

**COUNTY OF FILLMORE
STATE OF MINNESOTA**

ORDINANCE NO. _____

**ORDINANCE REGULATING THE SALE OF HEMP
DERIVED CANNABINOID PRODUCTS**

THE FILLMORE COUNTY COMMISSIONERS HEREBY ORDAIN AS FOLLOWS:

SECTION 1. ENACTMENT.

This Ordinance is adopted by the Fillmore County Commissioners for the purpose of protecting public health and safety by regulating the sale of hemp derived cannabinoid products within Fillmore County. The provisions of Minn. Stat. Sec. 151.72, as they may be amended from time to time, are hereby adopted by reference and are made a part of this ordinance as if set out in full.

SECTION 2. PURPOSE AND INTENT.

The purpose of this chapter is to regulate the sale of any product that meets the requirements to be sold as a hemp derived cannabinoid product under Minn. Stat. §151.72 for the following reasons:

- (a) By enacting 2022 Session Law Chapter 98, Article 13, the Minnesota Legislature amended Minn. Stat. §151.72 to allow for the sale of hemp derived cannabinoid products containing low levels of any type of tetrahydrocannabinol, also known as “THC”.
- (b) Minn. Stat. Sec. 151.72 does not prohibit counties or municipalities from adopting and enforcing local ordinances intended to regulate persons or businesses who sell hemp derived cannabinoid products. Said local regulations and ordinances include but are not limited to local zoning and land use regulations, public health and safety regulations, and business license requirements.
- (c) Various public health organizations and entities note that the growing acceptance, accessibility, and use of hemp derived cannabinoid products containing low levels of any type of THC, including THC products used for medical purposes, have raised important public health concerns. There is a lack of aggregated knowledge regarding possible negative health effects or dangers associated with hemp derived cannabinoid products that has led to uncertainty about the impact of its use.
- (d) Fillmore County (hereinafter “the county”) recognizes the risks that unintended access and the use of hemp derived cannabinoid products present to the health, welfare, and safety of youth in Fillmore County.
- (e) The Minnesota Legislature recognized the risks of hemp derived cannabinoid product use among the public at large and youth when it limited THC potency and serving size, enacted labeling requirements, required hemp derived cannabinoid products be packaged without appeal to children, and limited accessibility of said products to individuals under the age of 21.

- (f) State law authorizes the Board of Pharmacy to adopt product and testing standards in part to curb the illegal sale and distribution of hemp derived cannabinoid products and ensure the safety and compliance of commercially available hemp derived cannabinoid products in the state of Minnesota
- (g) The county wishes to be proactive by making decisions and enacting regulations that will mitigate any threat presented by the illegal sale and distribution of hemp derived cannabinoid products and reduce exposure of young people to the marketing and use of hemp derived cannabinoid products. The County also wishes to improve compliance among hemp derived cannabinoid product retailers with laws prohibiting the sale or marketing of hemp derived cannabinoid products to youth.
- (h) The County also wishes to be proactive in protecting public health and safety by regulating the marketing and sale of hemp derived cannabinoid products containing excessive amounts of THC, the marketing and sale of adulterated hemp derived cannabinoid products, the marketing and sale of hemp derived cannabinoids which may not be properly labeled or packaged, or other violations of Minn. Stat. Sec. 151.72 which negatively impact public health and safety.
- (i) A local regulatory system for hemp derived cannabinoid product retailers is appropriate to ensure that retailers comply with hemp derived cannabinoid product laws and business standards which protect the health, safety, and welfare of all Fillmore County residents and especially youth under the age of 21.
- (j) A requirement for a hemp derived cannabinoid product retailer license will not unduly burden legitimate business activities of retailers or individuals who sell or distribute hemp derived cannabinoid products to adults. Licensing will allow Fillmore County to regulate the operation of lawful businesses and discourage violations of state and local laws related to hemp derived cannabinoid products.
- (k) In making these findings and enacting this ordinance, it is the intent of the Fillmore County Commissioners to ensure responsible hemp derived cannabinoid product retailing, allow legal sale and access, and discourage violations of hemp derived cannabinoid product related laws, especially those which prohibit or discourage the marketing, sale, or distribution of hemp derived cannabinoid products to youth under 21 years of age.

