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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE CODE OF ORDINANCES OF THE CITY BY AMENDING CHAPTER 121 BY ADDING MEDICAL CANNABIS REGULATIONS.**

**WHEREAS**, the State of South Dakota permits the sale and consumption of medical cannabis pursuant to South Dakota Codified Laws (SDCL) Chapter 34-20G;

**WHEREAS**, pursuant to SDCL 34-20G-55, local municipal government may require a local registration, license, or permit for a medical cannabis establishment to operate within that municipality;

**WHEREAS**, pursuant to SDCL 34-20G-58, local municipal government may enact ordinances or regulations governing the time, place, manner, and number of licensees operating within its jurisdiction;

**WHEREAS**, also pursuant to SDCL 34-20G-58, local municipal government may establish civil penalties for violation of an ordinance governing the time, place, and manner of medical cannabis establishments that operate locally;

**WHEREAS**, under the provisions of SDCL 34-20G-60, local municipal government may require a medical cannabis establishment to obtain a license, permit, or registration from local municipal government, prior to operating, and may charge a reasonable fee for that license, permit, or registration;

**WHEREAS**, the City of Sioux Falls believes that regulation of medical cannabis is necessary for the health and safety of this community;

BE IT ORDAINED BY THE CITY OF SIOUX FALLS, SD:

*Section 1. That Chapter 121 of the Code of Ordinances of Sioux Falls, SD, is hereby amended to read:*

**CHAPTER 121: MEDICAL CANNABIS REGULATIONS**

*Section 2. That the Code of Ordinances of Sioux Falls, SD, is hereby amended by adding a section to be numbered 121.001 to read:*

**§ 121.001 DEFINITIONS.**

The terms and definitions found in SDCL 34-20G-1 are specifically adopted for the purpose of this chapter. Specifically,

***ALLOWABLE AMOUNT OF CANNABIS*** means:

- (1) Three ounces of cannabis or less.

- (2) The quantity of cannabis products as established by rules promulgated by the Department under SDCL 34-20G-72.
- (3) If the cardholder has a registry identification card allowing cultivation, no more than three cannabis plants unless cardholder meets the requirements provided by the Department and SDCL 34-20G.
- (4) If the cardholder has a registry identification card allowing cultivation and meets the requirements set forth by the Department and in SDCL 34-20G, the amount of cannabis and cannabis products that were produced from the cardholder's allowable plants, if the cannabis and cannabis products are possessed at the same property where the plants were cultivated.

***BONA FIDE PRACTITIONER-PATIENT RELATIONSHIP*** means:

- (1) A practitioner and patient have a treatment or consulting relationship, during which the practitioner has completed an assessment of the patient's medical history and current medical condition, including an appropriate in-person physical examination.
- (2) The practitioner has consulted with the patient with respect to the patient's debilitating medical condition.
- (3) The practitioner is available to or offers to provide follow-up care and treatment to the patient, including patient examinations.

***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 the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds. The term includes cannabis products and 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. 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 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 PRODUCT MANUFACTURING FACILITY*** means an entity registered with the Department pursuant to SDCL 34-20G that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a medical cannabis dispensary.

***CANNABIS TESTING FACILITY*** or testing facility means an independent entity registered with the Department pursuant to SDCL 34-20G and licensed by the city to analyze the safety and potency of cannabis.

***CARDHOLDER*** means a qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card.

**CULTIVATION FACILITY** means an entity registered with the Department pursuant to SDCL 34-20G that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a medical cannabis establishment.

**DEBILITATING MEDICAL CONDITION** means:

- (1) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating pain; severe nausea; seizures; or severe and persistent muscle spasms, including those characteristics of multiple sclerosis; or
- (2) Any other medical condition or its treatment added by the Department, as provided for in SDCL 34-20G-26.

**DEPARTMENT** means the South Dakota Department of Health.

**DESIGNATED CAREGIVER** means a person who:

- (1) Is at least 21 years of age.
- (2) Has agreed to assist with a qualifying patient's medical use of cannabis.
- (3) Has not been convicted of a disqualifying felony offense.
- (4) Assists no more than five qualifying patients with the medical use of cannabis unless the designated caregiver's qualifying patients each reside in or are admitted to a health care facility or residential care facility where the designated caregiver is employed.

**DISQUALIFYING FELONY OFFENSE** means a violent crime that was classified as a felony in the jurisdiction where the person was convicted.

**EDIBLE CANNABIS PRODUCTS** means any product that:

- (1) Contains or is infused with cannabis or an extract thereof.
- (2) Is intended for human consumption by oral ingestion.
- (3) Is presented in the form of foodstuffs, beverages, extracts, oils, tinctures, or other similar products.

**ENCLOSED, LOCKED FACILITY** means any closet, room, greenhouse, building, or other enclosed area that is equipped with locks or other security devices that permit access only by a cardholder or a person allowed to cultivate the plants. Two or more cardholders who reside in the same dwelling may share one enclosed, locked facility for cultivation.

**MEDICAL CANNABIS OR CANNABIS** means marijuana as defined in SDCL 22-42-1.

**MEDICAL CANNABIS DISPENSARY OR DISPENSARY** means an entity registered with the South Dakota Department of Health pursuant to SDCL 34-20G and licensed by the city that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials to cardholders.

***MEDICAL CANNABIS ESTABLISHMENT*** means a cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a dispensary.

***MEDICAL CANNABIS ESTABLISHMENT AGENT*** means an owner, officer, board member, employee, or volunteer at a medical cannabis establishment.

***MEDICAL USE*** includes the acquisition, administration, cultivation, manufacture, delivery, harvest, possession, preparation, transfer, transportation, or use of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a registered qualifying patient's debilitating medical condition or symptom associated with the patient's debilitating medical condition. The term does not include:

- (1) The cultivation of cannabis by a nonresident cardholder.
- (2) The cultivation of cannabis by a cardholder who is not designated as being allowed to cultivate on the cardholder's registry identification card.
- (3) The extraction of resin from cannabis by solvent extraction unless the extraction is done by a cannabis product manufacturing facility.

***NONRESIDENT CARDHOLDER*** means a person who:

- (1) Has been diagnosed with a debilitating medical condition, or is the parent, guardian, conservator, or other person with authority to consent to the medical treatment of a person who has been diagnosed with a debilitating medical condition.
- (2) Is not a resident of this state or who has been a resident of South Dakota for fewer than 45 days.
- (3) Was issued a currently valid registry identification card or its equivalent by another state, district, territory, commonwealth, insular possession of the United States, or country recognized by the United States that allows the person to use cannabis for medical purposes in the jurisdiction of issuance.
- (4) Has submitted any documentation required by the Department and has received confirmation of registration.

***PLACE OPEN TO THE PUBLIC*** means a place to which the public is invited or welcome, including in, on, or around any place of business, parking lot, or place of amusement or entertainment, whether or not a charge of admission or entry thereto is required and includes the elevator, lobby, halls, corridors, and areas open to the public of any store, office, or multifamily residential building even if such place charges an admission or limits the number of admittees.

***PRACTITIONER*** means a physician who is licensed with authority to prescribe drugs to humans. In relation to a nonresident cardholder, the term means a person who is licensed with authority to prescribe drugs to humans in the state of the patient's residence.

***QUALIFYING PATIENT*** means a person who has been diagnosed by a practitioner as having a debilitating medical condition.

**REGISTRY IDENTIFICATION CARD** means a document issued by the Department that identifies a person as a registered qualifying patient or registered designated caregiver, or documentation that is deemed a registry identification card pursuant to SDCL 34-20G-29 to SDCL 34-20G-42 inclusive.

**WRITTEN CERTIFICATION** means a document dated and signed by a practitioner, stating that in the practitioner's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's debilitating medical condition or symptom associated with the debilitating medical condition. This document shall affirm that it is made during a bona fide practitioner-patient relationship and shall specify the qualifying patient's debilitating medical condition.

Furthermore, additional terms not defined under SDCL 34-20G-1 are hereby defined as follows:

**CERTIFICATION** means a signed and notarized affidavit affirming a truthful disclosure of information.

**CITY** means the city of Sioux Falls, South Dakota.

**RULES** means official rules or regulations promulgated and enforced by the Department and city.

*Section 3. That the Code of Ordinances of Sioux Falls, SD, is hereby amended by adding a section to be numbered 121.002 to read:*

**§ 121.002 OPERATION OF CANNABIS ESTABLISHMENTS IN THE CITY OF SIOUX FALLS.**

(a) Compliance.

