PROCEEDINGS OF THE STURGIS CITY COUNCIL

The Common Council of the City of Sturgis met in regular session starting at 6:00 p.m. on Monday, September 20, 2021, at the Sturgis City Hall Council Meeting Room. Present: Mayor Mark Carstensen, Alderpersons Jason Anderson, Mike Bachand, Kevin Forrester, David Martinson, Dean Sigman, Angela Wilkerson and Beka Zerbst. Also present: City Manager Daniel Ainslie and City Attorney Mark Marshall. Absent: Aaron Jordan.

Motion by Martinson, second by Zerbst and carried with all members present unanimously voting yes to approve the agenda.

Motion by Zerbst, second by Forrester and carried with all members present unanimously voting yes to go into executive session for three legal cases, three contracts and two personnel at 6:01 pm.

Motion by Sigman, second by Martinson to return to regular session at 6:29 pm.

Mayor Mark Carstensen led everyone in the Pledge of Allegiance.

Informational Reports:

- August Key Performance Indicator
- Planning Commission minutes 8-17-21 – approved
- Planning Commission minutes 9-08-21 – unapproved
- Library minutes – 8-25-21
- Hotel Bid Board minutes – 01-12-21
- Hotel Bid Board minutes – 05-06-21

Announcements:

- The Fall Festival will be held on September 25, 2021
- The Criterium and Gravel Grinder will be held on October 2nd and 3rd
- Mayor Carstensen proclaimed the week of September 19-25 Adult Education & Family Literacy Week
- Clean up week will be October 4-8
- The City-wide garage sale will be October 2
- The Homecoming parade will be October 1

City Manager Ainslie reported:

- Payroll Changes – within budget:
  1. Library – Dr Christopher Hahn – Assistant Library Director - $20.00
- There will be closure of streets for the Homecoming parade on October 1

Motion by Anderson, second by Zerbst and carried with all members present unanimously voting yes to approve the following items on the consent calendar with the exception of b:

a. Consideration to approve minutes from regular Council meeting on September 7, 2021.
b. ~~Consideration to approve Resolution 2021-40 – 2022 Utility Rates~~.
c. Consideration to approve Resolution 2021-41 - Plat for Donald E. Patnoe, Manager LMK Sturgis LLC – Liberty Addition.

RESOLUTION 2021-41
RESOLUTION APPROVING PLAT

WHEREAS the statutes of the State of South Dakota require that plats of property within the jurisdiction of the City of Sturgis be submitted to the governing body for approval before the same are recorded in the Office of the Register of Deeds; and

WHEREAS, the City of Sturgis Planning and Zoning have presented to the Common Council of the City of Sturgis a plat of the following described real property for Donald E. Patnoe – Manager LMK Sturgis LLC:

Plat of
Lot 1 and Lot 2 of Liberty Addition
Formerly Lots RR-1 and MK-1 of Tract A, and Lots RR-2 and MK-2 of Tract B and Lot MK-3, All of Schnell Addition.
Located in the S1/2NW1/4SE1/4, and N1/2SW1/4SE1/4 of
Section 5, Township 5 North, Range 5 East,
Black Hills Meridian, City of Sturgis, Meade County, South Dakota.

WHEREAS, said plat meets the requirements of the statutes.

WHEREAS, that the municipality approves the plat, and that the written certification of the City's approval will be affixed to the plat, by the Mayor.

BE IT RESOLVED by the Common Council of the City of Sturgis, South Dakota, that the within and foregoing plat is hereby approved as provided herein.

Dated this 20th day of September 2021.

Published: 09-27-2021
Effective: 10-18-2021

d. Consideration to approve Resolution 2021-42 - Plat for Kevin Shilling – Ash's Extension.

RESOLUTION 2021-42
RESOLUTION APPROVING PLAT

WHEREAS the statutes of the State of South Dakota require that plats of property within the jurisdiction of the City of Sturgis be submitted to the governing body for approval before the same are recorded in the Office of the Register of Deeds; and

WHEREAS, the City of Sturgis Planning and Zoning have presented to the Common Council of the City of Sturgis a plat of the following described real property for Kevin Schilling:

Plat of
Lots 17A and 17B of Block 15 of Ash's Extension.
Formerly Lots 17, 18 and 19 of Block 15 in Ash's Extension.
Located in the SW1/4SE1/4SW1/4, Section 4, Township 5 North, Range 5 East,
Black Hills Meridian, City of Sturgis, Meade County, South Dakota.

WHEREAS, said plat meets the requirements of the statutes.

WHEREAS, that the municipality approves the plat, and that the written certification of the City's approval will be affixed to the plat, by the Mayor.

BE IT RESOLVED by the Common Council of the City of Sturgis, South Dakota, that the within and foregoing plat is hereby approved as provided herein.

Dated this 20th day of September 2021.

Published: 09-27-2021
Effective: 10-18-2021

Motion by Sigman, second by Anderson and carried with all members present unanimously voting yes to approve Resolution 2021-40 – 2022 Utility Rates.

RESOLUTION 2021-40
RESOLUTION REGARDING THE MUNICIPAL UTILITY RATES FOR THE CITY OF STURGIS

WHEREAS, the City of Sturgis has adopted through Ordinance 11.04.04 and 11.05.31, which authorizes the City of Sturgis to annually review the municipal garbage, sewer and water utility rates; and

WHEREAS the City of Sturgis continues to face ongoing inflationary price increases for electricity, natural gas, fuel, and tipping rates, as well as increase in health insurance and other operating costs; and

WHEREAS, the City of Sturgis has made a concerted effort to reduce ongoing operational costs in both its municipal utility funds as well as in all other areas of the City budget; and

WHEREAS, despite these reductions in costs, ongoing fixed costs continue to rise at a rate that exceeds most inflationary indexes.

WHEREAS, the following chart will show the 2022 fees for Sanitation collections:

SANITATION – Residential – 3% increase over 2021

	1 TOTE	2 TOTES	3 TOTES	1 DUMPSTER	2 DUMPSTERS	3 DUMPSTERS	4 DUMPSTERS	5 DUMPSTERS
TIMES /WEEK	1 – 90 GALLON	2 – 90 GALLON	3 – 90 GALLON	1 – 300 GALLON	2 – 300 GALLON	3 – 300 GALLON	4 – 300 GALLON	5 – 300 GALLON
1	16.37	32.74	49.11	49.11	98.22	147.33	196.44	245.55
2	32.74	65.48	98.22	98.22	196.44	294.66	392.88	491.10
3	49.11	98.22	147.33	147.33	294.66	441.99	589.32	736.65
4	65.48	130.96	196.44	196.44	392.88	589.32	785.76	982.20
5	81.85	163.70	245.55	245.55	491.10	736.65	982.20	1227.75
6	98.22	196.44	294.66	294.66	589.32	883.98	1178.64	1473.30
7	114.59	222.18	343.77	343.77	687.54	1031.31	1375.08	1718.85

SANITATION – Commercial – 3% increase over 2021

	1 TOTE	2 TOTES	3 TOTES	1 DUMPSTER	2 DUMPSTERS	3 DUMPSTERS	4 DUMPSTERS	5 DUMPSTERS
TIMES /WEEK	1 – 90 GALLON	2 – 90 GALLON	3 – 90 GALLON	1 – 300 GALLON	2 – 300 GALLON	3 – 300 GALLON	4 – 300 GALLON	5 – 300 GALLON
1	18.91	37.82	56.73	56.73	113.46	170.19	226.92	283.65
2	37.82	75.64	113.46	113.46	226.92	340.38	453.84	567.30
3	56.73	113.46	170.19	170.19	340.38	510.57	680.76	850.95
4	75.64	151.28	226.92	226.92	453.84	680.76	907.68	1134.60
5	94.55	189.10	283.65	283.65	567.30	850.95	1134.60	1418.25
6	113.46	226.92	340.38	340.38	680.76	1021.14	1361.52	1701.90
7	132.37	264.74	397.11	397.11	794.22	1191.33	1588.44	1985.55

WHEREAS, the following chart shows the 2022 fees for Water and Sewer:

WATER USAGE:
Gallons of Water (no change)**: Residential - $2.52/1,000 gal; Commercial - $2.83/1,000 gal.**
RESIDENTIAL SEWER - 3% increase over 2021 - $26.79
COMMERCIAL SEWER (chart below) - 3% increase over 2021 – $32.30
Allows 9,000-gal, .62/1000 gal over 9,000 gal. (no change)
WATER SURCHARGES - $7.90 (no change)
WASTEWATER FACILITY SURCHARGE - $16.05 (no change)
MURRAY ADDITION WASTEWATER SURCHARGE - $25.00 (no change)

Line Size	# Units	Wtr Base 2021	Wtr Base 2022	Wtr Surcharge	Sewer 2021	Sewer 2022
5/8" – 1"	1	11.06	11.39	7.90	31.36	32.30
1 ¼"	2	22.12	22.78	15.80	62.72	64.60
1 ½"	3	33.18	34.17	23.70	94.08	96.90
2"	4	44.24	45.56	31.60	125.44	129.20
3"	6	66.36	68.34	47.40	188.16	193.80
4"	8	88.48	91.12	63.20	250.88	258.40

WHEREAS, the following chart shows the 2022 Availability Fees for Sewer and Water:

Availability Fees – (no change)

# Units	1	2	3	4	6	8
Meter Size	**< = 1"**	**1 ¼"**	**1 ½"**	**2"**	**3"**	**4"**
Water Avail	$17	$34	$51	$68	$102	$136
Sewer Avail	$18	$36	$54	$72	$108	$144

NOW, THEREFORE, the Common Council of the City of Sturgis does hereby adopt the foregoing charges starting January 1, 2022.

Adopted this 20th day of September 2021.

Published: 09-27-2021

Effective: 10-18-2021

Motion by Martinson, second by Zerbst and carried with all members present unanimously voting yes to approve the following claims:
WAGES – Ambulance $30,966.65; Attorney $5819.23; Auditorium $202.80; Buildings $1228.93; Cemetery $2360.65; City Manager $4460.27; Community Center $14,092.37; Finance Office $6814.07; Fire Department $3652.44; Fleet $7243.10; Human Resource $4900.26; Library $8363.85; Liquor $8862.70; Mayor and Council $4046.71; Parks $11,437.56; Planning & Permitting $10,211.14; Police $47,947.86; Rally $9736.31; Recreation $2872.59; Sanitary Service $16,585.80; Streets $11,996.73; Wastewater $11,108.81; Water $14,652.01; Federal Withholding $18,480.81; FICA $17,054.14.
COMBINED CASH FUND – Scott Moses Estate, $3.21, refund.
GENERAL – A&B Business, $427.68, sup; AmericInn Lodge & Suites, $77.00, travel; Arctic Glacier USA, $797.00, sup; Baker & Taylor, $238.75, sup; Black Hills Chemical, $1351.13, sup; Black Hills Energy, $15690.57, util; CBH, $25440.41, sup; Cengage Learning, $88.46, sup; Devon Crowe, $100.00, prof fee; Parker Derouchey, $30.00, other; Epic Outdoor Advertising, $1200.00, rent; J&J Asphalt, $14500.00, sup; Matthew Jacobs, $57.40, sup; Jerrys Refrigeration, $325.10, rep; Ketel Thorstenson, $219.45, prof fee; Kevin Klug, $150.00, prof fee; Lighting Maintenance, $433.67, rep; Lynn's Dakotamart, $452.74, sup; Marco Technologies, $241.69, rep; MasterCard, $100570.46, sup; MDU, $2890.72, util; Motionsoft, $450.00, prof fee; Petty Cash, $83.40, other; Powerplan, $35.65, rep; Purchase Power, $500.00, sup; Rockingtree Floral, $30.00, sup; Billy Schlosser, $30.00, other; SD Dept of Transportation, $7500.00, rent; Speedy Lube, $129.21, sup; St Francis Altar Society, $540.50, prof fee; The Corner Station, $33.20, sup.
SPECIAL SALES TAX – Black Hills Energy, $38.49, util; MasterCard, $473.42, util; MDU, $69.26, util.
CAPITAL IMPROVEMENT – Black Hills Asphalt, $5831.75; Helms & Associates, $5917.52; MasterCard, $68422.69; North Star Construction, $16978.60; Rapid Construction, $3060.00; Wheeler Lumber, $3907.02.
BUSINESS IMPROVEMENT DISTRICT – Glenn G Bailey, $750.00, other; Black Hills Sound, $1500.00, prof fee; CBH, $8.40, sup; First Interstate Bank, $6000.00, sup; Travis Gray, $229.50, refund; MasterCard, $156.77, sup.
LIQUOR – Arctic Glacier USA, $524.40, resale; Badlands Distillery, $373.44, resale; Black Hills Chemical, $54.61, sup; Cash-Wa Distributing, $1567.76, resale; Cask & Cork, $677.22, resale; CBH, $5115.32, refund; Coca Cola, $813.00, resale; Dakota's Best, $1294.70, resale; Desjarlais Farms, $92.00, resale; Fisher Beverage, $12184.05, resale; Johnson Western Wholesale, $15255.13, resale; Lynn's Dakotamart, $22.24, resale; MasterCard, $5904.57, prof fee; MDU, $15.95, util; Pepsi Cola, $141.00, resale; Prairie Berry, $588.00, resale; Quality Brands, $22456.22, resale; Republic Beverage, $17107.73, resale; Sawyer Brewing, $308.00, resale; Southern Glazer's of SD, $8094.01, resale; Speedy Lube, $138.48, rep; TAGS, $393.75, resale; Voss Distributing, $147.60, resale.
WATER – Black Hills Energy, $2805.96, util; Core & Main, $2082.47, sup; Credit Collections Bureau, $87.72, prof fee; MasterCard, $4985.36, prof fee; MDU, $143.82, util; Petty Cash, $3.98, sup; Severson Dirt Works, $1550.00, rep; South Dakota 811, $84.00, prof fee; Speedy Lube, $57.49, sup.
WASTEWATER – MasterCard, $5162.35, cap imp; MDU, $51.76, util; Speedy Lube, $45.49, sup.
SANITATION – Black Hills Energy, $15.00, util; CBH, $1603.31, sup; Lynn's Dakotamart, $7.00, sup; MasterCard, $5678.02, sup.
AMBULANCE – CBH, $4010.63, sup; County Drug, $7.29, sup; Henry Schein, $139.94, sup; Lynn's Dakotamart, $47.76, sup; MasterCard, $6921.22, sup; MDU, $31.97, util; Petty Cash, $21.20, other.

Motion by Forrester, second by Sigman and carried with all members present unanimously voting yes to approve Resolution 2021-43 – Street Closure and Open Container for the Sturgis Fall Festival on September 25, 2021.

RESOLUTION 2021-43

RESOLUTION TO CLOSE DESIGNATED STREETS AND PERMIT OPEN CONTAINERS ON CERTAIN PUBLIC PROPERTY AND WITHIN CERTAIN PUBLIC RIGHTS OF WAY FOR THE 8TH ANNUAL STURGIS FALL FESTIVAL

WHEREAS, the 8TH annual Sturgis Fall Festival will be held in the City of Sturgis, September 25, 2021, and

WHEREAS, the City of Sturgis Rally and Events Department will close of Harley Davidson Way from Main Street to Lazelle Street and on Main Street from Harley Davidson Way to the First Interstate Bank drive through from 2:00 pm until 9:00 pm for games and activities; and

WHEREAS, the Police Department will be authorized to tow vehicles within the street closure area, starting September 25, 2021 after 2:00 am.

