



CITY OF LEAD

MEDICAL CANNABIS ESTABLISHMENTS LICENSE
SUBMITTAL REQUIREMENTS AND PROCESSING INFORMATION

- Step 1: Research & Retrieve Application Packet.** This includes City Ordinance No. 1080-21 and Zoning Code 1081-21 also included South Dakota State Law regulating a medical cannabis establishment business. An application packet is available online <https://www.cityoflead.com> or for pick up at City Hall, Finance Office, 801 W Main St, Lead, SD 57754.
- Step 2: Applicant submits a complete application,** including all required documents on the *Application Checklist* and application fee to the Finance Office.
- Step 3: Background Check.** All owners and existing/proposed employees of the applicant's proposed dispensary business are required to undergo a comprehensive background check.
- Step 4: Preliminary Plan Review.** To ensure all business plan, site plan & security measures comply with the ordinance.
- Step 5: Application Packet Meeting.** By appointment only, applicant may review application and documents with staff from Finance, Building Inspector and Police Department to confirm whether the application is complete. If all requirements are met, the fully complete application packet will be consigned to the City Administrator for final review.
- Step 6: City Administrator Review.** Within 30 days after submission of a fully complete application, the City Administrator or City Administrator'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 8: Complete required State forms.** Visit <https://medcannabis.sd.gov/> for more information.
- Step 9: State Review.** Per SDCL 34-20G-55, no later than ninety days after receiving an application for a medical cannabis establishment, the department 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 Establishment License for the City of Lead.
- Step 10: Certificate of Occupancy.** Upon successful issuance of State 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 City of Lead 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 Sec. 1080-21, and all registration application fees due to the State in connection with the South Dakota Department of Health's review of the application.

NEW APPLICATION

City of Lead Finance Office
801 W Main St
Lead, SD 57754
605-584-1401

MEDICAL CANNABIS ESTABLISHMENT 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 Establishment License certificate from the City of Lead.

*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 and Cultivation Facility.*

BUSINESS NAME:
APPLICANT:
STREET ADDRESS OF CANNABIS BUSINESS:

Please complete & submit the following documents:

- Complete Medical Cannabis Establishment License Application form designating the type of establishment you are applying for whether it is a cannabis cultivation facility, a dispensary, a product manufacturing facility, or a testing facility.
- Paid license application fee (non-refundable only if your State application is denied).
- 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

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" or "Cultivation Facility" 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):

Commercial District Industrial District

Is this business located within any building containing a dwelling unit, a pediatrician's office, hotel, motel, boarding house, or lodging facility? Yes No

Is this business located within 100 feet from the nearest property line of any church or residential residence? Yes No

Is this business located within 1000 feet from the nearest property line of a public or private school including daycare? Yes No Unknown

Will the applicant business need any anticipated building or construction-related permits upon approval of this license? (Contact City of Lead Building Department Office if Unknown) Yes No

If yes, please explain: _____

Note: issuance of a medical cannabis establishment 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 Lead Ordinance: TITLE XI, CHAPTER 113

Attach a complete description of security and safety measures demonstrating compliance with City of Lead Ordinance: TITLE XI, CHAPTER 113

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 C
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 and 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 and 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 Lead (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 Establishment License (initial here) _____.
3. I understand and acknowledge that the City Administrator’s 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 Establishment 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 Lead Code of Ordinance TITLE XI, CHAPTER 113 regarding Medical Cannabis Establishment governing 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 Lead and others contained in Ordinance TITLE XI, CHAPTER 113 (initial here) _____.
8. I understand that any Medical Cannabis Establishment business license issued by the City of Lead 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) _____.
9. I declare to the best of my knowledge upon reasonable investigation, that none of the principal officers or board members has served as a principal officer or board member for a cannabis establishment that has had a governmental license or certificate revoked in any jurisdiction. (initial here) _____.
10. I declare to the best of my knowledge that none of the principal officers or board members is under twenty-one years of age. (initial here) _____.
11. . I declare to the best of my knowledge that none of the principal officers, board members, agents, volunteers, or employees who are now involved or are expected to be involved in this business has a disqualifying criminal conviction. (initial here) _____.