- (1) All cannabis establishments, including but not necessarily limited to medical cannabis establishments, in the city must comply with zoning and land use requirements and obtain all necessary zoning and land use approvals.
- (2) All cannabis establishments, including but not necessarily limited to medical cannabis establishments, in the city must comply with building and fire codes applicable to the type of facility and license, including, but not limited to, compliance with the requirements for fire suppression, signage, and parking.

(b) Operation.

Cannabis establishments authorized:

- (1) No medical or other cannabis establishment, other than a medical cannabis dispensary or testing facilities, shall be permitted to operate within the jurisdictional limits of the city.
- (2) Under the authority granted by SDCL 34-20G-56, there shall be no more than five (5) active medical cannabis dispensaries that may be registered by the state of South Dakota to operate within the jurisdictional limits of the city of Sioux Falls at any given time.
- (3) Every medical cannabis dispensary and testing facility may only conduct business and activities within the respective facilities, outside the view of the public and as otherwise authorized and licensed by the Department and city.

- (4) Any medical cannabis dispensary operating in the city may only be open between the hours of 8 a.m. and 10 p.m.
- (5) Every medical cannabis dispensary and testing facility must have written policies, procedures, or plans detailing appropriate security measures designed to deter theft of cannabis.
- (6) Every medical cannabis dispensary and testing facility must have written policies, procedures, or plans detailing how the establishment will prevent unauthorized entrance to the facility and any area containing cannabis.
- (7) Every medical cannabis dispensary and testing facility must have written policies, procedures, or plans detailing an odor control plan.
- (8) Every medical cannabis dispensary and testing facility may only be accessed by authorized agents of the medical cannabis dispensary or testing facility, emergency personnel, and authorized visitors, such as contractors or vendors, who are at least 21 years of age and are accompanied by an authorized medical cannabis establishment agent. All authorized visitors must comply with the requirements set forth by Department and City Rules, and all visitor names, times of visit, and purpose of visit must be documented in a visitor log, of which records must be maintained for at least five (5) years by the medical cannabis establishment, and must be made available upon request to state or local regulatory authorities or law enforcement, as part of any official audit, inspection, or investigation.
- (9) If the facility is a licensed medical cannabis dispensary, then it may also permit access to cardholders but only upon verification of identity and verification of the validity of the registry identification card, and only during authorized hours of operation and in accordance with Department and city rules.
- (10) No medical cannabis dispensary may issue cannabis to anyone who is not a qualifying patient or a designated caregiver with a current and valid registry identification card issued by the Department.
- (11) A medical cannabis dispensary or testing facility may not share space with a practitioner, nor can a medical cannabis establishment refer any person to a practitioner.
- (12) A medical cannabis dispensary or testing facility may not share space with any other cannabis establishment.
- (13) No person may consume cannabis on the property of a medical cannabis dispensary or testing facility.
- (14) The city may inspect a medical cannabis dispensary or testing facility during normal business hours to ensure compliance with the Code of Ordinances of Sioux Falls, SD.

(c) Security.

Every medical cannabis dispensary and testing facility shall have the following security system at a minimum:

- (1) Electronic video security recording system, internal and external, which retains recordings for 180 days.

- (2) Well-lit perimeter.
  - (3) Locked, fully enclosed facility.
  - (4) Internal security to track access to building and all cannabis.
  - (5) Any additional security to comply with the requirements of SDCL 34-20G and Department and city rules.
- (d) Personnel.
- (1) Anyone who is a board member, principal officer, agent, volunteer, or employee of a medical cannabis dispensary or testing facility in the city must have had a current and valid background check before working in or with the medical cannabis dispensary or testing facility.
  - (2) A medical cannabis dispensary or testing facility may not employ any person who has been convicted of a disqualifying felony offense.
  - (3) All employees of a medical cannabis dispensary or testing facility in the city must be over 21 years old.

