

SECTION 6.28 CANNABIS AND LOWER POTENCY HEMP BUSINESS REGISTRATION REGULATIONS

Subd. 1. Administration

A. Findings and Purpose. The City makes the following legislative findings:

- 1) The purpose of this ordinance is to implement the provisions of Minnesota Statutes, Chapter 342, which authorizes the City to protect the public health, safety, welfare of residents by regulating cannabis businesses within the legal boundaries of the City.
- 2) The City finds and concludes that the proposed provisions are appropriate and lawful land use regulations for the City, that the proposed amendments will promote the community's interest in reasonable stability in zoning for now and in the future, and that the proposed provisions are in the public interest and for the public good.

B. Authority and Jurisdiction. The City has the authority to adopt this ordinance pursuant to:

- 1) Minnesota Statutes Section 342.13(c), regarding the authority of a local unit of government to adopt reasonable restriction of the time, place, and manner of the operation of a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis business.
- 2) Minnesota Statutes Section 342.22, regarding the local registration and enforcement requirements of state-licensed cannabis retail businesses and lower-potency hemp edible retail businesses.
- 3) Minnesota Statutes Section 152.0263, Subd. 5, regarding the use of cannabis in public places.
- 4) Minnesota Statutes Section 462.357, regarding the authority of a local authority to adopt zoning ordinances.

This ordinance shall be applicable to the legal boundaries of the City.

C. Severability. If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

D. Enforcement. The City, with assistance from the Permits and License Manager, Planning Manager, and Police Department, is responsible for

the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements constitutes a misdemeanor and is punishable as defined by law. Violations of this ordinance can occur regardless of whether a permit is required for a regulated activity listed in this ordinance.

E. Definitions. Unless otherwise noted in this section, words and phrases contained in Minnesota Statutes Section 342.01, as amended, and the rules promulgated pursuant to any of these acts, shall have the same meanings in this ordinance.

1. *Cannabis Business*: In accordance with Minnesota Statutes Section 342.01, subdivision 14, “Cannabis Business” means any of the following license types:
 - a. Cannabis Microbusiness, Cannabis Mezzobusiness, Cannabis Cultivator, Cannabis Manufacturer, Cannabis Retailer, Cannabis Wholesaler, Cannabis Transporter, Cannabis Testing Facility, Cannabis Event Organizer, Cannabis Delivery Service, Medical Cannabis Cultivator, Medical Cannabis Processor, Medical Cannabis Retailer, and Medical Cannabis Combination Business.
2. *Cannabis Retail Businesses*: A retail location and the retail location(s) of mezzobusinesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, or a medical combination business operating a retail location.
3. *Cannabis Retailer*: Any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form.
4. *Daycare*: A “day care,” “family day care,” or “group family day care,” licensed under Minnesota Rules parts 9502.0300 to 9502.0445, or a day care center licensed under Minnesota Rules parts 9503.0005 to 9503.0170.
5. *Lower-Potency Hemp Edible*: As defined under Minnesota Statutes Section 342.01, Subd. 50.
6. *Lower-Potency Hemp Edible Retailer or Hemp Retail Business*: a hemp business, as defined by Minnesota Statutes Section 342.01, Subd. 34, that holds a valid lower-potency hemp edible retailer license.

7. *Office of Cannabis Management*: Minnesota Office of Cannabis Management, referred to as “OCM” in this ordinance.
8. *Place of Public Accommodation*: a business, accommodations, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.
9. *Preliminary License Approval*: OCM pre-approval for a cannabis business license for applicants who qualify under Minnesota Statutes Section 342.17.
10. *Public Place*: A public park or trail, public street or sidewalk; any enclosed, indoor area used by the public, including, but not limited to, restaurants; bars; any other food or liquor establishment; hospitals; nursing homes; auditoriums; arenas; gyms; meeting rooms; common areas of rental apartment buildings, and other places of public accommodation.
11. *Residential Treatment Facility*: As defined under Minnesota Statute 245.462, Subd. 23.
12. *Retail Registration*: An approved registration issued by the City to a state-licensed cannabis retail business or hemp retail business.
13. *School*: A public school as defined under Minnesota Statutes Section 120A.05, a nonpublic school that must meet the reporting requirements under Minnesota Statutes Section 120A.24, or a charter school governed by Minnesota Statute Chapter 124E.
14. *State License*: An approved license issued by the State of Minnesota’s Office of Cannabis Management to a cannabis retail business or hemp retail business.

Subd. 2. Registration Required

- A. Consent to registering of Cannabis Retail Business and Hemp Retail Business.
 1. No individual or entity may operate a state-licensed cannabis retail business or hemp retail business within the City without first registering with the City.
 2. Any state-licensed cannabis retail business or hemp retail business that sells to a customer or patient without valid retail registration shall

incur a civil penalty of up to \$2,000 for each violation pursuant to Minnesota Statutes Section 342.22 subdivision 5(e).

