

**CITY OF NOWTHEN  
ANOKA COUNTY  
STATE OF MINNESOTA**

**ORDINANCE NO. 2023-02**

**ORDINANCE ESTABLISHING CHAPTER 3, SECTION 6 OF THE NOWTHEN CITY  
CODE TO REGULATE TETRAHYDROCANNABINOL PRODUCTS**

The City Council of the City of Nowthen, Minnesota hereby ordains:

**Section 1. Establishment of Chapter 3, Section 6 of the Nowthen City Code.** Chapter 3, Section 6, of the Nowthen City Code is hereby established to state as follows:

**SECTION 6**

**REGULATING TETRAHYDROCANNABINOL PRODUCTS**

Section:

- 3-6-1 Purpose and Intent
- 3-6-2 Definitions
- 3-6-3 License Required
- 3-6-4 Eligibility and Basis for Denial of License
- 3-6-5 Prohibited Acts
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- 3-6-8 Violations and Penalty
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**3-6-1. Purpose and Intent.** The purpose of this Ordinance is to regulate the sale of any legalized adult-use 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 Nowthen.
- 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 Nowthen 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 Nowthen 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 Nowthen 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.

**3-6-2. 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 article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

***Exclusive Liquor Store.*** An establishment that meets the definition of exclusive liquor store in Minn. Stat. § 340A.101, subd. 10.

***Licensed Product or the 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.

***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.

***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.

**3-6-3. License.**

- A. **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.

- B. **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 Anoka County Sheriff's Office to conduct a criminal background check. Upon completion of the background check, the City Administrator shall forward the application to the City Council for action at its next regularly scheduled City Council meeting.
- C. **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.
- D. **Term.** All licenses issued under this Ordinance shall expire on December 31 of each year.
- E. **Revocation or Suspension.**
1. Any license issued under this Ordinance may be revoked or suspended as provided in this Ordinance.
  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 Ordinance 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.

- F. **Transfers.** All licenses issued under this Ordinance 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.
- G. **Display.** All licenses shall be posted and displayed in plain view of the general public on the licensed premises.
- H. **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.
- I. **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.

### 3-6- 4. Eligibility and Basis for Denial of License.

#### A. 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. *Eligible Businesses.* Licenses shall only be issued to the following entities located in the C-1 Commercial Zoning District:
  - (a) Vendors selling primarily tobacco, tobacco related products or THC products.
  - (b) Restaurants selling prepared food which also have an alcohol license.
  - (c) Vendors selling primarily CBD products.
  - (d) Vendors selling primarily vitamins, health-related supplements, and skin care products.
3. *Exclusive Liquor Store.* No license shall be issued to an exclusive liquor store as defined in Minn. Stat. § 340A.101, subd. 10.
4. *Proximity to Schools.* No license shall be issued for a premises within 1,000 feet of any school. The distance is to be measured from the closest point of the property the school is located on to the closest side of the structure within which the licensed product is be sold.
5. *Proximity to Certain Establishments.* No license shall be issued for a premises within 500 feet of any daycare, residential treatment facility, or an attraction within a public park that is regularly used by minors, including a playground, or athletic field. The distance is to be measured from the closest point of the property the school is located on to the closest side of the structure within which the licensed product is be sold.
6. *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.

7. *Zoning Compliance.* No license shall be granted or renewed for operation on any premise where the sale of THC Products would be in violation of the City's Zoning Ordinance.
8. No entity shall be issued a license to sell THC Products on municipally-owned property.

B. **Grounds for Denial.** Grounds for denying the issuance or renewal of a license under this Ordinance 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.
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 Ordinance.
6. The applicant is the spouse of a person ineligible for a license pursuant to the provision of Section 4.B.2 or Section 4.B.3 of this Ordinance or who, in the judgment 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 Ordinance, or any part thereof.

**3-6-5. Prohibited Acts.**

**A. In general.**

1. No person shall sell or offer to sell any licensed product:
  - a. By means of any type of vending machine.
  - b. By means of self-service merchandising.
  - c. By any other means, to any other person, or in any other manner or form prohibited by state or other local law, ordinance provision, or other regulation.
  - d. 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.
  - e. At an establishment that also possesses an on-sale liquor license unless such establishment has a combined on-sale and off-sale liquor license.
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.

**B. 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.
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 making a purchase or is considering making a purchase.



- C. **Samples Prohibited.** No person shall distribute samples of any licensed product free of charge or at a nominal cost.
- D. **Use of False Identification.** It shall be a violation of this Ordinance 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.
- E. **Unlawful Purchases.** It shall be unlawful for any person who is under the age of 21 years to purchase any licensed product.

**3-6-6. Additional Requirements.**

- A. **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.
- B. **Training.** If training classes are available for employees within a 25-mile radius relating to compliance with sales to customers, all employees of a licensed premises shall attend training within two weeks of beginning employment at the licensee's establishment or the earliest available class if no training classes are offered within said two-week period.

**3-6-7. 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.

**3-6-8. Violations and Penalty.**

- A. **Criminal Penalty.** A violation of this Ordinance shall be a misdemeanor. Nothing in this Ordinance prohibits the City from seeking prosecution as a misdemeanor for an alleged violation of this Ordinance.
- B. **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 may impose a civil fine of \$500.00 and/or suspend the license for not less than 1 day.
  2. *Second Violation Within 36 Months.* The City Council may impose a civil fine of \$1,000.00 and/or suspend the license for not less than 3 consecutive days.
  3. *Third Violation Within 36 Months.* The City Council may impose a civil fine of \$1,000.00 and/or revoke the license for at least one year.
- C. **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. All fines shall be paid within 30 days of imposition via mailing or personal service of such written notice by the City.
- D. **Revocation.** In addition to any other penalty imposed under this Ordinance, any license issued under this section may be revoked by the City Council for a violation of any provision of this Ordinance if the licensee has been given a reasonable notice and an opportunity to be heard.
- E. **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.


### **3-6-9. License fee.**

No license shall be issued under this Ordinance until the appropriate license fee shall be paid in full. The fee for a license under this article may be amended from time to time by the City Council. The annual fee for a THC license shall be \$250.00 per calendar year, payable at the time of submission of an application for a license. License fees for licenses issued for part of a year shall be prorated as a percentage of the year the license will be in effect. No portion of such license fees shall be refundable.

### **SECTION 2. Effective Date.**

This Ordinance shall take effect upon its passage and publication according to law.

**ADOPTED** by the City Council of the City of Nowthen this 12<sup>th</sup> day of September 2023.

  
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Jeff Pilon, Mayor

ATTEST:

  
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Scott Lehner, City Administrator