I have completed all the above information and understand my responsibilities as a Medical Cannabis Establishment 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

Subscribed and sworn to before me this ___date of _____, 202__.

Notary Public, South Dakota

My commission expires: _____

(SEAL)

Instructions: File this application form along with the required attachments and application license fee to the City Finance Officer, 801 W Main, Lead SD 57754. Call 605-584-1401 for questions.

Application Fees: The applicable fee (Initial Application Fee of **\$5,000.00** or Annual Fee of **\$5,000.00**) is due at the time of submitting this application. The first Annual fee of **\$5,000.00** is due upon receipt of Certification of Occupancy. The Annual Fee is not pro-rated.

For Finance Office Use Only:

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

BACKGROUND INVESTIGATION

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

Describe your Previous Experience Operating a Legal Cannabis Establishment.

Notice: The Cannabis Background Application Form is an official document. If you provide false information on your Medical Cannabis Establishment License Application and/or do not disclose all information the application asks, your license is subject to denial or revocation. The City of Lead 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 cannabis 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

STOP! If YES to any of 1 thru 3, you are prohibited from being an owner or employee of a cannabis establishment in the City of Lead.

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 Lead, 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 ESTABLISHMENT

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 Business Establishment**.

I understand that the lessee must operate the business on the property described above under provisions of City of Lead Municipal Code of Ordinances Articles XI, Section 113 Licenses and Business Regulations. 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

Owner's Address

Property

Lease Expiration Date

Approved by the City of Lead Commission
Date: _____

Mayor of the City of Lead

Signature: -----
Date: _____

City of Lead Chief of Police
Signature: _____
Date: _____

City of Lead Administrator
Signature: _____
Date: _____

City of Lead Finance Officer
Signature: _____
Date: _____

City of Lead Building Inspector
Signature: _____
Date: _____

❖ ATTACH PHOTOCOPY OF WRITTEN LEASE AGREEMENT

ORDINANCE # 1080-21

AN ORDINANCE ADDING CHAPTER 113, CANNABIS ESTABLISHMENTS, TO TITLE XI: BUSINESS REGULATIONS, OF THE LEAD CITY ORDINANCES

BE IT ORDAINED by the City Commission of the City of Lead, State of South Dakota, pursuant to SDCL 9-19, that Title XI: Business Regulation of Lead Ordinances is hereby amended by adding a new Chapter 113, Cannabis Establishments, as follows:

§ 113.001 PURPOSE AND INTENT.

The City Commission of the City of Lead hereby 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.

§ 113.002 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.

APPLICANT: a person or entity seeking or renewing a cannabis establishment license.

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: a licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.

CANNABIS DISPENSARY: a licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and education materials.

CANNABIS PRODUCT MANUFACTURING FACILITY: a licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

CANNABIS TESTING FACILITY: a licensed entity authorized to analyze the safety and potency of cannabis.

CANNABIS ESTABLISHMENT: a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

CANNABIS ESTABLISHMENT LICENSE or LICENSE: a license issued pursuant to this chapter for the purpose of operating a type of cannabis establishment.

CITY: the City of Lead, South Dakota.

CITY COMMISSION: the City Commission of the City of Lead, South Dakota.

CITY ADMINISTRATOR: the City Administrator of the City of Lead, South Dakota.

LICENSEE: a person, people, or entity in possession of a cannabis establishment license issued pursuant to this chapter.

MAYOR: the Mayor of the City of Lead, South Dakota.

RETAIL AREA: the area of a cannabis establishment where a customer can view and/or purchase cannabis or cannabis products.

SECURED AREA: all parts of a cannabis dispensary except an unsecured waiting room where people may gather before entering the verification lobby or after leaving the secured exit.

SECURED EXIT: the controlled location of a cannabis dispensary located between the retail area of a cannabis dispensary and the non-secured area or exterior with a secured door at both its entrance and exit which allows eligible persons to exit the retail area.

STATE: the state of South Dakota.

VERIFICATION LOBBY: the controlled location of a cannabis dispensary located between the non-secured area or exterior of a cannabis dispensary and the retail floor with a secured door at both its entrance and exit which allows eligible persons to enter the retail area.

§ 113.03 CANNABIS ESTABLISHMENT LICENSE REQUIRED.

- A. Classes of License: Each cannabis establishment shall have its own class of license. The four license classes are Cannabis Cultivation License, Cannabis Dispensary License, Cannabis Product Manufacturing License, and Cannabis Testing License.
- B. License Required: It shall be unlawful for any person or entity to create or operate a cannabis establishment in the City without first having obtained a license from the City and a registration certificate from the State for each cannabis establishment to be operated in connection with such business. Such license and certification shall be always kept current, and the failure to maintain a current license and certification shall constitute a violation of this section.
- C. Multiple Licenses: A person or entity who intends to conduct activities which would meet the definition of multiple cannabis establishments must, prior to operating such cannabis establishments, obtain a license for each class of cannabis establishment. A person or entity may hold more than one class of license except when otherwise prohibited by this chapter.
- D. License Location: Each license shall authorize a single cannabis establishment to operate at a single location. Licenses of different classes may overlap except when otherwise prohibited by this chapter.
- E. License Duration: Each license issued is effective from January 1 through December 31, regardless of the time of year such license is approved. Each license expires at 11:59:59 p.m. on December 31 unless, prior to the expiration, the City Commission has approved, or conditionally approved, the renewal of such license for the following calendar year.

§ 113.4 NUMBER OF LICENSES.

The number of cannabis establishment licenses may be restricted by license class. For all cannabis establishment licenses, the number of licenses is unlimited. The numerical limits for each class of cannabis establishment may be altered at any time by resolution of the City Commission.

§ 113.5 APPLICATION PROCESS.

- A. Application for License: An applicant must submit a signed application, using the City's online portal to the City Administrator, using the form established by the City. Such application must include:
 - 1. The legal name of the applicant.
 - 2. The physical address of the applicant.
 - 3. The name and date of birth of each principal officer and board member of the applicant entity.
 - 4. Previous experience operating a legal cannabis establishment, if any.

5. Summary of operating procedures, including procedures to ensure accurate record keeping, adequate security measures, sufficient fire and building code considerations, and compliance with all other requirements of this chapter.
6. Confirmation that none of the principal officers or board members has served as a principal officer or board member for a medical cannabis establishment that has had governmental license or certification revoked in any jurisdiction.
7. Confirmation that none of the principal officers or board members is under twenty-one years of age.
8. Confirmation that the applicant has conducted a background check into the criminal history of each principal officer, board member, agent, volunteer, or employee involved in the operation at the time of application.
9. Proof that at least one principal officer is a resident of this state.
10. Payment of the applicable license.
11. A copy of the applicant's sales tax license.
12. Proof that all property taxes, business improvement district taxes, and pending assessments relating to the cannabis establishment location have been paid.
13. Proof of financial responsibility in the amounts and manner established in this chapter below.
14. A sworn statement that the application contains no false statements made or omissions of any material matter in any application for a license.
15. The applicant's notarized signature.

B. Action by City Commission:

1. The City Commission will consider a completed application at the next available City Commission meeting following submittal, provided that such application must be submitted at least 15 days in advance of a City Commission meeting. Applications are generally processed on a first come, first served basis except as further provided by this chapter.
2. The City Commission may approve or deny an application in full or on condition. Such action of the City Commission must take place within thirty (30) days after the application's first presentment to the City Commission.
3. If approved, the Mayor and City Administrator will endorse the application and notify the applicant of approval within 3 days of the City Commission's approval. If the Commission imposes any conditions, such conditions shall be listed on the license at the time of issuance. No approved application shall become effective, and no license shall be issued until the applicant provides to the City of Lead a copy of the applicant's certificate of registration from the state relating to the cannabis establishment for which the license was approved.
4. If denied, the City Commission must state the basis on which the application was denied, which may include, but is not limited to the following: incorrect application information, missing required application criteria, insufficient detail in application, nonpayment of any obligation, proposed activity would violate City ordinance (including zoning), proposed activity would violate state law or regulations, no license available due to maximum number already issued, proposed location not zoned properly, proposed location does not

comply with an applicable buffer zone, or concerns over potential building, fire, or nuisance code issues.