WHEREAS, an open container area has been requested within a portion of the public property of the City of Sturgis from 2:00 pm to 9:00 pm on September 25, 2021, and as authorized by Section 3.02.20(C) of Sturgis City Ordinance and SDCL 35-1-5.5, for those persons legally possessing an alcoholic beverage in the authorized non-glass container, bearing A logo and available for purchase from designated on-sale licensees, on that public property open to the public, within area bounded as follows:

a. On the west, by the eastern edge of the Right of Way of 4th Street, beginning at the intersection of 4th Street and Lazelle Street and continuing south to the intersection of 4th Street and Sherman Street,

b. On the south, by the north edge of the Sherman Street Right of Way between 4th Street and Middle Street, and on

c. On the east, by the western edge of the Middle Street Right of Way beginning at the intersection of Sherman Street and Middle Street and including the entire Main Street Right of Way to a point two hundred eighty (280) feet East of the intersection of Main Street and Middle Street, continuing west from Middle Street to Fourth Street on the south side of Lazelle Street.

d. On the north, continuing north to the intersection of Middle Street and the alley located between Lazelle Street and Dudley Street, and by the alley Right of Way located between Lazelle Street and Dudley Street and extending from the intersection of that alley and Middle Street across Junction Avenue and continuing to the intersection of that alley and the Right of Way for 1st Street and along the south edge of Lazelle from Middle Street to Fourth Street.

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

and Junction Avenue within these boundaries. This also includes the Harley Davidson Rally Point.

NOW THEREFORE IT IS HEREBY RESOLVED, as set forth herein that the City of Sturgis shall hereby close the City street to vehicular traffic and unauthorized parking between 2:00 am until 9:00 pm September 25, 2021, and establish an open container area on September 25, 2021 from 2pm to 9:00 pm on that public property open to the public within area bounded on the West by the east edge of the Right of Way of 4th Street, bounded on the East by the west edge of the Right of Way of Junction Avenue, bounded on the South by the north edge of the Right of Way of Sherman Street, and bounded on the north by the south edge of the Right of Way of Dudley Street from Middle Street to First Street, and including within this boundary the street area of Third Street, Harley-Davidson Way, First Street and Main Street. This area shall be marked by city barricades with clearly legible signs, provided by the organizers and consistent with the limitations of this Resolution, stating that the barricade marks the boundary of the open container area. The open container area does not include the City Library, nor any City Property not open to the public, and does not include any private property within the open container area.

Dated this 20th of September 2021.

Published: 09-27-2021
Effective: 10-18-2021

Motion by Martinson, second by Forrester and carried with all members present unanimously voting yes to approve Resolution 2021-44 – Street Closure and Open Container for the Criterium/Gravel Grinder bicycle race on October 2nd and 3rd, 2021.

RESOLUTION 2021-44

RESOLUTION TO CLOSE DESIGNATED STREETS AND PERMIT OPEN CONTAINERS ON CERTAIN PUBLIC PROPERTY AND WITHIN CERTAIN PUBLIC RIGHTS OF WAY FOR THE 1st ANNUAL CRITERIUM/GRAVEL GRINDER

WHEREAS, the 1ST annual Criterium/Gravel Grinder will be held in the City of Sturgis, October 2-3, 2021, and

WHEREAS, the City of Sturgis Rally and Events Department will close Main Street from First Street to Third Street, Third Street from Main Street to Sherman Street, Sherman Street from Third Street to Frist Street, Harley-Davison Way from Sherman Street to Lazelle Street and First Street from Sherman Street to Lazelle Street on October 2, 2021 from 2:00 am to 7:00 pm; and

WHEREAS, the City of Sturgis Rally and Events Department will close Harley Davidson from Lazelle Street to Main Street on October 3, 2021 from 6:00 am to 7:00 pm; and

WHEREAS, the Police Department will be authorized to tow vehicles within the street closure area, starting October 2 and 3, 2021 after 2:00 am.

WHEREAS, an open container area has been requested within a portion of the public property of the City of Sturgis from 10:00am to 10:00pm on October 2 and 3, 2021, and as authorized by Section 3.02.20(C) of Sturgis City Ordinance and SDCL 35-1-5.5, for those persons legally possessing an alcoholic beverage in the authorized non-glass container, bearing A logo and available for purchase from designated on-sale licensees, on that public property open to the public, within area bounded as follows:

a. On the west, by the eastern edge of the Right of Way of 4th Street, beginning at the intersection of 4th Street and Lazelle Street and continuing south to the intersection of 4th Street and Sherman Street,

b. On the south, by the north edge of the Sherman Street Right of Way between 4th Street and Middle Street, and on

c. On the east, by the western edge of the Middle Street Right of Way beginning at the intersection of Sherman Street and Middle Street and including the entire Main Street Right of Way to a point two hundred eighty (280) feet East of the intersection of Main Street and Middle Street, continuing west from Middle Street to Fourth Street on the south side of Lazelle Street.

d. On the north, continuing north to the intersection of Middle Street and the alley located between Lazelle Street and Dudley Street, and by the alley Right of Way located between Lazelle Street and Dudley Street and extending from the intersection of that alley and Middle Street across Junction Avenue and continuing to the intersection of that alley and the Right of Way for 1st Street and along the south edge of Lazelle from Middle Street to Fourth Street.

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

NOW THEREFORE IT IS HEREBY RESOLVED, as set forth herein that the City of Sturgis shall hereby close the City street to vehicular traffic and unauthorized parking between 2:00 am until 7:00 pm October 2 6:00 am to 6:00 pm on October 3, 2021, and establish an open container area on October 2 and 3, 2021 from 10am to 10:00pm on that public property open to the public within area bounded on the West by the east edge of the Right of Way of 4th Street, bounded on the East by the west edge of the Right of Way of Junction Avenue, bounded on the South by the north edge of the Right of Way of Sherman Street, and bounded on the north by the south edge of the Right of Way of Dudley Street from Middle Street to First Street, and including within this boundary the street area of Third Street, Harley-Davidson Way, First Street and Main Street. This area shall be marked by city barricades with clearly legible signs, provided by the organizers and consistent with the limitations of this Resolution, stating that the barricade marks the boundary of the open container area. The open container area does not include the City Library, nor any City Property not open to the public, and does not include any private property within the open container area.

