

**COUNCIL PROCEEDINGS
REGULAR MEETING
NOVEMBER 8, 2021**

A regular meeting of the Philip City Council was held on Monday, November 8, 2021, at 4:00 p.m. in the Community Room of the Haakon Co. Courthouse. Present were Mayor Michael Vetter and Council Members Trisha Larson, Terri Pelle, Marion Matt, Marty Gartner, Brit Miller and Scott Pinney. Also present were City Administrator Brittany Smith; Finance Officer Monna Van Lint; Public Works Director Matt Reckling; Chief of Police Ben Buls, Police Officer AJ Bartlett, David Reiss with Central SD Enhancement District, Jeff McCormick & Ben Maas with SPN & Associates, Chad & Paulette Ramsey, Jerry & Karen Kroetch, and City Attorney Stephanie Trask.

Absent: None

Motion was made by Pinney, seconded by Miller to approve the agenda as presented. Motion carried.

The meeting was then opened with the Pledge of Allegiance.

Special Meeting Items:

Potential Property Development Opportunity Discussion:

Council discussed options for Jerry and Karen Kroetch's property legally described as Vivian Hansen Subdivision in the S2NW4 13-1-20 which includes 10.86 acres. (For the record, during the Oct. 4th meeting, Kroetch's offered to gift this property to city on the condition that they annex and develop it for residential housing in the city.)

The city's engineer, Jeff McCormick with SPN & Associates, addressed the council. He reviewed preliminary development options including estimated infrastructure costs for the property. This ranged from streets (gravel or asphalt with or without curb) to water and sewer (lift station, individual septic systems, cluster septic system or pressure sewer system). He did mention potential concerns with the maintenance and responsible if septic (individual and cluster) and/or pressure sewer systems are installed.

McCormick then questioned about the preferred lot size as the cost per lot decreases when more lots are added. In addition, what type of housing is anticipated in the development—single family, multi-family and/or apartments. He explained that once these factors are known, a more accurate cost estimate for the infrastructure can be determined.

Discussion ensued at length. Positive comments for this opportunity to expand the city with residential lots were made. It was mentioned that larger lots (11-16) with a lower cost per lot would be more appealing to the area. In addition, it could take years to sell all the lots so a Tax Increment Financing (TIF) district may not be an option for the development. Recommendations for a gravel roadway now with the option to asphalt later was also noted. The options for sewer services were also discussed, noting that per SDCL a one-half acre lot is required for septic tanks.

Mayor Vetter inquired if the city is willing and capable to take this opportunity on, or should we be looking for another organization or person?

Jerry and Karen Kroetch expressed that their intent is to help the community and would prefer the city take this development opportunity on to increase the tax base, or it may never be annexed into the city. They also mentioned the rental home currently located on the property and requested it continue as such for the time being.

Following, motion was made by Pinney, seconded by Matt to accept Kroetch's property legally described as Vivian Hansen Subdivision in the S2NW4 13-1-20 as proposed at no cost to the city. Motion carried with all members voting aye.

Motion was then made by Gartner, seconded by Miller to authorize payment of the closing costs for the transfer of the above-described property from Kroetch's to the city. Motion carried with all members voting aye.

Kroetch's were thanked for their generosity while noting that contract negotiations will be forthcoming.

David Reiss, Executive Director with the Central SD Enhancement District (CSEED), commented that this development opportunity is unique. He mentioned that these are usually done by a housing authority or nonprofit organization to shield the city from liability and responsibility. In addition, there may be funding opportunities through the SD Housing Authority and encouraged a meeting with them in the near future. It was also recommended to investigate the city's authority to rent residential property.

Northeast Philip Wastewater System Improvements:

Council reviewed the overall sewer project in detail. This includes cleaning, televising, lining, minimal pipe replacement along with the replacement of manholes at an estimated cost of \$353,500. Depending upon funding, the project has been broken down into two separate phases--phase 3A at an estimated cost of \$173,300 and phase 3B at an estimated cost of \$180,200. It was noted that phase 3A was appropriated in the 2022 budget with the city's Coronavirus Local Fiscal Recovery Fund (CLFRF) allocation of \$136,802.

Discussion ensued regarding funding opportunities to complete the project in its entirety. More specifically, if the city is interested in submitting an application for funding assistance in the amount of \$217,000. It was mentioned that funding could be awarded in the form of grant and/or State Revolving Fund (SRF) loan dollars.

Following discussion, motion was made by Miller, seconded by Gartner to approve the following Resolution #2021-15. Motion carried with all members voting aye.

RESOLUTION 2021-15

RESOLUTION AUTHORIZING AN APPLICATION FOR FINANCIAL ASSISTANCE, AUTHORIZING THE EXECUTION AND SUBMITTAL OF THE APPLICATION, AND DESIGNATING AN AUTHORIZED REPRESENTATIVE TO CERTIFY AND SIGN PAYMENT REQUESTS.

