Bob,

I have taken the opportunity to provide the following:

1. Sample County Temporary Ordinance Regarding the Issuance of Local Medical Cannabis Establishment Permits and/or Licenses
2. County Adoption Process for counties with or without zoning regulations
3. Public Hearing Notices for counties with or without a planning commission
4. Notice of Adoption
5. Sample Agendas for counties with or without a planning commission
6. Sample Decision Process for counties with or without a planning commission

I plan on sending this information to the following:

South Dakota Planners Association, Planning Districts, and the counties within the First District.

I would suggest that SDACC send this information to all of its members with the caveat that they should have their attorney review the temporary ordinance prior to adoption. Further, if the county is interested there is a timeline that needs to be adhered to:

1. Public hearing notice to be published 10 days prior to public hearing
2. Hold Public Hearing and 1st reading of the ordinance
3. Wait at least 5 days and then hold 2nd reading and adopt
4. Publish notice of adoption
5. Ordinance in effect on date of publication

The timeline assumes a weekly newspaper publication, so from the cutoff date of sending the public hearing notice to the newspaper to the notice of adoption being published in the newspaper, a conservative estimate is that it could take up to 28 days, depending on publication cutoffs, to complete the process.

A lot of good work has gone into this. However, the heavy lift is still ahead of us. I anticipate some form of a model zoning, zoning/licensing, or licensing ordinances will be developed in May. I hope to follow the same format that SDML, SDPAA, Jack Hieb, Zach Peterson, Sam Trebilcock, and myself utilized in developing this temporary ordinance. I hope to have the ordinances vetted in June with a possible dissemination to cities and counties in July. Cities and counties will not have a lot of time to review the models and pick what they like or don’t like because the adoption process for these ordinances can take up to 45 to 60 days, depending on the newspaper.

|  |  |
| --- | --- |
| 1st Reading: |  |
| 2nd Reading: |  |
| Date Adopted: |  |
| Date Published: |  |
| Effective Date: |  |

|  |  |
| --- | --- |
| **ORDINANCE NO.** |  |

**A TEMPORARY ORDINANCE REGARDING THE ISSUANCE OF LOCAL MEDICAL CANNABIS ESTABLISHMENT PERMITS AND/OR LICENSES.**

WHEREAS, a local government may enact an ordinance not in conflict with SDCL Chapter 34-20G, governing the time, place, manner, and number of medical cannabis establishments in the locality. A local government may establish civil penalties for violation of an ordinance governing the time, place, and manner of a medical cannabis establishment that may operate in the locality. A local government may require a medical cannabis establishment to obtain a local license, zoning permit, or registration to operate, and may charge a reasonable fee for the local license, zoning permit, or registration.

WHEREAS, \_\_\_\_\_\_\_\_ County, SD (“County”), makes a preliminary finding that the County’s current regulations and controls may not adequately address the unique needs and impacts of medical cannabis establishments as defined in SDCL 34-20G-1;

WHEREAS, medical cannabis state laws under SDCL 34-20G are effective July 1, 2021. The South Dakota Department of Health shall promulgate rules pursuant to chapter 1-26 not later than October 29, 2021, as defined by SDCL 34-20G-72. During the time between July 1, 2021 and potentially as late as October 29, 2021, local units of government will not yet know standards for medical cannabis and will not be able to adequately assess the local zoning and licensing requirements necessary to approve local permits and to better ensure applicants have a more predictable permitting process and avoid stranded investments.

WHEREAS, the County makes a preliminary finding that the County needs further study of the relationship of medical cannabis establishments to the CountyComprehensive Plan and Zoning Ordinance. The public interest requires that the County study, analyze, and evaluate the impacts of medical cannabis establishments and to fully explore the impacts of any proposed regulations regarding medical cannabis establishments;

WHEREAS, the County makes a preliminary finding that it would be inappropriate for the County to issue a local permit or license to a medical cannabis establishment prior to the South Dakota Department of Health’s promulgation of regulations governing the same;

WHEREAS, the County hereby exercises its authority under SDCL 11-2-10 and SDCL 7-18A-8, to establish a temporary ordinance regarding he issuance of any local permits/licenses for medical cannabis establishments within the County;

WHEREAS, a temporary ordinance will ensure that more comprehensive zoning ordinance and building permit changes, licensing permits, and any proposed amendments to the County’s Comprehensive Plan can be completely examined with adequate public input from citizens, business interests, and medical cannabis industry representatives;

WHEREAS, the County finds that a temporary ordinance is reasonable to preserve the status quo and prevent significant investment pending the outcome of the above study and any proposed regulations emanating therefrom;

WHEREAS, the County finds that the following ordinance is necessary to protect and immediately preserve the public health, safety, welfare, peace and support of the county government and its existing public institutions;

NOW, THEREFORE, BE IT ORDAINED BY \_\_\_\_\_\_\_\_\_ County, SD:

*Section 1. Temporary Ordinance – Application for Local Permit/License*

A medical cannabis establishment desiring to operate in the County shall be required to apply for a permit and/or license from the County. Applications for a local permit and/or license to operate a medical cannabis establishment, as defined by SDCL 34-20G-1,shall not be accepted until the South Dakota Department of Health has promulgated regulations as required by SDCL 30-20G-72. Any application received prior to such regulations being promulgated shall be denied.

*Section 2. Immediate Effect.*

This ordinance is necessary to protect and immediately preserve the public health, safety, welfare, peace, and support of the county government and its existing public institutions pursuant to SDCL 11-2-10 and SDCL 7-18A-8.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 County Commissioner Chair

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_

County Auditor

**County Adoption Process**

**Temporary Ordinance Adoption Process (SDCL 11-2-10)**

**County has existing Zoning Regulations**

1. Publish a notice of Joint public hearing of the County’s Planning Commission and Board of County Commissioners – Notice to be published at least 10 days prior to Public Hearing
2. Hold Joint Hearing
	1. After Public Hearing - Planning Commission makes recommendation to approve temporary ordinance
	2. County Commission receives recommendation, holds 1st reading by title and sets 2nd reading date
3. County Commission has 2nd reading and adopts temporary ordinance (must be at least 5 days after 1st reading
4. If adopted, Notice of Adoption is published
5. Ordinance goes into effect on date of publication

**County does not have existing zoning regulations**

1. Publish a notice of public hearing of the Board of County Commissioners – Notice to be published at least 10 days prior to Public Hearing
2. Hold Hearing
	1. After Public Hearing - County Commission has 1st reading by title and sets 2nd reading date
3. County Commission has 2nd reading and adopts temporary ordinance (must be at least 5 days after 1st reading
4. If adopted, Notice of Adoption is published
5. Ordinance goes into effect on date of publication

**PUBLIC HEARING NOTICE FOR COUNTIES WITH PLANNING COMMISSION**

**PUBLISH NOTICE – 10 DAYS PRIOR TO PUBLIC HEARING**

**\_\_\_\_\_\_\_\_\_ COUNTY PLANNING COMMISSION AND \_\_\_\_\_\_ COUNTY BOARD OF COUNTY COMMISSIONERS**

**NOTICE OF JOINT PUBLIC HEARING**

**ORDINANCE #\_\_\_\_\_\_\_\_**

**A TEMPORARY ORDINANCE REGARDING THE ISSUANCE OF LOCAL MEDICAL CANNABIS ESTABLISHMENT PERMITS AND/OR LICENSES**

The \_\_\_\_\_\_\_\_County Planning Commission and the Board of \_\_\_\_\_\_\_Grant County Commissioners will hold a joint public hearing on \_\_\_\_\_\_\_\_\_, 2021 at \_\_\_\_\_\_ a.m. at the \_\_\_\_\_ County Courthouse located at \_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_, SD.  All interested persons are encouraged to attend in person and comment on Ordinance #\_\_\_\_\_\_\_\_\_, A temporary ordinance regarding the issuance of local medical cannabis establishment permits and/or licenses. After the public hearing, the Planning Commission may pass a resolution recommending approval of Ordinance#\_\_\_\_\_\_\_\_\_\_, with or without amendment, to the Board of County Commissioners. The Board of County Commissioners may have first reading of Ordinance #\_\_\_\_\_\_\_ by title and set a 2nd reading date.

