

ORDINANCE NO. 661

AN ORDINANCE OF THE CITY OF SALEM, SD, AMENDING THE 2011 REVISED SALEM ZONING REGULATIONS, BY AMENDING CHAPTER 6.02, "CONDITIONAL USES" (CENTRAL BUSINESS DISTRICT); CHAPTER 7.02 "CONDITIONAL USES" (GENERAL BUSINESS DISTRICT); CHAPTER 8.02 "CONDITIONAL" (LIGHT INDUSTRIAL DISTRICT); CHAPTER 9.02 "CONDITIONAL USES" (HEAVY INDUSTRIAL DISTRICT; CHAPTER 11, "ADDITIONAL USE REGULATIONS"; AND CHAPTER 19 "DEFINITIONS".

BE IT ORDAINED BY THE CITY OF SALEM, SD:

*Section 1. That Chapter 11.16 of the 2011 Revised Salem Zoning Regulations is hereby added to read as follows:*

**11.16 CANNABIS ESTABLISHMENTS**

**11.1601 - Purpose.**

In the development and execution of these regulations, it is recognized that there are some uses which are recognized as having 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 of cannabis establishments herein is for the purpose of preventing a concentration of these uses in any one area.

**11.1602 - Definitions.**

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Cannabis* or *marijuana* means 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* means, in addition to the definition in SDCL 34-20G-1, this term is further defined as a licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.

*Cannabis dispensary* means, in addition to the definition in SDCL 34-20G-1, this term is further defined as a 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* means a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

*Cannabis product manufacturing facility* means, in addition to the definition in SDCL 34-20G-1, this term is further defined as a licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

*Cannabis products* means 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* means, in addition to the definition in SDCL 34-20G-1, this term is further defined as a licensed entity legally authorized to analyze the safety and potency of cannabis.

#### **11.1603 - Documentation of state licensure.**

No cannabis establishment shall acquire, possess, store, deliver transfer, transport, supply, or dispense cannabis, cannabis products, or paraphernalia in the corporate limits of the city without providing documentation of a valid license, such as a registration certificate, issued by the state of South Dakota.

#### **11.1604 Cannabis establishments conditional uses in certain districts.**

All uses and structures not specifically listed as a permitted use or as a conditional use in a particular zoning district shall be prohibited in said district, except as follows:

(1) *Cannabis dispensary.* A licensed cannabis dispensary shall be a conditional use only in a CB Central Business, GB General Business, LI Light industrial district, and an HI heavy industrial district.

(2) *Cannabis cultivating facility.* A licensed cannabis cultivating facility shall be a conditional use only in GB General Business, LI Light industrial district, and HI heavy industrial district.

(3) *Cannabis product manufacturing facility.* A licensed cannabis product manufacturing facility shall be a conditional use only in LI Light industrial district, and HI heavy industrial district.

(4) *Cannabis testing facility.* A licensed cannabis testing facility shall be a conditional use only in LI Light industrial district, and HI heavy industrial district.

#### **16.1605 Cannabis Establishment Rules and Regulations**

##### **CANNABIS DISPENSARIES**

- a) Permit required for cannabis dispensary. No person may operate a cannabis dispensary without first obtaining a permit from the city council. A permit for a cannabis dispensary may be issued by the city council subject to the following:
  - 1) Submission of a site plan to the zoning official 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 and security fencing plan;
- f. Refuse plan;
- g. Hours of operation; and
- h. Any other information as lawfully may be required by the city to determine compliance with this ordinance;

2) Documentation of ability to meet separation requirements;

(3) Documentation of state licensure; and

(4) Payment of all fees required for such permit.

2) Maximum number of cannabis dispensaries.

The number of cannabis dispensary permits shall not exceed two within the City limits of Salem, South Dakota.

3) Required separation distances.

(a) A cannabis dispensary shall be located not less than 1,000 feet from a public or private school existing before the date of the cannabis dispensary application.

(b) A cannabis dispensary shall be located not less than 150 feet from a church, synagogue, mosque, temple or building which is used primarily for religious worship and related worship activities, a public library, a public park, or a licensed or registered day care existing before the date of the cannabis dispensary application.

(c) The separation distance requirement under subsection (b) above may be waived in writing by the legal title holder, and equitable title holder where there is a recorded contract for deed, of the lot(s) benefiting from the separation requirement. The applicant shall provide proof of such waiver.

(d) Prescribed separation distances from certain existing uses are to be measured from the lot line of the property where the dispensary is proposed.

4) Other locational requirements.

(a) Permanent or temporary dispensaries are prohibited in all other zoning districts and are not eligible for a home occupation use.

(b) 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.

5) Controlled access. No cannabis dispensary shall share premises with, or permit access directly from, another medical cannabis establishment, any business that sells alcohol or tobacco, or, if allowed by law, any other cannabis establishment.

- 6) Hours of operation. Cannabis dispensaries may be open only between the hours of 8:00 a.m. and 8:00 p.m.

#### **CANNABIS CULTIVATING FACILITY**

- A) Permit required for cannabis cultivating facility. No person may operate a cannabis cultivating facility without first obtaining a permit from the city council. A permit for a cannabis cultivating facility may be issued by the city council subject to the following:
- (1) Submission of a site plan to the zoning official 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 and security fencing plan;
    - f. Refuse plan;
    - g. Hours of operation; and
    - h. Any other information as lawfully may be required by the city to determine compliance with this ordinance;
  - (2) Documentation of ability to meet separation requirements;
  - (3) Documentation of state licensure; and
  - (4) Payment of all fees required for such permit.

#### **CANNABIS PRODUCT MANUFACTURING FACILITY**

- A) Permit required for cannabis product manufacturing facility. No person may operate a cannabis product manufacturing facility without first obtaining a permit from the city council. A permit for a cannabis product manufacturing facility may be issued by the city council subject to the following:
- (1) Submission of a site plan to the zoning official 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 and security fencing plan;
    - f. Refuse plan;
    - g. Hours of operation; and
    - h. Any other information as lawfully may be required by the city to determine compliance with this ordinance;
  - (2) Documentation of ability to meet separation requirements;
  - (3) Documentation of state licensure; and
  - (4) Payment of all fees required for such permit.

#### **CANNABIS TESTING FACILITY**

A) Permit required for cannabis testing facility. No person may operate a cannabis testing facility without first obtaining a permit from the city council. A permit for a cannabis testing facility may be issued by the city council subject to the following:

- (1) Submission of a site plan to the zoning official 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 and security fencing plan;
  - f. Refuse plan;
  - g. Hours of operation; and
  - h. Any other information as lawfully may be required by the city to determine compliance with this ordinance;
- (2) Documentation of ability to meet separation requirements;
- (3) Documentation of state licensure; and
- (4) Payment of all fees required for such permit.

END OF CHAPTER 11.16 CANNABIS ESTABLISHMENTS

BE IT ORDAINED by the City Council of the City of Salem, South Dakota: that CHAPTER 2 “DISTRICT AND BOUNDARIES,” of the Salem 2011 Revised Zoning Regulations of the City of Salem be amended by adding the following Section in bold and underline font:

**Section 2.01.01. Prohibited Uses**

**All uses and structures not specifically listed as a permitted use, special permitted use, or as a conditional use in a particular zoning district shall be prohibited in said district**

BE IT FURTHER ORDAINED by the City Council of the City of Salem, South Dakota: that 6.02 “CONDITIONAL USES” (CENTRAL BUSINESS DISTRICT) of the Salem 2011 Revised Zoning Regulations of the City of Salem be amended by adding language in bold and underline font:

**Cannabis Establishment: Applicable Standards 11.02, 11.04, 11.05, 11.06, 11.11, 11.16**

BE IT FURTHER ORDAINED by the City Council of the City of Salem, South Dakota: CHAPTER 7.02 “CONDITIONAL USES” (GENERAL BUSINESS DISTRICT), of the Salem 2011 Revised Zoning Regulations of the City of Salem be amended by adding language in bold and underline font:

**Cannabis Establishment: Applicable Standards 11.02, 11.04, 11.05, 11.06, 11.11, 11.16, 11.16**

BE IT FURTHER ORDAINED by the City Council of the City of Salem, South Dakota: that CHAPTER 8.02, “CONDITIONAL USES” (LIGHT INDUSTRIAL DISTRICT), of the Salem 2011 Revised Zoning

Regulations of the City of Salem be amended by adding language in bold and underline font:

**Cannabis Establishment: Applicable Standards 11.02, 11.04, 11.05, 11.06, 11.11, 11.16**

BE IT FURTHER ORDAINED by the City Council of the City of Salem, South Dakota: that CHAPTER 9.02, "CONDITIONAL USES" (HEAVY INDUSTRIAL DISTRICT), of the Salem 2011 Revised Zoning Regulations of the City of Salem be amended by adding language in bold and underline font:

**Cannabis Establishment: Applicable Standards 11.02, 11.04, 11.05, 11.06, 11.11, 11.16**

**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.** The City Finance Officer shall cause this ordinance to be published in the official newspaper in clean text with all deletions and additions incorporated therein. This ordinance shall become effective twenty (20) days after the completed publication, unless the referendum is invoked.

Review & Recommendation of Planning Commission: February 7, 2022

Public Hearing: February 7, 2022

First Reading: February 7, 2022

Second Reading & Adoption: March 7, 2022

Published: March 10, 2022

Effective Date: March 30, 2022