

CITY OF DEADWOOD

PLANNING AND ZONING COMMISSION

February 16, 2011

JOINT MEETING

The Joint Meeting of the Deadwood Planning and Zoning Commission was called to order by Chairperson Jim Shedd on Wednesday February 16, 2011 at 5:00 p.m. in the Deadwood City Hall Meeting Room located at 102 Sherman Street, Deadwood, SD 57732.

PRESENT PLANNING & ZONING: Jim Shedd, Mel Allen, Marie Farrier and Sheree Green.

ABSENT PLANNING & ZONING: Larry Ryan.

PRESENT BOARD OF ADJUSTMENT: Georgeann Silvernail, Joe Peterson, and Lenny Schroeder.

ABSENT BOARD OF ADJUSTMENT: Mayor Francis Toscana and Bruce Oberlander.

APPROVAL OF MINUTES:

Ms. Green moved to approve the minutes of the January 19, 2011 Regular Meeting. Mr. Allen seconded and the motion carried.

All in favor - 4
Opposed - 0

SIGNS:

NORTHERN HILLS ALLIANCE FOR CHILDREN - 753 MAIN STREET - REQUEST FOR AN 8'X4' WALL SIGN

Mr. Umenthum stated that the applicants were requesting permission to install one wall sign. Mr. Umenthum explained that the sign would state, "Northern Hills Alliance for Children, First Step Child Care". Mr. Umenthum stated that the sign would be 8' x 4' or 16 square feet made of aluminum. A two foot variance is required for height for over the maximum allowed according to the sign ordinance. He noted that the variance is appropriate for a wall sign in this location and style of building. Staff recommends approval.

Mr. Allen moved to approve the 8' x 4' wall sign for Northern Hills Alliance for Children at 753 Main Street with the height variance. Ms. Green seconded and the motion carried.

All in favor - 4
Opposed - 0

THE LODGE AT DEADWOOD - 100 PINE CREST LANE - REQUEST FOR A TEMPORARY BANNER

Mr. Umenthum stated that the applicants were requesting permission to display a temporary banner. Mr. Umenthum explained that the banner would state, "Titan Machinery," for a convention to be held at The Lodge. Mr. Umenthum stated that a variance was required for the banner. Staff recommends approval.

Ms. Farrier moved to approve the temporary banner for The Lodge at 100 Pine Crest Lane with the variance. Ms. Green seconded and the motion carried.

All in favor - 4
Opposed - 0

FINAL PLAT - PLAT OF LOT 2 BLOCK 1 OF PALISADES TRACT OF DEADWOOD STAGE RUN ADDITION, ALL LOCATED IN THE SW 1/4 OF SECTION 14, THE SE 1/4 OF SECTION 15, THE NE 1/4 NE 1/4 OF SECTION 22, AND THE N 1/2 NW 1/4 OF SECTION 23, T5N, R3E, B.H.M., CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA.

Mr. Nelson explained that the purpose of the plat was to facilitate the transfer of land, 754 Stage Run, located in the Stage Run subdivision.

Ms. Green moved to approve the final plat of Plat of Lot 2, Block 1 of Palisades Tract of Deadwood Stage Run Addition, All located in the SW 1/4 of Section 14, the SE 1/4 of Section 15, the NE 1/4 NE 1/4 of Section 22, and the N 1/2 NW 1/4 of Section 23, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota. Ms. Farrier seconded and the motion carried.

All in favor - 4
Opposed - 0

Mr. Shedd closed the Planning & Zoning Meeting.

Ms. Silvernail opened the Board of Adjustment.

Mr. Schroeder moved to approve the final plat of Plat of Lot 2, Block 1 of Palisades Tract of Deadwood Stage Run Addition, All located in the SW 1/4 of Section 14, the SE 1/4 of Section 15, the NE 1/4 NE 1/4 of Section 22, and the N 1/2 NW 1/4 of Section 23, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota. Mr. Peterson seconded and the motion carried.

All in favor - 3
Opposed - 0

Ms. Silvernail closed the Board of Adjustment and turned the meeting over to the Planning and Zoning Commission.

PROPOSED AMENDMENTS TO CHAPTER 5.28 PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS OF THE CITY OF DEADWOOD CODE OF ORDINANCES

The Planning & Zoning Commission reviewed the following proposed changes:

ORDINANCE # 1101
AN ORDINANCE AMENDING CHAPTER 5.28 PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

WHEREAS, the Deadwood City Commission desires to amend Chapter 5.28 to change the standards of commerce for the City of Deadwood, now therefore

BE IT ORDAINED by the Deadwood City Commission of the City of Deadwood, that Chapter 5.28 be amended to amend sections 5.28.020, 5.28.060, 5.28.070 and 5.28.080 as follows:

CHAPTER 5.28
COMMERCE WITHIN THE CITY OF DEADWOOD

5.28.020 DEFINITIONS.

As used in this chapter:

"Exterior" means the outer side or surface, except that the interior side of a door shall also mean exterior for purposes of this chapter; also, for purposes of this chapter, exterior also means "outside."

