

Section 430
Cannabinoid Products

Section 430:00. Purpose. The purpose of this ordinance is to establish licensing regulations for the sale of cannabinoid products derived from hemp as provided in Minn. Stat. § 151.72.

Section 430:05. Findings of City Council. The City Council makes the following findings regarding the need to regulate, license, and inspect establishments that sell certain cannabinoid products:

- (1) By enacting 2022 Session Law Chapter 98, Article 13, the Minnesota Legislature amended Minn. Stat. § 151.72 to allow for the sale of certain cannabinoid products.
- (2) This new law does not prohibit municipalities from licensing the sale of cannabinoid products derived from hemp locally.
- (3) The National Academies of Science, Engineering, and Medicine note that the growing acceptance, accessibility, and use of cannabis and its derivatives 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.
- (4) The Minnesota Legislature recognized the danger of cannabis use among youth by prohibiting the sale of any product containing cannabinoid or tetrahydrocannabinol (THC) extracted or otherwise derived from hemp to those under the age of 21 and requiring that edible cannabinoid products be packaged without appeal to children and in child-resistant packaging or containers.
- (5) Due to the passage of this new law by the Minnesota Legislature, the City Council believes the following rules, regulations, and standards for licensing the sale of cannabinoid products are necessary to promote and protect the public health, safety, and general welfare of the residents of St. Cloud.

Section 430:10. Definitions.

Subd. 1. “Cannabinoid product” means any product containing nonintoxicating cannabinoids extracted from hemp, including an edible cannabinoid product, that is sold for human or animal consumption.

Subd. 2. “Certified hemp” means the definition for the same provided in Minn. Stat. § 151.72, Subd. 1(b), as may be amended.

Subd. 3. “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.

Subd. 4. “Edible cannabinoid product” means any product that is intended to be eaten or consumed as a beverage by humans, contains a cannabinoid in connection with food ingredients, and is not a drug.

Subd. 5. “Hemp” or “Industrial Hemp” means the definition for the same provided in Minn. Stat. § 18K.02, Subd. 3, as may be amended.

Subd. 6. “Label” means the definition for the same provided in Minn. Stat. § 151.01, Subd. 18, as may be amended.

Subd. 7. “Labeling” means the definition for the same provided in Minn. Stat. § 151.72, Subd. 1(f), as may be amended.

Subd. 8. “Matrix barcode” means the definition for the same provided in Minn. Stat. § 151.72, Subd. 1(g), as may be amended.

Subd. 9. “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.

Subd. 10. “Nonintoxicating cannabinoid” means substances extracted from certified hemp plants that do not produce intoxicating effects when consumed by any route of administration.

Subd. 11. “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.

Subd. 12. “Retail establishment” means any fixed place of business where cannabinoid products are available for sale to the general public. Retail establishment for purposes of this ordinance does not include exclusive liquor stores or residences.

Subd. 13. “Sale” means any transfer of goods for money, trade, barter or other consideration.

Subd. 14. “Self-service vending” means the display for sale of cannabinoid products that are accessible to the public without the need of assistance of an employee.

Subd. 15. “Vending machine” means any mechanical, electrical or electronic, or other type of device that dispenses cannabinoid products upon the insertion of money, tokens, or other form of payment into or onto the device by the person seeking to purchase cannabinoid products.

Section 430:15. License Required. It will be unlawful for any person to sell at retail any cannabinoid products within the City unless the person holds a retail cannabinoid products license, in full force and effect.

Section 430:20. Procurement of License.

Subd. 1. Any person desiring a retail cannabinoid products license will make and file with the City Clerk an application, in writing, executed in duplicate. Such application will give the name and residence address of the applicant, if an individual, will identify the location at which it is proposed to sell the cannabinoid products at retail, and will provide such other information as the City Council may require from time to time. The application will be accompanied by the required fee.

Subd. 2. The City Clerk will immediately transmit a copy of the application to the Chief of Police, who will investigate all facts and information which he/she 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. Upon completing the investigation, the Chief of Police will report, in writing, her/his findings to the Mayor or designee, together with her/his recommendation as to the issuance of a license to the applicant. The Mayor or designee will submit to the City Council the report of the Chief of Police, together with the recommendation as to the issuance of the license to the applicant.

Subd. 3. The City Council will consider the facts and recommendation of the Chief of Police and of the Mayor, together with any material facts which it may have or obtain, and then, by motion, will approve or deny the application to the City Clerk together with a copy of the motion. If the City Council has approved the application, it is the duty of the City Clerk to execute and deliver a license to the applicant on a form approved by the City Attorney. Such license will be for October 1st of the year of the issuance to September 30th of the following year or other such time frame as specified.

Section 430:25. Basis for Denial of License.

Subd. 1. Grounds for denying the issuance or renewal of a license include, but are not limited to, the following:

- (1) The applicant is under 21 years of age.
- (2) The applicant 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.
- (3) The applicant has had a license to sell cannabinoid products suspended or revoked within the preceding 12 months of the date of application.
- (4) The applicant fails to provide any of the information required on the licensing application, or provides false or misleading information.

- (5) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding a license.
- (6) The business 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.

Subd. 2. Location Ineligible. No license will be approved unless the premises proposed to be licensed complies with all applicable zoning requirements.

Subd. 3. Issued Mistakenly. If a license is mistakenly issued or renewed to a person, the City will revoke the license upon the discovery that the person was ineligible for the license under this ordinance. The City will provide the license holder with notice of the revocation, along with information on the right to appeal.

Section 430:30. Sales of Cannabinoids Derived from Hemp. In accordance with Minn. Stat. § 151.72, Subd.3, as may be amended:

Subd. 1. A product containing nonintoxicating cannabinoids, including an edible cannabinoid product, may be sold for human or animal consumption only if all of the requirements of this section are met, provided that a product sold for human or animal consumption does not contain more than 0.3 percent of any tetrahydrocannabinol and an edible cannabinoid product does not contain more than five milligrams of any tetrahydrocannabinol in a single serving, or more than a total of 50 milligrams of any tetrahydrocannabinol per package.

Subd. 2. No other substance extracted or otherwise derived from hemp may be sold for human consumption if the substance is intended:

- (1) For external or internal use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals; or
- (2) To affect the structure or any function of the bodies of humans or other animals.

Subd. 3. No product containing any cannabinoid or tetrahydrocannabinol extracted or otherwise derived from hemp may be sold to any individual who is under the age of 21.

Subd. 4. Products that meet the requirements of this section are not controlled substances under Minn. Stat. § 152.02.

Section 430:35. Testing Requirements. All testing must comply with the requirements set forth in Minn. Stat. § 151.72, Subd. 4, as may be amended.

Section 430:40. Labeling Requirements. All labeling must comply with the requirements set forth in Minn. Stat. § 151.72, Subd. 5, as may be amended.

Section 430:45. Additional Requirements for Edible Cannabinoid Products. In accordance with Minn. Stat. § 151.72, Subd. 5a, as may be amended:

Subd. 1. An edible cannabinoid product must not:

- (1) Bear the likeness or contain cartoon-like characteristics of a real or fictional person, animal, or fruit that appeals to children;
- (2) Be modeled after a brand of products primarily consumed by or marketed to children;
- (3) Be made by applying an extracted or concentrated hemp-derived cannabinoid to a commercially available candy or snack food item;
- (4) Contain an ingredient, other than a hemp-derived cannabinoid, that is not approved by the United States Food and Drug Administration for use in food;
- (5) Be packaged in a way that resembles the trademarked, characteristic, or product-specialized packaging of any commercially available food product; or
- (6) Be packaged in a container that includes a statement, artwork, or design that could reasonably mislead any person to believe that the package contains anything other than an edible cannabinoid product.

Subd. 2. An edible cannabinoid product must be prepackaged in packaging or a container that is child-resistant, tamper-evident, and opaque or placed in packaging or a container that is child-resistant, tamper-evident, and opaque at the final point of sale to a customer. The requirement that packaging be child-resistant does not apply to an edible cannabinoid product that is intended to be consumed as a beverage and which contains no more than a trace amount of any tetrahydrocannabinol.

Subd. 3. If an edible cannabinoid product is intended for more than a single use or contains multiple servings, each serving must be indicated by scoring, wrapping, or other indicators designating the individual serving size.

Subd. 4. A label containing at least the following information must be affixed to the packaging or container of all edible cannabinoid products sold to consumers:

- (1) The serving size;
- (2) The cannabinoid profile per serving and in total;
- (3) A list of ingredients, including identification of any major food allergens declared by name; and
- (4) The following statement: “Keep this product out of reach of children.”

Subd. 5. An edible cannabinoid product must not contain more than five milligrams of any tetrahydrocannabinol in a single serving, or more than a total of 50 milligrams of any tetrahydrocannabinol per package.

Section 430:50. Prohibited Sales.

Subd. 1. 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.

Subd. 2. 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.

Subd. 3. 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.

Subd. 4. Prohibition Against Retail Sales of Cannabinoid Products by Vending Machines. No person will sell or dispense cannabinoid products through use of a vending machine.

Section 430:55. Adulterated or Misbranded Products. A cannabinoid product shall be considered adulterated or misbranded under the provisions set forth in Minn. Stat. §151.72, Subd. 6, as may be amended.

Section 430:60. 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.

Section 430:65. Age Verification. At each location where edible 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.

Section 430:70. Responsibility. All licensees are responsible for the actions of their employees regarding the sale, offer to sell, and furnishing of cannabinoid products on the licensed premises. The sale, offer to sell, or furnishing of any cannabinoid product by an employee shall be considered an act of the licensee.

Section 430:75. 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.

Section 430:80. Compliance Checks and Inspections. All licensed premises must be open to inspections by law enforcement or other authorized city officials during regular business hours. From time to time, but at least once per year, the City will conduct compliance checks. The City will conduct a compliance check that involves the participation of a person at least 17 years of age, but under the age of 21 to enter the licensed premises to attempt to purchase cannabinoid products. Prior written consent from a parent or guardian is required for any person under the age of 18 to participate in a compliance check. Persons used for the purpose of compliance checks will be supervised by law enforcement or other designated personnel.

Section 430:85. Civil Penalty, Suspension or Revocation of Licenses.

Subd. 1. The City Council will follow the provisions of this section of the ordinance on the suspension, revocation or imposition of a civil penalty against any license granted under this ordinance.

Subd. 2. Notice of Violation. The Chief of Police will provide, in writing, to the licensee either personally or by mail, notice of any alleged violation of the provisions of this ordinance or Minnesota Statutes Chapter 151, committed in the operation of the licensee's business, and provide notice to the City Attorney's Office. If the City Attorney's Office determines from the facts and circumstances reported, together with any other facts and circumstances known to it, that the violation may warrant a civil penalty, suspension or revocation of the license held by the licensee, it will notify the licensee, and set a time and place for a hearing sufficiently in advance to provide ten days written notice of the time, place and purpose of such hearing to the licensee.

Subd. 3. Hearing on Alleged Violations. The hearing will be held before an independent hearing officer, in accordance with Section 1100 of the 2007 Code of Ordinances of the City of St. Cloud. At the time of the hearing, the licensee may appear and present any evidence which is material to the investigation. The hearing officer will make findings of fact as to whether a violation of the provisions of this ordinance or Minnesota Statutes Chapter 151 have been committed in the operation of the licensee's business and whether the violation was willful in nature. The hearing officer will also make a recommendation as to what penalty, if any, will be applied. The City Council will adopt the hearing officer's findings of fact that the licensee has violated any of the provisions of this ordinance or State law, and may impose a civil fine, suspend or revoke the license in accordance with the schedule in Section 430:90 of this ordinance.

Subd. 4. Mandatory Revocation. The Council will revoke the license of any licensee under this ordinance if the licensee willfully violates any provisions of this ordinance or Minnesota Statutes Chapter 151.

Section 430:90. Penalties for Violations. Upon a violation by a licensee holding a cannabinoid products license of any provision of this ordinance or any provision of state law regulating the sale of cannabinoid products, or failing to comply with any other requirements of Minn. Stat. § 151.72, the City Council may impose a civil fine, suspend or revoke the license in accordance with the following schedule:

First violation.....fine up to \$300.00
Second violation within 36 months.....fine up to \$600.00 and a 30-day license suspension
Third violation within 36 months..... fine up to \$1,000.00 and a license revocation
Violation during period of suspension.....license revocation

Subd. 1. Any civil fine assessed against a licensee pursuant to this section must be paid in full within 30 days from receipt of written notification of the City Council's imposition of the civil fine. Failure to pay the fine within that time period will result in a ten-day license suspension. Licensees whose licenses have been revoked may not be issued a new license within six months from the effective date of such revocation.