

## **CHAPTER 121: REGULATING THE SALE OF TETRAHYDROCANNABINOL (THC) PRODUCTS**

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### **SECTION 121.01 PURPOSE AND INTENT.**

The purpose of this Chapter is to regulate the possession and sale of any product that contains tetrahydrocannabinol and that meets the requirements to be sold for human or animal consumption under Minn. Stat. § 151.72 and Minn. Stat. Chapter 342 (“THC Products”) for the following reasons:

(A) By enacting 2022 Session Law Chapter 98, Article 13, the Minnesota Legislature amended Minn. Stat. § 151.72 to allow the sale of certain products containing tetrahydrocannabinol (“THC”).

(B) The new law does not prohibit municipalities from adopting and enforcing local ordinance to regulate THC product businesses including, but not limited to, local zoning and land use requirements and business license requirements.

(C) The National Academies of Science, Engineering, and Medicine note that the growing acceptance, accessibility, and use of THC Products, including for medical purposes, have raised important public health concerns, while the lack of aggregated knowledge of cannabis-related health effects has led to uncertainty about the impact of its use.

(D) The City recognizes the danger THC use presents to the health, welfare and

safety of youth in Annandale.

(E) The Minnesota Legislature recognized the danger of THC Product use among the public at large by setting potency and servicing size requirements.

(F) The Minnesota Legislature recognized the danger of THC Product use among youth by prohibiting the sale of any product containing THC to those under the age of 21, requiring that edible THC products be packaged without appeal to children and in child-resistant packaging or containers.

(G) State law authorizes the Board of Pharmacy to adopt product and testing standards in part to curb the illegal sale and distribution of THC products and ensure the safety and compliance of commercially available THC products in the state of Minnesota.

(H) The City has the opportunity to be proactive and make decisions that will mitigate this threat and reduce exposure of young people to the products or to the marketing of these products and improve compliance among THC Product retailers with laws prohibiting the sale or marketing of THC Products to youth.

(I) A local regulatory system for THC Product retailers is appropriate to ensure that retailers comply with THC Product laws and business standards of the City of Annandale to protect the health, safety and welfare of our youth and most vulnerable residents.

(J) A requirement for a THC Product retailer registration will not unduly burden legitimate business activities of retailers who sell or distribute THC Products to adults and will allow the City of Annandale to regulate the operation of lawful businesses to discourage violations of state and local THC Product-related laws.

(K) In making these findings and enacting this Chapter, it is the intent of the Annandale City Council to ensure responsible THC product retailing, allowing legal sale and access without promoting increases in use, and to discourage violations of THC Product-related laws, especially those which prohibit or discourage the marketing, sale or distribution of THC products to youth under 21 years of age.

## **SECTION 121.02 DEFINITIONS.**

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

***Compliance checks*** means the system the City uses to investigate and ensure that those authorized to sell cannabinoid products are following and complying with the requirements of state laws and this Chapter. Compliance checks involve the use of persons under the age of 21 who purchase or attempt to purchase cannabinoid products.

Compliance checks may also be conducted by the City or other units of government for educational, research, and training purposes or for investigating or enforcing federal, state, or local laws and regulations relating to cannabinoid products.

***Delivery Sale*** means the sale of any cannabinoid products conducted by any means other than an in-person, over-the-counter sales transaction in a registered retail establishment. Delivery Sale includes, but is not limited to, sales conducted by: telephone or other voice transmission; mail or other written submission; website, mobile device application software, the internet; and/or door-to-door delivery service. Delivery Sale includes delivery by retailer or third parties by any means, including curbside pick-up.

***Registered Product or THC Product.*** Any product that contains more than trace amounts of tetrahydrocannabinol and that meets the requirements to be sold for human or animal consumption under Minn. Stat. § 151.72 and Minn. Stat. Chapter 342. Registered Product does not include medical cannabis as defined in Minn. Stat. § 152.22, Subd. 6, as may be amended from time to time.

***Moveable place of business*** means any form of business that is operated out of a kiosk, tent, canopy, booth, pop-up stand, shipping container, or any other temporary shelter of any kind, or out of a truck, van, automobile, trailer, wagon, or other type of vehicle of any kind and not a fixed address storefront or other permanent type of structure authorized for sales transactions.

***Operator*** means the person in legal possession and control of a location by reason of ownership, lease, contract or agreement, for the sale of cannabinoid products at retail.

***Retail establishment*** means a fixed place of business where Registered Products are available for sale to the general public, including but not limited to grocery stores, tobacco products shops, CBD stores, convenience stores, gasoline service stations, bars and restaurants.

***Sale*** means any transfer of goods for money, trade, barter or other consideration.

***Self-service merchandising*** means an open display of Registered Products in any manner where any person has access to the Registered Products without the assistance or intervention of the Operator or Operator's employee. Assistance or intervention means the actual physical exchange of the Registered Product between the customer and the Operator or employee.

***Vending machine*** means any mechanical, electrical or electronic, or other type of device that dispenses Registered Products upon the insertion of money, tokens, or other form of payment into or onto the device by the person seeking to purchase the Registered Product.

### **SECTION 121.03 PROHIBITED SALES.**

It shall be unlawful for any person to sell, transfer or otherwise distribute any THC Product within the City:

- (A) Unless the sale is transacted by a person who holds, or is employed by a person who is a registered THC Product retailer;
- (B) Unless the sale is transacted in-person, at a registered retail establishment;
- (C) If the sale involves any vending machine or self-service merchandising;
- (D) If the sale involves a delivery sale;
- (E) If the sale involves adulterated or misbranded THC Products;
- (F) If the sale is to a person under the age of 21; and
- (G) If the sale violates any other law, order, ordinance, regulation, or statute.

### **SECTION 121.04 PROHIBITED POSSESSION.**

It shall be unlawful for any person under the age of 21 to possess THC Products unless they are an employee of a registered retailer under this Chapter, are at least 18 years of age and are possessing the THC Product as part of their employment. It shall be unlawful for any person to procure for or provide THC products to any other person under the age of 21.

### **SECTION 121.05 REGISTRATION REQUIRED.**

It will be unlawful for any person to sell at retail any THC Products within the City without first registering with the City.

### **SECTION 121.06 REGISTRATION PROCESS.**

(A) Registration form to shall or otherwise distribute Registered Products shall be provided by the City and accompanied by a registration fee as determined by the City Council. The registrant shall provide their full name, their residential and business addresses and telephone numbers, the name of the business being registered and any additional information the City deems necessary. A business entity applicant shall provide a list of all persons that have an interest of 5% or more in the business. The list shall name all owners and show the interest held by each, either individually or beneficially for others. If the City Clerk determines that a registration form is incomplete, it shall be returned to the registrant with notice of the information necessary to make the form complete.

(B) It is the duty of each registrant to notify the City Clerk in writing of any change in ownership in the business.

(C) Each registration shall be issued for a period of one year.

(D) Registrations under this Chapter shall be valid only on the registered premises and only for the person or business to whom the registration is completed. The transfer of any registration to another location, business or person is prohibited.

## **SECTION 121.07 INABILITY AND BASIS FOR DENIAL OF REGISTRATION.**

(A) Ineligibility.

(1) Moveable Place of Business. No retail sales of THC products shall be made from a moveable place of business. Only fixed location business shall be eligible to register under this Chapter.

(2) The proposed registered premises does not meet zoning requirements.

(B) Grounds for denying registration include, but are not limited to, the following:

(1) The registrant is prohibited by Federal, State or other local law, ordinance or regulation from selling THC products.

(2) The registrant has been convicted within the past five years of any violation of federal, state, or local law, ordinance provision, or other regulation relating to THC Products.

(3) The registrant has had a license to sell THC Products suspended or revoked within 12 months preceding the date of application, or the registrant has or had an interest in another premises authorized to sell THC Products, whether in the City or in another jurisdiction that has had a license to sell THC Products suspended or revoked in the same time period, provided that the applicant had an interest in the premises at the time of the violation that led to the revocation or suspension.

(4) The registrant fails to provide any of the information required to the City or provides false or misleading information. A false statement on any registration form shall cause an automatic refusal of registration, or if already issued, shall render any registration void and of no effect to protect the applicant from prosecution for a violation of this Chapter.

(5) The registrant is not a retail establishment as defined in this ordinance.

(C) Transient businesses prohibited. No transient business shall be eligible for registration. A transient business means:

(1) Any movable place of business;

(2) Any business conducted from a permanent structure for a period of less than 6 consecutive months in a year.

#### **SECTION 121.08 ADDITIONAL REQUIREMENTS.**

(A) All THC Product testing must comply with the requirements set forth in Minnesota Statutes.

(B) All THC Product labeling and packaging must comply with the requirements of Minnesota Statutes and must be prepackaged in packaging or a container that is child-resistant, tamper-evident, and opaque or placed in packaging or a container that is child-resistant, tamper-evident, and opaque at the final point of sale to a customer. The requirement that packaging be child-resistant does not apply to a THC Product that is intended to be consumed as a beverage and which contains no more tetrahydrocannabinol than permitted under state law.

(C) THC Products must not contain more tetrahydrocannabinol in a single serving than allowed by state law.

(D) No person under the age of 18 shall be permitted to handle transactions for the sale of THC Products.

#### **SECTION 121.09 PROHIBITED DISTRIBUTION PRACTICES.**

(A) Samples Prohibited. No person shall distribute samples of any THC Product free of charge or at a nominal cost. No person shall distribute THC products as a free donation.

(B) Coupon and Price Promotion. No person shall accept or redeem any coupon, price promotion, or other instrument or mechanism, whether in paper, digital, electronic, mobile, or any other form, that provides any cannabinoid products to a consumer at no cost or at a price that is less than the non-discounted, standard price listed by a retailer on the item or on any related shelving, posting, advertising, or display at the location where the item is sold or offered for sale, including all applicable taxes.

(C) No Self-service Displays. Except for products that are intended to be consumed as a beverage which are offered for sale at a premises holding an off-sale liquor license, all THC products must be stored behind the sales counter, in a locked case, in a storage unit, or in another area not freely accessible to the general public. No person shall allow the sale of THC products in open displays that are accessible to the public without the intervention of a store employee.

#### **SECTION 121.10 SIGNAGE.**

At each location where THC Products are sold, the registrant shall display a sign in plain view to provide public notice that selling any of these products to any person under the age of 21 is illegal and subject to penalties. The notice shall be placed in a conspicuous location in the registered establishment and shall be readily visible to any person who is purchasing or attempting to purchase these products. No signage containing a depiction of a cannabis leaf or cannabis flower shall be used in any building signs, placed in the windows of the licensed establishment, nor placed in a location so as to be visible to the public outside of the licensed establishment.

#### **SECTION 121.11 AGE VERIFICATION.**

At each location where THC Products are sold, the registrant shall verify, by means of government-issued photographic identification containing the bearer's date of birth, that the purchaser or person attempting to make the purchase is at least 21 years of age.

#### **SECTION 121.12 RESPONSIBILITY.**

All operators and registrants are responsible for the actions of their employees regarding the sale, offer to sell, and furnishing of THC Products on the registered premises. The sale, offer to sell, or furnishing of any THC Product by an employee shall be considered an act of the registrant and operator.

#### **SECTION 121.13 COMPLIANCE CHECKS AND INSPECTIONS.**

All registered premises must be open to inspections by law enforcement or other authorized city officials during regular business hours, for compliance with this Ordinance and such other Ordinances, rules, regulations, and laws relevant to the sale of cannabinoid products. From time to time, but at least once per year, the City shall conduct compliance checks.

No person used in compliance checks shall attempt to use false identification misrepresenting their age. All persons lawfully engaged in a compliance check shall answer all questions about their age asked by the licensee or their employee, and shall produce any identification, if any exists, for which they are asked. The City will conduct a compliance check that involves the participation of a person at least 18 years of age, but under the age of 21 to enter the registered premises to attempt to purchase the registered products. Persons used for the purpose of compliance checks shall be supervised by law enforcement.

#### **SECTION 121.14 CIVIL PENALTY.**

(A) The City Council will follow the provisions of this section on imposition of a civil penalty against a registrant under this Chapter.

1. Notice of Violation. The Chief of Police will provide, in writing, to the

registrant either personally or by mail, notice of any alleged violation of the provisions of this Chapter committed in the operation of the registrant's business and provide notice to the City Council. If the City Council determines from the facts and circumstances reported, together with any other facts and circumstances known to it, that the violation may warrant a civil penalty, it will notify the registrant of their right to request a hearing prior to the imposition of the civil penalty. The registrant must request a hearing within seven (7) days of receipt of the Notice. If requested, a hearing shall be scheduled before the City council sufficiently in advance to provide ten days written notice of the time, place and purpose of such hearing to the registrant.

2. Hearing on Alleged Violations. At the time of the hearing, the registrant may appear and present any evidence which is material to the investigation. The City Council will make and adopt findings of fact as to whether a violation of the provisions of this Chapter has been committed in the operation of the registrant's business and whether the violation was willful in nature. If the registrant has violated any of the provisions of this Chapter, the City Council may impose a civil fine. If the violation is upheld, the person appealing shall be responsible for reimbursing the City up to \$500.00 of the City's actual expenses.

#### **SECTION 121.15 PENALTIES FOR VIOLATIONS.**

(A) Administrative Penalties – Individuals. If a person who is not a licensee is found to have violated this Chapter, the person shall be charged with an administrative penalty as follows:

1. First Offense over a 24 month period: \$700 fine
2. Second Offense over a 24 month period: \$1500 fine
3. All Other Offenses over a 24 month period: \$2000 fine

(B) Administrative Penalties – Registrant. If a registrant or an employee of a registrant is found to have violated this Chapter, the registrant shall be charged with an administrative penalty as follows:

1. First Offense over a 24 month period: \$700 fine
2. Second Offense over a 24 month period: \$1500 fine and suspension up to 60 days
3. All Other Offenses over a 24 month period: \$2000 fine and suspension up to 60 days

(C) Any administrative penalty assessed against a licensee pursuant to this section must be paid in full within 30 days from receipt of written notification of the City Council's imposition of the civil fine.



(D) Petty Misdemeanor. Violation of this Chapter shall be a petty misdemeanor. Nothing in this section shall prohibit the City from pursuing prosecution of any violation in lieu of administrative penalties. Each day that a person is in violation of the provisions of this Chapter is a successive violation.

**SECTION 121.16 SEVERABILITY.**

If any section or portion of any section of this Chapter is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of other sections or portions of sections of this Chapter.

(Ordinance 412, 11-13-23)