

ORDINANCE NO. 4270

AN ORDINANCE AMENDING WINONA CITY CODE, CHAPTER 51 – LICENSES AND PERMITS AND SERVICE CHARGES OF THE CITY, AND ADDING A NEW CHAPTER 57 – REGULATION OF CANNABIS AND HEMP RETAIL BUSINESSES AND TEMPORARY CANNABIS EVENTS

THE CITY OF WINONA DOES ORDAIN (new material is underlined; deleted material is lined out in red; sections which are not proposed to be amended are omitted; sections which are only proposed to be re-numbered are only set forth below as to their number and title):

SECTION 1. That Winona City Code, Chapter 51 – Licenses and Permits and Service Charges of the City, Sec. 51.01, Fees and Charges Established, be amended to add classes and fees for cannabis and hemp businesses, as follows:

<b>City Clerk's Office</b>	<b>Adopted Fee</b>
<b><u>Cannabis and Hemp Business Classes and Fees</u></b>	
<u>Cannabis Retailer</u>	
<u>Initial Retail Registration Fee</u>	<u>\$500.00</u>
<u>Retail Registration Renewal Fee</u>	<u>\$1,000.00</u>
<u>Cannabis Microbusiness</u>	
<u>Initial Retail Registration Fee</u>	<u>\$0.00</u>
<u>Retail Registration Renewal Fee</u>	<u>\$500.00</u>
<u>Cannabis Mezzobusiness</u>	
<u>Initial Retail Registration Fee</u>	<u>\$500.00</u>
<u>Retail Registration Renewal Fee</u>	<u>\$1,000.00</u>
<u>Medical Cannabis Combination Business</u>	
<u>Initial Retail Registration Fee</u>	<u>\$500.00</u>
<u>Retail Registration Renewal Fee</u>	<u>\$1,000.00</u>
<u>Lower-Potency Hemp Edible Retailer</u>	
<u>Initial Retail Registration Fee</u>	<u>\$125.00</u>
<u>Retail Registration Renewal Fee</u>	<u>\$125.00</u>
<u>Temporary Cannabis Event Application Fee</u>	<u>\$375.00</u>

SECTION 2. That Winona City Code be amended to add a new Chapter 57 entitled “Regulation of Cannabis and Hemp Retail Businesses and Temporary Cannabis Events”, as follows:

## **CHAPTER 57: REGULATION OF CANNABIS AND HEMP RETAIL BUSINESSES AND TEMPORARY CANNABIS EVENTS**

### **GENERAL REGULATIONS**

#### **57.01 STATE LAW ADOPTED**

Except as further restricted or regulated by this chapter, the provisions of Minn. Stat. ch. 342, relating to cannabis and hemp regulation and the corresponding state rules with respect to the same are hereby adopted and made a part of this chapter as if set out herein in full. In accordance with Minn. Stat. §§ 342.13 and 342.22, the city may impose further restrictions and regulations within city limits. Whenever there is an inconsistency between the provisions of Minn. Stat. ch. 342, as amended, and the provisions of this chapter, the more restrictive provision shall govern, unless preempted by state law.

#### **57.02 DEFINITIONS**

The words, terms and phrases contained in Minn. Stat. § 342.01 and the corresponding promulgated state rules shall have the same meanings in this chapter; said definitions, as the same may be amended from time to time, being hereby incorporated herein by reference. Unless otherwise noted in this chapter, the following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Cannabis Cultivation* means 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* means a cannabis retailer 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, excluding lower-potency hemp edible retailers.

*Cannabis Retailer* means 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.

*Daycare* means 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* is defined under Minn. Stat. § 342.01, subd. 50.

*Lower-potency Hemp Edible Retailer* means a person or entity licensed or authorized to acquire, possess, transfer, sell, dispense, or distribute lower-potency hemp edible products and related supplies and products pursuant to Minnesota Statutes, Chapter 342.

*Office of Cannabis Management* means the Minnesota Office of Cannabis Management, referred to as "OCM" in this chapter.

Preliminary License Approval means OCM pre-approval for a cannabis business license for applicants who qualify under Minn. Stat. § 342.17.

Residential Treatment Facility is defined under Minn. Stat. § 245.462 subd. 23.

Retail Registration means an approved registration issued by the city to a state-licensed cannabis retail business or lower-potency hemp edible retailer.

Registered Retail Business means either a cannabis retail business or lower-potency hemp edible retailer with a valid retail registration issued by the city.

School means 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.

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

Temporary cannabis event means a cannabis event lasting no more than four days, organized by a holder of a cannabis event organizer license pursuant to Minn. Stat. § 342.39 and subject to the requirements of Minn. Stat. § 342.40.

## **57.03 CONDITIONS**

All retail registrations issued to cannabis retail businesses or lower-potency hemp edible retailers under this chapter shall be issued subject to the conditions set forth in this chapter and subject to all city ordinances and sections of this Code applicable thereto and the laws of the state. All other regulations contained in state law and city code, including but not limited to chapters 21, 32, 43, 51, 52, and 55 of this city code, as applicable to a respective otherwise licensed or registered retail business enterprise regarding operational requirements and restrictions and prohibited acts and sales, shall not be limited by virtue of issuance of a retail registration under this chapter and shall be complied with as applicable to the otherwise registered cannabis retail business to the same extent as if such business enterprise were not a cannabis retail business. All such regulations applicable to an otherwise licensed or registered retail business shall remain applicable to the operations of the registered cannabis retail business during the term of a registration issued under this chapter.

