



City Council Memorandum

To: Mayor Fasbender & City Councilmembers

From: Kori Land, City Attorney

Date: November 4, 2024

Item: Cannabis Business/Use Ordinance Amendments

Council Action Requested:

Discuss Zoning Ordinance Amendments and City Code Ordinance Amendments for Cannabis Business Uses

Background Information:

The Council discussed the zoning ordinance classifications for cannabis uses at a workshop on October 7 and provided thoughtful directions for the locations of these new uses. Based on the consensus of the Council, the zoning ordinance amendments were presented to the Planning Commission on October 18. They held a public hearing and recommended approval of the ordinance amendments with one suggestion related to the buffer surrounding the Downtown Core, which will be discussed. At the workshop on Nov. 4, we will review the zoning districts of the cannabis uses and buffer zones to confirm the Council concurs with the locations proposed in the ordinance for these various uses.

The other ordinance that must be addressed by the Council is to repeal the City's lower-potency licensing ordinance and replace it with a registration process. We will be explaining the registration process, fees, as well as other related City Code amendments at this workshop and will be requesting specific guidance on some outstanding issues.

Discussion:

Revisit Zoning Ordinance:

State law created 13 cannabis and lower-potency edible businesses, but in the zoning ordinance, we need to refer to the *uses* instead of the *business names*. It is likely that a micro or mezzobusiness will diversify its operations, conducting cultivation, manufacturing, and retail on different properties, but under one OCM business license. To ensure we are capturing the *use* of property, we modified the words from the original version of the ordinance the Planning Commission reviewed to remove the business license

names, but we did not change the intent of the version they approved or change any of the uses from the proposed zoning districts.

Below is a new chart that references the use as opposed to the business and places them into the zoning districts as directed by the Council.

Type of Cannabis Use	C1	C2	C3	DC	MU	C4	I1	I2	Ag
Lower potency hemp edible retail beverages only with on-sale or off-sale liquor license	P	P	P	P		P	P		
Lower potency hemp edible retail (that do not have on-sale or off-sale liquor license)			CUP	CUP		CUP			
Cannabis retail			CUP	CUP		CUP			
Cannabis Manufacturing, Production, Processing, Testing, and Warehousing							CUP	CUP	
Lower-Potency Manufacturer (with brewery, distillery)			CUP	CUP		CUP	CUP		
Cannabis Wholesale with no product stored on site							CUP	CUP	
Cannabis Cultivator (indoor or outdoor)							CUP	CUP	CUP

Buffer Zones for Cannabis Uses:

- 1,000' between cannabis uses
- 500' from a school
- 1,000' from a day care in a commercial zoning district
- 500' from a residential treatment facility

- 1,000’ from an attraction within a park used by minors
 - Exempt in Downtown Core *New Planning Commission recommendation*
 - Reduced to 500’ for manufacturing, production, processing, testing and warehousing
- 500’ from residential for manufacturing of cannabis

Buffer Zones for Lower-Potency Hemp Edible Retail Uses:

- 500’ between lower-potency hemp edible retail uses and from all other cannabis uses
- No other distance restrictions

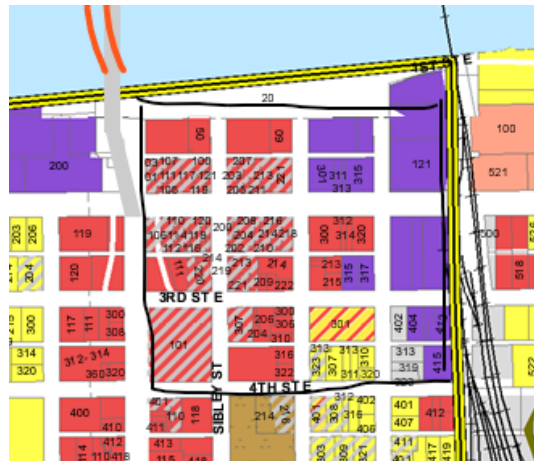
Retail Use

Lower-Potency Hemp Edible Retail: **Map 1** shows the Zoning Districts where lower-potency retail uses can be located. The stars mark the locations of the current businesses who have a license to sell lower-potency edibles.

Map 1 does not include businesses that can sell lower-potency beverages with a liquor license (on or off-sale) because the lower-potency hemp edible beverages will be permitted uses in zoning districts where liquor can be sold, with no buffer restrictions. The businesses that choose to sell them will be required to get a license from OCM and register with the City, but no separate zoning approval will be required.

Adult-Use Cannabis Retail (Dispensaries): **Map 2** shows the Zoning Districts where cannabis retail uses can be located. It has the 1,000-foot buffer from schools and park attractions where minors congregate and a 500-foot buffer from residential treatment facilities and commercial day cares. The areas outside of the bubbles are where the cannabis retail uses could be located. Per the direction of the Council at the last workshop, we added DC and C-3 Districts in the Downtown that are located in the following geographic boundary:

Properties zoned DC Downtown Core (purple) and C-3 Community Regional Commerce (red) located east of Vermillion Street and north of 4th Street and west of Bailey Street.



For this Downtown area only, the Planning Commission recommended that no park buffer be applied because such a buffer would prohibit all cannabis retail uses from locating in the Downtown. The rest of the buffers will still apply as shown on Map 2.

Lower-Potency Hemp Edible Manufacturing/Processing/Warehousing or Cannabis Manufacturing/Processing/Warehousing: **Map 3** shows the Zoning Districts and locations where these “industrial” type uses can be located. Pursuant to Council direction, the park buffer has been reduced from 1,000 feet to 500 feet.

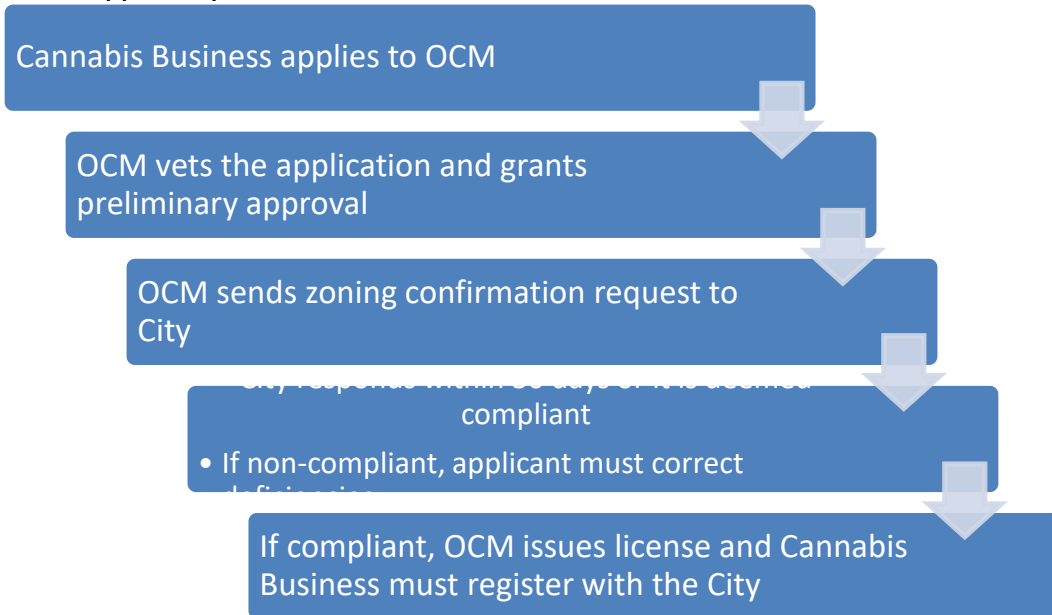
Cultivation: **Map 4** shows all of the areas where cultivation can occur, which has no buffers, except for a 1,000-foot buffer between cannabis uses.

