



STAFF REPORT
DATE: 11/12/2024
PUBLIC HEARING

TO: Planning Commission
FROM: Nathan Fuerst, AICP, Consulting Planner
AGENDA ITEM: **Cannabis Regulations – Draft Registration and Land Use Standards**
REVIEWED BY: Jason Stopa, Community Development Director
Sophia Jensen, City Planner

BACKGROUND:

In 2023, Chapter 342 of Minnesota State Statutes was established legalizing cannabis for recreational adult use and the sale, possession, use, and growth of cannabis. The same statute also created the Office of Cannabis Management (OCM), a new State agency that regulates cannabis use and businesses in Minnesota. The OCM is currently finalizing rules and standards for licensing and use of facilities that will deal with cannabis. The OCM recently closed the application period for Social Equity Applicants and received over 1,800 applications. Licenses are anticipated to be issued shortly after the rules are finalized in 2025.

Although it is not guaranteed that the state begins to license businesses immediately after January 1, 2025, it is a possibility. To that end, city staff are seeking to avoid situations where legal nonconformities could be created.

All cannabis businesses are required to comply with local zoning ordinances. Upon receipt of an application for a license, the OCM will reach out to local governments to certify zoning compliance during their application process. Cities without zoning controls in place will have a difficult time responding that uses do or do not comply with their ordinance.

Staff are looking for feedback from the City Council and Planning Commission on the following items:

- Should the City control registration of retail cannabis businesses?
- Which cannabis businesses should be allowed in which zoning districts?
- What level of performance standards should the City place on cannabis businesses?

ISSUE BEFORE THE CITY:

The Planning Commission is asked to review the proposed draft standards and provide a recommendation to City Council on registration and land use standards for cannabis businesses.

REGISTRATION VS. LICENSING:

The OCM will issue and manage licenses for cannabis businesses. Retail operations for cannabis must register with local units of government before making retail sales to customers or patients. Currently, local government units are required to allow for one registration for every 12,500

residents. The statute specifies these registrants as cannabis retailers, cannabis mezzobusinesses with a retail operations endorsement, and cannabis microbusinesses with a retail operations endorsement. This minimum of one applies only to cannabis retailer registration. It is currently unclear if the City will be able to limit non-retailer uses to any capacity, however, staff believes uses that are not required to register cannot be prohibited.

The pros and cons of registering locally vs with Washington County are generally laid out below:

Pros:

1. Local control on the number of registrants, Lake Elmo can limit to up to two retail businesses.
2. Local control on process of registration such as background checks, enforcement, etc.

Cons:

1. Use of limited staff resources for processing registrations.
2. County registration process or potentially the number of retail registrants in Lake Elmo are out of the City's control.

PROPOSED ORDINANCE UPDATES:

Per State law, cities may place reasonable restrictions on the *time, place, and manner* of a cannabis business but may not outright ban one. A city is required to issue a retail registration to a cannabis retailer and/or any cannabis business seeking a retail endorsement if compliant with the City's rules.

The only cannabis business which the City is permitted by state statute to limit per number of registered business is the retail sale of cannabis products. This type of business can be limited to 1 per every 12,500 residents of a City, Township, or County. It may be possible to limit retail registrations to zero if there are enough licensed retailers in the county to satisfy the 1 business per 12,500 resident ratio county-wide.

Cannabis Businesses and Uses

Minnesota State Statute defines the term "cannabis business." This term means the following uses:

1. cannabis microbusiness;
2. cannabis mezzobusiness;
3. cannabis cultivator;
4. cannabis manufacturer;
5. cannabis retailer;
6. cannabis wholesaler;
7. cannabis transporter;
8. cannabis testing facility;
9. cannabis event organizer;
10. cannabis delivery service;
11. medical cannabis cultivator;
12. medical cannabis processor;
13. medical cannabis retailer; and
14. medical cannabis combination business.

These “businesses” correlate with the types of licenses that will be available from the OCM. Without amendments to the Zoning Ordinance, cannabis uses may be grouped in with existing land use classifications. The figure on the following page is intended to provide an assessment of land use elements associated with each type of cannabis businesses.

| | | Use | | | | | | | | |
|--------------|-------------------|--------|---------|-----------|---------------------|---------|-------------------------|-----------|-----------|-------------------------|
| | | Grow | | Sell to | | Consume | Manufacture/ Process | Packaging | Wholesale | Research/ Laboratory |
| | | Indoor | Outdoor | Customers | Other Businesses | | | | | |
| License Type | Microbusiness | X | X | X | X | X | X | X | | |
| | Mezzobusiness | X | X | X | X | | X | X | | |
| | Cultivator | X | X | | X | | X | X | | |
| | Manufacturer | | | | X | | X | X | | |
| | Retailer | | | X | | | | | | |
| | Wholesaler | | | | | | | | X | |
| | Testing | | | | | | | | | X |
| | Event | | | X | | | | | | |
| | Transporter | N/A | | | | | | | | |
| | Delivery Services | N/A | | | | | | | | |

Micro and Mezzobusinesses

Microbusiness and mezzobusinesses are the two unique use names within cannabis. These uses can be compared to something like a small winery or brewery; however, on-site consumption of intoxicating products is only allowed by state licenses for microbusinesses. Microbusinesses and mezzobusinesses are allowed to cultivate, manufacture/process, package, and sell with their license. Businesses licensed as microbusinesses or mezzobusinesses can operate multiple locations and the cultivation and manufacturing part of the license can be located separately from the retail location. As such, the uses may have multiple parts of a singular building that make up a single structure such as a warehouse type facility for storage and processing and a greenhouse for cultivation, but these all serve the principal use of microbusiness or mezzobusiness.

Draft Zoning Standards

Staff are generally recommending the following changes at this time:

- Establishment of definitions for cannabis and hemp uses.
- Revision of land use tables in Mixed Use, Business, and Industrial Districts to regulate the specific cannabis business uses.
- Establishment of performance standards for cannabis businesses and the process for temporary cannabis events.

Zoning District Use Table Amendments

Changes to allow low potency hemp product sales in the Village Districts in LEC 105.12.780:

| | V-LDR | V-MDR | V-HDR | VMX |
|--|--------------|--------------|--------------|------------|
| Accessory Uses: | | | | |
| <u>Lower-potency hemp edible sales</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>P</u> |

Changes to allow cannabis businesses in Commercial Districts in LEC 105.12.870 and 105.12.920:

| | LC | CC | C | BP | MU-C | MU-BP |
|--|-----------|-----------|----------|-----------|-------------|--------------|
| Sales of Merchandise: | | | | | | |
| <u>Cannabis Cultivation</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>C</u> | <u>N</u> | <u>N</u> |
| <u>Cannabis Event, Temporary</u> | <u>P</u> | <u>N</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> |
| <u>Cannabis Mezzobusiness</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>C</u> | <u>N</u> | <u>C</u> |
| <u>Cannabis Microbusiness</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>C</u> | <u>N</u> | <u>C</u> |
| <u>Cannabis Sales</u> | <u>C</u> | <u>N</u> | <u>C</u> | <u>C</u> | <u>C</u> | <u>C</u> |
| <u>Cannabis Wholesaling</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>C</u> | <u>N</u> | <u>C</u> |
| <u>Lower-Potency Hemp Edible Manufacturing</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>C</u> | <u>N</u> | <u>C</u> |
| <u>Lower-Potency Hemp Edible Sales</u> | <u>C</u> | <u>N</u> | <u>C</u> | <u>C</u> | <u>C</u> | <u>C</u> |
| Accessory Uses: | | | | | | |
| <u>Cannabis Delivery</u> | <u>C</u> | <u>N</u> | <u>C</u> | <u>C</u> | <u>C</u> | <u>C</u> |

District Abbreviations:

LC = Limited Commercial, CC = Convenience Commercial, C = Commercial, BP = Business Park/Light Manufacturing District, MU-C = Mixed Use Commercial, MU-BP = Mixed Use Business Park

Buffers/Setbacks

State statute allows cities to adopt restrictions if they choose by prohibiting registrations within:

- 1,000 feet of a school
- 500 feet of a daycare
- 500 feet of a residential treatment facility
- 500 feet from an attraction in a public park regularly used by minors, such as a playground or athletic field.

Staff have drafted an ordinance with all buffers adopted as the most restrictive option. However, the buffers from daycare and residential treatment facilities are more difficult to administer and may be less of a concern for public safety.

Odor Control

OCM has left odor control to be controlled at the local level aside from Minnesota Pollution Control Standards for nuisances. The draft standards include a condition that odor control systems be installed for uses where odor would be expected as part of the regular businesses (indoor cultivation, manufacturing, wholesaling). In researching standards for this, some communities require verification from a qualified industrial hygienist that appropriate odor control systems have been installed and continual monitoring was required. If the Council wishes to require this, the standards should be modified to reflect this.

Lighting

All uses will be required to meet the standards within the City Code for outdoor lighting, however, indoor cultivation has a specific need for lighting to facilitate plant growth. Indoor cultivation done in greenhouses will have semi-transparent structures and during the winter months, the indoor illumination needed for the plants to grow will be obvious from outside of the structure. In researching the use in other communities, it was found that 4:30 a.m. and 10:00 p.m. was a time frame that was used to allow this. Cannabis requires a lighting cycle of 12 hours of light and 12 hours of darkness for ideal growing conditions. This time frame could be more limited if the Council desired. The Council may also limit indoor cultivation to strictly non-greenhouse buildings.

Outdoor Use Prohibitions

The draft ordinance restricts outdoor storage to only the daily parking of vehicles. This standard will apply to all cannabis businesses.

As part of a cultivator, microbusiness, and mezzobusiness license, cultivation is allowed and can either be indoor cultivation (greenhouses, hydroponics) or outdoor cultivation. Outdoor cultivation is not expected to be largely utilized as the growing conditions in Minnesota are not optimal for cannabis. The draft ordinance does not allow outdoor cultivation.

Cannabis Testing Facilities

The City may want to consider regulating cannabis testing facilities separately from the “Research, and testing” use that exists within the code as a conditional use in Business Parks and Mixed-Use Business Parks. If development standards for “Research and testing” were amended, any new standard could make existing uses within the City legally nonconforming if they did not comply with the amended standards. To avoid this, cannabis testing facilities could be listed as its own use rather than for “Research and testing” and would be subject to the same standards as other cannabis uses.

Temporary Cannabis Events

The City is encouraged to consider proactively adopting standards for Temporary Cannabis Events. It is staff's opinion that this use must be permitted somewhere in the City. The standards proposed are summarized below:

- Permit required – a permit is required for such events to allow the City time to process a request.
- Application and Fees – application and fee requirements are established.
- Process – a permit application would initiate a review process with city council approval of permits for temporary cannabis events.
- Standards:
 - OCM license is required for the business.
 - Temporary Cannabis Events are only permitted at approved Cannabis Cultivation, Cannabis Mezzobusiness, Cannabis Microbusiness, Cannabis Retail, and Low Potency Hemp Retail Locations.
 - Temporary Cannabis Events must last no more than four consecutive calendar days.
 - No more than four Temporary Cannabis Events may be conducted at a single location in a calendar year.
 - Hours of operation for a Temporary Cannabis Event are limited to 10:00 AM to 5:00 PM.

Public Hearing

Staff published a public hearing notice in the City's official paper. At the time of writing, no public comments have been received regarding the draft ordinance.

Draft Ordinance Timeline

Staff propose the following timeline for review and approval of an ordinance before the new year:

- ~~November 12, 2024 – Joint workshop between Planning Commission and City Council~~
- November 25, 2024 – Public Hearing at Planning Commission
- December 3, 2024 – City Council Review of draft ordinance

Recommendation

It is suggested that the Planning Commission provide a recommendation that the City Council approve the proposed ordinance amendments.

Example Motion:

“Move to recommend City Council approval of the proposed ordinance amendments for registration and regulation of cannabis and hemp businesses as written by staff.”

ATTACHMENTS:

- Draft Ordinance – Land Use Standards
- Draft Ordinance – Registration Standards
- A Guide for Local Minnesota Governments of Adult Use Cannabis, Version 1.4

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 2024-XX

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE TITLE 1 AND 105 TO REGULATE
CANNABIS BUSINESSES

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title 1, General Provisions; Chapter 1.08: Definitions by changing the following section (Proposed language is underlined; deleted language is shown with ~~strikethrough~~):

Cannabis business means a business licensed by the Office of Cannabis Management (OCM) as defined by Minnesota Statute 342.01 Subd. 14.

Cannabis cultivation means a cannabis business that conducts an operation pursuant to Minnesota Statute Section 342.30, as it may be amended.

Cannabis deliver means a cannabis business that conducts an operation pursuant to Minnesota Statute Section 342.42, as it may be amended.

Cannabis event. A temporary cannabis event lasting no more than four days operating pursuant to Minnesota Statute Section 342.39, as it may be amended.

Cannabis, mezzobusiness means a cannabis business that conducts an operation pursuant to Minnesota Statute Section 342.29, as it may be amended.

Cannabis, microbusiness means a cannabis business that conducts an operation pursuant to Minnesota Statute Section 342.28, as it may be amended.

Cannabis sales means the sale of cannabis plants and seedlings, adult-use cannabis flower, and adult use cannabis products directly to consumers pursuant to Minnesota Statute Section 342.27.

Cannabis manufacturing means a cannabis business that conducts an operation pursuant to Minnesota Statute Section 342.31, as it may be amended.

Hemp business means a business licensed by the Office of Cannabis Management (OCM) as defined by Minnesota Statute 342.01 Subd. 34.

Lower-potency hemp edible manufacturing means a hemp business that conducts an operation pursuant to Minnesota Statute Section 342.45, as it may be amended.

Lower-potency hemp edible sales means a hemp business that conducts an operation pursuant to Minnesota Statute Section 342.46, as it may be amended.

SECTION 2. The City Council of the City of Lake Elmo hereby amends Title 105, Chapter 105.12 Zoning Code, Section 780, Table 11-1: Permitted and Conditional Uses, Village Districts, (Proposed language is underlined):

| | V-LDR | V-MDR | V-HDR | VMX | Standard |
|--|----------|----------|----------|----------|--------------------|
| Accessory Uses: | | | | | |
| <u>Lower-potency hemp edible sales</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>P</u> | <u>105.12.1490</u> |

SECTION 3. The City Council of the City of Lake Elmo hereby amends Title 105, Chapter 105.12 Zoning Code, Section 870, Table 14-1: Permitted, Conditional and Interim Uses, Mixed-Use Commercial and Mixed-Use Business Park Districts (Proposed language is underlined):

| | MU-C | MU-BP | Standard |
|--|-------------|--------------|--------------------|
| Sales of Merchandise: | | | |
| <u>Cannabis cultivation</u> | <u>N</u> | <u>N</u> | <u>105.12.1490</u> |
| <u>Cannabis event, temporary</u> | <u>P</u> | <u>N</u> | <u>105.12.1490</u> |
| <u>Cannabis mezzobusiness</u> | <u>N</u> | <u>N</u> | <u>105.12.1490</u> |
| <u>Cannabis microbusiness</u> | <u>N</u> | <u>N</u> | <u>105.12.1490</u> |
| <u>Cannabis sales</u> | <u>C</u> | <u>N</u> | <u>105.12.1490</u> |
| <u>Cannabis wholesaling</u> | <u>N</u> | <u>N</u> | <u>105.12.1490</u> |
| <u>Lower-potency hemp edible manufacturing</u> | <u>N</u> | <u>N</u> | <u>105.12.1490</u> |
| <u>Lower-potency hemp edible sales</u> | <u>C</u> | <u>N</u> | <u>105.12.1490</u> |
| Accessory Uses: | | | |
| <u>Cannabis delivery</u> | <u>C</u> | <u>N</u> | <u>105.12.1490</u> |

SECTION 4. The City Council of the City of Lake Elmo hereby amends Title 105, Chapter 105.12 Zoning Code, Section 920, Table 12-1: Permitted, Conditional and Interim Uses, (Proposed language is underlined):

| | LC | CC | C | BP | Standard |
|--|-----------|-----------|----------|-----------|--------------------|
| Sales of Merchandise: | | | | | |
| <u>Cannabis cultivation</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>C</u> | <u>105.12.1490</u> |
| <u>Cannabis event, temporary</u> | <u>P</u> | <u>N</u> | <u>P</u> | <u>P</u> | <u>105.12.1490</u> |
| <u>Cannabis mezzobusiness</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>C</u> | <u>105.12.1490</u> |
| <u>Cannabis microbusiness</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>C</u> | <u>105.12.1490</u> |
| <u>Cannabis sales</u> | <u>C</u> | <u>N</u> | <u>C</u> | <u>C</u> | <u>105.12.1490</u> |
| <u>Cannabis wholesaling</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>C</u> | <u>105.12.1490</u> |
| <u>Lower-potency hemp edible manufacturing</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>C</u> | <u>105.12.1490</u> |
| <u>Lower-potency hemp edible sales</u> | <u>C</u> | <u>N</u> | <u>C</u> | <u>C</u> | <u>105.12.1490</u> |
| Accessory Uses: | | | | | |
| <u>Cannabis delivery</u> | <u>C</u> | <u>N</u> | <u>C</u> | <u>C</u> | <u>105.12.1490</u> |

SECTION 5. The City Council of the City of Lake Elmo hereby amends Title 105, General Provisions; Chapter 105.12 Zoning Code, Article XXI, Design and Performance Standards, Restrictions on Nuisance and Hazardous Activities by renumbering Section 1490, Penalty, to 1500.

