

ORDINANCE NO 2024-_____
CITY OF OSAKIS
COUNTIES OF DOUGLAS AND TODD
STATE OF MINNESOTA

AN ORDINANCE ADDING CHAPTER 33: CANNABIS BUSINESSES

The City Council of the City of Osakis, Douglas and Todd Counties, State of Minnesota, does hereby ordain:

Section 1. Administration

1.1 Findings and Purpose

The City Council for the City of Osakis makes the following legislative findings:
The purpose of this ordinance is to implement the provisions of Minnesota Statutes, chapter 342, which authorizes the City to protect the public health, safety, welfare of the City residents by regulating cannabis businesses within the legal boundaries of the City.

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

1.2 Authority & Jurisdiction

The City Council for the City of Osakis 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.

Ordinance shall be applicable to the legal boundaries of City of Osakis, Minnesota.

1.3 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.

1.4 Enforcement

The Zoning Administrator 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.

1.5 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 mezzo businesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, excluding 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 Osakis 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.

Section 2. Registration of Cannabis Businesses

2.1 Consent to registering of Cannabis Businesses

No individual or entity may operate a state-licensed cannabis retail business within the City of Osakis without first registering with the Zoning Administrator.

Any state-licensed cannabis retail business that sells to a customer or patient without valid retail registration shall incur a civil penalty of \$500 for each violation.

Notwithstanding the foregoing provisions, the state shall not issue a license to any cannabis business to operate in Indian country, as defined in United States Code, title 18, section 1151, of a Minnesota Tribal government without the consent of the Tribal government.

2.2 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.

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.

2.3 Registration & Application Procedure

2.3.1 Fees.

A registration fee, as established in the City's Fee Schedule Ordinance, 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 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.

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.

2.3.2 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.
Said form shall include, but is not limited to:
 - i. Full name of the property owner and applicant;
 - ii. Address, email address, and telephone number of the applicant;
 - iii. The address and parcel ID for the property which the retail registration is sought;
 - iv. Certification that the applicant complies with the requirements of local ordinances established pursuant to Minn. Stat. 342.13.
 - v. Verification of land use compliance by the Zoning Administrator.
- (B) The applicant shall include with the form:
 - i. the application fee as required in [Section 2.3.1];
 - ii. a copy of a valid state license or written notice of OCM license preapproval;
- (C) Once an application is considered complete, the Zoning Administrator shall inform the applicant as such. If denied, the applicant may appeal to the Zoning Commission of the City of Osakis for review of the Zoning Administrators decision.
- (D) The application fee shall be non-refundable once processed.

2.3.3 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.
- (B) A state-licensed cannabis retail business application that meets the requirements of this ordinance shall be approved.

2.3.4 Annual Compliance Checks.

The City shall complete at minimum one compliance check per calendar year of every cannabis business to assess if the business meets and follows the requirements required under [Minn. Stat. 342.22 Subd. 4(b) and Minn. Stat. 342.24

The City of Osakis shall conduct at minimum, one unannounced age verification compliance check at least once per calendar year.

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.

2.3.5 Location Change

A state-licensed cannabis retail business shall be required to submit a new application for registration under Section 2.3.2 if it seeks to move to a new location still within the legal boundaries of the City of Osakis.

2.4 Renewal of Registration

The City of Osakis shall 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 Osakis.

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

2.4.1 Renewal Fees.

The City of Osakis may charge a renewal fee for the registration starting at the second renewal, as established in City's fee schedule.

2.4.2 Renewal Application.

The application for renewal of a retail registration shall include, but is not limited to:

- Items required under Section 2.3.2 of this Ordinance.
- Other items required by the City and Zoning Administrator to ascertain the registration is in compliance with the City Code.

2.5 Suspension of Registration

2.5.1 When Suspension is warranted.

The City may suspend a cannabis retail business's registration if it violates the ordinance 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.

2.5.2 Notification to OCM.

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.

2.5.3 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 during this period to customers if their registration is suspended.

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

2.5.4 Civil Penalties.

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.

2.6 Limiting of Registrations

The City of Osakis shall limit the number of cannabis retail businesses to no fewer than one registration for every 12,500 residents within city limits of the City of Osakis, first come/first served.

Section 3. Requirements for Cannabis Businesses

3.1 Minimum Buffer Requirements:

The City shall prohibit the operation of a cannabis business within 1,000 feet of a school.

The City shall prohibit the operation of a cannabis business within 500 feet of a day care.

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

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.

The City shall prohibit the operation of a cannabis retail business within 500 feet of another cannabis retail business.

Upon application to the Planning Commission, on a case-by-case basis, and after a posted Public Hearing, the Planning Commission may amend the buffer requirements, by the use of a Conditional Use Permit application. Applicant must pay all CUP fees in addition to any other Cannabis Business License fee. The Planning Commission reserves the right to reject any and all applications or amend or adjust the applications and parameters.