SECTION 3. 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 ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) **Alcohol Retailers:** provide alcohol under off-sale or on-sale licenses as defined by [Minnesota State Statute 340A.101](#)
- (b) **Cannabinoids:** are a structural class of naturally occurring chemical constituents found in hemp or cannabis that may either be non-intoxicating or intoxicating.
- (c) **Cannabinoid Products:** means products that contain any amount of either edible or non-edible cannabinoid products, or both. The only cannabinoid products authorized for sale and purchase under this ordinance are those cannabinoid products derived from certified hemp or industrial hemp and which comply with the THC limits and other requirements set forth in Minn. Stat. Sec. 151.72.

- (d) **Cannabinoid Store:** means any premises primarily dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of edible and non-edible cannabinoid products or paraphernalia; provided, however, that any other retail use that only sells these cannabinoid products as an ancillary sale shall not be defined as a “cannabinoid store.”
- (e) **Certified Hemp:** means hemp plants that have been tested and found to meet the requirements of Minnesota Statutes Chapter 18K and the rules adopted thereunder.
- (f) **Child Resistant Packaging:** is designed or constructed to be significantly difficult for children under five years of age to open, and not difficult for normal adults to use properly. This packaging meets Code of Federal Regulations, title 16, section 1700.15(b), as in effect on January 1, 2015, and was tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015.
- (g) **Coupon:** allows customers to purchase goods or services at a reduced price.
- (h) **Compliance Checks:** is the system the county or city uses to investigate and ensure that those authorized to sell licensed hemp derived cannabinoid products are following and complying with the requirements of this ordinance. Compliance checks may also be conducted by the county or other units of government for educational, research, and training purposes or for investigating or enforcing Tribal, federal, state, or local laws and regulations relating to licensed products.
- (i) **Delivery Sale:** means the sale of any cannabinoid product 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 cannabinoid retail establishment. Delivery sale includes the sale of any cannabinoid product when the sale is conducted by telephone, other voice transmission, mail, the internet, or app-based service. Delivery sale includes delivery by licensees or third parties by any means, including curbside pick-up.
- (j) **Edible Cannabinoid Product:** Any product 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. An edible cannabinoid product must not contain more than five milligrams of any tetrahydrocannabinol in a single serving, or more than a total of 50 milligrams of tetrahydrocannabinol per package and must comply with the requirements of Minn. Stat. § 151.72, as may be amended from time to time. “Edible cannabinoid product” does not include medical cannabis as defined in Minn. Stat. § 152.22, Subd. 6, as may be amended from time to time.
- (k) **Exclusive Liquor Stores:** An establishment that meets the definition of exclusive liquor store in Minn. Stat. § 340A.101, subd. 10.

- (l) **Hemp:** has the meaning given in Minnesota Statute Section 18K.02, Subd. 3, as amended
- (m) **Hemp Derived Cannabinoid Products:** means cannabinoid products (both edible and non-edible cannabinoid products) which are derived from certified hemp or industrial hemp and which comply with the THC limitations and other requirements of Minnesota statute 151.72.
- (n) **Intoxicating Cannabinoids:** are chemicals, that when introduced into an animal or human body, impair the central nervous system or impair the human audio, visual, or mental processes. These cannabinoids inhibit a person's normal capacity to act or reason.
- (o) **Label:** A display of written, printed, or graphic matter upon the exterior of an immediate product package. Any word, statement, or other information required by or under the authority of Minnesota State Statute 151.72 to appear on the label.
- (p) **Licensed Child Care/Licensed Daycare:** means an individual, corporation, partnership, voluntary association, or other organization legally responsible for the operation of the child care program that has been granted a license by the commissioner under [Minnesota Statutes Chapter 245A](#) and [Minnesota Administrative Rule 9502](#)
- (q) **Licensed Product:** means hemp derived cannabinoid products. A license must be obtained from Fillmore County before a person, business or any other entity is allowed to sell any hemp derived cannabinoid product in Fillmore County
- (r) **Licensed Premises:** The property, building, or land described in the approved license for the sale of hemp derived cannabinoid products. The sale of hemp derived cannabinoid products is limited to the licensed premises.
- (s) **Licensees:** The individual, business, retail establishment, or other entity which has been issued or possesses a license from Fillmore County which authorizes the sale of hemp derived cannabinoid products.
- (t) **Loosies:** a single or individually packaged edible or non-edible cannabinoid product that has been removed from its intended retail packaging and sold individually.
- (u) **Marijuana:** has the meaning given in Minnesota Statute Section 152.01 Subd. 9, as amended and means 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. Marijuana does not include hemp as defined in section [Minnesota State Statute 152.22 Subd. 5a](#). Marijuana sale is prohibited under this ordinance.

