

**SUMMERSET CITY COMMISSION  
PUBLIC HEARING  
SUMMERSET MUNICIPAL BUILDING  
7055 LEISURE LANE  
THURSDAY MAY 20, 2021 6:00 P.M.**

**AGENDA**

**1) ROLL CALL**

Kitzmiller, McCoy, Butler, Hirsch, Torno

**2) PLEDGE OF ALLEGIANCE**

**3) CALL FOR CHANGES**

Approval of the Agenda of the Regular Meeting of the Summerset City Commission for May 20, 2021 as presented or amended.

**4) CONSENT CALENDAR**

**APPROVAL OF THE MINUTES**

- 4A) Approval of the minutes of the Regular Meeting from May 5, 2021 as presented or amended.

**APPROVAL OF THE CLAIMS**

- 4B) Approval of claims and hand checks in the amount of \$39,196.90 from May 6, 2021 to May 19, 2021 as presented or amended.

**5) MALT BEVERAGE LICENSE RENEWALS 2021-2022**

- 5A) Retail On-Off Sale Malt Beverage and SD Farm Wine License #RB-25543 with Sunday Service, JR's Rhodehouse BBQ Pit, 7201 Infinity Drive, Summerset, SD 57718, OC.68.04, Infinity Business Park, Sub Lot 4.

**6) RESOLUTION 2021-05-MALT BEVERAGE LICENSE RESOLUTION**

Approval of Resolution 2021-05-Malt Beverage Licenses for the City of Summerset.

**7) CASEY PETERSON AUDIT PRESENTATION**

Audit presentation for fiscal year 2020

**8) MEDICAL MARIJUANA ORDINANCES**

**8A) Temporary Medical Marijuana Ordinance:**

- 1. Discuss
- 2. Schedule public hearing and first reading

**8B) No Smoking Marijuana in Public Ordinance:**

1. Discuss
2. Schedule First Reading

**9) UPCOMING DATES**

City-wide clean up May 22-23, 2021 from 8 a.m. – 3 p.m.  
Office Closed Monday May 31, 2021 Observance of Memorial Day  
Summerfest June 19, 2021

**10) AFFORDABLY CREATIVE ENGINEERING SERVICES, INC**

Glenwood Drive Expansion and Connection Project, TIF #2 discussion

**11) CITIZENS INPUT**

**12) ITEMS FROM CITY ATTORNEY**

Executive Session per SDCL 1-25-2 for discussing legal, economic development, and personnel issues.

**13) ADJOURNMENT**

*Information regarding accessibility for the disabled may be obtained by calling the Summerset City Finance Officer at 605-718-9858. Individuals needing special accommodations are asked to call at least 48 hours prior to the meeting.*

*ALL MEETINGS OF THE SUMMERSET CITY COMMISSION ARE OPEN TO THE PUBLIC*

**Call-in instructions:**

City of Summerset is inviting you to a scheduled Zoom meeting.

Topic: 05/20/2021 Commission Meeting

Time: May 20, 2021 05:45 PM Mountain Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/85046845715?pwd=cjFpd0VkakxreFZZdXpTTHhqMTN1UT09>

Meeting ID: 850 4684 5715

Passcode: 581277

One tap mobile

+13462487799,,85046845715#,,,,\*581277# US (Houston)

+16699009128,,85046845715#,,,,\*581277# US (San Jose)

Dial by your location

+1 346 248 7799 US (Houston)

+1 669 900 9128 US (San Jose)  
+1 253 215 8782 US (Tacoma)  
+1 312 626 6799 US (Chicago)  
+1 646 558 8656 US (New York)  
+1 301 715 8592 US (Washington DC)

Meeting ID: 850 4684 5715

Passcode: 581277

Find your local number: <https://us02web.zoom.us/j/keDRHCnSB>

**SUMMERSET CITY COMMISSION  
REGULAR MEETING  
ZOOM MEETING  
SUMMERSET MUNICIPAL BUILDING  
7055 LEISURE LANE  
THURSDAY May 06, 2021 6:00 P.M.**

Mayor Torno called the Regular Meeting to order at 6:00 p.m. Commissioners McCoy, Hirsch, Kitzmiller and Butler were present. The City Attorney and Finance Officer were also present.

Mayor Torno led the Pledge of Allegiance.

**Motion** by Butler, second by McCoy to approve the agenda for the Regular Meeting of the Summerset City Commission for May 06, 2021. Motion carried

**Motion** by Hirsch, second by Kitzmiller to approve the April 15, 2021 minutes as presented. Motion carried.

**APPROVAL OF CLAIMS**

**Motion** by Butler, second by Hirsch to approve the claims and hand checks in the amount of \$92,394.20 from April 15, 2021 through May 05, 2021 as presented or amended. Motion carried.

A&B Business Solutions	Monthly Contract	\$290.00
Aflac Remittance Processing	Employee Insurance	\$353.27
Allen, Don	Phone Stipend	\$50.00
Ambrose, Jonathan	Phone Stipend	\$50.00
Black Hills Energy	Utilities	\$4,728.13
Buntain, Joshua	Phone Stipend	\$50.00
Butler, Dave	Phone Stipend	\$50.00
Candace Sealey	Phone Stipend	\$50.00
Dakota Pump, Inc	30hp Blower Motor	\$1,412.74
Delta Dental	Employee Dental Ins	\$626.40
Ducheneaux, Halayna	Phone Stipend	\$50.00
First Interstate Bank	Leisure Lane Payment	\$4,911.76
Ford Motor Credit Company,LLC	Police Interceptor	\$1,479.21
Greenapsis	Janitorial	\$320.00
Hawkins	Aqua Hawk	\$444.40
HDR Engineering	Task order 2021-01	\$90.00
Health Pool of SD	Employee Insurance	\$11,693.23
Hermanson Egge Engineering	7 Inspections	\$735.00
Hirsch, Clyde	Phone Stipend	\$50.00
Juso, Colton	Phone Stipend	\$50.00
Kitzmiller, Michael	Phone Stipend	\$50.00
Kayl, Anthony	Phone Stipend	\$50.00
MBFS USA LLC	Freightliner Payment	\$3,068.32

MDU	Utilities	\$753.67
Montileaux, Casey	Phone Stipend	\$50.00
Nasser, Rich	Phone Stipend	\$50.00
Palmer, Brandy	Phone Stipend	\$50.00
RC Journal	Publications	\$709.56
Rowin, Sabrina	WWTP Refund	\$100.00
SD One Call	March Notifications	\$31.50
SDRS-Supplement	Employee Supplemental Retire	\$485.00
Servall Uniform & Linen	Monthly Fees	\$137.03
Stephanie McCoy	Phone Stipend	\$50.00
Tanner Fenenga	Phone Stipend	\$50.00
Torno, Melanie	Phone Stipend	\$50.00
USA Bluebook	WWTP Supplies	\$644.67
Valandra, Morgan	Phone Stipend	\$50.00
Vast	Fax/Phone/Internet	\$1,050.38
Verizon Wireless	LE Voice	\$200.07
Wells Fargo Financial Services	Bobcat Payment	\$1,079.30
Westech	Clean Flo spiral screen	\$34,500.00
Western Communications Inc	Repair Radio	\$2,168.40
SDRS	Employee Retirement	\$7,042.62
US Treasury	Payroll Deposit April	\$12,089.54

#### **UTILITY BILLING UPDATES**

**Motion** by Butler, second by Hirsch to approve the utility billing adjustments of \$317.28 for the period of April 01, 2021 to April 30, 2021.

#### **APPOINTMENT OF COMMISSIONERS**

The following appointments were made and approved unanimously by roll call vote of the Commission:

Public Safety Commissioner – Commissioner Hirsch  
Public Works Commissioner – Commissioner Kitzmiller  
Utilities Commissioner – Commissioner Butler  
Finance and Revenue Commissioner – Commissioner McCoy

#### **ELECTION OF THE PRESIDENT OF THE SUMMERSET CITY COMMISSION**

**Motion** by Butler, second by Hirsch to elect Michael Kitzmiller President of the City Commission. Motion carried.

#### **APPOINTMENT OF CITY OFFICIALS**

**Motion** by McCoy, second by Hirsch to appoint Michael Wheeler of Demersseman, Jensen, Tellinghuisen & Hoffman as City Attorney. Motion carried.

**Motion** by Butler, second by McCoy to appoint HDR Engineering as City Engineer. Motion carried.

**Motion** by Kitzmiller, second by Hirsch to appoint Candace Sealey as City Finance Officer. Motion carried.

#### **AUTHORIZE BANK DEPOSITORY**

**Motion** by Butler, second by McCoy to name First Interstate Bank and BankWest as official depository and authorized checks signors to be Mayor, Finance Commissioner, and City Finance Officer. Motion carried.

#### **DESIGNATION OF OFFICIAL PUBLICATION**

**Motion** by Hirsch, second by Butler to name the Rapid City Journal as the official publication of the City of Summerset. Motion carried.

#### **APPROVAL OF NEW POLICE OFFICER**

**Motion** by Kitzmiller, second by Hirsch to approve new police officer Richard Nasser

#### **APPROVAL OF WAGE SCALE FOR NEW POLICE OFFICERS**

**Motion** by Hirsch, second by Kitzmiller for approval of wages for new Police Officers at \$22.94 per hour for Officer Richard Nasser. Roll call vote, all ayes. Motion carried.

#### **APPROVAL OF WAGE SCALE FOR GEORGE MANDAS**

**Motion** by McCoy, second by Kitzmiller with discussion to approve George Mandas as a Contract Employee at \$75 per hour. Roll call vote, all ayes. Motion carried.

#### **MALT BEVERAGE LICENSE RENEWALS 2021-2022**

**Motion** by Hirsch, second by Butler to approve the application for Retail On-Off Sale Malt Beverage and SD Farm Wine License with Sunday Service, TFH Inc., dba Hagggar's Grocery, 8031 Stagestop Road, Lot 2R of Tract 1R of Siouxland Estates, NW ½ of Sec 25, T3N, R6E, BHM, Summerset, Meade County, South Dakota.

**Motion** by Butler, second by Kitzmiller to approve the application for Retail On-Off Sale Malt Beverage and SD Farm Wine License #RB-2318 with Sunday Service and ten video lottery machines, MG Oil Company, dba Happy Jacks - Summerset, 8076 Stagestop Road, Lot SC4 and SC5 Siouxland Estates, Sec 23, T3N, R6E, BHM, Summerset, Meade County, South Dakota.

**Motion** by Kitzmiller, second by McCoy to approve the application for Retail On-Off Sale Malt Beverage and SD Farm Wine License #RB-18919 with Sunday Service and ten video lottery machines, MG Oil Company, dba Happy Jacks – Summerset 2, 8074 Stagestop Road, LotSC4 and SC5, Siouxland Estates, Sec 23, T3N, R6E, BHM, Summerset, Meade County, South Dakota.

**Motion** by Kitzmiller, second by Hirsch to approve the application for Retail On-Off Sale Malt Beverage and SD Farm Wine License with Sunday Service and eight video lottery machines, The Pit Stop LLC, 8034 Stagestop Road, OC.60.02R, Lot 2R. 23-3-6.

**Motion** by Kitzmiller, second by Butler to table the application for Retail On-Off Sale Malt Beverage and SD Farm Wine License with Sunday Service, JR's Rhodehouse BBQ Pit, 7201 Infinity Drive, Summerset, SD 57718, OC.68.04, Infinity Business Park, Sub Lot 4.

**Motion** by Hirsch, second by Butler to approve the application for Retail On-Off Sale Malt Beverage and SD Farm Wine License with Sunday Service, Dolgen Midwest LLC 100 Mission Ridge, Goodlettsville TN 37072. DBA Dollar General-12000 Sturgis Road, Summerset, SD 57718, OC.55.1R.0C, Sioux Land Estates Sub Lot C of Tract 1R.

#### **CITIZENS INPUT**

No citizens input.

#### **ITEMS FROM CITY ATTORNEY**

**Motion** by Butler, second by Hirsch to enter Executive Session per SDCL 1-25-2 for discussing legal, economic development and personnel issues at 6:28 p.m.

**Motion** by Hirsch, Second by Butler to exit executive session at 7:13 p.m.

#### **ADJOURNMENT**

**Motion** for adjournment at 7:13 p.m. by Kitzmiller, second McCoy. Motion carried.

(SEAL)  
ATTEST:

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Candace Sealey  
Finance Officer

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Melanie Torno  
Mayor

Published May 18<sup>th</sup>, 2021 at a cost of \$171.93.

# Check Register Report

Date: 05/19/2021

Time: 12:34 pm

Page: 1

City of Summerset

BANK: BANKWEST

Check Number	Check Date	Status	Void/Stop Date	Reconcile Date	Vendor Number	Vendor Name	Check Description	Amount
<b>BANKWEST Checks</b>								
24627	05/19/2021	Printed			1098	A&B BUSINESS SOLUTIONS	Monthly Contract	45.00
24628	05/19/2021	Printed			1108	A&E PLUMBING	Auger Piping	281.93
24629	05/19/2021	Printed			0021	BLACK HAWK WATER USERS DISTRICT	Monthly Usage	52.70
24630	05/19/2021	Printed			1504	CBH CO-OP	Govt Fuel	2,748.53
24631	05/19/2021	Printed			0036	CITY OF RAPID CITY	Solid Waste Collection	4,282.81
24632	05/19/2021	Printed			0765	DEMERSSEMAN JENSEN	Legal Services	2,015.00
24633	05/19/2021	Printed			0246	GOLDEN WEST TECHNOLOGIES	Managed Services	2,998.50
24634	05/19/2021	Printed			1133	HDR ENGINEERING, INC	Task order 2021-01	5,771.50
24635	05/19/2021	Printed			1506	HERMANSON EGGE ENGINEERING	4 Residential Inspections	420.00
24636	05/19/2021	Printed			0124	KIEFFER SANITATION	Monthly Billing	225.00
24637	05/19/2021	Printed			1656	LEGENDARY ELECTRIC	Electrical for Auger	763.12
24638	05/19/2021	Printed			1101	MEADE COUNTY AUDITOR	Dispatch April	2,296.26
24639	05/19/2021	Printed			1433	MIDCONTINENT COMMUNICATIONS	WWTP Phone	197.35
24640	05/19/2021	Printed			1157	MIDCONTINENT TESTING LABS	Mid Continent Testing	140.00
24641	05/19/2021	Printed			0028	MONTANA DAKOTA UTILITIES	Utilities	665.37
24642	05/19/2021	Printed			0008	RAPID CITY JOURNAL	Audit Publications	314.17
24643	05/19/2021	Printed			1291	RCS CONSTRUCTION INC	Install Auger	2,073.98
24644	05/19/2021	Printed			0609	SD Assoc of Rural Water System	Conference Attendance	75.00
24645	05/19/2021	Printed			0018	SD ONE CALL	April Notifications	40.95
24646	05/19/2021	Printed			0203	Verizon Wireless	Le Voice and Mobile	200.09
24647	05/19/2021	Printed			0202	WESTERN COMMUNICATIONS INC.	Repair Siren	365.00
24648	05/19/2021	Printed			0808	BLACK HILLS ENERGY	Utilities	5,310.14
24649	05/19/2021	Printed			0025	Black Hawk Fire Department	Donation For Equipment	1,759.38
24650	05/19/2021	Printed			0167	SD DEPARTMENT OF REVENUE	2021-2022	900.00

**Total Checks: 24**

**Checks Total (excluding void checks):**

**33,941.78**

**Total Payments: 24**

**Bank Total (excluding void checks):**

**33,941.78**

# Check Register Report

Date: 05/19/2021

Time: 12:34 pm

Page: 2

City of Summerset

BANK: BANKWEST EFT

Check Number	Check Date	Status	Void/Stop Date	Reconcile Date	Vendor Number	Vendor Name	Check Description	Amount
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**BANKWEST EFT Checks**

28	05/19/2021	Printed			1125	FIRST NATIONAL TRUST AND P & I		4,299.52
29	05/19/2021	Printed			0167	SD DEPARTMENT OF REVENUE	Sales Tax April	955.60

<b>Total Checks: 2</b>	<b>Checks Total (excluding void checks):</b>	<b>5,255.12</b>
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<b>Total Payments: 2</b>	<b>Bank Total (excluding void checks):</b>	<b>5,255.12</b>
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<b>Total Payments: 26</b>	<b>Grand Total (excluding void checks):</b>	<b>39,196.90</b>
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Date Received 5/14/2021  
Date Issued \_\_\_\_\_

# 2021-2022

License No. RB-25543

## Uniform Alcoholic Beverage License Application

### A. Owner Name and Mailing Address

JUSTIN D RHODES  
12441 NAVAJO DR  
PIEDMONT, SD 57769

Owner's Telephone#: 605-939-8229

### B. Business Name and Address

Lic # RB-25543  
JR'S RHODEHOUSE BBQ PIT  
7201 INFINITY DR  
SUMMERSET, SD 57718

Business Telephone #: (605) 939-8229 787-7070

### C. Indicate the class of license being applied for (submit separate application for each class of license).

- Retail (on-sale) Liquor
- Retail (on-sale) Liquor - Restaurant
- Convention Center (on-sale) Liquor
- Package (off-sale) Liquor
- Retail (on-off sale) Wine and Cider
- Retail (on-off sale) Malt Beverage & SD Farm Wine
- Package Delivery
- Hunting Preserve
- Other \_\_\_\_\_

Is this License in active use?  Yes [ ] No

Do you or any officers, directors, partners, or stockholders hold any other alcohol retail, manufacturing, or wholesaler licenses?  
[ ] Yes [ ] No **If Yes, please list on the back page**

Place of business is located in a municipality? [ ] Yes [ ] No ?

County: MEADE

Do you own [ ] or lease  this property? (Check one)

Are real property taxes paid to date?  Yes [ ] No

### D. Legal description of licensed premise:

7201 INFINITY DR.  
SUMMERSET, SD 57718  
UNIT (A)

Have you ever been convicted of a felony? [ ] Yes  No

E. State Sales Tax Number: 1027-0745-ST

F. New license? \_\_\_\_\_ Transfer? (\$150) \_\_\_\_\_ Re-issuance?

G. CERTIFICATE: The undersigned applicant certifies under the penalties of perjury that all statements herein are true and correct; that the said applicant complies with all of the statutory requirements for the class of license being applied for and in addition agrees to permit agents of the Department of Revenue access to the licensed premises and records as provided in SDCL 35-2-2.1, and agrees this application shall constitute a contract between applicant and the State of South Dakota entitling the same or any peace officers to inspect the premises, books and records at any time for the purpose of enforcing the provisions of Title 35 SDCL, as amended.

Date 5-12-21 Print Name JUSTIN RHODES Signature \_\_\_\_\_

H. APPROVAL OF LOCAL GOVERNING BODY- Notice of hearing was published \_\_\_\_\_ . Public hearing on the application was held \_\_\_\_\_, not less than SEVEN (7) days after official publication. The governing body by majority vote recommends the approval and granting of this license and certifies that requirements as to location and suitability of premises and applicant have been reviewed and conform to the requirements of local and South Dakota law.

Renewal - no public hearing held   
Amount of fee collected with application \$ 300.00  
Amount of fee retained \$ 150.00  
Forwarded with application \$ 150.00

For Local Government Use

Transferred (State Use)

(Seal) \_\_\_\_\_  
Mayor or Chairman

From \_\_\_\_\_  
Sales tax approval \_\_\_\_\_ Date \_\_\_\_\_

If disapproved, endorse reason thereon and return to applicant STATE LIQUOR AUTHORITY: APPROVAL \_\_\_\_\_ REVIEW \_\_\_\_\_

Please complete reverse side

**CITY OF SUMMERSET  
RESOLUTION 2021-05  
MALT BEVERAGE LICENSE RENEWAL RESOLUTION**

**WHEREAS**, the City of Summerset, Meade County, a South Dakota municipal corporation having the authority to enforce all statutes and ordinances within its corporate boundaries, and to pass resolutions regarding legal issues concerning the municipality.

**AND WHEREAS**, The City of Summerset Council of Commissioners has duly reviewed and examined renewal applications in a Regular Meeting held on May 6, 2021 and May 20, 2021;

**NOW THEREFORE, BE IT RESOLVED** by the City of Summerset Council of Commissioners that the following licenses be approved and renewed for the 2021-2022 license year:

Retail On-Off Sale Malt Beverage and SD Farm Wine License # RB-25546 with Sunday Service, TFH Inc., dba Haggar's Grocery, 8031 Stagestop Road, Lot 2R of Tract 1R of Siouxland Estates, NW ½ of Sec 25, T3N, R6E, BHM, Summerset, Meade County, South Dakota.

Retail On-Off Sale Malt Beverage and SD Farm Wine License #RB-2318 with Sunday Service and ten video lottery machines, MG Oil Company, dba Happy Jacks - Summerset, 8076 Stagestop Road, Lot SC4 and SC5 Siouxland Estates, Sec 23, T3N, R6E, BHM, Summerset, Meade County, South Dakota.

Retail On-Off Sale Malt Beverage and SD Farm Wine License #RB-18919 with Sunday Service and ten video lottery machines, MG Oil Company, dba Happy Jacks – Summerset 2, 8074 Stagestop Road, Lot SC4 and SC5, Siouxland Estates, Sec 23, T3N, R6E, BHM, Summerset, Meade County, South Dakota.

Retail On-Off Sale Malt Beverage and SD Farm Wine License #RB-25545 with Sunday Service and eight video lottery machines, The Pit Stop LLC, 8034 Stagestop Road, OC.60.02R, Lot 2R. 23-3-6.

Retail On-Off Sale Malt Beverage and SD Farm Wine License #RB-25543 with Sunday Service, JR's Rhodehouse BBQ Pit, 7201 Infinity Drive, Summerset, SD 57718, OC.68.04, Infinity Business Park, Sub Lot 4.

Retail On-Off Sale Malt Beverage and SD Farm Wine License #R25544 with Sunday Service, Dolgen Midwest LLC 100 Mission Ridge, Goodlettsville TN 37072. DBA Dollar General-12000 Sturgis Road, Summerset, SD 57718, OC.55.1R.0C, Sioux Land Estates Sub Lot C of Tract 1R.

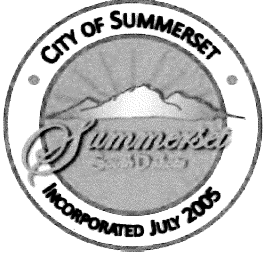
**BE IT FURTHER RESOLVED** that a copy of this Resolution be forwarded to the Department of Revenue and Regulation, Special Tax Division along with the applications and fees for the 2021-2022 license term.

Dated this 20<sup>th</sup> day of May 2021.

(SEAL)  
**ATTEST:**

\_\_\_\_\_  
Candace Sealey  
Finance Officer

\_\_\_\_\_  
Melanie Torno  
Mayor



*City of*  
**SUMMERSET**  
*A GREAT PLACE TO CALL HOME*

**Agenda Item Request Form**

This Request Form is required in the Finance Office no later than Monday at noon prior to the Thursday Commission Meeting (1st and 3rd Thursdays of the month). The City will contact you confirming the suitability and placement of the requested item. We encourage you to resolve any issues by contacting the Finance Office prior to requesting placement on the agenda.

**PLEASE PRINT**

Name Leah Berg, ACES as agent for Glenwood Drive LLC Phone Number 605-716-4646  
Address 324 St. Joseph Street, Suite 200, Rapid City, SD 57701 LBerg@proacesinc.com

**Item to be Discussed**

We request to have the Memorandum of Understanding (MOU) attached to this request for the Glenwood Drive Expansion and Connection Project, placed on the Commission Agenda for May 20, 2021 for vote action by the City of Summerset Commission.

The partnership with the City of Summerset that has been taking steps for a year now needs vote action to know if the Summerset Commission intends to continue to work together on the Glenwood Drive Expansion and Connection Project.

A few key items that need to be considered and open to the public are:

- The project would make the required modifications to Tax Increment Financing Plan #2 to ensure it complies with the Constitution of the State of South Dakota regarding constitutional debt.
- Provide 2.3 Miles of roadway and infrastructure within the existing boundary of the City of Summerset.
- Provide the only option for a 2nd point of ingress/egress for the Sun Valley Estates Subdivision.
- Provide the Citizens of the City of Summerset a connection to the shared use path and pedestrian ways.
- Provide commercial uses by way of a truck stop, food establishments, hardware store, and other retail in the City of Summerset. Otherwise, Area 3, as shown in Exhibit C, will be large lots designed for industrial use.
- Provide a connection between Stage Stop Road and Elk Creek Road.
- Improve the City of Summerset with needed commercial economic development, improve the safety of established residential areas, provide amenities for the Citizens of the City of Summerset, and generate sales tax revenue for the City of Summerset.
- A TIF only works if there is development to increase property value. This project would have the potential to increase the value of over 160 Acres in and for the City of Summerset. While allowing \$5,714,650 to be utilized by the City of Summerset, if the City chooses.

Signature  Date 05/14/2021

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("**MOU**") is dated \_\_\_\_\_, 2021, and entered into by and between the CITY OF SUMMERSET, SOUTH DAKOTA (the "**City**"), and Glenwood Drive, LLC, a South Dakota limited liability company ("**Developer**") (collectively, the "**Parties**").

### RECITALS:

WHEREAS, Developer has control of certain parcels of land that will provide the route for the Glenwood Drive expansion and connection project, within the City of Summerset, Meade County, South Dakota, as shown on **Exhibit A** attached hereto (the "**Property**"); and

WHEREAS, the Property is shown on the Future Land Use map of the City's \_\_\_\_\_ Comprehensive Plan to be used for residential and commercial development; and

WHEREAS, City and Developer are exploring the possible development of the Property into residential, retail/commercial and industrial development; and

WHEREAS, certain project costs incurred in the development of the Property would constitute Tax Increment Financing ("**TIF**") project costs, eligible for reimbursement under SDCL Chapter 11-9; and

WHEREAS, the City's comprehensive plan contemplates providing Tax Increment Financing through programs such as TIFs; and

WHEREAS, the City has an existing TIF boundary # 2 established in 2018, which requires revisions in order to be utilized legally; and

WHEREAS, the Parties desire to enter into this MOU to set forth certain understandings regarding the project and to confirm their intent to move forward with evaluating a proposed TIF to stimulate the development of the Property area that provides critical infrastructure.

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties recognize and agree as follows:

1. Property Attributes. The Property is inside City limits and within the existing TIF #2 Boundary as established in 2018.

2. TIF Eligibility. Economic development within a city is an authorized use of tax increment districts under SDCL Chapter 11-9. Developing the Property into a mixed-use development with residential, commercial and industrial space, is expected to promote economic development within the City. It will also conform to the standards of the comprehensive plan of the City in order to provide for the orderly development of property for the City.

