

City of Woodbury
Washington County, Minnesota

Ordinance No. 2025

**An Ordinance of the City of Woodbury, Washington County, Minnesota Amending
Chapter 11, Licenses, Permits and Miscellaneous Business Regulations by adding
Article XV, Cannabinoid Products**

**THE CITY COUNCIL OF THE CITY OF WOODBURY, WASHINGTON COUNTY, MINNESOTA
DOES ORDAIN:**

**That Article XV, Cannabinoid Products, is hereby added to Chapter 11, Licenses, Permits
and Miscellaneous Business regulations.**

Article XV, Cannabinoid Products

DIVISION 1. GENERALLY

Sec. 11-510. Purpose.

The purpose of this Section is to regulate the sale of legalized adult-use of cannabinoid products and that meets the requirements to be sold for human or animal consumption under Minnesota Statutes, section 151.72 for the following reasons:

- (a) The City recognizes that, based on the most reliable and up-to-date scientific evidence, the rapid introduction of newly legalized adult-use THC products, presents a significant potential threat to the public health, safety, and welfare of the residents of Woodbury, and particularly to youth.
- (b) 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 cannabinoid product retailers with laws prohibiting the sale or marketing of cannabinoid products to minors.
- (c) A local regulatory system for cannabinoid product retailers is appropriate to ensure that retailers comply with cannabinoid product laws and business standards of the City of Woodbury to protect the health, safety, and welfare of our youth and most vulnerable residents.
- (d) State law requires cannabinoid product retailers to check the identification of purchasers to verify that they are at least 21 years of age (Minn. Stat. § 151.72, subd. 3(c)), comply with certain packaging and labeling requirements to protect children and youth (*Id.*, subd. 5), and meet certain potency and serving size requirements (*Id.*, subd. 5a).

- (e) State law authorizes the Board of Pharmacy to adopt product and testing standards in part to curb the illegal sale and distribution of cannabinoid products and ensure the safety and compliance of commercially available cannabinoid products in the state of Minnesota.
- (f) State law does not preempt the authority of a local jurisdiction to adopt and enforce local ordinances to regulate cannabinoid product businesses including, but not limited to, local zoning and land use requirements and business license requirements.
- (g) A requirement for a cannabinoid product retailer license will not unduly burden legitimate business activities of retailers who sell or distribute cannabinoid products to adults but will allow the City of Woodbury to regulate the operation of lawful businesses to discourage violations of state and local cannabinoid Product-related laws.

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

Sec. 11-511. Definitions and interpretations.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The term "shall" means mandatory and the term "may" means permissive. The following terms shall have the definitions given to them:

Cannabinoid. Any edible cannabinoid product or nonedible cannabinoid product authorized for sale in Minnesota Statute.

Cannabidiol/CBD. Any non-intoxicating cannabidiol not containing tetrahydrocannabinol (THC)

Cannabinoid-related devices. Any equipment, products or materials of any kind which are used, intended for use, or designed for use in repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

Certified hemp. Hemp plants that have been tested and found to meet the requirements of Minnesota Statute Chapter 18K and the rules adopted thereunder by the state of Minnesota.

Compliance checks. The process or protocols the city uses to investigate and ensure that those authorized to sell Cannabinoid products are following and complying with the requirements of law. Compliance checks shall involve the use of persons under the age of 21 as authorized by this article. Compliance checks shall also mean the use of persons under the age of 21 who attempt to purchase cannabinoid products for educational research and training purposes as authorized by state and federal law. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to cannabinoid products.

Delivery sale. The sale of any cannabinoid products to any person for personal consumption and not for resale when the sale is conducted by any means other than an in-person, over-the-counter sales transaction in a licensed retail establishment. Delivery sale includes, but is not

limited to, the sale of any cannabinoid products when the sale is conducted by telephone, other voice transmission, mail, the internet, or app-based service. Delivery sale includes delivery by licensees or third parties by any means, including curbside pick-up.

Edible Cannabinoid product. Any product authorized for sale under Minn. Stat. 151.72 that is intended to be eaten or consumed as a beverage by humans, contains a cannabinoid in combination with food ingredients, and is not a drug.

Exclusive Cannabinoid/Tobacco store. A brick and mortar retail store which derives a majority of its revenue from tobacco, tobacco products, CBD, and/or cannabinoid products and which cannot be entered at any time by persons younger than 21 years of age except as provided herein.

Exclusive Liquor Store. An establishment that meets the definition of exclusive liquor store in Minnesota Statutes, section 340A.101, subdivision 10.

Hemp. The plant *Cannabis sativa* L. and any part of the plant, whether growing or not, including the plant's seeds, and all the plant's derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis. Industrial hemp is not marijuana as defined in Section 152.01, subdivision 9.

Label. The meaning given in Minnesota Statute Section 151.01, subdivision 18.

Labeling. All labels and other written, printed, or graphic matter that are:

- (1) affixed to the immediate container in which a product regulated under this Article is sold;
- (2) provided, in any manner, with the immediate container, including but not limited to outer containers, wrappers, package inserts, brochures, or pamphlets.; or
- (3) provided on that portion of a manufacturer's website that is linked by a scannable barcode or matrix barcode.

Licensee A human person licensed under this Article.

Licensee's clerk. A person employed by a licensee to work at a sales or service counter or otherwise make sales to the licensee's customers.

Marijuana. All parts of the plant of any species of the genus *Cannabis*, including all agronomical varieties, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

Matrix Barcode. A code that stores data in a two-dimensional array of geometrically shaped dark and light cells capable of being read by the camera on a smartphone or other mobile device.

Minor. Any person who has not yet reached the age of 18 years.

Moveable place of business. Any form of business operated out of a truck, van, automobile, trailer, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

Nonedible Cannabinoids. Include, but are not limited to tablets, capsules, solutions, tinctures, or other products meant for oral administration/ingestion; creams, lotions,

ointments, salves, or other products meant for topical administration; products meant to be inhaled, smoked, vaped, sprayed into nostrils, or insufflated (sniffed); and hemp flowers and buds.

Nonintoxicating Cannabinoid. Substances extracted from certified hemp plants that do not produce intoxicating effects when consumed by any route of administration.

Retail establishment. Any place of business where cannabinoid products or cannabinoid-related devices are available for sale to the general public. The phrase shall include but not limited to, grocery stores, convenience stores, restaurants and drugstores.

Sale. Any transfer of goods for money, trade, barter or other consideration.

Self-service merchandising. Open displays of licensed product in any manner where any person shall have access to the licensed product without the assistance or intervention of the licensee or the licensee's employee. Such assistance or intervention shall involve the actual physical exchange of the licensed product between the customer and the licensee or employee. Self-service sales are interpreted as being any sale where there is not an actual physical exchange of the product between the clerk and the customer. "Self-service merchandising" shall not include vending machines.

Vending machine. Any mechanical, electric or electronic, or other type of self-service device which, upon the insertion of money, tokens or other form of payment, dispenses the licensed product and includes vending machines equipped with manual, electric or electronic locking devices.

Sec. 11-512. Scope.

- (a) This Article applies to the sale of any cannabinoid product.
- (b) This Article does not apply to the sale of any cannabidiol/CBD product as defined by this Article.
- (c) This Article does not apply to any product dispensed by a registered medical cannabis manufacturer pursuant to Minn. Stat. 152.22 to 152.37.

Sec. 11-513. License.

No person shall sell or offer to sell any cannabinoid products or cannabinoid-related devices without first having obtained a license to do so from the City.

- (a) *Application.* An application for a license to sell cannabinoid products or cannabinoid-related devices shall be made on a form provided by the city and filed, along with all required fees, with the city clerk. The investigation fee is applied to the city's costs of the background investigation of the retail establishment and all person or entities that have at least a five percent financial interest in the retail establishment. The property must be in compliance with all applicable laws and ordinances. The public safety department shall conduct the background investigation before consideration by the city. All applications shall thereafter be considered and approved or denied by the city council.

(1) *All applicants:*

- a. Whether the applicant/owner is an individual, corporation, partnership, or other form of organization;
- b. Full name, address, date and place of birth, and telephone number of the applicant, all owners and operators, including the designated on-site manager or agent of the applicant;

- c. The address of the premises where the retail establishment is to be located if proposed to have a fixed location in which the retail services are provided and if the applicant does not own the premises, a copy of the lease agreement to occupy the premises;
- d. Statement of whether all taxes and special assessments due and owing on the premises on which the applicant proposes to operate the licensed business are current, and if taxes are delinquent, the years for which the taxes on the premises are delinquent (this information is required by the applicant only if the applicant or other entity in which the applicant has an interest has the legal duty to pay said property taxes or assessments due and owing);
- e. The name of the business if the business is to be operated under a name or designation other than the name of the applicant. This shall be accompanied by a certified copy of the certificate required by Minn. Stats. §§ 333.01 and 333.02;
- f. Proof of general liability insurance;
- g. The applicant shall produce at time of filing application the applicant's proof of identification which may be established only by one of the following:
 1. A valid driver's license or identification card issued by Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the license person;
 2. A valid military identification card issued by the United States Department of Defense;
 3. A valid passport issued by the United States; or
 4. In the case of a foreign national, by a valid passport.

For purposes of proof of identification, the "applicant" shall mean the on-site manager or agent for a retail establishment filing the application and the natural person signing the application for a cannabinoid product license;

- h. The application shall identify the full name, address, date and place of birth, and telephone number of the natural person, designated by the applicant as the cannabinoid product business's on-site manager or agent, along with the notarized written consent of such a person to: (1) take full responsibility for the conduct of the license premises operation; and (2) serve as agent for service of notices and other process relating to the licenses;
- i. With respect to the owner, operator, or any person who has a five percent financial interest in the proposed licensed cannabinoid product sales business and the appointed on-site manager or agent of the applicant, information as to any and all criminal convictions of any state, county, or local law or regulation;
- j. Proof of Workers' Compensation Insurance as required by Minnesota law; and
- k. Information as to any and all criminal conviction(s) of any state, county, or local law or regulation;
- l. Such other information as the city shall require.

(2) *Individual(s) (sole proprietor):*

- a. The full name, address, date and place of birth, and telephone number of the applicant;
- b. Whether the applicant and on-site manager or agent have ever used or have been known by a name other than his or her name on the application, and if so, the name or names used and information concerning dates and places were used;
- c. Whether the applicant is a United States citizen or is legally permitted to be in the United States and providing proof thereof;
- d. The street and city addresses at which the applicant and on-site manager or agent lived during the preceding ten years;
- e. Names, addresses, and date of the applicant's and on-site manager's or agent's employers for the preceding ten years;
- f. Whether the applicant and on-site manager or agent have ever been engaged in the operation of cannabinoid and/or tobacco product sales. If so, they shall furnish information as to the name, place, and length of time of the involvement in such an establishment; and
- g. Such other information as the city shall require.

(3) *Partnerships:*

- a. The full name(s), address(s), date and place of birth, financial interest of all general partners and all of the information concerning each general partner that is required of applicants in provision (2) of this section;
- b. The full names(s), addresses, date and place of birth, and telephone number of the manager partner(s) and the interest of each managing partner in the business;
- c. A copy of the partnership agreement shall be submitted with the application. The license shall be issued in the name of the partnership; and
- d. Such other information as the city shall require.

(4) *Corporations and other organizations:*

- a. The name of the corporation or business firm, and if incorporated, the state of incorporation;
- b. A copy of the certificate of incorporation shall be attached to the application. If the applicant is a foreign corporation, a certificate of authority as required by Minn. Stats. § 303.06, shall be attached;
- c. The name of the manager(s), proprietor(s) or other agents(s) in charge of the business and all of the information concerning each manager, proprietor, or agent that is required of applicants in provision (2) of this section;
- d. A list of all persons who own or have a five percent or more interest in the corporation or organization or who are officers of said corporation or organization, together with their addresses and all the information regarding such persons as is required in paragraph (2) of this section; and
- e. Such other information as the city shall require.

- (b) *Action.* The council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the council shall approve the license, the city clerk shall issue the license to the applicant. If the council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the council's decision.
- (c) *License period and renewal.* A license issued under this chapter shall be an annual license, expiring on December 31 of each year.

Any existing business selling cannabinoid products within the city as of the effective date of this article, shall file all required license applications hereunder, along with the license and investigation fees, no later than September 30, 2022.

A license may be annually renewed, provided the licensee complies with the renewal application process as follows:

- (1) The licensee shall complete the renewal application materials provided by the city;
 - (2) The completed renewal application materials, along with the license fee, shall be filed with city clerk no later than November 30 of the renewal year;
 - (3) The licensee shall provide all information regarding business ownership interest. If ownership interests have changed, an additional investigation fee is required.
- (d) *License and investigation fees.* The license and investigation fees shall be determined by the City Council as set forth in Woodbury City Code Chapter 2, Administration.
 - (1) All licenses shall expire on the last day of December in each year. Each license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.
 - (e) *Revocation or suspension.* Any license issued under this article may be revoked or suspended as provided in section 11-522 violations and penalties, of this article.
 - (f) *Transfers.* All licenses issued under this article shall be valid only on the premises for which the license was issued and only for the person(s) or entity to whom the license was issued. Any attempt at transfer to another location, person, or entity shall invalidate the license.

It is the duty of each business licensee to notify the City in writing of any change in ownership in the business. Any change in the ownership or control of the business shall be deemed equivalent to an attempt to transfer the license, and any such license shall be revoked 30 days after any such change in ownership or control unless the licensee has notified the City of the change in ownership by submitting a new license application for the new owners, and the Council has approved the new license.

Any time an additional investigation is required because of a change in ownership or control of a business, the licensee shall pay an additional investigation fee to be determined by the City. The City may at any reasonable time examine the transfer records and minute books of any business licensee to verify and identify the owners, and the City may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business. The Council may revoke any license issued upon its determination that a change of ownership of a licensee has actually resulted in the change of control

of the licensed business so as materially to affect the integrity and character of its management and its operation, but no such action shall be taken until after a hearing by the Council on notice to the licensee.

- (h) *Moveable place of business.* No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this article.
- (i) *Home business.* No license shall be issued to a home business.
- (h) *Display of license.*
 - (1) The license of the cannabinoid product sales establishment shall be displayed in an open and conspicuous place on the premises and shown to law enforcement officers upon request.
 - (2) All exclusive Cannabinoid/Tobacco store establishments shall post a notice prohibiting the entering of the store by persons under 21 years of age which notice shall be in plain view of the general public on the licensed public on the licensed premises. The notice shall be at least 8½ inch by 11 inch in size.
- (i) *Issuance as privilege and not a right.* The issuance of a license issued under this article shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.
- (j) *Exclusive liquor store.* Pursuant to Minnesota Statute, section 340A.412, subd. 14, no license shall be issued to an exclusive liquor store.
- (k) No license shall be granted for any business which principal building is within 500 feet of any school, licensed day care center, park, or playground.
- (l) No license will be approved unless the premises proposed to be licensed complies with all applicable zoning requirements.
- (m) Refunds. No part of the fee paid for any license issued under this Article shall be refunded except in the following instances upon application to the City within 30 days from the happening of the event. Upon written request, a pro rata share, based on the number of months the business ceases to conduct business, of an annual license fee for a retail license, may be refunded to the licensee or to the licensee's estate if:
 - (1) The business ceases to operate because of destruction or damage;
 - (2) The licensee dies;
 - (3) The business ceases to be lawful for a reason other than a license revocation;
 - (4) The licensee ceases to carry on the licensed business under the license; or
 - (5) The business ceases to operate, or is unable to fully use its license to operate, because of a declared local, state or national emergency. A written request by the licensee is not required.

Sec. 11-514. Basis for denial of license.

The following shall be grounds for denying the issuance or renewal of a license under this article; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section.

- (a) The applicant or owner(s) is under the age of 21 years.

- (b) The applicant, owner(s), the appointed on-site manager or agent of the applicant, or any person who has at least five percent interest in the proposed licensed business has a:
 - 1. Conviction for, or was charged with, but convicted of a lesser charge of a crime, or is under a stay of adjudication from a charge involving a violation of any cannabinoid and/or tobacco related regulation in any other jurisdiction, theft, felony drug offense, any crime of violence as defined by Minnesota Statutes, or any other similar crime or offense within five years of the date of application; and/or
 - 2. Three (3) or more license violations, citations, fines, or administrative penalties issued by the City of Woodbury or any other jurisdiction within the preceding five (5) years relating to cannabinoids, tobacco, or alcohol related ordinances, laws, or regulations for a business owned or operated by the applicant, owners, manager, or agent.
- (c) The applicant or owner(s) has had a license to sell cannabinoid and/or tobacco products suspended or revoked, in the City of Woodbury or in any other place, within the preceding 10 years of the date of application.
- (d) The applicant or owners(s) fails to provide any information required on the application, or provides false or misleading information.
- (e) The cannabinoid sales business is proposed to be operated on premises on which property taxes, assessments, or other financial claims by the state, county or city are due, delinquent, and unpaid, provided the applicant or owner(s) or other entity in which the applicant or owner(s) has an interest has the legal duty to pay said taxes, assessments, or claims due and owing.
- (f) The applicant or owner(s) was charged with a crime that if convicted would render them ineligible for a license under this chapter but entered into a plea agreement providing for the continuance of the charge for dismissal or other delayed disposition. In such case the applicant shall be disqualified and ineligible for a license under this chapter until such time as the charge is finally dismissed.
- (g) The applicant or owner(s) has been denied a license under this chapter within the preceding 12 months.
- (h) The applicant is a business that does not have an operating officer or manager who is eligible pursuant to this chapter.
- (i) The application is for a home business or a moveable place of business.
- (j) Other unforeseen circumstances or conditions exist such that the issuance of a license may unreasonably endanger the health, safety, and welfare of the public.

Sec. 11-515. Prohibited Acts.

- (a) In general. It shall be a violation of this article for any person to sell or offer to sell any cannabinoid products or cannabinoid-related devices:
 - (1) By means of any type of vending machine.
 - (2) By means of self-service merchandising.
 - (3) From any form of movable place of business.
 - (4) Containing controlled substances as defined in Minn. Stat. Ch. 152.

- (5) By delivery sale.
 - (6) By any employee under the age of 18.
 - (7) To an obviously intoxicated person.
 - (8) By any other means or to any other person, prohibited by federal, state, or other local law, ordinance, provision, or other regulation.
- (b) Legal Age. No person shall sell any cannabinoid products or cannabinoid-related devices to any person under the age of 21 years.
- (1) Proof of age for purchasing or consuming cannabinoid products or cannabinoid-related devices may be established only by that allowed by Minnesota Statute including but not limited to a valid driver's license or state identification card, a valid military identification card issued by the United States Department of Defense, or by a valid passport.
 - (2) Signage. Notice of the legal sales age and age verification requirement must be posted prominently and in plain view at all times at each location where licensed products are offered for sale. The required signage, which will be provided to the licensee by the City, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.
- (c) Samples Prohibited. No person shall distribute samples of any licensed product free of charge or at a nominal cost. The distribution of cannabinoid products as a free donation is prohibited.
- (d) Hours of Sales. No sales of cannabinoid products will be allowed at the licensed premises after 10:00 p.m. and before 8:00 a.m. daily
- (e) Self-Checkout. No sales of cannabinoid products or cannabinoid-related devices may be completed through self-checkout. A licensee or licensee's clerk must process each transaction at a point of sale.

Sec. 11-516. Storage and Display.

It shall be unlawful for a licensee under this Article to allow the sale of cannabinoid products or cannabinoid-related devices by any means where by a customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the cannabinoid product or cannabinoid-related devices between the licensee or his clerk and the customer. All cannabinoid product or cannabinoid-related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. This section does not apply to exclusive cannabinoid/tobacco stores.

Sec. 11-517. Responsibility.

All licensees under this article shall be responsible for the actions of their employees in regard to the sale, offer to sell, and furnishing of licensed products on the licensed premises, and the sale of such an item by an employee shall also be considered a sale by the license holder.

Nothing in this section shall be construed as prohibiting the city from also subjecting the clerk to whatever penalties are appropriate under this article, state or federal law, or other applicable law or regulation.

Sec. 11-518. Pricing and Discounting.

- (a) Prohibition on the sale of cannabinoid products for less than the listed price. No cannabinoid retailer shall:
- (1) Honor or accept a price reduction instrument in any transaction related to the sale of cannabinoid products to a consumer;
 - (2) Sell or offer for sale cannabinoid products through any multi-package discount or otherwise provide a consumer any cannabinoid products for less than the Listed Price in exchange for the purchase of any other cannabinoid product;
 - (3) Sell, sell at a discount, offer for sale, or otherwise provide any product other than cannabinoid products in exchange for or in consideration of the purchase of cannabinoid products;
 - (4) Sell for a nominal price or provide free of charge any cannabinoid product or cannabinoid-related devices; or
 - (5) Otherwise sell, offer for sale, or provide cannabinoid products for less than the Listed Price. In addition, cannabinoid retailers must sell, offer for sale, or provide cannabinoid products for the same listed price every day of the week in a given week.

Sec. 11-519. Compliance checks and inspections.

All licensed premises shall be open to inspection by the city public safety officers, or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians for individuals under age 18, persons over the age of fifteen (15) years but less than twenty one (21) years, to enter the licensed premises to attempt to purchase cannabinoid products. Persons used for the purpose of compliance checks shall be supervised by city designated public safety officers or other authorized city official. Persons used for compliance checks shall not be guilty of the unlawful purchase or attempted purchase or the unlawful possession cannabinoid products when such items are obtained as part of the compliance check. Nothing in the section shall prohibit the city from conducting compliance checks in accordance with state and federal law.

Sec. 11-520. Criminal acts.

Unless otherwise provided, the following acts shall be a misdemeanor.

- (a) *Sales.* It shall be a violation of this article for any person to sell any cannabinoid products to any person under the age of 21.
- (b) *Possession.* It shall be a violation of this article for any person under the age of 21 to have in his or her possession any cannabinoid product. This subdivision shall not apply to persons under the age of 21 lawfully involved in a compliance check.
- (c) *Use.* It shall be a violation of this article for any person under age 21 to use any cannabinoid product.
- (d) *Procurement.* It shall be a violation of this article for any person under age 21 to purchase or sell or attempt to purchase or sell or otherwise obtain any cannabinoid product and it shall be a violation of this article for any person to purchase or sell to or otherwise obtain such items on behalf of a person under the age of 21. It shall further be a violation for any person to coerce or attempt to coerce a person under the age of 21 to illegally purchase or otherwise obtain or

use any cannabinoid product. This subdivision shall not apply to persons under the age of 21 lawfully involved in a compliance check.

Sec. 11-521. Violations.

- (a) *Administrative procedures.* Any violation of this article may be penalized by the issuance of an administrative citation and resolved in accordance with chapter 26, article III, administrative citations and civil penalties, of the City Code.
- (b) *Misdemeanor prosecution.* Nothing in this section shall prohibit the city from seeking criminal prosecution under Minnesota Statutes. Whoever violates any provision of this article shall be guilty of a misdemeanor. If the city elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.
- (c) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

Sec. 11-522. Penalties.

- (a) *Licensees.* Any retail license or permit issued or approved under this chapter shall be suspended for a period of time determined by subsection (b) or revoked upon finding that within one calendar year, the retail licensee is responsible for three violations which fail to comply with applicable statutes, rule or article related to the sale, possession and use of cannabinoid products or cannabinoid-related devices. No suspension or revocation shall take effect until the licensee or permit holder has received proper notice and has been afforded an opportunity for a hearing before the city's selected impartial examiner. The city council may impose penalties provided in this Article on the retail licensee who sells cannabinoid products or cannabinoid-related devices products as defined in this article to any persons under the age of 21 years. Nothing in this section shall prohibit the city from seeking an administrative penalty as provided by resolution of the city council.
- (b) *Penalty terms.* If a licensee or an employee of a licensee is found to have violated this article, the licensee shall be subject to an administrative penalty as follows:
 - (1) First violation: The city shall impose a civil fine established in Article I Sec. 2-3. In addition, the city may suspend the license for a period up to 60 days. The city may agree with the licensee to waive up to ten days of suspension at a rate of two days for every eight hours of community service performed by the licensee's employee.
 - (2) Second violation: The city shall impose a civil fine established in Article I Sec. 2-3. In addition, the city may suspend the license for a period up to 90 days. The city may agree with the licensee to waive up to ten days of suspension at a rate of two days for every eight hours of community service performed by the licensee's employee.
 - (3) Third violation: The city shall impose a civil fine established in Article I Sec. 2-3 and suspend the license for a minimum period of 180 days, not to exceed one year.
- (c) *Other individuals.* Other individuals, other than persons under the age of 21 regulated by Sec. 11-520 of this article, found in violation of this article shall be

charged an administrative penalty as provided by ordinance of the city council.

Sec. 11-523. Appeal.

- (a) *Notice of action:* If the city clerk or designee denies the issuance of a license or revokes a license that has been issued, the applicant must be notified in writing of the decision the reasons for the denial or revocation and the applicant's right to appeal the denial or revocation by requesting, within 20 days of receiving notice of the denial or revocation, a hearing before the city's selected impartial examiner. The city's selected impartial examiner shall hear the appeal within 20 days of the date of the request. The decision of the city's selected impartial examiner can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

Sec. 11-524. Severability.

If any section or provision of this ordinance is held invalid, such invalidity will not affect other sections or provisions that can be given force and effect without the invalidated section or provision.

Sec. 11-525. Effective Date.

This ordinance shall take effect from and after its passage and publication as required by law.

Adopted by the City Council on the 31st day of August, 2022.

Anne W. Burt, Mayor

Attest:

(SEAL)

Clinton P. Gridley, City Administrator