

AN ORDINANCE PROHIBITING THE CONSUMPTION OR SMOKING OF  
CANNABIS IN PUBLIC PLACES

UNION COUNTY ORDINANCE UCC#2021-008

BE IT ORDAINED BY UNION COUNTY:

ARTICLE I: GENERAL PROVISIONS

Section 1: Authority

This Ordinance is enacted under the authority of SDCL §§ 7-8-33, 7-18A-2 and 34-20G-18. The Union County Board of County Commissioners hereby makes a determination that consuming or 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.

Section 2: Purpose

It is the purpose of this Ordinance to prohibit the consumption or 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.

The definitions set forth correspond to the definitions of SDCL 34-20G-1. 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 humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures;
- B. "Commissioners," the Union County Board of County Commissioners;
- C. "Edible cannabis products," Pursuant to 34-20G-1(12), any product that:
  - 1 Contains or is infused with cannabis or an extract thereof;
  - 2 Is intended for human consumption by oral ingestion; and
  - 3 Is presented in the form of foodstuffs, beverages, extracts, oils, tinctures, or other similar products;
- D. "Marijuana" as defined in SDCL § 22-42-1(7);
- E. "Medical cannabis" or "cannabis," as defined in SDCL § 34-20G-1(14);
- F. "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.
- G. "Smoke" or "Smoking," is 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.

ARTICLE III: UNAUTHORIZED ACTS

Section 1: It is unlawful for any person to consume or smoke cannabis, medical cannabis, or cannabis products in any public place, whether or not the 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 may be enforced through a fine not to exceed the fine established by subdivision 22-6-2(2) for each violation or by imprisonment for a period not to exceed thirty days for each violation, or by both the fine and imprisonment.

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 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. This Ordinance shall be enforceable no sooner than 15<sup>th</sup> day of Dec, 2021. Upon this Ordinance taking effect, the prior version of this ordinance shall be revoked.

Passed and adopted this 16 day of NOV, 2021.

Milton Ustad
Milton Ustad, Chairperson

Attest
Jackie Diener
Auditor

Notice of Headings OCT 21 2021
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