

PROCEEDINGS OF THE STURGIS CITY COUNCIL

The Common Council of the City of Sturgis met in regular session starting at 6:30 p.m. on Monday, April 2, 2012 at the Erskine Building. Present: Mayor Mark Carstensen, Alderpersons, Clint Brengle, David Hersrud, Jamie McVay, Joe DesJarlais, Tim Potts, Dane Sundstrom and Kelly Vasknetz. Also present City Manager Daniel Ainslie and City Attorney Greg Barnier. Absent: Marcia Johnston.

Mayor Mark Carstensen led everyone in the Pledge of Allegiance.

Announcements:

The City election will be held next Tuesday, April 10, 2012 at the Community Center from 7:00 am to 7:00 pm.

Informational Reports:

Chief Jim Bush gave an update on his department:

- Statistics of calls were given for the past 3 months.
- His department has been doing DWI check points and saturation patrols. These activities are being paid for by grants.
- They have started hiring for the 2012 Rally; it looks like there will a good return of officers from last year.
- Chief Bush will be having a meeting with all bar owners to discuss open container for the Mustang Rally.
- Chief Bush is helping Shawn Peterson, supervisor of the Ambulance Department, with her questions.

Dale Olson, Water Superintendent, gave an update on his department:

- They have been very busy with Phase 1 of the water project; the project is running ahead of schedule due to the nice weather.
- They will be opening bids for Phase 2 on May 10th.
- They are hoping to go to bid in June for the Lazelle Street Project.
- Information on these projects can be found on the City website.

City Manager Ainslie reported:

The second cent sales tax for the General Fund and Capital Improvement Fund is running 1% ahead of last year, and the Triple B is running 5% below last year. This is for January and February.

Motion by Brengle, second by DesJarlais and carried with all members voting yes to approve the consent calendar.

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

Wages – Ambulance \$24,024.64; Attorney \$5,769.24; Auditorium \$604.06; Buildings \$4,208.83; Cemetery \$2,097.63; City Manager \$9,467.92; Community Center \$24,972.60; Community Development \$10,388.57; Finance Office \$17,259.13; Fire Department \$5,339.58; Human Resource \$4,243.62; IT \$942.23; Library \$17,357.77; Liquor \$8,495.66; Mayor and Council \$6,666.54; Parks \$21,636.14; Police \$68,657.38; Rally \$6,511.02; Sanitary Service \$20,988.76; Streets \$16,769.89; Wastewater \$18,406.69; Water \$22,857.27; Federal Withholding \$23,781.86; FICA \$30,660.80.

General – A&B Business, \$193.69, repair; Amazon, \$397.03, supp; Associated Supply Company, \$1228.63, repair; Avaya, \$36.39, util; Baker & Taylor, \$330.49, supp; BH Power, \$2575.27, util; Brown & Saenger, \$48.17, other; Jerry Burnham, \$2490.92, prof fee; CBH Coop, \$106.65, supp; Century Business, \$342.17, prof fee; City of Sturgis Water Dept, \$1175.36, util; Commerical Door & Specialties, \$115.00, supp; Community Center, \$30.00, other; Corbon Law Enforcement, \$39.95, supp; Council of State Governments, \$58.50, supp; Dakota Business Center, \$207.00, supp; Dakota Mill & Grain, \$10.00, supp; Demco, \$114.52, supp; Diamond Vogel Paints, \$284.40, supp; Diesel Machinery, \$248.00, repair; Dish Network, \$79.95, util; Double Star Computing, \$1476.00, prof fee; Fedex, \$10.97, supp; Finance Office Petty Cash, \$146.00, other; Gale Group, \$71.22, supp; Grimm’s Pump Service, \$35.07, supp; Hauff Mid-America Sports, \$198.00, cc prog exp; Hillyard, \$469.93, supp; Ikon Office, \$409.67, supp; Integrity Sheet Metal, \$404.43, repair; Knology, \$2140.32, util; Learning Opportunities, \$390.99, supp; Meade Co Auditor, \$2865.59, util; MidAmerica Books, \$397.15, supp; Milt’s Cleaning, \$45.00, supp; Candy Morrell, \$3311.09, maint; Motoring USA, \$4875.00, prof fee; Nasro, \$40.00, other; Polar Engraving, \$1926.00, merch for resale; Power House, \$191.88, supp; Scott Rovere, \$11.64, travel; Rushmore Office, \$97.99, supp; SD Municipal League, \$180.00, travel; StopTech, \$960.25, supp; Sturgis Booster Club, \$325.00, other; The Glass Shop, \$87.50, repair; Tom’s T’s, \$282.40, cc prog exp; Twilight Extinguisher, \$35.00, repair; Verizon, \$2010.22, util; Western Communications, \$66.00, supp.

Special Sales Tax – Chamber of Commerce, \$10,666.67, chamber; SEDC, \$8333.33, ind dev.

Capital Improvement – Schreier Engineering, \$898.00, cap imp; SD Dept of Transportation, \$1555.16, cap imp.

Liquor – 5-Star Audio, \$5821.31, equip; BH Security, \$240.00, merch for resale; Century Business, \$1.32, supp; Chamber of Commerce, \$30.00, publ; City of Sturgis Water Dept, \$49.59, util; Knology, \$164.69, util; M&B Enterprises, \$171.90, snacks for resale; Okoboji Wines, \$256.00, off sale liquor; One Way Service Pros, \$385.18, repair; Verizon, \$54.47, util.

Water – BH Power, \$6722.29, util; City of Sturgis Water Dept, \$79.00, util; Tamera Even, \$500.00, grp insur; Finance Office Petty Cash, \$14.74, prof fee; First Nat’l Bank-Sioux Falls, \$15,325.46, prin,int; Knology, \$155.29, util; Candy Morrell, \$362.55, maint; Utility Refund Vendor, \$17.77, dep refund; Verizon, \$348.94, util.

Wastewater – AT&T Mobility, \$133.84, util; BH Power, \$2357.46, util; Century Business, \$195.76, prof fee; City of Sturgis Water Dept, \$18.39, util; Double Star Computing, \$105.00, prof fee; First Nat’l Bank-Sioux Falls, \$4977.41, prin,int; Candy Morrell, \$238.18, maint; Pete Lien & Sons, \$25.63, repair; USA Blue Book, \$51.38, repair; Verizon, \$112.68, util.

Sanitary Service – BH Power, \$339.20, util; Century Link, \$53.62, util; Double Star Computing, \$105.00, prof fee; Iron Outfitter, \$31,932.00, equip; Candy Morrell, \$238.18, maint; Northwest Peterbilt, \$79.23, repair; Sanitation Products, \$438.44, repair; Verizon, \$37.56, util.

