

**ORDINANCE NO. 532**

**AN ORDINANCE ADDING CHAPTER 69, CANNIBAS, TO THE BRECKENRIDGE CITY CODE.**

THE CITY COUNCIL OF THE CITY OF BRECKENRIDGE DOES ORDAIN:

Adding Chapter §69 to read as follows:

**CHAPTER 69  
CANNABIS**

The following shall be added to Chapter §69:

**CANNABIS ORDINANCE**

Section 1	Administration
Section 2	Registration of Cannabis Business
Section 3	Requirements for a Cannabis Business (Time, Place, Manner) Temporary
Section 4	Cannabis Events
Section 5	Local Government as a Retailer Use of
Section 6	Cannabis in Public

**AN ORDINANCE OF THE CITY OF BRECKENRIDGE TO  
REGULATE CANNABIS BUSINESSES**

The city council of Breckenridge hereby ordains:

**Section 1. Administration**

**1.1 Findings and Purpose**

Breckenridge City Council makes the following legislative findings:

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

The City of Breckenridge finds and concludes that the proposed provisions are appropriate and lawful land use regulations for City of Breckenridge, 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 Breckenridge 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 Breckenridge.

## 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 Administrator, or their designee, 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 mezzo businesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, and 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 Breckenridge 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 Breckenridge without first registering with the city.

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.

### 2.2 Compliance Checks Prior to Retail Registration

Prior to issuance of a cannabis retail business registration, the City of Breckenridge shall conduct a preliminary compliance check 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, the City of Breckenridge 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.

The City of Breckenridge shall not charge an application fee.

A registration fee, as established in the City of Breckenridge'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 the City of Breckenridge 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 Breckenridge shall issue a retail registration to a state-licensed cannabis retail business that adheres to the requirements of Minn. Stat. 342.22 and pursuant to the terms of this ordinance.

- (A) An applicant for retail registration shall fill out an application form, as provided by the city. 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.
    - If the applicant is a business, or other entity other than a person, the application shall include a disclosure including the following:
    - The management structure, ownership, and control of the applicant or license holder, including the name of each cooperative member, officer, director, manager, general partner, or business entity; the office or position held by each person; each person's percentage ownership interests, if any; and if the business has a parent company, the name of each owner, board member, and officer of the parent company and the owner's, board member's, or officer's percentage ownership interest in the parent company and the cannabis business.
  - 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 registration fee as required in Section 2.3.1.
  - ii. a copy of a valid state license or written notice of OCM license preapproval.
- (C) Once an application is considered complete, the City of Breckenridge shall inform the applicant as such, process the registration fees, and forward the application to the City Administrator, or their designee, for approval or denial.
- (D) The registration 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 Breckenridge 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/these ordinances.

The City of Breckenridge 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 Breckenridge.

### 2.4 Renewal of Registration

The City of Breckenridge 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 Breckenridge.

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

#### *2.4.1 Renewal Fees.*

The City of Breckenridge may charge a renewal fee for the registration starting at the second renewal, as established in the city'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 Breckenridge may suspend a cannabis retail business's registration if it violates the ordinance of the City of Breckenridge or poses an immediate threat to the health or safety of the public. The City of Breckenridge shall immediately notify the cannabis retail business in writing the grounds for the suspension.

#### *2.5.2 Notification to OCM.*

The City of Breckenridge shall immediately notify the OCM in writing the grounds for the suspension. OCM will provide the City of Breckenridge 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 Breckenridge may reinstate registration if it determines that the violations have been resolved.

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

#### *2.5.4 Civil Penalties.*

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

## 2.6 Limiting of Registrations

The City of Breckenridge shall limit the number of cannabis retail businesses to no fewer than one registration for every 12,500 residents within city limits.

The City of Breckenridge shall limit the number of cannabis retail businesses to one.

If there are more than one cannabis retail business license applicants, preference shall be given to the applicant which was registered earliest in time, with the State of Minnesota as a Hemp Derived Cannabinoid Retail Business and has been in operation in the City of Breckenridge.

## Section 3. Requirements for Cannabis Businesses

### 3.1 Minimum Buffer Requirements

The City of Breckenridge shall prohibit the operation of a cannabis business within 1,000 feet of a school.

