

NOTICE OF ADOPTION  
AN EMERGENCY ORDINANCE PROHIBITING THE SMOKING  
OF CANNABIS IN PUBLIC PLACES  
UNION COUNTY ORDINANCE UCC#2021-004

BE IT ORDAINED BY UNION COUNTY:

ARTICLE I: GENERAL PROVISIONS

Section 1: Authority

This Emergency Ordinance is enacted under the authority of SDCL §§ 11-2-10, 7-18A-2, 7-18A-8, and 34-20G-18. The Union County Board of County Commissioners hereby makes a determination that smoking cannabis in any public place is a public nuisance in that the act (1) Annoys, injures, or endangers the comfort, repose, health, or safety of others and (2) Offends decency. SDCL § 7-8-33.

Section 2: Purpose

It is the purpose of this Ordinance to prohibit the smoking of cannabis in any public place in Union County outside of municipalities.

ARTICLE II: DEFINITIONS

Section 1: Application and Interpretation

The definitions listed hereafter shall apply to this Ordinance. The definitions set forth are to be understood in their ordinary sense. Any interpretation of terms under that statute shall apply to the same term in this Ordinance.

Section 2: Definitions

- A. "Cannabis products," "any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by the act of smoking;"
  - B. "Commissioners," the Union County Board of County Commissioners;
  - C. "Medical cannabis" as defined in SDCL § 34-20G (1) (14);
  - D. "Marijuana" as defined in SDCL § 22-42-7;
  - E. "Place Open to the Public," any place to which the public is invited or permitted, including in, on, or around any place of business, parking lot, or place of amusement or entertainment and includes the elevator, lobby, hallways, corridors, and area open to the public of any store, office or multifamily residential buildings;
  - F. "Smoke" or "Smoking," the act of inhaling, exhaling, burning, or carrying any lighted or heated blunt, cigarette, pipe, hookah, or marijuana and/or cannabis paraphernalia of any kind which burns or heats any marijuana or cannabis product or plant intended for inhalation, in any manner or in any form, including the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form.
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ARTICLE III: UNAUTHORIZED ACTS

Section 1: It is unlawful for any person to smoke marijuana, cannabis, medical cannabis, or cannabis products in any place open to the public, whether or not the marijuana, cannabis, medical cannabis or cannabis product is prescribed by a practitioner of the medical arts.

ARTICLE VI: PENALTIES

Section 1: Criminal Penalty

- A. Violation of the terms of this Ordinance is punishable pursuant to SDCL § 22-6-2(2) as a Class 2 misdemeanor: thirty days imprisonment in county jail or five hundred dollars fine, or both as authorized by SDCL 7-18A-2, and restitution if applicable as authorized by SDCL § 23A-28.

ARTICLE VII: SEVERABILITY AND SEPERABILITY

Should any Article, Section, subsection or part of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional, invalid or otherwise affected by law, such determination shall not affect the validity or constitutionality of the Ordinance as a whole or any part thereof other than the part so determined.

ARTICLE VIII: EFFECTIVE DATE

This Emergency Ordinance is necessary to protect and immediately preserve the public peace, health, or safety and is therefore immediately effective following second reading pursuant to SDCL §§ 7-18A-8 and 11-2-10. This Ordinance shall be enforceable no sooner than July 1, 2021.

Passed this 28<sup>th</sup> day of June, 2021.

Adopted this 1<sup>st</sup> day of July, 2021.

Milton Ustad  
Milton Ustad, Chairperson

Attest:  
Jacke Shewert  
Auditor

1<sup>st</sup> Reading: June 21, 2021  
2<sup>nd</sup> Reading: June 28<sup>th</sup>, 2021  
Adopted: June 28<sup>th</sup>, 2021  
Published: July 1, 2021  
Effective: July 1, 2021