Cannabis Model Ordinance

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AN ORDINANCE OF THE COUNTY OF POPE TO REGULATE CANNABIS BUSINESSES

The County Board of Pope County hereby ordains:

Section 1. Administration

1.1 Findings and Purpose

The County of Pope makes the following legislative findings:

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

The Pope County Board of Commissioners finds and concludes that the proposed provisions are appropriate and lawful land use regulations for Pope 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

Pope 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. 394.21, regarding the authority of a local authority to adopt zoning ordinances.

Ordinance shall be applicable to the legal boundaries of Pope County.

Local governments within the boundaries of Pope County may lawfully delegate cannabis retail registration authority to Pope County by that local government's official act and upon notice to the County of the local government's delegation. However, nothing in this Ordinance prohibits a local government within the boundaries of Pope County from adopting lawful ordinances under Sections 2.6, 3 and 4 of this Ordinance if Pope County has not adopted conflicting provisions.

1.3 Severability

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

1.4 Enforcement

The (insert name of local government or designated official) 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 flowerto 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 lower-potency hemp edible retailers.

4. Cannabis Retailer: Any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form.
5. Daycare: A location licensed with the Minnesota Department of Human Services to provide the care of a child in a residence outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.
6. Lower-potency Hemp Edible: As defined under Minn. Stat. 342.01 subd. 50.
7. Office of Cannabis Management: Minnesota Office of Cannabis Management, referred to as "OCM" in this ordinance.
8. Place of Public Accommodation: A business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.
9. Preliminary License Approval: OCM pre-approval for a cannabis business license for applicants who qualify under Minn. Stat. 342.17.
10. Public Place: A public park or trail, public street or sidewalk; any enclosed, indoor area used by the general public, including, but not limited to, restaurants; bars; any other food or liquor establishment; hospitals; nursing homes; auditoriums; arenas; gyms; meeting rooms; common areas of rental apartment buildings, and other places of public accommodation.
11. Residential Treatment Facility: As defined under Minn. Stat. 245.462 subd. 23.
12. Retail Registration: An approved registration issued by the Pope County 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 Pope County or within a municipality within Pope County having lawfully delegated registration power to Pope County in accordinance with Section 1.2 of this Ordinance without first registering with Pope 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.

2.2 Compliance Checks Prior to Retail Registration

Prior to issuance of a cannabis retail business registration, Pope 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, Pope 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.

A registration fee, as established in Pope County 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 Pope 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.

Pope County 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 Pope County. Said form shall include, but is not limited to:
   i. Full name of the property owner and applicant;
   ii. Address, email address, and telephone number of the applicant;
   iii. The address and parcel ID for the property which the retail registration is sought;
   iv. Certification that the applicant complies with the requirements of local ordinances established pursuant to Minn. Stat. 342.13.

(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;
iii. (Insert additional standards here)

(C) Once an application is considered complete, Pope County shall inform the applicant as such, process the application fees, and forward the application to the Board of County Commissioners that will approve or deny the request for approval or denial.

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

2.3.3 Application Approval

(A) *(Optional)* A state-licensed cannabis retail business application shall not be approved if the cannabis retail business would exceed the maximum number of registered cannabis retail businesses permitted under Section 2.6.

(B) A state-licensed cannabis retail business application shall not be approved or renewed if the applicant is unable to meet the requirements of this ordinance.

(C) A state-licensed cannabis retail business application that meets the requirements of this ordinance shall be approved.

2.3.4 Annual Compliance Checks.

Pope County shall complete at minimum one compliance check per calendar year of every lawfully registered cannabis business to assess if the business meets age verification requirements, as required under [Minn. Stat. 342.22 Subd. 4(b) and Minn. Stat. 342.24] and this ordinance.

The Pope County shall conduct at minimum one unannounced age verification compliance check at each lawfully registered cannabis business 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 Pope County either in an unincorporated area or in a municipality having delegated registration authority to the County.

2.4 Renewal of Registration

Pope County shall renew an annual registration of a state-licensed cannabis retail business at the same time OCM renews the cannabis retail business' license.

