

All City Council Meetings are recorded.

**CITY OF CUSTER CITY
COUNCIL AGENDA**

**February 21st, 2017 – 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 – February 6th, 2017 Minutes
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. Custer Area Economic Development Corporation – Current Hospital Building
 - b. Second Reading – Ordinance #787 – Medical Zoning – Regional Health Network
 - c. First Reading – Ordinance #785 – Alcohol, Malt Beverage & Drinking Establishments
 - d. Resolution #02-21-17A – Conflict of Interest Policy
 - e. Resolution #02-21-17B – Limited English Proficiency Plan
 - f.
7. Old Business
 - a.
 - b.
8. New Business
 - a. Temporary Street Closure Request – Run Crazy Horse Marathon
 - b. Temporary Street Closure Request – Custer YMCA
 - c. Way Park Request – Chamber of Commerce
 - d. Combined Election Agreement with Custer School District
 - e. Extraterritorial Area Policy Agreement with Custer County
 - f.
9. Presentation of Claims –
10. Committee Reports –
11. Executive Session – Personnel, Proposed Litigation, & Contract Negotiations (SDCL 1-25-2)
12. Adjournment

REMINDERS

Park & Recreation Committee Meeting – February 22nd, 2017 5:30 P.M.

Public Works Committee Meeting – February 27th, 2017 5:00 P.M.

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

General Government Committee Meeting – March 13th, 2017 4:00 P.M.

Planning Commission Meeting – March 14th, 2017 7:00 P.M.

Regular City Council Meeting – March 20th, 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
February 6th, 2017**

Mayor Jared Carson called to order the first meeting of the Common Council for the month of February, 2017 at 5:30 p.m. Present at roll call were Councilpersons Maciejewski, Heinrich, Nielsen, Blom and Schleining. City Attorney Chris Beesley was present. The Pledge of Allegiance was stated.

AGENDA

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

MINUTES

Councilperson Nielsen moved, with a second by Councilperson Blom, to approve the minutes from the January 17th regular council meeting. The motion unanimously carried.

CONFLICTS OF INTEREST

No conflicts of interest were stated.

BISMARCK LAKE / SPEARFISH CANYON PRESENTATION – SD GAME FISH & PARKS

Katie Ceroll, Parks & Recreation Division Director, Matt Snyder, Black Hills Region Supervisor/Custer State Park Superintendent and Nancy Surprenant, Division Staff Specialist gave a presentation regarding the future plans for Bismarck Lake and Spearfish Canyon.

DEPARTMENT HEAD DISCUSSION

Bob Morrison, Public Works Director, mentioned that the City has been awarded a TAP grant for a trail to the school from the Mickelson Trail.

Elmer Claycomb, Interim Planning Administrator, gave Council an overview of what the planning department has been working on.

Laurie Woodward, Finance Officer, mentioned the prep work that is taking place for the upcoming audit.

PUBLIC HEARING – FIRST READING – ORDINANCE #787 – MEDICAL ZONING – REGIONAL HEALTH NETWORK

Councilperson Heinrich moved to approve the first reading of Ordinance #787, Medical Zoning – Regional Health. Seconded by Councilperson Schleining, the motion unanimously carried.

SNOW REMOVAL ABATEMENT CITATION – MATTHEW MAHUTGA FOR ESTATE OF MICHAEL MAHUTGA

Councilperson Nielsen moved to table the snow removal abatement citation until representation of the property owner can be present. Seconded by Councilperson Schleining, the motion unanimously carried.

FIRST READING – ORDINANCE #785 – ALCOHOL, MALT BEVERAGE & DRINKING ESTABLISHMENTS

Councilperson Maciejewski moved to table the first reading of Ordinance #785, Alcohol, Malt Beverage & Drinking Establishments until the February 21st, 2017 Council meeting to allow time for the General Government Committee to review. Seconded by Councilperson Nielsen, the motion unanimously carried.

BUG TREE REMOVAL QUOTE

Councilperson Heinrich moved to approve the quote from Rock Solid Enterprises for \$6,409.85 for bug tree removal contingent upon proof of insurance being provided. Seconded by Councilperson Schleining, the motion unanimously carried.

SETBACK VARIANCE – TIM FRYBARGER

Councilperson Nielsen moved to approve the variance request from Tim Frybarger to allow a two car garage to be constructed with the front 22 feet from the currently platted 66-foot right-of-way. Seconded by Councilperson Blom, the motion unanimously carried.

PRELIMINARY PLAT OF CHARD SUBDIVISION – SANCTUSV, LLC

Councilperson Heinrich moved to approve the preliminary plat of Chard Subdivision Tract 10 Revised. Seconded by Councilperson Nielsen, the motion unanimously carried.

STATEMENT OF VALUES

Councilperson Schleining moved to approve the statement of values as presented with the increases and decreases to property values as shown on the spreadsheet with a total decrease of \$497,216. Seconded by Councilperson Blom, the motion unanimously carried.

CLAIMS

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

2016 Claims

~~First Interstate Bank, TIF #1 Payment, \$2,439.16~~
Golden West Technologies, Professional Fees, \$55.00
Woods, Fuller, Schultz & Smith, Professional Fees, \$220.00
Total 2016 Claims, \$2,714.16

2017 Claims

A&B Welding, Supplies, \$79.26
Aflac, Insurance, \$660.28
Battle Mountain Human Society, Animal Control Contract, \$800.00
Beesley Law Office, Professional Fees, \$1,902.50
Black Hills Council of Local Governments, Dues, \$1,034.00
Black Hills Energy, Utilities, \$3,443.37
Butler Machinery, Supplies, Repair & Maintenance, \$793.82
Century Business Products, Supplies, \$105.42
Code Work, Inspection Fees, \$400.25
CAAC, Subsidy, \$1,000.00
Custer Do It Best, Supplies, \$41.45
Chamber of Commerce, Supplies, \$520.00
Chronicle, Publishing, \$951.25
Custer Community Action Team, Subsidy, \$1,500.00
Dakota Bank, TIF #2 Payment, \$1,441.76
Days Inn- Pierre SD, Travel, \$228.00
Delta Dental, Insurance, \$444.60
EFTPS, Taxes, \$15,539.95
Fastenal, Supplies, \$539.12
First Interstate, Supplies, \$25.00
Garland Goff Attorney at Law, Professional Fees, \$81.25
Green Owl Media, Professional Fees, \$300.00
Golden West Telecommunications, Utilities, \$608.54
Golden West Technologies, Professional Fees, \$620.50
GFOA, Conference, \$70.00
Hach, Supplies, \$142.79
Hawkins, Supplies, 4,891.59
Hillyard, Supplies, \$1,545.89
Jenner Equipment, Supplies, \$582.70
Scott Kellogg, Reimbursement, \$330.70
Kimball Midwest, Supplies, \$841.49
Leo's Auto Repair, Repair & Maintenance, \$22.50
Nelson's Oil & Gas, Supplies, \$1,405.07
Northwest Pipe Fitting, Supplies, \$72.34
Petty Cash, Travel, Supplies, \$417.67
Pitney Bowes, Supplies, \$48.69
Quill, Supplies, \$391.02
Rapid Delivery, Professional Fees, \$50.60
SDML, Conference, \$40.00
SD Retirement System, \$6,604.32
SDWWA, Conference, \$330.00
Supplemental Retirement, \$375.00
US Forest Service, Permit, \$424.17
US Department of Treasury, Deductions, \$142.55
Verizon Wireless, Utilities, \$463.67
Warfel, David, Safety Equipment, \$161.87
Wellmark, Insurance, \$10,585.01
Siebert, Ryan, Utility Refund, \$40.98

Mayor & Council, \$4,400.00
Finance Department, \$11,318.63
Public Buildings, \$2,719.94
Planning Department, \$5,073.12
Public Works Department, \$10,400.77
Street Department, \$8,382.40
Parks Department, \$3,477.49
Water Department, \$9,909.04
Wastewater Department, \$5,805.03
Total 2017 Claims, \$124,627.36

COMMITTEE REPORTS

Various committee reports were given.

ADJOURNMENT

With no further business, Councilperson Blom moved to adjourn the meeting at 6:31 p.m. Seconded by Councilperson Maciejewski, the motion carried unanimously.

ATTEST:

CITY OF CUSTER CITY

Laurie Woodward
Finance Officer

Jared Carson
Mayor



Because the agreement lies between the City and Regional, agreement must start there for CAEDC to even be a player.

Preliminary meetings and communications were held to see if there was even interest.

Apparently Regional Boards have concerns:

Regional has expressed viable concern if a transfer does not go well.

If we (Regional, City & CAEDC) could agree in principle; we (CAEDC) would then set out to do the following:

- Assure through public meetings, news article, public address announcements and MOU that Regional is clearly absolved of any responsibility for what may happen with the property (it is not Regional's idea; Regional has mapped a plan that is in the agreement with the City Council); this is a **CAEDC Idea** & any potential fall-out is CAED's responsibility
 - These meetings would serve as an RFI to inform the RFP
- Go through the steps of **rezoning** to be enacted upon transfer from Regional to the City
- Agree & document the **Deed Restrictions** to be filed with the transfer from Regional to the City
- Agree & document the **Steps for Ownership Transfer** (Regional to City & City to CAEDC)
- Write and advertise an **RFP** (Regional oversight to the level they desire)
- **Evaluate and Recommend** the highest and best re-use proposal(s) to the City Council (Regional oversight to the level they desire)
- **Award** to the City/CAEDC Joint Task Force **Selected Proposal(s)** (Regional oversight to the level they desire)
- **Transfer** to CAEDC; CAEDC transfer to selected proponent(s)

The idea is for a fair and equitable process that could benefit a business or even several businesses in the community.



ORDINANCE NO. 787

AN ORDINANCE ENTITLED "AN ORDINANCE AMENDING CUSTER CITY MUNICIPAL CODE, TITLE 17 ZONING BY REZONING CERTAIN PROPERTIES TO HIGHWAY COMMERCIAL ZONING DISTRICT."

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF CUSTER CITY, SOUTH DAKOTA THAT Title 17 Chapter 17.32 Medical District of the Custer Municipal Code be amended by Rezoning the following property from Unzoned to Medical Zoning District, and the same shall be subject to the provision of Chapter 17.32:

Lot 1, Spring Subdivision of Tract Burns of Tract 1 & 3 of Tract W of Clark Placer M.S. 506, Located in Section 24, T3S, R4E, BHM, Custer County, South Dakota

all in Custer City, South Dakota.

Dated this 21st day of February 2017, at the City of Custer City, South Dakota.

CITY OF CUSTER CITY

ATTEST:

Jared Carson, Mayor

Laurie Woodward, Finance Officer

(SEAL)

First Reading: February 6, 2017

Vote:

Seconding Reading: February 21, 2017

Schleining:

Maciejewski:

Publication: March 1, 2017

Heinrich:

Nielsen:

Fischer:

Blom:



Planning Department
622 Crook Street
Custer, SD. 57730

Phone: 673-4824 Fax: 673-2411
e-mail: elmerc@cityofcuster.com

Staff Report

Request: Medical District Zoning - Lot 1, Spring Subdivision of Tract Burns of Tract 1 & 3 of Tract W of Clark Placer M.S. 506, Located in Section 24, T3S, R4E, BHM, Custer County, South Dakota

Applicant: Regional Health Network

Location: 1220 Montgomery Street

Legal Desc.: Lot 1, Spring Subdivision of Tract Burns of Tract 1 & 3 of Tract W of Clark Placer M.S. 506, Located in Section 24, T3S, R4E, BHM, Custer County, South Dakota

Date: February 2, 2017

City Council Meeting: February 6, 2017

Prepared by Elmer Claycomb, P.E., Interim Planning Administrator

GENERAL

This parcel was annexed into the city in 2016. No zoning was established at the time of annexation. The applicant now wishes to have the property zoned as Medical. The intended use of the property is for the new hospital which is now under construction.

The lot is bordered by county property on the south and east. The property to the north is zoned Medical and the property to the west is zoned Residential.

COMPREHENSIVE PLAN

The Land Use Study exhibit from the 2031 Comprehensive Plan shows the area of Lot 1 as Suburban Residential.

ACCESS

Access to the lot is from Montgomery Street.

CONSIDERATIONS

The requested zoning for Lot 1 would deviate from the Comprehensive Plan. The Comprehensive Plan did not foresee the future needs of the hospital. The lot is contiguous with other parcels zoned Medical and thus appears to be a reasonable zoning to apply.

PLANNING COMMISSION ACTION

The Planning Commission held a public hearing on the zoning request at their meeting January 31, 2017. No comments were received from the public. The Planning Commission passed a motion to recommend approval of the zoning request to the City Council.

RECOMMENDED ACTION BY CITY COUNCIL

1. Conduct public hearing.
2. First reading of the Ordinance zoning the property to Medical District.

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 Requirements~~malt 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 given 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.

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 purpose of section 5.08.080, 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

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.

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 these 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 the 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.~~

5.08.06~~3~~0 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.

5.08.07~~4~~0 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.

5.08.08~~5~~0 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.

5.08.09~~6~~0 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
Convention Facility 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
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	July 1 through June 30	\$	\$ 325

SD Farm Wine License		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

Full-service on-sale restaurant license holders shall follow all South Dakota Codified Laws regarding full-service restaurant on-sale license.

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.~~

5.08.110 Special malt beverage license by current licensee

~~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.~~

5.08.12090 ~~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 5.08.11080 ~~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 5.08.11080 ~~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.

5.08.1630 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: February 21, 2017

Seconding Reading: March 6, 2017

Publication: March 15, 2017

Vote:

Schleining:

Heinrich:

Fischer:

Maciejewski:

Nielsen:

Blom:

RESOLUTION 02-21-17A

A RESOLUTION ADOPTING A CONFLICT OF INTEREST POLICY FOR ELECTED AND APPOINTED OFFICIALS OF THE CITY OF CUSTER

WHEREAS, South Dakota Codified Laws (SDCL) section 1-56-10 requires that all non-state agencies receiving state grants and awards from a state agency adopt and enforce a conflict of interest policy; and

WHEREAS, the City of Custer has received and anticipates to continue to receive dollars from the State of South Dakota either directly or through federal pass-through funds which will be subject to the statutory requirement that it enforce a conflict of interest policy; and

WHEREAS, the City of Custer deems it is in the best interest of the City to adopt this Conflict of Interest Policy for the Common Council and for all appointed officials of the City.

