

ORDINANCE 028, 4TH SERIES

ORDINANCE ADDING CHAPTER 124 TO THE ST. JAMES CITY CODE PERTAINING TO REGULATION OF CANNABIS BUSINESSES

The City of St. James does ordain:

Section 1. Title XI of the City Code is amended by adding Chapter 124 to read as follows:

Chapter 124. CANNABIS.

§124.01 PURPOSE AND INTENT.

The City of St. James makes the following legislative findings:

(A) The purpose of this ordinance is to implement the provisions of Minnesota Statutes, Chapter 342, which authorizes the City of St. James to protect the public health, safety, welfare of the St. James residents by regulating cannabis and hemp businesses within the City.

(B) The City of St. James finds and concludes that the proposed provisions are appropriate and lawful land use regulations for St. James, 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.

§ 124.02 DEFINITIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant. An applicant means an entity with a license issued by the OCM that is applying for an initial registration or for registration renewal.

The Act. The Act means Minnesota Statute, Chapter 342, as it may be amended from time to time.

Cannabis Business. A cannabis business has the same meaning as defined in Minnesota Statute §342.01.

Cannabis Cultivation Business. 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 plant 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 State of Minnesota Office of Cannabis Management.

Cannabis Delivery Business. A cannabis delivery business means a business with a cannabis delivery service license or delivery service endorsement from the State of Minnesota Office of Cannabis Management.

Cannabis Manufacturing Business. A cannabis manufacturing business means a business with a cannabis manufacturer license, or manufacturing endorsement from the State of Minnesota

Office of Cannabis Management.

Cannabis Retail Business. A retail location and the retail location(s) of a mezzo businesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, lower-potency hemp edible retailers.

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.

Cannabis Testing Business. A cannabis testing business means a business with a cannabis testing facility license or testing endorsement from the State of Minnesota Office of Cannabis Management.

Cannabis Transportation Business. A cannabis transportation business means a business with a cannabis transporter license or transportation endorsement from the State of Minnesota Office of Cannabis Management.

Cannabis Wholesaling Business. A cannabis wholesaling business means a business with a cannabis wholesaler license or wholesaling endorsement from the State of Minnesota Office of Cannabis Management.

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.

Lower-Potency Hemp Edible. As defined under Minnesota Statute §342.01, subd. 50.

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

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.

Preliminary License Approval. OCM pre-approval for a cannabis business license for applicants who qualify under Minnesota Statute §342.17.

Potential License. Potential license means an applicant that has not received a license from the OCM.

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.

Residential Treatment Facility. As defined under Minnesota Statute §245.462, Subd. 23.

Temporary Cannabis Event. A secured event, or a secured portion of a larger separately licensed event, devoted to cannabis activities as permitted by state law and local regulations.

School. Any public or private elementary, vocational, or secondary school, or a public or private college or university.

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

§ 124.03. REGISTRATION OF CANNABIS BUSINESSES.

(A) *Cannabis Business Initial Zoning Certification.*

(1) Pursuant to Minnesota Statute §342, within 30 days of receiving a copy of a state license application from OCM, the City of St. James shall certify on a form provided by OCM whether a potential licensee complies with local zoning ordinances and, if applicable, whether the proposed business complies with the state fire code and building code.

(2) Successful approval of a site for zoning compliance does not guarantee that the potential licensee will receive retail registration. A complete application for retail registration must still be applied for and obtained by a retailer before any retail sale to a customer.

(B) *Retailer Registration.*

(1) Before making retail sales to customers or patients, a retailer must register with the city. Making retail sales to customers without an active registration is prohibited.

(2) Subject to Minnesota Statute §342.22, Subd. 5(e), the city may impose a civil penalty, as specified in the City's Fee Schedule, for making a sale to a customer or patient without valid registration from the City and a valid license from OCM.

(C) *Compliance Checks Prior to Retail Registration.* Prior to issuance of a cannabis retail business registration, the City of St. James shall conduct a preliminary compliance check to ensure compliance with local ordinances.

(D) *Registration and Application Procedure.*

(1) *Fees.*

(a) A registration fee, as established in the City of St. James' fee schedule, shall be charged to applicants depending on the type of retail business license applied for.

(b) Initial registration fees and renewal registration fees are nonrefundable.

(2) *Application Submittal.* The City of St. James shall issue a local retail registration to a retailer that adheres to the requirements of Minnesota Statute §342.22, and which qualifies for a registration under the provisions of Chapter 124.

