

## 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, October 7, 2019 at the Erskine Building. Present: Mayor Mark Carstensen, Alderpersons Jason Anderson (arrived at 6:06 pm), Mike Bachand, Rhea Crane, Terry Keszler, David Martinson, Ronald Waterland and Beka Zerbst. Also, present: City Manager Daniel Ainslie and City Attorney Greg Barnier. Absent: Steve Keszler.

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

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

Motion by Bachand, second by Martinson to return to regular session at 6:27 pm.

Mayor Mark Carstensen led everyone in the Pledge of Allegiance.

### Informational Reports:

- MUB Minutes from May 21, 2019; June 18, 2019; and July 23, 2019
- Library Board Minutes from August 28, 2019

### Announcements:

- Mayor Carstensen proclaimed the City of Sturgis a Purple Heart Community. Signs will be placed at all entries into the City. H.G. Krosschell, State Officer, thanked the City for becoming a Purple Heart Community.
- Mayor Carstensen proclaimed October 7, 2019 as World Habitat Day.
- Bob Bertolotto presented a check to the Council for the surplus auction.
- The Mayor gave out the proceeds from the Sponsorship program and Mayor's Ride. The following groups received money, Sturgis Rally Charities; Meade County 46-1 High School for scholarships; Youth Recreational programs; Police Athletic League; Sturgis Volunteer Fire Department; Sturgis Police Reserves; Sturgis Ambulance Service; Love, Inc.; Deadwood VFW; Sturgis Animal Shelter; and United Way (matching).
- Clean up week, October 7-4.

### City Manager Ainslie reported:

- 2019 Sturgis Motorcycle Rally Financial Update
- Ambulance County Service Update: Ross Lamphere and Andy Hollender updated the Council. So far, the collections are at \$17,957. Letters were sent out to all that live in the proposed new district asking for money. They are having a meeting this week to go over petitions for an Ambulance District election and election of the board to the district.
- Payroll Changes within Budget
  1. Police: Dylan Goetsch, Patrol Officer \$22.09 per collective bargaining agreement 2 years of service.
  2. Finance: Jennifer Bush, Accounting Clerk \$14.19, new position (Finance 70%, Water 30%).
  3. Ambulance: Lee Stroschine, EMT Basic \$12.93, returning to ambulance service half-time.
  4. Library: Cynthia "Cindy Orr", Programming Aide, \$10.50.
  5. Nicholas "Nick" Hanson, Volunteer Firefighter.

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

- a. Consideration to approve minutes from the September 16, 2019 regular council meeting.
- b. Consideration of Resolution 2019-64 - Plat of Lot 4R and Lot 6R-A in Block 5 of Vernon Heights Estates II Subdivision from Paul Bisson of 2150 Malibu Loop and Rick Little of 2170 Malibu Loop.

**RESOLUTION 2019-64  
RESOLUTION APPROVING PLAT**

**WHEREAS**, the statutes of the State of South Dakota require that plats of property within the jurisdiction of the City of Sturgis be submitted to the governing body for approval before the same are recorded in the Office of the Register of Deeds; and

**WHEREAS**, the City of Sturgis Planning and Zoning have presented to the Common Council of the City of Sturgis a plat of the following described real property for Paul and Mary Bisson:

Plat of  
 Lot 4R and Lot 6R-A, Block 5 of Vernon Heights Estates II Subdivision.  
 Formerly Lot 4, Lot 5R and Lot 6R, Block 5 of Vernon Heights Estates II Subdivision  
 Located in the NW1/4 NE1/4 and SW1/4 NE1/4 of Section 15, Township 5 North, Range 5 East,  
 Black Hills Meridian, City of Sturgis, Meade County, South Dakota.

**WHEREAS**, said plat meets the requirements of the statutes.

**WHEREAS**, that the municipality approves the plat, and that the written certification of the City’s approval will be affixed to the plat, by the Mayor.

**BE IT RESOLVED** by the Common Council of the City of Sturgis, South Dakota, that the within and foregoing plat is hereby approved as provided herein.

Dated this 7<sup>th</sup> day of October 2019.

Published: 10-15-2019

Effective: 11-05-2019

- c. Consideration to set a public hearing on Monday, October 21 for a variance to the rear setback for Michael Kretzschmar of 1343 Meade Avenue.
- d. Consideration to set a public hearing for October 21, 2019 for a Malt Beverage and SD Farm Wine license for the Sturgis Brewing Company LLC at 600 Anna Street.
- ~~e. Consideration to reject the Soccer Field Improvement Project due to the bids coming in over budget.~~

Motion by Martinson, second by T. Keszler and carried with all members present unanimously voting yes to reject the Soccer Field Improvement Project due to the bids coming in over budget.

Motion by Martinson, second by T. Kesler and carried with all members present unanimously voting yes to approve the following claims with the change to Johnson’s Control and SMRi payment was corrected:

**WAGES** – Ambulance \$20,770.44; Attorney \$4028.29; Auditorium \$207.57; Buildings \$1179.11; Cemetery \$2485.40; City Manager \$4561.01; Community Center \$9472.56; Finance

Office \$7198.73; Fire Department \$282.17; Human Resource \$4964.02; Library \$9089.61; Liquor \$5596.86; Mayor and Council \$3837.04; Parks \$11,329.57; Planning & Permitting \$8751.58; Police \$41,017.11; Rally \$8693.66; Recreation \$2632.86; Sanitary Service \$16,468.39; Streets \$12,951.26; Wastewater \$9402.78; Water \$9384.98; Federal Withholding \$16,206.06; FICA \$14,060.72.

**COMBINED CASH FUND** – Bob’s Family Restaurant, \$16.12, refund; Amber Kinney, \$36.26, refund; Mullaney-Birch, Barbara or Ross, \$46.29, refund.

