MEMORANDUM

TO: Planning Commission  
City Council

FROM: Vicki L. Fisher, Interim Community Development Director/Current Planning Division Manager

DATE: September 1, 2021

RE: File #21OA003 - An Ordinance to Adopt Comprehensive Zoning Regulations for Medical Cannabis Establishments by Amending Title 17 of the Rapid City Municipal Code

Pursuant to SDCL 34-20G, the City of Rapid City is allowed to regulate the time, place, manner and number of medical cannabis establishments within the City. Medical cannabis establishments include:

1) Dispensary-an enterprise, whether for profit or not, that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies;
2) Cultivation Facility-an enterprise, whether for profit or not, that carries on any activity involving the planting, growing, cultivation, harvesting, drying, curing, grading, or griming of cannabis for the purpose of sale to others;
3) Manufacturing Facility-an enterprise, whether for profit or not, that carries on any activity involving the compounding, blending, extracting, infusing, or otherwise making or preparing of a cannabis product; and,
4) Testing Facility-an enterprise, whether for profit or not, that undertakes any analysis to examine or determine the potency or safety of cannabis or cannabis products.

The proposed Ordinance before you is intended to balance the varied interests and lessen any potentially deleterious effects on neighboring properties for what will be a new use of property within the City of Rapid City. Subsequently, the following requirements for operation, location of the establishments and appropriate zoning districts for each use are being proposed as follows:

A. Requirements for operation for all medical cannabis establishments:
   1. All establishments must be wholly contained within an enclosed structure.
   2. All applicants shall submit an operational plan detailing compliance with all applicable laws, regulations, administrative rules, and ordinances. The plan shall include an identification of the type of establishment, scaled drawings of the site and floorplan,
operating hours, safety plans, security plans, and any other plans or information required by the Department of Health for registration as a medical cannabis establishment.

3. Applicants shall submit a waste management plan detailing waste handling and security. Wastewater pretreatment processes shall also be submitted if the medical cannabis establishment qualifies as an industrial user.

4. Applicants shall submit an odor control plan that shows all ventilation, odor abatement, and any other measures taken to prevent nuisances. The premises of an establishment shall be properly ventilated and the exhaust air filtered or treated to neutralize the odor from cannabis so that the odor cannot be detected by a person with a normal sense of smell at the property line of the premises or on any adjoining property. No operable windows or exhaust vents shall be located on the building façade that abuts a residential use or zone. Exhaust vents on rooftops shall direct exhaust away from residential uses or zones.

5. Applicant shall submit a survey stamped by a professional licensed surveyor, if required by the Director, to show distances to schools, churches, parks, or residential zoned property. The survey may be required by the Director if the distances required above are within 5% of the requirement as shown by the City’s GIS Division’s mapping application.

6. Registration with the South Dakota Department of Health shall be required for operation of any medical cannabis establishment. Failure to obtain a registration certificate, or revocation of a registration certificate, shall disqualify the establishment as a permitted use in all zoning districts and shall be sufficient cause for revocation of a conditional use permit.

B. Location of establishments: The proposed State regulations require that all medical cannabis establishments be a minimum distance of 1,000 feet from public or private schools. The Zoning Ordinance currently includes language to promote separation between specific uses to minimize the impact and preserve the character of the neighborhood. As such, staff is recommending the following location requirements:

1. A medical cannabis establishment shall not be permitted to operate within 1,000 feet of a public or private school.

2. Cultivation and manufacturing facilities shall not be permitted to operate within 500 feet of a childcare center, church, public park, or property zoned as a residential district.

3. A dispensary may be permitted to operate within 500 feet of a child care center, church, public park, or a property zoned as a residential district only by obtaining a conditional use permit pursuant to § 17.54.030.

4. All measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises of a medical cannabis establishment to the nearest property line of the premises of those facilities or boundaries outlined above.

C. Zoning Districts-To determine the appropriate Zoning Districts to allow the four medical cannabis establishments, staff reviewed the intent of each district and found the following:

1. Medical Cannabis Dispensary-In order to purchase medical cannabis at a dispensary, a physician must certify that an individual has a qualifying condition. This is similar to the operation of a pharmacy. The Zoning Ordinance currently allows retail sales, including a pharmacy, in the following zoning districts: Central Business District, Urban Commercial District, General Commercial District, Light Industrial District, Heavy Industrial District and Shopping Center I and II District(s). Allowing a dispensary as a permitted use within these districts is in keeping with the intent of the Ordinance.
Please note that if a dispensary is located within 500 feet of a childcare center, church, public park, or a property zoned a residential district, then a conditional use permit is required as noted above.

2. Medical Cannabis Cultivation and Manufacturing Facility-The Light Industrial District and the Heavy Industrial District are established, in part, to provide areas within our community for manufacturing and processing. To ensure that the medical cannabis cultivation and/or manufacturing facility is designed and operated to address any nuisances, a conditional use permit must be obtained as noted above.

3. Medical Cannabis Testing-The testing facility will function similarly to a medical lab with no noticeable impacts on the neighborhood. Currently, a medical lab is permitted within the following zoning districts: General Commercial District, Light Industrial District, Heavy Industrial District and Shopping Center I and II Districts. Allowing a medical cannabis testing facility as a permitted use within these districts is in keeping with the intent of the Ordinance.

RECOMMENDATION: Staff recommends that Ordinance 21OA003 to adopt comprehensive zoning regulations for Medical Cannabis Establishments by amending Title 17 of the Rapid City Municipal Code be approved.