

ORDINANCE NO. 838

AN ORDINANCE ENTITLED, AN ORDINANCE TO AMEND SECTION 17.11.02, "PERMITTED USES" [B1 – LIMITED BUSINESS DISTRICT], TO AMEND SECTION 17.12.02, "PERMITTED USES" [B2 – CENTRAL BUSINESS DISTRICT] AND SECTION 17.13.02, "PERMITTED USES" [B3 – HIGHWAY BUSINESS DISTRICT]; ARTICLE IV, "SUPPLEMENTAL REGULATIONS; AND ARTICLE V, DEFINITIONS, ADOPTED BY ORDINANCE 682, AS AMENDED, OF THE ZONING ORDINANCE OF THE CITY OF MILBANK.

BE IT FURTHER ORDAINED by the City Council of the City of Milbank, South Dakota: that Section 17.11.02, "Permitted Uses" [B1 – Limited Business District, adopted by Ordinance 682 on June 11, 2001, as amended, of the Zoning Ordinance of the City of Milbank be amended by adding language in bold and underline font:

2. Cannabis Dispensary (subject to Chapter 17.42A).

and

BE IT FURTHER ORDAINED by the City Council of the City of Milbank, South Dakota: that Section 17.12.02, "Permitted Uses" [B2 – Central Business District, adopted by Ordinance 682 on June 11, 2001, as amended, of the Zoning Ordinance of the City of Milbank be amended by adding language in bold and underline font:

11. Cannabis Dispensary (subject to Chapter 17.42A).

and

BE IT FURTHER ORDAINED by the City Council of the City of Milbank, South Dakota: that Section 17.13.02, "Permitted Uses" [B3 – Highway Business District, adopted by Ordinance 682 on June 11, 2001, as amended, of the Zoning Ordinance of the City of Milbank be amended by adding language in bold and underline font:

7. Cannabis Dispensary (subject to Chapter 17.42A).

BE IT FURTHER ORDAINED by the City Council of the City of Milbank, South Dakota: that Article IV, "SUPPLEMENTAL REGULATIONS" adopted by Ordinance 682 on June 11, 2001, as amended, of the Zoning Ordinance of the City of Milbank be amended by adding the following Chapter in bold and underline font:

CHAPTER 17.42A CANNABIS DISPENSARIES.

1. Maximum Number of Cannabis Dispensaries.

- a. **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.**

- b. The City of Milbank shall allow up to two cannabis dispensaries provided the time, place, and manner of said dispensaries comply with this ordinance.

2. Required Separation Distances

- a. A cannabis dispensary shall be located not less than one thousand feet from a public or private school existing before the date of the cannabis dispensary application;
- b. A cannabis dispensary shall be located not less than three hundred feet from a public park, licensed daycare or pre-school existing before the date of the cannabis dispensary application;
- c. Exemption from separation requirements. Any separation distance requirement, other than the State requirement from schools (1,000 feet), may be waived, provided:
 - i. The applicant provides documentation waiving the setback requirement from the title holder of the land benefiting from the separation.
- d. Prescribed separation/setback distances from certain existing uses are to be measured from the lot line of the property where the dispensary is proposed

3. Other Locational Requirements

- a. Permanent or temporary dispensaries are prohibited in all other zoning districts and not eligible for a home occupation use.
- b. It shall be unlawful to operate a dispensary in a building which contains a residence or a mixed-use building with commercial and residential uses.

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

5. Hours of operation:

- a. Cannabis dispensaries are allowed to be open between the hours of 8:00 a.m. and 11:59 p.m. on Monday through Saturday.

6. Documentation of State Licensure.

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

7. The zoning official is authorized to issue permits (building/use) for cannabis dispensaries subject to following:

- a. Submission of a site plan containing the following:
 - i. Any information required for applicable building permit,
 - ii. Ingress and egress plan
 - iii. Parking plan
 - iv. Lighting plan (including security lighting)
 - v. Screening/security fencing plan,
 - vi. Refuse plan;
 - vii. Hours of Operation;
 - viii. Any other information as lawfully may be required by the Zoning official to determine compliance with this ordinance
- b. Documentation of ability to meet setback/separation requirements.
- c. Documentation of State Licensure.

8. All Cannabis Establishments are required to be constructed in conformance with the current edition of the International Building Code and International Fire Code.

BE IT FURTHER ORDAINED by the City Council of the City of Milbank, South Dakota: that Article V, "DEFINITIONS" adopted by Ordinance 682 on June 11, 2001, as amended, of the Zoning Ordinance of the City of Milbank be amended by adding the following Definitions in bold and underline font:

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: this term is 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: this term is 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: a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

Cannabis Product Manufacturing Facility: this term is 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: this term is defined as a legally licensed entity legally authorized to analyze the safety and potency of cannabis.

Passed and adopted this _____ 2021.

Mayor

ATTEST:

Finance Officer

This ordinance shall become effective twenty days after publication of this notice in the official newspaper, thereby repealing all ordinances or parts thereof in conflict herewith unless a referendum in timely involved prior thereto.

1st Reading:

2nd Reading:

Adopted:

Published:

Effective: