

# Table of Contents

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Medical Dispensary License - Checklist djj 8.18	2
APPLICATION FOR LICENSE-Medical Cannabis Dispensary Business djj 8.18	3
License Requirements and Processing Information djj 8.18	8
Ordinance No. 1637 - Marijuana Zoning	9
Ordinance No. 1638 - Marijuana Licensing	12

**NEW APPLICATION**

City of Madison Finance Office  
116 W Center St  
Madison, SD 57042  
605-256-7500

**MEDICAL CANNABIS DISPENSARY LICENSE  
APPLICATION CHECKLIST**

*Medical cannabis business licensing requires both City and State approval, which is initiated at the local level by first obtaining a provisional Medical Cannabis Dispensary License certificate from the City of Madison.*

*Provide all documents in the same order shown on the checklist – single sided – no staples please  
All documents & copies need to be legible and either typed or printed in black ink on 8½” x 11” size paper*

**Note:** Documentation requirements may change as the State of South Dakota adopts its rules and regulations governing Medical Cannabis Dispensaries.

BUSINESS NAME:

APPLICANT:

STREET ADDRESS OF CANNABIS BUSINESS:

Please complete & submit the following documents:

- Complete Medical Cannabis Dispensary License Application form
- Paid license application fee (non-refundable)
- Copy of the deed or lease for proposed business location
- A “to scale” sketch of the floor plan
- A “to scale” site plan reflecting all structure and lot boundaries
- An elevation drawing or rendering of the exterior
- Business plan including intended hours and rules of operation and a complete description of safety and security measures
- Police Background Check Authorization form for each owner, shareholder, LLC member and manager, principal officer, board member, and anticipated employee (page 3 of license application)
- Copy of Driver’s License from each owner, shareholder, LLC member and manager, principal officer, board member, and anticipated employee
- Optional: any other documents to support this application

**APPLICATION FOR LICENSE**  
CITY OF MADISON, COUNTY OF LAKE,  
STATE OF SOUTH DAKOTA

Application for license to engage in the business of **Medical Cannabis Dispensary** located at Madison, South Dakota, for the calendar year of \_\_\_\_\_.

- NEW APPLICATION: **Non-Refundable Fee: \$1,500.00**, Plus **First Annual Fee of \$6,474** is Also Due Upon State Registration – No Partial Year Pro-ration
- RENEWAL: **Annual Fee: \$6,474**

**Part I: APPLICANT/LICENSEE INFORMATION**

**Name of Applicant/Licensee:** \_\_\_\_\_

- Individual    Corporation    Partnership    Limited Liability Company (LLC)    Other \_\_\_\_\_

If Corporation, please submit copy of Articles of Incorporation, By-Laws, and Certificate of Good Standing.  
If LLC, please submit copy of Articles of Organization, Operating Agreement, and Certificate of Good Standing.  
If Partnership, please submit copy of written Partnership Agreement.

**Trade Name (or DBA) of Business:** \_\_\_\_\_

Please submit proof of fictitious business name (DBA) registration with South Dakota Secretary of State.

**Address of Dispensary Business:** \_\_\_\_\_  
Street City State Zip Code

**Part II: PREMISES INFORMATION**

**Business Phone:** \_\_\_\_\_ **Is the premises owned or rented?** \_\_\_\_\_

*\*\* If rented, applicant must attach "Authorization to use Property for a Cannabis Business" page 5.*

If this is a renewal application and all premises information remains the same as the original initial application, check here  *\*If checked, skip questions below to Part III*

Attach a copy of the deed or lease along with a "to scale" sketch of the floor plan, a "to scale" site plan reflecting all construction and lot boundaries, and an elevation drawing or rendering of the exterior.

**Zoning:** The proposed business is located within (check one):

- HB Highway Business District

Is this business located within 1,000 feet from the nearest property line of any school?  Yes  No

Is this business located within 500 feet from the nearest property line of any residence?  Yes  No

Is this business located within 500 feet from the nearest property line of any park?  Yes  No

Will the applicant business need any anticipated building or construction-related permits upon approval of this license? (Contact Madison's Engineering Office if Unknown)  Yes  No

If yes, please explain: \_\_\_\_\_

**Note:** issuance of a medical cannabis dispensary license does not eliminate the need for any other applicable license (i.e. building permits, etc.).

**Part III: OPERATIONS INFORMATION**

*Attach a business plan to include your intended hours and rules of operation demonstrating compliance with City of Madison Ordinances, Ordinance Nos. 1637 & No. 1638.*

*Attach a complete description of security and safety measures demonstrating compliance with City of Madison Ordinance Nos. 1637 and 1638.*

If this is a renewal application and all operations information remains the same as the original initial application, check here  (If checked, no new business plan or safety/security measures is needed)

*Attach a sales tax clearance letter from the State of South Dakota Department of Revenue  
(Required Annually)*

Sales Tax ID# \_\_\_\_\_

*Attach a list of products and suppliers (To Be Supplemented Annually)*

**Part IV: PERSONNEL INFORMATION**

**Business Primary Contact** Name: \_\_\_\_\_ Title: \_\_\_\_\_

Mailing address: \_\_\_\_\_  
Street City State Zip Code

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

**List of Owners:** (Attach separate page for more)

Name: \_\_\_\_\_ State of residency: \_\_\_\_\_ % owned: \_\_\_\_\_

Name: \_\_\_\_\_ State of residency: \_\_\_\_\_ % owned: \_\_\_\_\_

Name: \_\_\_\_\_ State of residency: \_\_\_\_\_ % owned: \_\_\_\_\_

Name: \_\_\_\_\_ State of residency: \_\_\_\_\_ % owned: \_\_\_\_\_

**List of Employees:** (Attach separate page for more)

Name: \_\_\_\_\_ DOB: \_\_\_\_\_ Address: \_\_\_\_\_

Name: \_\_\_\_\_ DOB: \_\_\_\_\_ Address: \_\_\_\_\_

Name: \_\_\_\_\_ DOB: \_\_\_\_\_ Address: \_\_\_\_\_

Every owner, LLC member or manager, shareholder, principal officer, board member, and employee must complete a Background Investigation form found on page 4 and submit a photocopy of his or her driver's license or government ID. (This must be supplemented each time an additional employee is hired.)

**Part V: AFFIRMATION AND CONSENT**

**Licensee or Business Name:** \_\_\_\_\_

I, \_\_\_\_\_ (printed name), as the applicant or as an authorized agent, officer, owner, or manager for the applicant, declare under the penalty of perjury and under penalty for offering a false instrument for recording that this entire application, statements, and attachments are true, correct, and complete to the best of my knowledge. I further declare & consent that:

1. This statement is executed with the knowledge that misrepresentation or failure to reveal information requested may be deemed sufficient cause for the denial of this license application by the City of Madison (initial here) \_\_\_\_\_;
2. I consent to any background investigation necessary to determine my present and continuing suitability and that consent continues as long as I hold a Medical Cannabis Dispensary License (initial here) \_\_\_\_\_;
3. I understand and acknowledge that the City Finance Office and the State of South Dakota may request other information from me in connection with this application. Failure to provide the requested information may result in denial of this application (initial here) \_\_\_\_\_;
4. I understand this license shall not be transferable to any other person, business entity, or location and is not a property right (initial here) \_\_\_\_\_;
5. I understand that the licensed Medical Cannabis Dispensary business must maintain legal possession of the licensed premises at all times (initial here) \_\_\_\_\_;
6. I understand that the entire location premises shall be subject to inspections by relevant authorities at all operational hours and other times of apparent activity (initial here) \_\_\_\_\_;
7. I hereby state that I have read SDCL Chap. 34-20G, all applicable State rules and regulations, and City of Madison Code of Ordinances, Ordinance Nos. 1637 & No. 1638 regarding Medical Cannabis Dispensary business licensing rules and regulations, and I understand the contents thereof and agree to be bound by them in all respects, expressly including the waiver of liability, release of claims, and indemnification of the City of Madison and others contained in Ordinance Nos. 1637 & No. 1638 (initial here) \_\_\_\_\_;
8. I understand that any Medical Cannabis business license issued by the City of Madison is provisional, conditional, and must be annually renewed by application submitted no less than forty-five (45) days prior to the expiration date, unless earlier revoked or surrendered (initial here) \_\_\_\_\_;

I have completed all the above information and understand my responsibilities as a Medical Cannabis applicant, licensee owner, or manager. I further understand that failure to comply with any law, regulations, or provisions of this affirmation may be grounds for disciplinary action, including, but not limited to, the suspension or revocation of the license.

Applicant Signature	Title	Date
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**Instructions:** File this application form along with the required attachments and application license fee to the City Finance Officer, 116 West Center St., Madison, SD 57042. Call 605-256-7500 for questions.

**Application Fees:** The applicable fee (Initial Application Fee of \$1,500 or Annual Renewal Fee of \$5,000) is due at the time of submitting this application. The first Annual fee of \$5,000 is due upon receipt of Certification of Occupancy. The initial Annual Fee is not pro-rated.

For Finance Office Use Only: \_\_\_\_\_

Date application received: \_\_\_\_\_ Fee Paid \$ \_\_\_\_\_ Receipt No. \_\_\_\_\_

### BACKGROUND INVESTIGATION

<b>TO BE COMPLETED BY EACH OWNER, SHAREHOLDER, LLC MEMBER AND MANAGER, PRINCIPAL OFFICER, BOARD MEMBER, AND EMPLOYEE</b> (Supplemental Form Required For Each New Employee)	
<b>Name of Individual (please print):</b>	
<b>Trade Name of Establishment:</b>	
<b>Address of Proposed Establishment</b>	

**Notice:** The Marijuana Background Application Form is an official document. If you provide false information on your Medical Cannabis Dispensary License Application and/or do not disclose all information the application asks, your license is subject to denial or revocation. The City of Madison Police Department will conduct a complete background investigation and will check all sources of information.

1. Have you ever been convicted of a felony in any State?	<input type="checkbox"/> YES <input type="checkbox"/> NO
2. Have you, or any business in which you have had ownership, had a marijuana license suspended or revoked by any State agency or a local jurisdiction?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3. Are you under the age of twenty-one?	<input type="checkbox"/> YES <input type="checkbox"/> NO
<b>STOP!</b> If YES to any of 1 thru 3, you are prohibited from being an owner or employee of a cannabis establishment in Madison.	
4. Have you been convicted of a violent, weapon-related, or drug-related misdemeanor at any time?	<input type="checkbox"/> YES <input type="checkbox"/> NO
5. Have you been convicted of any form of theft or crime of dishonesty at any time?	<input type="checkbox"/> YES <input type="checkbox"/> NO
6. Do you have any pending criminal charges other than traffic/moving violations?	<input type="checkbox"/> YES <input type="checkbox"/> NO
If YES to any of 4 thru 6, please attach a separate sheet describing in detail the facts and circumstances of each charge/conviction.	

**Personal Information:** Unless otherwise provided by law, the personal information required is solely for identification purposes and will be treated as confidential.

Your Full Legal Name (last, first, middle)	Primary Phone Number	Alternate Phone Number
List any other names you have used		
Current residence address	Mailing address (if different)	
Email address		
Do you have a current Driver's License? Attach copy. <input type="checkbox"/> No <input type="checkbox"/> Yes # _____ State _____	Date of Birth	Social Security Number

I hereby authorize a comprehensive background check and release the City of Madison, its employees, contractors, volunteers, and elected officials from any liability or damage, which may result from furnishing the information requested.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

## AUTHORIZATION TO USE PROPERTY FOR A CANNABIS BUSINESS

BUSINESS NAME:

APPLICANT:

STREET ADDRESS OF CANNABIS BUSINESS:

As owner of the real property listed above, I hereby authorize the submission of this application for my property to be used as a **Medical Cannabis Retail Facility**.

I understand that the lessee must operate the business on the property described above under provisions of City of Madison's Municipal Code of Ordinances Ordinance Nos. 1637 & No. 1638. I further understand that my property must meet certain zoning requirements and comply with applicable federal, state, and local laws and building codes.

In exchange for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, I hereby release the city, its officers, elected officials, employees, attorneys and agents from all liability for any and all claims and demands, or causes of action of any kind whatsoever, present or future, in any way relating to or arising from the lessee/licensee's business operation upon said property.

\_\_\_\_\_  
Property Owner Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Property Owner/Agent

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Property Owner's Address

\_\_\_\_\_  
Lease Expiration Date

❖ **ATTACH PHOTOCOPY OF WRITTEN LEASE AGREEMENT**

## MEDICAL CANNABIS DISPENSARY LICENSE SUBMITTAL REQUIREMENTS AND PROCESSING INFORMATION

- Step 1: Complete required State forms.** Visit <https://medcannabis.sd.gov/> for more information.
- Step 2: State Review.** Per SDCL 34-20G-55, no later than ninety days after receiving an application for a medical cannabis establishment, the Department of Health shall register the prospective medical cannabis establishment and issue a registration certificate and a random ten-digit alphanumeric identification number if all listed conditions are satisfied, and the State awards the applicant a Medical Cannabis Dispensary registration available for the City of Madison.
- Step 3: Research & Retrieve Application Packet.** This includes City Ordinance Nos. 1637 and 1638 and South Dakota State Law regulating a medical cannabis dispensary business. An application packet is available online [www.cityofmadisonsd.com](http://www.cityofmadisonsd.com) or for pick up at City Hall, Finance Office, 116 W Center Street, Madison, South Dakota.
- Step 4: Applicant submits a complete application,** including all required documents on the *Application Checklist* and Application Fee to the Finance Office.
- Step 5: Background Check.** All owners and existing/proposed employees of the applicant's proposed dispensary business are required to undergo a comprehensive background check.
- Step 6: Preliminary Plan Review.** To ensure all business plan, site plan & security measures comply with the ordinance.
- Step 7: Application Packet Meeting.** By appointment only, applicant may review application and documents with staff from Finance, Engineering, and Police departments to confirm whether the application is complete. If all requirements are met, the fully complete application packet will be consigned to the Finance Officer for final review.
- Step 8: City Commission Review.** Within 30 days after submission of a fully complete application, the City Commission or City Commission's designee shall issue a written decision approving or denying the application for licensure. This decision will be sent via first class mail and via certified mail to the applicant. Upon approval, application information will be sent to the South Dakota Department of Health along with a copy of the City-issued provisional license and the City's certification.
- Step 9: Certificate of Occupancy.** Upon successful issuance of State and City registration, the licensee shall not begin operation or open its doors to the public until it receives a Certificate of Occupancy from the City.
  - **Building Permits.** Building or construction-related permits may be required based on the City of Madison Building Code of Municipal Ordinances or South Dakota law. Permit fees are not included in the application or annual fee.
  - **Building Inspection.** All build-out must be inspected by City staff for compliance with the applicable building permit, all representations made within the approved license application and supporting submissions, and applicable building codes.
  - **Pay Annual Fee.** The City shall not issue a Certificate of Occupancy until the licensee has paid the Annual License Fee under Ordinance No 1638, and all registration application fees due to the State in connection with the South Dakota Department of Health's review of the application.



ORDINANCE NO. 1637

AN ORDINANCE ENTITLED, AN ORDINANCE TO AMEND SECTION. 17.113.02. PRINCIPAL PERMITTED USES. [HB – HIGHWAY BUSINESS ZONE]; ARTICLE IV, “SUPPLEMENTAL REGULATIONS; AND ARTICLE V, DEFINITIONS, ADOPTED BY ORDINANCE 1481, AS AMENDED, OF THE ZONING ORDINANCE OF THE CITY OF MADISON.