3. Cannabis retail registrations and hemp retail business registrations shall not be transferred.

B. Compliance Checks Prior to Retail Registration

1. Prior to issuance of a cannabis retail business registration or hemp retail business registration, the City shall conduct a preliminary compliance check to ensure compliance with local ordinances.
2. Pursuant to Minnesota Statutes Section 342.13(f), within 30 days of receiving a copy of a state license application from OCM, the City shall certify on a form provided by OCM whether the proposed cannabis retail business or hemp retail business complies with local zoning ordinances and, if applicable, whether the proposed business complies with the state fire code and building code.

C. Registration and Application Procedure

1. Fees

- a. A registration fee, as established in the City's fee schedule, shall be charged to applicants depending on the type of retail business license applied for.
- b. An initial registration fee shall not exceed \$500 or half the amount of an initial state license fee under Minnesota Statute Section 342.11, whichever is less. The initial registration fee shall include the initial retail registration fee and the first annual renewal fee.
- c. Any renewal retail registration fee imposed by the City shall be charged at the time of the second renewal and each subsequent renewal thereafter.
- d. A renewal retail registration fee shall not exceed \$1,000 or half the amount of a renewal state license fee under Minnesota Statute Section 342.11, whichever is less.
- e. A medical combination business operating an adult-use retail location may only be charged a single registration fee, not to exceed the lesser of a single retail registration fee, defined under this section, of the adult-use retail business.

- f. Registration/renewal fees shall be non-refundable once a complete application has been processed.
 2. Registration Submittal. The City shall issue a retail registration to a state-licensed cannabis retail business or hemp retail business that adheres to the requirements of Minnesota Statute Section 342.22.
 - a. An applicant for either a cannabis or hemp retail registration shall fill out an application form, as provided by the City. Said form shall include, but is not limited to:
 - Full name of the property owner, business owner (applicant), and business manager;
 - Address, email address, and telephone number of the applicant, property owner, and manager;
 - The address and parcel ID for the property which the retail registration is sought;
 - Name of the cannabis retail business or hemp retail business to be registered;
 - Signature of the applicant;
 - Certification that the applicant complies with the requirements of local ordinances established pursuant to Minnesota Statute 342.13; and
 - Any additional information the City deems necessary.
 - b. The applicant shall include with the form:
 - A copy of the cannabis retail businesses or hemp retail businesses current license or license preapproval issued by the OCM;
 - The registration fee as required in the fee schedule.
 - A map showing the retail store meets the minimum buffer requirements outlined in Subd. 3 of this section of the city code.
 - c. Once an application is considered complete, the Permits and License Manager shall inform the applicant as such, process the application fees, and approve or deny the application. If the registration form is incomplete, the retail registration shall not be processed/issued, and notice will be sent by the Permits and License Manager.
 3. Registration Application Approval. Registration of a cannabis retail business or hemp retail business will be approved by the Permits and License Manager and in effect so long as the following requirements are met:

- a. The applicant holds a valid license or license preapproval issued to the cannabis retail business by OCM for a cannabis retail license or valid lower-potency hemp edible retailer license issued by OCM for a hemp retail license;
 - b. All applicable registration/renewal fees are paid in full;
 - c. During the preliminary compliance check, the cannabis retail business or hemp retail business is found to be in compliance with zoning code and all requirements of Section 6.28;
 - d. If applicable, the applicant is current on all property taxes and assessments at the location where the retail establishment is located; and
 - e. The cannabis retail registration will not exceed the limitation on number of permitted cannabis retail business registrations set forth in this Section 6.28.
4. Conditions of Registration. The following conditions apply to cannabis retail businesses with a valid cannabis retail registration, and hemp retail businesses with a valid hemp retail registration, from the City under this section:
- a. The registered business shall comply with all provisions of Section 6.28 and the zoning regulations in Chapter 11 as applicable to the registered business;
 - b. The registered business shall comply with all Minnesota laws and state licensing conditions regulating cannabis retail businesses and hemp retail businesses as may be applicable;
 - c. No cannabis flower, cannabis products, lower-potency hemp edibles, or hemp derived consumer products shall be sold to any person under 21 years of age unless the person is enrolled in the registry program and the cannabis business holds a medical cannabis retail endorsement;
 - d. The display and storage of cannabis flower, cannabis products, lower potency hemp edibles and hemp-derived consumer products shall be in accordance with Minnesota Statutes governing cannabis retail or hemp retail businesses; and
 - e. A hemp retail business shall keep all lower-potency hemp

edibles, other than lower-potency hemp edibles that are intended to be consumed as a beverage, displayed behind a checkout counter where the public is not permitted or in a locked case. All lower-potency hemp edibles that are not displayed shall be stored in a secure area.

