

ORDINANCE NO. 1836

AN ORDINANCE AMENDING SECTIONS 12-4-108, 12-5-108, 12-6-103, 12-6-104, 12-6-203, 12-6-204, 12-7-103, 12-7-203, 12-7-303, 12-8-104 AND 12-9-112, AND ADDING SECTIONS 12-16-101 TO 12-16-114 TO ORDINANCE NO. 1265 OF THE CITY OF PIERRE, HUGHES COUNTY, SOUTH DAKOTA, CREATING ZONING REGULATIONS FOR CANNABIS ESTABLISHMENTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF PIERRE, SOUTH DAKOTA, THE FOLLOWING ORDINANCE SECTIONS SHALL BE AMENDED AND ADDED TO AS FOLLOWS:

Section 1: That Section 12-4-108, Agriculture District - Certain uses declared incompatible and excluded, shall be added as follows:

12-4-108. Certain uses declared incompatible and excluded.

The following uses are declared incompatible with the purpose of the agriculture district and are hereby expressly excluded.

1. Cannabis establishments.

Section 2: That Section 12-5-108, Certain uses common to all residential districts – Certain uses declared incompatible and excluded, shall be added as follows:

12-5-108. Certain uses declared incompatible and excluded.

The following uses are declared incompatible with the purpose common to all residential districts and are hereby expressly excluded.

1. Cannabis establishments.

Section 3: That Section 12-6-103, Principal permitted uses in the Central Business Zoning District, shall be revised as follows:

12-6-103. Principal permitted uses.

11. Cannabis testing facility
12. Cannabis dispensary
13. Other light retail and service establishments approved by the Planning Commission, except those uses enumerated in another district.

Section 4: That Section 12-6-104, Central Business Zoning District, Certain uses declared incompatible and excluded, shall be revised as follows:

12-6-104. Certain uses declared incompatible and excluded.

1. Drive-in theaters.
2. Warehouses.
3. Petroleum bulk storage plants.
4. Mobile home parks.

5. One and Two-family dwellings.
6. Cannabis cultivation facility.
7. Cannabis product manufacturing facility.

Section 5: That Section 12-6-203, Principal permitted uses in the Local Business Zoning District, shall be revised as follows:

12-6-203. Principal permitted uses.

17. Cannabis testing facility
18. Cannabis dispensary
19. Other light retail and service establishments approve by the Planning Commission, except those uses enumerated in another district.

Section 6: That Section 12-6-204, Local Business Zoning District, Certain use declared incompatible and excluded, shall be revised as follows:

12-6-204. Certain uses declared incompatible and excluded.

1. Drive in theaters.
2. Warehouses
3. Petroleum bulk storage plants.
4. Cannabis cultivation facility.
5. Cannabis product manufacturing facility.

Section 7: That Section 12-7-103, Principal permitted uses in the Light Industrial Zoning District, shall be revised as follows:

12-7-103. Principal permitted uses.

18. Cannabis cultivation facility
19. Cannabis testing facility
20. Cannabis product manufacturing facility
21. Cannabis dispensary
22. Other light industrial uses approved by the Planning Commission, except those uses enumerated in another district

Section 8: That Section 12-7-203, Principal permitted uses in the Heavy Industrial Zoning District, shall be revised as follows:

12-7-203. Principal permitted uses.

8. Cannabis cultivation facility
9. Cannabis testing facility
10. Cannabis product manufacturing facility
11. Cannabis dispensary

Section 9: That Section 12-7-303, Principal permitted uses in the Industrial Park Zoning District, shall be revised as follows:

12-7-303. Principal permitted uses.

1. Wholesaling
2. Manufacturing
3. Jobbing
4. Warehousing
5. Cannabis cultivation facility
6. Cannabis testing facility
7. Cannabis product manufacturing facility
8. Cannabis dispensary,
9. or business of a similar nature subject to the regulations as hereinafter specified.

Section 10: That Section 12-8-104, Riverfront and Park District - Certain uses declared incompatible and excluded, shall be added as follows:

12-8-104. Certain uses declared incompatible and excluded.

The following uses are declared incompatible with the purpose of the Riverfront and Park district and are hereby expressly excluded.

1. Cannabis establishments.

Section 11: That Section 12-9-112, Mobile Home Parks - Certain uses declared incompatible and excluded, shall be added as follows:

12-9-112. Certain uses declared incompatible and excluded.

The following uses are declared incompatible with the purpose of Mobile Home Parks and are hereby expressly excluded.

1. Cannabis establishments.

Section 12: That Chapter 12, Article 16, be added as follows:

**Chapter 12 – Planning & Zoning
Article 16 – Cannabis Establishments**

Sections 12-16-101 to 199, inclusive. Cannabis Establishments – General Provisions

Section 12-16-101. Statement of Purpose and Intent.

Section 12-16-102. Definitions.

Section 12-16-103. Cannabis Cultivation Facilities.

Section 12-16-104. Cannabis Testing Facilities.

Section 12-16-105. Cannabis Product Manufacturing Facilities.

Section 12-16-106. Cannabis Dispensaries.

Section 12-16-107. Prohibited Zoning Districts for Cannabis Establishments.

Section 12-16-108. Distance Requirements for Cannabis Establishments.

Section 12-16-109. Measurements for Distance Requirements.

Section 12-16-110. Other Locational Requirements.

Section 12-16-111. Unlicensed Cannabis Establishments.

Section 12-16-112. Other Laws.

Section 12-16-113. Penalties.

Section 12-16-114 to 199 inclusive. Reserved.

SECTION 12-16-101. Statement of Purpose and Intent.

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 City Commission 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.

SECTION 12-16-102. 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.

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 crumpling. 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.
2. "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.
3. "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 educations materials.
4. "Cannabis Establishment" a cannabis cultivation facility a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary as those terms are defined in SDCL 34-20G-1.
5. "Cannabis Product Manufacturing Facility" in addition to the definition in SDCL 34-20G-1, this term is further defined as a legal licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.
6. "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.

7. “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.

8. “Public or Private School” any preschool, elementary school, middle school, secondary school, or high school accredited through the Department of Education.

9. “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 Pierre and does not have a current and valid registration certificate issued by the South Dakota Department of Health.

SECTION 12-16-103. 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:

1. Light Industrial
2. Heavy Industrial
3. Industrial Park

SECTION 12-16-104. 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:

1. Central Business
2. Local Business
3. Light Industrial
4. Heavy Industrial
5. Industrial Park

SECTION 12-16-105. 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:

1. Light Industrial
2. Heavy Industrial
3. Industrial Park

SECTION 12-16-106. 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:

1. Central Business
2. Local Business
3. Light Industrial
4. Heavy Industrial
5. Industrial Park

SECTION 12-16-107. Prohibited Zoning Districts for Cannabis Establishments.

All types of cannabis establishments are prohibited in the following zoning districts: all residential districts including one-family residential district A, B, C, and D, two-family residential and multiple family residential; the riverfront and park district, the agricultural district and the planned unit development district.

SECTION 12-16-108. Distance Requirements for Cannabis Establishments.

No cannabis establishments including cultivation, testing, product manufacturing, or dispensaries may be located or operate within one thousand (1000) feet of a public or private school existing before the date of the cannabis establishment application as required by SDCL 34-20G-55 (1)(b)(ii). A cannabis establishment lawfully operating in conformity with this section does not violate this section if a public or private school subsequently locates within one thousand (1000) feet of the cannabis establishment.

SECTION 12-16-109. Measurements for Distance Requirements.

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 public or private school to the nearest point on the property line of a parcel containing a cannabis establishment.

SECTION 12-16-110. Other Locational Requirements.

1. Permanent or temporary cannabis establishments are prohibited in all other zoning districts and not eligible for a home occupation use.
2. 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.

SECTION 12-16-111. Unlicensed Cannabis Establishments.

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

SECTION 12-16-112. Other Laws.

All cannabis establishments shall be in compliance with SDCL 34-20G. If the state adopts stricter regulation governing cannabis establishments than that set forth herein, the stricter regulation shall control the establishment or operation of any cannabis establishment

within the City of Pierre. The cannabis establishment shall remain in compliance with applicable federal, state, and local laws and building codes (including but not limited to, the prevailing building, plumbing, electrical, mechanical, fuel gas, fire code and property maintenance code adopted by the City of Pierre).

SECTION 12-16-113. Penalties.

It is unlawful to own, manage, or operate a cannabis establishment in zoning districts other than the zoning districts permitted by the criteria of this section. Any person who violates, disobeys, omits or neglects or refuses to comply with any provisions of this ordinance, any requirement, provision or regulation of this ordinance or who fails to perform any act or duty required by this ordinance or who violates any lawful order issued by the City or who violates any condition, limitation, safeguard, or requirement established in connection with any cannabis establishment shall be fined not more than two hundred dollars (\$200) or imprisoned for not more than thirty (30) days. Each calendar day a violation occurs shall be considered a separate offense.

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.

First Reading: August 17, 2021

Second Reading & Adoption: August 31, 2021

Published: September 4, 2021

Steve Harding, Mayor

ATTEST:

Twila Hight, Business Manager/Finance Officer