

UNAPPROVED MINUTES OF  
October 5, 2021

The Moody County Commissioners met in regular session on Tuesday, October 5, 2021 in the Commissioner's Room in the Courthouse at 9:00 AM, with the following members present: Carla Bruning, John Schiefelbein, Randy Hemmer, Dan Miles, and Rick Veldkamp, with Kristina Krull, Auditor as Clerk of the Board. Also present were Tawny Heinemann, Commission Assistant, Paul Lewis, States Attorney and Kendra Eng, Zoning Administrator.

**AUDITOR'S ACCOUNT WITH THE COUNTY TREASURER**

To the Honorable Board of County Commissioners, Moody County:

I hereby submit the following report of my examination of the cash and cash items in the hands of the County Treasurer of this County as of September 30, 2021, which includes money collected for schools, cities, townships and state:

Total amount of deposits in bank:	\$ 15,315.23
Total amount of actual cash:	\$ 5,361.61
Total amount of checks and drafts in Treasurer's possession not exceeding 3 days:	\$ 65,829.34
Outstanding Credit Card payments:	\$ 1,745.58
Itemized list of all items, checks and drafts which have been in the treasurer's possession over 3 days:	\$ 0.00
Register of Deeds Cash	\$ 247.00
First National Bank Flandreau Savings	\$ 1,187,546.74
Flandreau First Savings Bank CD	\$ 4,375,000.00
TOTAL	\$ 5,651,045.50

Dated this 6<sup>th</sup> day of October, 2021  
Kristina Krull  
Moody County Auditor

Chair Bruning called the meeting to order. Motion by Schiefelbein, seconded by Hemmer to approve the agenda. All voted "aye". Motion by Veldkamp, seconded by Miles to approve the following consent agenda with all voting aye:

Minutes: September 21, 2021

Poor Relief: Case #20210701 Deny – No Response from patient.  
Case #20210704 Deny – No Response from patient.  
Case #20210904 Approve \$728.00 – Mental Health Hold.  
Case #20210905 Approve \$3570.00 – Mental Health Hold.

Invoice over \$1000: Brad Grootwassink \$5541.15 Highway building painting project

Motion by Hemmer, seconded by Schiefelbein to conduct business as Board of Adjustments at 9:01 AM. All voted "aye". Motion by Veldkamp, seconded by Hemmer to adjourn and to resume regular session at 9:20 AM. All voted "aye".

Dawn Zahn and Jedidiah Reimnitz, HR Green met with the Board to discuss township small structure inventory.

Marc Blum, Highway Superintendent presented to the Board the Blinsmon Township Road Bids. The following bids were received for Blinsmon Township 242<sup>nd</sup> Street improvements to be paid for with Agri-Business Grant funds:

Bowe's Construction, Inc.	\$210,003.00
Midland Contracting, Inc.	\$256,636.58
Pro Underground, LLC	\$317,499.23

Motion by Veldkamp, seconded by Schiefelbein to accept the bid from Bowe's Construction for \$210,003.00 for Blinsmon Township 242<sup>nd</sup> Street improvements. All voted "aye".

John Schiefelbein, Commissioner discussed with the Board improvements on Highway Buildings.

The Board held the 2<sup>nd</sup> reading of Ordinance No. 2021-03. Motion by Hemmer, seconded by Veldkamp to adopt the following ordinance with all voting "aye":

**ORDINANCE NO. 2021-03**

**AN ORDINANCE CREATING LICENSING PROVISIONS FOR CANNABIS ESTABLISHMENTS IN THE UNINCORPORATED AREAS OF MOODY COUNTY, SOUTH DAKOTA.**

**BE IT ORDAINED** by the Board of County Commissioners of Moody County that an Ordinance is hereby established creating and controlling the licensing of Cannabis Establishments as follows:

**2021-03.01: PURPOSE AND INTENT**

The Board of County Commissioners of Moody County enacts the following licensing ordinances in order to ensure that cannabis establishments within the unincorporated areas of the County 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.

#### **2021-03.02: DEFINITIONS**

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.* 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.

**Department:** the South Dakota Department of Health

#### **2021-03.03: LICENSE REQUIRED**

- (a) No cannabis establishment may be located or operate in the unincorporated area of the County without the appropriate valid and current cannabis establishment license issued by the County pursuant to this article. A violation of this provision is subject to the general penalty provision in Chapter 2021-03.16. Each day of the violation constitutes a separate offense.
- (b) No cannabis establishment may be located or operate in the unincorporated area of the County without the appropriate valid and current cannabis establishment registration certificate issued by the Department pursuant to rules promulgated under SDCL 34-20G. A violation of this provision is subject to the general penalty provision in 2021-03.16. Each day of the violation constitutes a separate offense.

