

Ordinance

Cannabis and Lower-Potency Hemp Edibles

Adopted on _____ by the Hennepin County Board of Commissioners.

Section 1: Purpose

This Ordinance is enacted to protect the health, safety, and general welfare of the people of Hennepin County by promoting responsible cannabis and lower-potency hemp edible retailing, allowing legal sales and access to persons 21 years of age and older without promoting increases in use; discouraging violations of applicable laws, rules, and regulations and this Ordinance, especially those that prohibit or discourage the marketing, sale, or distribution of cannabis and lower-potency hemp edibles to people under 21 years of age; establishing reasonable restrictions on the time, place, and manner of the operation of cannabis and lower-potency hemp edible businesses; establishing standards for the registration of cannabis and lower-potency hemp edible retailers; and establishing a system for compliance and enforcement of applicable laws, rules, and regulations and this Ordinance.

Section 2: Enacting Authority

This Ordinance is enacted pursuant to powers granted to Hennepin County under Minnesota Statutes Chapters 145A, 342, and 375 and Minnesota Statutes Sections 144.417 and 152.0263.

Section 3: Incorporation of Minnesota Statutes and Rules and Hennepin County Ordinances

Hennepin County hereby incorporates into this Ordinance the following statutes and rules, including subsequent recodifications and/or amendments as may be adopted from time to time.

1. Minnesota Statutes Chapter 342;
2. Minnesota Statutes Section 144.417;
3. Minnesota Statutes Section 152.0263;
4. Minnesota Statutes Section 151.72;
5. Minnesota Rules adopted pursuant to Minnesota Statutes Chapter 342; and
6. Hennepin County Ordinance 24.

Section 4: Definitions

This Ordinance incorporates the definitions in Minnesota Statutes Chapter 342 and Minnesota Rules adopted pursuant to Minnesota Statutes Chapter 342. If the definitions

in Minnesota Statutes Chapter 342 and Minnesota Rules adopted pursuant to Minnesota Statutes Chapter 342 are amended or re-codified, this Ordinance incorporates those amendments and re-codifications.

Approved Products means Cannabis Plants, Cannabis Flower, Cannabis Products, Artificially Derived Cannabinoids, and Lower-Potency Hemp Edibles that are a product category approved by the Minnesota Office of Cannabis Management and that comply with Minnesota Statutes Chapter 342 and Minnesota Rules adopted pursuant to Minnesota Statutes Chapter 342 regarding the testing, packaging, and labeling of Cannabis Plants, Cannabis Flower, Cannabis Products, Artificially Derived Cannabinoids, and Lower-Potency Hemp Edibles. “Approved Products” does not include Medical Cannabinoid Products, as defined in Minnesota Statutes Chapter 342.

Compliance Checks means the system Hennepin County uses to investigate and ensure that Cannabis Retailers and Lower-Potency Hemp Edible Retailers are following and complying with applicable laws, rules, and regulations and this Ordinance.

Sale or Sell means any transfer of goods for money, trade, barter, or other consideration.

Self-Service Display means the open display of Approved Products or Medical Cannabinoid Products for Sale in any manner where any person has access to the Approved Products or Medical Cannabinoid Products without the assistance or intervention of the employee(s) of the Cannabis Retailer or Lower-Potency Hemp Edible Retailer.

Special Temporary Cannabis Events mean events described in Minnesota Statutes Sections 342.39 and 342.40 held by person, cooperative, or business with a cannabis event organizer license granted by the Office of Cannabis Management, with approval from Hennepin County.

Section 5: Applicability and Jurisdiction

This Ordinance governs the registration of Cannabis Retailers and Lower-Potency Hemp Edible Retailers and the regulation of retail Sales of Approved Products and Medical Cannabinoid Products by Cannabis Retailers and Lower-Potency Hemp Edible Retailers in any city or town located in Hennepin County that has deferred registration authority to Hennepin County under Minnesota Statutes Section 342.22, subdivision 1.

Cities and towns that elect to defer registration authority to Hennepin County under Minnesota Statutes Section 342.22, subdivision 1 shall:

1. Provide verification to Hennepin County of its intention to defer authority by submitting a resolution of the City Council to Hennepin County at least 6 months in advance of the proposed effective date of the deferral of authority. Hennepin County may choose in its discretion to accept deferred registration authority with less than 6 months notice from a deferring city or town.

2. Cooperate with Hennepin County in providing all necessary records and information to Hennepin County to administer this Ordinance.

If a city or town intends to assume registration authority after having previously deferred that authority to Hennepin County, the city or town must provide Hennepin County with a written notification, preferably a resolution of the City Council, at least 90 days in advance of the proposed effective date of the city or town's assumption of registration authority.

Section 6: Administration and Registration

(A) Registration required

No person, cooperative, or business shall Sell or offer to Sell any Approved Products or Medical Cannabinoid Products without a completed registration and a pre-opening Compliance Check by Hennepin County.

(B) Application

An application for a registration to Sell or offer to Sell Approved Products or Medical Cannabinoid Products must be made on a form provided by Hennepin County. The application must contain the full name of the applicant and each True Party of Interest; the applicant's and each True Party of Interest's residential and business addresses and telephone numbers; the name of the person, cooperative, or business for which the registration is sought; and any additional information Hennepin County deems necessary. Upon receipt of a completed application, Hennepin County will timely review the application. If an application is incomplete, it will be returned to the applicant with notice of the information necessary to make the application complete.

(C) Action

Hennepin County shall review the application for compliance with this Ordinance and all applicable laws, rules, or regulations, including but not limited to compliance with local zoning code, building code, and fire code. Hennepin County may approve or deny the application for a registration for noncompliance with this Ordinance or any applicable laws, rules, or regulations, or it may delay action for a reasonable period of time to complete any investigation of the application or the applicant deemed necessary. If Hennepin County approves the application, the County will issue the registration to the applicant. If the County denies the application, notice of the denial will be given to the applicant along with notice of the applicant's right to appeal the decision.

(D) Appeal of registration denial

An applicant may appeal a denial following the procedure set forth in Section xx of this Ordinance.

(E) Term

All registrations issued are valid for one calendar year from the date of issue.

(F) Suspension and reinstatement

Hennepin County may suspend a registration for up to 30 days under Minnesota Statutes Section 342.22, subdivision 5. The Office of Cannabis Management shall review the suspension and may order reinstatement of the registration or take any action described in Minnesota Statutes Sections 342.19 or 342.21. Hennepin County may reinstate the registration if the County determines that any violation has been cured.

(G) Transfers

All registrations issued are valid only on the premises for which the registration was issued and only for the person, cooperative, or business to whom the registration was issued. The transfer or sale of any registration to another location or to another person, cooperative, or business is prohibited.

(H) Display

All registrations must be posted and displayed at all times in plain view of the general public at the Cannabis Retailer or Lower-Potency Hemp Edible Retailer or at a licensed Special Temporary Cannabis Event.

(I) Renewals

The renewal of a registration issued under this Ordinance will be handled in the same manner as the original application. The request for a renewal must be made at least 30 days but no more than 60 days before the expiration of the current registration.

(J) Issuance as privilege and not a right

The issuance of a registration is a privilege and does not entitle the registration holder to an automatic renewal of the registration.

(K) Maximum number of registrations

No further Cannabis Retailer registrations will be granted by Hennepin County in a city or town after that city or town has at least one Cannabis Retailer for every 12,500 residents in the city. This density limit is not applicable to Lower-Potency Hemp Edible Retailers.

(L) Sale of other products

In addition to any Approved Products, a Cannabis Retailer may only Sell the products allowed under Minnesota Statutes Section 342.27, subdivision 3. The Sale of any products other than Approved Products by Cannabis Retailers must comport with all requirements of state law.

Section 7: Fees

No initial registration or registration renewal will be issued under this Ordinance until the fees required by this Ordinance are paid in full.

Registration fees

Pursuant to Minnesota Statutes Section 342.22, subdivision 2, Hennepin County will charge each applicant for a Cannabis Retailer or Lower-Potency Hemp Edible Retailer registration an initial retail registration fee of \$500 or up to half the amount of the applicable initial license fee under Minnesota Statutes Section 342.11, whichever is less. Hennepin County will charge a renewal retail registration fee of \$1,000 or up to half the amount of the applicable renewal license fee under Minnesota Statutes Section 342.11, whichever is less.

Section 8: Basis for Denial of Registration

(A) Grounds for denying the issuance or renewal of a Cannabis Retailer or Lower-Potency Hemp Edible Retailer registration include but are not limited to the following:

- (1) The applicant does not have a valid preapproved license, license, or retail endorsement from the Office of Cannabis Management;
- (2) The applicant fails to provide any of the information required on the registration application or provides false or misleading information; or
- (3) The applicant is prohibited by applicable law, rule, regulation, or this Ordinance from holding a registration.

(B) If a Cannabis Retailer or Lower-Potency Hemp Edible Retailer registration is issued or renewed to a person, cooperative, or business in error, Hennepin County will suspend the registration under Minnesota Statutes Section 342.22, subdivision 5 and Section 6(F) of this Ordinance.

Section 9: Prohibited Sales and Other Restrictions

(A) Self-Service Display

In addition to any prohibitions in applicable law, rule, or regulation, no Cannabis Retailer or Lower-Potency Hemp Edible Retailer may Sell or offer to Sell any Approved Product or Medical Cannabinoid Product by means of Self-Service Display, except that Cannabis Retailers and Lower-Potency Hemp Edible retailers that only Sell or offer to Sell products, including products other than Approved Products, to individuals

who are 21 years of age or older may Sell or offer to Sell Lower-Potency Hemp Edibles that are beverages via Self-Service Display.

(B) Signage

Notice of the legal sales age and age verification requirement must be posted prominently and in plain view at each location where Approved Products or Medical Cannabinoid Products are Sold or offered for Sale. The required signage must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase. The sign must include clear, legible letters at least one inch high.

(C) Cannabis Retailer Distance Restrictions

- (1) No registration will be issued to a Cannabis Retailer located within [350] feet of a school as measured by the shortest line from the property line of the space to be occupied by the Cannabis Retailer to the nearest property line of a school.
- (2) No registration will be issued to a Cannabis Retailer located within [350] feet of a day care, residential treatment facility, or an attraction within a public park that is regularly used by minors, including a playground or athletic field, as measured by the shortest line from the property line of the space to be occupied by the Cannabis Retailer to the nearest property line of a daycare, residential treatment facility, or attraction within a public park that is regularly used by minors.

(D) Cannabis Retailer hours of operation

Sales of Approved Products and Medical Cannabinoid Products at a Cannabis Retailer are only allowed between the hours of 10AM and 10PM, and Cannabis Retailers may not be open to the public or Sell or offer to Sell any other products at times when the Cannabis Retailer is prohibited from selling Approved Products or Medical Cannabinoid Products.

Section 10: Responsibility

All Cannabis Retailers and Lower-Potency Hemp Edible Retailers are responsible for the actions of their employees to comply with applicable laws, rules, and regulations and this Ordinance. The Sale, offer to Sell, or furnishing of any Approved Product or Medical Cannabinoid Product by an employee shall be considered an act of the Cannabis Retailer or Lower-Potency Hemp Edible Retailer. Nothing in this section shall be construed as prohibiting Hennepin County from also taking appropriate action against an employee of the Cannabis Retailer or Lower-Potency Hemp Edible Retailer.

Section 11. Inspections and Compliance Checks

Initial inspection

No Cannabis Retailer or Lower-Potency Hemp Edible Retailer shall Sell or offer to Sell any Approved Product or Medical Cannabinoid Product before Hennepin County has conducted an initial inspection.

Access to premises and records

All Cannabis Retailers and Lower-Potency Hemp Edible Retailers must be open to inspections and Compliance Checks by Hennepin County during business hours. The Cannabis Retailer or Lower-Potency Hemp Edible Retailer shall, upon request of Hennepin County and after proper Hennepin County identification, permit access to all parts of the premises. The Cannabis Retailer or Lower-Potency Hemp Edible Retailer shall, upon request of Hennepin County and after proper Hennepin County identification, make available and allow copying of any and all records necessary to ascertain compliance with applicable laws, rules, and regulations and this Ordinance.

Interference

No person shall interfere with or hinder Hennepin County staff in the performance of their duties or refuse to permit County staff to make inspections or Compliance Checks of Cannabis Retailers and Lower-Potency Hemp Edible Retailers.

Removal and correction of violations

The Cannabis Retailer or Lower-Potency Hemp Edible Retailer, upon receipt of a report giving notification of one or more violations of applicable laws, rules, or regulations or this Ordinance, shall correct or remove each violation in the length of time determined by the County. The length of time for the correction or removal of each such violation shall be noted on the inspection report. Failure to remove or correct any violation within the specified time period shall constitute a separate violation of this Ordinance. The County may issue orders to halt construction or remodeling, or to take corrective measures to ensure compliance with applicable laws, rules, and regulations and this Ordinance.

Section 12 Violations, Penalties, and Administrative Hearings

Subsection 1: Violations

- A. Notice. A person, cooperative, or business that violates applicable laws, rules, regulations, or this Ordinance may be issued a notice from Hennepin County that sets forth the alleged violation, requires the alleged violator to remedy the violation or propose a plan to remedy the violation, and informs the alleged

violation of their right to a hearing on the violation and how and where a hearing may be requested, including a contact address and phone number.

