

## PROCEEDINGS OF THE STURGIS CITY COUNCIL

The Common Council of the City of Sturgis met in regular session starting at 6:00 p.m. on Monday, November 15, 2021, at the Sturgis City Hall Council Meeting Room. Present: Mayor Mark Carstensen, Alderpersons Jason Anderson, Mike Bachand, Kevin Forrester, Aaron Jordan (by phone, left at 6:22 pm), David Martinson, Angela Wilkerson and Beka Zerbst. Also present: City Manager Daniel Ainslie and City Attorney Mark Marshall. Absent: Dean Sigman.

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

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

Motion by Martinson, second by Wilkerson to return to regular session at 6:30 pm.

Mayor Mark Carstensen led everyone in the Pledge of Allegiance.

### Informational Reports:

- Amanda Anglin, Executive Director, provided the Council with a Sturgis Economic Development update.

### Announcements:

- The Noise Ordinance is continuing to be discussed. It will be presented at a future Council meeting.
- The Festival of Trees at First Interstate Bank will be held on November 19<sup>th</sup>.
- The Parade of Lights and Tree Lighting will be December 2<sup>nd</sup> and 3<sup>rd</sup>.

### Councilor's Update:

The following items were discussed:

- Ordinance update-October through January.
- Redistricting the wards, plans and drafts are being worked on. This will be done by Ordinance in December and January. Thanks to the City Attorneys on their work on these ordinances.
- Census numbers were discussed, this could cause a change in the Ward maps.
- Check out the City's websites for the many Holiday events happening in the City of Sturgis. Thanks to everyone that helps make this a fun and festive time of the year.

### City Manager Ainslie reported:

- a. The sales tax update for General Sales Tax and Capital Improvement Tax for September collected in October was up 21.4% month over month and year over year 13.4%. The Gross Receipts Tax (triple B) was up 32.1% month over month and year over year up 26.8%.
- b. Payroll wage changes: within budget:
  1. Recreation – Kayleen Selfridge – referee - \$20.00 per game, \$25.00 per game (3<sup>rd</sup>-6<sup>th</sup> grade).
  2. Downtown Bid – Lynn Birk-\$12.00; Laurie Hansen-Niesen-\$12.25; Terry Maxwell-\$12.25 – Marketplace Attendant.
  3. Police Department – Hannah Jones, Beth Peterson, Brady Holzer – volunteer at the Animal Shelter. Josh Butain – Police Officer - \$22.95.

4. The October KPI reports are on the City website.

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

- a. Consideration to approve minutes from regular Council meeting on November 1, 2021, and minutes from the Special meeting on November 3, 2021.
- b. Consideration to set a public hearing of December 6, 2021, for the renewal of the Liquor and Wine licenses for 2022.
- c. Consideration to set a public hearing of December 6, 2021, for the transfer of an on-sale liquor license from One Eyed Jacks Saloon-Pete Gold to One Eyed Jacks Saloon USA LLC-Okan Aviclar.
- d. Consideration to set a public hearing to December 6, 2021, for the renewal of the on-sale liquor license for One Eyed Jacks Saloon USA LLC-Okan Aviclar.
- e. Consideration to approve open container at the Harley Davidson Rally Point for the Tree Lighting on December 2, 2021, and to approve the Parade of Lights on December 3, 2021.
- f. Consideration to adopt the Bid Protest Procedures for Airport projects.
- g. Consideration to approve the Airport Management Agreement.
- h. Consideration to approve Resolution 2021-49 – Establishing an Endowment for the Sturgis Charities.

**RESOLUTION 2021 - 49**  
**A RESOLUTION ESTABLISHING THE STURGIS RALLY ENDOWMENT FUND**

WHEREAS the City of Sturgis derives income from the annual City of Sturgis Motorcycle Rally sponsorships and the sale of City of Sturgis Motorcycle Rally commemorative cups; and

WHEREAS the City donates a portion those proceeds to the Sturgis Rally Charities Foundation; and

WHEREAS the City is interested in creating a protected, sustained long term source of grants for the general benefit of the Sturgis area using a portion of the income from generated by the City of Sturgis Motorcycle Rally sponsorships and the sale of City of Sturgis Motorcycle Rally commemorative cups; and

WHEREAS SDCL § 6-14-1 provides the governing body of any political subdivision of the state the specific authority to create an endowment fund by resolution, and

WHEREAS the Black Hills Area Community Foundation is a Section 501(c)(3) and 509(a)(1) South Dakota non-profit corporation founded in 1987 by and for the people in this area to improve the quality of life in the Black Hills through the power of philanthropy; and

WHEREAS the Black Hills Area Community Foundation establishes and administers endowments funds; and

WHEREAS the City executed a Sturgis Rally Agency Endowment Funds Agreement with the Black Hills Area Community Foundation signed an agreement to create and administrate the Sturgis Rally Endowment Fund.

NOW THEREFORE, City Manager Daniel Ainslie is hereby authorized to execute said agreement with the Black Hills Area Community Foundation.

Dated this 15<sup>th</sup> day of November 2021, *nunc pro tunc*, May 27, 2021.

Published: 11-23-2021

Effective: 12-14-2021

- i. Consideration to set a public hearing for December 6, 2021, to consider a variance to minimum platting requirements for Russ Ullerich of 1710 and 1714 3<sup>rd</sup> Street.
- j. Consideration to set a public hearing for December 6, 2021, to consider a Use on Review for an in-home daycare for Toni Berghorst of 1901 Elk Road.

Motion by Forrester, second by Anderson and carried with all members present unanimously voting yes to approve the following claims:

**WAGES** – Ambulance \$32,532.88; Attorney \$5769.23; Auditorium \$220.00; Buildings \$1246.13; Cemetery \$2351.94; City Manager \$4460.27; Community Center \$12,306.45; Finance Office \$6617.78; Fire Department \$179.53; Fleet \$6891.88; Human Resource \$4850.27; Library \$8190.65; Liquor \$7161.46; Mayor and Council \$4046.71; Parks \$11,192.02; Planning & Permitting \$8369.70; Police \$46,981.34; Rally \$7688.44; Recreation \$2911.11; Sanitary Service \$16,160.87; Streets \$12,593.19; Wastewater \$12,021.09; Water \$14,632.44; Federal Withholding \$20,432.47; FICA \$17,522.07.

**COMBINED CASH FUND** – First Interstate Bank, \$700.00, petty cash; Catherine Grant-Anderson, \$44.87, refund; Tim Kuhl, \$76.79, refund.

**GENERAL** – Baker & Taylor, \$581.93, sup; Bear Butte Valley Water, \$389.35, util; Black Hills Area Community Foundation, \$2305.00, other; Black Hills Chemical, \$1742.45, sup; Black Hills Energy, \$14319.51, util; Black Hills Family Practice, \$120.00, prof fee; Black Hills Occupational Medicine, \$195.00, prof fee; CBH, \$22736.36, sup; Cengage Learning, Inc, \$156.68, sup; Central States Sanitation, \$227.12, rep; Devon Crowe, \$50.00, prof fee; Dakota Supply Group, \$115.98, rep; Ryan Duprel, \$30.00, other; Tamera Even, \$2000.00, reimb; J&L Services, \$330.00, rep; Johnson Controls, \$1989.86, rep; Key City Glass, \$200.00, rep; Kevin Klug, \$50.00, prof fee; Lynn's Dakotamart, \$96.08, sup; Marco Technologies, \$110.83, rep; MasterCard, \$74176.30, sup; MDU, \$5900.15, util; Motionsoft, \$450.00, prof fee; Nebraska Salt & Grain, \$7089.27, sup; Park Ave Car Wash, \$20.40, sup; Travis Parker, \$80.00, other; Powerplan, \$972.08, rep; Rushmore Office Supply, \$1067.47, sup; SD Municipal League, \$120.00, sup; Sturgis Rally Charities Foundation, \$1250.00, other; Sturgis Volunteer Fire Dept, \$74.92, sup; Callie Tesnow, \$38.52, refund.

**SPECIAL SALES TAX** – Black Hills Energy, \$39.61, util; MasterCard, \$473.42, util; MDU, \$65.44, util; Sturgis Motorcycle Museum, \$3014.04, util.

**CAPITAL IMPROVEMENT** – Helms & Associates, \$883.31; Interstate Engineering, \$13654.54; MasterCard, \$110.10; Songstad & Sons, \$1776.00.

**BUSINESS IMPROVEMENT DISTRICT** – Glenn Bailey, \$750.00, other; Lynn Birk, \$5.00, marketplace reimb; Bureau of Land Management, \$3731.00, sup; Rose Byars, \$84.00, marketplace reimb; CBH, \$37.27, sup; Central States Sanitation, \$34.32, sup; Corrine Chapinski, \$25.00, marketplace reimb; Mark Chaplin, \$320.00, marketplace reimb; City of Sturgis, \$42.00, marketplace reimb; Kyle Cox, \$266.00, marketplace reimb; Michelle Crane, \$16.00, marketplace reimb; Doreen Creed, \$78.00, marketplace reimb; Tammy Desjarlais, \$130.00, marketplace reimb; Tamera Even, \$46.76, other; Amanda Gottlob, \$42.00, marketplace reimb; Michelle Grosek, \$119.00, marketplace reimb; Kayla Hale, \$41.00, marketplace reimb; Bonnie Jones, \$99.00, marketplace reimb; Barb Koster, \$50.00, marketplace reimb; MasterCard, \$9331.65, sup; Ashley Meiners, \$22.00, marketplace reimb; MDU, \$25.93, other; Tanya Paradise, \$237.00, marketplace reimb; Kimberly Petersen, \$182.00, marketplace reimb; Amy Red Owl, \$31.00, marketplace reimb; Rushmore Office Supply, \$184.28, sup; Mikelle Schmit, \$8.00, marketplace reimb; Sarita Schockey, \$48.00, marketplace reimb; Christina Steele, \$21.00,

marketplace reimb; Tammy Stolle, \$257.00, marketplace reimb; Lisa Werlinger, \$14.00, marketplace reimb; Mikayla Wilson, \$16.00, marketplace reimb.

**HOTEL OCCUPANCY TAX DISTRICT** – MasterCard, \$100.00, other; Sturgis Economic Development, \$1000.00, other.

**TIF #16 TRAILHEAD LOOP** – PSI Family, \$280000.00.

**LIQUOR** – Arctic Glacier USA, \$75.90, resale; Black Hills Chemical, \$507.77, sup; Black Hills Energy, \$1895.30, util; Cash-Wa Distributing, \$1437.57, resale; Cask & Cork, \$1006.82, resale; CBH, \$88.77, rep; Coca Cola, \$655.25, resale; Dakota’s Best, \$438.50, resale; DesJarlais Farms, \$154.00, resale; Fisher Beverage, \$8166.10, resale; Johnson Western Wholesale, \$22431.91, resale; MasterCard, \$9437.91, sup; MDU, \$121.24, util; Panacea Meadery, \$360.00, resale; Pepsi Cola, \$99.00, resale; Prairie Berry, \$600.00, resale; Quality Brands, \$20582.59, resale; Republic Beverage, \$7152.53, resale; Rushmore Office Supply, \$365.54, sup; Sawyer Brewing, \$131.00, sup; Southern Glazer’s of SD, \$3123.16, resale; Sturgis Wine, \$11.22, refund; True Brands, \$1280.07, resale; Voss Distributing, \$147.60, resale.

**WATER** – Black Hills Energy, \$8504.64, util; Black Hills Occupational Medicine, \$40.00, prof fee; Core & Main, \$1680.00, sup; Dakota Supply Group, \$871.17, sup; Hawkins, \$1591.13, sup; MasterCard, \$1463.68, sup; MDU, \$174.64, util; Pete Lien & Sons, \$139.25, rep; Powerplan, \$149.99, rep; South Dakota 811, \$66.08, prof fee.

**WASTEWATER** – American Flagpole & Flag Co., \$1417.00, cap imp; MasterCard, \$4021.83, sup; MDU, \$52.08, util; Peter Lien & Sons, \$1400.00, cap imp; SD Public Assurance Alliance, \$4048.43, ins; Western Microscope, \$140.00, sup.

**SANITATION** – Black Hills Occupational Medicine, \$75.00, prof fee; CBH, \$2165.80, sup; Holtz Industries, \$227.44, rep; Lynn’s Dakotamart, \$30.05, sup; MasterCard, \$1001.52, sup; Northern Truck Equipment, \$107.96, rep; Speedy Lube, \$102.97, sup.

**AMBULANCE** – Black Hills Chemical, \$175.58, sup; Black Hills Energy, \$618.66, util; CBH, \$2078.38, sup; Henry Schein, \$5.20, sup; Lynn’s Dakotamart, \$14.72, sup; MasterCard, \$5364.73, sup; MDU, \$70.13, util; Rushmore Office Supply, \$594.78, sup; Sturgis Volunteer Fire Dept, \$74.93, sup.

Motion by Zerbst, second by Martinson and carried with all members present unanimously voting yes to approve a Special Events license for the Loud American Roadhouse for the Tree Lighting Ceremony on December 2, 2021, from 6pm to 8pm.

Motion by Zerbst, second by Wilkerson and carried with all members present unanimously voting yes to approve a letter of support inclusion of EMT’s and Paramedics as Class B Employees for the SD Retirement System.

Motion by Martinson, second by Anderson and carried with all members present unanimously voting yes to approve second reading of Ordinance 2021- 09 Title 18 – Zoning - Use on Review, Variances and Zoning changes.

**ORDINANCE 2021-09**  
**AN ORDINANCE AMENDING TITLE 18 – ZONING**

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 18 – Zoning – Article VII-Section 2-Notice Procedure for Application for Uses on Review, Conditional Uses, and Variances; Section 5 – Procedure for Authorizing Uses Permitted on Review; to be amended to read as follows:

**ARTICLE VII**

**SECTION 2 – NOTICE PROCEDURE FOR APPLICATION FOR USES ON REVIEW, CONDITIONAL USES, AND VARIANCES**

### **Typical Notice Procedure**

Any applicant for a use on review, conditional use, or variance shall complete the necessary forms provided by the City Manager or his or her designee. Upon the completion of all required materials, the City shall provide a written notice of the applicant's intentions and an analysis of the impact of the proposal to owners of all parcels located within the area required to receive notice. The notice shall include the scheduled date when the item shall be discussed at the Planning and Zoning Commission. The notice shall state that any recipient opposed to the proposed application should notify the City of Sturgis of their opposition and provide reasons for their opposition. In addition to the mailed written notice, the applicant shall be required to have placed on their property in a place clearly visible from the busiest public right of way, a sign, at least twenty-four inches wide and eighteen inches tall, provided by the City stating in bold lettering that the property is under consideration for a use on review, conditional use, or variance, and provide information regarding the hearing. The sign may also provide that more information may be obtained by contacting the City. In addition to the application fee, the applicant shall be responsible at the time of submitting the application for payment of the cost of notice by certified mail to all required parcels as well as an administrative fee of 10% of the cost of notice by certified mail.

Any consent requirements provided under Article VII, Section 6 do not apply to any request or application for a use on review, conditional use, or variance.

### **At Home Business Use on Reviews**

The City recognizes that At-Home Businesses can be a part of a healthy, vibrant community. The provisions of this Use on Review Procedure are solely related to the application of this title. These provisions do not in any way override or alter private property use agreements or covenants which may be in existence.

At home businesses are required to proceed with the Use on Review process if any of the following attributes applied:

- a) The business would have one or more non-resident employees
- b) The business would have one or more customers who would visit the at home business
- c) The business would have business inventory, storage, etc. visible from the public right of way
- d) The business would create any increase in the amount of traffic, noise, or odor typical of a residential neighborhood
- e) The business would create a perceived or actual decrease in the expected safety in a neighborhood
- f) The business would require any type of land or premises approval from the state or federal government (this does not imply a professionally licensed individual)
- g) There has been a verified complaint to the Planning and Permitting Office regarding an At Home Business regarding an impact of similar nature though not specifically listed to those listed above.
- h) In no circumstance would a residential camping or home leasing qualify as an at home business requiring a use on review.

During the initial use on review, the applicant shall be required to:

- a) Pay all costs associated with the City sending a certified letter to all landowners within 200' of the subject property.

- b) Have place on their property, in a place clearly visible from the busiest public right of way, a sign provided by the City stating that the property is under consideration of a use on review and meeting the above notice requirements in the Typical Notice Procedures section. Said sign shall be placed on subject property for a minimum of 21 days.

Following final approval by the Common Council and completion of each 365-day period, the City shall list the At Home Business name, property address and type of business in the monthly community newsletter. The listing shall indicate that the at home business is under its annual use on review. Should there be any complaint throughout the 365-day period or should negative comments arise after the notice in the Community Newsletter, the Planning and Permitting Department shall present the use on review to the Planning and Zoning Commission. Should the Commission approve another year, no further action is required until 365 days has passed. Should the Commission recommend disapproval, the Use on Review denial shall be submitted to the Common Council for final consideration.

Should a business be required to complete a Use on Review process, all the following conditions will be applied:

- a) Copies of all South Dakota State Sales Tax returns shall be submitted to the City Finance Office (these records shall be retained and considered confidential);
- b) No signage on the property (with the exception of vehicles) shall be visible from a public right of way;
- c) The actual average daily vehicle count of the subject property shall not exceed 1.25 times the AADT (Annual Average Daily Traffic) for the type of subject property. In circumstances where the subject business is of significant importance to the community, the limit may be extended but shall in no circumstance exceed 3.0 times the AADT for the type of subject property;
- d) The subject property shall not create noise beyond the times of 7:00 am through 9:00 pm. In addition, the types of sounds nor the volumes of those sounds created during these hours shall not exceed those typical in a residential neighborhood;
- e) No odor beyond that typical of a residential neighborhood shall be permissible;
- f) If the business causes an impact to the utility services beyond those typical of a residence, then all utility rates shall be charged as Commercial (two separate unit charges for all City utilities); and
- g) The County may assess portions of the property at commercial versus residential rates.
- h) All Use on Reviews shall be applicable for one year. At the expiration of one year, they shall be completed again.

### **Paving Requirements**

A Use on Review can be applied for to allow any property owner in any district to not complete the hard-paving requirement of the construction. In reviewing the application, the Planning and Permitting Staff and Common Council shall consider if the required paving area is connected to a paved public right of way. At no time, should the required hard paving area be less than 30' if it is connected to a paved public right of way. Any approval of the Use on Review will be reviewed if existing conditions change (thereby requiring the paving of the area). Such a cause for a review would be if the adjoining public right of way is paved or if excess dirt and debris is brought onto a public right of way. This Use on Review shall be granted by Planning and Permitting staff with the applicant being able to appeal a denial to the Common Council.

**ARTICLE VII**  
**SECTION 5 - PROCEDURE FOR AUTHORIZING USES PERMITTED ON REVIEW**

The following procedure is established to integrate property the Uses Permitted on Review with other land uses located in the district. These uses shall be reviewed by the governing body and authorized or rejected under the following procedure:

**A. APPLICATION:**

An application shall be filed with the governing body for review. Said application shall show the location and intended use of the site, the names of the property owners and existing land uses within two hundred (200) feet, and any other material pertinent to the request which the governing body may require.

**1. Application - - Filing**

Any person desiring a conditional use permit provided for in this chapter may file an application with the Planning and Permitting Department, except that no application shall be filed or accepted if final action has been taken within one year prior thereto on an application requesting the same, or substantially the same permit.

**2. Application - - Information Required**

An application for a conditional use permit shall contain the following information:

- a) Name and address of the applicant and of all persons owning any or all of the property proposed to be used; Clear evidence that the applicant is the owner of the premises involved, or has written proof of permission from the owner or owners that they consent to the use proposed in such application;
- b) Location of subject property (address or vicinity), and the legal description of the property involved;
- c) The nature of the proposed use, indicating the primary business use to be permitted, and purpose for which such building, structure or improvement is to be erected, constructed, or as proposed to be altered, enlarged, moved, occupied or used;
- d) A statement of the nature, condition and development of the property for which the conditional use permit is being applied for and the nature, condition and development of the adjacent uses, buildings and structures;
- e) Provide a site plan drawn to a scale satisfactory to and provide at least 5 copies indicating the area and dimensions of the site or location of the proposed use, and showing the location and dimensions of all structures, yards, walls, fences, parking and loading facilities, landscaping, and other development features;
- f) Describe the dimensions and state of improvement of the adjoining streets and highways providing access to the proposed site of the requested use;
- g) List all other permits-applied for and/or secured in compliance with the provisions of other applicable ordinances for the subject property;
- h) Provide a list, certified to be correct by affidavit or by a statement under penalty of perjury, of the names and addresses of all persons who are shown on the latest available assessment roll of Meade County as owners of the subject parcel of land and as owning property within a distance of 200 feet from the exterior boundaries of the parcel of land to be occupied by the use. One copy of said map shall indicate where such ownerships are located,
- i) Provide Proof satisfactory to the Planning and Permitting Department that water will be available in quantities and pressures required by the Water Ordinance,
- j) Provide such other information as the director may require, including necessary verification of the accuracy of all information, maps and lists submitted.

### **3. Application--Burden Of Proof**

In addition to the information required in the application, the applicant shall substantiate the following facts:

- a) That the requested use at the location and in the proposed structure will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, or
- b) Be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, or
- c) Jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare; and
- d) That the proposed site and structure is adequate in size and shape to accommodate the yards, fences, parking and loading facilities, landscaping, and other development features required in order to integrate said use with the uses in the surrounding area.
- e) That the proposed site is adequately served by highways or streets of sufficient width, and improved as necessary to carry the kind and quantity of traffic such use would generate, and
- f) That the proposed site is adequately served by other public or private service facilities as are required.
- g) That at no time may any area authorize for a conditional use permit for a secondary residential use exceed 1000 square feet.
- h) That the structure subject to the Conditional Use Permit shall meet all applicable City Ordinances, International Building Codes and State Regulations that apply.

### **4. Application--Fee And Deposit**

When an application is filed, it shall be accompanied by the filing fee and deposit as required.

### **5. Application--Denial For Lack Of Information**

An application for a conditional use permit may be denied without hearing if such application does not contain the information required by this chapter.

### **6. Application--Public Hearing Required--Exception**

In all cases where an application for a conditional use permit is filed in proper form, the public hearing shall be held pursuant to the procedure herein unless the application is withdrawn.

## **B. PUBLIC HEARING**

Upon receipt of an application, the Board shall give notice of public hearing within thirty-five (35) days. All applicable landowner notice and signage requirements as provided under Article VII, Section 2, must be complied with prior to public hearing. Such notice of the time and place of such hearing shall be published in the legal newspaper of the City ten (10) days prior to that public hearing. The Board shall consider and decide all applications for uses permitted on review within thirty (30) days of such public hearing and in accordance with the standards provided below.

The Board or City Planning Commission may require the applicant to give additional notice to all property owners affected by the granting of the relief request. The form and content of the notice shall be as prescribed by the Board and/or Planning Commission.



1. **Grant Or Denial--Findings And Decision At Public Hearing**

An application for a conditional use permit may be approved where the information submitted by the applicant and/or presented at public hearing substantiates the following findings:

- a) That the proposed use will be consistent with the adopted general plan for the area.
- b) That the requested use at the location proposed will not:
  1. Adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area; or
  2. Be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site; or
  3. Jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare.
- c) That the proposed use is significant and integral part of the planned primary use of the structure for the next twelve months.
- d) That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding area.
- e) That the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; and by other public or private service facilities as are required.

The application shall be denied where the information submitted by the applicant and/or presented at public hearing fails to substantiate all such findings that are required by this chapter.

**C. RESTRICTIONS**

In the exercise of its approval, the governing body may impose such conditions regarding the location, character or other features of the proposed use or buildings as it may deem advisable in the furtherance of the general purposes of the Ordinance.

1. **Permit--Additional Conditions Imposed When**

In approving an application for a conditional use permit, the decision shall state the conditions as necessary to ensure that such use will be in accord with the findings. Such Conditions may involve any pertinent factors affecting the establishment, operation, and maintenance of the requested use, including, but not limited to:

- a) Special yards, open spaces and buffer areas;
- b) Fences and walls;
- c) Parking facilities, including vehicular ingress and egress and the surfacing or parking areas and driveways to specified standards;
- d) Street and highway dedications and improvements, including sidewalks, curbs and gutters;
- e) Water supply and fire protection in accordance with the provisions of this ordinance;
- f) Landscaping and maintenance of grounds;
- g) Regulation of nuisance factors such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances and radiation;
- h) Regulation of operating hours for activities affecting normal neighborhood schedules and functions;
- i) Regulation of signs, including outdoor advertising;
- j) A specified validation period limiting the time in which development may begin;

- k) Provisions for a bond or other surety that the proposed conditional use will be removed on or before a specified date;
- l) A site plan indicating all details and data as prescribed in Title 18.
- m) Such other conditions as will make possible the development of the proposed conditional use in an orderly and efficient manner and in general accord with all elements of the general plan and the intent and purpose of this Title 18.

#### **D. ISSUANCE OF PERMIT**

Unless specifically modified by a conditional use permit, all regulations prescribed in the zone in which such conditional use permit is granted shall apply. Upon completion of the necessary application, hearing and approval of the governing body, the Building Inspector shall issue the building Permit subject to all applicable rules, regulations, and conditions.

#### **E. VALIDITY OF PLANS**

All approved plans, conditions, restrictions, and rules made a part of the approval of the governing body shall constitute certification on the part of the applicant that the proposed use shall conform to such regulations at all times.

#### **F. TIME LIMIT**

All applications for Uses Permitted on Review shall be decided within thirty (30) days of the date of public hearing.

##### **1. Expiration Date Of Unused Permits**

A permit which is not used within the time specified in such permit, or, if no time is specified, within two years after the granting of the permit, becomes null, void and of no effect at all. A permit issued may be extended for a period of not to exceed one year, provided an application requesting such extension is filed prior to such expiration date. In the case of a nonprofit corporation organized to provide low-income housing for the poor or elderly, there may be an additional one-year extension, provided that an application requesting such extension is filed prior to the expiration of the first such extension. In the case of a conditional use permit filed and heard concurrently with a land division, the limits and extensions allowed shall be concurrent and consistent with those of the land division. A conditional use permit shall be considered used, within the intent of this section, when construction or other development authorized by such permit has commenced that would be prohibited in the zone if no permit had been granted.

##### **2. Expiration Following Cessation Of Use**

A conditional use permit granted by the Council shall automatically cease to be of any force and effect if the use for which such conditional use permit was granted has ceased or has been suspended for a continues period of 12 months.

### **ARTICLE VII**

#### **SECTION 6 - AMENDMENTS UPON APPLICATION BY PROPERTY OWNER**

The regulations, restrictions, boundaries, and options set forth in this Ordinance may be amended, supplemented, revised, or repealed from time to time as conditions warrant, upon application by the property owner, regardless of whether applicant is an individual, corporation, trust, private or public organization, and subject to the following conditions. This section does not apply to governmental organizations.

##### **A. APPLICATIONS:**

An application for an amendment shall be filed with the City Office of Planning and Permitting.

The above-mentioned application is available online by using Citizen Serve and when completed and submitted shall demonstrate written consent of property owners constituting at least sixty percent (60%) of the total aggregate property area having a right to protest as provided in SDCL § 11-4-5. The total aggregate property area includes lots located within the affected district, and property lots located within 250 feet from any part of such proposed amended district. The required notice distance shall not include intervening streets and alleys or other public property. Any abstaining or non-reporting property owners will not be construed as consenting property owners.

A corporation, trust, or any organization, whether private or public, is construed as one owner. If parcels of land are in the name of more than one person, ownership representation for the specific parcel is in proportion to the number of signers who consent in relation to the total number of owners of the specific parcel.

Any administrative denial by the City Office of Planning and Permitting because of an applicant's failure to obtain the written consent threshold, may appeal the administrative decision following the procedures outlined under Title 2, Chapter 2.13 of the Sturgis City Code.

If, under the procedures provided in Title 2, Chapter 2.13, the appeal reaches the City Council, acting as the Board of Adjustment as provided under Title VII, Section 1(B), the City Council must not consider the overall substantive merit of the application, but only whether there is a minimum sufficient basis to support reversing the administrative denial and moving the application forward to the Planning and Zoning Commission as provided under Section B below. The concurring vote of at least two-thirds of the Board is necessary to reverse the administrative denial. If the administrative denial is reversed, the application will be considered as if the applicant initially met the written consent threshold.

