

ORDINANCE NO. 59, EIGHTH SERIES

**AN ORDINANCE OF THE CITY OF FERGUS
FALLS, MINNESOTA, ADDING CITY CODE
CHAPTER 121 ENTITLED CANNABIS
BUSINESSES AND SALES.**

THE CITY OF FERGUS FALLS DOES ORDAIN:

CHAPTER 121. CANNABIS BUSINESSES AND SALES

ADMINISTRATION

121.01 *Findings and Purpose.* The City of Fergus Falls makes the following legislative findings:

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

The City of Fergus Falls finds and concludes that the proposed provisions are appropriate and lawful land use regulations for the City of Fergus Falls, 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.

121.02 *Authority and Jurisdiction.* The City of Fergus Falls has the authority to adopt this ordinance pursuant to:

A. 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.

This Ordinance shall be applicable to the legal boundaries of the City of Fergus Falls.

121.03 **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.

121.04 **Enforcement.** The City Administrator and designated staff are 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.

121.05 **Definitions.**

A. 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.

B. *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.

C. *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.

D. *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.

E. *Conditional Use:* "Conditional use" means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist and (2) the use or development conforms to existing land use plans of the city and (3) is compatible with the existing neighborhood.

F. *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.

G. *Interim Use:* An "interim use" is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

H. *Lower-potency Hemp Edible:* As defined under Minn. Stat. 342.01 Subd. 50.

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

J. *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.

J. *Preliminary License Approval*: OCM pre-approval for a cannabis business license for applicants who qualify under Minn. Stat. 342.17.

K. *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.

L. *Residential Treatment Facility*: As defined under Minn. Stat. 245.462 Subd. 23.
12. Retail Registration: An approved registration issued by the City of Fergus Falls to a state-licensed cannabis retail business.

M. *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.

N. *State License*: An approved license issued by the state of Minnesota’s office of cannabis management to a cannabis retail business.

REGISTRATION OF CANNABIS BUSINESSES

121.06 *Consent to Registering of Cannabis Businesses.*

A. No individual or entity may operate a state-licensed cannabis retail business within the City of Fergus Falls without first registering with the City of Fergus Falls.

B. The City of Fergus Falls only accepts an application for an individual or entity from the OCM for retail registration.

C. Any state-licensed cannabis retail business that sells to a customer or patient without valid retail registration shall incur a civil penalty of \$2,000 for each violation.

D. An individual or entity that has a retail registration in the City of Fergus Falls must be in compliance with all applicable provisions of Chapter 342.

121.07 *Compliance Checks Prior to Retail Registration.*

Prior to issuance of a cannabis retail business registration, the City of Fergus Falls shall 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, the City of Fergus Falls shall certify on a form provided by OCM whether a proposed cannabis retail business complies with local zoning ordinances and whether a proposed cannabis retail business complies with the state fire code and building code. All cannabis businesses must always be in compliance with all state building and fire codes.

121.08 *Registration and Application Procedure.*

An applicant will submit an application to the OCM and after it has received preliminary approval, the application will be forwarded to the City of Fergus Falls to meet retail registration requirements.

121.08.1 *Fees.*

A registration fee, as established in the City of Fergus Falls'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 City of Fergus Falls 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.

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.

121.08.2 *Application Submittal.*

The City of Fergus Falls 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 of Fergus Falls. Said form shall include, but is not limited to:

- (1) Full name of the 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 Minn. Stat. 342.13.

B. The applicant shall include with the form:

- (1) the application fee as required in Section 121.08.1;
- (2) a copy of a valid state license or written notice of OCM license preapproval;
- (3) Site plan;
- (4) Security plan;
- (5) Signage plan;
- (6) Odor control plan
- (7) Waste management plan

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.

121.08.3 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 121.11.

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.

121.08.4 Selection Process.

If multiple applications for a state-licensed cannabis retail business are received within a 30-day period and the total would exceed the maximum number of registered businesses permitted under section 121.11, City Council may create a policy regarding the selection process.

121.08.5 Annual Compliance Checks.

The City of Fergus Falls 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.

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.

121.08.6 Location Change.

A state-licensed cannabis retail business shall be required to submit a new application for registration under section 121.08.2 if it seeks to move to a new location still within the legal boundaries of the City of Fergus Falls.

121.09 *Renewal of Registration.*

The City of Fergus Falls can 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 the City of Fergus Falls.

A cannabis retail registration issued under this ordinance cannot be transferred. A renewal registration shall comply with this ordinance.

121.09.1 *Renewal Fees.* The City of Fergus Falls may charge a renewal fee for the registration starting at the second renewal, as established in the City of Fergus Falls' fee schedule.

121.10 *Suspension of Registration.*

121.10.1 *When Suspension is Warranted.*

The City of Fergus Falls may suspend a cannabis retail business's registration if it violates the ordinance of the City of Fergus Falls or poses an immediate threat to the health or safety of the public.

121.10.2 *Notification to OCM.*

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

121.10.3 *Length of Suspension.*

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 City of Fergus Falls may reinstate a registration if it determines that the violation(s) have been resolved.

The City of Fergus Falls shall reinstate a registration if OCM determines that the violation(s) have been resolved.

121.10.4 *Civil Penalties.*

Subject to Minn. Stat. 342.22, Subd. 5(e) the City of Fergus Falls may impose a civil penalty, as specified in the City of Fergus Falls' fee schedule, for registration violations, not to exceed \$2,000.

121.11 *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.

The City shall issue at least one registration for a cannabis retail business and may issue up to two.

REQUIREMENTS FOR CANNABIS BUSINESSES

121.12 *Minimum Buffer Requirements.*

The City of Fergus Falls shall prohibit the operation of a cannabis business within 250 feet of a school as measured from the edge of the real property on which the school is located.

The City of Fergus Falls shall prohibit the operation of a cannabis business within 250 feet of a day care as measured from the edge of the real property on which the day care is located.

The City of Fergus Falls shall prohibit the operation of a cannabis business within 250 feet of a residential treatment facility as measured from the edge of the real property on which the residential treatment facility is located.

The City of Fergus Falls shall prohibit the operation of a cannabis business within 250 feet of an attraction within a public park that is regularly used by minors, including a playground or athletic field, as measured from the edge of the real property on which the public park, playground or athletic field is located.

The City of Fergus Falls shall prohibit the operation of a cannabis business within 250 feet of another cannabis retail business as measured from the edge of the real property on which another cannabis retail business is located.

Pursuant to Minn. Stat. 462.367 Subd. 14, nothing in section 121.12 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.

121.13 ***Zoning and Land Use.***

All Cannabis Businesses must adhere to the zoning requirements as outlined in city code Chapter 154. No Cannabis Business may operate in any residential zone of the city.

121.14 ***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 9 AM and 9 PM.

121.15 ***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 the City of Fergus Falls' sign ordinances.

TEMPORARY CANNABIS EVENTS

121.16 ***License or Permit Required for Temporary Cannabis Events***

121.16.1 *Permit Required.*

A permit is required to be approved and issued by the City of Fergus Falls prior to holding a temporary cannabis event at which there is to be on-site consumption of cannabis.

121.16.2 *Registration and Application Procedure.*

A registration fee, as established in the City of Fergus Falls' fee schedule, shall be charged to applicants for temporary cannabis events.

121.16.3 *Application Submittal and Review.*

The City of Fergus Falls 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 of Fergus Falls. Said form shall include, but is not limited to:

1. Full name of the property owner and applicant;
2. Address, email address, and telephone number of the applicant;
3. Site plan or diagram of the premises;
4. An emergency event plan.

B. The applicant shall include with the form:

1. the application fee as required in Section 121.16.2;

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

The application shall be submitted to the City of Fergus Falls for review. If the City 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 city administrator's office for approval or denial.

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

E. The application for a permit for a temporary cannabis event shall meet the following standards:

The cannabis event must meet minimum buffering requirements of 500 feet from any day care, residential treatment facility, park and 1000' feet from any school or residence as measured from the edge of the real property on which the day care, residential treatment facility, park, school or residence is located.

An event may not exceed more than four days and may only operate between the hours of 9 am and 9 pm.

A request for a Temporary Cannabis Event that meets the requirements of this section shall be approved.

F. A request for a Temporary Cannabis Event that does not meet the requirements of this section shall be denied. The City of Fergus Falls shall notify the applicant of the standards not met and basis for denial.

Temporary cannabis events at which there is consumption of cannabis shall only be held on private property.

LOWER-POTENCY HEMP EDIBLES

121.17 ***Zoning Districts.*** All sales of Lower-Potency Hemp Edibles are restricted to a B3 or higher zone as outlined in City Ordinance No. 58, Eighth Series. The sale of Lower-Potency Hemp Edibles are outlined in City Code Chapter 120.

121.18 ***Beverages.***

No person shall sell or offer to sell Low Potency Hemp Beverages or Hemp derived THC beverage products without an on-sale liquor license issued by the City of Fergus Falls.

The City shall establish a fee for a Low Potency Hemp Beverages or Hemp derived THC beverage license.

An establishment must meet the zoning requirements of a normal alcohol establishment in order to receive a Low Potency Hemp Beverages or Hemp derived THC beverage license.

The sale of low potency hemp beverages is permitted in a municipal liquor store.

121.19 Sale and Consumption of Product.

The sale of Low-Potency Edibles are prohibited in any liquor establishment.

Onsite consumption of Low-Potency Hemp Beverages or Hemp derived THC beverages are only allowed at licensed on-sale establishments. The onsite sale and consumption of Low-Potency Hemp Beverages or Hemp derived THC beverages must be done in compliance with all laws of the state.

USE IN PUBLIC PLACES

121.20 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.

Effective date. The effective date of this ordinance shall be the _____ day of _____, 2024.

Summary Publication. Pursuant to Minn. Stat. §412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance.

ORDINANCE NO. 59, EIGHTH SERIES

AN ORDINANCE OF THE CITY OF FERGUS FALLS, MINNESOTA, ADDING CITY CODE CHAPTER 121 ENTITLED CANNABIS BUSINESSES AND SALES.

THIS ORDINANCE was introduced on the _____ day of _____, 2024, and adopted by the City Council of the City of Fergus Falls, Minnesota, on the _____ day of _____, 2024, by the following vote:

AYES:

NAYS:

ATTEST:

APPROVED:

City Administrator

Mayor

Published in the Fergus Falls Daily Journal on _____.

barb/acityoffergusfalls/ords/8thseries/Ord59