

ORDINANCE NO. 1345

AN ORDINANCE CREATING ZONING REGULATIONS FOR CANNABIS ESTABLISHMENTS

BE IT ORDAINED by the Common Council of the City of Spearfish that Appendix A. Zoning Regulations of the Revised Ordinances of the City of Spearfish is hereby amended—with ~~strike through~~ indicating text to be deleted, underline indicating text to be added, and the remainder of the Article left unaffected—as follows:

Appendix A. Zoning Regulations.

Article IV. District Regulations

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[...]

Section 1b. AG agricultural district.

[...]

B. *Primary uses permitted.* Property and structures in the AG agricultural district shall be used for the following purposes:

[...]

- 8. Cannabis Cultivation Facilities
- 9. Cannabis Testing Facilities
- 10. Cannabis Product Manufacturing Facilities

[...]

Section 5. C1 central commercial district.

[...]

B. *Primary uses permitted.* Property and structures in the C1 central commercial district shall be used for the following purposes:

[...]

- 25. Cannabis Testing Facilities
- 26. Cannabis Dispensaries

[...]

Section 6. CC central core commercial district.

[...]

B. *Primary uses permitted.* Property and structures in the CC central core commercial district shall be used for the following purposes:

1. All of the primary uses permitted in C1 district except for Cannabis Testing Facilities and Cannabis Dispensaries.

Section 7. C2 highway service commercial district.

[...]

B. *Primary uses permitted.* Property and structures in the C2 highway service commercial district shall be used for the following purposes:

[...]

15. Cannabis Product Manufacturing Facilities

[...]

Section 7a. C3 office commercial district.

[...]

B. *Primary uses permitted.* Property and structures in the C3 office commercial district shall be used for the following purposes:

[...]

10. Cannabis Testing Facilities

[...]

Section 8. ILR light/restrictive industrial district.

[...]

B. *Primary uses permitted.* Property and structures in the ILR light/restrictive industrial district shall be used for the following purposes:

[...]

37. Cannabis Cultivation Facilities

- 38. Cannabis Testing Facilities
- 39. Cannabis Product Manufacturing Facilities
- 40. Cannabis Dispensaries

[...]

Section 9. IH heavy industrial district.

[...]

B. *Primary uses permitted.* Property and structures in the IH heavy industrial district shall be used for the following purposes:

[...]

- 12. Cannabis Cultivation Facilities
- 13. Cannabis Testing Facilities
- 14. Cannabis Product Manufacturing Facilities
- 15. Cannabis Dispensaries

[...]

Section 15. Cannabis establishments

(A) In order to balance the various interests and manage the effects cannabis establishments have on adjacent land uses and to promote the public health, safety, and general welfare of the city, the Common Council adopts the following regulations, recognizing that it has a great interest in the present and future character of the city's residential and commercial neighborhoods. Adoption of these regulations is not intended to unreasonably restrict the opportunity of cannabis establishments to locate in the city but is for the purpose of preventing a concentration of certain cannabis establishments in any one area.

(B) 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. (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 is a retail type 1 setting and 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.

Public or private school. Any preschool, elementary school, middle school, secondary school, or high school. The term also includes any daycare or childcare center.

Unlicensed Cannabis Establishment: an entity that would otherwise meet the definition of a cannabis establishment, but which is not legally licensed by the City of Spearfish and does not have a current and valid registration certificate issued by the South Dakota Department of Health.

(C) Regulations Relating to Cannabis Cultivation Facilities. No cannabis cultivation facility may be located or operate at a location within the city's zoning jurisdiction except as provided in this section. A cannabis cultivation facility is a permitted use in the following zoning districts: Ag (Agriculture), IH (Heavy Industrial), ILR (Light/Restrictive Industrial).

No cannabis cultivation facility may be located or operate within one thousand (1000) feet of a public or private school or a residence. The one thousand (1000) foot distance requirement for a residence does not apply to a residence located on the same lot as a cannabis cultivation facility.

(D) Regulations Relating to Cannabis Testing Facilities. No cannabis testing facility may be located or operate at a location within the city's zoning jurisdiction except as provided in this section. A cannabis testing facility is a permitted use in the following zoning districts: Ag (Agriculture), C-1 (Central Commercial), C-2 (Highway Service Commercial), C-3 (Office Commercial District), ILR (Light/Restrictive Industrial), and IH (Heavy Industrial).

No cannabis testing facility may be located or operate within one thousand (1000) feet of a public or private school.

(E) Regulations Relating to Cannabis Product Manufacturing Facilities. No cannabis product manufacturing facility may be located or operate at a location within the city's zoning jurisdiction except as provided in this section. A cannabis product manufacturing facility is a permitted use in the following zoning districts: Ag (Agriculture), C-2 (Highway Service Commercial), ILR (Light/Restrictive Industrial), and IH (Heavy Industrial).

No cannabis product manufacturing facility may be located or operate within one thousand (1000) feet of a public or private school or a residence.

(F) Regulations Relating to Cannabis Dispensaries. No cannabis dispensary may be located or operate at a location within the city's zoning jurisdiction except as provided in this section. A cannabis dispensary is a permitted use in the following zoning districts: C-1 (Central Commercial), C-2 (Highway Service Commercial), ILR (Light/Restrictive Industrial), and IH (Heavy Industrial).

No cannabis dispensary may be located or operate within one thousand (1000) feet of a public or private school.

(G) Unlicensed cannabis establishments are prohibited from being located or operating in any zoning district.

(H) For the purposes of this section, measurements shall be made in a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a parcel containing a cannabis establishment to the nearest point on the property line of a parcel containing a use listed in Sections 15(C) through (F).

(I) A cannabis establishment lawfully operating in conformity with this section does not violate this section if any of the uses in Sections 15(C) through (F) subsequently locates within one thousand (1000) feet of the cannabis establishment.

(J) It is unlawful to own, manage, or operate a cannabis establishment in a Development Review District or zoning districts other than the zoning districts permitted by the criteria of this section. A violation of this provision is subject to the general penalty provision in Section 1-14. Each day of violation constitutes a separate offense.

(K) A recreational vehicle as defined in Article II of this Appendix or a tent are not residences under this section.

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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.

Effective Date. This Ordinance will become effective 20 days following publication, which will occur after the ordinance receives second and final reading by the City Council and is signed by the Mayor.

Dated this 6th day of July, 2021.

CITY OF SPEARFISH

(Seal)

By: _____
Dana Boke, Its Mayor

Attest:

Michelle DeNeui, Finance Officer

First Reading: June 7, 2021
Second Reading: June 21, 2021 and July 6, 2021
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