C. Renewal Process:

1. A person or entity operating pursuant to a license must apply for renewal of such license at least 45 days but not more than 90 days prior to the expiration of such license using the form provided by the City of Lead. Such application must include payment of the renewal application fee.
2. The City Commission will consider renewal applications using the same factors and timelines applicable to new applications. In addition, the City Commission may consider in approving, denying, or conditionally approving a renewal application, any changed information from prior applications, concerns over actual operations or violations, nonpayment of obligations, or any other information reasonably related to the continued operation of the cannabis establishment.
3. Preference may be granted to existing license holders based on a dispensary's community involvement, facility upkeep and investment, days and hours of operation, and history of interactions with law enforcement.
4. The renewal application must specify if any information has changed from its prior application.
5. The renewal application must be accompanied by all payments relating to the renewal application as well as a copy of the licensee's state certification.
6. The renewal application must re-confirm or prove all the requirements applicable to new applications remain met.
7. An applicant is not entitled to renewal of its license and the license will only be renewed by the City Commission after consideration of the facts and circumstances pertaining to each individual license.

§ 113.6 TRANSFER OR MODIFICATION OF LICENSE.

- A. No license shall be transferred or modified except with the approval of the City Commission.
- B. Prior to any transfer of a license from a licensee to an unaffiliated person, people, or entity, the licensee and the proposed transferee must complete a transfer application. Such transfer application must include all information required for a new application as to the proposed transferee and pay a transfer application fee. The City Commission shall then approve, deny, or conditionally approve the proposed transfer using the same factors and timetables as apply to renewal applications. A transferred license is subject to all provisions and timelines applicable to a new or renewed license.
- C. Prior to any modification of ownership or management of a licensed cannabis establishment, the licensee must provide 30 days' notice to the City of Lead in writing of the proposed changes.

- D. Prior to any modification of location or layout of a licensed cannabis establishment, the licensee must provide 30 days' notice to the City of Lead in writing of the proposed changes.
- E. In relation to a change in ownership, management, location, or layout, the mayor may approve minor changes administratively and charge an administrative modification fee. However, if the mayor determines the proposed changes are not minor and substantially alter the operation of the cannabis establishment as previously approved, the mayor shall direct the matter to be placed on the agenda of the next available City Commission meeting. The City Commission shall then approve, deny, or conditionally approve the proposed changes using the same factors and timetables as apply to renewal applications. For changes referred to the City Commission, applicant shall also pay a full modification fee.
- F. Transfers or modifications of a license shall not extend the term of any license so modified or transferred.
- G. Transfers, modifications, and renewals occurring simultaneously for the same license require separate applications and payment of separate fees. However, the City Commission may waive one or more, but not all, of the fees and consider the matters as a joint application.

§ 113.7 LICENSE TO REMAIN ACTIVE.

Every license issued pursuant to this chapter must remain in continuous, active use. A license that is not being actively used for a period of more than 14 consecutive days or for 28 cumulative days per year may be deemed inactive by the City of Lead. Active use includes times where the licensee is open and available to conduct business, but such business cannot occur due to factors outside of the control of the licensee.

§ 113.8 FEES ESTABLISHED.

- A. Initial Fees: The initial fees relating to cannabis establishment licenses are established as provided by this section. The fees apply to each class of cannabis establishment license unless expressly stated otherwise. The types and amounts of fees are as follows:

New cannabis establishment application fee - \$5,000.00

Renewal cannabis establishment application fee - \$5,000.00

Transfer cannabis establishment application fee - \$5,000.00

Administrative modification fee - \$50.00

Full modification fee - \$500.00

- B. Reimbursement: The City of Lead will reimburse \$2,500.00 of an application fee for applicants who fail to obtain a Registration Certificate from the South Dakota Department of Health.

- C. Future Fee Changes: Any future changes to the fee rate structure or amounts will be established by the Lead City Commission by resolution.

§ 113.9 GENERAL OBLIGATIONS OF LICENSEE.

- A. The following obligation shall apply to each licensee and cannabis establishment:
1. Each licensee must keep any information stated in an approved application current and up to date.
 2. Each licensee must maintain any eligibility criteria or certifications required by this chapter for an application.
 3. All cannabis establishments must conduct all business activities within an enclosed structure, except such loading and unloading which is incidental to such indoor activities.
 4. No cannabis or related paraphernalia may be displayed or kept in a business so as to be visible from outside the cannabis establishment.
 5. No cannabis establishment may emit any gas, vapors, odors, smoke, dust, heat, or glare that is noticeable at or beyond the property line of the cannabis establishment. Sufficient measures and means of preventing the escape of such substances from a cannabis establishment must be provided at all times. If any gas, vapors, odors, smoke, dust, heat or glare or other substances exit a cannabis establishment, the owner of the premises and the licensee are jointly and severally liable for such conditions and are responsible for immediate, full clean-up and correction of such condition. The licensee must properly dispose of all such materials, items, and other substances in a safe, sanitary, and secure manner and in accordance with all applicable federal, state, and local laws and regulations.
 6. Each licensee must retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the three immediately prior tax years. Such records shall be maintained in a manner which, if released to the City, would not contain information protected by state law. Such records must be provided to the City of Lead upon request.
 7. No cannabis establishment may employ any person who is not at least 21 years of age.
 8. Each licensee must provide adequate security to prevent criminal activity on cannabis establishment premises, including parking area.
 9. A licensee must pay all delinquent court judgments arising out of their dispensary and dispensary operations.
 10. A licensee must not permit the general public to access any part of a cannabis establishment except where such access is permitted by law. A licensee must put in place reasonable security measures to prevent such access.
 11. A licensee must operate as provided in the application, comply with any conditions attached to their license, and comply with all state and local laws.
 12. A person or entity may not take any actions for which a license is required without holding both a license issued under the chapter and a corresponding state license.

B. Additional Requirements for Cannabis Dispensaries

1. No cannabis dispensary may share any physical location with any other type of business or land use type. A cannabis dispensary may only sell cannabis, cannabis products, and paraphernalia aiding in the consumption of these items and may not sell any other item or service.
2. Entry to a cannabis dispensary must be restricted. Each cannabis dispensary must have a verification lobby and secured exit. The verification lobby and the secured exit must be separate from each other.
3. When granting access to non-employees, the licensee shall unlock the entry door to the verification lobby, the person or people enter the verification lobby, and then verify that each person in the verification lobby is legally permitted to access and purchase cannabis or cannabis products. If any person is found to be ineligible, that person must leave the verification lobby before the verification lobby exit door is opened into the retail area. Once all individuals in the verification lobby have been confirmed to be eligible to enter the retail area, the entry door to the verification area must be closed and locked. Then the door of the verification lobby into the retail area may be unlocked, and the individuals may enter the retail area. The exit door of the verification lobby must be locked after all individuals leave and before allowing other individuals into the verification lobby. At all times the exit door of the verification lobby is unlocked, the entry door to the verification area must be closed and locked.
4. Individuals must leave the retail area through a secured exit. The entry door to the secured exit must remain locked until needed for use. The licensee shall then unlock the entry door to the secured area to allow individuals to enter the secured exit from the retail area, ensure that the entry door is closed and locked, and then unlock the exit door of the secured exit. Once all individuals have left the secured exit, the exit door to the secured exit must be closed and locked.
5. A licensee must not permit a non-employee to access any secured area of a cannabis dispensary other than the verification lobby, retail area, and secured exit.
6. A cannabis dispensary may be open to the public only between the hours of 8:00 a.m. and 8:00 p.m. daily.
7. A cannabis dispensary must not maintain any quantity of cannabis in excess of the amount permitted by state law.
8. All sales of cannabis must be made in person, directly to the purchaser, within the retail area of the cannabis dispensary. No sales may be made via telephone, internet, or other means of remote purchase. Deliveries must occur in person to the purchaser at the time of purchase within the retail area of the medical cannabis dispensary. No drive-up windows or other similar delivery process may be allowed.
9. All cannabis dispensaries licensed under this ordinance must maintain their medical cannabis dispensary and premises within the following minimum requirements:
 - a. Every dispensary licensee must inspect their premises from lot line to lot line, all adjacent streets, sidewalks and alleys adjoining their premise, and sidewalks and alleys within one hundred (100) feet of such premise lot lines and shall remove any litter and debris found there on a daily basis to prevent

the accumulation of litter and debris and the accidental or uncontrolled release of cannabis or cannabis products.

- b. All solid waste and recyclable materials must be stored in refuse containers made of metal or approved plastic and shall be equipped with secure lids or covers, and such covers must remain closed to prevent the intrusion of storm water or vermin.
- c. Refuse storage containers must be enclosed on all four sides by screening compatible with the principal structure and not less than two feet higher than the refuse container or must be otherwise effectively screened from the street and adjacent properties.

C. Crossover of Other Cannabis Establishments:

- 1. A cannabis testing facility may share a physical location with testing facilities that are authorized to handle other types of controlled substances.
- 2. A cannabis testing facility, cannabis cultivation facility, and a cannabis product manufacturing facility may share a physical location and the licensed area for each may overlap each other. However, a cannabis testing facility may not share a physical location with other types of cannabis establishments if the cannabis testing facility conducts activities other than cannabis testing.

§ 113.10 FIRE AND BUILDING REGULATIONS.

- A. Licensees must comply with all applicable provisions of the City's fire and building codes.
- B. The building code official is authorized to require and apply standards applicable to any use and occupancy classifications to a cannabis establishment regardless of the cannabis establishment's classification when application of such other standard is substantially related to mitigating a unique hazard presented by a cannabis establishment.
- C. The fire code official is authorized to require and apply standards applicable to any use and occupancy classifications to a cannabis establishment regardless of the cannabis establishment's classifications when application of such other standard is substantially related to mitigating a unique hazard presented by a cannabis establishment.
- D. All cannabis cultivation facilities, cannabis product manufacturing facilities, and cannabis dispensaries must be equipped with a fire sprinkler system throughout the entire licensed area unless the building code official determines, in the case of older buildings, that there is an acceptable alternative safe method of protection.

§ 113.11 FINANCIAL RESPONSIBILITY.

- A. An applicant or licensee must file with the City Administrator certificates or policies of insurance issued by a responsible insurer in the amounts and for the purposes established below. The applicant must list the City as an additional insured on each policy.

- B. The applicant or licensee must maintain a commercial general liability policy, or equivalent, with a limit of not less than two million dollars (\$2,000,000.00) for each occurrence. If such insurance contains a general aggregate limit, it must be no less than double the occurrence limit.
- C. Upon request, the City may demand, and the applicant or licensee must provide proof of any other type of insurance required by law.

§ 113.12 UNAUTHORIZED CONDUCT RELATING TO CANNABIS.

No person may smoke cannabis on any form of public transportation, in any public place or any place that is open to the public, or on the property of any cannabis establishment. Each violation of this section is punishable by a fine not exceeding \$500.00.

§ 113.13 SIGNAGE AND ADVERTISING.

- A. Cannabis establishments must apply for a sign permit with the City of Lead. All such must meet the standards established in the City code.
- B. A cannabis establishment may not advertise in a manner that is misleading, deceptive, false, or is designed to appeal to minors in any manner, or otherwise prohibited by state law.
- C. The owner or operator of a cannabis dispensary, must post in a conspicuous location a legible sign containing the following warnings:
 - 1. A warning that the use of cannabis may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or operate machinery when under the influence of or impaired by cannabis; and
 - 2. A warning that possession and distribution of cannabis is a violation of federal law; and
 - 3. A warning that consumption of cannabis on the property of a cannabis establishment is prohibited by law; and
 - 4. A warning that the smoking of cannabis in public or on any form of public transportation is prohibited by law.
- D. Except as otherwise provided in this section, it shall be unlawful to advertise any cannabis establishment or any cannabis product anywhere within the City of Lead where the advertisement is in plain view of, or in, a place open to the general public, including advertising utilizing any of the following media: any billboard or outdoor general advertising device as defined by the zoning code; any sign mounted on a vehicle; any hand-held or other portable sign; or any handbill, leaflet, or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property. The prohibition in this section shall not apply to any sign located on the licensed premises of a cannabis establishment which exists solely for

the purpose of identifying the location of the premises and which otherwise complies with this Code and any other applicable City of Lead laws and regulations.

- E. A cannabis establishment must not distribute or allow the distribution of any cannabis without charge within a cannabis establishment or at any other place for purposes of promotion, advertising, or any other purpose.

§ 113.14 SUSPENSION AND REVOCATION.

- A. A license may be revoked or suspended for, among other reasons, the following:
1. Violation of any provision of this ordinance.
 2. The license has been deemed inactive.
 3. Nonpayment of any governmental obligation, including utilities.
 4. Failure to maintain proof of financial responsibility as required in § 113.11.
 5. Inadequate or faulty security measures or surveillance cameras.
 6. Significant public safety concerns that result in violation of local or state laws.
- B. Upon determination by the mayor that grounds exist for the suspension or revocation of a license, a notice of suspension or revocation shall be physically delivered and posted at the licensed location. Such notice shall state the grounds for the suspension or revocation, the time and date of a hearing with the City Commission if the licensee wishes to contest the suspension or revocation, and whether or not the license is temporarily suspended pending the outcome of such hearing. Upon issuance of the notice, the mayor shall direct that a hearing be scheduled for the next available City Commission meeting to consider the suspension or revocation of the license.
- C. In deciding whether a license will be suspended or revoked, the City Commission shall consider all facts and circumstances relating to the grounds alleged in the notice to warrant suspension or revocation of the license. At the close of the hearing, the City Commission may uphold the suspension or revocation or reverse the suspension or revocation. If the suspension or revocation is reversed, the City Commission may impose any additional conditions on the license which are reasonably calculated to ensure that the aggrieved conduct does not reoccur.
- D. In the event a licensee's state certification is suspended or revoked, the licensee's City license shall automatically be suspended until such time as the state certification returns to good standing. If such state certification status persists long enough for the city license to be deemed inactive, such inactivity may serve as independent grounds for revocation of the city license.

§ 113.15: LIABILITY AND INDEMNIFICATION.

- A. By accepting a license issued pursuant to this chapter, the licensee, the licensee's employees and all principal officers and board members thereof, waive and release the City, its officers, elected officials, employees, attorneys, and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or

prosecution of business owners, operators, employees, clients, or customers for a violation of state or federal laws, rules, or regulations.

- B. By accepting a license issued pursuant to this chapter, each licensee agrees to indemnify, defend, and hold harmless the City of Lead, its officers, elected officials, employees, attorneys, agents, and insurers against all liability, claims, and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the cannabis establishment that is the subject of the license.

§ 113.16 COMPLIANCE WITH OTHER APPLICABLE LAWS.

- A. Except as may be otherwise provided in this ordinance, any law or regulation adopted by the state governing the advertising, the cultivation, the production, the possession, the transportation, or the distribution of cannabis use shall also apply to cannabis establishments licensed by the City of Lead.
- B. If the state prohibits the sale or other distribution of medical cannabis through cannabis establishments, any license issued hereunder is revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.
- C. The issuance of any license pursuant to this chapter does not create an exception, defense, or immunity for any person or entity in regard to any potential criminal liability the person or entity may have under federal law for the cultivation, possession, sale, distribution, or use of cannabis.

§ 113.17 ENFORCEMENT, PENALTY, AND NUISANCE.

- A. Any person or entity violating a provision of this chapter shall be subject to the general penalty provisions of the City of Lead Code.
- B. No person, while acting as an agent of a licensee, shall take any action, or fail to take any action, that would cause a licensee to violate the provisions of this chapter. Such person causing a violation shall be subject to a fine not to exceed Five Hundred Dollars (\$500.00). Each day of violation constitutes a separate offense.
- C. In addition to any other remedy, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this chapter. Continued violations of this chapter are deemed to be a public nuisance. Such application for relief may include seeking a temporary restraining order, temporary injunction, and permanent injunction.
- D. In the event of a violation, suspension, or revocation where the licensee may no longer legally possess cannabis, cannabis products, or other restricted items, the licensee shall be responsible to pay the costs incurred by the City of Lead for

- E. securing, storing, safeguarding, transferring, or disposing of any cannabis, cannabis products, or other restricted items.

§ 113.18 SEVERABILITY.

If any section, sentence, clause, or phrase of this chapter is held to be invalid, unenforceable, or unconstitutional by a decision of any authority or court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this code and the remainder shall remain in full force and effect.

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 Commission and is signed by the mayor.

Dated this _____ day of _____, 2021.

CITY OF LEAD

By: _____
Ron Everett, Its Mayor

(Seal)

Attest:

Billie M. Inhofer Finance Officer

ORDINANCE #1081-21

AN ORDINANCE AMENDING TITLE XV: LAND USAGE, CHAPTER 155: ZONING CODE, OF THE LEAD CITY ORDINANCES, TO ADD AN ORDINANCE CREATING ZONING REGULATIONS FOR CANNABIS ESTABLISHMENTS

BE IT ORDAINED by the City Commission of the City of Lead, State of South Dakota, pursuant to SDCL 9-19, that Title XV: Land Usage, Chapter 155: Zoning Business Regulations of Lead Ordinances is hereby amended by adding a new ordinance creating zoning regulations for cannabis establishments, as follows:

CANNABIS ESTABLISHMENTS

§ 155.206 PURPOSE AND INTENT.

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 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.

§ 155.207 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. (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.

Church: A church is a building that is open to the general public for attendance at regularly held religious services. Services are to be held at least a weekly fifty-two weeks a year.

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

Residence. A recreational vehicle or a tent are not residences under this section.

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

§ 155.208 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: Commercial and Industrial.

No cannabis cultivation facility may be located or operate within one hundred (100) feet of a church or residence or one thousand (1,000) feet of a public or private school. The one hundred (100) foot distance requirement for a residence does not apply to a residence located on the same lot as a cannabis cultivation facility.

A cultivation facility lawfully operating in conformity with this section does not violate this section if any residence, church or school subsequently locates within the minimum distance requirements for the facility.

§ 155.209 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: Commercial and Industrial.

No cannabis testing facility may be located or operate within one hundred (100) feet of a church or residence or one thousand (1,000) feet of a public or private school.

A cannabis testing facility lawfully operating in conformity with this section does not violate this section if any residence, church or school subsequently locates within the minimum distance requirements for the facility.

§ 155.210 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: Commercial and Industrial).

No cannabis product manufacturing facility may be located or operate within one hundred (100) feet of a church or residence or one thousand (1,000) feet of a public or private school.

A cannabis product manufacturing facility lawfully operating in conformity with this section does not violate this section if any residence, church or school subsequently locates within the minimum distance requirements for the facility.

§ 155.211 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: Commercial.

No cannabis dispensary may be located or operate within one hundred (100) feet of a church or residence or one thousand (1,000) feet of a public or private school. The 100-foot setback requirement does not apply to churches or to any residential use of property currently located on or immediately adjacent to Lead's Main Street if an abutting property is currently zoned commercial and is used for commercial purposes.

A cannabis dispensary facility lawfully operating in conformity with this section does not violate this section if any church or school subsequently locates within the minimum distance requirements for the facility.

§ 155.212 UNLICENSED CANNABIS ESTABLISHMENTS.

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

§ 155.213 MEASUREMENTS.

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 residence, church, or school.

§ 155.214 PENALTIES.

A violation of this section is subject to a fine not to exceed Five Hundred Dollars (\$500.00). Each day of violation constitutes a separate offense.

§ 155.215 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 Commission and is signed by the mayor.

Dated this _____ day of _____, 2021.

CITY OF LEAD

By: _____
Ron Everett, Its Mayor

(Seal)

Attest:

Billie M. Inhofer Finance Officer

First Reading: October 4, 2021

Second Reading: October 18, 2021

Published:

Effective:

