

ORDINANCE XXX, 4TH SERIES

ORDINANCE ADDING CHAPTER 122 TO THE ST. JAMES CITY CODE PERTAINING TO LICENSING THE SALE OF TETRAHYDROCANNABINOL (THC) PRODUCTS

The City of St. James does ordain:

Section 1. Title XI of the City Code is amended by adding Chapter 122 to read as follows:

Chapter 122. TETRAHYDROCANNABINOL (THC) PRODUCTS

§122.01 PURPOSE AND INTENT.

The purpose of this Section is to regulate the sale of legalized adult-use of any product that contains tetrahydrocannabinol and that meets the requirements to be sold for human or animal consumption under Minnesota Statutes, section 151.72 (“THC Products”) for the following reasons:

(A) By enacting 2022 Session Law Chapter 98, Article 13, the Minnesota Legislature amended Minnesota Statutes, section 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 ordinances 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 St. James.

(E) The Minnesota Legislature recognized the danger of THC product use among the public at large by setting potency and serving 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) and improve compliance among THC product retailers with laws prohibiting the sale or marketing of THC products to youth.

(J) 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 to protect the health, safety, and welfare of our youth and most vulnerable residents.

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

(L) In making these findings and enacting this ordinance, it is the intent of the City 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.

§ 122.02 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 article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City: The City of St. James, Minnesota

Applicant: The natural person or business entity applying for a license under this section, and in the case of an applicant that is not a natural person, any owner of the applicant.

Assistance or Intervention: The actual physical exchange of the licensed product between the customer and the licensee or employee.

Compliance Checks. The system the City uses to investigate and ensure that those authorized to sell licensed products are following and complying with the requirements of this Chapter. Compliance checks involve the use of persons under 21 who purchase or attempt to purchase licensed 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 licensed products.

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

Fixed Place of Business. Any form of business operated from a fixed address storefront or other permanent type of structure that is not a Moveable Place of Business.

Inspections. The routine evaluation of a licensed establishment to ensure compliance with all license conditions, this chapter, this code, state statutes, and federal law.

License. A license issued under this section.

Licensed 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 Minnesota Statutes, section 151.72, as may be amended from time to time. Licensed Product and THC Product does not include medical cannabis as defined in Minnesota Statutes, section 152.22, subdivision 6, as may be amended from time to time.

Medical Cannabis. Medical cannabis shall have the meaning provided in Minn. Stat. § 152.22, Subd. 6, as the same may be amended from time to time.

Moveable Place of Business. Any form of business operated out of a kiosk, truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address storefront or other permanent type of structure authorized for sales transactions.

Retail Establishment. Any place of business facility that sells goods or merchandise directly to the public at retail value, including but not limited to, convenience stores, grocery stores, restaurants, and drug stores.

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

School. Any public or private elementary, vocational, or secondary school, or a public or private college or university, or a state licensed day care center.

Self-Service Merchandising. Open displays of licensed products in any manner where any person has access to the licensed products without the assistance or intervention of the licensee or the licensee's employee. Assistance or intervention means the actual physical exchange of the licensed product between the customer and the licensee or employee.

Vending Machine. Any mechanical, electric, or electronic, or other type of device that dispenses licensed products upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the licensed product.

§ 122.03. LICENSE

(A) *License Required.* No natural person, corporation, partnership, limited liability company, or business entity of any type shall sell, donate, give away, or otherwise transfer any THC product, or offer to do so, without first having obtained a license to do so from the City.

(B) *Application.* An application for a license to sell licensed products or THC products shall be made on a form provided by the City and include all information the City deems necessary. The City shall conduct a background investigation of the applicant(s) on all new applications. The investigation shall consider all facts and information bearing upon the question of the applicant's fitness to receive the license and to perform the duties imposed by this ordinance. The City may conduct a background check on an applicant for a renewal of a license if it is in the public interest to do so. 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 article and the City shall provide the person with a notice of revocation, along with information on the right to appeal.

(1) *Verification.* Every application for a license shall be verified and filed with the City Clerk/Treasurer.

(2) *Form of Applicant.* The application shall show whether the applicant is natural person, the following information shall be required:

(a) Natural Person. If the applicant is a natural person, the following information shall be required:

- (i.) Full legal name, place and date of birth and street of applicant.
- (ii.) Whether the applicant has ever used or been known by a name other than his or her true legal name and, if so, what was such name(s), and information concerning dates and places where used.
- (iii.) The name of the business if it is to be conducted under a designation, name, or style other than the full individual name of the applicant.
- (iv.) Street address at which applicant lived during the preceding 5 years.
- (v.) Kind, name, and location of every business or occupation applicant has been engaged in during the preceding five (5) years.
- (vi.) Names and addresses of applicant's employers and business partners, if any, for the preceding five (5) years.
- (vii.) Whether the applicant has ever been convicted of any felony, crime, or violation of any ordinance, other than traffic offenses, except that alcohol related driving offenses shall be reported. If so, the applicant shall furnish information as to the time, place and offense for which convictions were had.
- (viii.) Whether applicant has ever been engaged as an employer or in operating a business of a similar nature. If so, applicant shall furnish information as to the time, place, and length of time of such operation.
- (ix.) Whether applicant has ever been in the military service. If so, applicant shall upon request exhibit all discharges.
- (x.) The name of the operating officer, manager or proprietor or other agent in charge of the premises to be licensed.
- (xi.) Certification that the applicant has liability insurance covering the applicant's sale of THC product.

(b) Partnership or Limited Liability Partnership. If the applicant is a partnership or limited liability partnership, the names and addresses of all partners and all information concerning each partner as is required of a single applicant in Section 122.03 (B)(2) above. A managing partner, or partners, shall be designated. The interest of each partner in the business shall be disclosed. A true copy of the applicant's partnerships' agreement, if any, shall be submitted with the application. If and in the event the composition of the partnership shall change at any time subsequent to the initial application, any amended partnership agreements must be filed with the City.

(c) Corporation, Limited Liability Company, or other Business Entity. If the applicant is a corporation, limited liability company, or other business entity, the following information shall be required:

- (i.) Company name and state of incorporation or organization.
- (ii.) A true copy of Certificate of Articles of Incorporation or Organization, Articles of Incorporation or Organization, and, if a foreign corporation, any certificate of authority to conduct business in the state of Minnesota as may be required by state law.
- (iii.) The name of the operating officer, manager, proprietor, or other agent in charge of the premises to be licensed, giving all the information about said person as is required of a single applicant in Section 122.03 (B)(2)(a)(i).
- (iv.) A list of all persons who, whether individually or with another, own or control any interest in said corporation or association together with their addresses and all information as is required of a single applicant in Section 122.03 (B)(2)(a)(i).
- (v.) The name of the business if it is to be conducted under a designation, name, or style other than the full legal name of the applicant.

(3) *Legal Description and Street Address.* The street address and exact legal description of the premises to be licensed, together with a plan, sketch, or drawing of the area showing dimensions, location of building, street access, parking facilities and the locations of and distances to the nearest place of worship and school building.

(4) *Floorplan.* A diagram or sketch depicting the licensed premises and the area within the licensed premises where the licensed product will be sold.

(5) *Age 21 and Older Retailer.* Certification as to whether access to the licensed premises will be limited to persons age 21 or older.

(6) *Disclosure of Ownership Interests.* At the time of application, each applicant that is not a natural person shall furnish the City with a list of all persons that have an interest of five percent or more in the business. The list shall name all owners and show the interest held by each, either individually or beneficially for others. It is the duty of each business licensee to notify the City Clerk 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 a transfer of 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 Council of the change in ownership by submitting a new license application for the new owners, and the Council has approved the transfer of the license by appropriate action. 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.

(7) *Additional Information.* Any additional information the City deems necessary.

(C) *Incomplete Application.* If the City Clerk/Treasurer determines that the application is incomplete, he/she shall return the application to the applicant with notice of the information needed to make the application complete. The applicant shall be informed of an incomplete application within ten (10) business days.

(D) *Investigation.*

(1) On an initial application for a license and on application for transfer of an existing license, the applicant shall pay with the application an investigation fee of \$500.00. The City shall request that its Chief of Police conduct a preliminary background and financial investigation of the applicant. The application in such case shall be made on a form prescribed by the State Bureau of Criminal Apprehension and with such additional information as the Council may require. If the Council deems it in the public interest to have an investigation made on a particular application for renewal of a license, it shall so determine. If the Council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the Bureau of Criminal Apprehension for the investigation. If an investigation outside the state is required, the applicant shall be charged the cost not to exceed \$10,000, which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable by the applicant whether or not the license is granted. Upon completion of the investigation, the Chief of Police shall make a written report and recommendation to the City Council of his or her findings, including a specific report on any violation of federal or state law or municipal regulations.