## **57.04 VIOLATIONS**

(a) Notice. Any person or registered retail business violating this chapter may be issued, either personally or by mail, a notice of violation/citation by the city clerk in consultation with the city administrator and chief of police that sets forth the alleged violation, the penalties imposed and timing for serving a suspension, and that informs the alleged violator of the alleged violator's right to a hearing on the matter. The notice of violation/citation shall provide notice that a hearing must be requested by the alleged violator within ten business days of the date of issuance of the notice of violation/citation and that such hearing rights shall be waived by the alleged violator and terminated if a hearing is not requested in writing by the alleged violator and filed with the city clerk within the ten business day period. The notice of violation/citation shall provide information on how and where a hearing may be requested, including a contact address and phone number for the city clerk.

(b) *Hearing.* If a person or registered retail business accused of violating this chapter or the governing state law so requests in writing, filed with the city clerk, a hearing shall be scheduled, the time and place of which shall be published and provided by the city clerk to the accused violator. Hearing requests must be made within ten business days of the issuance of the notice of violation/citation and delivered to the city clerk or other designated city officer. Failure to properly request a hearing within ten business days of the issuance of the notice of violation/citation will terminate the person's right to a hearing and constitute waiver of said right to a hearing. The city clerk or other designated city officer will set the time and place for the hearing. Written notice of the hearing time and place will be mailed or delivered to the accused violator at least ten calendar days prior to the hearing.

(c) *Hearing officer.* The city council shall serve as the hearing officer. The hearing officer will be an impartial employee of the city or an impartial person retained by the city to conduct the hearing, if other than the city council.

(d) *Decision.* If the hearing officer determines that a violation of this chapter did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under this chapter, shall be recorded in writing, a copy of which shall be provided to the accused violator by in person or mail delivery as soon as practicable following the hearing date or the date of any continuance, recess or postponement thereof. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator by in person or mail delivery as soon as practicable.

(e) *OCM notification of suspension.* Following issuance of a notice of suspension of the registration of a registered retail business by the city clerk pursuant to this chapter, the city clerk shall immediately notify the OCM and provide the OCM a copy of the notice of suspension issued to the registered retail business. The notice of suspension shall include a description of the grounds for such suspension. The city may hold a hearing pursuant to this chapter if timely requested by the alleged violator or stay such hearing pending a response from OCM. If a hearing is timely requested and held and a suspension is imposed, the city clerk shall additionally immediately notify the OCM and provide the OCM a copy of the hearing officer's order of suspension issued to the registered retail business. A suspension shall not be imposed and served until notice to OCM and any determination by OCM. The OCM may order reinstatement of the retail registration or take other action authorized by law, up to and including revocation of the state license for the cannabis retail business or lower-potency hemp edible retailer. Failure by OCM to respond or to timely respond following notice from the city clerk to OCM as provided herein shall not prohibit or limit the city's enforcement action or subsequent enforcement actions.

(f) *Timing of suspension.* A suspension imposed following notice to OCM and a determination by OCM shall be served by the registered retail business on such date(s) as determined by the city clerk in consultation with the city administrator and chief of police, and included in a subsequent written notice from the city clerk to the registered retail business. The noticed and ordered date(s) of suspension shall be consecutive days and shall be served by the registered retail business within 60 days following the final determination of suspension by OCM or as otherwise provided herein if OCM fails to respond following notice.

(g) *Reinstatement.* The city may reinstate a retail registration if it determines that the violation(s) has been resolved. The city shall reinstate a registration if the OCM determines

that the violation(s) has been resolved. The city may wait for a determination from the OCM with regard to the violation(s) before reinstating a registration issued by the city.

- (h) *Complaint to OCM.* In addition to providing notification to the OCM of any suspension of the registration of a registered retail business as set forth above, the City shall submit to the OCM notification of any violation(s) through the complaint process as set forth in Minn. Stat. § 342.13(g) and corresponding state rules.
- (i) *Misdemeanor prosecution.* In addition to the process contained in this section for registration violations, violations of this chapter or failure to comply with any of its requirements herein shall constitute a criminal misdemeanor offense and may be prosecuted accordingly.
- (j) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute separate offenses.
- (k) *Hearing costs and expenses.* If the notice of violation/citation is upheld by the hearing officer, the city's actual expenses in holding the hearing up to a maximum of \$1,000.00 shall be paid by the person requesting the hearing and shall be in addition to any penalties imposed. In such event, hearing expenses shall be included as part of the hearing officer's findings and paid at the same time the penalty is paid.
- (l) *Timely payment.* In the event that any imposed penalty or hearing costs and expenses are not timely paid in accordance with the notice of violation/citation or the hearing officer's decision, as applicable, such failure shall serve as grounds for additional enforcement actions, up to and including but not limited to immediate retail registration suspension as provided in this chapter.

## **57.05 PENALTIES AND SUSPENSION**

- (a) *Penalties generally.* In addition to any other penalties that may be imposed under this chapter, any registered retail business with a retail registration from the city found to have violated this chapter, or whose employee shall have violated this chapter, shall be subject to administrative penalties and/or suspension in accordance with the following schedule:
  - (1) *First offense:* \$250.
  - (2) *Second offense at the same registered retail business within a 24-month period:* \$500.00 and a registration suspension of at least five consecutive days.
  - (3) *Third offense at the same location within a 36-month period:* \$2,000.00 and a retail registration suspension of at least 30 consecutive days.

For the purposes of this section, "within a 24-month period" means a period, two years in duration, which begins to toll on the date of the occurrence of the first violation, and ends two years from the date of the first violation.

Notwithstanding the foregoing and the penalties contained in the city clerk's notice of violation/citation, the hearing officer, following notice and a hearing as provided in section 57.04, may deviate from the administrative penalties provided above herein, by

increasing or decreasing such imposed penalties subject to statutory limits, based upon the hearing officer's findings following consideration of the facts, circumstances, history and evidence presented and such other factors and evidence as the hearing officer deems relevant. A history of repeated violations extending beyond the time periods stated herein may be considered by the hearing officer to impose a longer suspension period or revocation or non-renewal of a registration as provided in this chapter subject to OCM approval or corresponding enforcement actions by the OCM.

- (b) Civil penalty for registration violations. Subject to Minn. Stat. § 342.22, subd. 5(e), the city may impose a civil penalty, as specified in the city's Fee Schedule, not to exceed \$2,000, on any cannabis retail business or lower-potency hemp edible retailer, which makes any sale to a customer or patient without a valid retail registration pursuant to this chapter or for any other registration violation.
- (c) Criminal penalty. Any violation of the provisions of this chapter or failure to comply with any of its requirements constitutes a misdemeanor and is punishable as defined by law. Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this chapter. Prosecution may precede, run consecutively with, or follow any administrative civil enforcement action. Violations of this chapter can occur regardless of whether or not a permit is required for a regulated activity listed in this chapter.

## **57.06 EXCEPTIONS AND DEFENSES**

Nothing in this chapter shall prevent the providing of sales by a registered cannabis retail business or lower-potency hemp edible retailer to a person under the age of 21 as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this chapter for a person to have reasonably relied on proof of age as described by state law in Minn. Stat. § 342.27, subd. 4.

## **57.07 ENFORCEMENT**

Pursuant to Minn. Stat. § 342.22, subd. 5, if the city determines that a registered retail business is not operating in compliance with the requirements of this chapter, including but not limited to sections 67.28, 57.66, and/or the governing state statutes and rules, or that the operation of the business poses an immediate threat to the health or safety of the public, the city may impose penalties and/or suspend the retail registration of the cannabis retail business pursuant to §§ 57.04 and 57.05 of this chapter.

## **57.08 MINIMUM EMPLOYEE AGE**

Pursuant to Minn. Stat. § 342.24, subd. 1(a), cannabis businesses may not employ an individual under 21 years of age and may not contract with an individual under 21 years of age if the individual's scope of work involves the handling of cannabis plants, cannabis flower, artificially derived cannabinoids, or cannabinoid products.

## **57.09 USE IN PUBLIC PLACES**

- (a) No person shall consume as a beverage any cannabis products, lower-potency hemp edibles, or hemp-derived consumer products while in or upon any public street, alley,

sidewalk, parking lot or other public way, except as provided in this section, or this chapter or other applicable law.

- (b) No person shall consume as a beverage any cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in the following places, unless a permit allowing such consumption has been granted by the City Council: Aghaming Park; Belmont-Whitten; Bluffside Park; Bridge Plaza; Bob Welch Aquatic Center; Bud King Ice Arena; Central Park; East Recreation Center and Park; Gabrych Field Park; Garvin Heights Park; Gilmore Valley Park/Country Drive; Gilmore Valley Park; Glenview Park; Knopp Valley Park; Lake Park Lodge; Levee Park; Lions Park; Madison Park; Miller Park; Prairie Island Park; Sinclair Park; Sobieski Park; Sugarloaf Park; Tillman Park; Valley Oaks Field; Valley Oaks Park; West Recreation Center; Westfield Golf Course; Wincrest Park; Windom Park; and all city-owned community playgrounds.
- (c) No person shall consume as a beverage any cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in Lake Park or on Latsch Island after the hours of 10:00 p.m. and before 8:00 a.m. For the purposes of this section Lake Park is described as that area of land (1) lying southerly of the south line of Lake Street, northerly of the centerline of U.S. Highway 61 and 14, westerly of the centerline of Huff Street and easterly of the easterly boundary lines of the privately owned lands lying westerly of the westerly end of Lake Winona; and (2) lying northerly of the centerline of U.S. Highway 61 and 14, westerly of Mankato Avenue (excluding privately owned lands), southerly of Sarnia Street between Mankato Avenue and Franklin Street and lying northerly of the centerline of U.S. Highway 61 and 14 and southerly of the southerly boundary lines of privately owned land south of Sarnia Street between Franklin and Huff Streets. For the purposes of this section, Latsch Island shall be defined as all of Latsch Island with the exception of the Winona Municipal Marina and the further exception of the area lying within 50 feet of any boathouse.
- (d) Penalty. A person who violates this section is guilty of a petty misdemeanor.

## **57.10 PRE-LICENSE APPLICATION RESPONSE REQUIRED**

Pursuant to Minn. Stat. § 342.13, 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 any proposed cannabis business as defined under Minn. Stat. § 342.01, including any cannabis retail business and lower-potency hemp edible retailer required to register with the city, complies with the city's Unified Development Code (chapter 43), the fire code, the building code, and the provisions of this chapter, if applicable to the state license application.

## **57.11 SEVERABILITY**

If any part, term, or provision of this chapter or the application thereof to any person or circumstances is held by a court of competent jurisdiction to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this chapter, which remaining portions shall continue in full force and effect.

## **57.12—57.20 Reserved**

## CANNABIS RETAIL BUSINESS REGISTRATION

### **57.21 REGISTRATION REQUIRED**

No person or entity may operate a state-licensed cannabis retail business within the corporate limits of the city without first registering with the city. Any operation of a state-licensed cannabis business within the corporate limits of the city without valid retail registration shall be a violation of this chapter and the business shall be subject to the penalty set forth in sections 57.04 and 57.05.

### **57.22 NUMBER OF RETAIL REGISTRATIONS**

The city shall issue no fewer than one cannabis retail business registration for every 12,500 residents within the city.

### **57.23 APPLICATION**

The city shall issue a retail registration to a state-licensed cannabis retail business that adheres to the requirements of Minn. Stat. 342.22, this chapter, the Unified Development Code, and the state fire code and building code, as applicable.

- (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, business owner and (applicant), and business manager;
  - (2) Address, email address, and telephone number of the applicant;
  - (3) If the applicant is a corporation or any other type of business organization, the application shall also contain the names, addresses and respective percentage ownership interest of all of the owners of the corporation or business organization, provided however that if the number of owners exceeds ten persons only the ten owners having the largest percentage of ownership shall be listed;
  - (4) The address and parcel ID for the property which the retail registration is sought;
  - (5) Certification that the applicant complies with the requirements of this chapter, the Unified Development Code, and with the state fire code and building code;
  - (6) Certification that the applicant has a valid license or license preapproval issued by the OCM;
  - (7) Confirmation that all property taxes and city utilities are current on the property;
  - (8) A detailed floor plan description and drawing of the retail location including security camera locations and security measures being implemented; and
  - (9) Any other information the city deems necessary.
- (b) The applicant shall include with the form:

- (1) the application fee as required in section 57.27;
- (2) a copy of a valid state license or written notice of OCM license preapproval; and
- (3) if the applicant does not own the business premises, a true and complete copy of the executed lease for the premises, if applicable.

(c) Once an application is considered complete by the city clerk, the city clerk or their designee shall inform the applicant as such, process the application fees, and approve or deny the application. If the registration form is incomplete, the retail registration will not be processed/issued, and notice will be sent by the City Clerk or their designee.

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

#### **57.24 PRELIMINARY INSPECTION PRIOR TO RETAIL REGISTRATION**

Prior to issuance of a cannabis retail business registration, the city shall conduct a preliminary inspection to ensure compliance with the requirements of this chapter and all city ordinances.

#### **57.25 APPROVAL OR DENIAL OF RETAIL REGISTRATION**

Registration of a cannabis retail business will be approved by the City Clerk or their designee and in effect so long as the following requirements are met:

- (1) The applicant holds a valid license or license preapproval issued to the cannabis retail business by OCM for a cannabis retail license issued by OCM;
- (2) All applicable registration/renewal fees are paid in full;
- (3) During the preliminary compliance check, the cannabis retail business is found to be in compliance with zoning and all requirements of Chapter 57;
- (4) The owners of the premises are current on all property taxes, assessments, and city utilities at the location of where the cannabis retail establishment will be located; and
- (5) The cannabis retail registration will not exceed the limit on the number of permitted cannabis retail business registrations set forth in section 57.22.

#### **57.26 BASIS FOR DENIAL**

The following shall be grounds for denying the issuance of retail registration or a renewal required under this chapter:

- (1) The cannabis retail business would exceed the maximum number of registered cannabis retail businesses permitted under Section 57.22.
- (2) The applicant does not have a valid license or license preapproval issued by the OCM.

- (3) The applicant fails to provide any information required on the application or provides inaccurate, false or misleading information.
- (4) The fee for the registration or registration renewal has not been paid.
- (5) The applicant's cannabis retail business does not comply with the requirements of this chapter, the Unified Development Code, and with the state fire code and building code.
- (6) The applicant's cannabis retail business operates in violation of any section of Minn. Stat. ch. 342.
- (7) The applicant's cannabis retail business made any sales with the city prior to issuance of a valid retail registration by the city pursuant to this chapter.
- (8) The applicant has otherwise failed a compliance check completed by the city.
- (9) No registration shall be granted or renewed for operation of a cannabis retail business on any premises on which taxes, assessments, service charges, or other financial claims of the city or of the state are delinquent. The City Council may, upon request by the applicant or licensee, waive strict compliance with this provision if the applicant or licensee has contested their tax liabilities or other financial claims through a process permitted by federal or state regulations or by city ordinance; or is working out debt problems under the supervision of a bankruptcy court or pursuant to some other formal agreement. No waiver may be granted, however, if taxes or any portion thereof, remain unpaid for a period exceeding 1 year after becoming due.

## **57.27 FEES**

- (a) Registration fee. A registration fee shall be charged to applicants depending on the type of retail business state license applied for by the applicant as set forth in Section 51.01. The 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) Renewal registration fee. Any renewal retail registration fee imposed by the city as set forth in Section 51.01 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.
- (c) Medical cannabis combination business. 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, or the adult-use retail business.
- (d) Fees generally. Subject to the foregoing and applicable law, fees shall be in the amount(s) duly established by ordinance of the city council from time to time. Registration fees shall not be prorated for registrations issued for less than a full year.

## **57.28 PROHIBITED ACTS**

It shall be a violation of this chapter for any person or cannabis retail business regulated under this chapter to violate any provisions of Minn. Stat. ch. 342 applicable to cannabis retail businesses, including, but not limited to the following:

- (1) To operate a state-licensed cannabis retail business within the corporate limits of the city or make any sale to a customer or patient without validly registering with the city.
- (2) To sell cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products to a person who is visibly intoxicated.
- (3) To knowingly sell more cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products than a customer is legally permitted to possess.
- (4) To give away immature cannabis plants or seedlings, cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products.
- (5) To operate a drive-through window.
- (6) To allow for the dispensing of cannabis plants, cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in vending machines.
- (7) To sell cannabis plants, cannabis flower, or cannabis products if the cannabis retailer knows that any required security or statewide monitoring systems are not operational.
- (8) To permit an individual under 21 years of age to enter the business premises other than entry by a person enrolled in the registry program as defined by Minn. Stat. § 342.01, subd. 59.
- (9) To sell or give cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products to an individual under 21 years of age unless the individual is a person enrolled in the registry program as defined by Minn. Stat. § 342.01, subd. 59 and the cannabis business holds a medical cannabis retail endorsement.
  - a. Age verification. Registered cannabis retail businesses must verify by means proof of age as described by state law in Minn. Stat. § 342.24, subd. 4 that the purchaser is at least 21 years of age.
- (10) To sell or give cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products by any other means, to any other person, or in any other manner or form prohibited by federal, state, or other local law, ordinance, or other regulation.

## **57.29 MOVEABLE PLACE OF BUSINESS**

No retail registration required under this chapter shall be issued to a moveable place of business. Only fixed-location cannabis retail businesses shall be eligible to be registered under this chapter.

## **57.30 ANNUAL COMPLIANCE CHECKS**

- (a) Annual compliance checks. The city shall complete at minimum one compliance check per calendar year of every cannabis retail business with a valid retail registration to assess the business's compliance with age verification requirements in applicable law as well as compliance with this chapter, the Unified Development Code, the state fire code and building code, and all other applicable city ordinances.
- (b) Unannounced age verification compliance checks. Age verification compliance checks shall involve persons at least 17 years of age but under the age of 21 who, with the prior written consent of a parent or guardian if the person is under the age of 18, attempt to purchase adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, or hemp-derived consumer products under the direct supervision of a law enforcement officer or an employee of the city.
- (c) Compliance check failures. Any failures under this section shall be reported to the Office of Cannabis Management and constitute a violation of section 57.28 of this code.
- (d) Other compliance checks. 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.

## **57.31 TERM**

All registrations issued under this chapter must be renewed annually at the same time OCM renews the cannabis retail business's state license. In the event that OCM does not renew the license for any cannabis retail business subject to this chapter, the retail registration for that cannabis retail business shall terminate automatically without further action from the city.

## **57.32 RENEWAL**

A state-licensed cannabis retail business shall apply annually to renew registration on a form established by the city pursuant to section 57.33. The applicant shall provide notice to the City Clerk of its intent to renew its state license and retail registration at least 30 days prior to submitting an application for a license renewal to the OCM and shall timely submit a renewal application to the city clerk when the OCM renews the cannabis retail business's state license. A cannabis retail registration issued under this chapter shall not be transferred.

## **57.33 RENEWAL APPLICATION**

The application for renewal of a retail registration shall include, but is not limited to the items required under section 57.23 of this chapter. The renewal application shall not be deemed complete until the city has received the renewal fee required under section 57.27.

### **57.34 LOCATION CHANGE AND TRANSFERABILITY**

Every retail registration issued under this chapter shall be valid only on the premises for which the registration was issued and only for the person to whom the registration was issued. No transfer of any registration to another location or person shall be valid. A state-licensed cannabis retail business shall be required to submit a new application for registration under Section 57.23 if it seeks to move to a new location still within the legal boundaries of the city. Retail registration fees shall not be prorated.

### **57.35 RESPONSIBILITY OF REGISTERED CANNABIS RETAIL BUSINESS**

Every person issued a retail registration under this chapter shall be responsible for the actions of the registrant's employees in regard to the operation of the state-licensed cannabis retail business, and the sale of such items by an employee shall be considered a sale by the retail registration holder. Nothing in this section shall be construed as prohibiting the city from also subjecting the registered cannabis retail business's employee(s) to whatever penalties are appropriate under this chapter, state or federal law, or other applicable law or regulation for violations thereof.

### **57.36 DISPLAY OF REGISTRATION**

Each retail registration issued under this chapter shall be posted/displayed in a conspicuous place in plain view of the general public on the premises of the cannabis retail business for which it is issued.

### **57.37 PENALTIES AND SUSPENSION**

Every cannabis retail business registered pursuant to this chapter will be subject to suspension or revocation of their registration, or any other penalty as set forth in this chapter, or not renewed by the city according to the procedures as provided in sections 57.04 and 57.05, for any of the following reasons:

- (1) Violation of any provision of this chapter.
- (2) One or more of the bases for denial of a retail registration under section 57.26 existing at the time the registration application was made or at any time before the registration was completed.
- (3) Other good cause related to violation of applicable ordinances, law and/or rules by the business in selling or furnishing products regulated under Minn. Stat. ch. 342.

Revocation of a retail registration shall be subject to OCM approval or corresponding enforcement actions by the OCM.

### **57.38 REGISTRATION CONDITIONS**

Each retail registration issued under this chapter is subject to all of the following conditions:

- (1) The cannabis retail business must fully light the interior of the retail establishment during business hours.

- (2) The cannabis retail business must fully cooperate with representatives from the city when present at the retail establishment for city business purposes.
- (3) The cannabis retail business must maintain clean and clear front and rear entrances of the retail establishment.
- (4) The cannabis retail business must utilize security cameras in good working order pursuant to Minn. Stat. § 342.27, subds. 9 and 10.
- (5) The cannabis retail business must promptly remove any graffiti on the exterior of the retail establishment.
- (6) Individuals employed by a registered cannabis retail business must be at least 21 years of age.

#### **57.39 HOURS OF OPERATION**

Cannabis retail businesses may sell cannabis, cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products only between the hours of 8:00 a.m. and 10:00 p.m. on the days of Monday through Saturday and between the hours of 10:00 a.m. and 9:00 p.m. on Sunday pursuant to Minn. Stat. § 342.27.

#### **57.40 SMOKING IN CANNABIS BUSINESSES PROHIBITED**

Pursuant to Minn. Stat. § 144.417 and Minn. Stat. § 342.28, subd. 10, a cannabis retail business with an on-site consumption endorsement may not permit adult-use cannabis flower, adult-use cannabis products, hemp-derived consumer products, or tobacco to be consumed through smoking or a vaporized delivery method on the premises.

#### **57.41 ON-SITE CONSUMPTION WITHIN CANNABIS MICROBUSINESSES**

- (a) Conditions. A cannabis microbusiness with an on-site consumption endorsement may permit on-site consumption of edible cannabis products and lower-potency hemp edibles if:
  - (1) Premises. The portion of the premises in which on-site consumption is permitted must be definite and distinct from all other areas of the microbusiness and must be accessed through a distinct entrance.
  - (2) Products. The edible cannabis products and lower-potency hemp edibles sold for on-site consumption comply with Minn. Stat. ch. 342 and rules adopted pursuant to that chapter regarding the testing, packaging, and labeling of cannabinoid products.
  - (3) Packaging. The edible cannabinoid products and lower-potency hemp edibles sold for on-site consumption are served in the required packaging but may be removed from the products' packaging by customers for consumption on site.
  - (4) Food and drink. Food and beverages may be prepared and sold on site provided that the cannabis microbusiness complies with all relevant state and local laws, the Code, licensing requirements, and zoning requirements.

