

All City Council Meetings are recorded.

**CITY OF CUSTER CITY
COUNCIL AGENDA
January 3rd, 2016 – City Hall Council Chambers
5:30 P.M.**

1. Call to Order - Roll Call - Pledge of Allegiance
2. Approval of Agenda
3. Approval of Minutes – December 19th, 2016 Minutes and December 29th, 2016 Minutes (2 meetings)
4. Declaration of Conflict of Interest
5. Department Head Discussion
 - Public Works Director – General Discussion
 - Finance Officer – General Discussion
6. Public Presentations - Public Hearings
 - a. Resolution #01-03-17A – Reclaiming Cemetery Lots
 - b. Resolution #01-03-17B – Depositories Listing
 - c. Resolution #01-03-17C – Wage Scale (COLA applied)
 - d. Second Reading – Ordinance #786 – Building & Planning Permits
 - e. First Reading – Ordinance #785 – Alcohol Beverage Establishments
 - f.
7. Old Business
 - a.
 - b.
8. New Business
 - a. Designation of Official Newspaper
 - b. Designation of Administrative Official to Approve Raffles
 - c. Planning Commission Appointment – Temporary 3-Mile Limit Member
 - d. SD WARN Agreement
 - e. Annual Wage Listing
 - f.
 - g.
9. Presentation of Claims –
10. Committee Reports –
11. Executive Session – Personnel, Proposed Litigation, & Contract Negotiations (SDCL 1-25-2)
12. Adjournment

REMINDERS

General Government Committee Meeting – January 9th, 2017 4:00 P.M.

Planning Commission Meeting – January 10th, 2017 7:00 P.M.

Regular City Council Meeting – January 17th, 2017 5:30 P.M.

Park & Recreation Committee Meeting – January 18th, 2017 5:30 P.M.

Public Works Committee Meeting – January 30th, 2017 5:00 P.M.

Regular City Council Meeting – February 6th, 2017 5:30 P.M.

ADA Compliance: The City of Custer City fully subscribes to the provisions of the Americans with Disabilities Act. If you desire to attend this public meeting and are in need of special accommodations, please notify the Finance Office 24 hours prior to the meeting so that appropriate services are available.

**CITY OF CUSTER CITY
COUNCIL PROCEEDINGS- REGULAR SESSION
December 19th, 2016**

Mayor Jared Carson called to order the second meeting of the Common Council for the month of December, 2016 at 5:30 p.m. Present at roll call were Councilpersons Maciejewski, Heinrich, Nielsen and Schleining. City Attorney Chris Beesley was also present. The Pledge of Allegiance was stated.

AGENDA

Councilperson Maciejewski moved, with a second by Councilperson Nielsen, to approve the agenda. The motion unanimously carried.

MINUTES

Councilperson Schleining moved, with a second by Councilperson Heinrich, to approve the minutes from the December 5st regular council meeting. The motion unanimously carried.

CONFLICTS OF INTEREST

No conflicts of interest were stated.

DEPARTMENT HEAD DISCUSSION

Bob Morrison, Public Works Director, mentioned the weekend snow storm and how things went for the Public Works Crew.

Laurie Woodward, Finance Officer, mentioned that October sales tax was down 2.83% from last October.

SECOND READING – ORDINANCE #784 – SUPPLEMENTAL BUDGET

Councilperson Maciejewski moved to adopt Ordinance #784, Supplemental Budget. Seconded by Councilperson Nielsen, the motion carried with Councilperson Maciejewski, Heinrich, Nielsen and Schleining voting yes.

FIRST READING – ORDINANCE #786 – BUILDING & PLANNING PERMITS

Councilperson Schleining moved to approve the first reading of Ordinance #786, Building & Planning Permits. Seconded by Councilperson Nielsen, the motion unanimously carried.

RESOLUTION #12-19-16A – SAFETY & RISK MANAGEMENT LOSS CONTROL PROGRAM

Councilperson Heinrich moved to approve Resolution #12-19-16A, Safety & Risk Management Loss Control Program. Seconded by Councilperson Nielsen, the motion unanimously carried.

**RESOLUTION NO. 12-19-16A
SAFETY AND RISK MANAGEMENT
LOSS CONTROL PROGRAM**

WHEREAS, the City of Custer City is exposed to various liability risks and safety issues associated with providing services to our citizens;

WHEREAS, these risks and safety issues are most evident when incidents occur involving damage to property and injuries to personnel and our citizens; and

WHEREAS, the objective of our Safety and Risk Management Loss Control Program is to protect people and to preserve assets and revenues, the following policy has been prepared with this in mind:

1. We will identify sources of loss to our property, our employees and the general public.
2. We will evaluate the impact of loss in terms of frequency and severity.
3. We will make every effort to control the causes of loss by and through a specific written Action Plan prepared by each department responsible for actual day to day activities.
4. We will eliminate sources of loss by corrective action or through the transfer of risk.
5. Where possible, we will obtain coverage in such amounts and in such areas as will provide protection against catastrophic loss.

WHEREAS, it is the joint responsibility of the Safety and Risk Management Committee to see that the Safety and Risk Management Program is implemented in accordance with this Resolution; the Safety and Risk Management Committee shall be comprised of the Mayor, one municipal elected official, the risk management coordinator and four municipal employees as noted below, all of whom are appointed by the Mayor every four years or as needed; and

NOW THEREFORE BE IT RESOLVED that the Safety and Risk Management Committee, consisting of the following initial representatives will meet quarterly and shall be responsible for development of a

Safety and Risk Analysis and Loss Control Program for all departments of the City of Custer City, following the Guidelines for a Program of Safety and Risk Management and Loss Control and the Safety Manual and all recommendations by the workman's compensation, liability and property insurance:

- Mayor
- Appointed Councilperson
- Risk Management Coordinator
- Planning and Public Works Technician
- Public Works Department Employee
- Public Works Department Employee
- Deputy Finance Officer

NOW THEREFORE BE IT FURTHER RESOLVED that the Safety and Risk Management Loss Control Program is hereby enacted, and the Safety and Risk Management Committee is hereby appointed this 19st day of December, 2016.

CITY OF CUSTER CITY

S/Jared Carson, Mayor

ATTEST: Laurie Woodward, Finance Officer

RESOLUTION #12-19-16B – WRITE-OFF

Councilperson Nielsen moved to approve Resolution #12-19-16B, Write-Off. Seconded by Councilperson Maciejewski, the motion unanimously carried.

RESOLUTION NO. 12/19/16B

WHEREAS, Book 3, Supplemental, Chapter 9-22-4 of the South Dakota Codified Law states "every municipality may assign for collection any or all delinquent accounts receivable. After reasonable collection efforts, the governing body may determine that an account is non-collectible, and by formal action direct that the non-collectible amount be removed from the records and disclosed on that year's financial report. Evidence of the debt removed from the records by the formal action of the governing body shall be retained by the municipality to support possible subsequent collection of that debt."

WHEREAS, efforts have been made to collect these past due accounts receivable, and

WHEREAS, adequate time has elapsed to consider these accounts receivable delinquent and past due,

NOW THEREFORE BE IT RESOLVED that the following accounts be deemed non-collectible and removed from the records and disclosed on the 2016 Financial Report.

NAME:	ACCOUNT #:	AMOUNT:
Joe Harbach	6-50100-00	\$ 2,012.35
TOTAL		\$ 2,012.35

Signed this 16th day of December, 2016.

CITY OF CUSTER

S/Jared Carson, Mayor

ATTEST: Laurie Woodward, Finance Officer

RESOLUTION #12-19-16C – AUTHORIZING SUBMISSION OF APPLICATIONS FOR BRIDGE IMPROVEMENT GRANT

Councilperson Schleining moved to approve Resolution #12-19-16C, authorizing submission of application for bridge improvement grant. Seconded by Councilperson Heinrich, the motion unanimously carried.

RESOLUTION #12-19-16C

BRIDGE IMPROVEMENT GRANT PROGRAM

RESOLUTION AUTHORIZING SUBMISSION OF APPLICATION

WHEREAS, the City of Custer City wishes to submit an application / applications for consideration of award for the Bridge Improvement Grant Program:

STRUCTURE NUMBER: Bridge #17-234-071

LOCATION: South Eleventh Street Bridge, City of Custer, Custer County, South Dakota

WHEREAS, the City of Custer City certifies that the project(s) are listed in the county's Five-Year County Highway and Bridge Improvement Plan*;

WHEREAS, the City of Custer City agrees to pay the 20% match on the Bridge Improvement Grant funds;

WHEREAS, the City of Custer City hereby authorizes the Bridge Improvement Grant application(s) and any required funding commitments.

NOW THEREFORE BE IT RESOLVED, that the South Dakota Department of Transportation be and hereby is requested to accept the attached Bridge Improvement Grant application(s).

Vote of Council: Schleining: Yes Nielsen: Yes
 Maciejewski: Yes Heinrich: Yes
 Fischer: Absent Blom: Absent

Dated at Custer, South Dakota, this 19th day of December, 2016.

S/Jared Carson, Mayor

ATTEST: Laurie Woodward, Finance Officer

BURNING OF BEETLE REQUEST

Councilperson Heinrich moved to approve the Bark Beetle Blues Committee, Custer Area Arts Council and Custer Volunteer Fire Department joint request to use Pageant Hill on January 21, 2017 for the Burning of the Beetle Event and to have fireworks at the event on Pageant Hill. Seconded by Councilperson Nielsen, the motion unanimously carried.

2017 CHAMBER LEASE AGREEMENT

Councilperson Maciejewski moved to approve the 2017 Chamber of Commerce lease agreement for \$360 per month. Seconded by Councilperson Schleining, the motion unanimously carried.

2017 RECREATION SERVICES AGREEMENT WITH YMCA

Councilperson Maciejewski moved to approve the 2017 recreational services agreement with the Custer YMCA for \$27,500. Seconded by Councilperson Nielsen, the motion unanimously carried.

EXTENSION OF TEMPORARY PART-TIME OFFICE HELP

Councilperson Nielsen moved to approve extending Sydney Gramkow's temporary part time office help position through December 2017 at the current rate of \$10.30 per hour on an as needed basis. Seconded by Councilperson Heinrich, the motion unanimously carried.

COST OF LIVING ADJUSTMENT

Councilperson Schleining moved to approve a 2.5% cost of living adjustment effective January 1st, 2017. Seconded by Councilperson Maciejewski, the motion carried with Councilperson Heinrich, Nielsen, Schleining and Maciejewski voting yes.

CLAIMS

Councilperson Schleining moved, with a second by Councilperson Maciejewski, to approve the following claims. The motion unanimously carried.