**GENERAL** – 3E Electrical Engineering, \$80.00, rep; A&B Business, \$1,170.00, rep; A&J Surplus, \$805.27, sup; A&L Contractors, \$4,642.87, rep; All American Roofing, \$185.50, refund; Amazon, \$52.55, sup; Amick Sound, \$34.24, rep; Animal Health International, \$26.36, sup; Baker & Taylor, \$82.21, sup; Dustin Barnes, \$30.00, other; Shawn Barrows, \$5,000.00, contract; Bear Butte Valley Water, \$136.90, util; Black Hills Energy, \$12,720.12, util; Roger Burnham, \$3,605.00, prof fee; Jeremiah Cano, \$75.00, refund; Stephanie Carpenter, \$75.00, refund; Carrot-Top Industries, \$647.80, sup; Cash-Wa Distributing, \$167.90, resale; Central States Sanitation, \$417.20, rep; Century Link, \$327.97, util; Chain Saw Center, \$64.85, sup; City of Sturgis Water, \$6,450.84, util; Community Partners Research, \$5,000.00, prof fee; Culligan of the BH, \$38.00, sup; Dakota Extinguisher, \$24.00, rep; Dakota Redi-Mix, \$3,816.51, rep; Deadwood VFW, \$2,000.00, other; Demco, \$243.95, sup; Caly Dirk, \$75.00, refund; Double Star Computing, \$3,691.66, prof fee; Hondi Dunn, \$30.00, refund; Epic Outdoor Advertising, \$2,473.45, sup; Fastenal Co, \$123.82, sup; Floyd’s Truck Center, \$542.04, rep; Missy Ford, \$75.00, refund; G&H Distributing, \$47.68, sup; Ken Grosch, \$30.00, other; Tonya Hermann, \$75.00, refund; Interstate All Batteries, \$16.20, rep; Shonda Jolley, \$500.00, ins; Junction Avenue Floral, \$46.44, sup; KC’s Auto Repair, \$412.01, rep; Terry Keszler, \$654.77, travel; Knight Security, \$444.00, rep; Lawson Products, \$153.81, Legendary Electric, \$2,193.88, rep; Legends Sales & Marketing, \$27,988.70, prof fee; Scott Lensegrav, \$1,500.00, contract; Love Inc of the Black Hills, \$1,500.00, other; Nick Lucas, \$150.00, refund; Amanda Mahaffy, \$75.00, refund; MB Tree & Landscape, \$250.00, other; Meade County Auditor, \$15,015.59, other; MG Oil Co, \$13,900.50, sup; Nebraska Salt & Grain, \$4,798.68, sup; Northern Truck Equipment, \$505.00, rep; Randee Parsons, \$75.00, redund; Heather Peters, \$75.00, refund; Powerplan, \$142.45, rep; Purchase Power, \$544.99, sup; Jessie Russell, \$75.00, refund; S&C Cleaners, \$7,100.00, rep; Billy Schlosser, \$60.00, other; SDAMA & AAND Airport Conference, \$75.00, travel; Angel Sheddan, \$60.00, refund; SMRi, \$67,361.00, other; Martin Spencer, \$127.60, travel; Stanley Steamer, \$900.00, sup; Sturgis Area Chamber of Commerce, \$100.00, travel; Sturgis Motorsports, \$101.98, rep; Sturgis Photo & Gifts, \$233.25, sup; Sturgis Police Reserves, \$5,000.00, other; Sturgis Rally Charities Foundation, \$22,397.00, other; Sturgis Volunteer Fire Dept, \$15,047.61, other; TBS Electronics, \$2,900.00, other; The Knuckle Saloon, \$647.50, sup; The Radar Shop, \$582.00, rep; Titan Machinery, \$149.22, rep; Tom’s T’s, \$325.00, sup; Town-n-Country Plumbing, \$408.89, sup; Twilight First Aid & Safety, \$154.97, sup; Pat Urbaniak, \$1,500.00, contract; Visible Difference Janitor, \$2,100.00, prof fee; Craig Whitford, \$60.00, refund.

**SPECAIL SALES TAX** – Lawrence & Schiller, \$3,446.93; Sturgis Area Chamber of Commerce, \$10,333.33; Sturgis Economic Development, \$8,500.00.

**CAPITAL IMPROVEMENT** – A&L Contractors, \$28,952.55; Baseline Surveying, \$12,500.00; C Eagle Construction, \$35,783.02; Fennell design, \$2,396.00; Johnson Controls, \$22,722.82; Outlaw Fencing, \$4,175.41; Scull Construction, \$282,348.13.

**BUSINESS IMPROVEMENT DISTRICT** – Central States Sanitation, \$550.00, sup; Fotomotive, \$577.50, sup; Nohava’s Custom Construction, \$10,000.00, sup.

**HOTEL OCCUPANCY TAX DISTRICT** – Lawrence & Schiller, \$5,174.37.

**TIF #12 DOLAN CREEK** – Meints Residential Concrete, \$14,673.72; No Fault Sport Group, \$28,876.00.

**LIQUOR** – Arctic Glacier, \$185.01, resale; Badlands Distillery, \$254.22, resale; Black Hills Energy, \$2,196.86, util; Cash-Wa Distributing, \$1,829.26, resale; Cask & Cork, \$551.73, resale; City of Sturgis Water Dept, \$592.33, util; Coca Cola, \$513.75, resale; Commercial Door &

Specialties, \$460.46, rep; Contraband, \$336.00, resale; Dakota's Best Distributing, \$154.50, resale; Double Star Computing, \$76.26, prof fee; Fat Boys, \$132.00, resale; Fisher Beverage, \$14,149.70, resale; Johnson Western Wholesale, \$29,357.47, resale; Okoboji Wines, \$614.50, resale; Pepsi Cola, \$144.50, resale; Prairie Berry, \$1,644.00, resale; Quality Brands, \$15,521.63, resale; REB, LLC, \$206.25, resale; Republic Beverage, \$25,600.75, resale; Southern Glazer's of SD, \$4,380.62, resale; True Brands, \$638.74, resale.

**WATER** – Affordable Tire & Alignment, \$57.00, rep; Black Hills Energy, \$10,241.21, util; City of Sturgis Water Dept, \$219.21, util; Core & Main, \$3,610.73, sup; Credit Collections Bureau, \$9.79, prof fee; Double Star Computing, \$158.76, prof fee; Hawkins, \$1,366.71, sup; Wyatt Hix, \$500.00, ins; Midcontinent Testing Lab, \$170.00, prof fee; Post Office, \$2000.00, sup.

**WASTEWATER** – Black Hills Asphalt, \$1,704.08, cap imp; Black Hills Energy, \$3,706.69, util; Dakota Extinguisher & Safety, \$40.00, sup; Double Star Computing, \$158.76, prof fee; Midcontinent Testing, \$614.00, prof fee.

**SANITATION** – Affordable Tire & Alignment, \$25.00, sup; Black Hills Energy, \$186.85, util; Century Link, \$64.10, util; City of Belle Fourche, \$44,636.50, other; Diesel Machinery, \$2,658.85, rep; Double Star Computing, \$158.76, prof fee; Floyd's Truck Center, \$297.11, rep; Kadrmas, Lee & Jackson, \$2,000.00, prof fee; Lawson Products, \$153.82, sup; New Deal Tire, \$2,338.60, other; Northern Truck Equipment, \$564.00, rep; Powerplan, \$128.30, rep.

**AMBULANCE** – 3E Electrical Engineering, \$80.00, rep; Black Hills Energy, \$534.95, util; City of Sturgis Water Dept, \$376.12, util; Clover Foundation, \$500.00, refund; Double Star Computing, \$365.95, prof fee; Feld Fire, \$176.66, rep; Henry Schein, \$44.25, sup; Michael Hogue, MD, \$500.00, prof fee; Image Trend, \$621.00, prof fee; Jones & Bartlett Learning, \$5,161.59, other; Regional Health, \$2,566.12, sup.

Motion by Waterland, second by Crane and carried with all members present unanimously voting yes to approve a transfer of a Malt Beverage License and a Wine License from Tamarack Inc. dba Total E'Clips Salon to Baylee White/Morgan LLC dba Total E'Clips Salon.

At this time (7:15 pm) a public hearing for the Special Assessment roll for the Davenport Ranch Utility was opened for comments. After discussion the following motions was made:

Motion by Martinson, second by Zerbst and carried with all members present unanimously voting no to close the public hearing on the Special Assessment roll for the Davenport Ranch Utility with the 5-year payback.

Motion by Crane, second by Waterland and carried with all members present unanimously voting yes to amend the initial resolution with payments made for a 3-year payback period.

Motion by Martinson, second by T. Keszler and carried with all members present unanimously voting yes to approve closing the public hearing on the Special Assessment roll for the Davenport Ranch Utility at 7:34.

Motion by Waterland, second by Martinson and carried with all members present unanimously voting yes to approve having the Mayor sign the contract to complete the design of a 6-Unit T-hanger and taxi lane expansion and relocation of obstructions within the object free zone at the airport.

Motion by Martinson, second by T. Keszler and carried with Carstensen, Anderson, Crane, T. Keszler, Martinson, Waterland and Zerbst voting yes, Bachand voting no, to approve second reading of Ordinance 2019-08 - Title 3 - Alcohol, Malt Beverages and Drinking Establishments.

**ORDINANCE 2019-08**

**AN ORDINANCE AMENDING TITLE 3 – LICENSING AND REGULATION OF ALCOHOL, MALT BEVERAGES AND DRINKING ESTABLISHMENTS**

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 3 – Chapter 3.01 General Provisions – Sections 3.01.02- Definitions – ; Chapter 3.02 – Licensing and Sales of Alcohol and Malt Beverage – Sections: 3.02.01: License Required for Sale of Alcoholic or Malt Beverage; 3.02.07: Limitation of One License per Location; 3.02.08: Classification and Fees required for Alcoholic Beverage, Malt Beverage, Wine Licenses and Renewals; 3.02.09: Special Event License Requirements; 3.02.10: Consumption Only Permit; 3.02.11: Hours of Operation; 3.02.12: Authorized Number of On Sale Malt Beverage Licenses; 3.02.14: Off or On Sale sales on Sunday or Memorial Day Pursuant to Statute; 3.02.17: Area Limited; 3.02.19: Consuming, Blending, Possessing Alcoholic Beverages in Public Places – Disposal of Containers of Alcoholic Beverages Restricted; 3.02.20: Open Containers Permitted Upon Approval; 3.02.22: Annual Review of Applications; 3.02.26: Persons under Twenty-One Barred from On-Sale Premises; 3.02.27: Violation as Ground for Revocation or Suspension of License – Multiple Licenses; Chapter 3.03 - Full Service, On Sale and Malt Beverage Restaurant License- Section 3.03.01: License Application Requirements; 3.03.03: Annual Report; 3.03.04: License Renewal; 3.03.06: Full-Service Restaurant License Fee; 3.03.12: Spa and/or Health and Beauty Retail on/off sale Malt Beverage License. Chapter 3.04 Structure Requirements, On Sale Establishments – Section 3.04.04: Wall, Floor and Roof Requirements; 3.04.05: Window Requirements; 3.04.06: Restroom Requirements; 3.04.07: Exit Requirements; 3.04.08: Occupancy Requirements/Limitations; 3.04.09: Initial Inspection Required Prior to Sales; 3.04.10: Appeal Process amended to read as follows:

**TITLE 3  
LICENSING AND REGULATION OF ALCOHOL, MALT BEVERAGES AND  
DRINKING ESTABLISHMENTS**

Chapters:

- 3.01: General Provisions
- 3.02: Licensing and Sales of Alcohol and Malt Beverage
- 3.03: Full Service, On Sale and Malt Beverage Restaurant License
- 3.04: Structure Requirements, On Sale Establishments

**CHAPTER 3.01  
GENERAL PROVISIONS**

SECTIONS:

- 3.01.01: Scope and Purpose
- 3.01.02: Definitions
- 3.01.03: Penalty

**3.01.02: DEFINITIONS**

A term that is defined in a specific section of this chapter is to be first given the meaning therein defined. If a term is not defined in a specific section the term is to be defined using the definitions below in this section. If a term is not defined in this section the term is to be given the meaning as defined in Title 35 of the South Dakota Codified Laws, SDCL. If a term is not provided for in the SDCL the term is to be given its plain and ordinary meaning.

**ALCOHOLIC BEVERAGE:** Any distilled spirits, wine, and malt beverages as defined in this chapter.

**BAR:** Any permanent installed counter within the restaurant area from which alcoholic beverages are regularly served to customers by a person employed by the facility and is tending bar or drawing or mixing or otherwise preparing alcoholic beverages for consumption within the facility.

**BUILDING/STRUCTURE:** Structure having a roof supported by columns or walls for the shelter, support or enclosure for persons, animals or property. A building may be precut or prefabricated, or it may be made up of mobile modules or sections, factory fabricated and transportable by rail or truck to a building site and designed to be incorporated into a structure upon a permanent foundation on the said site.

**BULK CONTAINER:** Any package-or any container within which container is one or more packages.

**BUSINESS:** Means any activity, trade, calling, profession, or occupation, whether sole proprietorship, partnership, corporation, limited liability company or other recognized entity, which regularly provides delivery of products and/or services from an address or other location(s) within the corporate limits of the City of Sturgis. Business includes "home occupations" which involve the sale of goods or services as described in this definition.

**CIVIC ORGANIZATION:** Any South Dakota recognized or 501(c)(4) not-for-profit organization or league not organized for profit but operated exclusively for the promotion of social welfare or for the purpose of serving a public or mutual benefit within or to the community. Also, alternatively, any local association of persons, the membership of which is limited to the persons in the City of Sturgis and the net earnings of which are devoted exclusively to charitable, education or recreational purposes in the City of Sturgis.

**CHARITABLE ORGANIZATION:** Any South Dakota recognized or 501(c)(3) not-for-profit organization (either a private foundation or public charity) that is organized and operated exclusively for established philanthropic, humanitarian, altruistic, benevolent, public-spirited, scientific, literary or religious purposes, including but not limited to relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency.

**DISTILLED SPIRITS:** Ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use, containing not less than one-half of one percent (0.5%) of alcohol by weight

**EDUCATIONAL ORGANIZATION:** Any South Dakota recognized or 501(c)(3) not-for-profit organization that is organized and operated exclusively for established educational purposes, encompassing individual instruction, as well as public instruction "on subjects useful to the individual and beneficial to the community.

**EVENT:** An organized occurrence or happening lasting four (4) or more consecutive days or where the City provides extraordinary services, including but not limited to sanitation services, law

enforcement or traffic control. This definition does not apply to a Special Event License described below.

**FRATERNAL ORGANIZATION:** Any South Dakota recognized or 501(c)(8) or 501(c)(10) not-for-profit organization that is organized and operated for a fraternal purpose and whose membership is based on a common tie or the pursuit of a common object. A fraternal organization must operate under a lodge system.

**FLOOR:** An area that is surrounded by exterior walls and a roof of the building or portion thereof.

**MALT BEVERAGE:** A beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared there from, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human consumption containing not less than one-half of one percent (0.5%) of alcohol by weight.

**MINOR:** Any person who is under the age of twenty-one (21).

**OFF-SALE:** The sale of any alcoholic beverage for consumption off the premises where sold.

**ON-SALE:** The sale of any alcoholic beverage for consumption only upon the premises where it is sold.

**ON-SALE DEALER.** Any person who sells, or keeps for sale, any alcoholic beverage for consumption on the premises where sold.

**OPERATION:** In action, functioning.

**PACKAGE:** The bottle or immediate container of any alcoholic beverage.

**PACKAGE DEALER:** Any person other than a distiller, manufacturer, or wholesaler, who sells, or keeps for sale, any alcoholic beverage for consumption off the premises where sold.

**PUBLIC PLACE:** Any location that the local, state, or national government maintains for the use of the public, such as a highway, park, or public building.

**RESTAURANT:** A room and/or structure regularly, and in bona fide manner, used and kept open for the serving and/or preparing of meals to guests for compensation which has suitable table accommodations for at least fifty (50) guests therein at one and the same time; and a kitchen connected therewith containing conveniences for cooking sufficient to provide preparation and cooking of meals in a bona fide manner for fifty (50) or more guests at one and the same time. Facilities who serve only prepackage foods or items that can be heated in a microwave or small pizza or toaster ovens will not be considered a restaurant.

**RETAIL LICENSE:** Any on-sale or off-sale license issued under the provisions of this chapter.

**RETAILER OR RETAIL DEALER:** Any person who sells alcoholic beverages for other than resale.

**ROOF:** Any structural element or group of elements which are structural in nature and are covered with a material(s) that is (are) weather resistant. The roof shall be the top most element of the structure that meets the requirements of the current adopted building code.

**SALE:** The transfer, for a consideration, of title to any alcoholic beverage.

**SPECIAL EVENT:** For purposes of this Title, a Special Event is defined as an event or activity occurring or to be conducted within the City by a generally recognized:

- a. civic organization with an active chapter located within the City, or
- b. charitable organization with an active chapter located within the City, or
- c. educational organization with an active chapter located within the City, or
- d. fraternal organization with an active chapter located
- e. Veteran's organization with an active chapter located within the City.

In addition, a Special Event may include an event to be conducted by a licensee, holding a license issued by the City pursuant to SDCL 35-4-2(4), (12), or (16), for the following purposes:

- a. a recognized event linked to developing and encouraging tourism in the community and/or County, or
- b. a recognized event within the City or County which is not primarily intended or planned to increase tourism activities but which the City Council finds would be of benefit to the citizens of the community.

**SPECIAL EVENT ON SALE LICENSE:** For purposes of obtaining a Special Event on-sale license, a special event within the municipality is defined as an event or activity to be conducted within the City by a generally recognized:

- a. civic organization with an active chapter located within the City,
- b. charitable organization with an active chapter located within the City,
- c. educational organization with an active chapter located within the City,
- d. fraternal organization with an active chapter located within the City,
- e. veteran's organization with an active chapter located within the City,
- f. or an event where a licensee already holding an on-sale license issued by the City pursuant to SDCL 35-4-2(4), (12), or (16) applies for and receives approval from the Common Council,

1. a recognized event linked to developing and encouraging tourism in the community and county, or;
2. a recognized event within the City or County which is not primarily planned to increase tourism activities but which the City Council finds would be of benefit to the citizens of the community.

To obtain the Special Event license, the applicant shall submit an application stating their qualifications for a Special Event license on a form consistent with the requirements of SDCL 35-4-124, and providing all additional information required by the City Finance Office to meet the requirements of this ordinance. A Special Event license may only be issued to a current Sturgis license holder only for the same class of license previously issued to the licensee by the City of Sturgis.

**TO SELL AND SERVE ALCOHOLIC BEVERAGES:** To take orders for alcoholic beverages and to deliver alcoholic beverages to customers as a normal adjunct of waiting tables. This term does not include tending bar or drawing or mixing alcoholic beverages.

**WALL:** Any wall or element of a wall, or any member or group of members, structural or non-structural, which defines the boundaries of a building and which is opaque in nature with the exception of windows or doors and supports a roof and/or floor above.

**WINE:** Any liquid either commonly used, or reasonably adapted to use, for beverage purposes, and obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar and containing not less than one-half of one percent (0.5%) of alcohol by weight but not more than twenty- four percent (24%) of alcohol by weight.

**VETERANS ORGANIZATION:** Any bona fide congressionally chartered veteran's organization.

## **CHAPTER 3.02 LICENSING AND SALES OF ALCOHOL AND MALT BEVERAGES**

### **SECTIONS:**

- 3.02.01: License Required for Sale of Alcoholic or Malt Beverage
- 3.02.02: Wholesale License Fee
- 3.02.03: Submission of Invoices and Assessment of Fees
- 3.02.04: Delivery and Sale Required Within City
- 3.02.05: Consequences for Failure to Timely Pay City
- 3.02.06: Maintenance of Records and Inspection by Dealer
- 3.02.07: Limitation of One License per Location
- 3.02.08: Classification and Fees required for Alcoholic Beverage, Malt Beverage, Wine Licenses and Renewals
- 3.02.09: Special Event License Requirements
- 3.02.10: Consumption Only Permit
- 3.02.11: Hours of Operation
- 3.02.12: Authorized Number of On Sale Malt Beverage Licenses
- 3.02.13: Authorized Number of Off sale Liquor License
- 3.02.14: Off or On Sale sales on Sunday or Memorial Day Pursuant to Statute
- 3.02.15: Action by Council
- 3.02.16: Character Requirements for License
- 3.02.17: Area Limited
- 3.02.18: Kegs of Malt Beverage – Retail Sale – Records
- 3.02.19: Consuming, Blending, Possessing Alcoholic Beverages in Public Places – Disposal of Containers of Alcoholic Beverages Restricted
- 3.02.20: Open Containers Permitted Upon Approval
- 3.02.21: Weapons Prohibited on Premises Where Sold
- 3.02.22: Annual Review of Applications
- 3.02.23: Sales with License Only
- 3.02.24: Additional Fee for Video Lottery Machine Holders
- 3.02.25: Traffic in Alcoholic Beverages Prohibited
- 3.02.26: Persons under Twenty-One Barred from On-Sale Premises
- 3.02.27: Violation as Ground for Revocation or Suspension of License – Multiple Licenses

### **3.02.01: LICENSE REQUIRED FOR SALE OF ALCOHOLIC OR MALT BEVERAGE**

No person shall sell, keep for sale, exchange, barter or distribute any alcoholic or malt beverage without having obtained a license as required by to the provisions of the State Liquor Control Law SDCL Title 35 and by Sturgis City Ordinance, Title 3.

Any person who intends to sell, keep for sale, exchange, barter or distribute any alcoholic or malt beverage shall make an application for license under provisions of the State Liquor Control Law, SDCL 35 to the City of Sturgis Finance Officer.

Upon issuance of said license, the licensee shall be given a copy of Sturgis City Ordinance Title 3 and sign a statement verifying that he or she has received a copy of Title 3. It shall be the responsibility of each licensee to acknowledge in writing they have read and understood Title 3. Any violation of Title 3 of the City Ordinance Code shall be subject to the general penalty set out at 3.01.03 of Title 3.

**3.02.07: LIMITATION OF ONE LICENSE PER LOCATION**

No person shall hold both a Retail on-sale Liquor License, issued pursuant to SDCL 35-4-2 (4) and a Retail Malt Beverage on/off-sale and SD Farm Wine License issued pursuant to SDCL 35-4-2 (16) and (17), for the same location. However, a person holding a malt beverage manufactures license and an on-sale liquor license for the same premises, and open to the public at least 6 days a week for 11 months a year, may hold a malt beverage retailer license to sell for off-sale consumption of the malt beverage it manufactures, but only at the licensed premises at which the malt beverage is manufactured.

**3.02.08: CLASSIFICATION AND FEES REQUIRED FOR ALCOHOLIC BEVERAGE, MALT BEVERAGE AND WINE LICENSES AND RENEWALS**

<b>Annual License</b>	<b>Initial Fee</b>	<b>Renewal Fee</b>
1. Retail on-sale Liquor: Any person who sells or keeps for sale any alcoholic beverage, including distilled spirits, other than pursuant to another license under this chapter, for consumption on the premises where sold	\$1.00 per City resident, determined by last U.S. Census	\$1,500
2. Retail on-sale Liquor (restaurant)	Market price as set by City Council	\$1,500
3. Package off-sale Liquor: Any person who sells or keeps for sale any alcoholic beverage for consumption off the premises where sold	\$500	\$500
4. Retail Malt Beverage on/off sale and SD Farm Wine: Any person who sells malt beverages for consumption on or off the premises where sold, other than resale, this includes malt beverages as both package dealers and on-sale dealers	\$300	\$300
5. Retail on/off-sale Wine and Cider	\$500	\$500

A. The following classifications and fees are established for licenses for sales of distilled Spirits,

<b>Special Event Licenses</b>	<b>Initial Fee</b>	<b>Renewal Fee</b>

1. Special Retail Malt Beverage on/off sale and-SD Farm Wine or Retail on/off sale Wine and Cider license (non-profit, civic, charitable or fraternal organizations only or current licensee). The daily fee for such license issued shall be \$50.00.	\$50.00 per day per type of license up to 15 consecutive days	N/A
2. Special Retail on-sale Liquor license. (Public, civic, charitable, educational or fraternal organization, or current licensee, in conjunction with special event within city, selling licensed on-sale liquor.) The daily fee for such license issued shall be \$100.00.	\$100.00 per day per type of license up to 15 consecutive days	N/A

### **3.02.09: SPECIAL EVENT LICENSE REQUIREMENTS**

- A. A special Retail Malt Beverage on/off sale and SD Farm Wine license may be issued in conjunction with a special event, as defined at Section 3.01.02 herein, within the City to any qualified civic, charitable, educational, fraternal, or veterans organization or any qualified licensee licensed pursuant to SDCL §35-4-2(4), (6), or (16) in addition to any other licenses held by the special events license applicant;
- B. A special Retail on-off sale Wine and Cider license may be issued in conjunction with a special event, as defined in Section 3.01.02 herein, within the City to any qualified civic, charitable, educational, fraternal, or veterans organization or any qualified licensee licensed pursuant to SDCL §35-4-2(4), (6), or (12) or SDCL Ch. 35-12 in addition to any other licenses held by the special events license applicant;
- C. A special Retail on-sale Liquor license may be issued in conjunction with a special event, as defined in Section 3.01.02 herein, within the City to any qualified civic, charitable, educational, fraternal, or veterans organization or any qualified licensee licensed pursuant to SDCL §35-4-2(4), (6), or (16) in addition to any other licenses held by the special events license applicant; or
- D. The daily fee for each special event Retail Malt Beverage on/off-sale and SD Farm Wine license, special event Retail (on/off sale) Wine and Cider, license, that is issued, shall be \$50.00. The daily fee for each special event Retail on-sale Liquor license that is issued, shall be \$100.
- E. A public hearing is required before approval and issuance of any license under this section.
- F. Any licenses issued pursuant to this section may be issued for a period of time established by the city council not exceeding fifteen (15) consecutive days.
- G. Any non-profit licensee under this section may not be issued more than five (5) Special Event Licenses for a total of fifteen (15) days during a single calendar year. Any current licensee may not be issued more than thirty (30) Special Event licenses during a single calendar year.
- H. This license may be issued pursuant all additional requirements of SDCL § 35-4-124, including the procedural regulations adopted by a Resolution of the Council.

### **3.02.10: CONSUMPTION ONLY PERMIT**

- A. The fee for this permit is five dollars (\$5.00) per day.
- B. This permit allows the applicant to provide alcoholic beverages free of charge during the applicant's rental or use of City facilities or properties.

- C. The application permit must be completed and filed with the Finance Office at least thirty (30) days prior to the first day of proposed rental or use of a City facility or property and must be accompanied by a signed Rental Agreement and other documents required by City Policy.
- D. The applicant must be at least twenty-one (21) years of age and provide an acceptable form of identification, together with a signed Hold Harmless Agreement.
- E. This permit allows, with City Council's approval, the consumption of any alcoholic beverages on the City property or by an individual or a nonprofit corporation within the City. The length of the consumption permit may not exceed twenty-four (24) hours. Hours of consumption may not exceed those permitted for on-sale licensees.
- F. The applicant must have at least \$1,000,000 in liability insurance coverage for the permit. A statement from applicant's insurance carrier confirming coverage for the proposed site and naming the City of Sturgis as co-insured shall be provided with the application or it will be denied as an incomplete application.

### **3.02.11: HOURS OF OPERATION.**

The following table establishes the hours during which alcoholic beverages may be sold and the holidays when alcoholic beverages may not be sold for each class of license:

<b>Type of License</b>	<b>Hours</b>	<b>Days</b>	<b>Holidays</b>
1. Retail on-sale Liquor	12 midnight to 2:00 a.m. and 7:00 a.m. to 12 midnight	Monday through Sunday	No Christmas Day Sales.
2. Retail on-sale Liquor (full restaurant licensee)	12 midnight to 2:00 a.m. and 7:00 a.m. to 12 midnight	Monday through Sunday	No Christmas Day sales.
3. Off-sale dealer	7:00 a.m. to 12 midnight	Sunday through Saturday	No Christmas Day sales.
4. Retail Malt Beverage on/off sale and SD Farm Wine	12 midnight to 2:00 a.m. and 7:00 a.m. to 12 midnight	Monday through Sunday	N/A
5. Retail on/off-sale Wine and Cider	12 midnight to 2:00 a.m. and 7:00 a.m. to 12 midnight	Monday through Sunday	N/A
8. Special Event Retail, on-sale Liquor, Special Event Retail Malt Beverage on/off sale and SD Farm Wine or Retail on/off-sale Wine and Cider license	Set by Council, not to exceed times for on-sale licensee		N/A

### **3.02.12: RETAIL (ON/OFF) MALT BEVERAGE AND SD FARM WINE LICENSE PROVISIONS**

The number of Retail (On/Off sale) Malt Beverage and SD Farm Wine Licenses shall, before the second of September in each year, be determined by Council resolution for the following calendar year, and the fees to be charged for the various classifications of licenses. The number of such licenses now established-by the City is 40. Said limitation shall not include any on/off-sale

licenses issued as a Restaurant Malt Beverage License. All licensees shall be located in an area zoned for Commercial or agricultural use and with the proposed premises including a permanent structure of at least 1,200 square feet on property owned or leased by the Licensees.

#### **3.02.14: SALES ON SUNDAY OR MEMORIAL DAY PURSUANT TO STATUTE**

Off -sale or on -sale Licensees holding valid licenses within the City may, pursuant to SDCL 35-4- 81.2, sell alcoholic beverages on Sunday and also on Memorial Day within the municipality during hours otherwise allowed by South Dakota statute.

#### **3.02.17: AREA LIMITED**

The common council shall not approve any application for “on-sale” or “off-sale” license to sell any alcoholic beverages in the city at any place of business unless that place of business is located in an area zoned as a commercial or agricultural area on the zoning use district map of the city. The common council may approve a waiver of this requirement by approving a temporary exemption for an off-sale license, or by approving an on-sale Special Event license, for a period not to exceed 15 days, as provided for in subsection 3.02.09 of this Ordinance.

#### **3.02.19: CONSUMING, BLENDING, POSSESSING ALCOHOLIC BEVERAGES IN PUBLIC PLACES; DISPOSAL OF CONTAINERS CONTAINING ALCOHOLIC BEVERAGES RESTRICTED**

- A. It is unlawful for any person to consume any alcoholic beverage upon the premises of a licensed on-sale dealer if the alcoholic beverage was not purchased from the on-sale dealer.
- B. It is unlawful for any person to consume any alcoholic beverages in any public place, other than upon the premises of a licensed on-sale dealer. For the purposes of this section, the term “public place” means any place, whether in or out of a building, commonly and customarily open to or used by the general public, and any street, or highway.
- C. Any person violating the provisions of this section is guilty of a Class 2 misdemeanor.

#### **3.02.20: OPEN CONTAINER PERMITTED UPON APPROVAL**

- A. No regular on-sale malt beverage licensee may sell or allow to be consumed any malt beverage outside the building of the licensed premises unless the business operates out of a permanent structure and the consumption of the malt beverage occurs in an outdoor designated area located on the licensed premises of the licensee.
- B. The sale and consumption of alcoholic beverages may be permitted on a sidewalk or walkway within a public right-of-way if that sidewalk area abuts a licensed premise, provided that the license holder derives more than fifty percent of its gross receipts from the sale of food prepared for consumption on the licensed premises. The sidewalk or walkway subject to a public right-of-way shall be immediately adjacent to and abutting the licensed premises. This section does not apply to any federal-aid eligible highway unless approved in accordance with the applicable requirements for the receipt of federal aid and does not waive the requirements set out in Chapter 15.06 of the Sturgis Ordinances.

In place of the process described in Title 13 of City Ordinances (subsection 13.02.10), an area for open container shall only be established as described in this subsection. Upon receipt of a completed

application and fee of Fifty Dollars (\$50.00), the Finance Officer will place the request on the council meeting agenda to set a public hearing as provided by statute. The application to the City Finance Office shall be on a form approved by that Office, accompanied by the required fee, and include or be accompanied by the following information:

1. The applicant's name, address and phone number;
2. A copy of the insurance coverage applicant has obtained for the event;
3. A statement of the purpose and community benefit for which the closure is being requested;
4. A detailed description of the street or other public area the applicant is requesting be closed as an open container area; and
5. The date and time for which the applicant is requesting closure for an open container area.

After completion of the public hearing the City Council may, by resolution, close off an area of public right-of-way or public area as defined by SDCL 35-1-5.3 and designate it as an open container area for a special event. In the event that any area of a public street is closed by such resolution of the City Council, said area shall not be construed as a "public place" as that term is defined in Section 3.02.19 above. The restrictions upon open containers set forth in this Title shall not be enforced within said area during the timeframe of closure set forth in the resolution. The time for consumption within the open container area, as defined in the resolution, may not exceed the hours of consumption permitted for on-sale licensees. The timeframe may not to exceed 10 consecutive days.

- C. The common council may, in its discretion, for community designated events, permit open containers in public places upon the terms and conditions stated in its resolution which it finds are consistent with the laws of the State of South Dakota and this Ordinance.

### **3.02.22: ANNUAL REVIEW OF APPLICATIONS**

Annually, the City Council shall review each completed application for malt beverage and/or alcohol licenses. Issuance of any license or Special Event License shall be subject to a determination by City Council as to whether or not the permanent structure on the premises and the proposed location is fitting for the type of business that has been presented and is proposed to be operated at the legal description set forth in the application submitted pursuant to Section 3.02.01. The City Council shall take into consideration the location of any new or transferred license and its location in relationship to any residentially zoned area, school, daycare, church, place of worship, and/ or similar uses and such other location issues as the City Council may deem appropriate in reviewing and issuing a new or transferred license.

### **3.02.26: PERSONS UNDER TWENTY-ONE BARRED FROM ON-SALE PREMISES**

As prohibited by SDCL 35-4-79, no on-sale licensee shall permit any person less than twenty-one years old to loiter on the licensed premises or to sell, serve, dispense or consume alcoholic beverages on such premises, unless the presence of the person under the age of twenty one is authorized by the exception language of either SDCL 9-1-1 or SDCL 9-1-1.1.

### **3.02.27: VIOLATION AS BASIS FOR RECOMMENDATION OF REVOCATION OR SUSPENSION OF LICENSE – MULTIPLE LICENSES**

The common council may recommend any license issued under this chapter and SDCL Title 35 be revoked or suspended upon proof of violation by the licensee, by the licensee's agents or

employees, or by the manager or contractual operators of retail establishments and their agents or employees operating under a City license, of any of the following:

- (1) Any provision of SDCL Title 35;
- (2) Any rule promulgated pursuant to SDCL Title 35; or
- (3) Any ordinance or regulation relevant to alcoholic beverage control that has been adopted by the City.

For any licensee with multiple alcoholic beverage licenses for the same premises, upon suspension or revocation of any license issued pursuant to this chapter or SDCL Title 35, such licensee shall cease operation under all alcoholic beverage licenses held by such licensee for the same premises for the same period as the suspension or revocation.

### **CHAPTER 3.03**

#### **FULL-SERVICE ON SALE AND MALT BEVERAGE RESTAURANT LICENSE S**

##### **SECTIONS**

- 3.03.01: License Application Requirements
- 3.03.02: Definitions Applicable to this Chapter
- 3.03.03: Annual Report
- 3.03.04: License Renewal
- 3.03.05: Only Retail, On-Sale Service Permitted
- 3.03.06: Full-Service Restaurant License Fee
- 3.03.07: Registry of Full-Service Restaurant On-sale Licensees
- 3.03.08: Issuance of new Full-Service Restaurant License restricted
- 3.03.09: Requirements for Restaurant Malt Beverage License
- 3.03.10: Scope of Restaurant Malt Beverage License
- 3.03.11: Status of Existing Restaurant Holding On-Sale License
- 3.03.12: Spa and/or Health and Beauty Retail on/off sale Malt Beverage License-s

##### **3.03.01: LICENSE APPLICATION REQUIREMENTS**

An applicant for a full-service restaurant on-sale license shall provide sufficient documentation to the municipality with an application form provided by the municipality to prove that the primary source of revenue from the operation of the restaurant will be derived from the sale of prepared food and nonalcoholic beverages and not from the sale of alcoholic beverages. The supporting documentation concerning the primary source of revenue submitted pursuant to this section is confidential.

##### **3.03.03: ANNUAL REPORT**

The full-service restaurant on-sale licensee shall submit an annual report and supporting documentation to the City on forms provided by the City Finance Office of the annual sales of the full-service restaurant, which includes an oath verifying the validity of the information provided in the report. The report and the supporting documentation submitted pursuant to this section are confidential. The report shall contain the annual gross sales of the licensee for the following two categories:

- A. Food and nonalcoholic beverage sales; and
- B. Alcoholic beverage sales.

**3.03.04: LICENSE RENEWAL**

When renewing a full-service restaurant on-sale license, the City shall condition the license renewal upon receiving documentation that not more than forty percent of gross sales from the preceding twelve months operation of the full-service restaurant is derived from the sale of alcohol or alcoholic beverages.

**3.03.06: FULL-SERVICE RESTAURANT LICENSE FEE**

As required by State law, the license fee charged for a full-service restaurant on-sale license shall be at or above the current fair market value for such license as determined herein.

- A. For purposes of this subsection, the term, current fair market value means the documented price of the on-sale license most recently sold, through an arm's-length transaction, less the value of any real or personal property included in the transaction, to determine the amount paid by the licensee for the on-sale license. If there are no documented sales of on-sale licenses contained in the records of the City Finance Office, the City may request from any on-sale license holder within the City the date and price originally paid for its on-sale license to determine "current fair market value".
- B. Any form submitted to establish current fair market pursuant to this provision shall be signed under oath and shall include the documents establishing the amount originally paid for the on-sale license. Current fair market value as determined by the Council shall be a minimum of one dollar for each person residing within the City as measured by the last preceding decennial federal census.
- C. The license fee shall be established by Council Resolution, including its determination of current fair market value, to be adopted within ninety (90) days of a revision to this subsection of the ordinance. Subsequent changes in the license fee shall not be made for a period of ten (10) years from the effective date of adoption of the Council resolution unless a population growth reported by the Federal decennial census requires an increase in the fee. A City licensee under this Title may contest the Council's determination of current fair market value contained in the Council resolution by using the Appeal process described in subsection 3.04.11 of this Ordinance.

