

CITY OF KENSINGTON, MINNESOTA

ORDINANCE NO. _____

AN ORDINANCE REGULATING CANNABIS BUSINESSES AND USE

The City of Kensington, Minnesota, hereby ordains:

Section 1. Administration

1.1 Findings and Purpose

The City Council for the City of Kensington, Minnesota (“City”), hereby makes the following legislative findings:

1.1.1 The purpose of this ordinance is to implement the provisions of Minnesota Statutes, chapter 342, which authorizes the City to protect the public health, safety, welfare of the City’s residents by regulating cannabis businesses within the legal boundaries of the City.

1.1.2 The proposed provisions are appropriate and lawful land use regulations for the City, that the proposed amendments will promote the community's interest in reasonable stability in zoning for now and in the future, and that the proposed provisions are in the public interest and for the public good.

1.2 Authority & Jurisdiction

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

1.2.2 This ordinance shall be applicable within the legal boundaries of the City.

1.2.3 The City may in the future delegate cannabis retail registration authority Douglas County. If such authority is so delegated, the City may still adopt ordinances under Sections 2.6, 3 and 4 if Douglas County 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 City Council shall by resolution designate who 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

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

1.5.2. 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 of Cannabis Management (“Office” or “OCM”).

1.5.3. 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 lower-potency hemp edible retailers.

1.5.4. 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.

1.5.5. 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.

1.5.6. Lower-potency Hemp Edible: As defined under Minn. Stat. § 342.01, Subd. 50.

1.5.6. Office of Cannabis Management: Minnesota Office of Cannabis Management, referred to as “OCM” in this ordinance.

1.5.8. 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.

1.5.9. Preliminary License Approval: OCM pre-approval for a cannabis business license for applicants who qualify under Minn. Stat. § 342.16.

1.5.10. 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.

1.5.11. Residential Treatment Facility: As defined under Minn. Stat. § 245.462, Subd. 23.

1.5.12. Retail Registration: An approved registration issued by the City to a state-licensed cannabis retail business.

1.5.13. 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.

1.5.14. 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

2.1 Consent to Registering of Cannabis Businesses

2.1.1 No individual or entity may operate a state-licensed cannabis retail business within the City without first registering with the City or, if the City later delegates registration authority to Douglas County, with Douglas County.

2.1.2 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.

2.2 Compliance Checks Prior to Retail Registration

2.2.1 Prior to issuance of a cannabis retail business registration, the City shall conduct a preliminary compliance check to ensure compliance with local ordinances.

2.2.2 Pursuant to Minn. Stat. Chapt. 342, within 30 days of receiving a copy of a state license application from OCM, the City shall certify on a form provided by OCM whether 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.

2.3.1.1 The City shall not charge an application fee.

2.3.1.2 A registration fee, as established in the City's fee schedule, shall be charged to applicants depending on the type of retail business license applied for.

2.3.1.3 An initial retail registration fee shall be \$500 or half the amount of an initial state license fee under Minn. Stat. § 342.11, whichever is less. The initial registration fee includes the initial retail registration fee and the first annual renewal fee.

2.3.1.4 A renewal retail registration fee shall be charged at the time of the second renewal and each subsequent renewal thereafter.

2.3.1.5 The renewal retail registration fee shall be \$1,000 or half the amount of a renewal state license fee under Minn. Stat. § 342.11, whichever is less.

2.3.1.6 A medical combination business operating an adult-use retail location will 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.

2.3.2.1 The City will issue a retail registration to a state-licensed cannabis retail business that adheres to the requirements of Minn. Stat. § 342.22 and this ordinance, as the same may be amended.

2.3.2.2 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; v. Certification of insurance that specifically notes insurance is being provided for a cannabis business.

2.3.2.3 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; a map showing that the cannabis business satisfies any buffer zone and/or zoning requirements established by this ordinance or any amendments thereto.

2.3.2.4 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.

2.3.2.5 The application fee shall be non-refundable once processed.

2.3.3 Application Approval

2.3.3.1 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.

2.3.3.2 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.

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

2.3.4 Annual Compliance Checks.

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, as the same may be amended. The City shall conduct at least 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 City. The City shall report any failures under this section to the Office of Cannabis Management.

2.3.5 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.

2.4 Renewal of Registration

2.4.1 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.

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

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

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

2.4.5 The application for renewal of a retail registration shall include, but is not limited to the Items required under Section 2.3.2 of this Ordinance and any other lawful information required by the City.

2.5 Suspension of Registration

2.5.1 When Suspension is Warranted. The City 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.

2.5.2 Notification to OCM. 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.

2.5.3 Length of Suspension.

2.5.3.1 The City may opt to wait for a determination from the OCM before reinstating a registration.

2.5.3.2 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, in which case the City's suspension shall run concurrently with the OCM suspension. The business may not make sales to customers while their registration is suspended.

2.5.3.3 The City may reinstate a registration if it determines that the violations have been resolved.

2.5.3.4 The City shall reinstate 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 City shall impose a civil penalty not to exceed \$2,000.00 for registration violations.

2.6 Limiting of Registrations

2.6.1 No more than one cannabis retail business registration may be issued by the City.

2.6.2 If Douglas County has one active cannabis retail businesses registration for every 12,500 residents, the City shall not register additional state-licensed cannabis retail businesses.

Section 3. Requirements for Cannabis Businesses

3.1 Minimum Buffer Requirements

3.1.2 No cannabis business shall operate within 1,000 feet of a school.

3.1.3 No cannabis business shall operate within 500 feet of a daycare.

3.1.4 No cannabis business shall operate within 500 feet of a residential treatment facility.

3.1.5 No cannabis business within 500 feet of an attraction within a public park that is regularly used by minors, including a playground or athletic field.

3.1.6 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, or attraction within a public park that is regularly used by minors, including a playground or athletic field, moves within the minimum buffer zone.

3.1.7 The distances herein referred to shall be measured in a straight line from the nearest property boundary of the licensed premises to the nearest property boundary of the school, daycare, residential treatment facility, or attraction within a public park that is regularly used by minors, including a playground or athletic field.

3.2 Zoning and Land Use (Reserved)

3.3 Hours of Operation

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 10:00 a.m. and 9:00 p.m.

3.4 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 a City sign ordinance.

3.5 Cannabis Retail Performance Standards. Cannabis businesses licensed or endorsed for cannabis retail must meet the following performance standards:

3.5.1. Cannabis retailers must operate and maintain a video surveillance system designed and operated in compliance with the provisions of proposed Minnesota Rules Relating To Adult Use Cannabis (Rule 9810 or successor rule) for cannabis business as may be promulgated or amended from time to time. This standard shall not apply to a Lower-Potency Hemp Edible Retailer.

3.5.2 A cannabis retailer is prohibited from sharing a common entrance or a premises with a business licensed as a tobacco products shop. This prohibition shall not apply to a Lower-Potency Hemp Edible Retailer.

3.5.3 No sales are allowed by means of a self-service display.

3.5.4 No sales are allowed at a moveable place of business

3.5.5 No sales are allowed of products not contained in their original packaging.

Section 4. Temporary Cannabis Events

4.1 Permit Required for Temporary Cannabis Events

4.1.1 **License Required.** A permit issued by the City to the cannabis event organizer is required before a Temporary Cannabis Event may be held in the City.

4.1.2 **Length of Temporary Cannabis Event.** A Temporary Cannabis Event may last no more than four days.

4.1.3 Registration & Application Procedure

4.1.3.1 **Fee.** A registration fee, as established in the City's fee schedule, shall be charged to applicants for Temporary Cannabis Events. The application fee shall be non-refundable once processed.

4.1.3.2 **Application Submittal & Review.** The City shall require an application for Temporary Cannabis Events. An applicant for a retail registration shall complete and submit to the City an application form, as provided by the City. Said form shall include, but is not limited to:

4.1.3.2.1 Full name of the property owner and applicant;

4.1.3.2.2 Address, email address, and telephone number of the applicant;

4.1.3.2.3 Address of the proposed Temporary Cannabis Event, which must be on private property.

4.1.3.3 Additional Application Requirements. The applicant shall include with the application form:

4.1.3.3.1 The application fee as required in Section 4.1.3.1;

4.1.3.3.2 A copy of the OCM cannabis event license application, submitted pursuant to 342.39 subd. 2.

4.1.3.3.3 The application shall be submitted to the City or its designee for review. If the City or designee determines that a submitted application is incomplete, they shall return the application to the applicant with the notice of deficiencies.

4.1.3.3.4 Once an application is considered complete, the City or designee shall inform the applicant as such, process the application fees, and forward the application to the City Council for approval or denial.

4.1.4 Temporary Cannabis Event Standards.

4.1.4.1 No consumption or sales of adult-use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products is allowed on the site of the temporary cannabis event.

4.1.2.2 Temporary cannabis events shall only be held between the hours of 10:00 a.m. and 9:00 p.m.

4.1.2.3 No temporary cannabis event may be held in any “public place” as defined in Section 1.5.10 of this ordinance.

Section 5. Lower-Potency Hemp Edibles

5.1 Sale of Lower-Potency Hemp Edibles. The sale of Low-Potency Edibles, as defined in section 1.5.6, is permitted, subject to the conditions within this Section.

5.2 Zoning Districts (Reserved).

5.3 Additional Standards.

5.3.1 Prior to initiating a sale, an employee of the lower-potency hemp edible retailer must verify that the customer is at least 21 years of age.

5.3.2 The sale of lower-potency hemp edible beverages is permitted in places that meet the requirements of this section.

5.3.3 Pursuant to Minn. Stat. § 342.46, Subd. 4, lower-potency hemp edibles, other than those intended to be consumed as a beverage, shall be displayed behind a checkout counter where the public is not permitted or in a locked case.

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

Section 6. Use in Public Places

6.1 Definitions.

6.1.1 For the purposes of this section, the definitions included in Minnesota Statutes, Section 342.01, as the same may be amended from time to time, shall apply herein.

6.1.2 “Public Place.” For the purpose of this section, the term “Public Place” shall mean any and all public places within the City of Kensington, including but not limited to any public street, avenue, boulevard, right of way, road, alley, sidewalk, park, trail, parking lot, yard waste facility, and building. Provided, however, that the following shall not be considered a “Public Place”:

6.1.2.1 A private residence, including the person’s curtilage or yard;

6.1.2.2 Private property not generally accessible by the public, unless the person is explicitly prohibited from consuming cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on the property by the owner of the property; or

6.1.2.3 The premises of an establishment or event licensed to permit on-site consumption.

6.2 Use in Public Places Unlawful.

6.2.1 It shall be unlawful for any person to use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a Public Place.

6.2.2 Any person who violates Section 6.2.1 of this Ordinance shall be guilty of a petty misdemeanor and fined up to \$300.00 or the maximum amount for a petty misdemeanor allowed by state law.

Section 7. Nuisances

7.1 Any use of adult-use cannabis flower which is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property is a nuisance. Any person who violates this section shall be guilty of a petty misdemeanor and fined up to \$300.00 or the maximum amount for a petty misdemeanor allowed by state law.

ADOPTED by the City Council of the City of Kensington on this 22nd day of April, 2025, by the following vote:

YES:

NO:

ABSENT:

Jim Schecker, Mayor

ATTEST:

Jennifer Kangas, City Clerk