

**CITY OF CALEDONIA
HOUSTON COUNTY, MINNESOTA**

ORDINANCE NO. 2023-01

**AN ORDINANCE AMENDING TITLE XI OF THE CITY CODE BY ADDING
CHAPTER 118 REGULATING TETRAHYDROCANNABINOL PRODUCTS**

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

SECTION 1. AMENDMENT. City Code Title XI is amended by adding Chapter 118 as follows:

TETRAHYDROCANNABINOL PRODUCTS

118.01. PURPOSE AND INTENT.

The purpose of this chapter is to regulate the sale of legalized adult-use of any product that contains tetrahydrocannabinol and that meets the requirements to be sold for human or animal consumption under Minn. Stat. §151.72, also known as “THC Products” for the following reasons:

- (a) By enacting 2022 Session Law Chapter 98, Article 13, the Minnesota Legislature amended Minn. Stat. §151.72 to allow the sale of certain products containing tetrahydrocannabinol, also known as “THC”.
- (b) The new law does not prohibit municipalities from adopting and enforcing local ordinances to regulate THC product businesses including, but not limited to, local zoning and land use requirements and business license requirements.
- (c) The National Academies of Science, Engineering, and Medicine note that the growing acceptance, accessibility, and use of THC products, 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.
- (d) The City recognizes the danger THC use presents to the health, welfare, and safety of youth in Caledonia.
- (e) The Minnesota Legislature recognized the danger of THC product use among the public at large by setting potency and serving size requirements.
- (f) The Minnesota Legislature recognized the danger of THC product use among youth by prohibiting the sale of any product containing THC 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.
- (g) State law authorizes the Board of Pharmacy to adopt product and testing standards in part to curb the illegal sale and distribution of THC products and ensure the safety and compliance of commercially available THC products in the state of Minnesota
- (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 THC product retailers with laws prohibiting the sale or marketing of THC products to youth.

- (i) A local regulatory system for THC product retailers is appropriate to ensure that retailers comply with THC product laws and business standards of the City of Caledonia to protect the health, safety, and welfare of our youth and most vulnerable residents.
- (j) A requirement for a THC product retailer license will not unduly burden legitimate business activities of retailers who sell or distribute THC products to adults but will allow the City of Caledonia to regulate the operation of lawful businesses to discourage violations of state and local THC Product-related laws.
- (k) In making these findings and enacting this ordinance, it is the intent of the Caledonia City Council to ensure responsible THC product retailing, allowing 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 youth under 21 years of age.

117.02 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 article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

COMPLIANCE CHECKS. The system the City uses to investigate and ensure that those authorized to sell licensed products are following and complying with the requirements of this article. Compliance checks involve the use of persons under 21 who purchase or attempt to purchase licensed products. Compliance checks may also be conducted by the City, West Hennepin Public Safety, 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 licensed products.

EXCLUSIVE LIQUOR STORE. An establishment that meets the definition of exclusive liquor store in Minn. Stat. § 340A.101, subd. 10.

LICENSED PRODUCT OR THC PRODUCT. Any product that contains more than trace amounts of tetrahydrocannabinol and that meets the requirements to be sold for human or animal consumption under Minn. Stat. §151.72, 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, , excluding “medical cannabis” as defined by Minn. Stat. §152.22, Subd. 6, as the same may be amended from time to time.

MOVEABLE PLACE OF BUSINESS. Any form of business operated out of a kiosk, truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address storefront or other permanent type of structure authorized for sales transactions.

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

SCHOOL. Any public or private elementary, vocational, or secondary school, or a public or private college or university, or a state licensed date care center.

SELF-SERVICE MERCHANDISING. Open displays of licensed products in any manner where any person has access to the licensed products without the assistance or intervention of the licensee or the licensee's employee. Assistance or intervention means the actual physical exchange of the licensed product between the customer and the licensee or employee.

THC. Is the acronym for tetrahydrocannabinol, the principal psychoactive constituent of

cannabis.

TOBACCO STORE. A retail store utilized primarily for the sale of tobacco products and accessories and which the sale of other products is incidental.

VENDING MACHINE. Any mechanical, electric, or electronic, or other type of device that dispenses licensed products upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the licensed product.

118.02 LICENSE.

Subd. 1. License Required. No person shall sell or offer to sell any licensed product within the City without first having obtained a license to do so from the City.

Subd. 2. Application. 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 and date of birth of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the City deems necessary. A business applicant, at the time of application, shall furnish the City with a list of all persons that have an interest of five percent or more in the business. The list shall name all owners and show the interest held by each, either individually or beneficially for others. It is the duty of each business licensee to notify the City Administrator in writing of any change in ownership in the business. If the City Administrator determines that an application is incomplete, the City Administrator shall return the application to the applicant with notice of the information necessary to make the application complete. Upon receipt of a completed application, the City Administrator shall forward the application to the Caledonia Chief of Police to conduct a criminal and financial background investigation. Upon completion of the background investigation, the City Administrator shall forward the application to the City Council for action at its next regularly scheduled City Council meeting.

Subd. 3. Action. The City Council may either approve or deny the application for a license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council approves the license, the City Administrator shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal. Appeals of any decision must be made within thirty (30) days of the denial. If a license application is denied, the earliest an applicant may reapply is 12 months from the date the license is denied.

Subd. 5. Term. All licenses issued under this article shall expire on December 31 of each year.

Subd. 6. Revocation or Suspension.

- (1) Any license issued under this chapter may be revoked or suspended for failure of the license holder to meet the conditions of Section 188.04, or as otherwise provided in this chapter.
- (2) If a license is mistakenly issued or renewed to a person or a business, it shall be revoked upon the discovery that the person or business was ineligible for the license under this chapter and the City shall provide the person or business with a notice of revocation, along with information on the right to appeal.
- (3) Any change in the ownership or control of a licensed business shall be deemed equivalent to a transfer of the license, and any such license shall be revoked 30 days

after any such change in ownership or control unless the licensee has notified the Council of the change in ownership by submitting a new license application for the new owners, and the City Council has approved the transfer of the license by appropriate action. Any time an additional investigation is required because of a change in ownership or control of a business, the licensee shall pay an additional investigation fee to be determined by the City. The City may at any reasonable time examine the transfer records and minute books of any business licensee to verify and identify the owners, and the City may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business. The City Council may revoke any license issued upon its determination that a change of ownership of a licensee has resulted in the change of control of the licensed business so as materially to affect the integrity and character of its management and its operation, but no such action shall be taken until after a hearing by the City Council on notice to the licensee.

Subd. 6. Transfers. All licenses issued under this chapter 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.

Subd. 7. Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

Subd. 8. Renewals. The renewal of a license issued under this article shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license.

Subd. 9. 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.

118.03 FEES.

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for a license under this article shall be established by the City Council and adopted in the City fee schedule and may be amended from time to time.

118.04 ELIGIBILITY AND BASIS FOR DENIAL OF LICENSE.

Subd. 1. Eligibility.

- (1) *Moveable Place of Business.* No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this article.
- (2) *Tobacco Store.* No license shall be issued except to a premises operating a tobacco store licensed under chapter 112, as it may be amended from time to time.
- (3) *Exclusive Liquor Store.* No license shall be issued to an exclusive liquor store as defined in Minn. Stat. § 340A.101, subd. 10.

Proximity to Schools. No license shall be issued for a premises within 500 feet of any school, as measured by the shortest line from the property line of the space to be occupied by the proposed licensee to the nearest property line of a school. This restriction does not apply to an existing license holder who has been licensed to sell licensed products in that same location for at least one year before the date this section was enacted into law.

Delinquent Taxes and Charges. No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the City are delinquent and unpaid. In the event an action has been commenced pursuant to the provisions of Minn. Stat. ch. 278, as it may be amended from time to time, questioning the amount or validity of taxes, the City Council may, on application by the licensee, waive strict compliance with this paragraph. No waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding one year after becoming due.

Subd. 2. Grounds for Denial. Grounds for denying the issuance or renewal of a license under this chapter include, but are not limited to, the following:

- (1) The applicant is under the age of 21 years.
- (2) The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation from holding a license.
- (3) The applicant has been convicted within the past five years for any violation of a Federal, State, or local law, other ordinance, provision, or other regulation relating to the licensed products, but not including possession or sale of licensed products.
- (4) The applicant has had a license to sell licensed products suspended or revoked during the 12 months preceding the date of application, or the applicant has or had an interest in another premises authorized to sell licensed products, whether in the City or in another jurisdiction, that has had a license to sell licensed products suspended or revoked during the same time period, provided the applicant 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.
- (5) The applicant is a business that does not have an operating officer or manager who is eligible pursuant to the provisions of this chapter.
- (6) The applicant is the spouse of a person ineligible for a license pursuant to the provision of subdivision 2(2) and 2(3) of this section or who, in the judgement of the City Council, is not the real party in interest or beneficial owner of the business to be operated, under the license.
- (7) The applicant fails to provide any information required on the application or provides false or misleading information. Any false statement on an application, or any willful omission of any information called for on such application form, shall cause an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this chapter, or any part thereof.
- (8) The premises for which the license is sought has real estate taxes, assessments, or other financial claims of the City or of the State are due, delinquent, or unpaid. If an action has been commenced pursuant to the provisions of Minn. Stats. Ch. 278, questioning the amount or validity of taxes, the City Council may, on application by the licensee, waive strict compliance with this provision; no waiver may be granted, however, for taxes, or any portion thereof, which remain unpaid for a period exceeding one year after becoming due unless such one-year period is extended through no fault of the licensee.

