

AN ORDINANCE OF THE CITY OF FAIRMONT AMENDING CHAPTER 26 OF THE CITY CODE TO REGULATE CANNABIS ZONING

The City Council of the City of Fairmont hereby ordains:

Chapter 26, Article XII Cannabis Regulations

Sec. 26-1000 Administration

26-1000.1 Findings and Purpose

The City of Fairmont 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 Fairmont to protect the public health, safety, welfare of Fairmont residents by regulating cannabis businesses within the legal boundaries of the City of Fairmont.

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

26-1000.2 Authority and Jurisdiction

The City of Fairmont 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
- B) a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis businesses.
- C) Minn. Stat. 342.22, regarding the local registration and enforcement requirements of state-licensed cannabis retail businesses and lower-potency hemp edible retail businesses.
- D) Minn. Stat. 152.0263, Subd. 5, regarding the use of cannabis in public places.
- E) Minn. Stat. 462.357, regarding the authority of a local authority to adopt zoning ordinances.

Ordinance shall be applicable to the legal boundaries of the City of Fairmont.

26-1000.3 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.

26-1000.4 Enforcement

The City of Fairmont Zoning Official or their designee 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.

26-1000.5 Definitions

1. 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.
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.
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.
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.
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.
6. Lower-potency Hemp Edible: As defined under Minn. Stat. 342.01 subd. 50.
7. Office of Cannabis Management: Minnesota Office of Cannabis Management, referred to as "OCM" in this ordinance.
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.
9. Preliminary License Approval: OCM pre-approval for a cannabis business license for applicants who qualify under Minn. Stat. 342.17.
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.
11. Residential Treatment Facility: As defined under Minn. Stat. 245.462 subd. 23.
12. Retail Registration: An approved registration issued by the City of Fairmont to a state- licensed cannabis retail business.

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.

14. State License: An approved license issued by the State of Minnesota’s Office of Cannabis Management to a cannabis retail business.

26-1001 Buffer Requirements

The following buffers are measured from the cannabis business’s property line.

The City of Fairmont shall prohibit the operation of a cannabis business within 500 feet of a school.

The City of Fairmont shall prohibit the operation of a cannabis business within 500 feet of a daycare.

The City of Fairmont shall prohibit the operation of a cannabis business within 500 feet of a residential treatment facility.

The City of Fairmont 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.

The City of Fairmont shall prohibit the operation of a cannabis business within 300 feet of another cannabis retail business.

Pursuant to Minn. Stat. 462.367 subd. 14, 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 an attraction within a public park that is regularly used by minors moves within the minimum buffer zone.

26-1002 Permitted and Conditional Land Uses

Cannabis businesses are allowed as land uses in the following zoning districts, subject to the buffer requirements of 26-1001 and the applicable conditional standards of 26-1002.1:

Type of business	Districts permitted by right	Districts permitted as conditional
Cultivation		Agriculture-transition (A) Heavy Industrial (I-2) Light Industrial (I-1)
Cannabis Manufacture		Heavy Industrial (I-2) Light Industrial (I-1) General Business (B-3)
Hemp Manufacture		Heavy Industrial (I-2) Light Industrial (I-1) General Business (B-3)
Wholesale		Heavy Industrial (I-2) Light Industrial (I-1) General Business (B-3)
Cannabis Retail	General Business (B-3)	Light Industrial (I-1)
Cannabis Transportation	Heavy Industrial (I-2) Light Industrial (I-1) General Business (B-3)	

Cannabis Delivery	Heavy Industrial (I-2) Light Industrial (I-1) General Business (B-3)	
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26-1002.1 Conditional Use General Standards

Cannabis business types operating in districts where the use is permitted as conditional must follow the process contained within and meet the general standards of City Code Chapter 26 Article II Division 4 Conditional Use Permits.

26-1002.2 Conditional Use Specific Standards

Cannabis business types operating in districts where the use is permitted as conditional are subject to the following standards:

26-1002.2.1 Cultivation

In an Agriculture-transition (A) district:

1. No outdoor cultivation may occur within 1,000 feet of a parcel zoned or used for residential purposes.
2. Odor emanating from the use must not be discernable from the property line of the permitted parcel.
3. The use must be secured to the applicable standards of Minnesota Rules 9810.1500.

In a Heavy Industrial (I-2) district:

1. Outdoor cultivation is prohibited.
2. Odor emanating from the use must not be discernable from the property line of the permitted parcel.
3. The use must be secured to the applicable standards of Minnesota Rules 9810.1500.

In a Light Industrial (I-1) district:

1. Outdoor cultivation is prohibited.
2. Odor emanating from the use must not be discernable from the property line of the permitted parcel.
3. The use must be secured to the applicable standards of Minnesota Rules 9810.1500.

26-1002.2.2 Cannabis Manufacture

In a Heavy Industrial (I-2) district:

1. Odor emanating from the use must not be discernable from the property line of the permitted parcel.

2. The use must be secured to the applicable standards of Minnesota Rules 9810.1500.
3. The use must meet the off-street parking and off-street loading requirements of City Code Chapter 26 Article VIII.

In a Light Industrial (I-1) district:

1. Odor emanating from the use must not be discernable from the property line of the permitted parcel.
2. The use must be secured to the applicable standards of Minnesota Rules 9810.1500.
3. The use must meet the off-street parking and off-street loading requirements of City Code Chapter 26 Article VIII.

In a General Business (B-3) district:

1. Odor emanating from the use must not be discernable from the property line of the permitted parcel.
2. The use must be secured to the applicable standards of Minnesota Rules 9810.1500.
3. The use must meet the off-street parking and off-street loading requirements of City Code Chapter 26 Article VIII.

26-1002.2.3 Hemp Manufacture

In a Heavy Industrial (I-2) district:

1. Odor emanating from the use must not be discernable from the property line of the permitted parcel.
2. The use must meet the off-street parking and off-street loading requirements of City Code Chapter 26 Article VIII.

In a Light Industrial (I-1) district:

1. Odor emanating from the use must not be discernable from the property line of the permitted parcel.
2. The use must meet the off-street parking and off-street loading requirements of City Code Chapter 26 Article VIII.

In a General Business (B-3) district:

1. Odor emanating from the use must not be discernable from the property line of the permitted parcel.
2. The use must meet the off-street parking and off-street loading requirements of City Code Chapter 26 Article VIII.

26-1002.2.4 Wholesale

In a Heavy Industrial (I-2) district:

1. The use must be secured to the applicable standards of Minnesota Rules 9810.1500.

In a Light Industrial (I-1) district:

1. The use must be secured to the applicable standards of Minnesota Rules 9810.1500.

In a General Business (B-3) district:

1. The use must be secured to the applicable standards of Minnesota Rules 9810.1500.

26-1002.2.5 Cannabis Retail

In a Light-Industrial (I-1) district:

1. The use must operate in a manner which is compatible with nearby light industrial uses and shall not be dissimilar in traffic generation, hours of operation, or service utility usage.

26-1003 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.

26-1004 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.