

CITY HALL, CITY OF ARLINGTON, SOUTH DAKOTA

October 4, 2021

The City Council met as the Zoning Commission—Board of Adjustment. Present on Roll Call were Mayor Curt Lundquist and Council Members: Terry Rowbotham, Jesse Steffensen, Cory Falconer, and Rob Achterberg. Absent: Terry Mutziger and Garth Johnson.

Annette Miller submitted a special exception request to open an in-home daycare at the following property: Lot Number Ten (10), in Block Number One (1), Ecklein’s First Addition (311 South Main St.). Discussion was held and as there were not enough signatures or neighbors in attendance that were for the request, so it did not pass and no action was taken.

Motion to adjourn the Zoning Commission was made by Falconer, seconded by Achterberg. All in favor—Carried.

Stephanie Damm, Finance Officer

Curt Lundquist, Mayor

The City of Arlington is an equal opportunity provider and employer.

CITY HALL, CITY OF ARLINGTON, SOUTH DAKOTA

October 4, 2021

The City Council met in regular session in the Municipal Building—202 West Elm Street. Present on Roll Call were Mayor Curt Lundquist and Council Members: Cory Falconer, Terry Rowbotham, Jesse Steffensen, and Rob Achterberg. Absent: Terry Mutziger and Garth Johnson

Motion was made by Steffensen, seconded by Achterberg to approve the minutes of the September 7<sup>th</sup> meeting. All in favor—Carried.

Motion was made by Achterberg, seconded by Steffensen to approve the Bowes payment request of \$180,340.44 for the 3<sup>rd</sup> Street project. All in favor—Carried.

Bills on file were submitted for consideration and on Motion by Steffensen, seconded by Achterberg, the Finance Officer was instructed to issue payment for same. All in favor on Roll Call Vote—Carried.

Bills approved as follows:

|             |                           |                            |     |             |
|-------------|---------------------------|----------------------------|-----|-------------|
| 30102-30109 | Salaries                  | General Fund               | 101 | \$7,482.99  |
|             |                           | Water                      | 602 | \$406.55    |
|             |                           | Electric                   | 603 | \$3,158.54  |
|             |                           | Sewer                      | 604 | \$275.96    |
| Auto Debit  | Citizens State Bank       | EFTPS - Sept 15 WH-SS-MEDI |     | \$3,526.60  |
| 30110       | Voided                    |                            |     | \$0.00      |
| 30111       | East River Electric Power | Energy                     |     | \$3,918.04  |
| 30112       | Electric Fund             | City Utility Bills         |     | \$5,645.69  |
| 30113       | Heartland Consumer Power  | Energy                     |     | \$29,761.43 |
| 30114       | Kingsbury County Auditor  | County Contract Law        |     | \$5,655.00  |
| 30115       | Prairie Ag Partners       | Gas and Fieldmaster        |     | \$3,177.40  |
| 30116       | SD State Treasurer        | Sales Tax                  |     | \$7,249.50  |
| 30117       | Valley Fibercom           | Internet                   |     | \$15.32     |
| 30118       | Western Area Power        | Energy                     |     | \$15,015.82 |
| 30119       | Voided                    |                            |     | \$0.00      |
| 30120       | SD Municipal League       | Fall Conference            |     | \$300.00    |
| 30121-30142 | Salaries                  | General Fund               | 101 | \$16,332.53 |
|             |                           | Water                      | 602 | \$806.55    |
|             |                           | Electric                   | 603 | \$3,387.56  |
|             |                           | Sewer                      | 604 | \$1,264.08  |
| Auto Debit  | Citizens State Bank       | EFTPS - Sept 30 WH-SS-MEDI |     | \$6,746.29  |

|            |                               |   |              |
|------------|-------------------------------|---|--------------|
| 30143      | Voided                        | Check Unused                            | \$0.00       |
| 30144      | A T & T                       | Cell Phones                             | \$108.26     |
| 30145      | Colonial Life                 | Payroll Deductions                      | \$107.33     |
| 30146      | Northwestern                  | Service to Shop and COOP Shop           | \$20.00      |
| 30147      | PLIC-SBD Grand Island         | Short Term Disability                   | \$231.38     |
| 30148      | S D Retirement System         | September Retirement                    | \$3,383.32   |
| 30149      | Sioux Valley Energy           | Energy                                  | \$97.00      |
| 30150      | The Health Pool of SD         | Health Insurance                        | \$6,615.97   |
| 30151      | VISA--Cor Trust Bank          | Clothing and Office Supplies            | \$1,436.93   |
| 30152      | ALM Fab Shop                  | Dumpster Repair                         | \$687.21     |
| 30153      | A-Ox Welding Supply           | Cylinder Rent                           | \$117.98     |
| 30154      | Arlington Sun                 | Publication and ads                     | \$388.22     |
| 30155      | Badger Oil                    | Mower Belt                              | \$68.20      |
| 30156      | Banner Associates, Inc.       | 3rd St. Project                         | \$13,298.90  |
| 30157      | Best Western Ramkota          | Hotel - Wastewater Conference           | \$223.98     |
| 30158      | Bowes Construction            | 3rd St. Project                         | \$180,340.44 |
| 30159      | Buckshot Construction         | Refund Balance Meter Deposit            | \$412.48     |
| 30160      | Citizens State Bank           | October Service Charge                  | \$20.00      |
| 30161      | Cook's Wastepaper & Recycling | September Garbage                       | \$5,580.60   |
| 30162      | Core & Main                   | Storm Drain Parts                       | \$454.45     |
| 30163      | Department of Revenue         | Water Testing                           | \$45.00      |
| 30164      | Electric Fund                 | Meter Deposits applied to bills         | \$421.65     |
| 30165      | LG Everist                    | Dakota River Rock                       | \$553.46     |
| 30166      | Gale/Cengage Learning         | Books for Library                       | \$193.71     |
| 30167      | Handi Mart                    | Fuel for Ambulance & Fire Trucks        | \$297.14     |
| 30168      | Husby, Clair                  | Refund Balance Meter Deposit            | \$24.39      |
| 30169      | Infotech Solutions            | Backup/Cloud/Firewall                   | \$874.00     |
| 30170      | Kingbrook Rural Water         | September Water & Lease Pmts            | \$9,886.53   |
| 30171      | Lowes                         | Pool and Shop Supplies                  | \$445.24     |
| 30172      | M&T Fire & Safety             | Labor to install light bar and brackets | \$1,050.00   |
| 30173      | MC&R Pools                    | Sand for the pool                       | \$2,080.00   |
| 30174      | Mohr, Chad                    | Travel re-imbusement                    | \$421.44     |
| 30175      | Nelson Drug                   | Tape; batteries                         | \$9.11       |
| 30176      | Office Peeps                  | Service Agreement - Copier              | \$80.19      |
| 30177      | PCC Ambulance Billing Service | August Ambulance Billing                | \$574.34     |
| 30178      | Prairie Ag Partners           | Repairs; Oil Change; Parts              | \$956.44     |
| 30179      | Runnings Supply               | Clothing                                | \$439.95     |
| 30180      | Schein Inc                    | Tourniquet and dressings                | \$150.05     |
| 30181      | Schmitt, Austin               | Refund Balance Meter Deposit            | \$112.83     |
| 30182      | Seppanen Contracting          | Refund Balance Meter Deposit            | \$108.65     |
| 30183      | Snap On Tools                 | Tools                                   | \$549.50     |
| 30184      | South Dakota One Call         | Locates Jan-Jun3 2021                   | \$132.30     |
| Auto Debit | Citizens State Bank           | Water Improvement Loan                  | \$1,343.00   |
| Auto Debit | Citizens State Bank           | Wastewater Improvement Loan             | \$2,958.00   |

Motion was made by Steffensen, seconded by Achterberg to adopt Resolution #2621 as follows:

RESOLUTION #2621

BE IT RESOLVED, that \$177,738.94 be transferred from the 2<sup>nd</sup> Penny Fund to the General Fund for payment to Bowes for the 3<sup>rd</sup> St. project. All in favor—Carried.