AE2S, Professional Fees, \$13,720.00

Audio-Video Solutions, Repair & Maintenance, \$2,040.63

Black Hills Energy, Utilities, 12,718.80

Christie, John, Reimbursement, \$101.94

Culligan, Repair & Maintenance, \$54.50

Custer Chamber of Commerce, Sales Tax Subsidy, \$11,287.04

Custer Sign Co, Supplies, \$592.00

Dakota Bank, TIF#2 Payment, \$1,297.68

Dakota Bank, TIF#4 payment, \$250.68

Fennel Design INC, Capital Improvements, \$8,574.80

First Interstate Bank, Supplies, \$52.45

First Interstate Bank, TIF#4 Payment, \$250.68

First Interstate Bank, TIF#1 Payment, \$1,717.73

French Creek Supply, Supplies, \$34.41

Goldwest Technologies, Professional Fees, \$620.50

Gunderson, Palmer, Nelson & Ashmore LLP, Professional Fees, \$125.00

Hawkins, Supplies, \$3,578.50

Kellogg, Scott, Reimbursement, \$75.00

KLJ, Professional Fees, \$5,485.79

Lamonte's Auto Center, Repairs & Maintenance, \$244.06

Lawrence & Schiller, Professional Fees, \$450.00

Lynn's Dakotamart, Supplies, \$48.73

Midcontinent Testing Labs, Professional Fees, \$108.00
Ness Stump Grinding, Repair & Maintenance, \$60.00
Paypal, Supplies, \$209.09
Petty Cash, Supplies, \$153.00
Pitney Bowes, Supplies, \$500.00
RCS Construction, Capital Improvements, \$88,300.00
Rapid Delivery, Professional Fees, \$50.60
S&B Motors, Supplies, \$817.09
Sanders Sanitation, Garbage Collection Contract, \$13,136.63
Sanders Sanitation, Capital Improvements, \$684.88
State of South Dakota, Sales Tax, \$1081.55
SD Executive MGMT Finance Office, Utilities, \$26.10
The Hartford, Insurance, \$137.40
Thomson Reuters-West, Supplies, \$95.25
USDA Loan Payment, \$8,910.00
United Way, Contributions, \$99.00
US Department of Treasury, Deduction, \$142.55
Vernon Manufacturing, Repair & Maintenance, \$281.50
Vag, USA, LLC, Repair and Maintenance, \$2,678.06
Wright Express, Supplies, \$1,139.70
Laurie Woodward, Reimbursement, \$158.84
Woods, Fuller, Shultz, & Smith P.C, Professional Fees, \$1,887.50
YMCA, Membership, \$188.00
Kieborz, Karen, Utility Refund, \$25.91
Maddix, Theresa, Utility Refund, \$101.59
Total Claims \$184,293.16

COMMITTEE REPORTS

Various committee reports were given.

EXECUTIVE SESSION

Councilperson Schleining moved to go into and out of executive session for personnel per SDCL 1-25-2(1-4) at 5:58 pm, with the Attorney, Finance Officer and Public Works Director present. Seconded by Councilperson Heinrich, the motion unanimously carried. Council came out of executive session at 6:03 pm, with no action taken.

EMPLOYEE STEP INCREASE

Councilperson Heinrich moved to approve the step increases for John Christie to step 4 at \$16.08 per hour effective December 3rd, 2016. Seconded by Councilperson Schleining, the motion unanimously carried.

ADJOURNMENT

With no further business, Councilperson Nielsen moved to adjourn the meeting at 6:05 p.m. Seconded by Councilperson Heinrich, the motion carried unanimously.

ATTEST:

CITY OF CUSTER CITY

Laurie Woodward
Finance Officer

Jared Carson
Mayor

**CITY OF CUSTER CITY
COUNCIL PROCEEDINGS - YEAR END MEETING
December 29th, 2016**

Mayor Jared Carson called to order the year end meeting of the Common Council for 2016 at 4:00 p.m. Present at roll call were Councilpersons Maciejewski, Heinrich, Nielsen, Fischer, Blom and Schleining. The Pledge of Allegiance was stated.

AGENDA

Councilperson Maciejewski moved, with a second by Councilperson Fischer, to approve the agenda. The motion unanimously carried.

CONFLICTS OF INTEREST

No conflicts of interest were stated.

CLAIMS

Councilperson Schleining moved, with a second by Councilperson Heinrich, to approve the following claims. The motion unanimously carried.

AE2S, Professional Fees, \$12,008.00
Battle Mountain Humane Society, Animal Control Contract, \$800.00
Beesley Law Office, Professional fees, \$1,887.50
Black Hills & Badlands Tourism, Advertising, \$533.00
Black Hills Energy, Utilities, \$2,457.69
Century Business Products, Supplies, \$205.32
Cotner, John, Safety Equipment, \$146.96
Culligan, Repair & Maintenance, \$18.50
Custer Car Wash, Repair & Maintenance, \$24.25
Chronicle, Publication, \$425.20
Custer True Value, Supplies, \$264.01
Dacotah Bank, Investment, \$20,000.00
Delta Dental, Insurance, \$444.60
EFTPS, Taxes, \$14,540.35
First Interstate Bank, Utilities, Supplies, Repair & Maintenance, \$5,302.70
Frontier Photo, Supplies, \$198.00
Garland Goff Attorney, Professional Fees, \$1,537.50
G&R Controls, Repair & Maintenance, \$1,004.50
Golden West Technologies, Repair & Maintenance, \$906.50
Green Owl Media, Professional Fees, \$345.00
Kellogg, Scott, Reimbursement, \$78.17
KLJ, Professional Fees, \$6,100.00
LaMonte's Auto, Repair & Maintenance, \$252.49
McGas, Repair & Maintenance, \$59.75
Midcontinent Testing Labs, Professional Fees, \$108.00
PayPal, Supplies, \$383.75
Petty Cash, Supplies, \$329.50
Rancher's Feed & Supply, Utilities, \$2,388.55
Rapid Delivery, Professional Fees, \$50.60
Servall, Repair & Maintenance, \$306.91
SD Department of Revenue, Sales Tax, \$1,039.79
SD Retirement System, \$6,231.83
SD Executive Management Finance Office, Utilities, \$12.53
SD One Call, Supplies, \$63.00
Shanklin's, Supplies, \$30.00
Supplemental Retirement System, \$375.00
US Department of Treasury, Deduction, \$142.55
Wright Express, Supplies, \$1,014.75
Mayor & Council \$4,400.00
Finance Department, \$11,049.32
Public Buildings, \$2,671.35
Planning Department, \$5,092.30
Public Works Department, \$9,865.08

Street Department, \$7,413.31
Parks Department, \$3,356.80
Water Department, \$9,022.84
Wastewater Department, \$5,583.29
Total Claims \$140,471.04

ADJOURNMENT

With no further business, Councilperson Schleining moved to adjourn the meeting at 4:06 p.m.
Seconded by Councilperson Nielsen, the motion unanimously carried.

ATTEST:

CITY OF CUSTER CITY

Laurie Woodward
Finance Officer

Jared Carson
Mayor

**RESOLUTION NO. 01.03.2017A
RECLAIMING OWNERSHIP OF CEMETERY LOTS**

WHEREAS, the City of Custer City, in accordance with SDCL 47-29-9, will reclaim the ownership of the following grave spaces at the Custer City Cemetery;

- Block 1, Lot 13, Graves 2-5 ~ McCloughlan
- Block 1, Lot 15, Graves 3-5 ~ Seger
- Block 1, Lot 21, Graves 1-5 ~ D. McGuire
- Block 1, Lot 23, Graves 2-4 ~ Hewitt
- Block 1, Lot 27, Graves 1-4 ~ Gagmon
- Block 1, Lot 28, Graves 2-4 ~ Catholic
- Block 1, Lot 48, Graves 1-4 ~ Dummel
- Block 16, Lot 27, Graves 1-5 ~ John Beuter
- Block 16, Lot 35, Graves 1-5 ~ F. Hagensen
- Block 16, Lot 36, Graves 1-4 ~ Shanor
- Block 16, Lot 41, Graves 1-4 ~ Emmanuel McDonald
- Block 16, Lot 49, Graves 1-5 ~ Brack
- Block 22, Lot 36, Graves 1-2 ~ Cassie Gira

WHEREAS, notice to reclaim said grave spaces was published in the Custer County Chronicle December 7th, 14th, and 21st, 2016.

WHEREAS, significant research was done to verify said grave spaces are not in use, have been vacant for a period greater than thirty years and no contact was made from any heirs to said grave spaces following the publications listed above.

NOW THEREFORE BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute this Resolution and the grave spaces listed above are eligible for reclamation by the City of Custer City in accordance with SDCL 47-29-9 and Ordinance No. 782.

Dated this 3rd day of January, 2017.

CITY OF CUSTER CITY

ATTEST:

Jared Carson, Mayor

Laurie Woodward
Finance Officer

622 Crook Street
Custer, SD 57730

www.custer.govoffice.com



605.673.4824 (Phone)

605.673.2411 (Fax)

lisa@cityofcuster.com

Cemetery

PUBLIC NOTICE
CITY OF CUSTER CITY CEMETERY

Notice is hereby given that the City of Custer City, in accordance with SDCL 47-29-9, will reclaim ownership the following gravespaces at the Custer City Cemetery on January 5, 2017.

Block 1, Lot 13, Graves 2-5 ~ McCloughlan
Block 1, Lot 15, Graves 3-5 ~ Seger
Block 1, Lot 21, Graves 1-5 ~ D. McGuire
Block 1, Lot 23, Graves 2-4 ~ Hewitt
Block 1, Lot 27, Graves 1-4 ~ Gagmon
Block 1, Lot 28, Graves 2-4 ~ Catholic
Block 1, Lot 48, Graves 1-4 ~ Dummel
Block 16, Lot 27, Graves 1-5 ~ John Beuter
Block 16, Lot 35, Graves 1-5 ~ F. Hagensen
Block 16, Lot 36, Graves 1-4 ~ Shanor
Block 16, Lot 41, Graves 1-4 ~ Emmanuel McDonald
Block 16, Lot 49, Graves 1-5 ~ Brack
Block 22, Lot 36, Graves 1-2 ~ Cassie Gira

If you are an heir, or have any family information on the names listed above, please call the City Finance Office at 605.673.4824.

Custer County Chronicle please publish:

December 7, 2016
December 14, 2016
December 21, 2016

Dated this 3rd day of November 2016

Lisa Trana
Deputy Finance Officer

RESOLUTON # 01-03-17B

A Resolution Granting Authority to Invest Municipal Funds

WHEREAS, it has been determined by the Common Council of the City of Custer City, that it is in the best interest of the City of Custer City to invest all funds not immediately needed by the City of Custer City for day to day operations; and

WHEREAS, the State of South Dakota, Department of Legislative Audit, has determined that the authority to invest City funds is a local Council decision and must be authorized each year.

NOW THEREFORE, BE IT RESOLVED, by the Common Council of the City of Custer City, that the Custer City Finance Officer, or designee, is hereby authorized to invest any such City funds, that are not immediately needed for the day to day operation of the City, from the following list of depositories, at the best interest rate available and for the period of time determined to be the most beneficial to the City.

First Interstate Bank, Custer, SD
Black Hills Federal Credit Union, Custer, SD
Edward Jones, Custer, SD
SD Public Funds Investment Trust, Sioux Falls, SD
Telco Federal Credit Union, Custer, SD
Highmark Federal Credit Union, Custer, SD
Dacotah Bank, Custer, SD

Dated this 3rd day of January, 2017.

City of Custer City

Jared Carson, Mayor

ATTEST:

Laurie Woodward, Finance Officer

Resolution #01-03-17C

WHEREAS, the City of Custer City has previously adopted an Employee Wage Scale; and

WHEREAS, updating and amending of said Employee Wage Scale is necessary; and

WHEREAS, the salary schedule shall be adjusted yearly according to the COLA percentage (2.5% for 2017) approved by the Common Council; and

WHEREAS, the Common Council of the City of Custer City has determined that the Employee Wage Scale be modified in accordance with the attached incorporated Employee Wage Scale, which is labeled exhibit "A";

NOW THEREFORE BE IT RESOLVED that the 2017 Employee Wage Scale is adopted and supersedes all previous Employee Wage Scales.

Dated this 3rd day of January 2017.

CITY OF CUSTER CITY

ATTEST:

Jared Carson, Mayor

Laurie Woodward
Finance Officer

(SEAL)

WAGE SCALE - 20 YEAR SCALE - EFFECTIVE 1/1/2017										
	STEP 1:	STEP 2:	STEP 3:	STEP 4:	STEP 5:	STEP 6:	STEP 7:	STEP 8:	STEP 9:	STEP 10:
POSITION:	OFF PROBATION 6 MONTHS	AFTER 52 WEEKS	AFTER 52 WEEKS	AFTER 52 WEEKS	AFTER 104 WEEKS	AFTER 104 WEEKS	AFTER 104 WEEKS	AFTER 156 WEEKS	AFTER 156 WEEKS	AFTER 156 WEEKS
PUBLIC WORK SUPERVISOR	\$21.75	\$22.25	\$23.61	\$24.31	\$25.04	\$26.04	\$27.09	\$28.17	\$29.30	\$30.47
PUBLIC WORKS WORKING FOREMAN	\$17.14	\$17.64	\$18.71	\$19.27	\$19.85	\$20.65	\$21.47	\$22.33	\$23.22	\$24.15
INTER-DEPARTMENT OPERATOR	\$14.50	\$15.00	\$15.92	\$16.40	\$16.89	\$17.56	\$18.26	\$19.00	\$19.76	\$20.55
JUSTODIAL MAINTENANCE WORKER	\$14.50	\$15.00	\$15.92	\$16.40	\$16.89	\$17.56	\$18.26	\$19.00	\$19.76	\$20.55
DEPUTY FINANCE OFFICER	\$15.53	\$16.03	\$17.00	\$17.52	\$18.04	\$18.76	\$19.51	\$20.29	\$21.10	\$21.95
COUNT RECEIVALBE CLERK	\$13.86	\$14.36	\$14.79	\$15.69	\$16.16	\$16.81	\$17.48	\$18.18	\$18.90	\$19.66
AV & PLANNING TECHNICIAN	\$14.50	\$15.00	\$15.92	\$16.40	\$16.89	\$17.56	\$18.26	\$19.00	\$19.76	\$20.55
ARK LABORER - SEASONAL	\$11.54	\$12.04	\$12.77	\$13.16	\$13.55	\$14.09	\$14.66	\$15.25	\$15.85	\$16.49
ART TIME RECEPTIONIST	\$11.36	\$11.86	\$12.58	\$12.96	\$13.35	\$13.88	\$14.43	\$15.01	\$15.61	\$16.24
WATER AND/OR WASTEWATER OPERATOR										
	OFF PROBATION									
MUST MEET CERTIFICATION CLASS OF CUSTER FACILITIES TO QUALIFY ON PAY SCHEDULE FY2015 SCHEDULE IS WATER TREATMENT CLASS 1, WATER DISTRIBUTION CLASS 2.										
WASTEWATER COLLECTION CLASS 2, AND/OR WASTEWATER TREATMETN CLASS 2										
POSITION:	STEP 1:	STEP 2:	STEP 3:	STEP 4:	STEP 5:	STEP 6:	STEP 7:	STEP 8:	STEP 9:	STEP 10:
	OFF PROBATION	AFTER 52 WEEKS	AFTER 52 WEEKS	AFTER 52 WEEKS	AFTER 104 WEEKS	AFTER 104 WEEKS	AFTER 104 WEEKS	AFTER 156 WEEKS	AFTER 156 WEEKS	AFTER 156 WEEKS
Public Works Director	\$54,228.52	\$56,939.94	\$58,648.14	\$60,407.59	\$62,219.81	\$66,649.86	\$69,315.86	\$72,088.49	\$74,972.03	\$77,970.91
Finance Officer	\$50,615.06	\$53,145.82	\$54,740.19	\$56,382.40	\$58,073.87	\$59,816.09	\$62,208.73	\$64,697.08	\$67,284.96	\$69,976.36
Planning Administrator	\$48,934.01	\$51,380.71	\$52,922.13	\$54,509.80	\$56,145.09	\$57,829.45	\$60,142.62	\$62,548.33	\$65,050.26	\$67,652.27
Mayor	\$1,400.00	Per Month								
Councilmembers	\$500.00	Per Month								

Certifications = \$.50 per

ORDINANCE NO. 786

An Ordinance entitled an Ordinance Amending Chapter 15.08 Building Permits of the City of Custer City Municipal Code and amending, replacing, and superseding all prior ordinances or amendments, by which amending and superseding said Ordinance as follows, to wit:

Chapter 15.08

BUILDING AND PLANNING PERMITS*

Sections:

- 15.08.010 Required--Exceptions.
- 15.08.020 Application.
- 15.08.030 Appeal.
- 15.08.040 International Building Code controlling.
- 15.08.050 Fees.
- 15.08.055 Carports.
- 15.08.060 Frost footings.
- 15.08.070 Violation.
- 15.08.080 Other remedies.
- 15.08.090 Metal raceway.
- 15.08.100 Certificates of zoning compliance for new, altered or nonconforming uses.
- 15.08.110 Sign regulations.

Prior history: Prior code § 8-103-8-107.

15.08.010 Required--Exceptions.

A. Permits Required. Except as specified in subsection B of this section, no building or structure regulated by this code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate permit for each building or structure has first been obtained from the building official.

B. Work Exempt from Permit. A building permit shall not be required for the following:

1. One-story detached accessory buildings used as tool and storage sheds, playhouses and similar uses, provided the projected roof area does not exceed one hundred twenty (120) square feet;
2. Fences not over ~~six~~seven feet high;
3. Oil derricks;
4. Movable cases, counters and partitions not over five feet nine inches high;
5. Platforms, walks and driveways not more than thirty (30) inches above grade and not over any basement or story below;
6. Painting, papering and similar finish work;
7. Temporary motion picture, television and theater stage sets and scenery;
8. Window awnings supported by an exterior wall of Group R, Division 3, and Group M occupancies when projecting not more than fifty-four (54) inches;

9. Prefabricated swimming pools accessory to a Group 4, Division 3 occupancy which the pool walls are entirely above the adjacent grade and if the capacity does not exceed five thousand (5,000) gallons.

Unless otherwise exempted, separate plumbing, electrical and mechanical permits will be required for the above exempted items.

Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

C. Notwithstanding the foregoing provisions, no permit shall be required for siding, ~~shingling~~, painting or any normal maintenance repairs or for the construction of landscaping, or patio; or temporary portable steps not exceeding fifty (50) square feet in dimension for mobile homes; or for any situations exempted from permit requirements in International Building Code.

D. It shall be further unlawful to construct or alter any building which does not comply with the plans and specifications or detailed statement contained in the application for permit.

E. Construction for which a building permit has been issued shall be given one year to complete. One and only one extension of one hundred eighty (180) days may be granted in the event that construction is not completed within one year. In order to complete a project after an extension has once been granted, a new permit will be required with a permit fee based on the amount of work remaining.

A fee of twenty-five dollars (\$25.00) will be charged to extend the permit for an additional one hundred eighty (180) days. (Ord. 742, 2014; Ord. 648 (part), 2008; Ord. 527, 2000; Ord. 526, 2000; Ord. 392 (part), 1993; prior code § 8-102)

15.08.020 Application.

A written application for such permit shall be made at city hall, signed by the owner of the land or lot upon which the building is situated or is to be situated, or by the lessee, or by the agent of either. The application shall state the name and address of the owner of the land or lot upon which the building is situated or is to be situated, the names and addresses of the architect, builder, electrician and plumber employed thereon, the lot and block numbers, the name of the addition, site plan, a statement of the nature and proposed use of such building or structure, and a sketch showing floor plan and electric wiring and plumbing. It shall also give the greatest length, width and height of the building, the number of rooms, the kind of material or materials used or to be used, and specifications for wiring and plumbing used in the construction or alteration. No building permit shall be issued until a site plan is filed with and approved by the planning administrator or designee. Should the application be in accordance with the terms of this chapter, the planning administrator shall, without delay, issue a permit as requested. If for any reason the planning administrator shall refuse to grant a permit, the administrator shall state in writing the reasons for such refusal. ~~The building permit application form, miscellaneous permit application form, certificate of occupancy application form, and the sign permit application form are attached to the ordinance codified in this section as Exhibit~~ (Ord. 402 (part), 1993)

15.08.030 Appeal.

If the planning administrator or assigned designee refuses to issue a building permit, the refusal may be appealed to the city planning commission and common council. Their decision shall be final. (Ord. 402 (part), 1993)

15.08.040 International Building Code controlling.

In matters pertaining to building not covered by the ordinances of the city, the planning administrator or assigned designee shall be guided by the most current editions of the International Building Codes. (Ord. 742, 2014; Ord. 402 (part), 1993)

15.08.050 Fees.

Fees shall be assessed as follows stated in a resolution adopted on an annual basis:

A. Plan Review Fees.

1. Plan review fees are included within the fees for building permits, but up to twenty-five dollars (\$25.00) of the permit fee may be collected at the time the application is submitted. The ~~building official~~ Planning Administrator shall have the option to require that up to ~~fifteen~~ twenty-five (+25) percent of the estimated permit fee may be required at the time the application is made. Further, such fees collected for plan review are not refundable but will constitute part of the building permit fee when the fee is collected.

2. ~~The plan review fees specified in this section are separate and in addition to the fees specified in the permit fees.~~

3. Where plans are incomplete or changed so as to require additional plan review, an additional plan review fee shall be charged ~~at the rate shown in Table 15.08.050~~ per the fee schedule as adopted by resolution.

B. Permit Fees.

1. The fee for each permit shall be as set forth in ~~the fee schedule as adopted by resolution, Table 15.08.050.~~ The determination of value or valuation under any of the provisions shall be made by the planning administrator. The value to be used in computing the building permit and building plan review fees shall be the total value of all construction work for which the permit is issued, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and any other permanent equipment.

2. There will be no fees charged for one identification sign license and the occupancy or certificate of zoning compliance for all new structures or facilities.

3. Remodeling work shall be issued a permit and fee charged based on the applicant's estimate of value or work to be performed. The building official shall determine if such estimate is fair and reasonable.

C. Easement, Encroachment, and Street/Alley Vacation. The fee for each request brought before the planning department for easements, encroachments or right-of-way vacations ~~shall be set in the fee schedule as adopted by resolution.~~ is four hundred dollars (\$400.00).

D. Subdivision Fee. The fee for subdivision of real estate is ~~set in the fee schedule as adopted by resolution and four hundred dollars (\$400.00) plus twenty-five dollars (\$25.00) per lot, which includes a study and review of the preliminary plat, a study and review of the final plat, and recording the final plat. Each in-city lot shall also be assessed a one hundred dollar (\$100.00) fee as set forth in the fee schedule, to be paid into General Fund for the development and maintenance of storm water mitigation, parks, and roads. All subdivision fees shall be paid at the time of preliminary plat submittal. All recording fees at due to the Custer County Register of Deeds Office shall be paid at such office to the city finance office and the final plat will be submitted to the Custer County Register of Deeds Office once the City has approved and signed such plat, to the city planning department.~~

E. Variance Fee. The fee for each variance request to any regulation of the city is ~~one hundred fifty dollars (\$150.00)~~ as set in the fee schedule as adopted by resolution.

F. Permitted Conditional Use. The fee for each permitted conditional use is ~~two hundred dollars (\$200.00)~~ as set by the fee schedule as adopted by resolution.

G. Zoning Map Change or Zoning Text Change. The fee for each zoning map change or zoning text change is ~~four hundred dollars (\$400.00)~~ as set by the fee schedule as adopted by resolution.

H. Demolition Permit Fee. There shall be a charge of ~~fifty dollars (\$50.00)~~ to demolish any structure or facility. A permit must be obtained and fee paid as set in the fee schedule as adopted by resolution.

I. Flood Plain Development Permit Fee. All work in a designated flood area within the city requires a permit. The fee for the permit is ~~twenty five dollars (\$25.00)~~ as set in the fee schedule as adopted by resolution.

J. Sign Permit Fee. The fee for each new sign that is erected or installed shall be ~~seventy five dollars (\$75.00)~~ as set in the fee schedule as adopted by resolution, except where a sign or sign structure requires that a building permit be obtained, then the building permit fee shall be the sign permit fee. A change in the name of the commercial entity, or a change in the size of the sign, shall constitute a new sign.

K. Investigation Fees--Work Without a Permit.

1. Whenever any work for which a permit is required by the International Building Code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for such work.

2. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required. The minimum investigation fee shall be the same as the minimum fee set forth in ~~Table 15.08.050~~, the fee schedule as adopted by resolution. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of the International Building Code nor from any penalty prescribed by law.

3. The planning administrator may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

L. If a request for a special Planning Commission meeting is made, the cost shall be as set in the fee schedule as adopted by resolution.

~~Table 15.08.050~~

~~Building permit fees and other inspections and fees, where applicable, shall be at the established rates set forth in the International Building Code, Latest Version, as adopted by the city council, and all acts amendatory thereto.*~~

~~1. Request for special planning meetings shall be two hundred fifty dollars (\$250.00) per meeting.*~~

~~*—Or the total hourly cost to the city, whichever is greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employee involved.~~

Valuation for determining permit fees shall be based on the most recent "Building Valuation Data" as published in Building Standards, a publication of the International Conference of Building Officials. A public copy of the most recent "Building Valuation Data" table will be available from the city planning administrator's office. The "Building Valuation Data" has an adjustment factor for South Dakota valuations which will be used in determining new construction values.

Building permit fees, roofing fees, and other inspection fees shall be as set in the fee schedule as adopted by resolution.

Building Permit Fees	
Total Valuation	Fee
\$0.00 to \$5,000.00	\$50.00
\$5,001.00 to \$10,000.00	\$150.00
\$10,001 and up	\$150.00 plus \$6.50 per \$1000.00 or fraction thereof plus on all new construction, \$2.00 for each additional \$1,000.00 or fraction thereof, paid into the general fund for development and maintenance.
Residential roofing	\$25.00
Other Inspection Fees	
1. Inspections outside of normal business hours (minimum charge—two hours)	\$75.00 per hour
2. Reinspection fees	\$75.00 per hour
3. Inspections for which no fee is specifically indicated (minimum charge—one hour)	\$75.00 per hour
4. Additional plan review required by changes, addition or revisions to approved plans (minimum charge—one hour)	\$75.00 per hour

Or the total hourly cost to the city, whichever is greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.
 (Ord. 764 (part), 2015; Ord. 742, 2014; Ord. 733, 2013; Ord. 721, 2012; Ord. 648 (part), 2008; Ord. 583, 2003; Ord. 509, 1999; Ord. 508 (part), 1999; Ord. 427, 1995; Ord. 413, 1994; Ord. 402 (part), 1993)

15.08.055 Carports.

All manufactured steel carport structures shall be erected and anchored according to manufacturers' specifications. These structures shall also meet a minimum snow loading of 30 pounds per square foot.

Manufactured steel carports may be placed with setbacks of ten feet to the back property line, six feet on the side property lines and 20 feet to the front property line. This will apply to open sided manufactured steel carports only. No wood structures with wood posts shall be allowed under this section of the code.

No carport that is sided will be allowed under this section and will fall under the 2012 IBC code section 406 to include 406.3.1 through 406.3.5.

Prior to placement of a manufactured carport structure, the property owner shall apply for a special permit from the city building department. If granted, the fee for such permit shall be as set in the fee schedule as adopted by resolution, twenty-five dollars (\$25.00). (Ord. 752, 2014)

15.08.060 Frost footings.

All construction which requires the use of frost footings shall have said frost footings constructed from ground level to a minimum depth of at least forty-eight (48) inches or to bedrock, whichever shall first occur. (Ord. 438, 1995)

15.08.070 Violation.

Any violation of this chapter shall be deemed a continuing violation for every twenty-four (24) hour period that the guilty party fails to comply and every twenty-four (24) hour period of noncompliance shall constitute a separate and distinct offense. (Prior code § 8-108)

15.08.080 Other remedies.

Nothing herein shall preclude the city from exercising any and all remedies available to the city under state law. (Prior code § 8-109)

15.08.090 Metal raceway.

A. All electrical wiring within the fire limits of Custer City which is intended as power conductors shall be installed in:

1. Metal raceways; or
2. Flexible metal raceways; or
3. Nonmetallic raceways encased in not less than two inches of concrete.

B. Installation shall be in conformance with the requirements of the current National Electric Code as adopted by the state of South Dakota. Nothing in this section is intended to reduce the requirements of the National Electric Code or requirements of the Wiring Bulletin of South Dakota. (Ord. 525, 2000)

15.08.100 Certificates of zoning compliance for new, altered or nonconforming uses.

A. It is unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged, in its use or structure until a certificate of zoning compliance shall have been issued therefor by the planning administrator stating that the proposed use of the building or land conforms to the requirements of this title.

B. No permit for erection, alteration or moving of any building shall be issued until an application has been made for a certificate of zoning compliance and the certificate shall be issued in conformity with the provisions of this title upon completion of the work.

C. A temporary certificate of zoning compliance may be issued by the planning administrator for the period of construction, alterations or partial occupancy of a building pending its completion; provided, that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

D. The planning administrator shall maintain a record of certificates of zoning compliance.

E. Failure to obtain a certificate of zoning compliance shall be a violation of this title and punishable under provision of this title. (Ord. 557, 2002)

NOW BE IT ORDAINED that all ordinances or parts thereof in conflict with this ordinance are hereby repealed. Should any section or part of this ordinance be determined to be invalid, the same shall not invalidate the remaining section(s) of this Ordinance.

Dated this 3rd day of January, 2017.

City of Custer City of Custer City

Jared Carson, Mayor

Attest _____
Laurie Woodward, Finance Officer

(SEAL)

First Reading: December 19, 2016

Seconding Reading: January 3, 2017

Publication: January 11, 2017

Vote:

Schleining:

Heinrich:

Fischer:

Maciejewski:

Nielsen:

Blom:

ORDINANCE NO. 785

An Ordinance entitled an Ordinance Amending Chapter 5.08 Alcoholic Beverages of the City of Custer City Municipal Code and amending, replacing, and superseding all prior ordinances or amendments, by which amending and superseding said Ordinance as follows, to wit:

Chapter 5.08
LICENSING AND REGULATION OF ALCOHOL, MALT BEVERAGES AND DRINKING ESTABLISHMENTS

Sections:

5.08.010 Definitions

~~5.08.015 Penalty~~

5.08.020 License required

~~5.08.030 Application for license to conduct business pursuant to this chapter~~

~~5.08.040 Action by Council~~

~~5.08.050 Place of business~~

5.08.060 Hours of sale

5.08.070 Violation as ground for revocation or suspension of license – Multiple licenses

5.08.080 No delivery – Purchase only from licensed dealers

5.08.090 Classification and fees

~~5.08.070 Full-Service On-Sale Restaurant Licenses~~

~~5.08.100 Special Event License Requirementsmalt beverage retailers licenses and retail on sale wine retailers license to organizations~~

~~5.08.110 Special malt beverage license by current licensee~~

~~5.08.120 Special permit for alcohol on public property (brown bag permit)Consumption Only Permit (brown bag)~~

5.08.130 Purchase of alcoholic beverages

5.08.140 Number of liquor licenses

5.08.150 Fee for alcoholic beverage licensees who have video lottery licenses

5.08.160 On-sale restriction by school property

5.08.010 Definitions

This chapter shall set forth licensing requirements related to the sale of alcohol and malt beverages and shall regulate drinking establishments and the sale of alcohol and malt beverages within the City.

A term that is defined in a specific section of this chapter is to be first given the meaning therein defined. If a term is not defined in a specific section, the term is to be defined using the definitions below in this section. If a term is not defined in this section the term is to be give the meaning as defined in Title 35 of the South Dakota Codified Laws, SDCL. If a term is not provided for in the SDCL the term is to be given its plain and ordinary meaning. The terms used in this title, unless the context otherwise plainly requires, shall mean the same as is defined in South Dakota Codified Laws (SDCL), Chapter 35-1.

BAR: Any permanent installed counter within the restaurant area from which alcoholic beverages are regularly served to customers by a person employed by the facility and is tending bar or drawing or mixing or otherwise preparing alcoholic beverages for consumption within the facility.

BEER GARDEN: A designated area within the premises of a licensed on sale dealer, identified in the license application, adjacent to the permanent structure on the licensed premises, and separated and defined by the temporary or permanent barriers required by this Ordinance. A Beer Garden shall not include the area of a deck or patio as defined in the Ordinance, and the beer garden may be covered or uncovered. The total area of a beer garden may not exceed the square footage of the ground floor footprint of the qualified, permanent structure located on the licensed premises.

BUILDING/STRUCTURE: Structure having a roof supported by columns or walls for the shelter, support or enclosure for persons, animals or chattels. A building may be precut or prefabricated, or it may be made up of mobile modules or sections, factory fabricated and transportable by rail or truck to a building site, and designed to be incorporated into a structure upon a permanent foundation on the said site.

BUSINESS: Means any activity, trade, calling, profession, or occupation, whether sole proprietorship,

partnership, corporation, limited liability company or other recognized entity, which regularly provides delivery of products and/or services from an address or other location(s) within the corporate limits of the City of Custer. Business includes "home occupations" which involve the sale of goods or services as described in this definition.

CIVIC ORGANIZATION: Any South Dakota recognized or 501(c)(4) not-for-profit organization or league not organized for profit, but operated exclusively for the promotion of social welfare or for the purpose of serving a public or mutual benefit within or to the community. Alternatively, any local association of persons, the membership of which is limited to the persons in the City of Custer and the net earnings of which are devoted exclusively to charitable, education or recreational purposes in the City of Custer.

CHARITABLE ORGANIZATION: Any South Dakota recognized or 501(c)(3) not-for-profit organization (either a private foundation or public charity) that is organized and operated exclusively for established philanthropic, humanitarian, altruistic, benevolent, public-spirited, scientific, literary or religious purposes, including but not limited to relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency.

DECK: Any walking surface, covered or uncovered, which is attached to the exterior of a structure and is elevated above finish grade. Decks shall have at least one access attached to a permanent structure for which malt beverage or alcohol is served or consumed.

EDUCATIONAL ORGANIZATION: Any South Dakota recognized or 501(c)(3) not-for-profit organization that is organized and operated exclusively for established educational purposes, encompassing individual instruction, as well as public instruction "on subjects useful to the individual and beneficial to the community". An educational organization does not include any elementary, secondary or higher educational institution in the public school system of this state.

EVENT: An organized occurrence or happening lasting four (4) or more consecutive days or where the City provides extraordinary services, including but not limited to sanitation services, law enforcement or traffic control. This definition does not apply to a Special Event license described below.

FRATERNAL ORGANIZATION: Any South Dakota recognized or 501(c)(8) or 501(c)(10) not-for-profit organization that is organized and operated for a fraternal purpose and whose membership is based on a common tie or the pursuit of a common object. A fraternal organization must operate under a lodge system.

FLOOR: An area that is surrounded by exterior walls and a roof of the building or portion thereof.

FULL-SERVICE RESTAURANT: Any restaurant at which a waiter or waitress delivers food and drink offered from a printed food menu to patrons at tables, booths, or the bar. Any restaurant that only serves fry orders or food such as sandwiches, hamburgers or salads is not a full-service restaurant.

MINOR: Any person who is under the age of twenty-one (21).

OPERATION: In action, functioning.

PATIO: Any finished walking surface which is at grade and is covered or uncovered. Patios shall have one access attached to a permanent structure for which malt beverage or alcohol is served or consumed.

PUBLIC PLACE: Any location (in or out of a building) that the local, state, or national government maintains for the use of the public, such as a street, highway, alley, public parking area, parks, or public building.

RESTAURANT: A room and/or structure regularly, and in bona fide manner, used and kept open for the serving and/or preparing of meals to guest for compensation which has suitable table accommodations for at least fifty (50) guests therein at one and the same time; and a kitchen connected therewith containing conveniences for cooking sufficient to provide preparation and cooking of meals in a bona fide manner for fifty (50) or more guests at one and the same time. Facilities who serve only prepackage foods or items that can be heated in a microwave or small pizza or toaster ovens will not be considered a restaurant.

RESTAURANT (for purposes of section 5.08.070): Any area in a building maintained, advertised and held out to the public as a place where individually priced meals are prepared and served primarily for consumption in such area and where not more than forty percent of the gross revenue of the restaurant is derived from the sale of alcohol or alcoholic beverages. The restaurant shall have a dining room or rooms, a kitchen, and the number and kinds of employees necessary for the preparing, cooking and serving of meals.

ROOF: Any structural element or group of elements which are structural in nature and are covered with a material(s) that is (are) weather resistant. The roof shall be the top most element of the structure that meets the requirement of the current adopted building code.

SPECIAL EVENT ON SALE LICENSE: For purposes of obtaining a Special Event on-sale license, a special event within the municipality is defined as an event or activity to be conducted within the City by a generally recognized:

- a. Civic organization with an active chapter located within the City.

- b. Charitable organization with an active chapter located within the City.
- c. Educational organization with an active chapter located within the City.
- d. Fraternal organization with an active chapter located within the City.
- e. Veterans organization with an active chapter located within the City, or one of the following events or activities within the City to be conducted by a licensee already holding an on-sale license issued by the City pursuant to SDCL 35-4-2(4), (12), or (16):
 - 1. Wedding reception
 - 2. a private family gathering
 - 3. an event sponsored by or for the benefit of a recognized non-profit organization
 - 4. an event hosted at a hotel-convention facility having at least 75 beds for guests at the facility and with kitchen and dining facilities on site capable of providing meals in a convention hall facility with seating for at least 300 guests, which special events is projected by the applicant to bring at least 50 out of town guests to the motel convention facility.

To obtain the Special Event license, the applicant shall submit an application stating their qualifications for a Special Event license on a form consistent with the requirements of SDCL 35-4-124, and providing all additional information required by the City Finance Office to meet the requirements of this ordinance. A Special Event license may only be issued to a current Custer license holder only for the same class of license previously issued to the licensee by the City of Custer.

SPECIAL EVENT OFF SALE LICENSE: For purpose of obtaining a Special Event off-sale liquor license, a special event is defined as an event designated by Resolution of the City Council, at least eight weeks prior to its commencement, in which the event or activity is projected to greatly increase the number of tourists present in the community substantially beyond the resident population. The duration of such a license shall not exceed fifteen consecutive days. An application must include an authorized statement of consent to the application and license by the participating local civic, charitable, educational, fraternal, or veteran's organization, as defined in subsection 3.01.02 herein, and identify the fixed location of the active chapter of that participating local non-profit organization within the City. Until the full impact of the market response to this license category is determined, the maximum number of such licenses to be issued during any single event shall not exceed three.

TO SELL AND SERVE ALCOHOLIC BEVERAGES: To take orders for alcoholic beverages and to deliver alcoholic beverages to customers as a normal adjunct of waiting tables. This term does not include tending bar or drawing or mixing alcoholic beverages.

WALL: Any wall or element of a wall, or any member or group of members, structural or non-structural, which defines the boundaries of a building and which is opaque in nature with the exception of windows or doors and supports a roof and/or floor above.

VETERANS ORGANIZATION: Any bona fide congressionally chartered veteran's organization.

5.08.015 Penalty

Any violations of this provisions of this Chapter is a Class 2 Misdemeanor. In addition, any person holding a license under this Chapter who is found to be in violation of any provisions of this Chapter shall face the possibility of revocation or non-renewal of any license.

5.08.020 License Required

No person shall sell, exchange, barter, distribute or keep for sale any alcoholic or malt beverages, as herein defined, without having obtained a license therefore, pursuant to the provisions of Title 35 of the South Dakota Codified Laws and by Custer City Ordinance, Chapter 5.08. All classes of licenses shall also be set out in Title 35, except where otherwise indicated.

Any person who intends to sell, exchange, barter, distribute or keep for sale any alcoholic or malt beverage shall make an application for license under provisions of SDCL Title 35, to the City Finance Officer. The application shall be presented along with payment for the license fee. A public hearing is required before approval and issuance of any new license or the transfer of an existing license issued.

The Common Council may approve or disapprove an application for any license depending on whether the Council deems the applicant a suitable person to hold the license and whether the Council considers the proposed location suitable. The Common Council may, at its discretion, require the applicant to appear personally at any meeting of the Council and to answer any questions which may be asked pertaining to the applicant or the place of business which may in any way pertain to the carrying on of the business applied for.

Upon issuance of said license, the licensee shall be given a copy of Custer City Ordinance Chapter 5.08 and sign

a statement verifying that he or she has received a copy of Chapter 5.08 and signed an operating agreement with the City. It shall be the responsibility of each licensee to acknowledge in writing they have read and understood Chapter 5.08 and the operating agreement.

~~Any licensee under this chapter and SDCL Title 35 must be a person of good moral character who has never been convicted of a felony. If the licensee is a corporation, the managing officers thereof must have like qualifications.~~

~~5.08.030 Application for license to conduct business pursuant to this chapter~~

~~Any person desiring to enter into the alcoholic beverage business in the City shall submit an application for a license under the provisions of SDCL Title 35, to the City Finance Officer. The application shall be presented along with a check for the license fee.~~

~~5.08.040 Action by Council~~

~~The common council may approve or disapprove an application for a license depending on whether the council deems the applicant a suitable person to hold the license and whether the council considers the proposed location suitable. The common council may, at their discretion, require the applicant to appear personally at any meeting of the council and to answer any questions which may be asked pertaining to the applicant or the place of business which may in any way pertain to the carrying on of the business applied for.~~

~~5.08.050 Place of business~~

~~The common council shall not approve any application to sell alcoholic beverages in the city in any place of business unless that place of business is located in an area zoned commercial on the zoning map of the city.~~

~~5.08.0630 Hours of Sale~~

~~The days and hours for the sale of alcoholic beverages shall be in accordance with SDCL Title 35. All licensees may sell alcoholic beverages on Sundays, except during hours prohibited by SDCL Title 35.~~

~~5.08.0740 Violation as ground for revocation or suspension of license – Multiple licenses~~

~~The common council may revoke or suspend any license issued under this chapter and SDCL Title 35 upon proof of violation by the licensee, by the licensee's agents or employees, or by the manager or contractual operators of retail establishments and their agents or employees operating under a City license, of any of the following:~~

- ~~1) Any provision of SDCL Title 35;~~
- ~~2) Any rule promulgated pursuant to SDCL Title 35; or~~
- ~~3) Any ordinance or regulation relevant to alcoholic beverage control that has been adopted by the City.~~

~~For any licensees with multiple alcoholic beverage licenses for the same premises, upon suspension or revocation of any license issued pursuant to this chapter or SDCL Title 35, such licensee shall cease operation under all alcoholic beverage licenses held by such licensee for the same premises for the same period as the suspension or revocation.~~

~~5.08.0850 No delivery – Purchase only from licensed dealers~~

~~No package dealer or off-sale dealer as defined by this chapter shall permit or shall make any deliveries of alcoholic beverages outside their place of business. No person shall buy any alcoholic beverages in package except from a package dealer, holding a valid license.~~

~~5.08.0960 Classification and fees~~

~~No license shall be issued pursuant to this chapter except after a public hearing unless otherwise expressly stated. Classes of licenses, with the fee of each, follow:~~

ANNUAL LICENSE	LICENSE TERM	INITIAL FEE	RENEWAL FEE
Off-Sale Package Liquor License	January 1 through December 31	Price as set by City Council	\$ 1,500

On-Sale liquor license	January 1 through December 31	Price as set by City Council but may not be less than one dollar (\$1.00) for each person residing within the City as measured by the last preceding federal census.	\$ 1,200
Full-Service On-Sale Restaurant License	January 1 through December 31	Market price as set by City Council	\$ 1,200
Retail (On-Off Sale) Wine License	January 1 through December 31	\$ 500	\$ 500
On-Off Sale Malt Beverage License	July 1 through June 30	\$ 300	\$ 300
On and Off Sale Malt Beverage and SD Farm Wine License	July 1 through June 30	\$ 325	\$ 325
Off-Sale Package Malt Beverage License	July 1 through June 30	\$ 200	\$ 200
Off-sale malt beverage & SD farm wine license	July 1 through June 30	\$ 225	\$ 225
Transfer fees		\$ 150	

Off sale liquor license	January 1 through December 31	\$1,500.00 / year
On sale liquor license	January 1 through December 31	\$1,200.00 / year
Retail (on-off sale) wine license	January 1 through December 31	\$500.00 / year
On-Off Sale malt beverage license	July 1 through June 30	\$300.00 / year
Off Sale malt beverage license	July 1 through June 30	\$200.00 / year
Off Sale malt beverage & SD farm wine license	July 1 through June 30	\$225.00 / year
Transfer Fees		\$150.00

5.08.070 Full-Service On Sale Restaurant Licenses

An applicant for a full-service restaurant on-sale license shall provide sufficient documentation to the municipality with an application form provided by the municipality to prove that the primary source of revenue from the operation of the restaurant will be derived from the sale of prepared food and nonalcoholic beverages and not from the sale of alcoholic beverage. The supporting documentation concerning the primary source of revenue submitted pursuant to this section is confidential.

The full-service restaurant on-sale licensee shall submit an annual report and supporting documentation to the City on forms provided by the City Finance Office of the annual sales of the full-service restaurant, which includes an oath verifying the validity of the information provided in the report. When renewing the license, the City shall condition the license renewal upon receiving documentation that not more than forty percent of gross sales from the preceding twelve months' operation of the full-service restaurant is derived from the sale of alcohol or alcoholic beverage. The report and the supporting documentation submitted pursuant to this section are confidential. The report shall contain the annual gross sales of the licensee for the following two categories:

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

5.08.4080 Special Event License Requirements malt beverage retailers licenses and retail on-sale wine retailers license to organizations

The following are special event license and fees:

SPECIAL EVENT LICENSES	INITIAL FEE
Special Malt Beverage Retailer and/or On-Sale Wine Retailer License to Organizations. (for any qualified public, civic, charitable, educational, fraternal or veteran's organization in conjunction with a special event within the municipality)	\$50.00 for first day and \$5.00 per day thereafter

Special Malt Beverage License by Current Licensee. Issued to any holder of an alcoholic beverage license issued pursuant to SDCL 35-4-2(4), (6), or (16) in conjunction with a special events temporary malt beverage license in addition to any other licenses held by the special events applicant.

Same as fee established in SDCL 35-4-2(16)

A. To obtain a special event license, the applicant shall be submitted to the City Finance Office license fee, license application which shall include a statement of the qualifications of the applicant for a special event license on a form consistent with the requirements of SDCL 35-4-124, including an authorized statement of consent to the license by the participating local civic, charitable, educational, fraternal or veterans organization, as defined in subsection 5.08.010 herein, and a statement of the fixed location of the active chapter of the participating local non-profit organization within the City. The application shall also include all other information required to comply with this title, as established by the policies of the City Finance Office, including but not limited to the following:

-Applicant's & licensee's contact information

-General description of event

-A separate statement of consent and participation from the civic, charitable, education, fraternal or veteran's organization

-Address and legal description of the event location including specific area and size proposed for the event

-Description of how the applicant will ensure compliance with all alcoholic beverage sales laws

-Proof of proper insurance covering the event must be provided (public liability and liquor liability insurance coverage in the amount of one million dollars per person, two million dollars per occurrence, and shall name the City as an additional insured thereunder)

B. A special event license issued pursuant to this section shall only be issued to the organization for the location and dates specified on the application. Any license issued pursuant to this section may be issued for a period of time established by the common council, however, such period may not exceed fifteen (15) consecutive days, with each day expiring at twelve o'clock (12:00) midnight.

C. The license must be issued in the same manner as any other alcoholic beverage license including the requirement that notice of the application be published and a public hearing be held, with the exceptions that the state does not have to grant approval. The common council shall have sole discretion to approve or disapprove the application, depending on whether it deems the applicant to hold such license and whether it considers the proposed location suitable.

D. If an organization receiving a license pursuant to this section conducts a street dance or concert in conjunction with the special event, the organization shall provide qualified security personnel as deemed necessary by the governing body which issued the license to maintain order during the event.

E. The applicant must apply for this license not less than forty-five (45) days prior to the scheduled event.

F. No entity may be issued more than ten (10) special licenses per calendar year.

~~The city may issue a special malt beverage retailer's license and/or a special retail on-sale wine retailer's license to any public, civic, charitable, educational, fraternal or veterans organization in conjunction with a special event within the municipality. An educational organization does not include any elementary, secondary or higher educational institution in the public school system of this state. A special license issued pursuant to this subsection shall only be issued to the organization for the location and dates specified on the application. Any license issued pursuant to this section may be issued for a period of time established by the common council, however, such period may not exceed fifteen consecutive days, with each day expiring at twelve midnight.~~

~~There shall be a special license fee of fifty dollars for the first day and five dollars per day thereafter.~~

~~The license must be issued in the same manner as any other alcoholic beverage license including the requirement that notice of the application be published and a public hearing be held, with the exceptions that the state does not have to grant approval. The common council shall have sole discretion to approve or disapprove the application, depending on whether it deems the applicant to hold such license and whether it considers the proposed location suitable.~~

~~If an organization receiving a license pursuant to this section conducts a street dance in conjunction with the special event, the organization shall provide qualified security personnel as deemed necessary by the governing body which issued the license to maintain order during the street dance.~~

~~The applicant must apply for this license not less than forty five days prior to the scheduled event.~~

~~The city may issue a special malt beverage license to any holder of an alcoholic beverage license issued pursuant to SDCL 35-4-2(4), (6), or (16) in conjunction with a special events temporary malt beverage license in addition to any other licenses held by the special events applicant. A special license issued pursuant to this subsection may only be issued to the person and location specified and for the dates specified on the application.~~

~~The fee for the license shall be the same as the fee established in SDCL 35-4-2(16).~~

~~The license must be issued in the same manner as any other alcoholic beverage license, including the requirement that notice of the application be published and a public hearing be held, with the exceptions that the state does not have to grant approval. The common council shall have sole discretion to approve or disapprove the application, depending on whether they deems the applicant suitable to hold such license and whether they considers the proposed location suitable.~~

~~Any license issued pursuant to this section may be issued for a period of time established by the common council; however, such period may not exceed fifteen consecutive days, with each day expiring at twelve midnight.~~

~~The applicant must apply for this license not less than forty-five days prior to the scheduled event.~~

5.05.42020 Special permit for alcohol on public property (brown bag permit) Consumption Only Permit (brown bag)

The consumption of alcoholic beverages in any public place except at on-sale locations is prohibited. Public place is defined as any place, in or out of a building, commonly and customarily open or used by the general public and any street, highway, alley, public parking area or park.

The city may issue a permit for the consumption or blending of alcoholic beverages at a public place upon receipt of a written request from the person(s) or organization.

A permit granted pursuant to this provision shall be for a length of time authorized by the common council which shall not exceed twenty-four hours and shall not be permitted between the hours of two a.m. and seven a.m.

The granting of a permit pursuant to this provision does not authorize person(s) or organization granted a permit to sell alcoholic beverages and the person(s) or organization granted a permit pursuant to this provision is prohibited from selling alcoholic beverages.

A special permit issued pursuant to this subsection may only be issued to the person(s) or organization, location and date specified on the application.

An application fee of five dollars shall be submitted with the application for the special permit.

The applicant must submit an application permit not less than forty-five days prior to the scheduled event in order to allow sufficient time for the common council to consider the request.

The applicant must be at least twenty-one (21) years of age and provide an acceptable form of identification, together with a signed Hold Harmless Agreement and the name, policy number and expiration date of applicant's homeowner's insurance or liability insurance carrier and proof that the policy will cover the event.

5.08.1300 Purchase of alcoholic beverages

Each licensee classified in sections 5.08.0960 and 5.08.44080 special malt beverage license by current licensee of this chapter shall buy all alcoholic beverages through the city's alcoholic beverage license and shall be subject to all provisions of SDCL Title 35. The licensee shall pay directly the distributor of all alcoholic beverages for any and all invoices attributable to such establishment.

Each licensee classified in sections 5.08.0960 and 5.08.44080 special malt beverage license by current licensee of this chapter shall pay to the city on or before the tenth of each month, a mark-up of ten (10) percent on all alcoholic, non-alcoholic wine and malt beverage, or malt beverage invoices from the preceding month and submit the monthly Remittance Form itemizing all costs. All freight or delivery charges shall be considered part of the invoice cost.

5.08.1410 Number of liquor licenses

The number of liquor licenses issued in the city shall be subject to the determination as set forth in SDCL 35-4-11, as amended. No person, corporation, or business entity other than the city may be the holder of, have an interest in, or participate in an operating agreement for more than one retail license issued under SDCL 35-4-2(3), off-sale liquor license.

5.08.1520 Fee for alcoholic beverage licensees who have video lottery licenses

Any person who is licensed pursuant to SDCL 35-4-2(4), (6), (11), (12), (134), or (16), and who is issued a video lottery establishment license pursuant to SDCL 42-7A-41 must pay an additional annual fee for locating video lottery machines on the licensed premises. The fee is established at fifty dollars (\$50.00) for each video lottery machine and the fee shall be paid at the same time and in the same manner as the fees paid on licenses issued pursuant to SDCL 35-4-2. All fees received under this section shall be deposited into the general fund of the city.

5.08.1430 On-sale restriction by school property

Any on-sale licensed property that is, property to property, within 200 feet of school property may not serve alcoholic beverages outside of the building and all alcoholic beverages must stay within the structure.

NOW BE IT ORDAINED that all ordinances or parts thereof in conflict with this ordinance are hereby repealed. Should any section or part of this ordinance be determined to be invalid, the same shall not invalidate the remaining section(s) of this Ordinance.

Dated this 17th day of January, 2017.

City of Custer City of Custer City

Jared Carson, Mayor

Attest _____
Laurie Woodward, Finance Officer

(SEAL)

First Reading: January 3, 2017

Seconding Reading: January 17, 2017

Publication: January 25, 2017

Vote:

Schleining:

Heinrich:

Fischer:

Maciejewski:

Nielsen:

Blom:

AN ACT

ENTITLED, An Act to revise certain provisions concerning the notice given to municipalities and counties for bingo games and lotteries.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 22-25-25 be amended to read as follows:

22-25-25. The game, bingo, as defined in § 22-25-23, or lottery, as defined in § 22-25-24, may not be construed as gambling or as a lottery within the meaning of § 22-25-1, if:

- (1) The bingo game or lottery is conducted by a bona fide congressionally chartered veterans' organization; a religious, charitable, educational, or fraternal organization; a local civic or service club; a political party; a volunteer fire department; a local industrial development corporation as defined in § 5-14-23; or a political action committee or political committee on behalf of any candidate for a political office which exists under the laws of the State of South Dakota;
- (2) The proceeds therefrom do not inure to the benefit of any individual;
- (3) No separate organization or professional person is employed to conduct the bingo game or lottery or assist therein;
- (4) No compensation of any kind in excess of the state minimum wage per hour or sixty dollars, whichever is greater, in value is paid to any person for services rendered during any bingo session in connection with the conduct of the bingo game or in consideration of any lottery. However, the provisions of this subdivision do not apply to games or lotteries conducted in connection with any of the following events: a county fair conducted pursuant to § 7-27-3, the state fair conducted pursuant to chapter 1-21, or a civic celebration recognized by resolution or other similar official action of the governing body of a county, municipality, or village;

(5) No prize in excess of two thousand dollars is awarded at any one play of bingo;

~~(5A) The actual value of any lottery prize is stated before any chances for the lottery are sold.~~

A lottery prize of a stated amount of dollars in value may be given to a person who sells a winning lottery ticket or share as long as the winning lottery ticket or share is selected at random;

(6) The organizations authorized under subdivision (1) of this section, before conducting a bingo game or before selling any chances for a lottery give thirty days' written notice of the time and place thereof to the governing body or designated administrative official of the county or municipality in which it intends to conduct the bingo game or lottery, and the governing body does not pass a resolution objecting thereto. However, any organization that conducts a lottery and tickets or shares for such lottery are sold state-wide shall provide written notice of such lottery pursuant to this subdivision only to the secretary of state and to the governing body where the drawing for such lottery is held. A municipality pursuant to § 9-29-5 may by ordinance prohibit within the municipality the sale of lottery tickets or shares for such lottery issued pursuant to this section; and

(7) No organization authorized to conduct a bingo game or lottery under subdivision (1) of this section may enter into any lease or agreement with any other person or organization to provide equipment or services associated with the conduct of a bingo game or lottery. However, this subdivision does not apply to any lease or agreement with a distributor licensed pursuant to §§ 22-25-28 to 22-25-51, inclusive, to provide bingo or lottery equipment and supplies.

South Dakota Water and Wastewater Agency Response Network

AGREEMENT

This Agreement is made and entered into by public and private Water and Wastewater Utilities that have, by executing this Agreement, manifested their intent to participate in an Intrastate Program for Mutual Aid and Assistance.

This Agreement is authorized under SDCL 34-48 of the State of South Dakota, which provides that Water and Wastewater Utilities may contract with each other to provide services.

ARTICLE I. PURPOSE

Recognizing that emergencies may require assistance in the form of personnel, equipment, and supplies from outside the area of impact, the signatory utilities established an Intrastate Program for Mutual Aid and Assistance. Through the Mutual Aid and Assistance Program, Members coordinate response activities and share resources during emergencies. This Agreement sets forth the procedures and standards for the administration of the Intrastate Mutual Aid and Assistance Program.

ARTICLE II. DEFINITIONS

A. Emergency – A natural or human caused event or circumstance causing, or imminently threatening to cause, loss of life, injury to person or property, human suffering or financial loss, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation emergencies, disease, blight, infestation, civil disturbance, riot, intentional acts, sabotage and war that is, or could reasonably be beyond the capability of the services, personnel, equipment, and facilities of a Mutual Aid and Assistance Program Member to fully manage and mitigate internally.

B. Members – Any public or private Water or Wastewater Utility that manifests intent to participate in the Mutual Aid and Assistance Program by executing this Agreement.

1. Associate Member – Any non utility participant, approved by the Statewide Committee, that provides a support role for the WARN program, for example, State Department of Public Health, or associations, who are members of the Statewide Committees and do not officially sign the WARN agreement.
2. Requesting Member – A Member who requests aid or assistance under the Mutual Aid and Assistance Program.
3. Responding Member – A Member that responds to a request for aid or assistance under the Mutual Aid and Assistance Program.

4. Non-Responding Member - A Member or Associate Member that does not provide aid or assistance during a Period of Assistance under the Mutual Aid and Assistance Program.

C. Authorized Official – An employee or officer of a Member utility that is authorized to:

1. Request assistance;
2. Offer assistance;
3. Refuse to offer assistance or
4. Withdraw assistance under this agreement.

D. Confidential Information - Any document shared with any signatory of this Agreement that is marked confidential, including but not limited to any map, report, notes, papers, opinion, or e-mail which relates to the system vulnerabilities of a Member or Associate Member.

E. Period of Assistance – A specified period of time when a Responding Member assists a Requesting Member. The period commences when personnel, equipment, or supplies depart from a Responding Member's facility and ends when the resources return to their facility (portal to portal). All protections identified in the agreement apply during this period. The specified Period of Assistance may occur during response to or recovery from an emergency, as previously defined.

G. National Incident Management System (NIMS)—A national, standardized approach to incident management and response that sets uniform processes and procedures for emergency response operations.

ARTICLE III. ADMINISTRATION

A. Statewide Committee shall be established to organize and maintain the Mutual Aid and Assistance Program. The Statewide Committee shall consist of representatives of two rural water systems, representatives of two municipalities, and a representative from one tribal utility. Each representative shall be elected by the Members of their respective group. In the event of a vacancy on the Statewide Committee, a representative-at-large would be elected by the membership. Each Member shall have one vote. In addition to representing the interests of the Members, the Statewide Committee shall include representatives from South Dakota Office of Emergency Management, South Dakota Rural Water Association, South Dakota Section American Water Works Association, South Dakota Department of Environment and Natural Resources and the South Dakota Water Environment Federation. Representatives of these organizations shall not have voting authority.

B. The Statewide Committee will elect the following officers from among its voting members: a Chair, a Vice Chair, and a Secretary. The term of all board members shall be 2 years, except that in the first year the Agreement is in effect, one Rural Water representative and one Municipal Representative shall be elected for one year terms. A quorum shall be a majority of the members of the Governing Board.

C. The Statewide Committee shall meet at least twice each year, at a meeting place designated by the Committee. The Statewide Committee may make, establish and alter rules and regulations for its procedure consistent with generally recognized principles of parliamentary procedure. The Statewide Committee shall have the power to carry out the purposes of this

Agreement, including but not limited to the power to: adopt bylaws; develop specific procedures and protocol for requesting assistance; develop specific procedures and protocol for responding to a request for assistance; organize meetings; operate a website; disseminate information; create informational brochures; create subcommittees; maintain membership lists; maintain equipment and supply inventory lists; and deal with membership issues.

ARTICLE IV. PROCEDURES

In coordination with South Dakota Office of Emergency Management, South Dakota Rural Water Association, South Dakota Section American Water Works Association, South Dakota Department of Environment and Natural Resources and the Water Environment Federation, the Statewide Committee shall develop operational and planning procedures for the Mutual Aid and Assistance Program. These procedures shall be updated at least annually.

ARTICLE V. REQUESTS FOR ASSISTANCE

Member Responsibility: Members shall identify an Authorized Official and alternates; provide contact information including 24-hour access; and maintain resource information made available by the utility for mutual aid and assistance response. Such contact information shall be updated and provided to the Statewide Committee annually or when changes occur.

In the event of an Emergency, a Member's Authorized Official may request mutual aid and assistance from a participating Member. Requests for assistance can be made orally or in writing. When made orally, the request for personnel, equipment, and supplies shall be prepared in writing as soon as practicable. Requests for assistance shall be directed to the Authorized Official of the participating Member. Specific protocols for requesting aid shall be provided in the required procedures (Article IV).

Response to a Request for Assistance: Members of the agreement are not obligated to respond to a request. After a Member receives a request for assistance, the Authorized Official evaluates whether or not to respond, whether resources are available to respond, or if other circumstances would hinder response. Following the evaluation, the Authorized Representative shall inform, as soon as possible, the Requesting Member whether it has the resources to respond. If the Member is willing and able to provide assistance, the Member shall inform the Requesting Member about the type of available resources and the approximate arrival time of such assistance.

Discretion of Responding Member's Authorized Official: Execution of this Agreement does not create any duty to respond to a request for assistance. When a Member receives a request for assistance, the Authorized Official shall have absolute discretion as to whether or not to respond, or the availability of resources to be used in such response. An Authorized Member's decisions on the availability of resources shall be final.

ARTICLE VI. RESPONDING MEMBER PERSONNEL

National Incident Management System: When providing assistance under this Agreement, the Requesting Utility and Responding Utility shall be organized and shall function under the National Incident Management System.

Control: Responding Member personnel shall remain under the direction and control of the Responding Member. The Requesting Member's Authorized Official shall coordinate response activities with the designated supervisor(s) of the Responding Member(s). Whenever practical, Responding Member personnel must be self sufficient for up to 72 hours.

Food and Shelter: When possible, the Requesting Member shall supply reasonable food and shelter for Responding Member personnel. If the Requesting Member is unable to provide food and shelter for Responding personnel, the Responding Member's designated supervisor is authorized to secure the resources necessary to meet the needs of its personnel. Except as provided below, the cost for such resources must not exceed the State per diem rates for that area. To the extent Food and Shelter costs exceed the State per diem rates for the area; the Responding Member must demonstrate that the additional costs were reasonable and necessary under the circumstances. Unless otherwise agreed to in writing, the Requesting Member remains responsible for reimbursing the Responding Member for all reasonable and necessary costs associated with providing food and shelter, if such resources are not provided.

Communication: The Requesting Member shall provide Responding Member personnel with radio equipment as available, or radio frequency information to program existing radio, in order to facilitate communications with local responders and utility personnel.

Status: Unless otherwise provided by law, the Responding Member's officers and employees retain the same privileges, immunities, rights, duties, and benefits as provided in their respective jurisdictions.

Licenses and Permits: To the extent permitted by law, Responding Member personnel who hold licenses, certificates, or permits evidencing professional, mechanical, or other skills shall be allowed to carry out activities and tasks relevant and related to their respective credentials during the specified Period of Assistance.

Right to Withdraw: The Responding Member's Authorized Official retains the right to withdraw some or all of its resources at any time for any reason in the Responding Member's sole and absolute discretion. Notice of intention to withdraw must be communicated to the Requesting Member's Authorized Official as soon as possible.

ARTICLE VII.

COST REIMBURSEMENT

The Requesting Member shall reimburse the Responding Member for each of the following categories of costs incurred during the specified Period of Assistance as agreed in whole or in part by both parties; provided, that any Responding Member may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the Requesting Member without charge or cost.

Personnel: The Responding Member shall be reimbursed by the Requesting Member for personnel costs incurred for work performed during the specified Period of Assistance. Responding Member personnel costs shall be calculated according to the terms provided in their employment contracts or other conditions of employment. The Responding Member's designated supervisor(s) must keep accurate records of work performed by personnel during the specified Period of Assistance. Requesting Member reimbursement to the Responding Member

could consider all personnel costs, including salaries or hourly wages, costs for fringe benefits, and indirect costs.

Equipment: The Requesting Member shall reimburse the Responding Member for the use of equipment during the specified Period of Assistance, including, but not limited to, reasonable rental rates, all fuel, lubrication, maintenance, transportation, and loading/unloading of loaned equipment. All equipment shall be returned to the Responding Member in good working order as soon as is practicable and reasonable under the circumstances. As a minimum, rates for equipment use must be based on the Federal Emergency Management Agency's (FEMA) Schedule of Equipment Rates. If a Responding Member uses rates different from those in the FEMA Schedule of Equipment Rates, the Responding Member must provide such rates orally or in writing to the Requesting Member prior to supplying the equipment. Mutual agreement on which rates are used must be reached in writing prior to dispatch of the equipment. Reimbursement for equipment not referenced on the FEMA Schedule of Equipment Rates must be developed based on actual recovery of costs. If Responding Member must lease a piece of equipment while its equipment is being repaired, Requesting Member shall reimburse Responding Member for such rental costs.

Materials and Supplies: The Requesting Member must reimburse the Responding Member in kind or at actual replacement cost, plus handling charges, for use of expendable or non-returnable supplies. The Responding Member must not charge direct fees or rental charges to the Requesting Member for other supplies and reusable items that are returned to the Responding Member in a clean, damage-free condition. Reusable supplies that are returned to the Responding Member with damage must be treated as expendable supplies for purposes of cost reimbursement.