Ambulance – BH Power, \$581.75, util; Boundtree Medical, \$82.44, supp; Century Business, \$37.92, supp; City of Sturgis Water Dept, 46.50, util; DB Billing, \$2031.19, prof fee; Diesel Machinery, \$248.00, repair; Double Star Computing, \$15.00, prof fee; Knology, \$86.46, util; Milt’s Cleaning, \$45.00, supp; Purchase Power, \$107.99, supp; Regional Home Medical Equip, \$190.66, supp; Verizon, \$84.54, util.

Councilor DesJarlais passed out a packet that described the request for a front yard setback variance for Larry Weitzel at 444 Nathan Street for a carport. DesJarlais has a concern about the safety of allowing this carport to be built. Planning and Zoning Board had approved the front yard setback.

Motion by DesJarlais, second by Hersrud and carried with Brengle, Carstensen, DesJarlais, Hersrud, Potts, Sundstrom and Vasknetz voting yes and McVay voting nay to table this public hearing and ask the Planning and Zoning Board to revisit this request for a front yard setback from the Weitzels and then make a recommendation to the Council.

Motion by Brengle, second by McVay and carried with all members voting yes to approve the following payroll changes: Rally Department – Disaster Mitigation Specialist – Ron Koan - \$1153.85 – change in responsibilities; Police Department – Chief Jim Bush – additional \$250 per month – supplemental wage added duties; Ambulance/Fire Department – Administrative Asst – Julie Schmidt – same wage- change budget allocation; Ambulance Department – EMR – Tom Trigg, Clint Walker, Chris Grubl, Brad Olson - \$8.00 – part time; Medical Director – Dr Michael Hogue – volunteer; Interim Ambulance Director – Shawn Peterson - \$1923.08 – fulltime promotion; Paramedic – Aaron Zimmiond - \$12.00 – part time; Driver – Mike Koch - \$7.25 – part time; Bob Eisenbraun - EMT-B - \$10.00 Basic and \$15.00-Medic; Parks Department – Seasonal Parks Part Time – Susan Baldwin - \$8.75, Kayla Casteel - \$9.25, Lawrence Hertel - \$9.75, Glenn Reimer - \$8.25, Edgar Scriptor - \$8.50; Cemetery Department – Seasonal Cemetery Part Time – Michael Huber - \$8.25, Elizabeth Bertolotto - \$7.75, Lyle Chase - \$10.00; Community Center – Seasonal Referee – McKenzie Bachand & Kellie Grubl - \$20 per game.

Motion by Brengle, second by Hersrud and carried with all members voting to approve second reading of Ordinance 2012-04 – Title 19 – Subdivision of Land.

ORDINANCE 2012-04
AN ORDINANCE AMENDING TITLE 19 – SUBDIVISION OF LAND

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 19 –Subdivision of Land – Sections: 19.02.02-Jurisdiction; 19.02.03-Variances Prohibited; 19.03.01-Procedure for Approval of Subdivision; 19.03.03: Preliminary Plan Requirements; 19.03.04: Procedure for review of preliminary plan; 19.03.05: Final Plat Requirement; 19.03.06: Procedure for Review of Final Plat and Plan; 19.03.07: Guarantee in Lieu of Completed Improvement; 19.04.01: Conformity to Comprehensive/Development Plan; 19.04.02: Street Plan; 19.04.08: Easements; 19.04.09: Drainage, Inundation and Storm water Runoff Control; 19.04.10: Building Restrictions; 19.04.13: Street Lights; 19.05.01: General Provisions Applicable to Improvement; 19.05.04: Water Distribution System; 19.05.05: Sewers; 19.05.06: Storm Sewers and Drainage; 19.05.10: Inspection; 19.05.11: Acceptance of Improvements by the City is hereby amended to:

19.02.02: JURISDICTION

This Title shall govern all subdivisions of land within the jurisdiction of the City, including as provided for in SDCL 11-6-26.

19.02.03: VARIANCES PROHIBITED

Any subdivision of land within the City, or one mile thereof platted after January 1, 1993, shall not be eligible for variances under provisions set forth in this Title, except so as to allow approval of an Experimental Subdivision as provided for in Chapter 19.06 of this Title.

19.03.01: PROCEDURE FOR APPROVAL OF SUBDIVISION

The procedure to be followed for approval of a subdivision within the jurisdiction of the City shall be as follows:

- A. The developer shall submit to the Community Development Department a minimum of five (5) working days prior to the planning commission meeting a preliminary plan and statements of intent permitting unofficial review.

- B. The planning commission will discuss these documents with the developer and will establish applicable comprehensive/development plan requirements, scale of improvements, design standards, and will review it for compliance with this Title.
- C. Following approval of the preliminary plan by the City Council, developer shall prepare the final plans and required plats for submission to the Community Development Department a minimum of five working days prior to the planning commission meeting.
- D. Upon finding that the final plans and plats are in substantial compliance with the approved preliminary, the planning commission will recommend its approval to the City Council.
- E. Upon approval of the final plans and plat the planning commission shall forward the plans and plat and its recommendation for approval to the City Council.
- F. The final plat shall be filed with the Register of Deeds upon approval by the City Council.

19.03.03: PRELIMINARY PLAN REQUIREMENTS

Any preliminary plan shall include the following:

- A. A map showing the general location of the property proposed to be subdivided which clearly shows the property boundary and its relation to surrounding development including property lines, roads, utilities, if any are present in the vicinity, and water courses with tributary drainage areas;
- B. Contours from available data;
- C. Sewer and water systems proposed with points of connection to existing service if public, and, if not, accompanied by reports by qualified engineers indicating from available information, the suitability of soils to accommodate private disposal systems, the probability of success of wells for water supply, and any significant problems of long term supply, pollution or maintenance problems of such wells or systems;
- D. A narrative describing the nature of the intended development, its total area, its integrations into surrounding development and its impact on the community;
- E. In the case of a mountain subdivision, a preliminary grading plan and definition of the amount and location of forest cover may be required;
- F. Vicinity sketch;
- G. Names of the Subdivision, Developer, Owner's Engineer and names and addresses of all adjacent land owners;
- H. Date, northpoint and scale. The required scale shall be determined by the City Development Director/Building Official;

- I. Location, width and purpose of all easements;
- J. Location and dimension of land to be dedicated or reserved for parks, open space or other public use;
- K. Lot number and block number clearly identifying each parcel of land and the dimensions of all lots;
- L. Building line location shall be shown along each street;
- M. Any portion of the land in or adjacent to the subdivision subject to periodic inundation by storm drainage, overflow or ponding shall be clearly shown and identified on the plan;
- N. A street plan containing the following information:
 - 1. Location of all proposed streets within the subdivision and location of existing or proposed streets adjacent to the subdivision;
 - 2. Widths of existing and proposed rights-of-way;
 - 3. Clear identification of location and width of rights-of-way of any street adopted as part of the major Street Plan;
 - 4. Street names which have been approved by the planning commission;
 - 5. Topography at five (5) foot contour intervals unless a closer contour interval is required by the City Development Director/Building Official ;
 - 6. Plan and profile of all streets;
 - 7. Location of all required sidewalks and crosswalks; and
 - 8. Curve data for the centerline of each street.
- O. A storm drainage plan containing the following information:
 - 1. Location of proposed drainage ways, streams and ponds in the subdivision;
 - 2. Location, size and invert elevations of proposed drainage structures including culverts, bridges, pipes, drop inlets and top elevations of headwalls, etcetera;
 - 3. Area of land contributing runoff to each drainage structure;
 - 4. Location of easements and rights-of-way for drainage ways and maintenance of access thereof;
 - 5. Typical cross sections of each drainage way; and
 - 6. Direction of water flow throughout subdivision.

- P. A sanitary sewer plan containing the following information:
 - 1. Location and size of all existing and proposed sewers in the subdivision and location of all tie points and sewer laterals of the subdivision;
 - 2. Direction of flow of each sewer line;
 - 3. Location of each manhole and other sewerage system appurtenances including lift stations, treatment plants; and
 - 4. Plan and profile of sewage system;
- Q. The water distribution plan shall contain the location and size of the water distribution system including pipes, valves, fittings, hydrants high pressure pumping equipment and other equipment; and
- R. A gas, electric and telephone distribution plan containing the following information:
 - 1 Location of all poles or subsurface facilities as necessary to serve each lot or parcel of land within the subdivision and where necessary to abutting property; and
 - 2 Required easements, including anchor easements for guy wires.

19.03.04: PROCEDURE FOR REVIEW OF PRELIMINARY PLAN

The procedure followed after submission of a preliminary plan for review shall be as follows:

- A. Fifteen (15) copies of the preliminary plan and six (6) copies of the required supplemental material shall be submitted to Community Development Office which shall issue a receipt for the same when it is ascertained that the submission includes all requirements set forth in this Title. If, because of the nature of the subdivision more copies are required, the Development Director / Building Official shall specify the required number of copies;
- B. The date of the planning commission meeting to review the plan shall be specified on the receipt;
- C. When officially submitted and received, the planning commission shall have a maximum of 45 days in which to review, prepare and submit its recommendation and the plans to the City Council, provided, however, that the developer's engineer may agree to an extension not to exceed 30 days;
- D. When officially submitted and received, the Community Development Office shall distribute copies of the plan as follows:
 - 1. To the appropriate school district;
 - 2. To any county and/or municipality within at least a three (3) mile radius of any portion of the proposed subdivision;
 - 3. To any utility, local improvement and service district when applicable;

4. To U.S. Forest Service and the South Dakota Department of Game, Fish and Parks for review and recommendation regarding access roads, fuelbreaks and other measures designed to reduce fire hazards for mountain subdivisions;
 5. To State Highway Department when applicable;
 6. Applicable soil or water conservation districts for explicit review and recommendations regarding soil suitability and flooding problems;
 7. To the SD DENR; and
 8. To City Departments.
- E. The above agencies, towns or cities shall have twenty-four (24) days from the date information is mailed to them to comment. Failure to respond within the allotted time shall be considered an approval unless an extension has been consented to by the developer and the City Council;
- F. The planning commission shall review the preliminary plan to determine if is consistent with the standards set forth in this Title, and it shall only recommend approval for those preliminary plans which the commission finds to be developed in accordance with the intent, standards and criteria specified in this Title; and
- G. If the commission shall determine from a review of the preliminary plan that the soil, slope, vegetation and/or drainage characteristics of the site are such as to require substantial cutting, clearing, grading and other earth moving operations in the construction of the subdivision or otherwise entail an erosion hazard, the commission shall require the developer to provide soil erosion and sedimentation control plans and specifications. Such control plans and specifications shall be prepared by a registered professional engineer or the U.S. Soil Conservation Service.

19.03.05: FINAL PLAT REQUIREMENTS

The following information is required for final plats of subdivisions:

- A. The original or reproducible final plat shall be drawn in black ink upon mylar or other approved reproducible medium not greater than twenty-six (26) by fifteen (15) inches. The scale shall be one (1) inch equals one hundred (100) feet for tracts under forty (40) acres, and one (1) inch equals four hundred (400) feet for tracts over forty (40) acres. Plat sizes may be adjusted to meet filing requirements of the Meade County Register of Deeds.
- B. The final plat shall show the following information:
 1. The boundary lines of the subdivision including distances and angles or bearings and all section lines. The names of all adjoining subdivisions or a description of adjoining unplatted areas and their street layout;
 2. Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use;

3. The length of all straight lines, angles of intersection, length of curves and radius. All dimensions of each lot shall also be shown thereon. All dimensions shall be shown in feet and decimals of a foot to two (2) decimal places. The boundaries of the property, locations, scales and true north shall be shown;
 4. Number to identify each lot and block or site; and
 5. Subdivision names, scale, northpoint and date;
- C. Each final plat submitted for review and approval of the City Council shall contain the following certifications:
1. Surveyor's Certificate;
 2. Owner's Certificate with notary statement;
 3. Acknowledgement of Owner with notary statement;
 4. Sturgis City Council Approval block;
 5. Sturgis Planning and Zoning Commission Approval block;
 6. Certificate of the Meade County Treasurer;
 7. Certificate of the Street and Highway Authority;
 8. Certificate of the Meade County Director of Equalization; and
 9. Certificate of the Meade County Register of Deeds verifying that the final plan meets the requirements of that office.
- D. The final plat shall not be accepted, reviewed or any action taken thereon by the City Council if any of the requirements set forth above are not included. At the time of the approval of the final plat by the City Council, the required Meade County Register of Deeds filing fee must be submitted to the Finance Officer of the City by the developer. After approval of a final plat by the City Council, the Finance Officer shall record this plat with the Meade County Register of Deeds Office and no final plat shall be released to any other person by the Finance Officer between the time of approval of the plat by the City Council and the recording of the final plat by the Finance Officer with the Meade County Register of Deeds Office.

19.03.06: PROCEDURE FOR REVIEW OF FINAL PLAT AND PLAN

The procedure followed after submission of a final plan and plat for review and approval shall be as follows:

- A. A final plan and required plat shall be prepared meeting the requirements of this Title and submitted to the Community Development Department five (5) working days prior to the planning commission meeting. The final plat shall be approved and stamped by the Meade County Treasurer prior to submittal to the Community Development Department.

