

ORDINANCE NO. 678

AN ORDINANCE CREATING ZONING REGULATIONS FOR  
CANNABIS ESTABLISHMENTS

BE IT ORDAINED by the Common Council of the City of Box Elder that Chapter 44 of the City of Box Elder Code of Ordinances is hereby amended as follows:

By adding the following underlined language to Permitted Uses in Section 44-92, General light industrial district (GLID):

B. *Permitted uses.*

- 19. Cannabis Cultivation Facilities
- 20. Cannabis Testing Facilities
- 21. Cannabis Product Manufacturing Facilities
- 22. Cannabis Dispensaries

The following underlined language will be added to Chapter 44, Division 41:

(A) 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 Common Council adopts the following regulations, recognizing that it has a great interest in the present and future character of the city's residential, commercial and industrial neighborhoods. Adoption of these regulations is not intended to unreasonably restrict the opportunity of cannabis establishments to locate in the city but is for the purpose of preventing a concentration of certain cannabis establishments in any one area.

(B) 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 License Holder 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 License Holder 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 License Holder 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 License Holder legally authorized to analyze the safety and potency of cannabis.

License Holder: A cannabis establishment that possesses a license under this Division to operate the cannabis establishment for which the license was issued.

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

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

(C) 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 General Light Industrial Zoning District.

No cannabis cultivation facility may be located or operate within one thousand (1000) feet of a public or private school or a residence. The one thousand (1000) foot distance requirement for a residence does not apply to a residence located on the same lot as a cannabis cultivation facility.

(D) 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 General Light Industrial Zoning District.

No cannabis testing facility may be located or operate within one thousand (1000) feet of a public or private school.

(E) 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 General Light Industrial Zoning District.

No cannabis product manufacturing facility may be located or operate within one thousand (1000) feet of a public or private school or a residence.

(F) 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 General Light Industrial Zoning District.

No cannabis dispensary may be located or operate within one thousand (1000) feet of a public or private school.

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

(H) 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 use listed in Sections 15(C) through (F).

(I) A cannabis establishment lawfully operating in conformity with this section does not violate this section if any of the uses in Sections (C) through (F) subsequently locates within one thousand (1000) feet of the cannabis establishment.

(J) It is unlawful to own, manage, or operate a cannabis establishment in a zoning district other than the zoning district permitted by the criteria of this section. A violation of this provision is subject to the general penalty provision in Section 2-363. Each day of violation constitutes a separate offense.

(K) A recreational vehicle as defined in this Chapter or a tent are not residences under this section.

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**Severability.** The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application.

**Effective Date.** This Ordinance will become effective 20 days following publication, which will occur after the ordinance receives second and final reading by the City Council and is signed by the Mayor.

Dated this 21st day of September, 2021.

**CITY OF BOX ELDER**

By: Larry L. Larson  
Its Mayor



Nicole Schneider  
Nicole Schneider, Finance Officer

First Reading: 09/07/2021  
Second Reading: 09/21/2021  
Public Hearing: 08/30/2021  
Published: 09/29/2021  
Effective: 10/19/2021