- (v) **Manufacture:** means the production, quality control, standardization, packaging, re-packaging, tableting, encapsulating, labeling, or other processing of edible and non-edible cannabinoid products.
- (w) **Medical Cannabis:** means any species of the genus cannabis plant, or any mixture or preparation of them, including whole plant extracts and resins, and is delivered in the form described in [Minnesota State Statute 152.22 subdivision 6](#). Sale of medical cannabis is regulated by the State of Minnesota. Edible and non-edible cannabinoid products labelled as “medical cannabis” is prohibited under this ordinance.
- (x) **Moveable Place of Business:** Any person, individual, corporation, business or other entity which is 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 the sale of goods or sales transactions.
- (y) **Non-Edible Hemp Derived Cannabinoid Products:** means all other cannabinoid products regardless of route of administration which do not contain more than 0.3% of any or all naturally-occurring tetrahydrocannabinols (THC). Non-edible cannabinoid products may 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.
- (z) **Nonintoxicating Cannabinoid:** means substances extracted from certified hemp plants that do not produce intoxicating effects when consumed by any route of administration
- (aa) **Off-Sale:** “Off-sale” is the sale of hemp derived cannabinoid products in original packages for consumption off licensed premises only.
- (bb) **On-Sale:** “On-sale” is the sale of hemp derived cannabinoid products for consumption on the licensed premises only. Consumption may not include smoking or vaping as defined by Minnesota Clean Indoor air Act (MCIAA) [Minnesota State Statute 144.411 to 144.417](#).
- (cc) **Opaque:** means, with respect to packaging or a container, that any product inside of the packaging or container cannot be seen from outside the packaging or container.
- (dd) **Package:** means any container or receptacle used for holding hemp derived cannabinoid products.

- (ee) QR Code or Quick Response Code:** means a matrix bar code that links to information about a hemp derived cannabinoid product.
- (ff) Restaurant:** means a food and beverage service establishment, whether the establishment serves alcoholic or nonalcoholic beverages, which operates from a location for more than 21 days annually as defined under Minnesota State Statute 157.15. Restaurant does not include a food cart, mobile food unit, or moveable place of business.
- (gg) Retail Establishment:** is any place of business where hemp derived cannabinoid products are available for sale to the general public. All retail establishments must be licensed before they are allowed to sell hemp derived cannabinoid products.
- (hh) Sale/Sell** means:
- (1) To sell, give away, barter, deliver, exchange, distribute, or dispose of to another;
 - (2) To offer or agree to perform an act listed in clause (1);
 - (3) To possess with intent to perform an act listed in clause (1).
- (ii) Sample:** A small quantity of a hemp derived cannabinoid product exhibited as a specimen of a larger quantity.
- (jj) School:** Any public or private elementary, vocational, or secondary school, or a public or private college or university.
- (kk) Self-service Merchandising:** Open displays of hemp derived cannabinoid products in any manner where any person has access to the hemp derived cannabinoid products without the assistance or intervention of the licensee or the licensee's employee. Assistance or intervention means the actual physical exchange of the hemp derived cannabis product between the customer and the licensee or employee.
- (ll) Synthetic cannabinoid products:** refer to manmade derivatives with a chemical structure that is substantially similar to the chemical structure found in naturally-occurring cannabinoids. CBD extract from certified hemp that is converted to delta-9-THC is not considered a synthetic cannabinoid for the purposes of this ordinance. The sale of Synthetic cannabinoid products is prohibited under this ordinance.
- (mm) Tamper-Evident:** is a one-time-use security tape or seal that is affixed to the opening of a package, allowing a person to recognize whether the package has obviously been opened.
- (nn) THC:** Is the acronym for the cannabinoid tetrahydrocannabinol
- (oo) Tobacco Store:** shall mean any licensed premises primarily dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, or tobacco paraphernalia; provided, however, that any other retail use that only sells tobacco products as an ancillary sale shall not be defined as a “tobacco store.”

