

**ORDINANCE NO. 2024-09
CITY OF BUFFALO**

**AN ORDINANCE REPEALING AND RE-ENACTING CHAPTER 45
RELATED TO THE RETAIL SALE OF CANNABIS AND LOWER-POTENCY HEMP
EDIBLES IN THE CITY OF BUFFALO**

The City Council of the City of Buffalo ordains:

SECTION 1: Chapter 45 entitled TETRAHYDROCANNABINOL (CANNABINOID) PRODUCTS is hereby repealed.

SECTION 2: The proposed Chapter 45 entitled CANNABIS AND LOWER-POTENCY HEMP RETAILERS, a copy of which is attached as Exhibit A is enacted in its place.

SECTION 3: Effective Date: This Ordinance shall be effective upon the passage and publication of this ordinance.

Passed by the City Council of the City of Buffalo this 2nd day of December, 2024.

Teri Lachermeier
Mayor

Susan Johnson
City Clerk

EXHIBIT A

CHAPTER 45 CANNABIS AND LOWER-POTENCY HEMP RETAILERS

Sec. 45 -1. **Purpose and Intent.** The purpose of this Chapter is to regulate the cannabis retail businesses and lower-potency hemp edible retail business for the following reasons:

- (a) By enacting Minnesota Statutes Chapter 342, the Minnesota Legislature authorized the sale of cannabis and lower-potency hemp edibles for adult consumption.
- (b) Unlike the sale of alcohol, municipalities are not authorized to prohibit the sale of cannabis and lower-potency hemp edibles within city limits.
- (c) The new law allows municipalities to adopt reasonable restrictions of the time, place and manner of operation and local zoning and land use requirements and business registration requirements.
- (d) The National Academies of Science, Engineering, and Medicine note that the growing acceptance, accessibility, and use of cannabis and lower-potency hemp edibles , including for medical purposes, 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.
- (e) The City recognizes the danger cannabis and lower-potency hemp edibles use presents to the health, welfare and safety of youth in Buffalo.
- (f) The Minnesota Legislature recognized the danger of cannabis and lower-potency hemp edibles use among the public at large by setting potency and servicing size requirements.
- (g) The Minnesota Legislature recognized the danger of cannabis and lower-potency hemp edibles use among youth by prohibiting the sale of cannabis and lower-potency hemp edibles to those under the age of 21, requiring that edible THC products be packaged without appeal to children and in child-resistant packaging or containers.
- (h) The City has the opportunity to be proactive and make decisions that will mitigate this threat and reduce exposure of young people to the products or to the marketing of these products and improve compliance among cannabis and lower-potency hemp edibles retailers with laws prohibiting the sale or marketing of cannabis and lower-potency hemp edibles to youth.
- (i) A local regulatory system for cannabis and lower-potency hemp edibles retailers is appropriate to ensure that retailers comply with state laws and business standards of the City of Buffalo to protect the health, safety and welfare of our youth and most vulnerable residents.
- (j) A requirement for a cannabis and lower-potency hemp edibles retailer registration will not unduly burden legitimate business activities of retailers who sell or distribute such products to adults and will allow the City of Buffalo to regulate the operation of lawful businesses to discourage violations of state and local cannabis and lower-potency hemp edibles related laws.
- (k) In making these findings and enacting this Chapter, it is the intent of the

Buffalo City Council to ensure responsible cannabis and lower-potency hemp edibles retailing, allowing legal sale and access without promoting increases in use, and to discourage violations of cannabis and lower-potency hemp edibles related laws, especially those which prohibit or discourage the marketing, sale or distribution of cannabis and lower-potency hemp edibles to youth under 21 years of age.

Sec. 45 -2. - **Definitions.** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted 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.

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 Chapter. 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.

Delivery Sale means the sale of any cannabinoid products conducted by any means other than an in-person, over-the-counter sales transaction in a licensed retail establishment. Delivery Sale includes, but is not limited to, sales conducted by: telephone or other voice transmission; mail or other written submission; website, mobile device application software, the internet; and/or door-to-door delivery service. Delivery Sale includes delivery by registrants or third parties by any means, including curbside pick-up.

Licensed Product. Any product that contains more than trace amounts of tetrahydrocannabinol and that meets the requirements under Minn. Stat. Chapter 342 as may be amended from time to time. Licensed Product does not include medical cannabis as defined in Minn. Stat. § 152.22, Subd. 6, as may be amended from time to time.

Moveable place of business means any form of business that is operated out of a kiosk, tent, canopy, booth, pop-up stand, shipping container, or any other temporary shelter of any kind, or out of a truck, van, automobile, trailer, wagon, or other type of vehicle of any kind and not a fixed address storefront or other permanent type of structure authorized for sales transactions.