Payment Period: The Responding Member must provide an itemized bill to the Requesting Member for all expenses it incurred as a result of providing assistance under this Agreement. The Responding Member must send the itemized bill not later than ninety (90) days following the end of the Period of Assistance. The Responding Member may request additional periods of time within which to submit the itemized bill, and Requesting Member shall not unreasonably withhold consent to such request. The Requesting Member must pay the bill in full on or before the forty-fifth (45th) day following the billing date. The Requesting Member may request additional periods of time within which to pay the itemized bill, and Responding Member shall not unreasonably withhold consent to such request, provided, however, that all payment shall occur not later than one-year after the date a final itemized bill is submitted to the Requesting Member. Unpaid bills become delinquent upon the forty-sixth (46th) day following the billing date, and, once delinquent, the bill accrues interest at the rate of prime, as reported by the *Wall Street Journal*, plus two percent (2%) per annum.

Records - Each Responding Member and their duly authorized representatives shall have access to a Requesting Member's books, documents, notes, reports, papers and records which are directly pertinent to this Agreement for the purposes of reviewing the accuracy of a cost bill or making a financial, maintenance or regulatory audit. Each Requesting Member and their duly authorized representatives shall have access to a Responding Member's books, documents, notes, reports, papers and records which are directly pertinent to this Agreement for the purposes of reviewing the accuracy of a cost bill or making a financial, maintenance or regulatory audit. Such records shall be maintained for at least three (3) years or longer where required by law.

ARTICLE VIII.
DISPUTES

Members must first try negotiation for any controversy or claim arising out of, or relating to, this Agreement, including, but not limited to, alleged breach of the Agreement. If unsuccessful then the members must attempt resolution through arbitration in accordance with the Rules of the American Arbitration Association. Any court of competent jurisdiction may enter the judgment rendered by the arbitrators as final judgment that is binding on the parties.

ARTICLE IX.
REQUESTING MEMBER'S DUTY TO INDEMNIFY

The Requesting Member shall assume the defense of, fully indemnify and hold harmless, the Responding Member, its officers and employees, from all claims, loss, damage, injury, and liability of every kind, nature, and description, directly or indirectly arising from Responding Member's work during a specified Period of Assistance, in accordance with SDCL 34-48-8.

The Requesting Member's duty to indemnify is subject to, and shall be applied consistent with, the conditions set forth in Article X.

ARTICLE X.
SIGNATORY INDEMNIFICATION

In the event of a liability, claim, demand, action, or proceeding of whatever kind or nature arising out of a specified Period of Assistance, the Members who receive and provide assistance shall have a duty to defend, indemnify, save and hold harmless all Non-Responding Members, their officers, agents and employees from any liability, claim, demand, action, or proceeding of whatever kind or nature arising out of a Period of Assistance.

ARTICLE XI.
WORKER'S COMPENSATION CLAIMS

The Responding Member is responsible for providing worker's compensation benefits and administering worker's compensation for its employees. The Requesting Member is responsible for providing worker's compensation benefits and administering worker's compensation for its employees.

ARTICLE XII.
NOTICE

A Member who becomes aware of a claim or suit that in any way, directly or indirectly, contingently or otherwise, affects or might affect other Members of this Agreement shall provide prompt and timely notice to the Members who may be affected by the suit or claim. Each Member reserves the right to participate in the defense of such claims or suits as necessary to protect its own interests.

ARTICLE XIII.
INSURANCE

Members of this Agreement shall maintain an insurance policy that covers activities that it may undertake by virtue of membership in the Mutual Aid and Assistance Program.

ARTICLE XIV.
CONFIDENTIAL INFORMATION

To the extent provided by law, any Member or Associate Member shall maintain in the strictest confidence and shall take all reasonable steps necessary to prevent the disclosure of any Confidential Information disclosed under this Agreement. If any Member, Associate Member, third party or other entity requests or demands, by subpoena or otherwise, that a Member or Associate Member disclose any Confidential Information disclosed under this Agreement, the Member or Associate Member shall immediately notify the owner of the Confidential Information and shall take all reasonable steps necessary to prevent the disclosure of any Confidential Information by asserting all applicable rights and privileges with respect to such information and shall cooperate fully in any judicial or administrative proceeding relating thereto.

ARTICLE XV.
EFFECTIVE DATE

This Agreement shall be effective after the Water and/or Wastewater Utility's authorized representative executes the Agreement and the Statewide Committee Chair receives the Agreement. The Statewide Committee Chair shall maintain a master list of all members of the Mutual Aid and Assistance Program.

ARTICLE XVI.
WITHDRAWAL

A Member may withdraw from this Agreement by providing written notice of its intent to withdraw to the Statewide Chair. Withdrawal takes effect 60 days after the appropriate officials receive notice. Withdrawal from this Agreement shall in no way affect a Requesting Member's duty to reimburse a Responding Member for cost incurred during a Period of Assistance, which duty shall survive such withdrawal.

ARTICLE XVII.
MODIFICATION

No provision of this Agreement may be modified, altered, or rescinded by individual parties to the Agreement. Modifications to this Agreement may be due to programmatic operational changes to support the agreement. Modifications require a simple majority vote of Members. The Statewide Committee Chair must provide written notice to all Members of approved modifications to this Agreement. Approved modifications take effect 60 days after the date upon which notice is sent to the Members.

ARTICLE XVIII.
SEVERABILITY

The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

ARTICLE XIX.
PRIOR AGREEMENTS

This Agreement supersedes all prior Agreements between Members to the extent that such prior Agreements are inconsistent with this Agreement.

ARTICLE XX.
PROHIBITION ON THIRD PARTIES AND ASSIGNMENT OF RIGHTS/DUTIES

This Agreement is for the sole benefit of the Members and no person or entity must have any rights under this Agreement as a third-party beneficiary. Assignments of benefits and delegations of duties created by this Agreement are prohibited and must be without effect.

ARTICLE XXI.
INTRASTATE AND INTERSTATE MUTUAL AID AND ASSISTANCE PROGRAMS

To the extent practicable, Members of this Agreement shall participate in Mutual Aid and Assistance activities conducted under the State of South Dakota Intrastate Mutual Aid and Assistance Program and the Interstate Emergency Management Assistance Compact (EMAC). Members may voluntarily agree to participate in an interstate Mutual Aid and Assistance Program for water and wastewater utilities through this Agreement if such a Program were established.

Now, therefore, in consideration of the covenants and obligations set forth in this Agreement, the Water and/or Wastewater Utility listed here manifests its intent to be a Member of the Intrastate Mutual Aid and Assistance Program for Water and/or Wastewater Utilities by executing this Agreement on this _____ day of _____ 20__.

Water/Wastewater Utility: _____

By: _____

By: _____

Title: _____

Title _____

Please Print Name

Please Print Name

SDWARN STEERING COMMITTEE

Name	Affiliation	Representation /Position
Brad Lawrence*	City of Madison	Municipal Rep./Chair
Greg Merrigan*	Clay Rural Water System	RWS Rep./Vice-Chair
Bob Morrison*	City of Custer	Municipal Rep.
Jim McCauley*	Lower Brule Rural Water System	Tribal Rep.
Shilo Baysinger*	Perkins County Rural Water System	RWS Rep.
Barb Friedeman	SD DENR	DENR Rep./Secretary
Tina Titze	SDOEM	SDOEM Rep.
Morris Elcock	SDARWS	SD Rural Water Rep.
Joe Munson	SDAWWA	Associate Rep.
Stephanie Akers	SDWWA	Associate Rep.
Kelli Buscher	SDWEA	Associate Rep.
Tracy Michel	SDAEP	Associate Rep.
Glen Gilbertson	RWC Inc. (appointed by RWC Board of Directors)	RWC Rep.

*Denotes Voting Member

July 14, 2016

1	City of Fort Pierre
2	TM Rural Water
3	Minnehaha Comm. Water Corp
4	City of Winner
5	Clay Rural Water System Inc.
6	Mid-Dakota Rural Water System
7	Town of Warner
8	City of Aberdeen
9	Perkins County Rural Water System
10	City of Salem
11	City of Hosmer
12	City of Miller
13	Town of Pickstown
14	Town of Oacoma
15	City of Harrisburg
16	City of Selby
17	Watertown Municipal Utilities
18	Town of Draper
19	City of Onida
20	Java
21	Town of Gayville
22	City of Philip
23	Lead-Deadwood San. Dist. #1
24	Black Hawk Water User Dist.
25	City of Canistota
26	City of Plankinton
27	City of Menno
28	City of Westport
29	Arlington Municipal Utilities
30	Lake Madison Sanitary District
31	Town of Corona
32	Canova
33	City of Howard
34	City of Box Elder
35	Town of Pukwana
36	Pickerel Lake Sanitary District
37	Vermillion Water & Waste Water
38	Town of Chancellor
39	City of Gregory
40	Town of Buffalo Gap
41	City of Clark
42	City of Armour
43	City of Worthing
44	Lower Brule Rural Supply System
45	City of Colman
46	Clark Rural Water System
47	Tripp County Water Users District

48	City of Custer
49	City of Avon
50	City of Scotland
51	Davison Rural Water System
52	Hanson Rural Water
53	Fall River Rural Water System
54	City of Burke
55	Brookings-Deuel Rural Water Sys.
56	South Lincoln Rural Water
57	Richmond Lake San. District
58	Grant-Roberts Rural Water
59	City of Mount Vernon
60	City of Beresford
61	Lincoln County Rural Water
62	City of Centerville
63	City of Edgemont
64	Town of Stickney
65	City of Platte
66	City of Lake Norden
67	City of Gary
68	City of Deadwood
69	City of Sisseton
70	City of Emery
71	City of Bryant
72	City of Mitchell
73	Town of Keystone
74	West River/Lyman-Jones RW
75	Town of Bison
76	City of Wagner
77	Sioux Rural Water System, Inc.
78	City of Canton
79	Big Sioux Comm. Water System
80	City of Hermosa
81	City of Viborg
82	City of Madison
83	Aurora-Brule Rural Water System
84	Town of Langford
85	City of Mobridge
86	City of Desmet
87	Randall Community Water District
88	City of Irene
89	Town of Frederick
90	City of Flandreau
91	Town of Raymond
92	Rapid Valley Sanitary District
93	City of Herreid
94	City of McLaughlin

95	Town of Tabor
96	Town of Britton
97	City of Belle Fourche
98	City of Hurley
99	City of Spearfish
100	Kingbrook Rural Water
101	City of Rapid City
102	City of North Sioux City
103	City of Faulkton
104	WEB Water Development District
105	City of Alcester
106	St. Onge Wastewater
107	Lewis & Clark Rural Water
108	City of Martin
109	Coca Cola Bottling
110	City of Sioux Falls Water Division

Scott Kellogg	\$27.48	Tim Wollaston	\$21.50
Jeri Hewitt	\$20.78	Gaile Walker	\$20.78
Bill McClellan	\$23.64	John Cotner	\$15.47
Julie Harley	\$18.04	John Christie	\$16.48
David Warfel	\$15.53	Lance Stansbury	\$17.44
Lisa Trana	\$18.35	Lynnette Merritt	\$18.83
Sydney Gramkow	\$10.56	Kim Conwell	\$19.25

Salary Positions:

Bob Morrison	\$74,293.27	Laurie Woodward	\$63,144.78
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Mayor \$1,400 monthly

Councilperson \$500 monthly

Planning Commission Members \$50 per meeting