

CHAPTER 10 - GENERAL LICENSING & LICENSING BOARDS

ARTICLE 16 -

ARTICLE 16 - Section 10-16-100 to 199 Regulations of Items Designed for use with Illegal Cannabis or Drugs

Repealed.

Ord. No. 1832, 2021

ARTICLE 16 – Section 10-16-200 to 299 CANNABIS ESTABLISHMENT REGISTRATION AND LICENSING

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Section 10-16-200 PURPOSE AND INTENT

The City Commission of the City of Pierre enacts the following licensing ordinances in order to ensure that cannabis establishments within the municipal boundaries of the City operate in a manner which complies with state laws and regulations, protects the health, safety, and welfare of the general public, prevents potential conflicts and issues arising from ownership and employees, recognizes certain safety and security considerations, and minimizes risk of unauthorized use or access of cannabis by the general public.

Source: Ord. No. 1837, 2021.

Section 10-16-201: 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. 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 acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.

Cannabis Establishment: 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.

Department: the South Dakota Department of Health

Source: Ord. No. 1837, 2021.

Section 10-16-202: LICENSE REQUIRED

(a) No cannabis establishment may be located or operate in the city without the appropriate valid and current cannabis establishment license issued by the city pursuant to this article. A violation of this provision is subject to the general penalty provision in Chapter 10-1. Each day of the violation constitutes a separate offense.

(b) No cannabis establishment may be located or operate in the city without the appropriate valid and current cannabis establishment registration certificate issued by the Department pursuant to rules promulgated under SDCL 34-20G. A violation of this provision is subject to the general penalty provision in 10-1. Each day of the violation constitutes a separate offense.

(c) **Source:** Ord. No. 1837, 2021.

Section 10-16-203: LICENSE APPLICATION

- (a) An application for a cannabis establishment license must be made on a form provided by the city. No other application form will be considered.
- (b) The applicant must submit the following:
 - 1. Application fee of \$5,000. The City will reimburse \$2,500 for applicants who fail to obtain a registration certificate from the South Dakota Department of Health.
 - 2. An application that will include, but is not limited to, the following:
 - i. The legal name of the prospective cannabis establishment;
 - ii. The physical address of the prospective cannabis establishment that meets the zoning requirements in Chapter 12, as well as any location requirements pursuant SDCL 34-20G and the administrative rules promulgated thereunder.
 - iii. The name, address, and birth date of each principal officer, owner, and board member of the proposed cannabis establishment.
 - iv. A sworn statement that no principal officer, owner, or board member has been convicted of a violent felony offense in the previous ten (10) years in any jurisdiction.
 - v. Any additional information requested by the city.

Source: Ord. No. 1837, 2021.

Section 10-16-204: ISSUANCE OF LICENSE

- (a) The city will issue a license unless:
 - 1. The applicant has made a false statement on the application or submits false records or documentation; or
 - 2. Any owners, principal officer, or board member of the applicant is under the age of twenty-one (21) years; or
 - 3. Any owner, principal officer, or board member of the applicant has been convicted of a violent felony offense in the previous ten (10) years in any jurisdiction;
 - 4. The proposed location does not meet the applicable zoning requirements under Chapter 12;
 - 5. The proposed location does not meet all location requirements under SDCL 34-20G and the administrative rules promulgated thereunder;

6. The license is to be used for a business prohibited by state or local law, statute, rule, ordinance, or regulation; or
 7. Any owner, principal officer, or board member of the applicant has had a cannabis establishment license revoked by the city or a registration certificate revoked by the state; or
 8. An applicant, or an owner, principal officer, or board member thereof, is overdue in payment to the city of taxes, utilities, fees, fines, or penalties assessed against or imposed upon the applicant; or
 9. The applicant will not be operating the business for which the license would be issued.
- (b) The city will reject the application if the limit on the number of cannabis Establishments has been reached as established in 10-16-206.
- (c) The license must be posted in a conspicuous place at or near the entrance to the cannabis establishment so that it may be easily read at any time.

Source: Ord. No. 1837, 2021.

Section 10-16-205: CITY NEUTRALITY AS TO APPLICANTS

- (a) Upon request from the Department as to the City's preference of applicants, the City will neither support nor oppose any registration certificate application under consideration by the Department. Likewise, if inquiry is made by the Department, the City will abstain from endorsing any application as beneficial to the community.

Source: Ord. No. 1837, 2021.

Section 10-16-206: NUMBER OF CANNABIS ESTABLISHMENTS

- (a) No more than 3 Cannabis Dispensaries shall be allowed to operate in the City at any time.
- (b) No more than 1 Cannabis Cultivation Facility shall be allowed to operate in the City at any time.
- (c) No more than 1 Cannabis Product Manufacturing Facility shall be allowed to operate in the City at any time.
- (d) No more than 1 Cannabis Testing Facility shall be allowed to operate in the City at any time.

Source: Ord. No. 1837, 2021.

Section 10-16-207: EXPIRATION OF LICENSE AND RENEWAL

- (a) Each license issued pursuant to this Chapter shall remain in force and effective until December 31st of the issuing year unless canceled or revoked prior to such time. The license holder must continue to meet the license requirements to be eligible for a renewal.
- (b) The renewal fee is \$5,000. The City will reimburse \$2,500 for applicants who fail to obtain a renewal of their registration certificate from the Department.