#### **2021-03.04: LICENSE APPLICATION**

- (a) An application for a cannabis establishment license must be made on a form provided by the County. No other application form will be considered.
- (b) The applicant must submit the following:
  1. Application fee of Ten Thousand Dollars (\$10,000.00). The County will reimburse Five Thousand Dollars (\$5,000.00) for applicants who fail to obtain a registration certificate from the South Dakota Department of Health.
  2. An application that will include, but is not limited to, the following:
    - i. The legal name of the prospective cannabis establishment;
    - ii. The physical address of the prospective cannabis establishment that meets the zoning requirements of the Moody County Zoning Ordinance, as well as any location requirements pursuant SDCL 34-20G and the administrative rules promulgated thereunder.
    - iii. The name, address, and birth date of each principal officer, owner, and board member of the proposed cannabis establishment.
    - iv. A sworn statement that no principal officer, owner, or board member has been convicted of a felony offense in the previous ten (10) years in any jurisdiction.
    - v. Any additional information requested by the County.

#### **2012-03.05: ISSUANCE OF LICENSE**

- (a) The County will issue a license unless:
  1. The applicant has made a false statement on the application or submits false records or documentation; or

2. Any owners, 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;
  4. The proposed location does not meet the applicable zoning requirements under the Moody County Zoning Ordinance;
  5. The proposed location does not meet all location requirements under SDCL 34-20G and the administrative rules promulgated thereunder;
  6. The license is to be used for a business prohibited by state or local law, statute, rule, ordinance, or regulation; or
  7. Any owner, principal officer, or board member of the applicant has had a cannabis establishment license revoked by the County or a registration certificate revoked by the state; or
  8. An applicant, or an owner, principal officer, or board member thereof, is overdue in payment to the County of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to any cannabis establishment; or
  9. The applicant will not be operating the business for which the license would be issued.
  10. The applicant, any owner, principal officer, board member, or agent of the applicant, or any corporation(s), LLC(s), association(s), organization(s), or legal or government entity associated with the applicant possesses or holds a cannabis dispensary license issued by Moody County, South Dakota.
- (b) In the case of an application for a cannabis dispensary license, the County will reject the application if the limit on the number of cannabis dispensaries has been reached.
- (c) The license must be posted in a conspicuous place at or near the entrance to the cannabis establishment so that it may be easily read at any time.

**2012-03.06: COUNTY NEUTRALITY AS TO APPLICANTS**

- (a) Upon request from the Department as to the County's preference of applicants, the County will neither support nor oppose any registration certificate application under consideration by the Department. Likewise, if inquiry is made by the Department, the County will abstain from endorsing any application as beneficial to the community.

**2021-03.07: NUMBER OF CANNABIS DISPENSARIES**

- (a) No more than three (3) cannabis dispensaries shall be allowed to operate in the unincorporated area of the County at any time.

**2012-03.08: EXPIRATION OF LICENSE AND RENEWAL**

- (a) Each license expires one (1) year from the date of issuance and may be renewed only by making application as provided in Chapter 2021-03.04. Application for renewal must be submitted at least thirty business (30) 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 Five Thousand Dollars (\$5,000.00).
- (c) Failure to renew a license in accordance with this section may result in additional fees. Upon expiration of the license, the County may order closure of the cannabis establishment.
- (d) If a license holder has not operated an establishment for which it holds a license in the preceding twelve (12) months, the license will not be renewed.

**2021-03.09: 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 establishment.
  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 Department-issued registration certificate 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 at the cannabis establishment.

**2021-03.10: REVOCATION**

- (a) A license may be revoked if the license is suspended under Section 2021-03.09 and the cause for the suspension is not remedied.
- (b) A license may be revoked if the license is subject to suspension under Section 2021-03.09 because of a violation outlined in that section and the license has been previously suspended in the preceding 24 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 establishment or the business of the cannabis establishment for which a license is required under this article while the license was suspended;
  4. Repeated violations of Chapter 2021-03.09;
  5. Operated a function of a cannabis establishment for which the license holder was not licensed (e.g., a licensed cannabis cultivation facility 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 establishment;
  7. A license holder, or an owner, principal officers, or board member thereof, has been convicted of, or continues to employ an employee who has been convicted of, a felony offense in the previous ten (10) years; or
  8. The license holder has its Department-issued registration certificate suspended, revoked, or not renewed or the registration certificate is expired.

9. The license holder allows a public nuisance to continue after notice from the County.

**2021-03.11. 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 County'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 establishment.
- (b) If the license holder disputes the suspension or revocation, the license holder has ten business (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 County Commission Chairperson, Auditor, Sheriff, Commission Assistant, and Zoning Administrator.
- (c) A suspension will be for thirty business (30) days and begins ten business (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 business (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 their license revoked may not be issued any cannabis establishment license for one year from the date the revocation became effective.

