

## PROCEEDINGS OF THE STURGIS CITY COUNCIL

The Common Council of the City of Sturgis met in regular session starting at 6:12 p.m. on Monday, March 16, 2015 at the Erskine Building. Present: Mayor Mark Carstensen, Alderpersons Jason Anderson, Mike Bachand, Branden Bestgen, David Hersrud, Marcia Johnston, Tim Potts, Kelly Vasknetz (arrived at 6:15), and Ronald Waterland (arrived at 6:19). Also present: City Manager Daniel Ainslie and City Attorney Greg Barnier. Absent: None.

Motion by Johnston, second by Bestgen and carried with all members present voting yes to go into executive session for contracts at 6:12 pm.

Motion by Bestgen, second by Anderson and carried with all members present voting yes to approve coming out of executive session at 6:26 pm.

Mayor Mark Carstensen led everyone in the Pledge of Allegiance.

Motion by Johnston, second by Hersrud and carried with all members present voting yes to approve the agenda.

### Announcements:

- Sturgis Alliance of Churches is having their Potato Feed on March 17<sup>th</sup>.
- The Greater Life Care Foundation will be having their Chili Cook-off on March 19<sup>th</sup>.
- The Kiwanis will be having their Hobo Stew feed on March 22<sup>nd</sup>.
- The Council Forum for the upcoming election will be held on March 30<sup>th</sup> at the Community Center at 6:30 pm.
- The Plaza ground breaking ceremony will be on March 25<sup>th</sup> at 10:00 am, Harley Davidson will be there.
- On March 21<sup>st</sup> at the Loud American there will be a fundraiser for Clint Ridley.
- Paige McPherson and the Tai Kwon Do team qualified for the Pam Nm games. McPherson received a Gold medal at the Mexico games.

### Informational Reports:

- Park Board Minutes – 2/10/15
- Planning Commission Minutes – 1/27/15, 3/3/15

### City Manager Ainslie reported:

- 2015 Budget Update
- Payroll Changes – within budget: Ambulance Dept – Critical Care Paramedic – Holly Sabers - \$18.05; Paramedic – Kurtis Klunder & Steve Rydquist - \$15.00 (\$17 when orientation complete). Community Center – Lifeguard – McKenna Gruba, Amanda Johnson, Justice West - \$9.00. Liquor Store – Liquor Clerk – Joe Fox, Robin Harmon - \$8.50.
- City Manager Ainslie provided information to the Council and audience on the presentation that was given to the City employees last week. He explained the park lease and what will be happening at the City Park during the Rally. The presentation is on the City's Website.

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

- a. Approve the minutes from the March 2, 2015 regular Council meeting.

- b. Consideration to approve setting a public hearing for April 6, 2015 for a Plat Application for vacation of public right-of-way for Sturgis Economic Development Corp.
- c. Consideration to approve setting a public hearing for April 6, 2015 for a Use on Review for Sturgis Economic Development at Lot 1 of Tract A, Lot SD-1 Sturgis Development Subdivision (new incubator building).
- d. Consideration to approve setting a public hearing for April 6, 2015 for a Special Events Liquor license for Sturgis Liquor and Loud American for the Jack Daniel's Barrel Selection on 8-4-15 at Boulder Canyon Convention Center.
- e. Consideration to approve Resolution 2015-23 – Annexation of Pine View Drive Property.

**RESOLUTION 2015-23  
RESOLUTION ON ANNEXATION  
OF THE CITY OWNED PINE VIEW DRIVE PROPERTY**

WHEREAS, the City of Sturgis has filed a Petition for Annexation with the City of Sturgis; and

WHEREAS, said Petition states that the City of Sturgis owns at least  $\frac{3}{4}$  of the total value of the property, and that the City of Sturgis constitutes  $\frac{3}{4}$  or more of the registered voters residing within the boundaries of the property requested to be annexed; and

WHEREAS, said real property set forth in the Petition is contiguous to the City of Sturgis; and

WHEREAS, the current use of the subject property is Ag and Utility Lot,

WHEREAS, the proposed land use in the future is a Utility lot and General Residential 1 or 2/PUD; and,

WHEREAS, the property in question is immediately adjacent to the municipal limits of the City of Sturgis; and,

NOW THEREFORE BE IT RESOLVED, that this Resolution of Annexation shall become effective April 15, 2015 pursuant to S.D.C.L. 9-4-1,

BE IT FURTHER RESOLVED that upon such approval that the following described real property shall be annexed to the City of Sturgis:

Lot 1A and Lot 1B of the NE $\frac{1}{4}$  of Section 21, formerly Lot 1 Revised of the NE $\frac{1}{4}$  of Section 21, Located in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 21, Township 5 North, Range 5 East, Black Hills Meridian, Meade County, South Dakota.

Dated this 16th day of March, 2015.

Published: 03/25/2015  
Effective: 04/15/2015

- f. Consideration to approve setting a public hearing for April 6, 2015 for a Special Events License for the Sidehack Saloon at the Armory for the 2015 Chamber Banquet on 4-10-2015.

Motion by Hersrud, second by Johnston and carried with all members present voting yes to approve the following claims:

**Wages** – Ambulance \$26,845.49; Attorney \$3483.39; Auditorium \$167.95; Buildings \$1020.08; Cemetery \$1413.97; City Manager \$4657.04; Community Center \$9357.19; Finance Office

\$8365.68; Fire Department \$514.78; Human Resource \$2679.77; Library \$8099.66; Liquor \$4196.20; Mayor and Council \$3450.94; Parks \$10,975.27; Planning & Permitting \$4356.81; Police \$34,231.97; Rally \$5904.86; Recreation \$3396.19; Sanitary Service \$13,115.14; Streets \$11,326.86; Wastewater \$8286.69; Water \$11,467.89; Federal Withholding \$16,314.14; FICA \$12,817.48.

**General** – A&B Business, \$135.37, repair; A&B Welding, \$76.00, supp; A&J Surplus, \$68.18, supp; Amcon, \$287.69, merch for resale; American Legal Services, \$57.92, prof fee; Americinn Lodge, \$285.00, travel; Richard Ashman, \$75.00, sale of bricks; Avaya, \$36.39, util; Baseline Surveying, \$500.00, repair; BH Resource Conversation, \$100.00, other; Bighorn Tree Service, \$3348.00, other; BH Chemical, \$302.99, supp; BH Power, \$62.63, util; BH Rally & Gold, \$300.00, merch for resale; Bridger Construction, \$255.10, repair; Butte Electric, \$607.87, util; Campbell Supply, \$401.59, supp; Caselle, \$1479.00, prof fee; CBH Cooperative, \$9703.50, supp; Century Business, \$67.98, supp; City of Sturgis Water Dept, \$1434.78, util; Coca Cola, \$875.10, merch for resale; Dakota Hardware, \$557.79, repair; Dakota Lumber, \$59.98, repair; Dakota Radiator, \$320.00, repair; Ecolab Pest, \$193.77, maint; Fire Pro, \$244.80, repair; First Interstate Bank, \$3239.33, travel, sup; Five Rocks, \$62,500.00, rental-rally; Freeman’s Electric, \$1595.89, repair; G&G Enterprises, \$129.00, merch for resale; Jenner Equipment, \$37.92, repair; KT Connections, \$952.28, prof fee; Lynn’s Dakotamart, \$317.09, supp; Marco, \$69.49, repair; Meade Co Auditor, \$7513.79, other; Meade Co Times, \$438.82, supp; Menard’s, \$53.94, supp; Gary Meyer, \$20.00, supp; Midcontinent Communications, \$40.99, util; Mobile Mini, \$83.97, supp; MDU, \$9531.83, util; Nebraska Salt, \$2663.42, supp; Neve’s Uniforms, \$66.00, repair; Office Depot, \$111.96, supp; OReilly Auto Parts, \$38.12, repair; Owens Interstate, \$472.00, repair; Petty Cash, \$114.83, other; Mike Plaggemeyer, \$65.72, refunds; Postmaster, \$147.00, supp; Print Mark-et, \$996.39, publ; Purchase Power, \$1520.99, supp; Push-Pedal-Pull, \$287.00, repair; Rasmussen Mechanical, \$1273.69, repair; Robert Sharp & Assoc, \$8216.75, publ-rally; Rushmore Office, \$1036.73, supp; S&C Cleaners, \$3100.00, repair; Schwans, \$53.35, merch for resale; Scott Peterson Motors, \$26,050.50, equip; Scott Peterson Motors, \$2375.15, repair; SD Dept of Transportation, \$821.47, prof fee; SD Federal Property, \$13.00, supp; SD Municipal League, \$336.00, travel; SD Municipal Street Maint Assn, \$50.00, travel; SD Police Chiefs Assn, \$104.38, travel; SD Sheriffs Assn, \$170.00, travel; Servall Towel, \$392.06, repair; Shopko, \$193.76, supp; Sturgis Napa, \$903.60, supp; Sturgis Police Reserves, \$1088.64, util benefits; Summit Signs, \$75.00, supp; Town-n-Country Plumbing, \$288.89, supp; Turbiville Industrial, \$24.20, supp; Verizon, \$212.20, util; Wellmark Blue Cross, \$187.50, grp insur; West Payment Center, \$127.24, prof fee; West River Electric, \$605.44, util; Wow! Business, \$437.09, util.

**Capital Improvement** – Badger Lighting, \$21,224.49, improv; Baseline Surveying, \$390.00, improv; BH Power, \$6045.37, improv; Fourfront Designs, \$28,958.56, improv.

**Revolving Fund Loan** – Robin Baldwin, \$25,000.00, façade loan; Brosz Engineering, \$3465.00, other; Dominos, \$25,000.00, façade loan.

**Liquor** - A&B Welding, \$79.74, supp; Amcon, \$2589.23, snacks & pop for resale; Arctic Glacier, \$154.30, merch for resale; BH Security, \$354.44, other; Cask & Cork, \$32.50, off sale liquor; Century Business, \$1.87, supp; City of Sturgis Water Dept, \$258.79, util; Coca Cola, \$556.25, pop for resale; Eagle Sales, \$7699.03, off sale beer; Epic Products, \$66.61, merch for resale; First Interstate Bank, \$864.73, merch for resale; Fisher Beverage, \$5146.50, off sale beer; Johnson Western Wholesale, \$13,791.07, off sale liquor; KT Connections, \$67.93, prof fee; Locks by Bernie, \$35.00, repair; Lynchburg Hardware, \$121.18, merch for resale; MDU, \$328.68, util; Pepsi Cola, \$265.25, pop for resale; Prairie Berry, \$918.00, off sale liquor; Print Mark-et, \$55.36, publ; Republic Beverage, \$26,978.92, off sale liquor; Rushmore Office, \$529.38, supp; Servall Towel, \$152.33, supp; The Homeslice Group, \$4608.00, publ; Wellmark Blue Cross, \$12.50, grp insur.

**Water** - Butte Electric, \$183.60, util; Century Business, \$42.45, supp; City of Sturgis Water Dept, \$112.79, util; Mobile Mini, \$41.98, supp; MDU, \$339.51, util; Print Mark-et, \$55.36, publ; Wellmark Blue Cross, \$12.50, grp insur.

**Wastewater** – Bauer North America, \$965.00, repair; Campbell, Supply, \$31.99, repair; City of Sturgis Water Dept, \$21.65, util; Dakota Hardware, \$6.49, repair; KT Connections, \$67.93, prof fee; Print Mark-et, \$55.36, publ; Sturgis Napa, \$46.56, repair; Verizon, \$46.68, util; Wellmark Blue Cross, \$12.50, grp insur.

**Sanitary Service** – A&J Surplus, \$50.08, repair; Campbell Supply, \$18.85, repair; CBH Cooperative, \$1145.12, supp; Century Business Leasing, \$193.58, prof fee; Century Business, \$104.75, prof fee; Century Link, \$55.26, util; Dakota Hardware, \$.84, repair; KT Connections, \$67.93, prof fee; Lynn’s Dakotamart, \$20.77, supp; Owens Interstate, \$433.84, supp; Petty Cash, \$6.49, supp; Print Mark-et, \$55.36, publ; RTS Shearing, \$8250.00, other; Rushmore Office, \$159.00, supp; Sturgis Napa, \$295.68, repair; Wellmark Blue Cross, \$12.50, grp insur.

**Ambulance** – A&B Business, \$120.04, supp; CBH Cooperative, \$1768.05, supp; City of Sturgis Water Dept, \$54.00, util; Coca Cola, \$51.20, supp; Ecolab Pest, \$36.57, supp; First Interstate Bank, \$1679.55, travel; Holiday Inn Express, \$498.00, travel; KT Connections, \$67.93, prof fee; Kreisers, \$2499.78, supp; Ryan Krogstat, \$21.70, supp; Lynn’s Dakotmart, \$94.77, supp; MDU, \$382.35, util; Print Mark-et, \$55.36, publ; Purchase Power, \$265.84, supp; Regional Health, \$3236.52, supp; Rushmore Office, \$251.61, supp; Scott Peterson Motors, \$898.46, repair; Shopko, \$50.63, supp; Sturgis Napa, \$95.87, supp; Verizon, \$22.02, util; Wellmark Blue Cross, \$12.50, grp insur; Western Dakota Tech, \$3055.05, prof fee; Wow! Business, \$85.50, util.

Motion by Hersrud, second by Bachand and carried with all members present voting yes to approve a Special Events License for the American Legion Veterans Club for a wedding reception on 7-18-2015 at the City Auditorium.

Motion by Hersrud, second by Waterland and carried with all members present voting yes to approve the recommendation from Planning and Zoning and the Staff to approve the 5’ setback off the alley but not approve the setback along Church Street for Caseylee Walker at 1509 3<sup>rd</sup> Street for a new garage.

Motion by Hersrud, second by Bachand and carried with all members present voting yes to table until the next meeting Resolution 2015-24 – approving the Miller plat.

Motion by Hersrud, second by Johnston and carried with all members present voting yes to approve Resolution 2015-25.

**RESOLUTION 2015-25  
A RESOLUTION DECLARING PROPERTY SURPLUS**

CR #	Make	Model	Caliber	Serial #
11-7471	Jones Import	22 short	22 short	663781
12-1442	Raven Arms	MP-25	25 cal	1043739
12-4666	Witness	Witness-P	10mm	EA30678 14031
12-8902	Beretta	21-A	25 cal	BAS30538V
12-1249	Smith & Wesson	916A	12 ga	B2368
13-2499	Sig Sauer	P229	40 cal	AM125418
13-2927	Springfield arms	XP-40	40 cal	US190852
13-4785	Jimenez Arms	JA Nine	9mm	158713
13-6930	Bernardelli	PO18	9mm	300945
14-1580	Ruger	p-85	9mm	300-95283
14-7194	Sar Arms	Hawk-pp	9mm	T1102-13CA04080
07-8750	Colt	Peace Keeper	357	45180V
14-0648	Glenfield	60	22 cal	71525492

\*\*\*\*\*

BE IT FURTHER RESOLVED BY THE COMMON COUNCIL OF THE CITY OF STURGIS that the personal property described above is hereby declared surplus and to be disposed of as described by SDCL 23A-37-13 AND 23A-37-10. It being advisable and in the best interest of the City to sell, trade or dispose of such personal property.

Dated this 16th day of March, 2015.

Published: 03/25/2015  
Effective: 04/15/2015

Motion by Bachand, second by Waterland and carried with Carstensen, Bachand, Bestgen, Johnston, Hersrud, and Potts voting yes, Anderson, Vasknetz and Waterland voting no, to approve tabling the Rally & Events Dept “New Event Application” and procedures.

Motion by Potts, second by Hersrud and carried with all members present voting yes to approve the 2014 Annual Financial Report.

Motion by Waterland, second by Hersrud and carried with all members present voting yes to approve second reading of Ordinance 2015-02 – Title 30 – City Beautification & Advertising.

**ORDINANCE 2015-02**

**AN ORDINANCE AMENDING TITLE 30– CITY BEAUTIFICATION AND REGULATION OF ADVERTISING**

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 30 City Beautification and Regulation of Advertising–Chapter 30.01 General Provisions– All Sections; 30.02: Provisions Applicable to All Signs – All Sections; 30.03: On Premise Signs – All Sections; 30.04 Billboard and Off Premises Signs –All Sections; 30.05: Appeals Process –All Sections are amended to read as follows:

**TITLE 30  
CITY BEAUTIFICATION AND REGULATION OF ADVERTISING**

- Chapters:
- 30.01: General Provisions
- 30.02: Provisions Applicable to All Signs
- 30.03: On Premise Signs
- 30.04 Billboard and Off Premises Signs
- 30.05: Appeals Process

**CHAPTER 30.01  
GENERAL PROVISIONS**

- SECTIONS:
- 30.01.01: Scope and Purpose
- 30.01.02: Definitions
- 30.01.03: Administration of Title
- 30.01.04: Enforcement
- 30.01.05: Filing a Sign Complaint

30.01.06: Penalty

### **30.01.01: SCOPE AND PURPOSE**

Signs constitute a separate and distinct use of the land upon which they are placed and affect the use of adjacent streets, sidewalks and other public places and adjacent private places open to the public. The unregulated construction, placement and display of signs constitute a public nuisance detrimental to the health, safety, convenience and welfare of the residents of the City of Sturgis.

The purpose of this ordinance is to establish reasonable and impartial regulations for all exterior signs and: to - protect the public from visual pollution and hazardous conditions that can result from commercial signs which are structurally unsafe, obscure the vision of motorists, create dangers to pedestrian traffic, or which compete or conflict with necessary traffic signals and warning signs; afford the business community equal and fair opportunity to advertise and promote its products and services; to maintain and enhance the visual environment to preserve the right of the citizens to enjoy the City's scenic beauty; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign restrictions.

The regulations contained in this ordinance advance these significant governmental interests and are the minimum amount of regulation necessary to achieve them.

### **30.01.02: DEFINITIONS**

**ABANDONED SIGN:** A sign or sign structure that is blank, obliterated or displays obsolete advertising material for a period in excess of one hundred and twenty (120) continuous days or for which no legal owner can be found.

**BILLBOARD:** Any off premises sign, not described in 30.04.04 herein, regardless of how constructed or supported, which advertises, calls attention to, communicates any message or directs a person to a business, association, profession, commodity, product, institution, service, entertainment, person, place, thing or activity.

**BILLBOARD FACE:** The surface(s) of an off premise sign/billboard which displays the advertisement(s) or message(s). One face may display more than one advertisement.

**BLANK SIGN:** A sign that is void of advertising material, but does not meet the time requirement of an "abandoned sign".

**BUILDING FACE OR WALL:** All window and wall surface areas of a building in one plane or elevation.

**COMMERCIAL ADVERTISING MESSAGE:** Any printed word or visual artwork which depicts products, services, prices or mottos/tag lines, etc. which are offered at any particular establishment. This shall not include a business or institutions logo.

**COMMUNITY EVENT:** An activity or occasion held for the benefit, enjoyment, or entertainment of the citizens of the City, and not connected with any specific business or for-profit organization.

**DIRECTIONAL SIGN:** Any sign which serves solely to designate the location or direction to a place or area

**ELECTION SIGN:** Any sign that is posted as part of a political campaign or a municipal, county, state or national election.

**EXEMPT SIGN:** A sign for which a permit is not required.

**HOME OCCUPATION SIGN:** A sign that is used for the identification of a business located within a home that is occupied by the business owner.

**LEGAL NONCONFORMING SIGN:** A sign or sign structure which does not comply with all provisions of this code, but which was legal at the time it was constructed.

**INFLATABLE SIGN:** A portable sign which is supported by the flow of air or another gas to its nominal height and size to convey a message or marketing theme.

**LIGHT EMITTING DIODE (LED SIGN):** A type of sign that is capable of displaying words or characters that can be electronically changed by remote or automatic means.

**MONUMENT SIGN:** A freestanding ground sign supported wholly by a base structure and containing one (1) or more signs of individual businesses on the property; not including a signs defined as pole or pylon signs.

**NON-CONFORMING SIGN:** A sign that does not conform to this Title as adopted.

**OBLITERATED SIGN:** A sign that is totally or partially illegible or otherwise obscured so as to not identify a specific product or service.

**OBSOLETE ADVERTISING MATERIAL:** Material advertising a product or service that is no longer in use or available.

**OFF-PREMISE SIGN:** A sign which provides direction to a business, commodity, product, service or entertainment, sold or offered at a location other than the premises or lot upon ~~on~~ ~~on~~ which the sign is located.

**ON-PREMISES SIGN:** Any sign identifying or advertising a business, person, activity, goods, products or services which are located on the premises where the sign is installed and maintained, or adjoining or located on adjacent property owned by the same party and within 100 feet of the premises.

**PERMANENT SIGN:** Any sign which directs attention to a business, commodity, product, service or entertainment conducted, sold or offered at any location which is not a Temporary Sign as defined in this Title.

**POLE SIGN:** A free standing sign with the base of the actual sign area at least five (5) feet above the ground, supported by a vertical pole(s).

**POLITICAL SIGN:** A sign that advertises a candidate or an issue which is to be voted on in a local, state, or federal election.

**PORTABLE READER BOARD:** A sign consisting of a board designed to hold interchangeable letters that is commonly not permanently affixed to the ground or structure that may or may not be on wheels but is at least nine square feet in size. This does not include

portable sandwich boards or signs of similar design that are of such a size and weight to be movable by a person.

**PUBLIC RIGHT-OF-WAY:** The entire area between property boundaries which is: owned by a government, dedicated to public use, or impressed with an easement for public use; primarily used for pedestrian or vehicular travel; and publicly maintained, in whole or in part, for such use. “Right-of-way” includes without limitation the public street, shoulder, gutter, curb, sidewalk, sidewalk area, parking or parking strip, and any other public way.

**REAL ESTATE SIGN:** A sign advertising the real estate upon which the sign is located as being for rent, sale, or lease.

**ROOF SIGN:** Any sign erected or constructed wholly upon the roof of any building on any area of the roof surfacing material, or area above the uppermost parapet line, or any line so established by the roof plane. Signs mounted on a mansard roof or on a canopy cover over a patio or sidewalk, are not considered to be roof signs; however, the uppermost part of the sign may not be taller than any portion of the roof.

**SANDWICH BOARD:** An a-frame shaped portable sign positioned on the ground and supported only by its own sides.

**SIGN:** Any banner, structure, display, painting, mural, device or representation, temporary or permanent, portable or ground-mounted, which is designed or used to advertise or call attention to any person, thing, business, activity or place and is visible from any right-of-way.

**SIGN STRUCTURE:** Any structure which supports, has supported, or is capable of supporting a sign, including a decorative cover.

**TEMPORARY SIGN:** Any device, display, structure or pennant that by word or art work conveys a message on one face, with the full structure and any supporting elements installed in compliance with the Building Code, to be on display or in use for thirty (30) days or less in a calendar year, with no support elements or other material to remain after the sign is removed.

**UNLAWFUL SIGN:** A sign or sign structure which is erected or installed in violation of this Title, or is otherwise in violation of any City ordinance or state law, or is unlawful for reasons of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage, or abandonment as declared by the Building Official or designee.

**VIDEO SIGN:** A sign that projects images similar to a television set.

**WALL MURAL:** Any mural which is purely decorative in nature and content, and does not include advertising by picture or verbal/written message.

**WALL SIGN:** A sign painted directly on the surface of a building, fence, awning or marquee; or a sign attached to or erected against the wall of a building, fence, awning or marquee, with the face in a parallel plane to the plane of the building wall.

**WINDOW SIGN:** Any decal, lettering, applique, sticker, or painted message that is attached directly to the interior or exterior glass surface on a building window, or any form of communication that is not physically attached to the interior glass surface, but is displayed in a window for public viewing.

### **30.01.03: ADMINISTRATION OF TITLE**

The Building Inspector or designee, under the statutory supervision of the City Manager, is authorized and directed to enforce all the provisions of this Title and shall have authority as set forth below.

- A. The Building Inspector or designee shall have the power to render interpretations of this Title and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. The interpretations, rules and regulations shall be in conformance with the intent and purpose of this Title.
- B. Require other such data and information as may be needed to evaluate a permit application.
- C. When it is necessary to make an inspection to enforce the provisions of this Title, or when the Building Inspector or designee has reasonable cause to believe that there exists a sign or a condition which is contrary to, or in violation of this Title, the Building Inspector or designee may enter the premises at reasonable times to inspect or to perform duties imposed by this Title, provided credentials be presented to the occupant and entry requested, if premises are occupied. If premises are unoccupied, the Building Inspector or designee shall make a reasonable effort to locate the owner or other person having charge or control of the premises and request entry. If entry is refused, the Building Inspector shall have recourse to the remedies provided by law to secure entry.
- D. Whenever the work is being done contrary to the provisions of this Title, or other pertinent laws or ordinances implemented through the enforcement of this Title, the Building Inspector or designee may order the work stopped by notice in writing served on any persons engaged in doing or causing the work to be done. Work must then be stopped until otherwise authorized by the Building Inspector.
- E. This Title shall not be construed to relieve from or lessen the responsibility to any person owning, operating or controlling any sign or sign structure for any damages to persons or property caused by defects, nor shall the City be held as assuming any such liability by reason of the inspections or inventories authorized by this Title or any permits issued under this Title.
- F. All provisions of the laws and ordinances of the City and the State shall be complied with, whether specified herein or not. In the event that portions of this Title conflict with other portions, or portions of this Title conflict with state or federal law, the more restrictive requirement shall apply. In addition, compliance with this Title does not give authority to violate, cancel or set aside any of the provisions of the building code, municipal code or other local law, or ordinance regulating construction or the performance of construction in the city.

### **30.01.04: ENFORCEMENT**

The Building Inspector or designee may declare any sign unlawful by reasons of inadequate maintenance, improper placement, dilapidation, abandonment, or if erected without a permit or is in violation of any other provision of this Title or any other state or federal law.

Unless otherwise specified in this Title, violations are subject to enforcement under Title 36 of City Ordinances.

Upon determination that a sign or sign structure is in violation of this Title, the Building Inspector or designee, shall provide written notice to the owner of the violating sign and the owner of the building, structure, premises or property upon which it is located, which notice shall state the reason(s) such sign is in violation and set forth a period of fifteen (15) days for compliance or removal of the sign. In the event that compliance is not made within the fifteen (15) days, the sign may be removed in accordance with the provisions of this Title at cost to the owner of the building, structure, premises, or sign.

The owner(s) of the property, building, structure or premises upon which the sign sits and the owner(s) of the sign shall be jointly and severally liable to the City for any costs incurred by the City in removing a violating sign and the City may pursue any and all legal remedies authorized by State law to collect against the owners.

