

Plan Commission

Agenda Item

Subject: Commission Consideration of Ordinance No. 24-04, a Zoning Text Amendment to Chapter 25.06 Locations and Special Use Provisions for Medical Cannabis Establishments of the Revised Ordinances of the City of Watertown

Meeting: Plan Commission - Apr 18 2024

From: Heath VonEye, Public Works Director

BACKGROUND INFORMATION:

An application was submitted for an amendment to be made to the fence requirement for medical cannabis facilities/properties for the uses of: Cultivation, Manufacturing, and Testing. Currently, ordinance requires that the perimeter of the property shall be fenced with a minimum of a six (6) foot high, solid fence and security access gates, in accordance with Chapter 21.61, for these medical cannabis uses. These medical cannabis uses are also only allowed in the I-1 Districts and I-2 Districts which have a minimum of 30,000 SF and 220,000 SF lot size requirements which at a minimum would require 800 linear feet of fencing even if only a portion of the property is used for such use. South Dakota Legislature has Administrative Rules for security for medical cannabis uses and specifically for fences and gates, 44:90:05:06, attached for reference.

This ordinance amendment would eliminate the need to fence the entire property and would follow State guidelines and policies, as required, regardless, for the licensing of medical cannabis facilities. Fences and gates are referenced as an Administrative Rule in statute for any cultivation facility cultivating, processing, or storing cannabis **outdoors or in a greenhouse** or other structure that do not meet all security requirements for buildings must secure such cultivation areas with fencing and gates that:

1. Are secure and undamaged;
2. Are at least six feet high;
3. Obscure, or have a cover that obscures, regulated activities from being readily viewed from outside of the fenced-in area

This aligns our ordinance with state regulations and requiring all security measures meet state statutes in Chapter 34-20G in who the license is issued through. The interior and exterior of the building are required to be monitored and alarmed at all times, making the fence unnecessary.

The applicant submitted research from Beadle County, City of Brandon, Lincoln County, City of Rapid City, and City of Vermillion in which perimeter fences are not required and security measures are as required by state statutes.

City staff research confirms that other municipalities, such as the City of Brookings, requires by ordinance such uses operate inside a completely enclosed building, but no perimeter fence is required. City of Aberdeen does require a screening and security fencing plan to be submitted but doesn't specify if it is required once all state security measures are met. Also, City of Pierre and City of Sioux Falls appear to only follow state statutes with no higher standard specific to perimeter fencing.

STAFF RECOMMENDATION / SUGGESTED MOTION:

Staff recommends approval of the proposed ordinance amendment through the following motion:

I move to approve Ordinance No. 24-04, a Zoning Text Amendment to Chapter 25.06 Locations and Special Use Provisions for Medical Cannabis Establishments of the Revised Ordinances of the City of Watertown

ATTACHMENT(S):

[Application](#)

[Administrative Rule](#)

[Ordinance No. 24-04](#)

**ZT-24-1**

Ordinance Text
Amendment

Status: Active

Submitted On: 4/3/2024

Primary Location

No location

Applicant

 Robert West

 605-881-5481

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 2635 10th Ave SE
Watertown, SD 57201

Applicant Information

I the applicant am the...*

Project Agent

Applicant Information

Name*

Robert

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City*

Watertown

State*

SD

Zip*

57201

Text Amendment Information

This text amendment amends which Title of Ordinance?

Title 21 Zoning

What is the Chapter/Section this text amendment proposes to change?*

25:0602:3 & 25:0604:3



Current ordinance language*

Perimeter of the property shall be fenced with minimum of a six (6) foot high solid fence and security access gates, in accordance with Chapter 21.61.

Proposed ordinance language*

Any cultivation facility cultivating, processing, or storing cannabis outdoors or in greenhouses or other structures that do not meet all security requirements for buildings must secure the perimeter of the property with solid fences, a minimum of a six (6) foot high and security access gates, in accordance with chapter 21.61.

