

Date: December 17, 2024

Ord. #06-24

**CANNABIS ORDINANCE
TO REGULATE CANNABIS BUSINESSES**

On motion of Commissioner Ankeny, seconded by Commissioner Sparks, the following Ordinance was unanimously passed and adopted by the Mower County Board of Commissioners at a meeting held December 17, 2024 at the Government Center, Austin, Minnesota.

WHEREAS, a Notice of Intention to consider adopting a Cannabis Ordinance was published in the *Austin Daily Herald* on October 23, 2024 and in the Mower County Independent on October 24, 2024; and

WHEREAS, the Planning Commission held a public hearing on said amendment on November 6, 2024 at 5:30 p.m. in the Mower County Government Center, Board Room, before the Mower County Planning Commission at which any concerned citizen was given an opportunity to speak on the matter; and

WHEREAS, the Mower County Planning Commission recommended by a majority vote to approve the new Cannabis Ordinance; and

WHEREAS, the County Board held a public hearing on said new ordinance on December 17, 2024; and

BE IT ORDAINED by the Mower County Board of Commissioners to adopt the Mower County Cannabis Ordinance to Regulate Cannabis Business as follows:

Section 1. Administration

1.1 Findings and Purpose

Mower County, MN makes the following legislative findings:

By enacting 2023 Session Law, Chapter 63, H. F. No. 100, the Minnesota Legislature passed the adult-use cannabis bill. Under that bill, the adult use, possession and personal growing of cannabis became legal on August 1, 2023.

The Office of Cannabis Management (OCM), established in 2023 following the enactment of HF 100, is charged with developing and implementing the operational and regulatory systems to oversee the cannabis industry in Minnesota as provided in Minnesota Statutes Chapter 342.

The purpose of this ordinance is to implement the provisions of Minnesota Statutes, chapter 342, which authorizes Mower County to protect the public health, safety, welfare of Mower County residents by regulating cannabis businesses within the legal boundaries of Mower County.

Mower County finds and concludes that the proposed provisions are appropriate and lawful land use regulations for Mower County, 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

Mower County 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 Mower County, MN.

Further, many of the cities and townships of Mower County have delegated full authority to Mower County for the registration and regulation of cannabis businesses. A full listing of participating cities and townships is provided in the office of Environmental Services. Please note, these same cities and townships may adopt ordinances under Sections 2.6, 3 and 4 if Mower County has not adopted conflicting provisions.

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 Mower County Auditor/Treasurer Department is responsible for the administration of this ordinance following land use approval verification by Mower County Environmental Services Department. The Mower County Sheriff's Department is responsible for the 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 a mezzobusinesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, and including 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. Electronic Delivery Device: Any product containing or delivering cannabis, hemp, nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption through the inhalation of aerosol or vapor from the product. Electronic Delivery Device includes,

but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, or under any other product name or descriptor. Electronic Delivery Device includes any component part of a product, whether or not marketed or sold separately. Electronic Delivery Device does not include any nicotine cessation product that has been authorized by the U.S. Food and Drug Administration to be marketed and for Sale as “drugs,” “devices,” or “combination products,” as defined in the Federal Food, Drug, and Cosmetic Act.

7. Lower-potency Hemp Edible: As defined under Minn. Stat. 342.01 subd. 50.
8. Office of Cannabis Management: Minnesota Office of Cannabis Management, referred to as “OCM” in this ordinance.
9. 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.
10. Preliminary License Approval: OCM pre-approval for a cannabis business license for applicants who qualify under Minn. Stat. 342.17.
11. Protected Use: the property which contains any public school, daycare facility, residential treatment facility, an attraction within a public property that is regularly used by minors, including a playground or athletic field.
12. 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.
13. Residential Treatment Facility: As defined under Minn. Stat. 245.462 subd. 23.
14. Retail Registration: An approved registration issued by the Mower County to a state- licensed cannabis retail business.
15. 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.
16. 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 without first obtaining registration approval from Mower County. No individual or entity may operate a state-licensed cannabis retail business within 500 ft of any protected use (see Definitions, section 1.5)

Any state-licensed cannabis retail business that sells to a customer or patient without valid retail registration shall incur a civil penalty of \$2,000 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, Mower County shall conduct a preliminary compliance check to ensure compliance with local ordinances. In Mower County this will be accomplished

through the Conditional Use Permit process which includes a site visit from two members of the planning commission, Environmental Services staff, and may also include representatives of the Sheriff's department.

Pursuant to Minn. Stat. 342, within 30 days of receiving a copy of a state license application from OCM, Mower County 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.

Mower County shall not charge an application fee.

A registration fee, as established in Mower County's fee schedule, 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 Mower County 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 Auditor/Treasurer 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 Mower County. 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. Zoning Approval for the location of the registered use.

(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 Mower County Auditor/Treasurer shall inform the applicant as such, process the application fees, and forward the application to the Mower County Board of Commissioners for approval or denial.

(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 if the cannabis retail business would exceed the maximum number of registered cannabis retail businesses permitted under Section 2.6.
- (B) 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.
- (C) A state-licensed cannabis retail business application that meets the requirements of this ordinance shall be approved provided the maximum number of licenses has not been exceeded.

2.3.4 *Annual Compliance Checks.*

The Mower County Sheriff's Department 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.

The Mower County Sheriff's Department 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 Mower County, MN.

2.4 *Renewal of Registration*

Mower County 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 Mower County.

A cannabis retail registration issued under this ordinance shall not be transferred to any other person, entity, or location. Transfer of ownership or location requires approval through a new application.

2.4.1 *Renewal Fees.*

Mower County may charge a renewal fee for the registration starting at the second renewal, as established in Mower County'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.
- Disclosure of any zoning or land use violations, and any misdemeanor or felony convictions.

Mower County shall renew an annual registration of a state-licensed cannabis retail business at the same time OCM renews the cannabis retail business' license provided Mower County receives the application 30 days prior to OCM renewal date.

A state-licensed cannabis retail business shall apply to renew registration on a form established by Mower County.

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

2.4.3 Renewal Fees.

Mower County may charge a renewal fee for the registration starting at the second renewal, as established in Mower County's fee schedule.

2.5 Suspension of Registration

2.5.1 When Suspension is Warranted.

Mower County may suspend a cannabis retail business's registration if it violates the ordinance of Mower County or poses an immediate threat to the health or safety of the public. Mower County shall immediately notify the cannabis retail business in writing the grounds for the suspension.

2.5.2 Notification to OCM.

Mower County shall immediately notify the OCM in writing the grounds for the suspension. OCM will provide Mower County 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 to customers if their registration is suspended. Mower County may wait for a determination from OCM before reinstating a registration.

Mower County may reinstate a registration if it determines that the violations have been resolved.

Mower County 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) Mower County may impose a civil penalty, as specified in the Mower County's Fee Schedule, for registration violations, not to exceed \$2,000.

2.6 Limiting of Registrations

Mower County shall limit the number of cannabis retail businesses to no fewer than one registration for every 12,500 residents Mower County, including the City of Austin and other Cities within Mower County. This does not preclude the Cities from adopting ordinance to set higher limits than what Mower County will issue.

Mower County will allow one active cannabis retail businesses registration for every 12,500 residents (four (4) total). Mower County, nor any of its Townships or Cities shall not be required to register additional state-licensed cannabis retail businesses.

Section 3. Requirements for Cannabis Businesses

Mower County shall implement a 500 ft buffer between the property line of any protected use (see Definitions, Section 1.5) and the building that houses any licensed Cannabis business, including grow houses, retail locations, trucking/transportation storage, etc.

The buffer distance shall be measured from the property line of the protected use to the building that houses the cannabis use.

