

**CITY OF EMPIRE
COUNTY OF DAKOTA
STATE OF MINNESOTA**

ORDINANCE NO. 287

**AN ORDINANCE REGULATING THE POSSESSION, SALE, AND CONSUMPTION
OF CANNABIS**

The City Council of Empire, Minnesota ordains:

SECTION 1 ADMINISTRATION

- A. Findings and Purpose. The purpose of this ordinance is to implement the provisions of Minnesota Statutes, chapter 342, which authorizes the City of Empire to protect the public health, safety, welfare of the City of Empire residents by regulating cannabis businesses. The City of Empire finds and concludes the proposed provisions are appropriate and lawful regulations, will promote the community's interest, and are in the public interest and for the public good.
- B. Authority and Jurisdiction. The City of Empire has the authority to adopt this ordinance pursuant to:
1. 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 outright prohibit the establishment or operation of cannabis businesses within the local unit of government's jurisdiction.
 2. Minn. Stat. 342.22, regarding the local registration and enforcement requirements of state-licensed cannabis retail businesses and lower-potency hemp edible retail businesses.
 3. Minn. Stat. 152.0263, Subd. 5, regarding the use of cannabis in public places.
- C. Severability. If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.
- D. Enforcement. The City of Empire 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.

SECTION 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.

- A. **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.

- B. 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.
- C. 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.
- D. 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.
- E. Lower-potency Hemp Edible: As defined under Minn. Stat. 342.01 subd. 50.
- F. Office of Cannabis Management: Minnesota Office of Cannabis Management, referred to as “OCM” in this ordinance.
- G. 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.
- H. Preliminary License Approval: OCM pre-approval for a cannabis business license for applicants who qualify under Minn. Stat. 342.17.
- I. 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.
- J. Residential Treatment Facility: As defined under Minn. Stat. 245.462 subd. 23.
- K. Retail Registration: An approved registration issued by the City of Empire to a state- licensed cannabis retail business.
- L. 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.
- M. State License: An approved license issued by the State of Minnesota’s Office of Cannabis Management to a cannabis retail business.

SECTION 3 REGISTRATION OF CANNABIS BUSINESSES

- A. Consent to registering of Cannabis Businesses
 - 1. No individual or entity may operate a state-licensed cannabis retail business within the City of Empire without first registering with the City.
 - 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.

B. Compliance Checks Prior to Retail Registration

1. Prior to issuance of a cannabis retail business registration, the City of Empire shall 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 Empire 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 & Application Procedure

1. Fees. A registration fee, as established in the City of Empire's fee schedule, shall be charged to applicants depending on the type of retail business license applied for.
 - a. 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.
 - b. Any renewal retail registration fee shall be charged at the time of the second renewal and each subsequent renewal thereafter.
 - c. 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.
 - d. 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 of Empire 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.
 - 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 shall inform the applicant as such, process the application fees, and forward the application to the City Council 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 or renewed if the applicant is unable to meet the requirements of this ordinance.

b. A state-licensed cannabis retail business application that meets the requirements of this ordinance shall be approved.

4. Annual Compliance Checks.

a. The City of Empire 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 of Empire shall conduct at minimum one unannounced age verification compliance check at least once per calendar year.

i. 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.

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

5. Location Change

a. If a state-licensed cannabis retail business seeks to move to a new location still within the legal boundaries of the City of Empire, 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. The City of Empire shall renew an annual registration of a state-licensed cannabis retail business at the same time OCM renews the cannabis retail business' license.

a. A state-licensed cannabis retail business shall apply to renew registration on a form established by the City.

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

2. Renewal Fees.

a. The City may charge a renewal fee for the registration starting at the second renewal, as established in City's fee schedule.

3. Renewal Application.

- a. The application for renewal of a retail registration shall include, but is not limited to the items required under Section C, 2 of this Ordinance

E. Suspension of Registration

1. When Suspension is Warranted.

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

2. Notification to OCM.

- a. The City of Empire shall immediately notify the OCM in writing the grounds for the suspension. OCM will provide the City of Empire 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.
- b. The City of Empire may reinstate a registration if it determines that the violations have been resolved.
- c. The City of Empire shall reinstate a registration if OCM determines that the violation(s) have been resolved.

4. Civil Penalties.

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

SECTION 4 REQUIREMENTS FOR CANNABIS BUSINESSES

A. Number of Retailers

- 1. The City of Empire limits the number of cannabis retail businesses, or cannabis businesses with retail endorsements, to one registration per 12,500, pursuant to Minn. Stat. 342.13, subd. i, as may be amended. However, pursuant to Minn. Stat. 342.13 subd. i, if Dakota County has one active registration for every 12,500 residents, then the number of new retail registrations shall be zero.

B. Minimum Buffer Requirements

- 1. The City of Empire shall prohibit the operation of a cannabis business within 1,000 feet of a school.
- 2. The City of Empire shall prohibit the operation of a cannabis business within 500 feet of a day care.

3. The City of Empire shall prohibit the operation of a cannabis business within 500 feet of a residential treatment facility.
4. The City of Empire shall prohibit the operation of a cannabis business within 500 feet of an attraction within a public park that is regularly used by minors, including a playground or athletic field.
5. Pursuant to Minn. Stat. 462.357 subd. 1(e), nothing in this Section shall prohibit an active cannabis business or a cannabis business seeking registration from continuing operation at the same site if a school, daycare, residential treatment facility, or attraction within a public park that is regularly used by minors moves within the minimum buffer zone.

SECTION 5 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.

SECTION 6. EFFECTIVE DATE

This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.

SECTION 7. SUMMARY APPROVED

The Council hereby determines that the text of the summary of this ordinance marked “Official Summary of Ordinance No. 287,” and a copy of which is attached to this ordinance, clearly informs the public of the intent and effect of this ordinance. The Council further determines that publication of the title and this summary will clearly inform the public of the intent and the effect of this ordinance. The Clerk shall file a copy of this ordinance and the summary in the Clerk’s office which shall be available for inspection by any person during regular office hours. A copy of the ordinance shall be available in the community library, if there is one, or if not, in any other public location which the council designates.

Passed by the City Council of Empire, Minnesota this 10th day of December 2024.

Trent Larson, Mayor

Attested:

Charles Seipel-Teng, Clerk-Administrator