

CITY OF CHAMBERLAIN
ORDINANCE NO. 562 I

AN ORDINANCE CREATING ZONING REGULATIONS FOR CANNABIS ESTABLISHMENTS.

BE IT ORDAINED by the Commission of the City of Chamberlain, South Dakota (the "City") that Ordinance 570, Zoning Ordinance, as amended, of the City of Chamberlain, South Dakota, be amended as follows:

Section 1:

That in Chapter 12, Commercial District (C-2), the following Permitted Use be added to Section 1203:

Cannabis Dispensary (See Section 1736 Cannabis Dispensary)

That in Chapter 12, Commercial District (C-2), the following Conditional Use be added to Section 1207:

Cannabis Establishment (excluding Cannabis Dispensary)

That in Chapter 13, Highway Commercial District (C-3), the following Permitted Use be added to Section 1307:

Cannabis Dispensary (See Section 1736 Cannabis Dispensary)

That in Chapter 13, Highway Commercial District (C-3), the following Conditional Use be added to Section 1303:

Cannabis Establishment (excluding Cannabis Dispensary)

That in Chapter 14, Industrial District (I), the following Permitted Use be added to Section 1403:

Cannabis Dispensary (See Section 1736 Cannabis Dispensary)

That in Chapter 14, Industrial District (I), the following Conditional Use be added to Section 1407:

Cannabis Establishment (excluding Cannabis Dispensary)

Section 2:

That in Chapter 17, Supplementary District Regulations, the following Section 1736 Cannabis Dispensaries be added:

Section 1736 Cannabis Dispensaries

A. Maximum Number of Cannabis Dispensaries.

1. In the development and execution of these regulations, it is recognized that there are some uses which because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a potential deleterious effect upon the adjacent areas. Special regulation of these

uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.

2. The City of Chamberlain, South Dakota shall allow one (1) Cannabis Dispensary, provided the time, place, and manner of said dispensary complies with these regulations. The numerical limits on Cannabis Dispensaries may be altered at any time by resolution of the City Commission.

B. Required Separation Distances

1. A Cannabis Dispensary shall be located not less than one thousand (1,000) feet from a public or private school existing before the date of the Cannabis Dispensary application;
2. A Cannabis Dispensary shall be located not less than five hundred (500) feet from the following types of uses existing before the date of the Cannabis Dispensary application:
 - a. churches
 - b. public parks
 - c. libraries
 - d. day cares
 - e. other Cannabis Establishment
3. Exemption from separation requirements. Any separation distance requirement, other than the State requirement from schools (1,000 feet), may be waived, provided the applicant provides documentation waiving the setback requirement from the title holder of the land benefiting from the separation.
4. Prescribed separation/setback distances from certain existing uses are to be measured from the lot line of the property where the Cannabis Dispensary is proposed.

C. Other Locational Requirements

1. Permanent or temporary dispensaries are prohibited in all other zoning districts and not eligible for a home occupation use.
2. It shall be unlawful to operate a dispensary in a building which contains a residence or a mixed-use building with commercial and residential uses.
3. Any Cannabis Dispensary located on property which abuts a residential district shall install an opaque fence at least six (6) feet but not exceeding eight (8) feet in height along any lot lines that abut the residential district.
4. Unless specifically listed as a permitted use, special permitted use, or as a conditional use in a particular zoning district, Cannabis Establishments shall be prohibited in said district.
5. Any other requirements set by City ordinance and State regulations in regulating licensing for Cannabis Establishments.

- D. Controlled Access - No cannabis establishment shall share premises with or permit access directly from another medical cannabis establishment, business that sells alcohol or tobacco, or, if allowed by law, other cannabis establishment.

- E. Hours of operation: Cannabis dispensaries are allowed to be open between the hours of 8:00 A.M. and 8:00 P.M. on any day of the week.
- F. Documentation of State Licensure: No Cannabis Dispensary shall acquire, possess, store, deliver transfer, transport, supply or dispense cannabis, cannabis products, paraphernalia without providing documentation of licensure from the State of South Dakota.
- G. The zoning official is authorized to issue permits (building/use) for Cannabis Dispensaries subject to following:
 - 1. Submission of a site plan containing the following:
 - a. Any information required for applicable building permit;
 - b. Ingress and egress plan;
 - c. Parking plan;
 - d. Lighting plan (including security lighting);
 - e. Screening/security fencing plan;
 - f. Refuse plan;
 - g. Hours of Operation; and
 - h. Any other information as lawfully may be required by the Planning and Zoning Administrator to determine compliance with this ordinance.
 - i. Documentation of ability to meet setback/separation requirements.
 - j. Documentation of State and City Licensure.
 - k. Documentation of compliance with all State regulations regarding Cannabis Establishments.
 - 2. All Cannabis Establishments are required to be constructed in conformance with the 2021 Edition of the International Building Code and International Fire Code, or such successor code as each is updated.

Section 3:

That in Chapter 17, Supplementary District Regulations, the following Section 1737 Cannabis Establishments be added:

Section 1736 Cannabis Establishments, other than Cannabis Dispensaries

- A. Maximum Number of Cannabis Establishments.
 - 1. In the development and execution of these regulations, it is recognized that there are some uses which because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a potential deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.
 - 2. The City of Chamberlain, South Dakota shall allow two (2) Cannabis Establishments, other than Cannabis Dispensaries, provided the time, place, and manner of said establishment

complies with these regulations. The numerical limits on Cannabis Establishments may be altered at any time by resolution of the City Commission.

B. Additional Variance and Conditional Use Factors for Cannabis Establishments.

1. In addition to any other factor which may be properly considered in the grant or denial of a variance or conditional use permit, the following factors shall be relevant for variance and conditional use requests relating to Cannabis Establishments:
 - a. That the proposed land use is consistent with the intent of this ordinance and will not be contrary to public interest or injurious to nearby properties.
 - b. That the proposed land use will not cause or contribute to the formation of a blighted area.
 - c. That all applicable ordinance and regulations (State and local) will be observed.

C. Other Locational Requirements.

- a. It shall be unlawful to operate a Cannabis Establishment in a building which contains a residence or a mixed-use building with commercial and residential uses.
 - b. Any Cannabis Establishment located on property which abuts a residential district shall install an opaque fence at least six (6) feet but not exceeding eight (8) feet in height along any lot lines that abut the residential district.
 - c. Unless specifically listed as a permitted use, special permitted use, or as a conditional use in a particular zoning district, Cannabis Establishments shall be prohibited in said district.
 - d. Any other requirements set by City ordinance and state regulations in regulating licensing for Cannabis Establishments.
- D. Controlled Access -** No cannabis establishment shall share premises with or permit access directly from another medical cannabis establishment, business that sells alcohol or tobacco, or, if allowed by law, other cannabis establishment.
- E. Documentation of State Licensure:** No Cannabis Establishment shall acquire, possess, store, deliver transfer, transport, supply or dispense cannabis, cannabis products, paraphernalia without providing documentation of licensure from the State of South Dakota.
- F.** All Cannabis Establishments are required to be constructed in conformance with the 2021 Edition of the International Building Code and International Fire Code, or such successor code as each is updated.

Section 4:

That the following definitions be added to Chapter 1, Definitions:

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.* (hemp) 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: a 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.

Passed and adopted this 20th day of September, 2021.



Mayor

ATTEST:

Finance Officer

1st Reading: August 17, 2021

2nd Reading: September 20, 2021

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