



## CITY OF MENDOTA HEIGHTS

### PLANNING COMMISSION REGULAR MEETING AGENDA

November 26, 2024 at 7:00 PM

Mendota Heights City Hall, 1101 Victoria Curve, Mendota Heights

**1. Call to Order**

**2. Roll Call**

**3. Approval of Minutes**

- a. Approve Minutes from the September 24, 2024 Planning Commission Meeting

**4. Public Hearings**

- a. **CASE No. 2024-21 Lot Split Request** Application of Lakes LLC for a Lot Split of the property located at 1912 South Lane
- b. **CASE No. 2024-23 Zoning Text Amendment** Application of the City of Mendota Heights for a Zoning Text Amendment of Title 12: Zoning, Chapter 3: Allowed Uses, relating to incorporating cannabis business use types into the Table of Uses

**5. New and Unfinished Business**

**6. Updates/Staff Comments**

**7. Adjourn**

Auxiliary aids for persons with disabilities are available upon request at least 120 hours in advance. If a notice of less than 120 hours is received, the City of Mendota Heights will make every attempt to provide the aid. However, this may not be possible on short notice. Please contact City Hall at 651.452.1850 with requests.

**CITY OF MENDOTA HEIGHTS  
DAKOTA COUNTY, MINNESOTA**

**DRAFT PLANNING COMMISSION MINUTES  
September 24, 2024**

The regular meeting of the Mendota Heights Planning Commission was held on Tuesday, September 24, 2024 in the Council Chambers at City Hall, 1101 Victoria Curve at 7:00 P.M.

The following Commissioners were present: Chair Litton Field, Commissioners Patrick Corbett, Cindy Johnson, Brian Petschel, Brian Udell, and Andrew Katz. Those absent: Commissioner Jason Stone.

**Approval of Agenda**

The agenda was approved as submitted.

**Approval of August 27, 2024 Minutes**

COMMISSIONER KATZ MOVED, SECONDED BY COMMISSIONER CORBETT TO APPROVE THE MINUTES OF AUGUST 27, 2024.

AYES: 6

NAYS: 0

**Hearings**

**A) PLANNING CASE 2024-17  
XCEL ENERGY, 800 SIBLEY MEMORIAL HIGHWAY – MRCCA PERMIT AND  
AMENDED CUP**

Community Development Manager Sarah Madden explained that Xcel Energy is seeking approval of a Mississippi River Corridor Critical Area (MRCCA) Permit and Conditional Use Permit (CUP), in order to implement a number of improvements to the Sibley Propane Plant facility, located at 800 Sibley Memorial Highway.

Hearing notices were published and mailed to all properties within 350-ft. of the site; no comments or objections to this request were received.

Community Development Manager Sarah Madden provided a planning staff report and a presentation on this planning item to the Commission (which is available for viewing through the City's website).

Staff recommended approval of this application based on the findings and with conditions.

Commissioner Corbett asked for details on the height of the retaining wall as the presentation mentioned six feet, but the plans show eight feet. He noted that it does appear that a fence is being installed on top of the retaining wall for safety.

Community Development Manager Sarah Madden stated that the applicant may be able to provide clarification on that as there may be a different measurement from the base of the retaining wall.

Commissioner Katz referenced the statement that the applicants would likely need an NPDES permit and asked if that would be required.

Community Development Manager Sarah Madden replied that generally with this level of disturbance that permit would be required.

Chair Field opened the public hearing.

Brian Sullivan, Xcel Energy, explained that they are attempting to bring the current facility up to code to make sure it is safe and reliable. He stated that after they attempted to implement the updated fire suppression system that was mentioned in the last permit request, they determined that there is a better system they would like to use that is much more reliable. He stated that from the ground elevation up, the retaining wall would be six feet, with safety railings. He stated that there is foundation work that would be under the ground level, which is perhaps what was causing confusion on the plans. He stated that a storm shelter has also been added to the site and they have been busy cleaning and painting the tanks.

Commissioner Petschel asked how maintenance is done long-term if the tanks are buried, or whether that would prohibit the need for maintenance.

Corey Tellers, Project Manager, commented that they are doing extensive checks on the tank and completing welds where needed for reinforcement. He stated that they will then have a set schedule to empty the tanks and go inside to do wall thickness checks.

Tom Muck, 1396 Farmdale, referenced the public hearing that occurred two years ago where there was controversy about the water line that was going to be installed. He stated that the trees that are in place are critical for the homeowners because of the screening that those provide. He stated that the City Council approved the trenchless boring for the installation of the waterline and noted that an alternate method would require a new MRCCA permit. He wanted to ensure that was still the plan because the trees are very important to the residents.

George Sonnen, 1387 Farmdale, asked if a permit has been obtained for the road to the south because there was work on that last week. He stated that the applicant wants to put a new road in off 13 between the current eastern fence and the tree line and asked if that is 25 feet wide.

Commissioner Corbett was unsure if that was part of this request as he is confused by the questions. He stated that in the southeast corner the road already exists and they are bumping a fence out.

Mr. Sonnen stated that he noticed gravel being put down. He stated that he was concerned that if firetrucks could be brought in, other trucks could come in there as well.

Commissioner Petschel stated that Xcel does bring tanker trucks into the site as well.

Mr. Sonnen replied that those trucks use the access from 13 and clarified that he is speaking of the dirt road that connects to Farmdale. He stated that he supports the safety and control improvements but has a question of how much traffic would be using that access.

Mr. Sullivan commented that he has not told anyone to bring dirt into the south fire road.

Commissioner Corbett commented that it looks like an overgrown walking path on the satellite imaging and was unsure it would be used for tanker trucks.

Mr. Sonnen commented that he would like some trees to be installed so that he does not have to look at the activity on the site and would like a better review of the road plans.

Commissioner Corbett commented that he did not believe the fire road is part of the scope of discussion tonight.

Chair Field confirmed that the item is not included on the application but noted that the comments of the resident have been received and are a part of the record. It was confirmed that the purpose of that road is only for fire access.

Mr. Sullivan commented that there is a fire road that is supposed to be maintained for emergency access, with an almost trail condition going to Farmdale. He confirmed that the only purpose of that road/trail is for emergency access.

Another representative from Xcel confirmed that will only be used for fire access and the only work that would be done on that would be if federal regulation required it to be clearer. He stated that he would never allow someone to drive back there, other than the maintenance crew. He identified the small portion of the fence that would be moved. He stated that if any trees were required to be removed, they would be replaced.

Seeing no one further coming forward wishing to speak, Chair Field asked for a motion to close the public hearing.

COMMISSIONER PETSCHER MOVED, SECONDED BY COMMISSIONER UDELL, TO CLOSE THE PUBLIC HEARING.

AYES: 6

NAYS: 0

COMMISSIONER KATZ MOVED, SECONDED BY COMMISSIONER CORBETT, TO RECOMMEND APPROVAL OF THE PROPOSED MRCCA PERMIT AND AMENDED CONDITIONAL USE PERMIT REQUEST FROM XCEL ENERGY AND FOR THE



PROPERTY LOCATED AT 800 SIBLEY MEMORIAL HIGHWAY, WITH THE FOLLOWING CONDITIONS:

1. THE NEW IMPROVEMENTS AND WORK DESCRIBED, ILLUSTRATED AND DETAILED ON THE “SIBLEY PROPANE PLANT” PLANS, DATED 5/24/2024, AND ANY OTHER PLANS RELATED TO THIS PROJECT, SHALL BE THE ONLY WORK OR IMPROVEMENTS ALLOWED AND APPROVED UNDER THIS NEW MRCCA PERMIT.
2. THE ENTIRE WATER/FIRE SUPPRESSION SYSTEM, BOTH ABOVE AND BELOW GROUND MUST BE SUBMITTED TO THE STATE FIRE MARSHALL FOR A FIRE SUPPRESSION PERMIT, AND COPIES PROVIDED TO THE MENDOTA HEIGHTS FIRE DEPARTMENT FOR REVIEW AND RECORD KEEPIN.
3. FULL EROSION AND SEDIMENTATION MEASURES WILL BE PUT IN PLACE PRIOR TO AND DURING GRADING AND CONSTRUCTION WORK ACTIVITIES.
4. ALL GRADING AND CONSTRUCTION ACTIVITY WILL BE IN COMPLIANCE WITH APPLICABLE FEDERAL, STATE, AND LOCAL REGULATIONS AND CODES, AS WELL AS IN COMPLIANCE WITH THE CITY’S LAND DISTURBANCE GUIDANCE DOCUMENT. THE APPLICANTS MUST SUBMIT AND RECEIVE A SWPPP PERMIT AND NPDES PERMIT (IF NECESSARY) PRIOR TO START OF ANY NEW CONSTRUCTION WORK.
5. ALL WORK ON SITE WILL ONLY BE PERFORMED BETWEEN THE HOURS OF 7:00 A.M. AND 8:00 P.M. MONDAY THROUGH FRIDAY; 9:00 A.M. TO 5:00 P.M. WEEKENDS.
6. BEST EFFORTS WILL BE MADE BY THE CONTRACTOR(S) TO “COME CLEAN, LEAVE CLEAN” DURING THE COURSE OF CONSTRUCTION ON THE SUBJECT PROPERTY, AND ENSURE NEW GROUND MULCH OR PLANT MATERIALS ARE FREE OF ANY INVASIVE SPECIES.

AYES: 6

NAYS: 0

Chair Field advised the City Council would consider this application at its October 1, 2024 meeting.

### **Staff Announcements / Updates**

Community Development Manager Sarah Madden provided an update on recent City Council actions on prior Planning Cases and other items of interest, such as the Short Term Rental ordinance which is continuing to be considered by the City Council.

Chair Field thanked staff and the planning consultant for all their work on the Zoning Code update.

Madden noted that the next regular Planning Commission meeting is scheduled for October 22<sup>nd</sup>, and that currently they had not received any Planning applications. Staff will update the commission as the meeting date gets closer.

**Adjournment**

COMMISSIONER CORBETT MOVED, SECONDED BY COMMISSIONER JOHNSON, TO  
ADJOURN THE MEETING AT 7:51 P.M.

AYES: 6

NAYS: 0



## PLANNING STAFF REPORT

**DATE:** November 26, 2024  
**TO:** Planning Commission  
**FROM:** Sarah Madden, Community Development Manager  
**SUBJECT:** Planning Case No. 2024-21  
**Lot Split Request**  
**APPLICANT:** Lakes LLC (Sean Doyle)  
**PROPERTY ADDRESS:** 1912 South Lane  
**ZONING/GUIDED:** R-1 One-Family Residential/SF Residential  
**ACTION DEADLINE:** 12/20/2024 (60-day Review Period)

### INTRODUCTION

Sean Doyle of SD Custom Homes/Lakes LLC is requesting consideration of a simple lot split on a parcel of land located at 1912 South Lane.

A public hearing notice for this planning item was published in the *Pioneer Press* and notice letters were mailed to all properties within 350-feet of the subject property. As of the date of this report, the City has not received any e-mail or phone inquiries or public comments relating to this application request.

### DESCRIPTION OF THE REQUEST

This 1912 South Lane site is an existing lot of record legally described as Lot 1, Block 2, Jefferson Heights (excluding the west 60-ft). The subdivision was originally platted in 1949, and later South Lane was extended resulting in the 60-ft exclusion. The lot is currently 1.38 acres in size (60,309 square feet).

The property is currently owned by Louis and Alison Hawkins and contains a single-family home and accessory swimming pool. The applicant is requesting authorization of a lot split of the parcel, with the intention to demolish the existing home and later build two new single-family dwellings on the proposed two parcels.

The applicant is seeking to subdivide the 1.38 acre parcel by a horizontal split, to create two parcels: "Parcel 1" to consist of 28,220-sq.ft or .65 acres of land; and "Parcel 2" to consists of 31,518-sq. ft, or 0.72 acres of land. Parcel 1 is proposed to be 100.01-ft in width at the property line, and Parcel 2 is proposed to be 110.3-ft wide at the property lane,



fronting on South Lane. The parcels will later be developed with single family homes, which will be required to be reviewed by the City through the administrative building permit process.

### **ANALYSIS**

Title 11-1-5.C of the City Code (Subdivision Ordinance) allows lot split requests to take place, provided the following standards are met:

*Lot split request to divide a lot which is a part of a recorded plat where the division is to create two (2) lots and the newly created property line will not cause the other remaining portion of the lot to be in violation with this title or the zoning ordinance.*

This request to split the property into two new parcels meets this City Code section, as the existing single-family home is to be demolished, and the proposed lots meet the required minimum lot size and lot with requirements of the R-1 zoning district. The dividing line for this lot split request does not cause the parcels to be in violation of the zoning ordinance.

No new or separate single-family development can occur or would be allowed on these parcels without the demolition of the existing home, which will be scheduled once the property has transferred in ownership after the City's approval of the lot split request. City Staff is suggesting that the demolition of the home be a condition of approval of this lot split request prior to any work or development on the property.

The property is immediately adjacent to a pond in the northeast corner of the site. The applicant is not requesting the building or development plans at this time, and so a Wetlands Permit is not required. Beginning January 1<sup>st</sup>, 2025, the City will no longer require Wetlands Permits as a Planning Application; however, the Wetlands Conservation Act procedures will continue to apply. The applicant has begun the process of coordinating with the City's Natural Resources staff to evaluate the Wetland boundary on the site.

This lot split request will have minimal or no impact upon the neighboring properties, and it will not impede the normal use, enjoyment and purpose of the South Lane area neighborhood.

### **ALTERNATIVES**

1. Recommend approval of the lot split request, based on the attached findings-of-fact and based on certain conditions; or
2. Recommend denial of the lot split request, based on the revised findings-of-fact that the proposed adjustment is not consistent with the City Code or Comprehensive Plan and may have a negative impact on the surrounding neighborhood and/or properties; or
3. Table the request; and request more information from the Applicant or city staff to be presented back to the Planning Commission at the next regular meeting. Staff will extend the application review period.

### **STAFF RECOMMENDATION**

Staff recommends approval of the lot split request based on the attached findings of fact supporting the request, with conditions noted as follows:

- 1) The applicant must record the Lot Split (minor subdivision) at Dakota County indicating the newly created Parcel 1 and Parcel 2.
- 2) The Resolution must be recorded at Dakota County and must be of record on both created parcels.
- 3) All transfer or deed documents which convey the portion of lands under the lot split process shall be recorded with Dakota County.

- 4) No single-family development will be allowed or approved on the proposed parcels until the existing single-family home and all accessory structures have been demolished.
- 5) The Applicant/Developer must provide a Best Management Practices (Stormwater Management) Agreement to the City as part of the building permit submittal and review process.
- 6) Any grading and/or construction activity related to the development of this lot shall comply with all applicable federal, state, and local regulations and codes, as well as in compliance with the City's Land Disturbance Guidance Document.
- 7) Any new or existing sanitary or water service lines will have to be reviewed by the Public Works Director and/or St. Paul Regional Water Services prior to issuance of any building permit.
- 8) A building permit must be approved prior to the commencement of any construction work on the new residential dwelling. Construction work shall occur only between the hours of 7:00 am and 8:00 pm weekdays; and 9:00 am to 5:00 pm weekends.

**Attachments:**

1. Site Location Map
2. Applicant Letter of Intent
3. Parcel Split Exhibit
4. City Base Map – Utilities – 10/23/24

---

## **FINDINGS OF FACT FOR APPROVAL**

### **Lot Split Request 1912 South Lane**

The following Findings of Fact are made in support of approval of the proposed requests:

1. The proposed Lot Split (minor subdivision) creates two lots, where Proposed Parcel 1 is 28,220 square feet and Parcel 2 is 31,518 square feet.
2. The resulting lots, Parcel 1 and 2, meet all dimensional standards as established in the R-1 zoning district provided the existing structure and improvements are removed and/or demolished.
3. The proposed Lot Split is consistent with the Low Density Residential (LDR) density requirements, and the proposed use of the Lots for single-family residential uses is consistent with the intent and purpose of the LDR designation.
4. The removal of the existing home and improvements will result in two new buildable lots that have adequate area outside of all setback areas to construct a new residential structure.
5. Approval of the lot split to allow for future development of the lots with single-family residential uses will not adversely impact the character of the neighborhood which is developed with low density residential uses.
6. Provided the conditions of approval are met, the resulting lots and any future development will comply with the R-1 base zoning district requirements.







October 21, 2024

Sarah Madden  
City of Mendota Heights  
1101 Victoria Curve Mendota Heights, MN 55118

RE: 1912 South Lane Lot Split

Sarah:

We are requesting a lot split for the property at 1912 South Lane. Please consider the following:

Intent:

We are requesting that 1912 South Lane be split into two parcels since it meets the criteria set forth by the City of Mendota Heights municipal code. The existing home currently located on the property will be demolished, making way for 2 new single family homes.

