

## CHAPTER 117: CANNABINOID PRODUCTS REGULATIONS

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### **GENERAL PROVISIONS**

**§117.01 ADOPTION OF STATE LAW BY REFERENCE.** The provisions of M.S. Chapter 151.72, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of cannabinoid products are hereby adopted by reference and are made a part of this Chapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. Chapter 151.72 are hereby adopted by reference or referenced as if they had been in existence at the time this Chapter was adopted.

**§117.02 DEFINITIONS.** In addition to the definitions contained in M.S. §151.72, as it may be amended from time to time, the following terms are defined for purposes of this chapter:

- (A) CANNABINOID PRODUCT. “Cannabinoid products” as used in this Chapter are those products defined as edible cannabinoid products under M.S. §151.72, as it may be amended from time to time, and any additional cannabinoid products that may be permitted under future state law amendments.

- (B) CLUB. A “Club” is an incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans’ organization, which: (1) has more than 30 members; (2) has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members; and (3) is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.
- (C) COMPLIANCE CHECKS. “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 ordinance. 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.
- (D) LICENSED PREMISES. The premises described in the approved license application. In the case of a restaurant or club located on a golf course, “licensed premises” means the entire golf course except for areas where motor vehicles are regularly parked or operated.
- (E) MOVEABLE PLACE OF BUSINESS. Moveable place of business means any form of business that is operated out of a kiosk, truck, van, automobile or other type of vehicle or transportable shelter and that is not a fixed address or other permanent type of structure licensed for over-the-counter sales transactions.
- (F) OPERATOR. “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.
- (G) PERSON. “Person” means any individual applicant and licensee as well as any business entity applicant or licensee under this Chapter.
- (H) RESTAURANT. An eating facility under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a “restaurant” as defined by this section, an establishment shall have a license from the state as required by M.S. §157.16, as it may be amended from time to time, and meet the definition of either a “small establishment”, “medium establishment” or “large establishment” as defined in M.S. §157.16, Subd. 3d, as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of

this chapter unless it meets the definitions of “small establishment”, “medium establishment” or “large establishment”.

- (I) **RETAIL ESTABLISHMENT.** “Retail establishment” means any fixed place of business where cannabinoid products are available for sale to the general public, including restaurants and clubs.

## *LICENSING*

**§117.20 LICENSE REQUIRED.** It is unlawful for any person to sell at retail any cannabinoid products within the City unless the person holds a valid retail cannabinoid products license. Any existing retail establishment selling cannabinoid products at the time of ordinance adoption will be required to obtain a license no later than July 1, 2023 and must follow the standards set forth in this Chapter. Failure to obtain a license prior to selling cannabinoid products, or for existing businesses at the time this ordinance is adopted no later than July 1, 2023, will result in a misdemeanor. Any issued license shall permit retail sales only and shall not authorize manufacturing or production of cannabinoid products.

**§117.21 NUMBER OF LICENSES WHICH MAY BE ISSUED.** The Council may grant an unlimited number of licenses to those applicants meeting the requirements of this Chapter.

**§117.22 TERM AND EXPIRATION OF LICENSES.** Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on June 30 of each year. Temporary licenses expire according to their terms.

### **§117.23 APPLICATION FOR AND PROCUREMENT OF LICENSE.**

- (A) **Form.** Any business owner or property owner desiring a retail cannabinoid products license shall file with the City Clerk or Administrator an application, in writing, on such form as provided by the City. Every application shall state the name, address, telephone number, and email address of the applicant and for any partners in the business to be licensed, the applicant's age, representations as to the applicant's character, with references as the Council may require, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, disclosure of all prior felony controlled substance convictions, and other information as the Council may require from time to time. The application shall be accompanied by the required fee.
- (B) **Insurance.** The applications shall include proof of business liability insurance. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of business liability insurance is a cause for revocation of the license.

