

All City Council Meetings are recorded.

**CITY OF CUSTER CITY
COUNCIL AGENDA
April 30th, 2018 – City Hall Council Chambers
5:30 P.M.**

1. Call to Order - Roll Call - Pledge of Allegiance
2. Approval of Agenda
3. Approval of Minutes – April 23rd, 2018 Meeting
4. Declaration of Conflict of Interest
5. Public Presentations - Public Hearings – Public Comments
 - a. Discussion of potential referendum – Ordinance #802 – Residential District
 - b. Discussion of Proposed Resolution to have Expedited Process for Existing Business under Ordinance #802
6. New Business
 - a. New Hires – Public Works Department Seasonal
 - b. New Hire – Finance Department
7. Executive Session – Personnel, Proposed Litigation, & Contract Negotiations (SDCL 1-25-2(1-4))
8. Adjournment

ADA Compliance: The City of Custer City fully subscribes to the provisions of the Americans with Disabilities Act. If you desire to attend this public meeting and are in need of special accommodations, please notify the Finance Office 24 hours prior to the meeting so that appropriate services are available.

**CITY OF CUSTER CITY
COUNCIL PROCEEDINGS- SPECIAL MEETING
April 23rd, 2018**

Mayor Corbin Herman called to order a special meeting of the Common Council at 5:30 p.m. Present at roll call were Councilpersons Maciejewski, Heinrich, Nielsen, Fischer, Blom and Arseneault. City Attorney Chris Beesley was present. The Pledge of Allegiance was stated.

AGENDA

Councilperson Nielsen made a motion to approve the agenda. Seconded by Councilperson Blom, the motion carried unanimously.

MINUTES

Councilperson Fischer made a motion to approve the minutes from the April 16th, 2018 meeting. Seconded by Councilperson Nielsen, the motion carried unanimously.

CONFLICTS OF INTEREST

No conflicts of interest were stated.

SECOND READING – ORDINANCE #802 – RESIDENTIAL DISTRICT

Councilperson Fischer made a motion to approve Ordinance #802, Residential District, using Alternate Definition 2 for Family Day Care with original restrictions on parking being; Short Term Rental – all parking shall be restricted to off street. Seconded by Councilperson Heinrich, the motion carried with Councilpersons Maciejewski, Heinrich, Nielsen, Fischer and Blom voting yes and Councilperson Arseneault voting no.

SECOND READING – ORDINANCE #803 – ZONING, REZONING & ZONING ORDINANCE AMENDMENTS

Councilperson Maciejewski made a motion to approve Ordinance #803, Zoning, Rezoning & Zoning Ordinance Amendments. Seconded by Councilperson Heinrich, the motion carried with Councilpersons Heinrich, Nielsen, Fischer, Blom, Arseneault and Maciejewski voting yes.

SECOND READING – ORDINANCE #804 – VARIANCES

Councilperson Fischer moved to approve Ordinance #804, Variances. Seconded by Councilperson Blom, the motion carried with Councilpersons Nielsen, Fischer, Blom, Arseneault, Maciejewski and Heinrich voting yes.

SECOND READING – ORDINANCE #805 – CONDITIONAL USE PERMITS

Councilperson Heinrich made a motion to approve Ordinance #805, Conditional Use Permits, as presented. The motion was seconded by Councilperson Maciejewski. Following some discussion, Attorney Chris Beesley handed out codified law regarding substantially altering ordinances which created more discussion. The motion died with Councilpersons Fischer, Arseneault, Maciejewski and Nielsen voting no, and Councilpersons Blom and Heinrich voting yes.

Councilperson Fischer made a motion to table the second reading of Ordinance #805, Conditional Use Permits to the May 21st, 2018 meeting. Seconded by Councilperson Maciejewski, the motion carried unanimously.

SECOND READING – ORDINANCE #806 – BOARD OF ADJUSTMENT

Councilperson Nielsen made a motion to approve Ordinance #806, Board of Adjustment. Seconded by Councilperson Fischer, the motion carried with Councilpersons Blom, Arseneault, Maciejewski, Heinrich, Nielsen and Fischer voting yes.

NEW HIRE-PUBLIC WORKS DEPARTMENT

Councilperson Heinrich made a motion to approve the hiring of two seasonal Public Works Seasonal Employees. Seconded by Councilperson Nielsen, the motion carried unanimously.

ADJOURNMENT

With no further business, Councilperson Arseneault moved to adjourn the meeting at 6:24 p.m. Seconded by Councilperson Heinrich, the motion carried unanimously.

ATTEST:

CITY OF CUSTER CITY

Lisa Trana
Deputy Finance Officer

Corbin Herman
Mayor

ORDINANCE NO. 802

An Ordinance entitled an Ordinance Amending Chapter 17.12 Residential District, of the City of Custer City Municipal Code, as follows, to wit:

BE IT ORDAINED by the Common Council of the City of Custer City that Chapter 17.12 Residential District be amended as follows:

Chapter 17.12
RESIDENTIAL DISTRICT (R)

Sections:

- 17.12.010 Intent
- 17.12.020 Definitions
- 17.12.030 Permitted principal uses and structures
- 17.12.040 Permitted accessory uses and structures
- 17.12.050 Permitted conditional uses
- 17.12.060 Prohibited uses and structures
- 17.12.070 Home Occupations
- 17.12.080 Restrictions and requirements

17.12.010 Intent.

The intent of the residential district (R) is to provide for residential uses of varying types and other compatible land uses in a pleasant and stable environment. (Ord. 432 (part), 1995)

17.12.020 Definitions.

“Boardinghouse” means any structure in which one or more rooms are rented by one or more people with a shared common area, lodging and meals may be provided for paying or nonpaying guests.

“Family Day Care” means providing care and supervision of children from more than two unrelated families, for compensation, in a family home, on a regular basis for part of a day as a supplement to regular parental care, without transfer of legal custody or placement for adoption.

“Home Occupation” means the conducting of a business in any residential or accessory structure. The home occupation is an accessory practice and customarily non-residential use conducted within or administered from a portion of the primary home or its accessory structures.

“Long Term Rental” means the rental of any structure, or any portion of any structure, located within the residential zoning district on long term monthly or yearly basis, for lodging or sleeping purposes for more than thirty (30) consecutive calendar days. For the purpose of this definition, structures shall include all housing types including detached single-family residences, lofts, apartments, guest cottages and cabins, condominiums, duplexes, triplexes, townhomes, and multifamily dwellings.

“Multiple Family Dwelling” means two (2) or more separate housing units that exist on a single lot or tract. The housing units are contained within one or more structures. Multiple Family Dwellings include but are not limited to apartments, duplexes, triplexes, quadplexes, condominiums, guest cottages and cabins, and multiple single-family dwellings.

“Short-term rental” means the rental of any structure, or any portion of any structure to any one party, entity or individual, on a nightly or day-to-day basis for lodging or sleeping purposes for less than thirty (30) consecutive calendar days. Such rental to any party, entity or individual for less than thirty (30) consecutive days shall be considered transient in nature. For the purpose of this definition, structures shall include all housing types including detached single-family residences, lofts, apartments, guest cottages and cabins, condominiums, duplexes, triplexes, townhomes, and multifamily dwellings.

“Single family dwelling” means a structure in which one (1) housing unit is contained within the structure. The structure exists on one common lot. The unit shall provide complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

“Townhouse” means a structure constructed with a continuous roof and foundation containing two (2) or more attached dwelling units in which each unit extends from the foundation to roof with open space on at least two sides. Each separate unit exists on individually platted townhouse lots separated by a common lot line and a common separation wall between each unit.

17.12.030 Permitted principal uses and structures.

The following principal uses and structures shall be permitted in residential districts (R):

- A. Single family dwellings
- B. Townhouse
- C. Manufactured homes in accordance with section 17.40 of this code
- D. Long Term Rentals
- E. Home Occupations in compliance with section 17.12.070 of this code. (Ord. 432 (part), 1995)

17.12.040 Permitted accessory uses and structures.

The following accessory uses and structures shall be permitted in residential districts (R):

- A. Accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of this district. No accessory structure shall be built, erected, or constructed prior to the establishment of the principal structure. (Ord. 432 (part), 1995)

17.12.050 Permitted conditional uses.

After the provisions of this title relating to permitted conditional uses have been fulfilled, the city council may permit as permitted conditional uses in residential districts (R):

- A. Boardinghouses, and short-term rentals;
- B. Multiple-family dwelling;
- C. Churches, synagogues and temples;
- D. Colleges and universities;
- E. Convalescent, nursing and rest homes;
- F. Home occupations not complying with the guidelines as defined in section 17.12.070 of this code.
- G. Governmental services;
- H. Commercial Horticultural uses that exceed 192 square feet;
- I. Medical and other health facilities;
- J. Mobile home court in accordance with Section 17.36 of this code.
- K. Family Day Care, Nursery, primary, intermediate and secondary schools;
- L. Public recreational and park facilities;
- M. Utility substations. (Ord. 434 (part), 1995; Ord. 432 (part), 1995)

17.12.060 Prohibited uses and structures.

All other uses and structures which are not specifically permitted or not permissible as permitted conditional uses shall be prohibited from the residential district.

Home occupations in which the home occupation utilizes more than twenty-five (25) percent of the total area of the lot, tract, or parcel in which the home occupation is located shall be prohibited.

17.12.070 Home Occupations

Home occupations shall be permitted in the residential zone, provided the home occupation complies with the following requirements;

- A. Such use must be incidental and subordinate to the main use or dwelling unit for residential purposes.
- B. No equipment or process shall be used in such home occupation which frequently or repeatedly creates noise in excess of one hundred (100) decibels. No equipment or process shall be used in such home occupation which creates vibration, glare, fumes, odors or electrical interference deemed to be offensive to members of the general public. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises

or causes fluctuations in line voltage off the premises. Such noise, vibration, glare, fumes, or odors shall be measured or determined at any location directly contiguous to the property line of the property upon which the equipment or process is being operated or conducted.

C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation nor shall any storage of materials or equipment be permissible outside the dwelling or structure(s).

D. The use of the dwelling unit or any accessory structure for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and shall utilize not more than twenty-five (25) percent of the total structure area of the property.

E. All parking is limited to off street parking only.

17.12.080 Restrictions and requirements.

All structures, land and uses in the residential district (R) shall be in compliance with the following restrictions and requirements:

A. **Minimum Lot Requirements.** The minimum lot area per single-family dwelling unit shall be seven thousand five hundred (7,500) square feet. The minimum lot width shall be fifty (50) feet. Exception: Dwellings on small lots. Where there is an existing recorded lot which does not meet the minimum lot area requirement, and said lot is not contiguous with other lots under the same ownership, a single-family dwelling may be maintained, continued, constructed or reconstructed provided that one (1) side yard shall not be less than four feet (4) and the sum of the side yards shall not be less than ten feet (10), and provided that all other requirements, except lot size are met.

B. **Minimum Yard (Setback) Requirements.** There shall be a front yard of not less than a depth of twenty-five (25) feet. There shall be a rear yard of not less than a depth of twenty-five (25) feet. Each side yard shall not be less than a depth of six (6) feet. Unattached buildings of accessory use may be permitted to allow a rear yard depth of not less than twelve (12) feet. Accessory structures shall comply with the standard front and side yard setback requirements. All setbacks shall be measured from the platted property line.

C. **Minimum Dwelling Size.** The minimum single-family dwelling size shall not be less than six hundred (600) square feet.

Exception: New dwellings on small lots. Where there is an existing recorded lot which does not meet the lot area requirements (seven thousand five hundred (7500) square feet) and said lot is not contiguous with other lots under the same ownership, a single-family dwelling may be permitted to be constructed with a minimum dwelling size not less than four hundred (400) square feet.

D. **Maximum Height.** The height of all buildings and structures shall not exceed thirty-five (35) feet.

E. **Townhouse Requirements**

1. Proposed individual townhouse lot line(s) for a townhouse shall be submitted on a site plan and approved prior to issuance of a building permit. Following the start of construction, the final location of individual townhouse lots shall be determined and platted,

2. In order to permit openings in exterior walls, each townhouse structure and its appendage and projections shall have a minimum six-foot setback from individual lot lines which are not common to other individual lots, unless approved otherwise in a planned development or in a use on review permit,

3. Townhouses shall have a six-foot exterior maintenance easement on either side of a common lot line to provide adequate room for maintenance, repair and alterations,

4. **Lot Size.** The minimum lot area per townhouse unit shall be five thousand (5,000) square feet if the unit shares one (1) common wall. The minimum lot area per townhouse unit shall be two thousand five hundred (2500) square feet if the unit contains two (2) common walls.

5. **Minimum Yard (Setback) Requirements.** There shall be a front yard of not less than a depth of twenty-five (25) feet. There shall be a rear yard of not less than a depth of twenty-five (25) feet. Each side yard not containing a common townhouse lot line shall not be less than six (6) feet. Unattached buildings of accessory use may be permitted to allow a rear yard depth of not less than twelve (12) feet. Accessory structures shall comply with the standard front and side yard setback requirements.

All setbacks shall be measured from the platted property line.

6. Minimum Unit Size. The minimum unit size shall not be less than six hundred (600) square feet.

7. Maximum Height. The height of all townhouse units shall not exceed thirty-five (35) feet.

8. Open Space Requirements. Individual townhouse lots shall have land area in addition to the area upon which the structure is built. Each individual townhouse lot shall have a minimum of four hundred (400) square feet of open space. Open space does not include driveways, parking or service areas

F. Sanitation. All occupied structures shall be connected to municipal sewer and water facilities.

G. Off-Street Parking. Off street parking shall be provided per the following.

1. Single Family Dwelling – One (1) off street parking space

2. Townhouse – One (1) off street parking space per unit.

ALTERNATE 3

3. Short Term Rental – All parking shall be restricted to off street.

Dated this 23rd day of April 2018.

City of Custer City

Corbin Herman, Mayor

Attest _____

Laurie Woodward, Finance Officer

(SEAL)

First Reading: April 02, 2018

Vote:

Second Reading: April 23, 2018

Arseneault: No

Maciejewski: Yes

Publication: May 02, 2018

Heinrich: Yes

Nielsen: Yes

Fischer: Yes

Blom: Yes