- (5) Display. The display and consumption of any edible cannabis product or lower-potency hemp edible is not visible from outside of the licensed premises of the business.
- (6) Entertainment. The cannabis microbusiness may offer recorded or live entertainment, provided that the cannabis microbusiness complies with all relevant state and local laws, ordinances, licensing requirements, and zoning requirements.

(b) Prohibited acts for on-site consumption. A cannabis microbusiness with an on-site consumption endorsement may not:

- (1) Sell an edible cannabis product or a lower-potency hemp edible to an individual who is under 21 years of age.
- (2) Permit an individual who is under 21 years of age to enter the premises.
- (3) Sell an edible cannabis product or a lower-potency hemp edible to a person who is visibly intoxicated.
- (4) Sell or allow the sale or consumption of alcohol or tobacco on the premises.
- (5) Sell products that are intended to be eaten or consumed as a drink, other than packaged and labeled edible cannabis products and lower-potency hemp edibles, that contain cannabis flower or hemp plant parts or are infused with cannabis concentrate, hemp concentrate, or artificially derived cannabinoids.
- (6) Permit edible cannabis products or lower-potency hemp edibles sold in the portion of the area designated for on-site consumption to be removed from that area.
- (7) Permit adult-use cannabis flower, adult-use cannabis products, hemp-derived consumer products, or tobacco to be consumed through smoking or a vaporized delivery method on the premises.
- (8) Distribute or allow free samples of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products.

#### **57.42 ADVERTISING**

Cannabis retail businesses are permitted to erect up to two fixed signs on the exterior of the building or property of the business subject to compliance and any other limits in the city code including the city's sign ordinance.

#### **57.43 OTHER CONDITIONS FOR REGISTERED CANNABIS RETAIL BUSINESSES**

In addition to the registration conditions required in section 57.38, each retail registration issued under this chapter for a cannabis retail business is subject to all of the following conditions:

- (1) The registered cannabis retail business must post signs in visible locations that prohibit loitering inside or near the front entrance of the retail establishment.

- (2) The sales counter, store entrance, and interior of the retail establishment shall be visually recorded with a videotape or similar device at a quality level that allows the visual identification of patrons and employees. The recordings shall be maintained and made available to the police for 15 days before being reused, erased or otherwise deleted.
- (3) The registered cannabis retail business must have the following notices posted:
  - a. a sign at the front entrance of the retail establishment that prohibits persons under the age of 21 from entering the retail establishment;
  - b. a statement that operating a motor vehicle under the influence of intoxicating cannabinoids is illegal;
  - c. a statement that cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products are only intended for consumption by individuals who are at least 21 years of age; and
  - d. information about any product recall.
- (4) The front windows of the retail establishment must be clear, untinted, and unobstructed.
- (5) Each day of business, the cannabis retail business must inspect the parking lot and entrances of the retail establishment for litter and properly dispose of such litter.

#### **57.44. CITY AS CANNABIS RETAILER**

- (1) The city may establish, own, and operate one municipal cannabis retail business subject to the restrictions in this chapter.
- (2) The municipal cannabis retail store shall not be included in any limitation of the number of registered cannabis retail businesses under section 57.22.
- (3) The city shall be subject to all of the same retail registration requirements and procedures applicable to all other applicants.

#### **57.45—57.60 Reserved**

#### **LOWER-POTENCY HEMP EDIBLE RETAILER REGISTRATION**

#### **57.61 LOWER-POTENCY HEMP EDIBLES SALES PERMITTED WITH VALID REGISTRATION**

The sale of lower-potency hemp edibles is permitted by lower-potency hemp edible retailers, subject to compliance with the retail registration requirements in this chapter and the specific terms of sections 57.61 through 57.76 for a retail registration for a lower-potency hemp edible retailer.

## **57.62 REGISTRATION, FEES, AND RENEWAL**

- (a) Initial application. The procedures for and content of an application for a retail registration for a lower-potency hemp edible retailer under this chapter shall be as provided in section 57.23 of this code.
- (b) Fees. Registration fees for a retail registration for a lower-potency hemp edible retailer shall be as provided in section 51.01.
- (c) Renewal Application. The procedures for and content of a renewal application for a retail registration for a lower-potency hemp edible retailer under this chapter shall be as provided in section 57.33 of this code.

## **57.63 TERM**

All registrations issued under this chapter must be renewed annually at the same time OCM renews the lower-potency hemp edible retailer license. In the event that OCM does not renew the license for any lower-potency hemp edible retailer subject to this chapter, the retail registration for that the lower-potency hemp edible retailer shall terminate automatically without further action from the city.

## **57.64 BASIS FOR DENIAL**

The following shall be grounds for denying the issuance of retail registration or a renewal required under this chapter:

- (1) The applicant does not have a valid license issued by the OCM.
- (2) The applicant fails to provide any information required on the application or provides inaccurate, false or misleading information.
- (3) The fee for the registration or registration renewal has not been paid.
- (4) The applicant's lower-potency hemp edible retail business does not comply with the requirements of this chapter, the Unified Development Code, and with the state fire code and building code.
- (5) The applicant's lower-potency hemp edible retail business operates in violation of any section of Minn. Stat. ch. 342.
- (6) The applicant has otherwise failed the compliance check completed by the city.
- (7) No registration shall be granted or renewed for operation of a lower-potency hemp edible retailer on any premises on which taxes, assessments, service charges, or other financial claims of the city or of the state are delinquent. The City Council may, upon request by the applicant or licensee, waive strict compliance with this provision if the applicant or licensee has contested their tax liabilities or other financial claims through a process permitted by federal or state regulations or by city ordinance; or is working out debt problems under the supervision of a bankruptcy court or pursuant to

some other formal agreement. No waiver may be granted, however, if taxes or any portion thereof, remain unpaid for a period exceeding 1 year after becoming due.

## **57.65 RESPONSIBILITY OF LOWER-POTENCY HEMP EDIBLE RETAILERS**

Every person issued a lower-potency hemp edible retail registration under this chapter shall be responsible for the actions of the registrant's employees in regard to the sale of lower-potency hemp edibles, and the sale of such an item by an employee shall be considered a sale by the registration holder. Nothing in this section shall be construed as prohibiting the city from also subjecting the registered retail business's employee(s) to whatever penalties are appropriate under this chapter, state or federal law, or other applicable law or regulation for violation thereof.

## **57.66 PROHIBITED ACTS**

It shall be a violation of this chapter for any person or lower-potency hemp edible retailer regulated under this chapter to violate any provisions of Minn. Stat. ch. 342 applicable to hemp businesses, including, but not limited to the following:

- (1) To operate a state-licensed lower-potency hemp edible retail business within the corporate limits of the city or make any sale to a customer or patient without validly registering with the city.
- (2) To knowingly sell more lower-potency hemp edibles or hemp-derived consumer products than a customer is legally permitted to possess.
- (3) To sell lower-potency hemp edibles to individuals who are under 21 years of age.
  - a. Age verification. Lower-potency hemp edible retailers must verify by means proof of age as described by state law in Minn. Stat. § 342.24, subd. 4 that the purchaser is at least 21 years of age.
- (4) To sell lower-potency hemp edibles to a person who is visibly intoxicated.
- (5) To sell lower-potency hemp edibles:
  - a. Between the hours of 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday.
  - b. Between the hours of 2:00 a.m. and 10:00 a.m. on Sundays.
  - c. Such sales shall be subject to further restriction for on-site consumption sales under section 57.68(b)(5).
- (6) To sell cannabis flower, cannabis products, or hemp-derived consumer products.
- (7) To allow for the dispensing of lower-potency hemp edibles in vending machines.

- (8) To distribute or allow free samples of lower-potency hemp edibles, except when the business is licensed by the OCM to permit on-site consumption and samples are consumed within its licensed premises.
- (9) To sell or give cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products by any other means, to any other person, or in any other manner or form prohibited by federal, state, or other local law, ordinance, or other regulation.

#### **57.67 OTHER CONDITIONS FOR REGISTERED LOWER-POTENCY HEMP EDIBLE RETAILERS**

- (a) Notices. Lower-potency hemp edible retailers must have the following notices posted:
  - (1) A statement that operating a motor vehicle under the influence of intoxicating cannabinoids is illegal;
  - (2) A statement that cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products are only intended for consumption by individuals who are at least 21 years of age; and
  - (3) Information about any product recall.

#### **57.68 ON-SITE CONSUMPTION**

- (a) Conditions. A lower-potency hemp edible retailer may permit on-site consumption of lower-potency hemp edibles if:
  - (1) The lower-potency hemp edible retailer has an on-site consumption endorsement issued by the OCM.
  - (2) The lower-potency hemp edible retailer holds an on-sale license issued under Minn. Stat. ch. 340A.
  - (3) Lower-potency hemp edibles that are intended to be consumed as a beverage are either served in their required packaging or outside of their packaging if the information that is required to be contained on the label of a lower-potency hemp edible is posted or otherwise displayed by the lower-potency hemp edible retailer.
  - (4) Lower-potency hemp edibles sold for on-site consumption, other than lower-potency hemp edibles that are intended to be consumed as a beverage, are served in the required packaging. The lower-potency hemp edible products may be removed from their packaging by customers and consumed on site.
- (b) Prohibited acts for on-site consumption. A lower-potency hemp edible retailer with an on-site consumption endorsement may not:
  - (1) Sell, give, furnish, or in any way procure for another lower-potency hemp edibles for the use of an obviously intoxicated person.

- (2) Sell lower-potency hemp edibles that are designed or reasonably expected to be mixed with an alcoholic beverage.
- (3) Permit lower-potency hemp edibles that have been removed from the products' packaging to be removed from the premises of the lower-potency hemp edible retailer.
- (5) Lower-potency hemp edibles may not be sold for on-site consumption:
  - a. Between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday.
  - b. Between the hours of 1:00 a.m. and 10:00 a.m. on Sundays.

## **57.69 PENALTIES AND SUSPENSION**

The procedures for violations of this chapter by lower-potency hemp edible retailers and penalties shall be as provided in sections 57.04 and 57.05 of this code.

## **57.70 COMPLIANCE CHECKS**

- (a) Preliminary inspection. The procedure for state licensing and preliminary inspection shall be as provided in section 57.24.
- (b) Annual compliance checks. The procedure for each annual compliance check shall be as provided in section 57.30.

## **57.71 DISPLAY OF REGISTRATION**

Each retail registration issued to a lower-potency hemp edible retailer under this chapter shall be posted/displayed in a conspicuous place in plain view of the general public on the premises of the lower-potency hemp edible retailer for which it is issued.

## **57.72 ADVERTISING**

Lower-potency hemp edible retailers are permitted to erect up to two fixed signs on the exterior of the building or property subject to compliance and any other limits in the city code including the city's sign ordinance.

## **57.73 STORAGE OF PRODUCT.**

Lower-potency hemp edibles, other than lower-potency hemp edibles that are intended to be consumed as a beverage, must be displayed behind a checkout counter where the public is not permitted or in a locked case. All lower-potency hemp edibles that are not displayed must be stored in a secure area.

