

SDCL 9-34 provides the authority for municipal licensing of many non-traditional businesses which can have a negative impact the health and public safety of residents of a municipality. That legislation specifically allows municipalities ~~to build, maintain and operate public marketplace so to provide a venue for such temporary business. In addition, the legislature allow municipalities in South Dakota~~ to license and regulate activities such as exhibitions, second hand stores, tattoo services, piercing services, fortune tellers and mind readers, auctioneers, transient merchants, peddlers, ~~solicitors, pawnbrokers~~solicitors, pawnbrokers, ticket scalpers and food preparation and sales. The City of Sturgis, population of about 6,700, is home to one of the largest tourist events in the U.S., the annual Sturgis® Motorcycle Rally™~~motorecycle rally. The~~ ~~it is an event that in the past decade~~ has had an annual attendance estimated to range from 250,000 persons to ~~perhaps~~ over 500,000 persons participating. Tourists travel from across the United States and from other parts of the world to be in the Sturgis community area each year for it. They come to participate in the buying and selling of many and varied items, to attend concert activities, to camp and to travel throughout western South Dakota, and to meet others from around the world and socialize in a unique tourist environment.

The City of Sturgis is ~~the epicentere~~considered the center of the Rally, and faces significant responsibilities in hosting this large event every year. The primary focus of the municipal activities is to provide a safe, healthy and friendly atmosphere that will allow the Rally™ to flourish and grow. To accomplish this

~~aimat~~, the City incurs costs each year of ~~well~~ over \$1,0700,000. Those costs are incurred to provide needed trash collection, recycling, water service, sewer service, adequate police and public safety staff, necessary ambulances service and similar needed services. To offset those very substantial costs and avoid an unfair burden on property tax payers in the community, the City has adopted and ~~subsequently~~ revised this ordinance to follow that statutory authority to license and assess fees to those who vend, sell, display and market during the annual ~~Rally™~~. It is the intent of the Council, in following that statutory authority, that those who operate temporary businesses and who are the ~~primary beneficiaries~~primary beneficiaries of the business and marketing that results from a stable Rally™ ~~event~~venue will bear the majority of the costs associated with providing and maintaining that safe venue each and every year.

31.01.02: DEFINITIONS

A) VENDOR: For the purpose of this Section, a vendor is any person, firm, corporation, partnership association, business, service provider or retailer as defined by SDCL10-45-1, or operating as a retailer as defined in SDCL10-45-1, and not exempt as defined in Subsection 31.02.03.07 herein, not operating throughout the year within the City and which, in conjunction with an event ~~where the City invests more than \$100,000 in hosting the event of more than four (4) consecutive days within any twelve (12) day time span~~, engages in temporary or transient business in the City selling or displaying goods, wares, merchandise or services, including automated teller services, or a permanent business person, firm or corporation which is located within the City limits ~~who, for more than four (4) consecutive days within any twelve (12) day time span, is selling or displaying such goods, wares, merchandise or services~~, away from its or its usual operating place of business and who, for the purpose of carrying on such business, hires, leases, or occupies any room, building, structure, or space for the exhibition or sale of such goods, wares, merchandise, or services ~~during any days of the eEvent~~. The person, firm or corporation so engaged in business as defined by SDCL 45-10-1, or operating as a retailer as defined in SDCL 45-10-1, unless exempt as defined in Subsection 31.02.03.07 herein, shall not be relieved from the provisions of this Section by reason of association with any local dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with or as a part of or in the name of any local dealer, trader, merchant or auctioneer.

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

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

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

C) YEAR: A twelve (12) month period.

D) BUSINESS: The activity of buying & selling.

- E) OPERATION: In action, functioning, conducting business as defined within SDCL 10-45-1 or acting as a retailer as defined within SDCL 10-45-1.
- F) EVENT: An organized occurrence or happening where the City provides extraordinary services, including but not limited to sanitation services, law enforcement or traffic control. Includes, but is not limited to, the annual Sturgis® Motorcycle Rally™.

31.01.03: PENALTY

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

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

Any vendor found to be operating without a Vendor License and Special Sanitation Fee twice within a 24 month period shall be prohibited from obtaining a Vendor License in the future unless the Vendor License application is accompanied by combined payment of the administrative penalty and administrative fee set forth in the preceding paragraph, for each separate violation of this ordinance.

