

**CITY OF HARRIS
INTERIM ORDINANCE 2023-04**

**AN INTERIM ORDINANCE PROVIDING FOR ACCEPTANCE OR CONSIDERATION
OF APPLICATIONS FOR NEW ADULT-USE CANNABIS BUSINESSES WHICH INCLUDE
CANNABIS MICROBUSINESS WITH RETAIL OPERATION ENDORSEMENT, CANNABIS
MEZZOBUSINESS WITH RETAIL OPERATION ENDORSEMENT, CANNABIS RETAILER, MEDICAL
CANNABIS RETAILER, AND LOWER-POTENCY HEMP EDIBLE RETAILER.**

CHAPTER 119: ADULT-USE CANNABIS

The City Council of the City of Harris ordains:

Section 1. The Harris Code of Ordinances, Title XI Business Regulations, Chapter 119 is amended to add the following Article:

ADULT-USE CANNABIS PRODUCTS

Sec. 119-01. Purpose and Intent

The purpose of this Section is to regulate the sale of legalized adult-use consumable products that contain tetrahydrocannabinol (THC) and that meet the requirements to be sold for human or animal consumption under Minnesota Statutes, section 151.72 for the following reasons:

- (1) By enacting 2022 Session Law Chapter 98, Article 13, the Minnesota Legislature amended Minnesota Statutes, Sections 152.02 and 152.72 to regulate the sale of certain products containing THC.
- (2) The new law does not prohibit municipalities from adopting and enforcing local ordinances to regulate businesses selling Adult-Use Cannabis Products, including local registration requirements.
- (3) The National Academies of Science, Engineering, and Medicine note that the growing acceptance, accessibility, and use of products containing THC, 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.
- (4) The City recognizes that, based on the most reliable and up-to-date scientific evidence, the rapid introduction of newly legalized Adult-Use Cannabis Products, presents a significant potential threat to the public health, safety, and welfare of the youth and most vulnerable residents of Harris.
- (5) The Minnesota Legislature recognized the danger of Adult-Use Cannabis Product use among the public at large by setting potency and serving size requirements and recognized the danger of Adult-Use Cannabis Product use among youth prohibiting the sale of any product containing THC to those under the age of 21 and requiring that

Adult-Use Cannabis Products be packaged without appeal to children and in child-resistant packaging or containers.

- (6) The City can be proactive and make decisions that will mitigate this threat and reduce exposure of young people to the products and improve compliance among Adult-Use Cannabis Product retailers with laws prohibiting the sale or marketing of Adult-Use Cannabis Products to children.
- (7) A local regulatory system for Adult-Use Cannabis Product retailers is appropriate to ensure that retailers comply with Adult-Use Cannabis Product laws and business standards of the City of Harris to protect the health, safety, and welfare of our youth and most vulnerable residents.
- (8) State law requires Adult-Use Cannabis Product retailers to check the identification of purchasers to verify that they are at least 21 years of age (Minn. Stat. S 151.72, subd. 3(c)), comply with certain packaging and labeling requirements to protect children and youth (Id., subd. 5), and meet certain potency and serving size requirements (Id., subd. 5a).
- (9) State law authorizes the Office of Medical Cannabis at the Minnesota Department of Health to adopt product and testing standards in part to curb the illegal sale and distribution of Adult-Use Cannabis Products and ensure the safety and compliance of commercially available Adult-Use Cannabis Products in the State of Minnesota.
- (10) A requirement for an Adult-Use Cannabis Product retailer registration will not unduly burden legitimate business activities of retailers who sell Adult-Use Cannabis Products to adults but will allow the City of Harris to regulate the operation of lawful businesses to discourage violations of state and local Adult-Use Cannabis Product-related laws.

In making these findings and enacting this ordinance, it is the intent of the Harris City Council to ensure responsible Adult-Use Cannabis Product retailing, allowing legal sale and access, and to prohibit or discourage the marketing, sale, or distribution of Adult-Use Cannabis Products to youth under 21 years of age.

Sec. 119-02. Definitions. Except as otherwise provided or clearly implied by context, all terms are given their commonly accepted definitions. For purposes of this Article, the following definitions apply unless the context clearly indicates or requires a different meaning.

