AN EMERGENCY ORDINANCE CLARIFYING THE STATUS AND LEGALITY OF MEDICAL CANNABIS ESTABLISHMENTS IN CITY LIMITS PRIOR TO THE STATE’S ISSUANCE OF RULES GOVERNING SUCH ESTABLISHMENTS BY AMENDING CHAPTERS 5 AND 17 OF THE RAPID CITY MUNICIPAL CODE

WHEREAS, in November 2020 South Dakota voters passed Initiated Measure 26 An initiated measure on legalizing marijuana for medical use, codified at South Dakota Codified Laws Chapter 34-20G; and

WHEREAS, SDCL Chapter 34-20G gives cities the authority to regulate and control the time, place, manner, and number of medical cannabis establishments; to apply zoning restrictions to such uses; and to require local licenses for medical cannabis establishments; and

WHEREAS, the City of Rapid City wishes to communicate its intention to regulate medical cannabis establishments through a City license and to adopt other regulations explicitly allowed by SDCL 34-20G once the South Dakota Department of Health’s establishes its rules and regulations for medical cannabis establishments; and

WHEREAS, SDCL 34-20G-1 establishes four types of medical cannabis establishments and requires that such establishments obtain a registration from the South Dakota Department of Health prior to operation; and

WHEREAS, SDCL 34-20G-72 states that the South Dakota Department of Health has until October 29, 2021 to promulgate rules establishing the form and content of medical cannabis registrations; and

WHEREAS, medical cannabis establishments will not be able to legally operate in South Dakota unless and until they receive a registration from the Department of Health sometime after the rules are adopted on or before October 29, 2021; and

WHEREAS, during the time between when SDCL 34-20G goes into effect on July 1, 2021 and October 29, 2021, the City will not yet know the State’s standards for medical cannabis and will not be able to adequately assess the local zoning and licensing requirements necessary to approve City licenses and to best ensure applicants have a more predictable licensing process and avoid stranded investments; and

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

WHEREAS, Rapid City has established its land use regulations at Title 17 of Rapid City Municipal Code, which regulations do not currently reference or otherwise authorize medical cannabis establishments in any zoning district; and
WHEREAS, the City of Rapid City makes a preliminary finding that the City’s current regulations and controls do not adequately address the unique needs and impacts of medical cannabis establishments as defined in SDCL 34-20G-1; and

WHEREAS, the City makes a preliminary finding that it needs to further study the relationship of medical cannabis establishments to the Rapid City Comprehensive Plan and its land use ordinances; and

WHEREAS, a temporary zoning ordinance will ensure that more comprehensive zoning ordinance and building permit changes, licensing permits, and any proposed amendments to the City’s comprehensive plan can be examined with adequate public input from citizens and interested parties; and

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

WHEREAS, pursuant to SDCL 11-4-3.1, the City believes the following ordinance is necessary to protect the public health, safety, and general welfare of the City to allow for time for the State of South Dakota to promulgate its rules and for the City to have reasonable time to conduct studies, consult the Comprehensive Plan, and solicit public input on the zoning regulations to apply to medical cannabis establishments; and

WHEREAS, pursuant to SDCL 9-19-13, the City finds that the following ordinance is necessary to protect and immediately preserve the public health, safety, welfare, peace, and support of the City.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 5.74.010 of the Rapid City Municipal Code is adopted to read in its entirety as follows:

5.74.010 Medical cannabis establishment licenses – Temporary ordinance.

A medical cannabis establishment desiring to operate in the City shall be required to apply for and obtain a license from the City. Applications for a City 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 34-20G-72. Any application received by the City prior to such regulations being promulgated shall be denied.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 5.74.010 of the Rapid City Municipal Code is adopted to read in its entirety as follows:

5.74.020 Immediate Effect.

This ordinance is necessary to protect and immediately preserve the public health, safety, welfare, peace, and support of the municipal government and its existing public institutions pursuant to SDCL Sections 9-19-13 and 9-29-1.
NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 17.50.190 of the Rapid City Municipal Code is adopted to read in its entirety as follows:

17.50.190 Medical cannabis establishments – Temporary ordinance.

A. Medical cannabis establishments as defined in SDCL 34-20G-1 are not allowed in any zoning district within the City unless and until the City adopts an ordinance that permits such establishments, which adoption shall occur within six months of adoption of this ordinance. Accordingly, the City shall deny any application for a building permit or zoning application by a medical cannabis establishment prior to such adoption of zoning regulations authorizing its use.

B. This ordinance is necessary to protect and immediately preserve the public health, safety, welfare, peace, and support of the municipal government and its existing public institutions pursuant to SDCL 9-19-13. This ordinance is also necessary to protect the public health, safety, and general welfare of the City and its citizens, pursuant to SDCL 11-4-3.1.

CITY OF RAPID CITY

_______________________________________________________________________
Mayor

_______________________________________________________________________
Finance Director

(seal)

First Reading:
Second Reading:
Published:
Effective: