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ORDINANCE NO. 2226-23-404

AN ORDINANCE TO AMEND CHAPTERS 23.08, 23.28, 23.30, 23.32, 23.34, 23.46, OF TITLE 23 AND ADD CHAPTER 23.11 TO TITLE 23 OF ORDINANCE IN REVISION NO. 850, COMMONLY KNOWN AS THE MUNICIPAL CODE OF THE CITY OF HURON, SOUTH DAKOTA, PERTAINING TO ZONING – MEDICAL CANNABIS REGULATIONS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF HURON, SOUTH DAKOTA:

That Chapters 23.08, 23.28, 23.30, 23.32, 23.34, 23.46 be amended and Chapter 23.11 be added to Title 23 of Ordinance in Revision No. 850 to read as follows:

Title 23 – ZONING

Chapter 23.08 - RULES AND DEFINITIONS

23.08.045.1 Cannabis (or Marijuana): all parts of any plant of the genus cannabis, whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds. The term does not include fiber produced from the mature stalks of the plant, or oil or cake made from the seeds of the plant, or the resin when extracted from any part of the plant or cannabidiol in a drug product approved by the United State Food and Drug Administration. 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. (SDCL 34-20B-1(12)).

23.08.045.2 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.

23.08.045.3 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 educational materials.

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

23.08.045.5 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.

23.08.045.6 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.

23.08.045.7 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.

Chapter 23.11 – MEDICAL CANNABIS ESTABLISHMENT REGULATIONS (Special Provisions)

23.11.010 - Maximum Number of Cannabis Dispensaries.

- (1) In the development and execution of these regulations, it is recognized that there are some uses which because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a potential deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.
- (2) The City of Huron shall allow up to four cannabis dispensaries within its jurisdiction, provided the time, place, and manner of said dispensaries comply with this ordinance.
- (3) There shall not be a limit on the amount of a cannabis cultivation facilities, cannabis testing facilities or cannabis product manufacturing facilities.

23.11.020 - Required Separation Distances.

- (1) Cannabis establishments shall not be located closer than 1,000 feet from a public or private school existing before the date of the cannabis dispensary application;
- (2) A cannabis establishment shall not be located closer than 500 feet from a park, existing before the date of the cannabis establishment application;
- (3) Exemption from separation requirements. Any separation distance requirement, other than the State requirement from schools (1,000 feet), may be waived via a variance procedure, provided:
 - (a) The applicant provides documentation waiving the setback requirement from the title holder of the land benefiting from the separation.
 - (b) The applicant can provide compelling evidence the business would be irreparably harmed without the variance.
- (4) Prescribed separation/setback distances from certain existing uses are to be measured from the lot line of the property where the dispensary is proposed

23.11.030 - Other Locational Requirements.

Permanent or temporary establishments are prohibited in all zoning districts with the exception of Central Business B-2, General Business B-3, Limited Industrial I-1 and General Industrial I-2, and are not eligible for a home occupation use within the jurisdictional boundaries of the City of Huron.

23.11.040 - Controlled Access.

No cannabis establishment shall share premises with or permit access directly from another cannabis establishment, business that sells alcohol or tobacco, or, if allowed by law, other cannabis establishment.

23.11.050 - Hours of operation.

Hours of operation shall be from 8am to 8pm Monday through Sunday.

23.11.060 - Documentation of State Licensure.

No cannabis establishments shall acquire, possess, store, deliver transfer, transport, supply or dispense cannabis, cannabis products, and paraphernalia without providing documentation of licensure from the State of South Dakota.

23.11.070 – Required Permits.

Subject to local licensing requirements and ultimate approval by the City Commission (Pursuant to Chapter 5) the zoning/Building official are hereby authorized to issue permits for the construction of cannabis dispensaries subject to following:

- (1) Approval of a site plan containing the following:
 - (a) Any information required for applicable building permit,
 - (b) Ingress and egress plan
 - (c) Parking plan
 - (d) Lighting plan (including security lighting)
 - (e) Screening/security fencing plan,
 - (f) Refuse plan;
 - (g) Hours of Operation;
 - (h) Any other information as lawfully may be required by the Zoning/Building official to determine compliance with this ordinance
- (2) Documentation of ability to meet setback/separation requirements.
- (3) Documentation of State Licensure:
- (4) All Cannabis Establishments are required to be constructed in conformance with the City of Huron's most recently adopted editions of the International Building Code, the International Fire Code and the International Existing Building Code.

Chapter 23.28 - "B-2" CENTRAL BUSINESS DISTRICT

23.28.004 - Conditional uses.

Within any "B-2" business district, no structure or land shall be used for the following uses except by conditional use permit:

- (6) Cannabis Establishments;
- (7) Dwelling units provided:

Chapter 23.30 - "B-3" GENERAL BUSINESS DISTRICT

23.30.004 - Conditional uses.

Within any "B-3" business district, no structure or land shall be used for the following uses except by conditional use permit:

- (13) Cannabis Establishments.

Chapter 23.32 - "I-1" LIMITED INDUSTRIAL DISTRICT

23.32.004 - Conditional uses.

Within any "I-1" industrial district, no structure or land shall be used for the following uses except by conditional use permit:

- (8) Cannabis Establishments.

Chapter 23.34 - "I-2" GENERAL INDUSTRIAL DISTRICT

23.34.004 - Conditional uses.

Within any "I-2" industrial district, no structure or land shall be used for the following uses except by conditional use permit:

- (56) Cannabis Establishments.

Chapter 23.46 - JOINT JURISDICTIONAL AREA REGULATIONS

23.46.010– MEDICAL CANNABIS ESTABLISHMENT REGULATIONS (Special Provisions)

1. The City of Huron and Beadle County shall allow up to two cannabis dispensaries within the Joint Jurisdictional Area, provided the time, place and manner of said dispensaries comply with this ordinance.
2. There shall not be a limit on the amount of a cannabis cultivation facilities, cannabis testing facilities or cannabis product manufacturing facilities.

23.46.019 - "R-7" urban/rural residential district in the joint jurisdiction area.

- B. CONDITIONAL USES. Within any "R-7" urban/rural residential use district no structure or land shall be used for the following uses except by conditional use permit:
7. Cannabis Establishments: Cannabis Dispensaries, Cannabis Cultivation Facilities, Cannabis Product Manufacturing Facilities and Cannabis Testing Facilities;
 8. Mobile Home Park;
 9. The uses specifically listed in this chapter are not considered to be the only conceivable uses in this district. However, these uses listed do represent the types of uses which may be considered. If an applicant desires to conduct a use which is not specifically listed, such applicant shall carry the burden of proof to the board of adjustment that this request is the type of use allowed in this district and in no way violated the intent of this chapter.

23.46.020 - Limited business (B-1) district in the joint jurisdictional zoning area.

- B. Conditional Uses. Within any "B-1" limited business district within the joint jurisdictional area no structure or land shall be used for the following uses except by conditional use permit:
12. Cannabis Establishments: Cannabis Dispensaries, Cannabis Cultivation Facilities, Cannabis Product Manufacturing Facilities and Cannabis Testing Facilities.

23.46.021 - General business district (B-3) in the joint jurisdiction area.

- C. CONDITIONAL USES. Within any "B-3" general business district in the joint jurisdiction area, no structure or land shall be used for the following uses except by conditional use permit:
9. Cannabis Establishments: Cannabis Dispensaries, Cannabis Cultivation Facilities, Cannabis Product Manufacturing Facilities and Cannabis Testing Facilities.

23.46.022 - "B-4" Limited highway commercial district in the joint jurisdiction area.

- C. CONDITIONAL USES. Within any "B-4" limited highway commercial district no structure or land shall be used for the following uses except by conditional use permit:
- (12) Cannabis Establishments: Cannabis Dispensaries, Cannabis Cultivation Facilities, Cannabis Product Manufacturing Facilities and Cannabis Testing Facilities.

23.46.022A - "B-5" Heavy highway commercial district in the joint jurisdiction area.

- C. CONDITIONAL USES. Within any "B-5" heavy highway commercial district, no structure or land shall be used for the following uses except by conditional use permit:
- (7) Cannabis Establishments: Cannabis Dispensaries, Cannabis Cultivation Facilities, Cannabis Product Manufacturing Facilities and Cannabis Testing Facilities

23.46.023 - General industrial (I-2) district in the joint jurisdiction area.

- C. CONDITIONAL USES. Within any "I-2" general industrial district in the joint jurisdiction area, no structure or land shall be used for the following uses except by conditional use permit:
26. Cannabis Establishments: Cannabis Dispensaries, Cannabis Cultivation Facilities, Cannabis Product Manufacturing Facilities and Cannabis Testing Facilities.

Gary Harrington, Mayor

Attest: Pullynn Carey, Finance Director

First Reading: August 31, 2021
Second Reading: September 13, 2021