Please review the maps and confirm that the zoning districts and buffer zones are appropriate for the different lower-potency hemp edibles and cannabis uses.

As discussed at the October workshop, these uses cannot be a nuisance. We are recommending adoption of an odor ordinance that will apply to any odor in the city. The draft ordinance in the packet is based on an odor ordinance that was recently upheld by the Federal Court of Appeals as being Constitutional and non-discriminatory. While it has some details to be worked out with the City Staff for implementation, putting the ordinance in place now, prior to odor being an issue, will allow the City to be prepared when and if it is needed. However, if the Council would like to delay this ordinance for now and adopt it in 2025, we can certainly do that.

City Code:

We currently have a licensing requirement for lower-potency edible retail businesses. With the new approval process outlined in state law, licensing will be taken over by OCM, and the City will only be allowed to *register* lower-potency and cannabis uses. The anticipated license approval process from OCM is as follows:



Fees:

The City will require all cannabis and lower-potency hemp edible businesses to register with the City. Each business will pay a registration fee pursuant to the capped state regulations as shown on the attached **Fee Table**. As you can see, the City can only collect half of the fee that the State collects. There are different fees allowed for the initial registration and renewal registrations. The Fee Ordinance in Ch. 34 will be amended to add these fees. We have a draft ordinance amendment related to these fees in the packet.

Cap on Cannabis Retail:

The City is allowed to cap the number of cannabis retail businesses (dispensary, microbusiness with retail endorsement, mezzobusiness with retail endorsement) at 1 per every 12,500 residents. According to the State Demographer in 2022, the City of Hastings had a population of 22,153 residents. Technically the law requires the City to approve only one license, but the Council should discuss and provide direction about adding a cap to the number of cannabis retail uses. The cap would only apply to “adult-use” cannabis retail and would not limit the number of lower-potency hemp edible retailers, beverages or medical cannabis combination retailers or any other cannabis uses.

Application Process:

The state law requires that a registration application *must be approved* by the City if the applicant meets 1-4:

1. Is in compliance with this chapter and all zoning requirements;
2. Has paid the registration fee;
3. Is current on all property taxes and assessments;
4. Has a State License issued by OCM for the business being negotiated; and
5. Is current on payment of all other City fees and charges. (*added provision*)

No background investigation is allowed to be conducted by the City. The registration term runs Jan. 1 – Dec. 31, which we believe will be the license term from OCM. Registrations must be renewed annually, and they are not transferrable from person to person or place to place.

Compliance checks will be conducted annually for all lower-potency hemp edible and beverage retail and cannabis retail businesses. Penalties for violations of underage sales is up to \$2,000 per violation, but we will need to add such a penalty to the City’s fee schedule or add it into the ordinance. For health or safety violations, no financial penalty can be imposed but the City can suspend the business registration for up to 30 days. The OCM will conduct an investigation and will make a determination to either rescind the suspension or revoke the license. The City will not be able to unilaterally revoke a registration for a violation of the City Code or State Law.

Event Organizers:

The City cannot require Event Organizers to register with the City, but all cannabis Event Organizers must receive Council approval for each event, so we are recommending a provision in the ordinance for approval of cannabis event permits. The law allows the following regulations for cannabis events:

- Events may be up to 4 days
- Must have private security
- Access must be limited to those over 21 (fencing, etc.)
- On-site consumption is allowed only if approved by the Council.

The draft ordinance requires all cannabis events to take place on private property (not on public property or in parks) with a safety plan approved by the Police Chief. Other details for each event can be worked out on a case-by-case basis as determined by the Council.

Next Steps

After direction is given from this workshop, we will ensure the proposed ordinances are consistent with that direction and prepare them for the Council's consideration. All of the ordinances will track together for first and second readings with the anticipation that they will be adopted by the end of the year.

Action Requested:

Discuss and provide direction on the ordinance amendments for cannabis uses.

Attachments:

Map 1 – Lower Potency Retail Sales

Map 2 – Adult use Retail Sales and wholesale products with buffer zones

Map 3 – Cultivator, Micro, Mezzo, Manufacturing with buffers

Map 4 – Cultivator Only

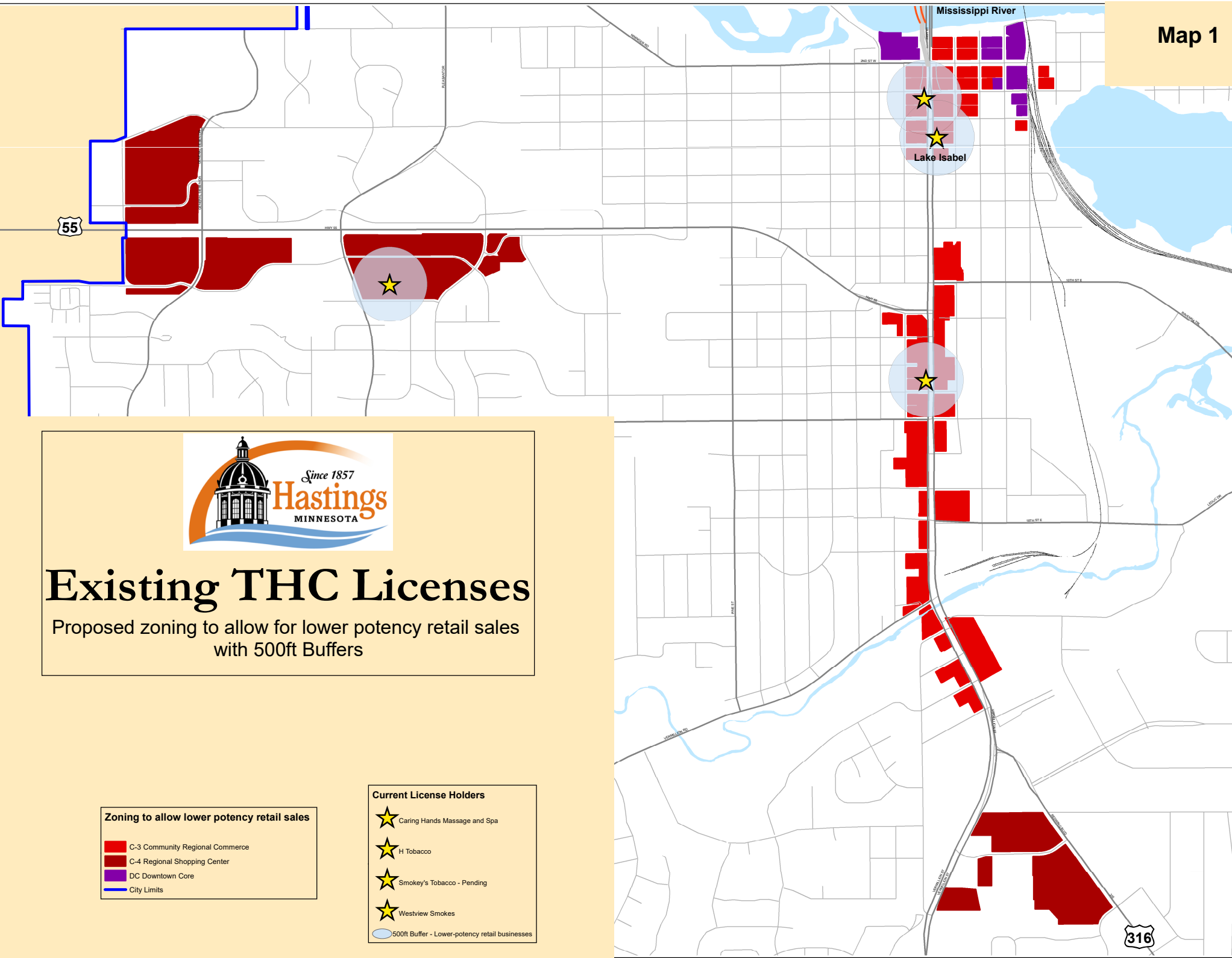
Fee Table

DRAFT Zoning Ordinance Amendment

DRAFT Registration Ordinance Amendment

DRAFT Fee Schedule Ordinance Amendment

DRAFT Odor Ordinance Amendment



Existing THC Licenses

Proposed zoning to allow for lower potency retail sales with 500ft Buffers

Zoning to allow lower potency retail sales

- C-3 Community Regional Commerce
- C-4 Regional Shopping Center
- DC Downtown Core
- City Limits

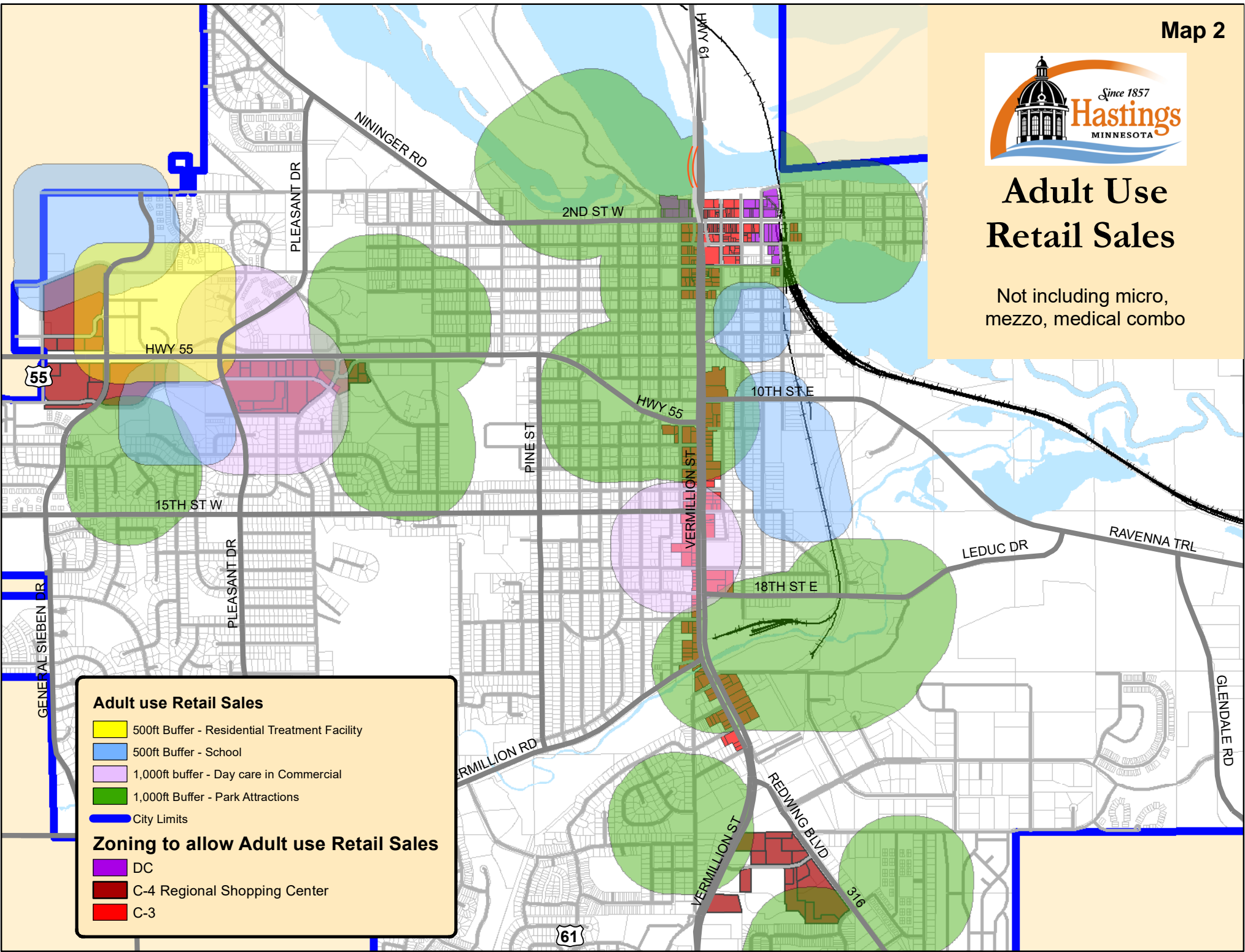
Current License Holders

- ★ Caring Hands Massage and Spa
- ★ H Tobacco
- ★ Smokey's Tobacco - Pending
- ★ Westview Smokes
- 500ft Buffer - Lower-potency retail businesses



Adult Use Retail Sales

Not including micro, mezzo, medical combo



Adult use Retail Sales

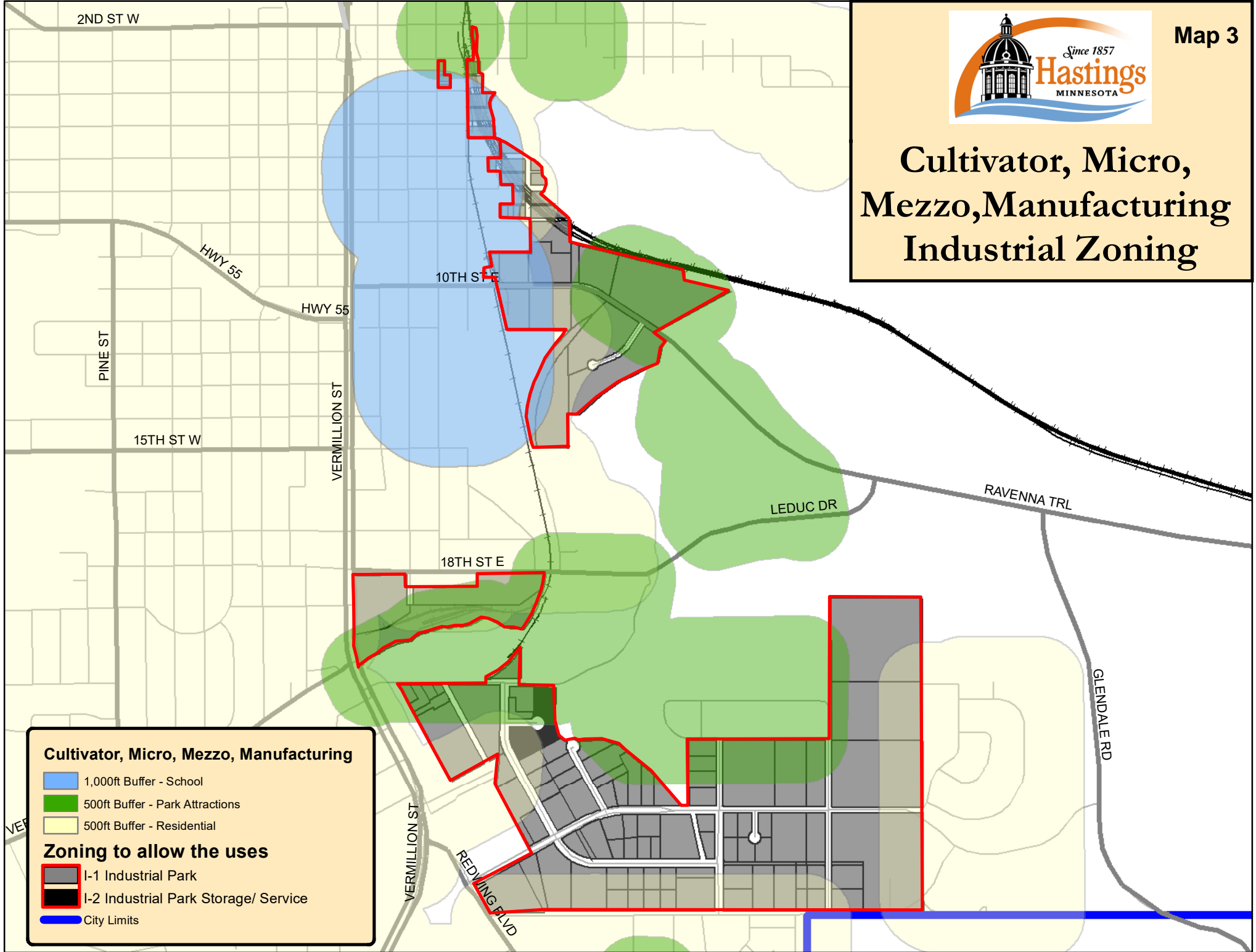
- 500ft Buffer - Residential Treatment Facility
- 500ft Buffer - School
- 1,000ft buffer - Day care in Commercial
- 1,000ft Buffer - Park Attractions
- City Limits

Zoning to allow Adult use Retail Sales

- DC
- C-4 Regional Shopping Center
- C-3



Cultivator, Micro, Mezzo, Manufacturing Industrial Zoning



Cultivator, Micro, Mezzo, Manufacturing

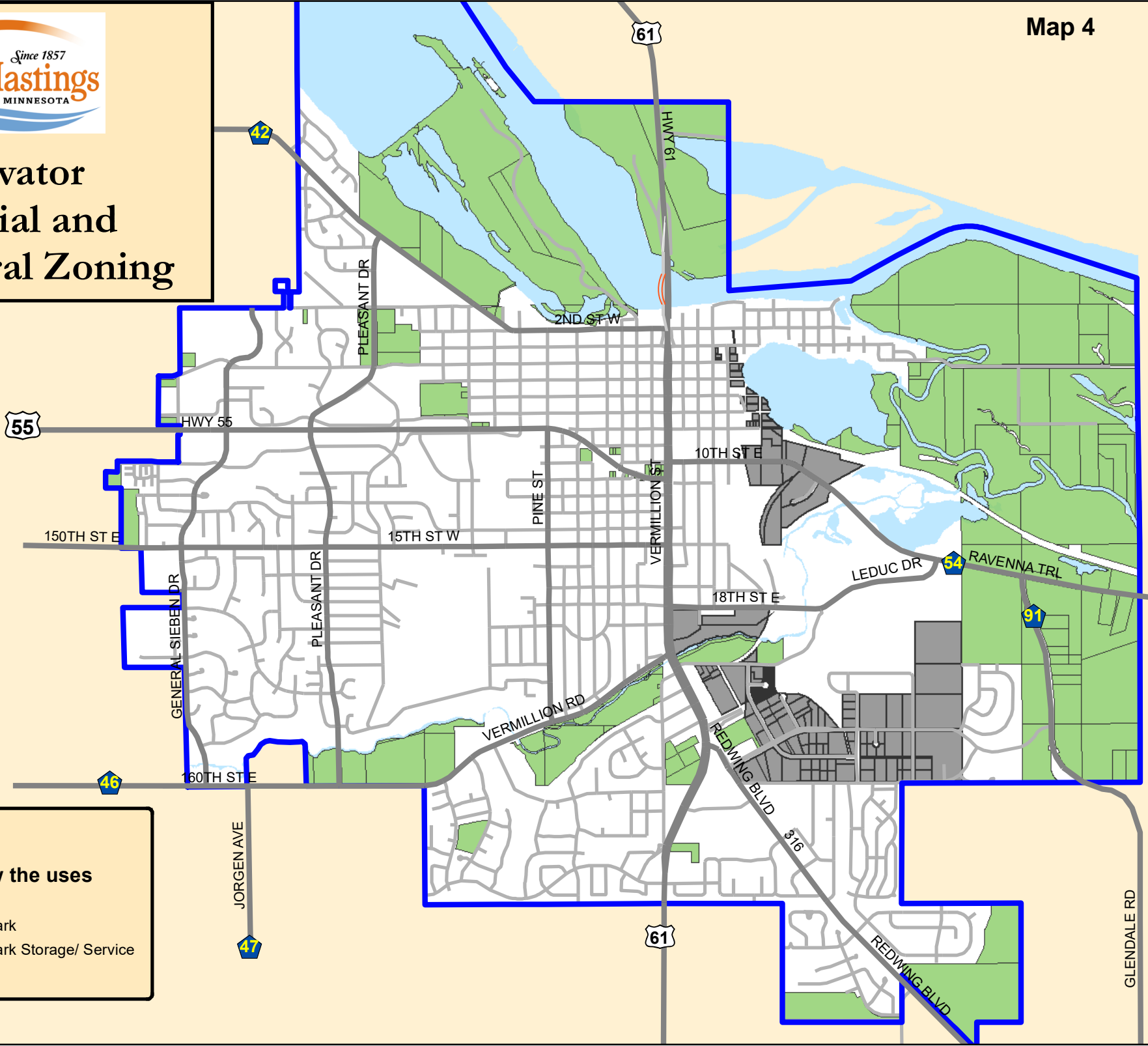
- 1,000ft Buffer - School
- 500ft Buffer - Park Attractions
- 500ft Buffer - Residential

Zoning to allow the uses

- I-1 Industrial Park
- I-2 Industrial Park Storage/ Service
- City Limits



Cultivator Industrial and Agricultural Zoning



Cultivator
Zoning to allow the uses

- A Agricultural
- I-1 Industrial Park
- I-2 Industrial Park Storage/ Service
- City Limits

FEE TABLE

Registration and Permits	OCM app fee	OCM Lic Fee	OCM Renewal Fee	City Reg Fee	City Cap Reg Fee	City Renewal Fee	City Cap Renewal Fee
Micro	\$ 500	\$ -	\$ 2,000	\$ -	\$ -	\$ 1,000	\$ 1,000
Mezzo	\$ 5,000	\$ 5,000	\$ 10,000	\$ 2,500	\$ 500	\$ 5,000	\$ 1,000
Cannabis Cultivator	\$ 10,000	\$ 20,000	\$ 30,000	\$ 10,000	\$ 500	\$ 15,000	\$ 1,000
Cannabis Manufacturer	\$ 10,000	\$ 10,000	\$ 20,000	\$ 5,000	\$ 500	\$ 10,000	\$ 1,000
Cannabis Retailer	\$ 2,500	\$ 2,500	\$ 5,000	\$ 1,250	\$ 500	\$ 2,500	\$ 1,000
Cannabis Wholesaler	\$ 5,000	\$ 5,000	\$ 10,000	\$ 2,500	\$ 500	\$ 5,000	\$ 1,000
Cannabis Transporter	\$ 250	\$ 500	\$ 1,000	\$ 250	\$ 250	\$ 500	\$ 500
Cannabis Testing Facility	\$ 5,000	\$ 5,000	\$ 10,000	\$ 2,500	\$ 500	\$ 5,000	\$ 1,000
Cannabis Delivery Service	\$ 250	\$ 500	\$ 1,000	\$ 250	\$ 250	\$ 500	\$ 500
Lower-Potency Hemp Edible Manufacturer	\$ 250	\$ 1,000	\$ 1,000	\$ 500	\$ 500	\$ 500	\$ 500
Lower-Potency Hemp Edible Retailer (per retail location)	\$ 250	\$ 250	\$ 250	\$ 125	\$ 125	\$ 125	\$ 125
Medical Cannabis Combination	\$ 10,000	\$ 20,000	\$ 70,000	\$ 10,000	\$ 500	\$ 35,000	\$ 1,000
Cannabis Event Organizer Permit	\$ 750	\$ 750	\$ -	\$ 375	\$ 250	\$ -	\$ -

**CITY OF HASTINGS, MINNESOTA
ORDINANCE NO. 2024-___**

**An Ordinance of the City of Hastings Amending City Code Chapter 155: Zoning Code Regarding
Cannabis Uses and Lower-Potency Hemp Edible Uses**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HASTINGS:

SECTION 1. HASTINGS CITY CODE SECTION 155.07.J. IS REPEALED AND REPLACED AS FOLLOWS:

155.07 Special Provisions

J. *Cannabis Uses and Lower-Potency Hemp Edible Uses.*

All cannabis and lower-potency hemp edible uses must comply with the requirements of this section.

1. *Definitions.* Unless otherwise noted in this section, words, terms, and phrases found in the definitions of Minnesota Statutes Section 342.01, or as amended, apply unless otherwise noted or except where the context clearly indicates a different meaning. In addition, the following definitions apply:

CANNABIS BUSINESS. Any of the following businesses:

- a. Cannabis microbusiness;
- b. Cannabis mezzobusiness;
- c. Cannabis cultivator;
- d. Cannabis manufacturer;
- e. Cannabis retailer;
- f. Cannabis wholesaler;
- g. Cannabis transporter;
- h. Cannabis testing facility;
- i. Cannabis event organizer;
- j. Cannabis delivery service;
- k. Lower-potency hemp edible manufacturing;
- l. Lower-potency hemp edible retailer; or
- m. Medical cannabis combination business.

CANNABIS USE OR CANNABIS INDUSTRY. Every item, product, person, process, action, business, or other thing related to cannabis flower and cannabis products.

DAY CARE. A location licensed with the Minnesota Department of Human Services to provide the care of a child outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

OFFICE OF CANNABIS MANAGEMENT or “OCM”. The Minnesota Office of Cannabis Management.

RESIDENTIAL TREATMENT FACILITY. A 24-hour-a-day program under the treatment supervision of a mental health professional, in a community residential setting other than an acute care hospital or regional treatment program for adults with mental illness under chapter 245I, Minnesota Rules, parts 9520.0500 to 9520.0670, or other rules adopted by the commissioner.

SCHOOL. A public school as defined in Minnesota Statutes Section 120A.05 or nonpublic school that meets the reporting requirements under Minnesota Statutes Section 120A.24.

STATE LICENSE. An approved license issued by the Minnesota Office of Cannabis Management to a cannabis and lower-potency hemp edible business.

2. *Outdoor Cultivation.* Any cannabis business that includes outdoor cultivation, such as cannabis cultivator, microbusiness, or mezzobusiness must comply with the following:
 - a. A minimum of twenty (20) contiguous acres is required for the portion of the property that will be dedicated to cultivation.
 - b. The cannabis plants must be setback a minimum of three hundred feet (300') from the property lines.
 - c. There must be fencing of six feet (6') around the perimeter and a landscaped or screened buffer is required to be placed outside of the fence but within the setback area, which may consist of a berm, trees, or combination thereof.
 - d. The cannabis plants cannot be visible from any public right of way.
 - e. No retail sales shall be allowed at the same location as any business with an outdoor cultivation business license.
3. *Indoor Cultivation (greenhouses, hoop houses).* Any cannabis business that includes indoor cultivation enclosed in structures, such as, but not limited to greenhouses or hoop houses. Requirements surrounding the lighting and illumination within the structures, including hours shall be included of the conditional use permit.
4. *Manufacturing, production, testing or processing of cannabis or wholesale (if products stored on site).* Must comply with the following performance standards:
 - a. No exterior storage is allowed, including storage of products in semis or trailers that are parked outside of an enclosed building.
 - b. All mechanical, odor suppression equipment and trash enclosures must be screened and approved as part of a site plan approval.
5. *Performance Standards.* All cannabis businesses must comply with the following:
 - a. Retail hours of operation are permitted from 10:00 a.m. to 9:00 p.m., seven days a week, unless it is lower-potency beverages associated with an on-sale or off-sale liquor license.
 - b. No cannabis use shall be allowed as part of any Adult Use Establishment business, as defined in City Code Section 114.21.

- c. No cannabis retail sales are allowed in the Agricultural zoning district.
- d. Cannabis uses cannot violate City Code Chapter 95 regarding public nuisances. The City may require odor mitigation as a condition of the conditional use permit.
- e. *Distance Restrictions.* Distances from a cannabis use are measured from the storefront of a retail use and from the property line of all other cannabis uses, except as provided below.
 - (1) There must be at least one thousand feet (1,000') between each cannabis use.
 - (2) The location of the cannabis use must be located:
 - (a) More than five hundred feet (500') from a school as measured from property line of the school to the cannabis use;
 - (b) More than one thousand feet (1,000') from a day care in a commercial zoning district, as measured from property line of the day care to the cannabis use;
 - (c) More than five hundred feet (500') from a residential treatment facility, as measured from the property line of the facility to the cannabis use;
 - (d) More than one thousand feet (1,000') from an attraction within a public park that is regularly used by minors, such as, but not limited to a playground, athletic field, athletic court, picnic area or restrooms, pavilion or park building, disc golf features, as each is measured from the location of the public park attraction to the cannabis use.
 - (e) All buildings used for manufacturing, production, testing or processing of cannabis or wholesale (if products stored on site) must be setback a minimum of five hundred feet (500') from a residential zoning district or residential use as measured from the property line of the cannabis use to the property line of the nearest residential zoning district or residential use.
 - (3) Exceptions to distance restrictions:
 - (a) Lower-potency hemp edible retail uses shall be five hundred feet (500') from other lower-potency businesses and five hundred feet (500') from all other cannabis uses but otherwise shall be exempt from the distance requirements in City Code 155.07.J.5.e.2.
 - (b) On-sale and off-sale liquor establishments selling lower-potency beverages and that have a lower-potency hemp edible City Registration and State License shall be exempt from the distance requirements in City Code 155.07.J.5.e.1 and 155.07.J.5.e.2 and they do not count against other cannabis uses for purposes of City Code 155.07.J.5.e.1.
 - (c) Manufacturing, production, testing or processing of cannabis or wholesale (if products stored on site) uses have a reduced distance requirement of five hundred feet (500') from the public park attraction distance requirement found in City Code 155.07.J.5.e.2.d.
 - (d) Cannabis retail uses located east of Vermillion Street and north of 4th Street and west of Bailey Street in the DC Downtown Core or C-3 Community

Regional Commerce zoning districts shall be exempt from the distance requirements of City Code 155.07.J.5.e.2.d.

- (e) Cannabis cultivation uses shall comply with the distance requirements in City Code 155.07.J.5.e.1 but shall be exempt from the distance requirements in City Code 155.07.J.5.e.2.
- f. Signs must comply with the standards in City Code 155.08 for the relevant zoning district in which the business is located, except for the following:
 - (1) No cannabis business shall have more than two (2) signs; and
 - (2) Blinking, moving, and flashing signs that are visible from the exterior of the building are prohibited.
- g. Cannabis uses must meet the minimum parking requirements for each type of use as stated in City Code for that use, for example, retail must meet the retail requirements, manufacturing must meet the manufacturing parking requirements. If there is a combination of cannabis uses at the same location, the use that requires the largest number of spaces must be met.
- h. A security plan must be submitted to and approved by the Chief of Police to address security issues in order to protect the public health, safety, and general welfare. The security plan must include, but is not limited to, addressing issues surrounding parking, traffic, securing of monetary transactions, building security and alarm systems both internal and external, screening, lighting, window and door placement, landscaping, and hours of operation.

