

## PROCEEDINGS OF THE STURGIS CITY COUNCIL

The Common Council of the City of Sturgis met in regular session starting at 6:01 p.m. on Monday, February 4, 2019 at the Erskine Building. Present: Mayor Mark Carstensen, Alderpersons Jason Anderson (arrived at 6:08pm), Mike Bachand, Rhea Crane, Steve Keszler, Terry Keszler, David Martinson, Ronald Waterland and Beka Zerst. Also present: City Manager Daniel Ainslie. Absent: City Attorney Barnier.

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

Motion by Martinson, second by T. Keszler and carried with all members present unanimously voting yes to go into executive session for one legal case, one contract and three personnel at 6:02 pm.

Motion by Bachand, second by Martinson to return to regular session at 6:33 pm.

Mayor Mark Carstensen led everyone in the Pledge of Allegiance.

### Informational Reports:

- MUB minutes from December 18, 2018

### Announcements:

- Mayor/Council election petitions are due by February 22, 2019 by 5:00 pm.
- City will be hosting the Frostathlon (Triathlon) on February 16, 2019.
- There will be an open house at the Liquor Store on February 8<sup>th</sup> from 4-6 pm.
- The Big Band and Chocolate tasting will be held on February 17<sup>th</sup> at 2:00 pm at the Community Center.

### City Manager Ainslie reported:

- Appointment of Aaron Schoon to the Planning and Zoning Board.

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

- a. Consideration of minutes from the January 22, 2019 regular Council meeting and the special Council meeting on January 28, 2019.
- b. Consideration to set a public hearing for February 19, 2019 for a Variance – Tim Anderson-Applicant has applied for a variance to the 100' minimum lot frontage requirement in preparation to replat Lots 47 and 52 in Murray Tract #1, as well as a variance to hard surfacing requirements. Location: 1727 Meadowlark Dr (Lots 47 and 52 of Murray Tract #1).
- c. Consideration to set a public hearing for February 19, 2019 for a Zoning Amendment – City of Sturgis- Applicant has submitted a zoning amendment application to rezone property from Park Land to Open Space zoning. Location: Park Lots 1 and 2 in Block 1 of Hillview Subdivision.
- d. Consideration of use of City property for the Buckerette Annual Ride on September 12<sup>th</sup>-15<sup>th</sup>.

Motion by S. Keszler, second by Zerst and carried with all members present unanimously voting yes to approve the following claims with the addition of a claim from Pioneer Bank and Trust:

**WAGES** – Ambulance \$24,903.41; Attorney \$4047.06; Auditorium \$209.41; Buildings \$1180.95; Cemetery \$2369.74; City Manager \$4579.78; Community Center \$11,149.12; Finance Office \$9525.40; Fire Department \$137.47; Human Resource \$6420.14; Library \$9658.28; Liquor \$6689.53; Mayor and Council \$3469.53; Parks \$11,794.80; Planning & Permitting \$8779.81; Police \$38,532.37; Rally \$7230.97; Recreation \$2873.98; Sanitary Service \$16,813.62; Streets \$13,479.16; Wastewater \$9291.31; Water \$13,639.50; Federal Withholding \$16,396.20; FICA \$14,949.27.

**GENERAL** – A&B Business, \$378.99, sup; Amazon, \$19.16, sup; Amick Sound, \$29.60, prof fee; Argus Leader, \$467.65, sup; Baker & Taylor, \$86.32, sup; Paula Basker, \$500.00, ins; Bear Butte Valley Water, \$156.70, util; Belle Fourche Veterinary Clinic, \$2.73, prof fee; Black Hills APWA, \$20.00, prof fee; Black Hills Door Systems, \$500.00, rep; Black Hills Energy, \$3,745.26, util; Pamela Bonar, \$300.00, other; Roger Burnham, \$3,605.00, prof fee; Rick Bush, \$653.93, ins; Cash-Wa Distributing, \$408.10, resale; Chain Saw Center, \$323.08, sup; City of Sturgis Water Dept, \$2,018.67, util; Double Star Computing, \$8,602.74, prof fee; Robert Ericson, \$34.00, refund; Ken Grosch, \$30.00, other; H&S Uniforms and Equipment, \$63.50, sup; Heiman Fire Equipment, \$243.95, rep; Darbi Hunt, \$50.00, refund; IACP, \$190.00, travel; Knight Security, \$200.00, rep; Laconia Motorcycle Week, \$5,000.00, promo; Lakota Contracting, \$320.70, sup; Marco Technologies, \$79.81, rep; Valerie Martin, \$500.00, ins; Matfactor, \$84.90, rep; Meade County Register of Deeds, \$90.00, other; Motionsoft, \$450.00, prof fee; Nebraska Salt & Grain, \$2,011.77, sup; Onsolve, \$4,893.00, pub; Petty Cash, \$125.71, other; Pizza Ranch, \$102.93, sup; Postmaster, \$2,500.00, sup; Sheri Potter, \$35.00, refund; Public Safety Equipment Co, \$7,876.00, equip; Purchase Power, \$187.53, sup; Quill Corp, \$59.98, sup; Matt Ruff, \$45.00, refund; S&C Cleaners, \$3,000.00, rep; SD Chapter APWA, \$50.00, travel; SD State Historical Society, \$80.00, sup; Simon Contractors of SD, \$629.20, sup; Stan Houston Equipment, \$19.99, sup; Jameson Tebben, \$314.94, sup; The Knuckle Saloon & Steakhouse, \$25.00, sup; Twilight First Aid & Safety, \$85.14, sup; Uline, \$724.99, sup; West Payment Center, \$99.78, sup.

**SPECIAL SALES TAX** – Sturgis Area Chamber of Commerce, \$9,333.33; Sturgis Economic Development, \$8,500.00.

**CAPITAL IMPROVEMENT** – Acterra Group, \$48,610.55; Ainsworth Benning Construction, \$204,590.41; American Engineering Testing, \$2,214.75; Brosz Engineering, \$12,746.36; Grangaard Construction, \$103,040.19; Pioneer Bank & Trust, \$18,352.88; Quality Services, \$4,630.00, Karen Reiman, \$2,100.00.

**BUSINESS IMPROVEMENT DISTRICT** – Black Hills ATV Destinations, \$1,320.00, pub; Central States Sanitation, \$100.00, sup; Jason Coulter, \$10.00, refund; Mickey Parent, \$10.00, refund.

**TIF #11 SPM** – Baseline Surveying, \$2,937.50.

**LIQUOR** – Cash-Wa Distributing, \$1,187.30, resale; Cask & Cork, \$497.16, resale; City of Sturgis Water Dept, \$300.75, util; Coca Cola, \$291.75, resale; Conrads Big “C” Signs, \$586.66, rep; Dakota’s Best Distributing, \$201.00, resale; Double Star Computing, \$573.00, prof fee; Fisher Beverage, \$6,551.37, resale; Johnson Western Wholesale, \$7,202.92, resale; Pepsi Cola, \$50.25, resale; Prairie Berry, \$738.00; Quality Brands of the Black Hills, \$12,426.65, resale; Republic Beverage, \$36,833.14, resale; Southern Glazer’s of SD, \$501.57, resale.

**WATER** – Black Hills Energy, \$8,758.88, util; City of Sturgis Water, \$130.77, util; Core & Main, \$97,742.00, sup; Credit Collections Bureau, \$434.95, prof fee; Dakota Pump, \$200.00, prof fee; Double Star Computing, \$573.00, prof fee; Hawkins, \$1,122.65, sup; Petty Cash, \$2.95, sup; Richter’s Tire & Exhaust, \$84.00, rep; SD One Call, \$41.44, prof fee; Shopko Stores, \$7.99, rep.

**WASTEWATER** – Arrowwood Resort & Conference Center, \$183.90, travel; Black Hills Energy, \$3,250.96, util; Dakota Redi-Mix, \$212,951.48, cap imp; Double Star Computing, \$648.00, prof fee; Quality Services, \$4,105.00, cap imp; Vulcan Industries, \$358.00, rep.

**SANITATION** – Black Hills Energy, \$362.54, util; Century Link, \$58.41, util; Diesel Machinery, \$78.98, rep; Double Star Computing, \$648.00, prof fee.

**AMBULANCE** – Black Hills Energy, \$548.90, util; City of Sturgis Water Dept, \$85.62, util; Double Star Computing, \$573.00, prof fee; Knight Security, \$200.00, rep; Purchase Power, \$191.27.

