

ORDINANCE NO. _____

A TEMPORARY ORDINANCE ESTABLISHING PROCEDURES PERTAINING TO LICENSING MEDICAL CANNABIS ESTABLISHMENTS IN THE CITY OF BROOKINGS, SOUTH DAKOTA.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BROOKINGS, SOUTH DAKOTA, AS FOLLOWS:

I.

WHEREAS, a municipal government may adopt an ordinance not in conflict with SDCL Chapter 34-20G, governing the time, place, manner, and number of medical cannabis establishments in the locality. A local government may also establish civil penalties for violation of an ordinance governing the time, place, and manner that a medical cannabis establishment may operate in a municipality. A municipal government may also require a medical cannabis establishment to obtain a municipal license and may require compliance with zoning requirements to operate, and may charge a reasonable fee for the municipal license; and

WHEREAS, recently initiated state laws authorizing medical cannabis establishments will be effective on July 1, 2021. The initiated measure (IM 26) provides that the South Dakota Department of Health shall promulgate rules for medical cannabis establishments pursuant to chapter 1-26 not later than October 29, 2021. During the time between July 1, 2021 and potentially as late as October 29, 2021, until the Department of Revenue promulgates these rules, the City of Brookings will not know the Department of Health regulations for medical cannabis establishments, and will not be able to adequately assess the local zoning and licensing requirements necessary to approve local licenses; and

WHEREAS, the City of Brookings, South Dakota ("Municipality"), makes a finding that due to the current lack of Department of Health Standards and requirements, the City's current regulations and controls may not yet adequately address the unique needs and impacts of medical cannabis establishments as defined in SDCL 34-20G-1; and

WHEREAS, the Department of Health regulations for medical cannabis establishments are indispensable in the proper planning for zoning and licensing of medical cannabis establishments. Also, the public interest requires that the City analyze and evaluate the impacts of medical cannabis establishments in light of the State regulations; and

WHEREAS, the City makes a finding that the City cannot 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; and

WHEREAS, the City hereby exercises its authority under SDCL 11-4-3.1 and SDCL 9-19-13 to establish a temporary ordinance regarding the issuance of any local permits/licenses for medical cannabis establishments within the City; and

WHEREAS, this temporary ordinance will ensure that appropriate zoning ordinance and licensing ordinances, and any proposed amendments to the City's Comprehensive Plan can be

thoroughly examined with adequate public input from citizens, business interests, and medical cannabis industry representatives; and

WHEREAS, the City finds that a temporary ordinance addressing medical cannabis establishments is reasonable to preserve the status quo and prevent significant investment pending the promulgation of necessary Department of Health regulations governing medical cannabis establishments; and

WHEREAS, the City finds that this ordinance is necessary to protect and immediately preserve the public health, safety, welfare, peace and support of the municipal government and its existing public institutions;

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF BROOKINGS, SOUTH DAKOTA:

Section 1. Temporary Ordinance – Application for Local License

A medical cannabis establishment desiring to operate in the City of Brookings shall be required to apply for a license from the City. 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 34-20G-72. Any application received prior to such regulations being promulgated shall not be received and will be returned to the applicant until this temporary ordinance is repealed.

Section 2. Immediate Effect.

This ordinance is necessary to protect and immediately preserve the public health, safety, welfare, peace, and support of the municipal government and its existing public institutions pursuant to SDCL 11-4-3.1 and SDCL 9-19-13.

II.

Any or all ordinances in conflict herewith are hereby repealed.

FIRST READING: _____

SECOND READING: _____

PUBLISHED: _____

CITY OF BROOKINGS, SOUTH DAKOTA

ATTEST:

Oepke G. Niemeyer, Mayor

Bonnie Foster, City Clerk