

June 28, 2021
Unapproved Minutes
Union County Commissioners

The Union County Board of Commissioners met in special session June 28, 2021, at the Courthouse in Elk Point, SD at 8:30 a.m.

Members present Dailey, Headid, Joffer, Kimmel, and Ustad.

Motion by Headid, second by Dailey to approve the agenda. Carried.

Motion by Headid, second by Dailey to approve a correction to the June 15, 2021 minutes for the fuel quotes #2 diesel. Should have been Vollan @ \$2.548 and Southeast Farmers @ \$2.274. Carried.

Motion by Kimmel, second by Joffer to approve the minutes from June 21, 2021 Special Meeting. Carried.

Cannabis

Union County Commissioner held a public hearing for the second reading of ordinance # UCC 2021-003 Emergency medical cannabis establishment's licenses and #UCC 2021-004 Emergency prohibition the smoking of Cannabis in a public place.

Motion by Joffer, second by Headid to approve the following Ordinance # UCC 2021-003. 4 aye 1 nay. Carried.

NOTICE OF ADOPTION
AN EMERGENCY ORDINANCE REGARDING
THE ISSUANCE OF
MEDICAL CANNABIS ESTABLISHMENTS LICENSES
UNION COUNTY ORDINANCE UCC#2021-003

BE IT ORDAINED BY UNION COUNTY:

WHEREAS, a local government may enact an emergency ordinance in accordance with SDCL §§ 11-2-10; SDCL 7-18A-2; 7-18A-8; and SDCL § 34-20G, governing the time, place, manner, and number of medical cannabis establishments in the locality. A local government may establish civil penalties for violation of an ordinance governing the time, place, and manner of a medical cannabis establishment that may operate in the locality. A local government may require a medical cannabis establishment to obtain a local license, zoning permit, or registration to operate, and may charge a reasonable fee for the local license, zoning permit, or registration;

WHEREAS, Union County, SD ("County"), makes a preliminary finding that the County's current regulations and controls may not adequately address the unique needs and impacts of medical cannabis establishments as defined in SDCL § 34-20G-1;

WHEREAS, medical cannabis state laws under SDCL § 34-20G are effective July 1, 2021. The South Dakota Department of Health shall promulgate rules pursuant to chapter 1-26 not later than October 29, 2021, as defined by SDCL § 34-20G-72. During the time between July 1, 2021 and potentially as late as October 29, 2021, local units of government will not yet know standards for medical cannabis and will not be able to adequately assess the licensing requirements necessary to approve local permits and to better ensure applicants have a more predictable permitting process and avoid stranded investments;

WHEREAS, the County makes a preliminary finding that the County needs further study of the relationship of medical cannabis establishments to the County Comprehensive Plan. The public interest requires that the County study, analyze, and evaluate the impacts of medical cannabis establishments and to fully explore the impacts of any proposed regulations regarding medical cannabis establishments;

WHEREAS, the County makes a preliminary finding that it would be inappropriate for the County to issue a local permit or license to a medical cannabis establishment prior to the South Dakota Department of Health's promulgation of regulations governing the same;

WHEREAS, the County hereby exercises its authority under SDCL §§ 11-2-10 and SDCL 7-18A-8, to establish an emergency ordinance regarding the issuance of any local permits/licenses for medical cannabis establishments within the County;

WHEREAS, an emergency ordinance will ensure that more building permit changes, licensing permits, and any proposed amendments to the County's Comprehensive Plan can be completely examined with adequate public input from citizens, business interests, and medical cannabis industry representatives;

WHEREAS, the County finds that an emergency ordinance is reasonable to preserve the status quo and prevent significant investment pending the outcome of the above study and any proposed regulations emanating therefrom;

NOW, THEREFORE, BE IT ORDAINED BY UNION COUNTY, SD:

Section 1. Emergency Ordinance – Application for Local Permit/License

- A. A medical cannabis establishment desiring to operate in the County shall be required to apply for a license from the County. Applications for a local license to operate a medical cannabis establishment, as defined by SDCL § 34-20G-1, shall not be accepted until the South Dakota Department of Health has promulgated regulations as required by SDCL § 30-20G-72.
- B. Any application received prior to such regulations being promulgated shall be denied.

Section 2: Number of Licenses

- A. There shall be available as new local license(s) for medical cannabis establishments a total of one (1) license(s).
- B. The total new local licenses established in Section 2, A., shall be allocated as follows, with a maximum number of local licenses limited within type of medical cannabis establishment as follows:
 - 1. Cultivation Facility: 0 license(s)
 - 2. Cannabis Testing Facility: 0 license(s)
 - 3. Cannabis Product Manufacturing Facility: 0 license(s)
 - 4. Dispensary: 1 license(s)
- C. The Commissioners shall consider all qualified applications in the order they were received.
- D. The Commissioners reserve the right to modify this Ordinance and grant itself additional licenses as long as the additional number of licenses do not exceed the number of licenses granted by the South Dakota Department of Health when and if such rules are promulgated.
- E. Should any additional local licenses become available through revocation or otherwise, such license shall be made available to the first qualified applicant.

