

ORDINANCE NO. 587

AN ORDINANCE OF THE CITY OF LA CRESCENT TO REGULATE CANNABIS BUSINESSES

The City Council of the City of La Crescent ordains as follows:

SECTION 1 – ADMINISTRATION

1.1 Findings and Purpose

City of La Crescent makes the following legislative findings:

The purpose of this ordinance is to implement the provisions of Minnesota Statutes, chapter 342, which authorizes City of La Crescent to protect the public health, safety, welfare of City of La Crescent residents by regulating cannabis businesses within the legal boundaries of City of La Crescent.

City of La Crescent finds and concludes that the proposed provisions are appropriate and lawful land use regulations for City of La Crescent, 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 & Jurisdiction

City of La Crescent has the authority to adopt this ordinance pursuant to:

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

Ordinance shall be applicable to the legal boundaries of City of La Crescent.

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

The City of La Crescent, through its police department and building and inspections department, 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 contained in Minn. Stat. 342.01 and the rules promulgated pursuant to any of these acts, shall have the same meanings 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, medical combination businesses operating a retail location, excluding 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, and other places of public accommodation.

11. Residential Treatment Facility: As defined under Minn. Stat. 245.462 subd. 23.
12. Retail Registration: An approved registration issued by the City of La Crescent 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 BUSINESSES

2.1 Consent to registering of Cannabis Businesses

No individual or entity may operate a state-licensed cannabis retail business within City of La Crescent without first registering with City of La Crescent.

Any state-licensed cannabis retail 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.

Notwithstanding the foregoing provisions, the state shall not issue a license to any cannabis business to operate in Indian country, as defined in United States Code, title 18, section 1151, of a Minnesota Tribal government without the consent of the Tribal government.

Any Cannabis Retailer that proposes to occupy or construct a new building for the purposes of operating a Cannabis Retail Business must prepare and submit the appropriate building permit and other applicable applications concurrently to the required City Registration application. The Applicant agrees that the application for Registration shall be conditional and will only become effective upon the Certificate of Occupancy being granted at the completion of construction. The conditional Registration shall be communicated to the OCM during the Zoning Compliance check process identified in subsection 2.2. The conditional Registration shall be counted towards the City's identified allocation in subsection 2.6 of this ordinance.

2.2 Compliance Checks Prior to Retail Registration

Prior to issuance of a cannabis retail business registration, City of La Crescent shall conduct a preliminary zoning verification to ensure compliance with local ordinances.

Pursuant to Minn. Stat. 342, within 30 days of receiving a copy of a state license application from OCM, City of La Crescent 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 the state fire code

and building code.

2.3 Registration & Application Procedure

2.3.1 Fees

A registration fee, as established in City of La Crescent 's fee schedule, shall be charged to applicants depending on the type of retail business license applied for.

An initial retail registration fee shall not exceed \$500 or half the amount of an initial state license fee under Minn. Stat. 342.11, whichever is less. The initial registration fee shall include the initial retail registration fee and the first annual renewal fee.

Any renewal retail registration fee imposed by City of La Crescent shall be charged at the time of the second renewal and each subsequent renewal thereafter.

A renewal retail registration fee shall not exceed \$1,000 or half the amount of a renewal state license fee under Minn. Stat. 342.11, whichever is less.

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 business.

2.3.2 Application Submittal

The City of La Crescent 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 La Crescent. 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;
 - 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 application fee as required in Section 2.3.1;
 - ii. a copy of a valid state license or written notice of OCM license preapproval;
 - iii. If new development, summary of proposed Project and timeline for construction. Description must include building permits or approvals

identified by the City’s Building and Zoning Department.

- C. If an application is for an existing location, and no other land use or zoning approvals are necessary, the City shall determine that the application for Registration is complete or request additional information from the applicant. The City of La Crescent shall inform the applicant as such, process the application fees, and forward the application to the Building and Inspections Department for approval or denial.
 - i. If the Registration sought is associated with a new development and the building is not yet constructed, the applicant must obtain a Conditional Registration concurrently to the land use application process. The Conditional Registration will become effective once the applicable land use applications are deemed complete and approved. The Conditional Registration shall count towards the City’s registration allocation identified in Section 2.6. In order to obtain a conditional registration, the City reserves the right to require an applicant to enter into a Development Agreement (“Development Agreement”) with the City to ensure the compliance with all applicable ordinances and state law.
 - ii. The Conditional Registration may be converted to a full Registration when 1) all land use approvals are obtained; 2) all conditions of the land use approval process are met; 3) site work is complete; 4) the building is constructed; and 5) a Certificate of Occupancy for the identified location is issued. If the Certificate of Occupancy is not obtained within the timeframe contained in the Development Agreement, the City will have the option to rescind and revoke any conditional registration without recourse or liability.
- D. The application fee 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 La Crescent 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) and Minn.

Stat. 342.24 and this ordinance.

The City of La Crescent 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.

Any failures under this section must be reported to the Office of Cannabis Management.

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 City of La Crescent.

2.4 Renewal of Registration

The City of La Crescent 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 City of La Crescent.

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

2.4.1 Renewal Fees.

The City of La Crescent may charge a renewal fee for the registration starting at the second renewal, as established in City of La Crescent 's fee schedule.

2.4.2 Renewal Application.

The application for renewal of a retail registration shall include, but is not limited to:

- Items required under Section 2.3.2 of this Ordinance.

2.5 Suspension of Registration

2.5.1 When Suspension is Warranted.

The City of La Crescent may suspend a cannabis retail business's registration if it violates the ordinance of City of La Crescent or poses an immediate threat to the health or safety of the public. The City of La Crescent shall immediately notify the cannabis retail business in writing the grounds for the suspension.

2.5.2 Notification to OCM.

The City of La Crescent shall immediately notify the OCM in writing the grounds for the suspension. OCM will provide City of La Crescent and cannabis business retailer a response to the complaint within seven 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 license for a longer period. The business may not make sales to customers if their registration is suspended.

The City of La Crescent may reinstate registration if it determines that the violations have been resolved.

The City of La Crescent shall reinstate the registration if OCM determines that the violation(s) have been resolved.

2.5.4 Civil Penalties.

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

2.6 Limiting of Registrations

The City of La Crescent shall limit the number of cannabis retail businesses to three (3).

SECTION 3. REQUIREMENTS FOR CANNABIS BUSINESSES

3.1 Minimum Buffer Requirements

The City of La Crescent shall prohibit the operation of a cannabis business within 475 feet of a school.

The City of La Crescent shall prohibit the operation of a cannabis business within 250 feet of a daycare.

The City of La Crescent shall prohibit the operation of a cannabis business within 250 feet of a residential treatment facility.

The City of La Crescent shall prohibit the operation of a cannabis business within 250 feet of an attraction within a public park that is regularly used by minors, including a playground or athletic field.

Pursuant to Minn. Stat. 462.367 subd. 14, nothing in Section 3.1 shall prohibit an active cannabis business or a cannabis business seeking registration from continuing operation at the same site if a school/daycare/residential treatment facility/attraction within a public park that is regularly used by minors moves within the minimum

buffer zone.

3.2 Limits on Location

Distances shall be computed by direct measurement from the nearest property line of the land use listed above to the nearest portion of the building being used for the cannabis business. Distances shall be verified by the applicant and confirmed by the person(s) responsible for enforcing this ordinance, via a method deemed acceptable by City of La Crescent.

3.3 Zoning and Land Use

3.3.1 Cultivation.

Cannabis businesses licensed or endorsed for cultivation are permitted as a conditional use in the following zoning districts:

- I, Industrial District

3.3.2 Cannabis Manufacturer.

Cannabis businesses licensed or endorsed for cannabis manufacturer are permitted as a conditional use in the following zoning districts:

- I, Industrial District

3.3.3 Hemp Manufacturer.

Businesses licensed or endorsed for low-potency hemp edible manufacturers permitted as a conditional use in the following zoning districts:

- I, Industrial District

3.3.4. Wholesale.

Cannabis businesses licensed or endorsed for wholesale are permitted as a conditional use in the following zoning districts:

- I, Industrial District

3.3.5. Cannabis Retail.

Cannabis businesses licensed or endorsed for cannabis retail are a permitted use in the following zoning districts:

- C-1, Commercial District
- CBD-1 and CBD-2, Central Business District
- Commercial-Planned Development Overlay, if Waiver is granted, or as explicitly identified within the Planned Development Agreement.

3.3.6. Cannabis Transportation.

Cannabis businesses licensed or endorsed for transportation are permitted as a conditional use in the following zoning districts:

- I, Industrial District

3.3.7. Cannabis Delivery.

Cannabis businesses licensed or endorsed for delivery are permitted as a conditional use in the following zoning districts:

- C-1, Commercial District

3.4 Hours of Operation

Cannabis businesses are limited to retail sale of cannabis, cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products between the hours of 10:00 a.m. and 9:00 p.m. seven (7) days per week.

3.5 Advertising

Cannabis businesses are permitted to erect signs in compliance with City of La Crescent Ordinance No. 531.

3.6 No cannabis business shall be allowed in any residentially zoned district.

SECTION 4. TEMPORARY CANNABIS EVENTS

4.1 License or Permit Required for Temporary Cannabis Events

4.1.1 License Required

A license or permit is required to be issued and approved by City of La Crescent prior to holding a Temporary Cannabis Event.

4.1.2 Registration & Application Procedure

A registration fee, as established in City of La Crescent 's fee schedule, shall be charged to applicants for Temporary Cannabis Events.

4.1.3 Application Submittal & Review

The City of La Crescent shall require an application for Temporary Cannabis Events.

- A. An applicant for a retail registration shall fill out an application form, as provided by the City of La Crescent. 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. Site plan of event space, including location and number of access points;
- iv. Proposed capacity of event space;
- v. Other information as required by the City based on the type or size of the event.

B. The applicant shall include with the form:

- i. the application fee as required in Section 4.1.2;
- ii. a copy of the OCM cannabis event license application, submitted pursuant to 342.39 subd. 2;
- iii. The application shall be submitted to the City Clerk or designee for review. If the designee determines that a submitted application is incomplete, they shall return the application to the applicant with the notice of deficiencies.