Service of the notice shall be made upon all persons entitled thereto either personally or by mailing a copy of the notice by certified mail to each person at their address as it appears on the last equalized assessment role of the County or as contained in City records. If no address of any such person so appears or is known, then a copy of the notice shall be mailed, addressed to the person, at the address of the premises involved in the enforcement proceedings. The failure of any such person to receive the notice shall not affect the validity of the proceedings. Service by certified mail in the manner herein provided shall be effective upon receipt of mailing.

#### **30.01.05: FILING A SIGN COMPLAINT**

Unless otherwise stated in this Title, in the event any City employee or representative receives a complaint of a possible violation of this Title, either orally or in writing, said representative shall forward the complaint to the Building Inspector or designee for investigation.

As part of the investigation, the Building Inspector or designee shall obtain the following information in writing:

- A. Name, address and phone number of the person making said complaint;
- B. Address of the property on which the sign subject to the complaint is located; and
- C. Nature of the complaint.

After obtaining the necessary information from the complainant, the Building Inspector or designee shall conduct a proper investigation into the matter and make a determination as to whether the sign violates any provision of this Title, the Building Code adopted by the City, or any other applicable laws.

In the event the Building Inspector or designee determines that the sign is in violation, the Building Inspector or designee shall follow the enforcement procedure established in this Title.

#### **30.01.06: PENALTY**

Any violation of the provisions of this Title is a Class 2 Misdemeanor subject to punishment that may include any or all of the following, for each day on which a violation occurs:

- A. Incarceration in the county jail and/or payment of a fine in the maximum amounts set forth by the laws of the South Dakota pursuant to SDCL 22-6-2;

- B. Payment of any costs and/or restitution;
- C. Revocation, suspension, or refusal to issue any license or permit pursuant to any Section of this Title; and
- D. Removal of the violator(s)' sign and/or elimination of said violator(s)' right to obtain future sign permits.

In addition, the owner(s) of the property, building, structure or premises upon which the sign sits and the owner(s) of the sign shall be jointly and severally liable to the City for any costs incurred by the City in removing a violating sign and the City may pursue any and all legal remedies authorized by State law to collect against the owners.

## **CHAPTER 30.02 PROVISIONS APPLICABLE TO ALL SIGNS**

### **SECTIONS:**

- 30.02.01: Registration Exemption
- 30.02.02: Permit and Fees Required
- 30.02.03: Permit and License Duration
- 30.02.04: Design and Construction Standards
- 30.02.05: Clearance, Size, Height and Projection
- 30.02.06: Prohibited Signs
- 30.03.07: Signs Prohibited in Certain Districts
- 30.02.08: Nonconforming Signs
- 30.02.09: Temporary Signs
- 30.02.10: Banners Over Public Right of Way
- 30.02.11: Community Events
- 30.02.12: Video Signs
- 30.02.13: LED Signs
- 30.02.14: Standards for All Illuminated and Electronic Message Signs
- 30.02.15: Commercial Advertising Upon Vehicles Pursuant to Section 16.02.26

### **30.02.01: REGISTRATION EXEMPTION**

The following signs shall be exempt from the registration requirements of this Title:

- A. Governmental regulatory, pedestrian or vehicle direction or regulation, directional, traffic, information and warning signs; governmental agency flags, emblems and insignia, all no larger than an area of two square feet; and also temporary signs placed for the purposes of public safety, or temporary signs placed by the government for information regarding events within the Community;
- B. Commemorative plaques placed by recognized historical agencies and commissions;
- C. Instructional or identification signs not larger than an area of two (2) square feet, such as parking information;
- D. Directional signs entirely on the premises where the activity described is located. Directional signs under this provision shall not exceed five (5) square feet in area;

- E. Temporary political signs, not exceeding thirty-two (32) square feet provided they are removed within one (1) week after the election or within 90 days of being placed, whichever occurs first, and are not placed within the public right-of-way. Political signs that are in excess of said size are in violation and subject to enforcement. Political signs that are left on display longer than one (1) week after the election or that are placed within the public-right-of way are in violation of this Title and may be removed by the Building Inspector or designee without notice;
- F. One construction sign shall be allowed per lot. The sign shall not exceed 32 square feet in area, and shall not be erected until a building permit has been issued;
- G. Window signs covering up to 25% of the area per window, unless otherwise required by state law or City Ordinance;
- H. Flags of any nation or political subdivision flown with a total pole height not to exceed twelve (12) feet with a maximum number of five (5) flags per premises;
- I. Signs located within the interior of a building;
- J. Public or private institutions, school, nonprofit membership organizations, and philanthropic institutions that are educational, cultural, religious or recreational in nature and located in a zoning district that does not otherwise provide for on-premises signage may display on-premises signs. However, such sign or part thereof shall not contain a commercial advertising message;
- K. Signs containing the words “Donated By”, “Sponsored By”, or other similar language depicting that a certain bench or other item beneficial to the community was donated by a certain organization, business or person. The size of such indication shall be proportionate based upon the location where it is placed and shall not be unreasonably large, and in no event may exceed four (4) square feet;
- L. Any sign not exceeding thirty two (32) square feet in area, identifying a construction site, a development or advertising the sale of property within a subdivision that is located on some portion of the subdivision being advertised for sale;
- M. Any non-illuminated “for sale” sign or “for rent” sign of a reasonable size advertising the sale, rental or lease of the residential premises on which the sign is located, but in no event may it exceed eight (8) square feet;
- N. Nameplates located upon single-family, two family and multi-family, dwellings, or on a commercial or industrial structure;
- O. Any non-illuminated sign not exceeding forty-eight (48) square feet in area advertising or identifying the construction or development of any lot more than one hundred (100) square feet in area;
- P. Any sign not exceeding nine (9) square feet in area identifying a public park, playground or historical monument;

**30.02.02: PERMITS AND FEES REQUIRED**

No billboard, off-premises, on-premises sign or other non-exempt sign as allowed under this Title shall be erected, structurally altered, replaced or enlarged within the City without first having been issued a sign permit. Exempt signs are not subject to this requirement. The responsibility for securing the permit is joint and several of the sign owner and contractor. A separate permit shall be required for each sign.

To obtain a permit, the applicant shall make application to the Planning and Permitting Office on a form to be furnished by the City. The permit application shall include and/or be accompanied by the following information:

- A. The applicant's name and address;
- B. The sign and real property owners' names and addresses;
- C. The legal description and address of the property on which the sign is to be placed;
- D. The estimated value of the sign;
- E. Any plans, specifications or legible drawings of the proposed sign/structure structures or other information deemed necessary and requested by the Building Inspector or designee;
- F. The fees for sign building permits shall be based on the most recent building code fee tables adopted by the City Council by resolution.

It is not necessary to obtain a permit before completing general maintenance to a sign such as painting, repainting, cleaning or minor repairs provided no structural alteration is made.

A permit will expire one hundred and eighty (180) days after its issuance. The sign must be erected within this time. Erecting a sign after the expiration date of the permit will result in the erection of a sign in violation of this Title. See also subsection 30.04.05 of this Title

### **30.02.03 PERMIT AND LICENSE DURATION**

To obtain a permit, the applicant shall make application to the Building Inspector or designee as required by subsection 30.02.02.

- A. It is not necessary to obtain a permit before completing general maintenance to a sign such as painting,-repainting, cleaning or minor repairs provided no structural changes or alteration is made.
- B. Any permit shall expire one hundred and eighty days (180) days after its issuance. The sign must be erected within this time. Erecting a sign after the expiration date of the permit shall be a violation of the provisions of this Title.
- C. Off-premises sign licenses expire on December 31 of the year in which the license is purchased.
- D. Any off-premises sign that does not have an off-premises sign license by February 1 of any year is an unlawful sign as defined under this code and is subject to removal under the provisions of this title and subject to enforcement under Title 36.

- E. No off-premises sign license shall be issued for a new off-premises sign if the owner has unpaid fees, assessments, fines or other charges owing to the City.

#### **30.02.04: DESIGN AND CONSTRUCTION STANDARDS**

Sign and sign structure design shall be reviewed and inspected by the Building Inspector or Code Enforcement officer or designee for compliance with this Title and the City's adopted Building Code. The design and construction requirements for all signs for which a permit is required are as follows:

- A. All exterior mounting hardware, brackets, and related supporting elements (except for freestanding support poles/posts) shall not be visible. If concealment is not possible, supporting hardware shall be painted a color to blend with the surrounding structure.
- B. A footing design shall be submitted for free standing signs that are taller than fifteen (15) feet measured from grade at the bottom of the support, to the highest part of the sign. The footing design may require a professional engineer's design, at the discretion of the Building Official or his or her designee.
- C. Flexible banner material installed as a permanent sign must be installed to be legible and without any sagging, folds or wrinkles, and must be attached to an exterior building wall so that the banner is flush with the wall, or if not attached to a building, must be attached to a freestanding structure designed specifically to hold the banner.
- D. Any person engaged in the activity or business of constructing or placing signs shall be required to obtain the required contractor license(s) issued by the Building Official.
- E. Supports for signs and all sign structures shall be built to conform to the requirements of the current building codes as adopted by the City for wind loads, seismic loads, and other combined loads.
- F. All signs using electrical power shall be constructed in accordance with the provisions of the Administrative Rules of South Dakota (ARSD) 20:44:22, the National Electrical Code and the City Code.
- G. All signs and sign structures shall be in good repair, and shall be maintained so as to protect from deterioration, damage, decay and/or abandonment.
- H. All signs shall display a commercial advertising message. If any sign fails to display a full face commercial advertising message for 30 consecutive days, the Building Official shall notify the owner of the sign that the sign is in violation of this section, and penalties for a violation may result.
- I. Any sign that is internally illuminated, or which displays electronic variable messages through light emitting diodes, liquid crystal display, plasma image display, or any other light emitting mechanism must be equipped with acceptable automatic dimming technology.
- J. Existing digital, LED or video type signage: Existing off-premises signs and public purpose signs displaying variable messages through the use of internal illumination

technology or through light emitting diodes, liquid crystal displays, plasma image displays, or any other similar light emitting technology may only display static messages.

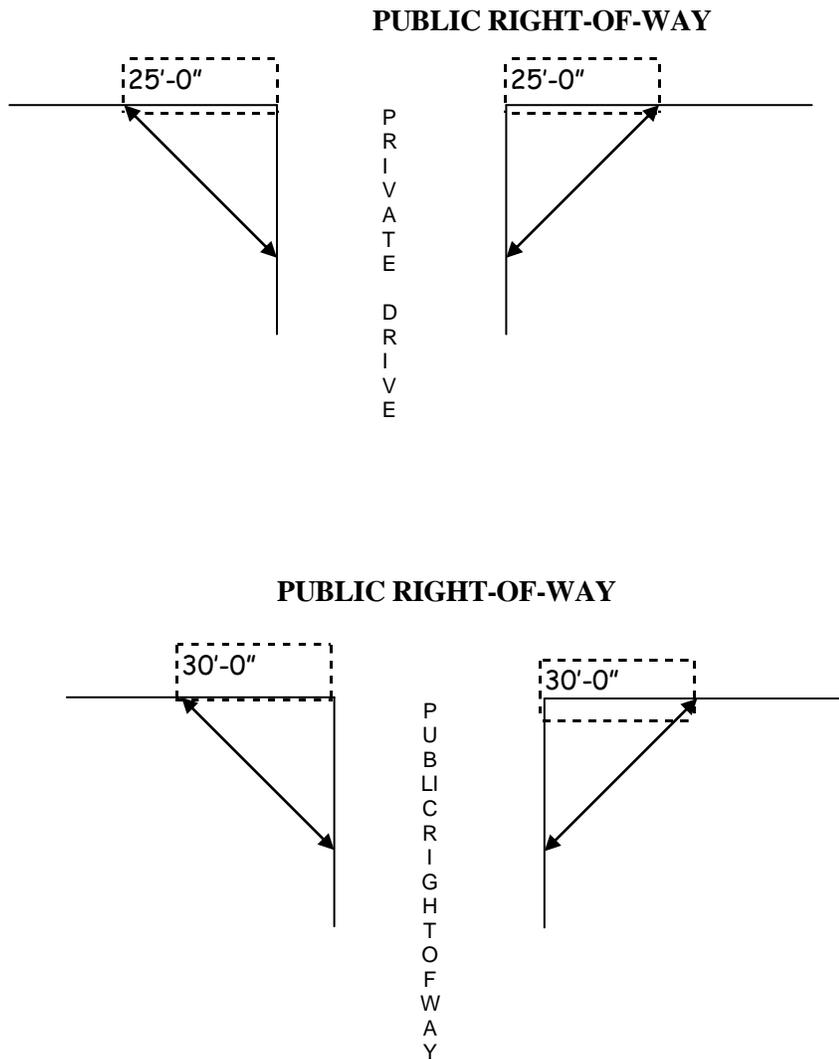
### **30.02.05: CLEARANCE, SIZE, HEIGHT AND PROJECTION**

The following provisions shall apply to all signs, whether exempt or non-exempt, on premises or off premises, located within the City:

- A. No part of any wall or projection sign that is attached to a building shall be erected to a height greater than such building, unless the building and sign design and construction are approved in writing by an architect or engineer qualified to make said approval. In no event; however, shall any sign exceed the maximum height allowed by Sturgis City Ordinance Title 18 within the zoning district;
- B. No sign shall be located closer than five (5) feet to any public right of way and are subject to the visual restrictions set forth herein;
- C. Signs attached to awnings, canopies or marquees shall maintain a minimum vertical clearance of seven (7) feet;
- D. No roof signs shall project above the roofline upon which they are attached, unless the building and sign design and construction are approved in writing by an architect or engineer. In no event; however, shall any sign exceed the maximum height allowed by Sturgis City Ordinance Title 18 within the zoning district;
- E. The size of any pole sign shall not exceed one hundred (100) square feet per side and shall not have more than two (2) sides;
- F. Any sign located in the General Commercial District may extend over a public sidewalk a distance equal to two-thirds (2/3) the width of the sidewalk, but in no case shall the sign extend more than ten (10) feet over the public sidewalk. All signs within said district must maintain a minimum vertical clearance of seven (7) feet above the sidewalk;
- G. Any sign located in the General Commercial District, Retail Commercial District, Highway Service District, and Office Commercial Single Family Residential District shall be placed at least five (5) feet from any property line and are subject to the visibility restrictions set forth herein;
- H. No sign shall obstruct visibility within the first six (6) feet of vertical height within a traffic site triangle. A twenty-five (25) foot site triangle is required on both sides of an access-way formed by the intersection of the access-way and a public right-of-way. A thirty (30) foot site triangle is required at a corner formed by the intersection of two or more public right-of-ways;
- I. Inflatable signage cannot be erected within ten (10) feet of the public right-of-way and must be tethered securely with cables, tie downs or tether lines, which shall not be located within, on or across any public right of way or public property. Such signs shall be secured in such a manner if deflated that no part of the sign will be within any public right of way or public property, nor in any manner interfere with the use and operation of utility lines, antennas, or towers.

- J. Signs located within twenty-five (25) feet of a public street intersection shall not exceed two and one half (2.5) feet tall if the sign rests directly on the ground or is attached to a foundation on the ground. If supported by a post(s) or pole(s) it shall have a minimum vertical clearance of ten (10) feet above the crown of the roadway, per Figure 3.
- K. Signs and awnings that extend out from an exterior wall over a public sidewalk shall maintain a minimum vertical clearance of seven (7) feet, and shall not materially impede adjacent parking or street traffic.
- L. The height of a sign that is not attached to a building shall not exceed thirty-five (35) feet above grade to the highest portion of the sign and shall not include filled grade beneath the sign to increase sign height.

**Examples:**



### **30.02.06: PROHIBITED SIGNS**

The following signs, whether intended as permanent or temporary are prohibited within the limits of the City, except as otherwise provided by this Ordinance.

- A. Signs attached or applied to trees, utility poles, vending machines, boxes, and other unapproved supporting structures;
- B. Signs located within or encroaching on a public-right-away, including signs extending beyond a property line;
- C. Signs that constitute pedestrian or vehicular traffic hazard;
- D. Off-premises signs not located within the areas identified in 30.04.04;
- E. Signs that could be confused with any governmental regulatory, directional or warning sign;
- F. Abandoned signs;
- G. Obliterated signs;
- H. Signs advertising obsolete advertising material;
- I. Signs not in compliance with this ordinance;
- J. A home occupation sign not authorized a by the Use on Review for that home occupation;
- K. Signs attached to any public property or utility infrastructure without permission, including but not limited to the following: power poles, street light poles, traffic signs, fire hydrants or any public building;
- L. Signs that interfere with traffic signs or signals;
- M. Permanent signs attached to or supported by a vehicle;
- N. Blank signs;
- O. Portable Reader Boards;
- P. Tethered, airborne devices that may be blown or moved or located within the required setback;
- Q. Signs incorporating noise, blasts, vibration or dust;
- R. Any sign or portion of a sign which moves or assumes any motion constituting a non-stationary position, except barber poles and signs attached to or placed upon a motor vehicle;
- S. A non-transit sign attached to, or painted on, a motor vehicle, the principal purpose of which is to serve as a stationary advertising device without permit from the City as

authorized by City policy. A logo or business name on a motor vehicle or on equipment shall not be prohibited unless the motor vehicle or equipment is being used as a stationary advertising device.

- T. Projecting signs, except pedestrian-oriented signs that do not exceed 8 square feet;
- U. On premises roof signs
- V. Signs advertising words or pictures of obscene or pornographic material, signs that emit sound, odor, visible matter or which are similar to traffic control signs or signals and which advertise words such as "Stop," "Go," "Danger," "Warning"; or signs that obstruct the vision of traffic control signs or signals or lights in the public right-of-way;

### **30.02.07: SIGNS PROHIBITED IN CERTAIN DISTRICTS**

In addition to the general prohibitions contained in Chapter 30.02 of this Title, signs with flashing lights or intermittent illumination, including LED and video signs shall be prohibited in all zoning districts except the following districts:

- A. General Commercial
- B. Highway Service

Any LED or video sign within the allowed districts shall be subject to the restrictions and regulations set forth within this title. No sign may contain any pornographic or sexually explicit language or image, or contain any flashing, intermittent or moving lights, nor exceed more than two hundred (200) square feet or one hundred (100) square feet per sign face as prescribed in this Title.

### **30.02.08: NONCONFORMING SIGNS**

The following regulations shall govern nonconforming signage in the City for the purpose of eventual compliance of all signage and eliminating such non-conforming use within the corporate limits of the city.

- A. No changes shall be allowed to modify the overall height, shape, illumination, square footage, location, or support structure of the signage;
- B. No changes shall be allowed for maintenance, repair or replacement of any part of the sign structure, including labor and materials, which exceed fifty (50) percent of the sign value as indicated by the Meade County equalization record, or if unavailable, by an appraisal.
- C. No changes shall be allowed to add additional support, fasteners, parts, support structures or a new sign face to extend the useful life of the sign;
- D. The sign shall be removed if it is determined to not be structurally sound by the City Building Official during periods of both active use and non-use;
- E. No changes shall be allowed if the use of the property changes to a different permitted use as described by the list of uses allowed by the zoning district in which the sign is located;

- F. Prior to September 1, 2024, all signs not complying with the regulations of the sign provisions of the Zoning Ordinance shall be modified to comply with the terms of the sign regulations;

Signs that did not conform to the terms of this ordinance when adopted in 2005 shall be considered nonconforming and shall be permitted to exist as such only until any one of the six preceding circumstances occur, and when that occurs the nonconforming status expires and the subject signage shall comply with the terms of the sign regulations of the zoning ordinance or be removed by the owner. This permission to exist only applies to signs that were installed, upon approval of a building permit, before the city's first sign code was adopted, and signs that have become nonconforming due to various amendments passed after the adoption of the first sign code. Any sign which was installed or erected without the required building permit prior to the effective date noted in this paragraph shall not qualify for the exemption stated in this paragraph.

### **30.02.09: TEMPORARY SIGNS**

Any person wishing to erect a temporary sign, not within the definition of an exempt sign as defined in subsection 30.02.01 herein, shall submit an application to the Building Inspector or designee. The Building Inspector or designee shall be informed of the time period for which said sign will be displayed. The time period, location and design of the sign, including the size, weight and condition must be approved by the Building Inspector or designee, and the Building Inspector or designee shall have authority to deny approval of the erection of a temporary sign based thereon. The time period for which a temporary sign may be permitted must correspond with the purpose for the sign, such as a special sale or event, but the period shall not exceed 30 days.

If any temporary sign is erected without the authority of the Building Inspector or designee, has expired, or otherwise is in violation of any of the provisions of this Title, it shall be removed immediately upon written or verbal notice from the Building Inspector or designee. In the event, the sign is not removed by the owner within twenty four (24) hours of notice being received, the Building Inspector or his or her designee may remove the sign at the cost of the owner. The owner(s) of the property, building, and/or structure shall be jointly and severally liable to the City in removing a violating sign and the City may pursue any and all legal remedies authorized by State law to collect against the owners.

Between July 15<sup>th</sup> and the Friday following the official last day of the Sturgis Motorcycle Rally a temporary sign otherwise requiring a permit as set forth in the preceding paragraphs may be put up without a permit if it is less than 32 square feet. Any temporary sign which meets the Building Code requirements of Title 2, put up without a permit during this period, must be taken down or removed no later than noon on the Friday following the last official day of the annual Motorcycle Rally. All other requirements of this ordinance, including signs that are Prohibited, Building Code requirements, Design and Construction requirements, Clearance, Size, Height and Projection requirement, On Premises and location requirements of this Title, and all maintenance, repair and removal requirements of this Title shall remain in full force and effect for all signs during this period. Temporary signs must be installed so as to remain in place in windy conditions and secured so as not to blow over. In all locations, temporary signs must be set back a minimum of five (5) feet from the curb.

Any temporary sign for which a permit has been issued and has not been removed or taken down at the end of the Rally period specified above or at the end of 30 days, whichever is less, shall be removed by the owner of the property on which it is located. If the property owner fails to do so

promptly after notice from the Building Inspector or designee, it may be removed by the City and the owner(s) of the property, building, structure or premises upon which the sign is located and the owner(s) of the sign shall be jointly and severally liable to the City for any costs incurred by the City in removing it as set forth in preceding paragraphs.

Temporary Video signs and LED signs shall only be allowed as specifically authorized by this Title. The location, placement or installation of any temporary sign shall not be located on the following:

1. A utility box/cabinet, transformer, and similar utility installation;
2. A support pole for a traffic signal, street light, power, cables, phone lines, etc.;
3. A support pole for street signage.

### **30.02.10: BANNERS OVER PUBLIC RIGHT OF WAY**

Banners may not be suspended over any public right-of-way between July 1 and August 31 without a marketing agreement or Sponsorship Agreement with the City. An application for such use shall include the dates upon which it is desired the banner be displayed, the location, and the size and contents of the banner, and all other information needed to meet all city requirements.

### **30.02.11: COMMUNITY EVENTS**

Signs advertising or displaying information regarding a community event may be allowed within public rights-of-way upon approval of the City Manager or designee as annually authorized by the City Council. The written request shall include the dates upon which it is desired the sign(s) be displayed, the location, and the size and contents of the sign and all other information needed to meet all Rally and Events Department requirements.

### **30.02.12: VIDEO SIGNS**

Permanent video signs shall only be permitted in General Commercial and Highway Service Districts. Permanent video signs shall only be used as on premise signs which would allow for advertising of products or services available at that location.

Persons may apply for a permit to be issued upon approval of the City Manager or designee as part of a marketing agreement or Sponsorship Agreement with the City. Temporary video signs may be conditionally allowed during the Sturgis Motorcycle Rally or other special event in General Commercial, Retail Commercial, and Highway Service District as provided for in such an agreement.

In determining whether to issue a permit pursuant to this Section, the City Manager or designee ~~Council~~ shall consider traffic safety, the general safety of the public and any other concerns expressed by the Building Inspector or Sturgis Police Department. The City Manager or designee shall have the authority to demand removal of any approved temporary video sign that is determined by the Chief of Police or Building Inspector to be a hazard to the safety of traffic or the general public or a public nuisance.

No application shall be considered pursuant to this Section until the applicant has paid a permit fee of Six Hundred Dollars (\$600.00). In the case of removal of the temporary video sign by the City, said fee shall not be refunded.

### **30.02.13: LED SIGNS**

Permanent LED signs shall only be permitted in General Commercial and Highway Service Districts. Permanent LED signs shall only be used as on premise signs and are subject to the restrictions and regulations set forth within this Title.

No LED sign shall exceed a maximum of one hundred (100) square feet for each face or a total of two hundred (200) square feet for the entire sign and the sign shall contain a maximum of two (2) faces.

Any person may apply for a permit to be issued by the City Council or designee for use of an LED sign as a temporary sign in connection with a special event, including the Sturgis Motorcycle Rally. Said permit shall be requested in writing to the Building Inspections Office at least thirty (30) days prior to the first day of the Sturgis Motorcycle Rally or other special event. Temporary LED signs may be conditionally allowed during the Sturgis Motorcycle Rally or other special event in General Commercial, Retail Commercial and Highway Service Districts.

In determining whether to issue a permit pursuant to this Section for a temporary LED sign, the City Council or designee shall consider traffic safety, general safety of the public and any other concerns expressed by the Building Inspector or Sturgis Police Department. The City Manager shall have the authority to demand removal of any approved temporary LED sign that after the permit is issued is determined by the Chief of Police or the Building Inspector to be a hazard to the safety of traffic or the general public or a public nuisance.

No permit application shall be ~~issued~~ considered for a temporary LED sign to be used during the Sturgis Motorcycle Rally until the applicant has paid a permit fee of Three Hundred Dollars (\$300.00). In the case of removal of a temporary LED sign by the City, due to violation of this Title, said fee shall not be refunded.

### **30.02.14: STANDARDS FOR ALL ILLUMINATED AND ELECTRONIC MESSAGE SIGNS**

The following are the standards for illuminated and electronic message signs:

- A. No flashing or blinking light shall be used to display a message or image, or be used during the change from one message or image to another.
- B. No such illuminated sign shall interfere with the traveled way of streets or obscure traffic signs or devices.
- C. All electronic message signs shall revert immediately to a black screen if the sign malfunctions.
- D. All electronic message signs shall automatically adjust in brightness in direct correlation with ambient light conditions.

### **30.02.15: COMMERCIAL ADVERTISING UPON VEHICLES PURSUANT TO SECTION 16.02.26**

No Chapter or Section of Title 30 shall be construed to disallow the use of commercial advertisements upon vehicles as set forth in Section 16.02.26. ~~Specifically~~, advertisements relating to the business for which a vehicle is used may be placed upon a motor vehicle when

such vehicle is in use for normal delivery or business purposes, and not merely or mainly for the purpose of commercial advertising; and buses and taxi cabs operated for the transportation of the public for hire or buses operated for transportation of the elderly or disabled whether for hire or at no charge and law enforcement and emergency vehicles may display commercial advertisements on the exterior surface areas of said vehicles.

## **CHAPTER 30.03 ON PREMISE SIGNS**

### **SECTIONS:**

- 30.03.01: Application
- 30.03.02: Maintenance, Removal and Repair Responsibility
- 30.03.03: On-Premises Signage Requirements
- 30.03.04: Portable “Daily Specials” Signs
- 30.03.05: Enforcement of On Premise Sign Regulations

### **30.03.01: APPLICATION**

The following provisions shall apply in addition to the Permit application requirements of subsection 30.01.04 to all on premise signs located in all zoned districts except those signs specifically exempted, and only if such exemption specifically states that it only applies to signs located in a specific zoned district.

### **30.03.02: MAINTENANCE, REMOVAL AND REPAIR RESPONSIBILITY**

All signs must be kept in good and safe repair. If a sign is not maintained in good and safe repair, the Building Inspector may notify the owner thereof and order him to repair the sign within a specified period of time not less than fifteen (15) calendar days. If the sign is not repaired within the time specified in the repair notice, the Building Inspector shall notify the owner of the sign and the property owner on which the sign is located to remove the sign within a specified period of time. The owner of the sign and the owner of the property upon which it is located shall be jointly and severally liable for keeping a sign in good and safe repair and properly maintained; or for the removal of a sign if ordered by the Building Inspector or designee. The owners of the sign and the owner of the property upon which it is located shall have joint and several, responsibility for keeping a sign in safe repair and properly maintained, or for the removal of a sign if and when it is abandoned, no longer functional, unsafe, or not maintained.

Projection, clearance and height:

- A. Signs located within twenty-five (25) feet of a public street intersection shall not exceed two and one half (2.5) feet tall if the sign rests directly on the ground or is attached to a foundation on the ground. If supported by a post(s) or pole(s) it shall have a minimum vertical clearance of ten (10) feet above the crown of the roadway.
- B. Signs and awnings that extend out from an exterior wall over a public sidewalk shall maintain a minimum vertical clearance of seven (7) feet, and shall not materially impede adjacent parking or street traffic.
- C. The height of a sign that is not attached to a building shall not exceed the maximum building height allowed in that district under the authority of Title 18 of this code, and which shall include filled grade beneath the sign intended to raise the maximum sign height.

### **30.03.03: ON-PREMISE SIGNAGE REQUIREMENTS**

- A. On-premises signs, where permitted, shall be regulated by the requirements of this section and of the City Ordinances.
- B. The owner of an on-premises sign may not sell advertising on such sign or otherwise enter into contracts which allow the sale of advertising of products or services not available for purchase on the parcel in which the sign is located.
- C. A property where an on-premises sign is permitted may have both on-premises ground and on-premises wall signs.

Electronic message centers incorporating varying message display technology:

- A. On-premises electronic message centers, reader boards and other signs that allow for the display of varying messages through either manual means, or by the use of a digital, plasma, or LCD display, or other similar technology are allowed.
- B. The maximum area of an on-premises sign authorized by this section is 60 square feet unless otherwise indicated within this title.

### **30.03.04: PORTABLE “DAILY SPECIAL” SIGNS**

Business shall be allowed portable signs in the form of a sandwich board or other similar design, but not a portable reader board, to be used for advertisement of daily specials, events or services of the business. Said sign may be set out each day upon the opening of the business and shall be removed from the outside of the premises upon the end of business hours each day. Any sign used pursuant to this Section shall be approved by the Building Inspector or designee and shall comply with all of the following:

- A. The sign shall be no more than sixteen (16) square feet in size, unless located within the General Commercial District;
- B. The sign shall be of a sufficient weight and structure to assure it will stay in place and not be moved by the wind or other natural element;
- C. In General Commercial District only, where the setback makes it impossible for a business to place the sign on the property of the business, one portable sign may be placed in the public right away subject to the Building Inspector or designee’s authority to control the specific location within the public right away to assure pedestrian and vehicular safety. Said sign shall be a maximum of nine (9) square feet in size.

Due to the increase in pedestrian traffic during the Sturgis Motorcycle Rally, any sign authorized by this Section to be within the public right of way shall not be used seven days prior to the official start of the Sturgis Motorcycle Rally or during the Sturgis Motorcycle Rally each year.

**CHAPTER 30.04  
BILLBOARDS AND OFF PREMISES SIGNS**

**SECTIONS:**

- 30.04.01: Application
- 30.04.02: Inventory List
- 30.04.03: Billboards Permitted Only in Billboard Overlay District
- 30.04.04: Off-Premises Signs
- 30.04.05: Billboard and Off-Premises Permits
- 30.04.06: Billboard and Off Premises Sign Fee Schedule
- 30.04.07: Billboard Inventory and Color Restrictions
- 30.04.08: Size and Distance Restrictions
- 30.04.09: Maintenance
- 30.04.10 Alterations or Relocations
- 30.04.11 Annual Inventory Fee
- 30.04.12 Enforcement for Billboards and Off-Premises Sign

**30.04.01: APPLICATION**

The following provisions shall apply to all billboards and off premises signs.

**30.04.02: INVENTORY LIST**

An authorized list or inventory of existing billboards shall be prepared and kept updated by the Building Inspector and shall be placed on file in the Office of the Building Inspector.

**30.04.03: BILLBOARDS PERMITTED ONLY IN BILLBOARD OVERLAY DISTRICT**

Billboards shall only be allowed by permit in the areas of the City shown as Billboard Overlay District. BB-1 Billboard Overlay District and BB-2 Billboard Overlay District shall be in the area located within the City as identified on Zoning Map on file at the City Finance Office:

**30.04.04: OFF-PREMISES SIGNS**

This type of sign is to meet a standard to preserve and protect overall landscape quality as well as scenically sensitive areas and promote the safety of those using the public right of ways. Off premises signs must follow the same rules as governmental and regulatory signs. An off-premises sign may only include the name of the destination, logo and directions. No commercial advertising message shall be allowed. Prohibited off-premise signage includes roof tops, projecting and hanging signs, awnings and under canopies. Each sign may have a maximum of three square feet per business included on the sign with a sign maximum of twelve square feet in size and signs with more than one sign face per direction may be allowed only with a use on review. No part of the off-premises sign face or structure will be allowed to exist in or overlap into the required side or rear yard setbacks.

A conditional use permit is required for each off-premises sign, in addition to a sign permit and prior to a sign permit or any building permit being issued, approval of the conditional use permit must be obtained:

- A. Approval of a conditional use permit is required any time a new off-premises sign is erected or a structural alteration as defined by this code is made to an existing off-premises sign prior to a sign permit being issued.

- B. Approval of a conditional use permit is required for the conversion of an on-premises sign to an off-premises sign and prior to issuance of a sign permit
- C. Off-premises signs for for-profit entities shall only be allowed within Highway Service and General Commercial zones or within one block of an interstate exit or other highway entrance into the City
- D. Off-premises signs for non-profit, educational or institutional businesses or services shall be allowed within any zone at the discretion of the Planning and Zoning Commission and the City Council.
- E. A maximum of two off-premise signs per block are allowable.

Size, height and spacing regulations for off-premises signage shall meet the requirements of subsection 30.02.05 as well as the applicable provision of Building Code.

#### **30.04.05 BILLBOARD AND OFF-PREMISES PERMITS**

The following provisions shall apply in addition to the Permit application requirements of subsection 30.02.02 to all billboard and legal off-premises signs located in all zoned districts except those signs specifically exempted, and only if such exemption ~~the provision~~ specifically to the location identified in the permit application.

- A. Any Permit shall expire one hundred and eighty days (180) days after its issuance. The sign must be erected within this time. Erecting a sign after the expiration date of the permit shall be a violation of the provisions of this Title.
- B. Billboard and Off-premises sign licenses expire on December 31 of the year in which the license is purchased.
- C. Any Billboard or Off-premises sign that does not have an off-premises sign license by February 1 of any year is an unlawful sign as defined under this code and is subject to removal under the provisions of this Title.
- D. No Billboard or Off-premises sign license may ~~shall~~ be issued for any ~~new~~ off-premises sign if the owner has unpaid fees, fines, assessments or other charges of any kind owing to the City.

#### **30.04.06: BILLBOARD AND OFF PREMISES SIGN FEE SCHEDULE**

The cost of a Billboard or Off-premises permit shall be based upon the value of the billboard and/or sign. The cost shall be based on the most recent building code fee tables.

#### **30.04.07: BILLBOARD INVENTORY AND COLOR RESTRICTIONS**

The Building Inspections Office shall keep an inventory of all billboards located within the City. The inventory shall include billboards located within and outside of the BB Zoned areas. Pursuant to this Chapter, the owner of each billboard located within the City shall obtain a permit for each billboard owned. A permit shall be necessary for each billboard face. The permit shall refer to the location, size, height, and degree of conformity to this Title. Only inventoried billboards may be subsequently issued billboard alteration permits.

A billboard which has one base with two billboard faces will be considered to be two billboards for all purposes under this Title, including the assessment of fees. The base of any and all billboards shall be black or brown.

