

Unapproved Minutes  
Council Special Session  
May 27, 2021  
Thursday 5:00 p.m.

The special session of the City Council, City of Vermillion, South Dakota was held on Thursday, May 27, 2021 at 5:00 p.m. at the City Council Chambers.

1. Roll Call

Present: Hellwege, Holland, Humphrey, Jennewein, Letellier, Price, Ward, Willson, Mayor Collier-Wise

2. Adoption of Agenda

166-21

Alderman Holland moved approval of the agenda. Alderman Willson seconded the motion. Motion carried 9 to 0. Mayor Collier-Wise declared the motion adopted.

3. Visitors to be Heard - None

4. Old Business

A. Second Reading of Ordinance 1434 - Amending Title XV Land Usage to Add Chapter 158 Entitled Medical Cannabis Establishments to the City of Vermillion Code of Ordinances

James Purdy, Assistant City Manager, reported that, in November 2020, South Dakota voters approved an initiated measure (IM26) allowing for medical cannabis within the State. James stated that the State law regulating medical cannabis will take effect on July 1, 2021. James reported that the Planning and Zoning Commission (Commission) discussed a possible amendment to the zoning ordinance at their May 10th meeting. James stated that the Commission also discussed this item at a meeting on May 17th prior to the City Council meeting. James noted that, at the May 17th meeting, the Commission recommended approval of the first reading of the ordinance including the removal of medical cannabis dispensaries as an allowable use in the CB Central Business District and NC Neighborhood Commercial District. James reported that, at the May 17th Council Meeting held later that night, the City Council approved the first reading of Ordinance No. 1434 and opted to decline the Planning Commission recommendation to remove the CB Central Business District as a permitted zoning district. James reported that, on May 24th, Mayor Kelsey Collier-Wise and Council members Julia Hellwege and Katherine Price met with community members, the City Attorney, and City Staff to discuss non-substantive changes to the

ordinance. James reported that those changes include removing HI Heavy Industrial as a zone where medical cannabis establishments are allowed, allowing medical cannabis dispensaries in the GI General Industrial District, and allowing for two or more medical cannabis uses in one location. James reported that staff is proposing a two-step process similar to how alcohol use is regulated. James stated that the zoning aspect discussed here will regulate where the different uses are allowed, while the permitting and licensing aspect of proposed Ordinance No. 1435 will regulate the actual business. James stated that the ordinance being discussed now is the second reading of the zoning portion. James reported that the proposed zoning ordinance would be a separate chapter within the zoning ordinance. James noted that the sections will deal with definitions and which zoning district cannabis products may be sold, grown, tested, or manufactured. James noted that the proposed zoning ordinance does not require that any additional chapters or sections of the zoning ordinance be amended since everything related to medical cannabis uses is located within this new chapter where any future changes to cannabis will be isolated to this chapter. James noted that the effective date of Ordinance No. 1434 is July 1, 2021. Discussion followed on the proposed ordinance with minor corrections in the ordinance.

167-21

Second reading of title to Ordinance No. 1434, entitled An Ordinance Amending Title XV Land Usage to Add Chapter 158 Entitled Medical Cannabis Establishments to the City of Vermillion Code of Ordinances for the City of Vermillion, South Dakota

Mayor Collier-Wise read the title to the above named Ordinance, and Alderman Ward moved adoption of the following:

BE IT RESOLVED that the minutes of this meeting shall show that the title to the proposed Ordinance No. 1434 entitled an Ordinance Amending Title XV Land Usage to Add Chapter 158 Entitled Medical Cannabis Establishments to the City of Vermillion Code of Ordinances was first read and the Ordinance considered substantially in its present form and content at a regularly called meeting of the Governing Body on the 17th day of May, 2021 and that the title was again read at this meeting, being a specially called meeting of the Governing Body on this 27th day of May, 2021 at the City Hall Council Chambers in the manner prescribed by SDCL 9-19-7 as amended.

BE IT RESOLVED and ordained that said Ordinance be adopted to read as follows:

ORDINANCE NO. 1434

AN ORDINANCE AMENDING TITLE XV LAND USAGE TO ADD CHAPTER 158 ENTITLED MEDICAL CANNABIS ESTABLISHMENTS TO THE CITY OF VERMILLION CODE OF ORDINANCES.

BE IT ORDAINED, by the Governing Body of the City of Vermillion, South Dakota that the City of Vermillion Code of Ordinances Title XV be amended to add Chapter 158 Medical Cannabis Establishments as follows:

§ 158.01 PURPOSE.

This Chapter shall enact zoning regulations for SDCL Chapter 34-20G medical cannabis establishments within the City of Vermillion (City hereafter).

§ 158.02 DEFINITIONS.

As used in this Chapter, the following terms shall have the meanings set forth below:

Cannabis cultivation facility. An entity registered with the South Dakota Department of Health that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a medical cannabis establishment.

Cannabis product manufacturing facility. An entity registered with the South Dakota Department of Health that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a medical cannabis establishment.

Cannabis products. Any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures.

Cannabis testing facility. An independent entity registered with the South Dakota Department of Health to analyze the safety and potency of cannabis.

Licensed premises. The building within which a medical cannabis establishment operates.

Licensee. Any person or business entity that has been issued and holds a valid, current license pursuant to Chapter 123. If the licensee is an entity and not a natural person, licensee shall encompass all persons who are the members, managers, officers, directors, shareholders, partners or associates of such entity.

Medical cannabis or cannabis. Marijuana as defined in SDCL § 22-42-1.

Medical cannabis establishment or "establishment". An entity registered with the South Dakota Department of Health pursuant to this chapter that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials to cardholders.

Medical cannabis establishment. A cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or an establishment.

#### §158.03 REGULATIONS RELATING TO CANNABIS PRODUCTS

The sale, growth, testing, or manufacturing of cannabis products shall not be allowed within the City unless provided in the following sections.

#### §158.04 REGULATIONS RELATING TO MEDICAL CANNABIS CULTIVATION ESTABLISHMENTS

No cannabis cultivation facility shall be owned or operated at a location within the City's zoning jurisdiction except as provided by this section and Chapter 123. A cannabis cultivation facility is considered an allowed use in the following districts, and shall follow the same requirements as the use in parenthesis: GB General Business District (greenhouse) and GI General Industrial District (agribusiness).

#### §158.05 REGULATIONS RELATING TO MEDICAL CANNABIS TESTING ESTABLISHMENTS

No cannabis testing facility shall be owned or operated at a location within the City's zoning jurisdiction except as provided by this section and Chapter 123. A cannabis testing facility is an allowed use in the following districts, and shall follow the same requirements as the use in parenthesis: GB General Business District (retail services and trade) and GI General Industrial District (retail services and trade).

#### §158.06 REGULATIONS RELATING TO MEDICAL CANNABIS PRODUCT MANUFACTURING ESTABLISHMENTS

No cannabis product manufacturing facility shall be owned or operated at a location within the City's zoning jurisdiction except as provided by this section and Chapter 123. A cannabis product manufacturing facility is an allowed use in the following districts, and shall follow

the same requirements as the use in parenthesis: GI General Industrial District (agribusiness).

§158.07 REGULATIONS RELATING TO MEDICAL CANNABIS DISPENSARIES

A. No medical cannabis establishment shall be owned or operated at a location within the City's zoning jurisdiction except as provided by this section and Chapter 123. A cannabis establishment shall be considered an allowed use in the following districts, and shall follow the same requirements as the use in parenthesis: GB General Business District (retail services and trade), GI General Industrial District (retail services and trade), and CB Central Business District (retail services and trade).

B. A medical cannabis establishment shall be located no less than 1,000 feet from the nearest property line of any public or private school. Distances shall be measured from the closest point of the property lines.

§158.08 REGULATIONS RELATING TO MEDICAL CANNABIS ESTABLISHMENTS OF TWO OR MORE TYPES AT THE SAME LOCATION

When two or more of the above types of medical cannabis establishments exist at the same location, the stricter regulation shall control the establishment or operation of those uses within the City. If the South Dakota Department of Health or South Dakota legislature adopts or enacts any stricter regulation or statute governing two or more medical cannabis establishments at one location, then those requirements shall govern.

Dated at Vermillion, South Dakota this 27th day of May, 2021.

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA  
BY \_\_\_\_\_  
Kelsey Collier-Wise, Mayor

ATTEST:  
BY \_\_\_\_\_  
Michael D Carlson, Finance Officer

Adoption of the Ordinance was seconded by Alderman Holland. Thereafter the question of the adoption of the Ordinance was put to a roll call vote of the Governing Body, and the members voted as follows: Hellwege-Y, Holland-Y, Humphrey-Y, Jennewein-Y, Letellier-Y, Price-Y, Ward-Y, Willson-Y, Collier-Wise-Y. Motion carried 9 to 0. Mayor Collier-Wise declared that the Ordinance has been adopted and directed publication thereof as required by law.

## 5. New Business

### A. First Reading of Ordinance 1435 - Amending Title XI Business Regulations by adding Chapter 123 enacting Licensing Regulations for Medical Cannabis establishments

John Prescott, City Manager, reported that, in November of 2020, the voters of South Dakota approved IM26 that provides for medical cannabis as of July 1, 2021. John noted that the initiated measure provides municipal governments the ability to participate in the process for licensing, permitting, identifying permissible locations in the community, hours of operation, number of medical cannabis dispensaries, and other related items. John stated that the State will also have a registration process, but noted that the State Department of Health has not yet promulgated the final rules for their portion of the process. John stated that this proposed ordinance is to address the licensing of medical cannabis establishments. John stated that the proposed licenses are for one-year at a time, are not transferrable, and subject to state and local requirements. John noted that the proposed ordinance also provides information on how licenses are issued, revocation, penalties, and liability language. John reported that staff presented some background on the matter at the April 5, 2021 noon meeting with a draft ordinance provided to the City Council. The draft has also been available on the City's website for the public to review. John reported that proposed Ordinance No. 1433 had first reading on May 17, 2021. John reported that, on May 24<sup>th</sup>, Mayor Kelsey Collier-Wise and Council members Julia Hellwege and Katherine Price met with community members, the City Attorney, and City Staff and substantive changes were made to the draft ordinance. It was recommended by the City Attorney that a new Ordinance be proposed for consideration. John reported that, instead of making the major changes proposed, Ordinance No. 1433 was abandon. John reported on some of the substantive changes in the new proposed Ordinance No. 1435. Changes include: definitions were added from Ordinance No. 1434 (zoning ordinance) and others were amended since proposed Ordinance No. 1433 was presented to match state statute; the number of medical dispensaries allowed was removed; there would be no cap on the number of licenses allowed; the requirement in the initiated measure that dispensaries are 1,000 feet from a public or private school remains, but other distance requirements found in proposed Ordinance No. 1433 were removed; some requirements for an application for a Medical Cannabis Establishment License were amended; some aspects of the approval process were shifted from the City Manager's office to the City Council; the designated hours of operation have been removed. John stated that, by holding the first reading on proposed Ordinance No. 1435 at this special meeting, it will allow for second reading at the June 7<sup>th</sup> meeting to be effective by July 8, 2021. John reported that the South Dakota Department of Health has until October to develop its own licensing regulations and the zoning regulation will be in

place by July 1st. John recommended that the City Council approve the First Reading of Ordinance No. 1435 which enacts licensing regulations for medical cannabis establishments. Discussion followed on the proposed ordinance with minor corrections suggested prior to second reading.

168-21

Mayor Collier-Wise read the title to the above mentioned Ordinance and Alderman Holland moved adoption of the following Resolution:

BE IT RESOLVED that the minutes of this meeting shall show that the title to proposed Ordinance No. 1435 entitled An Ordinance Amending Title XI Business Regulations by adding Chapter 123 enacting Licensing Regulations for Medical Cannabis establishments of the City of Vermillion, South Dakota has been read and the Ordinance has been considered for the first time in its present form and content at this meeting being a specially called meeting of the Governing Body of the City on this 27th day of May, 2021 at the Council Chambers in City Hall in the manner prescribed by SDCL 9-19-7 as amended.

The motion was seconded by Alderman Hellwege. After discussion, the question of adoption of the Resolution was put to a vote of the Governing Body and 9 members voted in favor of and 0 members voted in opposition to the motion. Mayor Collier-Wise declared the motion adopted.

John Prescott, City Manager, reported that the County Commission has proposed a joint meeting consisting of County Planning Commission and City Planning and Zoning Commission and County Commission and City Council to consider zoning changes in the Joint Jurisdictional area for medical cannabis for a meeting on June 15th at 9:30 a.m. John asked Council members to contact him if they could or could not make the special meeting.

B. Consider Changes Addressing Slopes in the Transition Areas in the Main Street Streetscape Project

Jose Dominguez, City Engineer, reported on the background of the Streetscape Project with the City contracting with Stockwell Engineers for the design, bid and construction and awarding the bid to Schwartzle Construction for \$2,976,602. Jose reported that the City has received numerous contacts from citizens regarding the slope in the transition area in the first block constructed. Jose noted that the transition area is the space between the new ADA regulated sidewalk and the existing curb and gutter. Jose stated that this transition area is not regulated by any codes or guidelines, and as such, there is no criteria to follow. Jose stated that, due to the public's concern regarding the transition area, the BID #2 Board met on May 11th to discuss possible

solutions. Jose reported that, at the end of the meeting, the BID #2 Board set a maximum allowable slope for the transition area, and a countermeasure if the slope could not be reduced below the newly set maximum slope during construction. Jose reported that, included in the packet, is a Request for Proposal from the Stockwell on behalf of the City for the increase in price for the Contractor to reduce the slope of the transition area in all of the locations remaining along the project. Jose reported that Stockwell has developed an estimate of change order cost of between \$81,827 and \$85,920. Jose noted that this does not include the cost for Stockwell Engineers to redesign portions of the project to meet the new criteria. Jose stated that Stockwell will keep track of their time spent on the project for the redesign and submit that amendment at a later time. Jose stated that typically, when Staff is aware that a change order of a large magnitude will be requested, Staff will present those to the City Council prior to the work taking place. Jose noted that the Contractor will begin working in the transition areas with the severe slope next week and, in order for the contractor to maintain the existing schedule as much as possible, the contractor would need to get the City Council's permission much sooner than the next regular meeting on June 7th. Jose noted that the budget will be adjusted during the 2022 budget session in August. Jose noted that, to maintain the schedule moving forward and to address the public's concern in the transition area, it is recommended that the City Council allow the Contractor to make the proposed changes to the Contract knowing that the cost of the project will increase for the additional construction items and for the engineering costs. Jose stated that the official change order will be reviewed at a later meeting. Discussion followed with Jose answering questions on the options for changes in the transition area.

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Alderman Hellwege moved approval of allowing Schwartzle Construction, LLC and Stockwell Engineers to make the proposed changes to the transition area to the streetscape contract with the official change order to be presented at a future meeting. Alderman Ward seconded the motion. Motion carried 9 to 0. Mayor Collier-Wise declared the motion adopted.

6. Adjourn

170-21

Alderman Ward moved to adjourn the Council special session at 5:44 p.m. Alderman Price seconded the motion. Motion carried 9 to 0. Mayor Collier-Wise declared the motion adopted.

Dated at Vermillion, South Dakota this 27th day of May, 2021.

THE GOVERNING BODY OF THE CITY



OF VERMILLION, SOUTH DAKOTA  
BY \_\_\_\_\_  
Kelsey Collier-Wise, Mayor

ATTEST:

BY \_\_\_\_\_  
Michael D. Carlson, Finance Officer