(C) **Background Investigation.** The City Clerk or Administrator will immediately transmit a copy of the application to the law enforcement, who will investigate all facts and information which the City Clerk or Administrator can reasonably find, bearing upon the question of the applicant's fitness to receive the license and to perform the duties imposed by this ordinance. On an initial application for a license, on an application for transfer of a license and, when in the sound discretion of the Council that it is in the public interest to do so on an application for renewal of a license, the city shall conduct a preliminary background investigation of the applicant or applicants, or it may contract with an outside party for the investigation. Upon completing the investigation and background check, the Chief of Police, Sheriff, or their designee will report, in writing, his/her findings to the City Clerk or Administrator, together with his/her recommendation as to the issuance of a license to the applicant. The City Clerk or Administrator will submit to the City Council the report of law enforcement, together with the recommendation as to the issuance of the license to the applicant.

(D) **Review.** Opportunity shall be given to any person to be heard for or against the granting of the license. The City Council will consider the facts and recommendations of law enforcement and of the City Clerk or Administrator, together with any material facts which it may have or obtain, and then, by motion, will approve or deny the application. If the City Council has approved the application, it is the duty of the City Clerk or Administrator to execute and deliver a license to the applicant.

**§117.24 LICENSE FEES; PRO RATA.** The Council may establish from time to time, in the Ordinance Establishing Fees and Charges, the fee for a cannabinoid product license (see §30.11.).

- (A) The license fee shall not exceed the cost of issuing the license and other estimated costs related to the enforcement of the cannabinoid product laws and this chapter.
- (B) All license fees shall be paid in full at the time the application is filed with the city. An application shall be considered incomplete until the applicable fee is paid. If the application is denied, the license fee shall be returned to the applicant.
- (C) Applications for less than a full year's license may be prorated at the discretion of the Council or City Administrator.

**§117.25 COUNCIL DISCRETION TO GRANT OR DENY A LICENSE, RESTRICTIONS ON ISSUANCE.** No applicant has a right to a license under this chapter. The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license, except no license shall be issued to:

- (A) An applicant under 21 years of age;
- (B) An applicant not of good moral character and repute;
- (C) An applicant who has had a license to sell cannabinoid products suspended or revoked within the preceding 12 months of the date of application;
- (D) An applicant who has been convicted within the past five years of any violation of federal, state, or local law, ordinance provision, or other regulation relating to cannabinoid products;
- (E) An applicant who is otherwise prohibited by federal, state or other local law or regulation from holding a license;

- (F) An applicant for which the license is requested is a moveable place of business. Only fixed-location retail establishments that are not excluded under the definition for retail establishments in this ordinance are eligible to be licensed;
- (G) An applicant whose primary place of business will be within 250 feet of a school, commercial daycare, or drug rehabilitation facility.
- (H) An applicant whose primary place of business will be within an R-1 or R-2 zoned district;
- (I) An applicant whose primary place of business is located on premises on which property taxes, special assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid; and
- (J) An applicant who already holds a license under this Chapter, whether directly or indirectly through a partial or complete ownership interest in a separate business entity.

Each license shall be issued only to the applicant for the premises described in the application.

**§117.26 APPLICATIONS FOR RENEWAL.** At least 60 days before a license issued under this chapter is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

**§117.27 TRANSFER OF LICENSE.** No license issued under this chapter may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply. In the case of the death of a retail licensee, the personal representative is authorized to continue operation of the business for not more than 30 days after the death of the licensee.

Penalty, see §117.99

**§117.28 CONDITIONS OF LICENSE.** The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

- (A) Every licensee is responsible for the conduct of the place of business. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.
- (B) Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours, and after business hours during the time when customers remain on the premises, without a warrant.
- (C) Compliance with the insurance conditions of this chapter is a continuing condition of any license.

Penalty, see §117.99

**§117.29 PROHIBITED ACTIVITIES.**

- (A) **Samples Prohibited.** Sampling of cannabinoid products within any retail establishment licensed under this ordinance is prohibited. No person shall distribute samples of any

cannabinoid products free of charge or at a nominal cost. The distribution of cannabinoid products as a free donation is prohibited.