SECTION 6. The City Council of the City of Lake Elmo hereby amends Title 105, General Provisions; Chapter 105.12 Zoning Code, Article XXI, Design and Performance Standards, Restrictions on Nuisance and Hazardous Activities by adding a section 1490 (Proposed language is underlined):

(a) Applicability. The standards within this subsection shall apply to the following uses:

- (1) Cannabis Cultivation
- (2) Cannabis Events, Temporary
- (3) Cannabis Manufacturing
- (4) Cannabis, Mezzobusiness
- (5) Cannabis, Microbusiness
- (6) Cannabis Sales
- (7) Cannabis Wholesaling
- (8) Lower-Potency Hemp Edible Manufacturing
- (9) Lower-Potency Hemp Edible Sales

(b) Buffers

- (1) Any cannabis use must be setback 1,000 feet from schools as established by Minnesota Statute Section 342.13(c)
- (2) Any cannabis use must be setback 500 feet from a day care as established by Minnesota Statute Section 342.13(c)
- (3) Any cannabis use must be setback 500 feet from a residential treatment facility as established by Minnesota Statute Section 342.13(c)
- (4) Any cannabis use must be setback 500 feet from an attraction within a public park that is regularly used by minors, including a playground or athletic field.

(c) Development Standards

- (1) Must be licensed by the State of Minnesota and in compliance with the standards set by Minnesota Statutes, Minnesota Rules, and the Office of Cannabis Management.
- (2) The facility shall be secured as required by Minnesota Statutes, Minnesota Rules, and the Office of Cannabis Management.
- (3) Outdoor operations are prohibited.
- (4) The facility shall not produce noxious or nuisance causing odors, subject to the following conditions:
 - a. The facility shall be ventilated so that all odors cannot be detected by a person with a normal sense of smell at the exterior of the facility or at any adjoining use or property.
 - b. Growing cannabis must comply with all applicable laws and shall not produce noxious or dangerous gases or odors or otherwise create a danger to any person or entity in or near the facilities.
 - c. An odor maintenance plan must be submitted to the City and approved by the City.
 - d. At the City Council's discretion, the applicant may be required to provide plans that show appropriate odor control systems so as not to produce any noxious or dangerous gases or odors or create any dangers to any person or entity in or near the facility.
- (5) All mechanical, odor suppression equipment, and trash enclosures must be screened.
- (6) Outdoor storage beyond the daily parking of vehicles is prohibited.
- (7) Lighting
 - a. All site lighting must meet City Code requirements. All light fixtures must be downward directed with cut-offs and be architecturally designed to match the overall design of the building.
 - b. The specifications of all light fixtures must be provided to the City with the application for a conditional use permit.
 - c. A photometric plan must be submitted to the City with the application for a conditional use permit indicating light measure at the property line.

- d. Lighting within a greenhouse is permitted between the hours of 4:30 a.m. and 10:00 p.m. Lighting at the site property lines shall not exceed 1.0 foot-candles at any time.

(8) Water and Wastewater

- a. Management of wastewater shall be in accordance with the Office of Cannabis Management, Minnesota Pollution Control Agency, or local ordinances. Where multiple standards exist, the more restrictive of the standards shall apply.
- b. Water use within the site shall be designed to maximize the amount of water reuse possible.

(9) Signs

- a. Signs shall be in compliance with the Office of Cannabis Management and the City Code. Whenever a more restrictive standard exists, the more restrictive standard shall apply.

(d) Temporary Cannabis Events – In Business and Industrial Districts, a Temporary Cannabis Event may only be permitted as follows:

- (1) License or Permit Required for Temporary Cannabis Events. A license or permit is required to be issued and approved by the City of Lake Elmo prior to holding a Temporary Cannabis Event.
- (2) Registration & Application Procedure. A registration fee, as established in the City of Lake Elmo's fee schedule, shall be charged to applicants for Temporary Cannabis Events.
- (3) Application Submittal & Review. The City of Lake Elmo shall require an application for Temporary Cannabis Events.
- (4) An applicant for a Temporary Cannabis Event shall fill out an application form, as provided by the City of Lake Elmo. Said form shall include, but is not limited to:
 - a. Full name of the property owner and applicant;
 - b. Address, email address, and telephone number of the applicant;
 - c. A site plan including the location of the event, the set-up, location of parking, dates of the proposed event, hours of operation, lighting, signage, and any other information deemed necessary by the City.
- (5) The applicant shall include with the form:
 - a. The application fee as established in the City of Lake Elmo's fee schedule.
 - b. A copy of the OCM cannabis event license application, submitted pursuant to Minnesota Statute 342.39 subd. 2.
- (6) The application shall be submitted to the City 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.
- (7) 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.
- (8) The application fee shall be non-refundable once processed.
- (9) The application for a license for a Temporary Cannabis Event shall meet the following standards:
 - a. Must be licensed by the State of Minnesota and in compliance with the standards set by the Office of Cannabis Management.
 - b. Temporary Cannabis Events may only be held at approved Cannabis Cultivation, Cannabis Mezzobusiness, Cannabis Microbusiness, Cannabis Retail, and Low Potency Hemp Retail Locations.
 - c. Temporary Cannabis Events must last no more than four consecutive calendar days.
 - d. No more than four Temporary Cannabis Events may be conducted at a single location in a calendar year.
 - e. Hours of operation for a Temporary Cannabis Event are limited to 10:00 AM to 5:00 PM.
- (10) A request for a Temporary Cannabis Event that meets the requirements of this Section shall be approved.

- (11) 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.

SECTION 7. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 8. Adoption Date. This Ordinance 2024-~~XX~~ was adopted on this 3rd day of December 2024, by a vote of __ Ayes and __Nays.

LAKE ELMO CITY COUNCIL

Charles Cadenhead, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 2024-____ was published on the ____ day of _____, 2024.

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 2024-~~XX~~

**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) *Authority and Jurisdiction.* The City has the authority to adopt this ordinance pursuant to:
 - (1) 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.
 - (2) Minn. Stat. 342.22, regarding the local registration and enforcement requirements of state-licensed cannabis retail businesses and lower-potency hemp edible retail businesses.
 - (3) Minn. Stat. 152.0263, Subd. 5, regarding the use of cannabis in public places.
- (c) *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.
- (d) *Enforcement.* The City 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

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

- (a) *Consent to registering Cannabis Businesses*
 - (1) No individual or entity may operate a state-licensed cannabis retail business within the City of Lake Elmo without first registering with the City.
 - (2) 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.
- (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.
 - (2) Pursuant to Minn. Stat. 342, 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.

(c) Registration & Application Procedure

- (1) 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.
 - 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 shall be charged at the time of the second renewal and each subsequent renewal thereafter.
 - c. 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.
 - d. 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.
- (2) Application Submittal. 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 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 11.28.020(c)(1), 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.
- (3) Application Approval.
 - a. 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, including land use standards established in Title 105 Zoning.
 - b. A state-licensed cannabis retail business application that meets the requirements of this ordinance, including land use standards established in Title 105 Zoning, shall be approved.
- (4) 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) and Minn. Stat. 342.24 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.

- (5) Location Change.
 - a. If a state-licensed cannabis retail business 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.
- (d) Renewal of Registration
 - (1) 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.
 - a. A state-licensed cannabis retail business shall apply to renew registration on a form established by the City.
 - b. A cannabis retail registration issued under this ordinance shall not be transferred.
 - (2) Renewal Fees.
 - a. The City may charge a renewal fee for the registration starting at the second renewal, as established in City's fee schedule.
 - (3) Renewal Application.
 - a. The application for renewal of a retail registration shall include but is not limited to the items required under LEC 9.28.020 (c)(2).
- (e) Suspension of Registration
 - (1) When Suspension is Warranted.
 - a. The City may suspend a cannabis retail business's registration if it violates the ordinances of 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 suspension.
 - (2) Notification to OCM.
 - a. 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.
 - (3) Length of Suspension.
 - a. 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.
 - b. The City may reinstate a registration if it determines that the violations have been resolved.
 - c. The City shall reinstate a registration if OCM determines that the violation(s) have been resolved.
 - (4) Civil Penalties
 - a. Subject 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.

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 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) Pursuant to Minn. Stat. 462.357 subd. 1e, 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 attraction within a public park that is regularly used by minors moves within the minimum buffer zone.

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

SECTION 7. Adoption Date. This Ordinance 2024-XX was adopted on this rd day of December 2024, by a vote of ___ Ayes and ___Nays.

LAKE ELMO CITY COUNCIL

Charles Cadenhead, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 2024-___ was published on the ___ day of _____, 2024.