

ORDINANCE NO. 1337

AN ORDINANCE AMENDING ORDINANCE 1328, CREATING ZONING REGULATIONS FOR CANNABIS ESTABLISHMENTS

WHEREAS, the City of Deadwood previously enacted Ordinance 1328 creating zoning regulations for cannabis establishments on September 8, 2021;

WHEREAS, the City of Deadwood has determined it necessary to amend ordinance 1328 to further regulate cannabis establishment locations in the City of Deadwood;

NOW THEREFORE. BE IT ORDAINED by the City Commission of the City of Deadwood that Title 17. Zoning Regulations of the City of Deadwood is hereby amended—with ~~striketrough~~ indicating text to be deleted, underline indicating text to be added, and the remainder of the Article left unaffected—as follows:

Section 17.16. A1 Agricultural District.

17.16.020 Uses permitted by right.

Property in the A1 agriculture district shall be used for the following purposes or any use which the planning commission considers comparable to another use which is directly listed under this section.

1. Day care, small;
2. Dwelling unit, single-family;
3. Farming, ranching and general agriculture crops;
4. Nurseries and greenhouses;
5. Parks, recreation lands;
6. Ranch offices;
7. Roadside stands;
8. Wildlife preserves;
9. Cannabis Cultivation Facilities
10. Cannabis Testing Facilities
11. Cannabis Product Manufacturing Facilities

Chapter 17.36. CE Commercial Enterprise District.

17.36.020 Uses permitted by right.

Property in the CE commercial enterprise district shall be used for the following purposes or any use which the planning commission considers comparable to another use which is directly listed under this section.

1. Adult education facility;
2. Auditorium, indoor theaters;
3. Auto accessory part and repair;
4. Bakery;
5. Banks;
6. Barber shops, beauty shops;
7. Books, hobby, toy, music stores;
8. Bowling alley;
9. Chiropractic office;
10. Civic youth social/fraternal organization;
11. College and university buildings;
12. Convenience stores;
13. Delicatessen;
14. Department, dry goods and variety stores;
15. Dwelling unit, for hired personnel only;
16. Electrical and household appliance stores, sales and service;
17. Florist;
18. Frozen food lockers, not including slaughtering on the premises;
19. Fuel storage tanks - above and below;
20. Furniture stores;

21. Gasoline service station;
22. Hardware stores;
23. Hotels and motels;
24. Indoor amusement establishment;
25. Insurance, real estate, investment offices;
26. Libraries and museums;
27. Liquor stores;
28. Mail order;
29. Medical and dental clinics;
30. Music, radio and television stores;
31. Novelty, curio, antique and souvenir shops;
32. Paint stores;
33. Parks, recreation land;
34. Pet shops;
35. Photographic equipment sales and service;
36. Pre-school care/educational centers;
37. Printing, photocopying, blueprint service;
38. Professional/accounting service offices;
39. Radio and television studios;
40. Restaurant, bar and lounge;
41. Schools, vocational-technical;
42. Second-hand stores;
43. Shoe repair;

44. Shoe stores;
45. Sporting goods store;
46. Travel bureaus;
47. Wildlife preserves; and
48. Recreational Cannabis dispensaries.
49. Medical Cannabis dispensaries

Chapter 17.40. CH Commercial Highway District.

17.40.020 Uses permitted by right.

Property in the CH commercial highway district shall be used for the following purposes or any use which the planning commission considers comparable to another use which is directly listed under this section.

1. Adult education facility;
2. Animal clinic;
3. Auditorium, indoor theaters;
4. Auto parking lots (commercial);
5. Auto sales and service;
6. Auto service station and garage;
7. Auto accessory part and repair;
8. Auto wash and polish service;
9. Bakery;
10. Banks;
11. Barber shops and beauty shops;
12. Book, hobby, toy and music stores;
13. Bowling alley;

14. Chiropractic office;
15. Civic youth social/fraternal organization;
16. Convenience stores;
17. Delicatessen;
18. Department, dry goods and variety stores;
19. Drive-in restaurants;
20. Dwelling unit, for hired personnel only;
21. Electrical and household appliance stores, sales and service;
22. Florist;
23. Frozen food lockers, not including slaughtering on the premises;
24. Fuel storage tanks, above and below ground;
25. Furniture stores;
26. Gaming (within city boundaries as of November 1, 1989);
27. Gasoline service station;
28. Hardware stores;
29. Hotels and motels;
30. Indoor amusement establishment;
31. Insurance, real estate, investment offices;
32. Laundromat;
33. Libraries and museums;
34. Liquor stores;
35. Mail order;
36. Medical and dental clinics;

37. Miniature golf;
38. Music, radio and television stores;
39. Novelty, curio, antique and souvenir shops;
40. Paint stores;
41. Parks, recreation land;
42. Pet shops;
43. Photographic equipment sales and service;
44. Printing, photocopying, blueprint service;
45. Professional/accounting service offices;
46. Radio and television studios;
47. Restaurant, bar and lounge;
48. Schools, vocational and technical;
49. Second-hand stores;
50. Shoe stores;
51. Shoe repair;
52. Sporting goods stores;
53. Travel bureaus;
54. Wildlife preserves; and
55. Recreational Cannabis dispensaries.
56. Medical Cannabis dispensaries
57. Cannabis Cultivation Facilities
58. Cannabis Testing Facilities
59. Cannabis Product Manufacturing Facilities

Chapter 17.77. Cannabis establishments

(A) 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 Deadwood 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. 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.

(B) 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. The definitions contained herein apply only to this section of the Deadwood Municipal Ordinances.

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. (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.

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 is a retail type 1 setting and acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.

Cannabis Establishment: a 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.

Park: A public green space located within the City of Deadwood used for recreation which contains equipment designated for children's play such as seesaws and swings.

Place of Worship: A church, synagogue, mosque, temple or any other building where congregations gather for prayer.

Public or private school. Any preschool, elementary school, middle school, secondary school, or high school. The term also includes any daycare or childcare center.

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

(C) Regulations Relating to 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: Ag (Agriculture) and CH (Commercial Highway).

No cannabis cultivation facility may be located or operate within one thousand (1,000) feet of a public or private school.

(D) Regulations Relating to 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: Ag (Agriculture) and CH (Commercial Highway).

No cannabis testing facility may be located or operate within one thousand (1000) feet of a public or private school.

(E) Regulations Relating to 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: Ag (Agriculture) and CH (Commercial Highway).

No cannabis product manufacturing facility may be located or operate within one thousand (1000) feet of a public or private school.

(F) Regulations Relating to 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: CE Commercial Enterprise District and CH Commercial Highway.

No cannabis dispensary may be located or operate within one thousand (1000) feet from the nearest property line of a public or private school, within 500 feet of any park, as defined herein, place of worship or within 100 feet of any other cannabis dispensary. All applicants must submit a survey from a registered land surveyor confirming these distance requirements have been met.

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

(H) 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 cannabis establishment to the nearest point on the property line of a parcel containing a use listed in Sections 15(C) through (F).

(I) A cannabis establishment lawfully operating in conformity with this section does not violate this section if any of the uses in Sections 15(C) through (F) subsequently locates within one thousand (1000) feet of the cannabis establishment.

(j) Violations of sections 8.17.77 of this chapter are deemed and declared to be a nuisance, and as such may be subject to summary abatement by means of a restraining order or injunction issued by a court of competent jurisdiction. In addition to the imposition of civil penalties, criminal citations for a class 2 misdemeanor may be issued to any person who violates this title or any amendment hereto. The citation for a class 2 misdemeanor is punishable by the maximum punishment set forth by the laws of the state of South Dakota pursuant to SDCL § 22-6-2. Each day that any violation of this title are in effect shall constitute a separate offense.

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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.

Effective Date. This Ordinance will become effective 20 days following publication, which will occur after the ordinance receives second and final reading by the City Council and is signed by the Mayor.

Dated this 15th day of November, 2021

CITY OF DEADWOOD

David Ruth Jr., Mayor

ATTEST:

Jessica McKeown, Finance Officer

First Reading: November 1, 2021
Second Reading: November 15, 2021
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