- (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) **Self-service Displays.** All cannabinoid 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 cannabinoid products in open displays that are accessible to the public without the intervention of a store employee. This section does not apply to a retail establishment, as defined in this ordinance, that is continuously staffed by an employee from which persons under 21 years of age are prohibited from entering the store.
- (D) **Prohibition Against Retail Sales of Cannabinoid Products by Vending Machines.** No person will sell or dispense cannabinoid products through use of a vending machine.
- (E) **Delivery Sales.** All sales of cannabinoid products must be conducted in person, in a licensed retail establishment under this ordinance, in over-the-counter sales transactions.
- (F) **Manufacturing/Production.** The manufacturing and production of cannabinoid products is not permitted by any licensee under this Chapter.

Penalty, see §117.99

### **§117.30 MINORS ON PREMISES.**

- (A) No person under the age of 18 years shall be employed in any rooms constituting the place in which cannabinoid products are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other multi-purpose building serving food in rooms in which cannabinoid products are sold at retail on sale.
- (B) No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where cannabinoid products are sold.

Penalty, see §117.99

### **§117.31 SIGNAGE; AGE VERIFICATION.**

- (A) **Signage.** At each location where cannabinoid products are sold, the licensee 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 licensed establishment and shall be readily visible to any person who is purchasing or attempting to purchase these products. The sign shall provide notice that all persons responsible for selling these products must verify, by means of photographic identification containing the bearer's date of birth, the age of any person under 30 years of age.
- (B) **Age Verification.** At each location where cannabinoid products are sold, the licensee 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. Verification is not required if the purchaser or person attempting to make the purchase is 30 years of age or older. It shall not constitute a defense to a violation of this Section that the person appeared to be 30 years of age or older.

Penalty, see §117.99

**§117.32 SUSPENSION AND REVOCATION.**

- (A) The Council shall either suspend for a period not to exceed 60 days or revoke any cannabinoid product license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this chapter relating to cannabinoid products. Except in cases of lapse of proof of insurance, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. §14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the office of Hearing Examiners for a hearing officer.
- (B) The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this chapter or M.S. Chapter 151.72, as it may be amended from time to time or any rules promulgated under that Chapter as they may be amended from time to time:
  - a. **Revocation.** The license shall be **revoked** as a consequence of commission of a felony related to the licensed activity or sale of cannabinoid products while the license is under suspension.
  - b. **Suspension.** The license shall be **suspended** by the Council after a finding under division (A) that the licensee has failed to comply with any applicable statute, rule, or provision of this chapter for at least the minimum periods as follows:
    - i. For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed.
    - ii. For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
    - iii. For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
    - iv. For a fourth violation within any three-year period, the license shall be revoked.
  - c. The council shall select the day or days during which the license will be suspended.
- (C) Lapse of required proof of insurance shall cause an immediate suspension of any license issued pursuant to this chapter or state law without further action of the Council. Notice of cancellation or lapse of a current business liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the City Administrator/Clerk-Treasurer, a hearing before the Council shall be granted within ten days. Any suspension under this division (B) shall continue until the Council determines that the insurance requirements of state law and this chapter have again been met.

- (D) The provisions of §117.99 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter.

Penalty, see §117.99

**§117.99 PENALTIES.**

- (A) Any person violating the provisions of this chapter or M.S. Ch.151.72 as it may be amended from time to time or any rules promulgated under that Chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.
- (B) The Council shall impose a civil penalty of up to \$2,000 for each violation of M.S. Ch.151.72, as it may be amended from time to time, and of this chapter. Conviction of a violation in a court of law is not required in order for the council to impose the civil penalty. A hearing under the Administrative Procedures Act, M.S. §§14.57 to 14.70, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties, which must be imposed in addition to any suspension unless the license is revoked:
  - a. For the first violation within any three-year period, \$500.
  - b. For the second violation within any three-year period, \$1,000.
  - c. For the third and subsequent violations within any three-year period, \$2,000.
- (C) The term “violation” as used in this section includes any and all violations of the provisions of this chapter, or of M.S. Ch.151.72, as it may be amended from time to time, or any rules promulgated under that Chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.