3. Project Costs and Reimbursable Project Costs. The Developer anticipates the project costs in, developing, financing and preparing the Property for sale or lease to third parties, will meet or exceed Eight Million Dollars (\$8, 000, 000.00). Certain of these costs would be considered TIF-eligible costs within the meaning of SDCL § 11-9-14 and SDCL § 11-9-15. Developer anticipates requesting reimbursement of those eligible reimbursement costs of critical infrastructure items to construct the following roadways within Summerset, South Dakota: 650 feet of Telluride Street, 600 feet of Snowmass Court, 1,950 feet of Foley Drive, and 9,187 feet of Glenwood Drive. Critical infrastructure items shall include but are not limited to earthwork and grading for roadway construction, pedestrian ways by way of trail construction and sidewalks, drainage features, road surfacing, street lighting, water main, sewer main and common utility trench. Infrastructure items shall be designed by a South Dakota Professional Licensed Engineer and submitted to the City of Summerset for review and approval. The projected development costs are preliminary, but based on the good-faith estimate of the Developer following the due diligence completed by Developer prior to the date of this MOU. Prior to bringing the proposed TIF to the City Commission, the Parties will further delineate the project costs, eligible project costs and requested reimbursable project costs for the development of the Property. – Attached is the opinion of probable cost as Exhibit B.

The City will be provided the Right-of-Way (ROW) required for the Glenwood Drive and other roadways to achieve the Glenwood Drive connection, second point of ingress/egress for Sun Valley Estates, pedestrian shared use path, and expanded sewer collection expansion within City of Summerset limits.

The cost of TIF #2 project plan as created in 2018 established a total cost to be \$13,714,650. With the Glenwood Drive extension and connection project accounting for \$8,000,000 of cost the remaining eligible amount of \$5,714,650 can be utilized by the City of Summerset for wastewater related expenses.

The Glenwood Drive extension and expansion project would be the primary project and therefore would be the revenue source for any TIF amounts to be generated. The Developer would receive 90% of the annual TIF funds collected, up to the amount of \$8,000,000. The City would receive 10% of the annual TIF funds collected, up to the amount of \$5,714,650. Once the Developer portion for the Glenwood Drive extension and expansion project has received the total amount of \$8,000,000, the City will then receive 100% of the TIF funds collected through the duration of the TIF, 2038.

4. Property and TIF Development Process. The Developer has submitted a concept plan layout, Exhibit C, that will be reviewed by the City Staff and Commission. City and Developer will work jointly on the preparation of the TIF revisions required. During this period, Developer will also continue to work with the City concerning the project and infrastructure plans. The City and Developer will work jointly on the drafting of the associated development agreement outlining the duties, rights and responsibilities of Developer in connection with the development of the Property. The City will also cooperate with Developer in securing necessary permits. The milestone events and dates the parties will endeavor to achieve for the development of the TIF #2 and project are set forth as completion of project items by December 31, 2023.

5. Miscellaneous.

a. This MOU may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. Any Party may execute this MOU by executing any such counterpart.

b. This Agreement shall be governed and construed in accordance with the laws of the State of South Dakota.

c. All parties agree to negotiate in good faith using commercially reasonable efforts to achieve the outcomes set forth in this MOU.

d. It is understood that the existing Tax Increment Financing Plan #2 will require modifications to ensure it complies with the Constitution of the State of South Dakota regarding constitutional debt.

These modifications will come in the form of making the Tax Increment District an Annual Appropriation TIF to ensure legal conformity to constitutional debt.

*REMAINDER OF PAGE LEFT BLANK*

IN WITNESS WHEREOF, the parties hereto have executed this MOU as of the date set forth above.

