

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 2024-20

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE TITLE 11 TO REGULATE THE
POSSESSION, SALE, AND CONSUMPTION OF CANNABIS

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title 11 Business Regulations by adding a Chapter 11.28: Cannabis Businesses.

SECTION 2. The City Council of the City of Lake Elmo hereby amends Title 11 Business Regulations; Chapter 11.28 Cannabis Businesses by adding a Section 11.28.010 Administration (Proposed language is underlined):

- (a) Finding and Purpose. The purpose of this ordinance is to implement the provisions of Minnesota Statutes, chapter 342, which authorizes the City of Lake Elmo (hereinafter "City") to protect the public health, safety, welfare of City residents by regulating cannabis businesses. The City finds and concludes the proposed provisions are appropriate and lawful land use regulations, will promote the community's interest, and are in the public interest and for the public good.
- (b) 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.
- (c) Definitions.
Applicant means an entity with a license or endorsement issued by the OCM that is applying for an initial registration or for registration renewal.

The Act means Minnesota Statutes, Chapter 342, as is may be amended from time to time.

Cannabis Business has the same meaning as defined in Minnesota Statutes, section 342.01.

Cannabis Retailer means a business with a cannabis retailer license or cannabis retail endorsement from OCM.

Retailer means every business that is licensed under the Act and required to register with the City under Minnesota Statutes, section 342.22. Including cannabis businesses and lower-potency hemp edible retailers.

OCM means the Minnesota Office of Cannabis Management.

Potential Licensee means an entity that has not received a license from the OCM and is seeking a pre-license certification.

SECTION 3. The City Council of the City of Lake Elmo hereby amends Title 11 Business Regulations; Chapter 11.28 Cannabis and Hemp Businesses by adding a Section 11.28.020 Pre-License Zoning Approval (Proposed language is underlined):

- (a) The City Administrator is authorized to certify whether a proposed Cannabis Business complies with the City's zoning ordinances, this Chapter, and if applicable, with state fire code and building code pursuant to Minnesota Statutes, section 342.13.

- (b) Potential licensees are responsible for obtaining all necessary zoning approvals prior to the City receiving the request for certification from the OCM. If a potential licensee fails to obtain necessary zoning approvals prior to the City receiving a request for certification, the City will inform the OCM that the potential licensee does not meet zoning and land use laws. If, at the time the City receives a request for zoning certification, there are no further intended alterations to the building where the business is to be conducted, the City will also certify compliance with building and fire code regulations, provided that the potential licensee has obtained inspections prior the City's receipt of a request for certification from the OCM. Building and fire code inspections will be valid for 1 year from completion.

SECTION 4. The City Council of the City of Lake Elmo hereby amends Title 11 Business Regulations; Chapter 11.28 Cannabis Businesses by adding a Section 11.28.030 Registration of Cannabis Businesses (Proposed language is underlined):

(a) Retail Registration Required

- (1) No individual or entity may operate a retailer within the City of Lake Elmo without first registering with the City.
- (2) Any retailer 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 Registration

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

(c) Registration & Application Procedure

- (1) Processing Registrations. Applications will be processed on a first-come, first-served basis based on the City receiving a complete application. Applications will be considered complete when all materials in LEC 11.28.030 (C)(3) are received by the city and include all required information and the fee described in LEC 11.28.030(c)(2) is received
- (2) Fees. 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.
- (3) Application Submittal. The applicant must submit a registration application or renewal form provided by the City. The form may be amended from time to time by the City Clerk, but must include or be accompanied by:
 - a. An applicant for a retail registration shall fill out an application form, as provided by the City of Lake Elmo. Said form shall include, but is not limited to:
 1. Full name of property owner and applicant.
 2. Address, email address, and telephone number of the applicant.
 3. The address and parcel ID for the property which the retail registration is sought.
 4. Certification that the applicant complies with the requirements of local ordinances established pursuant to 342.13.
 - b. The applicant shall include with the form:
 1. The registration fee as required in LEC 11.28.030(c)(2), above.
 2. 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.
- (4) Reasons for Denial. The City shall not issue a registration or renewal if any of the following conditions are true:
 - a. The applicant has not submitted a complete application.
 - b. The applicant does not comply with the requirements of this Chapter.
 - c. The applicant does not comply with applicable zoning and land use regulations.

- d. The applicant is found to not comply with the requirements of the Act or this Chapter at the preliminary compliance check.
- e. The applicant is not current on all property taxes and assessments at the location where the retailer is located.
- f. The maximum number of registrations, pursuant to LEC 11.28.040(a)(1), have been issued by the City or within Washington County.
- g. The applicant does not have a valid license from the OCM.

(5) Application Approval.

- a. A retailer application shall not be approved or renewed if the applicant is unable to meet the requirements of this ordinance, including land use standards established in Title 105 Zoning.
- b. A retailer application that meets the requirements of this ordinance, including land use standards established in Title 105 Zoning, shall be approved.

(6) Annual Compliance Checks.

- a. The City shall complete at minimum one compliance check per calendar year of every retailer to assess if the business meets age verification requirements, as required under Minn. Stat. Chapter 342 and this ordinance.
- b. The City shall conduct at minimum one unannounced age verification compliance check at least once per calendar year.
 - 1. 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.

(7) Location Change.

- a. If a retailer seeks to move to a new location still within the legal boundaries of City, it shall notify City of the proposed location change, and submit necessary information to meet all the criteria in Lake Elmo City Code without the need for a new registration or fee.

(h) Suspension of Registration

- (1) Generally. The City Council may impose a fine or suspend a registration under this chapter on a finding that the registered business has failed to comply with the requirements of this chapter or any applicable statute or regulation.
- (2) Notice and Right to Hearing. Prior to imposing a penalty or suspending any registration under this chapter, the City shall provide the registered business with written notice of the alleged violations and inform the registered business of his or her right to a hearing on the alleged violation.
 - a. Notice shall be delivered in person or by regular mail to the address of the registered business and shall inform the registered business of its right to a hearing. The notice will indicate that a response must be submitted within ten (10) business days of receipt of the notice, or the right to a hearing will be waived.
 - b. The registered business will be given an opportunity for a hearing before the City Administrator, or designee, before final action to fine or suspend a registration. Provided, the registered business has submitted a written application for appeal within 10 business days after the notice was served. The City Administrator, or designee, shall give due regard to the frequency and seriousness of the violations, the ease with which such violations could have been cured or avoided and good faith efforts to comply and shall issue a decision to fine or suspend the registration only upon written findings. Within ten (10) business days of the City Administrator's, or designee's, order, the decision may be appealed to the City Council.

- c. If no request for a hearing is received within ten (10) business days following the service of the notice, the matter shall be submitted to the City Council for imposition of the fine or suspension of the registration.
- (3) Emergency. If, in the discretion of the City, a registered business poses an imminent threat to the health or safety of the public, the City may immediately suspend the registration and provide notice of the right to hold a subsequent hearing as prescribed in part (2) of this section.
- (4) Reinstatement. The City may reinstate a registration if it determines that the violations have been resolved. The City shall reinstate a registration if the OCM determines the violations have been resolved.

SECTION 5. The City Council of the City of Lake Elmo hereby amends Title 11 Business Regulations; Chapter 11.28 Cannabis Businesses by adding a Section 11.28.040 Requirements for Cannabis Businesses (Proposed language is underlined):

(a) Number of Retailers

- (1) The City Council can choose to limit the number of cannabis retail businesses, or cannabis businesses with retail endorsements, to one registration per 12,500 residents, pursuant to Minn. Stat. 342.13, subd. h, as may be amended, or allow no registrations citywide if there are more than one retail registration per 12,500 residents of Washington County, pursuant to Minn. Stat. 342.13, subd. ii, as may be amended.

(b) Minimum Buffer Requirements

- (1) To receive a retail registration, a cannabis business must be compliant with the minimum buffer requirements established for such uses in Section 105.12.1490.
- (2) The buffer minimum buffer requirements will be measured from the potential licensee's proposed business location based on the location of schools, day cares, residential treatment facilities, and park features on the date the city receives the request from the OCM for certification pursuant to LEC 11.28.020.
- (3) Nothing in this section shall prohibit a cannabis business from continuing to operate at the same location if a school, day care, residential treatment facility, or park feature establishes within the buffer.

SECTION 6. The City Council of the City of Lake Elmo hereby amends Title 11 Business Regulations; Chapter 11.28 Cannabis Businesses by adding a Section 11.28.040 Use in Public Spaces (Proposed language is underlined):

No person shall use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place, per LEC 9.32.085, 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 7. The City Council of the City of Lake Elmo hereby amends Title 11 Business Regulations; Chapter 11.28 Cannabis Businesses by adding a Section 11.28.050 Penalties Administration and Enforcement (Proposed language is underlined):

Any violation of the provisions of this chapter or failure to comply with any of its requirements constitutes a misdemeanor and is punishable as defined by law. Each day each violation continues or exists, constitutes a separate offense. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in this ordinance.

Violation of this Chapter shall be grounds for enforcement against any business license issued by the City of Lake Elmo.

SECTION 8. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 9. Adoption Date. This Ordinance 2024-21 was adopted on this 3rd day of December 2024, by a vote of 5 Ayes and 0 Nays.

LAKE ELMO CITY COUNCIL



Charles Cadenhead, Mayor

ATTEST:



Julie Johnson, City Clerk

This Ordinance 2024-21 was published on the 20th day of December, 2024.