**2021-03.12: 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 ordinance may appeal to the Board of County Commissioners by submitting a written appeal within ten business (10) days of the postmark on the notice of denial, nonrenewal, suspension, or revocation. The written appeal must be submitted to Moody County Auditor, at the Moody County Courthouse, 101 E. Pipestone Avenue, Suite D, Flandreau, South Dakota, 57028. The appeal will be considered by the Board of County Commissioners at a regularly scheduled meeting within one month of the receipt of the appeal.

**2021-03.13: LICENSES NOT TRANSFERRABLE**

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

**2021-03.14: HOURS OF OPERATION FOR DISPENSARIES**

Cannabis dispensaries may only operate between the hours of 8:00 o'clock A.M. and 6:00 o'clock P.M., Monday through Saturday. Cannabis dispensaries shall not operate on Sundays, or on any federally recognized holidays.

**2021-03.15: LIABILITY FOR VIOLATIONS**

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

**2021-03.16: 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.

**2021-03.17: 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.

Passed and adopted this 5<sup>th</sup> day of October, 2021.

MOODY COUNTY  
BOARD OF COUNTY COMMISSIONERS  
Carla Bruning  
Chair

ATTEST: Kristina Krull  
Auditor

This ordinance shall become effective twenty days after publication of this notice in the official newspaper, thereby repealing all ordinances or parts thereof in conflict herewith unless a referendum is timely involved prior thereto.

1<sup>st</sup> Reading: September 21, 2021  
2<sup>nd</sup> Reading: October 5, 2021  
Adopted: October 5, 2021  
Published: October 13, 2021  
Effective: November 2, 2021

Dan Miles left the meeting.

Tawny Heinemann, Commission Assistant met with the Board. Motion by Veldkamp, seconded by Hemmer to authorize Chair Bruning to sign the following proclamation with all voting "aye":

### National 4-H Week Proclamation

WHEREAS, 4-H is America's largest youth development organization, having supported almost six million youth across the country thus far; and  
WHEREAS, 4-H has helped youth in Moody County to become confident, independent, resilient and compassionate leaders; and  
WHEREAS, 4-H is delivered by Extension – a community of more than 100 public universities across the nation that provides experiences where young people learn by doing in hands-on projects in areas including health, science, agriculture and citizenship; and  
WHEREAS, National 4-H Week showcases the incredible experiences that 4-H offers young people, and highlights the remarkable 4-H youth in Moody County who work each day to make a positive impact on those around them; and  
WHEREAS, 4-H's network of thousands of volunteers and professionals provides caring and supportive mentoring to all 4-H'ers, helping them to grow into true leaders, entrepreneurs and visionaries;  
NOW, THEREFORE, we, The Moody County Commission do hereby proclaim October 3 –9 2021 as NATIONAL 4-H WEEK throughout the county and encourage all of our citizens to recognize 4-H for the significant impact it has made and continues to make by empowering youth with the skills they need to lead for a lifetime.

Carla Bruning                      October 5, 2021  
Moody County Chair

Heinemann discussed staffing with the Board. Motion by Veldkamp, seconded by Hemmer to approve the addition of a School Resource Officer/Deputy position in the Sheriff's office. All present voted "aye". Motion by Hemmer, seconded by Schiefelbein to accept the resignation of Madelyn Loehr, Dispatcher, effective October 4, 2021. All present voted "aye". Motion by Veldkamp, seconded by Schiefelbein to approve to advertise for open dispatch position. All present voted "aye". Motion by Hemmer, seconded by Veldkamp to hire Kelston VanDyke, PRN Dispatcher, at Grade 17/Step D, \$17.07/hour, effective October 5<sup>th</sup>, 2021. All present voted "aye". Motion by Veldkamp, seconded by Schiefelbein to increase the Auditor Clerk position to 40 hours per week. All present voted "aye". Motion by Hemmer, seconded by Veldkamp to change the Auditor Clerk position with an effective date of October 18, 2021. All present voted "aye".

Kristina Krull, Auditor met with the Board to discuss unclaimed properties. Motion by Hemmer, seconded by Schiefelbein to approve the following resolution with all present voting "aye":

### RESOLUTION 21100501

WHEREAS, any unclaimed funds held by Moody County which remain unclaimed by the owner for more than one year after becoming payable is presumed abandoned, and

WHEREAS, a list of outstanding warrants which have not been presented for payment was reviewed by the board of commissioners at the meeting held on Tuesday, October 5, 2021, and

WHEREAS, SDCL 7-22-17 provides for the cancellation of outstanding warrants,

NOW, THEREFORE, BE IT RESOLVED, that the Moody County Commissioner declare warrants 24874, 24921, 128675, 128700, and 128796 abandoned and authorize the cancellation of said warrants in the amount of \$145.08. This report is being submitted along with payment in the sum of \$145.08 to the Secretary of Revenue.