Dated this 20th of September 2021.

Published: 09-27-2021
Effective: 10-18-2021

Motion by Martinson, second by Zerbst and carried with all members present unanimously voting yes to approve all recommendations from planning & zoning for a variance to the side setback for a carport and variance to hard surfacing requirements for Jacob Eckhardt at 1403 Moose Trail.

Motion by Anderson, second by Zerbst and carried with Carstensen, Anderson, Bachand, Forrester, Martinson, Sigman and Zerbst voting yes, Wilkerson abstaining, to approve second reading of Ordinance 2021-06 – Title 39 Medical Cannabis.

ORDINANCE 2021-06

AN ORDINANCE CREATING LICENSING REGULATIONS FOR CANNABIS ESTABLISHMENTS.

WHEREAS, Initiated Measure 26 (IM 26), regarding Medical Cannabis, was passed by South Dakota voters in November 2020; and

WHEREAS the provisions of IM 26 have been codified under South Dakota Codified Laws (SDCL) Chapter 34-20G and become effective July 1, 2021; and

WHEREAS such state statutes explicitly provide local governments with certain regulatory authority over aspects of cannabis establishments, including time, place, manner, and quantity regulations; and

WHEREAS, the City of Sturgis has the lawful authority to regulate other aspects relating to cannabis establishments by and through its use of existing municipal powers.

BE IT ORDAINED BY THE CITY OF STURGIS, SOUTH DAKOTA AS FOLLOWS:

Section 1.

That SECTION 1. TEMPORARY ORDINANCE – APPLICATION FOR LOCAL PERMIT/LICENSE be REMOVED from the Sturgis City Code under Title 39 – Medical Cannabis and be replaced– to read as follows:

Section 1 – Cannabis Establishments

39-1-1: Intent:

The City council of the City of Sturgis hereby enacts the following licensing ordinances in order to ensure that cannabis establishments within the municipal boundaries of the City operate in a manner which complies with state laws and regulations, protects the health, safety, and welfare of the general public, prevents potential conflicts and issues arising from ownership and employees, recognizes certain safety and security considerations, and minimizes risk of unauthorized use or access of cannabis by the general public.

39-1-2: Definitions:

Unless an alternative definition is explicitly stated in this section, this chapter utilizes the definitions for cannabis related terms which are defined by SDCL 34-20G-1.

APPLICANT: a person or entity seeking or renewing a cannabis establishment license.

CANNABIS (or MARIJUANA): all parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of

such plant. The term does not include the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis.

CANNABIS CULTIVATION FACILITY: a licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.

CANNABIS DISPENSARY: a licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.

CANNABIS PRODUCT MANUFACTURING FACILITY: a licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

CANNABIS TESTING FACILITY: a licensed entity authorized to analyze the safety and potency of cannabis.

CANNABIS ESTABLISHMENT: a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

CANNABIS ESTABLISHMENT LICENSE or LICENSE: a license issued pursuant to this chapter for the purpose of operating a type of cannabis establishment.

CITY: the City of Sturgis, South Dakota.

CITY COUNCIL: the City council of the City of Sturgis, South Dakota.

FINANCE OFFICER: the finance officer of the City of Sturgis, South Dakota.

LICENSEE: a person, people, or entity in possession of a cannabis establishment license issued pursuant to this chapter.

MAYOR: the mayor of the City of Sturgis, South Dakota.

MENTAL HEALTH FACILITY: an entity engaged in diagnosing, treating, caring for, or counseling people requiring mental health services, including substance abuse disorders, but which does not regularly provide other types of personal health services.

RETAIL AREA: the area of a cannabis establishment where a customer can view and/or purchase cannabis or cannabis products.

SECURED AREA: all parts of a cannabis dispensary except an unsecured waiting room where people may gather before entering the verification lobby or after leaving the secured exit.

SECURED EXIT: the controlled location of a cannabis dispensary located between the retail area of a cannabis dispensary and the non-secured area or exterior with a secured door at both its entrance and exit which allows eligible persons to exit the retail area.

STATE: the state of South Dakota.

VERIFICATION LOBBY: the controlled location of a cannabis dispensary located between the non-secured area or exterior of a cannabis dispensary and the retail floor with a secured door at both its entrance and exit which allows eligible persons to enter the retail area.

39-1-3: Cannabis Establishment License Required

A. Classes of License: Each cannabis establishments shall have its own class of license. The four license classes are Cannabis Cultivation License, Cannabis Dispensary License, Cannabis Product Manufacturing License, and Cannabis Testing License.

B. License Required: It shall be unlawful for any person or entity to create or operate a cannabis establishment in the City without first having obtained a license from the City and a registration certificate from the State for each cannabis establishment to be operated in connection with such business. Such license and certification shall be always kept current, and the failure to maintain a current license and certification shall constitute a violation of this section.

C. Multiple Licenses: A person or entity who intends to conduct activities which would meet the definition of multiple cannabis establishments must, prior to operating such cannabis establishments, obtain a license for each class of cannabis establishment. A person or entity may hold more than one class of license except when otherwise prohibited by this chapter.

D. License Location: Each license shall authorize a single cannabis establishment to operate at a single location. Licenses of different classes may overlap except when otherwise prohibited by this chapter.

E. License Duration: Each license issued is effective from January 1 through December 31, regardless of the time of year such license is approved. Each license expires at 11:59:59 P.M. on December 31 unless, prior to the expiration, the City Council has approved, or conditionally approved, the renewal of such license for the following calendar year.

39-1-4: Number of Licenses Restricted:

A. The number of cannabis establishment licenses shall be restricted by license class. For Cannabis Dispensary Licenses, the number of licenses is limited to two. The City may hold both Cannabis Dispensary Licenses and operate such dispensaries in any manner provided by state law. For all other cannabis establishment licenses, the number of licenses is unlimited. The numerical limits for each class of cannabis establishment may be altered at any time by resolution of the City Council.

B. In the event the numerical cap is lowered to an amount less than the number of the existing licenses in that class, no existing licensee shall be prevented from continuing operation during the license term, requesting modifications to application information, from renewing such license for consecutive, subsequent years, or from transferring such license, on the basis that the numerical limit would otherwise prohibit the issuance of a license to a new applicant. However, this exception shall not prevent a license from being suspended or revoked, nor shall it prevent a license from not being renewed or a transfer approved, based upon grounds other than the numerical limit being exceeded.

39-1-5: Application Process:

A. Application for License: An applicant must submit a signed application, using the City's online portal, to the Planning and Permitting Office using the form established by the City. Such application must include:
   1. The legal name of the applicant.
   2. The physical address of the applicant.
   3. The name and date of birth of each principal officer and board member of the applicant entity.
   4. Previous experience operating a legal cannabis establishment, if any.
   5. Summary of operating procedures, including procedures to ensure accurate record keeping, adequate security measures, sufficient fire and building code considerations, and compliance with all other requirements of this chapter.
   6. Confirmation that none of the principal officers or board members has served as a principal officer or board member for a medical cannabis establishment that has had governmental license or certification revoked in any jurisdiction.
   7. Confirmation that none of the principal officers or board members is under twenty-one years of age.
   8. Confirmation that the applicant has conducted a background check into the criminal history of each principal officer, board member, agent, volunteer, or employee involved in the operation at the time of application.
   9. Proof that at least one principal officer is a resident of this state.
   10. Payment of the applicable license fee.
   11. A copy of the applicant's sales tax license.
   12. Proof that all property taxes, business improvement district taxes, and pending assessments relating to the cannabis establishment location have been paid.
   13. Proof of financial responsibility in the amounts and manner established in this chapter below.
   14. A sworn statement that the application contains no false statements made or omissions of any material matter in any application for a license.
   15. The applicant's notarized signature.
   16. An application submitted by the City is entitled to preference.

B. Action by City Council:
   1. The City Council will consider a completed application at the next available City Council meeting following submittal, provided that such application must be submitted at least 15 days in advance of a City Council meeting. Applications are generally processed on a first come, first served basis except as further provided by this chapter.
   2. The City Council may approve or deny an application in full or on condition. Such action of the City Council must take place within thirty (30) days after the application's first presentment to the City Council.
   3. If approved, the mayor and finance officer will endorse the application and notify the applicant of approval within 3 days of the City Council's approval. If the Council imposes any conditions, such conditions shall be listed on the license at the time of issuance. No approved application shall become effective, and no license shall be issued until the applicant provides to the finance officer a copy of the applicant's certificate of registration from the state relating to the cannabis establishment for which the license was approved.
   4. If denied, the City Council must state the basis on which the application was denied, which may include, but is not limited to: incorrect application information, missing required application criteria, insufficient detail in application, nonpayment of any obligation, proposed activity would violate City ordinance (including zoning), proposed activity would violate state law or regulations, no license available due to maximum number already issued, proposed location not zoned properly, proposed location does not

comply with an applicable buffer zone, or concerns over potential building, fire, or nuisance code issues.

C. Special Procedures for Capped Licenses:
   1. For license classes where the Council has established a numerical cap, applications shall be accepted by the special procedures provided in this section.
   2. These special procedures shall apply whenever a license becomes available in a capped license class.
   3. When such availability occurs, the City shall publish an invitation for applications on the City's website stating the deadline to apply, and the location applications may be submitted. No application for a capped license class will be accepted prior to publication of the invitation nor after the deadline established in the invitation.
   4. Applications submitted pursuant to an invitation must be submitted in writing and sealed. An applicant may not supplement their application after the deadline has passed.
   5. Once the deadline has passed, the finance officer shall open the applications and review each application for completeness. Complete applications shall be forward to the City Council Applications which may are only substantially complete shall be forwarded to the City Council City Council to determine whether such applications contain sufficient information for further consideration.
   6. The finance officer shall determine by lottery the order in which the City Council considers the applications, however an application submitted by the City must be considered before the consideration of any other application.
   7. The merits of the applications will then be considered by City Council. The City Council will approve or deny applications in the established order but may review all applications before deciding on any individual application. The City Council will approve or deny the applications in order until all applications have been acted on or the numerical cap has been reached. If the numerical cap has been reached and there are still applications which have not been acted on, such undecided applications shall be deemed rejected.
   8. If no applications are received following an invitation for applications, or if the numerical cap is not reached pursuant to an invitation for applications, these special rules shall no longer apply and applications may be received, processed, and considered on a first come, first served basis beginning at open of business the day following the City Council meeting at which the last application was acted upon pursuant to the invitation for applications. Such applications must be delivered in writing to the finance office no earlier than the time specified above and applications received before such time are deemed rejected.
   9. If the numerical cap is then reached while using the first come, first served system, and a license subsequently lapses making a license available, these special procedures shall apply to issuing the license.