The proposed Ordinance #\_\_\_\_\_\_\_\_ will be made available for public inspection at the \_\_\_\_\_\_\_\_\_ County Auditor’s Office at \_\_\_\_\_\_\_\_\_\_\_\_,\_\_\_\_\_\_\_\_ SD and on-line at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ pursuant to SDCL Section 11-2 and amendments thereto.

Written comments may be filed by emailing the Auditor at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ or by mailing them to the Auditor at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_, SD, SD 57\_\_\_ on or before noon on \_\_\_\_\_\_\_, 2021.

**PUBLIC HEARING NOTICE FOR COUNTIES WITHOUT PLANNING COMMISSION**

**PUBLISH NOTICE – 10 DAYS PRIOR TO PUBLIC HEARING**

**BOARD OF \_\_\_\_\_\_\_\_\_COUNTY COMMISSIONERS**

**NOTICE OF PUBLIC HEARING**

**ORDINANCE #\_\_\_\_\_\_\_\_**

**A TEMPORARY ORDINANCE REGARDING THE ISSUANCE OF LOCAL MEDICAL CANNABIS ESTABLISHMENT PERMITS AND/OR LICENSES**

The Board of \_\_\_\_\_\_\_ County Commissioners will hold a public hearing on \_\_\_\_\_\_\_\_\_, 2021 at \_\_\_\_\_\_ a.m. at  \_\_\_\_\_ located at \_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_, SD.  All interested persons are encouraged to attend in person and comment on Ordinance #\_\_\_\_\_\_\_\_\_, A temporary ordinance regarding the issuance of local medical cannabis establishment permits and/or licenses. After the public hearing, the Board of County Commissioners may have first reading of Ordinance #\_\_\_\_\_\_\_ by title and set a 2nd reading date.

The proposed Ordinance #\_\_\_\_\_\_\_\_ will be made available for public inspection at the \_\_\_\_\_\_\_\_\_ County Auditor’s Office located at \_\_\_\_\_\_\_\_\_\_\_\_,\_\_\_\_\_\_\_\_ SD and on-line at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ pursuant to SDCL Section 11-4 and amendments thereto.

Written comments may be filed by emailing the Auditor at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ or by mailing them to the Auditor at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_, SD, SD 57\_\_\_ on or before noon on \_\_\_\_\_\_\_, 2021.

**NOTICE OF ADOPTION- TO BE PUBLISHED ONCE**

**ORDINANCE #\_\_\_\_\_\_\_**

**A TEMPORARY ORDINANCE REGARDING THE ISSUANCE OF LOCAL MEDICAL CANNABIS ESTABLISHMENT PERMITS AND/OR LICENSES**

BE IT ORDAINED by the Board of \_\_\_\_\_\_\_\_ County Commissioners:

*Section 1. Temporary Ordinance – Application for Local Permit/License*

A medical cannabis establishment desiring to operate in the County shall be required to apply for a permit and/or license from the County. Applications for a local permit and/or license to operate a medical cannabis establishment, as defined by SDCL 34-20G-1,shall not be accepted until the South Dakota Department of Health has promulgated regulations as required by SDCL 30-20G-72. Any application received prior to such regulations being promulgated shall be denied.

*Section 2. Immediate Effect.*

This ordinance is necessary to protect and immediately preserve the public health, safety, welfare, peace, and support of the county government and its existing public institutions pursuant to SDCL 11-2-10 and SDCL 7-18A-8.

Passed and adopted this \_\_\_\_\_\_\_\_\_\_\_\_ 2021.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_, Chairperson

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Auditor

This ordinance shall become effective upon the date of publication of this notice in the official newspaper, thereby repealing all ordinances or parts thereof in conflict herewith unless a referendum in timely involved prior thereto.

