



## City of Vermillion Planning & Zoning Commission Agenda

5:30 p.m. Regular Meeting

Monday, May 10, 2021

Powell Conference Room

City Hall, 25 Center Street, Vermillion, SD 57069

Virtual Meeting Available (see instructions below)

For virtual meeting:

1. Go to [www.zoom.com](http://www.zoom.com)
2. Click 'Join a Meeting' on upper right hand of Zoom screen
3. Join Zoom Meeting

<https://us02web.zoom.us/j/82651940417?pwd=ZVNyNXN6NlgwTmZONzNnY1UrTFpsdz09>

Meeting ID: 826 5194 0417

Passcode: 685202

### 1. **Roll Call**

### 2. **Minutes**

- a. April 12, 2021 Regular Meeting.

### 3. **Declaration of Conflict of Interests**

### 4. **Adoption of the Agenda**

### 5. **Visitors to Be Heard**

### 6. **Public Hearings**

### 7. **Old Business**

### 8. **New Business**

- a. Preliminary Plat for Lots 1, 2 and 3, AMS Industrial Park Addition, City of Vermillion, Clay County, South Dakota.
- b. Discussion on Possible Amendment to Zoning Ordinance Regarding Medical Marijuana.

### 9. **Staff Reports**

### 10. **Adjourn**

#### **WELCOME TO YOUR PLANNING COMMISSION MEETING**

If you wish to participate in the discussion, the meeting provides several opportunities. After the minutes are approved, the Chairperson will ask if any visitors wish to be heard. Any item not on the agenda may be discussed. During the discussion of agenda topics, anyone may comment. The Chairperson will recognize you if you raise your hand. Please introduce yourself with your name and address when addressing the Planning and Zoning Commission. Discussion occurs before motions are made and seconded. Discussion also occurs after the motion is seconded and before the vote. You may participate each time if you wish. Your suggestions and ideas are welcome. The best decisions are made when everyone participates and provides information.

**Meeting Assistance:** The City of Vermillion fully subscribes to the provisions of the Americans with Disabilities Act of 1990. If you desire to attend this public meeting and are in need of special accommodations, please notify the City Manager's Office at 677-7050 at least 3 working days prior to the meeting so appropriate auxiliary aids and services can be made available.

Unapproved Minutes  
Vermillion Planning and Zoning Commission  
Monday, April 12, 2021 Regular Planning and Zoning Commission Meeting

The regular meeting of the Vermillion Planning and Zoning Commission was called to order in the Large Upstairs Conference Room at City Hall on April 12, 2021 at 5:30 p.m.

1. Roll Call

City Planning and Zoning Commissioners Present: Fairholm (in person), Fitzgerald (in person), Gestring (in person), Heggstad (in person), Mrozla (in person), Tuve (in person), Iverson (in person).

City Planning and Zoning Commissioners Absent: Forseth, Wilson

City Staff present: José Domínguez, City Engineer; James Purdy, Assistant City Manager

2. Minutes

a. March 22, 2021 City Planning and Zoning Commission Meeting.

Commissioner Fitzgerald asked that her name be spelled correctly in the minutes. Her name was misspelled twice towards the end of the document. Moved by Commissioner Heggstad to adopt the March 22, 2021 meeting minutes with the corrections, seconded by Tuve. Motion carried 7-0.

3. Declaration of Conflict of Interest

None

4. Adoption of the Agenda

Moved by Tuve to adopt the agenda as printed, seconded by Fitzpatrick. Motion carried 7-0.

5. Visitors to be Heard

None

6. Public Hearings

None

7. Old Business

None

8. New Business

a. Discussion on Possible Amendment to Section 155.072 Off-Street Parking in the Code of Ordinances.

Dominguez explained that on April 5<sup>th</sup> the City Council considered a variance request that would have reduced the off-street parking required on a multiple-family dwelling from 2 per dwelling to 1.5 per dwelling. Dominguez further explained that the Council tabled the item to the June 7<sup>th</sup> meeting to allow the City's Planning and Zoning Commission to consider if an amendment to the Off-Street Parking requirements in the Code of Ordinance was necessary.

Dominguez stated that the Commission had reviewed this section of the zoning ordinance during the extensive amendment to the zoning ordinance in 2019. At that time the Commission received public comments, and chose not to recommend any changes due to the negative effects that a reduction may create to the neighborhoods. The City Council approved the "no changes" recommendation to the off-street parking section.

