

PROCEEDINGS OF THE STURGIS CITY COUNCIL

The Common Council of the City of Sturgis met in regular session starting at 6:00 p.m. on Tuesday, September 7, 2021, at the Sturgis City Hall Council Meeting Room. Present: Mayor Mark Carstensen, Alderpersons Jason Anderson, Mike Bachand, David Martinson, Dean Sigman, and Beka Zerbst. Also present: City Manager Daniel Ainslie and City Attorney Mark Marshall. Absent: Kevin Forrester, Aaron Jordan and Angela Wilkerson.

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

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

Motion by Martinson, second by Bachand to return to regular session at 6:37 pm.

Mayor Mark Carstensen led everyone in the Pledge of Allegiance.

Informational Reports:

- MUB minutes from June 22nd
- Special MUB minutes from July 7th

Announcements:

- The Off-Road Rally will be held September 9th through the 11th.
- United Way Month of Caring City team will be removing graffiti. If you know of any locations that need to be painted, please contact the Finance Office. If on private property we will need permission from landowner.
- The Council and Mayor congratulated Liz Wunderlich, City Engineer on her retirement next week.

City Manager Ainslie reported:

- The sales tax update for General Sales Tax and Capital Improvement Tax for July collected in August was up 22% month over month and year over year 15.6%. The Gross Receipts Tax (triple B) was up 32.8% month over month and year over year up 41.2%.
- Payroll Changes
 1. Liquor Store: Eden Lambert – Day Stocker - \$12.00; Brooke Ross – Salesclerk - \$13.00.
 2. Rally & Events: Karen Zerbst – Event Cup Sales - \$12.00.
 3. Police: Molly Hoffmann – Animal Shelter Support Staff - \$10.50.
 4. Community Center: Landon Meirose and Selena Jones – Front Desk Attendant - \$9.50.

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

- a. Consideration to approve minutes from the regular Council meeting on August 23, 2021.
- b. Consideration to set a public hearing for September 20, 2021, for the street closure and open container for the Sturgis Fall Festival on September 25, 2021.
- c. Consideration to set a public hearing for September 20, 2021, for the street closure and open container for the Criterium/Gravel Grinder bicycle race on October 2-3, 2021.

Motion by Martinson, second by Zerbst and carried with all members present unanimously voting yes to approve the following claims with the addition \$711,250.21 to Garden Grove TIF #20 for Improvements.

WAGES – Ambulance \$51,111.65; Attorney \$3369.23; Auditorium \$309.96; Buildings \$1336.09; Cemetery \$2658.92; City Manager \$4460.27; Community Center \$19,697.77; Finance Office \$10,220.43; Fire Department \$8861.21; Fleet \$8862.14; Human Resource \$6215.87; Library \$8366.07; Liquor \$12,910.21; Mayor and Council \$4046.71; Parks \$15,114.84; Planning & Permitting \$10,952.87; Police \$314,904.02; Rally \$36,169.95; Recreation \$3511.37; Sanitary Service \$19,234.14; Streets \$16,046.93; Wastewater \$14,417.38; Water \$18,243.97; Federal Withholding \$59,128.33; FICA \$43,949.61.

COMBINED CASH FUND – Nathan Darrach, \$47.48, refund.

GENERAL – All Aspects, Inc., \$1985.00, rep; Aramark Educational Services, \$34,876.41, sup; Ascent Aviation Group, \$27,998.69, sup; Baker & Taylor, \$294.84, sup; Bear Butte Valley Water, \$186.40, util; Black Hills Chemical, \$189.93, sup; Black Hills Energy, \$16,644.17, util; Black Hills Family Practice, \$120.00, prof fee; Roger Burnham, \$3824.58, prof fee; CBH, \$3805.35, sup; Century Link, \$345.59, util; City of Sturgis Water Dept, \$14,855.67, util; CKB Concessions, \$635.00, refund; Devon Crowe, \$50.00, prof fee; Deere Credit, \$57,403.46, cap imp; Double Star Computing, \$1453.36, prof fee; Epic Outdoor Advertising, \$6568.95, sup; Faith Independent, \$44.00, sup; G&H Distributing, \$22.28, rep; Grossenburg Implement, \$159.68, rep; John Leslie Hasting, \$1500.00, prof fee; Jerred Hegstrom, \$783.44, travel; Hotel by Gold Dust, \$3000.00, sup; J&L Services, \$330.00, rep; Kevin Klug, \$100.00, prof fee; Kathryn Lemmel, \$1070.00, other; Sandra Lemmel, \$1000.00, other; Meade County auditor, \$11,377.85, other; Office Shop, \$147.48, other; Park Avenue Car Wash, \$20.80, sup; Powerplan, \$38.81, rep; Postmaster, \$2500.00, Precision Carpet Contractors, \$700.00, other; Rushmore Office Supply, \$1119.96, sup; Safety Benefits, \$130.00, travel; SD Municipal Attorney Assn, \$35.00, prof fees; SD Public Assurance Alliance, \$368.88, ins; St Francis Alter Society, \$10,800.00, other; Sturgis Motorcycle Museum, \$3750.00, pub; The Knuckle Saloon & Steak House, \$1458.00, sup; Tom's T's, \$1703.58, other; U Drive Technology, \$2000.00, util.