- (1) **Background Investigation.** The investigation conducted by the Chisago County Sheriff's Department of all registered product applicants, all parties having any formal or informal ownership stake in the business, and any person(s) identified as a manager of the proposed retail establishment. The purpose of the background investigation is to determine if there are any disqualifying factors that would preclude the issuance of a registration to the applicant or the proposed retail establishment location.

- (2) **Cannabinoid.** Any edible cannabinoid product or nonedible cannabinoid product authorized for sale in Minnesota Statute.
- (3) **Cannabinoid-related devices.** Any equipment, products or materials of any kind which are used, intended for use, or designed for use in repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.
- (4) **Certified hemp.** Hemp plants that have been tested and found to meet the requirements of Minnesota Statute Chapter 18K and the rules adopted thereunder by the State of Minnesota.
- (5) **Compliance checks.** The system the City uses to investigate and ensure that those authorized to sell registered products are following and complying with the requirements of this article. Compliance checks will involve the use of persons under the age of 21 as authorized by this article. Compliance checks also means the use of persons under the age of 21 who attempt to purchase registered products for educational research and training purposes as authorized by state and federal law. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state, or local laws and regulations relating to registered products.
- (6) **Delivery sale.** The sale of any registered products to any person for personal consumption and not for resale when the sale is conducted by any means other than an in-person, over-the-counter sales transaction in a retail establishment. Delivery sale includes, but is not limited to, the sale of any registered products when the sale is conducted by telephone, other voice transmission, mail, the internet, or app-based service. Delivery sale includes delivery by registrants or third parties by any means, including curbside pick-up.
- (7) **Edible Cannabinoid Product** Any product authorized for sale under Minn. Stat. 151.72, which may be amended from time to time, that is intended to be eaten or consumed as a beverage by humans, contains a cannabinoid in combination with food ingredients, and is not a drug. Edible cannabinoid product does not include medical cannabis as defined in Minnesota Statutes Section 152.22, subd. 6, as may be amended from time to time.
- (8) **Exclusive Liquor Store.** An establishment that meets the definition of exclusive liquor store in Minnesota Statutes, section 340A.101, subdivision 10.
- (9) **Label.** The meaning given in Minnesota Statute Section 151.01, subdivision 18.
- (10) **Labeling.** All labels and other written, printed, or graphic matter that are:
- a. affixed to the immediate container in which a product regulated under this article is sold;

- b. provided, in any manner, with the immediate container, including but not limited to outer containers, wrappers, package inserts, brochures, or pamphlets.; or
 - c. provided on that portion of a manufacturer's website that is linked by a scannable barcode or matrix barcode.
- (11) **Registered product.** Adult-Use Cannabis Products and Cannabinoid-related devices.
- (12) **Registrant.** A person registered under this Article and/or the owner of the business.
- (13) **Registrant's employee.** A person employed by a registrant to work at a sales or service counter or otherwise make sales to the registrant's customers.
- (14) **Marijuana.** All parts of the plant of any species of the genus Cannabis, including all agronomical varieties, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.
- (15) **Moveable place of business.** Any form of business operated out of a truck, van, automobile, trailer, 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.
- (16) **Nonedible Cannabinoids.** Include, but are not limited to tablets, capsules, solutions, tinctures, or other products meant for oral administration/ingestion; creams, lotions, ointments, salves, or other products meant for topical administration; products meant to be inhaled, smoked, vaped, sprayed into nostrils, or insufflated (sniffed); and hemp flowers and buds.
- (17) **Nonintoxicating Cannabinoid.** Substances extracted from certified hemp plants that do not produce intoxicating effects when consumed by any route of administration.
- (18) **Retail establishment.** Any place of business where registered products is available for sale to the public. The phrase shall include a business facility that sells goods or merchandise directly to the public at retail value, including but not limited to, grocery stores, convenience stores, restaurants, gas station and drugstores.
- (19) **Sale.** Any transfer of goods for money, trade, barter, or other consideration.
- (20) **Sampling.** The introduction or promotion of registered products by offering single or partial servings for no or minimal fee.

- (21) **Self-service merchandising.** Open displays of registered product in any manner where any person shall have access to the registered product without the assistance or intervention of the registrant or the registrant's employee. Such assistance or intervention shall involve the actual physical exchange of the registered product between the customer and the registrant or employee. Self-service sales are interpreted as being any sale where there is not an actual physical exchange of the product between the registrant's employee and the customer.
- (22) **THC Product** means any product that contains tetrahydrocannabinol and that meets the requirement to be sold for human or animal consumption under Minn. Stat. 151.72
- (23) **Vending machine.** Any mechanical, electric or electronic, or other type of self-service device which, upon the insertion of money, tokens, or other form of payment, dispenses the registered product and includes vending machines equipped with manual, electric or electronic locking devices.