**B. PUBLIC HEARING:**

Upon receiving the application, the Planning and Zoning Commission shall file with the governing body, a preliminary report and shall hold hearings, notice of which shall be published in a manner to allow the public hearing to be held one week prior to the date of making the preliminary report to the governing body.

The governing body may adopt any changes in the regulations, restrictions, or boundaries after having published notice of hearing at least ten days prior to the date of adoption of any amendments in the ordinance as notice of the time and place where all persons interested shall be given a full, fair, and complete hearing. The ordinance, if adopted, shall be adopted as other ordinances with the same publication requirements.

**C. TIME LIMIT:**

The report of the Planning and Zoning Commission regarding any such proposed amendment upon application shall be submitted to the governing body within thirty (30) days of the public hearing before the Planning and Zoning Commission.

**D. STANDARDS FOR AMENDMENTS UPON APPLICATION:**

**THE FOLLOWING CONDITIONS SHALL BE MET FOR ALL AMENDMENTS:**

- A. The proposed amendment shall be necessary because of substantially changed or changing conditions of the area and districts affected.
- B. The proposed amendment shall be consistent with the intent and purposes of this ordinance.
- C. The proposed amendment shall not adversely affect any other part of the city, nor shall any direct or indirect adverse effects result from such amendment.
- D. The proposed amendment shall be consistent with the comprehensive plan as adopted by the City of Sturgis, including, but not limited to, the major road plan, land use plan, community facilities plan and other portions of the comprehensive plan.

Adopted this 15<sup>th</sup> day of November 2021.

First reading: 11-01-2021  
Second reading: 11-15-2021  
Adopted: 11-15-2021  
Published: 11-23-2021  
Effective: 12-14-2021

Motion by Martinson, second by Anderson and carried with all members present unanimously voting yes to approve second reading of Ordinance 2021-10 - Title 18 Zoning to Title 11 Health and Sanitation - Camping in Residential Zones.

**ORDINANCE 2021-10**  
**AN ORDINANCE AMENDING TITLE 11 – HEALTH AND SANITATION**

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 11 – Chapter 11.08; Sections 01-21 be amended to read as follows:

**TITLE 11 – CHAPTER 11.08**  
**TEMPORARY CAMPING AT A RESIDENCE WITHIN THE CITY**

**SECTIONS:**

- 11.08.01 Purpose
- 11.08.02 Definitions
- 11.08.03 Penalty
- 11.08.04 Activity Authorized
- 11.08.05 Pre-Existing Non-Conforming Use
- 11.08.06 Density Limitations
- 11.08.07 Setback from Public Streets, Sidewalks and Lot Lines
- 11.08.08 Campsite Area
- 11.08.09 Parking
- 11.08.10 Soil and Ground Cover Requirements
- 11.08.11 Water Service and Plumbing
- 11.08.12 Electrical System
- 11.08.13 Wastewater Disposal, Gray Water Disposal and Portable Toilets
- 11.08.14 Toilet and Bathing Facilities
- 11.08.15 Fire Protection
- 11.08.16 Barbecue Pits, Fireplaces, Stoves and Cooking Fires

- 11.08.17 Garbage and Rubbish Storage, Disposal and Vermin Control
- 11.08.18 Reporting Communicable Disease
- 11.08.19 Pet Kennels and Control of Animals
- 11.08.20 Camping Cabins
- 11.08.21 Permit

#### **11.08.01: PURPOSE**

The purpose of these provisions is to establish and regulate temporary non-public camping activities or camping not otherwise subject to state regulation within the City of Sturgis. Any homeowner seeking to provide temporary non-public camping as described in this ordinance shall be subject to the requirements of this ordinance. Non-profit organizations and licensees exempted from state campground license requirements by SDCL 34-18-20 that conduct non-public camping activities within the City shall be subject to the requirements of this ordinance.

#### **11.08.02: DEFINITIONS**

**A. Temporary Residential Camping:** The use of private residential property by the property owner, or by others with the property owner's permission that lasts a maximum of 21 days in a 365-day period.

**B. Residential Parcel:** A plot of land within the city shown on the Equalization Office records to be taxed as one parcel, containing a single family home, used or occupied by the owner as a residence year round together with any accessory buildings, and including such open spaces as may be required under the provisions of this ordinance, having its principal frontage on a public highway, road, street or private road or right-of-way as meets the requirements of Title 18 and Title 19 of Sturgis City Ordinances.

**C. Camping Unit:** Any trailer, tent camper, camper, tent, recreational park trailer, self-contained recreational vehicle, or other equipment that may be used by the traveling public at individual campsites located at campgrounds or areas used by the public as campgrounds.

**D. Campsite:** A specific parcel of land in a campground intended for occupancy and use by a camping unit or units.

**E. Pre-existing Non-Conforming Use:** A use of an improvement to real property, such as a building, structure, parking lot use, sign, or portion thereof, or of the residential property, which was lawfully established prior to the passage of this Ordinance but which, due to the application of Chapter 18.05 of Sturgis City Ordinances, is no longer authorized to continue.

**F. Temporary Structure:** Any structure, building, enclosure, weather shelter or provision of water, electrical sewer or other utility services which is not placed on a foundation and is utilized for a period of less than 30 days.

#### **11.08.03: PENALTY**

Any violation of this ordinance is a Class 2 misdemeanor punishable by the maximum punishment set forth by the laws of the State of South Dakota pursuant to SDCL 22-6-2. Said punishment may also include payment of any costs and restitution authorized by this Title or state law. Violations may also be subject to administrative citations pursuant to Title 36 of the Sturgis City Code. Each day of temporary camping in violation of this ordinance shall constitute a

separate violation. In addition, a violation of this ordinance may be subject to the nuisance abatement provisions contained in Title 12 of the Sturgis City Ordinances.

#### **11.08.04: RESIDENTIAL CAMPING**

- A. Any non-public camping for more than 2 consecutive nights on a residential parcel either by the property owner, or with the property owner's consent, or public camping limited to one camping unit, occurring within the City, shall require that the property owner limit those activities in compliance with the requirements of this Ordinance unless otherwise licensed by the State of South Dakota. Any non-public campsite or public camping with one camping unit shall be located only on a residential parcel having a single-family home, and shall only be for use by camping units, and shall not include the use of any temporary structure.
- B. No camping shall be permitted on any undeveloped lot, parcel, or non-residential parcel adjoining the residential parcel as defined herein, or on any other unimproved or vacant lot or nonresidential parcel.
- C. Temporary residential camping may not exceed 21 days in a 365-day period.
- D. The private property where camping occurs must be kept in a clean, safe, and sanitary manner. Trash and debris must be removed when camping ceases and must be disposed of in trash receptacles.

#### **11.08.05: PRE-EXISTING NON-CONFORMING USE**

A temporary residential campsite as provided in this ordinance, is considered a pre-existing non-conforming use, therefore able to continue even though it does not meet the requirements of this ordinance, if it meets the following criteria:

1. The residential camping consisted of a non-public campsite, or public camping with up to 19 camping units;
2. The use existed prior to August 1, 2012;
3. The current property owner maintained continuous ownership of the subject property prior to August 1, 2012;
4. The subject property has been continuously used for temporary residential camping during each annual Rally since August 1, 2012, to the present day; and
5. The pre-existing use on the subject property has not changed or expanded after August 1, 2012.

The property owner bears the burden of proving by sufficient evidence to show reasonable compliance with the above criteria.

#### **11.08.06: DENSITY LIMITATIONS**

No temporary non-public camping activities permitted by this ordinance shall authorize more than 19 campers to stay on any residential parcel. In addition to meeting all setback requirements stated in this ordinance, non-public camping activities shall be located at one campsite on the residential parcel or be licensed by the State of South Dakota.

**11.08.07: SETBACK FROM PUBLIC STREETS, SIDEWALKS, AND LOT LINES**

Any camping unit located within a campsite as permitted by this ordinance shall have a front setback at least five (5) feet from the back of the sidewalk or the front lot line and shall be located so as to allow a ten (10) foot access lane to an entry door of the residence. Similar to the Temporary Structure requirement of Section 2.03.15 of Sturgis City Ordinances, any camping unit allowed by this ordinance shall not be located within five (5) feet of any public Right of Way, any easement dedicated for public use, or any publicly owned property, specific prior authorization by the City Council.

**11.08.08: CAMPSITE AREA**

The campsite area is defined as the area defined by the combination of all setback and access requirements on the subject residential parcel. All camping units, equipment, storage containers, food and beverage items, temporary sanitation facilities, cooking area and related material or equipment shall be located within this campsite area. Only one campsite area per residential parcel shall be allowed.

**11.08.09: PARKING**

The homeowner shall provide sufficient temporary parking for all those persons provided temporary non-public camping on that residential parcel.

**11.08.10: SOIL AND GROUND COVER REQUIREMENTS**

The soil must provide sufficient slope to ensure that no drainage or runoff caused by camping activities will go onto the adjoining property. Ground cover shall be grass, landscaping, or hardscape.

**11.08.11: WATER SERVICE AND PLUMBING**

No permanent separate, non-residential water supply or service facilities shall be permitted to be constructed or located outside the residence on the parcel. During the period of temporary non-public camping, the homeowner may provide temporary water service from the residence as may otherwise be permitted on a construction site by Title 2 of the Sturgis City Ordinances and by Title 17, the Sturgis Municipal Utility Regulations. A pre-existing, non-conforming camping use on non-commercial property, as provided under § 11.08.05, which the property owner can demonstrate was established and has existed continuously during each annual Rally since August 1, 2012, period prior to the enactment of this Ordinance, may continue so long as that pre-existing use does not change or expand.

The above restrictions apply to independent RV/camper hookups that do not meet the criteria as a pre-existing non-conforming use as provided under § 11.08.05.

**11.08.12: ELECTRICAL SYSTEM**

No permanent separate, non-residential electrical service facilities shall be permitted to be constructed or located outside the residence on the parcel. During the period of temporary non-public camping, the homeowner may provide a temporary electrical service as permitted on a construction site by the IBC as adopted under Title 2 of the Sturgis City Ordinances. A pre-existing, non-conforming camping use on non-commercial property, as provided under § 11.08.05, which the property owner can demonstrate was established and has existed

continuously during each annual Rally period since August 1, 2012, may continue so long as that pre-existing use does not change or expand.

The above restrictions apply to independent RV/camper hookups that do not meet the criteria as a pre-existing non-conforming use as provided under § 11.08.05.

#### **11.08.13: WASTEWATER DISPOSAL, GRAY WATER DISPOSAL AND PORTABLE TOILETS**

No permanent separate, non-residential wastewater or gray water facilities shall be located outside the residence on the parcel where the campsite is located. During the period of temporary non-public camping, the homeowner may provide temporary self-contained portable toilet facilities of the type required to be provided on a construction site by Title 2 of the Sturgis City Ordinances. No wastewater or gray water resulting from temporary camping shall be permitted to be disposed of in any storm sewer drainpipe or other drainage. All wastewater and gray water shall be disposed of only at an approved dump station or similar facility open to the public. A pre-existing, non-conforming camping use on non-commercial property, as provided under § 11.08.05, which the property owner can demonstrate was established and has existed continuously during each annual Rally period since August 1, 2012, may continue so long as that pre-existing use does not change or expand.

The above restrictions apply to independent RV/camper hookups that do not meet the criteria as a pre-existing non-conforming use as provided under § 11.08.05. Any wastewater hookup which attaches to the waste-water service line of the residence does not fall under these restrictions.

Any property owner allowing temporary residential camping with more than 8 persons on the property for more than 3 consecutive nights, must obtain a temporary self-contained portable toilet facility, as defined above, to be placed on the property for the duration of the camping event. This requirement only applies during the Official Rally Dates of the Sturgis Motorcycle Rally, including the 3 days prior and 3 days after the Rally. The property owner is responsible for any associated costs with temporary self-contained portable facility.

#### **11.08.14: TOILET AND BATHING FACILITIES**

No permanent separate, non-residential toilet and bathing facilities shall be permitted to be located outside the residence on the parcel. All wastewater or gray water resulting from any temporary toilet or bathing facilities for camping shall be disposed of only at an approved dump station or similar facility open to the public, or by the use of a temporary type of facility permitted on a construction site by the IBC as adopted under Title 2 of the Sturgis City Ordinances. A pre-existing, non-conforming camping use on non-commercial property, as provided under § 11.08.05, which the property owner can demonstrate was established and has existed continuously during each annual Rally period since August 1, 2012, may continue so long as that pre-existing use does not change or expand.

#### **11.08.15: FIRE PROTECTION**

The Open Fire requirements of Sturgis City Ordinance Chapter 9.04 shall remain in effect at all times at the residential parcel at which any temporary non-public camping may occur. No open fire of any kind shall be permitted during the period in which a Burning Ban is in effect within the City of Sturgis.



**11.08.16: BARBECUE PITS, FIREPLACES, STOVES, AND COOKING FIRES**

During the period of temporary camping, only a temporary, contained fire structure of a type permitted by Title 2 of Sturgis City Ordinances shall be allowed.

**11.08.17: GARBAGE AND RUBBISH STORAGE, DISPOSAL, AND VERMIN CONTROL**

No permanent separate garbage or rubbish containers or facilities shall be permitted to be constructed outside the residence on the parcel. During the period of temporary non-public camping, the homeowner shall provide the necessary temporary sanitation and garbage service of the type permitted and subject to the requirements of Title 11 of Sturgis City Ordinances. The rates as set forth in subdivision 11.04, and the authority to require additional waste disposal totes as provided for at 11.04.10, shall apply to all residences at which temporary camping occurs.

Any property owner allowing temporary residential camping with more than 8 persons camping on the property for more than 3 consecutive nights is required to pay a Special Sanitation Fee, as set by the Sturgis Public Works Department. This requirement only applies during the Official Rally Dates of the Sturgis Motorcycle Rally, including the 3 days prior and 3 days after the Rally. The property owner is responsible for any associated costs with the Special Sanitation Fee.

**11.08.18: REPORTING COMMUNICABLE DISEASE**

During the period of temporary non-public camping, the homeowner shall be obligated to comply with all health reporting requirements of state law and Title 11.02 of Sturgis City Ordinances.

**11.08.19: PET KENNELS AND CONTROL OF ANIMALS**

No separate, non-residential pet or kennel facilities shall be permitted to be constructed or located outside the residence on the parcel. During the period of any temporary non-public camping, any animal at the campsite will be subject to the provisions of Title 32 of Sturgis City Ordinances, concerning animals and animal control authority of the City.

**11.08.20: CAMPING CABINS**

Camping cabins as defined in South Dakota Administrative Rule 44:02:14:01, or any temporary structure intended for similar or like use, shall not be permitted at any temporary campsite.

**11.08.21: PERMIT**

A. *Permit and Application.* Applications for a permit for relief from the temporary residential camping restrictions as provided in this chapter, will be made to the City Manager, or specified designee. Permits must comply with the following:

1. Application must be made on a form provided by the City;
2. Application must be made a minimum of 10 days before the City Council Meeting in which the application is considered;
3. Permits must be posted at the property where the permitted activity occurs; and

4. The permit may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon the city or the surrounding area.

B. *Revocation of Permit.* A permit issued under this chapter may be revoked or terminated by the city if any condition or requirement is violated by the property owner, or other campers. A permit may also be revoked if the property is not maintained in a clean, safe, and sanitary manner.

Adopted this 15<sup>th</sup> day of November 2021.

First reading: 11-01-2021  
Second reading: 11-15-2021  
Adopted: 11-15-2021  
Published: 11-23-2021  
Effective: 12-14-2021

Motion by Forrester, second by Wilkerson and carried with all members present unanimously voting yes to approve first reading of Ordinance 2021-11 – Supplement to the 2021 Budget.

Motion by Bachand, second by Forrester and carried with all members present unanimously voting yes to approve the Project Boundary Fence Re-Assessment (2021).

A discussion was held on the Food Truck Ordinance. Councilor Zerbst asked that the attorney also look at Title 15-Sidewalk vendors and make sure that it does not conflict with the Food Truck Ordinance.

A discussion was held on Title 15- Sidewalk Ordinance. The discussion was on a revision of the maintenance, repair, and reconstruction of sidewalks.

The first reading of these two ordinances will probably be in January 2022.

Any other business:

- Bernadette Usera likes the discussion part of the Ordinance process. She also asked who is working on the re-districting. Laura Abernathy, and discussion should be the first meeting in December.
- Bonnie Alpert likes the discussion part of the Ordinance process but feels we don't need to hurry through the 1<sup>st</sup> and 2<sup>nd</sup> reading.

Motion by Martinson, second by Zerbst and carried with all members present unanimously voting yes to go into executive session for personnel and contracts at 8:33 pm.

Motion by Martinson, second by Anderson to return to regular session at 9:04 pm.

Motion by Zerbst, seconded by Wilkerson and carried with all members present unanimously voting yes to adjourn the meeting at 9:05 pm.

ATTEST: \_\_\_\_\_  
Fay Bueno, Finance Officer

APPROVED \_\_\_\_\_  
Mark Carstensen, Mayor

Published once at the total approximate cost of \$