3.1 Minimum Buffer Requirements

Mower County shall prohibit the operation of a cannabis business within 500 feet of a school.

Mower County shall prohibit the operation of a cannabis business within 500 feet of a daycare.

Mower County shall prohibit the operation of a cannabis business within 500 feet of a residential treatment facility.

Mower County shall prohibit the operation of a cannabis business within 500 feet of an attraction within a public property that is regularly used by minors, including a playground or athletic field.

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.

Mower County will not allow protected uses to establish new locations within the buffer zone of an established, active cannabis business.

3.2 Zoning and Land Use

Any use that is not listed as allowed or permitted in a zoning district is considered prohibited in that zoning district. In zoning districts where the use is allowed, Cannabis business are still required to register the use with Mower County, and Zoning Permits may be required for the construction or modification of any associated facilities.

This ordinance applies to Mower County; any Township or Municipality within Mower County that has adopted Cannabis Ordinance may have additional regulation, which could be more stringent than Mower County's requirements.

3.2.1. *Cultivation.*

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

- Agricultural Zoning District
- Rural Management Zoning District
- Industrial Zoning District

3.2.2. *Cannabis Manufacturer.*

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

- Agricultural Zoning District
- Rural Management Zoning District
- Industrial Zoning District

3.2.3. *Hemp Manufacturer.*

Businesses licensed or endorsed for low-potency hemp edible manufacturers permitted as a Conditionally Permitted in the following zoning districts:

- Agricultural Zoning District
- Rural Management Zoning District
- Industrial Zoning District

3.2.4. *Wholesale.*

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

- Agricultural Zoning District
- Rural Management Zoning District
- Business District
- Industrial District

3.2.5. *Cannabis Retail.*

Cannabis businesses licensed or endorsed for cannabis retail are permitted as an Allowed use in the following zoning districts:

- Business District
- Industrial District

Cannabis businesses licensed or endorsed for cannabis retail are permitted as a Conditionally Permitted use in the following zoning districts:

- Rural Service Center

Cannabis businesses licensed or endorsed for cannabis on site consumption are Conditionally Permitted in the following districts:

- Business District
- Rural Service Center

3.2.6. *Cannabis Transportation.*

Cannabis businesses licensed or endorsed for transportation are permitted as a (type of use) in the following zoning districts:

- Agricultural Zoning District
- Rural Management Zoning District
- Business District
- Industrial District

3.2.7. *Cannabis Delivery.*

Cannabis businesses licensed or endorsed for delivery are permitted as a (type of use) in the following zoning districts:

- Agricultural Zoning District
- Rural Management Zoning District
- Business District
- Industrial District

3.3 Hours of Operation

Cannabis businesses registered with Mower County 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 a.m. and 9 p.m., seven days a week.

3.4 Advertising

Cannabis businesses may erect signage in accordance with Mower County's Sign Ordinance and the Zoning District the business (or sign) is located in.

3.5 Battery Powered Electronic Delivery Devices

3.5.1. Registered Retail Establishments that sell battery powered single-use or disposable Electronic Delivery Devices with embedded or inseparable batteries must accept those devices which have been sold by the Retail Establishment to its customers, and properly manage those returned devices for recycling according to Minnesota Administrative Rule 7045.0125 Subpart 4.B., unless the Retail Establishment sells only Electronic Delivery Devices which have removable cartridges so that the battery can be recycled separately from the vaporizer fluid cartridge.

3.5.2. Electronic Delivery Devices sold by a Registered Retail Establishment with embedded batteries without a return program may be embargoed by the Department until a return program in compliance with part 6.13, item 1 has been established.

Section 4. Temporary Cannabis Events

License or Permit Required for Temporary Cannabis Events

Temporary cannabis events shall only be held in zoning districts that allow for cannabis activity, and through Conditional Use Permits

4.1.1 License Required.

A license or permit is required to be issued and approved by Mower County prior to holding a Temporary Cannabis Event. Mn Statute requires a Temporary Cannabis Event shall last no longer than four (4) days.

4.1.2 Registration & Application Procedure

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

4.1.3 Application Submittal & Review.

Mower County shall require an application for Temporary Cannabis Events.

(A) An applicant for a retail registration shall fill out an application form, as provided by the Mower County. Said form shall include, but is not limited to:

- i. Full name of the property owner and applicant, if different;
- ii. Address, email address, and telephone number of the applicant;
- iii. A site map or drawing demonstrating areas of ingress and egress, parking, and identifying features such as vendor locations or entertainment stages.

(B) The applicant shall include with the form:

- i. the application fee as required in (Section 4.1.2);
- ii. a copy of the OCM cannabis event license application, submitted pursuant to 342.39 subd. 2.
- iii. An emergency response plan including contracted ambulance and first responder services available 24h/day for the duration of the event.

The application shall be submitted to the Mower County Auditor's Office, 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 (insert staff/department, or elected body that will approve or deny the request) for approval or denial.

(D) The application fee shall be non-refundable once processed.

(E) The application for a license for a Temporary Cannabis Event shall meet the following standards:

- Private Security is required
- Ambulance or Emergency Personnel on site

(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 (insert city/town/county) shall notify the applicant of the standards not met and basis for denial.

The Mower County Planning Commission will have discretion to set hours for temporary cannabis events based on their location, proximity to neighbors, proposed activities, and similar considerations, as disclosed through the Conditional Use Permit process.

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. See Ordinance 04-23 adopted December 6, 2023 for further detail.

BE IT FURTHER ORDAINED, that the Cannabis Ordinance shall be in full force and effect January 1, 2025 after its passage and publication as required by law. *(Published - Austin Daily Herald 12/25/24)*

Passed and approved this 17th day of December, 2024.

Cannabis Use Table - from OCM's license type/business activity table*

OCM license types (below)	business activity					
	Retail Sales	Wholesale	Cultivation	Product Manufacturing	On-Site Consumption	Other
Cannabis Microbusiness	Y	Y	Y	Y	Y	N
Cannabis Mezzobusiness	Y	Y	Y	Y	N	N
Cannabis Retailer	Y	N	Y	N	N	N
Cannabis Cultivator	N	Y	Y	N	N	N
Cannabis Manufacturer	N	Y	N	Y	N	N
Cannabis Wholesaler	N	Y	N	N	N	N
Medical Cannabis Combination	Y	Y	Y	Y	N	Y
Cannabis Transporter	N	N	N	N	N	Y
Cannabis Testing Facility	N	N	N	N	N	Y
Cannabis Delivery Service	N	N	N	N	N	Y
Cannabis Event Organizer	N	N	N	N	N	Y

*this table is from State of Minnesota's OCM and is not negotiable. It summarizes the types of businesses we may see depending on the type of license issued by OCM.

Updated 10/2024

Summary of Proposed Land Use Allowances in Mower County by Zoning District**

	business activity					
	Retail Sales	Wholesale	Cultivation	Product Manufacturing	On-Site Consumption	Transport & Delivery
Agricultural & Rural Management	Prohibited	CUP	CUP	CUP	Prohibited	CUP
Industrial	Allowed	CUP	CUP	CUP	Prohibited	CUP
Business & Freeway Interchange	Allowed	CUP	Prohibited	Prohibited	CUP	CUP
Rural Service Center	CUP	Prohibited	Prohibited	Prohibited	CUP	CUP
R1 & UE, PUD	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited

**this table summarizes the type of land use permit that will be required by Mower County depending on the Zoning District of the proposed location of the business. Business locations need to be approved by the LGU prior to OCM issuing the license, i.e. this will be the FIRST step for applicants

CUP = Conditional Use Permit required. Land use is allowed, theoretically, depending on the conditions of the site, operation, location, etc.