(c) Failure to renew a license in accordance with this section may result in additional fees. Upon expiration of the license, the city may order closure of the cannabis establishment.

(d) If a license holder has not operated an establishment for which it holds a license for at least 90 days in the preceding twelve (12) months, the license will not be renewed.

Source: Ord. No. 1837, 2021.

Section 10-16-208: SUSPENSION

(a) A license may be suspended if the license holder or an employee or agent of the license holder:

1. Violates or is otherwise not in compliance with any section of this article.
2. Consumes or smokes or allows any person to consume or smoke cannabis on the premises of the cannabis establishment.
3. Knowingly dispenses or provides cannabis or cannabis products to an individual or business to whom it is unlawful to provide cannabis or cannabis products.
4. A license may be suspended if the license holder has its Department-issued registration certificate suspended, revoked, or not renewed by the Department or if the registration certificate is expired.
5. A license may be suspended if the license holder creates or allows to be created a public nuisance at the cannabis establishment.

Source: Ord. No. 1837, 2021.

Section 10-16-209: REVOCATION

(a) A license may be revoked if the license is suspended under Section 10-16-208 and the cause for the suspension is not remedied.

(b) A license may be revoked if the license is subject to suspension under Section 10-16-208 because of a violation outlined in that section and the license has been previously suspended in the preceding 24 months.

(c) A license is subject to revocation if a license holder or employee of a license holder:

1. Gave false or misleading information in the material submitted during the application process;
2. Knowingly allowed possession, use, or sale of non-cannabis controlled substances on the premises;
3. Operated the cannabis establishment or the business of the cannabis establishment for which a license is required under this article while the license was suspended;
4. Repeated violations of Section 10-16-204;
5. Operated a function of a cannabis establishment for which the license holder was not licensed (e.g., a licensed cannabis cultivation facility conducting cannabis testing functions without a cannabis testing establishment license);
6. A license holder, or an owner, principal officer, or board member thereof, is delinquent in

payment to the city, county, or state for any utilities, taxes or fees;

7. A license holder, or an owner, principal officers, or board member thereof, has been convicted of, or continues to employ an employee who has been convicted of, a disqualifying felony offense as defined by SDCL 34-20G; or
8. The license holder has its Department-issued registration certificate suspended, revoked, or not renewed or the registration certificate is expired.
9. The license holder allows a public nuisance to continue after notice from the City as per Chapter 8 Article 2.

Source: Ord. No. 1837, 2021.

Section 10-16-210. SUSPENSION AND REVOCATION PROCESS

- (a) 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.
- (b) Appeals commence by filing a written appeal with the City Administrator within ten business days of notification. The appeal shall include a statement describing the complaint, why the action was taken should be modified or rescinded and an address where the appellant can be mailed notice of hearings. The City Administrator shall immediately deliver a copy of the appeal to the City Finance Officer and City Attorney.
- (c) A public hearing shall be held on all appeals within 15 business days after filing of the appeal, unless a later date is agreed upon by the appellant and the City of Pierre. The City of Pierre shall cause written notice of the date, time, and place of such hearing to be served upon the appellant by personal service or certified mail to the address set forth in the appeal at least five days before the hearing date.
- (d) The hearing date shall be scheduled for an upcoming meeting of the City Commission, or at a special meeting agreed upon by the parties, the appellant may appear before the City Commission in Executive Session to discuss the appeal. Within five (5) days after the meeting, the City Administrator will, in writing, furnish the decision of the Commission to the appellant.
- (e) The decision of the City Commission may be appealed to Circuit Court as provided by law.

Source: Ord. No. 1837, 2021.

Section 10-16-211: LICENSES NOT TRANSFERRABLE

No cannabis establishment license holder may transfer the license to any other person or entity either with or without consideration, nor may a license holder operate a cannabis establishment at any place

other than the address designated in the application.

Source: Ord. No. 1837, 2021.

Section 10-16-212: HOURS OF OPERATION FOR DISPENSARIES

No cannabis dispensary may operate between the hours of 9:00pm and 8:00am any day of the week.

Source: Ord. No. 1837, 2021.

Section 10-16-213: LIABILITY FOR VIOLATIONS

Notwithstanding anything to the contrary, for the purposes of this article, an act by an employee or agent of a cannabis establishment that constitutes grounds for suspension or revocation will be imputed to the cannabis establishment license holder for purposes of finding a violation of this article, or for purposes of license denial, suspension, or revocation, only if an officer, director or general partner or a person who managed, supervised or controlled the operation of the cannabis establishment, knowingly allowed such act to occur on the premises.

Source: Ord. No. 1837, 2021.

Section 10-16-214: VIOLATIONS AND PENALTIES

Any Establishment violating this Chapter shall be subject to a penalty fee set out in a schedule established in 10-1-109 and as presented and on file at the City Finance Office. Each day a cannabis establishment so operates is considered a separate offense.

Source: Ord. No. 1837, 2021.

Section 10-23-215 to 299 Reserved