- B. Removal and Correction of Violations. A person, cooperative, or business, upon receipt of a notification of one or more violations, shall either remedy each violation in the time period as determined by Hennepin County, propose a plan to remedy the violation as required by Hennepin County, or request a hearing on the violation according to subsection 2 of this section.

Subsection 2: Appeals

- A. Right of appeal. Where a person, cooperative, or business is denied either initial or renewal registration by Hennepin County, has their registration suspended, or is issued a notice of a violation, the person, cooperative, or business may appeal the action to Hennepin County by requesting an administrative hearing within 14 calendar days of the date of the notice or denial, nonrenewal, suspension, or violation.
- B. Administrative hearing. If any person, business, or cooperative makes a request for an administrative hearing, such hearing shall be held before the Hennepin County Administrator or their designee.
- C. Schedule. The administrative hearing shall be held no later than 42 calendar days after the date of service of the request for a hearing was received unless the appealing person, cooperative, or business requests an extension of time. If an extension is requested, the hearing shall be held no later than 90 calendar days after the date of service of the request for a hearing.
- D. Notice. Hennepin County shall mail notice of the administrative hearing to the appealing person, cooperative, or business at least 14 calendar days prior to the hearing. Such notice shall include (1) a statement of time, place, and nature of the hearing; and (2) in the case of an alleged violation, a reference to the particular section of applicable laws, rules, regulations, or this Ordinance that has been violated.
- E. Witnesses and evidence. All parties shall have full opportunity to respond to and present evidence and witnesses.
- F. Standard of proof. The appealing person, cooperative, or business shall have the burden of proving its position by a preponderance of the evidence. All findings of fact, conclusions of law, and decisions by the County Administrator or their designee shall be based on evidence presented and matters officially noticed.
- G. Rules of evidence. The Rules of Evidence, as applied in the District Court, shall not apply to the hearing, but irrelevant, immaterial, and unduly repetitious evidence shall be excluded. The hearing shall be confined to matters raised in Hennepin County's written notice of denial, nonrenewal, suspension, violation or in the appealing person, cooperative, or business's written request for a hearing.
- H. Record of hearing. The hearing shall be recorded, and minutes shall be kept.
- I. Notice of decision. The determination of the County Administrator or their designee and a copy of the minutes of the administrative hearing shall be

forwarded to the appealing person, cooperative, or business within 14 calendar days of the conclusion of the administrative hearing.

Subsection 3: Penalties

Any person, business, or cooperative found to have violated applicable laws, rules, regulations, or this Ordinance or whose employee violated applicable laws, rules, regulations, or this Ordinance, and who does not remedy the violation or propose a plan to remedy the violation according to the requirements of Hennepin County, or prevail on an appeal of the violation, may be penalized in the following ways:

- A. Administrative Fines: Charged an administrative fine of \$200 for a first violation; \$500 for a second violation at the same registered premises within a 24-month period; \$1,000 for a third or subsequent offense at the same location within a 24-month period; and in the case where a person, cooperative, or business makes or attempts to make Sales of Approved Products or Medical Cannabinoid Products to a customer or patient without a valid retail registration from Hennepin County, up to \$2,000 for each violation;
- B. Have their registration suspended for up to 30 days Minnesota Statutes Section 342.22, subdivision 5; and/or
- C. Tobacco Retail Licensees. Have their tobacco retail license suspended for no less than seven (7) days or be revoked in accordance with Minnesota Statutes Section 461.12, subdivision 2a.

Statutory penalties. If the administrative penalties for violations of this Ordinance authorized to be imposed by Minnesota Statutes Chapter 342 differ from those established in this Ordinance, then the higher penalty will prevail.

Continued violation. Each violation, and every day during which a violation occurs or continues, shall constitute a separate offense.

Complaints Submitted to the Office of Cannabis Management. In accordance with Minnesota Statutes Chapter 342.13(h), any violations of this Ordinance will be submitted as complaints to the Office of Cannabis Management.

Misdemeanor prosecution. Nothing in this section prohibits Hennepin County from seeking prosecution as a misdemeanor for any alleged violation of this Ordinance by a person 21 years of age or older.

Section 13: Severability

If any section or provision of this Ordinance is held invalid, such invalidity will not affect other sections or provisions that can be given force and effect without the invalidated section or provision.

Section 14: Effective date

This ordinance becomes effective on _____.

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