

**TITLE 2****BUILDING CODE**

- Chapters:      2.01    Uniform Building Code, Building  
    Inspector, Permits  
    2.02    General Provisions  
    2.03    Licensing & Regulation of Building and  
    Structure Movers

**CHAPTER 2.01****UNIFORM BUILDING CODE, BUILDING INSPECTOR, PERMITS****SECTIONS:**

- 2.01.01 – Adoption of Uniform Building Code
- 2.01.02 – Definitions
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**2.01.01 – ADOPTION OF UNIFORM BUILDING CODE**

There is hereby adopted by the City of Sturgis, South Dakota, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, including permits and penalties, that certain building code known as the Uniform Building Code, being particularly the 1997 edition thereof, or the most current edition thereof, as amended, and the whole thereof along with the Uniform Code for Abatement of Dangerous Buildings and the Uniform Code Administrative Code and except such portions as are hereinafter deleted, modified, or amended. One copy of said code with all the amendments has been filed with the City Finance Office and the same are hereby adopted and incorporated fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling in the construction of all buildings and structures therein contained within the corporate limits.

The adoption of the 1997 Uniform Building Code shall mean Volumes 1, 2, & 3, regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conservation, occupancy, equipment use, height, area and maintenance of

buildings or structures within the City of Sturgis; providing for the issuance of permits and collection of fees. Therefore, providing for penalties for violation thereof, repealing all other ordinances and parts of ordinances in conflict therewith.

That if any section, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of the ordinance.

The City of Sturgis hereby declares that it would have passed this ordinance, and each section, clause or phrase hereof, irrespective of the fact that any one or more sections, sentences, clauses, or phrases be declared unconstitutional.

The following chapters shall be hereby repealed from all volumes of the 1997 Uniform Building Code, Chapter 11 (Accessibility), Chapter 13 (Energy Conservation), Chapter 27 (Mechanical), and Chapter 29 (Plumbing).

### **2.01.02 – DEFINITIONS**

- A. Wherever the word “Municipality” is used in the Uniform Building Code, it shall be held to mean the City of Sturgis, South Dakota.

### **2.01.03 – AMENDMENTS OR CHANGES OF UNIFORM BUILDING CODE**

If any provisions of this ordinance are in conflict with the Uniform Building Code adopted by the City of Sturgis, the provisions of this ordinance shall take precedence and the Uniform Building Code shall be considered amended or modified.

### **2.01.04 – ESTABLISHMENT OF THE OFFICE OF BUILDING INSPECTOR**

There shall be designated by the City Council, a Building Official, who shall perform those duties herein set forth. The Common Council may designate any number of Assistant Building Inspectors that said Council deems necessary to carry out the duties of the office of Building Inspection. The person designated as the “Sturgis Engineer” shall automatically be designated as an Assistant Building Inspector.

### **2.01.05 – DUTIES AND POWERS OF BUILDING OFFICIAL**

The following is a list of the duties and powers of the Building Official:

1. It shall be the duty of the Building Official to enforce all laws relating to the construction, alteration, removal and demolition of all buildings and structures within the City Limits, and also to perform and to have all other powers and duties specifically provided by this Ordinance and the Uniform Building Code.
2. The Building Official shall make an examination of any and all plans and specifications for structures to be built within the City of Sturgis, or alterations to be made in or upon any existing buildings or structures which will materially change said structures, in order to determine if said plans, specifications or alterations are in conformance with this Ordinance.

3. The Building Official shall make an examination of all applications for building permits, and shall determine after said examination whether or not a permit should be granted to such applicant.
4. The Building Official shall have the power to issue building permits after the completed application has been determined in accordance with this chapter, and after all required fees have been received. The power to issue said permits includes the power to reject the same.
5. The Building Official may order the removal of any existing buildings or structures which were unlawfully built or which in his/her opinion are dangerous and a safety hazard to the public.
6. The Building Official or his designee, in the discharge of his/her official duties, and upon proper identification, shall have authority to enter any building, structure or premises at any reasonable time for the purpose of inspecting the same, and it shall be unlawful for any person to resist such entry or inspection. The Building Official or his designee shall have the power to require removal or repair of all materials, faulty devices or equipment, etc. which he may deem a hazard.
7. The Building Official shall report every month to the Common Council about the activity and matters of his/her office, and shall report at such other times as the Mayor or Council may direct.
8. The Building Official shall further be charged with the enforcement of all Nuisance Ordinances of the City of Sturgis.
9. The Building Official shall be charged with the enforcement of the Temporary Structure Ordinance and Temporary Merchants Ordinance.

#### **2.01.06 – APPEAL DECISIONS OF BUILDING OFFICIAL**

Any decision that is made by the Building Official under the provisions of this chapter may be subject to the right of appeal to the Common Council aggrieved by said decision. Said appeal shall be perfected by filing notice of appeal with the City Finance Officer and by the payment of an appeal fee of \$100.00 for the costs of said appeal. The Common Council shall hold a public meeting within 30 days after the date of appeal, and shall provide said person with notice specifying the time and location of such hearing. After proper hearing, the Common Council shall have the power to affirm or reverse any such decision of the Building Official.