SPECIAL SALES TAX – Lawrence & Schiller, \$7771.28; Sturgis Area Chamber of Commerce, \$7916.67; Sturgis Economic Development, \$5833.33.

CAPITAL IMPROVEMENT – Aaron Swan & Associates, \$1475.00; Custom Concrete Cutting, \$612.00; Helm & Associates, \$15,876.20; Northern Industries, \$18801.05; SD Dept of Transportation, \$601.35; West River Electric, \$3051.03.

BUSINESS IMPROVEMENT DISTRICT – Big Gear Events, \$1500.00, prof fee; Black Hills Chemical, \$249.87, sup; The Knuckle Saloon, \$6590.00, sup.

HOTEL OCCUPANCY TAX DISTRICT – Lawrence & Schiller, \$6881.86, other; Sturgis Area Chamber of Commerce, \$600.00, other.

TIF #20 GARDEN GROVE – Garden Grove Developments, \$711,250.21

LIQUOR – Artic Glacier, \$452.28, resale; Black Hills Energy, \$25.00, util; Cash-Wa Distributing, \$1143.46, resale; Cask & Cork, \$1644.42, resale; City of Sturgis Water Dept, \$402.51, util; Coca Cola, \$841.50, resale; DesJarlais Farms, \$212.00, resale; Double Star Computing, \$87.12, prof fee; Fisher Beverage, \$7902.65, resale; Johnson Western Wholesale, \$17652.47, resale; Legendary Electric, \$91.84, repair; MB Enterprises, \$121.15, resale; Panacea Meadery, \$180.00, resale; Pepsi Cola, \$305.70, resale; Prairie Berry, \$426.00, resale; Quality Brands of the Black Hills, \$6554.21, resale; Republic Beverage, \$18,707.99, resale; Rushmore Office Supply, \$181.87, sup; Schade Vineyard, \$396.00, resale; Southern Glazer's of SD, \$10000.04, resale.

WATER – Black Hills Energy, \$17,718.17, util; City of Sturgis Water Dept, \$573.14, util; Double Star Computing, \$87.12, prof fee; Hawkins, \$40.00, sup; Legendary Electric, \$197.10, rep; SD DANR, \$2200.00, other; South Dakota 811, \$532.00, prof fee; Wilson Contracting, \$2500.00, refund.

WASTEWATER – Black Hills Energy, \$3418.67, util; Double Star Computing, \$357.12, prof fee; PKG Contracting, \$132,223.71, cap imp; SD DANR, \$50.00, other.

SANITATION – Black Hills Energy, \$220.44, util; Century Link, \$74.85, util CKB Concessions, \$290.00, refund; Diesel Machinery, \$31.31, rep; Double Star Computing, \$87.12, prof fee; Hills Toilet Service, \$38,671.20, sup; Powerplan, \$2025.00, rep.

AMBULANCE – Black Hills Energy, \$809.78, util; City of Sturgis Water Dept, \$505.05, util; Dept of Veterans Affairs, \$728.48, refund; Double Star Computing, \$237.12, prof fee; Henry Schein, \$2339.89,

Motion by Bachand, second by Martinson and carried with Carstensen, Bachand, Anderson, Martinson and Sigman voting yes, Zerbst voting no, to approve Planning and Zoning’s recommendation to revoke the Use on Review appeal David Erfman (Hi-Plains Nutrition) at 1923 Arizona Avenue for an in-home animal nutrition business.

Motion by Martinson, second by Zerbst and carried with all members present unanimously voting yes to approve a variance to the rear setback for new residential construction at 1035 7th Street for Todd and Janice Larson (JTS1 Properties LLC).

Motion by Bachand, second by Martinson and carried with all members present unanimously voting yes to approve second reading of Ordinance 2021-05 – Appropriation Budget for 2022. (The complete ordinance is on file at the Finance Office at City Hall.)

Motion by Anderson, second by Zerbst and carried with all members present unanimously voting yes to approve second reading of Ordinance 2021-07 - Title 18 Zoning – Medical Cannabis.

ORDINANCE 2021-07

AN ORDINANCE CREATING ZONING REGULATIONS FOR CANNABIS ESTABLISHMENTS.

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

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

WHEREAS, such state statutes explicitly provide local governments with certain regulatory authority over aspects of cannabis establishments, including zoning matters; and

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

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

Section 1.

That a NEW CHAPTER be ADDED to the Sturgis City Code under Title 18 – Zoning– to read as follows:

“Article 11 – Cannabis Establishments

11-1-1: Intent:

In order to minimize the negative effects cannabis establishments, have on adjacent land uses, and to promote the public health, safety and general welfare of the city, the City Council adopts the following regulations, recognizing that it has a great interest in the present and future character of the city's residential and commercial neighborhoods. Adoption of these regulations is not intended to unreasonably restrict the opportunity of cannabis establishments to locate in the city but is for the purpose of preventing a concentration of certain cannabis establishments in any one area.

11-1-2: Definitions:

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

BLIGHTED AREA: an area characterized by traits such as dilapidation, overcrowding, deterioration, dangerous structures, unsanitary, inadequate infrastructure, nuisance, or other factors which inhibit the growth and development of an area.

CANNABIS (or MARIJUANA): all parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis.

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

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

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

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

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

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

NON-LICENSED CANNABIS ESTABLISHMENT: an entity which would otherwise meet the definition of a cannabis establishment, but which is not licensed.

11-1-3: Regulations Relating to Cannabis Cultivation Facilities:

No cannabis cultivation facility may be owned or operated at a location within the City's zoning jurisdiction except as provided by this section. A cannabis cultivation facility is a permitted use in the following districts: G1-1 General Industrial. All facilities must include alarm systems, camera systems and safes as approved by the Chief of Police.

11-1-4: Regulations Relating to Cannabis Testing Facilities:

No cannabis testing facility may be owned or operated at a location within the City's zoning jurisdiction except as provided by this section. A cannabis testing facility is a permitted use in the following districts: G1-1 General Industrial. All facilities must include alarm systems, camera systems and safes as approved by the Chief of Police.

11-1-5: Regulations Relating to Cannabis Product Manufacturing Facilities:

No cannabis product manufacturing facility may be owned or operated at a location within the City's zoning jurisdiction except as provided by this section. A cannabis product manufacturing facility is a permitted use in the following districts: G1-1 General Industrial. All facilities must include alarm systems, camera systems and safes as approved by the Chief of Police.

11-1-6: Regulations Relating to Cannabis Dispensaries:

A. No cannabis dispensary may be owned or operated at a location within the City's zoning jurisdiction except as provided by this section. A cannabis dispensary is a permitted use in the following districts: GC-1 General Commercial and GC-2 Retail Commercial District and HS-1 Highway Service. All facilities must include alarm systems, camera systems and safes as approved by the Chief of Police.

B. No cannabis dispensary may operate within two hundred feet (200') of a residential zone within the City of Sturgis. No cannabis dispensary may operate within one thousand feet (1,000') of another cannabis dispensary. Distances are measured from the closest point of the property lines but exclude public rights of way. Such buffer distance requirements may be waived via the variance process so long as the zoning district for the proposed location would be allowed if the applicable buffer distance requirement were waived.

11-1-6: Prohibited Districts for Cannabis Establishments:

A. All types of cannabis establishments are prohibited in every other district not described in the preceding sections of this ordinance. These include: all residential districts, AG-1 Agricultural, Park Land, Public Land, GC-3 Single Family Residential/Office Commercial, OS-1 Open Space or Flood Plain, NU Transitional, FAIR- Fairgrounds, RV-RV Campground and Recreational Vehicle Park.

B. Unlicensed cannabis establishments are prohibited in all zoning districts.

Section 2.

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 3.

The City Finance Officer must publish cause notice of adoption of this ordinance in the official newspaper. This ordinance becomes effective twenty (20) days after completed publication unless the referendum is invoked.

Adopted by majority vote of the Sturgis, South Dakota City Council in regular session this 7th day of September 2021.

First Reading: 08-23-2021
Second Reading: 09-07-2021
Adoption: 09-07-2021
Published: 09-14-2021
Effective: 10-05-2021

Motion by Martinson, second by Sigman and carried with all members present unanimously voting yes to approve first reading of Ordinance 2021-06 – Title 39 - Medical Cannabis.

Motion by Bachand, second by Zerbst and carried with all members present unanimously voting yes to approve first reading of Ordinance 2021-08 – Supplemental Ordinance to the 2021 Budget.

Any other business:
None

Motion by Zerbst, seconded by Sigman and carried with all members present unanimously voting yes to adjourn the meeting at 7:45 pm.

ATTEST: _____
Fay Bueno, Finance Officer

APPROVED _____
Mark Carstensen, Mayor

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