WHEREAS, the City of Philip has determined it is necessary to proceed with improvement to its Wastewater System, including but not limited to collection system improvements along with necessary appurtenances; and

WHEREAS, the City has determined that financial assistance will be necessary to undertake the Project and an application for financial assistance to the South Dakota Board of Water and Natural Resources will be prepared; and

WHEREAS, it is necessary to designate an authorized representative to execute and submit the Application on behalf of the City and to certify and sign payment requests in the event financial assistance is awarded for the Project,

NOW THEREFORE BE IT RESOLVED by the City as follows:

1. The City Council hereby approves submission of the application for financial assistance in an amount not to exceed \$217,000 to the South Dakota Board of Water and Natural Resources for the Project.
2. The Mayor and/or City Administrator for the City of Philip is hereby authorized to execute the Application and submit it to the South Dakota Board of Water and Natural Resources, and to execute and deliver such other documents and perform all acts necessary to effectuate the Application for financial assistance.
3. The Mayor and/or City Administrator of the City of Philip is hereby designated as the authorized representative of the City to do all things on its behalf to certify and sign payment request in the event financial assistance is awarded the Project.

Adopted at the Philip City Council meeting, Philip, South Dakota, this 8th day of November 2021.

This resolution is effective upon passage.

APPROVED:

(Seal)

/s/ Michael Vetter, Mayor
City of Philip

ATTEST:

/s/ Monna Van Lint, City Finance Officer

Motion was then made by Pinney, seconded by Matt to accept the Wastewater Facility Plan Supplement completed by SPN & Associates. (For the record, the facility plan supplement was reviewed during the Oct. 4, 2021, meeting.) Motion carried.

Reiss then provided a brief update on the multi-jurisdictional hazard mitigation plan. It was reported that the final draft is expected to be completed by the end of 2021 or beginning of 2022.

Regular Meeting Items:

Motion was made by Matt, seconded by Gartner to approve the minutes of the last meeting as published in *The Pioneer Review* and on the City's website. Motion carried.

Motion was then made by Miller, seconded by Pelle to approve the payment of the bills from the appropriated funds as listed below. Motion carried.

Gross Salaries – October 29, 2021: Admin - \$4052.10; Finance - \$3688.53; Public Works - \$14575.57; Police - \$5979.99

Colonial Life	Employee Supplemental Ins 10/21	196.60
Credit Collections Bureau	Garnishment 10/21	200.86
EFTPS	SS/Medicare/Withholding 10/21	6366.25
NE Child Support	Garnishment 10/21	659.18
SDRS	Employee Retirement 10/21	3690.07
SDSRP	Sup Retirement 10/21	100.00

This Month's Bills:

AT&T Mobility	Cell Phone 9-10/21	222.88
Bad River Law Prof LLC	Legal/Atty/Mtg 10/21	430.00
Buls, William "Ben"	Fuel/Meal Reimb 8/21	95.01
Century Business Products	Copier Maint 9-10/21	68.07
CHS River Plains	Supplies 9/21	154.90
Corporate Trust – US Bank	SRF #6 Pay #6 11/21	4917.84
	SRF #7 Pay #6 11/21	5766.78
Country Cupboard Food Pantry	2021 Approp	1000.00
D&T Auto Parts	Supplies 10/21	50.48
Delta Dental	Dental Ins 11/21	776.90
1 st Nat'l Agency	AIR Liab Ins 10/21-10/22	3600.00
1 st Nat'l Bank – Philip	UB Postage 10/21	147.96
Formanek, Rebecca	Cust Dep Refund 11/21	100.00
Fortune, Casey	Cust Dep/Overpayment 11/21	244.50
Golden West Telecom	Telephone/Internet 9-10/21	592.29
Haakon Co Treasurer	Office Rent 11/21	500.00
Hanson Oil	Fuel/Supplies 9-10/21	716.83
Health Pool of SD	Health Ins 11/21	11236.29
Holiday Inn – Spearfish	SDML Conf Rooms 10/21	459.95
Ingram Pest Service Inc	RS Pest Control 10/21	60.00
Kieffer Sanitation	375 Residential Collections 10/21	5043.75
	RS Roll Off Disposal 9/21	550.00
McQuirk Ditching	Hot Water Pond Improv 2021	4061.23
MG Oil Co	Fuel 9/21	598.93
O'Connell Construction Inc	FD Rock / Street Gravel 10/21	1833.82
Optilegra	Vision Ins 11/21	116.14
Pearson, Brian	Uni Reimb 10/21	86.11
Philip Hardware	Supplies 10/21	152.30
Philip Motor Inc	Supplies/Repairs 9-10/21	679.00
Philip Standard	Fuel 10/21	101.50
Pioneer Review	Publishing 10/21	1012.86
Sanford Laboratories	Testing 10/21	200.00
SD 811	Locates 7-9/21	11.55
SD Dept of Revenue	Sales Tax Payable 10/21	460.04
	W Testing 10/21	196.00
Shipp, Robert	Mileage Reimb 10-11/21	324.72
Simon Materials	183.5 T Chips 10/21	6862.91
SPN & Assoc	WW/SS Facility Plan Amend 10/21	5000.00
State Flag Account	US/State Flags 10/21	140.53
Vadim Municipal Software Inc	AMR Software Upgrades 10/21	585.00
Van Lint, Monna	Mileage/Meal Reimb 10/21	150.87
Verizon Wireless	W AMR Internet 10-11/21	80.02
VISA – UMB Bank	Supplies/Uniforms/Travel 9-10/21	294.50
Weigner, David	Cust Dep Refund 11/21	100.00
West Central Electric Coop	Electric 9/1-10/1/21	3118.50
	Electric 10/1-11/1/21	3188.30
WR/LJ Rural Water Systems	3,338,000 gals 10/21	4172.50
	Contract Min. 10/21	2500.00
	AIR Water 10/21	45.00
	South Shop Water 10/21	25.00
Western Communications	Supplies 10/21	116.00

Total Bills

72,947.84

Old Business: None.

New Business:

City Ordinance Chapter #10:

Motion was made by Gartner, seconded by Miller to approve the second reading of the following Ordinance #2021-14. Motion carried with all members voting aye.

ORDINANCE #2021-14

AN ORDINANCE AMENDING AND ESTABLISHING CHAPTER TEN (10), LICENSES, OF THE REVISED ORDINANCES OF THE CITY OF PHILIP, SOUTH DAKOTA

BE IT ORDAINED by the City Council of the City of Philip, South Dakota, that Chapter 10, Licenses, the revised ordinances of the City of Philip, be established to read as follows.

BE IT FURTHER ORDAINED that section 10-107 is repealed as previously established.

10-101 APPLICATION FOR LICENSE

Except as otherwise provided, an applicant for a license shall first make and file with the City Office application in writing therefor. The application shall contain such information as required by the license authority and must show that applicant is eligible for the license for which is made.

10-102 ACTION ON APPLICATION

The City Office shall upon the filing of an application for a license, present such application to the proper licensing authority for approval. Except as otherwise provided, all applications for licenses must be approved by the City Council. The decision of the licensing authority, approving or disapproving an application for license, shall be determined by such licensing authority.

10-103 PAYMENT OF LICENSE FEE

Except as otherwise provided all applicants for licenses shall pay the fee therefor to the City Office and receive proper receipt.

10-104 CITY OFFICE TO ISSUE LICENSES

Except as otherwise provided, it shall be the duty of the City Office to issue licenses.

10-105 CITY OFFICE TO KEEP LICENSE FILE

The City Office shall make out all licenses provided for under the ordinances of this city in duplicate and keep a copy thereof on file. Any application presented to the City Office, on which a license is issued, shall be retained by the City Office, and filed with the copy of the license issued thereon.

10-106 REVOCATIONS

Any license authorized in this section, or which may be granted by the City Council, is granted with the understanding that the Council may at any time revoke the same with or without cause. Whenever any license shall be granted and money accepted therefor by the city, and said license shall be revoked, the money paid to and held by the City of Philip for

the unexpired term of said license, shall be refunded to the licensee, except in those cases where license shall be forfeited as a punishment for a violation of any ordinance of this city. Any license granted by the City of Philip, its Mayor, and the City Council, is granted subject to the provisions of this section and said licensee is bound by these provisions. The City of Philip shall issue no license of any character exempt from the provisions of this section.

10-200 PEDDLERS

10-201 DEFINITION

The word “peddler” as used herein shall mean any person, whether a resident of this city or not, locating upon any public property or travelling from place to place, from house to house, or from street to street, by foot or by any vehicle for the purpose of selling anything including goods, wares, merchandise or services, and who does not maintain a regular stock of said items in the city for at least six (6) months during the year in which he/she is selling. Said definition shall include the terms “solicitor,” “transient or itinerant merchant or vendor,” or “transient or itinerant photographer.”

10-202 EXCEPTIONS

The provisions of this section shall not apply to solicitations, sales or distributions made by charitable, educational, or religious organizations which have their principal place of activity in the city.

10-203 SALES FROM VEHICLES

No person shall sell or offer for sale any goods or merchandise from a car, wagon, automobile, truck or other vehicle in the thoroughfares of the City of Philip. This section does not apply to the delivery of farm or garden products ordered in advance, drayage or to the delivery of goods sold in the regular course of an established business.

10-204 PROHIBITING DISTRIBUTION OR SALE OF OFFENSIVE ARTICLES

No person shall distribute or sell any publication, paper or article which may tend to invite a riot, advocate disloyalty to the government of the United States, urge unlawful conduct, cause a breach of the public peace or which is offensive to the public decency or which contains blasphemous, offensive, libelous or scurrilous language.

10-205 ENTRANCE TO PREMISES RESTRICTED

It shall be unlawful for any peddler to enter upon a private premises when the same are posed with a sign stating, “No Peddlers Allowed,” “No Solicitors Allowed,” or the like.

10-206 REFUSING TO LEAVE

Any peddler who enters upon premises owned or leased by another and willfully refuses to leave the premises having been notified by the owner or possessor of the premises, or his/her agent to leave the same.

10-207 MISREPRESENTATION

It shall be unlawful for any peddler to make false or fraudulent statements concerning the quality or nature of goods, wares, merchandise, or services for the purpose of inducing another to purchase the same.

10-208 HOURS OF OPERATION

It shall be unlawful for any peddler to engage in business of peddling between the hours of 8:00 p.m. to 8:00 a.m. the following morning, or at any time on Sundays, except by specific appointment with an invitation from the prospective customer.

10-209 LICENSE REQUIRED

It shall be unlawful for any person to engage in business as a peddler within the city without first obtaining a license and paying the license fee. No two or more persons shall operate under the same license for any reason. The license fee for a peddler shall be set from time to time by the City Council.

10-210 INFORMATION REQUIRED

The applicant shall apply for a license on forms provided by the City Office which shall state:

- 1) The applicant and business information including permanent addresses;
- 2) The type of goods, wares, merchandise or services the applicant wishes to engage in such business within the city;
- 3) Whether the applicant, upon any sale or order, shall demand, accept or receive payment or deposit of money in advance of final delivery;
- 4) The period of time the applicant wishes to engage in business within the city;
- 5) Such other relevant information as the city may require for investigation of the applicant

License application shall be accompanied by a governmental identification card issued to the applicant; business' sales tax license; and, fee in the form of cash, check or money order.

10-211 LICENSE FEE

Any person engaged in the business of peddling as defined in Section 10-201, shall pay a license fee as set from time to time by resolution of the City Council.

10-212 ISSUANCE

No license shall be issued by the City Office under the provisions of this section until the applicant shall have complied with all the provisions and requirements of this chapter.

No license shall be issued to a corporation, partnership, or other impersonal legal entity, but each individual person engaging in the business of peddling within the city shall be required to have a permit whether acting for himself/herself or as an agent or representative of another.

10-213 CONTENTS OF THE LICENSE

Each license issued under the provisions of this section shall be signed by City Office staff, shall be dated as the date of its issuance, and shall state the duration or term of such license on the face thereof. Any license not dated and signed as herein provided, or which was issued in violation of this section shall be void.

10-214 DURATION

Every license issued under the provisions of this article shall be valid for the period of time stated therein, but in no event shall any such permit be issued for a period of time in excess of twelve (12) months.

10-215 DISPLAY

Every peddler having a license issued under the provisions of this section and doing business within the city shall display the license upon the request of any person; and failure to do so shall be deemed a misdemeanor.

10-216 REVOCATION

Any license issued under the provisions of this section may be revoked for the violation by the permittees of any provision of this Code, state law or city ordinance. Upon such revocation such permit shall immediately be surrendered to the City Office or Police Department, and failure to do so shall be a misdemeanor.

10-217 SALES OF GOODS AND MERCHANDISE ON CITY PROPERTY PROHIBITED; EXCEPTIONS.

No person shall sell or offer for sale any goods or merchandise within the streets, sidewalks, thoroughfares, municipal parks, or any property owned by the city. This section does not apply to:

- 1) Individuals that possess a valid mobile food and beverage license;
- 2) The delivery of farm and garden products where the orders have been placed in advance;
- 3) The delivery of goods sold in the regular course of an established business in the city; or,
- 4) Stands, carnivals, concessions and other businesses of a temporary nature or days of public celebration when authorized by the City Council.

10-218 PENALTIES

A violation of this section is subject to the general penalty provision in Sec. 13-101.

10-300 MOBILE FOOD AND BEVERAGE VENDING

10-301 DEFINITIONS

Food Truck - For the purposes of this section, the term “food truck” shall be defined as a licensed motor vehicle that has equipment for cooking, preparing, or selling food or beverages. This definition shall not include deliveries of prepared food or beverages by passenger vehicles, vans, or trucks having only devising installed for securing food or beverages during transport and is not equipped with any equipment for food or beverage preparation.

Food Cart - For the purpose of this section, the term “food cart” shall be defined as any type of mobile carrier designed to facilitate the sale and marketing of food or beverages, and is not defined as a food truck.

Mobile Food and Beverage Vending/Vendor(s) – For the purpose of this section, the term “mobile food and beverage vending/vendors(s) shall be defined as an activity whereby prepared food or beverages are sold to the general public from a food truck or food cart. This definition shall not include food and beverage delivery services.

10-302 LICENSE REQUIRED

It shall be unlawful to operate a food truck or foot cart in the City of Philip without first having obtained a license as described herein.

10-303 FEES AND LICENSING PROCEDURES

The operator of all food trucks and food carts shall apply for a license on forms provided by the City Office.

The annual license fee shall be set from time to time by the resolution of the City Council.

The annual license and fee shall not apply in the following instances:

- 1) Mobile food and beverage vendors operating where a city approved special event permit has been issued, and with authorization from the special event sponsor, and if the vendor does not operate from any public street, sidewalk, or city park at any other time.
- 2) Mobile food and beverage vendors that operate on public or private property for a one-time event lasting three calendar days per year or less.
- 3) Caterers and food delivery services where food or beverage is prepared in a place other than the delivery vehicle.

10-304 PERMITTED LOCATIONS

Mobile food and beverage vending shall be permitted at the following locations:

- 1) On private property zoned commercial or industrial.
- 2) Parked lawfully on a public street except where prohibited.
- 3) Any parking lot that serves a City of Philip park, and the parking lot is owned by the City of Philip.
- 4) On public sidewalks, only food carts are permitted. A clear space of four feet in any direction around the food cart must be provided on the public sidewalk.

10-305 LOCATIONS AND TIMES PROHIBITED

- 1) Mobile food and beverage vending is prohibited where vending activity is blocking access to a public street, alley, bike path, sidewalk, or access to an adjacent property.
- 2) Mobile food and beverage vending is prohibited between the hours of 9:00 p.m. and 6:00 a.m. the following morning.
- 3) The above prohibited times do not apply to vendors operating where a city approved special event permit has been issued, and with authorization from the special event sponsor.

10-306 HEALTH, SAFETY AND SANITATION

Mobile food and beverage vendors shall:

- 1) Operate according to the minimum public health and food safety requirements determined by the South Dakota Department of Health.
- 2) Comply with the licensing requirements of the State of South Dakota including food, sales tax, and mobile food and beverage vending.
- 3) Provide a trash bin for public use and remove all garbage within twenty-five feet of any food truck or food cart.
- 4) Not broadcast loud noise that results in a nuisance to the surrounding properties.

10-307 SIGNAGE

No signage shall be permitted except for what appears on the mobile food and beverage truck or cart.

10-308 ALCOHOL

Mobile food and beverage vendors shall not sell or distribute alcoholic beverages.

10-309 LIABILITY AND INSURANCE

Mobile food and beverage vendors operating from public streets and sidewalks or other City-owned property shall maintain commercial general liability insurance with a limit of not less than one million dollars per occurrence and two million dollars general aggregate naming the City of Philip as an additional insured. A copy of the certificate of coverage shall be provided to the City of Philip at all times when the license is in effect and notice to the City Office shall be provided when coverage is terminated.

10-310 VIOLATIONS AND REVOCATION OF LICENSE

Licenses shall be subject to revocation by the City Council for violation of any provisions of the State Law and City Ordinance according to the following procedure:

- 1) Vendor shall be provided with written notice that describes the nature of the violation and a timeline for correction.
- 2) If correction is not completed within the time specified, the City Council may revoke the license at a regularly scheduled City Council meeting.

10-400 VIDEO LOTTERY MACHINES

10-401 VIDEO LOTTERY MACHINE FEES

- a) There is hereby imposed upon any person, firm or corporation operating video lottery machines within the City limits of the City of Philip, an annual license fee of fifty dollars (\$50.00) per video lottery machine per year.
- b) The fee imposed hereby shall be due and payable at the time of application for issuance or renewal of an alcoholic beverage license. In the event any licensee shall increase the number of video lottery machines during the period an alcoholic beverage license is in force, the licensee shall immediately apply for, and pay the annual fee for, a license for each additional video lottery machine. The fee provided for herein shall not be prorated for a partial year.

10-500 CANNABIS LICENSES

The City Council of the City of Philip enacts the following section in order to ensure that a cannabis establishments within the municipal boundaries 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.

10-501 DEFINITIONS AND GENERAL PROVISIONS

Unless an alternative definition is explicitly stated in this section, this chapter 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. (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 - In addition to the definition in SDCL 34-20G-1, this term is further 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 - In addition to the definition in SDCL 34-20G-1, this term is further 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 - Cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

Cannabis Product Manufacturing Facility - In addition to the definition in SDCL 34-20G-1, this term is further 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 - In addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity legally authorized to analyze the safety and potency of cannabis.

Church – A building used for public worship.

