

ORDINANCE NO. 230516-1
AN ORDINANCE AMENDING CHAPTER 11, SECTION 119
AN ORDINANCE REGULATING THE SALE OF TETRAHYDROCANNABINOL
PRODUCTS IN THE CITY OF SPICER

The City Council of the City of Spicer hereby ordains as follows: AMENDMENT OF THE CITY CODE, Title XI: Business Regulations

Title XI of the Spicer City Code is hereby amended by adding a new section Chapter 119, Sale of Cannabinoid Products, regulating the sale of tetrahydrocannabinol products in the City of Spicer (the “City”) as follows:

§ 119.01 PURPOSE, FINDINGS, AND INTENT.

(A) *Purpose.* The purpose of this section is to regulate the sale of legalized, adult-use products that contain tetrahydrocannabinol and that meet the requirements to be sold for human or animal consumption under Minn. Stat. § 151.72 (“THC Products”) to ensure compliance among THC product retailers to protect the health and welfare of the City and those who reside in the City.

(B) *Findings.* The City of Spicer makes the following findings regarding the need to regulate, license, and inspect establishments that sell certain THC 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 THC products.
- (2) The law requires retailers that sell the THC products described in Minn. Stat. § 151.72 to: (1) check the identification of purchasers of cannabinoid products to verify that the purchasers are at least 21 years of age, (2) comply with certain packaging and labeling requirements, and (3) meet certain potency and serving size requirements.
- (3) State law authorizes the Minnesota Board of Pharmacy to adopt product and testing standards in an effort to curb the illegal sale and distribution of THC products and ensure the safety and compliance of the sale of THC products in Minnesota.
- (4) The law does not prohibit municipalities from licensing the sale of THC products derived from hemp locally.
- (5) The National Academies of Science, Engineering, and Medicine notes 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 THC-related health effects has led to uncertainty about the impact of its use, particularly to youth.
- (6) The City has the opportunity to be proactive and develop a licensing scheme that will mitigate threats, reduce exposure of cannabis-related products to youth and improve compliance among cannabis-related product retailers with particular regulations and laws.
- (7) 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 ensure that retailers comply with the laws and business standards to promote and protect the public health, safety, and general welfare of the residents of the City and will not unduly burden legitimate business interests within the City.

(C) *Intent.* In making these findings and enacting this ordinance, the City intends to ensure responsible THC product retailing, allowing the 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 individuals under 21 years of age.

§ 119.02 DEFINITIONS.

For the purposes of this ordinance, the following terms shall have the meanings ascribed to them in this section:

Edible cannabinoid product. Edible cannabinoid products shall have the meaning given in Minn. Stat. § 151.72, subd.1(c).

Licensed Product or THC Product. Any product that contains tetrahydrocannabinol and that meets the requirements to be sold for human and animal consumption under Minnesota Statutes.

Compliance Checks. The system the city or county uses to investigate and ensure that those authorized to sell licensed products are following and complying with the requirements in the section and state statutes.

Moveable Place of Business. Any form of business operated out of a kiosk, truck, van, automobile, or other types of vehicles or transportable shelter, which do not have a fixed address, storefront, or other permanent types of structure authorized for sales transactions.

Retail Establishment. Any place of business where licensed products are available for sale to the general public, including, but not limited to, grocery stores, tobacco shops, convenience stores, gasoline stations, bars, and restaurants.

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

§ 119.03 STATE LAW ADOPTED.

Except as further restricted or regulated by this ordinance, the provisions of Minn. Stat. § 151.72 relating to the definition of terms, licensing, and all other matters pertaining to the retail sale, distribution, and consumption of cannabinoid products are adopted and made a part of this chapter as if set out in full. Whenever there is an inconsistency between the provisions of Minn. Stat. § 151.72, as amended, and the provisions of this section, the more restrictive provision shall govern.

§ 119.04 LICENSE.

(A) ***License Required.*** No person, corporation, partnership, limited liability company, or business of any type shall sell, offer to sell, donate, give away or transfer at retail, directly or indirectly, on any pretense or by any device, any licensed product as part of a retail commercial transaction

within the corporate limits of the city without first having obtained a license to do so from the City.

(B) *Application Form.* An application for a license to sell licensed products shall be made on a form provided by the City. The application shall contain the full name of the applicant, the applicant's residential and business addresses, telephone numbers, the name of the business for which the license is sought, and any additional information the City deems necessary, including but not limited to, corporation or partnership name, shareholders of the business, or if access to the business will be limited to persons age twenty-one (21) or older.