Sec. 119-03. Registration Required. No person shall sell or offer to sell registered products without first having obtained registration to do so from the city. All registrations issued under this article shall be valid only on the premises for which the registration was issued and only for the person to whom the registration was issued. No transfer of any registration to another location or person shall be valid.

Sec. 119-04. Application Procedures.

- (1) **Registration Application.** An application for registration to sell registered products must be made on a form provided by the city and filed, along with all required fees, with the city clerk or designated registering authority. The application shall be submitted on **the city's approved** form and shall contain all information that the city deems necessary. If the registering authority determines that an application is incomplete, the application shall be returned to the applicant with notice of the information necessary to make the application complete.
- (2) **Background Investigation.** The background investigation fee is applied to the city's costs of the background investigation of the retail establishment and all persons or entities that have at least a five percent financial interest in the retail establishment, and the manager of the retail establishment. The property must be in compliance with all applicable laws and ordinances. The Chisago County Sheriff's Department shall conduct the background investigation before consideration by the city.
- (3) **Payment of Fees.** Each application for registration must be accompanied by payment in full of the required fees, as such fees are determined by the City Council. No application will be processed until all fees have been paid.
 - a. **Registration fee.** Each application for registration or registration renewal must be accompanied by a payment in full of the required registration fee.

- Initial retail registration fee – \$500 or up to half the amount of the applicable initial license fee under section 342.11, whichever is less. The initial retail registration fee shall include the fee for initial registration and the first annual renewal.
 - Renewal retail registration fee – \$1,000 or up to half the amount of the applicable renewal license fee under section 342.11, whichever is less. Any renewal fee shall be charged at the time of the second renewal and each subsequent annual renewal thereafter.
 - There shall be no application fee.
 - A cannabis business with a cannabis retailer registration and a medical cannabis retailer registration for the same location may only be charged a single registration fee.
 - Registration fees are nonrefundable.
- b. **Background investigation fee.** Each initial application for an initial registration under this article must be accompanied by a payment in full of the background investigation fee(s). Background investigation fees are nonrefundable.
- c. **Late fee.** Each application for renewal application submitted after the given due date for such application, must be accompanied by payment in full of a late fee. Late fees are not refundable.

(4) Registration Location.

- a. **Retail Establishment.** Registered products may only be sold within a retail establishment.
- b. **Movable Business.** No registration may be issued to a moveable place of business. Only fixed location businesses shall be eligible for registering under this article.
- c. **Exclusive Liquor Store.** Licensed liquor stores can now sell edibles or beverages containing hemp THC. Liquor stores are subject to the same registration and product compliance requirements as other retail establishments.
- d. No registration shall be granted for any operation of a cannabis business within 1,000 feet of a school; or 500 feet of a day care, residential treatment facility, or an attraction within a public park that is regularly used by minors, including a playground or athletic field.

(5) Hours of Operation.

- a. A cannabis business with a registration or endorsement authorizing the retail sale of cannabis flower or cannabis products may not sell cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer

products between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday nor between 2:00 a.m. and 10:00 a.m. on Sunday.

- b. A cannabis business with a registration or endorsement authorizing the retail sale of cannabis flower or cannabis products may not be open to the public or sell any other products at times when the cannabis business is prohibited from selling cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived products.

Sec. 119-05. Persons eligible. Grounds for denying the issuance or renewal of a registration under this article are described below. However, except as may otherwise be provided by law, the existence of any grounds for denial does not mean that the city must deny the registration. If a registration is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the registration under this article. The following are grounds for denying a registration or a registration renewal:

- (1) The applicant is under the age of 21 years;
- (2) The applicant or any other person included on the application has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation reasonably relating to the sale of registered products;
- (3) The applicant or any other person included on the application has had a registration to sell registered products revoked within the preceding 12 months of the date of application in this or any other jurisdiction in the United States;
- (4) The applicant or any other person included on the application has been subject to any adverse or disciplinary actions against any business registration held in this or any other jurisdiction in the previous five years, regardless of whether any criminal charges were brought in connection with the alleged violation(s);
- (5) The applicant fails to provide any information required on the application, or provides false or misleading information at any stage of the application or background investigation;
- (6) The applicant or any other person included on the application is prohibited by federal, state, or other local law, ordinance, or other regulation from holding such a registration;
- (7) The applicant or any other person included on the application has failed to pay any taxes or fees owed to the City of Harris or is in violation of Minnesota Statutes, section 270C.72;
- (8) The applicant or any other person included on the application is determined to be not of good moral character and repute; or
- (9) The business is proposed to be operated on premises on which property taxes, assessments, or other financial claims by the state, county or city are due,

delinquent, and unpaid, provided the applicant or owner(s) or other entity in which the applicant or owner(s) has an interest has the legal duty to pay said taxes, assessments, or claims due and owing.

Sec. 119-06. Action on Registration Application.

- (1) **City Council Determination.** The City Council may either approve the registration, approve the registration with conditions, deny the registration, or it may delay action for a reasonable period as necessary to complete any additional investigation of the application or the applicant it deems necessary. If the City Council approves the registration, the registering authority shall issue the registration to the applicant. If the City Council approves the registration with conditions or denies the registration, notice of the action and the basis for the action shall be given to the applicant along with notice of the applicant's right and method to appeal the City Council's decision.
- (2) **Term.** All registrations issued under this article shall expire on January 1, 2025. Fees shall not be pro-rated for a registration that is issued mid-year.
- (3) **Transfer.** All registrations issued under this article shall be valid only on the premises for which the registration was issued and only for the persons to whom the registration was issued. Should the ownership of the business change at any point during the registration period, a new application and background investigation will be required.
- (4) **Renewals.** The renewal of a registration 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 registration. The issuance of a registration issued under this article shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the registration.
- (5) **Revocations or Suspension.** Any registration issued under this article may be revoked, suspended, or have registration conditions imposed as provided in the Administrative Penalties section.
- (6) **Display.** All registrations shall be posted and displayed at or near the primary entrance to the registered retail establishment and in plain view of the public on the registered premises.

Sec. 119-07. Storage and Display.

It shall be unlawful for a registrant under this Article to allow the sale of registered products by any means whereby a customer may have access to such items without having to request the item from the registrant or the registrant's employee and whereby there is not a physical exchange of the registered product between the registrant or their employee and the customer. All registered products must either be stored behind a counter or another area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the public.

Sec.119-08. Prohibited Acts.

- (1) **In general.** It shall be a violation of this article for any person to sell or offer to sell any registered products:
 - a. By means of any type of vending machine.
 - b. By means of self-service merchandising whereby the customer does not need to make a verbal or written request to an employee of the registered premises to receive the registered product.
 - c. From any form of movable place of business, or at the time and location of any special event.
 - d. Containing controlled substances as defined in Minn. Stat. Ch. 152.
 - e. By delivery sale.
 - f. To an individual under the age of 21.
 - g. By any employee under the age of 21.
 - h. To an obviously intoxicated person.
 - i. By any other means or to any other person, prohibited by federal, state, or other local law, ordinance, provision, or other regulation.
- (2) **Legal Age.** No person shall sell any registered products to any person under the age of 21 years.
 - a. **Proof of age** for purchasing registered products may be established only by a valid driver's license or state identification card, a valid military identification card issued by the United States Department of Defense, or in the case of a foreign national by a valid passport.
 - b. **Signage.** Notice of the legal sales age and age verification requirement must be always posted prominently and in plain view at each location where registered products are offered for sale. The required signage must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase. 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.
- (3) **Samples Prohibited.** No person shall distribute samples of any registered product free of charge or at a nominal cost. The distribution of registered products as a free donation is prohibited.

- (4) **Self-Checkout.** No sales of registered products may be completed through self-checkout. A registrant or registrant's employee must process each transaction at a point of sale.
- (5) **Pricing and discounts.** No person shall accept or redeem any coupon, price promotion, or the instrument or mechanism, whether in paper, digital, electronic, mobile, or any other form, that provides any registered product 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 retailers shelving, posting, advertising, or display at the location where the item is sold or offered for sale, including all applicable taxes.

Sec. 119-08. Compliance Checks and Inspections. All registered premises must be open to inspection by the Chisago County Sheriff's Department or other authorized city official during regular business hours. Unannounced compliance checks will be conducted from time to time, but at least once each calendar year at each location where registered products are sold to test compliance. Compliance checks must involve persons over the age of 17, but under the age of 21 who attempt to purchase registered products under the direct supervision of a law enforcement officer or an employee of the registering authority. The Chisago County Sheriff's Department is responsible for meeting the requirements of this section. No person used in compliance checks will attempt to use a false identification misrepresenting the person's age, and all persons lawfully engaged in a compliance check must answer all questions about the person's age asked by the registrant or their employee and must produce any identification, if any exists, for which they are asked. Nothing in this article prohibits compliance checks authorized by state or federal laws for educational, research, or training purposes or required for the enforcement of state or federal law.

Sec.119-09. Administrative Penalties; Fines Established.

- (1) **Registrants.** If a registrant, any employee of a registrant, or any other person representing the registered premises sells registered products to an individual under the age of 21 or violates any other provision of this article, the registrant shall be subject to an administrative penalty. If a retail establishment has its registration suspended pursuant to this article, that retail establishment shall, during the period of suspension, remove all registered products away from public view. Penalties occurring within a 24-month period will be presumed as follows:

- a. Upon a finding that the registrant has sold registered product to another retail registrant for the purpose of resale; purchased registered product from another retail registrant for the purposes of resale; failed to remove or dispose of registered product when ordered by the Sheriff to do so under City ordinance; or failed to comply with any other applicable state statute or rule, or code provision herein relating to registered product, a civil penalty of \$500 for the first violation, \$1,000 for the second violation within a 24-month period, and \$1,500 and a seven-day suspension of registration for a third violation within a 24-month period shall be imposed upon the registrant who shall pay the civil penalty within 30 days of the date of a notice from the city. Notwithstanding the foregoing civil penalties, a civil

penalty of \$2,000 and 30-days' suspension of the registration, unless a greater civil penalty, suspension or revocation is otherwise determined by City Council, shall be imposed upon a registrant upon the fourth or more violation within a 36-month period. The foregoing penalties shall not restrict the City Council from ordering the revocation of the registration, suspension of the registration for up to 60 days, a civil penalty up to \$2,000, or impose any combination thereof. If the registrant fails to pay the civil penalty within 30 days of notice, the registrant's registration shall be suspended until the civil penalty, plus any surcharge or interest for late payment, is paid in full.

No suspension or revocation of a registration or civil penalty under this section shall take effect until the registrant has been given an opportunity for a hearing under the Minnesota Administrative Procedure Act. If the registrant files a request for a hearing with the City Clerk within ten business days of the date of the notice of the registration action or civil penalty, the City Clerk shall schedule a hearing before a hearing officer duly appointed by the City Council. If the registrant fails to timely request a hearing or fails to appear at a scheduled hearing, the registrant shall be deemed to have waived his or her right to a hearing and shall be subject to the registration action or civil penalties imposed hereunder. If the registrant timely requests a hearing, the hearing shall be held before the hearing officer within 14 days of the date the registrant files a request for hearing with the City Clerk. Upon conclusion of the hearing, the hearing officer shall issue written findings of fact and conclusions as to whether a violation has occurred, and the penalty imposed as authorized herein. If the hearing involves a fourth or more violation by the registrant, the hearing officer shall present written findings of fact and conclusions to the City Council for its consideration of additional penalties, including revocation of the registration.

- (2) **Individuals.** A person who sells registered products to an individual under the age of 21 may be charged an administrative fine of \$500.00. No fine may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and was provided an opportunity for a hearing before the City Council. A decision that a violation has occurred must be in writing.
- (3) **Fines Established.** The fines for violations as listed above may be amended from time to time by the City Council.

Sec.119-08. Criminal Penalty. In addition to any administrative penalties under this article, any person, firm, or corporation violating any of the provisions of this article shall be guilty of a misdemeanor. Nothing in this article shall prohibit the city from seeking prosecution as a misdemeanor in district court for any violation of this article, or in the case of minors, referring the matter to juvenile court.

Sec.119-09. Defenses. It shall be an affirmative defense to the violation of this article for a person to have reasonably relied on proof of age as described by state law.

Section 2. This Ordinance shall take effect and be in full force after its adoption and publication, as provided by law, until January 1, 2025.

Approved