

Washington County Cannabis Ordinance #219



Adopted
December 17, 2024
by the
Washington County Board

**WASHINGTON COUNTY CANNABIS ORDINANCE
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WASHINGTON COUNTY DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
CANNABIS ORDINANCE

Section 1. Findings of Fact and Purpose; Scope

- 1.1 Findings of Fact and Purpose.** Based on the most reliable and up-to-date scientific evidence, Washington County finds that the rapid introduction of newly legalized edible cannabinoid products (“edibles”) and cannabis products, presents a potential threat to the public health, and safety of the residents of Washington County, particularly to youth; Washington County has the opportunity to be proactive and make decisions that will mitigate the threat and reduce exposure of young people to the products and to the marketing of these products; and because the United States Surgeon General has issued an advisory to alert the public to the known and potential harms to developing brains, posed by the increasing availability of highly potent cannabis in multiple, concentrated forms; and the reasons for concerns with the increasing use of cannabis by pregnant women, adolescents, and youth; and because nationally, there have been significant increases in cannabis use among those age 12 and older, but especially among those ages 18 to 22, and cannabis use rates by youth ages 18 to 22 are higher in states with legal adult-use cannabis than in non-legal states; and because cannabis use during pregnancy has risen substantially between 2002 and 2017 (from 3.4% to 7.0%), increasing the risk of low birth weight, and the COVID-19 pandemic increased prenatal cannabis use by 25%; research has led us to conclude that establishing retails Sales of adult-use cannabis and Lower-Potency Hemp Edibles should be carried out cautiously, in such a way to prevent undue exposure of youth and expansion of problem use; like tobacco and alcohol, cannabis use may pose significant risks to public health, especially when initiated early in life; this Ordinance is intended to ensure responsible cannabis retailing, allowing legal Sale and access, without promoting increases in use, and to discourage violations of cannabis-related laws, especially those which prohibit or discourage the marketing, Sale or distribution of cannabis and cannabis products to youth under 21 years of age.
- 1.2 Authority.** The County Board of Commissioners is authorized to adopt this Ordinance by Minnesota Statutes sections 144.417, subd. 4(a), 145A.04, 145A.05, 152.0263, subd. 5, Chapter 342, and Chapter 375, and any other applicable state law, as may be adopted or amended from time to time.
- 1.3 Jurisdiction.** The registration requirements of this Ordinance in Sections 3, 4, and 5 govern the regulation of cannabis and hemp retail businesses in the unorganized territory of Washington County and in any city or town located in Washington County that does not register and regulate retail Sales of cannabis or Lower-Potency Hemp Edibles. All other sections and provisions of this Ordinance apply throughout Washington County unless otherwise specified.
- 1.4** Nothing in this Ordinance shall prevent cities and townships within Washington County from adopting stricter regulations to protect people from public health and public safety harms of the retail Sale of cannabis and Lower-Potency Hemp Edibles.

Section 2. Definitions and Interpretations

Except as otherwise provided or clearly implied by context, all terms are given their commonly accepted definitions. For this Ordinance, the following definitions apply unless the context clearly indicates or requires a different meaning:

2.1 Advertisement. Any written or oral statement, illustration, or depiction that is intended to promote Sales of Approved Products or Sales at a specific cannabis business or hemp business and includes any newspaper, radio, internet and electronic media, or television promotion; the distribution of fliers and circulars; and the display of window and interior signs in a cannabis business. “Advertisement” does not include a fixed outdoor sign that meets the requirements in Minn. Stat. § 342.64, subdivision 2, paragraph (b) as amended from time to time.

2.2 Approved Products. Any cannabis plants, cannabis flower, cannabis products, artificially derived cannabinoids, and Lower-Potency Hemp Edibles that are a product category approved by the Office of Cannabis Management and that comply with Chapter 342 and rules adopted pursuant to Chapter 342 regarding the testing, packaging, and labeling of cannabis plants, cannabis flower, cannabis products, artificially derived cannabinoids, and Lower-Potency Hemp Edibles. “Approved Products” does not include Medical Cannabinoid Products, as defined in Minn. Stat. Ch. 342.

2.3 Attractive to Underage Persons. Products that are attractive to individuals under age 21 as described in Minn. Stat. § 342.62, subd. 3, and products prohibited under Minn. Stat. § 342.06 (d), as may be amended from time to time.

2.4 Child-Resistant. Packaging that meets the poison prevention packaging standards in Code of Federal Regulations, title 16, section 1700.15.

2.5 Compliance Checks. The system the county uses to investigate and ensure that those Retail Establishments authorized to sell Approved Products and Medical Cannabinoid Products are following and complying with age verification requirements and the requirements of this Ordinance. Compliance Checks may also be conducted by the county or other units of government for educational, research, and training purposes or for investigating or enforcing state or local laws and regulations relating to Approved Products.

2.6 Delivery Sale. The Sale of any Approved Products and Medical Cannabinoid Products to any person for personal consumption and not for resale when the Sale is conducted by any means other than an in-person, over-the-counter sales transaction in a Registered Retail Establishment. Delivery Sale includes but is not limited to the Sale of any Approved Products when the Sale is conducted by telephone, other voice transmission, mail, the internet, or app-based service. Delivery Sale includes delivery by Registered Retail Establishments or third parties by any means, including curbside pickup.

2.7 Department. The Washington County Department of Public Health and Environment.

2.8 Electronic Delivery Device. Any product containing or delivering cannabis, hemp, nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption through the inhalation of aerosol or vapor from the product. Electronic Delivery Device includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, or under any other product name or descriptor. Electronic Delivery Device includes any component part of a product, whether or not marketed or sold separately. Electronic Delivery Device does not include any nicotine cessation product that has been authorized by the U.S. Food and Drug Administration to be marketed and for Sale as “drugs,” “devices,” or “combination products,” as defined in the Federal Food, Drug, and Cosmetic Act.

2.9 Lower-Potency Hemp Edible. “Lower-Potency Hemp Edible” as defined in Minn. Stat. § 342.01, subd. 50, as amended from time to time.

2.10 Medical Cannabinoid Product. “Medical Cannabinoid Product” as defined in Minn. Stat. § 342.01, subd. 52, as amended from time to time.

2.11 Medical Cannabis Combination Business. “Medical Cannabis Combination Business” as described in Minn. Stat. § 342.515, as amended from time to time.

2.12 Moveable Place of Business. Any form of business that is operated out of a kiosk, truck, van, automobile or other type of vehicle or transportable shelter and that is not a fixed address or other permanent type of structure licensed for over-the-counter Sales transactions.

2.13 Registered Cannabis Retail Business. Any cannabis business with a license or endorsement from the Office of Cannabis Management for retail Sales of Approved Products or Medical Cannabinoid Products and that has a cannabis retail registration from a local unit of government.

2.14 Registered Hemp Retail Business. Any place of business with a license or endorsement to sell Lower-Potency Hemp Edible products to the public from the Office of Cannabis Management and that has a Lower-Potency Hemp Edible retail registration from the county.

2.15 Registered Retail Establishment. Refers to Registered Cannabis Retail Businesses, Medical Cannabis Combination Businesses with retail Sales, and Registered Hemp Retail Businesses.

2.16 Retail Establishment. Any place of business where products are available for Sale to the general public. “Retail Establishment” includes, but is not limited to, grocery stores, tobacco product shops, convenience stores, liquor stores, gasoline service stations, bars, and restaurants.

2.17 Sale. Any transfer of goods for money, trade, barter, or other consideration.

2.18 Sample. Refers to any Approved Products or Medical Cannabinoid Products that are offered free of charge or for Sale at a nominal cost.

2.19 Self-Service Display. The open display of Approved Products or Medical Cannabinoid Products in a Retail Establishment in any manner where any person has access to the products without the assistance or intervention of the Registered Retail Establishment or its employee and where a physical exchange of the products from the Registered Retail Establishment or its employee is not required to access the products.

2.20 Smoking. Inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, cannabis, hemp or other substance, whether natural or synthetic, that is intended for inhalation. Smoking also includes carrying or using an activated Electronic Delivery Device. “Smoking” does not include the use of traditional, or sacred, tobacco used by any American Indian, Indigenous, and Alaska Native communities for spiritual and medicinal purposes.

2.21 Vending Machine. Any mechanical, electric or electronic, or other type of device that dispenses products upon payment by any form by the person seeking to purchase the product.

Section 3. Registration and Operations of Registered Retailers

The provisions in this section apply to businesses operating in the unincorporated areas within the county and jurisdictions that have deferred registration to the county.

3.1 License required. No person shall sell or offer to sell any Approved Products or Medical Cannabinoid Product without first having obtained a license or retail endorsement to do so from the Office of Cannabis Management.

3.2 Registration required. No person shall sell or offer to sell any Approved Products or Medical Cannabinoid Product without first being granted a registration by the Department. Operating a Retail Establishment without a valid retail registration is a violation of this Ordinance and of Minn. Stat. § 342.22, subd. 5(e) and is subject to a civil penalty of up to \$2,000 per violation.

3.3 Application. An application for a registration to sell Approved Products and Medical Cannabinoid Products must be made on a form provided by the Department. The application must contain the full name of the applicant and any True Parties of Interest, the applicant’s and True Parties’ residential and business addresses and telephone numbers, the name of the business for which the registration is sought, and any additional information the Department deems necessary. Upon receipt of a completed application, the Department will timely review the application. If an application is incomplete, it will be returned to the applicant with notice of the information necessary to make the application complete.

- 3.4 Action.** The Department shall review the application for conformance with this Ordinance and all applicable state and local laws and rules, including but not limited to compliance with local zoning code, building code, and fire code. The Department may approve or deny the application for a registration, or it may delay action for a reasonable period of time to complete any investigation of the application or the applicant deemed necessary. If the Department approves the application it will issue the registration to the applicant. If the Department denies the application, notice of the denial will be given to the applicant along with notice of the applicant's right to appeal the decision.
- 3.5 Term.** All registrations issued are valid for one calendar year from the date of issue. A Registered Retail Establishment must renew the license with Office of Cannabis Management prior to renewing the registration with the Department.
- 3.6 Revocation or suspension.** Any registration issued may be suspended or revoked following the procedure set forth in Section 8 of the Washington County Administrative Ordinance #149.
- 3.7 Transfers.** All registrations issued are valid only on the premises for which the registration was issued and only for the person to whom the registration was issued. The transfer of any registration to another location or person is prohibited.
- 3.8 Display.** An original copy of all registrations must be posted and displayed at all times at the Registered Retail Establishment or Medical Cannabis Combination Business in plain view of the general public.
- 3.9 Renewals.** The renewal of a registration issued under this Ordinance will be handled in the same manner as the original application. The request for renewal must be made at least 30 days but no more than 60 days before the expiration of the current registration.
- 3.10 Issuance is a privilege and not a right.** The issuance of a registration is a privilege and does not entitle the registration holder to an automatic renewal of the registration.

Section 4. Fees

- 4.1** No registration will be issued under this Ordinance until the appropriate registration fees are paid in full. The fees will be established pursuant to Minnesota Statute § 342.22, subd. 2, as may be amended from time to time.
- 4.2** All outstanding fees shall be paid in full before the issuance of a renewal registration.
- 4.3** If a Registered Retail Establishment continues operation after the expiration of their registration without having renewed the registration with the Department, they will be subject to the same civil penalty established in section 3.2 of this Ordinance.

Section 5. Basis for Denial of Registration

5.1 An initial application for registration or a renewal of registration will be denied if:

1. the applicant is under 21 years of age;
2. the applicant does not have a valid retail license, preapproved license, or retail endorsement from the Office of Cannabis Management;
3. the applicant fails to provide any of the information required on the licensing application or provides false or misleading information;
4. the applicant is prohibited by state, or local law, ordinance, or other regulation from holding a registration; or,
5. the applicant fails a pre-application inspection by the Department as provided under Minn. Stat. § 342.22, subd. 3(b) as amended from time to time.

5.2 If a registration is mistakenly issued or renewed to any person, it will be revoked upon the discovery of ineligibility for registration under this Ordinance or state or other local law, ordinance or other regulation. Any revocation will comply with the requirements of Minn. Stat. § 342.22, subd. 5, as amended from time to time.

Section 6. Prohibited Sales and Other Restrictions

The provisions in this section apply to all jurisdictions and Registered Retail Establishments throughout Washington County under the Washington County Board of Commissioners public health authority pursuant to Minn. Stat. § 145A.

6.1 In general. In addition to the prohibitions set forth under Minn. Stat. § 342.46, subd. 7, and Minn. Stat. § 342.27, subd. 12 no Registered Retail Establishment shall sell or offer to sell any Approved Products or Medical Cannabinoid Product:

1. By means of any type of Vending Machine.
2. By means of Self-Service Display. All Approved Products and Medical Cannabinoid Products, excluding multipacks of lower-potency hemp beverages in unopened containers sold in Retail Establishments which are also licensed for off-sale intoxicating liquor Sales according to Minn. Stat. § 340A, must be stored in a locked case behind the sales counter, in a storage unit, or in another area not freely accessible by the general public. This does not prohibit registered retail cannabis businesses from displaying single product Samples pursuant to Minn. Stat. § 342.27, subd. 5.
3. At a Moveable Place of Business. Only fixed location businesses may sell Approved Products and Medical Cannabinoid Products, excluding licensed Delivery Sales.
4. That does not comply with the packaging and labeling required under Minn. Stat. § 342.62 and 342.63 as may be amended from time to time, and no Lower-Potency Hemp Edible beverage may be sold outside of its original container except at establishments also licensed for on-sale intoxicating liquor Sales according to Minn. Stat. § 340A which has an onsite consumption endorsement from the Office of Cannabis Management.

5. By any other means, to any other person, or in any other manner or form prohibited by state or other local law, ordinance provision, or other regulation.
- 6.2** Legal age. No person shall sell any Approved Products to any person under the age of 21. Businesses licensed or endorsed to sell Medical Cannabinoid Products may sell Medical Cannabinoid Products to persons under age 21 who are enrolled in the medical registry program pursuant to Minn. Stat. § 342.24, subd. 1.
- 6.3** Age verification. Before any Sale of Approved Products, the Registered Retail Establishment must verify by means of government-issued photographic identification containing the bearer's date of birth that the purchaser is at least twenty-one (21) years of age.
- 6.4** Signage. Notice of the legal Sales age, age verification requirement, community cessation resources, safer use information, and possible penalties for underage Sales must be posted prominently and in plain view at all times at each location where Approved Products are offered for Sale. The required signage, which will be provided to the Retail Establishment by the Department, must be posted in a manner that is clearly visible to anyone who is, or is considering, making a purchase.
- 6.5** No admittance of any person under age 21. Medical Cannabis Combination Businesses and Registered Cannabis Retail Businesses must prohibit persons under the age of 21 from entering at all times, except that businesses licensed or endorsed to sell Medical Cannabinoid Products may allow entry to persons under age 21 who are enrolled in the medical registry program for the sole purpose of purchasing Medical Cannabinoid Products pursuant to Minn. Stat. § 342.24.
- 6.6** Minimum clerk age. Individuals employed by a registered retail cannabis business and Medical Cannabis Combination Business must be at least 21 years of age to sell or handle Approved Products and Medical Cannabinoid Products. Individuals employed by a Registered Hemp Retail Business must be at least 18 years of age to sell or handle Lower-Potency Hemp Edibles, including beverages as outlined in section 6.1, items 2 and 4.
- 6.7** Samples prohibited. No Samples of any Approved Products or Medical Cannabinoid Products may be distributed free of charge or at a nominal cost. The distribution of Approved Products or Medical Cannabinoid Products as a free donation is prohibited.
- 6.8** Smoking prohibited. Smoking is prohibited within the indoor area of any Registered Retail Establishment.
- 6.9** Sale of other products. Registered Cannabis Retail Businesses and Medical Cannabis Combination Businesses with retail Sales are limited to selling only the products allowed under Minn. Stat. § 342.27, subd. 3 as amended from time to time. The Sale of any products other than Approved Products by Registered Retail Establishments must comport with all requirements of state law.

6.10 Child-Resistant packaging. All Sales of any Approved Products and Medical Cannabinoid Products must be packaged in Child-Resistant packaging. Upon request by the Department, a Registered Retail Establishment must provide a copy of the certificate of compliance or full laboratory testing report for the packaging used.

6.11 Advertising restrictions. Registered Retail Establishments must follow all Advertisement restrictions pursuant to Minn. Stat. § 342.64, as amended from time to time.

6.12 Products that are Attractive to Underage Persons. No person shall sell or offer for Sale any Approved Products and Medical Cannabinoid Products that are Attractive to Underage Persons.

6.13 Battery powered Electronic Delivery Devices.

1. Registered Retail Establishments that sell battery powered single-use or disposable Electronic Delivery Devices with embedded or inseparable batteries must accept those devices which have been sold by the Retail Establishment to its customers, and properly manage those returned devices for recycling according to Minnesota Administrative Rule 7045.0125 Subpart 4.B., unless the Retail Establishment sells only Electronic Delivery Devices which have removable cartridges so that the battery can be recycled separately from the vaporizer fluid cartridge.
2. Electronic Delivery Devices sold by a Registered Retail Establishment with embedded batteries without a return program may be embargoed by the Department until a return program in compliance with part 6.13, item 1 has been established.

6.14 Potency and amount per Sale transaction.

1. Registered Cannabis Retail Businesses may sell or offer for Sale Approved Products that comply with potency limits in accordance with Minn. Stat. § 342.27, subd. 2,c,d, and e, as amended from time to time.
2. Registered Retail Establishment may sell or offer for Sale Lower-Potency Hemp Edible products that comply with potency limits in accordance with Minn. Stat. § 342.46, subd. 6, as amended from time to time.

Section 7. Responsibility

All Registered Retail Establishments are responsible for the actions of their employees regarding the Sale, offer to sell, and furnishing of Approved Products or Medical Cannabinoid Products on the licensed and registered premises. The Sale, offer to sell, or furnishing of any Approved Products or Medical Cannabinoid Product by an employee will be considered an act of the Registered Retail Establishment.

Section 8. Compliance Checks and Inspections

- 8.1** All Registered Retail Establishments must be open to inspection by authorized Department officials, law enforcement officers, or their designees during regular business hours.
- 8.2** In accordance with Minn. Stat. § 342.22, subd. 4, the Department will conduct Compliance Checks of every Retail Establishment with a retail registration issued by the Department. The checks will assess compliance with age verification requirements and all provisions of this Ordinance.
- 8.3** From time to time, but at least three times per year, the Department must conduct Compliance Checks of Retail Establishments registered by the Department to ensure compliance with all provisions of this Ordinance.
- 8.4** In accordance with state law, the Department, law enforcement officers, or their designee will conduct at least one annual compliance check that involves participation of a person at least 17 years of age, but under the age of 21 to enter the Registered Retail Establishment to attempt to purchase Approved Products under the supervision of a law enforcement officer or an employee of the county. Prior written consent from a parent or guardian is required for any person under the age of 18 to participate in a compliance check.

Section 9. Enforcement and Penalties

- 9.1** Enforcement. All provisions of this Ordinance relating to licensing may be enforced pursuant to the Washington County Administrative Ordinance #149, or as amended from time to time.
- 9.2** Misdemeanor prosecution. The Department or law enforcement may seek prosecution as a misdemeanor for any violation of this Ordinance. If the Department or law enforcement elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.
- 9.3** Administrative violations.
1. Notice. A person violating this Ordinance may be issued, either personally or by mail, an administrative citation from the county that sets forth the alleged violation and that informs the alleged violator of their right to a hearing on the matter and how and where a hearing may be requested, including a contact address and phone number.
 2. Hearings.
 - A. Upon issuance of an administrative citation, a person accused of violating this Ordinance may request in writing an administrative hearing on the matter. Hearing requests must be made within 10 business days of the issuance of the citation and delivered to the Department. Failure to properly request a hearing within 10 business days of the issuance of the administrative citation will terminate the person's right to a hearing.
 - B. The administrative hearing will follow the procedures outlined in Washington County Administrative Ordinance #149, section 10.2.

- C. If an applicant and/or registrant is not satisfied with the decision rendered by the Department during the administrative hearing, the applicant/registrant may request an appeal of the Department's decision and a hearing before the County Board following the procedures outlined in Washington County Administrative Ordinance #149, section 10.3.
3. Appeals. Appeals of any decision made by the County Board or an appointed hearing examiner must be filed in Washington County district court within 10 business days of the date of the decision.
4. Continued violation. Each violation, and every day in which a violation occurs or continues, will constitute a separate offense.

9.4 Administrative penalties.

1. Fines. Any Registered Retail Establishment cited for violating this Ordinance, or whose employee has violated this Ordinance, will be charged an administrative fine of \$500 for a first violation; \$750 for a second offense at the same registered premises within a 36-month period; and \$1,000 for a third or subsequent offense at the same location within a 36-month period from the first violation. Upon a fourth violation within a 36-month period from the first violation, the registration issued by the Department will be revoked.
2. Registration suspension and revocation. In accordance with Minn. Stat. § 342.22, subd. 5, the Department will suspend the retail registration of any Registered Retail Establishment for 30 days for violations of this Ordinance for a third offense within a 36-month period after the first offense or up to 30 days if the operation of the business poses an immediate threat to the health or safety of the public. After the fourth violation within a 36-month period, the registration shall be revoked.
3. Retail Establishment operating without a registration. Pursuant to Minn. Stat. § 342.22, subd. 5(e), any Retail Establishment found to be making or attempting to make any Sales to a customer or patient without a valid retail registration will be charged a civil penalty of \$2,000 for each violation.

9.5 Tobacco retail licensees. In accordance with Minn. Stat. § 461.12, subd. 2a, a tobacco retail license also issued by the Department will be suspended for no less than seven (7) days and may be revoked for certain cannabis or hemp related violations by the licensed tobacco retailer on the licensed premises.

9.6 Statutory penalties. If the administrative penalties for violations of this Ordinance authorized to be imposed by Minn. Stat. Chapter 342, as amended from time to time, differ from those established in this Ordinance, then the higher penalty will prevail.

9.7 Complaints submitted to the Office of Cannabis Management. In accordance with Minn. Stat. § 342.13 (h), any violations of this Ordinance will be submitted as complaints to the Office of Cannabis Management.

Section 10. Exceptions and Defenses

It is an affirmative defense to a violation of this ordinance for a person to have reasonably relied on proof of age as described by state law.

Section 11. Severability

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

Section 12. Effective Date

This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the Ordinance as provided by Minn. Stat. § 375.51, subd. 3, as amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as amended from time to time.

Approved as to form:

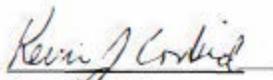


Stan Karwoski, Chair
Washington County Board of Commissioners



Jessica Oertel
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Attest:



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