**3.03.12: SPA AND/OR HEALTH AND BEAUTY RETAIL ON/OFF SALE MALT BEVERAGE LICENSE**

Spa and/or Health and Beauty establishments licensed under SDCL 36-15 and in good standing with the State may apply for a Retail on/off sale malt beverage license. This shall be subject to the Temporary Use inspection period and process as described in Title 18 Article V Section 10.

**CHAPTER 3.04  
STRUCTURE REQUIREMENTS, ON SALE ESTABLISHMENTS**

**SECTIONS:**

- 3.04.01: Mandatory Compliance with State and Local Licensing Laws
- 3.04.02: General Requirements and/or Limitations
- 3.04.03: Construction Requirements
- 3.04.04: Wall, Floor and Roof Requirements
- 3.04.05: Window Requirements

- 3.04.06: Restroom Requirements
- 3.04.07: Exit Requirements
- 3.04.08: Occupancy Requirements/Limitations
- 3.04.09: Initial Inspection Required Prior to Sales
- 3.04.10: Appeal Process

#### **3.04.04: WALL, FLOOR AND ROOF REQUIREMENTS**

Any floor of an On-Sale establishment shall be constructed of elements, which are structural or non-structural in nature and covered by material(s) which create a hard, non-absorbent surface, as required by the Building Code adopted at Title 2, Chapter 2 of the Sturgis City Ordinances.

Any roof of an On-Sale establishment may not be occupied or utilized as a floor. Any walls of an On-Sale establishment shall be solid in nature with the exception of areas for windows and exits. Walls shall run from grade to the roof of the structure. Any walls shall be constructed to comply with the requirements of the International Building Code.

#### **3.04.05: WINDOW REQUIREMENTS**

For the purpose of this Section, all requirements that apply to windows or other openings in the walls of an On-Sale establishment shall be those established by the Building Code adopted at Title 2, Chapter 2 of the Sturgis City Ordinances.

#### **3.04.06: RESTROOM REQUIREMENTS**

It is recognized by the City Council that during the Sturgis Motorcycle Rally On-Sale establishments have a substantially larger need for sanitary plumbing fixtures than during normal operations, and in consideration of the same, the following requirements are hereby established to determine the number of permanent restroom fixtures and temporary restroom fixtures that will be required of an On Sale establishment:

The restrooms required for a licensed premise at which any alcoholic beverage is served or consumed will be determined as follows (in no case shall there be less than two permanent restroom fixtures for each sex):

- A. One restroom fixture shall be added for each sex per each additional 50 occupants within the licensed premises. The occupancy load shall be based upon the International Building Code wherein occupancy is determined on the basis of 1 person per 7 square feet within the licensed premises.
- B. When three or more fixtures are required for each sex, the women's restroom shall be required to have one additional fixture more than the men's.
- C. All restroom's hand sinks shall be installed at the ratio as determined by the Uniform Plumbing Code.

For determining the number of temporary restroom facilities to be added during the period one week before the Rally and the official Rally period, the occupancy rate for the licensed premises shall be determined as 1 person per 7 square feet. The same ratios as above shall then be applied, and any additional fixtures required by the occupancy rate shall be provided in the form of portable restroom facilities. Portable restroom facilities shall be located upon the real property of the On-Sale establishment as a condition of meeting the requirements for the liquor license.

**3.04.07: EXIT REQUIREMENTS**

All exits of any On-Sale establishment must meet or exceed the requirements which are laid out in the Uniform Building Code adopted by the City.

**3.04.08: OCCUPANCY REQUIREMENTS/LIMITATIONS**

At no time shall the owner/operator exceed the occupant load, which is issued by the Building Inspector and/or Fire Chief. Due to public safety issues, if at any time the Chief of Police, the City Building Official, City Fire Chief or their designees finds that the permitted occupant load has been exceeded, he/she may have the sale of alcohol stopped until the occupant load is decreased to the permitted occupant load.

The occupant load for an On-Sale establishment shall be calculated as follows:

Maximum occupant load: One (1) occupant per each seven (7) square feet of the licensed premises.

This formula will not include areas identified in the license application such as restrooms, employee work or service areas or other areas, which are not commonly visited by the public.

**3.04.09: INITIAL INSPECTION REQUIRED PRIOR TO SALES**

Within 15 days after the first issuance of a license, and before the new licensee may begin sale of alcohol, he/she shall be required to have the establishment inspected by either the Chief of Police, the Building Inspector or the Fire Chief.

**3.04.10: APPEAL PROCESS**

Any person aggrieved by a decision of the Chief of Police, Building Inspector or Fire Chief made under this Chapter shall be entitled to have said decision reviewed by the City Manager. If after review, the said person is unsatisfied, he or she may appeal the decision to the City Council. The process shall be as follows:

- A. An aggrieved person shall first file a written request for review with the City Manager setting forth the basis for which he or she believes the Chief of Police, Building Inspector or Fire Chief's decision to be in error. The writing shall also include the person's name and mailing address.
- B. Upon receipt of a written request for review, the City Manager shall review his or her decision and mail a written response to the aggrieved person within twenty (20) days.
- C. If the aggrieved person is not satisfied with the decision of the City Manager following review, he or she may file a notice of appeal with the Finance Officer. There shall be a one hundred-dollar (\$100.00) fee assessed for filing an appeal, which shall be paid to the Finance Office at the time of filing the notice of appeal.
- D. Upon receipt of a notice of appeal, the Finance Officer shall notify the City Manager.
- E. After notification of the City Manager by the Finance Officer, the Appeal shall follow the Appeal provision of Title 36, Code Enforcement.

Adopted this 7<sup>th</sup> day of October 2019.

First reading: 09-03-2019  
Second reading: 10-07-2019  
Adopted: 10-07-2019  
Published: 10-15-2019  
Effective: 11-05-2019

Motion by Waterland, second by Bachand and carried with all members present unanimously voting yes to approve first reading of Ordinance 2019-11 - Title 30 - City Beautification and Regulation of Advertising with the striking of the words “but not a portable reader board” in Section 30.03.04: Portable “Daily Special” signs.

Any other business:

Councilor Waterland thanked the Boy Scouts for attending the Council meeting.

Motion by T. Keszler, second by Crane and carried with all members present unanimously voting yes to go into executive session for personnel and contracts at 7:55 pm.

Motion by Waterland, second by Martinson to return to regular session at 8:28 pm.

Motion by T. Keszler, seconded by Anderson and carried with all members present unanimously voting yes to adjourn the meeting at 8:29 pm.

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

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

Published once at the total approximate cost of \$