(C) *Investigation.* The City Clerk will immediately transmit a copy of the completed application to the Sheriff, who will investigate all facts and information that he/she can reasonably find, bearing upon the question of the applicant's fitness to receive the license, to perform the duties imposed by this ordinance, and gather any other pertinent information the City Council, City Clerk, or City Administrator may request. Upon completing the investigation, the Sheriff will report, in writing, her/his findings to the City Administrator, together with her/his recommendation as to the issuance of a license to the applicant. The City Administrator will submit to the City Council the report of the Sheriff, together with the recommendation as to the issuance of the license to the applicant.

(D) *Issuance of License.* The City Council will consider the facts and recommendation of the Sheriff and the City Administrator, together with any material facts that it may have or obtain, and then, by motion, will approve, delay, or deny the application.

- (1) The City Council may approve the application for a license after consideration of the facts provided in the application. If the City Council approves the application, it is the duty of the City Clerk to execute and deliver a license to the applicant. The application must receive a Majority vote from the City Council.
- (2) The City Council may delay action for a reasonable period of time as necessary to complete any investigation it deems necessary. The applicant will be responsible for any fees associated with the investigation.
- (3) The City Council may deny the application after reviewing the facts of the application. Grounds for denying the issuance or renewal of a license include, but are not limited to, the following:
 - (a) The applicant is under 21 years of age.
 - (b) 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 or any controlled substance law.
 - (c) The applicant has had a license to sell cannabinoid products suspended or revoked within the preceding 12 months of the date of application within the City or another jurisdiction.
 - (d) The applicant fails to provide any of the information required on the licensing application, or provides false or misleading information.

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

~~(E) *Reapplication After Denial.* If a license application is denied, the earliest an applicant may reapply is 12 months from the date the license is denied.~~

(F) *Term.* All licenses issued under this article shall be valid until December 31 of the year of issue.

(G) *Revocation or Suspension.* Any license issued under this article may be revoked or suspended as provided in this ordinance.

(H) *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, unless authorized by the City after appropriate application.

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

(J) *Renewals.* The renewal of a license issued under this ordinance shall be handled in the same manner as the original application. Renewal applications can be granted any time after December 1.

(K) *Issuance as Privilege and Not a Right.* The issuance of a license issued under this article is a privilege and does not entitle the license holder to automatic renewal of the license.

§ 119.05 FEES.

No license shall be issued under this ordinance until the appropriate license fee is paid in full. The fee for a license under this ordinance shall be established by the city council and adopted in the city fee schedule in an amount not to exceed any maximum allowed by state law and may be amended from time to time. The license fee shall be prorated for licenses issued for less than a full year. No part of any license fee will be refunded unless an application is withdrawn before any council action is taken.

§ 119.06 REGULATIONS.

No person or entity may sell an edible cannabinoid product in the City of Spicer except as follows:

(A) *Written Application.* Written application of the person or entity conducting the sale of the product(s) and the permanent location of the place of business at which such sales may be made, shall first be provided to the City Clerk.

(B) *Sales Only to Those 21 Years of Age or Older.* Sales may only be made to individuals who are 21 years of age or older.

(C) *No Open Displays.* The manner of sale shall be such that the customer does not have access to the THC products without first having to request the item from the person or entity making the sale or an employee thereof and engaging in a physical exchange of the THC products between the person or entity making the sale or an employee thereof and the customer.

(D) *Fixed Business Location Required.* No sale shall be made from a moveable place of business. Only fixed-location businesses may engage in the sale of an edible cannabinoid product.

(E) *B-2 Highway Commercial.* The sale of these products may only happen in B-2: Highway Commercial zoning districts.

(F) *In general.* No person shall sell or offer to sell any licensed product by means of any type of vending machine, self-service, or merchandising.

(G) *Legal Age; Verification.* No person shall sell any licensed product to any person under the age of 21. Licensees shall verify by means of government issued photographic identification that the purchaser is at least 21 years of age.

(H) *Legal Age; Sale.* No person under the age of 18 shall be allowed to sell any licensed product.

(I) *Illegal Possession.* It shall be a violation of this section for any person under the age of 21 to have any cannabinoid product in their possession. This subdivision shall not apply to persons under the age of 21 who are lawfully involved in a compliance check or who are authorized to sell cannabinoid products or edible cannabinoid products.

(J) *Illegal Use.* It shall be a violation of this ordinance for any person under the age of 21 to consume cannabinoid products or edible cannabinoid products.

(K) *Illegal Procurement.* It shall be a violation of this ordinance for any person under the age of 21 to purchase or attempt to purchase or otherwise obtain any cannabinoid product covered in this section. It shall be a violation of this section for any person to purchase, obtain, or coerce a person under the age of 21 to use such items covered in this section. This does not apply to individuals involved in compliance checks.

(L) *Use of False Identification.* It shall be a violation of this ordinance for any person under the age of 21 to attempt to disguise their true age by 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 tampered or modified with.

§119.07 PROHIBITED SALES.

No person shall sell, donate, give, dispense, or distribute any cannabinoid or edible cannabinoid product by any of the following:

(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 the 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, and in over-the-counter sales transactions.

(F) *No Sales Out of Residential Homes.* No sales of cannabinoid products may be made out of residential homes.

§ 119.08 RESPONSIBILITY.

All licensees are responsible for the actions of their employees regarding the sale, offer to sell, and furnishing of licensed products on the licensed premises.

§ 119.09 HOURS OF SALE.

No sales of cannabinoid products will be allowed at the licensed premises after 10:00 p.m. and before 10:00 a.m. daily.

§ 119.10 COMPLIANCE CHECKS AND INSPECTIONS.

All premises under this ordinance shall be open to inspection by the city or county during regular business hours from time to time. 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 laws.

§ 119.11 VIOLATIONS AND PENALTY.

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 other statutory 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 of \$300.00

Second violation within 36 months — fine of \$600.00 and a 30-day license suspension

Third violation within 36 months — fine of \$1,000.00 and a license revocation

Violation during period of suspension— license revocation

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.

§ 119.12 SUSPENSION OR REVOCATION OF A LICENSE.

A license issued under this ordinance may be suspended by a City official if the licensee has violated any section of this ordinance or is otherwise conducting business in such a manner as to constitute a breach of peace, fraudulent conduct, or any other conduct that is prohibited by local, state, or federal laws or regulations. Falsification of information required for a license is also grounds for denial, suspension, or revocation of a license. The license shall be automatically revoked if the licensee does not file an appeal under this subdivision. When taking action on any license issued under this section, the city official shall provide the licensee with verbal or written notice of the violation. The notice shall inform the licensee of its right to be heard before the City Council. The notice shall also inform the licensee that the license shall be automatically revoked if no appeal is filed within twenty-one (21) days of the date of the notice by the city official. The City Council shall not conduct a hearing on a suspension or revocation unless a request is made by the licensee in writing. If a request for a hearing is made, the City Council shall conduct the hearing at the next available City Council meeting.

§ 119.13 CRIMINAL PENALTY.

In addition to or in lieu of any administrative or civil penalty, a licensee may be criminally charged for a violation of the City Code or any violation of local, state, or federal laws or regulations.

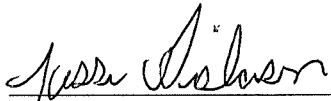
§ 119.15 EXCEPTIONS AND DEFENSES.

Nothing in this ordinance shall prevent the providing of edible cannabinoid products to a person under the age of 21 as part of a lawfully recognized religious, spiritual, or cultural ceremony, or medical treatment. It shall be an affirmative defense to the violation of this ordinance for a person to have reasonably relied on proof of age as described by state law in Minn. Stat. § 340A.503, subd.6.

§ 119.16 SEVERABILITY AND SAVINGS CLAUSE.

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

PASSED AND ADOPTED by the City of Spicer this 16th day of May, 2023.



Mayor, Jesse Gislason



City Administrator, Jacob Kolander



Ordinance No. 230516-1

**RESOLUTION DIRECTING SUMMARY PUBLICATION
OF AN ORDINANCE REGULATING THE SALE OF
TETRAHYDROCANNABINOL PRODUCTS IN THE CITY OF SPICER**

The Spicer City Council resolves as follows:

SECTION 1. Publication of the following title and summary of Ordinance No. 230516-1, AN ORDINANCE AMENDING CHAPTER 11, SECTION 119, AND ORDINANCE REGULATING THE SALE OF TETRAHYDROCANNABINOL PRODUCTS IN THE CITY OF SPICER, clearly informs the public of the Ordinance's intent and effect.

The following is the official summary of Ordinance No. 230516-1 approved by the City Council on May 16, 2023:

The City Council adopted an amended ordinance that regulates the sale of legalized, adult-use products that contain tetrahydrocannabinol and meet the requirement to be sold for human or animal consumption under Minn. Stat. § 151.172. The ordinance necessitates that businesses obtain a license to sell certain tetrahydrocannabinol products and adhere to specific requirements. Additionally, the ordinance prohibits the use, possession, or procurement of the licensed product by anyone under 21 years of age.

A complete, printed copy of the Ordinance is available for inspection by any person during regular office hours at the City Administrator's office.

Adopted this 16th day of May, 2023.

ATTEST:



City Administrator





Mayor