

Ordinance 2024-07

AN ORDINANCE AMENDING FAIRMONT CITY CODE, CHAPTER 14 LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS TO REGULATE CANNABIS AND HEMP RETAIL BUSINESS REGISTRATION AND TEMPORARY CANNABIS EVENTS

THE CITY OF FAIRMONT DOES ORDAIN:

SECTION 1. That Chapter 14: Licenses, Permits and Miscellaneous Business regulations of the City Code of the City of Fairmont is hereby amended to add a new Article VII, as follows:

ARTICLE VII. – Cannabis and Hemp Retail Business Registration and Temporary Cannabis Events

Sec. 14-80. State Law Adopted.

Except as further restricted or regulated by this chapter, the provisions of Minn. Stat § 342, relating to cannabis and hemp regulation and the corresponding state rules with respect to the same are hereby adopted and made a part of this chapter as if set out herein in full. In accordance with Minn. Stat. § 342.13 and 342.22, the city may impose further restrictions and regulations within city limits. Whenever there is an inconsistency between the provisions of Minn. Stat. § 342, as amended, and the provisions of this chapter, the more restrictive provision shall govern, unless preempted by state law.

Sec. 14-81. Authority and Jurisdiction.

The city 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.

Sec. 14-82. Severability.

If any section, subdivision, clause, provision, or portion of this article is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected thereby.

Sec. 14-83. Enforcement.

The City Clerk or their designee is responsible for the administration and enforcement of this article. Any violation of the provisions of this article or failure to comply with any of its requirements constitutes a misdemeanor and is punishable as defined by law. Violations of this article can occur regardless of whether or not a permit is required for a regulated activity listed in this article.

Sec. 14-84. - 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 article.

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.

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.

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.

Lower-potency Hemp Edible means a hemp product as defined under M.S. § 342.01 subd. 50.

Lower-potency Hemp Edible Retailer means a hemp business licensed to sell lower-potency hemp edibles to consumers. For the purpose of this article, a lower-potency hemp edible retailer shall be considered a cannabis retail business.

Office of Cannabis Management means the Minnesota Office of Cannabis Management, referred to as "OCM" in this ordinance.

Place of Public Accommodation means 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.

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

Public Place means 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.

Residential Treatment Facility means a facility as defined under Minn. Stat. 245.462 subd. 23.

Retail Registration: An approved registration issued by the City of Fairmont to a state- licensed cannabis retail business.

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.

State License means an approved license issued by the State of Minnesota's Office of Cannabis Management to a cannabis retail business.

Sec. 14-85. Registration of Cannabis Businesses.

No individual or entity may operate a state-licensed cannabis retail business within the city without first registering with the city.

Sec. 14-86. Compliance Checks Prior to Retail Registration.

Prior to issuance of a cannabis retail business registration, the city shall conduct a preliminary compliance check to ensure compliance with local ordinances.

Sec. 14-87. Pre-License Application Response.

Pursuant to Minn. Stat. § 342.13(f), within 30 days of receiving a copy of a state license application from OCM, the city shall certify on a form provided by OCM whether a proposed cannabis retail business complies with local zoning ordinances and, if applicable, whether the proposed business complies with the state fire code and building code.

Sec. 14.88. Registration and Application Procedure.

The city 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 Clerk. 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 this article and any other ordinance established pursuant to Minn. Stat. § 342.13; and
 - (5) The zoning designation for the property which the retail registration is sought.
- (b) The applicant shall include with the form:
 - (1) The registration fee as required in section 14-89;
 - (2) A copy of a valid state license or written notice of OCM license preapproval; and
 - (3) A site plan of the property drawn to scale showing the location of retail activity.
- (c) Once an application is considered complete, the City Clerk shall inform the applicant as such, process the registration fee, conduct a preliminary compliance check as provided by Sec. 14-86 and forward the application to the Zoning Official or their designee to review the application for conformance with City Code Chapter 26, Article XII Cannabis Regulations. The Zoning Official shall inform the City Clerk of the application's compliance. City Council shall then approve or deny the application.
- (d) The registration fee shall be non-refundable once processed.