*Section 4. That the Code of Ordinances of Sioux Falls, SD, is hereby amended by adding a section to be numbered 121.003 to read:*

**§ 121.003 LICENSING OF MEDICAL CANNABIS DISPENSARY AND TESTING FACILITY.**

- (a) Applications.
- (1) To operate as a medical cannabis dispensary or testing facility in the city, the prospective entity must obtain a license from the city, a current state registration certificate issued by the South Dakota Department of Health, and a certificate of occupancy from the city. A city license to operate a medical cannabis dispensary or testing facility can only be issued by the city and is nontransferable to any other owner, operator, or geographic location.
  - (2) License application procedures.
    - A. A prospective medical cannabis dispensary or testing facility seeking to operate in the city must first obtain a license to operate from the city prior to seeking registration as a medical cannabis dispensary from the South Dakota Department of Health under the provisions of SDCL 34-20G-55.
    - B. All license requests must be submitted to the city on forms prescribed by the city and contain all the information required by the city to determine the eligibility of the applicant, along with the application fee and initial annual fee.
    - C. The city shall make a determination to reject or approve a license decision within 60 days of application or end of lottery deadline, whichever is later. Said 60 days is tolled pending any applicant's appeal or application for conditional use permit.
    - D. The licensee shall not begin operation or open its doors to the public until it receives from the city a certificate of occupancy. The city shall not issue a certificate of occupancy until the city has fully inspected the licensed premises and determined that the establishment

satisfies all requirements of licensure as set forth in this chapter, all applicable zoning requirements, and all other applicable federal, state, and local laws and building codes, and that the licensed establishment is ready for occupancy with such equipment and security measures in place as may be necessary to comply with the applicable provisions of the Code of Ordinances of Sioux Falls, SD, and state law. The city shall not issue a certificate of occupancy until the licensee provides written evidence that the licensee has paid the fees set forth herein, and all registration application fees due to the state in connection with the Department's review of the application.

- E. A license application to operate as a medical cannabis dispensary or testing facility requires:
1. The legal name of the prospective medical cannabis dispensary or testing facility.
  2. The location (legal description) of the prospective medical cannabis dispensary or testing facility and certification from property owner authorizing tenant to engage in business as a medical cannabis establishment. Only one application per location is allowed.
  3. A certification that the location of the prospective medical cannabis dispensary or testing facility is not within one thousand feet (1,000 feet) of a public or private school meets any other location requirements pursuant to SDCL Chapter 34-20G and the administrative rules promulgated thereunder, in compliance with all city zoning and land use requirements and, if applicable, applicant will apply for any city conditional use permitting within 10 days of notification of license eligibility and that the conditional use process will be completed within 60 days of the filing of the application for the conditional use permit unless extended by the city planning commission or city council.
  4. The name, date of birth, and a photocopy of a valid form of identification issued in South Dakota, or its equivalent issued in another U.S. jurisdiction, for each principal officer and board member of the prospective medical cannabis dispensary or testing facility.
  5. A certification that at least one officer or board member of the prospective medical cannabis dispensary or testing facility is a resident of the state of South Dakota.
  6. A certification that none of the employees of the prospective medical cannabis dispensary or testing facility has been convicted of a disqualifying felony offense.
  7. A certification that the employees of the prospective medical cannabis dispensary or testing facility are over the age of 21 years.
  8. A confirmation of a completed current background check for each officer, board member, agent, volunteer, and employee associated with or working in the prospective medical cannabis dispensary or testing facility, which has been completed within 30 days prior to submission of the application.
  9. A copy of the operating documents for the prospective medical cannabis dispensary or testing facility that detail oversight of the establishment and procedures to ensure accurate recordkeeping.

10. A description of appropriate security measures designed to deter and prevent theft of cannabis and unauthorized entry into any area containing cannabis.
  11. The application fee and applicable license fee.
  12. Any other information required by the city of Sioux Falls.
- F. The city shall reject an application for a medical cannabis dispensary or testing facility if:
1. The application is incomplete or insufficient regarding the information required pursuant to this chapter.
  2. The city determines the applicant has failed to comply with 34-20G or has a history of violating state or city rules governing medical cannabis establishments or county ordinances.
  3. The applicant or any officer, board member, agent, volunteer, or employee fails to pass a background check.
  4. Any applicable conditional use permit is not obtained as certified in the application.
- G. Any medical cannabis dispensary licensee under this chapter shall be the owner or actual lessee of the premises where the business is conducted, and the sole owner of the business operated under the license.
- H. Any application for the reissuance of a medical cannabis dispensary or testing facility license shall be processed by the city in the same manner as required by this chapter for initial applications.
- (3) Special procedure for initial issuance of dispensary license by the city.
- A. In addition to the requirements of § 121.003(a)(2), these special procedures will apply any time new licenses to operate a medical cannabis dispensary become available from the city.
  - B. When licenses to operate a medical cannabis dispensary become available from the city, the city shall publish an invitation for applications on the city's website stating the deadline to apply and the location(s) applications may be submitted. No applications will be accepted prior to publication of the invitation nor after the deadline established in the published invitation.
  - C. Applications must otherwise adhere to the requirements of § 121.003(a)(2) of this section but must also be sealed. No supplementing of an application may be done after the deadline has passed.
  - D. Once the deadline has passed, all applications shall be placed into order by the licensing specialist or designee utilizing a lottery system to establish the order in which applications will be considered. Prior to conducting the lottery, the licensing specialist or designee shall publish notice of the lottery on the city's website a minimum of 24 hours in advance of the lottery being conducted and such lottery shall be open to the public.

- E. After placed in order, the licensing specialist or designee shall open all sealed applications received during the invitation submittal window and review each application for completeness and requirements of § 121.003(a)(2) and this subsection. Any application that is incomplete shall be rejected and ineligible for further consideration.
  - F. After all eligible applications have been approved or denied, the time period for these special procedures will have deemed to have passed. All applications not drawn and approved for a new dispensary license are denied and a new application will be required when a new dispensary license next becomes available.
- (b) Fees, expiration, and duration.
- (1) Application fee. At the time an applicant files an application according to § 121.003, applicant shall pay a nonrefundable fee for each application to the City in an amount established by resolution of the city council to defray the costs incurred by the City for background investigations, review of the application, inspection of the proposed premises, and any other costs and labor associated with processing the application.
  - (2) Initial license fee. At the time an applicant files an application according to § 121.003, the licensee shall tender to the city an initial license fee in the amount of one hundred thousand dollars. The initial license fee shall cover the remainder of the calendar year in which it is issued and the full subsequent calendar year. The initial license fee is in addition to the application fee required pursuant to § 121.003 (b)(1). In the event the applicant is denied a registration certificate from the Department or the City, the license fee shall be refunded.
  - (3) Renewal License Fee. The license period shall be for a period of two years from the effective date on the renewal and in the amount of one hundred thousand dollars. The renewal license fee is in addition to the application fee required pursuant to §121.003(b)(1). In the event the applicant is denied a registration certificate from the Department or the City, the license fee shall be refunded.
- (c) Violations as grounds for revocation or suspension of license.

The city licensing specialist may revoke or suspend any license issued under this chapter upon proof by a preponderance of the evidence of violation by the licensee, by the licensee's agents or employees, or by the manager or contractual operators of the medical cannabis dispensary or testing facility and their agents or employees operating under a city license, of any of the following:

- (1) Any provision of SDCL 34-20G or other state law relevant to medical cannabis dispensary or testing facility control.
- (2) Any rule promulgated by the Department.
- (3) Any rule promulgated by any applicable county ordinance.
- (4) False material statements made by a licensee to the city or state of South Dakota during the application process.
- (5) Failure to pay taxes owed to the state of South Dakota or any political subdivision of the state of South Dakota including the city.

- (6) Failure to prevent diversion or theft of medical cannabis.
  - (7) Failure to allow entry to the licensed premises to any law enforcement officers in the course and scope of their employment.
  - (8) Failure to maintain operational alarm systems and video surveillance systems.
  - (9) Failure to maintain or keep any record required by these rules or South Dakota law.
  - (10) Failure to comply with advertising and marketing restrictions.
  - (11) Failure to properly package or secure medical cannabis on the licensed premises or during transport.
  - (12) Failure to properly dispose of medical cannabis.
  - (13) Operating a testing facility or dispensary when a license has been suspended or revoked.
  - (14) Failure to comply with any rule or regulation promulgated by the Department or the city regarding medical cannabis.
  - (15) Failure to comply with any law of the state of South Dakota or the city concerning medical cannabis.
  - (16) Failure to comply with any local regulation regarding medical cannabis.
  - (17) Any violation of any municipal ordinance or regulation relevant to medical cannabis dispensary or testing facility control adopted by the city.
  - (18) Any violation of any county ordinance relevant to medical cannabis dispensary or testing facility control. For any licensee with multiple licenses, upon suspension or revocation of any license pursuant to this chapter, the licensee shall cease operation under all medical cannabis dispensary or testing facility licenses held by the licensee for the same period as the suspension or revocation.
- (d) Suspension and revocation process.
- (1) The license holder will receive a notice of intent to suspend or notice of intent to revoke informing the license holder of the violation and the city's intention to suspend or revoke the license. The notice will be hand delivered to the license holder or an employee or agent of the license holder or sent by certified mail, return receipt requested to the physical address of the cannabis establishment.
  - (2) If the license holder disputes the suspension or revocation, the license holder has ten (10) days from the postmark date on the notice or the date the notice was hand delivered to request a review by the city finance officer.
  - (3) A suspension will be for thirty (30) days and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder exercises its rights to process and appeal, in which case the suspension takes effect upon the final determination of suspension.