Department – The South Dakota Department of Health.

License Holder - A cannabis establishment that possesses a license under this article to operate the cannabis establishment for which the license was issued.

Public or Private School - Any preschool, elementary school, middle school, secondary school, or high school. The term also includes any daycare or childcare center.

Unlicensed Cannabis Establishment - An entity that would otherwise meet the definition of a cannabis establishment, but which is not legally licensed by the City of Philip and does not have a current and valid registration certificate issued by the Department.

10-502 PROHIBITED USES

No person shall produce, transport, store or sell any cannabis products except as authorized by SDCL title 34.

No cannabis cultivation facility, cannabis product manufacturing facility and cannabis testing facility may operate and/or be licensed in the city.

10-503 LICENSE REQUIRED

No cannabis dispensary may be operated in the city without the appropriate valid and current cannabis dispensary license issued by the city pursuant to this article. A violation of this

provision is subject to a penalty of \$500. Each day of the violation constitutes a separate offense.

No cannabis dispensary may be operated in the city without the appropriate valid and current cannabis dispensary registration certificate issued by the Department pursuant to rules promulgated under SDCL 34-20G. A violation of this provision is subject to a penalty of \$500. Each day of the violation constitutes a separate offense.

10-504 LICENSE APPLICATION

An application for a cannabis dispensary license must be made on a form provided by the city. No other application form will be considered.

The applicant must submit the following:

- (1) Application fee of \$5,000. The city will reimburse 80% of the application fee to applicants who fail to obtain a registration certificate from the Department. The City Council of the City of Philip reserves the right and authority to review and adjust the application fee through resolution of the said City Council.
- (2) An application that will include, but is not limited to, the following:
 - a) The legal name of the prospective cannabis dispensary.
 - b) The physical address of the prospective cannabis dispensary.
 - c) The name and birth date of each principal officer, owner, and board member of the proposed cannabis establishment.
 - d) A sworn statement that no principal officer, owner, and board member has been convicted of a felony offense in the previous ten (10) years in any jurisdiction.
 - e) Any additional information requested by the city.
- (3) Proof of a valid and current registration certificate issued by the Department.

Each principal officer, owner, and board member of the cannabis dispensary must meet the qualifications of a license holder.

The city may be a license holder. The city's application for a cannabis dispensary license will be given preference over any other application.

10-505 ISSUANCE OF LICENSE

Once an application is filed, the application will be referred to the appropriate city departments for an investigation into the applicant's eligibility for a license. If applicant meets the requirements in 10-503, the City Council shall hold a public hearing to consider the application.

- (a) Public hearing shall be scheduled along with a notice of said hearing published once in the official newspaper of the City not less than seven (7) days prior to the hearing date. Public hearings are required for new and renewal licenses.
- (b) The City Council may issue a license unless:
 - (1) The applicant has made a false statement on the application or submits false records or documentation; or
 - (2) Any owner, principal officer, or board member of the applicant is under the age of twenty-one (21) years; or
 - (3) Any owner, principal officer, or board member of the applicant has been convicted

- of a felony offense in the previous ten (10) years in any jurisdiction; or
 - (4) The proposed location of the dispensary is within two hundred feet (200') of any city building and park, school, church or residential property existing before the date of the application; or
 - (5) The proposed location does not share premises with or permit access directly from another medical cannabis establishment, business that sells alcohol or tobacco products.
 - (6) The proposed location does not meet all location requirements under SDCL 34-20G and the administrative rules promulgated thereunder; or
 - (7) The license is to be used for a business prohibited by state or local law, statute, rule, ordinance, or regulation; or
 - (8) Any owner, principal officer or board member of the applicant has had a cannabis dispensary license revoked by the city or a registration certificate revoked by the state; or
 - (9) An applicant, or any 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
 - (10) The applicant will not be operating the business for which the license would be issued.
- (c) The city will reject any application if the limit on the number of cannabis dispensaries has been reached.
- (d) The license must be posted in a conspicuous place at or near the entrance to the cannabis dispensary so that it may be easily read at any time.
- (e) If applicant requests the City Council hold a special meeting to consider the application for new license or the transfer thereof regulated through this Section, the applicant requesting said meeting shall pay all costs associated with the meeting.

10-506 CITY NEUTRALITY AS TO APPLICANTS

Upon request from the Department as to the City's preference of dispensary license 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 dispensary license application as beneficial to the community.

10-507 NUMBER OF LICENSES

No more than one (1) cannabis dispensary shall be allowed to operate in the City at any given time.

10-508 HOURS OF OPERATION

- (a) Cannabis dispensaries are allowed to operate between the hours of 7:00 a.m. and 7:00 pm on Monday through Saturday.
- (b) Cannabis dispensaries are not allowed to be open on Sundays, New Years Day, Martin Luther King Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Native American Day or Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day, and other holidays as designated by the City Council.