CITY:  
CITY OF SUMMERSET

DEVELOPER:  
GLENWOOD DRIVE LLC

By: \_\_\_\_\_  
Its: \_\_\_\_\_

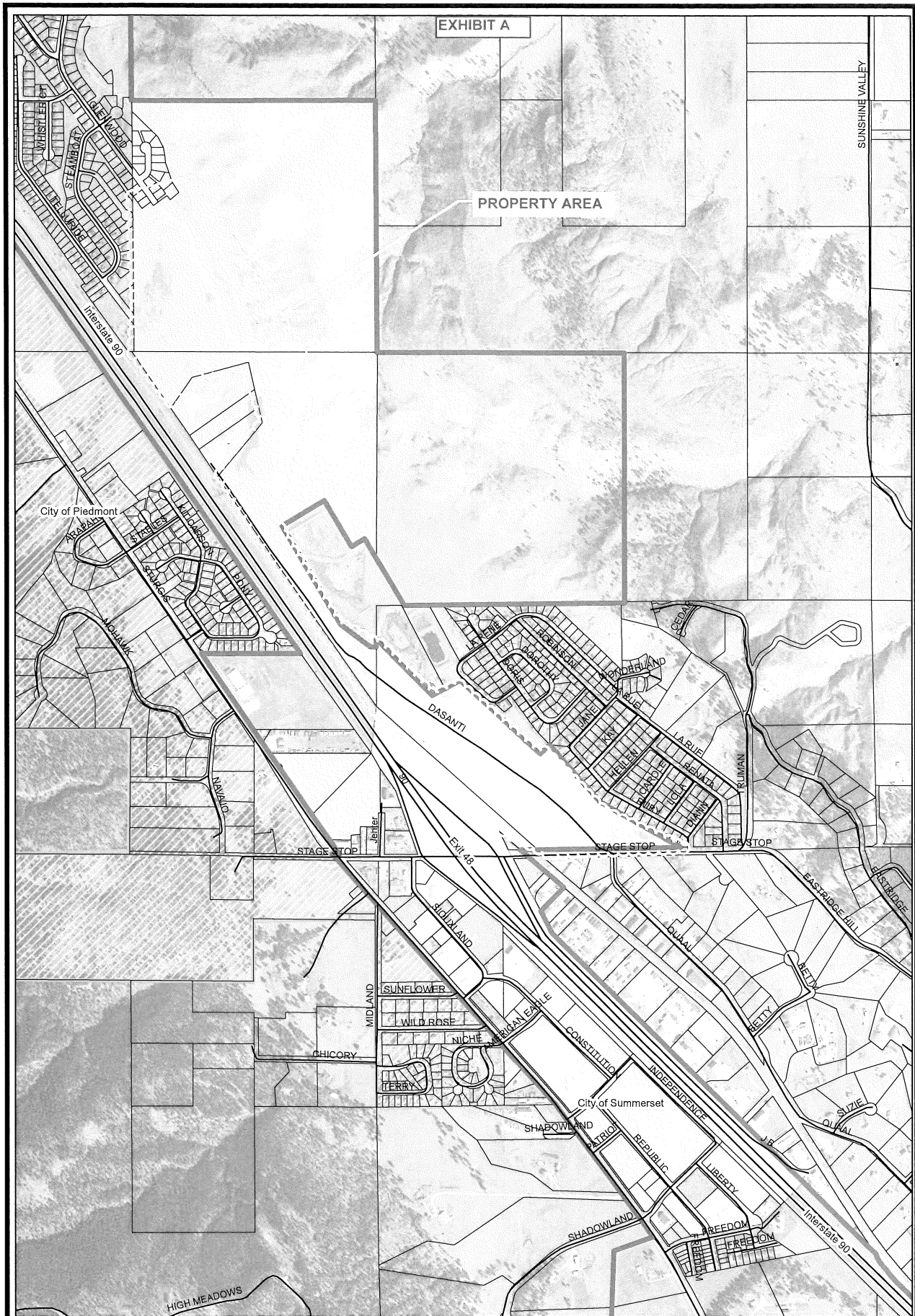
By \_\_\_\_\_  
Its: Member – Brandon Powles

By \_\_\_\_\_  
Its: Member – Chad Gollnick

**EXHIBIT A  
PROPERTY LOCATED IN TIF BOUNDARY**

**EXHIBIT B  
OPINION OF PROBABLE COST**

**EXHIBIT C  
CONCEPT PLAN LAYOUT**



- Legend**
- City of Summerset
  - Parcels (2018)
  - City of Piedmont
  - 2018 TIF Area