(Revision of 2.01.06 effective Nov. 28, 2003, Ordinance 2003-12)

#### **2.01.08 – PERMIT REQUIRED**

Before any persons erects or causes to be erected or constructed a building or structure within the City or causes any alterations to any existing building or structure within the City which alteration costs more than \$300.00, he must first obtain a building permit from the Building Official. An alteration of a building or structure shall for the purpose of this section mean any alteration, addition or removal of any one, part of one, or more than one partition, wall, ceiling or floor.

**2.01.09 – APPLICATION FOR PERMIT**

To obtain a building permit from the Building Official, the applicant must make application to the Inspection Office in duplicate on blanks to be furnished by the City of Sturgis. He/she shall include with said application the following information:

1. A sketch or drawing of the outside wall of the floor of said improvement to be built, drawn at a scale of at least ¼”=1’0” showing all measurements, the distance from property lines, distance from buildings or structures on the same parcel of land and distance from back of curb or from edge of streets.
2. The name of the owner of the real property to be improved.
3. The name of the contractor, if any, doing the work.
4. The legal description of the property being improved.
5. The parcel number given to the property by Meade County.
6. The general description of the improvement and what type of building improvement is to be made.
7. Plans for the installation of plumbing, electrical wiring, etc.
8. Such other information the Building Official may request so that he may determine if said improvement complies with the Ordinances of the City of Sturgis and the laws of the State.

**2.01.10 – FEES**

Upon making application for a building permit, all applicants shall pay a permit fee to the City of Sturgis.

If for any reason beyond the applicant’s control he/she or it does not construct the proposed project for which the permit was issued, the amount of the permit less a \$50.00 administrative fee shall be refunded to the applicant.

**CITY OF STURGIS  
SOUTH DAKOTA  
BUILDING PERMIT FEES**

<b>TOTAL VALUATION</b>	<b>FEES</b>
\$1 TO \$500.....	\$20.00
\$501 TO \$2,000.....	\$20.00 plus \$2.50 for each additional \$100 in valuation or fraction thereof up to \$2,000
\$2,001 TO \$25,000.....	\$57.00 plus \$10.50 for each additional \$1,000 in valuation or fraction thereof up to \$25,000
\$25,001 TO \$50,000.....	\$298.00 plus \$7.50 for each additional \$1,000 in valuation or fraction thereof up to \$50,000

\$50,001 TO \$100,000.....	\$485.00 plus \$4.50 for each additional \$1,000 in valuation or fraction thereof up to \$100,000
\$100,001 TO \$500,000.....	\$710.00 plus \$4.00 for each additional \$1,000 in valuation or fraction thereof up to \$500,000
\$500,001 TO \$1,000,000.....	\$2,310.00 plus \$3.75 for each additional \$1,000 in valuation or fraction thereof up to \$1,000,000
\$1,000,001 AND UP.....	\$4,185.00 plus \$2.25 for each additional \$1,000 in valuation or fraction thereof
Inspections outside of normal business hours.....	\$47.00/hr (min. charge – 2 hours)
Re-inspection fees assessed under provisions of section 305.8 of the Uniform Building Code.....	\$47.00/hr (min. charge – ½ hour)
Inspections for which no fee is specifically indicated.	\$47.00/hr (min. charge – 1 hour)
Additional Plan review required by changes, additions or Revisions to plans.....	\$47.00/hr (min. charge – ½ hour)
For use of outside consultants for plan checking, inspections or both.....	Actual cost

**All such fees shall be paid to the Building Official who shall remit the fees to the City of Sturgis Finance Officer to be deposited into the general fund of the City.**

**(Revision of 2.01.10 effective March 30, 2001 Ordinance 2001-04)**

**2.01.11 – PERMIT ISSUED**

The Building Official upon receiving said application and fee shall examine the same; and if the application is completed and the proper fee is paid and the improvement conforms to the ordinances and laws of this City, he/she shall issue a building permit to the applicant which shall entitle the applicant to proceed with the improvement.

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

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

**2.01.12 – FAILURE TO START CONSTRUCTION**

If the applicant fails to commence construction within 60 days following issuance of his/her permit, the permit expires and the application must again be made on a new permit before construction may be commenced.

**2.01.13 – EXPIRATION OF PERMIT**

Any building permit issued prior to the effective date of this ordinance, shall expire within one year following the effective date of this ordinance.

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

**2.01.14 – PERMIT MUST BE POSTED**

A building permit which has been lawfully issued shall be posted in a conspicuous place upon the premises at all times from the beginning until the completion of such construction, alteration or repair. It shall be unlawful for any person, firm or corporation to do any building in the City without the permit posted as required.

**2.01.15 – CERTIFICATE OF OCCUPANCY**

Before the owner may cause a newly constructed building to be occupied, or has a change of occupancy as defined in the UBC, he/she shall first obtain a certificate of occupancy from the Building Official. The Building Official shall issue an occupancy certificate upon completion of the building or prior to change of occupancy if the building is found to be in compliance with the City Ordinances and laws of the State. It shall be unlawful for any owner to permit a structure to be occupied without first obtaining an occupancy certificate as provided herein.

