

ORDINANCE #21-025

**AN ORDINANCE CREATING ZONING REGULATIONS
FOR CANNABIS ESTABLISHMENTS.**

WHEREAS, Initiated Measure 26 (IM 26), regarding Medical Cannabis, was passed by South Dakota voters in November 2020; and

WHEREAS, the provisions of IM 26 have been codified under South Dakota Codified Laws (SDCL) Chapter 34-20G; and

WHEREAS, such state statutes explicitly provide local governments with certain regulatory authority over aspects of cannabis establishments, including zoning matters; and

WHEREAS, the City of Brookings has the lawful authority to regulate other aspects relating to cannabis establishments by and through its use of existing municipal powers.

BE IT ORDAINED BY THE CITY OF BROOKINGS, SOUTH DAKOTA AS FOLLOWS:

Section 1.

That a NEW DIVISION be ADDED to the Brookings Municipal Code under Chapter 94 – Zoning, Article VI Supplemental Regulations– to read as follows:

“Division 6. – Cannabis Establishments

94-500: Intent:

In order to promote the public health, safety and general welfare of the city, the city council 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. Adoption of these regulations is not intended to unreasonably restrict the opportunity of cannabis establishments to locate in the city, but is for the purpose of preventing a concentration of certain cannabis establishments in any one area.

94-501: 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: a licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.

Cannabis dispensary: a licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials at retail to a consumer.

Cannabis product manufacturing facility: a licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

Cannabis testing facility: a licensed entity authorized to analyze the safety and potency of cannabis.

Cannabis establishment: a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

94-502: Regulations Relating to Cannabis Cultivation Facilities:

A. No cannabis cultivation facility shall be owned or operated at a location within the city's zoning jurisdiction except as provided by this section. A cannabis cultivation facility shall be considered a permitted special use in the following districts: Industrial I-1 Light District.

B. No cannabis cultivation facility shall operate within one thousand feet (1,000') of a residential zoned district existing before the date of the cannabis establishment application. Distances shall be measured from the closest point of the property lines.

C. Such uses shall be within a completely enclosed building.

94-503: Regulations Relating to Cannabis Testing Facilities:

No cannabis testing facility shall be owned or operated at a location within the city's zoning jurisdiction except as provided by this section. A cannabis testing facility shall be considered a permitted use in the following districts: Industrial I-1 Light District.

94-504: Regulations Relating to Cannabis Product Manufacturing Facilities:

No cannabis product manufacturing facility shall be owned or operated at a location within the city's zoning jurisdiction except as provided by this section. A cannabis product manufacturing facility shall be considered a permitted use in the following districts: Industrial I-1 Light District.

94-505: Regulations Relating to Cannabis Dispensaries:

- A. No cannabis dispensary shall be owned or operated at a location within the city’s zoning jurisdiction except as provided by this section. A cannabis dispensary shall be considered a permitted special use in the following districts: Business B-1 Central District, Business B-2 District, Business B-2A Office District, Business B-3 Heavy District, and Business B-4 Highway District.
- B. No cannabis dispensary shall operate within three hundred feet (300') of an educational institution, religious institution, preschool, or detention facility existing before the date of the cannabis establishment application. ~~No cannabis dispensary shall operate within one thousand feet (1,000') of another cannabis dispensary, except in the Business B-1 Central District, which no cannabis dispensary shall operation within three hundred feet (300') of another cannabis dispensary.~~ Distances shall be measured from the closest point of the property lines.
- C. No cannabis dispensary shall operate within one thousand feet (1,000') of a public or private school existing before the date of the cannabis establishment application. Distances shall be measured from the closest point of the property.

Section 2.

Cannabis establishments are prohibited in the Joint Jurisdiction Zoning Area of the City of Brookings and Brookings County, South Dakota.

Section 3.

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

First Reading:
Second Reading:
Third Reading:
Published:

City of Brookings, SD

Oepke “Ope” Niemeyer, Mayor

Attest:

Bonnie Foster, City Clerk