SECTION 2. HASTINGS CITY CODE SECTION 155.21 IS AMENDED AS FOLLOWS (new language is underlined, strikethrough language is deleted):

155.21 A Agriculture

D. Uses By Special Permit.

- 5. ~~Cannabis, medical cannabis, and hemp growing, cultivating or farming operations pursuant to the following conditions:~~ Cannabis cultivation, indoor or outdoor, are subject to the following conditions:
 - a. A minimum of ~~one hundred (100)~~ twenty (20) contiguous acres under single ownership is required for the ~~operation use~~.
 - b. The operator must be licensed by the State of Minnesota.
 - c. The sale of cannabis products is not permitted on the same property as the ~~operation use~~.

SECTION 3. HASTINGS CITY CODE IS AMENDED by adding Cannabis, Lower-potency edible beverages sold as part of an on-sale or off-sale liquor license as Permitted Uses to Sections 155.29.B., 155.30.B., 155.31.B., and 155.34.B, subject to the provisions of Section 155.07.J.

SECTION 4. HASTINGS CITY CODE SECTION 155.30 IS AMENDED AS FOLLOWS (new language is underlined, ~~striketrough~~ language is deleted):

155.30-3 Community Regional Commerce

C. Uses by Special Permit.

10. Cannabis retailer, edible retailer, medical retailer, and edible cannabis distribution facility that comply with the requirements in City Code Section 155.07.J. Lower-potency edible retail use not associated with on-sale or off-sale liquor license and that complies with the requirements in City Code Section 155.07.J.
11. Cannabis retail, not associated with any other cannabis use on the same property and that complies with the requirements of City Code Section 155.07.J.
12. Lower-potency hemp edible manufacturing if part of a brewpub or microdistillery and that complies with the requirements of City Code Section 155.07.J.

SECTION 5. HASTINGS CITY CODE SECTION 155.31 IS AMENDED AS FOLLOWS (new language is underlined, ~~striketrough~~ language is deleted):

155.31 DC Downtown Core

C. Uses by Special Permit.

9. Lower-potency edible retail uses not associated with on-sale or off-sale liquor license that comply with the requirements in City Code Section 155.07.J.
10. Cannabis retail, not associated with any other cannabis use on the same property and that complies with the requirements of City Code Section 155.07.J;
11. Lower-potency hemp edible manufacturing if part of a brewpub or microdistillery and that complies with the requirements of City Code Section 155.07.J.

SECTION 6. HASTINGS CITY CODE SECTION 155.32 IS AMENDED AS FOLLOWS (new language is underlined, ~~striketrough~~ language is deleted):

155.32 C-4 Regional Shopping Center

C. Uses By Special Permit.

~~Cannabis retailer, edible retailer, medical retailer, and medical cannabis distribution facility that comply with the requirements of City Code Section 155.07.J.;~~

SECTION 7. HASTINGS CITY CODE SECTION 155.34 IS AMENDED AS FOLLOWS (new language is underlined, ~~striketrough~~ language is deleted):

155.34 I-1 Industrial Park

C. *Uses By Special Permit.*

4. Cannabis, medical cannabis or hemp manufacturer, testing facility, wholesaler and processor. Manufacturing, production, testing or processing of cannabis or lower-potency hemp edibles and that complies with the requirements of City Code Section 155.07.J;
5. Cannabis wholesale without on site storage of cannabis products and that complies with the requirements of City Code Section 155.07.J;
6. Cannabis, indoor or outdoor cultivation use and that complies with the requirements of City Code Section 155.07.J;
7. Lower-potency hemp edible manufacturing if part of a brewpub or microdistillery and that complies with the requirements of City Code Section 155.07.J.

SECTION 8. HASTINGS CITY CODE SECTION 155.35 IS AMENDED AS FOLLOWS (new language is underlined, ~~striketrough~~ language is deleted):

155.35 I-2 Industrial Park Storage/Service

D. *Uses By Special Permit.*

6. Manufacturing, production, testing or processing of cannabis and that complies with the requirements of City Code Section 155.07.J;
7. Cannabis wholesale without onsite storage of cannabis products and that complies with the requirements of City Code Section 155.07.J;
8. Cannabis, indoor or outdoor cultivation and that complies with the requirements of City Code Section 155.07.J.

SECTION 9. SUMMARY PUBLICATION. Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance.

The text amendment adopted by the Hastings City Council on _____, 2024 enacts cannabis and lower-potency hemp edible use performance standards in the Zoning Code; and amends uses with special permits to include cannabis and lower-potency hemp edible uses in accordance with Minnesota State Statutes Sections 342 and 151.72.

This Ordinance shall be effective upon seven (7) days after its passage and publication.

Adopted by the Hastings City Council on this ____ day of _____, 2024 by the following vote:

CITY OF HASTINGS

Mary Fasbender, Mayor

ATTEST:

Kelly Murtaugh
City Clerk

CITY OF HASTINGS, MINNESOTA

ORDINANCE NO. 2024-___

An Ordinance of the City of Hastings Repealing and Replacing City Code Chapter 117: Cannabis Business Retail Registration

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HASTINGS:

SECTION 1. HASTINGS CITY CODE CHAPTER 117 IS REPEALED AND REPLACED AS FOLLOWS:

CHAPTER 117 CANNABIS AND LOWER-POTENCY HEMP EDIBLE BUSINESS REGISTRATION

117.01 Purpose. The purpose of this chapter is to implement the provisions of Minnesota Statutes Chapter 342, which authorizes cities to protect the public health, safety, and welfare of residents by regulating cannabis and lower-potency hemp edible businesses within its jurisdiction.

117.02 Definitions. Unless otherwise noted in this section, words, terms, and phrases found in the definitions of Minnesota Statutes Section 342.01, or as amended, apply, unless otherwise noted or except where the context clearly indicates a different meaning. In addition, the following definitions apply:

OFFICE OF CANNABIS MANAGEMENT or “OCM”. The Minnesota Office of Cannabis Management.

STATE LICENSE. An approved license issued by the Minnesota Office of Cannabis Management to a cannabis and lower-potency hemp edible business.

117.03 Registration Required. Before operating a business licensed by OCM the business must register with the City. Applications shall be submitted on the forms provided by the City Clerk, and all applicants shall comply with the process below. All applications shall be considered and approved or denied by the City Council.

117.04 Cap on Registrations. The City will not issue more than one (1) cannabis retail registration per 12,500 residents, as determined by the most recent state demographer’s estimate. This cap on registrations does not apply to a medical cannabis combination business or lower-potency hemp edibles retailer.

117.05 Application Process. All applicants must:

- A. Complete the registration form provided by the City;
- B. Pay the non-refundable registration fee for each type of retail license for which the business is applying. For the first registration, the applicant shall pay the initial registration fee and the first renewal registration fee; and
- C. Provide a copy of all State Licenses issued by OCM.

117.06 Approval. The City Council must take action on each new and renewal registration application within a reasonable time following receipt of the recommendation from City staff regarding the application. At the City Council meeting at which the application is considered, the registration will be approved by the City Council if the applicant:

- A. Is in compliance with this chapter and all zoning requirements;
- B. Has paid the registration fee (the initial registration fee plus the first renewal fee is due upon initial registration);
- C. Is current on all property taxes and assessments;
- D. Has a State License issued by OCM for the business being applied; and
- E. Is current on payment of all other City fees and charges.

117.07 Exceptions. No registration shall be required for an Event Organizer, however, each cannabis event must be approved by the City Council as a cannabis event permit. All cannabis events must be conducted on private property and a security plan must be approved by the Police Chief or his or her designee. The City Council shall approve or deny on-site consumption of cannabis as deemed appropriate and the Council may add conditions of approval for the cannabis event in order to protect the public health, safety and general welfare.

117.08 Renewal Process

- A. Registration renewals are issued in the same manner and subject to the same conditions as a new registration application. A cannabis retail business shall apply to renew its registration on a form established by the City. Upon the first renewal, no additional registration fee shall be required. Starting at the second renewal, and each subsequent renewal thereafter, the renewal registration fee shall be paid at the time of renewal. The fees are established in the City's fee schedule.
- B. Before renewing a registration, the City may enter and inspect the cannabis business to ensure that the cannabis business is in compliance with this chapter, the zoning ordinance, and state laws.

117.09 Registration Term. The registration term begins on January 1 and ends on December 31.

117.10 Premises Covered by Registration. Unless otherwise authorized by this Code, the registration for the cannabis retail business is only effective for the compact and contiguous space specified in the approved registration application.

117.11 No Transfer or Assignment of Registration or Location. A registered cannabis retail business shall not transfer or assign a registration to another person or entity or move to a different location without completing a new application and paying the appropriate fees.

117.12 Prohibited Acts. The owner or operator of a cannabis retail business is responsible for the conduct of their place of business and the conditions of order in it. The act of an employee of the premises is deemed the act of the owner or operator as well, and the owner or operator is responsible for all penalties provided by this chapter equally with the employee.

- A. It shall be unlawful for any person to sell, purchase, obtain or otherwise provide any cannabis product to any person under the age of twenty-one (21), including cannabinoids derived from hemp.
- B. It shall be unlawful for any person under the age of twenty-one (21) to possess any cannabis product. This chapter shall not apply to persons under the age of twenty-one (21) lawfully involved in a compliance check, including cannabinoids derived from hemp.

- C. It shall be unlawful for any person under the age of twenty-one (21) to use or consume any cannabis product unless it is legally authorized medical cannabis.
- D. It shall be unlawful for any person under the age of twenty-one (21) to attempt to disguise the person's true age by the use of a false form of identification, whether the identification is that of another person or one in which the age of the person has been modified or tampered with, to represent an age older than the actual age of the person, in order to purchase any cannabis product.
- E. No cannabis product may be sold to an obviously intoxicated person or a person under the influence of a controlled substance.
- F. No one under the age of twenty-one (21) shall sell cannabis.
- G. Cannabis cannot be sold in vending machines, through a drive-through window or as part of a home occupation.
- H. On-site consumption is prohibited at lower-potency hemp edible retail and cannabis retail businesses, except for lower-potency hemp products that are consumed as a beverage at an on-sale liquor establishment.
- I. It shall be unlawful to sell, purchase, obtain, possess, or provide cannabis products with Delta-10 THC.
- J. No retail product shall be visible from the exterior of the building.

117.13 Compliance Checks and Inspections. All cannabis premises must be open to inspection by the local law enforcement or other authorized City official during regular business hours. From time to time, but at least once per year, the City will conduct compliance checks by engaging persons between the ages of seventeen (17) and twenty-one (21) years, to enter the premises to attempt to purchase cannabis. Persons used for compliance checks are not guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of cannabis when the items are obtained or attempted to be obtained as a part of the compliance check. No person used in compliance checks may attempt to use a false identification misrepresenting the person's age, and all persons lawfully engaged in a compliance check may answer all questions about the person's age and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section prohibits compliance checks authorized by State or Federal laws for educational, research or training purposes, or required for the enforcement of a particular State or Federal law.

117.14 Violations

- A. Civil Penalties. If the City determines that a cannabis business made a sale to a customer or patient without a valid retail registration, the City may impose a civil penalty of up to \$2,000 for each violation.
- B. Suspension. If the City determines that a business with a registration is not operating in compliance with the City Code or zoning ordinance, or that the operation of the business poses an immediate threat to the health or safety of the public, the City, through the Director of the Department of Public Safety, may immediately suspend the registration for up to thirty (30) days. The City will notify the business and the OCM in writing of the suspension, stating the grounds for the suspension. The OCM will investigate and may extend the period of

suspension, revoke the registration, or order the reinstatement of the registration, or take any other action described in Minnesota Statutes Section 342.19 or 342.21.

SECTION 2. SUMMARY PUBLICATION. Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance.

The text amendment adopted by the Hastings City Council on _____, 2024 repeals and replaces the City’s policies on Intoxicating CBD Product sales licensing with Lower-Potency Cannabis and Cannabis Business registration to reflect Minnesota State Statutes Sections 342 and 151.72.

This Ordinance shall be effective upon seven (7) days after its passage and publication.

Adopted by the Hastings City Council on this ___ day of _____, 2024 by the following vote:

Ayes:

Nays:

Absent:

CITY OF HASTINGS

Mary Fasbender, Mayor

ATTEST:

Kelly Murtaugh, City Clerk

CITY OF HASTINGS, MINNESOTA

ORDINANCE NO. 2024-___

An Ordinance of the City of Hastings Amending City Code Chapter 34: Fees

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HASTINGS:

SECTION 1. HASTINGS CITY CODE CHAPTER 34, SECTION 34.03 IS AMENDED AS FOLLOWS (new language is underlined, ~~strikethrough~~ language is deleted):

<i><u>Use, Sales, and Operations of Cannabis and Hemp Businesses</u></i>		
Investigation Fee	\$500.00	One-time
Cannabis Product Retail License	\$500.00 Initial and First Renewal \$1,000.00 Subsequent Renewals	Annual (Calendar Year)
Manufacturing/Testing/ Processing/Wholesale License	\$200.00	Annual (Calendar Year)

<i><u>Registration and Permits for Cannabis Businesses</u></i>		
<u>Microbusiness</u>	<u>\$00.00 Initial</u> <u>\$1,000.00 Renewal</u>	<u>Annual (Calendar Year)</u>
<u>Mezzobusiness</u>	<u>\$500.00 Initial</u> <u>\$1,000.00 Renewal</u>	<u>Annual (Calendar Year)</u>
<u>Cannabis Cultivator</u>	<u>\$500.00 Initial</u> <u>\$1,000.00 Renewal</u>	<u>Annual (Calendar Year)</u>
<u>Cannabis Manufacturer</u>	<u>\$500.00 Initial</u> <u>\$1,000.00 Renewal</u>	<u>Annual (Calendar Year)</u>
<u>Cannabis Retailer</u>	<u>\$500.00 Initial</u> <u>\$1,000.00 Renewal</u>	<u>Annual (Calendar Year)</u>
<u>Cannabis Wholesaler</u>	<u>\$500.00 Initial</u> <u>\$1,000.00 Renewal</u>	<u>Annual (Calendar Year)</u>
<u>Cannabis Transporter</u>	<u>\$250.00 Initial</u> <u>\$500.00 Renewal</u>	<u>Annual (Calendar Year)</u>
<u>Cannabis Testing Facility</u>	<u>\$500.00 Initial</u> <u>\$1,000.00 Renewal</u>	<u>Annual (Calendar Year)</u>
<u>Cannabis Delivery Service</u>	<u>\$250.00 Initial</u> <u>\$500.00 Renewal</u>	<u>Annual (Calendar Year)</u>
<u>Lower-Potency Hemp Edible Manufacturer</u>	<u>\$500.00 Initial</u> <u>\$500.00 Renewal</u>	<u>Annual (Calendar Year)</u>
<u>Lower-Potency Hemp Edible Retailer (per retail location)</u>	<u>\$125.00 Initial</u> <u>\$125.00 Renewal</u>	<u>Annual (Calendar Year)</u>
<u>Medical Cannabis Combination</u>	<u>\$500.00 Initial</u> <u>\$1,000.00 Renewal</u>	<u>Annual (Calendar Year)</u>
<u>Cannabis Event Organizer Permit</u>	<u>\$250.00</u>	<u>One time</u>

SECTION 2. SUMMARY PUBLICATION. Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance.