**2.01.16 – TEMPORARY STRUCTURE PERMIT REQUIRED****Definitions:**

**Flame Retardant or Flame Resistant Tarps:** For the purpose of this Ordinance, flame retardant or flame resistant tarps shall have a physical marking or tag attached to the tarp which shows that the tarp has been tested and declared flame resistant and/or flame retardant. Tarps not bearing this physical insignia shall not be accepted.

**Permanent Structure:** Established for 365 days a year and complying with the uniform building code for the occupancy, which is utilizing the structure.

**Permanent Barrier:** A wall or fence which has been constructed as a permanent attachment to property and is a minimum 5'0" in height and has openings which are no longer than 4" in either direction.

**Permanent Business:** A place of business which is in physical operation and open to the public at one stationary location for a period of not less than 300 days a year and has a permanent State Sales Tax License for said location.

**Seasonal Business:** A place of business which is in physical operation and open to the public at one location for a period not exceeding 300 days but more than 30 days and has a permanent State Sales Tax License for said location.

**Temporary Business:** A place of business which is in physical operation and open to the public at one or more location for a period not exceeding 30 days. (A merchant's license will be required for this classification of business.)

**Temporary Structure:** For the purpose of this ordinance, a temporary structure shall be known as: any vending stand, reviewing stand, canopy, tent, awning, fence, or other miscellaneous structure which is intended for use on a temporary basis.

1. Temporary structures, such as vending stands, reviewing stands, canopies, tents, awnings, fences and miscellaneous structures may be erected in areas zoned Highway Service and General Commercial, provided that a special temporary structure permit is obtained for each stand. Said permit shall be issued by the Building Official of his/her designee for a period to not exceed (30) days per location. This thirty (30) day time frame shall include set up and tear down time.
  - a. For the purpose of this section, "**location**" shall be the site on which the temporary structure is first constructed or placed. A temporary structure may not be disassembled and reconstructed or moved to a different location on the same property or parcel of land, or an adjacent parcel of land, after an initial permit is issued for the structure.
  - b. For the purpose of this section, a temporary structure, which is used for the purpose of a temporary office during a construction project or realty office in a new development, shall be exempt from the following requirements. Also exempt from this section are temporary storage buildings used in conjunction with a permanent retail or wholesale business, provided that said structure meets the set back requirements for the zoning district in which it is placed. Also exempt, are businesses, which rent temporary storage buildings at one location to the general public.
  - c. "Temporary storage buildings" are defined as those not used for actual selling, but for storage of goods and merchandises for retail or wholesale in conjunction with a permanent retail or wholesale business.
2. The structural frame of all temporary structures shall be made of steel, aluminum, PVC or wood. If constructed of wood, the smallest wood member shall not be less than 2" by 4" in width.

- a. Wood used for the interior and exterior skins of a temporary structure may be as follows: ½” plywood, ½” chipboard, or particleboard.
  - b. Wood, as defined above, may also be used for shelving temporary structure.
  - c. Tarps, which are utilized on temporary structures, which are occupied by temporary merchants, shall be flame retardant or flame resistant as defined in this ordinance. All tarps not complying with this ordinance shall be removed.
3. All temporary structures shall be removed upon expiration of the time limit stated on the permit.
4. If the structure is not removed by the expiration date stated on the permit, the City shall remove the structure without further notice to the owner and shall charge the cost of the removal to the owner. At the time the permit is issued, the Building Official or his designee shall provide the owner with a copy of this ordinance. The owner or occupant of the stand shall sign the permit, which will serve as an acceptance of service, which will constitute sufficient notice that the structure is not to be placed for more than 30 days. The City may bring action in magistrate or circuit court for the recovery of costs incurred for the removal of said structure or structures.
5. Temporary structures or appendages thereof shall not be placed closer than 5’0” to any public alley. (Exception: When the property owner provides a permanent barrier which is a minimum height of 5’0” between the temporary structure and the public Right of Way, the temporary structure may be placed closer than 5’0” to the Public R.O.W. No sales may be permitted through the permanent barrier.)
6. The permit hereinbefore described may be suspended or revoked if at any time the structure or its occupants are in violation of the Ordinances of the City of Sturgis or the laws of the State of South Dakota.
7. Temporary structures may not be used for housing permanent or seasonal businesses.
8. A fine for each day of violation may be imposed as permitted for a class two misdemeanor for any person found guilty of violation of any provisions of this ordinance.

