

RESOLUTION NO. 2021-39

RESOLUTION OF THE CITY OF HARRISBURG, SOUTH DAKOTA TO ESTABLISH ADMINISTRATIVE PROCEDURE FOR ACCEPTING AND PROCESSING APPLICATIONS FOR A MEDICAL CANNABIS ESTABLISHMENT LICENSE.

WHEREAS, on September 7, 2021, the City Council adopted Ordinance No. 2021-11 (the “License Ordinance”) creating licensing regulations for Cannabis Establishments in the City of Harrisburg, South Dakota (the “City”); and

WHEREAS, the License Ordinance set a numerical cap on the number of Cannabis Establishment Licenses that may be issued in the City; and

WHEREAS, the City Council has determined it necessary to establish administrative procedures for the acceptance and processing for Cannabis Establishment Licenses.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. Action by City Council:

- a. The City Council will consider a completed application at the next available City Council meeting following submittal, provided that such application must be submitted in advance of the general agenda item submission deadline established by the Finance Officer. Applications are generally processed on a first come, first served basis except as further provided by this resolution.
- b. The City Council may approve or deny an application in full or on condition. Such action of the City Council must take place within thirty (30) days after the application’s first presentment to the City Council.
- c. If approved, the Mayor and Finance Officer will endorse the application and notify the applicant of approval by close of business on the next business day following the City Council’s approval. If the Council imposes any conditions, such conditions shall be listed on the license at the time of issuance. No approved application shall become effective and no license shall be issued until the applicant provides to the Finance Officer a copy of the applicant’s certificate of registration from the state relating to the cannabis establishment for which the license was approved.
- d. If denied, the Council must state the basis on which the application was denied, which may include, but is not limited to: incorrect application information, missing required application criteria, insufficient detail in application, nonpayment of any obligation, proposed activity would violate City ordinance, proposed activity would violate state law or regulations, no license available due to maximum number already issued, proposed location not zoned properly, proposed location does not comply with an applicable buffer zone, or concerns over potential building, fire, or nuisance code issues.
- e. No application for a license of any kind under this chapter may be received by the Finance Officer until such time as the State of South Dakota promulgates their initial

regulations under SDCL Section 34- 20G-72. Any application submitted prior to such time shall be deemed rejected.

2. Special Procedures for Capped Licenses:

- a. For license classes where the City Council has established a numerical cap, applications shall be accepted by the special procedures provided in this section.
- b. These special procedures shall apply whenever a new license becomes available in a capped license class.
- c. When such availability occurs, the City shall publish an invitation for applications on the City's website stating the deadline to apply and the location applications may be submitted. No application for a capped license class will be accepted prior to publication of the invitation nor after the deadline established in the invitation.
- d. Applications submitted pursuant to an invitation must be submitted in writing and sealed. An applicant may not supplement their application after the deadline has passed.
- e. Once the deadline has passed, the Finance Officer shall open all sealed applications received during the invitation submittal window and review each application for completeness. Applications which are objectively incomplete shall be rejected and ineligible for further consideration. Applications which may be incomplete, but which require subjective interpretation, may continue through the process for the City Council to make such determination. Such review shall be completed within 10 business days from the established deadline to receive applications.
- f. The remaining applications shall be placed into order by the Finance Officer utilizing a lottery system to establish the order in which applications will be considered. Following the review period, the Finance Officer shall publish notice of the lottery on the City's website at least twenty-four (24) hours in advance of the lottery being conducted and such lottery shall be open to the public. Once the lottery is completed, the remaining applications will be placed on the agenda of the next regularly available City Council meeting.
- g. Remaining applications will then be considered by City Council on their merits in the order set by lottery. City Council will approve or deny applications in the established order, but may review all applications before deciding on any individual application. City Council will approve or deny the applications in order until all applications have been acted on or the numerical cap has been reached. If the numerical cap has been reached and there are still applications which have not been acted on, such undecided applications shall be deemed rejected.
- h. If no applications are received following an invitation for applications, or if the numerical cap is not reached pursuant to an invitation for applications, these special rules shall no longer apply and applications may be received, processed, and considered on a first come, first served basis beginning at open of business the day following the City Council meeting at which the last application was acted upon pursuant to the invitation for applications. Such applications must be delivered in

writing to the Finance Officer no earlier than the time specified above and applications received before such time shall be deemed rejected.

- i. If the numerical cap is then reached while using the first come, first served system, and a license subsequently lapses making a new license available, these special procedures shall apply to issuing the new license.
3. Severability. The provisions of this resolution are severable. If any provision of this resolution 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 resolution which can be given effect without the invalid provision or application.
4. Effective Date. This resolution, after its final passage, shall be recorded in a book kept for that purpose, shall be authenticated by the signature of the Mayor and Finance Officer, shall be published in the City's officially designated newspaper, and shall be effective on the 20th day following such publication. After becoming effective, this resolution may be amended or repealed at any time by adoption of an administrative resolution or ordinance.

Adopted at City of Harrisburg, South Dakota, this 21st day of September, 2021.

APPROVED:

Derick Wenck
Mayor

(SEAL)

Attest: Mary McClung
City Finance Officer

Passed: September 21, 2021
Published: September 30, 2021
Effective: October 20, 2021