Any person or entity who is required to obtain a Vendor License and Special Sanitation Fee and who knowingly allows an unlicensed vendor to conduct or engage in business on property they own or which is subject to their control shall be prohibited from obtaining a Vendor License for a period of 400 days after the date of violation.

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

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

CHAPTER 31.02

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

SECTIONS:

31.02.01: Sales and Marketing within the Right of Way

31.02.02: Peddling in Parks

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

31.02.03.01: Vendor License Required

31.02.03.02: Application

31.02.03.03: Property Vending Map

- 31.02.03.04: Fee and Duration of License
- 31.02.03.05: Issuance
- 31.02.03.06: Prohibition of Sale of Glass Beverage Containers and Products
- 31.02.03.07: Exemptions from the Vendor License Fee
- 31.02.03.08: Refund Fee for Transient Merchant License
- 31.02.03.09: Required Documentation of Sales Activities

31.02.01: SALES AND MARKETING WITHIN THE RIGHT OF WAY

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

~~A person may market (not sell) their products or services if they have a temporary vendor location or permanent business location within the City of Sturgis and have paid for an additional Special Sanitation fee as well as an additional \$100 merchandising fee. At no time shall this allow the vendor to obstruct pedestrian or vehicular traffic flow. Any qualifying organization or group as defined in Title 25.02.02 must submit an application, consistent with the requirements of Title 25.02.11, to the Finance Office at least 90 days prior to the proposed starting date for such display or sale. Except as set forth in this subsection, the City Council may adopt such an authorizing resolution for a non-profit organization only for qualified display or sale activities which occur during an Event lasting more than four (4) days within a twelve (12) day time period.~~

~~For an event to be located within the Downtown Business Improvement District, the City Council may authorize such use of public Right of Way located within the Downtown Business Improvement District by a vote of the majority of the Council. For an event lasting not more than four days located outside the Downtown Business Improvement District, the City Council may authorize such use of designated public Right of Way, after notice and public hearing, by the adoption of a Resolution by a majority of the City Council approving such use.~~

31.02.02: PEDDLING IN PARKS

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

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

31.02.03.01 Vendor License Required

Any firm, person, or corporation which intends to operate a temporary business as set forth in the

definition of Vendor in this Title within the corporate limits of the City of Sturgis in conjunction with an event ~~where the City invests more than \$100,000 in hosting the event of more than four (4) consecutive days within any twelve (12) day time span~~ shall be required to purchase a vendor license for each structure, stand, tent, vehicle, booth, location or place which is used by such merchant for the sale or distribution of goods. The person so engaged shall not be relieved from the provisions of this Section by reason of association with any local operating business, dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with or as a part of or in the name of any local dealer, trader, merchant, auctioneer or business. The vendor license must be posted in each individual vendor location during operation.

31.02.03.03 Property Vending Map

~~Starting January 1, 2014 any property owners seeking to place vendors licensed under this Title on property zoned GC-1, HS-1, RV (14 day only), Public Land or Fairgrounds, shall file at the City Finance Office a 8 1/2 x 11 scale map of the potential vending area based on the parcel ID number for the subject property as established by the Meade County Equalization Office, and having attached to it a second sheet consisting of a diagram showing the dimensions of the potential vending area to be licensed:~~

- ~~a) For all property owner maps filed at the City Finance Office prior to April 1 of each year, there shall be no filing fee.~~
- ~~a) For all property owner maps filed at the City Finance Office between April 1 and May 31st of each year, the filing fee shall be \$250.00.~~
- ~~b) For all property owner maps filed at the City Finance Office between June 1 and July 15 of each year, the filing fee shall be \$500.00.~~
- ~~c) For all property owner maps filed at the City Finance Office after July 16 of each year, the filing fee shall be \$1000.00.~~

~~Each applicant for a vendor license shall submit a file stamped copy of a scale map for the property parcel upon which the applicant proposes to operate if licensed. The applicant shall include with the application material written confirmation that the property owner, a designated representative of the owner as on file with the City Finance Office, knows the applicant is seeking a vendor license to operate on a parcel owned by the property owner. The file stamped map copy submitted by the applicant show the dimensions and location of the area applicant seeks to have licensed for temporary vending.~~

31.02.03.04 Fee and Duration of License

- A) A temporary business shall pay a Vendor License fee based on location and size of the overall vending area as set forth below together with the Special Sanitation Fee at the rate established and required by Title 11 of Sturgis City Ordinances for each twelve (12) consecutive day period, or portion thereof, in any calendar year. The combined fee shall be paid at the Finance Office at the time the application is submitted for approval. The Finance Officer shall note on the license the time period for which it is effective. A business may purchase only two (2) vendor licenses per location per twelve (12) month period.
- B) The license fee for each vending area, for payment of both ~~the Vendor~~ the Vendor License fee and the Special Sanitation fee, shall be as follows:
 - ~~1. ATM machine/equipment, area of 25 square feet or less, \$100.00~~
 - ~~1.2. Vending area of 100 square feet or less, \$560.00~~
 - ~~2. ATM machine/equipment, area of 25 square feet or less, \$100.00~~
 - 3. Vending area of 101 to 400 square feet, \$850.00
 - 4. Vending area of 401 to 800 square feet, \$1000.00

5. Vending area of 801 to 1200 square feet or less, \$1200.00
6. Vending area of more than 1200 square feet, \$1500.00

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

31.02.03.05 Issuance

Upon receipt of the application and payment of the fee described in this section and final approval, the Finance Officer shall issue a license to the applicant to operate as a vendor at a place described in the application and for the time for which the license fee has been paid in advance. Any applicant that has had their license issued who subsequently changes location and submits an amended application to show that change shall be charged a supplemental administrative fee of \$100.00 to obtain an amended license. Any vendor that changes location without obtaining an amended license as provided herein shall be subject to the penalty provisions set forth at section 31.01.03 of this Ordinance. This supplemental administrative fee shall also apply to organizations which are exempt from the Vendor License fee but are subject to the Special Sanitation fee imposed by ordinance ~~11.03.21~~11.04.12.

31.02.03.07 Exemptions from the Vendor License Fee:

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

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

- a) Sales where the applicant has demonstrated by verifiable documentation that the proceeds are to be used exclusively for religious, charitable or benevolent purposes. Written proof of such religious, charitable, or benevolent non-profit status as declared by the IRS (i.e. 501(c) (3) documentation) and compliance with the notice provisions of SDCL 22-25-25(6) when required, must be presented when the application is submitted. These exclusions still must comply with the Special Sanitation fee outlined in Title 11.
- b) Sales to wholesale or retail merchants, by sample, for future delivery made by representatives or established wholesalers or manufacturers.
- c) The sales of fruits, vegetables or farm or garden products in their natural state.
- d) Sales by youth age 15 years and under of lemonade and like items and incidentals occurring at and within the boundaries of property at they reside, shall be exempt from the Temporary Vendor License and Special Sanitation fees.
- e) Parking lots on private property, when Vendor License application states that parking of vehicles is the only sales or marketing activity to be conducted on the premises identified in the Vendor application, shall be exempt from the Temporary Vendor License and Special Sanitation fees.
- f) -A business ~~which has~~which has submitted a complete application as required by subsection 31.02.03.02 of this Title which shall include:
 - 1) -Copies of applicant's- South Dakota sales tax returns for the location within the City at which the Vendor seeks exemption, and

- 2) Proof documenting that applicant has paid aggregate municipal sales tax ~~from since~~ January 1st through July 31st of the calendar year for which the Vendor permit application is submitted, and that such tax payments by applicant equal or exceed the amount of the combined Vendor license and Special Sanitation fees which applicant would otherwise be required to pay under subsection 31.02.03.04 (B) above, and
- 3) Verification by applicant that it also operates in all other respects in compliance with all state and federal laws and local ordinances,

Then that applicant is exempt from payment of the Vendor license and Special Sanitation fee required by Subsection 31.02.03.04.

g) An automated teller service(s) provided by a bank or credit union, licensed by the State of South Dakota, through equipment located upon its own business premises.

g)h) Retailers that are selling or displaying merchandise on the same parcel as a permanently established retailer within the City limits that sells the same products within its establishment on a year round basis.

31.02.03.08 Refund Fee for Transient Merchant License

The City of Sturgis is hereby authorized to refund ~~up to 50% of~~ a Temporary Vendor License fee, provided that written notice from the applicant requesting that the license be cancelled is received at the City Finance Office within 30 days of the conclusion of the event. The City Manager will decide on each individual request. Should a request be denied, the applicant may appeal the denial to the City Council. In addition, a Vendor may request a refund of the Vendor fee by Nov. 15 of each year of the event if the municipal sales tax paid as described in 31.02.03.07 (f) 2 from January 1 through July 31 and September 1 through Oct. 31 is equal to or greater than the Vendor fee that was paid for the event.ten (10) days prior to the official start day of the event.

