

CITY OF WAYZATA
HENNEPIN COUNTY, MINNESOTA
ORDINANCE NO. 828
AN ORDINANCE REGULATING
THE SALE OF EDIBLE CANNABINOID PRODUCTS

PREAMBLE

On August 3, 2022, pursuant to Minnesota Statutes Sec. 462.355, subd. 4 and the Wayzata City Charter, the Wayzata City Council adopted an Interim Ordinance imposing a one-year moratorium on the manufacture, distribution, and/or sale of edible cannabinoid products derived from hemp, and the construction, development, or operation of a business or facility involving any activity related to the foregoing. The ordinance also authorized City staff to study, review and consider the impacts and potential regulation of such activities, and propose any necessary and appropriate changes to the City's policies, ordinances, and official controls. In accordance with such study and review, City staff has proposed and recommended the provisions of this ordinance as appropriate for the general health, safety and welfare of the City.

NOW THEREFORE, THE CITY OF WAYZATA ORDAINS:

Section 1. Definitions.

- A. "Edible cannabinoid product" has the meaning provided in Minn. Stat. § 151.72, Subd. 1(c): a cannabinoid product that is intended to be eaten or consumed as a beverage by humans, containing a cannabinoid in combination with food ingredients, and is not a drug. Edible cannabinoid product does not include medical cannabis, as defined in Minn. Stat. §152.22, subd. 6, or nonintoxicating cannabinoid, as defined in Minn. Stat. § 151.72, subd. 1(h).
- B. "Labeling" has the meaning provided in Minn. Stat. § 151.72, Subd. 1(f).
- C. "Movable place of business" means any form of business that is operated out of a kiosk, other transportable structure or shelter, or a motorized or nonmotorized vehicle.
- D. "Retail Establishment" means any place of business where edible cannabinoid products are or may be available for sale to the general public, including, but not

limited to, grocery stores, tobacco products shops, CBD stores, convenience stores, gasoline service stations, liquor stores, bars, and restaurants.

- E. "Vending machine" means any mechanical, electrical or electronic, or other type of device which, upon the insertion of money, tokens, or other form of payment into or onto the device, dispenses edible cannabinoid products, and includes vending machines equipped with manual, electric or electronic locking devices.

Section 2. Registration Required.

No person may keep for sale, sell or offer to sell, or otherwise dispose of any edible cannabinoid product at any place in the City without first registering with the City in accordance with this ordinance.

Section 3. Persons Ineligible.

No registration will be issued under this ordinance to:

- A. A person under twenty-one (21) years of age.
- B. A person who is prohibited by federal, state, or other local law, ordinance, or other regulation from selling edible cannabinoid products.
- C. A person who is not the real party in interest or beneficial owner of the business operated under the registration.
- D. A person who has had a direct or indirect interest in a registration or license that was suspended or revoked within the five (5) years preceding the application; provided that the applicant or related person 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. For purposes of this subdivision: (a) the registration or license must have been for the manufacture or sale of any product containing THC or a nonintoxicating cannabinoid or for the sale of a tobacco product, issued by the city or another jurisdiction; (b) a related person includes any person investing in the business, building, premises, fixtures, furniture or equipment of the proposed registration; (c) the applicant or related person may have held their interest in the registration or license as an individual or as part of a separate entity or joint venture.

Section 4. Places Eligible Registration.

A registration may be issued for places on which retail establishments, as defined in this Ordinance, lawfully operate. A registration may not be issued for a movable place of business.

Section 5. Registration Application Procedure.

- A. Fees. Applications for registration under this ordinance must be accompanied by payment of fees established by city resolution to cover the city's costs in processing the application, the investigation and administering the provisions of this ordinance. The application fee is nonrefundable. If the applicant holds a liquor license or massage license, no charge will be made for a registration under this ordinance. If the applicant holds a tobacco license, the only fee charged will be a fee to cover the cost of the background investigation required by this ordinance.
- B. Manager or Agent. If the applicant is an entity, the application must include the name of the natural person who will serve as the manager or agent of the registered premises. Such manager or agent must, by the terms of their written consent, (1) take full responsibility for the conduct of the registered premises, and (2) serve as agent for service of notices and other process relating to the registration. The manager or agent must reside within 75 miles of the city. The required residency must be established by the time the registration is issued and must be maintained throughout the existence of the registration and all renewals. The time for establishing residency may be extended, for good cause, by the city council. A registration must notify the city in writing within 15 days of any change in such manager or agent indicating the name and address of the new manager or agent and the effective date of such change.
- C. Investigation. The city is empowered to conduct any and all investigations to verify the information on applications and renewal applications submitted under this ordinance, including but not limited to ordering a criminal history check pursuant to Minn. Stat. § 299C.72 and conducting an inspection of any premises

proposed to be registered. The city must conduct a background check on all new applications. The investigation shall consider all facts and information bearing on the question of the applicant's fitness to receive the registration and to perform the duties imposed by this ordinance. The city may conduct a background check on an application for a renewal of a registration if it is in the public interest to do so. Failure of an applicant to allow an inspection is grounds for denial of the registration. The results of any investigation must be submitted to the city council.

D. Registration decision. The city council may grant or deny an application for registration or renewal based on the following:

1. The applicant or premises fails to meet the eligibility requirements of this ordinance, including all facts and information bearing on the question of the applicant's fitness to receive the registration and to perform the duties imposed by this ordinance.
2. The applicant fails to provide information required by the application or provides false or misleading information.

Section 7. Registration Restrictions.

A. Legal age. A person may not sell, offer to sell, give away, or otherwise furnish any edible cannabinoid product to any person below the age of 21 years.

Retail Establishments registered under this ordinance must:

1. Age verification. Verify by means of government-issued photographic identification that the purchaser is at least 21 years of age.
2. Signage. Post notice of the legal sales age and age verification requirement prominently and in plain view at all times at each location where edible cannabinoid products are offered for sale. The required signage must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

B. Sale, display and storage.

1. A Retail Establishment registered under this ordinance may sell edible cannabinoid products only in a direct face-to-face exchange an employee and the customer.

2. The sale or other distribution any edible cannabinoid product through the use of a vending machine or similar automated dispensing device or by means of delivery is prohibited.
 3. All edible cannabinoid products must be stored either 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.
 4. No person under twenty-one (21) years of age may sell, give, or otherwise furnish edible cannabinoid products at an exclusive tobacco store. No person under eighteen (18) years of age may sell, give, or otherwise furnish edible cannabinoid products at any other establishment registered under this ordinance.
 5. A person may not distribute samples of any edible cannabinoid product free of charge or at a nominal cost.
 6. A person may not sell, offer to sell, give away, distribute or display any edible cannabinoid products outside the location or area covered by a registration.
 7. A person may not sell, offer to sell, give away, distribute or display any edible cannabinoid product that does not comply with the requirements of Minn. Stat. § 151.72, including but not limited to the packaging, labeling and other requirements provided by that section.
 8. A person may not sell, or offer to sell, give away, distribute or display edible cannabinoid products in a manner that violates federal or state law.
- C. Responsibility. Retail Establishments registered under this ordinance are responsible for the conduct of their place of business and the conditions of order in it. The act of an employee of the Retail Establishments registered under this ordinance is deemed the act of the Retail Establishments registered under this ordinance as well, and the Retail Establishments registered under this ordinance are liable for all penalties provided by this ordinance equally with the employee.
- D. Compliance checks. From time to time, but at least once per year, the city shall conduct compliance checks of Retail Establishments registered under

this ordinance in accordance with state law.. 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.

E. Violations and penalties.

1. Violations: administrative penalties. Any person violating a provision of this ordinance may be subject to the administrative enforcement program contained in section 105 of city code.

2. Violations; other penalties.

a. Retail Establishments registered under this ordinance. Any Retail Establishments registered under this ordinance who has violated this ordinance, or whose employee has violated this section, will be charged an administrative fine of at least \$300.00 for a first violation; at least \$600.00 for a second offense at the same location within 36 months after the initial violation; and at least \$1,000.00 for a third or subsequent offense at the same location within 36 months after the initial violation. In addition, for the third offense, the registration will be suspended for not less than seven days and may be revoked.

b. Other Adults. Other adults who have violated this ordinance will be charged an administrative fine of at least \$150.00.

d. Judicial Review. Any person aggrieved by a decision under this ordinance may have the decision reviewed in the district court in the same manner and procedure as provided in Minn. Stat. § 462.361.

F. Every person who commits or attempts to commit, conspires to commit or aids or abets in the commission of any act constituting a violation of this ordinance, is guilty of a misdemeanor and every person who causes, coerces, permits or directs another to violate any of the provisions of this ordinance is likewise guilty of a misdemeanor.

Section 8. Effective Date. This Ordinance will become effective upon passage and publication.

Adopted by the City Council this 8th day of August, 2023.

Johanna Mouton, Mayor

ATTEST:

Jeffrey Dahl, City Manager

First Reading: August 8, 2023
Second Reading: September 6, 2023
Publication: September 14, 2023