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Ordinance 02-25 **AN ORDINANCE TO REGULATE CANNABIS BUSINESSES**

- Section 1 Administration
- Section 2 Registration of Cannabis Retail Business
- Section 3 Requirements for a Cannabis Businesses (Time, Place, Manner)
- Section 4 Temporary Cannabis Events
- Section 5 Use of Cannabis and Hemp Derived Products in Public Places
- Section 6 Local Government as Cannabis Retailer
- Section 7 Lower Potency Hemp Edibles

The Proctor City Council for the City of Proctor does hereby ordain:

Section 1. Administration

1.1 Findings and Purpose

The Proctor City Council makes the following legislative findings:

The purpose of this ordinance is to implement the provisions of Minnesota Statutes, Chapter 342, as amended or recodified from time to time, which authorizes the Proctor City Council to protect the public health, safety, welfare of the City of Proctor's residents by regulating cannabis businesses within the legal boundaries of the City of Proctor.

The Proctor City Council finds and concludes that the proposed provisions are appropriate and lawful land use regulations for the City of Proctor, that the proposed amendments will promote the community's interest in reasonable stability in zoning for now and in the future, and that the proposed provisions are in the public interest and for the public good.

1.2 Authority and Jurisdiction

The Proctor City Council has the authority to adopt this ordinance pursuant to:

- a) Minnesota Statutes § 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 of cannabis businesses.

- b) Minnesota Statutes § 342.22, regarding the local registration and enforcement requirements of state-licensed cannabis retail businesses and lower-potency hemp edible retail businesses.
- c) Minnesota Statutes § 152.0263, subdivision 5, regarding the use of cannabis in public places.
- d) Minnesota Statutes § 462.357, regarding the authority of a local authority to adopt zoning ordinances.

1.3 Severability

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

1.4 Enforcement – Liquor and Cannabis Control Board

The subcommittee referenced in Chapter 32.01, and thereafter, of the City of Proctor code and known as the Liquor Control Board shall now be known as the Liquor and Cannabis Control Board. The Liquor and Cannabis Control Board is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements constitutes a misdemeanor and is punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in this ordinance.

1.5 Definitions

1. Unless otherwise noted in this section, words and phrases used contained in Minnesota Statutes § 342.01 and the rules promulgated pursuant to any of these acts, shall have the same meaning in this ordinance.
2. Cannabis Cultivation: A cannabis business licensed to grow cannabis plants within the approved amount of space from seed or immature plant to mature plant. harvest cannabis flower from mature plant, package and label immature plants and seedlings and cannabis flower for sale to other cannabis businesses, transport cannabis flower to a cannabis manufacturer located on the same premises, and perform other actions approved by the office.
3. Cannabis Retail Businesses: A retail location and the retail location(s) of a mezzobusinesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, cannabis retailer, medical combination businesses operating a retail location, and including lower-potency hemp edible retailers.
4. Cannabis Retailer: Any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form.
5. Daycare: A location licensed with the Minnesota Department of Human Services to provide the care of a child in a residence outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.
6. Lower-potency Hemp Edible: As defined under Minn. Stat. 342.01 subd. 50.

7. Office of Cannabis Management: Minnesota Office of Cannabis Management, referred to as “OCM” in this ordinance.
8. Place of Public Accommodation: A business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.
9. Preliminary License Approval: OCM pre-approval for a cannabis business license for applicants who qualify under Minn. Stat. 342.17.
10. Public Place: A public park or trail; public street or sidewalk; any enclosed, indoor area used by the general public, including, but not limited to, restaurants, bars, any other food or liquor establishment, hospitals, nursing homes, auditoriums, arenas, gyms, meeting rooms, common areas of rental apartment buildings, schools, and other places of public accommodation. The term “Public Place” does not include a private residence, including the person’s curtilage or yard; private property not generally accessible by the public, unless the person 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 the premises of an establishment or event licensed to permit on-site consumption.
11. Residential Treatment Facility: As defined under Minn. Stat. 245.462 subd. 23.
12. Retail Registration: An approved registration issued by the City of Proctor to a state licensed cannabis retail business.
13. School: A public school as defined under Minn. Stat. 120A.05 or a nonpublic school that must meet the reporting requirements under Minn. Stat. 120A.24.
14. State License: An approved license issued by the State of Minnesota’s Office of Cannabis Management to a cannabis retail business.

Section 2. Registration of Cannabis Retail Business

2.1 Consent to Registering of Cannabis Businesses.

No individual or entity may operate a state-licensed cannabis retail business within the City of Proctor without first registering with the City of Proctor through its Liquor and Cannabis Control Board. Any state-licensed cannabis retail business that sells to a customer or patient without a valid retail registration shall incur a civil penalty of \$2,000 for each violation.

2.2 Compliance Checks Prior to Retail Registration

Prior to the issuance of a cannabis retail business registration, the City of Proctor through its Liquor and Cannabis Control Board shall conduct a preliminary compliance check to ensure compliance with local ordinances. Pursuant to Minnesota Statutes § 342, within 30 days of receiving a copy of the state license application from OCM, the City of Proctor shall certify on a form provided by OCM whether a proposed cannabis retail business complies with local zoning ordinances and, if applicable, whether the proposed business complies with state fire code and building code.

2.3 Retail Registration and Application Procedure

2.3.1 Fees for Retail Registration

The City of Proctor shall not charge an application fee but may charge a registration fee and renewal retail fees.

An initial registration fee shall be charged to applicants depending on the type of retail business license applied for. The initial registration fee shall not exceed \$500 or up to half the amount of the applicable initial license fee under section 342.11, whichever is less. At the time of the initial registration, the City of Proctor may also impose the first renewal retail registration fee, which shall not exceed \$1,000 or half the amount of a renewal state license fee under Minnesota Statutes § 342.11, whichever is less.

After the initial registration fee and first renewal retail fee is paid, any renewal retail registration fee imposed by the City of Proctor 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 Minnesota Statutes § 342.11, whichever is less.

2.3.2 Application Submittal

The City of Proctor, through its Liquor and Cannabis Control Board, shall issue a retail registration to a state-licensed cannabis retail business that adheres to the requirements of Minn. Stat. 342.22.

- (A) An applicant for a retail registration shall fill out an application form, as provided by the City of Proctor. Said form shall include, but is not limited to:
 - i. Full name of the property owner and applicant;
 - ii. Address, email address, and telephone number of the applicant;
 - iii. The address and parcel ID for the property which the retail registration is sought; and
 - iv. Certification that the applicant complies with the requirements of local ordinances established pursuant to Minn. Stat. 342.13.
- (B) The applicant shall include with the form:
 - i. the registration fee as required in Section 2.3.1; and
 - ii. a copy of a valid state license or written notice of OCM license preapproval.
- (C) Once an application is considered complete, the Liquor and Cannabis Control Board shall inform the applicant as such, process the registration fees, and forward the application to the City Council for the City of Proctor for approval or denial.
- (D) The retail registration fee, and any renewal retail fees, shall be non-refundable once processed.

2.3.3 Application Approval

- (A) A state-licensed cannabis retail business application shall not be approved if the cannabis retail business would exceed the maximum number of registered cannabis retail businesses permitted under Section 2.6.
- (B) A state-licensed cannabis retail business application shall not be approved or renewed if the applicant is unable to meet the requirements of this ordinance.
- (C) A state-licensed cannabis retail business application that meets the requirements of this ordinance shall be approved.

2.3.4 Annual Compliance Checks

The City of Proctor through its Liquor and Cannabis Control Board shall complete at minimum one compliance check per calendar year of every cannabis business to assess if the business meets age verification requirements, as required under Minn. Stat. 342.22 Subd. 4(b), Minn. Stat. 342.24, and this ordinance.

The City of Proctor through its Liquor and Cannabis Control Board shall conduct at minimum one unannounced age verification compliance check at least once per calendar year.

Age verification compliance checks shall involve persons at least 17 years of age but under the age of 21 who, with the prior written consent of a parent or guardian if the person is under the age of 18, attempt to purchase adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, or hemp-derived consumer products under the direct supervision of a law enforcement officer or an employee of the local unit of government.

2.3.5 Location Change

A state-licensed cannabis retail business shall be required to submit a new application for registration under Section 2.3.2 if it seeks to move to a new location still within the legal boundaries of the City of Proctor.

2.3.6 Registration Not Transferable

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

2.4 Renewal of Registration

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

A state-licensed cannabis retail business shall apply to renew registration on a form established by the City of Proctor. The application for the renewal of a retail registration shall include, but is not limited to, the items listed under Section 2.3.2 of this Ordinance.

2.4.1 Renewal Fees

The City of Proctor may charge a renewal fee for the registration starting at the second renewal, as discussed under Section 2.3.1 of this Ordinance.

2.5 Suspension of Registration

2.5.1 When Suspension is Warranted

If the City of Proctor through its Liquor and Cannabis Control Board determines that a cannabis business or hemp business with a retail registration issued by the City of Proctor is not operating in compliance with this ordinance or that the operation of the business poses an immediate threat to the health and safety of the public, the City of Proctor may suspend the retail registration of the cannabis business. The City of Proctor shall immediately notify the cannabis retail business in writing the grounds for suspension.

2.5.2 Notification to OCM

The City of Proctor shall immediately notify the OCM in writing the grounds for the suspension. The suspension shall be subject to review by the OCM, which may order reinstatement of the retail registration or take any action permitted by law. OCM will provide the City of Proctor and cannabis business retailer a response to the complaint within 7 calendar days and perform any necessary inspections within 30 calendar days.

2.5.3 Length of Suspension

The suspension of a cannabis retail business registration may be for up to 30 calendar days, unless OCM suspends the state license for a longer period. The business may not make sales to customers if their registration and/or state license is suspended.

The City of Proctor may reinstate the retail registration if the City determines that any violation has been cured and OCM has not suspended the cannabis retail business's state license. The City of Proctor must reinstate the retail registration if OCM orders reinstatement.

2.5.4 Civil Penalties

Pursuant to Minnesota Statutes § 342.22, subd. 5(e), as amended, no cannabis retail business may make any sale to a customer or patient without a valid retail registration with the City of Proctor and a valid state license issued by OCM. Subject to Minnesota Statutes § 342.22, subd. 5(e), as amended, the City of Proctor shall charge a civil penalty of \$2,000 for each retail registration violation of Minn. Stat. § 342.22, subd 5(e), as amended.

2.6 Limitation on Registrations

Pursuant to Minn. Stat. § 342.13, as amended or recodified from time to time, the number of licensed cannabis retailers, cannabis mezzobusinesses with a retail operations endorsement, and cannabis microbusinesses with a retail operations endorsement is limited to one registration for every 12,500 residents within the City of Proctor.

Section 3. Requirements for Cannabis Businesses

3.1 Prohibition of cannabis businesses within certain distances of schools, day cares, residential treatment facilities, and attractions within public parks.

Pursuant to Minn. Stat. § 342.13, as amended or recodified from time to time, the operation of a cannabis business is prohibited within 1,000 feet of a school, or within 500 feet of a day care,

residential treatment facility, or an attraction within a public park that is regularly used by minors, including a playground or athletic field.

3.2 Zoning and Land Use

Zoning and Land Use provisions for cannabis businesses, including businesses for low potency hemp edibles, can be found in Chapter 155 of the City of Proctor's Code of Ordinances.

3.3 Hours of Operation

Pursuant to Minn. Stat. § 342.27, subd. 7(b) (2023), as amended or recodified from time to time, a cannabis business with a license or endorsement authorizing the retail sale of cannabis flower or cannabis products are allowed to sell cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products between 8:00 am and 9:00 p.m. Monday through Saturday, and 10:00 am and 9:00 PM on Sunday. For the avoidance of doubt, the prohibition in this section is in addition to the hours-of operation prohibition in Minn. Stat. § 342.27, subd. 7(a) (2023), as amended or recodified from time to time.

Section 4. Temporary Cannabis Events

Pursuant to Minn. Stat. § 342.40, as amended or recodified from time to time, a cannabis event organizer must receive the City of Proctor's approval in the form of a cannabis-event permit before holding a cannabis event. The cannabis event organizer must pay at the time of application for the permit a nonrefundable permit fee in the amount of \$100. The permit must require the cannabis event organizer to comply with all applicable City ordinances and laws, including, without limitation, Minn. Stat. § 342.40, as amended or recodified from time to time. The City of Proctor Event Coordinator shall be responsible for accepting applications for cannabis-event permits and the Liquor and Cannabis Committee shall be responsible for taking action on applications for cannabis-event permits.

Section 5. Use of Cannabis and Hemp Derived Products in Public Places.

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

Pursuant to Minn. Stat. § 152.0263, subd. 5, as amended or recodified from time to time, a person is guilty of a petty misdemeanor if the person unlawfully uses cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place.

Section 6. Local Government as a Cannabis Retailer

The City of Proctor may establish, own, and operate one municipal cannabis retail business subject to the restrictions in Minnesota Statutes Chapter 342 and this Ordinance. The municipal cannabis retail store shall not be included in any limitation of the number of registered cannabis retail businesses under Section 2.6 of this Ordinance. The City of Proctor shall be subject to all the same license requirements and procedures applicable to other applicants.

Section 7. Lower-Potency Hemp Edibles

7.1 Sale of Low-Potency Hemp Edibles.

The sale of Low Potency Hemp Edibles is permitted, subject to the conditions within Section 7.

7.2 Additional Standards.

7.2.1 Sales within Municipal Liquor Store.

The sale of Low Potency Hemp Edibles is permitted in the City of Proctor's Municipal Liquor Store.

7.2.2 Beverages.

The sale of Low Potency Hemp Beverages is permitted in places that meet the requirements of this Section 7.

7.2.3 Storage of Product.

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

Section 8. Effective Date


8.1 The effective date of this ordinance shall be the date following the last date of publication in the City of Proctor official newspaper.


Moved by Councilmember Pederson and seconded by Councilmember Benson that the foregoing ordinance be adopted.

Voting Yes: All

Voting No:

Ordinance declared adopted this 6th day of January 2025.

BY: 
Chad Ward (Jan 7, 2025 13:25 CST)
Mayor
Chad Ward

ATTEST: 
City Administrator
Jess Rich

CITY OF PROCTOR
CORPORATE SEAL

1894

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Ordinance 02-25: Cannabis Regulations

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