

**REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS, CITY HALL
MITCHELL, SOUTH DAKOTA**

**June 3, 2019
6:00 P.M.**

PRESENT: Dan Allen, Marty Barington, John Doescher, Kevin McCardle, Steve Rice,
Jeffrey Smith, Susan Tjarks,

ABSENT: Dan Sabers

PRESIDING: Mayor Bob Everson

AGENDA:

Moved by Smith, seconded by Allen, to approve the following items on the consent agenda.

- a. City Council Minutes
 1. City Council May 20, 2019.
- b. Committee Meeting Minutes
 1. Planning Commission May 13, 2019, and
 2. Traffic May 20, 2019.
- c. Raffle Permit
 1. Optimist Club with the drawing to be held on September 6, 2019.
- d. Set date of September 10, 2019 for the City Surplus Auction.
- e. Set date of 06-17-19 for hearings
 1. On the application to transfer Retail (On-Sale) Liquor License RL-19079 from Anisa Deinert dba Potter's Plus Studio, 100 North Main, Mitchell, South Dakota to Jades dba Jades, 107 North Main, Mitchell, South Dakota, and
 2. On the application of Exchange Club of Mitchell for a Special Event Malt Beverage License located at Cadwell Park, Mitchell for August 7, 2019 through August 18, 2019 for the State Amateur Baseball Tournament.
- f. Set date for bid opening at 1:30 p.m., 06-24-19 at City Council Chambers for James Valley Community Center Roofing Project #2019-36.
- g. Set date for bid opening at 1:30 p.m., 06-18-19 at City Council Chambers for Infrastructure DG Project 19056, D & D Long's Addition Utility Improvements Project #2019-31.
- h. Approve a special event application for the Palace City Pre-Sturgis Party.
- i. Approve a new taxi license application for Russell Hanson.
- j. Authorize Contingency Funds up to \$25,000 for Scissor Lift Replacement.
- k. Approve Modified Substantial Completion Acceptance for East Havens Watermain Loop Project #2018-25.
- l. Appoint Members to Volunteer City Boards and Committees.
 1. Appoint Jean Koehler to the Corn Palace Board for a term to run January 2019-December 2021.

- m. Pay Estimates 06-03-19
 Pay Estimate #5 in the amount of \$200,047.56 for Paving & Overlay #2018-15 contracted to Commercial Asphalt,
 Pay Estimate #8 in the amount of \$10,700.00 for Waste Water Collection Evaluation #2018-34 contracted to SPN & Associates,
 Pay Estimate #23 in the amount of \$3,250.00 for East Central Drainage-Storm Sewer #2018-39 contracted to SPN & Associates,
 Pay Estimate #24 in the amount of \$700.00 for East Central Drainage-Water #2018-39 contracted to SPN & Associates,
 Pay Estimate #25 in the amount of \$1,300.00 for East Central Drainage-Waste Water #2018-39 contracted to SPN & Associates,
 Pay Estimate #2 in the amount of \$231,829.33 for Paving & Overlay #2019-15 contracted to Commercial Asphalt,
 Pay Estimate #13 in the amount of \$725.00 for Sanborn Phases II & III-Water #2019-22 contracted to SPN & Associates,
 Pay Estimate #14 in the amount of \$5,330.00 for Sanborn Phases II & III-Waste Water #2019-22 contracted to SPN & Associates,
 Pay Estimate #15 in the amount of \$6,875.70 for Sanborn Phases II & III-WW & SS #2019-22 contracted to SPN & Associates,
 Pay Estimate #2 in the amount of \$480,045.80 for Sanborn Phases II & III #2019-22 contracted to H&W Contracting, LLC,
 Pay Estimate #2 in the amount of \$3,260.00 for Old Landfill Monitoring #2019-28 contracted to GeoTek Engineering & Testing,
 Pay Estimate #1 in the amount of \$240.00 for East Central Drainage-Water #2019-39 contracted to SPN & Associates,
 Pay Estimate #2 in the amount of \$780.00 for East Central Drainage-Waste Water #2019-39 contracted to SPN & Associates,
 Pay Estimate #3 in the amount of \$2,712.00 for East Central Drainage-Storm Sewer #2019-39 contracted to SPN & Associates, and
 Pay Estimate #1 in the amount of \$12,370.00 for Airport Runway Reconstruction AIP'28 Runway 18/36 contracted to American Engineering Testing.
- n. Approve Bills, Payroll, Salary Adjustments and New Employee Hires and Authorize Payment of Recurring and other expenses in advance as approved by the Finance Officer

PAYROLL MAY 5, 2019 – MAY 18, 2019: City Council \$3,106.48, Mayor \$1,292.65, City Administrator \$5,008.15, Attorney \$4,037.15, Finance \$13,604.04, Human Resources \$3,527.96, Municipal Building \$3,280.56, Information Technology \$2,465.28, Police \$68,458.88, Traffic \$4,305.19, Fire \$47,869.50, Street \$26,967.01, Public Works \$21,848.29, Cemetery \$7,148.35, Animal Control \$1,466.24, Emergency Medical Services \$8,837.65, Library \$14,571.24, Recreation & Aquatics \$5,523.64, Recreation Center \$16,500.35, Sports Complexes \$14,397.71, Parks \$20,022.23, Supervision \$5,225.03, E911 \$22,398.51, RSVP \$5,672.00, Palace Transit \$21,033.64, JVCC \$1,484.00, Nutrition \$1,076.75, Water Distribution \$10,233.72, Sewer \$13,406.16, Airport

\$2,345.03, Waste Collection \$10,764.52, Landfill \$10,346.94, Corn Palace \$17,779.00, Golf Course \$12,033.75, Campground \$2,050.10.

NEW HIRES:

GOLF: Kelly A Kidwiler-\$12.35, Tyler Wagner-\$12.35.

RECREATION & AQUATICS: Kazlyn Schulz-\$9.85, Madelynn Henglefeld-\$9.35, Micheala Steffen-\$10.35, Kara Magee-\$9.35, Grace Phinney-\$9.85.

RECREATION CENTER: Riley O'Neil-\$9.35.

SPORTS COMPLEX: Cooper Knutson-\$10.85, Adam Loes-10.85, Ethan Davis-10.85, Tim McCain-\$12.35.

CAMPGROUND: Susan Lee-\$12.35, Paul Richards-\$12.35.

PARKS: Landon Waddell-\$7.50, Alec Kulm-\$11.35, John Riggs-\$7.50, Amber Peters-\$7.50, Nicholas Hanson-\$10.85, Max Alexander-\$10.85, Fred Kobold-\$13.35.

CORN PALACE: MacKenzie Cobb-\$9.35, Adam Hutmacher-\$9.85, Heather Kayser-\$10.35, Seth Paulson-\$10.85, Kaden Soukup-\$10.85, Jared Street-\$10.85.

FIRE: Doug Glover-21.255.

POLICE: Lincoln Erickson -\$12.85, Riley Everson-\$12.85.

WATER: Conner Muehler-\$13.85.

WASTEWATER: Karst Way-\$13.85.

WASTE COLLECTION: Scott Kaiser-\$18.328.

PUBLIC WORKS: Logan Kommes-\$13.35.

SALARY ADJUSTMENTS:

SPORTS COMPLEX: Baley Miller-\$10.85.

RECREATION CENTER: Chris Cranny-\$20.758.

SANITATION: Michael Dufek-\$24.374.

POLICE: Patrick Marler-\$27.918, Andrew Becker-\$24.352.

CORN PALACE: Kynedi Cheeseman-\$12.35.