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.

Retail establishment means a fixed place of business where Licensed P

products are available for sale to the general public, including but not limited to grocery stores, tobacco products shops, CBD stores, convenience stores, gasoline service stations, bars and restaurants.

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

Self-service merchandising means an open display of Licensed Products in any manner where any person has access to the Licensed Products without the assistance or intervention of the Operator or Operator's employee. Assistance or intervention means the actual physical exchange of the Licensed Product between the customer and the Operator or employee.

Vending machine means any mechanical, electrical or electronic, or other type of device that dispenses Licensed Products upon the insertion of money, tokens, or other form of payment into or onto the device by the person seeking to purchase the Licensed Product.

Sec. 45-3. **Prohibited Sales.** It shall be unlawful for any person to sell, transfer or otherwise distribute any cannabis and lower-potency hemp edibles within the City:

- (a) Unless the sale is transacted by a person who holds, or is employed by a person who holds, a current retail license from the Office of Cannabis Management;
- (b) Unless the sale is transacted in-person, at a licensed retail establishment;
- (c) If the sale involves any vending machine or self-service merchandising;
- (d) If the sale involves a delivery sale;
- (e) If the sale involves adulterated or misbranded cannabis and lower-potency hemp edibles products;
- (f) If the sale is to a person under the age of 21; and
- (g) If the sale violates any other law, order, ordinance, regulation, or statute.

Sec. 45-4. **Prohibited Possession.** It shall be unlawful for any person under the age of 21 to possess cannabis and lower-potency hemp edibles unless they are an employee of a registrant under this Chapter, are at least 18 years of age and are possessing the cannabis and lower-potency hemp edibles as part of their employment. It shall be unlawful for any person to procure for or provide cannabis and lower-potency hemp edibles to any other person under the age of 21.

Sec. 45-5. **License and Registration Required.** It will be unlawful for any person to sell at retail any cannabis and lower-potency hemp edibles within the City without first having obtained a license to do so from the Office of Cannabis Management ("OCM") and registering with the City.

Sec. 45-6. **Registration.**

- (a) An application for a registration to sell or otherwise distribute 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 and telephone numbers, the name of the business for which the registration is sought, and any additional information the City deems necessary. A business entity applicant shall provide a list of all persons that have an interest of 5% or more in the business. The list shall name all owners and show the interest held by each, either individually or beneficially for others. A copy of a valid state license or written notice of OCM preapproval must be provided with the application. If the City Clerk determines that an application is incomplete, it shall be returned to the applicant with notice of the information necessary to make the application complete.

- (b) A registration fee, as established by the City Council, shall be charged to applicants depending on the type of retail business license applied for. The initial registration fee shall include the initial retail registration fee and the first annual renewal fee. Any renewal retail registration fee imposed by the City shall be charged at the time of the second renewal and each subsequent renewal thereafter. A medical combination business operating an adult-use retail location may only be charged a single registration fee, not to exceed the lesser of a single retail registration fee of the adult-use cannabis retail business.
- (c) A state-licensed cannabis retail business or lower-potency hemp edible retail business application that meets the requirements of this Chapter shall be approved except in the following circumstances:
 - i. A state-licensed cannabis retail business application shall not be approved if the cannabis retail business would exceed the maximum number of registered cannabis retail businesses permitted under this Chapter.
 - ii. A state-licensed cannabis retail business or lower-potency hemp edible retail business application shall not be approved or renewed if the applicant is unable to meet the requirements of this ordinance.
- (d) All licenses shall be posted and displayed in plain view of the general public on the licensed premises.
- (e) LIMITING OF REGISTRATIONS. The City establishes that the maximum number of registrations for cannabis retailers including microbusinesses and mezzobusinesses with retail endorsement within the City of Buffalo is two (2).

Sec. 45 -7. Ineligibility and Basis for Denial of Registration.

- (a) Ineligibility. Moveable Place of Business. No license shall be issued to a moveable place of business. Only fixed location business shall be eligible for license under this Chapter.
- (b) Transient businesses prohibited. No license will be granted for any form of transient business. A transient business means:

- (1) Any movable place of business;
- (2) Any business conducted from a permanent structure for a period of less than 6 consecutive months in a year.

Sec. 45 -7. Additional Requirements.

- (a) All cannabis and lower-potency hemp edibles labeling and packaging must comply with the requirements set forth in State law as may be amended from time to time, and 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 a THC Product that is intended to be consumed as a beverage and which contains no more tetrahydrocannabinol than permitted under state law.
- (b) No person under the age of 18 shall be permitted to handle transactions for the sale of cannabis and lower-potency hemp edibles .
- (c) Hours of Operation. Cannabis businesses are limited to retail sale of cannabis, cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products between the hours 10 a.m. and 9 p.m.