D. Renewal Process:
   1. A person or entity operating pursuant to a license must apply for renewal of such license at least 45 days but not more than 90 days prior to the expiration of such license using the form provided by the City finance office. Such application must include payment of the renewal application fee.
   2. The City Council will consider renewal applications using the same factors and timelines applicable to new applications. In addition, the City Council may consider in approving, denying, or conditionally approving a renewal application, any changed information from prior applications, concerns over actual operations or violations, nonpayment of obligations, or any on other information reasonably related to the continued operation of the cannabis establishment.

3. Preference may be granted to existing license holders based on a dispensary's community involvement, facility upkeep and investment, days and hours of operation, history of interactions with law enforcement.
4. The renewal application must specify if any information has changed from its prior application.
5. The renewal application must be accompanied by all payments relating to the renewal application as well as a copy of the licensee's state certification.
6. The renewal application must re-confirm or prove all the requirements applicable to new applications remain met.
7. An applicant is not entitled to renewal of their license and the license will only be renewed by City Council after consideration of the facts and circumstances pertaining to each individual license. An applicant does not have a protected property interest in a license issued by the City pursuant to this chapter.

39-1-6: Transfer or Modification of License:

A. No license shall be transferred or modified except with the approval of the City Council.

B. Prior to any transfer of a license from a licensee to an unaffiliated person, people, or entity, the licensee and the proposed transferee must complete a transfer application. Such transfer application must include all information required for a new application as to the proposed transferee and pay a transfer application fee. The City Council shall then approve, deny, or conditionally approve the proposed transfer using the same factors and timetables as apply to renewal applications. A transferred license is subject to all provisions and timelines applicable to a new or renewed license.

C. Prior to any modification of ownership or management of a licensed cannabis establishment, the licensee must provide 30 days' notice to the finance officer in writing of the proposed changes.

D. Prior to any modification of location or layout of a licensed cannabis establishment, the licensee must provide 30 days' notice to the finance officer in writing of the proposed changes.

E. In relation to a change in ownership, management, location, or layout, the mayor may approve minor changes administratively and charge an administrative modification fee. However, if the mayor determines the proposed changes are not minor and substantially alter the operation of the cannabis establishment as previously approved, the mayor shall direct the matter to be placed on the agenda of the next available City Council meeting. The City Council shall then approve, deny, or conditionally approve the proposed changes using the same factors and timetables as apply to renewal applications. For changes referred to the City Council, applicant shall also pay a full modification fee.

F. Transfers or modifications of a license shall not extend the term of any license so modified or transferred.

G. Transfers, modifications, and renewals occurring simultaneously for the same license require separate applications and payment of separate fees. However, the City council may waive one or more, but not all, of the fees and consider the matters as a joint application.

39-1-7: License to Remain Active:

Every license issued pursuant to this chapter must remain in continuous, active use. A license that is not being actively used for a period of more than 14 consecutive days or for 28 cumulative days per year may be deemed inactive by the City finance officer. Active use includes times where the licensee is open and available to conduct business, but such business cannot occur due to factors outside of the control of the licensee.

39-1-8: Fees Established:

Fees relating to cannabis establishment licenses are established as provided by this section. The fees apply to each class of cannabis establishment license unless expressly stated otherwise. All amounts set for fees in this section may be modified at any time by resolution of the City Council. The types and amounts of fees are as follows:

New cannabis establishment application fee- $7,500.00
Renewal cannabis establishment application fee- $7,500.00
Transfer cannabis establishment application fee- $7,500.00
Administrative modification fee- $50.00
Full modification fee- $500.00.

39-1-9: General Obligations of Licensee:

A. The following obligations shall apply to each licensee and cannabis establishment:
1. Each licensee must keep any information stated in an approved application current and up to date.
2. Each licensee must maintain any eligibility criteria or certifications required by this chapter for an application.
3. All cannabis establishments must conduct all business activities within an enclosed structure except such loading and unloading which is incidental to such indoor activities.
4. No cannabis or related paraphernalia may be displayed or kept in a business so as to be visible from outside the cannabis establishment.
5. No cannabis establishment may emit any gas, vapors, odors, smoke, dust, heat, or glare that is noticeable at or beyond the property line of the cannabis establishment. Sufficient measures and means of preventing the escape of such substances from a cannabis establishment must be provided at all times. If any gas, vapors, odors, smoke, dust, heat, or glare or other substances exit a cannabis establishment, the owner of the premises and the licensee are jointly and severally liable for such conditions and are responsible for immediate, full clean-up and correction of such condition. The licensee must properly dispose of all such materials, items, and other substances in a safe, sanitary, and secure manner and in accordance with all applicable federal, state, and local laws and regulations.
6. Each licensee must retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the three immediately prior tax years. Such records shall be maintained in a manner which, if released to the City, would not contain information protected by state law. Such records must be provided to the City upon request.
7. No cannabis establishment may employ any person who is not at least 21 years of age.
8. Each licensee must provide adequate security to prevent criminal activity on cannabis establishment premises, including parking areas.
9. A licensee must pay all delinquent court judgments arising out of their dispensary and dispensary operations.

10. A licensee must not permit the general public to access any part of a cannabis establishment except where such access is permitted by law. A licensee must put in place reasonable security measures to prevent such access.
11. A licensee must operate as provided in the application, comply with any conditions attached to their license, and comply with all state and local laws.
12. A person or entity may not take any actions for which a license is required without holding both a license issued under this chapter and a corresponding state license.

B. Additional Requirements for Cannabis Dispensaries
1. No cannabis dispensary may share any physical location with any other type of business or land use type. A cannabis dispensary may only sell cannabis, cannabis products, and paraphernalia aiding in the consumption of these items and may not sell any other item or service.
2. Entry to a cannabis dispensary must be restricted. Each cannabis dispensary must have a verification lobby and secured exit. The verification lobby and the secured exit must be separate from each other.
3. When granting access to non-employees, the licensee shall unlock the entry door to the verification lobby, allow the person or people to enter the verification lobby, and then verify that each person in the verification lobby is legally permitted to access and purchase cannabis or cannabis products. If any person is found to be ineligible, that person must leave the verification lobby before the verification lobby exit door is opened into the retail area. Once all individuals in the verification lobby have been confirmed to be eligible to enter the retail area, the entry door to the verification area must be closed and locked. Then the door of the verification lobby into the retail area may be unlocked and the individuals may enter the retail area. The exit door of the verification lobby must locked after all individuals leave and before allowing other individuals into the verification lobby. At all times the exit door of the verification lobby is unlocked the entry door to the verification area must be closed and locked.
4. Individuals must leave the retail area through a secured exit. The entry door to the secured exit must remain locked until needed for use. The licensee shall then unlock the entry door to the secured area to allow individuals to enter the secured exit from the retail area, ensure that the entry door is closed and locked, and then unlock the exit door of the secured exit. Once all individuals have left the secured exit, the exit door to the secured exit must be closed and locked.
5. A licensee must not permit a non-employee to access any secured area of a cannabis dispensary other than the verification lobby, retail area, and secured exit.
6. A cannabis dispensary may be open to the public only between the hours of 8:00 a.m. and 8:00 p.m. daily.
7. A cannabis dispensary must not maintain any quantity of cannabis in excess of the amount permitted by State law.
8. All sales of cannabis must be made in person, directly to the purchaser, within the retail area of the cannabis dispensary. No sales may be made via telephone, internet, or other means of remote purchase. Deliveries must occur in person to the purchaser at the time of purchase within the retail area of the medical cannabis dispensary. No drive-up windows or other similar delivery process may be allowed.
9. All cannabis dispensaries licensed under this ordinance must maintain their medical cannabis dispensary and premises within the following minimum requirements:
    a. Every dispensary licensee must inspect their premises from lot line to lot line, all adjacent streets, sidewalks and alleys adjoining their premise, and sidewalks and alleys within one hundred (100) feet of such premise lot lines and shall remove any litter and debris found there on a daily basis to prevent the accumulation of litter and debris and the accidental or uncontrolled release of cannabis or cannabis products.

b. All solid waste and recyclable materials must be stored in refuse containers made of metal or approved plastic and shall be equipped with secure lids or covers, and such covers must remain closed to prevent the intrusion of storm water or vermin.
c. Refuse storage containers must be enclosed on all four sides by screening compatible with the principal structure and not less than two feet higher than the refuse container or must be otherwise effectively screened from the street and adjacent properties.

C. Crossover of Other Cannabis Establishments:
1. A cannabis testing facility may share a physical location with testing facilities that are authorized to handle other types of controlled substances.
2. A cannabis testing facility, cannabis cultivation facility, and a cannabis product manufacturing facility may share a physical location and the licensed area for each may overlap each other. However, a cannabis testing facility may not share a physical location with other types of cannabis establishments if the cannabis testing facility conducts activities other than cannabis testing.

39-1-10: Fire and Building Regulations:

A. Licensees must comply with all applicable provisions of the City's fire and building codes.
B. The building code official is authorized to require and apply standards applicable to any use and occupancy classifications to a cannabis establishment regardless of the cannabis establishment's classification when application of such other standard is substantially related to mitigating a unique hazard presented by a cannabis establishment.
C. The fire code official is authorized to require and apply standards applicable to any use and occupancy classifications to a cannabis establishment regardless of the cannabis establishment's classification when application of such other standard is substantially related to mitigating a unique hazard presented by a cannabis establishment.
D. All cannabis cultivation facilities, cannabis product manufacturing facilities, and cannabis dispensaries must be equipped with a fire sprinkler system throughout the entire licensed area.

39-1-12: Financial Responsibility:

A. An applicant or licensee must file with the City finance officer certificates or policies of insurance issued by a responsible insurer in the amounts and for the purposes established below. The applicant must list the City as an additional insured on each policy.

B. The applicant or licensee must maintain a commercial general liability policy, or equivalent, with a limit of not less than two million dollars ($2,000,000.00) for each occurrence. If such insurance contains a general aggregate limit, it must be no less than double the occurrence limit.

C. Upon request, the City may demand, and the applicant or licensee must provide proof of any other type of insurance required by law.

39-1-13: Unauthorized Conduct relating to Cannabis:

A. No person may engage in any of the following conduct:
1. Undertake any task under the influence of cannabis, when doing so would constitute negligence or professional malpractice.
2. Possessing cannabis or otherwise engage in the medical use of cannabis in any correctional facility.