10-509 EXPIRATION OF LICENSE AND RENEWAL

- (a) Each license shall be for a calendar year and may be renewed only by making application as provided in section 10-503 and 10-504. Application for renewal must be submitted at least sixty (60) 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 is \$5,000. The city will reimburse 80% to applicants who fail to obtain renewal of their registration certificate from the Department. The City Council of the City of Philip reserves the right and authority to review and adjust the renewal fee through resolution of the said City Council.
- (c) Failure to renew a license in accordance with this section 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 a cannabis dispensary for which it holds a license in the preceding twelve (12) months, the license will not be renewed.

10-510 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 any section of this article;
 - (2) Consumes or smokes or allows any person to consume or smoke cannabis on the premises of the cannabis dispensary.
 - (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 registration certificate issued by the Department 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 on the premises of the cannabis dispensary.

10-511 REVOCATION

- (a) A license may be revoked if the license is suspended under Section 10-508 and the cause for the suspension is not remedied.
- (b) A license may be revoked if the license is subject to suspension under Section 10-508 because of a violation outlined in that section and the license has been previously suspended in the preceding 12 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 dispensary for which a license is required under this article while the license was suspended;
 - (4) Repeated violations of Section 10-508(a)(3);
 - (5) Operated a function of the cannabis dispensary for which the license holder was not licensed (e.g., a licensed cannabis dispensary 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 dispensary;
 - (7) A license holder, or an owner, principal officer, 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;
 - (8) The license holder has its Department-issued registration suspended, revoked, or not renewed or the registration certificate is expired; or
 - (9) The license holder allows a public nuisance to continue after notice from the city.

10-512 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 dispensary.
- (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, Police Committee, City Administrator and Chief of Police.
- (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 a cannabis dispensary license for one year from the date the revocation became effective.

10-513 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 article 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 Administrator’s Office. The appeal will be considered by the City Council at a regularly scheduled meeting within one month of the receipt of the appeal.

10-514 LICENSES NOT TRANSFERABLE

No cannabis dispensary 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 dispensary at any place other than the address designated in the application.

10-515 LIABILITY FOR VIOLATIONS

Notwithstanding anything to the contrary, for the purposes of this article, an act by an employee or agent of a cannabis dispensary that constitutes grounds for suspension or revocation will be imputed to the cannabis dispensary license holder for purposes of finding a violation of this article, 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 dispensary, knowingly allowed such act to occur on the premises.

10-516 PENALTIES

Any person who operates or causes to be operated a cannabis establishment without a valid license or in violation of this article 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.

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.

Dated this 8th day of November 2021.

/s/ Michael Vetter, Mayor

ATTEST:

/s/ Monna Van Lint, Finance Officer

First Reading: Oct. 4, 2021

Second Reading: Nov. 8, 2021

Yeas: 6 Nays: 0

(Published: Oct. 14 & Nov. 18, 2021)

Motion was made by Miller, seconded by Pinney to approve the Peddler's License Application as presented. Motion carried. (A copy is on file in the city office.)

Motion was made by Matt, seconded by Pinney to approve the Mobile Food and Beverage Vending License Application as presented along with establishing the fee at \$125 per year. Motion carried. (A copy is on file in the city office.)

Motion was made by Miller, seconded by Gartner to approve the Cannabis Dispensary License Application as presented. Motion carried. (A copy is on file in the city office.)

Meter Project:

Council was updated on the progress of the project. It was reported that 118 meters are on the new system and reading automatically.

Artesian Well Project:

It was mentioned that no update, activity or correspondence has been received from the contractor, Jerry Hunt with Weston Engineering, since the middle of October. At that time, Hunt indicated that they pulled the packer and pipe while boring cement out of the packer so they can run it back in.

Following, motion was made by Miller, seconded by Pinney to authorize Attorney Trask to send a letter to the contractor requesting that the project be completed soon as it has been ongoing since October 2020. Motion carried.

2020 Census Report:

Council was informed that the 2020 census population for the city is 759 which is a reduction of twenty individuals compared to 2010.

Motion was made by Matt, seconded by Miller to approve option #1 of the census redistricting as prepared by the CSDED. This reflects an ideal population deviation of 8.3%. An amendment to City Ordinance #1-101 will be prepared to reflect the new wards and presented at the next meeting. Motion carried.

Fundraiser/Lottery Request (SDCL 22-25-25):

Council reviewed a request from the Philip Scotties Booster Club for their “Chase the Ace” fundraiser retroactive to Sept. 29, 2021.

It was noted that the organization is a 501c7 which posed some questions and concerns from the Council.

The request died for a lack of a motion and will be reviewed again at the next meeting.

At 5:30 p.m., as previously advertised, a public hearing was held on the request of the following establishments for Liquor and Wine Licenses for 2022.

