

ORDINANCE 2024-05

AN ORDINANCE AMENDING FAIRMONT CITY CODE, CHAPTER 26 ZONING TO ADD A NEW ARTICLE XII CANNABIS AND HEMP BUSINESS REGULATIONS

THE CITY OF FAIRMONT DOES ORDAIN:

SECTION 1. That Chapter 26: Zoning of the City Code of the City of Fairmont is hereby amended to add a new Article XII under Chapter 26 as follows:

Chapter 26, Article XII Cannabis and Hemp Business Regulations

Sec. 26-1000 Generally

The purpose of this article 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 and hemp businesses within the legal boundaries of the city.

26-1001 Jurisdiction

This ordinance shall be applicable to the legal boundaries of the City of Fairmont.

26-1002 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.

26-1003 Enforcement

The 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.

26-1004 Definitions

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.

- (1) *Cannabis Cultivator* means 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, seedlings, and/or 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.
- (2) *Cannabis Deliverer* means a cannabis business licensed to purchase cannabis flower, cannabis products, and hemp products, including lower-potency hemp edibles, from retailers or cannabis business with retail endorsements for transport and delivery to customers.
- (3) *Cannabis Manufacturer* means a cannabis business licensed to manufacture cannabis products and hemp products, and package such products for sale to a licensed cannabis retailer.
- (4) *Cannabis Retail Business* means a retail location and the retail location(s) of a mezzobusiness with a retail operations endorsement, microbusiness with a retail operations endorsement, and medical combination business operating a retail location.
- (5) *Cannabis Retailer* means 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.
- (6) *Cannabis Wholesaler* means a cannabis business licensed to purchase and sell immature cannabis plants and seedlings, cannabis flower, cannabis products, and hemp products, including lower-potency hemp edibles, from another licensed cannabis business, as well as import hemp-derived consumer products and lower-potency hemp edibles.
- (7) *Cannabis Transporter* means a cannabis business licensed to transport immature cannabis plants and seedlings, cannabis flower, cannabis products, and hemp products to licensed cannabis businesses.
- (8) *Daycare* means a location licensed with the Minnesota Department of Human Services to provide the care of a child outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.
- (9) *Hemp Manufacturer* means a hemp business licensed to manufacture artificially derived cannabinoids as well as lower-potency hemp edibles for public consumption and package such lower-potency hemp edibles for sale to costumers. Hemp manufacturers may also sell hemp concentrate, artificially derived cannabinoids, and lower-potency hemp edibles to other cannabis businesses and hemp businesses.
- (10) *Lower-potency Hemp Edible* means a hemp product as defined under M.S. § 342.01 subd. 50.
- (11) *Lower-potency Hemp Edible Retailer* means a hemp business licensed to sell lower-potency hemp edibles to consumers.
- (12) *Office of Cannabis Management* means the Minnesota Office of Cannabis Management, referred to as "OCM" in this ordinance.
- (13) *Preliminary License Approval* means an OCM pre-approval for a cannabis business license for an applicant who qualifies under Minn. Stat. 342.17.
- (14) *Residential Treatment Facility* means a facility as defined under Minn. Stat. 245.462 subd. 23.
- (15) *Retail Registration*: An approved registration issued by the City of Fairmont to a state- licensed cannabis retail business.
- (16) *School* means 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.

- (17) *State License* means an approved license issued by the State of Minnesota’s Office of Cannabis Management to a cannabis retail business.
- (18) *Testing Facility* means a cannabis business licensed to obtain and test immature cannabis plants and seedlings, cannabis, cannabis products, and hemp products from licensed cannabis businesses.

26-1005 Buffer Requirements

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

- (1) The city shall prohibit the operation of a cannabis business within 700 feet of a school.
- (2) The city shall prohibit the operation of a cannabis business within 500 feet of a daycare.
- (3) The city shall prohibit the operation of a cannabis business within 500 feet of a residential treatment facility.
- (4) The city 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.
- (5) The city 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 retail business requiring 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.

26-1006 Permitted and Conditional Land Uses

Cannabis businesses are allowed as land uses in the following zoning districts, subject to the buffer requirements of 26-1005 and the applicable conditional standards of 26-1007 and 26-1008:

Type of business	Districts permitted by right	Districts permitted as conditional
Cannabis Cultivator		Agriculture-transition (A) Heavy Industrial (I-2) Light Industrial (I-1)
Cannabis Manufacturer		Heavy Industrial (I-2) Light Industrial (I-1) General Business (B-3)
Hemp Manufacturer		Heavy Industrial (I-2) Light Industrial (I-1) General Business (B-3)
Cannabis Wholesaler		Heavy Industrial (I-2) Light Industrial (I-1) General Business (B-3)
Cannabis Retailer	General Business (B-3) Central Business (B-2)	Light Industrial (I-1)
Lower-potency Hemp Edible Retailer	General Business (B-3) Central Business (B-2)	Light Industrial (I-1)
Cannabis Transporter	Heavy Industrial (I-2)	

	Light Industrial (I-1) General Business (B-3)	
Cannabis Deliverer	Heavy Industrial (I-2) Light Industrial (I-1) General Business (B-3)	
Testing Facility	Heavy Industrial (I-2) Light Industrial (I-1) General Business (B-3)	

26-1007 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.

26-1008 Conditional Use Specific Standards

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

(a) Cannabis Cultivator

(1) In an Agriculture-transition (A) district:

- a. Odor emanating from the use must not be discernable from the property line of the permitted parcel.
- b. The business must be secured through proper security measures and controls in compliance with M.S. Ch. 342 and associated Minnesota Rules.

(2) In a Heavy Industrial (I-2) district:

- a. Outdoor cultivation is prohibited.
- b. Odor emanating from the use must not be discernable from the property line of the permitted parcel.
- c. The business must be secured through proper security measures and controls in compliance with M.S. Ch. 342 and associated Minnesota Rules.

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

- a. Outdoor cultivation is prohibited.
- b. Odor emanating from the use must not be discernable from the property line of the permitted parcel.
- c. The business must be secured through proper security measures and controls in compliance with M.S. Ch. 342 and associated Minnesota Rules.

(b) Cannabis Manufacturer

(1) In a Heavy Industrial (I-2) district:

- a. Odor emanating from the use must not be discernable from the property line of the permitted parcel.
- b. The business must be secured through proper security measures and controls in compliance with M.S. Ch. 342 and associated Minnesota Rules.
- c. The use must meet the off-street parking and off-street loading requirements of City Code Chapter 26 Article VIII.

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

- a. Odor emanating from the use must not be discernable from the property line of the permitted parcel.
- b. The business must be secured through proper security measures and controls in compliance with M.S. Ch. 342 and associated Minnesota Rules.
- c. The use must meet the off-street parking and off-street loading requirements of City Code Chapter 26 Article VIII.

(3) In a General Business (B-3) district:

- a. Odor emanating from the use must not be discernable from the property line of the permitted parcel.
- b. The business must be secured through proper security measures and controls in compliance with M.S. Ch. 342 and associated Minnesota Rules.
- c. The use must meet the off-street parking and off-street loading requirements of City Code Chapter 26 Article VIII.

(c) Hemp Manufacturer

(1) In a Heavy Industrial (I-2) district:

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

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

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

(3) In a General Business (B-3) district:

- a. Odor emanating from the use must not be discernable from the property line of the permitted parcel.
 - b. The use must meet the off-street parking and off-street loading requirements of City Code Chapter 26 Article VIII.
- (d) Cannabis Wholesaler
 - (1) In a Heavy Industrial (I-2) district:
 - a. The business must be secured through proper security measures and controls in compliance with M.S. Ch. 342 and associated Minnesota Rules.
 - (2) In a Light Industrial (I-1) district:
 - a. The business must be secured through proper security measures and controls in compliance with M.S. Ch. 342 and associated Minnesota Rules.
 - (3) In a General Business (B-3) district:
 - a. The business must be secured through proper security measures and controls in compliance with M.S. Ch. 342 and associated Minnesota Rules.
- (e) Cannabis Retailer
 - (1) In a Light-Industrial (I-1) district:
 - a. 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.
- (f) Lower-potency Hemp Edible Retailer
 - (1) In a Light-Industrial (I-1) district:
 - a. 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.

Secs. 26-1009—26-1030. - Reserved.


SECTION 2: This Ordinance shall take effect immediately after its publication.

Passed by the City Council of the City of Fairmont, Minnesota, this 9th day of December 2024.



Lee C. Baarts, Mayor

ATTEST:



Betsy Steuber, City Clerk

First Consideration: November 18, 2024

Motion by: Councilmember Maynard

Second by: Councilmember Miller

All in Favor: Councilmembers Hasek, Lubenow, Kawecki, Maynard & Miller

Opposed: None

Abstained: None

Absent: None

Second Consideration: December 9, 2024

Motion by: Councilmember Kawecki

Second by: Councilmember Maynard

All in Favor: Councilmembers Hasek, Kawecki, Maynard & Miller

Opposed: Lubenow

Abstained: None

Absent: None