## **57.74 EDIBLE CANNABINOID PRODUCTS**

Except as to any provision requiring retail registration, the requirements related to the operation of lower-potency hemp edible retailers as set forth in this chapter shall apply to any business registered with the state to sell edible cannabinoid products pursuant to Minn. Stat. § 151.72, subd. 5b. Upon conversion of an edible cannabinoid product registration under Minn. Stat.

§ 151.72, subd. 5b to a lower-potency hemp edible retailer license or the issuance of a lower-potency hemp edible retailer license in any other manner, the lower-potency hemp edible retailer license holder shall come into full compliance with this chapter and retail registration requirements.

**§§ 57.75—57.90 Reserved.**

**TEMPORARY CANNABIS EVENTS**

**57.91 PERMIT REQUIRED**

A temporary cannabis event permit is required to be issued and approved by the city prior to holding a temporary cannabis event. The cannabis event organizer must enter into a license agreement approved by the city council prior to holding a temporary cannabis event.

**57.92 EVENT REGISTRATION AND APPLICATION FEE**

An event registration permit fee, shall be charged to applicants for temporary cannabis events. Subject to applicable law, fees for temporary cannabis events under this chapter shall be in the amount(s) duly established by ordinance of the city council from time to time.

**57.93 APPLICATION**

The city shall require an application for temporary cannabis event permits. The application shall be submitted to the city clerk. If the city clerk or the city clerk's designee determines that a submitted application is incomplete, the city clerk shall return the application to the applicant with a notice of deficiencies.

- (1) An applicant for a temporary cannabis event permit shall fill out an application form, as provided by the city. This form shall include, but is not limited to the following contents:
  - a. Full name of the property owner and applicant;
  - b. Address, email address, and telephone number of the applicant; and
  - c. If the applicant is a corporation or any other type of business organization, the application shall also contain the names, addresses and respective percentage ownership interest of all of the owners of the corporation or business organization, provided however that if the number of owners exceeds ten persons only the ten owners having the largest percentage of ownership shall be listed.
- (2) The applicant shall include with the form:
  - a. The application fee as required in section 57.92;
  - b. A copy of the OCM cannabis event license application, submitted pursuant to Minn. Stat. § 342.39, subd. 2;

A depiction of any premises for which the applicant seeks approval from the city to designate as an area for on-site consumption of adult-use cannabis flower, adult-

use cannabis products, lower-potency hemp edibles, hemp-derived consumer products, or any combination thereof. The city reserves the right to deny any application for on-site consumption at a temporary cannabis event with or without denial of the application for the temporary cannabis event in its entirety; and

d. A certificate of insurance evidencing a valid liability and property damage insurance policy protecting the licensee, filed with the city clerk, and naming the city as an additional insured in an amount not less than the maximum liability limits for a municipality as provided in Minn. Stat. §. 466.04.

(3) Once an application is considered complete, the city clerk shall inform the applicant as such, process the application fees, and forward the application to city council for approval or denial.

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

#### **57.94 LOCATIONS PERMITTED**

Temporary cannabis events shall be held on non-residential zoning districts except for events on City owned property as permitted by the City Council. Cannabis events in the Agricultural/Natural Resource zoning district shall only occur on properties approved for cannabis businesses or on City owned property as permitted by the City Council.

#### **57.95 OPERATING HOURS OF EVENTS**

Temporary cannabis events shall only be held between the hours of 10:00 a.m. and 1:00 a.m., provided the cannabis event organizer complies with the city's noise regulations.

#### **57.96 ON-SITE CONSUMPTION**

On-site consumption of cannabis flower, cannabis products, lower-potency hemp edibles, hemp-derived consumer products, or any combination of those items, if approved by the city, must be limited to the designated area approved by the city and, if located in an outdoor area, must be surrounded by commercial grade fencing.

#### **57.97 BASIS FOR DENIAL**

A request for a temporary cannabis event permit that does not meet the requirements of this chapter or raises public health, safety, or welfare concerns shall be denied. The city shall notify the applicant of the standards not met and basis for denial.

#### **57.98 SOCIAL HOST**

(a) Purpose and findings. The purpose and findings contained in section 55.19 of this code related to discouraging underage possession and consumption of alcohol equally apply to cannabis product and are incorporated herein by reference, except that where the term "alcohol" is used therein, it is replaced with the term "cannabis product" for purposes of this section 57.98.

(b) *Definitions.* In addition to the definitions provided in section 57.02 of this chapter, the definitions contained in section 55.19 of this code, except for the terms "alcohol" and "alcoholic beverages" are incorporated in this section 57.98 by reference.

(c) *Prohibited acts.* It is unlawful for any person to host or allow any event or gathering at any residence, premises, or on any other private or public property, where any form of cannabis product is present, when the person knows or reasonably should know that an underage person will or does:

- (1) Consume any form of cannabis product; or
- (2) Possess any form of cannabis product with the intent to consume it and the person fails to take reasonable steps to prevent possession or consumption by the underage person.

(b) *Criminal liability.* A person is criminally responsible for violating this section if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act. A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

(c) *Exceptions.* This section shall not apply to: conduct solely between an underage person and their parent/guardian while present in the parent/guardian's household; legally protected religious observances; or situations where underage persons are lawfully in possession of any form of cannabis product during the course and scope of employment.

(d) *Enforcement.* This section can be enforced by any licensed police officer. A violation of this section is a misdemeanor.

### **57.99—57.105 Reserved**

SECTION 3. That this ordinance shall take effect upon its passage and publication.

Passed by the City Council of the City of Winona, Minnesota this 16<sup>th</sup> day of December, 2024.

Scott Sherman  
Mayor

Attested By:

Monica Hennessy Mohan  
City Clerk