Dominguez reviewed the list of past amendments to the off-street parking requirements, as well as the off-street parking requirements from other municipalities in the state. Dominguez stated that the requirements vary from location to location due to the fact that each city tries to address off-street parking issues as it fits the community. Dominguez explained that good comparisons with Vermillion would be the cities of Brookings, Spearfish, and Madison as these were cities of comparable population with universities. When compared to these cities, Vermillion's requirements are in line with other communities. Dominguez stated that the Commission is asked to consider the information provided and direct Staff if an amendment to the off-street parking section is desired. Discussion followed.

Commissioner Heggstad asked if the reason for the item being discussed is to amend the ordinance so that a variance is not necessary. Dominguez explained that one of the concerns from Council is the granting a variance may create other similar requests. Amending the ordinance would greatly reduce future variance requests. Discussion followed.

After discussion it was the consensus of the Commission not to amend the ordinance and leave as is.

b. Discussion of Possible Amendment to Setback Requirements on Property Located in the GI-General Industrial District Directly Adjacent to Railroad Tracks.

Dominguez explained that recently the City had received a building permit request for the construction of an allowable use on land currently zoned GI-General Industrial along the railroad tracks below the bluff. Due to the current setback requirements for that area, the permit was not approved since there was not enough buildable room in the lot.

Dominguez further explained that prior to the 2008 adoption of the zoning ordinance the land currently zoned GI-General Industrial below the bluff was zoned industrial. However, the previous industrial zoned in the area had a zero setback line. This allowed for construction to occur in the majority of the lots. The new zoning ordinance requires a 25-foot rear and front yard setback, and a 10-foot side yard setback. In some instances, a previously buildable lot now only has a ten-foot sliver of buildable space. Dominguez stated that the inability of the owner to construct on their previously buildable parcel may constitute a "taking" by the City.

Additionally, Dominguez stated that the VCDC has had some inquiries about industrial land along the railroad tracks. One of the drawbacks for the possible business has been the fact the available buildable land is very limited. In addition, the fact that the land is in close proximity to residential uses presents a problem to some of the possible businesses.

Dominguez stated that a solution to this issue would be to create a new industrial zoning district for the land below the bluff. This new district could have a zero setback line, and also a limited number of uses. The uses could be those that may have less negative impacts on residential uses. Dominguez noted that the Commission is asked to consider the information provided and direct Staff if an amendment to the zoning ordinance was desired. Discussion followed.

After discussion it was the consensus of the Commission to direct Staff to draft an amendment for the creation of a new industrial zoning district below the bluff. The new district should have a zero-foot setback, and a limited number of industrial uses.

#### c. Information on Clay County's Draft Comprehensive Plan

Dominguez explained that at the last committee meeting formed by the County and City Planning and Zoning Commissions the County representatives stated mentioned that a draft of the County's Comprehensive plan was available for review. The City's representatives asked Staff to review the draft document and present the document, along with comments, at the next City Planning and Zoning Commission meeting.

Dominguez reviewed Staff comments and expressed the concern that the document could be utilized by the County to control growth around cities. Dominguez further explained that based on Staff's interpretation, the decisions could be made without cities input (for example, the City has not been asked to participate in any discussions), or consideration (for example, the County will be the entity that sets the boundary for the joint jurisdiction, the County dictates that the County's ordinance should be followed as much as possible when entering into a joint jurisdiction agreement, that only annexations that are beneficial to the County would be allowed, etc...). Dominguez stated that the Commission is asked to review the information provided. Discussion followed.

After discussion, the Commission directed Staff to compile a list of action items that have been discussed at joint meetings with the County. Additionally, the Commission directed Staff to write a letter expressing the concerns had with the draft plan to the County. This letter should be sent to the County as soon as possible to ensure that they have comments prior to the adoption.

#### 9. Staff Report

Dominguez stated that various projects within the City have started. These included: Downtown Streetscape, Hwy. 50 Drainage Improvements, Bliss Pointe Phase 2, USD's addition to Lee Med, and USD's construction of a new parking lot across Pizza Ranch on North Dakota Street.

10. Adjourn

Moved by Gestring to adjourn, seconded by Heggestad. Motion carried 7-0, Iverson declared the meeting adjourned at 6:45 p.m.

# *Planning & Zoning Commission Agenda Memo*

**From:** Jose Dominguez, City Engineer

**Meeting:** May 10, 2021

**Subject:** Preliminary Plat of Lots 1, 2, and 3, AMS Industrial Park Addition, City of Vermillion, Clay County, South Dakota

**Presenter:** Jose Dominguez

**Background:** Banner Associates have submitted a preliminary plat on behalf of the owner, AMS Building Systems, LLC, (AMS). The area to be platted in the future is roughly 53.2-acres in area. This tract of land is bordered by farm fields on the west and north, a homestead on the east, and two small industrial developments on the south side. Additionally, 317<sup>th</sup> Street borders portions of the land preliminary platted on the south side.

AMS plans to divide the 53.2-acres into three large lots for industrial development. In addition, Jefferson Street would be extended north of 317<sup>th</sup> Street.

**Discussion:** The area being preliminarily platted is all outside of the City limits and within the Joint Jurisdiction Zoning Area (JJZA). However, preliminary plats are not required to be reviewed by the joint Planning and Zoning Commission, only by the City's Planning Commission. Regardless, City staff did discuss the preliminary plat with the County, and explained that preliminary plats are only used for planning purposes and to start thinking about infrastructure and possible uses.

It should be noted that AMS is in the process of annexing the area being discussed into the city. Based on this fact, City staff reviewed the preliminary plat using the City's zoning ordinance, and not the JJZA zoning ordinance. As such, the preliminary plat complies with code provisions; all of the lots have sufficient frontage from streets, and are sized to accommodate large industrial developments.

As mentioned previously, preliminary plats are used for planning purposes. In this instance, the City will start planning for improvements on 317<sup>th</sup> Street from Norbeck

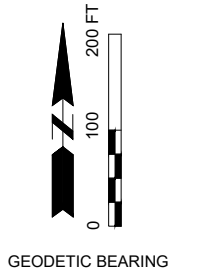
Street to Jefferson Street and on Jefferson Street from SD Hwy. 50 to the north edge of the preliminary plat. Additionally, the development will require that the City install a new sanitary sewer lift station to serve this development and future developments in the area. In conjunction with the sewer lift station, the City will also be installing water and sanitary sewer mains to serve the area.

**Compliance with Comprehensive Plan:** The Comprehensive Plan encourages redevelopment and investment in the community. In particular: provide diverse employment, provide high-quality public services, plan for the development of public infrastructure, ensure orderly expansion of future urban services, establish an infrastructure system to meet the needs of current businesses and future development, and direct new growth into designated growth areas.

**Conclusion/Recommendations:** Staff finds that the preliminary plat will meet all of the ordinance requirements and recommends approval.

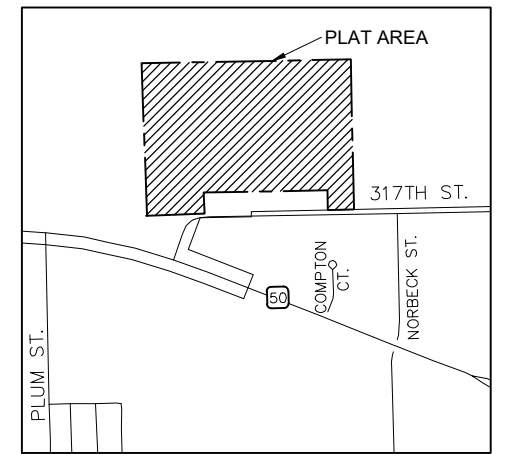


# PRELIMINARY PLAT OF LOTS 1, 2 AND 3 OF AMS INDUSTRIAL PARK ADDITION AN ADDITION TO THE CITY OF VERMILLION, CLAY COUNTY, SOUTH DAKOTA

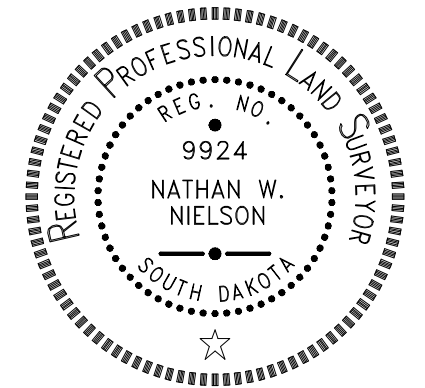
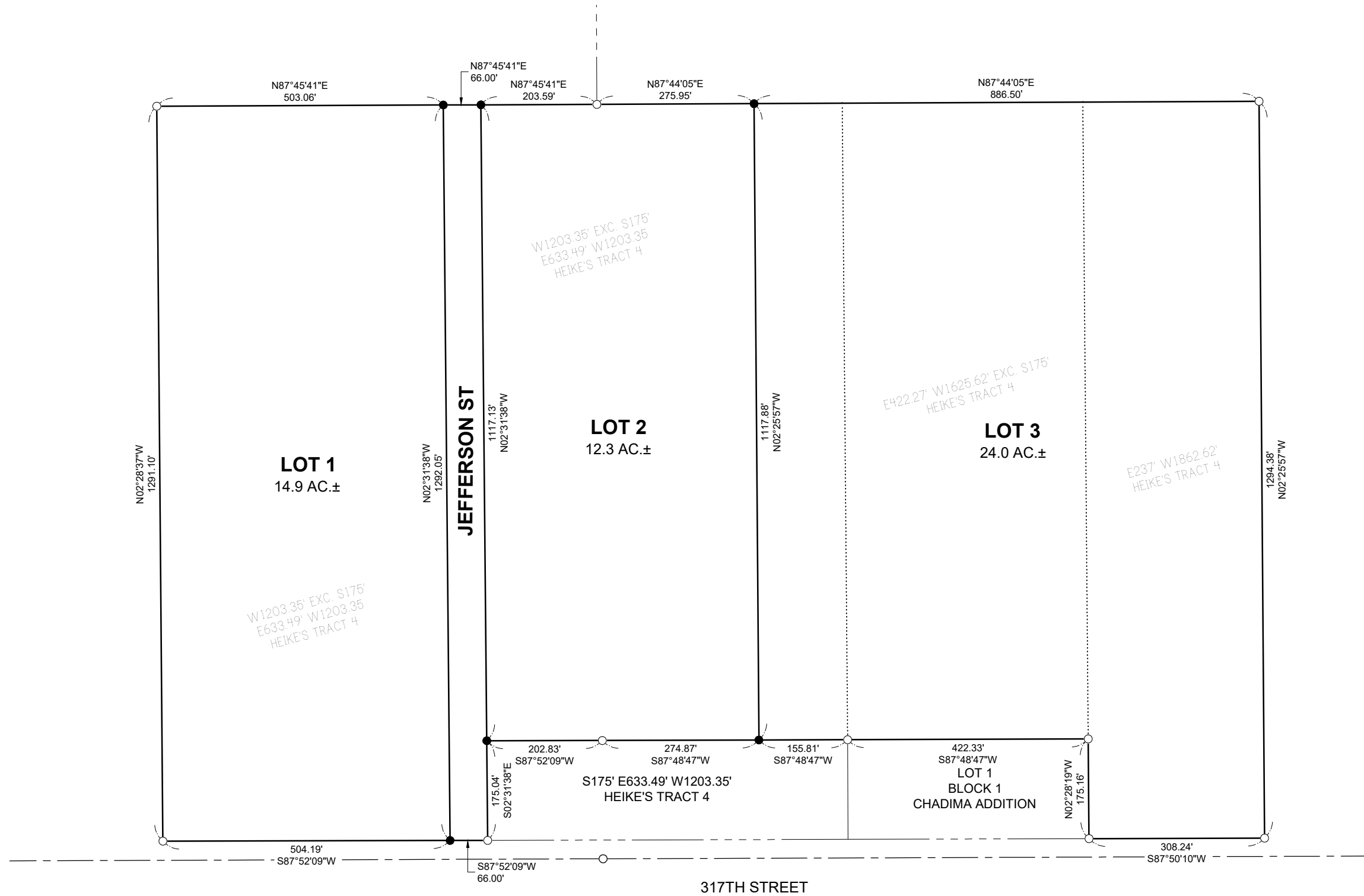


### LEGEND

- MONUMENT SET THIS SURVEY (5/8" REBAR WITH STAMPED PLASTIC CAP)
- MONUMENT FOUND



VICINITY MAP



PREPARED BY:  
BANNER ASSOCIATES, INC.  
VERMILLION, SOUTH DAKOTA  
TEL. (TOLL FREE): 1-855-323-6342  
APRIL 2021

# *Planning & Zoning Commission Agenda Memo*

**From:** Jose Dominguez, City Engineer

**Meeting:** May 10, 2021

**Subject:** Discussion on Possible Amendment to Zoning Ordinance Regarding Medical Cannabis.

**Presenter:** Jose Dominguez

**Background:** In November 2020, South Dakota voters approved an initiated measure allowing for medical cannabis within the State. The new State law regulating medical cannabis will take effect on July 1, 2021. In order to comply with State statute, the City needs to have regulations in place to accommodate the use within City limits.

