

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, February 3, 2020 at the Erskine Building. Present: Mayor Mark Carstensen, Alderpersons Jason Anderson, Mike Bachand, Rhea Crane, Steve Keszler, Terry Keszler, David Martinson and Ronald Waterland. Also, present: City Manager Daniel Ainslie and City Attorney Greg Barnier. Absent: Beka Zerst.

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

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

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

Mayor Mark Carstensen led everyone in the Pledge of Allegiance.

Informational Reports:

- Hotel BID minutes from December 11, 2019.

Announcements:

- The next Council meeting will be Tuesday, February 18, 2020 due to the President's Day Holiday.

City Manager Ainslie reported:

- Payroll Changes within Budget-
  1. Community Center: Wacey Brown, Ashton Zook, Davane Boyd - lifeguard \$10.50.
  2. Police: Animal Control – Pam Nash – wage correction - \$21.36.

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

- Consideration to approve minutes from the January 21, 2020 regular City Council meeting.
- Consideration to set a public hearing for February 18, 2020 for a Special Events License for the Loud American for the annual SEDC meeting on March 26, 2020.

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

**WAGES** – Ambulance \$23,123.30; Attorney \$4172.56; Auditorium \$216.17; Buildings \$1207.14; Cemetery \$2466.43; City Manager \$4715.94; Community Center \$9571.89; Finance Office \$8062.73; Fire Department \$150.23; Feet \$6596.65; Human Resource \$5129.32; Library \$9494.06; Liquor \$5758.09; Mayor and Council \$3913.78; Parks \$11,389.59; Planning & Permitting \$9057.44; Police \$38,707.28; Rally \$8310.83; Recreation \$2684.09; Sanitary Service \$16,805.98; Streets \$12,394.20; Wastewater \$8824.69; Water \$12,231.16; Federal Withholding \$16,105.38; FICA \$14,701.49.

**COMBINED CASH FUND** – Campbell Supply, \$26.51, refund; D&D Properties, \$49.74, refund; Asa Stafford, \$32.50, refund.

**GENERAL** – Adams-ISC, \$10.78, rep; Kevin Aga, \$500.00, ins; Amick Sound, \$34.24, rep; Argus Leader, \$504.05, sup; Baker & Taylor, \$267.19, sup; Bear Butte Valley Water, \$151.75,

util; Black Hills Energy, \$15,862.64, util; Black Hills Harley Davidson, \$4,536.63, rep; Roger Burnham, \$3,713.17, prof fee; Cash-Wa Distributing, \$412.00, resale; CB&B Aviation, \$450.00, rep; Central States Sanitation, \$60.00, rep; Century Link, \$317.04, util; City of Sturgis Water Dept, \$3,279.31, util; Double Star Computing, \$4,419.15, sup; Jerred Hegstrom, \$143.41, sup; Rod Heikes, \$500.00, ins; Jacobs Auto Repair, \$23.25, rep; Matthew Jacobs, \$625.98, sup; Lawson Products, \$479.79, sup; Marco Technologies, \$91.78, rep; Meade County Auditor, \$4,183.64, other; Motionsoft, \$450.00, prof fee; Mountain Air Insurance Service, \$450.00, ins; Nationwide medical Review, \$21.00, ins; Petty Cash, \$75.21, sup; Marty Plaggemeyer, \$500.00, ins; Powerplan, \$548.83, sup; Richter's Tire & Exhaust, \$208.00, sup; S&C Cleaners, \$6,500.00, prof fee; SD Federal Property Agency, \$619.00, sup; SD Public Assurance Alliance, \$163,038.93, ins; Simon North Region SD, \$669.90, sup; Sturgis Motorsports, \$69.96, sup; Summit Signs & Supply, \$300.00, sup; The Corner Station, \$117.52, sup; Tiger Direct Business, \$545.99, sup; Titan Machinery, \$150.00, reup Tom's T's, \$305.66, sup; Traffic Control Corporation, \$670.00, rep; Universal Athletic, \$63.84, sup; Vanway Trophy & Award, \$58.05, sup; Ron Waterland, \$203.00, travel; Weimer's Diner & Donuts, \$112.80, sup.

**SPECIAL SALES TAX** – Sturgis Area Chamber of Commerce, \$9,166.67; Sturgis Economic Development, \$6,666.67.

**CAPITAL IMPROVEMENT** – Johnson Controls, \$5,555.26; Northern Industries, \$54,000.00.

**BUSINESS IMPROVEMENT DISTRICT** – Dakota Playground, \$2,080.00, other; Sturgis Ambulance, \$1,850.00, prof fee.

**REVOLVING FUND LOAN** – Sturgis Economic Development, \$1,000.00.

**LIQUOR** – Badlands Distillery, \$119.22, resale; Black Hills Energy, \$25.30, utl; Black Hills Pioneer, \$241.20, pub; Cash-Wa Distributing, \$800.65, resale; Cask & Cork, \$599.47, resale; City of Sturgis Water, \$316.62, resale; Coca Cola, \$414.25, resale; Dakota's Best Distributing, \$189.25, resale; Double Star Computing, \$15.00, prof fee; Fat Boys, \$4.50, resale; Fisher Beverage, \$3,866.29, resale; Johnson Western Wholesale, \$7,139.71, resale; Pepsi Cola Bottling, \$53.50, resale; Prairie Berry, \$1,020.00, resale; Quality Brans of the BH, \$8,059.24, resale; Republic Beverage Co, \$10,289.25, resale; SD Public Assurance Alliance, \$30,146.88, ins; Southern Glazer's of SD, \$802.71, resale.

**WATER** – AAA Collections, \$11.63, prof fee; Black Hills Energy, \$8,493.23, util; City of Sturgis Water Dept, \$182.42, util; Credit Collections Bureau, \$12.05, prof fee; Double Star Computing, \$15.00, prof fee; Hawkins, \$1,644.05, sup; Nationwide Medical Review, \$7.00, ins; Petty Cash, \$11.28, refund; SD Public Assurance Alliance, \$23,836.58, ins.

**WASTEWATER** – Black Hills Energy, \$3,813.05, util; Double Star Computing, \$15.00, prof fee; Nationwide Medical Review, \$3.50, ins; SD Public Assurance Alliance, \$20,100.03, ins.

**SANITATION** – Black Hills Energy, \$365.98, util Century Link, \$64.83, util; Double Star Computing, \$15.00, prof fee; Nationwide Medical Review, \$3.50, ins; North Central International, \$14.32, rep; Northern Truck Equipment, \$1,129.00, rep; Powerplan, \$964.28, rep; SD Public Assurance Alliance, \$32,340.38, ins; SWANA, \$223.00, prof fee.

**AMBULANCE** – Affordable Tire & Alignment, \$1,667.43, rep; Black Hills Energy, \$613.24, util; City of Sturgis Water Dept, \$92.39, util; double Star Computing, \$972.18, prof fee; Image Trend, \$285.00, prof fee; SD Public Assurance Alliance, \$1,017.06, ins.

Motion by S. Keszler, second by Waterland and carried with all members present unanimously voting yes to approve a Special Event License for the Loud American for the annual Lincoln Day Dinner.

Motion by Anderson, second by T. Keszler and carried with Carstensen, Anderson, Bachand, Crane, S. Keszler, T. Keszler voting yes, Martinson voting no, Waterland abstaining, to approve Resolution 2020-13 – Intent to Annex of the Jack Pine Gypsies properties.

**RESOLUTION 2020-13**  
**RESOLUTION OF INTENT FOR ANNEXATION OF JACKPINE GYPSIES**  
**MOTORCYCLE CLUB, INC. PROPERTIES**

**WHEREAS**, The Common Council of the City of Sturgis has had prepared a study pursuant to SDCL 9-4-4.1 to determine the need for annexing contiguous territory and to identify the resources necessary to extend the municipal boundaries to the area described in the study which is incorporated by this reference. A copy of the Annexation Study is available for public review at the Finance Office at City Hall; and

**WHEREAS**, the Annexation Study which has been prepared finds that certain contiguous territory described therein, and legally described in this resolution, should be annexed to and included within the boundaries of the City to provide for the orderly growth and development of the City; and

**WHEREAS**, approval of this resolution by the Meade County Commissioners is not required pursuant to SDCL 9-4-5 because no un-platted territory or agricultural land is proposed for annexation; and

**WHEREAS**, the property for subject to this Resolution is for property contiguous to a portion of the present boundary of the City of Sturgis and within the area where the growth of the City can be accommodated to provide for the orderly growth and development of the City; and

**WHEREAS**, Jackpine Gypsies Motorcycle Club, Inc. is the owner of property described by the Meade County Equalization office as parcels #11.96.01, 11.DD.0A and 11.09.2331, located adjacent to the City of Sturgis and described in fuller detail below, and

**WHEREAS**, the property owned by Jackpine Gypsies Motorcycle Club, Inc. subject to this Resolution consists of platted non-agricultural territory as defined at SDCL 9-4-5 and 10-6-31, described as follows:

**LEGAL DESCRIPTION:**

- Lot 1 of Boehrs Subdivision, Meade County, South Dakota, as shown on the plat filed in Plat Book 23 on Page 67.

**WHEREAS**, Jackpine Gypsies Inc is the owner of property described by the Meade County Equalization office as parcels # 11.DD.0A and 11.09.2331, located adjacent to the City of Sturgis and described in fuller detail below; and

**WHEREAS**, the property owned by Jackpine Gypsies Inc subject to this Resolution consists of platted non-agricultural territory as defined at SDCL 9-4-5 and 10-6-31, described as follows:

**LEGAL DESCRIPTION:**

- Tract A of Jackpine Gypsy Subdivision, Meade County, South Dakota, as shown on the plat filed in Plat Book 12 on Page 99; EXCEPTING therefrom Right-of-Way Lot 9, as shown on the plat filed in Plat Book 21 on Page 155 and as corrected by Affidavit of Correction recorded November 18, 2003, in Book 632 on Page 670. AND Lot 1 of the N1/2 SW1/4 NW1/4 of Section 9. Township 5 North, Range 5 East of the Black Hills Meridian, Meade County, South Dakota, as shown on the plat filed in Plat Book 2 on Page 8.

- Lot 3 of the N1/2 SW1/ 4NW1/4 of Section 9, Township 5 North, Range 5 East of the Black Hills Meridian, Meade County, South Dakota, as shown on the plat filed in Plat Book 5 on Page 242; AND Township 5 North, Range 5 East of the Black Hills Meridian, Meade County, South Dakota: Section 9; S1/2S W1/4 NW1/4, lying west of Lot H-1, as shown on the plat filed in Plat Book 5 on Page 117, and EXCEPTING therefrom Right-of-Way Lot 8, as shown on the plat filed in Plat Book 21 on Page 156; and the W1/2 N1/2 N1/2 N1/2 SW1/4, lying west of Lot H-1, as shown on the plat filed in Plat Book 5 on Page 118, and EXCEPTING therefrom Right-of-Way Lot 8, as shown on the plat filed in Plat Book 21 on Page 156.