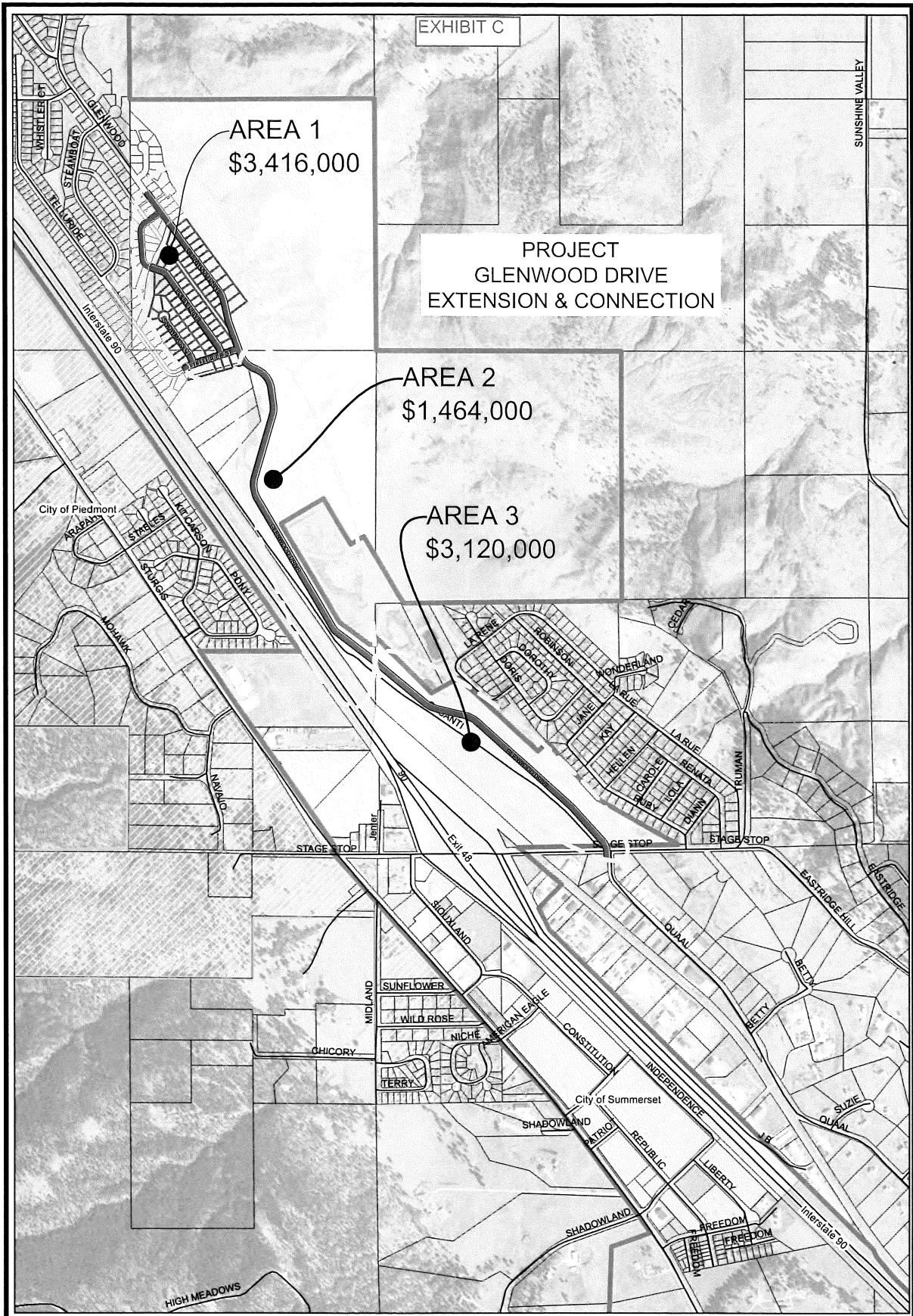
## City of Summerset 2018 TIF Boundary



0 500 1,000 2,000  
Feet







- Legend**
- City of Summerset
  - City of Piedmont
  - Parcels (2018)
  - 2018 TIF Area

City of Summerset  
2018 TIF Boundary



0 500 1,000 2,000 Feet



1st Reading: \_\_\_\_\_  
2nd Reading: \_\_\_\_\_  
Date Adopted: \_\_\_\_\_  
Date Published: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

**ORDINANCE NO.** \_\_\_\_\_

**A TEMPORARY ORDINANCE REGARDING THE ISSUANCE OF LOCAL MEDICAL CANNABIS ESTABLISHMENT PERMITS AND/OR LICENSES.**

WHEREAS, a local government may enact 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 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, the City of Summerset, SD (“Summerset”), by and through the Board of Commissioners, makes a preliminary finding that Summerset’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 local zoning and licensing requirements necessary to approve local permits and to better ensure applicants have a more predictable permitting process and avoid stranded investments.

WHEREAS, Summerset makes a preliminary finding that it needs further study of the relationship of medical cannabis establishments to Summerset’s Comprehensive Plan and Zoning Ordinance. The public interest requires that Summerset 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, Summerset makes a preliminary finding that it would be inappropriate for Summerset 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, Summerset hereby exercises its authority under SDCL 11-4-3.1 and/or SDCL 9-19-13, to establish a temporary ordinance regarding the issuance of any local permits/licenses for medical cannabis establishments within the City of Summerset;

WHEREAS, a temporary ordinance will ensure that more comprehensive zoning ordinance and building permit changes, licensing permits, and any proposed amendments to Summerset’s Comprehensive Plan can be completely examined with adequate public input from citizens, business interests, and medical cannabis industry representatives;

WHEREAS, Summerset finds that a temporary 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;

WHEREAS, Summerset finds that the following 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 SUMMERSET, SD:

*Section 1. Temporary Ordinance – Application for Local Permit/License*

A medical cannabis establishment desiring to operate in the City of Summerset shall be required to apply for a permit and/or license from the municipality. Applications for a local permit and/or 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 be denied.

*Section 2. Number of Licenses*

- A. There shall be available as new local licenses for medical cannabis establishments a total of \_\_\_\_\_ licenses.
- 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: \_\_\_\_\_ license(s)
  - 2. Cannabis Testing Facility: \_\_\_\_\_ license(s)
  - 3. Cannabis Product Manufacturing Facility: \_\_\_\_\_ license(s)
  - 4. Dispensary: \_\_\_\_\_ license(s)
- C. The Commissioners shall consider all qualified applications in the order they were received. No local licenses may be issued after the available new local licenses have been awarded by the Commissioners.
- D. 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 \$150.00.
- 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: \$ \_\_\_\_\_
  - 2. Cannabis Testing Facility: \$ \_\_\_\_\_
  - 3. Cannabis Product Manufacturing Facility: \$ \_\_\_\_\_
  - 4. Dispensary: \$ \_\_\_\_\_

*Section 4. 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.

Date adopted: \_\_\_\_\_.

\_\_\_\_\_  
Melanie Torno, Mayor

ATTEST:

\_\_\_\_\_  
Summerset Finance Officer

**ORDINANCE No. \_\_\_\_\_**  
**AN ORDINANCE PROHIBITING THE CONSUMPTION OR**  
**SMOKING OF CANNABIS IN PUBLIC PLACES**

BE IT ORDAINED by the City of Summerset Board of Commissioners that Title XIII, Chapter 131: Offenses Against Public Peace of the Ordinances of the City of Summerset is hereby amended by adding new Section 131.13 indicating text to be deleted, underline indicating text to be added, and the remainder of the Article left unaffected-as follows:

Title XIII: General Offenses

Chapter 131: Offenses Against Public Peace

\* \* \*

**Sec. 131.13. Consumption or smoking of cannabis in public places prohibited.**

(a) It is unlawful for any person to consume or smoke cannabis in any public place including parks, sidewalks, streets, alleys, rights-of-way, sports complexes, publicly owned property, or in any place that is open to the public.

(1) A place open to the public is a place to which the public is invited, included in, on, or around any place of business, parking lot, or place of amusement or entertainment, whether or not a charge of admission or entry thereto is required and includes the elevator, lobby, halls, corridors, and areas open to the public of any store, office or multifamily residential building even if such place charges an admission or limits the number of admittees.

\* \* \*

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.

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.

Date adopted: \_\_\_\_\_.

\_\_\_\_\_  
Melanie Torno, Mayor

ATTEST:

\_\_\_\_\_  
Summerset Finance Officer