**Discussion:** The Planning Commission and City Council will consider a similar ordinance to the one being reviewed today on May 17<sup>th</sup>. The process that Staff is proposing is a two-step approach. First, an applicant will ensure that the proposed use fits within the zoning district, and secondly, the applicant will also have to acquire a license for the sale, growth, testing, or manufacturing of cannabis products. This process is not any different from alcohol sales. The sale can only happen in certain zoning district, the City issues licenses for the sales, and the State also has controls that have to be followed by the City and the individual selling alcohol. The item being discussed today is just the zoning aspect of the medical cannabis process.

The proposed ordinance would be a separate chapter within the zoning ordinance. This chapter would be separated into several sections. The sections will deal with definitions, and where cannabis products may be sold, grown, tested, or manufactured. At this point, the document mainly allows a cannabis business to be in a business or industrial zoning district.

The proposed ordinance does not require that any additional chapters, or sections, of the zoning ordinance be amended since everything zoning related is within the new chapter. This allows future changes to be isolated to this chapter.

The City Attorney has completed one review of the document being reviewed today. The comments in red are currently being reviewed by the City Attorney.

**Compliance with Comprehensive Plan:** The Comprehensive Plan encourages the City to perform periodic reviews of the zoning ordinance. Those reviews are intended to update, strengthen and streamline the zoning ordinance.

**Conclusion/Recommendations:** The Commission is asked to consider the information provided and direct Staff if any changes are required. The Commission will consider a similar item at the May 17<sup>th</sup> meeting for recommendation to the City Council.

**PROPOSED ORDINANCE NO. 140xx**

**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 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.** 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 dispensary 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~~associates of such entity.

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

**Medical cannabis dispensary or dispensary.** An entity registered with the South Dakota Department of Health pursuant to SDCL Chapter 34-20G and licensed by the City pursuant to Chapter 123 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 dispensary** does not include a cannabis cultivation facility, a cannabis testing facility, or a cannabis product manufacturing facility.

### **§158.03 REGULATIONS RELATING TO CANNBIS 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 unless Chapter 123 is amended to permit such facility. A cannabis cultivation facility is considered an ~~an permitted-allowed~~ use in the following districts, and shall follow the same requirements as the use in parenthesis: GB General Business District (greenhouse), GI General Industrial District (agribusiness), and HI Heavy Industrial District (agribusiness) when Chapter 123 provides for such facility.

### **§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 unless Chapter 123 is amended to permit such facility. A cannabis testing facility is an ~~an permitted-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 HI Heavy Industrial District (retail services and trade) when Chapter 123 provides for such facility.

### **§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 unless Chapter 123 is amended to permit such facility. A cannabis product manufacturing facility is an ~~an permitted-allowed~~ use in the following districts, and shall follow the same requirements as the use in parenthesis: GI General Industrial District (agribusiness), and HI Heavy Industrial District (agribusiness) when Chapter 123 provides for such facility.

### **§158.07 REGULATIONS RELATING TO MEDICAL CANNABIS DISPENSARIES**

A. No medical cannabis dispensary 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 dispensary shall be considered an ~~an permitted-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),

CB Central Business District (retail trade and services), and NC Neighborhood Commercial District (drug store, pharmacy).

B. A medical cannabis dispensary shall be located no less than 1,000 feet from the nearest property line of any public or private school. A medical cannabis dispensary shall be located no less ~~than~~ 500than 500 feet from the nearest property line of any church, licensed childcare facility, correctional facility, mental health facility, or substance abuse facility, unless the dispensary is located in a CB - Central Business District. Distances shall be measured from the closest point of the property lines.

Dated at Vermillion, South Dakota this \_\_\_\_ day of \_\_\_\_, 2021.

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA

BY \_\_\_\_\_  
Kelsey Collier-Wise, Mayor

ATTEST:

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

First Reading: May 17, 2021

Second Reading:, 2021

Published:, 2021

Effective:, 2021