Sec. 14-89. 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. The city shall not charge an application fee.

- (a) 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.

- (b) Any renewal retail registration fee imposed by the city 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, whichever is less.
- (c) 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.

Sec. 14-90. Application Approval or Denial.

- (a) A state-licensed cannabis retail business registration application shall not be approved or renewed if:
 - (1) The applicant is unable to meet the requirements of this article.
 - (2) The applicant is unable to meet the zoning and buffer requirements related to the proposed location of the business.
 - (3) The applicant does not have a valid license issued by the OCM.
 - (4) The applicant fails to provide any information required on the application or provides inaccurate, false or misleading information.
 - (5) The fee for the registration or registration renewal has not been paid.
 - (6) The applicant has otherwise failed a preliminary inspection or compliance check completed by the city.
- (b) A state-licensed cannabis retail business application that meets the requirements of this article shall be approved.

Sec. 14-91. Annual Compliance Checks.

- (a) The city 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), Minn. Stat. § 342.24, and this article.
- (b) The city shall conduct at minimum one unannounced age verification compliance check at least once per calendar year.
- (c) 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.
- (d) Any failures under this section must be reported to the Office of Cannabis Management.

Sec. 14.92. Location Change.

If a state-licensed cannabis retail business seeks to move to a new location still within the legal boundaries of the city it shall notify the City Clerk of the proposed location change and submit necessary information to meet all the criteria of this article.

Sec. 14-93. Transfer of License Prohibited.

A cannabis retail registration issued under this article shall not be transferred.

Sec. 14-94. Renewal of Registration.

- (a) The city shall renew an annual registration of a state-licensed cannabis retail business at the same time OCM renews the cannabis retail business' license.
- (b) A state-licensed cannabis retail business shall apply to renew registration on a form established by the city.
- (c) The application for renewal of a retail registration shall include, but is not limited to, the items required under section 14-88 of this article.
- (d) The city may charge a renewal fee for the registration starting at the second renewal, as established in the city's fee schedule.

Sec. 14-95. Suspension of Registration.

- (a) The city may suspend a cannabis retail business's registration if it violates any ordinance of the city or poses an immediate threat to the health or safety of the public. The city shall immediately notify the cannabis retail business in writing the grounds for the pending suspension.
- (b) The city shall immediately notify the OCM in writing the grounds for the suspension. OCM will provide the city and cannabis business retailer a response to the complaint within seven calendar days and perform any necessary inspections within 30 calendar days pursuant to Minn. Stat. § 342.13(g).
- (c) The pending suspension shall not be effective until such suspension is approved by the OCM or the OCM takes corresponding action with regard to the state license of the cannabis retail business.
- (d) 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.
- (e) The city may reinstate a registration if it determines that the violations have been resolved. The city shall reinstate a registration if OCM determines that the violation(s) have been resolved.

Sec. 14-96. Civil Penalties.

- (a) Pursuant to Minn. Stat. 342.22, subd. 5(e) the city may impose a civil penalty, as specified in the city's Fee Schedule, for registration violations, not to exceed \$2,000.
- (b) Any state-licensed cannabis retail business that sells to a customer or patient without valid retail registration shall incur a civil penalty of up to \$2,000 for each violation, as specified in the city's Fee Schedule.

Sec. 14-97. Temporary Cannabis Events.

- (a) Per Minn. Stat. 342.39, a cannabis event organizer license is required in addition to the application to the city.

- (b) No person shall hold a temporary cannabis event unless an application has been approved by the city 30 days prior to the temporary cannabis event.
- (c) An application fee, as established in the city's fee schedule, shall be charged to applicants for temporary cannabis events. The application fee for a temporary cannabis event shall not exceed \$500 or half the amount of a state application fee for a cannabis event organizer license under Minn. Stat. § 342.11, whichever is less.

Sec. 14-98. Temporary Cannabis Event Application Submittal and Review.

The city shall require an application for temporary cannabis events.

- (a) An applicant for a retail registration shall fill out an application form, as provided by city. 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 zoning designation for the property which the event is proposed;
- (b) The applicant shall include with the form:
 - (1) The application fee as required in Section 14-97(c);
 - (2) A copy of the OCM cannabis event license application, submitted pursuant to Minn. Stat. § 342.39 subd. 2.
 - (3) A site plan of the property drawn to scale showing the location of the event.
- (c) The application shall be submitted to the City Clerk or their designee for review. If the City Clerk or their designee determines that a submitted application is incomplete, they shall return the application to the applicant with the notice of deficiencies.
- (d) Once an application is considered complete, the City Clerk or their designee shall inform the applicant as such, process the application fees, and forward the application to the Zoning Official or their designee to review the application for conformance with City Code Chapter 26, Article XII Cannabis Regulations. The Zoning Official shall inform the City Clerk of the application's compliance. City Council shall then approve or deny the application.
- (e) The application fee shall be non-refundable once processed.
- (f) The application for a license for a temporary cannabis event shall meet the following standards:
 - (1) The temporary cannabis event shall only be held on property zoned to allow Cannabis Retailers.
 - (2) The temporary cannabis event shall only be held on property which, measured from the property line is;
 - 700 feet away from a school
 - 500 feet away from a day care

- 500 feet away from a residential treatment facility
- 500 feet away from an attraction within a public park that is regularly used by minors, including a playground or athletic field
- 300 feet away from another cannabis retail business.

(g) A request for a temporary cannabis event that meets the requirements of this Section shall be approved.

(h) A request for a temporary cannabis event that does not meet the requirements of this section shall be denied. The city shall notify the applicant of the standards not met and basis for denial.

Sec 14-99. Hours of Operation for Retail Sale and Temporary Cannabis Events

Cannabis businesses are limited to retail sale of cannabis, cannabis flower, cannabis products, or hemp-derived consumer products between the hours of 10:00 am and 9:00 pm, seven days a week. The hours of operation established under this Section shall not apply to businesses licensed by the OCM as lower-potency hemp edible retailers.

Temporary cannabis events shall only be held between the hours of 10:00 am and 9:00 pm.

Sec 14-100. Limitation of Number of Cannabis Retail Registrations.

The city shall limit the number of cannabis retail businesses to two (2) within the City of Fairmont boundaries. This limitation shall not apply to businesses licensed by the OCM as lower-potency hemp edible retailers or medical cannabis combination businesses.

Sec 14-101. City of Fairmont as a Cannabis Retailer.

The city may establish, own, and operate one municipal cannabis retail business subject to the restrictions in this chapter. The municipal cannabis retail store shall not be included in any limitation of the number of registered cannabis retail businesses under section 14-99. The city shall be subject to all the same registration requirements and procedures applicable to all other applicants.

Sec. 14-102. Lower-Potency Hemp Edibles.

- (a) The city may sell lower -potency hemp edibles within the Municipal Liquor Store.
- (b) Lower-potency hemp edibles shall be sold behind a counter and stored in a locked case.

Sec. 14-103. Use in Public Places.

- (a) 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.
- (b) A violation of this section shall be a petty misdemeanor.

Secs. 14-104—14-120. - Reserved.

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

Passed by the City Council of the City of Fairmont, Minnesota, this ____ day of _____
2024.

Mayor

ATTEST:

City Clerk

First Consideration: December 9, 2024

Motion by: Councilmember Lubenow

Second by: Councilmember Hasek

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

Opposed: None

Abstained: None

Absent: None

Second Consideration:

Motion by:

Second by:

All in Favor:

Opposed:

Abstained:

Absent: