

**City of Nerstrand
Rice County, Minnesota**

**ORDINANCE OF CITY COUNCIL
ORDINANCE NO. 1130
CANNABIS AND HEMP BUSINESSES**

FINDINGS

The Council of the City of Nerstrand (the “Council”) hereby finds:

1. That regulation of the cannabis and hemp business as set forth in this Ordinance is in the best interests of the City of Nerstrand (the “City”) and its residents, and promotes the public health, welfare, and safety.
2. That Minn. Ch. § 342 authorizes the Council to adopt restrictions which are more restrictive than Minnesota State law.

ORDINANCE

The City ordains as follows:

1130.00 Adoption of State Law. The provisions of Minn. Stat. Ch. 342, as they may be amended from time to time with reference to the definition of terms, types of licenses, conditions or operations, implementation, regulation of adult-use, medical cannabis market, licensing process, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of cannabis are hereby adopted by reference and are made a part of this Chapter as if set out in full. It is the intention of the City Council that all future amendments to Minn. Stat. Ch. 342 are hereby adopted by reference or referenced as if they had been in existence at the time this Chapter is adopted.

1130.01 Definitions.

Subd. 1. For purposes of this section, the terms defined in this subsection have the meanings given to them, except where the context clearly indicates a different meaning:

Subd. 2. “Cannabis business” has the same meaning as in Minnesota Statutes, section 342.01.

Subd. 3. “Cannabis cultivation business” A business with a cannabis cultivator license, medical cannabis cultivator license, or cultivation endorsement from the State of Minnesota Office of Cannabis Management.

Subd. 4. “Cannabis delivery business” A business with a cannabis delivery service license or delivery service endorsement from the State of Minnesota Office of Cannabis Management.

Subd. 5. “Cannabis manufacturing business” A business with a cannabis manufacturer license, or manufacturing endorsement from the State of Minnesota Office of Cannabis Management.

Subd. 6. “Cannabis retailer” A business with a cannabis retailer license, medical cannabis retailer license, lower-potency hemp edible retailer license, or retail endorsement from the State of Minnesota Office of Cannabis Management.

Subd. 7. “Cannabis testing business” A business with a cannabis testing facility license or

testing endorsement from the State of Minnesota Office of Cannabis Management.

Subd. 8. “Cannabis transportation business” A business with a cannabis transporter license or transportation endorsement from the State of Minnesota Office of Cannabis Management.

Subd. 9. “Cannabis wholesaling business” A business with a cannabis wholesaler license or wholesaling endorsement from the State of Minnesota Office of Cannabis Management.

Subd. 10. “Day Care” means a location licensed with the Minnesota Department of Human Services to provide the care of a child in a residence or other facility outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day

Subd. 11. “Hemp business” Has the same meaning as in Minnesota Statutes, section 342.01.

Subd. 12. “Lower-potency hemp edible retailer” A business with a lower-potency hemp edible retailer license from the Office of Cannabis Management.

Subd. 13. “Lower-potency hemp edible manufacturer” A business with a lower-potency hemp edible manufacturer license from the Office of Cannabis Management.

Subd. 14. “OCM” means the Minnesota Office of Cannabis Management.

Subd. 15. “Potential licensee” means an entity that is seeking a license to operate a cannabis business from the OCM.

Subd. 16. “Park Feature” means an attraction within a public park that is regularly used by minors, including a playground or athletic field.

Subd. 17. “Residential Treatment Facility” means any facility licensed or regulated by the Minnesota Department of Human Services that provides 24-hour-a-day care, lodging, or supervision outside a person’s home and which also provides chemical dependency or mental health services.

Subd. 18. “School” means a public school, or a nonpublic school, or church school, or a school crossing zone, or religious organization in which a child is provided instruction in compliance with this section but does not include a home school.

Section 1130.03 County to Issue Registrations.

Subd. 1. Pursuant to Minnesota Statutes, section 342.22, subd. 1, the city of Nerstrand consents to Rice County issuing registrations for cannabis and hemp businesses. No sales may be made by a cannabis or hemp business without a valid registration issued from Rice County.

Subd. 2. Rice County is authorized to conduct compliance checks and suspend for up to thirty days any cannabis retail registration if it determines that a cannabis or hemp business is not operating in compliance with the requirements of a local ordinance authorized under Minn. Stat. § 342.13 or that the operation of the business poses an immediate threat to the health or safety of the public. Rice County shall immediately notify the OCM of the suspension and shall include a description of the grounds for the suspension.

Subd. 3. Rice County is authorized to reinstate a registration if it determines that the violations have been resolved and there is not an ongoing threat to the health or safety of the public.

Section 1130.05 Certification of Cannabis Businesses Zoning.

Subd. 1. The city zoning commissioner is authorized to certify whether a proposed cannabis

business complies with the city's zoning ordinances, and state fire code and building code pursuant to Minnesota Statutes, section 342.13. Potential licensees are responsible for obtaining all necessary zoning approvals prior to the city receiving the request for certification from the OCM. If a potential licensee fails to obtain necessary zoning approvals prior to the city receiving a request for certification, the city will inform the OCM that the potential licensee does not meet zoning and land use laws. If, at the time the city receives a request for zoning certification, there are no further intended alterations to the building where the business is to be conducted, the city will also certify compliance with building and fire code regulations, provided that the potential licensee has obtained inspections prior the city's receipt of a request for certification from the OCM. The City may designate other governmental units to conduct building or fire code inspections on its behalf. Building and fire code inspections will be valid for 1 year from completion.

Subd. 2. All proposed cannabis businesses shall be required to comply with the State fire code and State building code. This shall be verified through either the City or its designee, which may change from time to time. At present, Goodhue County manages building code compliance checks, and the State Fire Marshall conducts fire compliance checks on behalf of the city.

Subd. 3. All cannabis businesses shall require a conditional use permit.

Section 1130.07 Hours of Operation.

Subd. 1. Cannabis retailers are limited to retail sale of cannabis, cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products between the hours of 10:00am and 9:00pm.

Section 1130.09 Minimum Distance Requirements.

Subd. 1. The city prohibits the establishment and operation of a cannabis business within the following buffer zones:

1. 1,000 from a school or school crossing zone
2. 500 feet from a day care
3. 500 feet from a residential treatment facility
4. 500 feet from a park feature

Subd. 2. The buffers in this section will be measured from the potential licensee's proposed business location based on the location of schools, designated school crossing zones, day cares, residential treatment facilities, and park features on the date the city receives the request from the OCM for certification pursuant to Sec. 1130.05. Buffer distances will be measured from the property lines of the businesses and affected entity or park feature boundary.

Subd. 3. Nothing in this section shall prohibit a registered cannabis business from continuing to operate at the same location if a school, day care, residential treatment facility, or park feature establishes within the buffer.

Section 1130.11 Temporary Cannabis Events.

Subd. 1. Permit Required. A permit is required to be issued and approved by the city prior to holding a temporary cannabis event held by a licensed cannabis event organizer, as defined and provided for in Minnesota Statutes, Chapter 342.

Subd. 2. Registration & Application Procedure. An application fee, as established in the city's

fee schedule, shall be charged to applicants for temporary cannabis event permits.

Subd. 3. Application Submittal. An applicant must submit an application for city approval of a temporary cannabis event permit on a form provided by the city clerk. The application may be amended from time to time but shall include or be accompanied by:

1. Full name of the property owner and applicant;
2. Address, email address, and telephone number of the applicant;
3. The application fee as established in the city's fee schedule;
4. A copy of the OCM cannabis event license application submitted pursuant to Minnesota Statute 342.39 subd. 2.
5. Certificate of liability insurance as outlined in Nerstrand Public Safety Ordinance IX, Section 915.17 which outlines insurance requirements for special events.

Subd. 4. Application Review The application shall be submitted to the city clerk, or other designee for review. The application will be considered complete when the application form is submitted with all of the required information included and application fee paid. The application fee shall be non-refundable once submitted. If the submitted application is incomplete, the city clerk shall return the application to the applicant with the notice of deficiencies. A request for a temporary cannabis event that does not meet the requirements of this Section shall be denied. The city clerk shall notify the applicant of the standards not met and basis for denial.

Subd. 5. Event Guidelines. Temporary cannabis events are prohibited on City property. Temporary cannabis events shall only be held between the hours of 10:00am and 9:00pm. Pursuant to Minnesota Statutes, section 342.40, subd. 8, the city prohibits on-site consumption of cannabis and hemp products.

Section 1130.06 Cannabis Businesses Standards.

