

THE ORDINANCE OF HOUSTON COUNTY TO REGULATE CANNABIS RELATED BUSINESSES

The Houston County Board of Commissioners hereby ordains:

Section 1. Administration

1.1 Findings and Purpose

The Houston County Board of Commissioners makes the following legislative findings:

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

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

Houston 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.
- (E) Minn. Stat. §145A.05, subd.1, regarding local ordinances and the ability of a county board to enact regulations to regulate actual or potential public health threats.

This Ordinance shall be applicable to all areas of Houston County, including incorporated areas, unless the incorporated area has adopted an ordinance regulating Cannabis businesses.

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 Houston County Sheriff 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 a mezzobusinesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, (and/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 center/business whose purpose in whole or in part involves providing for the care of a child 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 (insert local here) 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 Houston County without first registering with Houston County. 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. 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, Houston County 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, Houston 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.

Houston County shall not charge an application fee. A registration fee, as established in Houston 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 Houston 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 Office of Houston County 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 Office of Houston County Auditor/Treasurer. 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 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 Office of Houston County Auditor/Treasurer shall inform the applicant as such, process the application fees, and forward the application to the Houston 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 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 Houston County Sheriff 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), Minn. Stat. §342.24, and as otherwise required by Minnesota law.

The Houston County Sheriff 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 Houston County; or if a state-licensed cannabis retail business seeks to move to a new location still within the legal boundaries of Houston County, it shall notify Office of Houston County Auditor/Treasurer of the proposed location change, and submit necessary information to meet all the criteria of this Ordinance.

2.4 Renewal of Registration

The Office of Houston County Auditor/Treasurer 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 Houston County. A cannabis retail registration issued under this ordinance shall not be transferred.

2.4.1 Renewal Fees.

The Office of Houston County Auditor/Treasurer may charge a renewal fee for the registration starting at the second renewal, as established in Houston 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.

2.5 Suspension of Registration

2.5.1 When Suspension is Warranted.

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

2.5.2 Notification to OCM.

The Office of Houston County Auditor/Treasurer shall immediately notify the OCM in writing the grounds for the suspension. OCM will provide the Office of Houston County Auditor/Treasurer 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. Houston County may extend the suspension of the cannabis retail business's registration if the OCM has not made a determination regarding a registration suspension. The Office of Houston County Auditor/Treasurer may reinstate a registration if it determines that the violations have been resolved. The Office of Houston County Auditor/Treasurer 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 Office of Houston County Auditor/Treasurer may impose a civil penalty, as specified in Houston County's Fee Schedule, for registration violations, not to exceed \$2,000.

2.6 Limiting of Registrations

The Office of Houston County Auditor/Treasurer shall limit the number of cannabis retail businesses to no more than four (4).

If Houston County has four (4) active cannabis retail businesses registration the Office of Houston County Auditor/Treasurer shall not be required to register additional state-licensed cannabis retail businesses.

Section 3. Requirements for Cannabis Businesses

3.1 Minimum Buffer Requirements

1. The Office of Houston County Auditor/Treasurer shall prohibit the operation of a cannabis business within 1,000 feet of a school.
2. The Office of Houston County Auditor/Treasurer shall prohibit the operation of a cannabis business within 500 feet of a day care.
3. The Office of Houston County Auditor/Treasurer shall prohibit the operation of a cannabis business within 500 feet of a residential treatment facility.
4. The Office of Houston County Auditor/Treasurer 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.
5. The Office of Houston County Auditor/Treasurer shall prohibit the operation of a cannabis retail business within 1,500 feet from the main entry point of entry of the cannabis business to the main point of entry to another cannabis business.

Distances shall be computed by direct measurement from the nearest property line of the land use listed above to the nearest portion of the building being used for the cannabis business. Distances shall be verified by the applicant and confirmed by the person(s) responsible for enforcing this ordinance, via a method deemed acceptable by Houston County.

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.

3.1.1 Odor Mitigation

All cannabis cultivation operations, production and processing facilities, including but not limited to any: drying, aging, trimming and packing facilities shall be equipped with the following odor mitigation measures:

- (A) Installation and maintenance of activated carbon filters on all exhaust outlets to the building exteriors.
- (B) Location of exhaust outlets a minimum of 10 feet from the property line and 10 feet above finished grade.
- (C) Maintenance of negative air pressure within the facility, or an alternative odor control system approved by the person(s) responsible for enforcing this ordinance, based upon a mechanical engineer licensed in the State of Minnesota, demonstrating the alternative system will control odor equally or better than the required activated carbon filtration system.
- (D) All cultivation sites shall utilize dust control measures on access roads and all ground disturbing activities.

3.1.2 Security/Theft Mitigation

A cannabis business shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, to deter and prevent theft of cannabis or cannabis products at the cannabis business, and to ensure emergency access in accordance with applicable Fire Code standards. Security measures shall include, but are not limited to the following:

- (A) A plan to prevent individuals from loitering on the premises of the business if they are not engaging in activity expressly related to the cannabis business.
- (B) Twenty-four-hour emergency contact information for the owner or an on-site employee which shall be provided to the Houston County Sheriff's Office.
- (C) A professionally installed, maintained, and monitored alarm system.
- (D) Except for live cannabis plants being cultivated at a cannabis cultivation facility, and limited amounts of cannabis for display purposes, all cannabis and cannabis products shall be stored in a secured and locked structure, and in a secured and locked safe room, safe, or vault, and in a manner as to prevent diversion, theft or loss.

- (E) Twenty-four-hour security cameras to monitor all entrances and exits to the cannabis business, all interior spaces open and accessible to the public, and all interior spaces where cannabis, cash, or currency is being stored for any period on a regular basis. The holder of the cannabis license shall be responsible for ensuring that the security cameras footage is accessible. The footage shall be retained for a minimum of ninety-days and shall be made available to the person(s) responsible for enforcing this ordinance, as well as the Houston County Sheriff's Office upon demand.
- (F) Panic buttons shall be installed in all cannabis businesses licensed under this ordinance.
- (G) Sensors shall be installed to detect entry/exit from all secure areas.
- (H) Any bars installed on the windows/doors of a cannabis business shall be installed only on the interior of the building.

3.1.3 Light Pollution Mitigation

All cannabis cultivation operations, production and processing facilities, including but not limited to any: drying, aging, trimming and packing facilities shall be equipped with the following light pollution mitigation measures:

- (A) Any security lighting for a cannabis business shall be shielded and angled in such a way as to prevent light from spilling outside the boundaries of the parcel(s) or premises or directly focusing on any surrounding areas.
- (B) Houston County shall provide notice to the cannabis business licensee upon receiving any light pollution complaint. Upon receiving notice, the licensee shall correct the violation as soon as possible and submit written documentation within 10 calendar days, demonstrating that all shielding has been repaired, inspected and corrected as necessary. Failure to correct a violation shall be grounds for penalties as outlined in the Houston County Zoning Ordinance.

3.2 Zoning and Land Use

The following types of Cannabis businesses are allowed to operate in the zoning district applicable to that business.

3.2.1. Cultivation.

Cannabis businesses licensed or endorsed for cultivation are permitted in the following zoning districts:

- Prohibited: Residential, Commercial, and Industrial
- Permitted - with an IUP – with a 5 acre limit: Agricultural

3.2.2. Cannabis Manufacturer.

Cannabis businesses licensed or endorsed for cannabis manufacturing are permitted in the following zoning districts:

- Prohibited: Residential
- Permitted - with an IUP: Agricultural, Commercial, and Industrial

3.2.3. Hemp Manufacturer.

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

- Prohibited: Residential
- Permitted - with an IUP: Agricultural, Commercial, and Industrial

3.2.4. Wholesale.

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

- Prohibited: Residential and Agricultural
- Permitted - with an IUP: Commercial and Industrial

3.2.5. Cannabis Retail.

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

- Prohibited: Agricultural and Residential
- Permitted: Commercial and Industrial

3.2.6. Cannabis Transportation.

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

- Prohibited: Residential
- Permitted: Commercial and Industrial
- Permitted – with IUP - a limit of 5 vehicles: Agricultural

3.2.7. Cannabis Delivery.

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

- Prohibited: Residential
- Permitted: Commercial and Industrial
- Permitted – with IUP - a limit of 5 vehicles: Agricultural

3.2.8. Cannabis Testing Facility.

Cannabis businesses licensed or endorsed as a Cannabis Testing Facility are permitted in the following zoning districts:

- Prohibited: Agricultural and Residential
- Permitted: Commercial and Industrial

3.2.9. Microbusiness.

Cannabis businesses licensed or endorsed as a Microbusiness are permitted in the following zoning districts:

- Prohibited: Residential
- Permitted - with an IUP: Agricultural, Commercial, and Industrial

3.2.10. Mezzobusiness.

Cannabis businesses licensed or endorsed as a Mezzobusiness are permitted in the following zoning districts:

- Prohibited: Residential
- Permitted - with an IUP: Agricultural, Commercial, and Industrial

3.2.11. Temporary Events.

Cannabis businesses licensed or endorsed as a Temporary Event are permitted in the following zoning districts:

- Prohibited: Residential
- Permitted - with an IUP: Agricultural, Commercial, and Industrial

3.2.12. Medical Cannabis.

Cannabis businesses licensed or endorsed as a Medical Business are permitted in the following zoning districts:

- Prohibited: Residential
- Permitted - with an IUP: Agricultural, Commercial, and Industrial

3.2.13. Low Potency Hemp Manufacture.

Cannabis businesses licensed or endorsed as a Low Potency Hemp Manufacturer are permitted in the following zoning districts:

- Prohibited: Residential
- Permitted - with an IUP: Agricultural, Commercial, and Industrial

3.3 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 a.m. and 9 p.m., six days a week. The sale of Cannabis is allowed on Sundays between 12 p.m. and 9 p.m. on Sundays.

3.4 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 Houston County's sign ordinances.

Section 4. Temporary Cannabis Events

Any individual or business seeking to obtain a cannabis event license must provide OCM information about the time, location, layout, number of business participants, and hours of operation. A cannabis event organizer must receive local approval, including obtaining any necessary permits or licenses issued by a local unit of government before holding a cannabis event.

4.1 License or Permit Required for Temporary Cannabis Events

4.1.1 License Required.

A cannabis event organizer license entitles the license holder to organize a temporary cannabis event lasting no more than three days. A license or permit is required to be issued and approved by the Office of Houston County Auditor/Treasurer prior to holding a Temporary Cannabis Event.

4.1.2 Registration & Application Procedure

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

4.1.3 Application Submittal & Review.

The Office of Houston County Auditor/Treasurer shall require an application for Temporary Cannabis Events.

- (A) An applicant for retail registration shall fill out an application form, as provided by the Office of Houston County Auditor/Treasurer. 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;

- (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 MN Stat. §342.39 subd. 2.

The application shall be submitted to the Office of Houston County Auditor/Treasurer, 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.

Once an application is considered complete, the designee shall inform the applicant as such, process the application fees, and then the applicant shall apply for an Interim Use Permit with the Houston County Office of Environmental Services. If determined complete, the application shall be forwarded to the Houston County Planning Commission for a review and recommendation regarding the granting of an Interim Use Permit. Upon receipt of the recommendation of the Houston County Planning Commission, the Houston County Board of Commissioners shall either approve or deny the application. The application fee shall be non-refundable once processed.

Section 5. Lower-Potency Hemp Edibles

5.1 Sale of Low-Potency Hemp Edibles

The sale of Low-Potency Edibles is permitted, subject to the conditions within this Section and this Ordinance as a whole.

5.2 Zoning Districts - Low Potency Hemp Edible Retail.

Cannabis businesses licensed or endorsed as a Low Potency Hemp Edible Retail facility are permitted in the following zoning districts:

- Prohibited: Agricultural and Residential
- Permitted - with an IUP: Commercial and Industrial

5.3 Additional Standards

5.3.1 Sales within Municipal Liquor Store.

The sale of Low-Potency Edibles is permitted in a Municipal Liquor Store.

5.3.2 Age Requirements.

The sale of Low-Potency Edibles is permitted only in places that admit persons 21 years of age or older.

5.3.3 Beverages.

The sale of Low-Potency Hemp Beverages is permitted in places that meet the requirements of this Section.

5.3.4 Storage of Product.

Low-Potency Edibles shall be sold behind a counter and stored in a locked case.

Section 6. Local Government as a Cannabis Retailer

Houston County may establish, own, and operate one municipal cannabis retail business subject to the restrictions in this chapter. The municipal cannabis retail store shall not be included in any limitation of the number of registered cannabis retail businesses under Section 2.6. Houston County shall be subject to all same rental license requirements and procedures applicable to all other applicants.

Section 7 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.

DURATION AND EFFECTIVE DATE

1. This ordinance shall become effective on the first day of publication after adoption.
2. In the absence of other state statutory authority, by resolution of a Houston County municipality and agreement by the Houston County Board of Commissioners, a municipality may be exempt from all or part of this ordinance.

NOW THEREFORE, by and through Minn. Statute §145A, Minn. Statute §349, and Minn. Statute §342, and in the light of the need for overall enforcement, public health and safety, as well as the need to address regulatory issues created by the establishment of cannabis businesses in Houston County, this ordinance is hereby adopted by the Houston County Board of Commissioners and effective this _____ day of _____, 2024.

HOUSTON COUNTY

By _____
Eric Johnson, Chair
Houston County Board of Commissioners

Date: _____

Attested to by:

Polly Heberlein
Houston County Auditor/Treasurer

Date: _____