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

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

2.4.1 Renewal Fees.

Pope County may charge a renewal fee for the registration starting at the second renewal, as established in Pope 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.

Pope County may suspend a cannabis retail business's registration if there is a violation of this ordinance, noncompliance with the Land Use Controls Ordinance or poses an immediate threat to the health or safety of the public. Pope County shall immediately notify the cannabis retail business in writing the grounds for the suspension.

2.5.2 Notification to OCM.

Pope County shall immediately notify the OCM in writing the grounds for the suspension. OCM will provide Pope County and the 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.

A jurisdiction can wait for a determination from the OCM before reinstating a registration.

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.

Pope County shall reinstate a registration if it determines that the violations have been resolved.

2.5.4 Civil Penalties.

Subject to Minn. Stat. 342.22, subd. 5(e) Pope County may impose a civil penalty, as specified in the Pope County Fee Schedule, for registration violations, not to exceed $2,000.

2.6 Limiting of Registrations

Pope County shall limit the number of cannabis retail businesses to no fewer than one registration for every 12,500 residents within Pope County.

Section 3. Requirements for Cannabis Businesses

3.1 Minimum Buffer Requirements

It shall be prohibited to operate a cannabis business within:

- 1000 feet of a school
- 500 feet of a day care facility
- 500 feet of a residential treatment facility
- 500 feet of an attraction within a public park that is regularly used by minors, including a playground or athletic field.
- 500 feet of another cannabis retail business.
- 500 feet of a church

Pursuant to Minn. Stat. 394.36, 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.

3.2 Zoning and Land Use

For jurisdictions with zoning, said jurisdiction can limit what zone(s) Cannabis businesses can operate in. As with other uses in a Zoning Ordinance, a jurisdiction can also determine if such use requires a Conditional or Interim Use permit. A jurisdiction cannot outright prohibit a cannabis business. A jurisdiction should amend their Zoning Ordinance and list what zone(s) Cannabis businesses are permitted in, and whether they are permitted, conditional, or interim uses. While each locality conducts its zoning differently, a few themes have emerged across the country. For example, cannabis manufacturing facilities are often placed in industrial zones, while cannabis retailers are typically found in commercial/retail zones. Cannabis retail facilities align with general retail establishments and are prohibited from allowing consumption or use onsite and are also required to have plans to prevent the visibility of cannabis and hemp-derived products to individuals outside the retail location. Cannabis businesses should be zoned under existing zoning ordinances in accordance with the license type or endorsed activities held by the cannabis business.

3.2.1. Cultivation.

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

- Non-Intensive Agriculture (A-1)
- Agricultural Protection (A-2)
- Industrial (I)

3.2.1. Cannabis Manufacturer.

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

- Industrial (I)

3.2.1. Hemp Manufacturer.

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

- Industrial (I)

3.2.1. Wholesale.

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

- Commercial (C)
- Industrial (I)

3.2.1. Cannabis Retail.

Cannabis businesses licensed or endorsed for cannabis retail are permitted as a Conditional Use in the following zoning districts:

- Commercial (C)
- Industrial (I)

3.2.1. Cannabis Transportation.

Cannabis businesses licensed or endorsed for transportation are permitted as a Conditional Use in the following zoning districts:

- Commercial (C)
- Industrial (I)

3.3 Hours of Operation

A jurisdiction may adopt an ordinance limiting hours of operation to the hours between 10 a.m. and 9 p.m., seven days a week. State statute prohibits the sale of cannabis between 2 a.m. and 8 a.m., Monday through Saturday, and between 2 a.m. and 10 a.m. on Sundays.

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. Monday thru Thursday
10 a.m. and 11 p.m. Saturday
12 p.m. and 4 p.m. Sunday

3.4 Advertising

Cannabis businesses are permitted to erect a (one) fixed sign on the exterior of the building or property of the business, unless otherwise limited by a signage standard as codified in the Land Use controls ordinance or as a standalone sign ordinance.