WARRANTS: A & B Business Solutions, Contract-\$4,479.45; Adam Fenski, Retree Program-\$100.00; Adam Fosness, Contract Service-\$740.00; AFSCME Council 65, Union Dues-\$590.00; Agronomy Plus, Supplies-\$38.60; Al's Engraving, Supplies-\$59.70; American Engineering Testing, AIP '28 P.E. #1-\$12,370.00; American Garage Door, Repairs-\$130.11; Ameripride Services, Supplies-\$209.13; Automatic Building Control, Utilities-\$654.00; Avera Occupational Medicine, Contract Service-\$2,341.26; Bailey Metal Fabricators, Supplies-\$461.93; Bierschbach Equipment & Service, Supplies-\$637.04; Big Daddy D's, Contract Service-\$4,404.75; Bill Marquardt, Sports Authority Promotion-\$500.00; Botach Tactical, Equipment-\$230.00; Bound Tree Medical, Supplies-\$192.95; Break Time Portables, Rental-\$420.00; Brehmer Manufacturing, Supplies-\$9,575.00; C & B Operations, Maintenance-\$1,317.94; Campbell Supply, Supplies-\$2,041.19; Carol McCorkell, Refund-\$182.75; Carquest Auto Parts, Supplies-\$150.48; Casa-First Circuit, Grant-\$3,000.00; Centennial Carpet, Supplies-\$1,080.00; Century Link, Utilities-\$1,352.02; CHR Solutions, April Billing-\$2,922.51; Coca Cola Bottling, Supplies-\$32.00; Comfort Inn & Suites, Travel-\$907.50; Commercial Asphalt, 2018-15 P.E. #5-\$431,876.89; Commercial Asphalt/Spencer Quarries, Supplies-\$2,413.20; Continental Research, Supplies-\$1,158.11; Cook Implement, Supplies-\$733.90; Core-Mark Midcontinent, Supplies-\$2,028.96; Corn Palace Concessions, Supplies-\$51.00; Custom Outfitters Plus, Supplies-\$2,106.10; Daily Republic, Renewal-\$350.00; Dakota Fluid Power, Supplies-\$18.85; Dakota Pump, Repairs-\$663.27; Dakota Supply Group, Supplies-\$256.78; Daniel Fechner, Reimbursement-\$19.98; Davison County Auditor, Landfill Fees-\$50,877.04; Davison County Register of Deeds, Copies-\$30.00; Davison County Treasurer, Refund-\$1,348.60; Dean Knippling, Travel-\$56.00; Dependable Sanitation, Contract Services-\$23,800.00; Department of Social Services, Child Support-\$1,263.69; Devona Finkenbinder, Retree Program-\$200.00; Dice Benefits Consulting, April Fees-\$504.00; Dogpoopbags, Supplies-\$768.00; Doug's Custom Paint & Body, Maintenance-\$8.99; Eric Hieb, Contract Services-\$6,845.86; Etterman Enterprises, Supplies-\$80.90; Farmers Alliance, Supplies-\$185.18; Fastenal, Supplies-\$197.78; Ferguson Waterworks #2516, Supplies-\$75.72; First National Bank Omaha, Loan Payment-\$11,757.05; First National Wealth Management, Professional Fees-\$500.00; Fisher Scientific, Supplies-\$75.66; Forum Communications, Advertising-\$5,797.79; Gaylen's Homegrown Popcorn, Supplies-\$1,219.20; GCR Tires & Service, Supplies-\$1,163.71; Geotek Engineering, 2019-28 P.E. #2-\$3,260.00; H & W Contracting, 2019-22 P.E. #2-\$480,045.80; Hawkins, Lab-\$7,063.20; Henry Schein, Supplies-\$506.81; Hillyard, Supplies-\$109.50; Holiday Inn Express, Travel-\$243.98; Horizontal Boring & Tunnel, Hydrant Meter Deposit-\$1,500.00; Howes Oil, Supplies-\$16,814.66; Imagine Guild, Hydrant Meter Deposit-\$3,000.00; Innovative Office Solution, Supplies-\$159.95; Interstate Office Products, Supplies-\$81.80; Iverson Chrysler Center, Rental-\$49.95; James Valley Landscape Solutions, Repair-\$2,336.61; JCL Solutions, Supplies-\$875.27; Jeri Mickelson, Reimbursement-

\$31.29; Johnson Controls, Maintenance-\$5,373.43; Jones Supplies, Supplies-\$164.76; Krohmer Plumbing, Repairs-\$330.93; Larry's I-90 Service, Supplies-\$464.94; M & M Greenhouse, Supplies-\$120.00; M & T Fire and Safety, Supplies-\$48.00; Make It Mine Designs, Supplies-\$138.16; Maximum Promotions, Repairs-\$557.00; McFarland Supply, Supplies-\$749.25; McLeod's Printing, Supplies-\$194.60; Mebius Nursery & Landscaping, Supplies-\$100.00; Meierhenry Sargent, Professional Service-\$6,350.00; Menard's, Supplies-\$3,065.09; Meyers Oil, Supplies-\$4,905.17; Michael J Koster, Travel-\$56.00; Microsoft, Supplies-\$910.00; Midcontinent Communications, Utilities-\$146.88; Midwest Fire & Safety, Maintenance-\$935.50; Midwest Mini Melts, Supplies-\$656.00; Midwest Turf & Irrigation, Supplies-\$85.52; Mitchell Area Chamber of Commerce, Tickets-\$80.00; Mitchell Concrete Product, Supplies-\$160.00; Mitchell Plumbing & Heating, Repairs-\$1,319.33; Mitchell School District, Utilities-\$1,467.01; Mitchell Telecom, Utilities-\$71.53; Mitchell United Way, United Way Deductions-\$188.11; MJ Dalsin, Repairs-\$880.26; Mueller Lumber, Supplies-\$68.15; Muth Electric, Repairs-\$110.67; Napa Auto Parts, Maintenance-\$469.51; Nebraska Salt & Grain, Supplies-\$3,338.39; North Central Seed, Supplies-\$550.00; Northwestern Energy & Communications, Utilities-\$24,110.64; Porta Pros, Rentals-\$650.00; Premier Equipment, Supplies-\$429.60; Progressive Bike Ramps, Professional Service-\$2,500.00; Push Pedal & Pull, Repairs-\$1,142.56; Qualified Presort, Contract Services-\$551.75; Recreonics, Supplies-\$402.09; Rockmount Research & Alloy, Supplies-\$245.82; Ron's Bicycle and Locksmith, Supplies-\$133.00; Ryan Erickson, Travel-\$56.00; S & M Printing, Supplies-\$233.00; Schmucker Paul & Nohr, 2018-34 P.E. #8-\$32,612.70; Scott Supply, Supplies-\$16,467.00; South Dakota Department of Health, Lab-\$293.00; South Dakota Federal Property Agency, Supplies-\$35.00; South Dakota One Call, Locates-\$212.10; South Dakota Retirement System, Retirement Contributions-\$49,808.80; South Dakota-Supplemental Retirement, Supplemental Retirement Contributions-\$2,241.33; South Dakota-Supplemental Roth 457, Roth 457 Contributions-\$425.00; Sherwin-Williams, Supplies-\$1,811.07; Sirchie Finger Print Labor, Supplies-\$329.36; Snappy Popcorn, Supplies-\$1,670.00; Standard Insurance, Insurance Premiums-\$351.80; Staples Advantage, Supplies-\$575.66; Sterling Codifiers, Supplement-\$1,168.00; Steve Tobin, Retree Program-\$200.00; Sturdevant's Auto Parts, Parts-\$2,589.85; Subway, Meals-\$38.74; Sun Gold Sports, Supplies-\$636.50; Teamsters Local No. 120, Union Dues-\$905.00; Terry Feterl, Refund-\$69.23; Tessier's, Repairs-\$731.12; Thune True Value Hardware, Supplies-\$576.84; Titze Electric & Remodeling, Repairs-\$665.43; TK Electric, Maintenance-\$2,608.94; TMA Stores, Repair-\$241.17; Tractor Supply Credit Plan, Maintenance-\$284.36; Traf-Sys, Contract Services-\$240.00; Transource, Supplies-\$337.60; Two Way Solutions, Repairs-\$250.00; Van Diest Supply, Supplies-\$5,675.82; Verizon Wireless, Utilities-\$140.78; Voice Products, Repairs-\$900.00; Wade London, Travel-\$128.00; Walmart, Supplies-\$98.88; Wheelco Brake & Supply, Supplies-\$765.85; Wholesale Electronics, Supplies-\$42.90; Zimco Supply, Supplies-\$720.00; Builders First Source, TID #15 Probuild-\$41,294.54; Davison County Register of Deeds, Supplies-\$23.00; First Dakota National Bank, Loan Payment-\$349,445.09;

Wells Fargo Bank, MTI-TID #13-\$50,524.38; Wells Fargo Bank, Pepsi-TID #14-\$25,313.93.

Members present voting aye: Allen, Barington, Doescher, McCardle, Rice, Smith, Tjarks.
Members present voting nay: none. Motion carried.

CITIZENS INPUT:

Mayor Bob Everson recognized Dakota Wesleyan University track and field athlete Kamberlyn Lamer on her national championship in the heptathlon and proclaimed June 3, 2019 to be Kamberlyn Lamer Day and congratulated her on her outstanding accomplishments.

Council Member Kevin McCardle asked Parks and Recreation Supervisor Nathan Powell when they would start spraying for mosquitos. Powell stated that they will start fogging this week for mosquitos.

HEARINGS:

It was advised that this is the date and time set for hearing on the application of the Palace City Lions Club for a Special Event Liquor License located at the Horseman's Sports Arena for July 18, 19, 20, 21, 2019 for the Corn Palace Stampede Rodeo. Notice of hearing has been given and affidavit of publication is on file. Moved by Tjarks, seconded by McCardle, to approve said application. Motion carried.

It was advised that this is the date and time set for hearing on the application of the Palace City Lions Club for a Special Event Liquor License located at the Horseman's Sports Arena for August 21, 2019 for the Mustang Seeds Xtreme Bulls. Notice of hearing has been given and affidavit of publication is on file. Moved by McCardle, seconded by Barington, to approve said application. Motion carried.

It was advised that this is the date and time set for hearing on the application of the Palace City Lions Club for a Special Event Liquor License located at the Horseman's Sports Arena for July 6, 2019 for the Corn Stalk Music Jam. Notice of hearing has been given and affidavit of publication is on file. Moved by Allen, seconded by Tjarks, to approve said application. Motion carried.

It was advised that this is the date and time set for hearing on the application to transfer Package (Off Sale) Liquor License PL-4691 from Bates Enterprises LLC DBA Big Dummys/Longhorn Bar, 108-112 North Main, Mitchell, South Dakota to Bates Enterprises LLC DBA Big Dummy's, 110-112 North Main, Mitchell, South Dakota due to configuration of liquor license. Notice of hearing has been given and affidavit of publication is on file. Moved by Smith, seconded by Rice, to approve said application. Motion carried.

It was advised that this is the date and time set for hearing on the application to transfer (On Sale) Liquor License RL-5761 from Bates Enterprises LLC DBA Big Dummys/Longhorn Bar, 108-112 North Main, Mitchell, South Dakota to Bates Enterprises LLC DBA Big Dummy's, 110-112

North Main, Mitchell, South Dakota due to configuration of liquor license. Notice of hearing has been given and affidavit of publication is on file. Moved by McCardle, seconded by Rice, to approve said application. Motion carried.

It was advised that this is the date and time set for hearing on the application to transfer (On Sale) Liquor License RL-5764 from Bates Enterprises LLC DBA Brew Parlor, 108 North Main, Mitchell, South Dakota to Bates Enterprises LLC DBA Brew Parlor, 610 East Hanson, Mitchell, South Dakota (Liquor License will be inactive). Notice of hearing has been given and affidavit of publication is on file. Moved by Allen, seconded by Tjarks, to approve said application. Motion carried.

BOARD OF ADJUSTMENT:

Moved by Rice, seconded by Barington, for the City Council to recess and sit as the Board of Adjustment. Motion carried.

HEARINGS:

It was advised that this is the date and time set for hearing on the application of Kimberly Kluth for a conditional use permit to operate a massage business (home occupation) located at 1106 W 6th Ave, legally described as W 1/2 of Lot 6, Block 3, Bracy's Addition, City of Mitchell, Davison County, South Dakota. The property is zoned R2 Single Family Residential District. Notice of hearing has been given according to statute and affidavit of publication is on file. The Planning Commission recommended approval of said application. Moved by Allen, seconded by Barington, to approve said application. Motion carried.

It was advised that this is the date and time set for hearing on the application of Carlos & Alayna Reyes for a conditional use permit to operate a family residential child care center located at 412 E 12th Ave, legally described as Lot 11, Block 1, Frosts Addition, City of Mitchell, Davison County, South Dakota. The property is zoned R2 Single Family Residential District. Notice of hearing has been given according to statute and affidavit of publication is on file. The Planning Commission recommended approval of said application with the following conditions: the permit is nontransferable and if the operation ceases for a period of six months or longer then a new application would be required. Moved by Rice, seconded by Tjarks, to approve said application with the following conditions: the permit is nontransferable and if the operation ceases for a period of six months or longer then a new application would be required. Motion carried.

Moved by Allen, seconded by McCardle, for the Board of Adjustment to adjourn and the City Council to reconvene in regular session. Motion carried.

AWARD BIDS:

Bids were opened and read on Sidewalk Project #2019-4 on the 14th day of May, 2019 in the Council Chambers of City Hall. Moved by Rice, seconded by McCardle, to award Schedule "A" as follows:

SIDEWALK PROJECT "A"
CITY PROJECT #2019-4

Rexwinkel Concrete, P.O. Box 43, Corsica, South Dakota 57328.

Total Bid for Schedule "A"	\$85,225.00
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Motion carried.

Bids were opened and read on Sidewalk Project #2019-4 on the 14th day of May, 2019 in the Council Chambers of City Hall. Moved by Rice, seconded by Allen, to award Schedules "B-E" as follows:

SIDEWALK PROJECT "B-E"
CITY PROJECT #2019-4

Top Grade Concrete, LLC, 641 1st Avenue, Emery, South Dakota 57332.

Total Bid for Schedule "B"	\$37,180.00
Total Bid for Schedule "C"	\$59,800.00
Total Bid for Schedule "D"	\$45,090.00
Total Bid for Schedule "E"	\$78,780.00

Motion carried.

RESOLUTION:

Moved by Tjarks, seconded by Barington, to approve Resolution #R2019-42, A Plat of Lot 3, Block 5 of the Woods First Addition, A Subdivision of the East ½ of the SW ¼ of Section 23, T 103 N, R 60 W of the 5th P.M., City of Mitchell, Davison County, South Dakota, as follows:

RESOLUTION #R2019-42

WHEREAS, It appears that the City Planning Commission of the City of Mitchell, South Dakota, did duly consider and did recommend the approval and adoption of the hereinafter described plat, at its meeting held on the 28th day of May, 2019; and

WHEREAS, it appears from an examination of the plat of LOT 3, BLOCK 5 OF THE WOODS FIRST ADDITION, A SUBDIVISION OF THE EAST ½ OF THE SW ¼ OF SECTION 23 T 103 N, R 60 W OF THE 5TH P.M., CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA as prepared by Paul C. Kiepke, a duly licensed Land Surveyor in and for the State of South Dakota, that said plat is in accordance with the system of streets and alleys set forth in the

master plan adopted by the City Planning Commission of the City of Mitchell, South Dakota, and that such plat has been prepared according to law.

THEREFORE, be it resolved by the City Council of Mitchell, South Dakota that the plat of LOT 3, BLOCK 5 OF THE WOODS FIRST ADDITION, A SUBDIVISION OF THE EAST ½ OF THE SW ¼ OF SECTION 23, T 103 N, R 60 W OF THE 5TH P.M., CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA, prepared by Paul C. Kiepke, be and the same is hereby approved and the description set forth therein and the accompanying surveyor's certificate shall prevail.

Motion carried and resolution declared duly adopted.

ORDINANCE:

Moved by Barington, seconded by Rice, to place Ordinance #O2019-07, Repealing and Replacing Mitchell City Code Chapter 5-6: Fireworks and Explosives on second reading. Motion carried. Moved by Tjarks, seconded by Barington, to adopt Ordinance #O2019-07, as follows:

ORDINANCE #O2019-07

**AN ORDINANCE REPEALING AND REPLACING MITCHELL CITY CODE
CHAPTER 5-6: FIREWORKS AND EXPLOSIVES.**

BE IT ORDAINED BY THE CITY OF MITCHELL, SOUTH DAKOTA AS FOLLOWS:

Section 1.

That Mitchell City Code Chapter 5-6: Fireworks and Explosives is hereby REPEALED in its entirety and is hereby REPLACED with the following provisions:

5-6-1: Definitions:

APA Standard Document 87-1: The American Pyrotechnics Association, Inc., Standard 87-1, Version 12/01/2001.

FIREWORKS: A device considered a firework or pyrotechnic by APA Standard Document 87-1 to include, but not be limited to, firecrackers, skyrockets, roman candles, aerial shells, and Ground & Handheld Fireworks but not to include Novelty Fireworks.

NOVELTY FIREWORKS: Those types of fireworks classified as Novelties such as party poppers, snappers, toy smoke devices, snakes, wire sparklers, and including toy caps so long as the compositions and masses are consistent with the definitions provided under APA Standard Document 87-1 Sections 3.2 and 3.3.

GROUND & HANDHELD FIREWORKS: Those types of fireworks classified as Ground or Handheld Fireworks such as cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, flitter sparklers, toy smoke devices, and wire sparklers so long as the compositions and masses are consistent with the definitions provided under APA Standard Document 87-1 Section 3.1.1 and its subdivisions.

5-6-2: Fireworks Generally:

A. No person shall offer for sale, expose for sale, or sell at retail any fireworks within City limits, except as expressly permitted by this Chapter.

B. No person shall use, explode, or otherwise discharge any fireworks within City limits, except as expressly permitted by this Chapter.

C. Nothing in this section shall be construed as applying to the manufacture, storage, sale, or use of signals necessary for the safe operation of railroads or other classes of public or private transportation nor applying to the military or navy forces of the United States or of this State or to the peace officers nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical, or athletic events.

5-6-3: Novelty Fireworks:

The sale and use of Novelty Fireworks within City limits is permitted. However, Novelty Fireworks may not be used in a manner prohibited by Section 5 of this Chapter nor in a manner prohibited by Chapter 5-5: Noise Control.

5-6-4: Exceptions for Independence Day:

A. **General Fireworks Permitted in Lake Area:** A person may use, explode, or otherwise discharge fireworks consistent with manufacturer directions between the hours of 12:00 noon and 11:59 P.M. on July 3rd and July 4th so long as such person douses and safely disposes of all waste resulting from such activity. Such activity may only occur on property lying between the shoreline of Lake Mitchell and the boundary of the nearest public right-of-way except that the Park and Recreation Board may prohibit fireworks at the Lake Mitchell Campground.

B. **Ground & Handheld Fireworks in All City Limits:** A person may use, explode, or otherwise discharge Ground & Handheld Fireworks consistent with manufacturer directions between the hours of 12:00 noon and 11:59 P.M. on July 3rd and July 4th so long as such person douses and safely disposes of all waste resulting from such activity. Such Ground &

Handheld Fireworks may be used within all city limits but only on private property with the express knowledge and permission of the property owner.

5-6-5: Reckless Discharge of Fireworks Prohibited:

No person may use, explode, or otherwise discharge fireworks recklessly or while under the influence of any substance to a degree which renders the person incapable of safely using, exploding, or otherwise discharging fireworks.

5-6-6: Public Displays; Permit Required:

Nothing shall prohibit the use of a public display of fireworks at times or places that would otherwise be prohibited by this Chapter. However, prior to making such public display of fireworks, the person intending to do such public display shall first secure a written fireworks permit from the City Council.

5-6-7: Storage of Explosives:

No person shall keep in store any gun or blasting powder, dynamite or other like substance, except in such manner as shall comply with the Fire Code regulations and in such place or magazine as shall have been recommended by the Fire Chief or designated representative and approved by the City Council for that purpose; provided, that any person engaged in retailing powder may keep for purpose of retailing only a quantity of gun powder not to exceed fifty (50) pounds, at any one time, at his place of business in fireproof boxes or containers, out of doors, remote from fires and open flames and so that it can be readily removed in case of fire.

5-6-8: Effect of Burn Ban:

At all times when a burn ban is in effect for Davison County, no fireworks, including Novelty Fireworks and Ground & Handheld Fireworks, may be used, exploded, or otherwise discharged at any location within City Limits, except that the City Council may still allow a public display pursuant to a fireworks permit to proceed if the permit is for indoor activity.

Section 2.

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 3.

The City Finance Officer shall cause notice of adoption of this ordinance to be published in the official newspaper and twenty (20) days after the completed publication, unless the referendum is invoked, this ordinance shall become effective.

Members present voting aye: Allen, Barington, Doescher, McCardle, Rice, Smith, Tjarks.
Members present voting nay: none. Motion carried and ordinance declared duly adopted.

Moved by Rice, seconded by Allen, to place Ordinance #O2019-08, Adding a New Section to Chapter 4-7: Pawnbrokers on first reading. Motion carried.

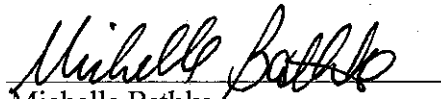
EXECUTIVE SESSION:

Moved by McCardle, seconded by Barington, to go into Executive Session as permitted by SDCL 1-25-2 (3) Consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters and SDCL 1-25-2 (4) Preparing for contract negotiations or negotiating with employees or employee representatives. Motion carried.

Mayor Everson declared the board out of executive session at 7:15 p.m. and the City Council to reconvene in regular session at 7:16 p.m.

ADJOURN:

There being no further business to come before the meeting, Mayor Everson adjourned the meeting.


Michelle Bathke
Finance Officer

Published once at the approximate cost of _____.