BMT, Inc.-73 Bar & Lounge - Lots 12 & 13, Block 06, Original Town, City of Philip, SD: On-Sale Retail Liquor; Bottle & Veterinary Supply LLC - N 19' Lot 19, Block 6, Original Town, City of Philip, SD: Off-Sale Package Liquor; Dakota Country Pharmacy, Inc. - Lot 20, Block 6, Original Town, City of Philip, SD: Off-Sale Package Liquor; MG Oil Company–Corner Pantry #20 Philip: Lots 5, 6 & 7, Block 1, Original Town, City of Philip, SD: Off-Sale Package Liquor; Retail Management Systems, Inc.–The Philip Pit Stop – Outlot 2, High School Addition, City of Philip, SD: On/Off Sale Wine & Cider License; Rock & Roll Lanes, Inc. – Lots 08-21 Inclusive, Block 01, Highway Addition, City of Philip, SD: On-Sale Retail Liquor; and, The Incorporated Steakhouse and Lounge - Lots 16 & 17, Block 06, Original Town, City of Philip, SD: On-Sale Retail Liquor.

Chief Buls confirmed that the Police Dept. has no concerns regarding the above license renewals.

Following review and with no one appearing for or against the requested license applications, motion was made by Matt, seconded by Miller to approve the above Liquor and Wine Licenses for 2022 contingent upon the applications and fees being submitted along with property taxes being paid. Motion carried with all members voting aye.

Special Event Application:

Motion was made by Miller, seconded by Gartner to approve the Philip Volunteer Fire Dept.’s application to host a Glo-N-Go Parade of Lights on Nov. 27, 2021. Motion carried.

Building/Flood Plain Dev. Permits:

Kay Ainslie – renew shed permit issued 10/5/2020; Jade Berry – fence; Hanson Oil – storage container; and, Jack Heinz – garage addition.

Motion was made by Matt, seconded by Gartner to approve the permits as presented above. Motion carried.

Motion was made by Miller, seconded by Pinney to approve the corrective plat amending the legal description and lot boundary for plat as filed in cabinet A, page 191 in the Haakon Co. Register of Deeds. This includes Lot B-R and Lot 4-R of Outlot R in the City of Philip, SD. Motion carried with all members voting aye.

Motion was made by Pelle, seconded by Larson to approve the employee health insurance premium renewal with the Health Pool of SD for 2022 which reflect a 5% overall increase from 2021. Motion carried.

The L/P Propane bids received in October are as follows.

	<u>Oct. 20th</u>
Hanson Oil Company	\$1.99/gal.
Midwest Cooperatives	\$2.13/gal.

Departmental Reports:

Administration

The quarterly report included a review of the year-to-date financials (revenues, expenses, investments, and sales tax revenues).

Motion was made by Miller, seconded by Matt to approve renewing Directorpoint as the board software for 2022 with Diligent Companies at a cost of \$2,008.13. It was noted that Diligent is currently promoting BoardEffect software at a lower cost but also still providing Directorpoint. Motion carried.

Airport

The quarterly report referenced the year-to-date airport fuel revenues and expenses.

Police

The monthly report was reviewed.

Motion was made by Gartner, seconded by Larson to approve the quote from AXON to purchase two new tasers at a cost of \$5256.00 with said expense being paid over a five-year period as presented. Motion carried.

Sewer

Council reviewed the Surface Water Discharge File Review completed by the SD Dept. of Agriculture and Natural Resources on Oct. 22, 2021.

Street

The monthly report was reviewed.

Motion was made by Miller, seconded by Matt to approve publishing the snow removal and parking regulations reminder notice as presented. Motion carried.

By general consensus of the Council, an amendment to City Ordinance #8-801.e regarding exemptions to truck traffic will be drafted to address contracted mail route carrier trucks. The first reading will be presented at the next meeting.

Water

The monthly report was reviewed and noted the water loss for the month of October 2021 at 6.55%.

Training/Travel:

CA Smith will be participating on the TAP recommendation committee and attending the meeting on Nov. 16th in Pierre or virtually.

Public Comments: None.

In Other Business:

The City has been awarded the 2021 Safety & Loss Control Award from the SDML Workers Compensation Fund.

City offices will be closed on Nov. 11th, 25th and 26th in observance of the legal holidays.

The year-end Council Meeting will be held on Dec. 29th at 4:00 pm.

The next Regular Council Meeting will be held on Monday, Dec. 6th in the Community Room of the Haakon Co. Courthouse.

With no further business to come before the Council, Mayor Vetter declared the meeting adjourned at 6:06 p.m.

/s/ Michael Vetter, Mayor

ATTEST:

/s/ Brittany Smith, City Administrator

(Published once on Nov. 18, 2021, at approximate cost of \$_____)