- B. The receipts issued by the Community Development Office for the fifteen (15) copies of the preliminary plan shall specify the date of the planning commission meeting for review of the plans and plat. The commission shall have 30 days in which to submit its recommendation to the City Council.
- C. The City Council shall have a maximum of twenty (20) days to approve or disapprove the final plans and plat after receipt of the planning commission recommendation.
- D. Not more than six (6) days after approval of the final plans and plat by the City Council, the final plat shall be recorded in the Office of the Register of Deeds. The recording fee shall be paid by the developer and shall be submitted at the time final application is made.

19.03.07: GUARANTEE IN LIEU OF COMPLETED IMPROVEMENT

No final subdivision plat shall be approved by the Planning Commission or accepted for record by the Register of Deeds until any required improvements listed shall be constructed in a satisfactory manner and approved by the City Development Director / Building Official or in lieu of such prior construction, the City may accept a security bond in an amount equal to the estimated cost of installation of the required improvements, whereby improvements may be made and utilities installed without cost to the City in the event of default of the developer.

19.04.01: CONFORMITY TO COMPREHENSIVE/DEVELOPMENT PLAN

All proposed subdivisions shall conform to the comprehensive/development plan.

The densities established by the Zoning Ordinance and the Proposed Land Use Plan shall be observed by the developer.

All thoroughfares in the Major Street Plan shown as crossing or bordering a proposed subdivision are required to be provided in the location and at the right-of-way width designated thereon.

A layout shall be made of the entire area proposed for development before and after final grading is completed. Such a plan shall show the proposed street and drainage pattern.

The improvements the owner proposes to make off-premises, outside the boundaries of the proposed subdivision, pursuant to the development of the subdivision shall be clearly noted on the preliminary plan. These improvements shall relate to drainage, utilities, extension of water mains, sewer mains, and other improvements necessary to permit development in the subdivision.

The improvements the owner proposes to make, if any, relative to off-premise improvements necessary to the development of the subdivision shall also be clearly noted on the preliminary plan. These improvements shall relate to drainage improvements necessary to carry runoff, extension of water mains, sewers and other improvements.

Minimum street construction standards shall be according to adopted specifications.

19.04.02: STREET PLAN

The arrangement, character, extent, location and grade of all streets shall be in accordance with good land planning principles and shall be considered in their relation to existing and planned streets, to topographical conditions, orientation to vistas, to public convenience and safety and in appropriate relation to the proposed uses of land to be served by such street.

The street pattern shall lead traffic toward local shopping and neighborhood centers and to main thoroughfares; however, the number of streets which would tend to promote congestion converging upon any one point shall be held to a minimum. Creation of a "Five-Points" shall not be permitted.

The street pattern shall be in conformity with a plan for the most advantageous development of the entire neighboring area. Sufficient proposed streets shall be extended as far as the boundary lines of the tract to be subdivided in order to ensure normal circulation of traffic within the vicinity. Land abutting a proposed subdivision shall not be left land-locked by such proposed subdivision.

The street layout shall include residential collector and local residential streets of considerable continuity approximately parallel to and on both sides of any arterial street or railroad to reduce the number of intersections of local residential streets with through streets and crossings of railroad tracks.

Local residential streets in the subdivision shall be so laid out that their use by through traffic shall be discouraged.

Subdivisions which abut, or include within the proposed area to be subdivided, any highway or arterial street, shall provide the following:

- A. A marginal access street, or
- B. Reverse frontage with screen planting contained in a non-access reservation along the rear property line, or
- C. Deep lots with rear service drives, or
- D. Other treatment as may be necessary to adequately protect residential properties and to afford separation of through and local traffic.

Intersections of local residential streets with arterial streets shall be held to a minimum.

Unusable reserve strips controlling access to streets shall be prohibited. Land shall not be subdivided in a manner which omits part of the original tract to avoid drainage improvements.

Where there exists a dedicated or platted half-street adjacent to the tract to be subdivided, the other half shall be platted. No new half-streets shall be permitted.

Where there exists an unpaved dedicated or platted street adjacent to the tract to be subdivided, the developer shall be required to provide concrete curb and gutter, sidewalks, and asphalt mat for the existing streets.

Streets designed to have one end permanently closed shall be provided at the closed end with a turnaround having a minimum right-of-way diameter of one hundred (100) feet and a minimum roadway diameter of seventy-five (75) feet. Between the street and the circle there shall be a one hundred (100) foot reverse radius unless otherwise approved.

A cul-de-sac shall not exceed five hundred (500) feet in length.

Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall not be permitted. In no case shall a jog be permitted on an arterial street or highway.

The following conditions shall govern the designation and minimum street right-of-way and roadway width:

- A. The minimum widths of highways, arterial streets, residential collector streets, local residential streets and marginal access streets to be dedicated to City or County shall be as indicated on the Major Street Plan and where not shown therein shall be not less than as follows:

<u>Street Type</u>	<u>Right-of-way</u>
Highways	210 feet
Arterials	80 feet
Residential Collector	60 feet
Local Residential	60 feet
Marginal Access	55 feet

- B. In undeveloped or vacant areas, the Planning Commission shall have the discretion to identify or classify a street as a "collector street".
- C. The amount of right-of-way deemed reasonable to be required by dedication shall not exceed one hundred (100) feet in width.
- D. Minimum roadway widths:

<u>Street Type</u>	<u>Pavement Width (measured from Curb Faces)</u>
Highways	64 feet (total)
Arterials	60 feet (total)
Residential Collector	40 feet
Local Residential	40 feet
Marginal Access	35 feet

No on street parking shall be permitted on Marginal Access Streets.
Marginal Access Streets shall not be permitted in General residential zoned areas.

Street gradients shall be controlled by the following:

- A. Street grades shall not exceed the following unless otherwise recommended and approved by the City Development Director / Building Official :

<u>Street Type</u>	<u>Percent Grade</u>
Highways	3.0%
Arterials	7.0%
Residential Collector	10.0%
Local Residential	12.0%

Marginal Access 12.0%

- B. Minimum grades of any roadway shall not be less than 0.5% unless otherwise approved by the City Development Director / Building Official.
- C. In a mountain subdivision the percent of grade shall be determined by the City Development Director / Building Official, but in no case shall grades exceed 12%.
- D. Vertical curves shall be such as to prevent abrupt change and shall be as approved by the City Development Director / Building Official.

Alignment and visibility conditions:

- A. Minimum radius of horizontal curvature on the centerline shall not be less than one hundred (100) feet.
- B. Tangents between reverse curves shall be as approved by the City Development Director / Building Official.
- C. Angular breaks in right-of-way alignment of more than two degrees are not permitted. Street pavement and curbs shall be curved in all cases.
- D. Clear horizontal visibility, measured along the center line, shall equal or exceed at least six hundred (600) feet on arterial streets; three hundred (300) feet on collector streets; and at least two hundred (200) feet on marginal access streets.
- E. Where there are roads in existence, engineering plans for right-of-ways must be so designated as to contemplate elimination of bends, crooks, and other undesirable hazardous conditions.