(pp) Vending Machine: Any mechanical, electric, or electronic, or other type of device that dispenses hemp derived cannabinoid 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.

SECTION 4. LICENSE.

Subd. 1. License Required. No person, bar, restaurant, business or other entity shall sell, offer to sell, or possess with intent to sell any hemp derived cannabinoid product within Fillmore County without first having obtained a license to do so from Fillmore County.

Subd. 2. Application. An application for a license to sell hemp derived cannabinoid products shall be made on a form provided by the County and shall be submitted to the Fillmore County Auditor-Treasurer for processing. 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 County deems necessary. A business applicant, at the time of application, shall furnish the County with a list of all persons that have an interest of five percent (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. It is the duty of each business licensee (license holder) to notify the County Auditor-Treasurer in writing of any change in ownership in the business. If the County Auditor-Treasurer determines that an application is incomplete, the County Auditor-Treasurer shall return the application to the applicant with notice of the information necessary to make the application complete.

Subd. 3. Insurance. The application for a license to sell hemp derived cannabinoid products must include proof of business liability insurance. An individual, business or other entity that is required to be licensed by this ordinance must have on file with the County Auditor-Treasurer at all times current proof of business liability insurance. Failure to have current business liability insurance is cause for revocation of a license to sell hemp derived cannabinoid products.

Subd. 4. Background Investigation. Upon receipt of a completed application for a license to sell hemp derived cannabinoid products, the Fillmore County Auditor-Treasurer shall immediately forward a copy of the application to the Fillmore County Sheriff's Office or such other law enforcement agency as is designated to conduct an investigation of the criminal background of the applicant. The background investigation shall examine all facts or information which is relevant to the question of the applicant's fitness to receive a license and to perform the duties imposed by this ordinance. Upon completing the investigation and background check, the Chief of Police, Sheriff, or their designee will submit a written report with his/her findings to the County Auditor-Treasurer, together with his/her recommendation as to the issuance of a license to the applicant. The County Auditor-Treasurer will then forward to the County Administrator the law enforcement background report, license application, proof of insurance, and other relevant information or documents. These documents shall also include a recommendation from the County Auditor-Treasurer's as to whether the license should be issued to the applicant.

Upon receipt of the background investigative report and the County Auditor-Treasurer's recommendation, the Fillmore County Administrator shall forward all information to the County Commissioners for consideration at a regularly scheduled meeting.

Any time that an additional background investigation is required because of a change of ownership or control of a business, the licensee shall pay an additional investigation fee to be determined by the County. During the initial background investigation or any additional background investigations, the County may at reasonable times examine the transfer records and minutes of any books of any business licensee to verify and identify the owners, and the County 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 County Commissioners may revoke any license issued upon its determination that a change of ownership of a licensee has actually resulted in the change of control of the licensed business so as to materially affect the integrity and character of its management and operation, but no such action shall be taken until after a hearing by the County Commissioners on notice to the licensee.

Subd. 5. Action. The Fillmore County Commissioners 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 further review of the application or investigation of the applicant. If the County Commissioners approve the license, the County Auditor-Treasurer shall issue the license to the applicant. If the Fillmore County Commissioners deny 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. 6. Term. All licenses issued under this ordinance shall be for a maximum period of one year and shall expire on December 31st of each year. If an application is made during the license year, the license fee may be pro-rated based on the number of whole months left during that license year.

Subd. 7. Revocation or Suspension.

- (1) Any license issued under this ordinance may be revoked or suspended for failure of the license holder to meet the conditions of Section 6 of this ordinance or comply with any other requirements of 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 chapter and the County 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 Fillmore County Auditor-Treasurer of the change in ownership by submitting a new license application for the new owners, and the Fillmore County Commissioners have 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 County. The County may at any reasonable time examine the transfer records and minute books of any business licensee to verify and identify the owners, and the County 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 County Commissioners 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 County Commissioners on notice to the licensee.

Subd. 8. Transfers. All licenses issued under this chapter shall only be valid for 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. 9. Display Licenses and Signage. All licenses to sell hemp derived cannabinoid products shall be posted and displayed in plain view of the general public on the licensed premises. Similarly, notice of the legal sales age, age verification requirement, and product warnings must be posted prominently and in plain view at all times at each location where hemp derived cannabinoid products are offered for sale. The required signage, which will be provided to the licensee by the County, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

Subd. 10. 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. 11. Issuance as Privilege and Not a Right. The issuance of a license issued under this ordinance is a privilege and does not entitle the license holder to automatic renewal of the license.

Subd. 12. Minimum Clerk Age. Individuals employed by a license holder for the sale of hemp derived cannabinoid products must be at least 18 years of age.

SECTION 5. FEES.

No license for the sale of hemp derived cannabinoid products shall be issued under this ordinance until the appropriate license fee and background investigation fee have been paid in full. The fees for a license and background check under this ordinance shall be established by the County Commissioners and adopted in the County fee schedule and may be amended from time to time.

SECTION 6. ELIGIBILITY AND BASIS FOR DENIAL OF LICENSE.

Subd. 1. Eligibility.

- (1) ***Moveable Place of Business.*** No license for the sale of hemp derived cannabinoid products shall be issued to a moveable place of business. Only fixed location businesses or retail establishments shall be eligible to receive an annual license under this ordinance.
- (2) ***Exclusive Liquor Store.*** No license to sell hemp derived edible cannabinoid products shall be issued to an exclusive liquor store as defined in Minn. Stat. § 340A.101, subd. 10.
- (3) ***Business Liability Insurance Required.*** No license to sell hemp derived edible cannabinoid products shall be issued without proof of current business liability insurance.
- (4) ***Prohibited Areas.*** Licenses shall only be issued to premises located in an area zoned for commercial or industrial activities. No licenses shall be issued in areas

zoned for residential or agricultural activities. Areas zoned as agricultural may only receive a license to sell hemp derived cannabinoid products upon being re-zoned to commercial or industrial and upon receipt of a conditional use permit.

- (5) ***Proximity to Schools or licensed daycare facilities.*** No license shall be issued for a premises within 250 feet of any school or licensed daycare/licensed child care facility. The 250-foot distance shall be 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 the school or daycare facility. 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.
- (6) ***Delinquent Taxes and Charges.*** No license to sell hemp derived cannabinoid products shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the State, City or County 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 County Commissioners 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. Reasons for Denial of License. The reasons 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 four years for any violation of a Federal, State, local law, ordinance, or other regulation relating to the sale of edible cannabinoid products, THC products, or controlled substances.
- (4) The applicant has been convicted of a felony criminal offense and it has been less than three (3) years since they applicant was discharged from probation or parole.
- (5) The applicant is on probation for a gross misdemeanor or felony criminal offense.
- (6) The applicant has had a license to sell edible cannabinoid products suspended or revoked during the 36 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.
- (7) In the judgement of the Auditor-Treasurer, the applicant is not the real party in interest or the actual owner of the business or entity to be licensed.
- (8) The applicant is a business that does not have an operating officer or manager who is eligible pursuant to the provisions of this chapter.
- (9) 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.
- (10) The premises for which the license is sought has real estate taxes, assessments, or other financial claims of the City, County, 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 County Commissioners 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.

- (11) An applicant operates a moveable place of business. Only fixed location retail establishments are eligible to be licensed.
- (12) An applicant whose licensed premises, building, or property is within 250 feet of a school or licensed daycare.
- (13) An applicant whose licensed premises, building, or property is not located within an area which is zoned commercial, industrial. No licenses shall be issued in areas zoned as residential or agricultural. Areas zoned as agricultural may only receive a license upon being re-zoned to commercial or industrial and upon receipt of a conditional use permit.

SECTION 7. ELIGIBILITY AND PROHIBITED ACTS.

Subd. 1. In general.

- (1) No person shall sell or offer to sell any hemp derived cannabinoid 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 hemp derived cannabinoid product that does not meet all the requirements of Minn. Stat. §151.72, subd. 3., as may be amended from time to time.
- (3) No person shall be allowed to consume hemp derived cannabinoid products in the building or anywhere on the property of a licensed premises with the exception of the following businesses:
 - a. Restaurants, bars, and similar retail establishments with an on-sale liquor license. These types of businesses and retail establishments which are licensed to sell hemp derived cannabinoid products may also allow consumption of hemp derived cannabinoid products that are purchased at that restaurant, bar, or retail establishment. Products purchased off of the licensed premises cannot be brought on to the premises and consumed. These licensed businesses or retail establishments are still bound by all of the other requirements of this ordinance which prohibit sale to patrons under the age of 21, require ID checks before sale, prohibits self-service merchandising, prohibit loosies, prohibit samples, etc.

Subd. 2. Legal Age. No person shall sell any hemp derived cannabinoid 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 edible cannabinoid products are offered for sale. The required signage, which will be provided to the licensee by the County, 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, business or other entity shall distribute or provide samples of any hemp derived cannabinoid products free of charge or at a nominal cost.

Subd. 4. Manufacturing or Production Prohibited. The manufacturing and production of hemp derived cannabinoid products is not permitted.

Subd. 5. Delivery Sales Prohibited. All sales of hemp derived cannabinoid products must be conducted in person on the licensed premises in an over the counter sales transaction. Delivery of hemp derived cannabinoid products by the licensee, their employees, or any other entity to an off-site location, residence, or location other than the licensed premises is prohibited.

Subd. 6. Hours and Days of Sale. Hemp derived cannabinoid products may be sold only during the following days and hours:

- a. Licensed restaurants, bars, businesses, or other licensed entities which are issued an on-sale license which allows the consumption of hemp derived cannabinoid products on the licensed premises may sell hemp derived cannabinoid products only between the hours of 8:00 a.m. through 1:00 a.m. Monday through Saturday. On Sundays, hemp derived cannabinoid products may only be sold from 10:00 a.m. through 11:59 p.m.
- b. Licensed businesses, individuals or retailers which are issued an off-sale license and are prohibited from allowing consumption of hemp derived cannabinoid products on the licensed premises may only sell hemp derived cannabinoid products between 8:00 a.m. and 10:00 p.m. Monday through Sunday.

Subd. 7. Possession. Licensees shall not allow a person under the age of 21 other than an employee who is working to be in possession of any hemp derived cannabinoid product.

Subd. 8. Synthetic Cannabinoids Prohibited. Any substance which is determined to be a synthetic cannabinoid is prohibited and may not be manufactured, possessed, or sold in Fillmore County as part of this ordinance. CBD extract from certified hemp that is converted to delta-9-THC is not considered a synthetic cannabinoid for the purposes of this ordinance.

Subd. 9. Loosies are Prohibited. Loosies are prohibited and cannot be sold.

Subd. 10. Liability Insurance Required. Failure to have current business liability insurance is cause denial of an initial application for a license to sell hemp derived cannabinoid products or for revocation of a license to sell hemp derived cannabinoid products.

Subd. 11. Temporary Licenses to sell Hemp Derived Cannabinoid Products are Prohibited. No temporary licenses to sell hemp derived cannabinoid products shall be issued or allowed. Licenses shall only be for a period of one (1) year or the remainder of a year if an application is submitted during the calendar year.

Subd. 12. Cooperation with Compliance Checks. All licensees and their employees must cooperate with compliance checks under this ordinance. Failure or refusal to cooperate with compliance checks is good cause for revoking or denying licenses to sell hemp derived cannabinoids under this ordinance

SECTION 8. STORAGE REQUIREMENTS.

All hemp derived cannabinoid 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. A licensee is not allowed to sell hemp derived cannabinoid products in open displays that are accessible to the public without the intervention or involvement of the license holder's employee

SECTION 9. RESPONSIBILITY.

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

SECTION 10. COMPLIANCE CHECKS AND INSPECTIONS.

All premises licensed under this ordinance shall be open to inspection by the County or their agents or employees during regular business hours. From time to time, the Fillmore 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 County 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 edible cannabinoid 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 County will conduct inspections to determine compliance with any or all other aspects of this chapter.

All licensees and their employees must cooperate with compliance checks under this ordinance. Failure or refusal to cooperate with compliance checks is good cause for revoking or denying licenses to sell hemp derived cannabinoids under this ordinance

SECTION 11. VIOLATIONS AND PENALTIES.

Subd. 1 Criminal Penalty. A violation of this ordinance shall be a misdemeanor. Nothing in this chapter prohibits the County 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 also be charged an administrative penalty and be subject to suspension or revocation of their license to sell hemp derived cannabinoid products as follows:

- (1) **First Violation.** The County Commissioners shall impose a civil penalty of \$400.00 and suspend the license for not less than 10 days or more than 30 days.
- (2) **Second Violation Within 60 Months.** The County Commissioners shall impose a civil penalty of \$1,000.00 and suspend the license for not less than 30 consecutive days.
- (3) **Third Violation Within 60 Months.** The County Commissioners shall impose a civil penalty of \$1,500.00 and revoke the license for not less than 90 days.
- (4) **Fourth Violation Within 60 Months.** The County Commissioners shall revoke the license for at least three years and impose a \$2,000.00 civil penalty.

Subd. 3. Training in lieu of suspension. If the first violation is for serving an individual under the age of 21, a licensee may request training from the Fillmore County Sheriff's Office in proper identification procedures. Said training shall be at the expense of the licensee, may be in lieu of the entire license suspension for a first 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 Fillmore County Sheriff's Office.
- (2) If more than one licensee is requesting the training, the Fillmore County Sheriff's Office 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 County 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 by United States mail of the alleged violation and of the opportunity for a hearing before the County Commissioners, and such notice must be in writing and must provide that a right to a hearing before the County Commissioners must be requested within 10 business days of receipt of the notice or such right shall terminate.

Subd. 5. Suspension and Revocation. In addition to any other penalty imposed under this ordinance, any license issued under this section may be suspended or revoked by the County Commissioners 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. 6. Appeal. Any appeal of the decision of the County Commissioners to impose a civil penalty must be made within thirty (30) days of the decision of the County Commissioners.

SECTION 12. FEE SCHEDULE.

The Fillmore County Fee Schedule shall be amended to include the following annual license fee and background investigation fee for hemp derived cannabinoid products:

Annual Fee: On-Sale <u>Hemp Derived Cannabinoid License</u>	<u>\$1,000.00</u>
(Allows consumption on licensed premises)	
Off-Sale Hemp Derived Cannabinoid License	\$700.00
(Prohibits consumption on licensed premises)	
Background Investigation Fee:	\$300.00

SECTION 13. SEVERABILITY.

If any section or provision of this ordinance is held invalid, such invalidity will not affect other sections or provisions that can be given force and effect without the invalidated section or provision.

SECTION 14. COORDINATION WITH CITY ORDINANCES

If a city located in Fillmore County has enacted or enacts a hemp derived Cannabinoid product ordinance or similar ordinance for the purpose of regulating the sale of hemp derived cannabinoid products, that city ordinance shall preempt and supersede the Fillmore County ordinance so as to control the sale of hemp derived cannabinoid products within that city. The city ordinance may only preempt and supersede the county ordinance as long as it is not less restrictive and as long as both the county and city enact resolutions approving the enactment and effective date for said city ordinance. Each city may implement their own fee schedule for licensing and other fees irrespective of the county fee schedule.

SECTION 15. EFFECTIVE DATE.

This Ordinance shall be in full force and effect from and after its passage and publications as required by law.

SECTION 16. 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 FILLMORE COUNTY ORDINANCE NO. __

AN ORDINANCE REGULATING HEMP DERIVED CANNABINOID PRODUCTS

The above-referenced Ordinance is adopted for the purpose of protecting public health and safety by regulating hemp derived cannabinoid products within the County. A printed copy of the entire Ordinance is available for inspection online at:

<https://www.co.fillmore.mn.us/government/ordinances.php> or at the Fillmore County Administrators Office located at 101 W. Fillmore Street, Preston, Minnesota, 55965. Bobbie Hillery, Fillmore County Administrator.

ADOPTED by the Fillmore County Board of Commissioners this ____ day of _____, 2023.

Larry Hindt, Chairman

ATTESTED:

Bobbie Hillery, Fillmore County Administrator

Published in the _____ on _____, 2023

I, Bobbie Hillery, Fillmore County Administrator, 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.

Date: _____

Signed: _____