Section 4. Temporary Cannabis Events

4.1 License or Permit Required for Temporary Cannabis Events

4.1.1 License Required.

A license or permit is required to be issued and approved by the Pope County Board of Commissioners prior to holding a Temporary Cannabis Event.

4.1.2 Registration & Application Procedure

A registration fee, as established in the Pope County Fee Schedule, shall be charged to applicants for Temporary Cannabis Events.

4.1.3 Application Submittal & Review.

Pope County requires that an event organizer/sponsor submit to the county for consideration an application for Temporary Cannabis Events.

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

i. Full name of the property owner and applicant;
ii. Address, email address, and telephone number of the applicant;
iii. (Insert additional standards here)

(B) The applicant shall include with the form:

i. the application fee as required in Section 4.1.2;
ii. a copy of the OCM cannabis event license application, submitted pursuant to 342.39 subd. 2.

The application shall be submitted to Pope County, or other designee for review. If the designee determines that a submitted application is incomplete, they shall return the application to the applicant with the notice of deficiencies.

(C) Once an application is considered complete, the designee shall inform the applicant as such, process the application fees, and forward the application to the (insert staff/department, or elected body that will approve or deny the request) for approval or denial.

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

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

A jurisdiction may establish standards for Temporary cannabis events which the event organizer must meet, including restricting or prohibiting any on-site consumption. If there are public health, safety, or welfare concerns associated with a proposed cannabis event, a jurisdiction would presumably be authorized to deny approval of that event.

- Insert standards here

(G) A request for a Temporary Cannabis Event that meets the requirements of this Section shall be approved.

(H) A request for a Temporary Cannabis Event that does not meet the requirements of this Section shall be denied. The (insert city/town/county) shall notify the applicant of the standards not met and basis for denial.

(Optional) Temporary cannabis events shall only be held at (insert local place).

(Optional) Temporary cannabis events shall only be held between the hours of (insert start time) and (insert stop time).

Section 5. (Optional) Lower-Potency Hemp Edibles

A jurisdiction can establish different standards or requirements regarding Low-Potency Edibles. A jurisdiction can consider including the following section and subsections in their cannabis ordinance.

5.1 Sale of Low-Potency Hemp Edibles

The sale of Low-Potency Edibles is permitted, subject to the conditions within this Section.

5.2 Zoning Districts

If sales are permitted, a jurisdiction can limit what zone(s) the sales of Low-Potency Edibles can take place in. A jurisdiction can also determine if such activityrequires a Conditional or Interim Use permit.

Low-Potency Edibles businesses are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districtsuse is permitted in here)
- (Insert zoning districtsuse is permitted in here)

5.3 (Optional) Additional Standards

5.3.1 Sales within Municipal Liquor Store.

A jurisdiction that already operates a Municipal Liquor Store may sell Low-Potency Edibles within the same store.

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

5.3.2 Age Requirements.

A jurisdiction is able to restrict the sale of Low-Potency Edibles to locations such as bars.

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 requirements of this Section.

5.3.4 Storage of Product.

A jurisdiction is able to set requirements on storage and sales of Low-Potency Edibles.

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

Section 6. (Optional) Local Government as a Cannabis Retailer

(insert local here) 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.

(insert local here) shall be subject to all same rental license requirements and procedures applicable to all other applicants.

Section 7 Use in Public Places

Uses in Public Place Prohibited. 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 cannabis flower and adult-use products.

Certain Use Prohibited in Presence of Minor. No person shall vaporize or smoke cannabis flower, cannabis products, artificially derived cannabinoids, or hemp-derived consumer products in any location where the smoke, aerosol, or vapor would be inhaled by a minor.

Uses Prohibited by Those Under 21 Years of Age. No person under the age of 21 shall use, possess, or transport cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products, unless used by means other than by smoking or by a vaporized delivery method, possession, or transportation of medical cannabis flower or medical cannabinoid products by a patient; a registered designated caregiver; or a parent, legal guardian, or spouse of a patient.