AND NOW THEREFORE BE IT RESOLVED, by the City of Custer, that there is hereby established the attached Conflict of Interest policy, consisting of 2 pages.

Dated this 21st day of February, 2017.

CITY OF CUSTER

ATTEST:

Jared Carson, Mayor

Laurie Woodward, Finance Officer

(SEAL)



CITY OF CUSTER
CONFLICT OF INTEREST POLICY
FOR ELECTED AND APPOINTED OFFICIALS

The City seeks to prevent and avoid any conflicts of interest in the conduct of its operations and to avoid the appearance of such conflicts to the public. Each elected and appointed official has the duty to place the interest of the citizens of the City foremost in any dealing on behalf of the City and has a responsibility to comply with this policy. This policy applies to any elected or appointed official who serves on the Council or any board, committee or commission of the City, or who is appointed to serve the City in any capacity pursuant to South Dakota Codified Law (SDCL) Chapter 9-14.

Conflict of interest may exist when an Official, or an immediate family member of such Official, has a personal or financial interest clearly separate from that of the general public on a matter before the Official. An immediate family member for purpose of this policy is any person related to an Official within the first degree of relationship and includes a spouse, parent, child, grandparent, grandchild or an individual claimed by the Official or his/her spouse as a dependent for federal income tax purpose. Such conflict of interest may be financial or personal, direct or indirect, and the existence of a conflict of interest is dependent upon the unique facts of a particular situation.

It is the policy of the City of Custer to follow state law regarding conflict of interest, and this policy is not intended to be stricter than the applicable requirements of state law. Generally, state law provides that an Official may not have a personal financial interest in any City transaction for the purchase of labor or services, materials or supplies, or real or personal property that belongs to the City. An exception to this general rule may apply if the transaction is reasonable and just, if the contract is made without fraud or deceit and if the Official discloses the conflict and recuses himself/herself from participation in the decision for which there is a conflict of interest. These exceptions include the following:

1. A contract for \$5,000 or less;
2. A contract awarded by competitive bidding procedures if more than one competitive bid is submitted or, if only one competitive bid is submitted, the procedures in SDCL 6-1-2.1 have been followed;
3. A contract for professional services;
4. A contract awarded off of the state contract list at the established price or less;
5. A contract that does not require competitive bidding when there is no other source of supply or services and when the total of any such contract does not exceed \$50,000 for a public improvement or \$25,000 for a contract for supplies or services; or
6. A contract with an entity for which competitive bidding is not required unless the majority of the governing body are members or stockholders who collectively have a controlling interest, or any governing board Official is an officer or manager or such entity.

If an Official who is a member of the City Council, or a board, committee or commission has a disqualifying interest in a matter before the body on which the Official serves, they shall disclose the conflict to the body prior to its consideration of the matter. Once this disclosure is made, the Official shall not formally participate in the official discussion, any executive session, or any vote on the matter. If the Official has a conflict of interest in the matter and chooses to participate in the discussion, the Official should leave the table and speak on the item from the audience as a member of the public.

If it is alleged that an Official has a disqualifying conflict of interest in a matter before the City Council, or a board, committee or commission on which the Official serves, and if the Official does not voluntarily refrain from participating in the matter, then the Official may be disqualified from officially participating in consideration of the matter upon a two-thirds vote of the Council, board, committee or commission on which the Official serves. The City Council, or a board, committee or commission voting to disqualify such Official must make a specific finding of the disqualifying conflict of interest for which it has excluded the Official from participating in the matter under consideration. An Official disqualified in this manner may not participate in the official discussion, any executive session or any vote on the matter.

If an Official desires assistance to determine if that Official, or another Official, has a disqualifying conflict of interest, the Official may request an advisory opinion from the City Attorney. Such opinion shall be made available to all members of the City Council, or the board, committee or commission about which the opinion is provided, but shall not be available for public inspection unless a majority of the members of the City Council or the board, committee or commission to which the opinion is provided votes to make such opinion public.

The Finance Officer or designee shall provide a copy of this policy to all City Officials.

Acknowledgement of Receipt of Conflict of Interest Policy for Elected and Appointed Officials

Signature

Date

RESOLUTION 02-21-17B

A RESOLUTION ADOPTING A LIMITED ENGLISH PROFICIENCY 4-FACTOR ANALYSIS
AND LANGUAGE ACCESS PLAN FOR THE CITY OF CUSTER

WHEREAS, United State Department of Agriculture Rural Development in accordance with Title VI of the Civil Rights Act of 1964 as well as Executive Order 13166 titled "Improving Access to Services for Persons with Limited English Proficiency, requires this document; and

WHEREAS, the City of Custer as recipient of federal funds requires this document; and

WHEREAS, the City of Custer deems it is in the best interest of the City to adopt this Limited English Proficiency 4-Factor Analysis and Language Access Plan.

AND NOW THEREFORE BE IT RESOLVED, by the City of Custer, that there is hereby established the attached Limited English Proficiency 4-Factor Analysis and Language Access Plan, consisting of 5 pages.

Dated this 21st day of February, 2017.

CITY OF CUSTER

ATTEST:

Jared Carson, Mayor

Laurie Woodward, Finance Officer

(SEAL)



LIMITED ENGLISH PROFICIENCY
4-FACTOR ANALYSIS AND LANGUAGE ACCESS PLAN

CITY OF CUSTER, SOUTH DAKOTA

Adopted February 21, 2017

Background and Purpose:

This 4-Factor Analysis and resulting Language Access Plan (LAP) has been prepared and adopted by the City of Custer in accordance with Title VI of the Civil Rights Act of 1964 as well as Executive Order 13166 titled *"Improving Access to Services for Persons with Limited English Proficiency."* This document is a requirement of the City as a recipient of various Federal funds. This document has been prepared for the City-as-a-whole regardless of whether every individual municipal program, department or activity utilizes Federal funds.

The overall purpose of this document is to ascertain the extent and needs of the local limited English proficient (LEP) population as well as identify recommended actions to ensure discrimination does not occur to persons receiving municipal services who do not speak English at all or very well. The end result of implementation of these actions will be to eliminate the language barriers that prevent eligible persons from having meaningful access to Federally funded programs in Custer. "Meaningful access" must result in LEP individuals being afforded the opportunity to obtain the same benefits and services as other non-LEP individuals and also must result in no added cost to the LEP person.

Plan Organization:

The two major portions of this document are the "4-Factor Analysis" and the "Language Access Plan" (or LAP). The 4-Factor Analysis is a data-driven analysis that determines the extent to which LEP persons are affected by municipal (including Federally-assisted) services. The Language Access Plan utilizes the findings of the 4-Factor Analysis to identify and recommend reasonable actions to be taken by the City of Custer to provide language assistance.

4-Factor Analysis:

Factor 1. The Number and Proportion of LEP persons Served or Encountered in the Eligible Service Population of the Assisted Program:

In preparing this 4-Factor Analysis, City Staff first held discussions to determine the past frequency of contacts with LEP persons through such interactions as phone calls, walk-in inquiries, or requests for interpretation services or translation of documents. The result after

looking back many years and holding discussions with applicable City departments was that the only documented experiences with LEP persons were through the Utility Department.

Years ago the Finance Office Staff can remember a case where an individual with LEP was putting the utility account in her name. The individual's teenage child, who was with her spoke English. The contact with LEP persons at City Hall is rare. Usually in the situations there is someone present that possessed interpretation skills.

Two U.S. Census data sources were also consulted in order to quantify LEP persons in Custer with very few such persons identified. First, the 2015 U.S. Census Language Mapper Tool was consulted which showed no language groups in Custer having people who spoke English less than "very well" (source: http://www.census.gov/hhes/socdemo/languageidata/language_map.html). Secondly, the 2011-2015 American Community Survey 5-Year Estimates of "Language Spoken At Home By Ability to Speak English For The Population 5 Years And Over" for Custer was reviewed with the following results being noted (only language groups with more than zero individuals are shown):

Table 1. LEP Persons in Custer

<u>Language Group</u>	<u># of Persons</u>	<u># Persons Speaking English Less than Very Well</u>
Entire City Pop.	1,803	0
Entire City (only English)	1,772	
Language Other Than English	31	0
Other Indo-European Languages	17	0
Other Languages	14	0

According to the 2011-2015 American Community Survey estimates above, no people in the City were considered LEP persons (or spoke English less than very well).

Factor 2. The Frequency with Which LEP Persons Come into Contact with the Assisted Program, Activity, and Services:

As with any municipal government, the City of Custer provides many services belonging to such broad categories as; public works (water, sewer, streets, etc.), parks and recreation, city planning, building inspections, finance and administration, etc. Within each of these broad areas, numerous individual programs, services and facilities are provided to the public. As noted earlier, not all of these individual things receive Federal funding. For example, one common area of Federal assistance in the City has been with construction of various types of infrastructure projects including City sewer and, water. Even though not all individual City

programs receive Federal funding, nevertheless an inclusive approach was taken in the development of this 4-Factor Analysis and LAP, with all municipal departments, services, programs and facilities being considered. This inclusive approach was viewed as desirable as it allowed for development of a more comprehensive LAP as well as elimination of the need to make revisions to the plan solely based on slight changes to the nature of Federal funding received — *although as noted towards the end of the LAP it is important to undertake periodic updates to this document.*

As noted in Factor 1, there have been only one case of interactions between municipal staff and LEP persons. The pervious mentioned case a sufficient level of communication was achieved so as to not prevent the LEP person(s) from receiving the service or guidance that was required.

Other than the occurrence described above, there have been no known interactions between the City and LEP persons and correspondingly there is a paucity of LEP persons in Custer. Therefore, it is expected that, notwithstanding any significant demographic changes in the community, any future contacts with LEP persons will continue to be infrequent and are most likely to happen at City Hall.

Factor 3. The Importance of the Program, Activities or Services to the LEP Persons:

As noted, there are very few LEP persons in Custer. Furthermore, there are no geographic concentrations of LEP persons in the community. And, as previously discussed, there are very infrequent interactions between City Departments and LEP persons. Further, no past cases have involved a failure to communicate nor have any services been denied to patrons. For these reasons, there are no current and apparent serious or important needs related to municipal services for LEP persons.

Acknowledging the foregoing, it is important to note that there will likely continue to be future infrequent instances for which language assistance services are needed. Therefore, the LAP component of this document does set forth reasonable recommendations for providing language assistance.

Factor 4. The Resources Available to the Recipient and Costs:

As there have been a past LEP requests or needs, there is currently one municipal staff member in Custer for LEP assistance. However, in order to be prepared for the potential of occasional future LEP inquiries or requests, the City, through this document, is officially designating the following staff and resources should LEP communication needs arise:

- All applicable City staff will continue to provide language assistance to LEP persons as needed.
- City Hall Staff will be identified as the primary contact in the case of LEP inquiries or contacts.

-
- The three primary mechanisms of language assistance available for use by the above identified City departments and staff shall include the following:
 1. Language assistance cards (or "I Speak") cards
 2. Telephone interpreter lines will be identified and used if needed
 3. Internet language interpretation websites such as translate.google.com will be used as needed
 4. Custer School District Spanish Teacher

Dedicating the above resources and staffing for municipal services will have negligible budgetary impacts. Any costs associated with the language assistance cards and rare uses of a telephone interpreter are negligible and would be absorbed by the City. No added cost for utilization of internet language interpretation websites would be realized, as internet service is already available to municipal offices. And, of course, no costs for LEP communication services would be incurred by LEP persons needing assistance.

Language Access Plan:

LEP Persons Served:

As noted previously in the 4-Factor Analysis, there have been a small number of LEP person contacts. Furthermore, there are very few LEP persons in Custer. As per the American Community Survey, there were no LEP people.

Therefore, there is the likelihood that any instance of LEP assistance that does occur will likely involve one or two languages. Although the location of Custer in a region frequented by tourists - including international tourists, does present the potential for rare contact with LEP persons representing a wide array of languages.

Types of Language Assistance to be provided:

The type of language assistance provided to LEP persons in Custer will vary depending upon the mode of communication — as follows:

- **Face-to-Face Interaction:** It is anticipated that the majority of cases involving LEP persons will involve face-to-face interactions. In these cases, City staff will utilize the following resources as needed: City staff that speaks Spanish, "I Speak" cards will be used to determine language type, and on-line language interpretation websites and/or telephone language interpretation services will be used for interpretation.
- **Telephone Interaction:** In the case of telephone contact being made with an LEP person, either an on-line language interpretation website or telephone language interpretation service will be used for interpretation.

- **Written Communication:** In the event that written communication is received from an LEP person, then an on-line language interpretation website shall be utilized for interpretation.

Staff Training/Dedicated Departments:

As previously noted, it is anticipated the majority of contacts with LEP persons will occur at City Hall. Therefore, appropriate staff will receive training as to where to find and how to use the needed communication service or device (such as language assistance cards, internet interpretation websites, and telephone interpretation services). Furthermore, in the event that contact between and LEP person and the City is made in another department or facility other than City Hall, then that department shall contact City Hall to obtain guidance on how to assist the individual. The City will inform all City Departments and facilities as to this protocol to be followed.