118.05 PROHIBITED ACTS.

Subd. 1. In general.

- (1) No person shall sell or offer to sell any licensed product:

- (i) By means of any type of vending machine.
 - (ii) By means of self-service merchandising.
 - (iii) By any other means, to any other person, on in any other manner or form prohibited by this chapter, or by other state or other local law, ordinance provision, or other regulation.
 - (iv) That is not in the original packaging with labeling in compliance with labeling requirements of Minn. Stat. §151.72, subd. 5, as may be amended from time to time.
- (2) No person shall sell or offer for sale a product containing THC that does not meet all the requirements of Minn. Stat. §151.72, subd. 3., as may be amended from time to time.

Subd. 2. Legal Age. No person shall sell any licensed product to any person under the age of 21.

- (1) *Age Verification.* Licensees shall verify by means of government issued photographic identification that the purchaser is at least 21 years of age. Verification is not required for a person over the age of 30. That the person appeared to be 30 years of age or older does not constitute a defense to a violation of this subsection.
- (2) *Signage.* Notice of the legal sales age and age verification requirement must be posted prominently and in plain view at all times at each location where licensed products are offered for sale. The required signage, which will be provided to the licensee by the City, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

Subd. 3. Samples Prohibited. No person shall distribute samples of any licensed product free of charge or at a nominal cost.

Subd. 4. Use of False Identification. It shall be a violation of this chapter for any person 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 person.

Subd. 5. Unlawful Purchases. It shall be unlawful for any person who is under the age of 21 years to purchase any licensed product. Persons acting under the direct supervision of the City, law enforcement, or other governmental unit and which are actively engaged in a compliance check of the licensed premises are exempted from this provision while engaged in the compliance check.

Subd. 6. Hours and Days of Sale. No sale of THC products may be made between 10:00 p.m. and 8:00 a.m. Monday through Sunday.

Subd. 7. Possession. No person under the age of 21 shall be in possession of any THC Product. Any person under the age of 21 in possession of a THC Product may be subject to a petty misdemeanor. Any person under the age of 21 in possession of any THC Product may have it confiscated by a law enforcement officer.

118.06 ADDITIONAL REQUIREMENTS.

Subd. 1. Storage. All licensed products shall either be stored 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.

118.07 RESPONSIBILITY.

All licensees are responsible for the actions of their employees in regard to the sale, offer to sell, and furnishing of licensed products on the licensed premises. The sale, offer to sell, or furnishing of any licensed product by an employee shall be considered an act of the licensee. Nothing in this section shall be construed as prohibiting the City from also subjecting the employee to any civil penalties that the City deems to be appropriate under this ordinance, state or federal law, or other applicable law or regulation.

118.08 COMPLIANCE CHECKS AND INSPECTIONS.

All premises licensed under this chapter shall be open to inspection by the City during regular business hours. From time to time, but at least once per year, the City or Caledonia Police Department or Houston County Sheriff's Office shall conduct compliance checks.

No person used in compliance checks shall attempt to use a false identification misrepresenting their age. All persons lawfully engaged in a compliance check shall answer all questions about their age asked by the licensee or their employee, and 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 licensed premises to attempt to purchase the licensed products. Persons used for the purpose of compliance checks shall be supervised by law enforcement or other designated personnel. 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. Additionally, from time to time, the City will conduct inspections to determine compliance with any or all other aspects of this chapter.

118.10 VIOLATIONS AND PENALTY.

Subd. 1 Criminal Penalty. Unless otherwise provided in this chapter, a violation of this chapter shall be a misdemeanor. Nothing in this chapter prohibits the City from seeking prosecution as a misdemeanor for an alleged violation of this chapter.

Subd. 2. Administrative Penalty. If a licensee or an employee of a licensee is found to have violated this article, the licensee shall be charged an administrative penalty as follows:

- (1) *First Violation.* The City Council shall impose a civil fine of \$300.00 and suspend the license for not less than 1 day or more than 3 days.
- (2) *Second Violation Within 36 Months.* The City Council shall impose a civil fine of \$750 and suspend the license for not less than 5 consecutive days.
- (3) *Third Violation Within 36 Months.* The City Council shall revoke the license for at least one year.

Subd. 3. Training in lieu of suspension. After the first violation, a licensee may request training from the Caledonia Police Department in proper identification procedures. Said training shall be at the expense of the licensee, shall be in lieu of the entire license suspension for a first violation and three of the 5-day license suspension for the second violation and shall be conducted per the following conditions:

- (1) Training for all employees of a licensee must be completed within two training sessions at the discretion of the Caledonia Police Department

- (2) If more than one licensee is requesting the training, the Caledonia Police Department retains control in deciding how many training sessions are necessary to accommodate the number of employees taking the training.
- (3) It shall be the responsibility of the licensee to make certain that all employees successfully complete the required training. Failure to do so means the licensee has failed to meet the “training in lieu of suspension” requirement of the administrative penalty and will be subject to the entire license suspension.
- (4) The licensee shall pay for all of the following costs for the training: supplies and materials, any facility costs, the personnel expenses for the trainer, all administrative costs of the training and any other costs staff deems necessary to conduct the training. Payment for the training must be made to the City Administrator prior to the commencement of the training. Failure to make the payment will result in the cancellation of the training and the immediate imposition of the appropriate license suspension.

Subd. 4. Administrative Penalty Procedures. No penalty shall take effect until the licensee has received notice (served personally or by mail) of the alleged violation and of the opportunity for a hearing before the City Council, and such notice must be in writing and must provide that a right to a hearing before the City Council must be requested within 10 business days of receipt of the notice or such right shall terminate.

Subd. 5. Persons Under the Age of 21. Persons under the age of 21 who use a false identification to purchase or attempt to purchase licensed products may only be subject to non-criminal, non-monetary civil penalties such as education classes, diversion programs, community services, or another penalty that the City determines to be appropriate. The City Council will consult with court personnel, educators, parents, children and other interested parties to determine an appropriate penalty for persons under the age of 21 in the City. The penalty may be established by ordinance and amended from time to time.

Subd. 6. Revocation. In addition to any other penalty imposed under this chapter, any license issued under this section may be revoked by the City Council for a violation of any provision of this chapter if the licensee has been given a reasonable notice and an opportunity to be heard.

Subd. 7. Appeal. Any appeal of the decision of the City Council to impose a civil penalty must be made within thirty (30) days of the decision of the City Council.

SECTION 2. FEE SCHEDULE AMENDMENT. The City of Caledonia Fee Schedule shall be amended as follows (*Underlined language is added.*);

<u>THC License</u>	<u>\$ 1,000.00</u>
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SECTION 3. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage and publications as required by law.

SECTION 4. SUMMARY PUBLICATION. The following summary clearly informs the public of the intent and effect of the ordinance and is approved for publication:

SUMMARY FOR PUBLICATION
CITY OF CALEDONIA
ORDINANCE NO. 2023-01

AN ORDINANCE AMENDING TITLE XI OF THE CITY CODE BY ADDING
CHAPTER 118 REGULATING TETRAHYDROCANNABINOL PRODUCTS

The above-referenced Ordinance amends the Caledonia City Code by amending City Code Ordinance Title XI – Business Regulations by adding Chapter 118 regulating tetrahydrocannabinol products within the City. This summary is adopted pursuant to Minn. Stat. §412.191, Subd. 4. A printed copy of the entire Ordinance is available for inspection and copying at the Caledonia City Hall located at 231 E Main St., Caledonia, Minnesota, 55921. //Jake Dickson, City Clerk/Administrator

ADOPTED by the City Council of the City of Caledonia this ___th day of _____, 2023.

DeWayne Schroeder, Mayor

ATTEST:

Jake Dickson, City Clerk/Administrator

Published in the _____ on _____, 2023

I, Jake Dickson, City Clerk/Administrator of the City of Caledonia, do hereby certify that this is a true and correct transcript of the resolution that was adopted at a meeting held on the _____ day of _____, 2023, the original of which is on file in this office. I further certify that _____ members voted in favor of this resolution and that _____ members were present and voting.

Signed _____

Date _____