Subdivision 1. Cannabis Businesses. Every Cannabis Business must meet the requirements of this code that apply to the applicable business operation, as well as the requirements in this Section.

Subd. 2. Cannabis Cultivation Business. Cultivation operations must be completely contained within a structure and must comply with odor management requirements as established in Minnesota Statutes, Minnesota Rules, and City Code.

Subd. 3. Cannabis Manufacturing Business. Manufacturing operations must comply with odor management requirements as established in Minnesota Statutes, Minnesota Rules, and City Code.

Subd. 4. A location change shall be treated as a request for a new registration.

Section 1130.07 Penalties Administration and Enforcement.

Subd. 1. Any violation of the provisions of this article or failure to comply with any of its requirements constitutes a misdemeanor and is punishable as defined by law. Each day each violation continues or exists, constitutes a separate offense. Violations of this ordinance can occur regardless of whether a permit is required for a regulated activity listed in this ordinance.

Section 1130.08 Zoning of Cannabis Businesses.

Subd. 1. Cannabis businesses, based on the license types set forth Minn. Stat. § 342.10 shall only, conditionally, be allowed in the following specific districts:

1. Cannabis microbusiness in the commercial district;
2. Cannabis mezzobusiness in the commercial district;
3. Cannabis cultivator in the commercial district;
4. Cannabis manufacturer in the agricultural district;
5. Cannabis retailer in the commercial district;
6. Cannabis wholesaler in the commercial district;
7. Cannabis transporter in the agricultural district;
8. Cannabis testing facility in the agricultural district;
9. Cannabis event organizer in the commercial district;
10. Cannabis delivery service in the commercial district;
11. Lower-potency hemp edible manufacturer in the agricultural district;
12. Lower-potency hemp edible wholesaler in the agricultural district;
13. Lower-potency hemp edible retailer in the commercial district; and
14. Medical cannabis combination business in the commercial district.

Subd. 2. No cannabis business shall be allowed in any district other than those set forth in this Ordinance.

Section 1130.09 Limitation on Number of Cannabis Retailers, Mezzobusinesses with a Retail Operations Endorsement, and Cannabis Microbusinesses with a Retail Operations Endorsement.

Subd. 1. There shall be a maximum of one registration per every 12,500 residents within the City. This shall include licensed cannabis retailers, cannabis mezzobusinesses with a retail operations endorsement, or cannabis microbusinesses with a retail operations endorsement.

FORMALITIES

- a. **Filing with Applicable Library.** The Clerk is instructed to file a copy of the full text of the Ordinance with the County Law Library or its designated depository. Minn. Stat. § 415.021.
- b. **Publication.**
 - a. The Council hereby determines, by a four-fifths vote, that publication of the title and a summary of the ordinance would clearly inform the public of the intent and effect of the ordinance. Minn. Stat. § 412.191, subd. 4. For this purpose, the Council approves the following summary:
 - i. An ordinance establishing local rules and regulations for cannabis and hemp businesses.
 - b. The City Clerk is instructed to publish the Ordinance title and summary in the official newspaper within forty-five (45) days of its passage. Minn. Stat. §§ 415.02; 412.191, subd. 4; 331A.02; 331A.04. In the event that there was not a four-fifths vote that the title and summary are sufficient, the Clerk is instructed to publish the entire Ordinance.
 - c. The City Clerk is instructed to have said publication state an accurate and intelligible abstract or synopsis of the essential elements of proceedings, ordinances, resolutions, financial statements, and other official actions. The Clerk is also instructed to include a statement that the summary is only a summary and where and how the full ordinance may be obtained. Minn. Stat. § 331A.03, subd. 10.
 - d. The Clerk is also instructed to ensure that such publication is in a font type no smaller than brevier or eight-point type.
- c. **Recording in Ordinance Book.** The Clerk is instructed to record the Ordinance in the City Ordinance Book within twenty (20) days after the publication of the title and summary. The Clerk is further instructed to include proof of publication with the Ordinance as recorded in the Ordinance Book. Minn. Stat. §§ 412.151, subd. 1; 412.191, subd. 4.

NOW, THEREFORE, BE IT RESOLVED, the Council of City of Nerstrand hereby adopts this Ordinance.

Dated: _____

Abstentions:

Enacted by the City Council on _____.

Todd Evavold, Mayor

The Ordinance

☐ Passes

☐ Fails

Signed & Attested by

Leanna Anderson-Speiker, City Clerk