Sec. 45 -8. Prohibited Distribution Practices.

- (a) Samples Prohibited. No person shall distribute samples of any cannabis and lower-potency hemp edibles free of charge or at a nominal cost. No person shall distribute cannabis and lower-potency hemp edibles as a free donation.
- (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) No Self-service Displays. All cannabis and lower-potency hemp edibles 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 cannabis and lower-potency hemp edibles in open displays that are accessible to the public without the intervention of a store employee.

Sec. 45-9. Signage. At each location where cannabis and lower-potency hemp edibles are sold, the registrant 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 registered establishment and shall be readily visible to any person who is purchasing or attempting to purchase these products.

Sec.45 -10. Age Verification. At each location where cannabis and lower-potency hemp edibles are sold, the registrant 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.

Sec. 45 -11. Responsibility. All operators and registrants are responsible for the actions of their employees regarding the sale, offer to sell, and furnishing of cannabis and lower-potency hemp edibles on the registered premises. The sale, offer to sell, or furnishing of any cannabis and lower-potency hemp edibles by an employee shall be considered an act of the registrant and operator.

Sec. 45-12. Compliance Checks and Inspections. All registered premises must be open to inspections by law enforcement or other authorized city officials during regular business hours, for compliance with this Ordinance and such other Ordinances, rules, regulations, and laws relevant to the sale of cannabinoid products. From time to time, but at least once per year, the City shall conduct compliance checks.

No person used in compliance checks shall attempt to use false identification misrepresenting their age. All persons lawfully engaged in a compliance check shall answer all questions about their age asked by the registrant or their employee, and shall produce any identification, if any exists, for which they are asked. The City will conduct a compliance check that involves the participation of a person at least 18 years of age, but under the age of 21 to enter the registered premises to attempt to purchase the licensed products. Persons used for the purpose of compliance checks shall be supervised by law enforcement.

Sec. 45 -13. Civil Penalty, Suspension of Registration.

- (a) The City Council will follow the provisions of this section on the suspension, or imposition of a civil penalty against any registration granted under this Chapter. The City may suspend a retail business registration if the registrant violates this Chapter or poses an immediate threat to the health or safety of the public. The City shall immediately notify the retail business in writing the grounds for the suspension.
 - (1) Notice of Violation. The Chief of Police will provide, in writing, to the registrant either personally or by mail, notice of any alleged violation of the provisions of this Chapter or Minnesota Statutes Chapter 342, committed in the operation of the registrant's business and provide notice to the City Council.
 - (2) Notification to OCM. The City shall immediately notify the OCM in writing the grounds for the suspension. OCM will provide the City and business retailer a response to the complaint within seven

calendar days and perform any necessary inspections within 30 calendar days.

- (3) Length of Suspension. The City can wait for a determination from the OCM before reinstating a registration. The suspension of a retail business registration may be for up to 30 calendar days, unless OCM suspends the license for a longer period. The business may not make sales to customers if their registration is suspended. The City may reinstate a registration if it determines that the violations have been resolved. The City shall reinstate a registration if OCM determines that the violation(s) have been resolved.

Sec. 45-14. **Penalties For Violations.**

- (a) Administrative Penalties – Individuals. If a person who is not licensed and registered is found to have violated this Chapter, the person shall be charged with an administrative penalty as follows:
 - (1) First violation – an administrative penalty not to exceed \$200.00
 - (2) Second violation within 12 months – an administrative penalty not to exceed \$300.00.
 - (3) Third violation within 12 months – an administrative penalty not to exceed \$400.00.
- (b) Administrative Penalties – Registrant. If a registrant or an employee of a registrant is found to have violated this Chapter, the registrant shall be charged with an administrative penalty as follows:
 - (1) First violation – an administrative penalty of \$200.00 and suspend the registrant for not less than one (1) day
 - (2) Second violation within 36 months – an administrative penalty of \$500.00 and suspend the registration for not less than three (3) consecutive days.
 - (3) Third or more violations within 36 months – an administrative penalty of \$1,000.00 and suspend the registration for not less than ten (10) consecutive days.
- (c) Any administrative penalty assessed against a registrant 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 registration suspension.
- (d) Misdemeanor Prosecution. Violation of this Chapter shall be a misdemeanor. Nothing in this section shall prohibit the City from pursuing prosecution of any violation in lieu of administrative penalties or in addition to license suspension or revocation. Each day that a person is in violation of the provisions of this Chapter is a successive violation.

Sec. 45-15. **Severability.** If any section or portion of any section of this Chapter is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of other sections or portions of sections of this Chapter.