

ORDINANCE NO. 2021-08

AN ORDINANCE ENTITLED, AN ORDINANCE TO AMEND ARTICLE IV CHAPTER 4.02 "COMMERCIAL / INDUSTRIAL DISTRICTS" SECTION 4.02.02 ADOPTED BY ORDINANCE 2018-03. AN ORDINANCE TO AMEND ARTICLE III, BY ADDING SECTION 3.03.02 "PROHIBITED USES." AN ORDINANCE TO ADD ARTICLE V, "GENERAL REQUIREMENTS." AN ORDINANCE TO AMEND ARTICLE II, BY ADDING SECTION 2.96 "DEFINITIONS."

BE IT ORDAINED by the Board of County Commissioners of Brookings County, South Dakota: that CHAPTER 3.03.02 "APPLICATION OF DISTRICT REGULATIONS," of the Zoning Ordinance of Brookings County be amended by adding the following Section: 3.03.02. Prohibited Uses:

"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."

BE IT ORDAINED by the Board of County Commissioners of Brookings County, South Dakota: that Section 4.02.02, "CI – COMMERCIAL / INDUSTRIAL DISTRICTS, Conditional Uses" of the Zoning Ordinance of Brookings County be adopted by adding language: 21. Medical Cannabis Dispensary (subject to Chapter 5.17) and reserving Chapter Sections 5.1-5.16

BE IT FURTHER ORDAINED by the Board of County Commissioners of Brookings County, South Dakota: that Article V, "GENERAL REQUIREMENTS" of the Zoning Ordinance of Brookings County be adopted by adding the following Chapter: 5 Section 17.

Reserved Chapter sections 5.1-5.16.

CHAPTER 5.17 MEDICAL CANNABIS DISPENSARIES.

1. Maximum Number of Medical Cannabis Dispensaries.

- a. 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.
- b. The County shall allow up to five conditional use permits for medical cannabis dispensaries provided the time, place, and manner of said dispensaries comply with this ordinance.

2. Required Separation Distances

- a. A medical 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. Prescribed separation/setback distances from certain existing uses are to be measured from the lot line of the property where the dispensary is proposed.

3. Other Locational Requirements

a. Permanent or temporary medical cannabis dispensaries are prohibited in all other zoning districts, other than the commercial district, and are not eligible for a home occupation use.

b. It shall be unlawful to operate a medical cannabis dispensary in a building which contains a residence or a mixed-use building with commercial and residential uses.

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

5. Hours of operation:

a. Medical cannabis dispensaries are allowed to be open between the hours of 8:00 AM and 8:00 PM on Monday – Saturday and the hours of 12:00 PM and 5:00 PM on Sunday.

6. Documentation of State Licensure.

a. No medical cannabis dispensary shall acquire, possess, store, deliver, transfer, transport, supply or dispense cannabis, cannabis products, or paraphernalia without providing documentation of licensure from the State of South Dakota.

7. No medical cannabis dispensaries shall be established within Brookings County without first obtaining a conditional use permit.

8. Applications for conditional use permits for medical cannabis dispensaries shall contain the following:

a. Any information required for an applicable building permit.

b. Ingress and egress plan

c. Parking plan

d. Lighting plan (including security lighting)

e. Screening/security fencing plan. All entrances to the facility shall be secure and have appropriate security measures to deter and prevent theft of any medical marijuana.

f. Refuse plan. Waste and marijuana remnants and byproducts shall be located in a secure container located within a secure area in the facility, and disposed of in a manner which is compliant with Department of Health regulations and permits.

- g. Hours of Operation
 - h. Documentation of ability to meet setback/separation requirements.
 - i. Documentation of State Licensure
 - j. Any other information as lawfully may be required by the Zoning official to determine compliance with this ordinance.
9. No other medical cannabis establishment, other than a medical cannabis dispensary, is allowed under the Brookings County zoning ordinances.
10. All medical cannabis dispensaries are required to be constructed in conformance with the 2021 Edition of the International Building Code.

BE IT FURTHER ORDAINED by the Board of County Commissioners of Brookings County, South Dakota: that Article II, "DEFINITIONS" of the Zoning Ordinance of Brookings County be amended by adding Section 2.96 Definitions:

This ordinance adopts the following definitions for cannabis-related terms which are defined by SDCL 34-20G-1:

Cannabis (or Marijuana)

Cannabis Cultivation Facility

Cannabis Product Manufacturing Facility

Cannabis Products

Cannabis Testing Facility

Department

Medical Cannabis Dispensary

Medical Cannabis Establishment

Adopted this 21st day of September 2021.

Effective: October 20, 2021

BROOKINGS COUNTY
BOARD OF COUNTY COMMISSIONERS

By: _____
Larry Jensen, Chairperson
Board of County Commissioners

ATTEST:

Lori Schultz, Finance Officer
Brookings County

First Reading: September 7, 2021
Second Reading: September 21, 2021
Adopted: September 21, 2021
Effective Date: October 20, 2021