The City Clerk Fee Schedule in Section 34.03 is to be amended by removing Uses, Sales, and Operations of Cannabis and Hemp Businesses License Fees, and adding Registration Fees for all Cannabis Uses.

This Ordinance shall be effective upon seven (7) days after its passage and publication.

Adopted by the Hastings City Council on this ___ day of _____, 202____, by the following vote:

Ayes:

Nays:

Absent:

CITY OF HASTINGS

Mary Fasbender, Mayor

ATTEST:

Kelly Murtaugh
City Clerk

I hereby certify that the above is a true and correct copy of the Ordinance presented to and adopted by the City of Hastings, County of Dakota, Minnesota, on the ___ day of _____, as disclosed by the records of the City of Hastings on file and of record in the office.

Kelly Murtaugh
City Clerk

CITY OF HASTINGS, MINNESOTA
ORDINANCE NO. 2024-___

An Ordinance of the City of Hastings Enacting City Code Chapter 95.98: Odors

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HASTINGS:

SECTION 1. HASTINGS CITY CODE CHAPTER 95, SECTION 95.98 IS ENACTED AS FOLLOWS (new language is underlined):

95.98 Odors.

- A. Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BEST PRACTICABLE ODOR CONTROL TECHNOLOGY. The utilization of those technologies, processes, procedures, or operating methods by an industry, facility, or source which results in the most cost-effective means of mitigation of odors from an odor emission point source.

CITY ADMINISTRATOR. The Hastings City Administrator or his or her designee.

CITY ENGINEER. The Hastings City Engineer or his or her designee.

INITIAL TEST OR INITIAL TESTING. An odor test or series of tests conducted in order to establish a baseline odor level.

NASAL RANGER®. The Nasal Ranger® Field Olfactometer, a portable odor detecting and measuring device developed by St. Croix Sensory or such comparable device or technology that is approved by the City Council.

ODOR. That which produces a response of the human sense of smell to an odorous substance.

ODOR MANAGEMENT PLAN. A plan submitted by an industry, facility, or source to the City.

ODOR COMPLAINT. A notification received by the City from a person who identifies his or her name and address and the location, description, and duration of the odor. The release of such information regarding the identity of the complainant is governed by the Minn. Stat. Ch. 13, the Minnesota Government Data Practices Act.

ODOR EMISSION. The release of offensive gases, fumes, and vapors into the atmosphere by an industry, facility or source which is determined by the City to cause unreasonable injury, nuisance, or annoyance to the public.

OWNER. The owner, operator, occupant, tenant, or other person who is responsible for any operation, business, or profession, or who exercises control over real property.

PROPERTY. Any real property, premises, structure, or location within the City.

SIGNIFICANT ODOR GENERATOR. An industry, facility or source that generates seven verifiable odor complaints in a six-month period or that the City has determined the industry, facility or source is the cause of odor emissions resulting in significant odor complaints.

VERIFIED ODOR COMPLAINT. That the City Administrator has confirmed the industry, facility or source of the odor emission that precipitated the complaint, by using the Nasal Ranger® to detect and measure odor. A dilution-to-threshold ratio as measured by the Nasal Ranger® of seven odor units or above (or such comparable measurements for a different device or technology that is approved by the City Council) is deemed to be a verified odor complaint.

- B. It shall be unlawful for any owner of property located within the City to cause or allow odor emissions that:
1. Create odors or smells which are offensive or obnoxious to another person within the City; or
 2. Create a detrimental effect on the property of another person in the City; or
 3. Unreasonably interfere with the enjoyment of life, health, safety, peace, comfort, or property of another person in the City.
- C. Odor Testing. Odor testing may be conducted by the City or an independent consultant on any property that may be a potential odor source. Testing may be conducted based on complaints or based on a planned odor monitoring study.
- D. Designation as a significant odor generator. After reviewing the results of odor testing, if the property produces odor emissions that generate seven verifiable odor complaints in a six-month period, the City Administrator or designee may determine that a property shall be designated as a significant odor generator and shall notify the property owner of the designation.
- E. Appeal. Any property that is designated as a significant odor generator may file an appeal in writing by following the process contained in City Code 10.25.C.
- F. Odor management plan.
1. If the property is designated as a significant odor generator, then within 90 days of notice of designation by the City, the property owner shall work with the City to develop an odor management plan using the best practicable odor control technology in order to mitigate and comply with this ordinance. The City may grant an extension for up to an additional 90 days to submit the odor management plan, upon sufficient evidence and cause for such extension. The odor management plan shall:
 - a. Identify and explain the odor source(s);
 - b. Describe the best practicable odor technology to manage the odors generated;
 - c. Provide a detailed plan on any proposed operational changes to the existing odor control equipment in order to control and mitigate the odors being generated;
 - d. Establish a timeline for development and implementation of an engineer-approved treatment technology, which includes monitoring instrumentation and equipment to ensure future compliance.
 - e. Be kept on file with the City.

G. Compliance.

1. Compliance shall be achieved when the property owner has completed the installation, start-up and operation of the best practicable odor control technology in accordance with the odor management plan and follow-up testing has determined the results have significantly improved since the initial test.

2. At such time that the property has achieved compliance with the odor management plan and has received no verifiable odor complaints for a period of 12 months, the property shall be removed from the significant odor generator classification.

H. Non-compliance. If the City Administrator determines after follow-up testing that the results at the property have not improved, or if odor complaints continue, the property owner shall be required to meet with the City Administrator on at least a quarterly basis to develop a new odor management plan. Such meetings and follow-up testing shall continue until the City Administrator determines that the results at the property have improved. If non-compliance continues for a period of 12 months, the City may impose penalties pursuant to this chapter.

I. Re-classification as a significant odor generator. A property that was previously classified as a significant odor generator but was removed from the classification due to compliance may be re-classified as a significant odor generator if it generates three verifiable odor complaints in a 90-day period. It shall then be required to comply with section F. establishing a new odor management plan and section H. requiring quarterly meetings. A property re-classified as a significant odor generator will not be removed from the classification until it meets the compliance requirements in section G.

J. Penalty. Failure to comply with the requirements in this section or failure to meet the obligations contained in the odor management plan, unless the failures are determined by the City Administrator to be beyond the control of the significant odor generator or the result of an accident or unexpected and unforeseen events, shall result in a penalty pursuant to City Code 10.25 or 10.99, or the City may pursue any other legal or equitable remedies available to the City. In addition, any follow-up testing required due to compliance failure shall be paid for by the property owner.

SECTION 2. SUMMARY PUBLICATION. Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance.

The Nuisances Chapter 95 of the Hastings City Code is to be amended by adding Section 95.98, Odors.

This Ordinance shall be effective upon seven (7) days after its passage and publication.

Adopted by the Hastings City Council on this ___ day of _____, 2024, by the following vote:

Ayes:

Nays:

Absent:

CITY OF HASTINGS

Mary Fasbender, Mayor

ATTEST:

Kelly Murtaugh
City Clerk

I hereby certify that the above is a true and correct copy of the Ordinance presented to and adopted by the City of Hastings, County of Dakota, Minnesota, on the ___ day of _____, as disclosed by the records of the City of Hastings on file and of record in the office.

Kelly Murtaugh
City Clerk