5. Limiting of Registrations. Pursuant to Minnesota Statutes Section 342.13(i), the City may limit the number of licensed cannabis retail businesses to no fewer than one registration for every 12,500 residents within the city. The number of registered cannabis retail businesses within the jurisdictional limits of the City shall be limited to two.

a. Any retail operations located within the jurisdictional limits of the City of Red Wing operating under: 1) a Tribal compact entered into under Minnesota Statutes section 3.9224 or 3.9228 or 2) a Tribally-issued license or registration, shall be included in the count of registered cannabis retail businesses for purposes of the limitation of registrations within the City.

6. Annual Compliance Checks. The City shall complete at a minimum, one compliance check per calendar year of every registered cannabis retail business and hemp retail business licensed by OCM, to ensure compliance with the provisions of Minnesota Statutes, Chapter 342 and this chapter.

a. Age verification compliance checks shall involve persons at least 17 years of age but under the age of 21 who, with the prior written consent of a parent or guardian if the person is under the age of 18, attempt to purchase adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, or hemp-derived consumer products under the direct supervision of a law enforcement officer or an employee of the local unit of government.

b. All age verification compliance check failures will be reported to OCM.

D. Change in Location. If a registered cannabis retail business or hemp retail business seeks to move to a new location within the City, the business shall submit a new application for retail registration for the new location prior to the relocation. No additional registration fee or renewal fee shall be required for a change in location. The new location must still meet all the criteria in this chapter.

E. Registration is nontransferable. Cannabis retail business registrations

and hemp retail business registrations issued under this chapter shall not be transferred to a different cannabis retail business or hemp retail business.

F. **Renewal of Registration.** A registration for a cannabis retail business or a hemp retail business shall be renewed when the OCM renews the license of the business, provided the business submits to the City a renewal registration form provided by the City, the information and documentation required by this chapter, and payment of the applicable renewal retail registration fee established in the City's fee schedule.

G. **Registration Suspension and Civil Penalties**

1. Pursuant to Minnesota Statutes Section 342.22, Subd. 5, if the City determines a cannabis business or a hemp business with a retail registration issued by the City is not operating in compliance with the requirements of Minnesota Statutes Chapter 342 or that the operation of the business poses an immediate threat to the health or safety of the public, the City may suspend the retail registration of the cannabis business or hemp business. The City must immediately notify OCM of the suspension and shall include a description of the ground for suspension.
2. OCM shall review the retail registration suspension and may order reinstatement of the retail registration or take any action outlined in Minnesota Statute Sections 342.19 or 342.21. The retail registration suspension must be for up to 30 days unless OCM suspends the license and operating privilege of the cannabis business or hemp business for a longer period or revokes the license.
3. The City may reinstate a registration if it determines that the violations have been resolved. The City must reinstate a registration if OCM orders reinstatement.
4. Any state-licensed cannabis retail business that sells to a customer or patient without valid retail registration shall incur a civil penalty of up to \$2,000 for each violation pursuant to Minnesota Statutes Section 342.22, Subd. 5(e).

Subd. 3. Requirements for Cannabis Businesses

A. **Minimum Buffer Requirements for Cannabis Businesses.** Except as provided for in subpart 3 of this subdivision, setbacks shall be measured from the closest point of the property line upon which the cannabis business is located, to the property line of the following uses:

1. The City shall prohibit the operation of a cannabis business within 1,000 feet of a school, 500 feet of a day care, and 500 feet of a residential treatment facility.
 2. The City shall prohibit the operation of a cannabis retail business within 1,000 feet of another cannabis retail business location.
 3. The City shall prohibit the operation of a cannabis business within 500 feet of an attraction within a public park that is regularly used by minors, including a playground or athletic field. For purposes of this subpart, the distance measured shall be between the closest point of the property line upon which the cannabis business is located and the attraction that is regularly used by minors.
 4. Pursuant to Minnesota Statute 462.357, subd. 1e, nothing in this section shall prohibit an active cannabis business or a cannabis business seeking registration from continuing operation at the same site if a school, daycare, residential treatment facility, or a park attraction regularly used by minors is installed or moves within the minimum buffer zone.
- B. Zoning and Land Use. The registered business shall comply with the provisions of Section 6.28 and with zoning regulations in Chapter 11 of this code. Cannabis businesses will be zoned under existing zoning ordinances in accordance with the license type or endorsed activities held by the cannabis business. Different types of licenses may be able to perform multiple activities which may have different zoning analogues. The registered business shall comply with all Minnesota laws and licensing conditions regulating cannabis retail businesses.
- C. Restrictions.
1. Sale of low-potency hemp edibles is permitted by registered lower potency hemp edible retailers. A low-potency hemp edible retailer shall ensure that all low-potency hemp edibles, other than low-potency hemp edibles that are intended to be consumed as a beverage, are displayed behind a checkout counter where the public is not permitted or in a locked case. All lower-potency hemp edibles that are not displayed must be stored in a secure area.
 2. No person shall distribute samples of any cannabis or lower-potency hemp edible product free of charge or at nominal cost.
 3. All retail sales of cannabis, lower-potency hemp edibles, and hemp-derived consumer products must be conducted within a

building and within the licensed and registered premises. A licensed or registered cannabis retail business must hold a cannabis delivery service license under Minnesota Statute 342.41 prior to conducting cannabis, lower-potency hemp edible, or hemp-derived consumer product delivery services within the city and follow all state regulations.