**WHEREAS**, the Annexation Study on file for the subject property also contains the following information demonstrating the basis for annexation:

1. That ample and suitable resources exist to accommodate the orderly growth and development of the described contiguous territory as evidenced by the City's current provision of some City services to the area and consistent with the Annexation Study.
2. That municipal utilities and a major street network are, and have been, considered in terms of the proposed boundary extension in accordance with the Annexation Study.
3. That the City has established a definite timetable upon which municipal services will be extended into the contiguous territory as described in the Annexation Study' subject to the City's policies and ordinances in accordance with South Dakota Codified Law.
4. That the approximate costs of the extended services to the residents in the described contiguous territory and to the City are set forth in detail in the Annexation Study subject to the City's reasonable policies, ordinances, regulations, terms and conditions in accordance with South Dakota Codified Law. A summary of these estimated costs is as follows:

<b>Improvement</b>	<b>Estimated Cost</b>
Street/Road Maintenance	Less than \$5,000 projected annually per maintained mile, and less than \$3,000 annually for snow removal.
Water Service	No incremental costs, area is currently served with water. Water services will be provided at the applicable rates charged for in town water service.
Sewer Service	Area is not currently served; future sewer services can be provided at a projected cost of approximately \$75,000 per city block. Sewer service will be provided at the applicable rates charged for in town sewer service. Costs to be recovered via special assessments against the benefited properties.
Solid Waste Collection/Disposal	Service provided at applicable rates.
Fire/Ambulance Department	No incremental costs, currently being provided consistent with City policies and practices to proposed annexation area.
Police Department	No incremental costs, currently being provided consistent with City policies and practices to proposed annexation area.
Planning & Permitting	No incremental costs, currently being provided consistent with City policies and practices to proposed annexation area.
Community Center	No incremental costs, currently being provided consistent with City policies and practices to proposed annexation area.
Library	No incremental costs, currently being provided consistent with City policies and practices to proposed annexation area.

5. The estimated difference in tax assessment rate for the residents and property in the contiguous territory will be a net increase of 0.006309 for the subject property.
6. That population and census data indicate that the City has and may experience growth or development beyond its present boundaries.
7. That exclusions or irregularities in municipal boundary lines are not the result of arbitrariness but are based upon existing geographical features physical barriers, existing property boundaries, existing occupancies and uses, and existing city boundaries.
8. That there is reasonable present need, and demonstrable future need, for annexing the subject contiguous territory in accordance with the Annexation Study.
9. That there exists a community of interest between the contiguous territory and the City of Sturgis.

NOW, THEREFORE BE IT FUTHER RESOLVED by the Sturgis City Council that the City Council does hereby set the following time and place for a public hearing on said annexation:

**6:00 P.M. February 3, 2020**  
**STURGIS CITY COUNCIL MEETING**  
**1300 Sherman Street, Sturgis, SD 57785**  
**Commissioners' Room, Erskine Building**  
**Sturgis South Dakota, 57785**

IT IS FURTHER RESOLVED, that a true and correct copy of this Resolution, and notice of a public hearing on a Resolution of Annexation shall be sent to the Meade County Auditor and the affected landowners within the area to be annexed by certified mail and first-class mail pursuant to the terms of South Dakota Codified Law.

**DATED** this 3rd day of February 2020.

Published: 02-12-2020  
Effective: 03-04-2020

Motion by Anderson, second by T. Keszler and carried with all members present unanimously voting yes to approve setting a public hearing for March 2, 2020 regarding a Resolution to Annex the Jackpine Gypsies properties.

Motion by Bachand, second by T. Keszler and carried with all members present unanimously voting yes to approve Resolution 2020-14 – Intent to Annexation of the Murray Properties.

**RESOLUTION 2020-14**  
**RESOLUTION OF INTENT FOR ANNEXATION OF MURRAY PROPERTIES**

**WHEREAS**, The Common Council of the City of Sturgis has had prepared a study pursuant to SDCL 9-4-4.1 to determine the need for annexing contiguous territory and to identify the resources necessary to extend the municipal boundaries to the area described in the study which is incorporated by this reference. A copy of the Annexation Study is available for public review at the Finance Office at City Hall; and

**WHEREAS**, the Annexation Study which has been prepared finds that certain contiguous territory described therein, and legally described in this resolution, should be annexed to and included within the boundaries of the City to provide for the orderly growth and development of the City; and

**WHEREAS**, approval of this resolution by the Meade County Commissioners is not required pursuant to SDCL 9-4-5 because no un-platted territory or agricultural land is proposed for annexation; and

**WHEREAS**, the property for subject to this Resolution is for property contiguous to a portion of the present boundary of the City of Sturgis and within the area where the growth of the City can be accommodated to provide for the orderly growth and development of the City; and

**WHEREAS**, Murray Development Corp. is the owner of property described by the Meade County Equalization office as parcels #11.78.AR and 11.78.UTIL2, located adjacent to the City of Sturgis and described in fuller detail below; and

**WHEREAS**, the property owned by Murray Development Corp. subject to this Resolution consists of platted non-agricultural territory as defined at SDCL 9-4-5 and 10-6-31, described as follows:

**LEGAL DESCRIPTIONS:**

- Tract A Revised of Murray Addition No. 2, Meade County, South Dakota, as shown on the plat filed in Plat Book 25, Pages 5-6, and as amended by Affidavit of Correction recorded July 17, 2015, in Book 863, Pages 972-973; EXCEPTING therefrom Murray Well Lot #1 as shown on the plat filed in Plat Book 21 Pages 205-206; and EXCEPTING therefrom Murray Utility Lot #2, as shown on the plat filed in Plat Book 22, Pages 335-336.
- Murray Utility Lot #2 of Tract A formerly a portion of Tract A of Murray Addition #2, located in the SE1/4 of Section 8, T5N, R5E, B.H.M., Meade County, South Dakota as shown on the plat filed in Plat Book 22 Pages 335-336.

**WHEREAS**, Murray Water Company Inc. is the owner of property described by the Meade County Equalization office as parcels #11.78.WELL1, located adjacent to the City of Sturgis and described in fuller detail below, and

**WHEREAS**, the property owned by Murray Water Company Inc. subject to this Resolution consists of platted non-agricultural territory as defined at SDCL 9-4-5 and 10-6-31, described as follows:

- Murray Well Lot #1 of Tract A Formerly a portion of Tract A of Murray Addition #2, Located in the SE1/4 of Section 8, T5N, R5E, B.H.M., Meade County, South Dakota as shown on the plat filed in Plat Book 21, Pages 205-206.

**WHEREAS**, the Annexation Study on file for the subject property also contains the following information demonstrating the basis for annexation:

1. That ample and suitable resources exist to accommodate the orderly growth and development of the described contiguous territory as evidenced by the City's current provision of some City resources to the area and consistent with the Annexation Study.
2. That municipal utilities and a major street network are, and have been, considered in terms of the proposed boundary extension in accordance with the Annexation Study.
3. That the City has established a definite timetable upon which municipal services will be extended into the contiguous territory as described in the Annexation Study' subject to the City's policies and ordinances in accordance with South Dakota Codified Law.

4. That the approximate costs of the extended services to the residents in the described contiguous territory and to the City are set forth in detail in the Annexation Study subject to the City's reasonable policies, ordinances, regulations, terms and conditions in accordance with South Dakota Codified Law. A summary of these estimated costs is as follows:

<b>Improvement</b>	<b>Estimated Cost</b>
Street/Road Maintenance	Less than \$5,000 projected annually per maintained mile, and less than \$3,000 annually for snow removal.
Water Service	No incremental costs, area is currently served with water. Water services will be provided at the applicable rates charged for in town water service.
Sewer Service	Area is not currently served; future sewer services can be provided at a projected cost of approximately \$75,000 per city block. Sewer service will be provided at the applicable rates charged for in town sewer service. Costs to be recovered via special assessments against the benefited properties.
Solid Waste Collection/Disposal	Service provided at applicable rates.
Fire/Ambulance Department	No incremental costs, currently being provided consistent with City policies and practices to proposed annexation area.
Police Department	No incremental costs, currently being provided consistent with City policies and practices to proposed annexation area.
Planning & Permitting	No incremental costs, currently being provided consistent with City policies and practices to proposed annexation area.
Community Center	No incremental costs, currently being provided consistent with City policies and practices to proposed annexation area.
Library	No incremental costs, currently being provided consistent with City policies and practices to proposed annexation area.

5. The estimated difference in tax assessment rate for the residents and property in the contiguous territory will be a net increase of 0.006309 for Non-Agricultural property.
6. That population and census data indicate that the City has and may experience growth or development beyond its present boundaries.
7. That exclusions or irregularities in municipal boundary lines are not the result of arbitrariness but are based upon existing geographical features physical barriers, existing property boundaries, existing occupancies and uses, and existing city boundaries.
8. That there is reasonable present need, and demonstrable future need, for annexing the subject contiguous territory in accordance with the Annexation Study.
9. That there exists a community of interest between the contiguous territory and the City of Sturgis.

NOW, THEREFORE BE IT FUTHER RESOLVED by the Sturgis City Council that the City Council does hereby set the following time and place for a public hearing on said annexation:

**6:00 P.M. February 3, 2020**  
**STURGIS CITY COUNCIL MEETING**  
**1300 Sherman Street, Sturgis, SD 57785**  
**Commissioners' Room, Erskine Building**  
**Sturgis South Dakota, 57785**

IT IS FURTHER RESOLVED, that a true and correct copy of this Resolution, and notice of a public hearing on a Resolution of Annexation shall be sent to the Meade County Auditor and the affected landowners within the area to be annexed by certified mail and first-class mail pursuant to the terms of South Dakota Codified Law.

**DATED** this 3rd day of February 2020.

Published: 02-12-2020

Effective: 03-04-2020

Motion by Waterland, second by S. Keszler and carried with all members present unanimously voting yes to approve setting a public hearing for March 2, 2020 regarding a Resolution to Annex Murray Properties.

The following bids were received: Tru-Form Construction - \$261,004.00; Underground Construction-\$270,684.50; Rapid Construction \$215,412.63; Mainline Contracting - \$237,795.20 and A & L Contracting - \$199,066.75.

Motion by Martinson, second by Crane and carried with all members present unanimously voting yes to approve awarding the bid to A & L Contracting for \$199,066.75 to place storm sewer along Otter Road from Racoon to Vanocker Canyon Road and to have the City Manager sign all documents related to the project.

Motion by Martinson, second by Anderson and carried with all members present unanimously voting yes to approve the proposal from Interstate Engineering for \$85,000 for a survey and complete a Letter of Map Revisions (LOMR) for the Sly Street and Blanch Street crossing of Bear Butte Creek and have the City Manager sign all documents related to this project.

Motion by Crane, second by T. Keszler and carried with all members present unanimously voting yes to approve the designation of Zoning Districts for the following annexed properties: Oak Acres Mobile Home Park property-Mobile Home 2; Henrichsen Property-Medium-Density Residential Housing; Sturgis Hideaway LLC-Parcel #11.09.2423-Agriculture; Sturgis Hideaway LLC- Parcel #01.70.2422-Mobile Home 1 to Agriculture; Sturgis Hideaway LLC- #01.5.00.OU – Medium-Density Residential to Agriculture. Sturgis Hideaway LLC zoning changes per the Municipal Development and Annexation Agreement.

Motion by Martinson, second by Waterland and carried with Carstensen, Anderson, Crane, S. Keszler, T. Keszler, Martinson and Waterland voting yes, Bachand voting no, to approve Resolution 2020-15 - Annexation of Sturgis Hideaway, LLC.

**RESOLUTION 2020-15**  
**RESOLUTION OF ANNEXATION OF STURGIS HIDEAWAY, LLC**

**WHEREAS**, Sturgis Hideaway LLC as owner of the subject property herein has signed and submitted a Voluntary Development and Annexation Agreement to the City of Sturgis in January of 2020, and

**WHEREAS**, the Common Council of the City of Sturgis has statutory authority pursuant to SDCL 9-4-1.1 to enter into an agreement for Voluntary Development and Annexation, and

**WHEREAS**, the Agreement for Voluntary Development and Annexation between the parties is for property contiguous to a portion of the present boundary of the City of Sturgis and within the



area where the growth of the City can be accommodated to provide for the orderly growth and development of the City, and

**WHEREAS**, that ample and suitable resources exist to accommodate the orderly growth and development of the described contiguous territory as evidenced by the City's current provision of many of the City services to the area and consistent with the previous Annexation Study, and

**WHEREAS**, that there is reasonable present and demonstrable future need for annexing said contiguous territory in accordance with the Annexation Study, and

**WHEREAS**, that population and census data indicate that the City has and may experience growth or development beyond its present boundaries, and

**WHEREAS**, that exclusions or irregularities in municipal boundary lines are not the result of arbitrariness but are based upon existing geographical features, physical barriers, existing property boundaries, existing occupancies and uses, and existing city boundaries, and

**WHEREAS**, that there exists a community of interest between the contiguous territory and the City of Sturgis, and

**WHEREAS**, a map of the area subject to this Resolution is attached as Exhibit A and incorporated herein by this reference, and

**NOW, THEREFORE BE IT RESOLVED** the Common Council for the City of Sturgis hereby declares the annexation of the following platted AG.1-Agricultural and Conservation District as defined as SDCL 9-4-5 and 10-6-31, identified as and described as follows:

Legal Description:

The diagonal portion of SE1/4NW1/4SE1/4NW1/4 Section 9, Township 5 North, Range 5 East of the Black Hills Meridian, Meade County, South Dakota

Consisting of 5 acres, more or less and identified by Meade County Office of Equalization as Parcel 11.09.2423.

**DATED** this 3rd day of January 2020.

Published: 02-12-2020

Effective: 03-04-2020

Motion by Waterland, second by Bachand to table second reading of Ordinance 2020-01 – Title 37 - City Transit with Bachand, Crane and Waterland voting yes and Carstensen, Anderson, S. Keszler, T. Keszler, and Martinson voting no, the motion failed.

Motion by Crane, second by Anderson and carried with Carstensen, Bachand, Crane, Anderson, S. Keszler, T. Keszler, Martinson voting yes and Waterland voting no to approve second reading of Ordinance 2020-01 – Title 37 - City Transit. With the understanding that more work will be done on this ordinance.

**ORDINANCE 2020-01**  
**AN ORDINANCE AMENDING TITLE 37 – CITY TRANSIT**

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Section 37.01.02 – Definitions; Chapter 37.02 – Transit License Application & Regulation; 37.02.01 – License-Application-False Statements; 37.02.02 – Expiration of Licenses; 37.02.04 0 Transit Business License Required; 37.02.06 - Application-Investigation-Issuance; 37.02.07 – Fee; 37.02.16 – Suspension; Chapter 37.03 – Transportation Network Company Driver Registration & Regulation to be amended to read as follows:

**TITLE 37**  
**CITY TRANSIT**

**CHAPTERS:**

- 37.01 General Provisions
- 37.02 License
- 37.03 Transportation Network Company Driver Registration & Regulation

**CHAPTER 37.01**  
**GENERAL PROVISIONS**

- 37.01.01: Scope and Purpose
- 37.01.02: Definitions
- 37.01.03: Penalty

**37.01.02 DEFINITIONS**

For the purpose of this title, the following definitions shall apply unless a subsection specifically states otherwise or the context clearly indicates or requires a different meaning:

**AIR TRANSPORT SERVICE:** An air transport service is any transit service providing observation, sightseeing or passenger transportation or delivery services originating or terminating with the city limits of and within the immediate airspace over the City of Sturgis, in a manner not specifically authorized or approved by the Federal Aviation Administration.

**DIGITAL NETWORK:** any online-enabled application, software, website, or system offered or utilized by a transportation network company that enables a prearranged ride with a transportation network company driver.

**DRIVER:** One who actually engages in the driving of a vehicle for hire.

**ENGAGING IN BUSINESS:** Any person shall be deemed to have engaged in the business of operating a vehicle for hire under Chapter 37.02 herein if he keeps or maintains any such vehicle for the purpose of engaging in a vehicle for hire business or if he accepts or permits any employee to accept any money or other thing of value from any such passenger for transportation in such vehicle. Accepting such a passenger under the guise that such transportation is purely gratuitous, and that no payment of compensation or consideration is required shall not be deemed to remove such transaction from the effect of this article. In any case where the driver or any person in charge of any such vehicle does in fact accept any money or other thing of value, even though the money or thing of value is accepted or purported to be accepted as a gift or present or purported

gift or present, such gift or present, or such purported gift or present, shall constitute prima facie evidence of an intent to accept compensation or hire for such transportation.

**OPERATING:** A person is operating a transit business within the meaning of Chapters 37.01 and 37.02 herein if any fare or transportation service, whether on a public right of way or in airspace over the City, of any kind or nature which originates within the City of Sturgis.

**OPERATOR:** A person engaged in operating a taxicab or transit business.

**PEDICAB:** A vehicle not otherwise defined in this section, regardless of the source of power, operated for the purpose of carrying passenger(s), not including the driver, not traveling any definite or prescribed route, operated by a driver, and carrying or accepting passengers for hire. The term taxicab shall not include funeral cars or ambulances. If this vehicle is powered completely or in part by the physical effort of the driver, it shall also be required to meet the slow-moving vehicle equipment requirements set forth at Chapter 34-15 of the South Dakota Code.

**PERSONAL VEHICLE:** a vehicle that is used by a transportation network company driver to provide a prearranged ride and is owned, leased, or otherwise authorized for use by the transportation network company driver. The term does not include any taxicab, limousine, or for-hire vehicle.

**PRE-ARRANGED RIDE:** the provision of transportation by a driver to a rider, beginning when a driver accepts a rider's request for a ride through a digital network controlled by a transportation network company, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the personal vehicle. The term does not include transportation provided through a shared expense carpool or vanpool arrangement or by using a taxicab, limousine, or other for-hire vehicle.

**SEATING CAPACITY:** The number of persons, not including the driver, who can be conveniently seated in a taxicab without crowding.

**TAXICAB:** A motor vehicle for carrying passengers, with a seating capacity for 7 persons or less, not including the driver, not traveling any definite or prescribed route, operated by a driver, and carrying or accepting passengers for hire. The term taxicab shall not include funeral cars or ambulances.

**TRANSIT BUSINESS LICENSE:** The license under Chapter 37.02 herein shall be issued to an applicant when the application which they have submitted is approved as provided for in this ordinance.

**TRANSPORTATION NETWORK COMPANY DRIVER:** a person who receives connections to potential riders and related services from a transportation network company in exchange for payment of a fee to the transportation network company and who uses a personal vehicle to provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company in return for compensation or payment of a fee.

**TRANSPORTATION NETWORK COMPANY RIDER:** a person who uses a transportation network company's digital network to connect with a transportation network driver who provides a prearranged ride to the person in the driver's personal vehicle between points chosen by the person.

TRANSPORTATION NETWORK COMPANY (abbreviated hereafter as “TNC”): a corporation, partnership, sole proprietorship, or other entity that uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides and that does not control, direct, or manage the personal vehicles or transportation network company drivers that connect to its digital network, except where agreed to by written contract.

VEHICLE FOR HIRE: means any vehicle licensed or registered under this title, including, but not limited to, bus or motorbus, pedicab, taxicab, limousine or Transportation Network Company drivers.

## **CHAPTER 37.02 TRANSIT LICENSE APPLICATION & REGULATION**

### **SECTIONS:**

- 37.02.01: License-Application-False Statements
- 37.02.02: Expiration of License
- 37.02.03: Annual Inspection and Verification Required
- 37.02.04: Transit Business License Required
- 37.02.05: Application
- 37.02.06: Application-Investigation-Issuance
- 37.02.07: Fee
- 37.02.08: License Number to be displayed on Vehicle
- 37.02.09: Rate Schedule
- 37.02.10: Payment of Fare
- 37.02.11: Driver’s License required
- 37.02.12: To be Carried on Person and exhibited upon request
- 37.02.13: Smoking prohibited
- 37.02.14: Transporting intoxicating Liquor prohibited
- 37.02.15: Air Transit Prohibited
- 37.02.16: Suspension-Revocation

### **37.02.01 LICENSE–APPLICATION–FALSE STATEMENTS**

Any Transit Operation License issued under the provisions of this chapter shall be revoked by the Finance Office, Police Department or Code Enforcement Office, by giving notice to the License holder upon discovery of any false, material statement or document submitted as part of or in support of the application for the license. After notification, licensee may appeal the revocation under the procedure established in Title 36, Chapter 36.04.

### **37.02.02 EXPIRATION OF LICENSES**

Any Transit Business license issued under the provisions of this Chapter shall expire on January 31 of the licensing year for which the license was issued. A licensing year, for the purposes of this section, begins February 1 and ends January 31 of the next calendar year, unless sooner revoked, canceled or otherwise terminated. After a completed application is submitted to the City Finance Office, the applicant will be notified within ten (10) business days if the license is issued.

### **37.02.04 TRANSIT BUSINESS LICENSE REQUIRED**

No person shall engage in the business of operating a transit business without a Transit Business License set forth in this ordinance.

### **37.02.06 APPLICATION–INVESTIGATION–ISSUANCE**

The application for a taxicab driver’s license shall be investigated by the Chief of Police upon request of the finance Office. That investigation report may recommend to approve or deny the application, based on the results of the investigation and applicant’s submitted information. Any denial is subject to appeal to the City Council as set forth in Title 36, Code Enforcement

### **37.02.07 FEE**

For each applicant applying to have one (1) to four (4) vehicles authorized to operate within the City of Sturgis under this ordinance, the fee submitted with the application shall be \$200 for each vehicle. To have five (5) or more vehicles authorized to operate within the City of Sturgis, the fee shall be \$1,000.

### **37.02.16 SUSPENSION**

Any license issued under this chapter may be revoked, for cause, by the Council, after notice to the holder of the license and an opportunity for hearing before the Council. The Chief of Police shall have the authority to suspend any license issued under this chapter for good cause pending a hearing before the Council. The power to suspend the license shall be exercised only if it shall appear to the Chief of Police that there is probable cause to believe that the holder of the license has committed a crime involving moral turpitude. The holder of any license suspended by the Chief of Police shall, after such notification, have the right to appeal the suspension under the procedure established in Title 36, Chapter 36.04. As used herein, the term Chief of Police shall include the Chief of Police and any subordinate officer temporarily acting as the officer in charge of the Police Department.

## **CHAPTER 37.03 TRANSPORTATION NETWORK COMPANY DRIVER REGISTRATION & REGULATION**

### **SECTIONS:**

- 37.03.01: Registration Required
- 37.03.02: Application-False Statement
- 37.03.03: Application Requirements for TNC Driver Registration
- 37.03.04: Background Information
- 37.03.05: TNC Registration Fee
- 37.03.06: TNC Driver Registration Affidavit
- 37.03.07: Zero Tolerance Policy for Drug and Alcohol Use
- 37.03.08: TNC Driver Vehicle Equipment
- 37.03.09: Motor Vehicle Insurance Required for TNC Driver Application
- 37.03.10: Motor Vehicle Insurance Requirements TNC Driver
- 37.03.11: Motor Vehicle Insurance Requirements for TNC Driver Engaged in Prearranged Ride
- 37.03.12: TNC to Provide Coverage Where Driver Insurance Lapsed or Insufficient--Duty to Defend
- 37.03.13: Issuance

37.03.14: Term

37.03.15: Regulations for Registered TNC Drivers

### **37.03.01 REGISTRATION REQUIRED**

No person shall operate as a TNC driver within the City of Sturgis without obtaining and having in their possession while operating as TNC driver a valid TNC driver registration as provided in this Title.

### **37.03.02 APPLICATION – FALSE STATEMENT**

Any TNC registration issued under this chapter may be revoked by the Finance Office or Code Enforcement Office, by giving notice upon discovery of any false, material statement or document submitted as part of or in support of the application for the registration. After notification, the registered TNC driver may appeal the revocation under the procedure established in Title 36, Chapter 36.04.

### **37.03.03 APPLICATION REQUIREMENTS FOR TNC DRIVER REGISTRATION**

Any person seeking to obtain a registration to operate within the City as a transportation network company driver shall submit an application. In addition to the requirements established in subsections 37.02.05 to 37.03.11 herein, a TNC driver application shall include:

- A. The person's name, address, and age;
- B. A copy of the person's valid, current driver license;
- C. A copy of the registration for the personal vehicle that the person will use to provide prearranged rides;
- D. Proof of financial responsibility for the personal vehicle of a type and in the amounts required by this Title;
- E. Proof that applicant holds a valid South Dakota Sales Tax License; and
- F. Any other necessary information required by the Finance Office.

### **37.03.04 BACKGROUND INFORMATION**

The applicant for City registration as a TNC driver, consistent with SDCL 32-40, shall provide written confirmation that the TNC for which applicant acts as a driver operating on a digital network has conducted the following background check before allowing applicant to act as a driver:

- A. A local and national criminal background check;
- B. A search of the national sex offender registry; and
- C. Obtained a copy of the person's driving record maintained under SDCL 32-12-61.

### **37.03.05 TNC REGISTRATION FEE**

The registration application shall include the fee established in subsection 37.02.07 herein.

### **37.03.06 TNC DRIVER REGISTRATION AFFIDAVIT**

By affidavit submitted with the application, applicant shall verify that applicant has never been convicted of any of the following violation in any Jurisdiction in the United States, Canada or Mexico:

- A. Received judgments for more than three moving traffic violations in the preceding three years, or at least one violation involving reckless driving or driving on a suspended or revoked license in the preceding three years;
- B. Convicted in the preceding seven years of a felony; or
- C. Convicted in the preceding seven years of a misdemeanor involving:
  - 1. Resisting a law enforcement officer;
  - 2. Dishonesty;
  - 3. Injury to a person;
  - 4. Operating a motor vehicle while intoxicated;
  - 5. Operating a motor vehicle in a manner that endangers a person;
  - 6. Operating a motor vehicle with a suspended or revoked driver license; or
  - 7. Damage to the property of another person; or
- D. Is a match in the state or national sex offender registry.

### **37.03.07 ZERO TOLERANCE POLICY FOR DRUG AND ALCOHOL USE**

Applicant shall include a copy of the zero-tolerance policy for drug and alcohol use from the TNC for which applicant drives.

### **37.03.08 TNC DRIVER VEHICLE EQUIPMENT**

The application shall include written verification that the personal vehicle used to provide any prearranged ride shall comply with all applicable laws and rules concerning vehicle equipment.

### **37.03.09 MOTOR VEHICLE INSURANCE REQUIRED FOR TNC DRIVER APPLICATION**

Applicant shall provide written verification the vehicle to be used is covered by motor vehicle insurance that recognizes that the driver is a TNC driver, or otherwise uses a vehicle to transport riders for compensation and covers the driver while:

- A. The driver is logged on to the TNC digital network; or
- B. The driver is engaged in a prearranged ride.

### **37.03.10 MOTOR VEHICLE INSURANCE REQUIREMENTS FOR TNC DRIVER**

The application shall include written verification that when applicant is logged on to the TNC digital network and is available to receive transportation requests, but is not engaged in a prearranged ride, the vehicle operated by applicant will have the following coverage:

- A. Primary motor vehicle liability insurance in the amount of at least fifty thousand dollars for death and bodily injury per person, one hundred thousand dollars for death and bodily injury per incident, and twenty-five thousand dollars for property damage;
- B. Uninsured and underinsured coverage as required by §§ 58-11-9 and 58-11-9.4; and
- C. The coverage requirements of this subsection may be satisfied by motor vehicle insurance maintained by the transportation network company driver, motor vehicle insurance maintained by the transportation network company, or any combination of such insurance.

