

1st Reading: 8/6/2024
2nd Reading: 8/20/2024
Date Adopted: 8/20/2024
Date Published: 8/30/2024
Effective Date: 9/19/2024

ORDINANCE MC 66-24

AN ORDINANCE AMENDING ORDINANCE 60-21 REGARDING THE LICENSING AND REGULATION OF MEDICAL CANNABIS DISPENSARIES IN MINNEHAHA COUNTY.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MINNEHAHA COUNTY

1. **That Section 3(b), (c) and (f) be amended to read as follows:**
- b. All license applications must be submitted to the County Auditor's Office on forms prescribed by the County and contain all the information required by the County to determine the eligibility of the applicant, along with the application fee, publishing fee, and initial annual fee or renewal fee.
- c. The County shall reject or approve a license application within sixty (60) days following submission of the application pursuant to Section 3.f(3) below. This sixty (60) day period shall be tolled pending any applicant's application for a conditional use permit necessary for applicant's prospective medical cannabis establishment or appeal from a decision rendered by applicable planning commission.
- f. Procedure for initial issuance of medical cannabis establishment license by the County.

In addition to the requirements of Section 3.a-e, above, the following procedures will apply any time a license to operate a medical cannabis establishment becomes available from the County.

- (1) When a license to operate a medical cannabis establishment becomes available from the County, the County Auditor shall publish an invitation for applications on the County's website. No applications will be accepted prior to publication of the invitation.
- (2) Applications must be sealed and must otherwise adhere to the requirements of Section 3.a-e, above. No supplementation to an application may be done after submission.
- (3)
- (4) Any application that is incomplete shall be rejected and ineligible for further consideration.

- (5) Applications that are complete and in compliance with the requirements of Section 3.a-e shall be submitted, in the order in which they were received, to the County Commission for consideration pursuant to Section 3.g below.
- (6) All applications which are not presented to the County Commission and approved for a medical cannabis establishment license are denied and a new application will be required when a medical cannabis establishment license next becomes available.

2. That Section 4 be amended to read as follows:

a. Application fee.

At the time an applicant files an application in accordance with Section 3, applicant shall pay a nonrefundable fee for each application to the County in an amount established by resolution of the County to defray the costs incurred by the County for review of the application, inspection of the proposed premises, and any other costs and labor associated with processing the application. In the event the applicant is denied a registration certificate from the Department or a license from the County, the application fee will not be refunded.

b. Publication fee.

At the time an applicant files an application in accordance with Section 3, applicant shall pay a nonrefundable publishing fee for each application to the County in an amount established by resolution of the County to defray the costs incurred by the County for publication of the application. In the event the applicant is denied a registration certificate from the Department or a license from the County, the publishing fee will not be refunded.

c. Initial license fee.

At the time an applicant files an application in accordance with Section 3, the licensee shall tender to the County an initial license fee in an amount established by resolution. The initial license fee is in addition to the application fee required pursuant to Section 4a above. In the event the applicant is denied a registration certificate from the Department or a license from the County, the license fee shall be refunded.

d. Renewal License Fee.

At the time a licensee files an application for renewal of its license, the licensee shall tender to the County a license renewal fee in an amount established by resolution. The renewal license fee is in addition to the application fee required pursuant to Section 4a above. In the event the applicant is denied a registration certificate from the Department or the County, the renewal fee shall be refunded.

3. That Section 5 be amended to read as follows:

- a. The County Commission may revoke or suspend any license issued under this Ordinance upon proof by a preponderance of the evidence of a violation by the licensee, by the licensee's agents or employees, or by the manager or contractual operators of the medical cannabis establishment and their agents or employees operating under a County license, of any of the following:
- (1) Any provision of SDCL Chapter 34-20G or other state law relevant to a medical cannabis establishment.
 - (2) Any rule promulgated by the Department.
 - (3) Any rule promulgated by any applicable county ordinance.
 - (4) False material statements made by a licensee to the County or state of South Dakota during the application process.
 - (5) Failure to pay taxes owed to the State of South Dakota or any political subdivision of the State of South Dakota including the County.
 - (6) Failure to prevent diversion or theft of medical cannabis.
 - (7) Failure to allow entry to the licensed premises to any law enforcement officers in the course and scope of their employment.
 - (8) Failure to maintain operational alarm systems and video surveillance systems.
 - (9) Failure to maintain or keep any record required by these rules or South Dakota law.
 - (10) Failure to comply with advertising and marketing restrictions.
 - (11) Failure to properly package or secure medical cannabis on the licensed premises or during transport.
 - (12) Failure to properly dispose of medical cannabis.
 - (13) Operating a medical cannabis establishment when a license issued pursuant to this Ordinance has been suspended or revoked.
 - (14) Failure to comply with any rule or regulation promulgated by the Department or the County regarding medical cannabis.
 - (15) Failure to comply with any law of the state of South Dakota or the County concerning medical cannabis.
 - (16) Failure to comply with any local regulation regarding medical cannabis.
 - (17) Any violation of any municipal ordinance or regulation relevant to medical cannabis establishment control adopted by the County.
 - (18) Any violation of any county ordinance relevant to medical cannabis establishment control. For any licensee with multiple licenses, upon suspension or revocation of any license pursuant to this Ordinance, the licensee shall cease operation under all medical cannabis establishment

licenses held by the licensee for the same period as the suspension or revocation.

b. Suspension and revocation process.

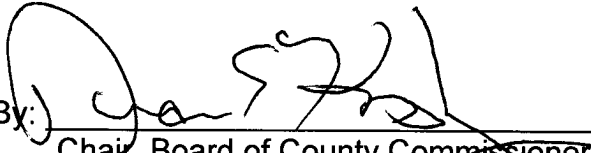
- (1) The licensee will receive a notice of intent to suspend or notice of intent to revoke informing the licensee of the violation and the County's intention to suspend or revoke the license. The notice will be hand delivered to the licensee or an employee or agent of the licensee or sent by certified mail, return receipt requested to the physical address of the cannabis establishment.
- (2) If the licensee disputes the suspension or revocation, the licensee has ten (10) days from the postmark date on the notice or the date the notice was hand delivered to request a hearing before the County Commission.
- (3) 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 licensee exercises its rights to process and appeal, in which case the suspension takes effect upon the final determination of suspension.
- (4) A revocation will terminate licensee's license and shall be effective ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the licensee appeals the revocation, in which case the revocation takes effect upon the final determination of revocation.
- (5) No medical cannabis establishment license issued pursuant to this Ordinance may be reissued or renewed to the same licensee if the license has been revoked by the County.
- (6) Any medical cannabis establishment license which has been revoked shall be considered available pursuant to Section 3.f upon expiration of the time period set forth in Section 5.b(4) above.

c. License to remain active.

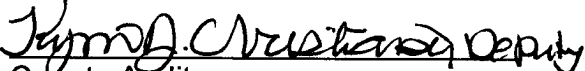
- (1) Any license issued under this Ordinance must remain in continuous, active use.
- (2) A licensee shall have 60 days after issuance of the County license and issuance of the State registration to begin active use of the license.
- (3) Any license not actively used for a period of more than 60 consecutive days may be deemed inactive and revoked by the County.
- (4) Active use means times where the licensee is open and available to conduct business authorized by the license. However, days where the license is suspended by the County shall not be used for purposes of calculating inactivity.
- (5) No medical cannabis establishment license issued pursuant to this Ordinance may be reissued or renewed to the same licensee if the license has been revoked by the County due to inactivity.

Adopted this 20th day of August, 2024.
Effective: September 19, 2024

Minnehaha County
Board of County Commissioners

By: 
Chair, Board of County Commissioners

ATTEST:


County Auditor