4. Consumptions or use of cannabis at or on the property of a cannabis business is prohibited except:

- a. A cannabis microbusiness with an on-site consumption endorsement may permit on-site consumption of edible cannabis products and lower-potency hemp edibles in compliance with state law; and
- b. A cannabis business may permit on-site consumption of cannabis and hemp products by an employee in compliance with state law.

5. Cannabis businesses are precluded from being home occupations. All activities authorized by OCM must occur in an area of the premises that can be accessed without passing through a dwelling space. Division 55-170 of City Code indicates no home occupation shall be conducted within an attached garage, accessory building or accessory structure.

D. Hours of Operation. Cannabis businesses are limited to retail sale of cannabis, cannabis flower, and cannabis products between the hours of 8:00 am and 10:00 pm (Monday thru Saturday), and 10:00 am to 10:00 pm on Sunday.

E. Advertising. Cannabis businesses are permitted to erect signs on the exterior of the building or on the property of the business in accordance with the City's sign regulations in Division 65 of zoning code and Minnesota Statutes Section 342.64.

Subd. 4. Temporary Cannabis Events

A. License or Permit Required for Temporary Cannabis Events

1. State License Required

- a. A cannabis event organizer license entitles the license holder to organize a temporary cannabis event lasting no more than four days. Prior to obtaining a local temporary cannabis events permit, a license holder must show proof of current state license as a Cannabis Event Organizer.

- b. A license or permit is required to be issued and approved by the City prior to holding a Temporary Cannabis Event.

B. Registration & Application Procedure

All events require a minimum 30-day notice to review event plans for compliance with Minnesota Statute Section 342.40. Any application with less than 30 days' notice shall be automatically rejected. Each event shall have a fee charged to the Cannabis Event Organizer only. That rate shall be established in the City's fee schedule.

Applicants shall provide but may not be limited to provide the following:

1. Plans for security to general public safety, security for cannabis workers, security of intoxicating cannabinoid product displays, and storage security of intoxicating cannabinoid products.
2. Plans on how to restrict access of intoxicating products to minors and verify age at the time of sale.
3. Plans on how waste will be disposed properly.
4. Details on how sales take place in an established retail space and how sales are recorded for tax collection.
5. Full list of all vendors with a brief explanation of what they are providing/selling and their license number/information.

C. Application Submittal & Review

An Application for a Temporary Cannabis Event shall be submitted to the City for review. If City staff determine the application is incomplete, they shall return the application to the applicant with the notice of deficiencies. An application for retail registration form shall include the following information and items:

1. Full name of the property owner and business owner (applicant) and business manager;
2. Address, e-mail address, and telephone number of the owner, applicant and manager;
3. Application fee;
4. A copy of the OCM cannabis event license;
5. Items listed in Subd. 4B; and
6. Proof of state-required insurance

The application shall be submitted to the City designee for review no less than 30 days prior to the event. Once the application is deemed complete, the designee shall process the application fee and forward the application to the City Council for approval or denial.

D. Guidelines for Temporary Cannabis Events

The following guidelines apply to all Temporary Cannabis Events taking place within the City:

1. Prohibition of smoking at any event.
2. Prohibition of vaping at any event.
3. Organizer shall not allow the serving of intoxicating cannabis products to impaired or intoxicated individuals.
4. Organizer shall not allow excessive intoxicated behavior of any group or individual and may be held liable for any damages.
5. Organizer and vendors must be current on all state, county, and local taxes, including but not limited to sales tax.
6. Organizer and vendors shall not have any prior violations of this chapter or the sale of intoxicating cannabinoid, tobacco, or alcohol products to minors.

Temporary cannabis events may only be held at non-residential private property that meets setback and zoning requirements and locations of registered cannabis businesses. Any other location must be pre-approved by the City Council.

Temporary cannabis events shall not be held on January 1, July 4, Thanksgiving Day, December 24, December 25, or December 31.

Subd. 5. Local Government as a Cannabis Retailer: Any municipal cannabis retail store shall not be included in any limitation on the number of registered cannabis retail businesses established in this ordinance.

- A. The City may establish, own, and operate one municipal cannabis retail business.
- B. The City shall be subject to all the same retail license requirements and procedures applicable to all other applicants.