1st Reading:

2nd Reading:

Adopted:

Published:

Effective:

**Sample Agenda Items (For County with Planning Commission)**

Meeting #1

* Convene Jointly as Planning Commission and Board of County Commissioners
* Ordinance # \_\_ A Temporary Ordinance Regarding the Issuance of Local Cannabis Establishment Permits and/or Licenses
	+ - Public Hearing: Planning Commission and Board of County Commissioners
		- Planning Commission Resolution Recommending approval of Ordinance #\_\_
		- First Reading of Ordinance #\_\_.
* Adjourn Planning Commission/Convene only as Board of County Commissioners

Meeting #2

* Ordinance #\_\_ A Temporary Ordinance Regarding the Issuance of Local Cannabis Establishment Permits and/or Licenses
	+ - Second Reading of Ordinance #\_\_.
		- Board of County Commissioners action on Ordinance #\_\_\_

**Decision Process (For County with Planning Commission)**

Meeting #1

1. Make motion to convene jointly as the Planning Commission and Board of County Commissioners.
	1. Chairperson announces the Board of County Commissioners and Planning Commission will meet jointly [for this portion of the meting].
	2. Planning Commission makes **Motion to Recommend Approval of the Temporary Ordinance. (Chairperson should say, “Which member of the Planning Commission member will make a motion recommending approval of the ordinance to the Board of County Commissioners so we can begin discussion?”)**
	3. Open Public Hearing:
		1. Allow proponents to comment on the Temporary Ordinance
		2. Allow opponents to comment on the Temporary Ordinance
	4. Close Public Hearing:
	5. Planning Commission/Board of County Commissioners discussion on Temporary Ordinance.
	6. Planning Commission acts (votes) on Resolution to recommend approval of the Temporary Ordinance the described property to the Board of County Commissioners.
	7. Board of County Commissioners first reading, by title, of Temporary Ordinance. (Just read the title of the document – no need for a vote here.)
	8. Chairperson notes the date, time, and place of the 2nd reading as scheduled.
	9. Motion to Adjourn as Planning Commission and resume acting solely as the Board of County Commissioners (if necessary for regular business).

Meeting #2

1. Board of County Commissioners 2nd Reading of Temporary Ordinance (title only).
2. Motion to Approve the Temporary Ordinance. (**Chairperson asks for a motion of the Board of County Commissioners Approving the Ordinance)**
3. Board of County Commissioners discussion on Temporary Ordinance (the Commissioners may ask for public input but is not obligated to allow input at this time).
4. Board of County Commissioners action (vote) to approve/deny the Ordinance Amending the Zoning Ordinance. (Requires simple majority to pass)

**Sample Agenda Items (For County without Planning Commission)**

Meeting #1

* Ordinance # \_\_ A Temporary Ordinance Regarding the Issuance of Local Cannabis Establishment Permits and/or Licenses
	+ - Public Hearing and First Reading of Ordinance #\_\_.

Meeting #2

* Ordinance #\_\_ A Temporary Ordinance Regarding the Issuance of Local Cannabis Establishment Permits and/or Licenses
	+ - Second Reading of and action on Ordinance #\_\_.

**Decision Process (For County without Planning Commission)**

Meeting #1

1. Board of County Commissioners first reading, by title, of Temporary Ordinance. (Just read the title of the document – no need for a vote here.)
2. Open Public Hearing (Chairperson announces this is the time and place for a public hearing on Ordinance #\_\_.)
	* 1. Allow proponents to comment on the Temporary Ordinance
		2. Allow opponents to comment on the Temporary Ordinance
3. Close Public Hearing:
4. Board of County Commissioners discussion on Temporary Ordinance. (They can defer all Commission discussion until second reading.)
5. Chairperson notes the date, time, and place of the 2nd reading as scheduled.

Meeting #2

1. Board of County Commissioners 2nd Reading of Temporary Ordinance (title only).
2. Motion to Approve the Temporary Ordinance. (**Chairperson asks for a motion of the Board of County Commissioners Approving the Ordinance)**
3. Board of County Commissioners discussion on Temporary Ordinance (the Commissioners may ask for public input but is not obligated to allow input at this time).
4. Board of County Commissioners action (vote) to approve/deny the Ordinance Amending the Zoning Ordinance. (Requires simple majority to pass)