(a) An applicant for initial registration or renewal shall fill out an application form, as provided by the City of St. James. Information required on the 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 Minnesota Statute §342.13.
- (v) Proof of taxes, assessments, utility charges or other financial claims of the city or the state are current.

(b) The applicant shall include with the registration form:

- (i) The required local registration fee as required in §124.03 D(1);
- (ii) A copy of a valid state license or written notice of OCM license preapproval;
- (iii) A narrative describing the proposed business;
- (iv) A site plan showing the building to house the business, available parking;
- (v) Floorplans for the proposed business which show compliance to all MN Building Code requirements.

(c) Once an application is considered complete, the City of St. James shall process the required fee and forward the application to the Zoning Administrator if any changes need to be reviewed. City Council shall approve all retail registrations.

(3) *Application Approval.*

(a) Applications will be processed on a first-come, first-served basis based on the city receiving a complete application and payment of all fees.

(b) The date a certification under §124.03(A) is issued will have no impact on the applicant's registration processing.

(c) Complete applications shall be approved by the City Council unless one of the following reasons for denial applies:

- (i) The cannabis retail business would exceed the maximum number of registered cannabis retail businesses permitted in the City under §124.03(G).
- (ii) The applicant is unable to meet the requirements of City Code Chapter 124 or applicable zoning regulations for the proposed business location.

(d) Registration shall not be transferable to a new owner.

(4) *Annual Compliance Checks.*

(a) The City of St. James 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 Minnesota Statute §342.22 Subd. 4(b) and Minnesota Statute §342.24 and Chapter 124 of this Municipal Code.

(b) The City of St. James shall conduct at minimum one unannounced age verification compliance check at least once per calendar year.

(c) Age verification compliance checks shall involve persons at least 17 years of age but under the age of 21 who, with the prior written consent of a parent or guardian if the person is under the age of 18, attempt to purchase adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, or hemp-derived consumer products under the direct supervision of a law enforcement officer or an employee of the City of St. James.

(d) Any failures under this section must be reported to the Office of Cannabis Management.

(5) *Location Change.* A state-licensed cannabis retail business shall be required to submit a new application for registration under §124.05(C)2 if it seeks to move to a new location still within the legal boundaries of the City of St. James.

(E) *Renewal of Registration.*

(1) Each year, a state-licensed cannabis retail business shall apply to renew local registration on a form established by the City of St. James.

(a) *Renewal Fees.* A renewal fee for local registration shall be required starting at the second renewal, as established in the City of St. James' fee schedule.

(b) *Renewal Application.* The application for renewal of a local retail registration shall include, but is not limited to, all items required under §124.03(D)(2).

(2) The City of St. James shall renew the local registration of a state-licensed cannabis retail business concurrent with and subject to OCM renewal of the State license for the business.

(F) *Suspension of Registration.*

(1) *When Suspension is Warranted.* The City of St. James may suspend a cannabis retail business' registration if it violates the ordinance of St. James 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.* The City of St. James 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.* 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 of St. James may reinstate a registration if it determines that the violations have been resolved.

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

(4) *Civil Penalties.* Subject to Minnesota Statute §342.22, Subd. 5(e), the City of St. James may impose a civil penalty, as specified in the City's fee schedule, for registration violations, not to exceed \$2,000.

(G) *Limiting of Registrations.* The City of St. James shall limit the number of cannabis retail business to two.

§124.04. REQUIREMENTS FOR CANNABIS BUSINESSES.

(A) *Minimum Buffer Requirements.*

(1) The City of St. James prohibits local registration of a new cannabis business where retail sales would physically occur within 350 feet of the property line of any schools, daycares, residential treatment facility, or parks that include attractions that are regularly used by minors.

(2) Pursuant to Minnesota Statute §462.357 Subd. 1(e), nothing in §124.04(A) 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. Except public parks include St. James Downtown Park, Helping Hands, and Plaza de Saint James.