### **37.03.11 MOTOR VEHICLE INSURANCE REQUIREMENTS FOR TNC DRIVER ENGAGED IN PRE-ARRANGED RIDE**

The following motor vehicle insurance requirements apply while a TNC driver is engaged in a prearranged ride:

- A. Primary motor vehicle liability insurance that provides at least one million dollars for death, bodily injury, and property damage;
- B. Uninsured and underinsured coverage as required by §§ 58-11-9 and 58-11-9.4; and
- C. The coverage requirements of this subsection may be satisfied by motor vehicle insurance maintained by the TNC driver, motor vehicle insurance maintained by the TNC, or any combination of such insurance.

#### **37.03.12 TNC TO PROVIDE COVERAGE WHERE INSURANCE LAPSED OR INSUFFICIENT--DUTY TO DEFEND**

If the insurance maintained by the driver pursuant to SDCL 32-40-8 or SDCL 32-40-9 has lapsed or does not provide the required coverage, the insurance maintained by the TNC shall provide the coverage required by those sections beginning with the first dollar of a claim and has the duty to defend any claim.

#### **37.03.13 ISSUANCE**

The Finance Officer or his or her designee shall grant a TNC registration if satisfied that information provided with the application meets the conditions and purpose of this Title, and the applicant has complied with all other terms and provisions of this Title.

#### **37.03.14 TERM**

Any TNC registration issued under Chapter 37.03 shall expire on January 31 of the registration year. A registration year begins February 1 and terminates on January 31 of the following year unless sooner revoked, canceled or otherwise terminated. After notification, the registered driver may appeal the revocation or cancellation under the procedure established in Title 36, Chapter 36.04.

#### **37.03.15 SEPARATE REGULATIONS FOR REGISTERED TNC DRIVER**

- A. The requirement of subsections 37.02.07 (Fee), 37.02.11 (License Required), 37.02.12 (License to be Displayed upon Request), 37.02.13 (Smoking Prohibited) and 37.02.14 (Liquor Prohibited), shall also apply to the services and activities of a registered TNC driver.
- B. No cash trips - The TNC shall adopt a policy prohibiting solicitation or acceptance of cash payments or other compensation directly from TNC riders and shall notify TNC drivers of such policy. TNC drivers shall not solicit or accept cash payments or other compensation directly from TNC riders. Any payment for TNC services shall be made only electronically using the TNC's digital network.
- C. No street hails - A TNC driver shall not solicit or accept street hails. TNC vehicles may only be used to provide prearranged transportation service. A TNC driver shall not accept or respond to requests for service via a street hail, including hand gestures and verbal statements. A TNC driver shall not solicit potential TNC riders or use words or gestures for immediate patronage of a TNC vehicle upon the public way attempting to direct people to a vehicle that is parked, stopped, standing or moving upon the right of way.
- D. Fare collected for services - On behalf of a TNC driver, a TNC may charge a fare for the services provided to TNC riders; provided that, if a fare is collected from a TNC rider, the TNC shall disclose to TNC riders the fare calculation method on its website or within the software application service. The TNC shall also provide TNC riders with the applicable rates being



- charged and the option to receive an estimated fare before the TNC rider enters the TNC driver's vehicle.
- E. Identification of TNC vehicles and drivers - The TNC's software application or website shall display a picture of the TNC driver and the license plate number of the vehicle utilized for providing the TNC service before the TNC rider enters the TNC driver's vehicle. If an identification number, plate or decal is issued by the Finance Office to complete the registration process, said number, plate or decal shall be displayed and visible to the public consistent with subsection 37.02.08 when the registered TNC driver is in service.
  - F. Electronic receipt - Within a reasonable period of time following the completion of a trip, a TNC shall transmit an electronic receipt to the TNC rider on behalf of the TNC driver that lists the following:
    - a. The origin and destination of the trip;
    - b. The total time and distance of the trip;
    - c. The total fare paid, including the base fare and any additional charges; and
    - d. The TNC driver's first name.
  - G. Records - A TNC driver shall maintain the following records:
    - a. Individual trip records of TNC riders for at least 1 year from the date each trip was provided;
    - b. Individual records of TNC drivers and their trips at least until one full year after the date on which a TNC driver's relationship with the TNC has ended; and
  - H. Record inspection authority
    - a. The city has the authority to inspect the records of the TNC as necessary to investigate: an alleged crime or violation of this chapter or of any city ordinance; any accident involving a TNC driver; or for other good cause. The TNC shall cooperate with the city to facilitate the exchange of relevant information required in any investigation. The city shall provide advance written notice at least 7 days prior to any inspection, which may be conducted at a mutually agreed upon third-party location, or pursuant to court order, grand jury, or investigative subpoena.
    - b. Any record or information made available by the TNC to the City in the record inspection process may be designated by the TNC as confidential and proprietary. If the city is subsequently required to disclose confidential information under court order or other applicable law, the city shall promptly notify the TNC of such requirement, prior to disclosure, and shall make diligent efforts to limit disclosure pursuant to any available basis in South Dakota open records law or other applicable law.

Adopted this 3rd day of January 2020.

First reading: 01-21-2020  
Second reading: 02-03-2020  
Adopted: 02-03-2020  
Published: 02-12-2020  
Effective: 03-04-2020

Any other business:  
None

Motion by Crane, second by Martinson and carried with all members present unanimously voting yes to go into executive session for personnel and contracts at 9:23 pm.

Motion by T. Keszler, second by Crane to return to regular session at 10:34 pm.

Motion by Waterland, seconded by S. Keszler and carried with all members present unanimously voting yes to adjourn the meeting at 10:35 pm.

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

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

Published once at the total approximate cost of \$