Vital Documents Translation:

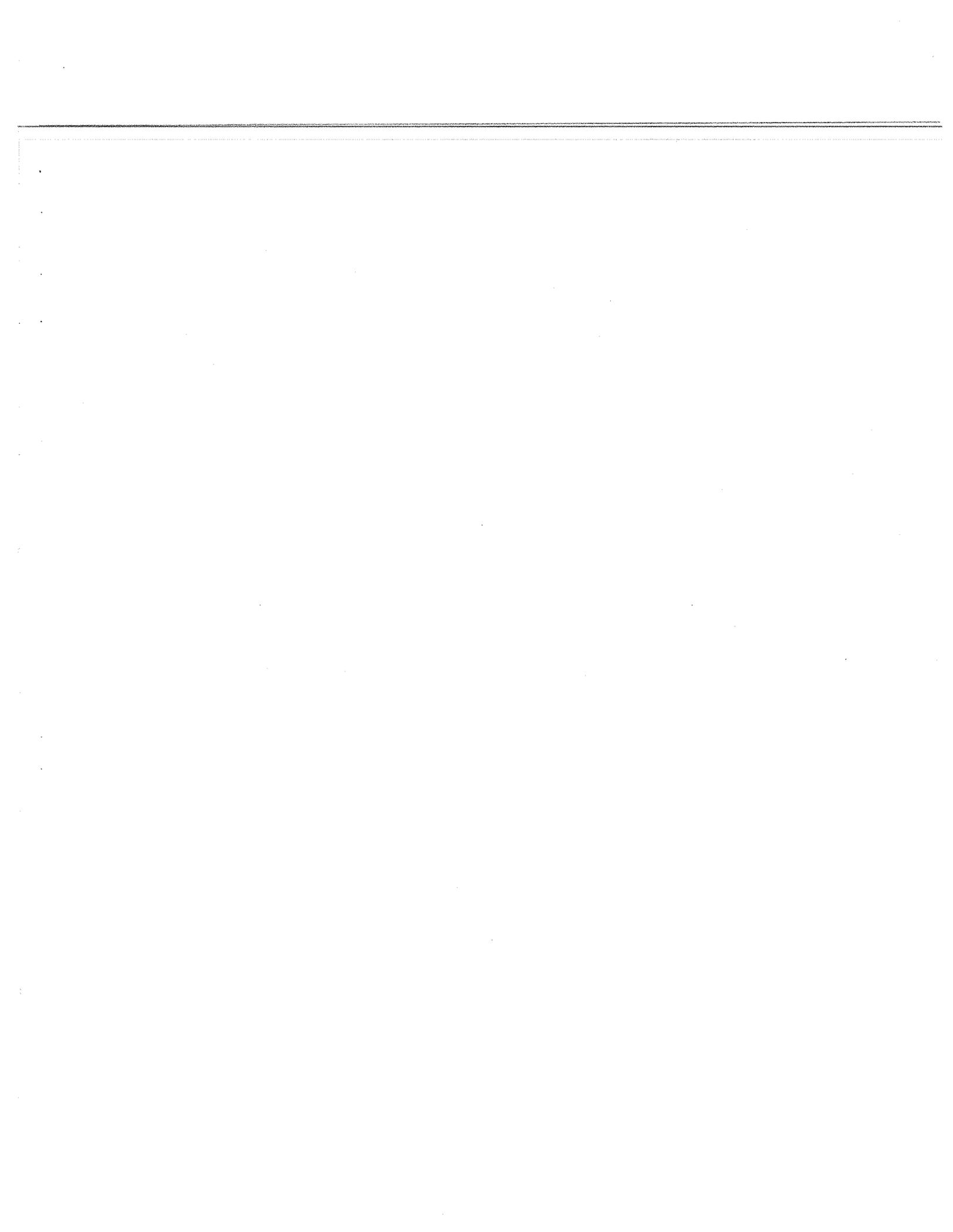
In accordance with adopted LEP guidance (i.e. — "Safe Harbor Provisions") because the number and proportion of LEP persons in Custer is less than 5% of the total population and less than 1,000 in number then no written translation of vital documents is required.

Notice to LEP Persons and Populations:

In order to ensure that LEP persons are aware that language assistance is available to them, signs will be posted at City Hall, informing the public of this fact. At a minimum, the signs will be posted in English and Spanish.

Monitoring and Updating the 4-Factor Analysis and LAP:

The City shall re-evaluate and update this 4-Factor Analysis and LAP at any time that new Census data reveals a significant increase in LEP persons or if a significant increase in contacts or inquires with LEP persons is noted.



REQUEST TO BE ON AGENDA
CUSTER CITY COUNCIL MEETING

NAME: Emily Wheeler PHONE #: 605-390-6137

ADDRESS: 8510 Kings Court

MEETING DATE: Request Feb 20, 2017

Council meets on the 1st and 3rd Monday of each month, however if such date follows on a holiday Council will meet the following day.

ACTION REQUESTED (Give a brief summary of the action you would like the Council to take):

Permission to stop vehicles for runners on the Mickelson Trail
crossings of Montgomery St, Harney, Crook, Mt Rushmore Rd,
8th St, 7th St, 4th St. on Sunday Oct. 8, 2017 from
approx. 9am to 11:30am for the Run Crazy Horse
Marathon.

REASONS FOR ACTION (Give a detailed account for the reasons you feel the Council should take the above action. Please state the history behind the request and as much information supporting your request as you can. Attach additional sheets if necessary.):

The Run Crazy Horse Marathon events will be in its 7th year
in 2017 & would like to have our course out of Crazy Horse
Memorial to run South to Custer & ~~the~~ turnaround @ approx
4th Street to finish on Main St. in Hill City. About 1200
runners participated in 2016. Marathon and Relay runners will
be approx 250 runners. The Custer portion is mile 8.8 to 12
of th course.

Have you visited with any staff or committees regarding your request, please state who (General Government Committee, Public Works Committee, Planning Commission, Community Development Director, Public Works Director, Finance Officer):

Yes, email to Mayor Carson, Laurie Woodward

SIGNATURE Emily Wheeler DATE 2/2/17

This form must be returned to the Finance Office by noon on the Wednesday preceding a regular scheduled meeting.



REQUEST TO BE ON AGENDA
CUSTER CITY COUNCIL MEETING

NAME: Connie Tye - Custer YMCA PHONE #: 673-5134
ADDRESS: 644 Crook St

MEETING DATE: 20 February 2017

Council meets on the 1st and 3rd Monday of each month, however if such date follows on a holiday Council will meet the following day.

ACTION REQUESTED (Give a brief summary of the action you would like the Council to take):

Approval for trail race w/in city limits -

REASONS FOR ACTION (Give a detailed account for the reasons you feel the Council should take the above action. Please state the history behind the request and as much information supporting your request as you can. Attach additional sheets if necessary.):

Gold Rush 5K Fun Run
Mickelson trail - out & back
Crossing Washington St & 4th St.
Custer YMCA with private crossing guards.

Have you visited with any staff or committees regarding your request, please state who (General Government Committee, Public Works Committee, Planning Commission, Community Development Director, Public Works Director, Finance Officer):

SIGNATURE Connie Tye DATE 10 February 2017

This form must be returned to the Finance Office by noon on the Wednesday preceding a regular scheduled meeting.





ED

FEB 10 2017

CITY OF CUSTER

February 9, 2017

City of Custer City
ATTN: City Council
622 Crook Street
Custer, SD 57730

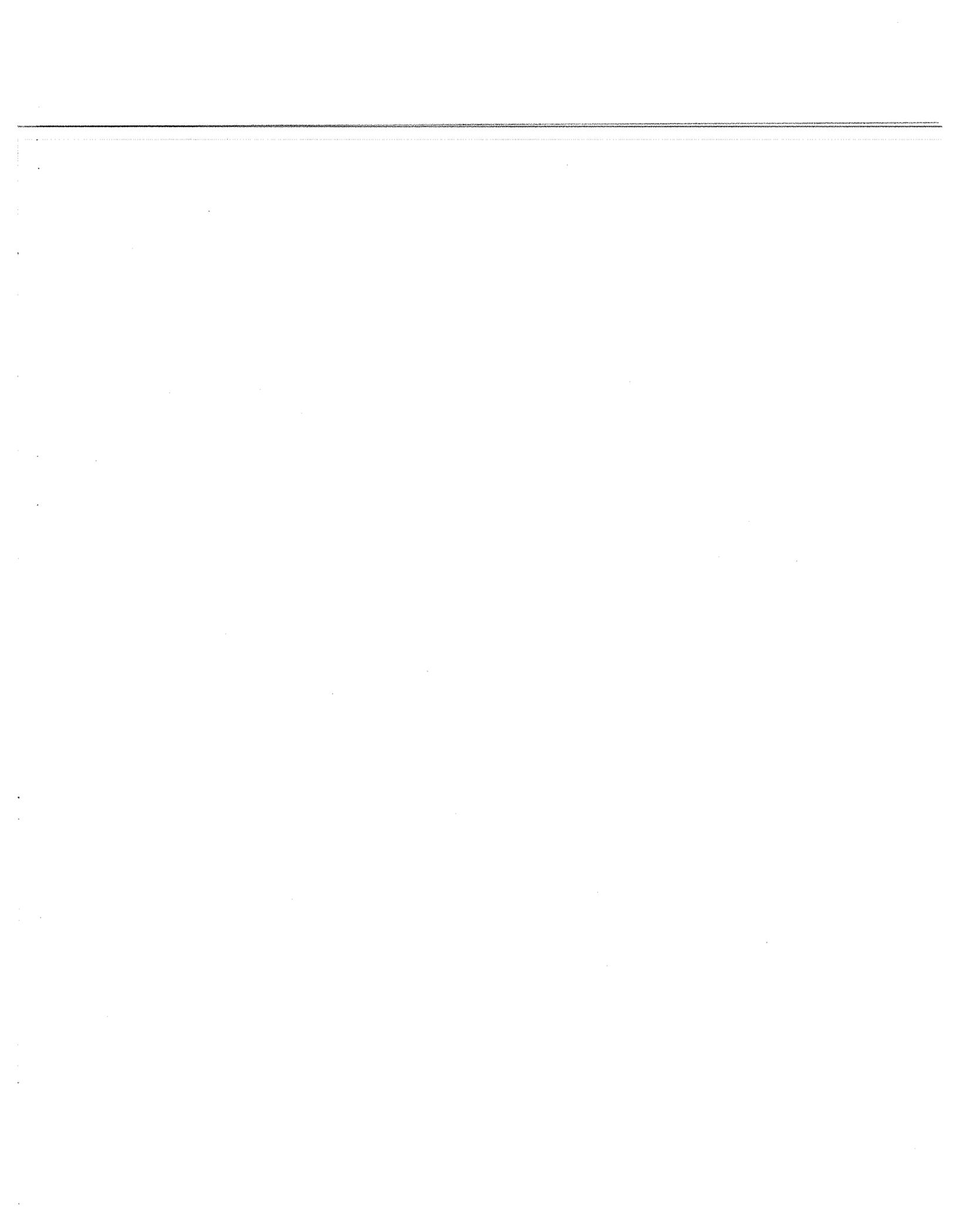
Dear Custer City Council Members:

The Custer Area Chamber of Commerce would like to request the use of Way Park for the Custer Farmer's Market on Saturdays 8 am to 1 pm June through October. They would not use the park on Gold Discovery Days weekend (July 22).

This is an event where our local farmers and crafters can bring their homegrown and homemade products to display and sell to the community. They will have their own booths to set up and take down, so there will be no set up required by the City.

The Custer Area Chamber of Commerce does insure this event every year and will have insurance on it again this year. Please let me know if there is any other information needed to get your approval, thank you.

Dolsee Davenport
Office Manager



COMBINED ELECTION AGREEMENT
CUSTER SCHOOL DISTRICT NO. 16-1 AND CUSTER CITY

This agreement is entered into between Custer School District 16-1, hereinafter referred to as the "School", and the City of Custer City, hereinafter referred to as the "City", both governmental subdivisions of the State of South Dakota, for the purpose of conducting a combined election as provided under the provisions of SDCL 9-13-1.1 and 13-7-10.1.

EFFECTIVE DATE: This agreement shall become effective on the date that both parties have signed the agreement unless otherwise provided by law.

PURPOSE: It is the purpose of this agreement for the parties to conduct their individually required elections in one combined election. The combined election will be held on June 6, 2017. Elections are being combined in an effort to save tax dollars on the cost of individually conducted elections and to encourage a better voter turnout.

COST SHARING: The parties to this agreement shall share the costs of the combined election as set forth herein.

- Each Governmental entity will publish and pay for its own required notices.
- Salaries and expenses of the city election board will be shared equally by both parties. Rural school district salaries shall be borne by the School.
- Polling place for joint election, for Sentinel Hill Precincts 5A and 5B, Custer City Precincts 6, 7, and 8; Bear Rock Precincts 9A and 9B; Elk Mountain Precinct 10; Pringle Precinct 4; and Pennington County Precinct HC1 shall be at Custer County Annex, 447 Crook Street, Custer, South Dakota. Any rent or other such costs will be shared equally by both parties.
- The cost of all jointly used materials will be shared equally. Each entity will pay the cost of its individually used materials and supplies.
- If either of the parties to this agreement is not required to have an election, only those costs of the joint action, if any, to the point of withdrawal will be shared. The remainder of the election costs will be borne by the remaining entity conducting the election.
- The School will pay all shared costs associated with the election with the exception of the election board within the City, and the City agrees to reimburse the School for its share of the costs as determined in this agreement. The City will pay the election board within the City, and the School agrees to reimburse the City for its share of those costs.

ABSENTEE BALLOTS: Absentee ballots shall be available at the offices of each of the entities for that entity's election only. Each party shall handle its own absentee ballots.

CANVASSING OF THE VOTE: There shall be kept separate poll books and recapitulation sheets for each entity. The School and City shall be responsible for collecting their own ballots, poll books, and any other miscellaneous supplies from the election site as soon as possible following the election. Each entity shall perform the Official Canvass of their respective election returns.

The School Business Manager and the City Finance Officer shall cooperate in any manner that will accomplish the purpose and intent of this agreement in order to facilitate this election in the most efficient and economical manner.

Dated this ____ day of _____, 2017 in Custer, South Dakota. _____
(SEAL) Laurie Woodward, Finance Officer
Custer City

Dated this ____ day of _____, 2017 in Custer, South Dakota. _____
(SEAL) Lisa J. Fluck, Business Manager
Custer School District 16-1



*EXTRATERRITORIAL AREA
POLICY AGREEMENT*

Between

CUSTER COUNTY, SOUTH DAKOTA

And the

CITY OF CUSTER, SOUTH DAKOTA

Preliminary Draft for Review
_____, 2017

CUSTER COUNTY, SOUTH DAKOTA
RESOLUTION _____

A RESOLUTION AUTHORIZING THE CHAIRMAN OF THE BOARD OF COUNTY COMMISSIONERS TO SIGN AND THE COUNTY AUDITOR TO ATTEST TO AN AGREEMENT BETWEEN CUSTER COUNTY, SOUTH DAKOTA AND THE CITY OF CUSTER, SOUTH DAKOTA ESTABLISHING POLICIES FOR DEVELOPMENT OF LAND WITHIN THE EXTRATERRITORIAL AREA OF CITY OF CUSTER IN CUSTER COUNTY.

WHEREAS, two (2) or more local governments enabled under Section 1-24-3 of the South Dakota Codified Law to enter into agreements to cooperate for the mutual advantage of the governments involved; and

WHEREAS, Custer County deems a land use policy agreement with the City of Custer for orderly growth and development within the extraterritorial jurisdiction of the City of Custer within Custer County, to be to the mutual advantage of the City of Custer and Custer County.

NOW THEREFORE BE IT RESOLVED, that the Board of County Commissioner of Custer County hereby authorizes the Chair of the Board of County Commissioners to sign and the County Auditor to attest to the attached Agreement between Custer County and the City of Custer establishing land use policies for the extraterritorial jurisdiction of the City of Custer in Custer County.

Passed and approved this ____ day of _____, 2017.

Board of County Commissioners Chair

ATTEST:

County Auditor

CITY OF CUSTER, SOUTH DAKOTA
RESOLUTION _____

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AND THE FINANCE OFFICER TO ATTEST TO AN AGREEMENT BETWEEN CUSTER COUNTY, SOUTH DAKOTA AND THE CITY OF CUSTER, SOUTH DAKOTA ESTABLISHING POLICIES FOR DEVELOPMENT OF LAND WITHIN THE EXTRATERRITORIAL AREA OF THE CITY OF CUSTER THAT IS LOCATED WITHIN CUSTER COUNTY.

WHEREAS, two (2) or more local governments enabled under Section 1-24-3 of the South Dakota Codified Law to enter into agreements to cooperate for the mutual advantage of the governments involved; and

WHEREAS, the City of Custer deems a land use policy agreement with Custer County for orderly growth and development within the extraterritorial jurisdiction of the City of Custer within Custer County, to be to the mutual advantage of the City of Custer and Custer County.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Custer hereby authorizes the Mayor to sign and the Finance Officer to attest to the attached Agreement between Custer County and the City of Custer establishing land use policies for the extraterritorial jurisdiction of the City of Custer in Custer County.

Passed and approved this _____ day of _____, 2017.

Mayor

ATTEST:

Finance Officer

EXTRATERRITORIAL AREA POLICY AGREEMENT
BETWEEN CUSTER COUNTY AND THE CITY OF CUSTER, SOUTH DAKOTA

THIS AGREEMENT is entered into pursuant to Section 1-24-3 of the South Dakota Codified Law by and between Custer County, South Dakota, a local government in the state of South Dakota, and the City of Custer South Dakota, a local government in the state of South Dakota, to wit:

WHEREAS, the CUSTER County Board of Commissioners support the preparation and adoption of development plans and agreements between County and the City regarding the municipality and its environs; and

WHEREAS, the City of Custer Comprehensive Plan outlines the extent of urban development expected in the future and projects annexation of extraterritorial areas; and

WHEREAS, it is in the interest of Custer County and the City of Custer to establish policies for the orderly growth and development within the extraterritorial jurisdiction of the City within Custer County; and

WHEREAS, CUSTER County and the City of Custer mutually agree that such policies are necessary to more effectively and economically provide services for future growth and development.

NOW THEREFORE, the parties hereto agree for themselves and their respective successors as follows:

I. INTENT, DEVELOPMENT AREA ESTABLISHMENT, AND IMPLEMENTATION MEASURES.

The parties accept and agree to the following development policies and implementation measures regarding annexation, zoning, and subdivision review of areas located within the extraterritorial jurisdiction of the City of Custer in Custer County.

A. Statement of Intent.

In order to facilitate the purposes of Chapter 11-2, 11-3, 11-4, and 11-6 of the South Dakota Codified Law (SDCL) and to further the policy of this State to provide for accurate, clear, and concise legal descriptions of real estate in order to prevent, whenever possible, land boundary disputes or real estate title problems; to provide for a balance between land use rights of individual landowners and the economic, social, and environmental concerns of the public when a city or county is developing or enforcing land use regulations; to provide for statewide, uniform procedures and standards for the platting of land while allowing the widest possible latitude for cities and counties to establish and enforce ordinances regulating the division and use of land; to encourage orderly community development and provide for the regulation and control of the extension of public improvements, public services, and utilities, the improvement of land, and the design of subdivisions consistent with approved community plans.

This Agreement was developed in the interest of providing for orderly and effective development patterns in those areas of Custer County within the extraterritorial jurisdiction of the City of Custer. It also hopes to define how services will be provided for such development at the least cost to all the citizens of Custer County. The City of Custer and Custer County agree, as provided in Chapter 11 of the SDCL, to the following development policies and implementation measures regarding annexation, zoning, and subdivision review for various designated areas outlined herein.

This Agreement, authorized in 1-24-3 of the SDCL, between Custer County and the City of Custer will pertain to the extraterritorial jurisdictional area of the City of Custer located within Custer County, as shown in Exhibit A.

B. Development Areas.

Area #1. Adjacent and Contiguous.

Development type:

Developments that are intended to be served by municipal utilities and are to be constructed to City subdivision and design standards. It is probable that development in this area is in conjunction with annexation and reclassified into the appropriate City zoning district.

Policy:

- Primary Land Use:..... Residential and Highway Commercial.
- Sewer:..... City Subdivision and Design Standards are Required.
- Water:..... City Subdivision and Design Standards are Required.
- Streets:..... City Subdivision and Design Standards are Required.
- Public Road to Subdivision:..... Asphalt.
- Land Use/Zoning:..... City.
- Construction Permitting/Code:.....City.
- Design Standards:..... City.
- Subdivision Standards:..... City.
- Annexation:..... At the Time of Subdivision and Extension of Municipal Services.

Plat Reviewed by:..... County, with comment and recommendation to City for Final Approval. City Subdivision and Design Standards are required. County recommendation for approval/denial may be overruled by a 2/3 vote of the City Council membership.

Implementation:

- Land Use/Zoning requests shall be submitted and approved by the City. The City shall provide the County with the opportunity to comment and make recommendations on all requests for conformance with the policies established for this development area,
- City subdivision regulations and design standards will be applied to regulate development. The City will provide the County with the opportunity to comment and make recommendations on all requests for conformance with the policies established for this development area.
- Annexation of, or within, this area is required if the City provides services during the term of this Agreement, and shall be concurrent with individual subdivision activity and with the extension of utility systems.

Geographic areas:

See Exhibit A, which is attached and made part of this Agreement.

Area #2. Non-Contiguous Within One Mile.

Development type:

Development served either by a common water system, individual private wells, common sewage treatment facility, and/or individual septic system. Smaller lots may be permitted if either a common water system or a common sewage treatment facility is required. The location of these properties is such that they are not beyond a reasonable expectation of future annexation by the City.

Policy:

Primary Land Use:..... Rural Residential.
Sewer:..... Septic System and/or Common Sewer Collection and Treatment Facilities that are consistent with South Dakota Department of Environment and Natural Resources (DENR) and County standards.
Water:..... Private Wells and/or Common Water Distribution and Treatment Facilities that are consistent with DENR and County standards.
Streets:..... Combined Subdivision and Design. Standards are Required.
Land Use/Zoning:..... County.
Construction Permitting:..... County.
Design Standards:..... County.
Subdivision Standards:..... County/City Combined.
Annexation:..... Not Required.
Plat Reviewed by:..... County, with comment and recommendation to City for Final.
Approval:..... Combined County/City Subdivision and Design Standards are required with the most stringent or appropriate based on development type and location. County recommendation for approval/denial may be overruled by a 2/3 vote of the City Council membership.

Implementation:

- Land Use/Zoning requests shall be submitted and approved by the County. The County shall provide the City with the opportunity to comment on all requests for conformance with the policies established for this development area.
- Both the County and the City subdivision and design standards shall be applied to evaluate and regulate development. The County shall provide the City with the opportunity to comment on all requests for conformance with the policies established for this development,
- Annexation of significant portions of this area is not anticipated during the term of this Agreement. However, in the event of annexation within this area, municipal design standards will be applied to facilitate municipal services.

Geographic areas:

See Exhibit A, which is attached and made part of this Agreement.

Area #3. Exceeding One Mile, Within Three Mile Jurisdiction.

Development type:

Development is predominantly served by individual private wells and individual septic systems. The location of these properties is such that they are beyond a reasonable expectation of future annexation by the City.

Policy:

Primary Land Use:..... Agricultural, Rural Residential
Sewer:..... Septic System and/or Common Sewer Collection and Treatment Facilities that are consistent with South Dakota Department of Environment and Natural Resources (DENR) and County standards.
Water:..... Private Wells and/or Common Water Distribution and Treatment Facilities that are consistent with DENR and County standards.
Streets:..... County Subdivision and Design Standards are Required.
Land Use/Zoning:..... County.
Construction Permitting:..... County.
Design Standards:..... County.
Subdivision Standards:..... County.
Annexation:..... Not Required.
Plat Reviewed by:..... City, with comment and recommendation to County for Final
Approval:..... County Subdivision and Design Standards are required. City recommendation for approval/denial may be overruled by a 2/3 vote of the County Commission membership.

Implementation:

- Land Use/Zoning requests shall be submitted and approved by the County. The County shall provide the City with the opportunity to comment on all requests for conformance with the policies established for this area.
- County subdivision and design standards shall be applied to regulate development. The County shall provide the City with the opportunity to comment on all requests for conformance with the policies established for this area.
- Annexation of any portions of this area is not anticipated during the term of this Agreement.

Geographic areas:

See Exhibit A, which is attached and made part of this Agreement.

II. ADMINISTRATIVE POLICIES.

Custer County, referred to as the County, and the City of Custer, referred to as the City, accept and agree to the following Administrative Policies, which will be used to implement this Agreement:

Zoning regulation, as a rule, is the County's prerogative while subdivision regulation in these areas comes under the County and City's authority. Annexation is under exclusive rule of the City. Each of these activities, however, affects both jurisdictions and has produced a clear and pressing need for coordination and joint administration. To that end, the County and the City agree to the following procedures for administration of land use regulations.

A. Zoning Regulation:

Zoning regulation for all the unincorporated areas of Custer County shall remain under the authority of the Custer County Land Use Ordinance and the provisions of Chapters 11-2 of the SDCL, as amended.

Each request for zoning property within areas specified in this Agreement shall be forwarded to the City for comment prior to the public hearing before the County Planning Commission. Any zoning change will conform to the policies identified for the area in which the requested change is located.

B. Subdivision Regulations:

Subdivision of land within the extraterritorial jurisdiction of the City of Custer within Custer County shall be required to conform to either the subdivision and design standards of the County or City in accordance with the area policies and implementation measures specified in this Agreement. Persons wishing to subdivide land within Area #1, as specified in this Agreement, shall be required to file a subdivision application with the City. Although the City design standards are required for subdivision in Area #1, each request will be forwarded to the County for review, comment and recommendation prior to the public hearing of the City Planning and Zoning Commission. Persons wishing to subdivide land within Area #2, as specified in this Agreement, shall also be required to file a subdivision application with the City. Both the City and the County design standards will be applied for subdivision in Area #2, each request will be forwarded to the County for review and comment prior to the public hearing before the City Planning and Zoning Commission. Persons wishing to subdivide land within Area #3, as specified in this Agreement, shall be required to file a subdivision application with the County. Although County design standards are required for subdivision in Area #3, each request will be forwarded to the City for review and comment prior to the public hearing before the County Planning Commission. For the purposes of this Agreement, property line adjustments and parcel splits shall be considered a subdivision action.

C. Annexation:

The City of Custer will annex territory only in accordance with the policy statements and implementation measures specified in this Agreement and consistent with State law.

Requests for annexation, within the areas covered under this Agreement, will be forwarded to the County, for comment, prior to consideration by the City Planning and Zoning Commission or City Council.

D. Development in Several Areas:

If a subdivision is in two (2) different development areas, the policy and procedures of the most restrictive shall apply. For the purposes of this Agreement, Area #1 shall be considered the most restrictive and Area #2 shall be considered the less restrictive, and Area #3 shall be considered least restrictive.

III. REVIEW AND AMENDMENT.

The Chair of the Custer County Board of Commissioners and the Mayor of the City of Custer emit initiate a review of the area development policies, implementation measures, and administrative policies each year during the term of this Agreement. Either party to this Agreement shall consider amendments to this Agreement in a manner similar to its initial adoption.

IV. EFFECTIVE DATE AND RECORDING.

This Agreement shall become effective upon acceptance and execution of the parties, and shall be in effect for a period of five (5) years. This Agreement may be modified and extended by the written mutual consent of the parties.

This Agreement shall be filed with the Secretary of the State of South Dakota, and with the Custer County Register of Deeds in accordance with Chapter 1-24-6 of the SDCL, as amended.

CUSTER COUNTY, SOUTH DAKOTA

BY: _____
Board of County Commission Chair

ATTEST: _____
County Auditor

Dated this _____ day of _____, 2017.

CUSTER, SOUTH DAKOTA

BY: _____
Mayor

ATTEST: _____
Finance Officer

Dated this _____ day of _____, 2017.

