

VERGAS – MINNESOTA
**ORDINANCE TO REGULATE CANNABIS
and LOWER-POTENCY HEMP
BUSINESSES**

DRAFT for Public Hearing

Adopted:

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Ordinance to Regulate Cannabis and Lower-Potency Hemp Edibles

Objective

To safeguard public health, safety, and community well-being through responsible regulation of retail or a retail operations endorsement of cannabis microbusiness, cannabis mezzobusiness, cannabis retailer, medical cannabis combination business, or lower-potency hemp edible retailer within the City of Vergas.

Policy Statement

This Ordinance is adopted by the City of Vergas for the purpose of supporting the legal cannabis market while prioritizing the protection of public health, safety, and community well-being through the regulation of the sale and use of cannabis and cannabinoid derived products, including low-potency hemp businesses within Otter Tail County. This ordinance aims to ensure that regulations governing cannabis mitigate potential health risks, prevent youth access, enhance public safety, and encourage responsible retailing practices.

Scope

Applies to all individuals, businesses, and entities involved in the sale, distribution, cultivation, possession, and consumption of cannabis and cannabinoid-derived products within the City of Vergas.

Statutory References

Minnesota Chapter 342 Cannabis
Minnesota Chapter 145A Community Health Boards
Minn. Stat. §151.72 Sale of Certain Cannabinoid Products

The Board of Commissioners of Otter Tail County, Minnesota, hereby ordains:

SECTION 100: GENERAL PROVISIONS

100.10 PURPOSE, INTENT AND STATUTORY AUTHORITY

The purpose of this ordinance is to regulate the sale and use of cannabis and cannabis derived products, including lower-potency hemp edibles, within Otter Tail County by implementing the provisions of Minnesota Statutes, Chapter 342 to protect the public health, safety, welfare of Otter Tail County residents by regulating cannabis businesses within the legal boundaries of Otter Tail County.

Otter Tail County has the authority to adopt this ordinance pursuant to:

1. Minn. Stat. §§145.04 and 145.05 regarding the general authority for the regulation of actual and potential threats to public health.
2. Minn. Stat. §342.13(c), regarding the authority of a local unit of government to adopt reasonable restrictions of the time, place, and manner of the operation of a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis businesses;

3. Minn. Stat. §342.22, regarding the local registration and enforcement requirements of state-licensed cannabis retail businesses and lower-potency hemp edible retail businesses; and
4. Minn. Stat. §§144,417, Subd. 4(a) and 152.0263, Subd. 5, regarding the use of cannabis in public places.

100.15 JURISDICTION

The registration requirements of this ordinance in Section 200 for cannabis retail or retail endorsement businesses, or lower-potency hemp edible retail businesses applies to the unorganized territory of the City of Vergas.

100.20 SEVERABILITY AND SAVINGS CLAUSE

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

100.30 ENFORCEMENT

The City of Vergas and designated staff are responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements constitutes a misdemeanor and is punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in this ordinance.

SECTION 150: DEFINITIONS

Unless otherwise noticed in this section, words and phrases contained in Minn. Stat. §342.01 and the rules promulgated pursuant to any of these acts shall have the same meanings in this ordinance.

1. **Cannabis Cultivation:** A cannabis business licensed to grow cannabis plants within the approved amount of space from seed or immature plant to mature plant, harvest cannabis flower from mature plant, package and label immature plants and seedlings and cannabis flower for sale to other cannabis businesses, transport cannabis flower to a cannabis manufacturer located on the same premises, and perform other actions approved by the office.
2. **Cannabis Retail Businesses:** A retail location and the retail location(s) of a mezzobusiness with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, and lower-potency hemp edible retailers.
3. **Cannabis Retailer:** Any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form.
4. **Edible Cannabis Product:** Any product that is intended to be eaten or consumed as a beverage by humans; contains a cannabinoid other than artificially derived cannabinoid in combination with food ingredients; is not a drug; and is a type of product approved for sale by OCM, or is substantially similar to a product approved by the office including but not limited to products that resemble nonalcohol beverages, candy, and baked goods. Edible cannabis product does not include lower-potency hemp edibles.

5. **Daycare:** A location licensed with the Minnesota Department of Human Services to provide the care of a child in a residence outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.
6. **Lower-Potency Hemp Edible:**
 - A. A product that:
 - 1) Is intended to be eaten or consumed as a beverage by humans;
 - 2) Contains hemp concentrate or an artificially derived cannabinoid, in combination with food ingredients;
 - 3) Is not a drug;
 - 4) Does not contain a cannabinoid derived from cannabis plants or cannabis flower;
 - 5) Is a type of product approved for sale by OCM or is substantially similar to a product approved by OCM, including but not limited to products that resemble nonalcoholic beverages, candy, and baked goods; and
 - 6) Meets either of the requirements as set forth below in paragraph b.
 - B. A lower-potency hemp edible includes:
 - 1) A product that:
 - a) Consists of servings that contain no more than five milligrams of delta-9 tetrahydrocannabinol; no more than 25 milligrams of cannabidiol, cannabigerol, cannabinol, or cannabichromene; any other cannabinoid authorized by OCM; or any combination of those cannabinoids that does not exceed the identified amounts;
 - b) Does not contain more than a combined total of 0.5 milligrams of all other cannabinoids per serving; and
 - c) Does not contain artificially derived cannabinoid other than delta-9 tetrahydrocannabinol, except that a product may include artificially derived cannabinoids created during the process of creating the delta-9 tetrahydrocannabinol and the ratio of delta-1 tetrahydrocannabinol to all other artificially derived cannabinoids is no less than 20 to one; or
 - 2) A product that:
 - a) Contains hemp concentrate processed or refined without increasing the percentage of targeted cannabinoids or altering the ratio of cannabinoids in the extracts or resins of a hemp plant or hemp plant parts beyond the variability generally recognized for the method used for processing or refining or by an amount needed to reduce the total THC in the hemp concentrate; and
 5. Consists of servings that contain no more than five milligrams of total THC.
7. **Lower-Potency Hemp Edible Retailer:** A business with a license or endorsement to sell lower-potency hemp edible products to the public from the Office of Cannabis Management.
8. **Office of Cannabis Management:** Minnesota Office of Cannabis Management, referred to as "OCM" in this ordinance.

9. **Place of Public Accommodation:** A business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.
10. **Preliminary License Approval:** OCM pre-approval for a cannabis license for applicants who qualify under Minn. Stat. §342.17.
11. **Public Place:** A public park, trail, public street, or sidewalk; any enclosed, indoor area used by the general public, including, but not limited to, restaurants; bars; any other food or liquor establishment; hospitals; nursing homes; auditoriums; arenas; gyms; meeting rooms; common areas of rental apartment buildings; and other places of public accommodation. For purposes of this ordinance, public place includes designated outdoor areas where establishments may allow smoking and vape use.
12. **Residential Treatment Facility:** As defined pursuant to Minn. Stat. §245.462, Subd. 23.
13. **Retail Registration:** An approved registration issued by Otter Tail County to a state-licensed cannabis retail business.
14. **School:** A public school as defined under Minn. Stat. §120A.05 or a nonpublic school that must meet the reporting requirements under Minn. Stat. §120A.04.
15. **State License:** An approved license issued by the State of Minnesota's Office of Cannabis Management to a cannabis retail business.

SECTION 200: REGISTRATION OF CANNABIS RETAIL BUSINESSES OR CANNABIS RETAIL ENDORSEMENT AND LOW-POTENCY RETAIL BUSINESSES

200.10 REGISTERING OF CANNABIS BUSINESSES AND LOWER-POTENCY HEMP EDIBLE RETAIL BUSINESSES

- A. No individual or entity may operate a state-licensed cannabis retail business, retail endorsement or lower-potency hemp edible business within the City of Vergas without first registering with the city.
- B. The City of Vergas only accepts an application for an individual or entity from the OCM for retail registration.
- C. An individual or entity that has a retail registration in the City of Vergas must be in compliance with all applicable provisions of Chapter 342.
- D. Any state-licensed cannabis retail or lower-potency hemp edible business that sells to a customer or patient without valid retail registration shall incur a civil penalty of up to \$2,000 for each violation.

200.15 COMPLIANCE CHECKS PRIOR TO RETAIL REGISTRATION

- A. Prior to issuance of a cannabis or lower-potency hemp edible retail registration, City of Vergas may conduct a preliminary compliance check to ensure compliance with local ordinances.
- B. Pursuant to Minn. Stat. §342.13, within 30 days of receiving a copy of a state license application from OCM, City of Vergas Clerk-Treasurer or its designee shall certify on a form provided by OCM

whether a proposed cannabis retail business complies with local ordinances and, if applicable, whether the proposed business complies with the state fire code and building code.

200.20 REGISTRATION AND APPLICATION PROCEDURES

An applicant will submit an application to the OCM and after it has received preliminary approval, the application will be forwarded to the City of Vergas for to meet the retail registration requirements.

A. Fees

1. The City of Vergas shall charge an application fee of \$50.00.
2. A registration fee, as established in the City of Vergas Fee Schedule, shall be charged to applicants depending on the type of retail business license applied for.
3. An initial 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.
4. Any renewal retail registration fee imposed by Otter Tail County shall be charged at the time of the second renewal and each subsequent renewal thereafter. A renewal registration will occur simultaneously with the state renewal through OCM.
5. 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.
6. A medical combination business operating an adult-use retail location may only be charged a single registration fee, not to exceed the lesser of a single retail registration fee, defined under this section, of the adult-use retail businesses.
7. No registration will be issued under this ordinance until the appropriate registration fees are paid in full.

B. Application Submittal

Otter Tail County shall issue a retail registration to a state-licensed cannabis retail business that adheres to the requirements of Minn. Stat. §342.22.

1. An applicant for a retail registration shall fill out an application form, as provided by the Vergas Clerk-Treasurer or its designee. The form may include:
 - a. Full name of the property owner and applicant;
 - b. Address, email address, and telephone number of the applicant;
 - c. The address and parcel ID number for the property which the retail registration is sought; and
 - d. Certification that the applicant complies with the requirements of local ordinances established pursuant to Minn. Stat. §342.13.
2. The applicant shall include with the form:

- a. The application fee as required in Section 200.20(A); and
 - b. A copy of a valid state license or written notice of OCM license preapproval.
3. Once an application is considered complete, the Vergas Clerk-Treasurer or its designee shall inform the applicant as such, process the application fees, and present the application to the Board of Commissioners for approval or denial.
4. The application fee shall be non-refundable once processed.

C. Application Approval

1. A state-licensed cannabis retail business application may not be approved if the cannabis retail business would exceed the maximum number of registered cannabis retail businesses permitted under Section 200,H.
2. A state-licensed cannabis retail business or lower-potency hemp edible business application shall not be approved or renewed if the applicant is unable to meet the requirements of this ordinance.
3. A state-licensed cannabis retail business application that meets the requirements of this ordinance shall be approved so long as approving does not exceed the maximum number of allowable cannabis retail businesses.
4. A state-licensed cannabis retail business or retail endorsement business application or lower-potency hemp edible business application shall not be approved if the property taxes and assessments are not current at the retail location.

CI. Location Change

A state-licensed cannabis retail or retail endorsement business or lower-potency hemp edible business shall be required to submit a new application for registration under this section if it seeks to move to a new location still within the legal boundaries of the City of Vergas.

CII. Renewal of Registration

1. he City of Vergas shall renew an annual registration of a state-licensed cannabis retail or retail endorsement business or lower-potency hemp edible business at the same time OCM renews the cannabis retail business' license.
2. A state-licensed cannabis retail or retail endorsement business or lower-potency hemp edible business shall apply to renew registration on a form established by City of Vergas.
3. A cannabis retail or retail endorsement registration or lower-potency hemp edible business registration issued under this ordinance shall not be transferred.
4. A renewal of registration shall comply with this ordinance.

CIII. Suspension of Registration

CIV. City of Vergas may suspend a cannabis retail business's registration if it violates the

ordinance of City of Vergas or poses an immediate threat to the health or safety of the public. *City of Vergas* shall immediately notify the cannabis retail business in writing the grounds for suspension.

2. If a cannabis retail business registration is suspended, City of Vergas shall immediately notify the OCM in writing of the grounds for the suspension. OCM will provide the City of Vergas and cannabis business retailer a response to the complaint within seven calendar days and perform any necessary inspections within 30 calendar days.
3. The suspension of a cannabis retail business registration may be for up to 30 calendar days, unless OCM suspends the license for a longer period. The business may not make sales to customers if their registration is suspended.
4. City of Vergas may reinstate a registration if it determines that the violations have been resolved.
5. City of Vergas shall reinstate a registration if OCM determines that the violations have been resolved.

G. Civil Penalties

Subject to Minn. Stat. §342.22, Subd. 5(e), City of Vergas may impose a civil penalty as specified in the City's Fee Schedule, for registration violations, not to exceed \$2,000.

H. Limiting Registrations

If City of Vergas has one active cannabis retail business or cannabis retail endorsement registration for every 12,500 residents, City of Vergas shall not be required to register additional state-licensed cannabis retail businesses.

SECTION 300: REQUIREMENTS FOR CANNABIS RETAIL AND RETAIL ENDORSEMENT BUSINESS

300.05 AGE

- A. A cannabis business may not permit an individual under 21 years of age to enter the business premises other than entry by a person enrolled in the registry program.
- B. A cannabis business may not 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 enrolled in the registry program and the cannabis business holds a medical cannabis retail endorsement.

300.10 MINIMUM BUFFER REQUIREMENTS

- A. City of Vergas prohibits the operation of a cannabis business outside of the zoned commercial district.
- B. City of Vergas prohibits the operation of a cannabis business within 500 feet of a daycare..
- C. City of Vergas

300.15 GENERAL STANDARDS

A cannabis business licensed to cultivate, manufacture, wholesale, and retail sale are subject to the general requirements of Minn. Stat. §§342.23 – 342.27, including but not limited to the following:

- A. Maintain ventilation and filtration systems to meet the requirements for odor control in accordance with Minn. Stat. §342.24, Subd. 4.
- B. Maintain and follow a security plan in accordance with Minn. Stat. §342.24, Subd. 6.
- C. Solid Waste: A plan to destroy all cannabis plant material and cannabis byproduct to render it unusable. Waste material must be stored in a secure location.

300.20 HOURS OF OPERATION – RETAIL SALE

Cannabis businesses are limited to retail sale of cannabis, flower products, lower-potency hemp edibles or hemp-derived consumer products between the hours of 10:00 a.m. and 9:00 p.m., seven days a week.

300.25 ADVERTISING

Outdoor advertising is prohibited with the exception that cannabis businesses are permitted to erect up to two fixed signs on the exterior of the building or property of the business. Advertising must be compliant with Minn. Stat. §342.64.

300.30 EMPLOYEES

- A. The employees of cannabis retail or retail endorsement businesses must comply with Minn. Stat. §342.151 including undergoing a criminal history check.
- B. A cannabis retail or retail endorsement business 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.

SECTION 400: REQUIREMENTS FOR LOWER-POTENCY HEMP EDIBLE RETAIL BUSINESSES

400.10 SALE OF LOWER-POTENCY HEMP EDIBLES

- A. A retail lower-potency hemp edible business must have obtained a license or retail endorsement from the Office of Cannabis Management.
- B. The sale of lower-potency hemp edible products is permitted, subject to the conditions within this Section. A lower-potency hemp edible retail business must be registered with the County as set forth in Section 200 to sell lower-potency hemp edible products.
- C. No registration will be issued under this ordinance until the appropriate registration fees are paid in full, established and amended pursuant to Minn. Stat. §342.22, Subd. 2.

400.30 ADDITIONAL STANDARDS

- A. Sales within a Municipal Liquor Store: The sale of lower-potency hemp edible products is permitted in a Municipal Liquor Store.
- B. Age Requirements for sale of lower-potency hemp edible products:
 - 1. A lower-potency hemp edible business may only sell lower-potency hemp edibles to individuals who are at least 21 years of age.
 - 2. Prior to initiating a sale, an employee of the lower-potency hemp edible business must verify that the customer is at least 21 years of age.
- C. The sale of Low-Potency Edibles is permitted only in places that admit persons 21 years of age and older.
- D. Lower-potency hemp edible beverages can be sold for on-site consumption only at brew pubs, hotels, and restaurants as defined in Minn. Stat. §340A.101, so long as the business is registered with the County.

SECTION 500: ANNUAL COMPLIANCE CHECKS

- A. Otter Tail County Department of Public Health or another business hired by the City of Vergas shall complete at a minimum one compliance check per calendar year of every cannabis retail business, cannabis retail endorsement business, and lower-potency hemp edible product retail business to assess if the business meets age verification requirements as required under Minn. Stat. §§342.22, Subd. 4(b) and 342.24.
- B. 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 or an employee of the local unit of government.
- C. Any failures to comply with this section must be reported to the OCM.
- D. Penalties and Procedures: Any cannabis retail business, cannabis retail endorsement business, and lower-potency hemp edible product retail business is subject to civil penalties if non-compliant.
 - 1. Administrative Penalties: If a registrant or employee of a registrant violates provisions of this Ordinance, the registrant shall be charged an administrative penalty under Minn. Stat. §461.2, Subd. 2.
 - 2. Citation: Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation. The person may either admit to the violation by paying the administrative fee or may request a hearing.
 - 3. Hearing Procedure: If a person accused of violating this Ordinance requests a hearing to the County Administrator, a hearing shall be scheduled before the Otter Tail County Board of Commissioners and shall be open to the public.

- a. Notice: A person accused of violating the Ordinance shall be given notice of the hearing. The notice shall include a statement of the time, place and nature of the hearing, and a reference to the section of the Ordinance involved.
 - b. Conduct of the Hearing: The accused may be represented by counsel. The City shall present evidence. All testimony shall be sworn under oath. All parties shall have full opportunity to respond and present evidence, cross-examine witnesses and present argument.
 - c. Burden of Proof: The City shall have the burden of proving a violation of the Ordinance by a preponderance of evidence, and all findings of fact, conclusions and decision by the County Board shall be based on evidence presented and matters officially noticed.
 - d. Evidence: All evidence which possesses probative value, including hearsay, may be admitted if it is the type of evidence which prudent persons are accustomed to relying in the conduct of their serious affairs. Evidence that is incompetent, irrelevant, immaterial, or unduly repetitious may be excluded. The hearing shall be confined to matters raised in the written notice of the warning.
4. Decision: Following the hearing, the Council shall make written findings, and if a violation is found to have occurred, shall impose the administrative penalties outlined in this Ordinance. A copy of the Findings and Order shall be provided to the person accused.
5. Appeals: Appeals of any decision made by the City Council shall be filed in the District Court.
- E. Defense: It shall be an affirmative defense to the violation of this Ordinance for a person to have reasonably relied on proof of age as described by state law.

SECTION 600: TEMPORARY CANNABIS EVENTS

600.10 REGISTRATION REQUIRED FOR TEMPORARY CANNABIS EVENTS

- A. Prior to holding a cannabis event within Vergas, the event must have a cannabis event organizer license to organize a cannabis event lasting no more than four days. The cannabis event organizer license must be issued by OCM and the cannabis event must also be registered with City of Vergas.
- B. A cannabis event is allowed within Otter Tail County provided all provisions of Minn. Stat. §342.40 are followed in addition to requirements under this ordinance.
- C. Cannabis event sales can include products as authorized and amended under Minn. Stat. §342.40, Subd. 7.
- D. Registration Required: A registration is required to be issued and approved by Otter Tail County prior to holding a Temporary Cannabis Event.
- E. Registration and Application Procedure: A registration fee, as established in Otter Tail County's Fee Schedule, shall be charged to applicants for Temporary Cannabis Events.
- F. A cannabis event registration may be denied if there are public health, safety or welfare concerns.

600.15 TEMPORARY CANNABIS EVENT STANDARDS

- A. A temporary cannabis event is limited to individuals that are at least 21 years of age.
- B. The cannabis event must meet the minimum buffering requirements in Section 300.10.
- C. The cannabis event cannot be held on public property and can only be held within the hours of 10:00 am and 9:00 pm on each day.
- D. The cannabis event cannot exceed four-days, and the registration may be revoked at any time if deemed not to conform with statutory requirements.
- E. A cannabis event may designate an area for consumption of adult-use flower, adult-use cannabis products, lower-potency hemp edibles, hemp-derived products, or any combination of those items provided that the event and area of consumption is restricted to individuals at least 21 years of age.

600.20 APPLICATION SUBMITTAL AND REVIEW

- F. An applicant for a retail registration shall fill out an application form, as provided *by the City Clerk-Treasurer*. The form shall include:
 - 1. Full name of the property owner and applicant;
 - 2. Address, email address, and telephone number of the applicant;
 - 3. Identified retail area as designated within the premises diagram; and
 - 4. Dates (not to exceed four days) and hours (not to be outside of 10:00 am – 9:00 pm on each day) of the event.
- G. The applicant shall include with the form:
 - 1. The registration fee as required in Section 200.
 - 2. A copy of the OCM cannabis event license application, submitted pursuant to Minn. Stat. §342.39, Subd. 2.
 - 3. The application shall be submitted to the City Clerk-Treasurer, or other designee for review. If the city determines that a submitted application is incomplete, they shall return the application to the applicant with notice of deficiencies.
- H. Once the application is considered complete, the designee shall inform the applicant as such, process the application fees, and present the application to City Council for approval or denial.
- I. The application fee shall be non-refundable once processed.
- J. The application for a permit for a Temporary Cannabis Event shall meet standards as set forth in Section 300.

SECTION 700: USE IN PUBLIC PLACES

SECTION 710: PROHIBITED ACTS

No person shall use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place, or a place of public accommodation unless the premises is an establishment or an event licensed to permit on-site consumption of adult-use. This prohibition extends to any method of use including the smoking or vaping of cannabis or hemp-derived products.

SECTION 720: EXCEPTIONS TO PUBLIC PLACE OR PLACE OF PUBLIC ACCOMMODATION

A public place or place of public accommodation does not include the following:

- A. A private residence, including the individual's curtilage or yard;
- B. A private property, not generally accessible by the public, unless the individual is explicitly prohibited from consuming cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on the property by the owner of the property; or
- C. On the premises of an establishment or event licensed to permit on-site consumption.

SECTION 800: ADOPTION/EFFECTIVE DATE

The regulations contained in this Ordinance shall become effective upon the passage by the ~~Vergas City Council~~ and publication according to law.

ADOPTED by the Vergas City Council on ** with an effective date of **. (*Resolution*)