(2) As an alternative to the investigation process set forth in § 122.03(D)(1), an applicant may pay an investigation fee of \$500.00 and submit the results of a comparable background investigation completed by an agency of the State of Minnesota within the 12 months prior to the application. To do so, the applicant must authorize the City to obtain any and all related information from said agency so that the Council may review it to determine if any additional investigation is necessary. If the Council determines that the agency's investigation is insufficient for these licensing purposes, the then Council may require the investigation described in § 122.03(D)(1).

(E) *Public Hearing.* For initial and renewal applications, upon receipt of the written report and recommendation by the Police Chief of the City of St. James, and within 21 days thereafter, the City Manager shall cause to be scheduled a public hearing, with notice thereof to be published in the official newspaper 10 days in advance of the scheduled hearing, setting forth the day, time and place when the hearing will be held, the name of the applicant, the premises where the business is to be conducted, the nature of the business, and such other information as the Council may direct. At the hearing, opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the council shall grant or refuse the application in its discretion.

(F) *Action.* The City Council may either approve or deny the application for a license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. A four-fifths vote of the City Council shall be required for the granting of any license. If the City Council approves the license, the City Clerk/Treasurer shall issue the license to the applicant. If the City 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 City Council's decision pursuant to § 122.06 of this ordinance. If a license application is denied, the earliest an applicant may reapply is 12 months from the date the license is denied.

(G) *Term.* All licenses issued under this article shall expire on December 31 of each year. License fees shall be prorated on a monthly basis for the portion of any year remaining on an initial application and with any portion of a licensed month counting as a full month.

(H) *Revocation or Suspension.* Any license issued under this article may be revoked or suspended whenever the City Council deems there is cause to do so. Cause exists whenever a licensee violates any provision of this section or no longer meets the license eligibility requirements of this section.

(I) *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 or business to whom the license was issued. The transfer of any license to another location, business, or person is prohibited.

(J) *Display.* All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

(K) *Renewals.* The renewal of a license issued under this section shall be handled in the same manner as the original application, provided, however that the City Council may waive the requirement of a background on an application for a renewal of a license if the City Council deems it is in the public interest to do so. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license.

(L) *Issuance as Privilege and Not a Right.* The issuance of a license issued under this article is a privilege and does not entitle the applicant to a license, nor does it entitle a license holder to automatic renewal of the license.

§122.04. FEES.

No license shall be issued under this article until the appropriate license fee shall be paid in full. The fee for a license under this article shall be established by the City Council and adopted in the City fee schedule, and may be amended from time to time. Each application for a license shall be accompanied by a receipt from the City Clerk/Treasurer for payment in full of the license fee and the fixed investigation fee. All fees shall be paid into the General Fund. If an application for a license is rejected or denied, the City Clerk/Treasurer shall refund the amount paid as a license fee, which shall not include the fixed investigation fee.

§122.05. INELIGIBILITY AND BASIS FOR DENIAL OF LICENSE.

(A) *Ineligibility.*

(1) *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.

Licensed products may only be sold within a retail establishment.

(2) *Exclusive Liquor Store.* No license shall be issued to an exclusive liquor store as defined in Minnesota Statutes, section 340A.101, subdivision 10, as the same may be amended from time to time.

(3) *On-Sale Liquor Licenses.* No licenses shall be issued to the holder of an on-sale beer, wine, or liquor license issued by the City of St. James.

(4) *Restaurants.* No license shall be issued to any restaurant.

(5) *Number of Licenses.* No more than 5 licenses may be issued in the City.

(6) *Financial Delinquencies.* No license shall be granted or renewed for operation on any premises on which real estate taxes, assessments, or other financial claims of the City or of the State are due, delinquent, or unpaid. If an action has been commenced pursuant to the provisions of Minnesota Statutes Chapter 278, as the same may be amended, questioning the amount or validity of taxes, the Council may, on application by the licensee, waive strict compliance with this provision; no waiver may be granted, however, for taxes, or any portion thereof, which remain unpaid for a period exceeding one year after becoming due unless such one-year period is extended through no fault of the licensee.

(7) *Zoning Ordinance Applies.* A license shall be issued to locations zoned B-2, B-3, or B-4 districts.