Intersections:

- A. Submission of a grading plan showing existing conditions and a detailed design for intersections which are either unusual, or are located on difficult terrains, may be required by the City Development Director / Building Official.
- B. Acute angles at street intersections are to be avoided insofar as possible but in no case will an angle of less than eighty (80) degrees be permitted.
- C. Minimum radii of intersections:
 - 1. Property lines at arterial street intersections shall be rounded with a radius of twenty-five (25) feet. An increased radius shall be required when the angle of intersection is less than ninety (90) degrees or when the intersection involves an arterial street.
 - 2. Roadway and curb intersections shall be made concentric and shall be rounded by a radius of not less than fifteen (15) feet.

19.04.08: EASEMENTS

Easements across lots or centered on rear or side lot lines shall be provided for utilities and drainage where necessary and shall not be less than fifteen (15) feet wide total unless otherwise approved by the City Development Director / Building Official.

Where a subdivision is traversed by a water course, drainage way or stream, there shall be provided a storm-water drainage easement or right-of-way conforming substantially with the lines of such existing or planned drainage way. The width of such drainage easement or right-of-way shall conform substantially with the lines of such existing or planned drainage way and shall be sufficient to contain the ultimate channel and maintenance way for the tributary area upstream. Calculations necessary to establish the magnitude of the drainage way shall be provided by the owner's engineer.

Lots and easements shall be arranged in such a manner as to eliminate unnecessary jogs or off-sets and to facilitate the use of easements for power distribution, telephone service and drainage.

19.04.09: DRAINAGE, INUNDATION AND STORMWATER RUNOFF CONTROL

A drainage plan shall be made for each subdivision by the owner's engineer. Adequate provisions shall be made within each subdivision to provide drainage facilities needed within the subdivision taking into account the ultimate development of the tributary area.

Drainage and flood control facilities shall be provided in conformity with the Master Drainage and Flood Control Plan.

The storm and sanitary sewer plan shall be made prior to other utility plans. Engineering considerations in subdivisions and other development shall give preferential treatment to gravity flow improvements as opposed to other utilities and improvements.

Off-premise drainage easements and improvements may be required to handle the runoff of subdivisions into a natural drainage channel.

Low areas subject to periodic inundation shall not be developed or subdivided except in compliance with the flood plain district of the Zoning Ordinance or until the City Development Director / Building Official may establish the following:

- A. The nature of the land use would not in itself impede surface water runoff and would not be subject to appreciable damage by inundation; or
- B. The area may be filled or improved in such a manner as to prevent such periodic inundation, provided that such fill does not retard the flow of surface waters or result in increasing the water level endangering life and property of others; or
- C. Minimum floor elevations may be established to prevent damage to buildings and structures.

The City Development Director / Building Official may require whatever additional engineering information he/she deems necessary to make a decision on subdivisions and other development which are in areas of questionable drainage.

Ponds and similar areas shall be accepted for maintenance only if sufficient land is dedicated as a public recreation area or park or if such areas constitute a necessary part of the drainage control system. However, the acceptance for maintenance of such park areas is subject to approval by the City Council.

Sewers shall be designed in accordance with good, accepted engineering practice and are subject to approval by the City Development Director / Building Official and the SD DENR.

For any development in which more than one (1) acre of land is to be disturbed, a storm water runoff control plan shall be prepared and submitted to the SD DENR for approval. No construction improvements may begin until said runoff control plan has been approved by the SD DENR and a copy of the approved plan submitted to and approved by the City Council.

19.04.10: BUILDING RESTRICTIONS

If the subdivision does not lie within the City limits or within an area subject to the jurisdiction of the City, the planning commission may require provision for minimum front, side and rear yards, based upon the standards of the Zoning Ordinance and Health Department regulations.

19.04.13: STREET LIGHTS

Street lights shall be installed by the developer at any intersection, the end of any cul-de-sac and at spacing's a maximum of four hundred feet (400') on long street segments without intersections. The developer shall submit his/her lighting plan and proposed poles and fixtures to the Development Director and Public Works Director for approval as part of the development process.

19.05.01: GENERAL PROVISIONS APPLICABLE TO IMPROVEMENT

The developer is required to install or construct the improvements hereinafter described prior to having released the bonds or other securities which guarantee such required improvements.

Any improvement required under these regulations shall be constructed in accordance with specifications and under the inspection of the City Development Director / Building Official.

Any public and private water main, sanitary sewer, lateral, storm, sewer and underground utilities shall be installed as necessary to prevent the future cutting of pavement of any street, sidewalk or other required pavement.

Any required improvement shall be guaranteed by the developer for a period of two (2) years from the date of formal acceptance by the City Council. Formal acceptance shall be action taken by the City Council at a regularly scheduled meeting of the Council and with the acceptance recorded in the minutes of the meeting.

19.05.04: WATER DISTRIBUTION SYSTEM

Any subdivision within the City shall have a water distribution system and shall be connected to the City's water system owned and operated by the Sturgis Municipal Utility Board. The water system shall be provided at the expense of the developer.

The design and specifications of the water distribution system shall meet any adopted specifications. The water distribution system shall meet the requirements of the rules and regulations governing connections to and the use of the City's water system as adopted by the Sturgis Municipal Utility Board. The design and specifications of the water distribution systems shall be subject to the approval of the City Development Director / Building Official and the Sturgis Municipal Utility Board and the SD DENR. All water distribution lines shall be constructed in a publicly dedicated right-of-way, unless otherwise approved by the Municipal Utility Board and the City Council.

At such time as the water distribution system has been accepted by the City, this system shall become the property of the Sturgis Municipal Utility Board and shall be maintained by the Sturgis Municipal Utility Board. No private water system shall be allowed in the City without the approval of the Sturgis Municipal Utility Board and the City Council.

19.05.05: SEWERS

Any subdivision within the City shall have a wastewater collection system and shall be connected to the City's sewer system. The wastewater collection system and connection shall be provided at the expense of the owner and upon completion and acceptance of the system by the City, shall become the property of the City. Once the system has become the property of the City, the City shall be responsible for maintenance of the system. Any wastewater collection system shall be designed to provide for orderly expansion into surrounding areas. All wastewater collection lines shall be constructed in a publicly dedicated right-of-way, unless otherwise approved by the City Council.