Motion by Martinson, second by Waterland and carried with all members present unanimously voting yes to approve Resolution 2019-12 – Street Closure on February 16, 2019 for the Sturgis Frostathlon (winter triathlon).

**RESOLUTION 2019 -12  
RESOLUTION TO AUTHORIZE STREET CLOSURE  
FOR THE STURGIS FROSTATHLON (TRIATHLON)**

WHEREAS, the Sturgis Frostathlon Triathlon will be held in the City of Sturgis, February 16, 2019, and

WHEREAS, beginning on Saturday, February 16, 2019 at 6:00 a.m. to 2:00 pm, Williams Street from the corner of Kinship Road to the corner of 7<sup>th</sup> Street will be closed, and

WHEREAS, it is in the public interest to provide a safe venue for this special event, and

WHEREAS, the public event to be held will enhance visitors’ experience and lead to additional sales tax generated revenue, and

WHEREAS, cones will be set up on the 7<sup>th</sup> Street bridge to allow automobile traffic to continue without impeding the runners or bikers on 7<sup>th</sup> Street. Flaggers will be set up on 7<sup>th</sup> Street and Woodland Drive and Junction Avenue and Woodland Drive for safe crossings.

NOW, THEREFORE, BE IT RESOLVED that to accommodate the safe presentation of providing this special event, beginning on Saturday, February 16, 2019, 6:00 a.m. to 2:00 PM, Williams Street from the corner of Kinship Road to the corner of 7<sup>th</sup> Street will be closed.

Dated this 4th day of February 2019.

Published: 02-12-2019

Effective: 03-05-2019

Motion by Bachand, second by Martinson and carried with all members present unanimously voting yes to approve second reading of Ordinance 2019-03 – Title 18 – Zoning – Downtown Overlay District with the striking of September 1, 2019 and adding October 1, 2019 and to add a sentence on the time during the Rally to suspend the provision in 10 F.

**ORDINANCE 2019-03  
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 V - Section 14 - Downtown Overlay District in its entirety to be amended to read as follows:

**ARTICLE V  
SECTION 14- DOWNTOWN OVERLAY DISTRICT**

18.5.15.01: General Description

- 18.5.15.02: Boundaries
- 18.5.15.03: Design Guidelines
- 18.5.15.04: Permit Process
- 18.5.15.05: Change of Occupancy and Temporary Vending Permits
- 18.5.15.06: Demolition Permit
- 18.5.15.07: Permitted Uses

#### **18.5.15.01 General Description.**

The Downtown District Overlay Zoning is added as an overlay district to the existing zoning and signage for this area. All provisions of the underlying district zoning are applicable. In instances where the Downtown Overlay Zoning District requirements or allowances contradict the underlying zoning district or signage regulations, the Downtown District Overlay Zoning shall be controlling. When a building or feature identified within this overlay or within the underlying zoning district is replaced, the replacement shall conform to the regulations.

This district is intended to preserve and enhance the unique character of the area the district encompasses by establishing special standards that address aesthetics, access, site development, screening, landscaping, and parking.

#### **18.5.15.02 Boundaries.**

The Downtown Overlay District is generally located within the following boundaries:

Property located north of Sherman Street to and including properties fronting Lazelle, on the east properties fronting Middle Street and to the west, properties fronting 4<sup>th</sup> Street.

#### **18.5.15.03 Design Guidelines.**

##### **1. General Building Design**

The architecture of buildings in this zone shall generally reflect an urban main street quality. While variations in architectural style and interest will be accommodated, the built environment should be developed to a human scale and encourage pedestrian circulation. The following general building design criteria apply to development within this zone:

- A. Buildings within the same development complex or setting shall consistently use colors, materials, textures, patterns, and rhythms found with other buildings in the complex.
- B. The perceived mass of a building shall be broken down by using building façade articulation, variations in roof forms, mass and void techniques, modification of textures and colors, deep set windows, wide building arcades, the accenting of building entries, and the use of building focal points or vertical accents. All elevations of the building shall express consistent architectural detailing and character.
- C. Development design should encourage walking and biking rather than driving between businesses.

##### **2. Mixed-Use Development**

- A. Mixed use development is highly encouraged, specifically providing commercial retail on the street level and residential/office uses on second and higher stories.
- B. The residential portion of a mixed-use building shall ~~should~~ incorporate typical residential features such as porches and balconies that offer façade articulation and transparency.

- C. Balconies may overhang a sidewalk and encroach into the public right of way by no more than two thirds of the width of the sidewalk up to a maximum balcony width of six feet. Measurement for this dimension shall be in a direct line from the property line to the back of the curb. No balcony shall be permitted which encroaches into any state highway right-of-way-area.
- D. Additions shall be designed so as not to obscure, alter or destroy the character of the original building when viewed from a public right-of-way.

#### Setbacks

- A. All new construction shall have lot coverage of at least (50%) of the lot area.
- B. All new buildings constructed are encouraged to have set backs of at least 10 feet from the street right of way.
- C. All new buildings shall be set back from alleyways at least 25 feet to allow for parking.

### 3. Awning and Arcade Design

- A. Sign lettering and/or logos shall comprise no more than 30% of the total exterior surface of an awning or canopy and shall be included in the calculation of the allowable sign area. Existing awnings or canopies that exceed this requirement may remain until they are replaced.
- B. Awnings may be provided along the entire frontage of commercial buildings. Marquees are encouraged where appropriate.
- C. Awnings or canopies shall be hung above the display window space at least 8-10 feet above the public walkway with a minimum 8-foot vertical clearance. They may extend 6-8 feet over the walkway from the building's face.

#### Fenestration

- A. Buildings should meet the ground with a solid base treatment that creates a visual transition from sidewalk to building wall.
- B. Windows shall not be opaque.
- C. Building entrances should be defined for ease of use. Weather protection features are also encouraged.
- D. Display windows on the ground floor of retail and commercial buildings shall be the predominant surface on the first story. New commercial construction should provide a minimum of forty percent of the first-floor wall surface in windows that face the street.

### 4. Building Materials

- A. Structures' facades should consist of durable and natural appearing materials.
- B. The use and design of materials in the composition of structures shall consider pedestrian level durability.

#### Building Massing and Articulation

- A. Flexibility in the division of larger buildings into smaller tenant spaces should be considered in the design and articulation of storefront modules.
- B. Facades should be well composed and articulated with a variety of materials and forms.
- C. Cornice lines, accent bands and other façade elements can create interesting shadow effects, contributing to the visual interest of a facade.
- D. Building entrances shall be designed in a manner which breaks up the building mass and aids in pedestrian orientation.
- E. Building forms shall be articulated by varying roof heights and wall planes. Long, unbroken volumes and large, unarticulated wall and roof planes are not appropriate.
- F. The layout of primary buildings and outlot buildings should be varied to achieve an interesting visual environment.

- G. Multiple-story taller buildings may be acceptable where compatible with adjoining uses and designed to minimize the appearance of building bulk and mass. This can be accomplished through upper story setbacks, changes in building materials, and the articulation of building details.

#### 5. Signage and Marketing Display

- A. Sign design for the Downtown Overlay District is not based on a specific theme or style, but rather shall be an extension of the primary building quality and aesthetics.
- B. Wall signs should be integrated to appear part of the building façade.
- C. When there are multiple tenants for commercial uses, all signs shall be consistent and architecturally integrated in the form of size, shape, color, materials, lighting, and placement.
- D. Visible raceways and transformers for individual letters are discouraged.
- E. In general, signs shall enhance the visual interest and remain subordinate to the overall character of the downtown area.
- F. Wall signs shall be located on the upper portion of the first floor storefront and shall be centered within an area uninterrupted by doors, windows, or architectural details.
- G. Sign mounting brackets and support structures shall match other fixture materials used on the façade of the building.
- H. To convey a subtle appearance, the use of back-lit or reverse channel letters with halo illumination rather than internally-lit signs are encouraged.
- I. Façade mounted fin signs should be perpendicular to the facade of the building and at least 8 feet above the sidewalk. The outside edge must be at least 2 feet from the curb line, and no more than 4 feet from the face of the building.
- J. Window signs shall be limited to 25% coverage of the window area, including temporary and "sale" signs.
- K. Internally illuminated flashing signs in windows are prohibited.
- L. Wall mounted signs located above the store front area, or signage should be integrated into the design of the facade, taking on characteristics of the scale, lines and features of the façade.
- M. For two story buildings a horizontal transition element should be utilized between the first floor and upper stories. Typically, this is a location for signage, canopies or awnings. The detail shall break the plane of the wall surfaces and create a frame for the first-floor storefront design.
- N. Display or placement of any retail merchandise outside of a building during non-business hours shall be not be more than six (6) feet from the front exterior wall of the building. Retail merchandise shall not include retail landscaping merchandise and products.

#### 6. Parking Lots.

Surface parking lots shall not create significant gaps along the street and sidewalk. Any surface lot in the district shall:

- A. Use landscaping, trees, colonnades or other construction to maintain the line formed by buildings along the sidewalk.
- B. Make sure there is adequate perimeter landscaping that is high enough to screen but low enough to let people feel safe.
- C. Interior landscaping should especially include shade trees.
- D. Provide adequate direction and information signs for motorists.
- E. Be hard surfaced (asphalt, concrete, or pavers)
- F. Parking lots fronting Main Street are allowable as long as they directly service an adjoining business and do not represent a majority of the landowner's holding. Curb cuts into the parking area from Main Street would be allowable to allow vehicular ingress into the parking area.

7. Lighting

- A. Lighting of building facades or the use of architectural lighting that results in hot spots on a building wall is highly discouraged.
- B. The use of bollard lighting for pedestrian pathways and parking areas is encouraged and is preferable to lights mounted on walls, posts or standards.

8. Access, Parking and Circulation

Provide walkways adjacent to roadways, but separate from the curb whenever possible with landscaping, a bicycle lane, or on-street parking.

All multi-family dwelling units shall provide a minimum of 1 off street parking space per dwelling unit. For multi-family dwelling units of 5 and above, there shall be additional spaces for guest parking as provided in the following chart:

<i>Dwelling units</i>	<i>Guest Parking Spaces</i>
5-7	1
8-11	2
12-15	3
16-19	4
20-23	5
24-27	6
28 +	1 additional space per dwelling unit.

9. Open Space and Amenities

- A. Outdoor common areas including hardscape plazas, green spaces, water features and play areas are desirable elements and should be treated as visual and functional focal points.
- B. The use of public art is encouraged.
- C. Integrate plazas and other spaces of varying scales to provide rest, relaxation and outdoor dining opportunities for shoppers and other visitors. Spaces should be conveniently positioned adjacent to walkways and buildings.
- D. Site features should be varied in color, pattern and texture within a coordinated palette that relates to the building architecture. High quality materials and finishes shall be used throughout.
- E. Where practical, benches, water fountains and waste receptacles should be visually and functionally coordinated with the overall site design. The location of waste receptacles shall be provided as part of the development plan.
- F. Any newly developed or improved open space accessible to the public should generally:
  - a. Create a comfortable and interesting place to rest.
  - b. Let people clearly know it's there and that it's accessible.
  - c. Provide plenty of seating (approximately one linear foot for every 30 square feet of paved open space).
  - d. Have enough lighting to create a safe nighttime environment.
  - e. Use fountains or other water features.
  - f. Incorporate public art.

#### Landscaping

- A. For the sake of visual continuity, large shade trees should be planted in the right-of-way every 25 feet to 35 feet along the curb line in order to create a continuous canopy.
- B. A mix of ornamental and shade trees can be planted outside the right-of-way for both shade and visual variety.

#### 10. Screening

- A. Utility cabinets and pedestals must be located where they can be screened from view.
- B. Utility cabinets and pedestal shall not be located within a landscaping island in a parking lot where they are subject to vehicle damage. Consideration shall be given to accessibility for required service and maintenance of such facilities.
- C. Dumpsters shall be fully screened from view with durable building materials that are coordinated with the overall building design.
- D. Rooftop mechanical equipment shall be screened by architectural elements and painted to match the color of the roof.
- E. Where feasible, loading, service and equipment areas shall not be visible from public roadways or parking areas.
- F. Outdoor storage areas must be located behind or beside buildings and be shielded from view of the street or alley. Effective October 1, 2019 no metal Conex-style storage containers larger than 144 square feet, or semi-trailers may be used for storage in this District unless completely screened, as defined in subsection 10C above, from view of the public from the right of way. Use of chain link fencing as screening is not allowed. During the Rally period of July 15 through August 15 this provision will be suspended.

#### 11. Snow removal areas

For any multi-family dwelling of 3 or more units, a snow removal area shall be designated that will not interfere with the normal requirements for parking, sight triangles or landscaping.

#### 12. Garbage collection areas

For any multi-family dwelling of 3 or more units, a garbage collection area shall be designated. The designated garbage area must be screened.

### **18.5.15.04 Permit Process**

All proposed developments within this zoning overlay district shall apply for a building permit through the City Planning & Permitting Office. The plan review shall include the proposed development's consistency with the guidelines established in this Ordinance. If the City staff believes that the project is insufficient, the project will be referred to the Planning and Zoning Commission for approval. If the project does not receive approval from the Planning and Zoning Commission, the developer may appeal the denial to the City Council.

### **18.5.15.05 Change of Occupancy and Temporary Vending Permits**

Effective January 1, 2014 all structures located within the Downtown Overlay District shall be inspected to show the structure meets all State electrical and plumbing requirements whenever a change of occupancy (as defined in the most current building code adopted by the City) occurs or when a temporary vending permit is requested for any area within the structure. Any deficiencies found that threaten the safety of occupants must be rectified in accordance with State electrical and plumbing code requirements before a certificate of occupancy may be issued for a change in use or before a Temporary Vending Permit may be issued. Once a property has been inspected as required by this ordinance and found to be in compliance, and any subsequent temporary



occupancy from year to year is unchanged, then no further inspection is required as a result of the temporary occupancy. This requirement shall not apply to an application for a Temporary Vending Permit for areas completely outside of the building.

Effective January 1, 2014 all structures located within the Downtown Overlay District shall be inspected, by the City Building Official or designee of the City Manager, whenever a change of occupancy occurs, or a Temporary Vending Permit is requested, to ensure compliance with the requirements of the most current Building Code adopted by the City and that the structure meets all for structural and mechanical requirements. Any deficiencies found that threaten the safety of occupants must be rectified before a certificate of occupancy may be issued for a change in use or before a temporary vending license may be issued. Once a property has been inspected as required by this ordinance and found to be in compliance, and any subsequent temporary occupancy from year to year is unchanged, then no further inspection is required as a result of the temporary occupancy. All property owners shall apply for a review at least 30 days prior to a certificate of occupancy permit or temporary vending permit is desired to be issued. This requirement shall not be necessary if the Temporary Vending Permit is requested for an area completely outside of the building.

#### **18.5.15.06 Demolition Permit**

Before a demolition permit is authorized within the overlay district, the applicant shall also apply for a building permit for a replacement building that complies with this title. If construction is not substantially or fully completed within 18 months, no temporary vending permit(s) shall be issued for the entire property until construction is completed.

#### **18.5.15.07 Permitted Uses**

Residential units, either single family or multifamily shall be permitted uses within the district. The design of new buildings shall coincide with the standards previously described. Residential units shall be allowed on the upper levels throughout the district. Ground floor units shall be allowed on Main Street between Middle and Junction and on Main Street between 2<sup>nd</sup> and 4<sup>th</sup>.

Automotive, Motorcycle, ATV, etc. dealerships shall be conditionally permitted uses within the district. All proposed dealerships shall have adequate parking and off street and off alley service area.

Adopted this 4<sup>th</sup> of February 2019.

First reading: 01-22-2019

Second reading: 02-04-2019

Adopted: 02-04-2019

Published: 02-12-2019

Effective: 03-05-2019

Motion by Waterland, second by T. Keszler and carried with all members present unanimously voting yes to approve second reading of Ordinance 2019-04 – Title 32 – Animals.

### **ORDINANCE 2019-04**

### **AN ORDINANCE AMENDING TITLE 32 - ANIMALS**

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 32 - Animals – Chapter 32.01 – Section 32.01.02; Chapter 32.02 – Miscellaneous- Sections: 32.02.11-Inspection on Report; 32.02.12- Illegal Animals Surrendered; 32.02.13- Excess Animal Permit; 32.02.19 – Investigation; Chapter 32.01.03 – Dogs and Cats- Sections: 32.03.07- Kennels – License Requirement; 32.03.08 - License Fee for Kennels; 32.03.09 - Kennel License Application to be amended to read as follows:

**CHAPTER:**

- 32.01: General Provisions
- 32.02: Miscellaneous
- 32.03: Dogs and Cats
- 32.04: Vicious Animals
- 32.05: Hobby Beekeeping

**SECTIONS:**

- 32.01.01: Scope and Purpose
- 32.01.02: Definitions
- 32.01.03: Penalty

**32.01.02: DEFINITIONS**

**KENNEL:** Any person or corporation engaged in the business of breeding, buying, selling or boarding animals for payment, or owning two or more breeding animals of any kind, not including fish, for a period of eighteen weeks or more. A KENNEL is subject to all applicable requirements of this Title as well as the applicable portions of Title 18 (Zoning), including that it be located in a commercial district or be subject to the Use on Review process as an “at home” business. A KENNEL shall also comply with all applicable requirements of State laws and regulations.

**Chapter 32.02  
MISCELLANEOUS**

**SECTIONS:**

- 32.02.01: Animal Shelter
- 32.02.02: Certain Animals Prohibited
- 32.02.03: Exceptions
- 32.02.04: Animals to be Impounded: Redemption
- 32.02.05: Chemical Immobilization
- 32.02.06: Cruelty to Animals: Generally
- 32.02.07: Teasing and Molesting
- 32.02.08: Killing, Injuring, or Poisoning Animals
- 32.02.09: Fights Between Animals Prohibited
- 32.02.10: Abandonment
- 32.02.11: Inspection on Report
- 32.02.12: Illegal Animals Surrendered.
- 32.02.13: Excess Animal Permit
- 32.02.14: Rabies Control: Impounding for Observation
- 32.02.15: Keeping Rabid Animals
- 32.02.16: Report of Suspected Cases: General
- 32.02.17: Report of Suspected Cases: Veterinarians
- 32.02.18: Report of Suspected Cases: Physicians
- 32.02.19: Investigation

32.02.20: Interference

32.02.21: Records

32.02.22: Vicious, Ferocious, Venomous, or Dangerous Animals

32.02.23: Enforcement

### **32.02.06: CRUELTY TO ANIMALS: GENERALLY**

No person shall cruelly treat any animal in any way. Any person who inhumanely beats, or wantonly or maliciously tortures, neglects or deprives an animal of necessary food, potable water, or shelter; or overloads, abandons, mutilates or without justified cause kills any animal shall be guilty of a violation of this Section. Neglect includes a failure to remove odor-producing or other waste, failure to provide adequate sanitation, veterinary care, adequate facilities or other care recognized as customary to maintain an animal's health and well-being consistent with the species, breed, physical condition, and type of animal.

### **32.02.11: INSPECTION ON REPORT**

In addition to general authority to investigate a violation of an ordinance, an Animal Control Officer or Police Officer is authorized to inspect the area within a residence where any animal is kept when the Department receives two credible complaints within a 7-day period that an illegal number of animals being kept at a residence or other defined location. A credible complaint for the purpose of this Ordinance is a complaint from a person over the age of 18 who is a legal resident residing within five hundred (500) feet of the location at which the alleged illegal animal(s) are being kept.

### **32.02.12: ILLEGAL ANIMALS SURRENDERED**

When a Police Officer or Animal Control Officer determines that an illegal number of animals as provided herein are located at a residence, the Officer shall give written notice to the resident that the illegal animals must be surrendered to the Animal Shelter within 2 business days of that notice. As an alternative to surrender within that time, the resident may provide credible documentation to the Department that the illegal animal(s) have been legally transferred to another location, euthanized, or that the resident has submitted an application for an Excess Animal Permit or Kennel License for the illegal animals.

### **32.02.13: EXCESS ANIMAL PERMIT**

Any person owning, possessing, or maintaining more than the legal limit of a total of six (6) common domestic animals (not including fish), for a period of more than eighteen (18) weeks within a twelve-month period, shall apply for an annual Excess Animal Permit. To do so the person shall make application on a form provided by the Sturgis Police Department and pay a \$10.00 application fee. The City will then, by letter, request written consent of the majority of adults residing within 400 feet of the exterior boundaries of the residence for which the application is submitted. An Animal Control Officer will make a site inspection and submit a written site inspection report and recommendation to the Chief of Police. The report shall state location of the proposed permit site and the number of animals proposed. If approved for more than six animals, subsequent renewal of the annual Permit shall require compliance with all applicable provisions of this Title, as well as compliance with all other applicable City ordinances, State laws and regulations.