Adopted this _____ day of December, 2016.

City of Sturgis

Mark Carstensen, Mayor

ATTEST:

Fay Bueno, Finance Officer

First reading: 12-05-2016

Second reading:

Adopted:

Published:

Effective:



2017 STURGIS MOTORCYCLE RALLY “OPEN CONTAINER” PILOT STUDY PROPOSAL

Objective

Use a controlled, relevant study to evaluate and understand both the positive and negative effects of open-container policy on local citizens and businesses, law enforcement, City employees, attendees, and the “Rally experience” during the 2017 Sturgis Motorcycle Rally; to more definitively answer the range of questions and concerns surrounding this issue and better predict future impacts during future rallies if implemented.

Background

The Sturgis® Motorcycle Rally™, as the single largest event in the state of South Dakota, provides value to our community by attracting visitors and businesses from around the world. The economic impact to Sturgis and the region is unprecedented. The Rally, as with most longstanding events, has evolved dramatically over the years. The City of Sturgis is tasked with the ongoing process of assessing annual results and realigning goals to meet the needs of our citizens, local businesses, attendees and outside partners. This is done with a dual role to both preserve and improve the Rally. Recent round-table discussions with local business representatives have yielded potential strategies to address the shift of Rally attendees and vendors from downtown Sturgis to alternate venues. One of several proposals generated through these discussions was allowing limited open container during the Motorcycle Rally.

A Sturgis Motorcycle Rally open container resolution was presented for consideration at the Sturgis City Council Meeting on December 2nd. This proposed Rally implementation plan consisted of allowing open container, for beer and wine, within an approximate six-block section of Main and Lazelle Streets, provided that consumption be restricted to a City special-event cup. Per the resolution, open container would be allowed for a nine day period with no specific time-of-day controls. Since limited applicable data exists on which to base a decision and to allow citizens and Council members additional time to discuss concerns; the resolution was tabled until the scheduled December 19th meeting.



Approach

2017 Sturgis Motorcycle Rally “open-container” study:

- Goal is to obtain a meaningful measure from which future Councils can determine if open container is a net enhancement or detractor from the Rally
- Development and implementation of a risk mitigation plan
- Learning opportunity, fact-finding, and data collection not “long-term decision”
- “One-Event Study”, in non-anniversary Rally year
- Goal of obtaining tangible data required to make informed, responsible municipal/community decisions, with respect to future or long-term implementation

Assumptions

Rally Open-Container

Benefits:

- Enhanced Rally-goer experience
- Fewer number of beer garden boundaries where enforcement is required
- Increased number of Rally-goers in downtown Sturgis
- Extended average duration of respective downtown visits
- Vendors and potentially local businesses could experience a resulting net increase in revenue
- City would recognize a net increase in revenue due to the profitability of the sale of the cups and the sponsorship opportunities on the cup

Concerns:

- Increased law enforcement contacts with Rally attendees
- Reduction in local business alcohol net revenue
- Ultimate decrease in Rally attendance

Plan

Implement limited open container in downtown Sturgis during the 2017 Motorcycle Rally, according to the following plan:

Location:

- Previously defined open-container map or subset thereof
- South Dakota DOT has stated that there is no concern with including the crosswalks across Lazelle in the open container boundary



Schedule:

- Friday - Saturday (August 4 – 12)

Hours:

- As presented in the resolution there is no limit
- Council may want to reduce the total available hours

Risk Mitigation:

If events/decisions necessitate rescinding this open-container implementation, during the defined test period.

- 24-Hour emergency city/business call list
- Stakeholder notification
- Special event cups pulled from distributors – cups are picked up within 3 hours by City Staff. All distributors (establishments) will agree in writing to surrender event cups if required by the City
- City Staff will remove signage at all establishments and boundaries and install new signs explaining no open container allowed (signage will already be prepared)
- Public/Social Media information broadcasts by City Staff

Data collected:

- Attendance (collected daily through photos, traffic counts, garbage collection)
- Traffic counts
- Alcohol sales
- Overall sales
- Crime
- Website and social media reaction

Data analysis/comparison/reporting:

- Historic
- 2017 open container
- 2016 no open container
- Baseline/normalized/deviations

Results

Compile public report of findings and conclusions.
Facilitate public discussion of results.

Council Report

December 19, 2016

Jerry Cole, Rally & Events Director

Request for lifting of open container law for the “77th Annual Sturgis Motorcycle Rally” Event held during Aug. 4th-13th, 2017.

We are asking consideration for approval at the Council Meeting, December 5th, 2016.

Background/History

This is the single largest event in the state of South Dakota. This event provides entertainment for our community and also brings participants and spectators from across the United States to our area providing a huge economic impact to benefit Sturgis. Every year the city of Sturgis and its downtown lose out on revenue due to people leaving town to go out to the campgrounds, concert venues, and other locations because a lack of entertainment downtown.

Discussion

The request to lift the open container law has been received: **The 77th Annual Sturgis Motorcycle Rally open container will begin Friday, Aug. 4, 2017 at 10:00a.m., and conclude Aug. 13th, 2017 at midnight. The boundaries for the open container will be:**

1. on the west, by the western edge of the Right of Way of 4th Street, beginning at the intersection of 4th Street and Lazelle Street and continuing south to the intersection of 4th Street and Sherman Street, and
2. on the south, by the south edge of the Sherman Street Right of Way between 4th Street and Middle Street, and
3. on the east, by the eastern edge of the Middle Street Right of Way beginning at the intersection of Sherman Street and Middle Street and continuing north to the intersection of Middle Street and Main Street then east for an extension along and including the entire Main Street ROW to a point two hundred eighty (280) feet East of the intersection of Main Street and Middle Street, and then North from the intersection of Middle Street and Main Street to Lazelle Street ROW, then west staying 10’ feet north of the South ROW of Lazelle Street until the western edge of ROW of 4th Street intersection with Lazelle and 4th Street.
4. on the northeast side of the ROW at the intersection of Lazelle Street and Middle Street north, starting on the north side of Lazelle Street ROW to the alley Right of Way located between Lazelle Street and Dudley Street and extending from the intersection of that alley and Middle Street west across Junction Avenue and continuing to the intersection of that alley and the Right of Way for 1st Street, and further including the area within and between the Right of Way of 1st Street and 3rd Street that lies north of Lazelle Street and south of Bear Butte Creek, then from a point at the intersection of the 3rd Street Right of Way and Bear Butte Creek, south along 3rd Street to the intersection with a line extending west from the alley Right of Way located between Lazelle Street and Dudley Street, then along that line further west across 3rd Street and across Kinship Street to the Southwest Corner of the Community Center building then north to the corner of the northwest community center building, then west 130 feet then south to the ally Right of Way located between Lazelle Street and Williams Street to the western edge of 5th Street then South to its intersection with Lazelle

Street and 5th Street then staying 10' south of the Lazelle Street north ROW then east to the point of beginning at Lazelle Street and Middle Street.

5. Included in this Open Container area are the designated cross walks at the intersections of Main Street and Junction, Main Street and Middle Street, and also including the Right of Way area of Third Street, Harley Davidson Way, First Street, Main Street and Junction Avenue within these boundaries.

6. Not included in the area are the cross walks at the intersections of Junction, 1st Street, Harley Davidson Way, 3rd Street and 4th Street as they cross Lazelle Street.

Budget Impact

The City of Sturgis has been asked to provide the following:

Open Container Boundary signs

Sturgis 77th Rally open container cups to be used for the event

Recommendation

After lots of research, discussion with downtown businesses, and other test events, it is the recommendation of the City of Sturgis Rally & Events Department, city council and city manager that the open container for malt beverages and wine be lifted for the 77th Annual Sturgis Motorcycle Rally.