Pursuant to Minn. Stat. 462.367 subd. 14, nothing in Section 3.1 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/attraction within a public park that is regularly used by minors) moves within the minimum buffer zone.

Zoning and Land Use

3.1.1. *Cultivation.*

Cannabis businesses licensed or endorsed for cultivation are a Permitted Use in the following zoning districts:

- C-3 (Highway Commercial) and I-1 (General Industrial)

3.2.2. *Cannabis Manufacturer.*

Cannabis businesses licensed or endorsed for cannabis manufacturer are a Permitted Use in the following zoning districts:

- C-3 (Highway Commercial) and I-1 (General Industrial)

3.2.3. *Hemp Manufacturer.*

Businesses licensed or endorsed for low-potency hemp edible manufacturers are a Permitted Use in the following zoning districts:

- C-3 (Highway Commercial) and I-1 (General Industrial)

3.2.4. *Wholesale.*

Cannabis businesses licensed or endorsed for wholesale are a Permitted Use in the following zoning districts:

- C-3 (Highway Commercial) and I-1 (General Industrial)

3.2.5. Cannabis Retail.

Cannabis businesses licensed or endorsed for cannabis retail are by a Conditional Use in the following zoning districts:

- C-3 (Highway Commercial)

3.2.6. Cannabis Transportation.

Cannabis businesses licensed or endorsed for transportation are a Permitted Use in the following zoning districts:

- C-3 (Highway Commercial) and I-1 (General Industrial)

3.2.7. Cannabis Delivery.

Cannabis businesses licensed or endorsed for delivery are a Permitted Use in the following zoning districts:

- C-3 (Highway Commercial) and I-1 (General Industrial)

3.2.8. All Other Cannabis Businesses Licensed by the State Not Listed Above:

All other Cannabis businesses licensed by the state are by a Conditional Use in the following Zoning Districts:

- C-3 (Highway Commercial) and I-1 (General Industrial)

3.2 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 8:00 AM and 10:00 PM, Monday through Saturday and 11:00 AM until 6:00 PM on Sundays.

3.3 Advertising

As allowed under city code for the underlying zoning district. Sign permits are required for all signs erected.

Section 4. Temporary Cannabis Events

4.1 License or Permit Required for Temporary Cannabis Events

4.1.1 License Required.

A license or permit is required to be issued and approved by City prior to holding a Temporary Cannabis Event.

4.1.2 Registration & Application Procedure

A registration fee, as established in City's fee schedule, shall be charged to applicants for Temporary Cannabis Events.

4.1.3 Application Submittal & Review.

The City of Osakis shall require an application for Temporary Cannabis Events.

(A) An applicant shall fill out an application form, as provided by the City. Said form shall include, but is not limited to:

- i. Full name of the property owner and applicant;
- ii. Address, email address, and telephone number of the applicant;
- iii. Full site plan
- iv. Times of operation.
- v. Proof of Insurance at least equal to City of Osakis tort liability limits and naming the City as additional insured.
- vi. Security plan approved by the County Sheriff's Department or other qualified Law Enforcement agency chosen by the city.

- (B) The applicant shall include with the form:
- i. the application fee as required in City's fee schedule.
 - ii. a copy of the OCM cannabis event license application, submitted pursuant to Minnesota State Statute 342.39 subd. 2 or subsequent State licensing requirements.

The application shall be submitted to the City Clerk, or other designee for review. If the designee 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 Osakis City Council that will approve or deny the request for approval or denial.
- (D) The fee shall be non-refundable once processed.
- (E) A request for a Temporary Cannabis Event that meets the requirements of this Section may be approved if the City Council makes the finding that the event is in the best interest of the citizens of the city, will not create undue hardships, stress infrastructure, safety, security, environment or convenience of the citizens.
- (F) A request for a Temporary Cannabis Event that does not meet the requirements of this sections shall be denied. The City will notify the applicant of the standards not met and the basis for denial.
- (G) All events must meet all other applicable city codes for events and event approvals.
- (H) All uses of City property must be reviewed and approved by the City Council, the City Council reserves the right to reject any application if the City Council makes the finding that the request is not in the best interest of the city, it's citizens, creates a hardship, stresses infrastructure, safety, security, the environment or the convenience of the citizens, and reserves the right to set a fee for the use of city property commensurate with the costs to the city of an individual application (case by case).

Section 5. 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.

Effective Date.

This Ordinance shall take effect upon adoption and publication as required by State law.

Passed this _____ day of _____, 20__ by a _____ vote.

Daniel J. Wessel, Mayor

Attest:

Angela A. Jacobson, City Clerk/Treasurer