- (4) A revocation will be for one (1) year and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder appeals the revocation, in which case the revocation takes effect upon the final determination of revocation.
  - (5) The license holder who has had the license revoked may not be issued any cannabis establishment license for one year from the date the revocation became effective and must reapply for a license at the end of that year.
- (e) License to remain active.

Any license issued under this chapter must remain in continuous, active use. A licensee shall have 60 days after issuance of the certificate of occupancy to begin active use of the license. Any license not actively used within those 60 days shall be deemed inactive. Once an initial annual license is in active use or any annual renewal license is issued, any license not actively used for a period of more than 60 cumulative days per calendar year may be deemed inactive by the city. Active use means times where the licensee is open and available to conduct business authorized by the license. However, days where the license is suspended by the city shall not be used for purposes of calculating inactivity. The licensing authority may not reissue or renew any medical cannabis establishment license issued pursuant to this chapter to the same licensee if the license has not been actively used by the licensee.

- (f) Appeal.

Any licensee or applicant aggrieved by a decision regarding the issuance of a license, rejection of an application, suspension of a license or revocation of a license under this chapter may file an appeal according to the procedure set forth in §§ [30.040](#) through [30.046](#).

*Section 5. That the Code of Ordinances of Sioux Falls, SD, is hereby amended by adding a section to be numbered 121.004 to read:*

**§ 121.004 RESTRICTIONS.**

- (a) Nothing in this ordinance permits any person to:
  - (1) Undertake any task under the influence of cannabis, when doing so would constitute negligence or unprofessional malpractice.
  - (2) Possess cannabis or engage in the medical use of cannabis in any correctional facility.
  - (3) Smoke cannabis on any form of public transportation or in any place open to the public.
- (b) No person shall consume or smoke cannabis in any public place including, but not limited to, parks, sidewalks, streets, highways, alleys, rights-of-way, sports complexes, publicly owned property whether in or out of a building, commonly and customarily open to or used by the general public, or in any place that is open to the public. A violation of this subsection shall be punished under the general penalty provisions of this Code.
- (c) No cannabis odor shall exist at or beyond the property line of the medical cannabis dispensary or at or near places where people live or work.

- (d) No cannabis dispensary or testing facility shall display a marijuana leaf, the word marijuana, or depictions of a person holding or smoking cannabis in any location visible outside the dispensary.
- (e) Nothing in this chapter requires an employer to allow ingestion or use of cannabis in the workplace or to allow an employee to work while the employee is under the influence of cannabis.
- (f) Nothing in this chapter requires a person or establishment to allow a guest, client, customer, or other visitor to smoke or use cannabis on or in that property.
- (g) Nothing in this chapter prohibits an employer from disciplining an employee for ingesting cannabis in the workplace or disciplining an employee for working while under the influence of cannabis.

*Section 6. That the Code of Ordinances of Sioux Falls, SD, is hereby amended by adding a section to be numbered 121.005 to read:*

**§ 121.005 ADDITIONAL PROVISIONS.**

The city of Sioux Falls hereby directs the state to give registration preference only to those applicants that have received a medical cannabis dispensary license issued by the City of Sioux Falls.

Any person or entity found to be violating any provision of this chapter and/or requirement imposed pursuant to this chapter relating to time, place, or manner restrictions shall be guilty of a violation of city ordinances and subject to a civil penalty as prescribed by Chapter 40. Each day in which any violation shall continue is a separate offense.

*Section 7. That the Code of Ordinances of Sioux Falls, SD, is hereby amended by adding a section to be numbered 121.006 to read:*

**§ 121.006 SEVERABILITY.**

The provisions of this chapter are severable. If any provision of this chapter 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 chapter that can be given effect without the invalid provision or application.

Date adopted: \_\_\_\_\_

\_\_\_\_\_  
Paul TenHaken, Mayor

ATTEST:

\_\_\_\_\_  
Thomas Greco, City Clerk