Our Request:

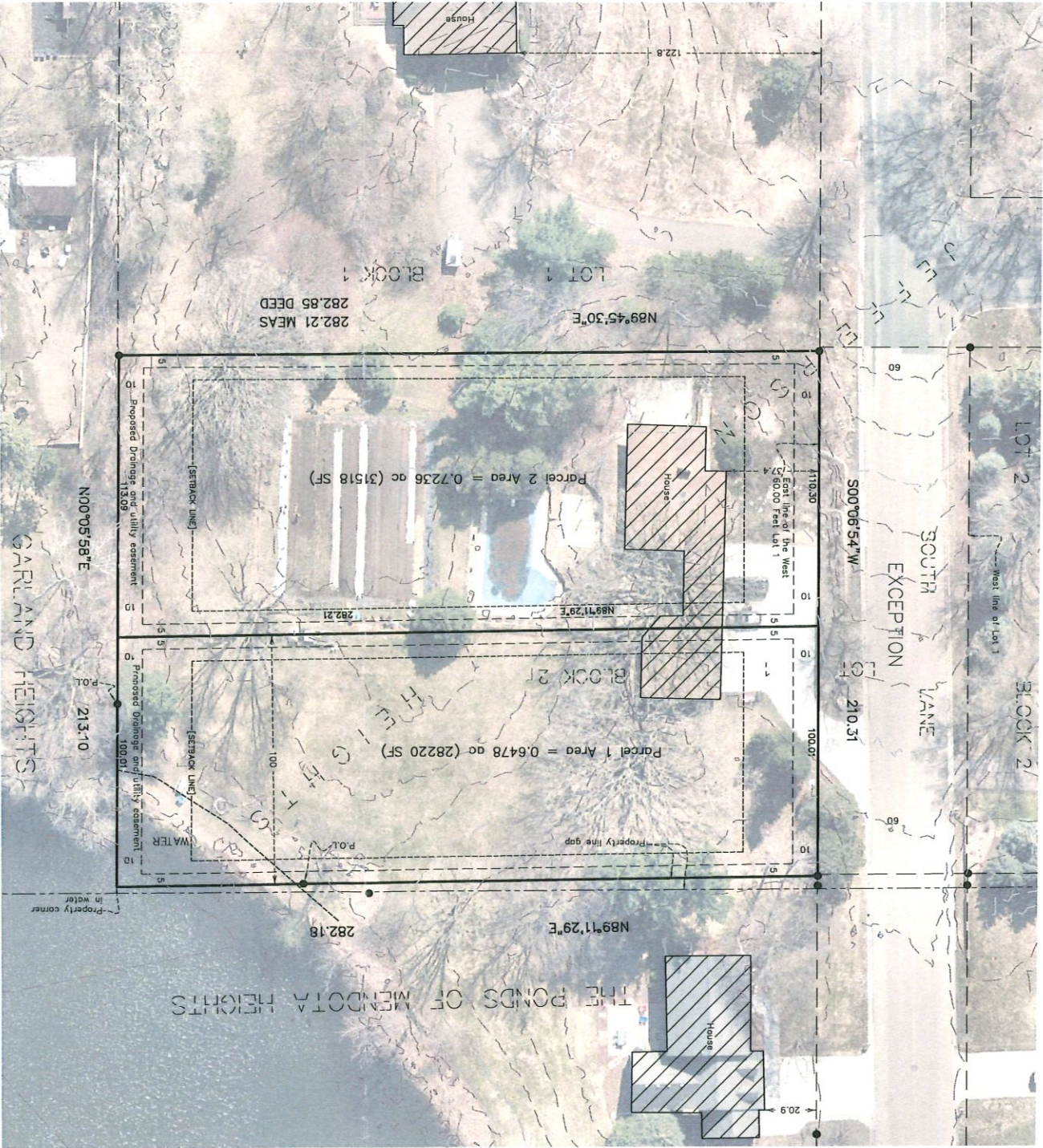
Permission to divide the property into two parcels, creating 2 new single-family home sites.

Sincerely,

A handwritten signature in black ink that reads 'Sean Doyle'.

Sean Doyle  
Chief Manager  
SD Companies, LLC, d.b.a. SD Custom Homes





LEGEND

• Denotes iron pipe

Property Description: (Per Warranty Deed)  
Lot One (1), Block Two (2), excepting therefrom the West 60 feet thereof, Jefferson Heights together with an easement over the Westernly 60 feet of solid Lot One (1), Block Two (2), Jefferson Heights, Dakota County, Minnesota.

Parcel 1 Proposed Property Description:  
The North 100 feet of Lot One (1), Block Two (2), excepting therefrom the West 60 feet thereof, Jefferson Heights together with an easement over the Westernly 60 feet of solid Lot One (1), Block Two (2), Jefferson Heights, Dakota County, Minnesota.

Parcel 2 Proposed Property Description:  
Lot One (1), Block Two (2), excepting therefrom the West 60 feet thereof, Jefferson Heights together with an easement over the Westernly 60 feet of solid Lot One (1), Block Two (2), Jefferson Heights, Dakota County, Minnesota.

Except the North 100 feet of solid Lot One (1),

We hereby certify to SD Companies LLC that this survey, plan or report was prepared by me or under my direct supervision, and that I am a duly licensed Land Surveyor under the laws of the State of Minnesota, dated 10/18/24.

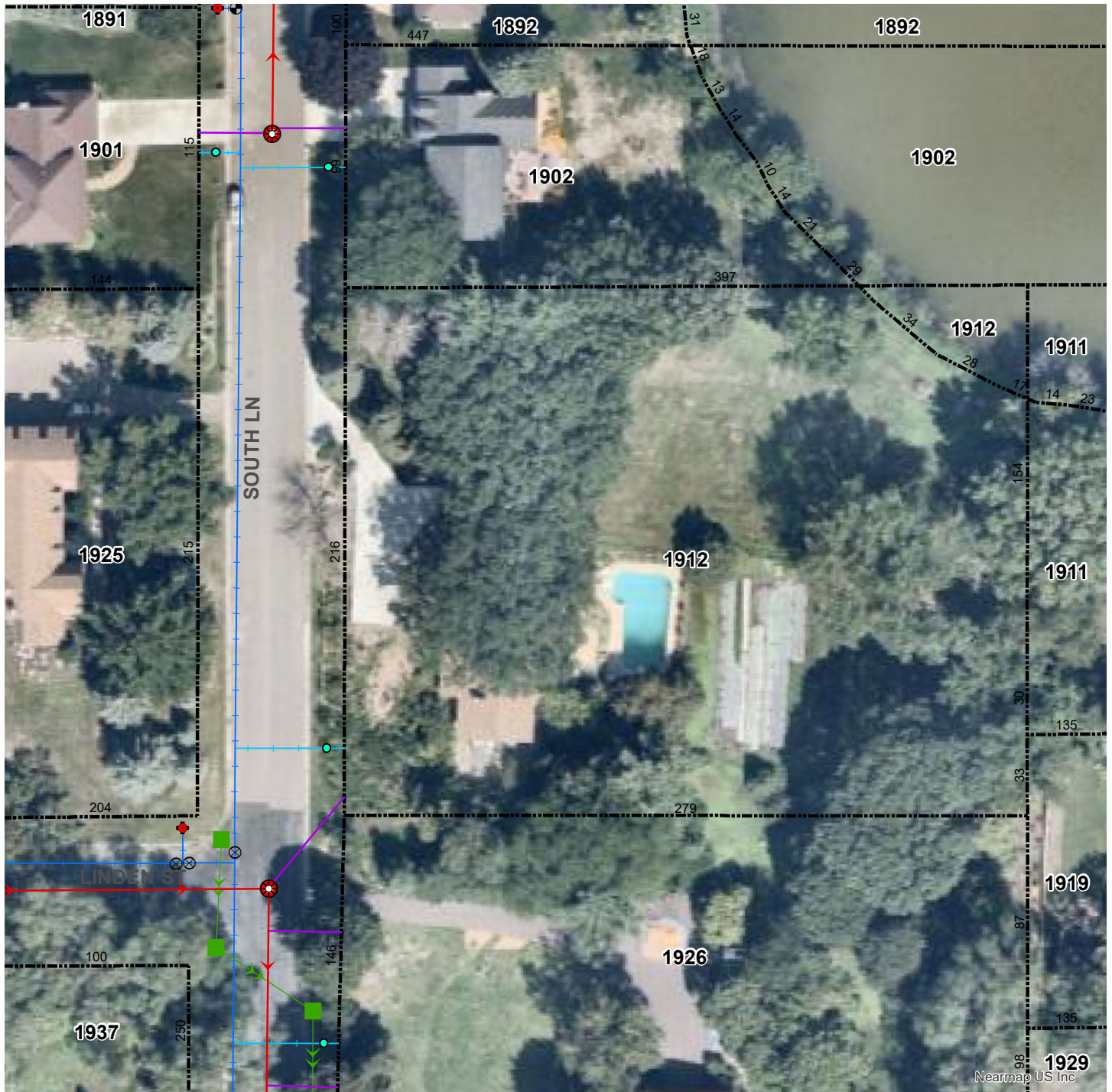
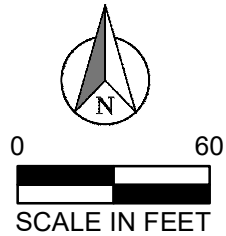
Signed: *Peter A. Hawkinston* Engineer, P.A.

BY: *Peter A. Hawkinston* Professional Land Surveyor  
Minnesota License No. 42293 email—phawkinston@phawkinstoneng.com



# 2024 City Base Map Utilities

Date: 10/23/2024



## GIS Map Disclaimer:

This data is for informational purposes only and should not be substituted for a true title search, property appraisal, plat, survey, or for zoning verification. The City of Mendota Heights assumes no legal responsibility for the information contained in this data. The City of Mendota Heights, or any other entity from which data was obtained, assumes no liability for any errors or omissions herein. If discrepancies are found, please contact the City of Mendota Heights.

Contact "Gopher State One Call" at 651-454-0002 for utility locations, 48 hours prior to any excavation.



## PLANNING STAFF REPORT

**DATE:** November 26, 2024

**TO:** Planning Commission

**FROM:** Sarah Madden, Community Development Manager

**SUBJECT:** Planning Case 2024-23  
**ZONING CODE TEXT AMENDMENT** – to add Cannabis Business Use Types within the Title 12: Zoning, Table of Uses

**APPLICANT:** City of Mendota Heights

**120-DAY ACTION DEADLINE:** n/a

### INTRODUCTION

The Minnesota Legislature enacted new State Law at the end of the 2023 legislative session, amended in 2024, that legalizes the possession, use, manufacturing, and sale of certain cannabis products within the State. The Law also establishes the Office of Cannabis Management (OCM) to oversee the implementation and regulation of the adult-use cannabis market, the medical cannabis market, and the consumer hemp industry. The statute limited the regulations a city can place on the use, sale and production of cannabis and cannabis products. The OCM released a “A Guide for Local Governments on Adult-Use Cannabis” in June of this year, and the formal rulemaking process for the Office’s administrative rules is anticipated to begin shortly. Once the administrative rules are in effect, anticipated mid-2025, licensing of cannabis businesses will commence. All licensing of cannabis businesses will be conducted by the OCM. Under State Law, local governments may register cannabis businesses and enforce certain zoning regulations within their jurisdiction, but they may not require additional licensing of cannabis businesses.

The City Council is continuing discussions over the business registration portion of the local control, which will be housed in Title 3 of the City Code, Business and Licensing Regulations. The zoning code component of the City’s ordinances will exclusively relate to amendments in the table of uses, with performance standards referencing back to the Title 3 Chapter. The City Attorney has advised staff that the Zoning Code regulations should be put in place by January 1, 2025 as that was the original planned licensing date for cannabis businesses by the OCM.

This item relates to amendments to the Zoning Use Table within Title 12, as established following the Zoning Code Update project. The Table and the full ordinance go into effect on January 1<sup>st</sup>. The proposed amendments will be scheduled to also go into effect on January 1<sup>st</sup> with the full ordinance update.

A duly noticed public hearing was published in the Pioneer Press. No public comments have been received, as of the date of this report.

## **DISCUSSION & BACKGROUND**

The City Council was provided a copy of the OCM's guide for local governments as part of the October 15th City Council work session agenda packet, and the Council held a discussion over the topic and model ordinance standards at the October 30th City Council regular meeting. A continued discussion on the draft registration ordinance was held at the November 19th City Council work session. The City Council has directed staff to move forward with the zoning text amendment to the Table of Uses as part of this item. The Cannabis Business Registration ordinance and associated performance standards will be located within Title 3 of the City Code, which is not within the Planning Commission's area of review. A copy of the current draft of the ordinance has been included in the attachments of this report to provide context for the Commission's discussion. This ordinance will house the definitions, buffer requirements, and other performance standards. The OCM's local government guide has also been enclosed.

The state law creates license types which will be issued by the OCM. The City's zoning ordinance is proposed to be updated to incorporate the land uses into our current zoning districts to accommodate the language of the state law. Under the state law, the City may not prohibit the establishment or operation of a licensed cannabis business, however the City may adopt reasonable restrictions on the time, place, and manner of the operation of a cannabis business. One method of this restriction is the establishment of which zoning districts a cannabis business may operate within.

There will be 13 license types issued by the OCM, however they can generally be categorized into standard categories, such as retail or manufacturing. The City is obligated to determine which zones cannabis and hemp businesses will be allowed to operate within. This topic was discussed at the October 30th City Council meeting and the November 19th City Council work session meeting. The staff recommendation was to allow cannabis-based retail businesses to be allowed in similar zoning categories as those of tobacco sales or liquor stores, and for manufacturing or industrial-type businesses to be permissible in the I-Industrial zoning district. The initial draft of the proposed ordinance slated for a Cannabis Retail business to be listed as a Conditional Use in the B-1 General Business, B-2 Neighborhood Business, and MU-Mixed Use districts. The City Council discussed the option of allowing cannabis retailers to be a listed use in business and commercial zoning districts, but to omit the use within the Mixed Use zoning district at the November 19th work session. The current draft (attached to this report) removed a cannabis retailer from being listed within the MU-Mixed Use district.

In the City's I-Industrial zoning district, general warehouse or manufacturing uses are proposed to also be listed as a Conditional use. The proposal of amendments to the Table of Uses is summarized in the chart below.

Use Type	Cannabis Business Type	Proposed Zoning District
Warehouse or Manufacturing	<ul style="list-style-type: none"><li>• Cannabis microbusiness</li><li>• Cannabis mezzobusiness</li><li>• Cannabis cultivator</li><li>• Cannabis manufacturer</li><li>• Cannabis wholesaler</li><li>• Cannabis testing facility</li><li>• Lower-Potency Hemp Edible Manufacturer</li><li>• Medical Cannabis Combination Business</li></ul>	<ul style="list-style-type: none"><li>• I – Industrial as a Conditional Use</li></ul>

Retail	<ul style="list-style-type: none"> <li>• Cannabis retailer</li> <li>• Lower-potency hemp edible retailer</li> </ul>	<ul style="list-style-type: none"> <li>• B-1 General Business, B-2 Neighborhood Business; as a Conditional Use</li> <li>• B-1 General business, B-2 Neighborhood Business, MU-Mixed Use; as Permitted Use</li> </ul>
--------	---	--

No other changes to the code are proposed. The proposed addition is reflected in the attached draft Ordinance Number 596.

### **ALTERNATIVES for ACTION**

The proposed ordinance amendment is to Title 12-Zoning, which requires the Planning Commission to provide a review under a public hearing process and provide a recommendation to the City Council. The Planning Commission may consider one of the three following actions:

1. Recommend approval of the draft Ordinance No. 596 which amends certain sections of Zoning Code Title 12 – Zoning, Table of Uses, as presented herein or with added/revised language and standards deemed necessary by the commission; or
2. Recommend denial of the requested zoning code amendments and make no changes to Title 12 – Zoning, with findings to support such a recommendation; or
3. Table the amendment request, and direct city staff to provide additional information for further consideration by the Planning Commission and present this information at the next scheduled Planning Commission meeting.

### **STAFF RECOMMENDATION**

Recommend approval of the draft Ordinance No. 596 as presented herein, or as may be modified through Planning Commission discussion.

Please note that the proposed ordinance amendment does not approve a specific project, business, or property. Issuance of Cannabis Business Licenses by the OCM is expected to occur in mid-2025, however the State Law which authorized Adult-Use Cannabis noted that the administration process would be in effect by January 1, 2025. The City Attorney has recommended that any amendments to the City of Mendota Heights Zoning Ordinance be in place in accordance with the state law by January 1<sup>st</sup>. The City Council will continue their discussion of the Adult-Use Cannabis Ordinance and Cannabis Business Registration processes at their December 17, 2024 meeting.

### **Attachments**

- 1) Local Government Guide to Adult-Use Cannabis
- 2) Draft Ordinance No. 596
- 3) October 30, 2024 City Council Meeting Staff Report and Minutes
- 4) November 19, 2024 City Council Work Session Staff Report
- 5) Cannabis License Types Information
- 6) Nearby City Proposed Regulations





# *A Guide for Local Governments on Adult-Use Cannabis*



# Table of Contents

<b>Introduction .....</b>	<b>3</b>
<b>About OCM .....</b>	<b>4</b>
<b>Cannabis License Types .....</b>	<b>5</b>
<b>Adult-Use Cannabis Law .....</b>	<b>7</b>
<b>Cannabis Licensing Process.....</b>	<b>8</b>
<b>General Authorities .....</b>	<b>10</b>
<b>Zoning and Land Use .....</b>	<b>12</b>
<b>Local Approval Process .....</b>	<b>15</b>
<b>Inspections and Compliance Checks .....</b>	<b>18</b>
<b>Municipal Cannabis Stores .....</b>	<b>19</b>
<b>Creating Your Local Ordinance .....</b>	<b>20</b>
<b>Additional Resources .....</b>	<b>21</b>



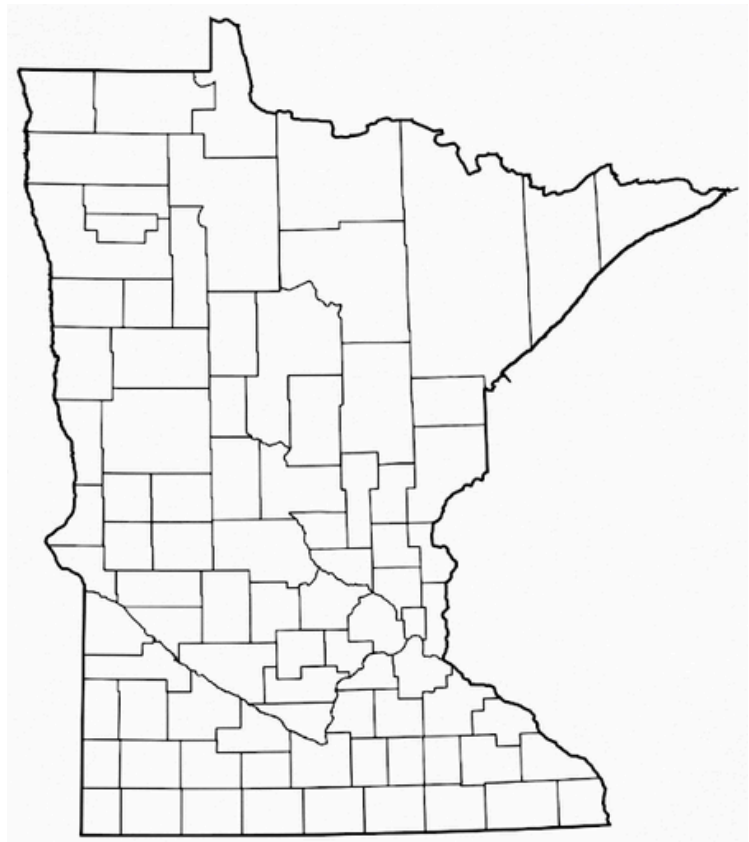
# Introduction

This guide serves as a general overview of **Minnesota’s new adult-use cannabis law**, and how **local governments** can expect to be involved. The guide also provides important information about Minnesota’s new Office of Cannabis Management (OCM), and the office’s structure, roles, and responsibilities. While medical cannabis continues to play an important role in the state’s cannabis environment, this guide is primarily focused on the adult-use cannabis law and marketplace.