Section 3: License Fees

- A. There shall be an application fee in the amount of \$125.00.
- B. There shall be a fee for newly issued licenses under this Ordinance for each type of medical cannabis establishment as follows:
 - 1. Cultivation Facility: \$ 100,000.00
 - 2. Cannabis Testing Facility: \$ 100,000.00
 - 3. Cannabis Product Manufacturing Facility: \$ 100,000.00
 - 4. Dispensary: \$ 100,000.00
- C. There shall be a renewal fee for any license issued under this Ordinance in the amount of \$25,000.

Passed this 28th day of June, 2021.

Adopted this 1st day of July, 2021.

Motion by Joffer, second by Headid to approve the following Ordinance #UCC 2021-004. Carried.

NOTICE OF ADOPTION
AN EMERGENCY ORDINANCE PROHIBITING THE SMOKING
OF CANNABIS IN PUBLIC PLACES
UNION COUNTY ORDINANCE UCC#2021-004
BE IT ORDAINED BY UNION COUNTY:

ARTICLE I: GENERAL PROVISIONS

Section 1: Authority

This Emergency Ordinance is enacted under the authority of SDCL §§ 11-2-10, 7-18A-2, 7-18A-8, and 34-20G-18. The Union County Board of County Commissioners hereby makes a determination that smoking cannabis in any public place is a public nuisance in that the act (1) Annoys, injures, or endangers the comfort, repose, health, or safety of others and (2) Offends decency. SDCL § 7-8-33.

Section 2: Purpose

It is the purpose of this Ordinance to prohibit the smoking of cannabis in any public place in Union County outside of municipalities.

ARTICLE II: DEFINITIONS

Section 1: Application and Interpretation

The definitions listed hereafter shall apply to this Ordinance. The definitions set forth are to be understood in their ordinary sense. Any interpretation of terms under that statute shall apply to the same term in this Ordinance.

Section 2: Definitions

- A. "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 the act of smoking;"
- B. "Commissioners," the Union County Board of County Commissioners;
- C. "Medical cannabis" as defined in SDCL § 34-20G (1) (14);
- D. "Marijuana" as defined in SDCL § 22-42-7;
- E. "Place Open to the Public," any place to which the public is invited or permitted, including in, on, or around any place of business, parking lot, or place of amusement or entertainment and includes the elevator, lobby, hallways, corridors, and area open to the public of any store, office or multifamily residential buildings;
- F. "Smoke" or "Smoking," the act of inhaling, exhaling, burning, or carrying any lighted or heated blunt, cigarette, pipe, hookah, or marijuana and/or cannabis paraphernalia of any kind which burns or heats any marijuana or cannabis product or plant intended for inhalation, in any manner or in any form, including the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form.

ARTICLE III: UNAUTHORIZED ACTS

Section 1: It is unlawful for any person to smoke marijuana, cannabis, medical cannabis, or cannabis products in any place open to the public, whether or not the marijuana, cannabis, medical cannabis or cannabis product is prescribed by a practitioner of the medical arts.

ARTICLE VI: PENALTIES

Section 1: Criminal Penalty

- A. Violation of the terms of this Ordinance is punishable pursuant to SDCL § 22-6-2(2) as a Class 2 misdemeanor: thirty days imprisonment in county jail or five hundred dollars fine, or both as authorized by SDCL 7-18A-2, and restitution if applicable as authorized by SDCL § 23A-28.

ARTICLE VII: SEVERABILITY AND SEPERABILITY

Should any Article, Section, subsection or part of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional, invalid or otherwise affected by law, such

determination shall not affect the validity or constitutionality of the Ordinance as a whole or any part thereof other than the part so determined.

ARTICLE VIII: EFFECTIVE DATE

This Emergency Ordinance is necessary to protect and immediately preserve the public peace, health, or safety and is therefore immediately effective following second reading pursuant to SDCL §§ 7-18A-8 and 11-2-10. This Ordinance shall be enforceable no sooner than July 1, 2021.

Passed this 28th day of June, 2021.

Adopted this 1st day of July, 2021.

Executive Session

Motion by Headid, second by Dailey to enter into executive session for personnel matters per SDCL 1-25-2 at 8:55 a.m. Carried. Chairman declared the board out of executive session at 9:45 a.m.

Adjournment

Motion by Dailey, second by Headid to adjourn at 9:45 a.m. until June 29, 2021 regular meeting. Carried.

ATTEST: _____

Jackie Sieverding, Auditor
Union County

Milton Ustad, Chairman
Union County Board of Commissioners

Published once at the total approximate cost of_____.