### **32.02.19: INVESTIGATION**

For the purpose of discharging the duties imposed by this Title and to enforce the provisions thereof, any Animal Control Officer, or their appointed designee, is empowered to enter any premises upon which an animal is kept or harbored and to demand the extradition by the owner of such animal, the license, or a valid rabies certificate for said animal. It is further provided that the Animal Control Officer, or their appointed designee, may enter upon the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal and to take possession of such animal if there is probable cause to believe an animal or animals have been treated inhumanely.

The Animal Control Officer, or their appointed designee, is hereby authorized to follow and enter upon any enclosure or lot within the City in quest of any animal suspected of being infected by rabies, or to apprehend any dog which has been observed running at large.

### **Chapter 32.03 DOGS AND CATS**

#### **SECTIONS:**

32.03.01: Rabies Certificate

32.03.02: Exemptions

32.03.03: Dogs, Cats, and Ferrets Running At Large

32.03.04: Impoundment and Disposition of Dogs, Cats, and Ferrets

32.03.05: Redemption or Destruction of Dogs, Cats, and Ferrets Running at Large – untagged

32.03.06: Dogs with Destructive Habits

32.03.07: Kennels – License Requirement

32.03.08: License Fee for Kennels

32.03.09: Kennel License –Application

32.03.10: Barking Dogs

#### **32.03.07: KENNEL – LICENSE REQUIREMENT**

Any person owning, possessing, keeping or maintaining within the City, a kennel as defined above for a period of more than eighteen (18) weeks shall be required to first obtain a Kennel license. For purposes of this ordinance, anyone operating or maintaining a kennel as defined above for a period of more than eighteen (18) weeks shall also comply with all the provisions of this Title, as well as all applicable provisions of Title 18 for a commercial enterprise, and also all applicable State laws and regulations.

#### **32.03.08: LICENSE FEE FOR KENNEL**

License or annual renewal inspection fee shall be \$50.00 per year. The Sturgis Police Department will oversee the Animal Control Officer's performance of annual inspections and renewals.

#### **32.03.09: KENNEL LICENSE APPLICATION**

To obtain a kennel license as required herein, a person shall make application on a form provided by the Sturgis Police Department and pay the license fee. The City will then, by letter, request written consent of the majority of adults residing within 400 feet of the exterior boundaries of the premises where such kennel is proposed to be located and kept. The Animal Control Officer shall make a site inspection and submit the application and written site inspection report to the Chief of Police. The report shall state the name and place where such kennel is to be located, the number of animals

proposed, and the size of the kennel proposed to be kept. If approved each subsequent annual license application shall require that applicant be in compliance with all applicable zoning laws, all applicable provisions of this title and with all other applicable rules and regulations of the State of South Dakota, and the City before approval.

Adopted this 4<sup>th</sup> day of February 2019.

First reading: 01-22-2019  
Second reading: 02-04-2019  
Adopted: 02-04-2019  
Published: 02-12-2019  
Effective: 03-05-2019

Motion by Bachand, second by Zerbst and carried with Carstensen, Anderson, Bachand, Crane, S. Keszler, T. Keszler, Waterland and Zerbst voting yes, Martinson voting no, to table the agreement with the Sturgis Volunteer Fire Department until a later date.

Any other business:

Deb Holland wanted to thank Public Works for clearing the bike paths so that people can use them. She also wanted to inform everyone that the Black Hills Pioneer newspaper is being home delivered now.

Councilor T. Keszler had questions about the walking bridges east of town and how the wastewater project will affect them. Public Works Director Rick Bush said they don't think they will have to take the bridges apart.

Councilor Zerbst wanted to thank the Rally and Events staff for having movies at the Community Center theater.

Motion by T. Keszler, seconded by Anderson and carried with all members present unanimously voting yes to adjourn the meeting at 7:11 pm.

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

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

Published once at the total approximate cost of \$