(B) *Zoning and Land Use.*

(1) *Cultivation.* Cannabis businesses licensed or endorsed for cultivation are permitted as an agricultural use in the following zoning districts:

- (a) Planned Industrial District (I-1)
- (b) General Industrial District (I-2)

(2) *Cannabis Manufacturer.* Cannabis businesses licensed or endorsed for cannabis manufacturer are permitted as an industrial use in the following zoning districts:

- (a) Planned Industrial District (I-1)
- (b) General Industrial District (I-2)

(3) *Hemp Manufacturer.* Cannabis businesses licensed or endorsed for hemp manufacturer are permitted as an industrial use in the following zoning districts:

- (a) Planned Industrial District (I-1)
- (b) General Industrial District (I-2)

(4) *Wholesale.* Cannabis businesses licensed or endorsed for wholesale are permitted

as an industrial use in the following zoning districts:

- (a) Planned Industrial District (I-1)
- (b) General Industrial District (I-2)
- (c) Special Use Permit: Service Business District (B-2), General Business District (B-3), Highway Commercial Business District (B-4)

(5) *Cannabis Retail.* Cannabis businesses licensed or endorsed for cannabis retail are permitted as a commercial use in the following zoning districts:

- (a) Service Business District (B-2)
- (b) General Business District (B-3)
- (c) Highway Commercial Business District (B-4)
- (d) Special Use Permit: Planned Industrial District (I-1), General Industrial District (I-2)

(6) *Cannabis Transportation.* Cannabis businesses licensed or endorsed for transportation are permitted as an industrial use in the following zoning districts:

- (a) Planned Industrial District (I-1)
- (b) General Industrial District (I-2)

(7) *Cannabis Delivery.* Cannabis businesses licensed or endorsed for delivery are permitted as an industrial use in the following zoning districts:

- (a) Planned Industrial District (I-1)
- (b) General Industrial District (I-2)

(C) *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, seven days per week.

(D) *Advertising.* Cannabis businesses are permitted to erect signs in accordance to St. James City Code §156.033.

§124.05. TEMPORARY CANNABIS EVENTS.

(A) *License Required for Temporary Cannabis Events.*

(1) *License Required.* A special event permit is required to be issued and approved by the City of St. James prior to holding a Temporary Cannabis Event. Permit review and issuance shall follow the procedures for Special Events under Chapter 123 of the City Code.

§ 124.06. LOWER-POTENCY HEMP EDIBLES.

(A) *Sale of Low-Potency Hemp Edibles.* The sale of Low-Potency Edibles is permitted, subject to the conditions within this ordinance.

(B) *Zoning Districts.*

(1) *Cultivation.* Cannabis businesses licensed or endorsed for cultivation are permitted

as a retail or cultivation use in the following zoning districts:

- (a) Commercial Use - Low-Potency Hemp Edibles Retail: Service Business District (B-2), General Business District (B-3), Highway Commercial Business District (B-4)
- (b) Commercial Use: Special Use Permit: Planned Industrial District (I-1), General Industrial District (I-2)
- (c) Cultivation: Planned Industrial District (I-1), General Industrial District (I-2)
- (d) Cultivation: Special Use Permit: Service Business District (B-2), General Business District (B-3), Highway Commercial Business District (B-4)

(B) *Additional Standards.*

- (1) *Sales within Municipal Liquor Store.* The sale of Low-Potency Edibles and Beverages are permitted in a Municipal Liquor Store.
- (2) *Age Requirements.* The sale of Low-Potency Edibles is permitted only in places that admit those 21 years of age or older.
- (3) *Beverages.* The sale of Low-Potency Hemp Beverages is permitted in places that met requirements in this Ordinance.
- (4) *Storage of Product.* Low-Potency Edibles shall be sold behind a counter and stored in a locked case.

§ 124.07. LOCAL GOVERNMENT AS A CANNABIS RETAILER.

The City of St. James may establish, own, and operate one municipal cannabis retail business subject to the restrictions in this ordinance.

The City of St. James shall be subject to all same retail license requirements and procedures applicable to all other applicants.

§ 124.08. 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 place of public accommodation unless the premises is an establishment, or an event licensed to permit on-site consumption of adult-use.

§ 124.09. PENALTY ADMINISTRATION AND ENFORCEMENT.

Any violation of the provisions of the Chapter or failure to comply with any of its requirements constitutes a misdemeanor and is punishable as defined by law. Each day each violation continues or exists, constitutes a separate offense. Violations of this Ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in this ordinance. Violation of this Chapter shall be grounds for enforcement against any business license issued by the City of St. James.

Section 2. Effective Date. This ordinance shall be effective upon passage and publication.

First Reading:

Second/Final Reading:

Date of Publication:

Date Ordinance Takes Effect:

Christopher Whitehead, Mayor

ATTEST:

Kristin K. Hurley, City Clerk