The City of Breckenridge shall prohibit the operation of a cannabis business within 500 feet of a day care.

The City of Breckenridge shall prohibit the operation of a cannabis business within 500 feet of a residential treatment facility.

The City of Breckenridge shall prohibit the operation of a cannabis business within 500 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 Zoning and Land Use

Cannabis businesses that are licensed must abide by the City's zoning requirements. See Chapter 90 – Zoning of these ordinances.

### 3.3 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 a.m. and 9 p.m.

### 3.4 Advertising

Cannabis businesses are permitted to erect up to two fixed signs on the exterior of the building or property of the business, unless otherwise limited Breckenridge's sign ordinances.

## 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 the City of Breckenridge prior to holding a Temporary Cannabis Event.

#### *4.1.2 Registration & Application Procedure*

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

#### *4.1.3 Application Submittal & Review.*

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

- A. An applicant for a temporary cannabis event shall fill out an application form, as provided by the city. 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. a description of the event that includes date, location, hours of operation and estimated attendance.
  - iv. name of the temporary cannabis event.
  - v. Diagram of the physical layout of the event to include all entrances and exits, all cannabis consumption areas, all cannabis retail areas, location of waste storage, location(s) where cannabis products will be stored.
  - vi. A list of the name, amount and types of cannabis and hemp businesses that will sell products at the event.
- B. The applicant shall include with the form:
  - i. the 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.

The application shall be submitted to the City of Breckenridge, 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 City Administrator, or their designee, for approval or denial.
- D. The fee shall be non-refundable once processed.
- E. A request for a Temporary Cannabis Event that meets the requirements of this Section shall be approved.
- F. A request for a Temporary Cannabis Event that does not meet the requirements of this Section shall be denied. The City of Breckenridge shall notify the applicant of the standards not met and basis for denial.
- G. Requirements of Temporary Cannabis Event
  - i. The temporary event location must meet all of the required minimum buffers as required in section 3.1
  - ii. Event hours of operation may only take place between the hours of 10 a.m. and 9 p.m.
  - iii. The event organizer must hire or contract licensed security personnel to provide security services for the event. Security personnel are not permitted to consume cannabis or hemp products during the event.

- iv. The event organizer must impose age restrictions for event attendees. All event attendees must be at least 21 years of age.
- v. All cannabis and hemp products not removed by a customer or business must be disposed of in a manner consistent and approved of by the Wilkin County Solid Waste Ordinance.
- vi. All cannabis and hemp products intended for display, sale or use at the event must be transported to and from the event by a licensed cannabis transporter.
- vii. Event organizer must provide proof of retail licenses or endorsements for all vendors that will be selling cannabis and/or hemp products.
- viii. Event organizer must ensure that vendors authorized to sell cannabis and/or hemp products at the event may only sell products from their authorized space. Sellers cannot roam the event to sell cannabis and/or hemp products.
- ix. Event organizer must ensure that vendors authorized to sell cannabis and/or hemp products at the event may display one sample of each plant/products available for purchase but the products must be stored in jars or display cases with required label information.
- x. Event organizer must ensure all products to be sold by vendors are stored in a secure locked container that is not accessible to the public and that secure containers are never left unattended.
- xi. Event organizers may permit on-site consumption in designated areas, but the consumption area may not be visible from any public place.
- xii. Neither alcohol nor tobacco may be used and/or served at the event.

Section 5. Local Government as a Cannabis Retailer

The City of Breckenridge may establish, own, and operate one municipal cannabis retail business subject to the restrictions in this chapter.

The municipal cannabis retail store shall not be included in any limitation of the number of registered cannabis retail businesses under Section 2.6.

The City of Breckenridge shall be subject to all same rental license requirements and procedures applicable to all other applicants.



Section 6. 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.

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RUSSELL WILSON, Mayor

ATTEST:

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SYDNEY WIERTZEMA, City Administrator

First Reading:	December 2, 20024
Posted after 1 <sup>st</sup> reading:	_____
Second Reading:	_____
Adopted & Passed:	_____
Published:	_____
Posted after published:	_____