BE IT ORDAINED by the City Commission of the City of Madison, South Dakota: that ARTICLE II, “DISTRICT REGULATIONS,” adopted by Ordinance 1481 on 8-24-2009, as amended, of the Zoning Ordinance of the City of Madison be amended by adding the following Section in bold and underline font:

**Section 17.10.04. Prohibited Uses**

**All uses and structures not specifically listed as a permitted use, special permitted use, or as a conditional use in a particular zoning district shall be prohibited in said district.**

BE IT FURTHER ORDAINED by the City Commission of the City of Madison, South Dakota: that Section 17.113.02, “Principal Permitted Uses” [HB – Highway Business District, adopted by Ordinance 1481 on 8-24-2009, as amended, of the Zoning Ordinance of the City of Madison be amended by adding language in bold and underline font:

**8. Cannabis Dispensary (subject to Section 17.37.07).**

BE IT FURTHER ORDAINED by the City Commission of the City of Madison, South Dakota: that Article IV, “SUPPLEMENTAL REGULATIONS” adopted by Ordinance 1481 on 8-24-2009, as amended, of the Zoning Ordinance of the City of Madison be amended by adding the following Section in bold and underline font:

**Section 17.37.07 CANNABIS ESTABLISHMENTS.**

**1. Maximum Number of Cannabis Establishments.**

- 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 Madison shall allow two cannabis establishments provided the time, place, and manner of said establishment comply with this ordinance.**
- c. **No other cannabis establishments are permitted by the City of Madison unless mandated by statute, and then, in which case, the same zoning regulations set forth in this Ordinance No. 1637 shall apply to such cannabis establishment(s).**

**2. Required Separation Distances**

- a. **A cannabis dispensary shall be located not less than 1,000 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 500 feet from any residence or public park 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, tobacco, or firearms, or, if allowed by law, other cannabis establishment.**

**5. Hours of operation:**

- a. Cannabis dispensaries are allowed to be open between the hours of 9 a.m. and 7 p.m.

**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 2021 Edition of the International Building Code and International Fire Code.**

BE IT FURTHER ORDAINED by the City Commission of the City of Madison, South Dakota: that Article V, “DEFINITIONS” adopted by Ordinance 1481 on 8-24-2009, as amended, of the Zoning Ordinance of the City of Madison 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: 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: 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.**

Dated this 7<sup>th</sup> day of September, 2021.

CITY OF MADISON

/s/Marshall Dennert  
Mayor

ATTEST: /s/Sonya Wilt  
Finance Officer

1st Reading: August 30, 2021  
2nd Reading: September 7, 2021  
Published: September 9, 2021  
Effective: September 29, 2021

## ORDINANCE 1638

### AN ORDINANCE ADDING CHAPTER 10 TO THE REVISED ORDINANCES OF THE CITY OF MADISON CREATING LICENSING PROVISIONS FOR CANNABIS ESTABLISHMENTS

**BE IT ORDAINED** by the City Commission of the City of Madison that Chapter 10 of the Revised Ordinances of the City of Madison is hereby amended by adding new Article XXI CANNIBAS ESTABLISHMENTS as follows:

#### 10.361.01: PURPOSE AND INTENT

The City Commission of the City of Madison enacts the following licensing ordinances in order to ensure that cannabis establishments within the municipal boundaries of the City operate in a manner which complies with state laws and regulations, protects the health, safety, and welfare of the general public, prevents potential conflicts and issues arising from ownership and employees, recognizes certain safety and security considerations, and minimizes risk of unauthorized use or access of cannabis by the general public.

#### 10.361.02: 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 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 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.

**Department:** the South Dakota Department of Health

### **10.361.03: LICENSE REQUIRED**

- (a) No cannabis establishment may be located or operate in the city without the appropriate valid and current cannabis establishment license issued by the city pursuant to this article. A violation of this provision is subject to the general penalty provision in Chapter 10.361.16. Each day of the violation constitutes a separate offense.
- (b) No cannabis establishment may be located or operate in the city without the appropriate valid and current cannabis establishment registration certificate issued by the Department pursuant to rules promulgated under SDCL 34-20G. A violation of this provision is subject to the general penalty provision in 10.361.16. Each day of the violation constitutes a separate offense.

### **10.361.04: 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. New Application fee of \$1,500. The City of Madison 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:
    - i. The legal name of the prospective cannabis establishment;
    - ii. The physical address of the prospective cannabis establishment that meets the zoning requirements in Ordinance 1637 as well as any location requirements pursuant SDCL 34-20G and the administrative rules promulgated thereunder.
    - iii. The name, address, and birth date of each principal officer, owner, and board member of the proposed cannabis establishment.
    - iv. A sworn statement that no principal officer, owner, or board member has been convicted of a violent felony offense in the previous ten (10) years in any jurisdiction.
    - v. A complete background investigation form for each owner, shareholder, LLC member and manager, principal officer, board member and employee.
    - vi. A signed authorization to use property for a cannabis business form from the property owner of record.
    - vii. Any additional information requested by the city. (See Application Checklist)

### **10.361.05: 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 twenty-one (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 (10) years in any jurisdiction;

4. The proposed location does not meet the applicable zoning requirements under Ordinances 1637 and 1481.
  5. The proposed location does not meet all location requirements under SDCL 34-20G and the administrative rules promulgated thereunder;
  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 be operating the business for which the license would be issued.
- (b) The annual license fee is equal to \$1.00 per capita per last federal census. There will be no partial year pro-ration. The City will not reimburse applicants who fail to obtain a renewal of their registration certificate from the Department.
- (c) 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.
- (d) 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.

#### **10.361.06: CITY NEUTRALITY AS TO APPLICANTS**

- (a) Upon request from the Department as to the City's preference of applicants, the City will neither support nor oppose any registration certificate application under consideration by the Department. Likewise, if inquiry is made by the Department, the City will abstain from endorsing any application as beneficial to the community.

#### **10.361.07: NUMBER OF CANNABIS ESTABLISHMENTS**

- a. No more than two Cannabis Establishments shall be allowed to operate in the City at any time.
- b. No other cannabis establishments are permitted by the City of Madison unless mandated by statute, and then, in which case, the same licensing regulations set forth in this Ordinance No. 1638 shall apply to such cannabis establishment(s).

#### **10.361.08: EXPIRATION OF LICENSE AND RENEWAL**

- (a) Each license expires one year from the date of issuance and may be renewed only by making application as provided in Section 10.361.04. Application for renewal must be submitted at least thirty (30) days before the expiration date. The license holder must continue to meet the license requirements to be eligible for a renewal.
- (b) The renewal license fee is equal to \$1.00 per capita per last federal census. The City will not reimburse applicants who fail to obtain a renewal of their registration certificate from the Department.

- (c) Failure to renew a license in accordance with this section may result in additional fees. Upon expiration of the license, the city may order closure of the cannabis establishment.
- (d) If a license holder has not operated an establishment for which it holds a license in the preceding twelve (12) months, the license will not be renewed.

**10.361.09: SUSPENSION**

- (a) A license may be suspended if the license holder or an employee or agent of the license holder:
  - 1. Violates or is otherwise not in compliance with any section of this article.
  - 2. Consumes or smokes or allows any person to consume or smoke cannabis on the premises of the cannabis establishment.
  - 3. Knowingly dispenses or provides cannabis or cannabis products to an individual or business to whom it is unlawful to provide cannabis or cannabis products.
- (b) A license may be suspended if the license holder has its Department-issued registration certificate suspended, revoked, or not renewed by the Department or if the registration certificate is expired.
- (c) A license may be suspended if the license holder creates or allows to be created a public nuisance at the cannabis establishment.

**10.361.10: REVOCATION**

- (a) A license may be revoked if the license is suspended under Section 10.361.10 and the cause for the suspension is not remedied.
- (b) A license may be revoked if the license is subject to suspension under Section 10.361.10 because of a violation outlined in that section and the license has been previously suspended in the preceding 24 months.
- (c) A license is subject to revocation if a license holder or employee of a license holder:
  - 1. Gave false or misleading information in the material submitted during the application process;
  - 2. Knowingly allowed possession, use, or sale of non-cannabis controlled substances on the premises;
  - 3. Operated the cannabis establishment or the business of the cannabis establishment for which a license is required under this article while the license was suspended;
  - 4. Repeated violations of Section 10.361.11;
  - 5. Operated a function of a cannabis establishment for which the license holder was not licensed (e.g., a licensed cannabis cultivation facility conducting cannabis testing functions without a cannabis testing establishment license);
  - 6. A license holder, or an owner, principal officer, or board member thereof, is delinquent in payment to the city, county, or state for any taxes or fees related to the cannabis establishment;
  - 7. A license holder, or an owner, principal officers, or board member thereof, has been convicted of, or continues to employ an employee who has been convicted of, a disqualifying felony offense as defined by SDCL 34-20G; or

8. The license holder has its Department-issued registration certificate suspended, revoked, or not renewed or the registration certificate is expired.
9. The license holder allows a public nuisance to continue after notice from the City.

#### **10.361.11. SUSPENSION AND REVOCATION PROCESS**

- (a) The license holder will receive a notice of intent to suspend or notice of intent to revoke informing the license holder of the violation and the city's intention to suspend or revoke the license. The notice will be hand delivered to the license holder or an employee or agent of the license holder or sent by certified mail, return receipt requested to the physical address of the cannabis establishment.
- (b) If the license holder disputes the suspension or revocation, the license holder has ten (10) days from the postmark date on the notice or the date the notice was hand delivered to request a hearing before a hearing panel, which will consist of the Mayor, Finance Officer, and the City Administrator.
- (c) A suspension will be for thirty (30) days and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder exercises its rights to process and appeal, in which case the suspension takes effect upon the final determination of suspension.
- (d) A revocation will be for one (1) year and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder appeals the revocation, in which case the revocation takes effect upon the final determination of revocation.
- (e) The license holder who has had the license revoked may not be issued any cannabis establishment license for one year from the date the revocation became effective.

#### **10.361.12: APPEAL**

An applicant or license holder who has been denied a license or renewal of a license or who has had a license suspended or revoked under this article may appeal to the City Commission by submitting a written appeal within ten (10) days of the postmark on the notice of denial, nonrenewal, suspension, or revocation. The written appeal must be submitted to City Hall 116 West Center Street, South Dakota, 57042. The appeal will be considered by the City Commission at a regularly scheduled meeting within one month of the receipt of the appeal.

#### **10.361.13: LICENSES NOT TRANSFERRABLE**

No cannabis establishment license holder may transfer the license to any other person or entity either with or without consideration, nor may a license holder operate a cannabis establishment at any place other than the address designated in the application.

#### **10.361.14: HOURS OF OPERATION FOR DISPENSARIES**

No cannabis dispensary may operate between the hours of 7 p.m. and 9 a.m. any day of the week.

#### **10.361.15: LIABILITY FOR VIOLATIONS**

Notwithstanding anything to the contrary, for the purposes of this article, an act by an employee or agent of a cannabis establishment that constitutes grounds for suspension or revocation will be imputed to the cannabis establishment license holder for purposes of finding a violation of this article, or for purposes of license denial, suspension, or revocation, only if an officer, director or general partner or a person who managed, supervised or controlled the operation of the cannabis establishment, knowingly allowed such act to occur on the premises.



### **10.361.16: PENALTIES**

Any person who operates or causes to be operated a cannabis establishment without a valid license or in violation of this article is subject to a suit for injunction as well as prosecution for ordinance violations. Such violations are punishable by a maximum fine of five hundred dollars (\$500.00). Each day a cannabis establishment so operates is a separate offense or violation.

**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.

Dated this 7<sup>th</sup> day of September, 2021.

CITY OF MADISON

/s/Marshall Dennert  
Mayor

ATTEST: /s/Sonya Wilt  
Finance Officer

1<sup>st</sup> Reading: August 30, 2021  
2<sup>nd</sup> Reading: September 7, 2021  
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