The design and specifications of the sanitary sewer collection system shall meet all adopted specifications. The design and specifications of the sanitary sewer collection system shall be subject to the approval of the City Development Director / Building Official Public Works Director, the City Council and the SD DENR.

19.05.06: STORM SEWERS AND DRAINAGE

Storm sewers and drainage structures shall be designed and installed as required by the City Development Director / Building Official in accordance with accepted engineering practices. The storm sewer collection system shall be designed to meet the flow requirements of a ten (10) year storm.

19.05.10: INSPECTION

Each facility constructed in any subdivision shall be installed under inspection of the developer's engineer. All work shall be performed in a workmanlike manner, using good construction practices commonly accepted in the Western, South Dakota area. In the event that any improvements are constructed which are not done in a workmanlike manner or where materials are used that do not meet the specification requirements of the City and State of South Dakota, then the City Development Director / Building Official shall have the right to require the developer to replace the improvements which are done improperly and the development shall not be accepted by the City Council until such replacement has taken place.

19.05.11: ACCEPTANCE OF IMPROVEMENTS BY THE CITY

No building permits shall be issued by the Building Inspector, and no structures or mobile homes shall be placed upon any lot within a subdivision until the water distribution system and the waste water disposal system have been accepted by the City for maintenance and until the developer has provided to the City Development Director / Building Official the back of curb elevations on all lots. In order for the water distribution system and the waste water disposal system to be accepted by the City, they must be complete and in working order and meet the specifications of the City and the City Development Director / Building Official. In the event that a developer is platting lots in sequence in a subdivision, all required improvements, including the water distribution system, waste water disposal system, sidewalks, curb and gutter and hard surface streets must be completed and approved and accepted for maintenance by the City on all pre-existing plats approved by the City Council, before a new final plat will be approved by the City Council.

Streets must be completed and approved and accepted for maintenance by the City within one (1) year of issuance of the first building permit, or no further building permits within the subdivision shall be issued.

Dated this 2nd day of April, 2012.

First reading: March 19, 2012
Second reading: April 2, 2012
Adopted: April 2, 2012
Published: April 11, 2012
Effective: May 2, 2012

Motion by McVay, second by Hersrud and carried with all members voting to approve second reading of Ordinance 2012-06 – Title 25 – Lotteries.

**ORDINANCE 2012-06
AN ORDINANCE AMENDING TITLE 25 - LOTTERIES.**

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 25 –Lotteries is hereby amended to read as follows:

**TITLE 25
LOTTERIES**

Chapters:

25.01: General Provisions

25.02: Regulations for the Conduct of Lotteries within the Corporate Boundaries

**Chapter 25.01
GENERAL PROVISIONS**

SECTIONS:

25.01.01: Scope and Purpose

25.01.02: Definitions

25.01.03: Penalty

25.01.01: SCOPE AND PURPOSE

The purpose of this Title is to set forth those regulations necessary for the control of lotteries within the City.

25.01.02: DEFINITIONS

LOTTERY or LOTTERIES: A plan whereby for a valuable consideration, money is raised by selling chances to share in the distribution of prizes.

25.01.03: PENALTY

Any violation of the provisions of this Title is a Class 2 misdemeanor punishable by the maximum punishment set forth by the laws of the state of South Dakota pursuant to SDCL 22-6-2. As a separate administrative penalty, if the City Council concludes that an applicant has violated this Ordinance, it may refuse an application from that entity or individual to conduct a subsequent raffle or lottery within the City of Sturgis for a period not less than one year, but not longer than two years, from the date of said violation.

Chapter 25.02
REGULATIONS FOR THE CONDUCT OF LOTTERIES WITHIN THE CORPORATE BOUNDARIES

SECTIONS:

- 25.02.01: Permitted for Restricted Purposes
- 25.02.02: Who May Conduct
- 25.02.03: Proceeds Not to Inure to any Individual
- 25.02.04: Application Fee
- 25.02.05: Payment of Temporary Vendor License fee
- 25.02.06: No Professional Person or Organization Employed to Conduct
- 25.02.07: Local Benefit by Designation of Local Charity
- 25.02.08: Limited Compensation for Services Rendered
- 25.02.09: Value of Prizes
- 25.02.10: Notice to Governing Body
- 25.02.11: Application Contents
- 25.02.12: Lease or Agreement to Provide Equipment or Services Prohibited
- 25.02.13: Numbering of Chances
- 25.02.14: Awarding of Prizes
- 25.02.15: After Lottery Report to Finance Officer

25.02.01: PERMITTED FOR RESTRICTED USE

The game "Bingo" as defined in SDCL 22-25-23 or "lottery" as defined in SDCL 22-25-24 may be permitted as provided in this Title and in that event will not be construed as gambling or as a lottery within the meaning of SDCL 22-25-1, or Title 13 of these Ordinances.

25.02.02: WHO MAY CONDUCT

The Bingo game or lottery must be conducted by a bona fide congressionally chartered veterans organization; a nationally recognized religious, charitable, educational, or fraternal organization; a local civic or service club; a political party; a volunteer fire department; or a political action committee or political committee on behalf of any candidate for a political office which exists under the laws of the State of South Dakota, which demonstrates through its application that the proposed lottery or bingo will provide a significant direct benefit to the Sturgis community. The organization shall submit its application to the City Finance Office in the manner and form required herein, and must provide all the information required by that office before the application may be accepted as complete.

25.02.03: PROCEEDS NOT TO INURE TO ANY INDIVIDUAL

The proceeds from any lottery or Bingo game may not inure to the benefit of any individual.

25.02.04: APPLICATION FEE

Any application for a bingo or lottery activity proposing to award prizes having a total value of less than \$2,000 shall pay an application fee of \$5.00. Any application for a bingo or lottery proposing to award prizes having a total value of more than \$2,000 shall pay an application fee of \$100.00.

25.02.05: PAYMENT OF TEMPORARY VENDOR LICENSE FEE

Any applicant seeking to conduct such a bingo or lottery activity shall also be subject to the requirements Title 31 of Sturgis Ordinances. In the case of any lottery or raffle application which is denied by the City Council, and for which the applicant has paid the Temporary Vendor License and Special Sanitation fee to the Finance Office, those fees will be refunded after the time for reconsideration/appeal of the Council action has expired.

25.02.06: NO PROFESSIONAL PERSON OR ORGANIZATION EMPLOYED TO CONDUCT

No separate organization or professional person may be employed to conduct the bingo game or lottery or assist therein.

25.02.07: LOCAL BENEFIT BY DESIGNATION OF LOCAL CHARITY

Any applicant under this Ordinance not demonstrating that its primary non-profit organizational purpose is to provide benefit to the Sturgis community, or which does not have its organization headquarters located within the City of Sturgis, may demonstrate in its application it will meet the significant local benefit requirement of 25.02.02 herein by designating a qualifying local charity or non-profit organization with which applicant shall affiliate during the conduct of the bingo or lottery activity. Any such application asserting that significant local benefit will occur through such local affiliation shall show consent by the local affiliate by providing its signature on the application, or providing similar documentation of consent by the local affiliate, acceptable to the Finance Officer.

25.02.08: LIMITED COMPENSATION FOR SERVICES RENDERED

No compensation of any kind in excess of the state minimum wage per hour or Sixty Dollars (\$60.00) total payment, whichever is greater, in value may be paid to any person for services rendered during any bingo session in connection with the conduct of the bingo game or for their services in selling any lottery or raffle tickets in consideration of any lottery. However, the provisions of this Section do not apply to games or lotteries conducted in connection with a civic celebration recognized by resolution of the governing body of the municipality approving the application to conduct a bingo or lottery within the municipal limits as one not subject to the statutory limitation on compensation.

25.02.09: VALUE OF PRIZES

No prize in excess of Two Thousand Dollars (\$2,000.00) is to be awarded at any one play of bingo and no lottery prize is to be awarded in excess of the amount established pursuant to South Dakota law, SDCL 22-25-25 (5a) and acts amendatory thereto.

25.02.10: NOTICE TO GOVERNING BODY

The organizations authorized under Section 25.02.02 of this Title, before conducting a bingo game, lottery or raffle, shall give thirty (30) days written notice of the time and place thereof to the governing body of the municipality of the intention to conduct such bingo game or lottery. The notice shall be given by submitting an application, complete in form and content as determined by

the City Finance Officer, at least 30 days prior to the proposed sale of tickets for the bingo or lottery. To be complete in form and content means the application must include written documentation confirming the applicant is a qualified non-profit 501(c)(3) organization as determined by the IRS, or include similar written documentation of comparable non-profit status from the Office of Secretary of State of South Dakota, in addition to other information required by this ordinance or the Finance Office. After the complete application and required fee has been submitted to the Finance Office, it shall be considered at a regular meeting of the City Council in the form of a resolution, whereby the City Council shall either approve or deny the application. If approved, the resolution shall further state if the bingo or lottery is subject to the statutory limitation on compensation as stated at 25.02.05 herein.

25.02.11: APPLICATION INFORMATION

The application submitted to the Finance Office shall also state the prize, the value of the prize, starting date, duration and termination date of the bingo game or lottery, and all additional relevant information required by the Finance Office form. However, any organization that conducts a lottery or sells tickets or shares for a lottery which are sold state-wide shall also provide written notice to the City Council of such lottery by providing a complete, signed application with all required supporting documentation to the City Finance Office at least 30 days prior to commencement of ticket sales, pursuant to SDCL 22-25-25 (6).

25.02.12: LEASE OR AGREEMENT TO PROVIDE EQUIPMENT OR SERVICES PROHIBITED

No organization authorized to conduct a bingo game or lottery under this Title may enter into any lease agreement with any other person or organization or provide equipment or services associated with the conduct of a bingo game or lottery. However, this section does not apply to any lease or agreement with a distributor licensed pursuant to SDCL 22-25-28 to 22-25-51, inclusive, to provide bingo or lottery equipment and supplies.

25.02.13: NUMBERING OF CHANCES

All chances or tickets referred to in the definition of "lottery" or "lotteries" shall be numbered consecutively, and the information of the value of the prize and mathematical chance or potential likelihood of purchasing the winning lottery ticket shall be available from each individual selling such lottery or raffle tickets.

25.02.14: AWARDING OF PRIZES

Any lottery where tickets are not sold state-wide, pursuant to SDCL 22-25-25 (6) and permitted under Section 25.02.02, shall have its prizes awarded within the boundaries of the municipality no later than fifteen (15) days after the termination of said lottery, except in cases where the lottery is operated and the tickets are sold in other states.

25.02.15: AFTER LOTTERY REPORT TO FINANCE OFFICER

Any organization conducting a lottery under this Title shall furnish the City Finance Officer, within twenty (20) days after the termination of said lottery, a written report stating the total number of tickets sold, the price per ticket sold, the location of the drawing, a statement of the value of each prize awarded from that lottery, a statement of the name and address of the winner of each prize awarded and a statement of the amount of direct benefit to a local affiliate charity or non-profit, if

any. Upon receipt of a complete After Lottery Report, any applicant that paid an application fee of \$100.00 shall have \$75.00 of the application fee returned to it.

Dated this 2nd day of April, 2012.

First reading: March 19, 2012

Second reading: April 2, 2012

Adopted: April 2, 2012

Published: April 11, 2012

Effective: May 2, 2012

Motion by DesJarlais, second by Hersrud and carried with all members voting to approve second reading of Ordinance 2012-07 – Title 31 – Licensing of Temporary Businesses.

ORDINANCE 2012-07

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 is hereby amended to read as follows:

TITLE 31 LICENSING OF TEMPORARY BUSINESSES

CHAPTERS:

31.01: General Provisions

31.02: Licensing and Regulation of Peddlers, Vendors, Solicitors, Professional People, Businesses and Trades

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

The purpose of Title 31 is to regulate the licensing of people who do not have a permanent business within the City of Sturgis who wish to do business within the City of Sturgis for a temporary period of time.

31.01.02: DEFINITIONS

A) **VENDOR:** For the purpose of this Section, a vendor is any person, firm, corporation, partnership or association not having an operating place of business within the City who, in conjunction with an 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, 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 his/her 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. The person, firm or corporation so engaged 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.

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

C) BUSINESS: The activity of buying & selling.

D) OPERATION: In action, functioning.

E) EVENT: An organized occurrence or happening where the City provides extraordinary services, including but not limited to sanitation services, law enforcement or traffic control.

31.01.03: PENALTY

A violation of this ordinance shall be punishable by a civil penalty of 80% of the combined cost of a Temporary Vendor License and the Special Sanitation Fee, plus a separate administrative fee of \$75.00, to be paid before the Temporary Vendor License can be issued. To avoid additional civil penalty fees for each separate day of operation violation of this ordinance, the vender shall be required to obtain a valid Temporary Vendors License from the City Finance Office within 12 hours of the issuance of the Citation.

Any temporary vendor found to be operating without a Temporary Vendor License and Special Sanitation Fee twice within a 24 month period shall be prohibited from obtaining a Temporary Vendor License in the future unless the Temporary 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 Temporary 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 Temporary 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 PEDDLERS, VENDORS, SOLICITORS, PROFESSIONAL PEOPLE, BUSINESSES AND TRADES

SECTIONS:

31.02.01: Sales and Marketing within the Right of Way

31.02.02: Peddling in Parks

31.02.03: Licensing of Transient Professional People and Merchants

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 has been 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 conditions agreed to by the Common Council, or prohibit the City Council from adopting a resolution to allow the display or sale of lottery tickets or other goods or services in the Public Right of Way for the direct benefit of a non-profit organization or group, as defined in Title 25.02.02 of Sturgis City Ordinances. 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. The City Council may adopt such an authorizing resolution 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.

