

ORDINANCE NO. 24- __

**AN ORDINANCE OF THE
CITY TO REGULATE CANNABIS BUSINESS**

**CITY OF BREEZY POINT
COUNTY OF CROW WING
STATE OF MINNESOTA**

The City Council of Breezy Point does ordain as follows:

Section 1 – Amendment. Title XI, “Business Regulations,” of the City Code is amended by adding the following Chapter 116:

Chapter 116 – Cannabis Businesses

Administration

Section 116.01 Administration.

(A) Findings and Purpose. The City Council makes the following legislative findings:

The purpose of this ordinance is to implement the provisions of Minnesota Statutes, chapter 342, which authorizes the City Council to protect the public health, safety, welfare of Crosslake residents by regulating cannabis businesses within the legal boundaries of the City. The City Council finds and concludes that the proposed provisions are appropriate and lawful land use regulations for the City, 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.

(B) Authority and Jurisdiction. The City Council has 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; and (d) Minn. Stat. § 462.357, regarding the authority of a local authority to adopt zoning ordinances. Ordinance shall be applicable within the legal boundaries of the City.

(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 Council 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 a permit is required for a regulated activity listed in this ordinance.

(E) 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 mezzobusiness with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, and 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 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.

Registration

Section 116.02 Registration of Cannabis Businesses

(A) Consent to registering of Cannabis Businesses. No individual or entity may operate a state-licensed cannabis retail business within the City without first registering with the City. 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 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. ch. 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 and Application Procedure.

- (1) **Fees.** The City shall not charge an application fee. 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. 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 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. 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. 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.
- b. The applicant shall include with the form:
 - i. the registration 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 City Clerk shall inform the applicant as such, process the application fees, and forward the application to the 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 if the cannabis retail business would exceed the maximum number of registered cannabis retail businesses permitted under 116.07.
- 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.

Section 116.03 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 age verification requirements, as required under Minn. Stat. § 342.22, subd. 4(b) and Minn. Stat. § 342.24 and this ordinance.

The City 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.

Section 116.04 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.

or

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 of the proposed location change and submit necessary information to meet all the criteria in this paragraph.

Section 116.05 Renewal of Registration.

(A) State-Licensed Retail. 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 state-licensed cannabis retail business shall apply to renew registration on a form established by the City.

(B) No Transfer. A cannabis retail registration issued under this ordinance shall not be transferred.

(C) Renewal Fees. The City may charge a renewal fee for the registration starting at the second renewal, as established in the City's fee schedule.

(D) 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.

Section 116.06 Suspension of registration

(A) When Suspension is Warranted. The City may suspend a cannabis retail business's registration if it violates the 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 suspension.

(B) 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.

(C) 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. 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.

(D) 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.

Section 116.07 Limiting of Registrations

The City shall limit the number of cannabis retail businesses to one.

Requirements for Cannabis Businesses

Section 116.08 Minimum Buffer Requirements

The City shall prohibit the operation of a cannabis business within 0-1,000 feet of a school.

The City shall prohibit the operation of a cannabis business within 0-500 feet of a day care.

The City shall prohibit the operation of a cannabis business within 0-500 feet of a residential treatment facility.

The City shall prohibit the operation of a cannabis business within 0-500 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 0 feet of another cannabis retail business.

Pursuant to Minn. Stat. § 462.357 subd. 1e, 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.

Section 116.09 Zoning and Land Use

(A) Cultivation Cannabis businesses licensed or endorsed for cultivation are permitted as a (CUP) Conditional Use Permit in the following zoning districts:

- C - Commercial

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

- C - Commercial

(C) Hemp Manufacturer. Businesses licensed or endorsed for low-potency hemp edible manufacturers permitted as a (CUP) Conditional Use Permit in the following zoning districts:

- C – Commercial

(D) Wholesale. Cannabis businesses licensed or endorsed for wholesale are permitted as a (CUP) Conditional Use Permit in the following zoning districts:

- C – Commercial

(E) Cannabis Retail. Cannabis businesses licensed or endorsed for cannabis retail are permitted as a (CUP) Conditional Use Permit in the following zoning districts:

- C – Commercial

(F) 3.2.6. Cannabis Transportation. Cannabis businesses licensed or endorsed for transportation are permitted as a (CUP) Conditional Use Permit in the following zoning districts:

- C – Commercial

(G) Cannabis Delivery. Cannabis businesses licensed or endorsed for delivery are permitted as a (CUP) Conditional Use Permit in the following zoning districts:

- C - Commercial

Section 116.10 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 10:00 A.M. and 9:00 P.M. (The city can prohibit sales between 8-10 a.m. and between 9 p.m. to 2 a.m., seven days a week.)

Section 116.11 Advertising

Cannabis businesses are permitted to erect up to two fixed signs on the exterior of the building or property of the business, unless otherwise limited by the City's sign ordinances.

Section 2 – Effective Date. This ordinance amendment shall be in full force and effect from and after passage and publication according to state law.

Adopted by the City Council this ____ day of _____.

Angel Zierden, Mayor

ATTEST:

Jerry Bohnsack, Interim City Administrator