Jay DeVries spoke on behalf of the Ambulance Department. They did receive a \$4K grant and upon motion of Steffensen, seconded by Falconer, they will be ordering the requested cot for the second ambulance. He also let everyone know that Cody be setting up training sessions for EMT's.

Motion was made by Steffensen, seconded by Achterberg to pass and adopt Resolution #2622 as follows:

RESOLUTION #2622

A RESOLUTION AUTHORIZING NUISANCE CLEANUP COSTS BY SPECIAL ASSESSMENT PURSUANT TO SDCL 21-10-6.

WHEREAS, an Order for Default Judgment and Abatement of Nuisance dated July 13, 2020, was filed on the following described property, to-wit:

Lot Four (4), Block Five (5), Leiske's Second Addition to the City of Arlington in Kingsbury County, South Dakota, according to the recorded plat thereof;

WHEREAS, the City of Arlington incurred the following costs to facilitate the abatement:

|                      |        |
|----------------------|--------|
| Mowing               | \$900  |
| Garage Removal       | \$750  |
| Trailer Removal      | \$1750 |
| Burial of structures | \$1550 |
| Tree Removal         | \$800  |
| Dirt Leveling        | \$500  |
| Grass Seeding        | \$460; |

NOW THEREFORE BE IT RESOLVED that the costs of the said abatement totaling \$6710.00 shall be assessed against the said real property as provided by law.

On Roll Call, all voting "aye", Proposed Resolution declared passed and adopted.

Adopted: 10-04-21  
Approved: 10-04-21  
Published: 10-14-21

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Curt Lundquist, Mayor

ATTEST:

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Stephanie Damm  
Finance Officer

There were no public comments.

Electric Report—  
ACDC Report—

The following building permits were previously approved this month: HRC for a spec house at Lot 25, Block 2 of Lot A, Johnson's Addition (108 E. Hickory); Anjelica Cassias for a fence at Lot 5, Block 12 3<sup>rd</sup> RR Addition (318 S. 3<sup>rd</sup> St.); and Mike & Brenda Quam for a garden shed at Lot B, Block 13 of Chandler's 2<sup>nd</sup> Addition (306 S. 3<sup>rd</sup> St).

Motion was made by Steffensen, seconded by Achterberg to approve the employee overtime report. All in favor—Carried. The council reviewed the monthly Revenue/Expense, Cash & Utility Reports.

Second reading of Ordinance #584, amending Ordinance #446; and ordinance #585, adding Chapter 9 to the revised Ordinances creating provisions for cannabis establishments within the city of Arlington, was approved by motion of Falconer, seconded by Achterberg. All in favor—Carried.

#### ORDINANCE NO. 584

**ORDINANCE 584, AN ORDINANCE AMENDING #446, AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR CITY OF ARLINGTON, SOUTH DAKOTA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, PURSUANT TO SDCL 11-4, AND 11-6, 1967, AND AMENDMENTS THEREOF, AND FOR THE REPEAL OF ALL RESOLUTIONS AND/OR ORDINANCES IN CONFLICT HEREWITH.**

BE IT ORDAINED by the City Council of the City of Arlington, South Dakota: that Chapter 2.03 adopted by Ordinance 446, as amended, of the Zoning Ordinance of the City of Arlington be amended by adding the following Section in bold and underline:

**Section 2.03.03. Prohibited Uses**

**All uses and structures not specifically listed as a permitted use, special permitted use, or as a conditional use in a particular zoning district shall be prohibited in said district**

BE IT FURTHER ORDAINED by the City Council of the City of Arlington, South Dakota: that Chapter 2.09, Section 2.09.01, "Permitted Uses" HC- Highway Commercial District", adopted by Ordinance 446, as amended, of the Zoning Ordinance of the City of Arlington be amended by adding language in bold and underline font:

**4. Cannabis Dispensary (Subject to Chapter 9).**

BE IT FURTHER ORDAINED by the City Council of the City of Arlington, South Dakota; that Chapter 2.04 "A"- Agriculture District, Section 2.04.03 Special Exception adopted by Ordinance 446, as amended, of the Zoning Ordinance of the City of Arlington be amended by adding language in bold and underline font:

**14. Cannabis Cultivation Facility (Subject to Chapter 9).**

BE IT FURTHER ORDAINED by the City Council of the City of Arlington, South Dakota: that Chapter 2.10 "I"- Industrial District, Section 2.10.03 Special Exception adopted by Ordinance 446, as amended, of the Zoning Ordinance of the City of Arlington be amended by adding language in bold and underlined font:

**13. Cannabis Product Manufacturing Facility.**

BE IT FURTHER ORDAINED by the City Council of the City of Arlington, South Dakota: that that Article IV, "SUPPLEMENTAL REGULATIONS" adopted by Ordinance 446, as amended, of the Zoning Ordinance of the City of Arlington be amended by adding the following Chapter in bold and underline font:

**CHAPTER 4.18. CANNABIS DISPENSARIES, CANNABIS PRODUCT MANUFACTURING FACILITY AND CANNABIS CULTIVATION FACILITY.**

**1. Maximum Number of Cannabis Dispensaries.**

a. In the development and execution of these regulations, it is recognized that there are some uses which because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a potential deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.

b. The City shall allow up to two (2) cannabis dispensaries provided the time, place, and manner of said dispensaries comply with this ordinance.

c. The City shall allow up to one (1) cannabis product manufacturing facility provided the time, place and manner of said cannabis product manufacturing facility complies with this ordinance.

d. The City shall allow up to one (1) cannabis cultivation facility provided the time, place and manner of said cannabis cultivation facility complies with this ordinance.

## **2. Required Separation Distances**

- a. A cannabis dispensary shall be located not less than one thousand (1,000) feet from a public or private school existing before the date of the cannabis dispensary application;
- b. A cannabis dispensary shall be located not less than two hundred fifty (250) feet from a public park and recreation area existing before the date of the cannabis dispensary application;
- c. A cannabis dispensary shall be located not less than two hundred fifty (250) feet from a public library, church and day care facilities.
- d. Exemption from separation requirements. Any separation distance requirement, other than the State requirement from schools (1,000 feet), may be waived, provided:
  - o The applicant provides documentation waiving the setback requirement from the title holder of the land benefiting from the separation.
- e. Prescribed separation/setback distances from certain existing uses are to be measured from the lot line of the certain existing use and the lot line of the property where the dispensary is proposed

## **3. Other Locational Requirements**

a. Permanent or temporary dispensaries are prohibited in all other zoning districts and not eligible for a home occupation use.

- b. It shall be unlawful to operate a dispensary in a building which contains a residence or a mixed-use building with commercial and residential uses.

## **4. Controlled Access**

a. No cannabis establishment shall share premises with or permit access directly from another medical cannabis establishment, business that sells alcohol or tobacco, or, if allowed by law, other cannabis establishment.

## **5. Hours of operation:**

- a. Cannabis dispensaries are allowed to be open daily between the hours of 7:00 a.m. and 2:00 a.m.

## **6. Documentation of State Licensure.**

- a. No cannabis dispensary shall acquire, possess, store, deliver transfer, transport, supply or dispense cannabis, cannabis products, paraphernalia without providing documentation of licensure from the State of South Dakota.

## **7. The zoning official is authorized to issue permits (building/use) for cannabis dispensaries subject to following:**

- a. Submission of a site plan containing the following:
  - i. Any information required for applicable building permit,
  - ii. Ingress and egress plan
  - iii. Parking plan
  - iv. Lighting plan (including security lighting)
  - v. Screening/security fencing plan,
  - vi. Refuse plan;
  - vii. Hours of Operation;
  - viii. Any other information as lawfully may be required by the Zoning official to determine compliance with this ordinance
- b. Documentation of ability to meet setback/separation requirements.
- c. Documentation of State Licensure.

**8. All Cannabis Establishments are required to be constructed in conformance with the 2021 Edition of the International Building Code and International Fire Code.**

BE IT FURTHER ORDAINED by the City Council of the City of Arlington, South Dakota: that Article V, "DEFINITIONS" adopted by Ordinance 446, as amended, of the Zoning Ordinance of the City of Arlington be amended by adding the following Definitions in bold and underline font:

**Cannabis (or Marijuana):** all parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant Cannabis sativa L. (hemp) and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis.

**Cannabis Cultivation Facility:** This term is defined as a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.

**Cannabis Dispensary:** This term is defined as a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.

**Cannabis Establishment:** A cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

**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 Product Manufacturing Facility:** This term is defined as a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

**Cannabis Testing Facility:** This term is defined as a legally licensed entity legally authorized to analyze the safety and potency of cannabis.

Passed First Reading: 9/07/21

Passed Second Reading: 10/04/21

Passed and Approved: 10/04/21

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Curt Lundquist, Mayor

ATTEST:

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Stephanie Damm  
Finance Officer

**ORDINANCE 585**

**AN ORDINANCE ADDING CHAPTER 9 TO THE REVISED ORDINANCES OF THE CITY OF ARLINGTON THEREBY CREATING LICENSING PROVISIONS FOR CANNABIS ESTABLISHMENTS WITHIN THE CITY OF ARLINGTON, SOUTH DAKOTA**

BE IT ORDAINED by the City Council of the City of Arlington, that Chapter 9 be added to the revised ordinances of the City of Arlington for the purpose of licensing cannabis establishments within the City of Arlington:

**9.01. PURPOSE AND INTENT**

The City Council of the City of Arlington enacts the following licensing ordinances in order to ensure that cannabis establishments within the incorporated areas of the City operate in a manner which complies with state laws and regulations, protects the health, safety, and welfare of the general public, prevents potential conflicts and issues arising from ownership and employees, recognizes certain safety and security considerations, and minimizes risk of unauthorized use or access of cannabis by the general public.

## **9.02. DEFINITIONS**

Unless an alternative definition is explicitly stated in this ordinance, this ordinance utilizes the definitions for cannabis-related terms which are defined by SDCL 34-20G-1.

**Cannabis (or Marijuana):** All parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis.

**Cannabis Cultivation Facility:** This term is defined as a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.

**Cannabis Dispensary:** This term is defined as a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.

**Cannabis Establishment:** A cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

**Cannabis Product Manufacturing Facility:** This term is defined as a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

**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:** This term is defined as a legally licensed entity legally authorized to analyze the safety and potency of cannabis.

**Department:** the South Dakota Department of Health

## **9.03. LICENSE REQUIRED**

(a) No cannabis establishment may be located or operate in the incorporated area of the City without the appropriate valid and current cannabis establishment license issued by the City pursuant to this ordinance. A violation of this provision is subject to the general penalty provision in 9.16. Each day of the violation constitutes a separate offense.

(b) No cannabis establishment may be located or operate in the incorporated area of the City without the appropriate valid and current cannabis establishment registration certificate issued by the Department pursuant to rules promulgated under SDCL 34-20G. A violation of this provision is subject to the general penalty provision in 9.16. Each day of the violation constitutes a separate offense.

## **9.04. LICENSE APPLICATION**

(a) An application for a cannabis establishment license must be made on a form provided by the City. No other application form will be considered.

(b) The applicant must submit the following:

1. Application fee of \$5,000 for a Cannabis Dispensary. The City will reimburse two thousand five hundred dollars (\$2,500) for applicants who fail to obtain a registration certificate from the South Dakota Department of Health.

2. Application fee of \$25,000 for a Cannabis Cultivation Facility or Cannabis Product Manufacturing Facility.

3. An application that will include, but is not limited to, the following:

i. The legal name of the prospective cannabis establishment;

ii. The physical address of the prospective cannabis establishment that comports with the City of Arlington Zoning Ordinance, as well as any location requirements pursuant SDCL 34-20G and the administrative rules promulgated thereunder.

iii. The name, address, and birth date of each principal officer, owner, and board member of the proposed cannabis establishment.

iv. Any additional information requested by the City.

## **9.05. ISSUANCE OF LICENSE**

(a) The City will issue a license unless:

1. The applicant has made a false statement on the application or submits false records or documentation; or
2. Any owners, principal officer, or board member of the applicant is under the age of twenty-one (21) years; or
3. The proposed location does not meet the applicable zoning requirements of City of Arlington
4. The proposed location does not meet all location requirements under SDCL 34-20G and the administrative rules promulgated thereunder;
5. The license is to be used for a business prohibited by state or local law, statute, rule, ordinance, or regulation; or
6. Any owner, principal officer, or board member of the applicant has had a cannabis establishment license revoked by the City or a registration certificate revoked by the state; or
7. An applicant, or an owner, principal officer, or board member thereof, is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to any cannabis establishment; or
8. The applicant will not be operating the business for which the license would be issued.

(b) In the case of an application for a cannabis dispensary license, the City will reject the application if the limit on the number of cannabis dispensaries has been reached.

(c) The license must be posted in a conspicuous place at or near the entrance to the cannabis establishment so that it may be easily read at any time.

#### **9.06. CITY NEUTRALITY AS TO APPLICANTS**

(a) Upon request from the Department as to the City's preference of applicants, the City will neither support nor oppose any registration certificate application under consideration by the Department. Likewise, if inquiry is made by the Department, the City will abstain from endorsing any application as beneficial to the community.

#### **9.07. NUMBER OF CANNABIS DISPENSARIES**

(a) No more than two (2) cannabis dispensary shall be allowed to operate in the incorporated area of the City at any time.

(b) No more than one (1) cannabis cultivation facility shall be allowed to operate in the incorporated area of the City at any time.

(c) No more than one (1) cannabis product manufacturing facility shall be allowed to operate in the incorporated area of the City at any time.

#### **9.08. EXPIRATION OF LICENSE AND RENEWAL**

(a) Each license expires one year from the date of issuance and may be renewed only by making application as provided in 9.04. Application for renewal must be submitted at least thirty (30) days before the expiration date. The license holder must continue to meet the license requirements to be eligible for a renewal.

(b) The renewal fee for a cannabis dispensary is five thousand dollars (\$5,000).

(c) Failure to renew a license in accordance with this ordinance may result in additional fees. Upon expiration of the license, the City may order closure of the cannabis establishment.

(d) If a license holder has not operated an establishment for which it holds a license in the preceding twelve (12) months, the license will not be renewed.

(e) The renewal fee for a cannabis cultivation facility or a cannabis product manufacturing facility is \$25,000.

#### **9.09. SUSPENSION**

(a) A license may be suspended if the license holder or an employee or agent of the license holder:

1. Violates or is otherwise not in compliance with this ordinance.

2. Consumes or smokes or allows any person to consume or smoke cannabis on the premises of the cannabis establishment.

3. Knowingly dispenses or provides cannabis or cannabis products to an individual or business to whom it is unlawful to provide cannabis or cannabis products.

(b) A license may be suspended if the license holder has its Department-issued registration certificate suspended, revoked, or not renewed by the Department or if the registration certificate is expired.

(c) A license may be suspended if the license holder creates or allows to be created a public nuisance at the cannabis establishment.

#### **9.10. REVOCATION**

(a) A license may be revoked if the license is suspended under 9.09 and the cause for the suspension is not remedied.

(b) A license may be revoked if the license is subject to suspension under 9.09 because of a violation outlined in that 9.09 and the license has been previously suspended in the preceding 24 months.

(c) A license is subject to revocation if a license holder or employee of a license holder:

1. Gave false or misleading information in the material submitted during the application process;

2. Knowingly allowed possession, use, or sale of non-cannabis-controlled substances on the premises;

3. Operated the cannabis establishment or the business of the cannabis establishment for which a license is required under this ordinance while the license was suspended;

4. Repeated violations of this ordinance;

5. Operated a function of a cannabis establishment for which the license holder was not licensed (e.g., a licensed cannabis cultivation facility conducting cannabis testing functions without a cannabis testing establishment license);

6. A license holder, or an owner, principal officer, or board member thereof, is delinquent in payment to the city, county, or state for any taxes or fees related to the cannabis establishment;

7. A license holder, or an owner, principal officers, or board member thereof, has been convicted of, or continues to employ an employee who has been convicted of, a disqualifying felony offense as defined by SDCL 34-20G; or

8. The license holder has its Department-issued registration certificate suspended, revoked, or not renewed or the registration certificate is expired.

9. The license holder allows a public nuisance to continue after notice from the City.

#### **9.11. SUSPENSION AND REVOCATION PROCESS**

(a) The license holder will receive a notice of intent to suspend or notice of intent to revoke informing the license holder of the violation and the City's intention to suspend or revoke the license. The notice will be hand delivered to the license holder or an employee or agent of the license holder or sent by certified mail, return receipt requested to the physical address of the cannabis establishment.

(b) If the license holder disputes the suspension or revocation, the license holder has ten (10) days from the postmark date on the notice or the date the notice was hand delivered to request a hearing before a hearing panel, which will consist of the Mayor, Finance Officer and Sheriff.

(c) A suspension will be for thirty (30) days and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder exercises its rights to process and appeal, in which case the suspension takes effect upon the final determination of suspension.

(d) A revocation will be for one (1) year and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder appeals the revocation, in which case the revocation takes effect upon the final determination of revocation.

(e) The license holder who has had the license revoked may not be issued any cannabis establishment license for one year from the date the revocation became effective.

#### **9.12. APPEAL**

An applicant or license holder who has been denied a license or renewal of a license or who has had a license suspended or revoked under this ordinance may appeal to the City Council by submitting a written appeal within ten (10) days of the postmark on the notice of denial, nonrenewal, suspension, or revocation. The written appeal must be submitted to City Hall 202 West Elm Street, Arlington, SD 57212. The appeal will be considered by the City Council at a regularly scheduled meeting within one month of the receipt of the appeal.

#### **9.13. LICENSES NOT TRANSFERRABLE**

No cannabis establishment license holder may transfer the license to any other person or entity either with or without consideration, nor may a license holder operate a cannabis establishment at any place other than the address designated in the application.

#### **9.14. HOURS OF OPERATION FOR DISPENSARIES**

No cannabis dispensary may operate between the hours of 2:01 a.m. and 6:59 a.m. CDT any day of the week.

#### **9.15. LIABILITY FOR VIOLATIONS**

Notwithstanding anything to the contrary, for the purposes of this ordinance, an act by an employee or agent of a cannabis establishment that constitutes grounds for suspension or revocation will be imputed to the cannabis establishment license holder for purposes of finding a violation of this ordinance, or for purposes of license denial, suspension, or revocation, only if an officer, director or general partner or a person who managed, supervised or controlled the operation of the cannabis establishment, knowingly allowed such act to occur on the premises.

#### **9.16. PENALTIES**

Any person who operates or causes to be operated a cannabis establishment without a valid license or in violation of this ordinance is subject to a suit for injunction as well as prosecution for ordinance violations. Such violations are punishable by a maximum fine of five hundred dollars (\$500.00). Each day a cannabis establishment so operates is a separate offense or violation.

#### **9.17. SEVERABILITY**

The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application.

Passed First Reading: 9/07/21

Passed Second Reading: 10/04/21

Passed and Approved: 10/04/21

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Curt Lundquist, Mayor

ATTEST:

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Stephanie Damm  
Finance Officer

Motion was made by Steffensen, seconded by Falconer to receive quotes to prepare the 2021 Annual Report & Audit from Ben Elliott.

Motion was made by Rowbotham, seconded by Achterberg to allow Mayor Lundquist to sign the State Water Application. All in favor—Carried.

The first reading of the Pet Ordinance limiting the number of dogs was tabled.

Additional items:

Snow Parking & Mowing was tabled until next month.

Rubble Site Hours have now changed to Saturday only (with the exception of Oct. 9<sup>th</sup> – it will be closed that day)

An additional Siren was discussed, but no action was taken

A joint Planning Meeting with ACDC was discussed and advised

Computer Datto Replacement was discussed and we will be asking about cloud based storage

Discussion was held in regards to the Badger Utility Agreement and we will present it to Badger

Marshal mentioned we had an inquiry as to erecting an additional Hangar at the airport, as well as the fact that we will need to take out about 2 acres of farmable ground at the rubble site to provide for the growth that is needed.

Discussion was held regarding cemetery mapping – due to costs, we will not be pursuing.

Motion to adjourn was made by Steffensen seconded by Falconer. All in favor—Carried.

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Stephanie Damm, Finance Officer

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Curt Lundquist, Mayor