A billboard which has one base with two Billboard faces shall be considered to be two signs for all purposes under this Title, including the assessment of fees.

#### **30.04.08: SIZE AND DISTANCE RESTRICTIONS**

Any billboard located within the BB-1 Billboard Overlay District shall not be erected to exceed ten feet six inches (10' 6") by thirty six feet (36') with a maximum height of forty five feet (45'), including all supports and aprons. Any billboard located within the BB-2 Billboard Overlay District shall not be erected to exceed fourteen feet (14') by forty eight feet (48') with a maximum height of forty five feet (45'), including all supports and aprons. There shall be a maximum of two billboard faces allowed for each structure. Said faces must be placed opposite of each other at the same height facing opposite directions. Billboards shall not have two billboard faces facing the same direction.

A billboard shall not be erected within a five hundred (500) foot radius of an existing billboard. Five hundred (500) feet is the minimum distance that must exist between signs. Said distance must exist between signs in all directions. A longer distance may be required based upon the size and/or density of the signs. An Off-premises sign as permitted under this Title shall not be subject to these distance requirements.

Whenever dimensions of a sign are specified, they shall include panels, frames, supporting structures and all parts of the sign. In cases where parts of the advertisement extend beyond the rectangular or other shaped face of the sign, the method of measuring shall be to enclose the entire sign into the closest geometric shape and the measurements of that shape shall constitute the average square footage of the sign.

#### **30.04.09: MAINTENANCE**

All authorized, existing billboards must be kept in good and safe repair. If a billboard on the authorized list is not maintained in good and safe repair, the Building Inspector or designee shall notify the owner thereof and order him or her to repair the billboard within a specified period of time not less than 30 calendar days. If the Building Inspector or designee finds that the billboard is not repaired within the time specified in the repair notice, the Building Inspector shall notify the owner of the billboard and the owner of the real property on which the billboard is located to remove the billboard from the property within a specified period of time. All billboards ordered to be removed shall be stricken from the inventory when the time limit set in the removal notice ends.

No permit is needed for general maintenance, but no existing billboard shall be structurally altered without first obtaining an alteration permit from the Building Inspector or designee for that purpose. A separate permit shall be required for each billboard.

#### **30.04.10: ALTERATIONS OR RELOCATION**

A billboard shall not be altered with regard to size, shape, or height without the prior issuance of a billboard alteration permit. All such permits shall require full compliance with this Title.

Relocation of an existing billboard shall be considered a new billboard requiring a billboard permit.

#### **30.04.11: ANNUAL INVENTORY FEE**

An annual inventory fee shall be assessed against all existing billboards and off-premises signs. Said fee shall be assessed each January following the effective date of this Title. The amount of said fee shall be fifty dollars (\$50.00). Failure to pay said fee in a timely manner shall result in the Building Inspector or designee notifying the owner of the billboard and the real property that the billboard in violation shall be removed within a specified period of time. After said time period, the billboard in violation shall be removed from the authorized inventory.

#### **30.04.12: ENFORCEMENT FOR BILLBOARDS AND OFF-PREMISES SIGNS**

Unless otherwise specified in this Title, and in addition to the provisions of subsection 30.01.06 herein, in the case of noncompliance with the requirements of this Title, the Building Inspector shall provide written notice to the owner of the violating billboard and the owner of the property upon which it is located, which notice shall state the reason(s) such billboard is in violation and set forth a period of fifteen (15) days for compliance or removal of the billboard. In the event that compliance is not made within the fifteen (15) days, the billboard shall be removed in accordance with the provisions of this Title at cost to the owner of the building, structure, premises, or billboard.

The owner(s) of the property, building, structure or premises upon which the billboard sits and the owner(s) of the billboard shall be jointly and severally liable to the City for any costs incurred by the City in removing a violating billboard and the City may pursue any and all legal remedies authorized by State law to collect against the owners.

Service of the notice shall be made upon all persons entitled thereto either personally or by mailing a copy of the notice by certified mail to each person at their address as it appears on the last equalized assessment role of the County or as known to the Building Inspections Office. If no address of any such person so appears or is known, then a copy of the notice shall be mailed, addressed to the person, at the address of the premises involved in the proceedings. The failure of any such person to receive the notice shall not affect the validity of the proceedings taken under this Title. Service by certified mail in the manner herein provided shall be effective upon receipt of mailing.

### **CHAPTER 30.05 APPEAL PROCESS**

#### **SECTIONS:**

- 30.05.01: Filing an Appeal
- 30.05.02: Time of Hearing and Notice
- 30.05.03: Hearing Procedures
- 30.05.04: Rights of Parties at Hearing
- 30.05.05: Decision
- 30.05.06 Report Costs
- 30.05.07 Duration of Relief
- 30.05.08 Subject to Judicial Review

#### **30.05.01: FILING AN APPEAL**

Any person that has received a citation issued by a code enforcement officer or designee under this Title may appeal said citation to the City Manager and City Council by following all of the procedural requirements set forth in Title 36. Before filing an appeal with the Finance Office, the aggrieved person shall meet with the City Manager to discuss why the person believes the citation was issued in error. If unresolved, the appeal may be commenced.

Appeals shall be commenced by filing 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. The notice of appeal shall include a statement of the action complained of, why the same should be modified or rescinded, address where the appellant can be mailed notice of hearings, and a copy of the citation issued. The Finance Officer shall deliver a copy of the appeal notice and all filed documents to the City Attorney.

### **30.05.02: TIME OF HEARING AND NOTICE**

A public hearing shall be held on all appeals within 45 working days after the filing of the appeal, unless a later date is agreed upon by the aggrieved person and the City. The City shall cause written notice of the date, time and place of such hearing to be served upon the aggrieved person by personal service or certified mail to the address set forth in the appeal documents at least ten days prior to the hearing. The appeal shall be scheduled on the agenda of a regularly scheduled meeting of the City Council for a period of at 30 minutes unless otherwise directed by the City Council.

### **30.05.03: HEARING PROCEDURES**

The following rules shall govern the procedures for an administrative hearing:

- A. Hearings and administrative appeals need not be conducted according to the technical rules relating to evidence and witnesses.
- B. Any relevant evidence shall be admitted if it is the type of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission for such evidence after objection in civil actions in courts or competent jurisdiction in this state.
- C. Irrelevant and unduly repetitious evidence and evidence that lacks trustworthiness shall be excluded.

### **30.05.04: RIGHTS OF PARTIES AT HEARING**

The aggrieved person and the City shall have these rights among others:

- A. To call and examine witnesses on any matter relevant to the issue of the hearing;
- B. To introduce documentary, physical and oral evidence;
- C. To cross examine opposing witnesses on any matter relevant to the issues of the hearing; and

D. To rebut evidence.

### **30.05.05: DECISION**

After each appeal hearing, the Council shall consider the evidence in executive session, and may state its decision when it has concluded the executive session. In addition, the council shall provide written findings stating the following:

- A. The evidence the City Council relied upon in reaching its decision.
- B. Based upon such written findings, the Council may sustain or dismiss the citation or decision. In sustaining citation, the Council may in its discretion reduce or waive the payment of any civil penalty, permit, reinstatement or late penalty fee.

### **30.05.06: REPORT AND COSTS**

A written report of the decision, including the findings, shall be furnished to the aggrieved person and the City Manager or designee within 20 working days from the date the appeal hearing is closed. The City and the aggrieved person shall bear their own respective cost of the appeal proceeding. The decision of the City Council shall be final.

### **30.05.07: DURATION OF RELIEF**

Any relief granted by the Council shall run for the duration of the permit period, and the permit holder shall retain the right to alter the advertising content of the sign. In the event, however, that the permit holder relocates or otherwise ceases operation on the premises subject to the relief granted by the Council, the relief granted shall be extinguished. The relief shall not transfer to a new business opened by the permit holder at the same location.

### **30.05.08: SUBJECT TO JUDICIAL REVIEW**

The decision of the Council may be subject to judicial review as provided by law.

Dated this 16th day of March, 2015.

First reading: 09-15-14

Second reading: 03-16-15

Adopted: 03-15-15

Published: 03-25-15

Effective: 04-15-15

Any other business:

Councilor Hersrud commented on a rumor that he had heard and he would like to start rewarding people for their ridiculous rumors.

Councilor Potts asked about the public input on the subject of paving the parking lot at the Community Center. City Manager Ainslie said there were 23 opposed and 21 for paving the parking lot.

Councilor Bestgen thanked City Manager Ainslie and City Attorney Barnier for their work on Title 30 ordinance.

Richard Deaver and Russ Keaton stated their concerns about paving the west side of the Community Center, leasing the Park during the Rally and not sharing information with the community.

Motion by Bestgen, second by Hersrud and carried with all members present voting yes to go into executive session for one contract, one personnel item and one legal matter at 8:12 pm.

Motion by Bestgen, second by Bachand and carried with all members present voting yes to return to regular session at 10:18 pm.

Motion by Johnston, seconded by Bestgen and carried with all members present voting yes to adjourn the meeting at 10:21 pm.

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

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

Published once at the total approximate cost of \$1225.85.