Reason(s) for proposed amendment

The current ordinance requires a fence for all cultivation and manufacturing facilities, including indoor cultivation and manufacturing facilities. The ordinance requirement for a fence surrounding a secure, indoor facility is inconsistent with SDAR 44:90:05:06. Our proposed amendment makes Watertown city ordinance consistent with South Dakota administrative rules.

Zoning District this amendment impacts* ?

I-1 Light Industrial District

Include any additional justification for ordinance amendment

Requiring a fence around a secured & monitored indoor facility is unnecessary for the sake of security. The interior and exterior of the building are required to be monitored and alarmed at all times, which makes a fence unnecessary. The entrances of the building are locked, secured and monitored at all times to prevent access to anyone who is not an employee, state agent, or law enforcement officer. Requiring this fence would place an undue financial burden on the business. Requiring this fence would also make snow removal very difficult.

Applicant Signature

I agree that all information provided is true and accurate to the best of my knowledge.

Applicant Signature*

✓ Robert West
Apr 3, 2024

44:90:05:06. Fences and gates. Any cultivation facility cultivating, processing, or storing cannabis outdoors or in greenhouses or other structures that do not meet all security requirements for buildings must secure such cultivation areas with fencing and gates that:

- (1) Are secure and undamaged;
- (2) Are at least six feet high; and
- (3) Obscure, or have a cover that obscures, regulated activities from being readily viewed from outside of the fenced-in area.

Source: 48 SDR 40, effective October 5, 2021.

General Authority: SDCL [34-20G-72](#)(5)(c).

Law Implemented: SDCL [34-20G-64](#), [34-20G-65](#), [34-20G-72](#)(5).

Report and Recommendation of City Plan Commission

To the City Council of the City of Watertown, Codington County, South Dakota:

The undersigned hereby certifies that the following is a true, correct and complete copy of a Resolution introduced, fully discussed, and approved and adopted during the duly called meeting of the City Plan Commission held on the 18th day of April 2024:

ORDINANCE NO. 24-04

AN ORDINANCE AMENDING CHAPTER 25.0602 CANNABIS CULTIVATION FACILITY, CHAPTER 25.0603 CANNABIS TESTING FACILITY, AND CHAPTER 25.0604 CANNABIS PRODUCT MANUFACTURING FACILITY OF THE REVISED ORDINANCES OF THE CITY OF WATERTOWN

WHEREAS, The City of Watertown amends the provisions related to fencing requirements for such medical cannabis facilities to conform to State Administrative Rule 44:90:05:06.

BE IT ORDAINED by the Plan Commission of the City of Watertown, South Dakota, that Chapter 25.06 Locations and Special Use Provisions for Medical Cannabis Establishments of the Revised Ordinances of the City of Watertown be amended as follows:

Chapter 25.06

LOCATIONS AND SPECIAL USE PROVISIONS FOR MEDICAL CANNABIS ESTABLISHMENTS

Section

[25.0601 Medical Cannabis Dispensary](#)

[25.0602 Cannabis Cultivation Facility](#)

[25.0603 Cannabis Testing Facility](#)

[25.0604 Cannabis Product Manufacturing Facility](#)

25.0602: CANNABIS CULTIVATION FACILITY

[\(back to Chapter contents\)](#)

- (a) Permitted Special Use in the I-1 Light Industrial and I-2 Heavy Industrial District as referenced in Chapter 21. The special use provisions are as follows:
 1. All cultivation operations shall be within a completely enclosed structure on a permanent foundation or secured greenhouse facility.
 - ~~1.2. Any cultivation facility cultivating, processing, or storing cannabis outdoors or in greenhouses or other structures that do not meet all security requirements must secure such cultivation areas with fencing and gates in accordance with state administrative rule 44:90:05:06.~~
 - ~~2.3. Security measures shall be installed as required by state regulations.~~
 - ~~3. Perimeter of the property shall be fenced with minimum of a six (6) foot high solid fence and security access gates, in accordance with Chapter 21.61.~~
 4. Permanent or temporary cultivation facilities are prohibited in all other zoning districts.
 5. Shall provide for proper disposal of cannabis remnants and/or by-products and shall not place waste items in exterior refuse containers.
 6. Shall not be located within 500 feet of a residential district, as measured from the closest point of the property line from the lot line of the property where the cultivation facility is proposed.
- (b) General Provisions and Performance Standards for Cannabis Cultivation Facilities:

1. Shall provide for proper disposal of cannabis remnants and/or by-products and shall not place waste items in exterior refuse containers.
2. Shall provide for a ventilation and filtration system designed to ensure that odors from the cultivation facility are not detectable at the property line. Ventilation and filtration systems shall meet the standards set forth by the State of South Dakota.

Source: (Ord 21-34; Eff 9-25-21)

25.0603: CANNABIS TESTING FACILITY

[\(back to Chapter contents\)](#)

- (a) Permitted Special Use in the I-1 Light Industrial and I-2 Heavy Industrial District as referenced in Chapter 21. The special use provisions are as follows:
 1. All testing operations shall be within a completely enclosed structure on a permanent foundation.
 2. Security measures shall be installed as required by state regulations.
 - ~~3. Perimeter of the property shall be fenced with minimum of a six (6) foot high solid fence and security access gates, in accordance with Chapter 21.61.~~
 - ~~4.3.~~ Permanent or temporary testing facilities are prohibited in all other zoning districts.
 - ~~5.4.~~ Shall not be located within 300 feet of a residential district, as measured from the closest point of the property line from the lot line of the property where the testing facility is proposed.
- (b) General Provisions and Performance Standards for Cannabis Testing Facilities:
 1. Shall provide for proper disposal of cannabis remnants and/or by-products and shall not place waste items in exterior refuse containers.
 2. Shall provide for a ventilation and filtration system designed to ensure that odors from the testing facility are not detectable at the property line

Source: (Ord 21-34; Eff 9-25-21)

25.0604: CANNABIS PRODUCT MANUFACTURING FACILITY

[\(back to Chapter contents\)](#)

- (a) Permitted Special Use in the I-1 Light Industrial and I-2 Heavy Industrial District as referenced in Chapter 21. The special use provisions are as follows:
 1. All manufacturing operations shall be within a completely enclosed structure on a permanent foundation.
 2. Security measures shall be installed as required by state regulations.
 - ~~3. Perimeter of the property shall be fenced with minimum of a six (6) foot high solid fence and security access gates, in accordance with Chapter 21.61.~~
 - ~~4.3.~~ Permanent or temporary manufacturing facilities are prohibited in all other zoning districts.
 - ~~5.4.~~ Shall not be located within 1,000 feet of a residential district as measured from the closest point of the property line from the lot line of the property where the manufacturing facility is proposed.
- (b) General Provisions and Performance Standards for Manufacturing Facilities:
 1. Shall provide for proper disposal of cannabis remnants and/or by-products and shall not place waste items in exterior refuse containers.
 2. Shall provide for a ventilation and filtration system designed to ensure that odors from the manufacturing facility are not detectable at the property line.
 3. Extraction processes utilizing flammable liquefied gas shall not be located in any building containing Group A, E, I, or R occupancies as defined by the International Building Code.
 4. Exit doors from extraction rooms shall swing in the direction of egress and be self-closing. Panic hardware shall be provided on door and where latching door hardware is provided panic hardware shall also be provided.
 5. Extraction rooms, booths, or hoods, including ductwork where required for hazardous exhaust systems shall be protected by an approved automatic fire extinguishing system.

6. An approved exhaust system and gas detection system shall be installed as approved by the Building Official.

Source: (Ord 21-34; Eff 9-25-21)

I hereby certify that the above Ordinance No. 24-04 was duly recommended by the City Plan Commission of the City of Watertown.

Dated this 18th day of April 2024.

City Plan Commission