(B) *Grounds for Denial.* Grounds for denying the issuance or renewal of a license under this article include, but are not limited to, the following:

(1) The applicant, or any owner of an applicant that is not a natural person, is under the age of 21 years.

(2) The applicant is prohibited by Federal, State, or other local law, ordinances, or other rule or regulation from holding a license.

(3) The applicant has been convicted within the past five years for any:

(a) Violation of a Federal, State, or local law relating to the licensed products or any controlled substance law; or

(b) Gross Misdemeanor or felony, including alcohol-related driving offenses by excluding other traffic offenses.

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

(5) The applicant has had any license issued by the City or any other jurisdiction

suspended or revoked during the 12 months preceding the date of application, or the applicant has or had an interest in another premises, whether in the City or in another jurisdiction, that has had a license suspended or revoked during the same time period, provided the applicant had an interest in the premises at the time of the revocation or suspension, or at the time of the violation that led to the revocation or suspension.

(6) The applicant is a business that does not have an operating officer or manager who is eligible pursuant to the provisions of this article.

(7) The applicant is the spouse of a person ineligible for a license pursuant to this section or who, in the judgement of the City Council, is not the real party in interest or beneficial owner of the business to be operated, under the license.

(8) The applicant fails to provide any information required on the application or provides false or misleading information. Any false statement on an application, or any willful omission of any information called for on such application form, shall cause an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this chapter, or any part thereof.

(9) The proposed licensed premises is located within 300 feet of any school or addiction recovery center. The distances herein referred to shall be measured in a straight line from the nearest property boundary of the licensed premises to the nearest property boundary of the school or addiction recovery center.

(10) A license issued under this article shall be for a single fixed location only.

(C) *Background Checks.* Upon receipt of an application for a license under this article, the City shall conduct a background investigation on all new applications and applications to transfer a license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery of the mistake, and the City shall provide the licensee with a notice of revocation, along with information on the right to appeal.

§ 122.06 PROCEDURE UPON DENIAL, SUSPENSION, NON-RENEWAL, OR REVOCATION OF LICENSE.

A determination by the City to deny, suspend, revoke, or not renew any license under this section may be appealed to the City Council of St. James by filing with the City Clerk/Treasurer a written Notice of Appeal within fifteen (15) days of the date on which notice of the City's denial, suspension, or revocation is mailed to the licensee. In that event, the appeal will be heard by the Council at its next meeting occurring at least fifteen (15) days but not more than 45 days after the filing of the Notice of Appeal. At any appeal of a determination by the City under this Ordinance, the licensee or applicant, or an attorney representing said party, may appear and make a presentation to the City Council. The licensee or applicant shall present to the City Council the basis for the determination being appealed, and the City Council may receive and consider any evidence it deems relevant to the issue. After the hearing, the Council may uphold, reverse, or modify the prior decision based upon the provisions of this Ordinance and upon the protection of the public health, safety, or general welfare. The City Council shall issue written findings and determination within thirty-one (31) days of the hearing, unless the Council extends that time for good cause. A decision of the City Council made following an appeal as set forth herein may be appealed by Writ of Certiorari to the Court of Appeals of the

State of Minnesota pursuant to its Rules of Civil Appellate Procedure and Minnesota Statutes.

§ 122.07 PROHIBITED ACTS.

(A) *In general.* No person shall sell, donate, give away, or otherwise dispense or distribute any licensed product, or offer to do so:

- (1) By means of any type of vending machine.
- (2) By means of self-service merchandising provided, however that self-service merchandising is permitted in a licensed establishment where entry to the premises is restricted to persons of age 21 or older.
- (3) By any other means, to any other person, on in any other manner or form prohibited by state or other local law, ordinance provision, or other regulation.
- (4) That is not packaged in strict compliance with state laws, rule, and regulations.
- (5) From any location other than a fixed place of business that is a licensed premises. delivery of licensed products from a licensee to a purchaser who is located off the licensed premises is strictly prohibited.
- (6) By any form of internet/online transaction.
- (7) By acceptance or redemption of any coupon, price promotion, or other instrument or mechanism, whether in paper, digital, electronic, mobile, or any other form, that provides any THC 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.
- (8) By any other means, to any other person, on in any other manner or form prohibited by state or other local law, ordinance provision, or other regulation.
- (9) No person shall sell or offer for sale a product containing THC that does not meet all the requirements of Minnesota Statutes, section 151.72, subdivision 3.

(B) *Controlled Substance.* No person shall sell, offer to sell, or otherwise provide any licensed products containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances not authorized by state or federal law.

(C) *Legal Age.* No person shall sell any licensed product to any person under the age of 21.

- (1) *Age to Sell.* No person under the age of 18 shall sell any licensed product to any person.
- (2) *Age to Purchase.* No person, regardless of license status, shall sell any licensed product to any person under the age of 21.
- (3) *Age verification.* Licensees, including their employees and representatives, shall

verify by means of government issued photographic identification that the purchaser is at least 21 years of age.

(4) *Signage.* All licensees shall post and display in plain view of the general public on the licensed premise, a sign supplied by the City of St. James, which shall state that it is illegal to sell licensed products to anyone under the age of 21 years and that the possession and use of such items by anyone under the age of 21 is also illegal under state, federal, and/or local law. Said signs shall be issued to the licensee along with their license.

(D) *Samples Prohibited.* No person shall distribute samples of any licensed product free of charge or at a nominal cost. Sampling is prohibited on any licensed premises.

(E) *Other Prohibitions.* No person shall sell, offer to sell, or otherwise provide, dispense, or distribute any licensed products by any means, to any other person, or in any other manner or form prohibited by Federal, State, or other local law, ordinance provision, or other regulation. Possession on the premises by the licensee of any licensed product in a package indicating that the contents do not comply with the requirements of state laws, rules, or regulations shall be prima facie evidence that the contents of the package violate this ordinance. It shall be the licensee's burden to prove, by a preponderance of the evidence, that the contents do comply.

(F) *Sales to Obviously Intoxicated or Impaired Persons.* No person shall sell, give, furnish, dispense, distribute, or in any way procure for another person any licensed products for use by an obviously intoxicated person or a person who is obviously impaired by or under the influence of licensed products or any controlled or intoxicating substance.

(G) *On-Site Consumption Prohibited.* No licensed product may be sold, given, distributed, dispensed, or otherwise furnished for consumption or use on any premises that holds a license issued under this article.

§ 122.08. OTHER ILLEGAL ACTS.

Unless otherwise provided, the following acts shall be a violation of this Ordinance:

(A) *Illegal Possession.* It shall be a violation of this ordinance for any person under the age of 21 to have any THC product in his or her possession: This subdivision shall not apply to persons under the age of 21 who are lawfully involved in a compliance check or to employees of a licensee who are at least 18 years of age and are acting in the course and scope of their employment for a licensee.

(B) *Illegal Use.* It shall be a violation of this ordinance for any person under the age of 21 to consume or otherwise use any licensed product.

(C) *Illegal Procurement.* It shall be a violation of this ordinance for any person under 21 years of age to purchase or attempt to purchase or otherwise obtain any licensed product, and it shall be a violation of this ordinance for any person to purchase or otherwise obtain such items on behalf of a person under 21 years of age. It shall further be a violation for any person to coerce or attempt to coerce a person under 21 years of age to illegally purchase or otherwise obtain or use any licensed product. This subpart shall not apply to persons under 21 years of age who are lawfully involved in a compliance check.

(D) *Use of False Identification.* It shall be a violation of this ordinance for any person under

21 years of age to attempt to disguise his or her true age by the use of any form of false identification, including but not limited to an identification card of another real or fictional person and one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

(E) *Tampering with Packaging.* No licensee shall directly or through any other person alter or tamper with the contents of any original package so as to change its composition or THC content while in the original package. Possession on the premises by the licensee of any licensed product in a package differing in composition or THC content in the product when received from the manufacturer or wholesaler from whom it was purchased, shall be prima facie evidence that the contents of the original package has been changed or tampered with. It shall be the licensee's burden to prove, by the preponderance of the evidence, that the contents have not been tampered with.

(F) *Restrictions on Consumption and Use.* No person shall consume or possess licensed products on a public street, highway, sidewalk, park, public or private school property, or in any public facility, on any form of public transportation or transit, at any other public place, or at any location where medical cannabis possession and use are prohibited by Minn. Stat. § 152.23, as the same may be amended from time to time. Provided, however, that nothing herein shall prohibit any person from possessing licensed product while using a public street, highway, or sidewalk, to travel directly from the point of a lawful purchase to a place of lawful use.

(G) *Taxicabs.* No person shall consume licensed products while riding in any taxicab licensed by the City. No person who is licensed by the City to operate a taxicab shall operate a taxicab while possessing, using, or being under the influence of any licensed product.

(H) *Other City-Issued Licenses.* No person shall possess, use, distribute, or be under the influence of any licensed product while performing any task for which any license has been issued by the City. A violation of this subpart shall be grounds for suspension, revocation, or non-renewal of any such license.

§ 122.09. STORAGE.

Unless the licensee restricts access to the entire 'licensed premises to persons age 21 or older, all licensed products 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.

§ 122.10. RESPONSIBILITY.

All licensees are responsible for the actions of their employees, agents, and other representatives in regard to the sale, offer to sell, and furnishing of licensed products on the licensed premises. The sale, offer to sell, or furnishing of any licensed product by an employee or other representative of a licensee shall be considered an act of both the employee or representative and the licensee. Nothing in this section shall be construed as prohibiting the City from also subjecting a licensee's employee, agent, or other representative to any civil penalties or criminal prosecution that the City deems to be appropriate under this ordinance, state or federal law, or other applicable law or regulation.

§ 122.11. COMPLIANCE CHECKS AND INSPECTIONS.

(A) All premises licensed under this article shall be open to inspection by the City during regular business hours. The City shall conduct compliance checks at its discretion.

(B) No person used in compliance checks shall attempt to use a 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 produce any identification, if any exists, for which they are asked. Persons used for the purpose of compliance checks shall be supervised by law enforcement or other designated personnel. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law.

(C) Additionally, from time to time, the City will conduct inspections to determine compliance with any or all other aspects of this ordinance.

§ 122.99. VIOLATIONS AND PENALTY.

(A) *Administration Civil Penalties – INDIVIDUALS.* If a person who is not a licensee is found to have violated this article, the person shall be charged an administrative penalty as follows:

(1) *First Violation.* The City shall impose a civil fine of \$300.00.

(2) *Second Violation Within 12 Months.* The Council shall impose a civil fine of \$500.00.

(3) *Third Violation Within 12 Months.* The Council shall impose a civil fine of \$800.00.

(B) *Administrative Civil Penalties – LICENSEE.* If a licensee or an employee or representative of a licensee is found to have violated this article; the licensee shall be charged an administrative penalty as follows:

(1) *First Violation.* The City shall impose a civil fine of \$1,000.00 and suspend the licenses for not less than 2 consecutive days.

(2) *Second Violation Within 36 Months.* The Council shall impose a civil fine of \$2,000.00 and suspend the license for not less than 5 consecutive days.

(3) *Third Violation Within 36 Months.* The Council shall impose a civil fine of \$5,000.00 and suspend the license for not less than 10 consecutive days.

(4) *Fourth Violation Within 36 Months.* The Council shall revoke the license for not less than one year.

(C) *Administrative Penalty Procedures.* Notwithstanding anything to the contrary in this article:

(1) If one of the foregoing penalties is imposed by the City, no penalty shall take effect until the licensee or person has been served with notice (served personally or by mail delivered to the business address of the licensee) of the alleged violation and of the opportunity for a hearing before the Council pursuant to Article § 122.06 of this

ordinance, and such notice must be in writing and must provide that a right to a hearing before the Council must be requested within 15 business days of mailing or personal service of the notice or such hearing right shall terminate.

(D) *Misdemeanor Prosecution.* Nothing in this article shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this article.

(E) *Continuing Violations.* Each day that a violation of this article continues shall be considered a separate offense.

(F) *Persons Under the Age of 21.* Persons under the age of 21 who use a false Identification to purchase or attempt to purchase licensed products may only be subject to non-criminal, non-monetary civil penalties or remedies such as THC-related education classes, diversion programs, community services, or another non-monetary, civil penalty that the city determines to be appropriate. The City Council will consult with educators, parents, guardians, persons under the age of 21, public health officials, court personnel, and other interested parties to determine an appropriate remedy for persons under the age of 21 in the city in the best interest of the underage person. The remedies for persons under 21 who use a false identification to purchase or attempt to purchase licensed products may be established by ordinance and amended from time to time.

Section 2. Effective Date. This ordinance shall be effective upon passage and publication.

First Reading:	September 5, 2023
Second/Final Reading:	September 19, 2023
Date of Publication:	September 28, 2023
Date Ordinance Takes Effect:	September 28, 2023

Jonathan Wilson, Mayor

ATTEST:

Kristin K. Hurley, City Clerk