"Inside" means the inner side of any permanent residential or commercial structure or enclosure.

"Locally designated Historic District" means (1) 424-818 Main Street; (2) all of Lee Street; (3) all of Siever Street; (4) all of Deadwood Street; (5) all of Pine Street; (6) all of Sherman Street; and (7) 1-13 Charles Street.

"Merchandise" means goods bought and sold in business; commercial wares.

"Outside" means the outer side of any permanent residential or commercial structure or enclosure.

"Peddler/hawker" means a person selling or offering to the public personal property or services including but not limited to, coupons, tokens or other items of trade or commerce by going from place to place, house to house, or parking on a highway or street who carries personal property for immediate sale or performs the services immediately. This definition does not include the business which follows an established route selling goods and which stops only at those premises which have requested such services.

"Solicitor" means a person engaging in the same activity as a peddler except that the goods and services are for future delivery.

"Stand" means any table, showcase, bench, rack, pushcart, wagon or any other movable vehicle or device, whether or not it may be moved without the assistance of a motor and whether or not it is required to be licensed and registered by the state department of commerce and regulation, used for the displaying, storing or transporting of articles offered for sale by a vendor.

"Temporary" – No business that plans to be in Deadwood for less than a year, whether evidenced by short-term lease or otherwise, shall be deemed anything but temporary as such business is expected to change in status, conditions or place; is intended to exist for only a definite period; is not lasting, or intended to last as that term is commonly known, or lasting for a short or limited time; and is transitory in nature.

"Transient merchant" means any person, firm, corporation, partnership, association or any agent thereof who establishes a temporary business offering wholesale or retail goods within the city.

"Vendor" means any person engaged in the selling or soliciting for sale of goods, wares, merchandise, services, including food and beverages, within the city limits, from a stand or motor vehicle or from their person.

5.28.060 Fee, bond and duration of license.

A. The license fee under this chapter shall be seven hundred fifty dollars (\$750.00), payable in advance, for each fourteen (14) day period for any activity described herein that is to be conducted outside. The license fee under this chapter shall be two hundred fifty dollars (\$250.00), payable in advance, for each fourteen (14) day period for any activity described herein that is to be conducted inside. Each applicant shall file with their application, a bond to the city in the amount of five hundred dollars (\$500.00), which bond shall stay in effect for one year from the time of its filing and which shall first be used to indemnify the city for any damages or be forfeited for continued operation of the business beyond the license date, and which also may be attached by any individual aggrieved by the acts or products of the licensee or his or her agents. Upon meeting the conditions specified by this chapter, the applicant may be issued a license for the location and the time period for which it is effective.

B. All establishments which possess a convention center liquor license qualify for a convention center vending permit. The license fee for a convention center vending permit shall be two thousand five hundred dollars (\$2,500.00), payable in advance, for one calendar year. This permit allows for the establishment to have indoor or outdoor vending on their private property at the same location as their convention center liquor license. A vendor doing business inside or outside of a licensed convention center is not required to pay a vending permit fee to the City as it shall be covered under the Convention Center's license. The licensed establishment is required to provide the Zoning Administrator a monthly report that will include: Upcoming conventions or events that will have vending, a list of vendors that will attend conventions in the upcoming month along with their sales tax identification numbers. Convention Center establishments will be subject to spot checks by the Zoning Administrator periodically to insure all of the information required by the City of Deadwood is being provided. A Convention Center Vending License permit application may obtain approval or denial from the City of Deadwood Planning and Zoning Board in a regular Planning and Zoning Meeting. Convention Center Vending Licenses require no review period prior to approval.

5.28.070 TEMPORARY STRUCTURES.

A. Temporary structures such as vending stands, reviewing stands, sheds, canopies, tents, awnings and fences may be erected only on private property zoned CH-commercial highway district, and C1 commercial district, **except that no such structures shall be allowed in the Locally Designated Historical District (planning unit 4)**, provided a temporary permit is obtained. Such permit shall be issued by the building inspector for a period not to exceed twenty-one (21) days.

B. All temporary structures shall be dismantled and removed from the premises no later than twenty-one (21) days after their construction or erection commenced. If the structure is not removed within that time, the city may remove the structure, or contract for its removal, and bring an action in any court of competent jurisdiction for the recovery of any costs incurred.

C. Any temporary food or beverage structure shall have asphalt, concrete, wood or other similar material for a floor and shall display an inspection certificate from the Lawrence County environmental health department.

5.28.080 Exceptions.

A. The city commission shall have the authority to grant exceptions to the licensing, fee, bond and other requirements of this chapter for and during specific community events such as the Days of '76 Celebration, Wild Bill Days and other events where **sponsors of said events** have in the past used vendors in connection with such events at the rodeo grounds and other community events provided that the sponsor of such events will make every reasonable attempt to use services, merchandise and products of local businesses if possible. **Further, any prohibition of temporary structures on private property zoned CH-commercial highway district or C1 commercial district may be waived upon holding a public hearing on this issue, with the proponent of such waiver being responsible for all costs of said public hearing.** Further, the fee and bond requirements may be waived by the city commission upon holding a public hearing on this issue. In the event that the city commission chooses to hold a public hearing, such hearing may be in lieu of the investigation by the chief of police.

B. This chapter, except for the temporary structures provisions, shall not apply to solicitations, sales or distributions made by local or nationally chartered charitable, educational or religious organizations. This chapter shall not be deemed to waive the notice requirements under the state statute to the city commission of any organization conducting a bingo game or lottery nor to restrict the city commission in the reasonable regulation of such bingo game or lottery.

C. This chapter shall not apply to the sales of fruits, vegetables, farm or garden products; or

D. Rummage sales, yard sales, city-wide community used property sales and lemonade stands or other similar activities operated by minors or children or youth groups, or other nonprofit groups.

Dated this ____ of _____, 2011.

CITY OF DEADWOOD

Francis Toscana, Mayor

ATTEST:

Mary Jo Nelson
Finance Officer

First Reading: _____, 2011

Second Reading: _____, 2011

Published: _____, 2011

Adopted: _____, 2011

Mr. Shedd stated that he would like to have **Section 5.28.070 Temporary Structures, "period not to exceed twenty-one (21) days"** lowered from twenty-one days. Mr. Nelson stated that other towns had eighteen days instead of twenty-one. The Commission agreed to the change of eighteen days.

Ms. Green noted **Section 5.28.070 Temporary Structures, "an inspection certificate from the Lawrence County environmental health department"** and stated that this office does not exist. Mr. Nelson stated that he would change it to the State Health Department.

Mr. Allen stated that he did not know if he agreed with the Convention Center Vending Permit. Mr. Allen stated that in the ten Convention Centers who would be eligible for the Vending Permit, only two would be able to afford the fee of \$2,500. Mr. Allen stated that some of the smaller convention centers downtown would not be able to host events with vending and Deadwood could lose conventions to Spearfish and Rapid City.

Mr. Nelson noted that the following downtown business would be eligible for the permit: Hickok's, Silverado, Holiday Inn Express and the Four Aces.

Mr. Allen stated that these venues all had smaller convention areas than The Lodge or Deadwood Gulch. Ms. Farrier questioned if a lower fee could be set for the Locally Designated Historic District. Ms. Green questioned if the City of Spearfish charge a fee.

Mr. Nelson stated that a smaller convention center could still hold conventions, without vending and not be assessed the \$2,500 vending fee. Mr. Allen was agreeable with the smaller convention centers not being assessed the fee however felt the fee was excessive. Mr. Nelson noted that the vending permit fee was good for one year. He explained that if a convention with ten vendors was charged \$250 per vendor from the Convention Center, the fee has been paid with only one convention. Mr. Nelson added that the changes will help with enforcement and simplify the process.

Ms. Tracey Island, Deadwood Gulch Resort, stated that she felt the fee was too high, however would be easier for the Convention center to hold smaller venues such as flea markets, craft fairs or festivals. She noted that her facility had lost business to The Lodge at Deadwood and having smaller venues could help her business. She felt that \$1,500 would be a more reasonable fee.

After discussion, the Planning & Zoning Commission agreed that the fee should be set at \$1,500. Mr. Allen noted that Vending Monthly report was very good and would help with enforcement.

Mr. Nelson noted the change, **"that no such structures shall be allowed in the Locally Designated Historical District (planning unit 4)";** no tents would be allowed. Mr. Nelson stated that some exemptions for special events or a waiver could be granted from the City Commission.

Ms. Farrier moved to recommend the Proposed Amendments, with the three changes, to the City Commission. Ms. Green seconded and the motion carried.

All in favor - 4
Opposed - 0

Joint Meeting
February 16, 2011

Ms. Farrier questioned when the changes would go into effect. Mr. Nelson stated that they would go into effect in approximately a month.

ADJOURNMENT:

Ms. Farrier moved to adjourn the Joint Meeting of the Planning and Zoning Commission. Mr. Allen seconded and the motion carried.

All in favor - 4
Opposed - 0

There being no further business, Planning & Zoning Commission adjourned at 5:30 p.m.

ATTEST:

Mr. Jim Shedd
Chairman
Planning and Zoning

Ms. Sheree Green
Secretary
Planning and Zoning