

**Public Hearing Agenda  
December 3, 2024 4:30pm  
City Hall, Council Chambers**

**Call To Order:**

**Roll Call:** Council members A.Forsman, Kess, Debeltz, Callen, Campbell, Bisbee and Mayor Omerza

**Purpose:**

(1-19) The Public Hearing will be to hear public comment regarding, Ordinance 381 and 383 regarding Cannabis Businesses.

- (1-17) Ordinance 381 – Regulating Cannabis Businesses
- (18-19) Ordinance 383 – Zoning Cannabis Businesses

**Adjourn**

ORDINANCE NO. 381, 2<sup>nd</sup> Series

AN ORDINANCE OF THE CITY OF ELY, MINNESOTA, ADDING TO THE ELY CITY CODE, CHAPTER 6, SECTION 6.41, ENTITLED REGULATING CANNABIS BUSINESS

THE COUNCIL OF THE CITY OF ELY DOES HEREBY ORDAIN:

**SECTION 1.** A new Section shall be added to Chapter 6 as Section 6.41, of the Ely City Code to read as follows:

**SEC. 6.41. REGULATE CANNABIS BUSINESS**

**Section 1.** Regulation of Cannabis Businesses

(a) *Authority.* Pursuant to Minn. Stat. §342, the city has the authority to regulate cannabis businesses within the city. This regulation includes the authority of the city 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) *Definitions.* 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 section.

*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.

*Cannabis retail businesses.* A cannabis 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.

*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.

*Compliance checks.* The system the city uses to investigate and ensure that those authorized to sell licensed products are following and complying with the requirements of this article. Compliance checks may also be conducted by the city or other units of government for educational, research, and training purposes, or for investigating or enforcing Federal, State, or local laws and regulations relating to licensed products.

*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.* Any product that:

- (1) is intended to be eaten or consumed as a beverage by humans;
- (2) contains hemp concentrate or an artificially derived cannabinoid, in combination with food ingredients;
- (3) is not a drug;
- (4) does not contain a cannabinoid derived from cannabis plants or cannabis flower;
- (5) is a type of product approved for sale by the OCM or is substantially similar to a product approved by the OCM, including but not limited to products that resemble nonalcoholic beverages, candy, and baked goods; and
- (6) meets either of the requirements of section a. or b. below:
  - a. a product that:
    1. a product that consists of servings that contain no more than five milligrams of delta-9 tetrahydrocannabinol; no more than 25 milligrams of cannabidiol, cannabigerol, cannabinol, or cannabichromene; any other cannabinoid authorized by the office; or any combination of those cannabinoids that does not exceed the identified amounts;
    2. does not contain more than a combined total of 0.5 milligrams of all other cannabinoids per serving; and
    3. does not contain an artificially derived cannabinoid other than delta-9 tetrahydrocannabinol, except that a product may include artificially derived cannabinoids created during the process of creating the delta-9 tetrahydrocannabinol that is added to the product, if no artificially derived cannabinoid is added to the ingredient containing delta-9 tetrahydrocannabinol and the ratio of delta-9 tetrahydrocannabinol to all other artificially derived cannabinoids is no less than 20 to one; or
  - b. a product that:
    1. contains hemp concentrate processed or refined without increasing the percentage of targeted cannabinoids or altering the ratio of cannabinoids in the extracts or resins of a hemp plant or hemp plant parts beyond the variability generally recognized for the method used for processing or refining or by an amount needed to reduce the total THC in the hemp concentrate; and
    2. consists of servings that contain no more than five milligrams of total THC.

*Office of Cannabis Management.* Minnesota Office of Cannabis Management, referred to as “OCM” in this section.

*Movable place of business.* A business which has no permanent physical location or is capable of being moved or changed, including, but not limited to, any business that is operated from a kiosk, other transportable structure or shelter, or a motorized or nonmotorized vehicle.

*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 Minn. Stat. §342.17.

*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 building, and other places of public accommodation.

*Residential treatment facility.* As defined under Minn. Stat. §245.462, subd. 23.

*Retail establishment.* Any place of business where licensed products are available for sale to the general public, including, but not be limited to, grocery stores, tobacco products shops, convenience stores, gasoline service stations, bars, and restaurants.

*Retail registration.* An approved registration issued by the city to a state-licensed cannabis retail business.

*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.

*Self-service merchandising.* Open displays of licensed products in any manner where any person has access to the licensed products without the assistance or intervention of the licensee or the licensee's employee. Assistance or intervention means the actual physical exchange of the licensed product between the customer and the licensee or employee.

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

*THC.* Tetrahydrocannabinol.

*Tobacco products shop.* The meaning given in Section 8-7(a)(17).

*Vending machine.* Any mechanical, electric, or electronic, or other type of device that dispenses licensed products upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the licensed product.

(c) *License – Lower-potency hemp edible.*

- (1) License required. No person shall sell or offer to sell any licensed lower-potency hemp edible product without first having obtained a license to do so from the city.
- (2) Application. An application for a license to sell licensed lower-potency hemp edible products shall be made on a form provided by the city. The application must contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the city clerk will forward the application to the city council for action at its next regularly scheduled city council meeting. If the city clerk determines that an application is incomplete, they shall return the application to the applicant with notice of the information necessary to make the application complete.

A business applicant, at the time of application, shall furnish the city with a list of all persons that have an interest of five percent or more in the business. The list shall name all owners and show the interest held by each, either individually or beneficially for others. It is the duty of each business licensee to notify the city clerk in writing of any change in ownership in the business. Any change in the ownership or control of the business shall be deemed equivalent to a transfer of the license, and any such license shall be revoked 30 days after any such change in ownership or control unless the licensee has notified the council of the change in ownership by submitting a new license application for the new owners, and the council has approved the transfer of the license by appropriate action. Any time an additional investigation is required because of a change in ownership or control of a business, the

licensee shall pay an additional investigation fee to be determined by the city. The city may at any reasonable time examine the transfer records and minute books of any business licensee to verify and identify the owners, and the city may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business. The council may revoke any license issued upon its determination that a change of ownership of a licensee has actually resulted in the change of control of the licensed business so as materially to affect the integrity and character of its management and its operation, but no such action shall be taken until after a hearing by the council on notice to the licensee.

- (3) Action. The city council may either approve or deny the application for a license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the city council approves the license, the city clerk shall issue the license to the applicant. If the city council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the city council's decision. If a license application is denied, the earliest an applicant may reapply is 12 months from the date the license is denied.
- (4) Term. All licenses issued under this article shall be valid for one calendar year from the date of issue.
- (5) Revocation or suspension. Any license issued under this article may be revoked or suspended as provided in this section.
- (6) Transfers. All licenses issued under this article shall be valid only on the premises for which the license was issued and only for the person or business to whom the license was issued. The transfer of any license to another location, business, or person is prohibited.
- (7) Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premises.
- (8) Renewals. The renewal of a license issued under this article shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license.
- (9) Issuance as privilege and not a right. The issuance of a license issued under this section is a privilege and does not entitle the license holder to automatic renewal of the license.
- (10) Minimum clerk age. Individuals employed by a licensed retail establishment under this ordinance must be at least 18 years of age to sell licensed lower-potency hemp edible products.
- (11) Maximum number of licenses. The maximum number of lower-potency hemp edible licenses issued by the city at any time is limited to 10. When the maximum number of licenses has been issued, the city may place persons seeking licensure on a waiting list and allow them to apply on a first-come, first-served basis, as licenses are not renewed or are revoked. A new applicant who has purchased a business location holding a valid city license will be entitled to first priority, provided the new applicant meets all other application requirements in accordance with this ordinance.

(12) *Fees for lower-potency hemp edible license.* No lower-potency hemp edible license shall be issued under this section until the appropriate license fee shall be paid in full. The fee for a license under this section shall be established by the city council and adopted in the city fee schedule, and may be amended from time to time.

(13) *Ineligibility and Basis for Denial of Lower-potency hemp edible License.*

a. Ineligibility.

1. Movable place of business. No license shall be issued to a movable place of business. Only fixed location businesses shall be eligible to be licensed under this section.
  2. City location required. A person who does not have, or at the time of the issuance of the license does not plan to have, at least one permanent physical premises in the city at which the licensed business will be located.
- b. Grounds for Denial. Grounds for denying the issuance or renewal of a license under this section include, but are not limited to, the following:
1. The applicant is under the age of 21 years.
  2. The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation from holding a license.
  3. The applicant has been convicted within the past five years for any violation of a Federal, State, or local law, other ordinance, provision, or other regulation relating to the licensed products, but not including possession or sale of licensed products.
  4. The applicant has had a license to sell licensed lower-potency hemp edible products suspended or revoked during the 12 months preceding the date of application, or the applicant has or had an interest in another premises authorized to sell licensed products, whether in the city or in another jurisdiction, that has had a license to sell licensed products suspended or revoked during the same time period, provided the applicant had an interest in the premises at the time of the revocation or suspension, or at the time of the violation that led to the revocation or suspension.
  5. The applicant is a business that does not have an operating officer or manager who is eligible pursuant to the provisions of this section.
  6. The applicant is the spouse of a person ineligible for a license pursuant to this section or who, in the judgement of the council, is not the real party in interest or beneficial owner of the business to be operated, under the license.
  7. The applicant fails to provide any information required on the application, or provides false or misleading information. Any false statement on an application, or any willful omission of any information called for on such application form, shall cause an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this section, or any part thereof.

- c. The city shall conduct a background investigation on all new applications. The city may conduct a background and financial check on an application for a renewal of a license if it is in the public interest to do so. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section and the city shall provide the person with a notice of revocation, along with information on the right to appeal.
- d. No license shall be granted or renewed for operation on any premises on which real estate taxes, assessments, or other financial claims of the city or of the State are due, delinquent, or unpaid. If an action has been commenced pursuant to the provisions of Minn. Stats. Ch. 278, questioning the amount or validity of taxes, the council may, on application by the licensee, waive strict compliance with this provision; no waiver may be granted, however, for taxes, or any portion thereof, which remain unpaid for a period exceeding one year after becoming due unless such one-year period is extended through no fault of the licensee.

(14) *Prohibited Acts – Lower-potency Hemp Edible Products.*

- a. In general. No person shall sell or offer to sell any licensed lower-potency hemp edible product:
    - 1. By means of any type of vending machine or by means of delivery.
    - 2. By means of self-service merchandising.
    - 3. By any other means, to any other person, or in any other manner or form prohibited by state or other local law, ordinance provision, or other regulation.
  - b. Legal Age. No person shall sell any licensed *lower-potency hemp edible license* product to any person under the age of 21.
    - 1. Age verification. Licensees shall verify by means of government issued photographic identification that the purchaser is at least 21 years of age. Verification is not required for a person over the age of 30. That the person appeared to be 30 years of age or older does not constitute a defense to a violation of this subsection.
    - 2. Signage. Notice of the legal sales age and age verification requirement must be posted prominently and in plain view at all times at each location where licensed products are offered for sale. The required signage, which will be provided to the licensee by the city, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.
  - c. Samples Prohibited. No person shall distribute samples of any licensed lower-potency hemp edible product free of charge or at a nominal cost.
- (15) *Storage.* All licensed lower-potency hemp edible products shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public.
- (16) *Responsibility.* All licensees are responsible for the actions of their employees in regard to the sale, offer to sell, and furnishing of licensed lower-potency hemp edible products on the licensed premises. The sale, offer to sell, or furnishing of any licensed lower-potency hemp edible product by an employee shall be considered an act of the licensee. Nothing in this section shall be

construed as prohibiting the city from also subjecting the employee to any civil penalties that the city deems to be appropriate under this ordinance, state or federal law, or other applicable law or regulation.

- (17) *Compliance checks and inspections.* All premises licensed under this subdivision shall be open to inspection by the city during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks. No person used in compliance checks shall attempt to use a false identification misrepresenting their age. All persons lawfully engaged in a compliance check shall answer all questions about their age asked by the licensee or their employee, and produce any identification, if any exists, for which they are asked. Persons used for the purpose of compliance checks shall be supervised by law enforcement or other designated personnel. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law. Additionally, from time to time, the city will conduct inspections to determine compliance with any or all other aspects of this ordinance.

- (18) *Violations and penalties.*

a. Notice of Violations.

A person violating this ordinance may be issued, either personally or by mail, a citation from the police department.

b. Administrative civil penalties.

1. *Licensees.* If a licensee or an employee of a licensee is found to have violated this ordinance, the licensee shall be subject to the administrative sanctions described in the following matrix. In all cases the council shall select which days a suspension will be served. Other mandatory requirements may be imposed on the licensee, including, but not limited to, meetings with the police department to present a plan of action to assure that problems will not continue, mandatory education sessions involving all employees and employers with the police department or other actions that the city council deems appropriate. On a first and second violation, the licensee may elect training in proper identification procedures in lieu of the license suspension. The license suspension and training requirements shall be governed by and are subject to the conditions set out in subsection (j)(2) of this section.



*Fine and License Suspension*

1 <sup>st</sup> Violation	2 <sup>nd</sup> Violation (within 36 months)	3 <sup>rd</sup> Violation (within 36 months)	4 <sup>th</sup> Violation (within 36 months)
\$300.00 plus 3 days suspension	\$500.00 plus 6 days suspension	\$1,000.00 plus 12 days suspension	\$2000.00 Revocation

2. *Training in lieu of suspension.* After the first and second violation within a 36-month period, a licensee may request training from the Ely Police Department in proper identification procedures. Said training shall be at the expense of the licensee, shall be in lieu of the entire three-day license suspension for a first violation and ten of the 15-day license suspension for the second violation required by subsection (j)(2)a. of this section, and shall be conducted per the following conditions:

- i. Training for all employees of a licensee must be completed within two training sessions at the discretion of the Ely Police Department.
- ii. If more than one licensee is requesting the training, the Ely Police Department retains control in deciding how many training sessions are necessary to accommodate the number of employees taking the training.
- iii. It shall be the responsibility of the licensee to make certain that all employees successfully complete the required training. Failure to do so means the licensee has failed to meet the "training in lieu of suspension" requirement of the administrative penalty and will be subject to the entire license suspension.
- iv. The licensee shall pay for all of the following costs for the training: supplies and materials, any facility costs, the personnel expenses for the trainer, all administrative costs of the training and any other costs staff deems necessary to conduct the training. Payment for the training must be made to the city clerk prior to the commencement of the training. Failure to make the payment will result in the cancellation of the training and the immediate imposition of the appropriate license suspension.

(c) Other individuals. Individuals, other than persons under the age of 21 regulated by subsection j.(4) of this section, who are found to be in violation of this ordinance will be subject to an administrative penalty of \$50.00.

(d) Persons under the age of 21. Persons under the age of 21 who use a false identification to purchase or attempt to purchase licensed lower-potency hemp edible products may only be subject to non-criminal, non-monetary civil penalties such as tobacco-related education classes, diversion programs, community services, or another penalty that the city determines to be appropriate. The city council will consult with court personnel, educators, parents, children and other interested parties to determine an appropriate penalty for persons under the age of 21 in the city. The penalty may be established by ordinance and amended from time to time.

(e) Misdemeanor prosecution. Nothing in this section prohibits the city from seeking prosecution as a misdemeanor for any alleged violation of this ordinance by a person 21 years of age or older.

(19) *Severability*. If any section or provision of this section is held invalid, such invalidity will not affect other sections or provisions that can be given force and effect without the invalidated section or provision.

(d) *Retail Registration of Cannabis Businesses*.

- (1) Retail registration required. No individual or entity may operate an OCM state-licensed cannabis retail business within the city without first registering with the city.
- (2) Application. An application for registration of a cannabis retail business shall be made on a form provided by the city. The application must contain the full name of the applicant, the applicant's residential and business addresses, tax property identification number for the property which the retail registration is sought, telephone numbers, e-mail address, the name of the business for which the registration is sought, a copy of OCM license preapproval, and any additional information the city deems necessary. Upon receipt of a completed application, the city clerk will forward the application to the city council for action at its next regularly scheduled city council meeting. If the city clerk determines that an application is incomplete, they shall return the application to the applicant with notice of the information necessary to make the application complete.

A business applicant, at the time of application, shall furnish the city with a list of all persons that have an interest of five percent or more in the business. The list shall name all owners and show the interest held by each, either individually or beneficially for others. It is the duty of each business registration holder to notify the city clerk in writing of any change in ownership in the business. Any change in the ownership or control of the business shall be deemed equivalent to a transfer of the registration, and any such registration shall be revoked 30 days after any such change in ownership or control unless the registration holder has notified the council of the change in ownership by submitting a new registration application for the new owners, and the council has approved the transfer of the registration by appropriate action. Any time an additional investigation is required because of a change in ownership or control of a business, the business registration holder shall pay an additional investigation fee to be determined by the city. The city may at any reasonable time examine the transfer records and minute books of any business registration holder to verify and identify the owners, and the city may examine the business records of any other business registration

holder to the extent necessary to disclose the interest which persons other than the business registration holder have in the registered business. The council may revoke any registration issued upon its determination that a change of ownership of a business registration holder has actually resulted in the change of control of the registered business so as materially to affect the integrity and character of its management and its operation, but no such action shall be taken until after a hearing by the council on notice to the business registration holder.

(3) Compliance checks prior to issuance of retail registration.

a. Prior to issuance of a cannabis retail business registration, the city shall conduct a preliminary compliance check to ensure compliance with local ordinances established pursuant to Minn. Stat. §342.13, including but not limited to the business use certificate of occupancy provisions in Section 3-33 of the Code.

b. Pursuant to Minn. Stat. §342, within 30 days of receiving a copy of a state license application from OCM, the city shall certify on a form provided by OCM whether a proposed cannabis retail business complies with local zoning ordinances and, if applicable, whether the proposed business complies with the state fire code and building code.

(4) Action. The city council may either approve or deny the registration application, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. A state-licensed cannabis retail business application shall not be approved or renewed if the applicant is unable to meet the requirements of this section. If the city council approves the registration, the city clerk shall issue the registration to the applicant. If the city council denies the application, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the city council's decision. If a registration application is denied, the earliest an applicant may reapply is 12 months from the date the registration is denied.

(5) Term. All registrations issued under this article shall be valid for one calendar year from the date of issue.

(6) Revocation or suspension. Any registration issued under this article may be revoked or suspended as provided in this section.

(7) Transfers. All registrations issued under this article shall be valid only on the premises for which the registration was issued and only for the person or business to whom the registration was issued. The transfer of any registration to another location, business, or person is prohibited.

(8) Display. All registrations shall be posted and displayed in plain view of the general public on the registered premises.

(9) Renewals. The renewal of a registration issued under this article shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current registration.

(10) Issuance as privilege and not a right. The issuance of a registration issued under this section is a privilege and does not entitle the registration holder to automatic renewal of the registration.

- (11) Minimum clerk age. Individuals employed by a registered retail establishment under this ordinance must be at least 18 years of age to sell cannabis or lower-potency hemp edible products.
- (12) Maximum number of registrations. The maximum number of retail cannabis registrations issued by the city at any time is limited to 1. 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 this section. When the maximum number of registrations has been issued, the city may place persons seeking registration on a waiting list and allow them to apply on a first-come, first-served basis, as registrations are not renewed or are revoked. A new applicant who has purchased a business location holding a valid city registration will be entitled to first priority, provided the new applicant meets all other application requirements in accordance with this ordinance.
- (13) Registration Fees. No registration shall be issued under this section until the appropriate registration fee shall be paid in full. The fee for a registration under this section shall be established by the city council and adopted in the city fee schedule, and may be amended from time to time.
  - a. 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.
  - b. Any renewal retail registration fee imposed by the city shall be charged at the time of the second renewal and each subsequent renewal thereafter.
  - c. 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.
  - d. 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.
  - e. Once an application is considered complete, the city 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.
  - f. The application fee shall be non-refundable once processed.
- (14) 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., Monday through Sunday.
- (15) 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 code in section 3-50 of the City Code.
- (16) CCTV Video Surveillance. Cannabis businesses must operate and maintain a closed-circuit television (CCTV) surveillance system. The CCTV video surveillance system must operate for 24 hours per day, seven days per week, and visually record all sales areas and all points of entry and exit.
- (17) Ineligibility and Basis for Denial of Registration.
  - a. Ineligibility.

1. Movable place of business. No registration shall be issued to a movable place of business. Only fixed location businesses shall be eligible to be registered under this section.
  2. City location required. A person who does not have, or at the time of the issuance of the registration does not plan to have, at least one permanent physical premises in the city at which the registered business will be located.
- b. Grounds for Denial. Grounds for denying the issuance or renewal of a registration under this section include, but are not limited to, the following:
1. The applicant is under the age of 21 years.
  2. The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation from holding a valid license issued through OCM.
  3. The applicant has been convicted within the past five years for any violation of a Federal, State, or local law, other ordinance, provision, or other regulation relating to the licensed products, but not including possession or sale of licensed products.
  4. The applicant has had a city registration or OCM-issued license to sell cannabis products suspended or revoked during the 12 months preceding the date of application, or the applicant has or had an interest in another premises authorized to sell licensed products, whether in the city or in another jurisdiction, that has had a city registration or OCM-issued license to sell cannabis products suspended or revoked during the same time period, provided the applicant had an interest in the premises at the time of the revocation or suspension, or at the time of the violation that led to the revocation or suspension.
  5. The applicant is a business that does not have an operating officer or manager who is eligible pursuant to the provisions of this section.
  6. The applicant is the spouse of a person ineligible for registration pursuant to this section or who, in the judgement of the council, is not the real party in interest or beneficial owner of the business to be operated, under the registration.
  7. The applicant fails to provide any information required on the application, or provides false or misleading information. Any false statement on an application, or any willful omission of any information called for on such application form, shall cause an automatic refusal of registration, or if already issued, shall render any registration issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this section, or any part thereof.
- c. The city shall conduct a background investigation on all new applications. The city may conduct a background and financial check on an application for a renewal of a registration if it is in the public interest to do so. If a registration is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the registration under this section and the city shall provide the person with a notice of revocation, along with information on the right to appeal.
- d. No registration shall be granted or renewed for operation on any premises on which real estate taxes, assessments, or other financial claims of the city or of

the State are due, delinquent, or unpaid. If an action has been commenced pursuant to the provisions of Minn. Stats. Ch. 278, questioning the amount or validity of taxes, the council may, on application by the business registration holder, waive strict compliance with this provision; no waiver may be granted, however, for taxes, or any portion thereof, which remain unpaid for a period exceeding one year after becoming due unless such one-year period is extended through no fault of the business registration holder.

(18) Prohibited Acts – Cannabis Products.

- a. Any OCM 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. No person shall sell or offer to sell any cannabis or lower-potency hemp edible product:
  1. By means of any type of vending machine or by means of delivery.
  2. By means of self-service merchandising.
  3. By any other means, to any other person, or in any other manner or form prohibited by state or other local law, ordinance provision, or other regulation.
- c. Legal Age. No person shall sell any cannabis or lower-potency hemp edible product to any person under the age of 21.
  1. Age verification. Registered businesses shall verify by means of government issued photographic identification that the purchaser is at least 21 years of age. Verification is not required for a person over the age of 30. That the person appeared to be 30 years of age or older does not constitute a defense to a violation of this subsection.
  2. Signage. Notice of the legal sales age and age verification requirement must be posted prominently and in plain view at all times at each location where licensed products are offered for sale. The required signage, which will be provided to the registration holder by the city, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.
- d. Samples Prohibited. No person shall distribute samples of any cannabis or lower-potency hemp edible product free of charge or at a nominal cost.
- e. Violation of city code. If registration holder violates this section or any other provision of the city code 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.

(19) Storage. All cannabis and lower-potency hemp edible products shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public.

(20) Responsibility. All registered businesses are responsible for the actions of their employees in regard to the sale, offer to sell, and furnishing of cannabis and/or lower-potency hemp edible products on the registered premises. The sale, offer to sell, or furnishing of any cannabis or lower-potency hemp edible product by an employee shall be considered an act of the registered business. Nothing in this section shall be construed as

prohibiting the city from also subjecting the employee to any civil penalties that the city deems to be appropriate under this ordinance, state or federal law, or other applicable law or regulation.

- (21) Compliance checks and inspections. All premises registered under this subdivision shall be open to inspection by the city during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks 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 section. The city shall conduct at minimum one unannounced age verification compliance check at least once per calendar year. Additionally, from time to time, the city will conduct inspections to determine compliance with any or all other aspects of this ordinance.
- a. 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 supervisions of a law enforcement officer or an employee of the local under of government.
  - b. No person used in compliance checks shall attempt to use a false identification misrepresenting their age. All persons lawfully engaged in a compliance check shall answer all questions about their age asked by the registered business or their employee, and produce any identification, if any exists, for which they are asked. Persons used for the purpose of compliance checks shall be supervised by law enforcement or other designated personnel. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law.
  - c. Any failures under this section must be reported to the OCM.
- (22) Violations and administrative civil penalties.
- a. Notice of Violations. A person violating this ordinance may be issued, either personally or by mail, a citation from the police department.
  - 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 must 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.
  - d. The city may reinstate a registration if it determines that the violations have been resolved.

- e. The city shall reinstate a registration if OCM determines that the violations have been resolved.
- f. 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 for each violation.
- g. If a registered business or an employee of a registered business is found to have violated this ordinance, the registered business shall be subject to the administrative sanctions described in the following matrix. In all cases the council shall select which days a suspension will be served. Other mandatory requirements may be imposed on the registered business, including, but not limited to, meetings with the police department to present a plan of action to assure that problems will not continue, mandatory education sessions involving all employees and employers with the police department or other actions that the city council deems appropriate. On a first and second violation, the registered business may elect training in proper identification procedures in lieu of the registration suspension.

*Fine and Registration Suspension*

1 <sup>st</sup> Violation	2 <sup>nd</sup> Violation (within 36 months)	3 <sup>rd</sup> Violation (within 36 months)	4 <sup>th</sup> Violation (within 36 months)
\$750.00 plus 7 days suspension	\$1,500 plus 15 days suspension	\$2,000 plus 30 days suspension	Revocation

- h. Training in lieu of suspension. After the first and second violation within a 36-month period, a registered business may request training from the Ely Police Department in proper identification procedures. Said training shall be at the expense of the registered business, shall be in lieu of the entire seven-day registration suspension for a first violation and 10 of the 15-day registration suspension for the second violation required by this section, and shall be conducted per the following conditions:
  1. Training for all employees of a registered business must be completed within two training sessions at the discretion of the Ely Police Department.
  2. If more than one registered business is requesting the training, the Ely Police Department retains control in deciding how many training sessions are necessary to accommodate the number of employees taking the training.
  3. It shall be the responsibility of the registered business to make certain that all employees successfully complete the required training. Failure to do so means the registered business has failed to meet the



"training in lieu of suspension" requirement of the administrative penalty and will be subject to the entire registration suspension.

4. The registered business shall pay for all of the following costs for the training: supplies and materials, any facility costs, the personnel expenses for the trainer, all administrative costs of the training and any other costs staff deems necessary to conduct the training. Payment for the training must be made to the city clerk prior to the commencement of the training. Failure to make the payment will result in the cancellation of the training and the immediate imposition of the appropriate registration suspension.

i. Other individuals. Individuals, other than persons under the age of 21 regulated by this section, who are found to be in violation of this ordinance will be subject to an administrative penalty of \$50.00.

j. Persons under the age of 21. Persons under the age of 21 who use a false identification to purchase or attempt to purchase cannabis or licensed lower-potency hemp edible products may only be subject to non-criminal, non-monetary civil penalties such as tobacco-related education classes, diversion programs, community services, or another penalty that the city determines to be appropriate. The city council will consult with court personnel, educators, parents, children and other interested parties to determine an appropriate penalty for persons under the age of 21 in the city. The penalty may be established by ordinance and amended from time to time.

k. Misdemeanor prosecution. Nothing in this section prohibits the city from seeking prosecution as a misdemeanor for any alleged violation of this ordinance by a person 21 years of age or older.

(23) Severability. If any section or provision of this section is held invalid, such invalidity will not affect other sections or provisions that can be given force and effect without the invalidated section or provision.

(e) *Temporary Cannabis Events*

(1) Administrative permit required for temporary cannabis events pursuant to the provisions set forth in Section 4-31 of this Code—Administrative permits and approvals. An administrative permit is required to be issued and approved by the city prior to holding a Temporary Cannabis Event.

(2) Registration & Application Procedure. A registration fee, as established in the city's fee schedule, shall be charged to applicants for Temporary Cannabis Events.

(3) Application Submittal & Review. The city shall require an application for Temporary Cannabis Events and the regulations and procedures set forth in Section 4-31 shall apply.

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:

1. Full name of the property owner and applicant;

2. Address, email address, and telephone number of the applicant;

- b. The applicant shall include with the form:
  - 1. The application fee as required in the city's fee schedule.
  - 2. A copy of the OCM cannabis event license application, submitted pursuant to Minn. Stat. §342.39, subd. 2.
- c. The application shall be submitted to the city, 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.
- d. Once an application is considered complete, the designee shall inform the applicant as such, process the application fees, and forward the application to the City Clerk, or elected body that will approve or deny the request) for approval or denial.
- e. The application fee shall be non-refundable once processed.
- f. A request for a Temporary Cannabis Event that does not meet the requirements of this section shall be denied. The city shall notify the applicant of the standards not met and basis for denial.
- g. Temporary cannabis events shall be prohibited on public property as set forth in Section 11-15 of this Code.
- h. Temporary cannabis events shall only be held between the hours of 10:00 a.m. and 9:00 p.m.

**SECTION 2. Effective Date:** Pursuant to Section 3.08 of the Charter of the City of Ely, Minnesota, the adoption of this Ordinance is effective immediately after final adoption and publication.

First Reading: November 19, 2024

Publication Date: November 30, 2024

Newspaper: Ely Echo

Public Hearing: December 3, 2024

**ORDINANCE NO. 383, 2<sup>nd</sup> Series**

**AN ORDINANCE OF THE CITY OF ELY, MINNESOTA, AMENDING THE ELY CITY CODE, CHAPTER 11, SECTION 11.50, ENTITLED REGULATING CANNABIS BUSINESS**

THE COUNCIL OF THE CITY OF ELY DOES HEREBY ORDAIN:

**SECTION 1.** Chapter 11 of the Ely City Code shall be amended to read as follows:

**Section 1.** *Zoning – Definitions* of the Ely City Code Section 11.01 is hereby amended to add the following definitions:

**Subd 47. “Cannabis Business”** shall include the following, all of which must be licensed through the State and the Office of Cannabis Management under Minn. Stat. §342: cannabis microbusiness, cannabis mezzobusiness, cannabis cultivator, cannabis manufacturer, cannabis retailer, cannabis wholesaler, cannabis transporter, cannabis testing facility, cannabis event organizer, cannabis delivery service, lower-potency hemp edible manufacturer, lower-potency hemp edible retailer, medical cannabis combination business.

**Section 2. SEC. 11.10. ZONING DISTRICTS AND GENERAL PROVISIONS** of the Ely City Code is hereby amended to add the following text:

***SEC. 11.13. Cannabis Businesses***

***Permitted uses C-1*** district of the Ely City Code is hereby amended to add the following text: Cannabis retail business and lower-potency hemp edible retailer subject to all requirements in Section XXX and the buffer zones set forth below:

- A. The City of Ely shall prohibit the operation of a cannabis business within 1,000 feet of a school.
- B. The City of Ely shall prohibit the operation of a cannabis business within 500 feet of a day care.
- C. The City of Ely shall prohibit the operation of a cannabis business within 500 feet of a residential treatment facility.
- D. The City of Ely 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.
- E. The City of Ely shall prohibit the operation of a cannabis retail business within 500 feet of another cannabis retail business.
- F. 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.

**Conditional uses** – I, industrial zoning district of the Ely City Code is hereby amended to add the following text:

Cannabis microbusiness, Cannabis mezzobusiness, Cannabis cultivator, Cannabis manufacturer, Cannabis wholesaler, Cannabis transporter, Cannabis testing facility, Cannabis delivery service, Lower-potency hemp edible manufacturer and Medical cannabis combination business subject to the buffer zones set forth below:

- A. The City of Ely shall prohibit the operation of a cannabis business within 1,000 feet of a school.
- B. The City of Ely shall prohibit the operation of a cannabis business within 500 feet of a day care.
- C. The City of Ely shall prohibit the operation of a cannabis business within 500 feet of a residential treatment facility.
- D. The City of Ely 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.
- E. The City of Ely shall prohibit the operation of a cannabis retail business within 500 feet of another cannabis retail business.
- F. 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.

**SECTION 2. Effective Date:** Pursuant to Section 3.08 of the Charter of the City of Ely, Minnesota, the adoption of this Ordinance is 30 days after final adoption and publication.

First Reading: November 19, 2024

Second Reading:

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk Treasurer

Publication Date: November 23, 2024

Newspaper: Ely Echo