



Mission Statement

To provide exemplary experiences, services & spaces that create opportunities for everyone to learn, engage and thrive.

YANKTON BOARD OF CITY COMMISSIONERS

Work Session Meeting beginning at 6:00 P.M.

Monday, March 22, 2021

City of Yankton Community Meeting Room

Located at the Career Manufacturing Technical Education Academy formerly known as Technical Education Center • 1200 W. 21st Street • Room 114

Due to the COVID-19 virus, this meeting will be conducted electronically in compliance with SDCL. If you would like to watch the City Commission meeting you can do so by accessing the City of Yankton's YouTube Live Channel.

<https://www.youtube.com/channel/UCD1a1hf1dIkiLVSXnmdRQg/live>

If you would like to participate in the City Commission meeting, limited access will be provided through the west door of the CMTEA building. You will be asked to state what item you would like to participate in and allowed access one person at a time into the meeting room. You will be asked to introduce yourself and make your comments. Alternatively, you can comment or ask questions utilizing the chat function on the YouTube Livestream or email commission@cityofyankton.org.

Rebroadcast Schedule: Tuesday @ 7:30pm, on channels 3 & 45

1. Roll Call
2. Public Appearances
3. Cannabis Discussion
4. Other Business

Other business is a time for City Commissioners to address the commission regarding matters not on the agenda. These items will be deliberated by the governing body and will not be acted upon at this time. Items mentioned may be added to a future City Commission meeting or work session for deliberation or action.

5. Adjourn the Work Session of March 22, 2021

MEMORANDUM

TO: City Commission
FROM: Ross Den Herder, City Attorney & Amy Leon, City Manager
DATE: March 17, 2021
RE: Medical Cannabis

The South Dakota Legislature did not pass an amended bill for how South Dakota local governments should deal with medical cannabis. While we anticipate there COULD still be a special session relating to this matter and that we will get some guidance from the SD Municipal League, staff believes we will be working with Initiated Measure 26 as written to implement our local medical marijuana policies. Therefore, Monday evening we would like to get some initial feedback and some direction on medical marijuana.

An effective date of July 1, 2021 is likely. The Department of Health (DOH) is required to establish the form and content of registration and renewal applications by October 29, 2021. The DOH must be ready to issue registry identification cards to qualifying patients by November 18, 2021. This means the soonest you will likely see an officially issued registered card holder is November 2021.

Over the next couple of months, our staff will be drafting an ordinance for the City Commission to consider that will set forth the criteria associated with licensing medical cannabis establishments.

This ordinance will include the following:

- **The number of medical cannabis establishments to be licensed in City limits.**
- **The operational hours of said medical cannabis establishments.**
- **Dimensional criteria for medical cannabis establishments.**
- **Establishment of a licensing fee for medical cannabis establishments.**
- **Establishment of security measures for medical cannabis establishments.**
- **Establishment criteria for background checks of medical cannabis license applicants**
- **Establishing criteria for how licensees are selected.**
- **Establishment of building and signage design criteria.**

What we need from you Monday evening:

Staff will be providing you with some general direction on some of these matters this evening. What we need from you is enough discussion/opinions provided to be able to continue to draft an ordinance that follows your direction. This ordinance will be brought forward for you for consideration at a future date.

Please note that as we learn more from the DOH or Department of Revenue (DOR) we may have to revisit some elements of this ordinance.

Our General Timeline:

We would like to provide a draft of this ordinance for you to pick apart and make changes to at your work session on Monday, April 26th. We would like to make changes and conduct the First Reading of this ordinance on May 10th and the Second Reading and Public Hearing on May 24th. That allows time for publication and effectiveness before the July 1, 2021 date.

Determine the number of medical cannabis establishments you would like to have in City Limits.

- You have to have at least one.
- You do not have to set a limit but we recommend that you do set a limit.
- You can establish a limit and change that later by ordinance if you wish.

We suggest that you establish the number to be 1 or 2. With the assistance from Bill Efting, we have learned that most Colorado cities of our size have between 2 and 3 establishments.

Yankton Police Department is suggesting no more than 2 medical dispensaries based on security and safety of these establishments and their clients.

- Durango, Colorado population 18,588 has 2 medical dispensaries.
- Craig, Colorado population 9,000 has 2 medical dispensaries.
- Montrose, Colorado population 19,238 has 2 medical dispensaries.
- Livingston, Montana population 7,575 has 3 medical dispensaries.

In Minnesota, North Dakota, and Texas it appears they can only have one per municipality and they are restricted to specific cities throughout the state.

Determine the hours of operation for the medical cannabis establishments you license.

Looking at establishments across the United States, it appears that medical marijuana facilities hours range from:

- Monday-Saturday 10:00 am to 7:00 pm
- Monday to Friday 9:00 am to 5:00 pm with limited hours of operation of Saturday and Sunday or no hours of operation on Sunday
- Monday-Friday only 9:00 am to 5:00 pm
- Some medical cannabis dispensaries have limited holiday hours and some are closed.
- Some medical cannabis dispensaries are closed on Mondays.

Staff recommends matching hours of our traditional pharmacies in Yankton. One example would be Walgreens Pharmacy which is currently open Monday-Friday from 9:00 am to 8:00 pm and Saturday-Sunday 10:00 am to 6:00 pm. This pharmacy is closed on federal holidays.

Note that a medical cannabis establishment could be open fewer hours than allowed by the local ordinance, just not more hours.

Set forth dimensional criteria for medical cannabis establishments.

Some communities may look to establish zoning districts deemed appropriate for medical marijuana dispensaries (This is what is being suggested by SDML.). Many will use the “conditional use permit” process and establish criteria for this use in permitted zoning districts. After lengthy discussion, our team believes that it is best to establish dimensional criteria for medical cannabis dispensaries within the ordinance that sets forth the licensing criteria much the way we do with licenses for dance halls or sexually orientated business.

This ensures uniformity over time and keeps the process as objective as possible. It would be possible for different Planning Commissions or different City Commissions to emphasize different criteria for a conditional use permit every time an application is made. That is not advisable and could lead to a less defensible position. The license process also streamlines the process for both the City and the applicant.

Our team recommends that the license say that all medical dispensaries must be located within a B-2 Highway Business District, B-3 Central Business District, or Industrial District.

We also suggest the following criteria:

No medical marijuana dispensary would be allowed to locate within one thousand (1,000) feet of the property line of a school, church, licensed childcare facility, mental health facility, or substance abuse treatment facilities except in a B-3 Central Business District where no separation is required.

No medical marijuana dispensary would be allowed within any building containing a dwelling unit, a pediatrician's office, hotel, motel, boarding house or lodging facility.

No medical marijuana dispensary would be allowed within four hundred (400) feet of another licensed medical marijuana dispensary.

No medical marijuana dispensary would be allowed within a single development project that contains another marijuana business of any kind. (In other words, you couldn't have 2 in the mall.)

Establish a licensing fee for medical cannabis establishments.

The only criteria are that this is a reasonable fee. We are not sure what reasonable is exactly, however legal counsel advises that reasonability really should be tied to the administration of the license rather than any social impacts on having the medical dispensary. The suggestion is to have an upfront license fee and then an ongoing annual fee. Based on the research that we have conducted in other states, we are considering an upfront fee of \$3,500.00 and an ongoing annual renewal fee of \$2,500.00 this would be in addition to any fees established by the State of South Dakota.

Craig, Colorado charges \$5,000.00 for a new license and \$4,500 a year to renew the license. Colorado Springs, Colorado charges \$2,600 for a medical marijuana application fee and a \$2,600 annual license fee.

Other Considerations:

Many communities in other states do not allow growing areas for medical marijuana in the corporate limits. Staff agrees that growing areas for medical marijuana in the corporate limits is not appropriate and growing, with the few exceptions outlined in state law, is inappropriate within corporate limits. If the Commission believes otherwise an alternate licensing process to regulate growing areas within City limits would need to be established and provided for in a separate ordinance or additional section of this ordinance.

We are aware that we still need to deal with our internal Human Resources policies associated with medical cannabis. We will do so once we get further along in the process. Your role in that will be considering changes to the personnel manual and the collective bargaining agreement once proposed.