**Revision effective April 21, 2000 Ordinance 2000-02**

**CHAPTER 2.02****GENERAL PROVISIONS**

## SECTIONS:

- 2.02.01 - Excavations Near Streets
- 2.02.02 - Excavations in Public Right-of-Ways
- 2.02.03 - Same: Application and Bond
- 2.02.04 - Obstruction of Sewer Pipes, Man Holes
- 2.02.05 - Excavations Must be Refilled
- 2.02.06 - Same: Failure to Comply
- 2.02.07 - Non-Applicable to Utility Companies
- 2.02.08 - Barricades, Guards, Lights, Etc., Required
- 2.02.09 - Stair Railings and Grates
- 2.02.10 - Permit to Move Buildings
- 2.02.11 - Permit to Place Building Material on Street
- 2.02.12 - Fences
- 2.02.13 - Removal of Decaying or Burned Building
- 2.02.14 - Same: Hearing
- 2.02.15 - Signs and Outdoor Advertising
- 2.02.16 - Use of Concrete and Other Debris as Fill On Publicly Dedicated Rights-of-Way Prohibited
- 2.02.17 - Operation of Vehicles with Lugs, Ice Spurs, etc., on Streets and Alleys
- 2.02.18 - Operation of Construction Equipment or Vehicles Equipped with Outriggers

**2.02.01 - EXCAVATIONS NEAR STREETS**

It shall be unlawful for any person, owner or occupant of any lot or parcel of land within the City of Sturgis, to make or cause to be made any excavation of said lot or parcel of land, except the same be securely guarded so as to prevent the injury of any person or persons or animals passing upon or along said sidewalks, streets, alleys or public grounds or traveled path or roadway.

**2.02.02 - EXCAVATIONS IN PUBLIC RIGHT-OF-WAYS**

It shall be unlawful for any person to make or cause to be made any excavation in, across, on or under any street, sidewalk, alley, or public ground or remove any earth, soil, paving, gravel, concrete or other material therefrom, without first having obtained a permit therefor from the **Public Works Department**.

**2.02.03 - SAME: APPLICATION AND BOND**

Any person desiring to make any excavations in any of the public streets, alleys or other public places shall first make an application to the **Public Works Department**, which said application shall state where such excavation is to be made, the extent thereof, and in front of which lot or lots within the City and for what purpose the excavation is to be made. Before any such permit be issued to any such person, there shall be posted by such person a good and sufficient bond to be approved by the **City Finance Officer** in the sum of \$1,000.00, which bond shall be conditioned that such applicant shall fulfill all obligations provided for in Sections **2-02-04** through **2-02-08**. Only one (1) bond is necessary for any number of authorized excavations as long as the bond is in force and effect. If the **Public Works Department**, after careful examination, finds the application in proper order and in conformance with the provisions herein, and if said bond has been properly posted, permit may be issued to the applicant.

**2.02.04 - OBSTRUCTION OF SEWER PIPES, MANHOLES**

No sewer pipes or manholes belonging to the City of Sturgis, constituting a part of the sewer system, shall in any manner be damaged in the process of making an excavation, and any damage thus committed shall be fully compensated for by the person to whom the permit was granted to make said excavation.

**2.02.05 - EXCAVATIONS MUST BE REFILLED**

In refilling any excavation that has been authorized herein before provided, the earth shall be thoroughly and completely compacted using machine compacting equipment. When the excavation is completely refilled, the surface of the excavation shall not be any higher or lower than the original surface when the excavations were commenced and settling will be at a minimum. The permit holder shall be completely responsible for any settling of any ditches that occurs. In the event of any settling, the permit holder shall be required to recompact the ditch and refill the ditch in such a manner that the surface when refilled shall not be any higher or lower than the original surface when the excavations were commenced. The applicant will, as soon as possible and in no case longer than 30 days after the start of such excavation, completely restore the street, alley, sidewalk, or other public place to the same condition as it was prior to the making of such excavation. In the event that the surface is of concrete or asphalt, the permit holder shall be required to replace the concrete or asphalt which is disturbed because of the excavation. The width of the patch shall be at least two (2) feet wider than the width of the actual excavation, if the excavation is two (2) feet or less. The width of the patch shall be at least four (4) feet wider than the actual excavation, if the excavation is more than two (2) feet. In the event that the surface is of concrete or asphalt, all openings in the concrete or asphalt shall be mechanically cut with a saw. In the event any settling of the ditch occurs, within one (1) year after the excavation is backfilled, the permit holder shall, at his or her expense, be required to remove the patch, if applicable, recompact the ditch and replace the surface. The permit holder shall be responsible for maintaining the excavation form the time the excavation is backfilled until the surface is restored. This maintenance shall include periodic visual inspection of the excavation to insure that the excavation is not settling or the fill is not

being pushed out of the excavation due to or from traffic. All excavations shall, at all times be at the same surface elevation as the original surface when the excavation was commenced and no excavation shall become a hazard for vehicular travel or pedestrian traffic. In the event that it comes to the attention of the City of Sturgis that any excavation is or presents a hazard to vehicular traffic or pedestrian traffic, the City shall call the telephone number noted on the permit application and advise the permit holder of the problem. The permit holder shall have a period of twenty-four (24) hours from the time of the telephone call within which to repair the excavation so as to eliminate the hazard. Notice under this provision shall be deemed to have been given by the City at the time the first call is made to the telephone number of the permit holder, regardless of whether personal contact is made with the permit holder as a result of the telephone call. In the event that the permit holder refuses or neglects to repair the hazard within the twenty-four (24) hour period, the City shall have the right to have its crews repair the hazard and the permit holder shall be responsible for all costs of labor, material, and machinery in making the required repairs. The permit holder shall pay the cost of these required repairs within thirty (30) days of the date he or she is billed for the services. In the event the permit holder does not pay within thirty (30) days, the City will not issue any additional permits pursuant to this Chapter to the permit holder until payment is received by the City in full. If payment is not received by the City within sixty (60) days of the date of billing, then the person or corporation providing the bond to the permit holder pursuant to Section **2-02-03** above shall be notified in writing and a claim made against the bond filed by the permit holder pursuant to Section **2-02-03** above.

#### **2.02.06 - SAME: FAILURE TO COMPLY**

If at any time after the issuance of any such permit for making such excavation as provided in Section **2-02-03**, the City Engineer or **the Public Works Department** shall find that the work for which the said bond was given and posted does not stand a satisfactory test, or has not been timely or properly refilled, maintained and restored to its original condition, the said City Engineer or **Public Works Department** shall notify the permit holder in writing of the failure. If the deficiency does not constitute a hazard to the vehicular traffic or pedestrian traffic, the permit holder shall have a period of twenty (20) days from the date of the written notification of the problem within which to correct and alleviate the problem. If the permit holder does not correct or alleviate the problem within said twenty (20) day time period, the City shall have the right to have its men and equipment do the required repair and charge the permit holder for the labor, material, and equipment time in making the repair. The City shall send a statement to the permit holder notifying him or her of the charges pursuant to this section and the permit holder shall have a period of thirty (30) days within which to pay said statement in full. In the event that payment is not made within thirty (30) days, no further permit shall be issued pursuant to Section **2-02-03** above, until charges pursuant to this Section are paid in full. If the charges are not paid to the City of Sturgis within sixty (60) days after the date of billing, the City shall have the right to obtain full restitution from the permit holder or his bondsman.

#### **2.02.07 - NON-APPLICABLE TO UTILITY COMPANIES**

No utility company which has hereto fore been granted, by franchise or contract, the right to use the streets, alleys or other public places, shall be required to furnish a bond for

making any excavations in any public right-of-ways; provided that all Sections of this Chapter relating to excavations in public right-of-ways shall be binding upon such companies.

#### **2.02.08 - BARRICADES, GUARDS, LIGHTS, ETC. REQUIRED**

Any person receiving a permit to make an excavation in or upon or adjoining any street, alley, sidewalk, thoroughfare or public ground, or any person making any excavation whatsoever on either public or private ground, shall during the progress and continuance of the work, erect, keep, and maintain about and around the same by day and night, suitable guards and fences, lanterns and signals as to prevent injury to any person, animals or vehicles on account of any such excavation.

#### **2.02.09 - STAIR RAILINGS AND GRATES**

The owner of any building in said City having a stairway leading from an adjacent sidewalk to the cellar or abasement of such building, shall guard such stairway with a substantial railing not less than three feet high, and the entrance to such stairway shall be at right angles to the street form which such entry is made, and any person who shall have any permanent opening in any sidewalk for the purpose of letting light into any basement or cellar or for any other purpose, shall guard the same with a substantial cover.

#### **2.02.10 - PERMIT TO MOVE BUILDING**

Any person desiring to move any building or structure along, upon, or across any street, alley, sidewalk or public ground within the limits of this City, shall apply to and obtain from the Building Inspector a permit to move such building or structure along, upon, or across any street, alley, sidewalks or public grounds. No building or structure being so moved along, upon or across any street, sidewalks or public grounds shall be moved or be upon any such street, alley, sidewalks or public grounds other than during the period from daylight to 4:00 p.m. If a building or structure is to be moved on to any lot within the City, the Building Inspector shall have the power not to issue the moving permit on the grounds that the intended use of the structure or location thereof is contrary to the provisions of this Ordinance.

#### **2.02.11 - PERMIT TO PLACE BUILDING MATERIAL ON STREET**

Only with the permission of the **Public Works Department** shall any person deposit and keep limber, stone, brick or other materials for building in any public street, road, or alley, adjacent to a building to be erected or repaired for a space of time not exceeding six (6) consecutive months. Any person desiring to do the same shall make written application to the **Public Works Department** and said **department** shall have the power to grant permission, subject to such conditions as he may deem advisable. Before granting such permission, the **Public Works Department** shall take into consideration the free flow of vehicular traffic and pedestrians, the proper drainage of water, and the safety of persons and property.

**2.02.12 - FENCES**

The following regulations provide for maximum safety of persons using sidewalks and streets and for the beautification of Sturgis, yet providing the maximum enjoyment and use of the property.

1. Fences may be constructed of the following factory manufactured materials or natural material in its living state, such as hedges.
  - a. WOOD
    - 1) Wood which has a natural resistance to decay or treated wood may be used.
    - 2) Wood in its natural state shall not be used.
    - 3) Plywood or other solid sheeting materials which are two feet (2'0") or wider shall not be permitted.
    - 4) Spacing of support posts on wood fences shall be no more than eight feet (8'0") on center. Such supports shall be embedded below grade not less than three feet (3'0") unless the post is embedded in concrete. If concrete is used, the post may be embedded below grade no less than two feet (2'0") and one (1) cubic foot of concrete.
    - 5) All wood in contact with the ground shall be treated.
    - 6) Chemical retention shall meet the American Wood Preservers Association Standard C23-92 for round poles and C24-93 for sawn timber. In no case shall there be less than .6 lbs of chemical retention per cubic foot of material.
  - b. HEDGES
    - 1) Hedges shall not be located in the first twenty five feet (25'0") of any required front yard on an interior lot.
    - 2) Hedges located on a corner lot shall not be located within twenty five feet (25'0") of the property corner abutting the right-of-way intersection.
    - 3) All hedges shall be maintained in a neat and orderly fashion and must be kept clean of all trash and other materials.
    - 4) When the City Forestry Board advises the Planning Commission of a dead hedge, the property owner shall be ordered to remove said hedge within thirty (30) days of notice.
    - 5) When the Chief of Police finds that a hedge is causing a public safety hazard (visibility) the hazard shall be removed.
  - c. METAL
    - 1) Metal fences may be of any manufactured metal product except barbed wire. EXCEPTION: SECURITY FENCES - When approved by the City Planning Commission, security fences may be constructed with barbed wire if the lowest strand of barbed wire is not less than eight feet (8'0") from the existing grade.

- 2) Spacing of support posts for metal fences shall be no more than eight feet (8'0") on center.
  - 3) All supports shall be embedded in not less than one (1) cubic feet of concrete and extend below grade a minimum of two feet (2'0").
- d. CONCRETE, MASONRY OR ROCK
- 1) Concrete, masonry or rock fences may be constructed of cast in place concrete or any manufactured concrete product.
  - 2) Fences or walls constructed of concrete products shall be designed with reinforcement. Such design shall be in compliance with Chapters 19 and 21 of the 1993 Uniform Building Code and approved by the Engineering and Inspections office.
- e. POLY VINYL CHLORIDE
- 1) Fences constructed of PVC must meet or exceed the following ASTM requirements:
    - A) ASTM D256 Izond Impact (23 degree's C--5.0 ft. lbs.) (0 degree's C--2.0 ft. lbs.)
    - B) ASTM D638 Tensile Strength
    - C) ASTM D648 Deflection Temp.
    - D) ASTM D695 Compressive Yield (8,780 psi)
    - E) ASTM D696 Thermal Expansion
    - F) ASTM D732 Shear strength (6,870 psi)
  - 2) Posts for PVC fencing shall not be spaced more than 8'-0"
  - 3) Post shall be installed not less than 2'-0" below grade and imbedded in not less than one (1) cubic foot of concrete.
- f. Other materials may be approved by the Planning Commission and the Engineering Office when it has been determined that the alternate material meets or exceeds the requirements of the above materials.

## 2. HEIGHT and SETBACKS

- a. No fence, wall or hedge shall be permitted over the height of six feet (6'0") unless approved by the Planning Commission and City Council.
  - b. On any interior lot, a fence, wall, hedge, or lawn ornament which is above the height of three feet six inches (3'6") and is opaque in nature shall not be permitted within the first twenty five feet (25'0") of any required front yard.
  - c. On any corner lot, a fence, wall, hedge, or lawn ornament which is above the height of two feet six inches (2'6") and is opaque in nature shall not be permitted within a site triangle which measures twenty five feet (25'0") back in both directions from the property corner abutting an intersection.
3. All fences must be constructed to manufacturer's recommendations or to industry standards and shall be capable of withstanding an eighty (80) mile per hour wind, as per the 1991 Uniform Building Code, Figure 23.1.

#### 4. PERMIT REQUIRED

- a. Any person or firm installing a fence shall first obtain a building permit from the City Engineering and Inspections Office.
  - 1) Exception: Fences that are installed for a period of six (6) months or less will not be required to meet the standards in this ordinance.
  - 2) Exception: Fences which are in conjunction with a construction project will not be required to meet the installation standards of this ordinance.
- b. The cost of the permit will be \$25.00.  
**(Revision of 2.02.12 (4b) effective Nov. 28, 2003, Ordinance 2003-12)**
- c. The permit application shall show the name of the owner of the property, the legal description and address of the property, the height of the fence, wall or hedge, the material to be used, and the installer's name and address.
- d. Fences which are in existence at the time of adoption of this Ordinance may have their use continued as long as they have not become a public safety hazard.

5. If at any time, in the opinion of the City, a fence, wall, or hedge becomes unsafe to the public or person occupying the property, the City shall order the fence removed. The time given to remove an unsafe fence, wall or hedge shall not exceed 30 days from the date of notice.

#### 6. UNSAFE OR HAZARDOUS FENCES DEFINED:

- a. Whenever any portion of the fence or its members has been damaged by fire, wind, flood, or other cause to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe.
- b. Whenever any portion or member or appurtenance thereof is likely to fail or to become detached or dislodged or to collapse and thereby injure person or damage property.
- c. Whenever any portion of a fence, or any member, appurtenance or ornamentation on the fence is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure which is stated in the building code for new structures.
- d. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that the fence or portions of the fence are materially less resistant to winds.
- e. Whenever the fence, or any portion thereof, because of (1) dilapidation, deterioration or decay; (2) faulty construction; (3) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such fence; (4) the deterioration, decay or inadequacy of its foundation; or any other cause, is likely to partially or completely collapse.
- f. Whenever the fence or its members list, lean, or buckle to such an extent that the plumb line passing through the center of gravity does not fall inside the middle one third of the base of the fence.

- g. Whenever the fence or a portion thereof has been constructed in violation of any specific requirement of the Building Code, Ordinances of the City of Sturgis or laws of the State of South Dakota.
  - h. Whenever the fence or portion thereof is creating a traffic hazard because of visibility as determined by the Chief of Police.
7. It shall be a Class 2 misdemeanor for any person or firm to violate any portion of this Ordinance.
8. After owner of occupant of record fails to abate a non-conforming or unsafe fence, wall, or hedge within 30 days of written notice from the Building Inspector, certified mail, return receipt requested, the City shall have the right to go upon the property and abate the violation without further notice to the owner or occupant of record. The City may recover its costs of abatement in any court of competent jurisdiction.

### **2.02.13 - REMOVAL OF DECAIVING OR BURNED BUILDING**

Whenever, in the opinion of the Building Inspector, any building within the limits of this City, shall have been damaged by fire, building collapse, decay or otherwise, to the extent of 50 percent of the value thereof, it shall be the duty of the Inspector to report the same in writing to the Common Council at some regular meeting describing the said building, its location and the name of the owner, if known. The City Finance Officer shall issue a notice to be served upon the owner, if within the State, or in case of his absence from the state, upon his agent if there be one, requiring said owner to appear before the Common Council at a time and place specified in said notice, no less than ten days after the service of such notice, and show cause why said building should not be torn down or removed. In case the owner cannot be found within the State and there is no agent present, then said notice shall be published in the official City newspaper once each week for four successive weekly issues of such newspaper and upon completion of such publication and due proof thereof, placed on file with the City Finance Officer, service of said notice shall be deemed valid and complete.

### **2.02.14 - SAME: HEARING**

At the hearing, the Common Council shall hear evidence as to the condition of such building, the extent to which the same has been damaged and the present value thereof, and if in the judgment of the Common Council such building has been damaged by fire, decay, or otherwise to the extent of 50 percent of its value, then an order shall be made and entered of record, condemning such building to be torn down or removed and such order shall require the removal within such time as shall therein be specified under the direction of the Building Inspector and the Chief of Police. Any disobedience of said order shall be deemed to be a violation of this order and the City may prosecute the offender for violation of said Ordinance and may remove the building and hold a lien against the property for all necessary expenses.

**2.02.15 - SIGNS AND OUTDOOR ADVERTISING**

- A. Other than utility fixtures and holiday decorations, no sign, awning, or display shall be suspended, hung or placed so that the same shall hang over any part of a street or sidewalk used for vehicular or pedestrian travel unless written application for a permit is made to the Building Inspector, and said Inspector grants a permit therefor. The Building Inspector shall take into consideration that no such sign, awning, or display shall be suspended, hung or placed in any manner that may endanger the life, health, property and public safety, and there shall be compliance with all provisions of the National Building Code relating to signs and outdoor advertising.
- B. Any temporary signs, banners, fixtures, awning, decorations, or any other type of advertising material placed on any property in the City of Sturgis on a temporary basis for use during the Black Hills Motorcycle Classic shall be removed from the property no later than 5 days from the official ending of the Classic. The Building Inspector shall notify the property owner in writing of any violations of the provisions of this section and the property owner shall have 5 days from the date of mailing of the notice by the Building Inspector in which to remove the item that is not in compliance with this ordinance. In the event the property owner fails to remove the item within this 5 day time period, the City of Sturgis shall have the authority to enter upon the property and remove the item in order to make the property in compliance with the provisions of this ordinance.

**2.02.16 - USE OF CONCRETE AND OTHER DEBRIS AS FILL ON PUBLICLY DEDICATED RIGHTS-OF-WAY PROHIBITED**

It shall be unlawful for any person, firm or corporation to use concrete, asphalt, wood, tree limbs or other solid debris as fill in publicly dedicated right-of-way of streets or alleys within the City of Sturgis.

**2.02.17 - OPERATION OF VEHICLES WITH LUGS, ICE SPURS, ETC., ON STREETS AND ALLEYS**

Every solid rubber tire on a vehicle moved on any highway, street, or alley within the City of Sturgis shall have rubber on its entire traction surface at least one inch thick above the edge of the flange on the entire periphery.

No tire on a vehicle moved on a highway, street or alley within the city of Sturgis, shall have on its periphery any block, stud, ice spur, flange, cleat, or spike, or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire except that it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle with pneumatic tires in which there are embedded metal studs or wires of tungsten steel or any other similar material.

**2.02.18 - OPERATION OF CONSTRUCTION EQUIPMENT OR VEHICLES EQUIPPED WITH OUTRIGGERS**

- A. All construction equipment or vehicles equipped with outriggers being used for construction purposes on the bituminous or concrete surface streets and alleys of the City of Sturgis shall have rubber padded or flat metal surface thereon.
- B. It shall be unlawful to use construction equipment or vehicles equipped with outriggers having metal studs or lugs or equivalent hard material upon the bituminous or concrete surfaced streets and alleys of the City of Sturgis.

**CHAPTER 2.03**  
**LICENSING AND REGULATION OF BUILDING AND STRUCTURE MOVERS**

SECTIONS:

- 2.03.01 -- Moving Buildings and Structures -- Licensed Movers
- 2.03.02 -- Licenses -- How Obtained
- 2.03.03 -- Indemnification
- 2.03.04 -- Permit
- 2.03.05 -- Condition of Granting Permit
- 2.03.06 -- Bond
- 2.03.07 -- New Building
- 2.03.08 -- Penalty

**2.03.01 - MOVING BUILDINGS AND STRUCTURES -- LICENSED MOVERS**

No person, except a licensed building and structure mover, shall move a building or structure into or within the City of Sturgis, and every person shall annually, before engaging in such occupation, obtain a license therefore pursuant to the provisions of this Chapter.

A building or structure for the purposes of this Chapter shall be defined to be any enclosed structure intended for shelter, housing or enclosing of persons, animals or chattel.

**2.03.02 - LICENSES -- HOW OBTAINED**

Any person desiring to procure a license as a building and structure mover, shall make written application therefore to the City Auditor and such application shall be granted by the City Auditor upon payment of the fee as required by Section 2.03.03 and the posting of a bond as required by Section 2.03.06.

**2.03.03 - INDEMNIFICATION**

The applicant for a license of building and structure moving shall also file with the City Auditor a bond running to the City of Sturgis in the penal sum of One Thousand and No/100 (\$1,000.00) Dollars in the form of a cash bond, a surety bond or of two personal sureties to be approved by the City Council and conditioned that the applicant of a license if granted will, in carrying on the business of moving buildings and structures in said City, conform to all requirements relating thereto, which are now, or may be hereafter established by the City Council of the City of Sturgis, and that he will promptly repair and make good to the satisfaction of the City Council, any and all damage to any pavement, sidewalk, cross-walk, hydrant, street, alley or other property done or caused by himself, his servants or employees, in moving any building or structure, or in connection with the moving thereof and that he will immediately indemnify and save harmless the City of Sturgis against any and all liability for damages, costs or expenses, arising, or which arise, in favor of any person by reason of any negligence on his

part, or on account of his servants or employees in connection with the moving of any building or structure, or the use of any public street or ground for that purpose.

#### **2.03.04 - PERMIT**

Before the owner of any building or structure shall be authorized to move the same into or within the City of Sturgis, South Dakota, by a licensed building and structure mover, he shall obtain a permit therefor from the City Council of the City of Sturgis, which permit shall describe the route to be taken in so moving such building or structure, or part thereof, the length of time which may be consumed in the work, and he shall make written application for such permit to the City Council and the Application may be granted by the affirmative vote of the majority of the members of the City Council, and when granted, he shall thereupon pay to the City Treasurer the sum of Two and No/100 (\$2.00) Dollars for such permit. The City Council may delegate the granting of these permits to any Council Official it may designate.

#### **2.03.05 - CONDITION OF GRANTING PERMIT**

The City Council, in determining the granting of the permit as required in Section 2.03.04, shall take into consideration the provisions of Title 2 of the Sturgis City Ordinances, and acts amendatory thereto, pertaining to the Building Code, and if in the opinion of the City Council, said building or structure is not in compliance with the standards set forth in said Title, in accordance with the time limits, the City Council may deny said permit.

The City Council in determining whether or not to grant the permit required in Section 2.03.04, may also take into consideration the provisions of Title 18 of the Sturgis City Ordinances, and acts amendatory thereto, which Title relates to Zoning, for the purpose of determining whether or not such building or structure complies with the provisions of said Title and amendments thereto.

#### **2.03.06 - BOND**

The City Council before granting the permit required in Section 2.03.04 may require the applicant for said permit to post a bond in such amount as the City Council may deem necessary to insure compliance with the Titles enumerated in Section 2.03.05. Said bond shall be in the form of a cash bond, a surety bond or of two personal sureties to be approved by the City Council, and conditioned that the applicant for said permit will comply with all conditions as required by this Chapter and any other conditions imposed by the City Council.

#### **2.03.07 - NEW BUILDING**

Before the owner of a new building or structure for which a building permit has been issued by the Building Inspector of the City of Sturgis, or before the owner of a mobile home, as defined by the provisions of Title 18 of the Sturgis City Ordinances, and acts amendatory thereto, can move said building or structure or mobile home into or within the City of Sturgis, said owner shall obtain the permit as required by the provisions of Section 2.03.04 of this Chapter.

**2.03.08 - PENALTY**

Any person, firm or corporation violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Chapter is committed, continued or permitted, and upon conviction of any such violation, such person shall be punishable by a fine of not more than One Hundred and No/100 (\$100.00) Dollars.

**(Addition of Chapter 2.03 effective Nov. 5, 2004 – Ordinance 2004-20)**