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 agreement to 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.

31.02.03: LICENSING OF TRANSIENT PROFESSIONAL PEOPLE AND MERCHANTS

31.02.03.1 Vendor License Required

Any firm, person, or corporation which intends to operate a temporary business within the corporate limits of the City of Sturgis in conjunction with an 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.

31.02.03.2 Application

To obtain a license, a vendor shall file, in the office of the City Finance Officer, a verified application stating his or her name, and residence, description and identification of the place in which he or she proposes to do business, dates of operation, name, address, phone number and e-mail address of property owner where business will take place and, the description of the goods he or she intends to handle. Applicant's South Dakota State sales tax number shall be included as part of the application. A South Dakota State Department of Health license, when required for applicant's business, shall also be presented at the time of application.

31.02.03.3 Fee and Duration of License

A) A temporary business shall pay a Temporary Vendor License fee of Four Hundred Twenty-Five (\$425.00) and a 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. This fee shall include all sanitation charges. 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.

31.02.03.4 Issuance

On filing the application and payment of the fee described in this section, the Finance Officer shall issue a license to the applicant to do business 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 Temporary Vendor License fee but are subject to the Special Sanitation fee imposed by ordinance 11.03.21.

31.02.03.5 Exemptions from the Temporary 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.

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, selling lemonade and like items and incidentals thereto from property from which 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.

31.02.03.6 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 ten (10) days prior to the official start day of the event.

Dated this 2nd day of April, 2012.

First reading: March 19, 2012

Second reading: April 2, 2012

Adopted: April 2, 2012

Published: April 11, 2012

Effective: May 2, 2012

Motion by Hersrud, second by DesJarlais and carried with Carstensen, DesJarlais, Hersrud, McVay, Potts, Sundstrom, and Vasknetz voting yes and Brengle abstaining to approve second reading of Ordinance 2012-08 – Title 3 – Licensing and Regulation of Alcohol, Malt Beverages and Drinking Establishments – Chapter 3.03 – Full-Service On Sale and Malt Beverage Restaurant Licenses.

ORDINANCE 2012-08

AN ORDINANCE AMENDING TITLE 3 - LICENSING AND REGULATION OF ALCOHOL, MALT BEVERAGES AND DRINKING ESTABLISHMENTS. CHAPTER 3.03 FULL-SERVICE ON SALE AND MALT BEVERAGE RESTAURANT LICENSE. SECTIONS: 3.03.03 – ANNUAL REPORTS; 3.03.06: FULL-SERVICE RESTAURANT LICENSE FEE; 3.03.07: REGISTRY OF FULL-SERVICE RESTAURANT ON-SALE LICENSEES.

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 3 –Licensing and Regulations of Alcohol, Malt Beverage and Drinking Establishments.- Sections: 3.03.03, 3.03.06, 3.03.07 is hereby amended to read as follows:

3.03.03: ANNUAL REPORTS.

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

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

3.03.06: FULL-SERVICE RESTAURANT LICENSE FEE.

As required by State law, the license fee charged for a full-service restaurant on-sale license shall be at or above the current fair market value for such license as determined herein. However, any fair market value so established shall be a minimum of one dollar for each person residing within the City as measured by the last preceding decennial federal census. The license fee shall be initially established by Resolution within ninety (90) days of the initial adoption of this ordinance. Subsequent changes in the license fee shall not be made for a period of ten (10) years from the effective date of adoption of this Chapter unless a population growth reported by the Federal decennial census requires an increase in the fee.

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

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

3.03.07: REGISTRY OF FULL-SERVICE RESTAURANT ON-SALE LICENSEES.

The City Finance Office shall notify each current on-sale license holder of the existence of the registry and then maintain a registry of each full-service on-sale restaurant license that is being offered for sale. The City shall furnish a copy of the registry to anyone who requests a new-full service restaurant on-sale license. After receiving this notification, the existing full-service restaurant on-sale licensee is responsible for registering with the City that the full-service restaurant on-sale license is for sale.

Dated this 2nd day of April, 2012.

First reading: March 19, 2012
Second reading: April 2, 2012
Adopted: April 2, 2012
Published: April 11, 2012
Effective: May 2, 2012

Brengle introduced the following written resolution and moved its adoption:

**RESOLUTION 2012-11
A RESOLUTION DECLARING PROPERTY SURPLUS**

- Fire: 1968 Ford 750gpm Fire Engine – VIN F75FUD57373
1989 Chevrolet Suburban – VIN 1GNEV16K3KF135602
- Public Works: 1991 Chevy Suburban K1500 4X4 – VIN 1GNEV16KXMF130187
1980 825 Bobcat Skid Steer Loader - Serial # 4958-M-18794
1975 1 Ton Chevy Flatbed V/8 Auto Transmission – VIN CCY335J113632

1962 R185 International Truck with a large Ingersoll Rand Air Compressor mounted on it – VIN FD72363F
1967 Model 12E Cat Road Grader with all weather roll-over cab – Serial # 91G618
10 – 00x20 tire and wheel
900x20 tire and wheel
875x165 tire and wheel
900x16 tire and wheel
Multi stage hydraulic cylinders

Water HP Laserjet 4100 desktop printer

Community Center Black and White Ricoh 1015 copier

Parks Strong Field Scoreboard – Model – BH128
Pond Fountain Pump – Model – Concept 3 – Ser. C3-0608-10548
Pond Fountain

BE IT FURTHER RESOLVED BY THE COMMON COUNCIL OF THE CITY OF STURGIS that the personal property described above is hereby declared no longer necessary, useful or suitable for municipal purposes. It being advisable and in the best interest of the City to sell such personal property.

Dated this 2nd day of April, 2012

Published: April 11, 2012
Effective: May 2, 2012

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

The Sturgis Chamber of Commerce made a request for a raffle to the Council. Due to no motion being made by the Council, the Chamber will be allowed to have the raffle.

Any other business:
None

Motion by Hersrud, second by DesJarlais and carried with all members present voting yes to go into executive session for personnel and contracts at 7:15 pm.

Motion by Brengle, second by Potts and carried with all members present voting yes to return to regular session at 7:24 pm.

Mayor Carstensen adjourned the meeting at 7:24 pm.

ATTEST: _____
Fay Bueno, Finance Officer

APPROVED _____
Mark Carstensen, Mayor

Published once at the total approximate cost of \$670.03.