Approved:	 _____ Daniel Ainslie, City Manager
-----------	---

RESOLUTION 2016 - 67

A RESOLUTION TO PERMIT MALT BEVERAGE AND WINE OPEN CONTAINERS ON CERTAIN PUBLIC PROPERTY AND WITHIN CERTAIN PUBLIC RIGHTS OF WAY

WHEREAS, the Sturgis® Motorcycle Rally™ is one of the nation's largest events, drawing hundreds of thousands of visitors each year to the State of South Dakota and focusing that attention on the Black Hills, and,

WHEREAS, the STURGIS® Motorcycle Rally™ is the single largest event contributor to the State of South Dakota's General Fund and Tourist Fund as well as to numerous hotels, casinos, restaurants, gas stations and other businesses located throughout the State of South Dakota; and,

WHEREAS, the City of Sturgis is the host of the annual Sturgis® Motorcycle Rally™ and has a particular responsibility to help ensure a successful event which continues to draw hundreds of thousands of visitors to the State of South Dakota; and,

WHEREAS, numerous events and tourist destinations throughout the United States makes use of an open container area in order to allow for responsible outdoor malt beverage and wine consumption; and,

WHEREAS, one of the highest catalysts for interactions between Sturgis law enforcement and attendees is unlawful open container and the City seeks to reduce unnecessary interactions to the greatest degree possible; and,

WHEREAS, the Sturgis® Motorcycle Rally™ must continue to evolve in order to ensure that it remains a competitive and relevant destination throughout the summer period to help ensure the profitability of numerous businesses throughout the region and the State of South Dakota; and,

WHEREAS, the request from numerous landowners and business owners is permitted under the authority of state law;

IT IS HEREBY FURTHER RESOLVED as set forth herein that the City of Sturgis shall establish a **malt beverage and wine** open container area on August 4th, 2017 beginning at 10:00 am and to conclude on August 13th, 2017 at 11:59p.m., as authorized by Section 3.02.20(C) of Sturgis City Ordinance and SDCL 35-1-5.5, for those persons legally possessing an malt beverage and/or wine in the authorized non-glass container, bearing the logo of the Sturgis Motorcycle Rally, Inc. and available for purchase from designated on-sale licensees, on that public property open to the public, within area bounded as follows:

1. On the west, by the western edge of the Right of Way of 4th Street, beginning at the intersection of 4th Street and Lazelle Street and continuing south to the intersection of 4th Street and Sherman Street, and
2. On the south, by the south edge of the Sherman Street Right of Way between 4th Street and Middle Street, and
3. On the east, by the eastern edge of the Middle Street Right of Way beginning at the intersection of Sherman Street and Middle Street and continuing north to the intersection of Middle Street and Main Street then east for an extension along and including the entire Main Street ROW to a point two hundred eighty (280) feet East of the intersection of Main Street and Middle Street, and then North from the intersection of Middle Street and Main Street to Lazelle Street ROW, then west staying 10' feet north of the South ROW of Lazelle Street until the western edge of ROW of 4th Street intersection with Lazelle and 4th Street.

4. On the northeast side of the ROW at the intersection of Lazelle Street and Middle Street north, starting on the north side of Lazelle Street ROW to the alley Right of Way located between Lazelle Street and Dudley Street and extending from the intersection of that alley and Middle Street west across Junction Avenue and continuing to the intersection of that alley and the Right of Way for 1st Street, and further including the area within and between the Right of Way of 1st Street and 3rd Street that lies north of Lazelle Street and south of Bear Butte Creek, then from a point at the intersection of the 3rd Street Right of Way and Bear Butte Creek, south along 3rd Street to the intersection with a line extending west from the alley Right of Way located between Lazelle Street and Dudley Street, then along that line further west across 3rd Street and across Kinship Street to the Southwest Corner of the Community Center building then north to the corner of the northwest community center building, then west 130 feet then south to the ally Right of Way located between Lazelle Street and Williams Street to the western edge of 5th Street then South to its intersection with Lazelle Street and 5th Street then staying 10' south of the Lazelle Street north ROW then east to the point of beginning at Lazelle Street and Middle Street.

5. Included in this Open Container area are the designated cross walks at the intersections of Main Street and Junction, Main Street and Middle Street, and also including the Right of Way area of Third Street, Harley Davidson Way, First Street, Main Street and Junction Avenue within these boundaries. Also included in the area are the cross walks at the intersections of Junction, 1st Street, Harley Davidson Way, 3rd Street and 4th Street as they cross Lazelle Street.

This area shall be marked by city barricades with clearly legible signs, provided by the City and consistent with the limitations of this Resolution, stating that the barricade marks the boundary of the open container area. The open container area does not include the City Library, any City Property not open to the public, and does not include any private property within the open container area.

Dated this 19th day of December, 2016.

CITY OF STURGIS

Mayor Mark Carstensen

ATTEST:

Fay Bueno, Finance Officer

Published:

Effective: Effective Immediately

Sturgis "Open-Container" Zone

