Ordinance 1293

AN ORDINANCE AMENDING TITLE XI: BUSINESS REGULATIONS, CHAPTER 116: CANNABIS ESTABLISHMENTS; SECTIONS 116.02, 116.04, 116.05 AND 116.13

WHEREAS, the City of Hot Springs pursuant to SDCL §9-19-3 may amend and revise ordinances as may be necessary; and

WHEREAS, the City of Hot Springs has previously adopted ordinances regulating Cannabis Establishment Licensing within the City; and

WHEREAS, the Administrative and Finance Committee reviewed recommendation to adopt additional language clarifying nontransferable ownership and control; and

WHEREAS, the City of Hot Springs has identified the need to amend the existing ordinance in §§116.02, 116.04, 116.05 and 116.13;

THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOT SPRINGS, that Title XI: Business Regulations, Chapter 116: Cannabis Establishments; §§116.02, 116.04, 116.05 and 116.13 ; be amended as follows:

CHAPTER 116: CANNABIS ESTABLISHMENTS

Section

116.01 Purpose and intent
116.02 Definitions
116.03 License required
116.04 License application
116.05 Issuance of license
116.06 City neutrality as to applicants
116.07 Number of cannabis dispensaries
116.08 Expiration of license and renewal
116.09 Suspension
116.10 Revocation
116.11 Suspension and revocation process
116.12 Appeal
116.13 Licenses not transferable; Change of Ownership or Control
116.14 Hours of operation for dispensaries
116.15 Liability for violations
116.16 Penalties

§ 116.02 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 1% 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.

CONTROLLING INTEREST. The possession, directly or indirectly, of the power to direct or cause the direction of the management, policies, or operations of a cannabis establishment, whether through ownership of voting interests, contractual rights, management authority, financial arrangements, or otherwise, regardless of the percentage of ownership held.

BENEFICIAL INTEREST. Any direct or indirect financial or ownership interest in a cannabis establishment or City-issued cannabis establishment license that entitles a person or entity to receive profits, revenues, distributions, or other economic benefits from the operation of the cannabis establishment. The term does not include compensation paid in the ordinary course of business for professional services rendered, wages paid to employees, or commercially reasonable rent or loan payments that do not confer ownership or operational control.

OPERATIONAL CONTROL. The authority to manage or direct the day-to-day business operations of a cannabis establishment, including but not limited to hiring or supervising employees, purchasing inventory, establishing business policies, controlling financial accounts, determining operating procedures, making regulatory compliance decisions, or otherwise directing the operation of the establishment.

CHANGE OF CONTROL. Any transaction or series of transactions that results in a different person or entity obtaining the ability to directly or indirectly direct or substantially influence the ownership, management, policies, finances, or operations of a cannabis establishment, whether through ownership interests, voting rights, contractual arrangements, management agreements, operating agreements, revenue-sharing agreements, financing arrangements, or otherwise.

DEPARTMENT. The South Dakota Department of Health.

§ 116.04 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 in an amount set by Council and subject to change for each type of cannabis establishment. The city will not reimburse 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:

(a) The legal name of the prospective cannabis establishment.

(b) The physical address of the prospective cannabis establishment that meets the zoning requirements in Chapter 155, Zoning Code, as well as any location requirements pursuant SDCL § 34-20G and the administrative rules promulgated thereunder.

(c) The name, address, and birth date of each principal officer, owner, board member, manager, and any person or entity holding a controlling interest or beneficial interest in the proposed cannabis establishment.

(d) A sworn statement that no principal officer, owner, or board member has been convicted of a violent felony offense in the previous ten years in any jurisdiction.

(e) Any additional information requested by the city.

§ 116.05 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 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 years in any jurisdiction; or

(4) The proposed location does not meet the applicable zoning requirements under Title XV; or

(5) The proposed location does not meet all location requirements under SDCL § 34-20G and the administrative rules promulgated thereunder; or

(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, fees, fines, or penalties assessed against or imposed upon the applicant in relation to any cannabis establishment; or

(9) The applicant will not own and directly operate the cannabis establishment for which the license is issued, or the applicant has entered into or intends to enter into any agreement or arrangement that would transfer or delegate operational control, a controlling interest, or a beneficial interest in the City-issued license to another person or entity without prior approval of the City.

(B) In the case of an application for a cannabis dispensary license, the city will reject the application if the limit on the number of cannabis dispensaries has been reached.

(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.

§ 116.13 LICENSES NOT TRANSFERRABLE; CHANGE OF OWNERSHIP OR CONTROL.

(A) No cannabis establishment license issued by the City may be sold, assigned, transferred, pledged, leased, or otherwise conveyed, directly or indirectly, to any other person or entity.

(B) A license holder shall remain the owner and operator of the cannabis establishment throughout the term of the license.

(C) A license holder shall not enter into any agreement, including but not limited to a management agreement, operating agreement, revenue-sharing agreement, consulting agreement, or similar arrangement, if the agreement has the effect of transferring ownership, operational control, management authority, or the beneficial interest in the City-issued license to a person or entity that has not been approved by the City.

(D) Any material change in ownership, controlling interest, principal officers, managers, or board members shall be reported to the City within thirty (30) business days.

(E) Any proposed change of control or transfer of a controlling interest shall require approval by the City prior to becoming effective. The City will require submission of a new application if the City determines that the proposed change constitutes a new ownership or operating entity.

(F) Any attempted transfer or change of control made in violation of this section shall constitute grounds for suspension, revocation, or non-renewal of the City license.

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 19th day of October 2026

APPROVED:

Bob Nelson, Mayor

ATTEST:

Misty Summers-Walton, Finance Officer

(SEAL)

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