The following pages outline the variety of cannabis business licenses that will be issued, provide a broad summary of important aspects of the adult-use cannabis law, and cover a wide range of expectations and authorities that relate to local governments. This guide also provides best practices and important requirements for developing a local cannabis ordinance.

**Chapter 342** of Minnesota law was established by the State Legislature in 2023 and was updated in 2024. Mentions of “adult-use cannabis law” or “the law” throughout this guide refer to Chapter 342 and the changes made to it.

As of this guide’s date of publication, state regulations governing the adult-use cannabis market have not yet been published — **this document will be updated** when such regulations become effective.



*This guide is not a substitute for legal advice, nor does it seek to provide legal advice. Local governments and municipal officials seeking legal advice should consult an attorney.*



# About OCM

Minnesota's **Office of Cannabis Management** is the state regulatory office created to oversee the implementation and regulation of the adult-use cannabis market, the medical cannabis market, and the consumer hemp industry. Housed within OCM are the **Division of Medical Cannabis** (effective July 1, 2024), which operates the medical cannabis program, and the **Division of Social Equity**, which promotes development, stability, and safety in communities that have experienced a disproportionate, negative impact from cannabis prohibition and usage.



OCM, through Chapter 342, is tasked with establishing rules and policy and exercising its regulatory authority over the Minnesota cannabis industry. In its duties, OCM is mandated to:

- Promote public health and welfare.
- Protect public safety.
- Eliminate the illicit market for cannabis flower and cannabis products.
- Meet the market demand for cannabis flower and cannabis products.
- Promote a craft industry for cannabis flower and cannabis products.
- Prioritize growth and recovery in communities that have experienced a disproportionate, negative impact from cannabis prohibition.

OCM governs the application and licensing process for cannabis and hemp businesses, specific requirements for each type of license and their respective business activities, and conducts enforcement and inspection activities across the Minnesota cannabis and hemp industries.

# License Types

Minnesota law allows for **13** different types of business licenses, each fulfilling a unique role in the cannabis and hemp supply chain. In addition to license types below, OCM will also issue endorsements to license holders to engage in specific activities, including producing, manufacturing, and sale of medical cannabis for patients.

## **Microbusiness**

Microbusinesses may cultivate cannabis and manufacture cannabis products and hemp products, and package such products for sale to customers or another licensed cannabis business. Microbusiness may also operate a single retail location.

## **Mezzobusiness**

Mezzobusinesses may cultivate cannabis and manufacture cannabis products and hemp products, and package such products for sale to customers or another licensed cannabis business. Mezzobusiness may also operate up to three retail locations.

## **Cultivator**

Cultivators may cultivate cannabis and package such cannabis for sale to another licensed cannabis business.

## **Manufacturer**

Manufacturers may manufacture cannabis products and hemp products, and package such products for sale to a licensed cannabis retailer.

## **Retailer**

Retailers may sell immature cannabis plants and seedlings, cannabis, cannabis products, hemp products, and other products authorized by law to customers and patients.

## **Wholesaler**

Wholesalers may purchase and/or sell immature cannabis plants and seedlings, cannabis, cannabis products, and hemp products from another licensed cannabis business.

Wholesalers may also import hemp-derived consumer products and lower-potency hemp edibles.

# ***License Types (continued)***

## **Transporter**

Transporters may transport immature cannabis plants and seedlings, cannabis, cannabis products, and hemp products to licensed cannabis businesses.

## **Testing Facility**

Testing facilities may obtain and test immature cannabis plants and seedlings, cannabis, cannabis products, and hemp products from licensed cannabis businesses.

## **Event Organizer**

Event organizers may organize a temporary cannabis event lasting no more than four days.

## **Delivery Service**

Delivery services may purchase cannabis, cannabis products, and hemp products from retailers or cannabis business with retail endorsements for transport and delivery to customers.

## **Medical Cannabis Combination Business**

Medical cannabis combination businesses may cultivate cannabis and manufacture cannabis and hemp products, and package such products for sale to customers, patients, or another licensed cannabis business. Medical cannabis combination businesses may operate up to one retail location in each congressional district.

## **Lower-Potency Hemp Edible Manufacturer**

Lower-potency hemp edible manufacturers may manufacture and package lower-potency hemp edibles for consumer sale, and sell hemp concentrate and lower-potency hemp edibles to other cannabis and hemp businesses.

## **Lower-Potency Hemp Edible Retailer**

Lower-potency hemp edible retailers may sell lower-potency hemp edibles to customers.

Each license is subject to further restrictions on allowable activities. Maximum cultivation area and manufacturing allowances vary by license type. Allowable product purchase, transfer, and sale between licensees are subject to restrictions in the law.

# The Adult-Use Cannabis Law

Minnesota's new adult-use cannabis law permits the personal use, possession, and transportation of cannabis by those 21 years of age and older, and allows licensed businesses to conduct cultivation, manufacturing, transport, delivery, and sale of cannabis and cannabis products.

## For Individuals

- **Possession limits:**
  - Flower – 2 oz. in public, 2 lbs. in private residence
  - Concentrate – 8 g
  - Edibles (including lower-potency hemp) – 800 mg THC
- **Consumption** only allowed on private property or at licensed businesses with on-site consumption endorsements. Consumption not allowed in public.
- **Gifting** cannabis to another individual over 21 years old is allowed, subject to possession limits.
- **Home cultivation** is limited to four mature and four immature plants (eight total) in a single residence. Plants must be in an enclosed and locked space.
- **Home extraction** using volatile substances (e.g., butane, ethanol) is not allowed.
- **Unlicensed sales** are not allowed.



## For Businesses

- **Advertising:**
  - May not include or appeal to those under 21 years old.
  - Must include proper warning statements.
  - May not include misleading claims or false statements.
  - Billboards are not allowed.
- The flow of all products through the supply chain must be tracked by the state-authorized **tracking system**.
- All products sold to consumers and patients must be **tested for contaminants**.
- **Home delivery** is allowed by licensed businesses.



# ***The Cannabis Licensing Process***

An applicant will take the following steps to proceed from application to active licensure. As described, processes vary depending on social equity status and/or whether the type of license being sought is capped or uncapped in the general licensing process.

## ***License Preapproval: Early Mover Process for Social Equity Applicants***

The license preapproval process is a one-time application process available for verified social equity applicants. State law requires OCM to open the application window on July 24, 2024, and close the window on August 12, 2024. The preapproval process is available for the following license types, and all are capped in this process: microbusiness, mezzobusiness, cultivator, retailer, wholesaler, transporter, testing facility, and delivery service.

Preapproval steps:

1. Applicant's social equity applicant (SEA) status verified.
2. Complete application and submit application fees.
3. Application vetted for minimum requirements by OCM.
4. Application (if qualified) entered into lottery drawing.
5. If selected in lottery, OCM completes background check of selected applicant and issues license preapproval.
6. Applicant with license preapproval\* submits business location and amends application accordingly.
7. OCM forwards completed application to local government.
8. Local government completes certification of zoning compliance.
9. OCM conducts site inspection.
10. When regulations are adopted, license becomes active, operations may commence.

\*For social equity applicants with license preapproval for microbusiness, mezzobusiness, or a cultivator license, they may begin growing cannabis plants prior to the adoption of rules if OCM receives approval from local governments in a form and manner determined by the office. This is only applicable to cultivation and does not authorize retail sales or other endorsed activities of the licenses prior to the adoption of rules.

# ***The Cannabis Licensing Process (cont.)***

The general licensing process will align with the adoption of rules and OCM will share more information about the timing of general licensing process. The general licensing process includes social equity applicants and non-social equity applicants.

## ***General Licensing: Cultivator, Manufacturer, Retailer, Mezzobusiness***

1. Complete application and submit application fees.
2. Application vetted for minimum requirements by OCM.
3. Application (if qualified) entered into lottery drawing.
4. If selected in lottery, OCM completes background check of selected applicant and issues preliminary approval.
5. Applicant with preliminary approval submits business location and amends application accordingly.
6. OCM forwards completed application to local government.
7. Local government completes certification of zoning compliance.
8. OCM conducts site inspection.
9. License becomes active, operations may commence.\*

## ***General Licensing: Microbusiness, Wholesaler, Transporter, Testing Facility, Event Organizer***

1. Complete application and submit application fees.
2. Application vetted for minimum requirements by OCM.
3. For qualified applicants, OCM completes background check of vetted applicant and issues preliminary approval.
4. Selected applicant submits business location and amends application accordingly.
5. OCM forwards completed application to local government.
6. Local government completes certification of zoning compliance.
7. OCM conducts site inspection.
8. License becomes active, operations may commence.\*

\*For businesses seeking a retail endorsement (microbusiness, mezzobusiness, and retailer), a valid local retail registration is required prior to the business commencing any retail sales. See Page 16 for information on the local retail registration process.

# General Authorities

Local governments in Minnesota have various means of oversight over the cannabis market, as provided by the adult-use cannabis law. Local governments may not issue outright bans on cannabis business, or limit operations in a manner beyond what is provided by state law.

## Cannabis Retail Restrictions (342.13)

Local governments may limit the number of retailers and microbusiness/mezzobusinesses with retail endorsements allowed within their locality, as long as there is **at least one retail location per 12,500 residents**. Local units of government are not obligated to seek out a business to register as cannabis business if they have not been approached by any potential applicants, but cannot prohibit the establishment of a business if this population requirement is not met. Local units of government may also issue more than the minimum number of registrations. Per statutory direction, a municipal cannabis store (Page 19) cannot be included in the minimum number of registrations required. For population counts, the state demographer estimates will likely be utilized.

## Tribal Governments (342.13)

OCM is prohibited from and will not issue state licenses to businesses in Indian Country without consent from a tribal nation. Tribal nations hold the authority to license tribal cannabis businesses on tribal lands – this process is separate than OCM’s licensing process and authority. Subject to compacting, Tribal nations may operate cannabis businesses off tribal lands. There will be more information available once the compacting processes are complete.

## Taxes (295.81; 295.82)

Retail sales of taxable cannabis products are subject to the state and local sales and use tax and a 10% gross receipts tax. Cannabis gross receipts tax proceeds are allocated as follows: 20% to the local government cannabis aid account and 80% to the state general fund. Local taxes imposed solely on sale of cannabis products are prohibited.

Cannabis retailers will be subject to the same real property tax classification as all other retail businesses. Real property used for raising, cultivating, processing, or storing cannabis plants, cannabis flower, or cannabis products for sale will be classified as commercial and industrial property.

# General Authorities (cont.)

## ***Retail Timing Restrictions (342.13)***

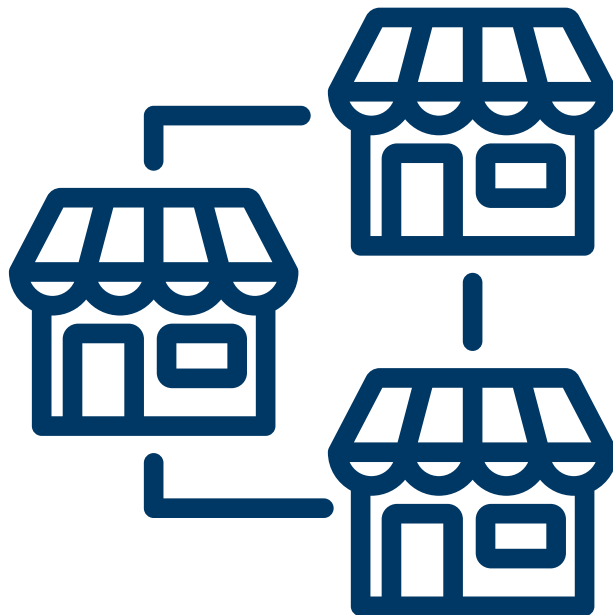
Local governments may prohibit retail sales of cannabis between the hours of 8 a.m. and 10 a.m. Monday-Saturday, and 9 p.m. and 2 a.m. the following day.

## ***Operating Multiple Locations with One License***

Certain cannabis licenses allow for multiple retail locations to be operated under a single license, with the following limitations:

- **Retailers:** up to five retail locations.
- **Mezzobusinesses:** up to three retail locations.
- **Microbusinesses:** up to one retail location.
- **Medical cannabis combination businesses:** one retail location per congressional district. Additionally, medical cannabis combination businesses may cultivate at more than one location within other limitations on cultivation.

For all other license types, one license permits the operation of one location. Each retail location requires local certification and/or registration.





# ***Zoning and Land Use***

## ***Buffer Guidelines (342.13)***

State law does not restrict how a local government conducts its zoning designations for cannabis businesses, except that they may prohibit the operation of a cannabis business within 1,000 feet of a school, or 500 feet of a day care, residential treatment facility, or an attraction within a public park that is regularly used by minors, including playgrounds and athletic fields.

## ***Zoning Guidelines***

While each locality conducts its zoning differently, a few themes have emerged across the country. For example, cannabis manufacturing facilities are often placed in industrial zones, while cannabis retailers are typically found in commercial/retail zones. Cannabis retail facilities align with general retail establishments and are prohibited from allowing consumption or use onsite, and are also required to have plans to prevent the visibility of cannabis and hemp-derived products to individuals outside the retail location. Industrial hemp is an agricultural product, and should be zoned as such.

Cannabis businesses should be zoned under existing zoning ordinances in accordance with the license type or endorsed activities held by the cannabis business. Note that certain types of licenses may be able to perform multiple activities which may have different zoning analogues. In the same way municipalities may zone a microbrewery that predominately sells directly to onsite consumers differently than a microbrewery that sells packaged beer to retailers and restaurants, so too might a municipality wish to zone two microbusinesses based on the actual activities that each business is undertaking. Table 1, included on Pages 13 and 14, explains the types of activities that cannabis businesses might undertake, as well as, some recommended existing zoning categories.

# Zoning and Land Use (cont.)

**Table 1: Cannabis and Hemp Business Activities**

<b>Endorsed Activity</b>	<b>License Type Eligible to Do Endorsed Activity</b>	<b>Description of Activity</b>	<b>Comparable Districts</b>	<b>Municipal Considerations</b>
Cultivation	Cultivator Mezzobusiness Microbusiness Medical Cannabis Combination	"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis plants, cannabis flower, hemp plants, or hemp plant parts.	Indoor: Industrial, Commercial, Production  Outdoor: Agricultural	Odor  Potential need for transportation from facility  Waste, water, and energy usage  Security
Cannabis Manufacturing, Processing, Extraction	Manufacturer Mezzobusiness Microbusiness Medical Cannabis Combination	This group of endorsed activities turn raw, dried cannabis and cannabis parts into other types of cannabis products, e.g. edibles or topicals.	Industrial, Commercial, Production	Odor  Potential need for transportation from facility  Waste, water, and energy usage  Security
Hemp Manufacturing	Lower-Potency Hemp Edible (LPHE) Manufacturing	These business convert hemp into LPHE edible products.	Industrial, Commercial, Production	Odor Waste, water, and energy
Wholesale	Wholesale Cultivator Manufacturer Mezzobusiness Microbusiness Medical Cannabis Combination	This activity and license type allows a business to purchase from a business growing or manufacturing cannabis or cannabis products and sell to a cannabis business engaged in retail.	Industrial, Commercial, Production	Need for transportation from facility  Security

# Zoning and Land Use (cont.)

**Table 1: Cannabis and Hemp Business Activities (continued)**

<b>Endorsed Activity</b>	<b>License Type Eligible to Do Endorsed Activity</b>	<b>Description of Activity</b>	<b>Comparable Districts</b>	<b>Municipal Considerations</b>
Cannabis Retail	Retail Mezzobusiness Microbusiness Medical Cannabis Combination	This endorsed activity and license types allow a business to sell cannabis and cannabis products directly to consumers.	Retail, Neighborhood Shopping Districts, Light Industrial, Existing districts where off-sale liquor or tobacco sales are allowed.	Micros may offer onsite consumption, similar to breweries.  Micros and Mezzos may include multiple activities: cultivation, manufacture, and/or retail.
Transportation	Cannabis Transporter	This license type allows a company to transport products from one license type to another.		Fleet based business that will own multiple vehicles, but not necessarily hold a substantial amount of cannabis or cannabis products.
Delivery	Cannabis Delivery	This license type allows for transportation to the end consumer.		Fleet based business that will own multiple vehicles, but not necessarily hold a substantial amount of cannabis or cannabis products.
Events	Event Organizer	This license entitles license holder to organizer a temporary event lasting no more than four days.	Anywhere that the city permits events to occur, subject to other restrictions related to cannabis use.	On site consumption.  Retail sales by a licensed or endorsed retail business possible.

# Local Approval Process

Local governments play a critical role in the licensing process, serving as a near-final approval check on cannabis businesses nearing the awarding of a state license for operations. Once an applicant has been vetted by OCM and is selected for proceeding in the verification process, they are then required to receive the local government's certification of zoning compliance and/or local retail registration before operations may commence.



## Local Certification of Zoning Compliance (342.13; 342.14)

Following OCM's vetting process, local governments must **certify** that the applicant with preliminary approval has achieved **compliance with local zoning ordinances** prior to the licensee receiving final approval from OCM to commence operations.

During the application and licensing process for cannabis businesses, OCM will notify a local government when an applicant intends to operate within their jurisdiction and request a certification as to whether a proposed cannabis business complies with local zoning ordinances, and if applicable, whether the proposed business complies with state fire code and building code.

According to Minnesota's cannabis law, a local unit of government has 30 days to respond to this request for certification of compliance. If a local government does not respond to OCM's request for certification of compliance within the 30 days, the cannabis law allows OCM to issue a license. OCM may not issue the final approval for a license if the local government has indicated they are not in compliance.

OCM will work with local governments to access the licensing software system to complete this zoning certification process.

# ***Local Approval Process (cont.)***

## ***Local Retail Registration Process (342.22)***

Once the licensing process begins, local government registration applies to cannabis retailers or other cannabis/hemp businesses seeking a retail endorsement. Local governments must issue a retail registration after verifying that:

- The business has a valid license or license preapproval issued by OCM.
- The business has paid a registration fee or renewal fee to the local government;
  - Initial registration fees collected by a local government may be \$500 or half the amount of the applicable initial license fee, whichever is less, and renewal registration fees may be \$1,000 or half the amount of the applicable renewal license fee, whichever is less.
- The business is found to be in compliance with Chapter 342 and local ordinances.
- If applicable, the business is current on all property taxes and assessments for the proposed retail location.

Local registrations may also be issued by counties if the respective local government transfers such authorities to the county.

## ***Determining a Process for Limiting Retail Registrations***

If a local government wishes to place a limitation on the number of retailers and microbusiness/mezzobusinesses with retail endorsements allowed within their locality (as long as there is at least one retail location per 12,500 residents, see Page 10), state law does not define the process for a local government's selection if there are more applicants than registrations available. A few options for this process include the use of a lottery, a first-come/first-serve model, a rolling basis, and others. Local governments should work with an attorney to determine their specific process for selection if they wish to limit the number of licensed cannabis retailers per 342.13. Local governments are not required to limit the number of licensed cannabis retailers.

# ***Local Approval Process (cont.)***

Local governments are permitted specific authorities for registration refusal and registration suspension, in addition to—and not in conflict with—OCM authorities.

## ***Registration and Renewal Refusals***

Local governments may refuse the registration and/or certification of a license renewal if the license is associated with an individual or business who no longer holds a valid license, has failed to pay the local registration or renewal fee, or has been found in noncompliance in connection with a preliminary or renewal compliance check.



## ***Local Registration Suspension (342.22)***

Local governments may suspend the local retail registration of a cannabis business or hemp business if the business is determined to not be operating in compliance with a local ordinance authorized by 342.13 or if the operation of the business poses an immediate threat to the health and safety of the public. The local government must immediately notify OCM of the suspension if it occurs. OCM will review the suspension and may reinstate the registration or take enforcement action.

## ***Expedited Complaint Process (342.13)***

Per state law, OCM will establish an expedited complaint process during the rulemaking process to receive, review, read, and respond to complaints made by a local unit of government about a cannabis business. Upon promulgation of rules, OCM will publish the complaint process.

At a minimum, the expedited complaint process shall require the office to provide an initial response to the complaint within seven days and perform any necessary inspections within 30 days. Within this process, if a local government notifies OCM that a cannabis business poses an immediate threat to the health or safety of the public, the office must respond within one business day.



# Inspections & Compliance Checks

Local governments are permitted specific business inspection and compliance check authorities, in addition to—and not in conflict with—OCM authorities.

## Inspections and Compliance Checks (342.22)

Local governments must conduct **compliance checks** for cannabis and hemp businesses holding retail registration **at least once per calendar year**. These compliance checks must verify compliance with age verification procedures and compliance with any applicable local ordinance established pursuant to 342.13. OCM maintains inspection authorities for all cannabis licenses to verify compliance with operation requirements, product limits, and other applicable requirements of Chapter 342.



# Municipal Cannabis Stores

As authorized in Chapter 342.32, local governments are permitted to apply for a cannabis retail license to establish and operate a municipal cannabis store.

State law requires OCM issue a license to a city or county seeking to operate a single municipal cannabis store if the city or county:

- Submits required application information to OCM,
- Meets minimum requirements for licensure, and
- Pays applicable application and license fee.

A municipal cannabis store will not be included in the total count of retail licenses issued by the state under Chapter 342.

A municipal cannabis store cannot be counted as retail registration for purposes of determining whether a municipality's cap on retail registrations imposed by ordinance.





# Creating Your Local Ordinance

As authorized in 342.13, a local government may adopt a local ordinance regarding cannabis businesses. Establishing local governments' ordinances on cannabis businesses in a timely manner is critical for the ability for local cities or towns to establish local control as described in the law, and is necessary for the success of the statewide industry and the ability of local governments to protect public health and safety. The cannabis market's potential to create jobs, generate revenue, and contribute to economic development at the local and state level is supported through local ordinance work. The issuance of local certifications and registrations to prospective cannabis businesses is also dependent on local ordinances.

- Local governments may not prohibit the possession, transportation, or use of cannabis, or the establishment or operation of a cannabis business licensed under state law.
- Local governments may adopt reasonable restrictions on the time, place, and manner of cannabis business operations (see Page 11).
- Local governments may adopt interim ordinances to protect public safety and welfare, as any studies and/or further considerations on local cannabis activities are being conducted, until January 1, 2025. A public hearing must be held prior to adoption of an interim ordinance.
- If your local government wishes to operate a municipal cannabis store, the establishment and operation of such a facility must be considered in a local ordinance.



## Model Ordinance

For additional guidance regarding the creation of a cannabis related ordinance, please reference the addendum in this packet.

# ***Additional Resources***

## ***OCM Toolkit for Local Partners***

Please visit OCM webpage ([mn.gov/ocm/local-governments/](https://mn.gov/ocm/local-governments/)) for additional information, including a toolkit of resources developed specifically for local government partners. The webpage will be updated as additional information becomes available and as state regulations are adopted.

These resources are also included in the addendum of this packet.

Toolkit resources include:

- Appendix A: Model Ordinance
- Appendix B: Retail Registration Form and Checklist
- Appendix C: Hemp Flower and Hemp-Derived Cannabinoid Product Checklist
- Appendix D: Enforcement Notice from the Office of Cannabis Management
- Appendix E: Notice to Unlawful Cannabis Sellers

## ***Local Organizations***

There are several organizations who also have developed resources to support local governments regarding the cannabis industry. Please feel free to contact the following for additional resources:

- League of Minnesota Cities
- Association of Minnesota Counties
- Minnesota Public Health Law Center

# ***Appendix A: Model Ordinance***

## Cannabis Model Ordinance

*The following model ordinance is meant to be used as a resource for cities, counties, and townships within Minnesota. The italicized text in red is meant to provide commentary and notes to jurisdictions considering using this ordinance and should be removed from any ordinance formally adopted by said jurisdiction. Certain items are not required to be included in the adopted ordinance: 'OR' and (optional) are placed throughout for areas where a jurisdiction may want to consider one or more choices on language.*

Section 1	Administration
Section 2	Registration of Cannabis Business
Section 3	Requirements for a Cannabis Business (Time, Place, Manner)
Section 4	Temporary Cannabis Events
Section 5	Lower Potency Hemp Edibles
Section 6	Local Government as a Retailer
Section 7	Use of Cannabis in Public

### AN ORDINANCE OF THE (CITY/COUNTY OF ) TO REGULATE CANNABIS BUSINESSES

The (city council/town board/county board) of (city/town/county) hereby ordains:

#### Section 1. Administration

##### 1.1 Findings and Purpose

(insert local authority) makes the following legislative findings:

The purpose of this ordinance is to implement the provisions of Minnesota Statutes, chapter 342, which authorizes (insert local authority) to protect the public health, safety, welfare of (insert local here) residents by regulating cannabis businesses within the legal boundaries of (insert local here).

(insert local authority) finds and concludes that the proposed provisions are appropriate and lawful land use regulations for (insert local here), 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.

##### 1.2 Authority & Jurisdiction

*A county can adopt an ordinance that applies to unincorporated areas and cities that have delegated authority to impose local zoning controls.*

(insert local authority) has the authority to adopt this ordinance pursuant to:

- Minn. Stat. 342.13(c), regarding the authority of a local unit of government to adopt reasonable restrictions 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 businesses.

- b) Minn. Stat. 342.22, regarding the local registration and enforcement requirements of state-licensed cannabis retail businesses and lower-potency hemp edible retail businesses.
- c) Minn. Stat. 152.0263, Subd. 5, regarding the use of cannabis in public places.
- d) Minn. Stat. 462.357, regarding the authority of a local authority to adopt zoning ordinances.

Ordinance shall be applicable to the legal boundaries of (insert local here).

(Optional) (insert city here) has delegated cannabis retail registration authority to (insert county here). However, (insert city here) may adopt ordinances under Sections (2.6, 3 and 4) if (insert county here) has not adopted conflicting provisions.

### 1.3 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.

### 1.4 Enforcement

*The elected body of a jurisdiction can choose to designate an official to administer and enforce this ordinance.*

The (insert name of local government or designated official) 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 or not a permit is required for a regulated activity listed in this ordinance.

### 1.5 Definitions

1. Unless otherwise noted in this section, words and phrases contained in Minn. Stat. 342.01 and the rules promulgated pursuant to any of these acts, shall have the same meanings in this ordinance.
2. Cannabis Cultivation: A cannabis business licensed to grow cannabis plants within the approved amount of space from seed or immature plant to mature plant. harvest cannabis flower from mature plant, package and label immature plants and seedlings and cannabis flower for sale to other cannabis businesses, transport cannabis flower to a cannabis manufacturer located on the same premises, and perform other actions approved by the office.
3. Cannabis Retail Businesses: A retail location and the retail location(s) of a mezzobusinesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, (and/excluding) lower-potency hemp edible retailers.



4. 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.
5. Daycare: A location licensed with the Minnesota Department of Human Services to provide the care of a child in a residence outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.
6. Lower-potency Hemp Edible: As defined under Minn. Stat. 342.01 subd. 50.
7. Office of Cannabis Management: Minnesota Office of Cannabis Management, referred to as "OCM" in this ordinance.
8. Place of Public Accommodation: A business, accommodation, 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 Minn. Stat. 342.17.
10. Public Place: A public park or trail, public street or sidewalk; any enclosed, indoor area used by the general 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 Minn. Stat. 245.462 subd. 23.
12. Retail Registration: An approved registration issued by the (insert local here) to a state-licensed cannabis retail business.
13. School: A public school as defined under Minn. Stat. 120A.05 or a nonpublic school that must meet the reporting requirements under Minn. Stat. 120A.24.
14. State License: An approved license issued by the State of Minnesota's Office of Cannabis Management to a cannabis retail business.

## Section 2. Registration of Cannabis Businesses

*A city or town can delegate authority for registration to the County. A city or town can still adopt specific requirement regarding zoning, buffers, and use in public places, provided said requirements are not in conflict with an ordinance adopted under the delegated authority granted to the County.*

### 2.1 Consent to registering of Cannabis Businesses

No individual or entity may operate a state-licensed cannabis retail business within (insert local here) without first registering with (insert local here).

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.

Notwithstanding the foregoing provisions, the state shall not issue a license to any cannabis business to operate in Indian country, as defined in United States Code, title 18, section 1151, of a Minnesota Tribal government without the consent of the Tribal government.

## 2.2 Compliance Checks Prior to Retail Registration

*A jurisdiction can choose to conduct a preliminary compliance check prior to issuance of retail registration.*

Prior to issuance of a cannabis retail business registration, (insert local here) (shall/shall not) conduct a preliminary compliance check to ensure compliance with local ordinances.

Pursuant to Minn. Stat. 342, within 30 days of receiving a copy of a state license application from OCM, (insert local here) shall certify on a form provided by OCM whether a proposed cannabis retail business complies with local zoning ordinances and, if applicable, whether the proposed business complies with the state fire code and building code.

## 2.3 Registration & Application Procedure

### 2.3.1 Fees.

(insert local here) shall not charge an application fee.

A registration fee, as established in (insert local here)'s fee schedule, shall be charged to applicants depending on the type of retail business license applied for.

An initial retail registration fee shall not exceed \$500 or half the amount of an initial state license fee under Minn. Stat. 342.11, whichever is less. The initial registration fee shall include the initial retail registration fee and the first annual renewal fee.

Any renewal retail registration fee imposed by (insert local here) shall be charged at the time of the second renewal and each subsequent renewal thereafter.

A renewal retail registration fee shall not exceed \$1,000 or half the amount of a renewal state license fee under Minn. Stat. 342.11, whichever is less.

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.

### 2.3.2 Application Submittal.

The (insert local here) shall issue a retail registration to a state-licensed cannabis retail business that adheres to the requirements of Minn. Stat. 342.22.

(A) An applicant for a retail registration shall fill out an application form, as provided by the (insert local here). Said form shall include, but is not limited to:

- i. Full name of the property owner and applicant;
- ii. Address, email address, and telephone number of the applicant;
- iii. The address and parcel ID for the property which the retail registration is sought;
- iv. Certification that the applicant complies with the requirements of local ordinances established pursuant to Minn. Stat. 342.13.
- v. (Insert additional standards here)

(B) The applicant shall include with the form:

- i. the registration fee as required in [Section 2.3.1];
  - ii. a copy of a valid state license or written notice of OCM license preapproval;
  - iii. (Insert additional standards here)
- (C) Once an application is considered complete, the (insert local government designee) shall inform the applicant as such, process the application fees, and forward the application to the (insert staff/department, or elected body that will approve or deny the request) for approval or denial.
- (D) The application fee shall be non-refundable once processed.

#### 2.3.3 Application Approval

- (A) (Optional) A state-licensed cannabis retail business application shall not be approved if the cannabis retail business would exceed the maximum number of registered cannabis retail businesses permitted under Section 2.6.
- (B) A state-licensed cannabis retail business application shall not be approved or renewed if the applicant is unable to meet the requirements of this ordinance.
- (C) A state-licensed cannabis retail business application that meets the requirements of this ordinance shall be approved.

#### 2.3.4 Annual Compliance Checks.

The (insert local here) shall complete at minimum one compliance check per calendar year of every cannabis business to assess if the business meets age verification requirements, as required under [Minn. Stat. 342.22 Subd. 4(b) and Minn. Stat. 342.24] and this/these [chapter/section/ordinances].

The (insert local here) shall conduct at minimum one unannounced age verification compliance check at least once per calendar year.

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.

Any failures under this section must be reported to the Office of Cannabis Management.

#### 2.3.5 Location Change

*A jurisdiction may decide to treat location changes as a new registration, or alternatively treat a location change as allowable subject to compliance with the rest of the registration process.*

A state-licensed cannabis retail business shall be required to submit a new application for registration under Section 2.3.2 if it seeks to move to a new location still within the legal boundaries of (insert local here).

or

If a state-licensed cannabis retail business seeks to move to a new location still within the legal boundaries of (insert local here), it shall notify (insert local here) of the proposed location change, and submit necessary information to meet all the criteria in this paragraph.

## 2.4 Renewal of Registration

The (insert local here) shall renew an annual registration of a state-licensed cannabis retail business at the same time OCM renews the cannabis retail business' license.

A state-licensed cannabis retail business shall apply to renew registration on a form established by (insert local here).

A cannabis retail registration issued under this ordinance shall not be transferred.

### *2.4.1 Renewal Fees.*

The (insert local here) may charge a renewal fee for the registration starting at the second renewal, as established in (insert local here)'s fee schedule.

### *2.4.2 Renewal Application.*

The application for renewal of a retail registration shall include, but is not limited to:

- Items required under Section 2.3.2 of this Ordinance.
- Insert additional items here

## 2.5 Suspension of Registration

### *2.5.1 When Suspension is Warranted.*

The (insert local here) may suspend a cannabis retail business's registration if it violates the ordinance of (insert local here) or poses an immediate threat to the health or safety of the public. The (insert local here) shall immediately notify the cannabis retail business in writing the grounds for the suspension.

### *2.5.2 Notification to OCM.*

The (insert local here) shall immediately notify the OCM in writing the grounds for the suspension. OCM will provide (insert local here) and cannabis business retailer a response to the complaint within seven calendar days and perform any necessary inspections within 30 calendar days.

### *2.5.3 Length of Suspension.*

*A jurisdiction can wait for a determination from the OCM before reinstating a registration.*

The suspension of a cannabis retail business registration may be for up to 30 calendar days, unless OCM suspends the license for a longer period. The business may not make sales to customers if their registration is suspended.

The (insert local here) may reinstate a registration if it determines that the violations have been resolved.

The (insert local here) shall reinstate a registration if OCM determines that the violation(s) have been resolved.

#### 2.5.4 Civil Penalties.

Subject to Minn. Stat. 342.22, subd. 5(e) the (insert local here) may impose a civil penalty, as specified in the (insert local here)'s Fee Schedule, for registration violations, not to exceed \$2,000.

### 2.6 Limiting of Registrations

*A jurisdiction may choose to set a limit on the number of retail registrations within its boundaries. The jurisdiction may not however, limit the number of registrations to fewer than one per 12,500 residents.*

(Optional) The (insert local here) shall limit the number of cannabis retail businesses to no fewer than one registration for every 12,500 residents within (insert local legal boundaries here).

(Optional) If (insert county here) has one active cannabis retail businesses registration for every 12,500 residents, the (insert local here) shall not be required to register additional state-licensed cannabis retail businesses.

(Optional) The (insert local here) shall limit the number of cannabis retail businesses to (insert number <= minimum required).

## Section 3. Requirements for Cannabis Businesses

*State Statutes note that jurisdictions may “adopt reasonable restrictions on the time, place, and manner of the operation of a cannabis business.” A jurisdiction considering other siting requirements (such as a buffer between cannabis businesses, or a buffer from churches) should consider whether there is a basis to adopt such restrictions.*

### 3.1 Minimum Buffer Requirements

*A jurisdiction can adopt buffer requirements that prohibit the operation of a cannabis business within a certain distance of schools, daycares, residential treatment facilities, or from an attraction within a public park that is regularly used by minors, including a playground or athletic field. Buffer requirements are optional. A jurisdiction cannot adopt larger buffer requirements than the requirements here in Section 3.1. A jurisdiction should use a measuring system consistent with the rest of its ordinances, e.g. from lot line or center point of lot.*

(Optional) The (insert local here) shall prohibit the operation of a cannabis business within [0-1,000] feet of a school.



(Optional) The (insert local here) shall prohibit the operation of a cannabis business within [0-500] feet of a day care.

(Optional) The (insert local here) shall prohibit the operation of a cannabis business within [0-500] feet of a residential treatment facility.

(Optional) The (insert local here) shall prohibit the operation of a cannabis business within [0-500] feet of an attraction within a public park that is regularly used by minors, including a playground or athletic field.

(Optional) The (insert local here) shall prohibit the operation of a cannabis retail business within [X] feet of another cannabis retail business.

Pursuant to Minn. Stat. 462.357 subd. 1e, nothing in Section 3.1 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/attraction within a public park that is regularly used by minors) moves within the minimum buffer zone.

### 3.2 Zoning and Land Use

*For jurisdictions with zoning, said jurisdiction can limit what zone(s) Cannabis businesses can operate in. As with other uses in a Zoning Ordinance, a jurisdiction can also determine if such use requires a Conditional or Interim Use permit. A jurisdiction cannot outright prohibit a cannabis business. A jurisdiction should amend their Zoning Ordinance and list what zone(s) Cannabis businesses are permitted in, and whether they are permitted, conditional, or interim uses. While each locality conducts its zoning differently, a few themes have emerged across the country. For example, cannabis manufacturing facilities are often placed in industrial zones, while cannabis retailers are typically found in commercial/retail zones. Cannabis retail facilities align with general retail establishments and are prohibited from allowing consumption or use onsite and are also required to have plans to prevent the visibility of cannabis and hemp-derived products to individuals outside the retail location. Cannabis businesses should be zoned under existing zoning ordinances in accordance with the license type or endorsed activities held by the cannabis business.*

#### 3.2.1. Cultivation.

Cannabis businesses licensed or endorsed for cultivation are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

#### 3.2.1. Cannabis Manufacturer.

Cannabis businesses licensed or endorsed for cannabis manufacturer are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

#### *3.2.1. Hemp Manufacturer.*

Businesses licensed or endorsed for low-potency hemp edible manufacturers permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

#### *3.2.1. Wholesale.*

Cannabis businesses licensed or endorsed for wholesale are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

#### *3.2.1. Cannabis Retail.*

Cannabis businesses licensed or endorsed for cannabis retail are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

#### *3.2.1. Cannabis Transportation.*

Cannabis businesses licensed or endorsed for transportation are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

#### *3.2.1. Cannabis Delivery.*

Cannabis businesses licensed or endorsed for delivery are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

### 3.3 Hours of Operation

*State law limits the retail sale of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products to the hours of:*

- *Monday-Saturday: 8 a.m.-2 a.m. the following day*
- *Sunday: 10 a.m.-2 a.m.*

*A local jurisdiction may adopt an ordinance prohibiting sales for any period between the hours of 8 a.m.-10 a.m. and between 9 p.m.-2 a.m. the following day, seven days a week.*

(Optional) Cannabis businesses are limited to retail sale of cannabis, cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products between the hours of (insert time here) and (insert time here).

### 3.4 (Optional) Advertising

Cannabis businesses are permitted to erect up to two fixed signs on the exterior of the building or property of the business, unless otherwise limited by (insert local here)'s sign ordinances.

## Section 4. Temporary Cannabis Events

*Any individual or business seeking to obtain a cannabis event license must provide OCM information about the time, location, layout, number of business participants, and hours of operation. A cannabis event organizer must receive local approval, including obtaining any necessary permits or licenses issued by a local unit of government before holding a cannabis event.*

### 4.1 License or Permit Required for Temporary Cannabis Events

#### 4.1.1 License Required.

*A cannabis event organizer license entitles the license holder to organize a temporary cannabis event lasting no more than four days. A jurisdiction should determine what type of approval is consistent with their existing ordinances for events.*

A license or permit is required to be issued and approved by (insert local here) prior to holding a Temporary Cannabis Event.

#### 4.1.2 Registration & Application Procedure

A registration fee, as established in (insert local here)'s fee schedule, shall be charged to applicants for Temporary Cannabis Events.

#### 4.1.3 Application Submittal & Review.

The (insert local here) shall require an application for Temporary Cannabis Events.

- (A) An applicant for a retail registration shall fill out an application form, as provided by the (insert local here). Said form shall include, but is not limited to:
  - i. Full name of the property owner and applicant;
  - ii. Address, email address, and telephone number of the applicant;
  - iii. (Insert additional standards here)
- (B) The applicant shall include with the form:
  - i. the application fee as required in (Section 4.1.2);
  - ii. a copy of the OCM cannabis event license application, submitted pursuant to 342.39 subd. 2.

The application shall be submitted to the (insert local authority), or other designee for review. If the designee determines that a submitted application is incomplete, they shall return the application to the applicant with the notice of deficiencies.

- (C) Once an application is considered complete, the designee shall inform the applicant as such, process the application fees, and forward the application to the (insert staff/department, or elected body that will approve or deny the request) for approval or denial.

(D) The application fee shall be non-refundable once processed.

(E) The application for a license for a Temporary Cannabis Event shall meet the following standards:

*A jurisdiction may establish standards for Temporary cannabis events which the event organizer must meet, including restricting or prohibiting any on-site consumption. If there are public health, safety, or welfare concerns associated with a proposed cannabis event, a jurisdiction would presumably be authorized to deny approval of that event.*

- Insert standards here

(G) A request for a Temporary Cannabis Event that meets the requirements of this Section shall be approved.

(H) A request for a Temporary Cannabis Event that does not meet the requirements of this Section shall be denied. The (insert city/town/county) shall notify the applicant of the standards not met and basis for denial.

(Optional) Temporary cannabis events shall only be held at (insert local place).

(Optional) Temporary cannabis events shall only be held between the hours of (insert start time) and (insert stop time).

## Section 5. (Optional) Lower-Potency Hemp Edibles

*A jurisdiction can establish different standards or requirements regarding Low-Potency Edibles. A jurisdiction can consider including the following section and subsections in their cannabis ordinance.*

### 5.1 Sale of Low-Potency Hemp Edibles

The sale of Low-Potency Edibles is permitted, subject to the conditions within this Section.

### 5.2 Zoning Districts

*If sales are permitted, a jurisdiction can limit what zone(s) the sales of Low-Potency Edibles can take place in. A jurisdiction can also determine if such activity requires a Conditional or Interim Use permit.*

Low-Potency Edibles businesses are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

### 5.3 (Optional) Additional Standards

#### 5.3.1 Sales within Municipal Liquor Store.

*A jurisdiction that already operates a Municipal Liquor Store may sell Low-Potency Edibles within the same store.*

The sale of Low-Potency Edibles is permitted in a Municipal Liquor Store.

#### *5.3.2 Age Requirements.*

*A jurisdiction is able to restrict the sale of Low-Potency Edibles to locations such as bars.*

The sale of Low-Potency Edibles is permitted only in places that admit persons 21 years of age or older.

#### *5.3.3 Beverages.*

The sale of Low-Potency Hemp Beverages is permitted in places that meet requirements of this Section.

#### *5.3.4 Storage of Product.*

*A jurisdiction is able to set requirements on storage and sales of Low-Potency Edibles.*

Low-Potency Edibles shall be sold behind a counter, and stored in a locked case.

### Section 6. (Optional) Local Government as a Cannabis Retailer

(insert local here) may establish, own, and operate one municipal cannabis retail business subject to the restrictions in this chapter.

The municipal cannabis retail store shall not be included in any limitation of the number of registered cannabis retail businesses under Section 2.6.

(insert local here) shall be subject to all same rental license requirements and procedures applicable to all other applicants.

### Section 7. Use in Public Places

No person shall use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place or a place of public accommodation unless the premises is an establishment or an event licensed to permit on-site consumption of adult-use.



# ***Appendix B: Retail Registration Form and Checklist***

## Retail Registration Form and Checklist

Local Unit of Government:

Business Name:

Business Address:

Minnesota Cannabis Business License Number:

### Registration Period

Initial

Renewal

Cannabis Microbusiness (\$0.00)

Cannabis Microbusiness (\$1000.00)

Cannabis Mezzobusiness (\$500.00)

Cannabis Mezzobusiness (\$1000.00)

Cannabis Retailer (\$500.00)

Cannabis Retailer (\$1000.00)

Is Applicant Current on All Property Tax and Assessments at Retail Location:

Yes

No

Preliminary Local Ordinance Compliance:

Pass

Fail

Notes:

The above named applicant having paid the appropriate fees, being current on all applicable tax obligations, and having passed a preliminary compliance review, is authorized to engage in retail cannabis sales in the above named jurisdiction.

Approved By:

Title:

Date:

# ***Appendix C: Hemp Flower and Hemp-Derived Cannabinoid Product Checklist***

## Hemp Flower and Hemp-Derived Cannabinoid Product Checklist

Minnesota Statute 18K.02, Definitions  
Minnesota Statute 152.01, Subdivision 9  
Minnesota Statute 151.72, Sale of Certain Cannabinoid Products

Minnesota Statute 152.0264, Cannabis Sale Crimes  
Minnesota Statute 342.09, Personal Adult Use of Cannabis

Question	Yes	No	Comments	Additional Information
<b>Business License and Registration Compliance</b>				
Is the business registered with the Minnesota Department of Health?				All businesses selling hemp-derived cannabinoid products must be registered. See <a href="http://www.health.state.mn.us/people/cannabis/edibles/index.html">Hemp-Derived Cannabinoid Products (www.health.state.mn.us/people/cannabis/edibles/index.html)</a>
If the business offers on-site consumption, do they have a liquor license?				Local authorities issue on-site consumption licenses. These are required for all businesses permitting on-site consumption of THC.
<b>Product Compliance – All Products</b>				
Does the business ensure that all sales are made to persons 21 years old or older?				Only persons 21 years of age or older may purchase hemp-derived cannabinoid products, with the exception of topicals. These products may be sold to anyone.
Does the business have all edible cannabinoid products, except beverages, behind the counter or in a locked cabinet?				Businesses must ensure all edible cannabinoid products are secure and inaccessible to customers.

Question	Yes	No	Comments	Additional Information
Only delta-8 and delta-9 are allowed for human consumption. Does the business sell edibles or beverages with any other intoxicating cannabinoids?				MDH has identified products containing many different intoxicating cannabinoids, such as HHC, THC-O, THC-P, PHC, delta-10, delta-11, delta-8p, delta-9p, etc. The product must contain only delta-8 and/or delta-9.
Does the business sell any edible products that are similar to a product marketed to or consumed by children?				Edible products that appear similar to candy or snacks marketed toward or consumed by children are not allowed.
Does the label on the edible or beverage state “Keep out of reach of children”?				All products must include the warning label “Keep out of reach of children.”
Is the manufacturer’s name, address, website, and contact phone number included on the label or provided through a QR code?				If not, the product is not in compliance.
Does the QR code on the product bring the user to a Certificate of Analysis on the website, which includes the name of the independent testing laboratory, cannabinoid profile, and product batch number?				All products must be tested by batch in an independent, accredited laboratory. The results must include the cannabinoid profile.
Does the label on the product indicate the cannabinoids by serving and in total?				The label must indicate the potency by individual serving as well as in total.



Question	Yes	No	Comments	Additional Information
Does the label on the product make any claim the product offers any kind of health benefit?				Health claims are not permitted on hemp or cannabis products unless approved by the FDA. At this time, there is not an approved statement.
Does the label on the product state that the product does not claim to diagnose, treat, cure or prevent any disease?				The manufacturer cannot claim the product will provide any health benefit unless the product has been formally approved by the FDA.
Does the business sell CBD (or other forms of cannabidiol) in the form of a softgel, tablet, or tincture?				Non-intoxicating cannabinoids may only be sold in the form of an edible, beverage, or topical. Therefore, softgels and tablets cannot be sold. Tinctures must be labeled as either an edible or beverage and comply with the edible or beverage requirements.
<b>Product Compliance – Edibles</b>				
Does the edible product contain more than 5 mg delta-8 and/or delta-9 per serving?				Edibles may not exceed 5 mg delta-8 and/or delta-9 per serving.
Does the edible product package/container contain more than 50 mg total THC (delta-8 and/or delta-9)?				Edibles may not exceed 50 mg total delta-8 or delta-9 per package. The edible cannot contain any other form of THC or intoxicating cannabinoid.
Are all the edible product's servings clearly marked, wrapped, or scored <u>on</u> the product?				Edible product servings must be clearly distinguished on the product. Bulk products that require the consumer to measure are not allowed.

Question	Yes	No	Comments	Additional Information
Does the business sell any edible products in the shape of bears, worms, fruits, rings, ribbons?				Edibles in shapes that appeal to children are not allowed.
Is the edible product in a child-proof, tamper-evident, opaque container?				All edibles must be in a container that is child-resistant and tamper evident. If the container is clear, the business must place the edible into an opaque bag at the point of sale. Clear bags are not allowed.
<b>Product Compliance - Beverages</b>				
Does the beverage product contain more than 5 mg delta-8 or delta-9 per serving?				Beverages may not exceed 5 mg delta-8 and/or delta-9 per serving.
Does the beverage product contain more than 2 servings?				Beverages cannot exceed two servings, regardless of the THC potency.
Is the beverage product in an opaque container?				If the beverage is in a clear container, the business must place the beverage in an opaque bag at the point of sale.
<b>Product Compliance – Smokables (non-flower)</b>				
Does the business sell vapes, pre-rolls, dabs, or other smokable products which contain more than 0.3% THC?				<p>A product's certificate of analysis will show the concentration of THC the product contains. The certificate typically is found through the QR code on the product package. In MDH's experience, most vapes contain 50% - 90%+ THC.</p> <p>Pre-rolls may consist of raw hemp flower. These products are not regulated by 151.72. However, if a pre-roll is labeled as "infused" or "coated" have additional cannabinoids applied to the material, of which the product typically exceeds the 0.3% THC limit.</p>

Question	Yes	No	Comments	Additional Information
Does the business sell vapes, pre-rolls, dabs, or other smokeable products that contain other intoxicating cannabinoids, such as HHC?				MN Statutes do not allow any cannabinoid, other than delta-8 or delta-9, to be sold if the cannabinoid is intended to alter the structure or function of the body. HHC is a cannabinoid known to have potency greater than THC.
Does the business sell vapes, pre-rolls, dabs, or other smokable products which contain CBD?				Non-intoxicating cannabinoids cannot be smoked, vaped, or inhaled.
<b>Product Compliance – Flower</b>				
Does the business sell raw hemp flower?				<p>Raw hemp flower must contain 0.3% or less of delta-9 on a dry weight basis. Products exceeding 0.3% delta-9 dry weight are marijuana, and are illegal for sale.</p> <p>THC-A is the non psychoactive precursor to delta-9. Once heated THC-A converts to delta-9. In that process some amount of THC-A is lost.</p> <p>To determine whether, once heated, the hemp flower will exceed the allowable 0.3% of delta-9, one can use a decarboxylation formula which takes into account the conversion of THC-A into delta-9.</p> <p>That formula is as follows:  <math display="block">\text{Total THC} = (0.877 \times \text{THC-A}) + \text{d-9 THC}</math></p> <p>Raw flower must include a certificate of analysis to show testing below 0.3% delta-9.</p> <ul style="list-style-type: none"> <li>A lack of a certificate of analysis would constitute an illegal sale.</li> </ul>

Question	Yes	No	Comments	Additional Information
				<ul style="list-style-type: none"> <li>A certificate of analysis showing that under the decarboxylation formula that delta-9 would exceed the 0.3% threshold would also indicate the flower is cannabis and not hemp and therefore being sold illegally.</li> </ul>
<b>Product Compliance – On-Site Consumption</b>				
If the business offers on-site consumption, do they serve the edible or beverage in its original packaging?				The business may not pour out or remove an edible from its original packaging.
If the business offers on-site consumption, do they mix a cannabis-infused beverage with alcohol?				The business may not mix cannabis-infused products with alcohol.
If the business offers on-site consumption, do they permit customers to remove from the premises products which have been removed from their original packaging?				Products which have been removed from their original packaging cannot be removed from the premises by the customer.

NOTE: If a person suspects that a hemp-derived cannabinoid product is being sold in violation of Minnesota law, they can use the complaint form at [Submitting Hemp-Derived Cannabinoid Product Complaints \(www.health.state.mn.us/people/cannabis/edibles/complaints.html\)](http://www.health.state.mn.us/people/cannabis/edibles/complaints.html).

# ***Appendix D: Enforcement Notice from the Office of Cannabis Management***

## Enforcement Notice from the Office of Cannabis Management

Dear Registered Hemp Derived Cannabinoid Business:

The Office of Cannabis Management (OCM), established in 2023, is charged with developing and implementing the operational and regulatory systems to oversee the cannabis industry in Minnesota as provided in Minnesota Statutes Chapter 342.

When Minnesota legalized the sale of adult-use of cannabis flower, cannabis products, and lower-potency hemp edibles/ hemp-derived consumer products, the Minnesota Legislature included statutory provisions, [Minnesota Statutes, chapter 152.0264](#), making the sale of cannabis illegal until a business is licensed by OCM. The Office of Cannabis Management has not yet issued licenses for the cultivation, manufacture, wholesale, transportation or retail sale of cannabis, therefore any retail sales of cannabis products, including cannabis flower, are illegal.

The Office of Cannabis Management has received complaints of retailers selling cannabis flower under the label of hemp flower. Under an agreement between The Minnesota Department of Health (MDH) and OCM, inspectors from MDH will begin to examine any flower products being sold during their regular inspections to determine whether they are indeed hemp flower or cannabis flower.

In distinguishing between hemp and cannabis flower, OCM, consistent with federal rules and regulations related to hemp under 7 CFR 990.1, will consider the total concentration of THC post- decarboxylation, which is the process by which THC-A is converted into Delta-9 to produce an intoxicating effect. The examination of raw flower products will include reviewing the certificate of analysis for compliance in several areas, including:

Compliance with the requirement that raw flower listed for sale includes a Certificate of Analysis (COA). Products for sale without a COA will constitute an illegal sale.

A COA that affirms concentrations of 0.3% or less of Delta-9 on a dry weight basis. Products exceeding 0.3% Delta-9 dry weight are considered marijuana and are therefore illegal to sell.

A COA that confirms that the total levels of Delta-9 and THC-A after the decarboxylation process do not exceed 0.3%. A COA that indicates the raw flower will exceed 0.3 percent Delta-9 post-decarboxylation, or a subsequent test conducted by an independent laboratory utilized by OCM that confirms Delta-9 in excess of 0.3 percent will be considered illegal.

[Minnesota Statutes, Chapter 342](#) governs Minnesota’s cannabis market, and empowers OCM to ensure regulatory compliance. [Minnesota Statutes, chapter 342.09, subdivision 4](#) prohibits the retail sale of cannabis flower and cannabis products “without a license issued under this chapter that authorizes the sale.”



To date, the Office of Cannabis Management has not issued any cannabis licenses, applications for licenses are expected to be available in the first half of 2025. As such, selling cannabis is a clear violation of law. Be aware that under [Minnesota Statutes, 342.09, subdivision 6](#), OCM may assess fines in excess of a \$1 million for violations of this law. Likewise, under [Minnesota Statutes, chapter 342.19](#), OCM is empowered to embargo any product that it has “probable cause to believe . . . is being distributed in violation of this chapter or rules adopted under this chapter[.]” Furthermore, violations of law may be considered in future licensing decisions made by OCM.

As inspectors enter the field, we encourage you to review the products you are currently selling to ensure they fall within the thresholds outlined above. If you have any questions related to the products you are selling, please send an email to [cannabis.info@state.mn.us](mailto:cannabis.info@state.mn.us).

Thank you for your attention to this matter.

A handwritten signature in black ink, appearing to read "Charlene Briner", with a long horizontal flourish extending to the right.

Charlene Briner  
Interim Director  
Office of Cannabis Management

# ***Appendix E: Notice to Unlawful Cannabis Sellers***

## Notice to Unlawful Cannabis Sellers

This notice is to inform you that your current course of action may run afoul of Minnesota law, and continuing this course of action may result in civil actions and potential criminal prosecution. To avoid such outcomes, you should immediately cease and desist any plans to engage in the unlicensed sale of cannabis and cannabis products.

[Minnesota Statutes, Chapter 342 \(www.revisor.mn.gov/statutes/cite/342\)](http://www.revisor.mn.gov/statutes/cite/342) governs Minnesota's cannabis market, and empowers OCM to ensure regulatory compliance. [Minnesota Statutes, chapter 342.09, subdivision 4 \(www.revisor.mn.gov/statutes/cite/342.09#stat.342.09.4\)](http://www.revisor.mn.gov/statutes/cite/342.09#stat.342.09.4) prohibits the retail sale of cannabis flower and cannabis products "without a license issued under this chapter that authorizes the sale." To date the Office of Cannabis Management has not issued any retail, or other, cannabis licenses. As such, your plan to sell cannabis in a retail setting at this date would be in flagrant violation of the law. Be aware that under [Minnesota Statutes, 342.09, subdivision 6 \(www.revisor.mn.gov/statutes/cite/342.09#stat.342.09.6\)](http://www.revisor.mn.gov/statutes/cite/342.09#stat.342.09.6), OCM may assess fines in excess of a \$1,000,000 for violations of this law.

Likewise, under [Minnesota Statutes, chapter 342.19 \(www.revisor.mn.gov/statutes/cite/342.19\)](http://www.revisor.mn.gov/statutes/cite/342.19), OCM is empowered to embargo any product that it has "probable cause to believe . . . is being distributed in violation of this chapter or rules adopted under this chapter[.]" It is believed that products attempted to be sold at your retail location might be distributed in violation of the law, and would therefore be subject to embargo by OCM. Under [Minnesota Statutes, chapter 342.19, subd. 2 \(www.revisor.mn.gov/statutes/cite/342.19#stat.342.19.2\)](http://www.revisor.mn.gov/statutes/cite/342.19#stat.342.19.2), once embargoed OCM "shall release the cannabis plant, cannabis flower, cannabis product, artificially derived cannabinoid, lower-potency hemp edible, or hemp-derived consumer product when this chapter and rules adopted under this chapter have been complied with or the item is found not to be in violation of this chapter or rules adopted under this chapter."

While Minnesota has legalized the sale of adult-use of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products, the legislature did add new statutory provisions, [Minnesota Statutes, chapter 152.0264 \(www.revisor.mn.gov/statutes/cite/152.0264\)](http://www.revisor.mn.gov/statutes/cite/152.0264), making illegal the unlawful sale of cannabis. As there are not yet any licenses issued by OCM for the cultivation, manufacture, wholesale, transportation, or retail of cannabis, any sales of cannabis products in excess of the limits in 152.0264 is illegal.

If you are only planning to sell cannabinoid products that are derived from hemp, you should ensure that the sale of those products is consistent with [Minnesota Statutes, chapter 151.72 \(www.revisor.mn.gov/statutes/cite/151.72\)](http://www.revisor.mn.gov/statutes/cite/151.72), including but not limited to the requirement that your business be registered with the Commissioner of Health, and that all products are in compliance with the relevant statutes.

Finally, in addition to the state laws outlined above, please be aware that any retail location must be in compliance with local government ordinances and zoning requirements.

OCM takes seriously its charge to enforce Minnesota Statutes, Chapter 342, and its responsibility to ensure a safe and legal cannabis market. In order to avoid the above-described actions, all attempts to open a cannabis retail dispensary in Minnesota without the appropriate license should be ceased.

**CITY OF MENDOTA HEIGHTS  
DAKOTA COUNTY, MINNESOTA**

**ORDINANCE NO. 596**

**AMENDING TITLE 12: ZONING, CHAPTER 3: ALLOWED USES TO ESTABLISH CANNABIS  
BUSINESS TYPES WITHIN THE TABLE OF USES**

The City Council of the City of Mendota Heights does ordain:

**Section 1. City Code Title 12 – ZONING is hereby amended to modify Chapter 3: ALLOWED USES , Table 12-3B-1.1 Table of Uses as follows:**

**COMMERCIAL/BUSINESS USES**

Land Use	RE	R-1	R-2	R-3	MU	B-1	B-2	I	Use Specific Section
<u>Cannabis Retailer</u>						<u>CUP</u>	<u>CUP</u>		<u>3-8-1</u>
<u>Lower-potency hemp edible retailer</u>					<u>P</u>	<u>P</u>	<u>P</u>		<u>3-8-1</u>

**INDUSTRIAL, TRANSPORTATION & UTILITY USES**

Land Use	RE	R-1	R-2	R-3	MU	B-1	B-2	I	Use Specific Section
<u>Cannabis microbusiness,</u> <u>cannabis mezzobusiness,</u> <u>cannabis cultivator,</u> <u>cannabis manufacturer,</u> <u>cannabis wholesaler,</u> <u>cannabis testing facility,</u> <u>lower-potency hemp edible manufacturer,</u> <u>medical cannabis combination business</u>								<u>CUP</u>	<u>3-8-1</u>

**Section 2. Effective date.**

This ordinance shall be effective January 1, 2025, following adoption and publication according to law.

**ADOPTED** this 17<sup>th</sup> day of December, 2024 by the City Council for the City of Mendota Heights.

**CITY COUNCIL  
CITY OF MENDOTA HEIGHTS**

---

**Stephanie B. Levine, Mayor**

ATTEST:

---

Nancy Bauer, City Clerk

DRAFT



## REQUEST FOR CITY COUNCIL ACTION

---

**MEETING DATE:** October 30, 2024

**AGENDA ITEM:** Cannabis Ordinance

**ITEM TYPE:** New and Unfinished Business

**DEPARTMENT:** Community Development      **CONTACT:** Sarah Madden, Community Development Manager

**ACTION REQUEST:**

Provide direction on drafting an ordinance regulating Cannabis Business operations within the City, in compliance with Minnesota Statutes, Chapter 342

**BACKGROUND:**

In 2023, the Minnesota Legislature passed a bill legalizing adult use of cannabis and cannabis businesses. Part of this bill also created The Office of Cannabis Management (OCM), which was created to regulate and oversee the cannabis industry in Minnesota. State statute limited the type regulations a city can place on the use, sale and production of cannabis and cannabis products. The law identified cannabis cannot be sold until the OCM was established and able to issue licenses. That timeline is expected to be accomplished by January 1, 2025. In mid-June 2024, the OCM released "A Guide for Local Governments on Adult-Use Cannabis", which includes a model ordinance. This document is attached for the Council to reference while discussing the proposed regulations.

Community Development, Administration, the City Clerk's office and the Police Department will be coordinating during the creation of the City's Cannabis regulations and implementation of the ordinance in 2025. The OCM is the licensing and general enforcement body for cannabis-based businesses, but local governments will be responsible for compliance checks for age-verified sales and can inspect for compliance with city-specific regulations. Under the statute, local governments cannot prohibit the possession, transportation, or use of cannabis, or the establishment of a state-licensed cannabis business. Local governments also may not require additional licensing of cannabis businesses. However, the City is permitted to adopt some reasonable restrictions and performance standards. For these regulations, cities have the authority to adopt a registration ordinance requiring a cannabis microbusiness, cannabis mezzobusiness, cannabis retailer, medical cannabis combination business, or lower-potency



### Attachment 3. Oct 30 Staff Report and Minutes

hemp edible retailer with a license from OCM to initially and annually register with the city. To obtain a registration from the city, the ordinance may require: payment of a fee, compliance with the requirements of Minn. Stat. Ch. 342, and to be current on all property taxes and assessments. If a city adopts a registration ordinance, the city may limit the number of licensed cannabis retailers, cannabis mezzobusinesses and cannabis microbusinesses to no fewer than one registration for every 12,500 residents. This is based on the Minnesota State Demographer numbers.

The City also has the ability to decide which zoning districts cannabis and hemp businesses will be allowed to operate within. Many cities are likely to view both uses similar to liquor stores or tobacco shops from a zoning perspective. Mendota Heights' Alcoholic Beverages ordinance notes that off sale liquor licenses may only be issued in the MU-PUD Zoning District. However, the Zoning Ordinance identifies liquor stores as a similar use to a bowling alley, billiard room, skating rink, fraternal organization, or other similar assembly uses and notes the use as a Conditional Use in the MU-Mixed Use, B-1-General Business, and B-2-Neighborhood Business districts (as identified in the updated Zoning Ordinance, going into effect January 1, 1025). Tobacco Shops are listed as a CUP in those same zoning districts. No buffer performance standards are imposed on either use. The City Council may take a more restrictive approach with cannabis and hemp businesses, as recommended later in this report, by defining the uses within the Zoning Ordinance and establishing allowed zoning districts as well as buffer requirements and appropriate performance standards via a Zoning Ordinance revision. If Council wishes to be less restrictive, they could treat cannabis uses like current tobacco and alcohol licensing requirements which do not impose buffer requirements.

Minnesota Statutes define cannabis business and hemp businesses:

Cannabis Business means any of the following licensed under this chapter: (1) cannabis microbusiness; (2) cannabis mezzobusiness; (3) cannabis cultivator; (4) cannabis manufacturer; (5) cannabis retailer; (6) cannabis wholesaler; (7) cannabis transporter; (8) cannabis testing facility; (9) cannabis event organizer; (10) cannabis delivery service; and (11) medical cannabis combination business.

Hemp Business means either of the following licensed under this chapter: (1) lower-potency hemp edible manufacturer; or (2) lower-potency hemp edible retailer. Hemp business does not include a person or entity licensed under chapter 18K to grow industrial hemp for commercial or research purposes or to process industrial hemp for commercial purposes.

The definitions and regulations for the cannabis retailer, manufacturer, wholesaler, transporter, testing facility, and delivery service operations are tailored to the new cannabis and hemp industries, but the functionality of the uses are similar to existing retail, manufacturing, wholesale, transport, testing, and delivery operations for non-cannabis industries. The defined cannabis microbusiness, mezzobusiness, cultivators, and event organizer uses are not comparable to existing uses. These uses and operations are provided in Minnesota Statute Chapter 342 and will be included in the new rules, as outlined in the attached OCM guide.

The statute gives the City of Mendota Heights the authority to adopt reasonable restrictions on 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 businesses.

### Attachment 3. Oct 30 Staff Report and Minutes

Based on the actions local governments are permitted to take relating to cannabis businesses, staff recommends the following ordinance updates to City Code to comply with the OCM guidelines as well as preserve the City of Mendota Height's interest in local control:

1. Create a registration of cannabis retailers, cannabis mezzobusinesses and cannabis microbusinesses.
2. Require cannabis businesses (cannabis retailers, cannabis mezzobusinesses, cannabis microbusinesses, etc.) to be located at least 500-ft away from principal school buildings, principal day care buildings, principal residential treatment facility buildings, and attractions in parks (like playgrounds and sports fields). *Optional: The City may prohibit the operation of a cannabis business within 1000-ft of a school as an increased buffer, but only for that specific use.*
3. Update the Zoning Ordinance use chart to allow Cannabis Retail to be permitted in the same zoning as off-sale liquor or tobacco: MU-Mixed Use, B-1-General Business, B-2-Neighborhood Business. Update the use chart to allow Cannabis cultivation/research/manufacturing/distribution in I-Industrial as similar allowed uses. *Note: See pgs. 12-14 of the OCM Guide*
4. Incorporate standards within Title 12 to regulate hours of operation, signage, and other best practices as Zoning Ordinance performance standards.

Policy questions for the City Council to consider:

1. Should cannabis retail be permitted in the same zoning as off-sale liquor or tobacco?
2. Should cannabis cultivation/research/manufacturing/distribution be permitted in I-Industrial as similar allowed uses?
3. What performance standards should be considered? Odor mitigation, signage, hours of operation, lighting, etc.
4. Should a buffer be implemented from schools, daycare, residential treatment facilities, or from attractions within public parks? Should the City impose the maximum allowed buffer, or a different dimension?
5. Should the City limit the number of cannabis retail businesses? *Note: the City cannot limit fewer than 1 per 12,500 residents.* Should the City prohibit the operation of a cannabis retail business within a distance of another cannabis retail business?
6. The City does not currently license or impose additional performance standards for lower-potency edible cannabinoid products (THC products). The OCM will begin issuing lower-potency hemp edible retailer licenses with their other licensing duties. Should lower-potency hemp manufacturers and retailers also be subject to a registration process and be identified within the zoning ordinance use chart? *Note: locations where such products are currently sold may include grocery stores, tobacco shops, and in some cases restaurants, bars, or breweries. A liquor store is also authorized to sell edible cannabinoid products under state law.*

### FISCAL AND RESOURCE IMPACT:

### Attachment 3. Oct 30 Staff Report and Minutes

1. There will be new revenue for the City from the 10% state tax on some cannabis products. Under the new law, 20% of the gross receipts tax revenue from cannabis products is dedicated to local governments, to be shared equally between cities and counties (the remaining 80% flows to the state general fund). Local taxes imposed solely on sale of cannabis products are prohibited.
2. An initial registration fee may be established by the City that cannot exceed \$500 or half the amount of an initial state license fee under the statute. A renewal registration fee may be imposed annually but cannot exceed \$1,000 or half the amount of a renewal state license fee under the statute.

#### **ATTACHMENTS:**

1. A Guide for Local Governments on Adult-Use Cannabis

#### **CITY COUNCIL PRIORITY:**

Inclusive and Responsive Government

## Attachment 3. Oct 30 Staff Report and Minutes

Councilor Mazzitello seconded the motion.

Ayes: 3

Nays: 0

### PRESENTATIONS A) CANNABIS ORDINANCE

Community Development Manager Sarah Madden provided a presentation and stated that the Council is asked to provide direction on drafting an ordinance regulating cannabis business operations within the city, in compliance with Minnesota Statutes, Chapter 342.

Councilor Paper asked about the definition of minor performance standard.

Community Development Manager Sarah Madden provided some examples of what would be use specific standards, such as signage, lighting, and hours. She stated that those standards would need to be comparable to other similar uses that are allowed by Code.

Councilor Paper asked if \$1,000 is the license fee that can be charged.

Community Development Manager Sarah Madden commented that the license fee is either that flat amount or a percentage of the State fee, whichever is lesser.

Councilor Paper asked why there is such a discrepancy in what can be charged for a cannabis license versus a liquor license.

Community Development Manager Sarah Madden replied that she did not have an answer for that.

Councilor Paper asked if a microbusiness is similar to a brew pub. He asked if any of the potential businesses that could be licensed would be a place where people could purchase and consume cannabis.

Community Development Manager Sarah Madden explained how micro and mezzo businesses are differentiated by the Office of Cannabis Management (OCM), in that micro means one and mezzo means multiple. She stated that in regard to onsite consumption, she was unsure but noted that there are THC drinks sold at breweries that can be consumed onsite.

Councilor Paper referenced the proposed buffers and asked how a school is defined, referencing music schools.

Police Chief Kelly McCarthy stated that typically onsite consumption is not allowed for a retail business. She stated that consumption could occur under a festival permit. She stated that a school would be defined as a public institution, or private school, rather than simply a place where children are educated.

Councilor Paper recognized that the City must allow for at least one retail business, even if it chose to operate a municipal dispensary. He asked if there would be an opportunity for a public/private partnership that would allow the City to gain funds that could then be used for the park system.

Councilor Mazzitello agreed that it could be an option for the City to diversify its revenues. He stated that he was not specifically speaking about operating a municipal dispensary but collecting fees and taxes.

Mayor Levine commented that would be limited to what is allowed by the State.

### Attachment 3. Oct 30 Staff Report and Minutes

Councilor Mazzitello stated that he would be interested in exploring the opportunity of how the City could generate revenue from this.

Mayor Levine confirmed the consensus of the Council in just allowing one retail license and not requiring a specific distance between locations, noting a dispensary across the border in Eagan.

Councilor Mazzitello asked how city boundaries come into play, noting the location of a school near the Lilydale border and asked if the buffer restrictions for a school would still come into play if the school is in Mendota Heights and the dispensary is in Lilydale.

Community Development Manager Sarah Madden provided an example of buffering on a map.

Mayor Levine asked if the mixed-use PUD at Highway 62 and Dodd Road could be excluded from allowing this use.

Community Development Manager Sarah Madden confirmed that it could be excluded and the use could not be listed in the allowed uses for the MU-PUD zoning district. She stated that currently liquor stores and tobacco shops are allowed as conditional uses within that zoning district, which is why she had suggested adding cannabis retailers as a conditional use since they would be similar types of businesses.

Mayor Levine commented that she believed that the use would be better suited to the business or industrial zones. She stated that she would also not want to stop a brewery from coming into Mendota Heights because they would not be able to sell THC drinks.

Councilor Mazzitello asked if there is a difference in the license required to sell smokable cannabis and selling a THC beverage.

Community Development Manager Sarah Madden replied that the OCM outlines the 13 types of licenses and one of those is the lower potency hemp retailer, which is where THC drinks would fall.

Councilor Mazzitello stated that he would not want to prohibit a brewery from taking the endcap in the Plaza but would not want a dispensary there. He stated that he would agree with tying cannabis retailers to the same areas where tobacco and alcohol sales can occur, with the exception of the MU-PUD.

Councilor Paper commented that the City has to let the businesses in and if a business comes to town, he wants it to be successful. He commented that he also is not the expert on the best location for this type of business and asked for input from public safety.

Police Chief Kelly McCarthy replied that it makes no difference to public safety officers. She was unsure ethically how allowing a brewery in one location would be fine, but that location would not be desired for a cannabis retailer. She stated that both uses are legal. She stated that the destruction that alcohol has brought to their community is one million-fold over cannabis. She stated that location does not matter and if there is concern with clandestine activity, the best choice is to keep it in a well-traveled area rather than tucking it away. She stated that Community Development Manager Sarah Madden is the expert on where those businesses should or should not be located.

Councilor Paper agreed that it makes sense not to tuck it into a corner.

Mayor Levine commented that there are business parks and industrial areas that are not tucked away.

### Attachment 3. Oct 30 Staff Report and Minutes

Councilor Paper echoed the comment from Police Chief Kelly McCarthy that legal is legal, even though someone may not like it. He stated that if beer, wine and liquor are allowed he was unsure why cannabis would be different as alcohol is also a mind-altering substance.

Mayor Levine commented that she cannot explain why, but there is a difference perhaps of the history and tradition. She stated that she has been in cities where cannabis is legal. She commented that a person could not come out of the store and smoke the product, similar to how someone could not come out of the liquor store and drink the alcohol. She noted that the smoking of cannabis is also not allowed in parks, on trails or while driving in vehicles.

Councilor Paper asked if the hours of operation should align with liquor stores.

Councilor Mazzitello asked if there is a difference in the hours of operation for a liquor store and tobacco shop.

Mayor Levine confirmed the consensus of the Council that the hours of operation should align with liquor and tobacco sales, whichever is the most restrictive.

Councilor Mazzitello commented that there are signage, lighting and odor mitigation regulations in the business and industrial districts that could be utilized. He believed that the buffer from schools and other allowed uses should be maximized. He also believed that the City should limit the number of licenses to one. He stated that if the City would need to allow a second license at a population of 12,501, he would then want to see the maximum distance between uses established as well.

Mayor Levine commented that she did not believe the City was at risk of going over the population threshold. She stated that she would not want to place the distance buffer into effect because that would limit a retailer from going into the area adjacent to the Eagan border.

Councilor Mazzitello commented that while he would agree the industrial park could use new businesses, he was unsure how he felt about manufacturing.

Councilor Paper commented that it is a legal crop and would therefore be no different than hydroponic tomatoes.

Mayor Levine referenced the administrative fines section and asked if cities are able to impose civil penalties.

City Attorney Amy Schmidt commented that would be allowed in some circumstance and not allowed in other circumstances, dependent upon the authority provided by the State.

Councilor Mazzitello commented that he would like to set the administrative fines at the maximum allowed.

Mayor Levine commented that she would like to try to be consistent, to the extent possible, with neighboring communities. She stated that it is easier for businesses when there are consistent regulations between communities. She commented that she does not want Mendota Heights to be a community where you can smell marijuana when you are walking down the streets.



### Attachment 3. Oct 30 Staff Report and Minutes

Community Development Manager Sarah Madden referenced the proposed language related to use in public places.

Councilor Paper commented that the community would want to attract a quality operator that is going to do things well rather than a small business that thinks they can make a run of it. He stated that the City would want to have a successful, professional operator.

Mayor Levine commented that it would be helpful to have input from cannabis retail operators.

Councilor Mazzitello stated that he takes objection to the fact that the State is forcing cities to allow this without providing an option. He did not think that Mendota Heights wants this within their community and there would still be plenty of options within a ten-minute drive. He stated that because the State is forcing this on them, he would like to make it as restrictive as possible.

Mayor Levine commented that does not help the community. She stated that they do not get to determine what the State forces them to do and instead should do what is fair and best. She asked if staff needs additional guidance from the Council.

Community Development Manager Sarah Madden stated that she has received feedback on the questions, recognizing that two members of the Council are absent tonight. She stated that she feels confident with the feedback received and that she could bring back a draft for the Council to review at a worksession.

Councilor Paper asked when this would need to be in place.

Community Development Manager Sarah Madden replied that the moratoriums are required to expire by January 1, 2025, and businesses would expect to begin to receive licenses in early 2025.

Mayor Levine acknowledged that Mendota Heights did not enact a moratorium and asked if that would be an option at this time that would perhaps buy them some additional time, midway into 2025.

Community Development Manager Sarah Madden replied that is not an option as the moratorium would still need to expire by January 1, 2025.

Mayor Levine summarized the items that she would like additional information on including breweries, how alcohol and cannabis sales work in the same area, and enforcement. She also encouraged residents to email their thoughts to the Council to aid in the continued discussions on this topic.

#### PUBLIC HEARING

#### A) RESOLUTION 2024-62 ADOPTING AND CONFIRMING ASSESSMENTS FOR THE EMERSON AVENUE STREET IMPROVEMENTS

Mayor Levine commented that the Council will be holding the public hearing tonight but will not vote on the resolution tonight as two members are absent, and a super majority of the Council is required for this item. She noted that the action on this item will take place at the meeting next week.

Assistant City Engineer Lucas Ritchie explained that the Council was being asked to hold the public hearing and consider adoption of Resolution 2024-62 adopting and confirming assessments for the Emerson Avenue Street Improvements. He acknowledged that a super majority vote is needed for this



## City Council Work Session Memo

**MEETING DATE:** November 19, 2024

**TO:** Mayor, City Council and City Administrator

**FROM:** Sarah Madden, Community Development Manager

**SUBJECT:** Continued Cannabis Ordinance Discussion

### **ACTION REQUEST:**

No formal action is required. Staff is seeking further direction from the City Council on the Cannabis Ordinance.

### **BACKGROUND:**

The Minnesota Legislature enacted new State Law at the end of the 2023 legislative session, amended in 2024, that legalizes the possession, use, manufacturing, and sale of certain cannabis products within the State. The Law also establishes the Office of Cannabis Management (OCM) to oversee the implementation and regulation of the adult-use cannabis market, the medical cannabis market, and the consumer hemp industry. The statute limited the regulations a city can place on the use, sale and production of cannabis and cannabis products. In mid-June, the OCM released "A Guide for Local Governments on Adult-Use Cannabis", which includes a model ordinance used as a basis for the proposed draft of Mendota Heights' Cannabis Business Ordinance.

The new law limits a City's ability to regulate cannabis and hemp businesses. In the areas of the statute where local governments are permitted to incorporate regulations of cannabis businesses, the scope of that regulation is restrictive and highly specific.

The City Council was provided a copy of the OCM's guide for local governments as part of the October 15<sup>th</sup> City Council work session agenda packet, and the Council held a discussion over the topic and model ordinance standards at the October 30<sup>th</sup> City Council regular meeting.

### Title 3: Business and License Regulations – Registration Ordinance and Regulatory Standards

As the City Council is aware, local governments have the authority to adopt a registration ordinance requiring a cannabis microbusiness, cannabis mezzobusiness, cannabis retailer, medical cannabis combination business, or lower-potency hemp edible retailer with a license from OCM to initially and annually register with the city. To obtain a registration from the city, the ordinance may require: payment of a fee (half of the license fee established by Statute 342.11 up to \$500 initially and \$1000 annually), compliance with the requirements of Minn. Stat. Ch. 342, and to be current on all property taxes and assessments. If a city adopts a registration ordinance, the city may limit the number of licensed cannabis retailers, cannabis mezzobusinesses and cannabis

#### Attachment 4. Nov. 19 City Council Work Session Staff Report

microbusinesses to no fewer than one registration for every 12,500 residents. This is based on the Minnesota State Demographer numbers. Staff had recommended that the City Council adopt a registration ordinance in line with the OCM's model ordinance. This registration is not a licensing function of the City. Licensing of cannabis businesses will be conducted by the OCM. Once the administrative rules are in effect, currently anticipated mid-2025, licensing of cannabis businesses will commence.

A draft ordinance has been prepared which is consistent with the OCM model ordinance which was discussed at the October 30<sup>th</sup> meeting. It is included as an attachment to this report. In this draft ordinance, the registration, administration, buffer standards, and public event regulations have all been placed into Title 3: Business and License Regulations. As currently proposed, the only amendments to the Zoning Title (Title 12) will be updates to the use chart.

The State Law allows Mendota Heights to prohibit a cannabis business within 1,000 feet of a school or 500 feet of a day care, residential treatment facility, or an attraction within a public park that is regularly used by minors, including playgrounds and athletic fields. The City may also impose a prohibition on a cannabis business within 500 feet of another cannabis business. These are the maximum specified buffers, a lessor or no buffer is also allowed. Based on the discussion on October 30<sup>th</sup>, the proposed draft imposes the maximum buffers.

The City will need to decide what registration fee, if any, it will charge. Staff recommends imposing the maximum fee amount given the uncertainty of staff work associated with the registration. Fees can be adjusted in the future once there is more familiarity with the process. The table below shows the maximum amount for an initial registration fee and renewal registration fee for retail businesses and includes the amount the state charges for a license, for reference.

<b>Business</b>	<b>Initial</b>	<b>Renewal</b>
Cannabis Retailer	City (optional) - \$500; State - \$2,500	City (Optional) - \$1,000; State - \$5,000
Lower Potency Hemp Retailer	City (Optional) \$125; State - \$250	City (Optional) - \$125; State - \$250
Medical Cannabis Combination Business	City (Optional) - \$500; State - \$20,000	City (Optional) - \$1,000; State - \$70,000
Cannabis Mezzobusiness	City (Optional) - \$500; State - \$5,000	City (Optional) - \$1,000; State - \$10,000
Cannabis Microbusiness	City (Optional) - \$0; State - \$0	City (Optional) - \$1,000; State - \$2,000

One performance standard discussed at the October 30<sup>th</sup> meeting is the hours of operation for cannabis retailers. The State Law establishes that retail sales are prohibited between 2:00 a.m. and 8:00 a.m. Monday through Saturday and between 2:00 a.m. and 10:00 a.m. on Sunday. The City may prohibit retail sales of cannabis between 9:00 p.m. and 2:00 a.m. the following day and/or between 8:00 a.m. and 10:00 a.m. Monday

through Saturday. In other words, the most restrictive hours of sales could be 10:00 a.m. to 9:00 p.m. Monday through Sunday. For comparison, Off-sale Liquor sales are allowed on Sundays, between 11:00 a.m. and 6:00 p.m.; Monday-Saturday, from 8:00 a.m. to 10:00 p.m.; and not on Thanksgiving or Christmas Day; and only between 8:00 a.m. and 8:00 p.m. on Christmas Eve. The City should decide the allowable hours of cannabis retail sales. It was directed at the October 30<sup>th</sup> meeting that the hours of operation be consistent with liquor or tobacco sales. This has been reflected in the draft ordinance.

One area where the City may institute regulations for cannabis businesses is in the context of a temporary cannabis event. A temporary cannabis event is a gathering organized by a licensed cannabis event organizer that may last for no more than four days. The process for these event should generally follow the normal process for handling similar events, but the City could choose to require additional standards for temporary cannabis events, such as prohibiting on-site consumption, limiting the hours or the events, etc. In general, the City only conducts a permitting process for special events when they are conducted within parks. Consumption of cannabis is prohibited within parks, in addition to all forms of smoking. This ordinance is already in effect. The model ordinance provisions for temporary cannabis events have been included in the proposed draft, with some performance standards imposed, such as a setback from Residentially zoned property and a prohibition on on-site consumption. If the City follows this model ordinance, an additional event permit application will need to be created.

#### Title 12: Zoning Ordinance – Use Chart

The state law creates license types which will be issued by the OCM. The City should incorporate the land uses into their current zoning to accommodate the language of the state law. The City may not prohibit the establishment or operation of a licensed cannabis business. There will be 13 license types, however they can be generalized into the following categories:

- Retail Sales – Sales of cannabis and cannabis products directly to consumers.
- Cultivation – The planting, growing, harvesting, drying, curing, grading, or trimming of cannabis plants, cannabis flower, hemp plants, or hemp plant parts.
- Wholesale – Purchases from a business growing or manufacturing cannabis or cannabis products and sells to a cannabis business engaged in retail.
- Manufacturing – Turns raw, dried cannabis and cannabis parts into other types of cannabis products, e.g. edibles or topicals.
- Testing - Obtains and tests immature cannabis plants and seedlings, cannabis, cannabis products, and hemp products.
- Transportation – Transports products from one license type to another.
- Delivery – Transports products to the end consumer.
- Events – A business that organizes temporary events (lasting no longer than four days).

*Note: Certain license types enable multiple activity types, for example, Micro and Mezzo businesses may include cultivation, manufacturing, and/or retail sales.*

The City must decide which zones cannabis and hemp businesses will be allowed to operate in. This was discussed at the October 30<sup>th</sup> meeting. The staff recommendation is to allow cannabis-based retail businesses to be allowed in similar zoning categories as those of tobacco sales or liquor stores. The City Council discussed

#### Attachment 4. Nov. 19 City Council Work Session Staff Report

the option of allowing cannabis retailers to be a listed use in business and commercial zoning districts, but to omit the use within the Mixed Use zoning district. This is an option available to the City and can be revised if the Council would like to make that determination. As currently drafted, the proposed ordinance would allow retail-based cannabis businesses within all commercial zoning districts, including Mixed Use, as a Conditional Use.

Use Type	Cannabis Business Type	Proposed Zoning District
Warehouse or Manufacturing	<ul style="list-style-type: none"><li>• Cannabis microbusiness</li><li>• Cannabis mezzobusiness</li><li>• Cannabis cultivator</li><li>• Cannabis manufacturer</li><li>• Cannabis wholesaler</li><li>• Cannabis testing facility</li><li>• Lower-Potency Hemp Edible Manufacturer</li></ul>	<ul style="list-style-type: none"><li>• I – Industrial as a Conditional Use</li></ul>
Retail	<ul style="list-style-type: none"><li>• Cannabis retailer</li><li>• Lower-potency hemp edible retailer</li></ul>	<ul style="list-style-type: none"><li>• B-1 General Business, B-2 Neighborhood Business, MU-Mixed Use; as a Conditional Use</li><li>• B-1 General business, B-2 Neighborhood Business, MU-Mixed Use; as Permitted Use</li></ul>

The City Council will hear a brief presentation on the proposed ordinance at the November 19<sup>th</sup> Work Session. Staff is seeking direction on any suggested revisions to the ordinance as presented. The Planning Commission will hold a public hearing at their November 26<sup>th</sup> regular meeting on the zoning use chart portion of the drafted ordinance. Following the public hearing, the City Council will be presented the ordinance again at their December 3<sup>rd</sup> regular meeting.

#### ATTACHMENTS:

1. Proposed Cannabis Ordinance, dated 11/14/24

**CITY OF MENDOTA HEIGHTS  
DAKOTA COUNTY, MINNESOTA**

**ORDINANCE NO. 596**

**AMENDING TITLE 3: BUSINESS AND LICENSE REGULATIONS AND TITLE 12: ZONING  
TO REGULATE CANNABIS BUSINESSES**

The City Council of the City of Mendota Heights does ordain:

Section 1. City Code Title 3 – BUSINESS AND LICENSE REGULATIONS is hereby amended to add Chapter 8: CANNABIS REGISTRATION as follows:

**3-8-1: PURPOSE AND SCOPE:**

The purpose of this ordinance is to implement the provisions of Minnesota Statutes, Chapter 342, which authorizes the City of Mendota Heights to protect the public health, safety, and welfare of Mendota Heights residents by regulating cannabis businesses within the legal boundaries of Mendota Heights.

**3-8-2: DEFINITIONS**

Unless otherwise noted in this section, words and phrases contained in Minn. Stat. 342.01 and the rules promulgated pursuant to any of these acts, shall have the same meanings in this ordinance.

**CANNABIS BUSINESS:** A business licensed by the Office of Cannabis Management (OCM) as defined by Minnesota Statute 342.01 Subd. 14.

**CANNABIS CULTIVATION or CULTIVATE CANNABIS:** Growing cannabis plants from seed or immature plant to mature plant, harvest cannabis flower from mature plant, package and label immature plants and seedlings and cannabis flower for sale to other cannabis businesses, transport cannabis flower to a cannabis manufacturer located on the same premises, and perform other actions approved by the OCM.

**CANNABIS CULTIVATOR:** A cannabis business licensed to cultivate cannabis and packages cannabis for sale to another cannabis business.

**CANNABIS EVENT:** A temporary cannabis event lasting no more than four days operating pursuant to Minnesota Statute 342.39.

**CANNABIS MANUFACTURER:** A cannabis business that makes cannabis and/or hemp concentrate, manufactures artificially derived cannabinoids, adult-use cannabis products, lower-potency hemp edibles, and/or hemp-derived consumer products, and sells cannabis concentrate, hemp concentrate, artificially derived cannabinoids, cannabis products, lower-potency hemp edibles, hemp-derived consumer products to other cannabis businesses pursuant to Minnesota Statute Section 342.31.

**CANNABIS MEZZOBUSINESS:** A cannabis business that grows cannabis plants from seed or immature plant to mature plant, harvests the cannabis flower from a mature plant, makes cannabis and/or hemp concentrate, manufactures artificially derived cannabinoids, adult-use cannabis products, lower-potency hemp edibles, and/or hemp-derived consumer products, and sells immature cannabis plants and seedlings, adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, hemp-derived



consumer products, and other products authorized by law to other cannabis businesses and to consumers pursuant to Minnesota Statute Section 342.29.

**CANNABIS MICROBUSINESS:** A cannabis business that grows cannabis plants from seed or immature plant to mature plant, harvests the cannabis flower from a mature plant, makes cannabis and/or hemp concentrate, manufactures artificially derived cannabinoids, adult-use cannabis products, lower-potency hemp edibles, and/or hemp-derived consumer products, and sells immature cannabis plants and seedlings, adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, hemp-derived consumer products, and other products authorized by law to other cannabis businesses and to consumers, including on-site consumption, pursuant to Minnesota Statute Section 342.28.

**CANNABIS RETAIL BUSINESSES:** A retail location and the retail location(s) of a mezzobusinesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, and lower-potency hemp edible retailers.

**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.

**CANNABIS TESTING FACILITY:** A cannabis business that obtains and tests immature cannabis plants and seedlings, cannabis flower, cannabis products, hemp plant parts, hemp concentrate, artificially derived cannabinoids, lower-potency hemp edibles, and hemp-derived consumer products from cannabis microbusinesses, cannabis mezzobusinesses, cannabis cultivators, cannabis manufacturers, cannabis wholesalers, lower-potency hemp edible manufacturers, and industrial hemp growers pursuant to Minnesota Statute Section 342.37.

**CANNABIS WHOLESALE:** A cannabis business that sells immature cannabis plants and seedlings, cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products to cannabis microbusinesses, cannabis mezzobusinesses, cannabis manufacturers, and cannabis retailers pursuant to Minnesota Statute Section 342.33.

**DAYCARE:** A location licensed with the Minnesota Department of Human Services to provide the care of a child in a residence outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

**LOWER-POTENCY HEMP EDIBLE MANUFACTURER:** A business that manufactures and packages lower-potency hemp edibles for consumer sale, and/or sells hemp concentrate and lower-potency hemp edibles to other cannabis businesses and hemp businesses.

**LOWER-POTENCY HEMP EDIBLE RETAILER:** A business that sells lower-potency hemp edibles to customers.

**OFFICE OF CANNABIS MANAGEMENT:** Minnesota Office of Cannabis Management, referred to as "OCM" in this ordinance.

**PLACE OF PUBLIC ACCOMMODATION:** A business, accommodation, 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.

**PRELIMINARY LICENSE APPROVAL:** OCM pre-approval for a cannabis business license for applicants who qualify under Minn. Stat. 342.17.

**PUBLIC PLACE:** A public park or trail, public street or sidewalk; any enclosed, indoor area used by the general 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.

**RESIDENTIAL TREATMENT FACILITY:** As defined under Minn. Stat. 245.462 subd. 23.

**RETAIL REGISTRATION:** An approved registration issued by the (insert local here) to a state licensed cannabis retail business.

**SCHOOL:** A public school as defined under Minn. Stat. 120A.05 or a nonpublic school that must meet the reporting requirements under Minn. Stat. 120A.24.

**STATE LICENSE:** An approved license issued by the State of Minnesota's Office of Cannabis Management to a cannabis retail business.

### **3-8-3: ADMINISTRATION**

The City Administrator or their designee 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 or not a permit is required for a regulated activity listed in this ordinance.

### **3-8-4: REGISTRATION OF A CANNABIS BUSINESS**

- A. Consent to registering of Cannabis Businesses
  - 1. No individual or entity may operate a state-licensed cannabis retail business within Mendota Heights without first registering with the City of Mendota Heights.
  - 2. 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.
  - 3. Notwithstanding the foregoing provisions, the state shall not issue a license to any cannabis business to operate in Indian country, as defined in United States Code, title 18, section 1151, of a Minnesota Tribal government without the consent of the Tribal government.
- B. Compliance Checks Prior to Retail Registration
  - 1. Prior to issuance of a cannabis retail business registration, Mendota Heights (shall/shall not) conduct a preliminary compliance check to ensure compliance with local ordinances.
  - 2. Pursuant to Minn. Stat. 342, within 30 days of receiving a copy of a state license application from OCM, the City of Mendota Heights shall certify on a form provided by OCM whether a proposed cannabis 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) The City of Mendota Heights shall not charge an application fee.
    - b) A registration fee, as established in the City of Mendota Height's fee schedule, shall be charged to applicants depending on the type of retail business license applied for.
    - c) An initial registration fee shall not exceed \$500 or half the amount of an initial state license fee under Minn. Stat. 342.11, whichever is less. The initial registration fee shall include the initial retail registration fee and the first annual renewal fee.

- d) Any renewal retail registration fee imposed by the City shall be charged at the time of the second renewal and each subsequent renewal thereafter.
- e) A renewal retail registration fee shall not exceed \$1,000 or half the amount of a renewal state license fee under Minn. Stat. 342.11, whichever is less.
- f) 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.

2. Application Submittal

The City shall issue a retail registration to a state-licensed cannabis retail business that adheres to the requirements of Minn. Stat. 342.22

- a) An applicant for a retail registration shall fill out an application form, as provided by the City. Said form shall include, but is not limited to:
  - i. Full name of the property owner and applicant;
  - ii. Address, email address, and telephone number of the applicant;
  - iii. The address and parcel ID for the property which the retail registration is sought;
  - iv. Certification that the applicant complies with the requirements of local ordinances established pursuant to Minn. Stat. 342.13.
- b) The applicant shall include with the form:
  - i. the registration fee as required in [Section 2.3.1];
  - ii. a copy of a valid state license or written notice of OCM license preapproval;
- c) Once an application is considered complete, the City Administrator or their designee shall inform the applicant as such, process the application fees, and forward the application to the City Clerk for approval or denial.
- d) The application fee shall be non-refundable once processed.

3. Application Approval

- a) A state-licensed cannabis retail business application shall not be approved if the cannabis retail business would exceed the maximum number of registered cannabis retail businesses permitted under Section 3-8-4(F)1 of this ordinance.
- b) A state-licensed cannabis retail business application shall not be approved or renewed if the applicant is unable to meet the requirements of this ordinance.
- c) A state-licensed cannabis retail business application that meets the requirements of this ordinance shall be approved.

4. Annual Compliance Checks

- a) The City shall complete at minimum one compliance check per calendar year of every cannabis business to assess if the business meets age verification requirements, as required under [Minn. Stat. 342.22 Subd. 4(b) and Minn. Stat. 342.24] and **this ordinance.**
- b) The City shall conduct at minimum one unannounced age verification compliance check at least once per calendar year.
- c) 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.

- d) Any failures under this section must be reported to the Office of Cannabis Management.

5. Location Change

A state-licensed cannabis retail business shall be required to submit a new application for registration under Section 2.3.2 if it seeks to move to a new location still within the legal boundaries of the City of Mendota Heights.

Or;

If a state-licensed cannabis retail business seeks to move to a new location still within the legal boundaries of Mendota Heights, it shall notify the City of the proposed location change, and submit necessary information to meet all the criteria in this paragraph.

D. Renewal of Registration

1. Renewal Process

- a) The City shall renew an annual registration of a state-licensed cannabis retail business at the same time OCM renews the cannabis retail business' license.
- b) A state-licensed cannabis retail business shall apply to renew registration on a form established by the City.
- c) A cannabis retail registration issued under this ordinance shall not be transferred.

2. Renewal Fees

- a) The (insert local here) may charge a renewal fee for the registration starting at the second renewal, as established in (insert local here)'s fee schedule.

3. Renewal Application

- a) The application for renewal of a retail registration shall include, but is not limited to
  - i. Items required under Section 3-8-4(C)2 of this Ordinance.

E. Suspension of Registration

1. When Suspension is Warranted

- a) The City of Mendota Heights may suspend a cannabis retail business's registration if it violates the ordinance of the City or poses an immediate threat to the health or safety of the public. The City shall immediately notify the cannabis retail business in writing the grounds for the suspension.

2. Notification to OCM

- a) The City shall immediately notify the OCM in writing the grounds for the suspension. OCM will provide the City and cannabis business retailer a response to the complaint within seven calendar days and perform any necessary inspections within 30 calendar days.

3. Length of Suspension

- a) The suspension of a cannabis retail business registration may be for up to 30 calendar days, unless OCM suspends the license for a longer period. The business may not make sales to customers if their registration is suspended.

4. Civil Penalties

- a) Subject to Minn. Stat. 342.22, subd. 5(e) the City may impose a civil penalty, as specified in the City of Mendota Heights's Fee Schedule, for registration violations, not to exceed \$2,000.

F. Limiting of Registrations

1. The City shall limit the number of cannabis retail businesses to no fewer than one registration for every 12,500 residents within the City of Mendota Heights. The City shall limit the number of cannabis retail businesses to one (1).

### **3-8-5: REQUIREMENTS FOR A CANNABIS BUSINESS**

#### **A. Minimum Buffer Requirements**

1. No cannabis business shall be located or operated within 500 feet of an existing lawful cannabis business.
2. No cannabis business shall be located or operated within 500 feet of an existing daycare, residential treatment facility, or an attraction within a public park that is regularly used by minors, including a playground or athletic field.
3. No cannabis business shall be located or operated within 1000 feet of a school.
4. Pursuant to Minn. Stat. 462.357 subd. 1e, nothing in Section 3-8-5(A) shall prohibit an active cannabis business or a cannabis business seeking registration from continuing operation at the same site if a daycare, residential treatment facility, attraction within a public park that is regularly used by minors, or school moves within the minimum buffer zone.

#### **B. Zoning and Land Use**

1. A cannabis business licensed or endorsed by the OCM may be permitted as a use on a property within the City of Mendota Heights in accordance with Title 12: Zoning, Chapter 3: Allowed Uses, Table 12-3B-1.1 Table of Uses

#### **C. Hours of Operation**

1. Cannabis businesses are limited to retail sale of cannabis, cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products between the hours of 8:00 a.m. and 10:00 p.m. on Monday-Saturday; and between the hours of 10:00 a.m. and 9:00 p.m. on Sundays.

### **3-8-6 TEMPORARY CANNABIS EVENTS**

#### **A. License or Permit Required for Temporary Cannabis Events**

1. License Required: A license or permit is required to be issued and approved by the City prior to holding a Temporary Cannabis Event.
2. Registration and Application Procedure: A registration fee, as established in the City's fee schedule, shall be charged to applicants for Temporary Cannabis Events.
3. Application Submittal and Review: The City shall require an application for Temporary Cannabis Events.
  - a) An applicant for a retail registration shall fill out an application form, as provided by the City. Said form shall include, but is not limited to:
    - i. Full name of the property owner and applicant;
    - ii. Address, email address, and telephone number of the applicant;
  - b) The applicant shall include with the form:
    - i. The application fee as required in Section 3-8-6(A)2;
    - ii. A copy of the OCM cannabis event license application, submitted pursuant to 342.39 subd. 2.
  - c) The application shall be submitted to the City Administrator or their designee for review. If the designee determines that a submitted application is incomplete, they shall return the application to the applicant with the notice of deficiencies.
  - d) Once an application is considered complete, the designee shall inform the applicant as such, process the application fees, and forward the application to the (insert

- staff/department, or elected body that will approve or deny the request) for approval or denial.
- e) The application fee shall be non-refundable once processed.
  - f) The application for a license for a Temporary Cannabis Event shall meet the following standards:
    - i. Outdoor consumption or use of cannabis at or on the property of a temporary cannabis event is prohibited.
    - ii. The setback from any property line of any residential use or residential zoned property shall be no less than 350 feet.
    - iii. The event may last no longer than four (4) days (96 hours)
    - iv. The event shall operate in accordance with all applicable requirements for temporary cannabis events under Minn. Stat., Chapter 342.
  - g) A request for a Temporary Cannabis Event that meets the requirements of this Section shall be approved.
  - h) A request for a Temporary Cannabis Event that does not meet the requirements of this Section shall be denied. The City shall notify the applicant of the standards not met and basis for denial

### 3-8-7: SEVERABILITY

In the event that a court of competent jurisdiction adjudges any part of this chapter to be invalid, such judgement shall not affect any other provision of this chapter not specifically included within the judgement.

Section 2. City Code Title 3 – ZONING is hereby amended to modify Chapter 3: ALLOWED USES , Table 12-3B-1.1 Table of Uses as follows:

#### COMMERCIAL/BUSINESS USES

Land Use	RE	R-1	R-2	R-3	MU	B-1	B-2	I	Use Specific Section
<u>Cannabis Retailer</u>					<u>CUP</u>	<u>CUP</u>	<u>CUP</u>		<u>3-8-1</u>
<u>Lower-potency hemp edible retailer</u>					<u>P</u>	<u>P</u>	<u>P</u>		<u>3-8-1</u>

#### INDUSTRIAL, TRANSPORTATION & UTILITY USES

Land Use	RE	R-1	R-2	R-3	MU	B-1	B-2	I	Use Specific Section
<u>Cannabis microbusiness,</u> <u>cannabis mezzobusiness,</u> <u>cannabis cultivator,</u> <u>cannabis manufacturer,</u> <u>cannabis wholesaler,</u> <u>cannabis testing facility,</u> <u>lower-potency hemp</u> <u>edible manufacturer</u>								<u>CUP</u>	<u>3-8-1</u>

## **Cannabis License Types**

### **Microbusiness**

Microbusinesses may cultivate cannabis and manufacture cannabis products and hemp products, and package such products for sale to customers or another licensed cannabis business. Microbusiness may also operate a single retail location. On-site consumption of edible cannabis products and lower-potency hemp edibles are permitted.

### **Mezzobusiness**

Mezzobusinesses may cultivate cannabis and manufacture cannabis products and hemp products, and package such products for sale to customers or another licensed cannabis business. Mezzobusiness may also operate up to three retail locations.

### **Cultivator**

Cultivators may cultivate cannabis and package such cannabis for sale to another licensed cannabis business.

### **Manufacturer**

Manufacturers may manufacture cannabis products and hemp products, and package such products for sale to a licensed cannabis retailer.

### **Retailer**

Retailers may sell immature cannabis plants and seedlings, cannabis, cannabis products, hemp products, and other products authorized by law to customers and patients.

### **Wholesaler**

Wholesalers may purchase and/or sell immature cannabis plants and seedlings, cannabis, cannabis products, and hemp products from another licensed cannabis business. Wholesalers may also import hemp-derived consumer products and lower-potency hemp edibles.

### **Transporter**

Transporters may transport immature cannabis plants and seedlings, cannabis, cannabis products, and hemp products to licensed cannabis businesses.

### **Testing Facility**

Testing facilities may obtain and test immature cannabis plants and seedlings, cannabis, cannabis products, and hemp products from licensed cannabis businesses.



**Event Organizer**

Event organizers may organize a temporary cannabis event lasting no more than four days.

**Delivery Service**

Delivery services may purchase cannabis, cannabis products, and hemp products from retailers or cannabis business with retail endorsements for transport and delivery to customers.

**Medical Cannabis Combination Business**

Medical cannabis combination businesses may cultivate cannabis and manufacture cannabis and hemp products, and package such products for sale to customers, patients, or another licensed cannabis business. Medical cannabis combination businesses may operate up to one retail location in each congressional district.

**Lower-Potency Hemp Edible Manufacturer**

Lower-potency hemp edible manufacturers may manufacture and package lower-potency hemp edibles for consumer sale, and sell hemp concentrate and lower-potency hemp edibles to other cannabis and hemp businesses.

**Lower-Potency Hemp Edible Retailer**

Lower-potency hemp edible retailers may sell lower-potency hemp edibles to customers.

	Mendota Heights	Eagan	WSP	Bloomington	St Paul	IGH	Mendota	Minneapolis
Registration	Yes - will require registration	Yes - will require registration	Yes - will require registration	Yes - will require registration	Yes - will require registration	Yes - will require registration	Yes - will require registration	Yes - will require registration
License Cap	1 (Population cap)	8 retail; 5 in commercial retail zones, 3 of retail-associated types as accessory uses in Industrial or Business Park	2 (population cap)	Not Imposing. Population cap would be 7 if imposing.	Not Imposing	4	1	Not Imposing
Hours of Operation	Similar to Liquor (8am-10pm M-Sa; 8am-9pm Su)	(8am-10pm M-Sa; 8am-9pm Su)	Same as Liquor	Similar to Liquor (8am-10pm M-Sa; 8am-9pm Su)	Not imposing beyond statute.	(8am-10pm M-Sa; 8am-9pm Su)	Unknown as of 11/15/24	Not imposing beyond statute
Buffers	1000' for schools, 500' from daycares, park attractions and residential treatment facilities; 500' between cannabis retail businesses (if ever applicable)	250' between cannabis businesses	1000' for schools	500' for schools, 300' from park attractions and residential treatment facilities; 300' between cannabis retail businesses	No buffers downtown; Elsewhere in City must be 300' from schools.	1000' for schools, 500' from daycares, park attractions and residential treatment facilities; 1000' between cannabis retail businesses	500' between cannabis retail businesses, 500' from park attractions	500' from schools, 500' from other cannabis retailers (except downtown zones); No common entrances with other uses, and must be located in continuous commercial
Zoning Uses	Majority uses 'conditional'	Majority uses 'permitted'; Outdoor cultivation 'conditional' in I districts	Majority uses 'conditional'; Transportation uses 'accessory'; Lower-potency hemp edibles 'permitted' in business districts.	TBD - In existing code, Cannabis-type uses are 'provisional' in some Commercial districts	Permitted' in commercial and mixed-use. Retail locations over 15,000 sf in size are 'conditional'; Hemp-derived edibles continue to operate as usual. Limited production/cultivation (under 15,000 sf) in mixed-use commercial as 'permitted' Outdoor cultivation as 'conditional'.	Proposed as 'permitted' in commercial zones for retail uses and 'permitted' in industrial zones for industrial uses, none in office zones. Indoor cultivation only	Majority uses 'conditional'	Transportation uses as 'conditional', no outdoor cultivation. Primarily 'permitted' use