The application shall be submitted to the City of La Crescent, or other designee for review. If the designee determines that a submitted application is incomplete, they shall return the application to the applicant with the notice of deficiencies.

C. Once an application is considered complete, the designee shall inform the applicant as such, process the application fees, and forward the application to the Building and Inspections Department for approval or denial.

D. The application fee shall be non-refundable once processed.

E. The application for a license for a Temporary Cannabis Event shall meet the following standards:

- i. Liability insurance satisfactory to City of La Crescent;
- ii. Minimum Buffer Zone Required: A temporary cannabis event shall provide a minimum buffer zone from the following uses:
 - 1. Four Hundred Seventy-Five (475) feet from a school;
 - 2. Two Hundred Fifty (250) feet of a daycare;
 - 3. Two Hundred Fifty (250) feet of a residential treatment facility;
 - 4. Two Hundred Fifty (250) feet of an attraction within a public park that is regularly used by minors, including a playground or athletic field.
- iii. Temporary cannabis events shall only occur between the hours of 10:00 a.m. and 9:00 p.m., unless extended by the City Council with

approval of a special event permit.

iv. Adequate security for the event is in place to ensure compliance with the requirements of state law at applicant's sole expense.

F. A request for a Temporary Cannabis Event that meets the requirements of this Section shall be approved.

G. A request for a Temporary Cannabis Event that does not meet the requirements of this Section shall be denied. The City of La Crescent shall notify the applicant of the standards not met and basis for denial.

Temporary cannabis events shall only be held at locations approved by La Crescent City Council.

SECTION 5. USE IN PUBLIC PLACES

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.

SECTION 6 – PERFORMANCE STANDARDS

6.01 Operation of a cannabis business of the types established by Minnesota Statutes section 342.10 within the city shall comply with the provisions of this chapter and the following:

A. Building Code. The cannabis business shall comply with Minnesota State Building Code.

B. Zoning Ordinance. The cannabis business shall comply with the provisions of Zoning Ordinance.

C. Ventilation: A cannabis business shall be ventilated so that the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the cannabis business at the property line.

D. Age Limitations: No person under twenty-one (21) years of age shall be within the cannabis business premises.

E. Public View:

i. All activities of a cannabis business businesses, including, without limitation, cultivating, growing, processing, displaying, manufacturing, selling, and storage, shall be conducted out of public view.

ii. No cannabis or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises.

F. Prohibited Activities:

- i. Consumption or use of cannabis products onsite of a cannabis retail business is prohibited unless an onsite license is first obtained.
- ii. There shall be no outdoor events or sales associated with a cannabis business; all such activities shall occur within a principal or accessory building, including temporary structures in compliance.
- iii. No cannabis business shall occupy a residential dwelling unit.

G. Odor Mitigation. All cannabis cultivation operations, production and processing facilities, including but not limited to any: drying, aging, trimming and packing facilities shall be equipped with the following odor mitigation measures:

- i. Installation and maintenance of activated carbon filters on all exhaust outlets to the building exteriors.
- ii. Location of exhaust outlets a minimum of 10 feet from the property line and 10 feet above finished grade.
- iii. Maintenance of negative air pressure within the facility, or an alternative odor control system approved by the person(s) responsible for enforcing this ordinance, based upon a mechanical engineer licensed in the State of Minnesota, demonstrating the alternative system will control odor equally or better than the required activated carbon filtration system.
- iv. All cultivation sites shall utilize dust control measures on access roads and all ground disturbing activities.

H. Security/Theft Mitigation.

- i. A plan to prevent individuals from loitering on the premises of the business if they are not engaging in activity expressly related to the cannabis business.
- ii. Twenty-four-hour emergency contact information for the owner or an on-site employee which shall be provided to the La Crescent Police Department.
- iii. A professionally installed, maintained, and monitored alarm system.
- iv. Except for live cannabis plants being cultivated at a cannabis cultivation facility, and limited amounts of cannabis for display purposes, all cannabis and cannabis products shall be stored in a secured and locked structure, and in a secured and locked safe room, safe, or vault, and in a manner as to prevent diversion, theft or loss.

- v. Twenty-four-hour security cameras to monitor all entrances and exits to the cannabis business, all interior spaces open and accessible to the public, and all interior spaces where cannabis, cash, or currency is being stored for any period of time on a regular basis. The holder of the cannabis license shall be responsible for ensuring that the security cameras footage is accessible. The footage shall be retained for a minimum of ninety days and shall be made available to the person(s) responsible for enforcing this ordinance, as well as the La Crescent Police Department upon demand.
- vi. Sensors shall be installed to detect entry/exit from all secure areas.
- vii. Any bars installed on the windows/doors of a cannabis business shall be installed only on the interior of the building.

SECTION 7 – EFFECTIVE DATE AND EXPIRATION

7.01 This Ordinance shall take effect and be enforced from and after its passage and publication.

PASSED AND ENACTED this _____ day of _____, 2024.

Mayor

ATTEST:

City Administrator