

**CITY OF WELLS
COUNTY OF FARIBAULT
STATE OF MINNESOTA**

ORDINANCE NO. 2024-04

**AN ORDINANCE ESTABLISHING REGISTRATION REQUIREMENTS FOR THE
SALE OF INTOXICATING HEMP PRODUCTS AND AMENDING THE CITY'S
ZONING CODE TO ESTABLISH DISTANCE REQUIREMENTS FROM CERTAIN
BUSINESSES AND PROHIBIT CERTAIN HOME OCCUPATIONS**

THE CITY COUNCIL OF THE CITY OF WELLS HEREBY ORDAINS AS FOLLOWS:

SECTION 1. City Code of Ordinances, Title XI: Business Regulations, is hereby amended by adding Chapter 115 in its entirety as follows:

Section 115.01 Purpose.

The city recognizes that the sale of certain products containing the psychoactive cannabis compound THC is legal when those sales are to individuals 21 years of age or older, and that the increase of these types of products in the community increases the likelihood that youth will have access to and use products containing THC. The use of those products by individuals under the age of 21 places a burden on all levels of government, resulting in financial and other public resources being needed to address both violations of laws and regulations regarding such use, including the impacts on health. The purpose of this chapter is to regulate the sale of products containing THC for the purpose of enforcing existing laws and regulations.

Section 115.02 Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

CBD means a compound of the cannabis plant known as cannabidiol.

Intoxicating Hemp Product means any product that is intended to be eaten or drank by humans, contains a cannabinoid other than CBD in combination with food ingredients, is not a drug, and meets the requirements to be sold under Minnesota Statutes, § 151.72, or after March 1, 2025, the requirements under Minnesota Statutes, Chapter 342. This does not include any product intended to be consumed by combustion or vaporization of the product, by inhalation of smoke, aerosol, or vapor from the product or through injection or application to a mucus membrane or nonintact skin. A product intended to only contain CBD but which may contain less than trace amounts of tetrahydrocannabinol (THC) as an unintended result of the manufacturing process is not considered an Intoxicating Hemp Product.

Liquor Store means a business licensed pursuant to Minnesota Statutes, Chapter 340A to sell alcoholic beverages in original packages for consumption off of the Premises.

Moveable place of business means any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions. Moveable Place of Business does

not include On-Sale Hemp Businesses selling Intoxicating Hemp Products at a location pursuant to a caterer's permit.

Off-Sale Hemp Business means a business that sells Intoxicating Hemp Products for off-site consumption.

On-Sale Hemp Business means a business with an on-sale liquor license pursuant to Minnesota Statutes, Chapter 340A and which sells Intoxicating Hemp Products that are intended to be consumed as a beverage for on-site consumption.

Premises means for Off-Sale Hemp Businesses, the area from which they sell Intoxicating Hemp Products, and for On-Sale Hemp Businesses and Liquor Stores means the licensed premises pursuant to their license issued under Minnesota Statutes, Chapter 340A.

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

THC means the chemical compound of the cannabis plant tetrahydrocannabinol.

Section 115.03 Registration Required.

Businesses may only sell Intoxicating Hemp Products to customers for on-site or off-site consumption if one of the following three conditions apply:

- (a) For on-site consumption, an On-Sale Hemp Business must be registered with the city before making sales to customers and must have an active on-sale liquor license pursuant to Minnesota Statutes, Chapter 340A.
- (b) For off-site consumption, an Off-Sale Hemp Product Business must be registered with the city before making sales to customers.
- (c) No city-issued registration is required for (1) a business selling medical cannabis as part of the Minnesota Medical Cannabis Program described in Minnesota Statutes, §§ 152.22 to 152.37, as amended from time to time, or (2) a Liquor Store.

Section 115.04 Registration Application and General Information.

- (a) *General Application Information* – Both On-Sale Hemp Businesses and Off-Sale Hemp Businesses must submit the following to the City:
 - (1) A completed registration form, including confirmation that the business is registered with the Office of Cannabis Management; and
 - (2) A registration fee, which shall be established pursuant to a resolution and/or the City Council Fee Schedule.
- (b) *Additional On-Sale Hemp Business Application Information* – In addition to the application information required pursuant to §115.04(a), On-Sale Hemp Businesses must also submit

proof to the city that the Premises has an on-sale liquor license issued pursuant to Minnesota Statutes, Chapter 340A.

- (c) *No Moveable Place of Business* – No Intoxicating Hemp Moveable Place of Business is allowed and, as a result, no registration will be issued for a Moveable Place of Business.
- (d) *Term* – Registrations are valid for a term of one year from the date they are issued by the city. Businesses renewing their registrations must submit a renewal fee at the time of renewal.
- (e) *Registration Conditions* – Registrants are subject to the performance standards and penalties in §§ 115.05- 115.14. Violation of any of the applicable provisions of this chapter is considered a violation of City Code and may result in criminal penalties, administrative fines or the city revoking a registration.

Section 115.05 Zoning Requirements.

No registration issued under this Chapter shall be granted until all applicable zoning requirements under Chapter 152 are met or until all conditions for approval of the use have been satisfied.

Section 115.06 Limit on registrations.

- (a) **Off-Sale Hemp Business.** The City has not established a limit on the number of Off-Sale Hemp Business registrations.
- (b) **On-Sale Hemp Businesses.** The City has not established a limit on the number of On-Sale Hemp Business registrations other than requiring these businesses to have up-to-date on-sale liquor licenses.

Section 115.07 Responsibility.

All registrants under this Chapter shall be responsible for the actions of their employees in regard to the sale of Intoxicating Hemp Products, and the sale of such items by an employee shall be considered a sale by the registrant. Nothing in this Chapter shall be construed as prohibiting the City from also subjecting the registrant to whatever penalties are appropriate under this Chapter, state or federal law, or other applicable law or regulation.

Section 115.08 Compliance Checks And Inspections.

All On-Sale Hemp Businesses and Off-Sale Hemp Businesses Premises shall be open to inspection by the city police department or other authorized city officials during regular business hours. From time to time, the city shall conduct compliance checks by engaging individuals over the age of 17 years old but less than 21 years old, to enter the Premises to attempt to purchase Intoxicating Hemp Products. Prior written parental or guardian consent is required for any person under the age of 18 who participates in a compliance check. Individuals used for the purpose of compliance checks shall be supervised by city-designated law enforcement officers or other designated city personnel. Individuals used for compliance checks shall not be guilty of unlawful possession of Intoxicating Hemp Products when such items are obtained as a part of the compliance check. No individual used in compliance checks shall attempt to use a false identification misrepresenting the individual's age, and all individuals lawfully engaged in a compliance check shall answer all questions about the individual's age asked by the registrant or their employee, and shall produce

any identification, if any exists, for which they are asked. Nothing in this Chapter 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.

Section 115.09 Prohibited Sales.

It shall be a violation of this Chapter for any person under the age of 21 to sell or offer to sell any Intoxicating Hemp Product. In addition, it shall be a violation of this Chapter for any person to sell or offer to sell any Intoxicating Hemp Product:

- (a) That does not meet the requirements of Minnesota Statutes, § 151.72, or after March 1, 2025, the requirements of Minnesota Statutes, Chapter 342, including, but not limited to:
 - (1) Packaging - Minn. Stat. § 151.72, subd. 5a., or after March 1, 2025, the requirements of Minn. Stat. § 342.62;
 - (2) Secured Storage and Sales - Minn. Stat. § 151.72, subd. 5a (h), or after March 1, 2025, the requirements of Minn. Stat. § 342.46, subd. 4;
 - (3) Testing Requirements - Minn. Stat. § 151.72, subd. 4., or after March 1, 2025, the requirements of Minn. Stat. § 342.61; and
 - (4) Labeling Requirements - Minn. Stat. § 151.72, subd. 5., or after March 1, 2025, the requirements of Minn. Stat. § 342.63;
- (b) To any person under the age of 21 years. Prior to initiating a sale or otherwise providing an edible cannabinoid product to an individual, an employee of a retailer must verify that the individual is at least 21 years of age pursuant to Minn. Stat. § 151.72, subd. 5c, or after March 1, 2025, the requirements of Minn. Stat. § 342.46, subd. 3;
- (c) For a nominal amount or by means of sampling;
- (d) By internet sales or delivery, unless the business utilizes an independent third-party age-verification system; or
- (e) By any other 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.

Section 115.10 On-Sale Hemp Business Registration Condition.

An On-Sale Hemp Business registration will terminate, with no further action of the City, if the registrant's on-sale liquor license expires, terminates, or is otherwise not effective.

Section 115.11 Exceptions And Defenses.

Nothing in this Chapter shall prevent providing Intoxicating Hemp Products to individuals under the age of 21 as part of lawfully-recognized religious, spiritual or cultural ceremonies. It shall be an affirmative defense to the violation of this Chapter for a person to have reasonably relied on proof of age as described by state law.

Section 115.12 Offenses Involving Individuals Under the Age of 21.

- (a) *Illegal sales.* It shall be a violation of this Chapter for any person to sell or otherwise provide any Intoxicating Hemp Product to any individual under the age of 21.
- (b) *Illegal possession.* It shall be a violation of this Chapter for any individual under the age of 21 to have in their possession any Intoxicating Hemp Product. This subsection shall not apply to individual under the age of 21 lawfully involved in a compliance check.
- (c) *Illegal use.* It shall be a violation of this Chapter for any individual under the age of 21 to use any Intoxicating Hemp Product.
- (d) *Illegal procurement.* It shall be a violation of this Chapter for any individual under the age of 21 to purchase or attempt to purchase or otherwise obtain any Intoxicating Hemp Product, and it shall be a violation of this Chapter for any person to purchase or otherwise obtain such items on behalf of an individual under the age of 21. It shall further be a violation for any person to coerce or attempt to coerce an individual under the age of 21 to illegally purchase or otherwise obtain or use any Intoxicating Hemp Product. This subsection shall not apply to individuals under the age of 21 lawfully involved in a compliance checks.
- (e) *Use of false identification.* It shall be a violation of this Chapter for any individual under the age of 21 to attempt to disguise their true age by the use of a false form of identification, whether the identification is that of another person or 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.

Section 115.13 Violations.

- (a) *Notice.* Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of their right to be heard on the accusation.
- (b) *Hearing.* If a person accused of violating this Chapter so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.
- (c) *Hearing officer.* The hearing officer for any violations of this Chapter shall be the city administrator or a person duly designated by the city administrator.
- (d) *Decision.* If the hearing officer determines that a violation of this Chapter did occur, that decision, along with the hearing officer's reasons for finding a violation, and the penalty to be imposed for a violation of this Chapter, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the accused violator.
- (e) *Appeals.* Appeals of any decision made by the hearing officer shall be filed within thirty (30) days with the City Administrator and scheduled in front of the City Council no later than thirty (30) days of the date the City Administrator received the appeal.

- (f) *Misdemeanor prosecution.* Nothing in this Chapter shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this Chapter. If the city elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.
- (g) *Continued violation.* Each violation and every day in which a violation occurs or continues shall constitute a separate offense.

Section 115.14 Penalties For Violation Of Chapter.

- (a) *Registrants and employees.* Any registrant, and any employee of a registrant, found to have violated this Chapter shall be charged an administrative fine of \$75.00 for a first violation of this Chapter; \$200.00 for a second offense at the same Premises within a 24-month period; and \$250.00 for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the Business' On-Sale Hemp Business or Off-Sale Hemp Business registration shall be suspended for a period to be determined by City Council resolution. Any expenses incurred by the city in appointing and conducting the hearing shall be added to the administrative fines above stated.
- (b) *Individuals Over 21 Years of Age.* Individuals over 21 years of age found to be in violation of this Chapter by providing or selling Intoxicating Hemp Products to individuals under the age of 21 shall be charged an administrative fee of \$75.00 for each violation.
- (c) *Possession by Individuals Under 21 Years of Age.* Any individual under the age of 21 found in unlawful possession of, or who unlawfully purchases or attempts to purchase, Intoxicating Hemp Product shall be prosecuted for the violation. The violation shall be prosecuted as a misdemeanor offense.
- (d) *Misdemeanor.* Nothing in this Chapter shall prohibit the city from seeking prosecution of any violations of this Chapter as misdemeanor offenses.

SECTION 2. City Code of Ordinances, Chapter 152, Zoning Code, is hereby amended as follows:

Section 152.003 (B). The definition of "Home Occupation" in City Code of Ordinances, Section 152.003 (B) is amended as follows:

HOME OCCUPATION. An ~~acceptation~~ occupation or profession normally and customarily carried on in a dwelling unit primarily by members of the family residing in the dwelling unit and does not change the residential character of the site. The home occupation shall be clearly incidental to the use of the structure as a dwelling. A maximum 2 square foot sign stating the name and address of the home occupation shall be the only indication that the structure is used for something other than residential use.

Section 152.127(B)(5). Section 152.127(c)(5) is amended as follows:

- (5) *Prohibited home occupations.*
 - (a) Animal hospital or pet shop;
 - (b) Clinics or hospital;

- (c) Mortuaries;
- (d) Private clubs;
- (e) Rental operations;
- (f) Automobile repair, major or minor;
- (g) Major appliance repair or service;
- (h) Painting and restoration of vehicles, trailers, or boats;
- (i) Retail or wholesale sales;
- (j) Manufacturing; ~~and/or~~
- (k) Warehousing or on-site storage of goods for redistribution; and/or

(l) Any business licensed under Minnesota Statutes, Chapter 342, or for which a registration is required by City Code, § 115.03.

SECTION 3. City Code of Ordinances, Chapter 152, Zoning Code, Section 152.006 Central Business District Zone is hereby amended to add the underlined text as a new permitted use as follows:

§ 152.066 PERMITTED USES.

- (A) Retail businesses, stores, and shops;
- (B) Repair and maintenance services;
- (C) Offices and professional services;
- (D) Eating and drinking establishments;
- (E) Bowling allies, pool halls, video game arcades;
- (F) Accessory uses;
- (G) Community/governmental buildings and public parks; ~~and~~
- (H) Housing above the first floor; and

(I) Businesses requiring a registration under City Code, § 115.03. Such businesses must be located at least 500 feet away from the property line of a property containing a school, as defined in Minnesota Statutes, § 120A.22, subd. 4, excluding a home school, when measured in a straight line to the property line of the property in which the registered establishment is located.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect following its passage and publication in accordance with state law.

David Braun, Mayor

ATTEST:

Tiffany Schrader, City Administrator