

BENTON COUNTY ORDINANCE NO. 497

WHEREAS, the Benton County Planning & Zoning Department instituted proceedings to amend the Benton County Ordinance 477; and,

WHEREAS, on November 26, 2024 and November 30, 2024, Notice of Public Hearing and intent to amend a Benton County Ordinance was published in the official newspapers of the county; and,

WHEREAS, on December 12, 2024, the Benton County Planning Commission held a public hearing; and,

WHEREAS, on December 17, 2024, the Benton County Board of Commissioners held a public hearing and approved the proposed ordinance amendment; and,

WHEREAS, Benton County Planning Commission and Benton County Board of Commissioners finds and concludes that the proposed provisions are appropriate and lawful land use regulations for Benton County, that the proposed amendments will promote the community's interest in reasonable stability in zoning and for now and in the future, and that the proposed provisions are in the public interest and for the public good; and,

NOW PURSUANT TO THE AUTHORITY VESTED BY MINNESOTA STATUTES SECTION 394.25, THE BENTON COUNTY BOARD OF COMMISSIONERS ORDAINS:

That the following Sections of the Benton County Development Code be amended to read as follows:

Section 3: Definitions

The following definitions are to be added to this Section:

1. Cannabis Business – any of the following licensed under MN Statutes, Section 342:

1. Cannabis Cultivator
2. Cannabis Delivery Service
3. Cannabis Event Organizer
4. Cannabis Manufacturer

Benton Co. Admin.
No Fee

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5. Cannabis Mezzobusiness
6. Cannabis Microbusiness
7. Cannabis Retailer
8. Cannabis Testing Facility
9. Cannabis Transporter
10. Cannabis Wholesaler
11. Medical Cannabis Combination Business

2. Cultivation, Cannabis - means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis plants, cannabis flower, hemp plants, or hemp plant parts. Cultivation includes indoor, outdoor, and mixed light cultivation.

3. Delivery Service, Cannabis – Transports cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products to the end consumer.

4. Edible Cannabis Product. “Edible cannabis product” means any product that is intended to be eaten or consumed as a beverage by humans; contains a cannabinoid other than an artificially derived cannabinoid in combination with food ingredients; is not a drug; and is a type of product approved for sale by the Office of Cannabis Management, or is substantially similar to a product approved by the Office of Cannabis Management including but not limited to products that resemble nonalcoholic beverages, candy, and baked goods. Edible cannabis product does not include lower-potency hemp edibles.

5. Endorsement - means an authorization from OCM to conduct a specified operation activity.

6. Hemp Business. A hemp business means either of the following licensed under Ch. 342:

- a. Lower-Potency Hemp Edible Manufacturer
- b. Lower-Potency Hemp Edible Retailer
- c. Hemp business does not include a person or entity licensed under Ch. 18K to grow industrial hemp for commercial or research purposes or to process industrial hemp for commercial purposes.

7. Lower-Potency Hemp Edible.

(a) “Lower-potency hemp edible” means any product that:

- (1) is intended to be eaten or consumed as a beverage by humans;
- (2) contains hemp concentrate or an artificially derived cannabinoid, in combination with food ingredients;
- (3) is not a drug;

- (4) does not contain a cannabinoid derived from cannabis plants or cannabis flower;
- (5) is a type of product approved for sale by the office or is substantially similar to a product approved by the office, including but not limited to products that resemble nonalcoholic beverages, candy, and baked goods; and
- (6) meets either of the requirements in paragraph (b).

(b) A lower-potency hemp edible includes:

- (1) a product that:
 - (i) consists of servings that contain no more than five milligrams of delta-9 tetrahydrocannabinol; no more than 25 milligrams of cannabidiol, cannabigerol, cannabinol, or cannabichromene; any other cannabinoid authorized by the office; or any combination of those cannabinoids that does not exceed the identified amounts;
 - (ii) does not contain more than a combined total of 0.5 milligrams of all other cannabinoids per serving; and
 - (iii) does not contain an artificially derived cannabinoid other than delta-9 tetrahydrocannabinol, except that a product may include artificially derived cannabinoids created during the process of creating the delta-9 tetrahydrocannabinol that is added to the product, if no artificially derived cannabinoid is added to the ingredient containing delta-9 tetrahydrocannabinol and the ratio of delta-9 tetrahydrocannabinol to all other artificially derived cannabinoids is no less than 20 to one; or
- (2) a product that:
 - (i) contains hemp concentrate processed or refined without increasing the percentage of targeted cannabinoids or altering the ratio of cannabinoids in the extracts or resins of a hemp plant or hemp plant parts beyond the variability generally recognized for the method used for processing or refining or by an amount needed to reduce the total THC in the hemp concentrate; and
 - (ii) consists of servings that contain no more than five milligrams of total THC.

8. Manufacturing, Cannabis - the process by which cannabis flower or plants, cannabis concentrate, artificially derived cannabinoid, hemp plant part, or hemp concentrate are prepared into useable consumer products, or products intended for further processing. Manufacturing includes the production of edible cannabis products or lower-potency

hemp edible, processing of cannabinoid products, and extraction and concentration that creates cannabis concentrate, hemp concentrate or artificially derived cannabinoids.

9. Manufacturing, Hemp-the process by which hemp plant parts, are prepared into hemp concentrate or artificially derived cannabinoids, and hemp plant parts, hemp concentrate, and artificially derived cannabinoids are prepared into lower-potency hemp edibles and into usable consumer products. Manufacturing includes the production of lower-potency hemp edibles, processing of cannabinoid products, and extraction and concentration that creates hemp concentrate or artificially derived cannabinoids.

10. OCM – OCM means the Office of Cannabis Management.

11. Outdoor Mixed Light Facility. a hoop house, green house, or other structure with non-rigid walls that utilizes natural light, in whole or in part, for cultivation.

12. On-site Consumption, Cannabis- the consumption of edible cannabis products and lower-potency hemp edibles at a cannabis microbusiness.

13. On-site Consumption, Hemp- the consumption of lower-potency hemp edibles at a lower-potency hemp edible retailer.

14. Retail, Cannabis - the retail sale of immature cannabis plants and seedlings, adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, hemp-derived consumer products, and other products authorized by law to customers

15. Retail, Hemp- the retail sale of lower-potency hemp edibles and other products authorized by law to customers.

16. Testing, Cannabis – the testing of immature cannabis plants and seedlings, cannabis flower, cannabis products, hemp plant parts, hemp concentrate, artificially derived cannabinoids, lower-potency hemp edibles, and hemp-derived consumer products from cannabis microbusinesses, cannabis mezzobusinesses, cannabis cultivators, cannabis manufacturers, cannabis wholesalers, lower-potency hemp edible manufacturers, medical cannabis combination businesses, and industrial hemp growers.

17. Transport, Cannabis – the transport of immature cannabis plants and seedlings, cannabis flower, cannabis products, artificially derived cannabinoids, hemp plant parts, hemp concentrate, lower-potency hemp edibles, and hemp-derived consumer products from cannabis microbusinesses, cannabis mezzo businesses, cannabis cultivators, cannabis

manufacturers, cannabis wholesalers, lower-potency hemp edible manufacturers, medical cannabis retailers, medical cannabis processors, and industrial hemp growers to cannabis microbusinesses, cannabis mezzo businesses, cannabis manufacturers, cannabis testing facilities, cannabis wholesalers, cannabis retailers, lower-potency hemp edible retailers, , and medical cannabis combination businesses.

18. Wholesale, Cannabis- the purchase of immature cannabis plants and seedlings, cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products from cannabis businesses, purchase hemp plant parts and hemp concentrates from industrial hemp processors licensed under Minn. Stat. Ch. 18K, and importation of hemp-derived consumer products and lower-potency hemp edibles that contain hemp concentrate or artificially derived cannabinoids that are derived from hemp plants or hemp plant parts to sell to cannabis microbusinesses, cannabis mezzobusinesses, cannabis manufacturers, and lower-potency-hemp edible retailers.

Section 7: Zoning Use Districts

Section 7.2: “A” Agricultural District

7.2.3 Permitted Accessory Use:
 Delivery in compliance with Section 9.27
 Retail, Cannabis in compliance with Section 9.27

7.2.5 Interim Uses:
 Cultivation, Indoor in compliance with Section 9.27
 Cultivation, Outdoor in compliance with Section 9.27
 Cultivation, Mixed-Light in compliance with Section 9.27
 Manufacturing, Hemp or Cannabis in compliance with Section 9.27
 Transport in compliance with Section 9.27

Section 7.3: “R-A” Rural Agricultural District

7.3.3 Permitted Accessory Use:
 Delivery in compliance with Section 9.27
 Retail, Cannabis in compliance with Section 9.27

7.3.5 Interim Uses:
 Cultivation, Indoor in compliance with Section 9.27

- Cultivation, Outdoor in compliance with Section 9.27
- Cultivation, Mixed-Light in compliance with Section 9.27
- Manufacturing, Hemp or Cannabis in compliance with Section 9.27
- Transport, Cannabis in compliance with Section 9.27

Section 7.7: “R-S” Rural Service District

7.7.2 Permitted Uses:

- Retail, Cannabis or Hemp in compliance with Section 9.27

7.7.3 Permitted Accessory Uses:

- Delivery in compliance with Section 9.27

Section 7.8: “B-1” Business District

7.8.2 Permitted Uses:

- Delivery in compliance with Section 9.27
- Retail, Cannabis or Hemp in compliance with Section 9.27
- Transport, Cannabis in compliance with Section 9.27
- Wholesale, Cannabis in compliance with Section 9.27

7.8.5 Interim Uses:

- Testing, Cannabis in compliance with Section 9.27

Section 7.9: “B-2” Business Enterprise District

7.9.2 Permitted Uses:

- Delivery in compliance with Section 9.27
- Retail, Cannabis or Hemp in compliance with Section 9.27
- Wholesale, Cannabis in compliance with Section 9.27

7.9.5 Interim Uses:

- Testing, Cannabis in compliance with Section 9.27

Section 7.10: “I-1” Light Industrial District

7.10.2 Permitted Uses:

- Testing, Cannabis in compliance with Section 9.27
- Transport, Cannabis in compliance with Section 9.27

Wholesale, Cannabis in compliance with Section 9.27

7.10.3 Permitted Accessory Uses:

Delivery in compliance with Section 9.27

Retail, Cannabis in compliance with Section 9.27

7.10.5 Interim Uses:

Cultivation, Indoor in compliance with Section 9.27

Cultivation, Outdoor in compliance with Section 9.27

Cultivation, Mixed-Light in compliance with Section 9.27

Manufacturing, Hemp or Cannabis in compliance with Section 9.27

Section 7.11: "I-2" Heavy Industrial District

7.11.2 Permitted Uses:

Testing, Cannabis in compliance with Section 9.27

Transport, Cannabis in compliance with Section 9.27

Wholesale, Cannabis in compliance with Section 9.27

7.11.3 Permitted Accessory Uses:

Delivery in compliance with Section 9.27

Retail, Cannabis in compliance with Section 9.27

7.11.5 Interim Uses:

Cultivation, Indoor in compliance with Section 9.27

Cultivation, Outdoor in compliance with Section 9.27

Cultivation, Mixed-Light in compliance with Section 9.27

Manufacturing, Hemp or Cannabis in compliance with Section 9.27

Section 9: Special Provisions

9.27 Cannabis Businesses & Hemp Businesses

9.27.1 **Administration:** The operation of a cannabis business shall be in accordance with Benton County Ordinance #496 Regulating Cannabis and Lower Potency Hemp Edible Businesses, as amended from time to time. Words and phrases contained in Minnesota Statute, Chapter 342, and the rules promulgated pursuant to any of these acts, are incorporated into this Section by reference and

shall have the same meaning in this ordinance. If there is a conflict between a word and phrase in this Ordinance Section and Minnesota Statute, Chapter 342, and the rules promulgated pursuant to any of these acts, the Minnesota Statute, Chapter 342, and the rules promulgated pursuant to any of these acts will govern.

9.27.2 **Registration:** All cannabis businesses required to be registered by Benton County Ordinance #496 shall be registered in accord with that ordinance and meet the requirements of that ordinance, in addition to following the requirements of this section.

9.27.3 **Licenses and Endorsements:** Cannabis businesses shall provide a copy of all approved licenses and endorsements issued by Office of Cannabis Management.

9.27.4 **Setback Requirements:** The setback shall be measured in a straight line from the closest point of the property line of the parcel upon which the cannabis businesses, identified below in 9.27.4 (A) and (B), is located to the property line of the parcel in which it must be setback from.

(A) **Retail:** The operation of a retail cannabis business shall be prohibited within the distance identified in Benton County Ordinance #496, as amended from time to time.

(B) **Cannabis Testing, Cultivation and Manufacturing:**

(1) The operation of a cannabis business shall be prohibited within the distance identified in Benton County Ordinance #496, as amended from time to time.

(2) 660 feet from a residentially used or zoned property or other cannabis testing, cultivation, or manufacturing facility.

9.27.5 **Hours of Operation:**

(A) The retail component of any cannabis business shall be limited to the hours outlined in Benton County Ordinance #496.

(B) All other cannabis businesses shall state their hours of operation within the application.

9.27.6 **Performance Standards:** Cannabis Businesses are subject to Section 8 Performance Standards.

9.27.7 **Screening:**

- (A) **Outdoor and mixed light facility cultivation areas** must be securely surrounded by fencing and locked gates on the entire perimeter, to prevent access to the area by unauthorized persons. Fencing and all gates must be secure, at least 6 feet high and obscure, or have a cover that obscures, the fenced area from being readily viewed from outside of the fenced area. Such fencing must be commercial or security grade, not agricultural or residential grade, and topped with a three-strand barbed wire extender arm angled away from the site at a minimum of 25 degrees to prevent access to the cultivation area by unauthorized persons. When required by statute, evidence of approval from OCM must be provided that the fencing meets their requirements.
- (B) See Section 8.6 Visual Standards for additional standards that shall be adhered to.
- (C) Additional standards may be required by the Planning Commission based on the proposed location of the cannabis business.

9.27.8 **Odor:** All indoor or mixed light cultivation, manufacturing, processing or production operations shall be equipped with odor control filtration and ventilation system(s) to control odors, humidity, and mold.

- (A) The facility shall be equipped with a proper ventilation system that filters out the odor of cannabis so that the odor is not capable of being detected by a person with a normal sense of smell at the exterior of the premises.
- (B) **Ventilation & Filtration:** Facilities shall install and maintain enhanced ventilation systems designed to prevent detection of marijuana odor from adjacent properties or the public right-of-way. Such systems shall include the following features:
 - (1) Installation and maintenance of activated carbon filters on all exhaust outlets to the building exterior;
 - (2) Location of exhaust outlets a minimum of 10 feet from the property line and 10 feet above finished grade; and
 - (3) Maintenance of negative air pressure within the facility; or

(4) An alternative odor control system approved by the Building Official based on a report by a mechanical engineer licensed in the State of Minnesota, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.

9.27.9 **Security:** A cannabis business shall maintain compliance with security requirements established by the Office of Cannabis Management and with its approved security plan.

9.27.10 **Lighting:**

- (A) A cannabis business must maintain all lighting in good working order inside and outside of a cannabis business premises and temporary cannabis event. Lighting must deter nuisance and criminal activity by allowing observers to see, and cameras to record any activity within a radius of at least 20 feet around all entrances and exits. Exterior lighting must make efforts to not disturb surrounding businesses or neighbors by adjusting the lumens or radius of lighting to only illuminate the necessary areas outlined in these rules. Any deficient or inoperable lighting must be repaired within 48 hours of detection.
- (B) Should a business choose to use grow lights outdoors, the lights shall not be illuminated from 7:00 p.m. to 7:00 a.m.
- (C) Structures used for mixed-light cultivation and nurseries shall be shielded (e.g., with tarps) so that no light escapes between sunset and sunrise.
- (D) Any security lighting for commercial cannabis activities shall be shielded and angled in such a way as to prevent light from spilling outside of the boundaries of the parcel(s) or premises or directly focusing on any surrounding uses.

9.27.11 **Wastewater:** The business shall dispose of wastewater in accordance with all local, state and federal regulations. The business shall submit a water and septic plan approved by the appropriate authority shall be provided to the County.

9.27.12 **Solid Waste:** Shall be stored and disposed of in accordance with all local, state and federal regulations, to include compliance with Benton County Development

Code Section 8.8 and Solid Waste Ordinance No. 471, as amended from time to time.

9.27.13 **Parking:** Shall meet the standards of Section 8.2. Additional parking conditions may be required by the Planning Commission based on the proposed location of the cannabis business.

9.27.14 **Termination:** For uses permitted through an Interim Use Permit (IUP), said permit shall be valid until any of the following events occur:

- (A) Change of ownership,
- (B) Change of OCM license holder,
- (C) Revoked,
- (D) Expires, or
- (E) Otherwise terminated earlier.

Approved and adopted by the Benton County Board of Commissioners this 17th day of December in the year of 2024.

This ordinance shall be effective upon publication.

ATTEST:


Montgomery Headley
Benton County Administrator


Jared Gapinski, Chair
Benton County Board of Commissioners