Dated this 5<sup>th</sup> day of October, 2021 at Flandreau, South Dakota

Carla Bruning  
Chair, Moody County Commissioner

ATTEST:                      Kristina Krull  
Moody County Auditor

The following reports for September were received and filed in the Auditor's Office: Warrant and Civil fees \$1089.80 and Register of Deeds fees \$17319.50.

Motion by Hemmer, seconded by Schiefelbein to approve the following claims and issue warrants with all present voting "aye": General: A&B Business, 219.62 supplies, Ahlers Automotive, services 276.88 AT&T, utilities 339.04 Avera/Flandreau Medical Center, poor relief 4298.00, Avera Medical Center, County Nurse 3200.00, Barnes & Noble, Colman supplies 198.95, Best Western, travel 202.00, Blue 360, supplies 92.82, Booster publications 703.50, Bound Tree Medical, supplies 394.80, Bruning & Lewis, office expense 2913.84, Carla Bruning, travel 371.20, Linette Christensen travel 424.36, City of Flandreau, utilities 2147.58, , Darcy Lockwood services, 15.00, Dust-Tex supplies 110.73, Eng Services utilities 340.00, First Bankcard, supplies 6099.76, Tyler Lumberyard, supplies 119.40, John Schiefelbein travel 371.20, Mark Katterhagen, services 15.00, Kiesler Police Supplies, supplies 448.50, Kristina Krull travel 52.00, Lammers Kleibacker and Dawson ct apt atrny 6010.00, Lewis Drug, medical 66.53, Lucy Lewno services 166.53, Madison Community Hospital jail medical 340.51, Maynards supplies 33.86, Mcleods Printing, supplies 159.95, , Mid-American Research Chemical, alcohol wipes 612.00, MidAmerican Energy, natural gas 93.41, Minnehaha County Jail, jail medical 312.00, MultiCultural center services 653.05, Nancy Nelson, services 1848.60, Northern Hills Collections services 78.15, Bob Pesall, ct apt atrny 5730.00, Ribstein & Hogan Law Firm services 534.28, Rising Hope Counseling services 185.00, Robert County Jail housing 420.00, State of SD, unclaimed property 145.08, State of SD Treasurer motor vehicle 1412.92, Tawny Heinemann travel 84.19, Unger Law Office, ct apt atrny 5730.00, Vast Broadband, utilities 1195.69, West

Payment Center supplies 758.54 Wex Bank, fuel 1802.39 Yankton County Treasurer services 125.00. Highway: B&H Contractors, gravel 18236.94, Bowes Construction supplies 152.78, Brock White Company supplies 806.79, City of Flandreau, utilities 394.13, Deco supplies 1510.16, Diesel Machinery HWY 750.00, Dust-Tex Services, cleaning supplies 154.21, Eng Services, services 100.00, First Bankcard supplies/travel 386.90, Brad Grootwassink services 5541.15, I-State Truck Center repairs 2129.54, Jebro Inc., supplies 262,073.09, Kimball Midwest supplies 266.57 L.G Everist supplies 1383.80, , MidAmerican Energy, natural gas 8.00, Napa Auto Parts, repairs 502.45, Ramsdell F&M supplies 116.67, SD Public Assurance, insurance 2813.60, , Sturdevants, repairs 135.96, Titan Rentals supplies 872.50, Topkote supplies 99203.71, Transource supplies 43.04, True North supplies 32284.38. 911: Vast, utilities 9.04. Emergency Management: Booster publications 90.00, City of Flandreau, utilities 28.87, Sioux Falls Two Way Radio, utilities 5086.99, Vast, supplies 36.16. State 24/7: Pharmchem supplies 1211.00. State Remittance State Treasurer 153635.85 September Payroll by Department: Commissioner 17845.74, Auditor 11869.13, Treasurer 20079.51, States Attorney 21084.93, General Government Building 6987.56, Director of Equalization 10149.01, Register of Deeds 12645.40, Sheriff 49,272.84, Ambulance 26458.95, Library 8426.37, Extension 6527.56, Soil Conservation 6000.77, Weed 1753.50, Drainage 476.73, Planning & Zoning 6481.85, Highway 72107.27, 911 28029.26, Emergency Management 6182.54, 24/7 Sobriety 1399.87.

Motion by Schiefelbein, seconded by Veldkamp to adjourn the meeting at 11:44 AM. All present voted "aye".

ATTEST: Kristina Krull  
Moody County Auditor

Carla Bruning, Chair  
Moody County Board of Commissioners