

**CITY OF WEST ST. PAUL
DAKOTA COUNTY, MINNESOTA**

ORDINANCE NO. 24-011

**AN ORDINANCE AMENDING TITLE XI: BUSINESS REGULATIONS BY ADOPTING
CHAPTER 115 REGARDING REGISTRATION OF CANNABIS RETAILERS**

The City of West St. Paul hereby ordains:

SECTION 1. ENACTMENT. West St. Paul City Code Chapter 115 relating to the adoption of a Cannabis Business Registration is hereby enacted as follows:

CHAPTER 115: CANNABIS BUSINESS REGISTRATION

Section

- 115.01 Purpose
- 115.02 Definitions
- 115.03 Registration required
- 115.04 Cannabis Retail Business Performance standards
- 115.05 Compliance checks
- 115.06 Other prohibited acts
- 115.07 Registration denial, suspension or revocation
- 115.08 Penalties
- 115.09 Severability

§ 115.01 PURPOSE.

Minn. Stat., Chapter 342, authorizes cities to protect the public health, safety and welfare of its residents by regulating Cannabis Retail Businesses within the City of West St. Paul. Additionally, because the City recognizes that persons under the age of 21 years may have opportunities to purchase or otherwise obtain, possess and use Adult-Use Cannabis Products; and the sale of these products to persons under 21 years of age are violations of state and federal laws; and because the use of cannabis by those underage subsequently places a financial burden on all levels of government, this chapter is intended to regulate the sale of cannabis for the purpose of enforcing and furthering existing laws.

§ 115.02 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Unless otherwise noted in this section, words and phrases contained in Minn. Stat. § 342.01 and the rules promulgated pursuant to that Section, shall have the same meanings for purposes of this ordinance.

ADULT-USE CANNABIS PRODUCT. “Adult-Use Cannabis Product” means a cannabis product that is approved for sale by the Office of Cannabis Management or is substantially similar to a product approved by the Office of Cannabis Management. Adult-use Cannabis Product includes edible Adult-Use Cannabis Products but does not include medical cannabinoid products or lower-potency hemp edibles. Adult-use products may also include products made with Adult-use Cannabis Concentrate, Adult-use Cannabis Flower, Artificially Derived Cannabinoid, Cannabis Concentrate, and Cannabis Flower.

CANNABINOID. “Cannabinoid” means any of the chemical constituents of hemp plants or cannabis plants that are naturally occurring, biologically active, and act on the cannabinoid receptors of the brain. Cannabinoid includes but is not limited to tetrahydrocannabinol and cannabidiol.

CANNABIS BUSINESS. “Cannabis Business” means any of the following as defined in Minn. Stat. § 342.01, and licensed by the state pursuant to Minn. Stat. § 342.10, as those sections are amended from time to time:

- (1) cannabis microbusiness;
- (2) cannabis mezzobusiness;
- (3) cannabis cultivator;
- (4) cannabis manufacturer;
- (5) cannabis retailer;
- (6) cannabis wholesaler;
- (7) cannabis transporter;
- (8) cannabis testing facility;
- (9) cannabis event organizer;
- (10) cannabis delivery service; and
- (11) medical cannabis combination business.

CANNABIS CULTIVATION. “Cannabis Cultivation” means a business licensed to grow cannabis plants within the approved amount of space from seed or immature plant to mature plant, harvest cannabis flower from mature plant, package and label immature plants and seedlings and cannabis flower for sale to other Cannabis Businesses, transport cannabis flower to a cannabis manufacturer located on the same premises, and perform other actions approved by the Office of Cannabis Management.

CANNABIS RETAIL BUSINESS. “Cannabis Retail Business” means cannabis retailers, cannabis mezzobusinesses with a retail operation, cannabis microbusinesses with a retail operation, and medical combination businesses operating a retail location. Cannabis Retail Business does not include lower-potency hemp edible retailers.

CITY. “City” means the City of West St. Paul.

MEDICAL CANNABINOID PRODUCT. “Medical Cannabinoid Product” refers to the medical cannabis definition provided under Minn. Stat. § 342.01, subd. 52, as may be amended from time to time.

MEDICAL CANNABIS DISTRIBUTION FACILITY. “Medical Cannabis Distribution Facility” means a facility operated by a medical cannabis manufacturer for purposes of distributing medical cannabis and the requirements of the OCM or other applicable state law. A medical cannabis distribution facility does not include a medical combination business.

OCM. “OCM” refers to the state licensing agency created by Minn. Stat., Chapter 342, as amended from time to time, and identified as the Office of Cannabis Management.

PRELIMINARY LICENSE APPROVAL. “Preliminary License Approval” means OCM pre-approval for a Cannabis Business license for applicants who qualify under Minn. Stat. § 342.17.

SCHOOL. “School” means any property owned, leased, or controlled by an independent district, commonly referred to as a school district, under Minn. Stat. § 123A.05; or by an organization operating a nonpublic school, as that term is defined in Minn. Stat. § 123B.41, subd. 9, where an elementary, middle, secondary school, secondary vocational center or other school providing educational services for any grade kindergartner through grade 12 is located; or any property owned, leased or used as a community education program by a school district or districts for children and their caregivers, relatives or parents for the ages from birth to kindergarten, excluding properties exclusively used for the remote or online delivery of educational programming.

STATE LICENSE. “State license” is an approved license issued by the State of Minnesota’s Office of Cannabis Management to a Cannabis Retail Business.

§ 115.03 COMPLIANCE CHECKS.

(A) For all new and renewal registrations, the City shall conduct a preliminary compliance check to ensure compliance with this ordinance and to obtain proof of compliance with required criminal history checks on applicant’s employees as required by Minn. Stat. § 342.151. Pursuant to Minn. Stat. § 342, within thirty (30) days of receiving a copy of a state license application from OCM, the City shall certify on a form provided by OCM whether a proposed Cannabis Retail Business complies with local zoning ordinances, local registration requirements and, if applicable, with the state fire code and building code.

(B) Pre-license Certification of Cannabis Retail Businesses.

(1) The City Manager of their designee is authorized to certify whether a proposed Cannabis Retail Business complies with the City’s zoning ordinances and if applicable, with state fire code and building code pursuant to Minn. Stat., Section 342.13.

(2) Potential licensees are responsible for making all necessary zoning applications and requesting and scheduling any inspections related to building and fire code. Potential licensees may contact the City to have inspections conducted prior to the City receiving the request for certification from the OCM. Building and fire code inspections will be valid for 1 year from completion. If a potential licensee is not able to obtain necessary zoning approvals or have any building or fire code inspection complete within the 30 days allowed for city approval under the statute, the City will not certify the application.

§ 115.04 REGISTRATION REQUIRED.

(A) *General rule regarding Cannabis Retail Businesses.* No person or retail establishment may sell Adult-Use Cannabis Products without first (i) having a current, valid license from OCM as either a cannabis retailer; a cannabis microbusiness, with a retail endorsement or selling product at retail; a cannabis mezzobusiness, with a retail endorsement or selling product at retail; or a medical cannabis combination business, selling product at retail and (ii) registering with the City as a Cannabis Retail Business.

(B) *Application.* An applicant for a registration shall fill out an application form as provided by the City which shall include:

(1) *All Applicants*

- i. Full name of the property owner and applicant.
- ii. The address and parcel ID for the property which the registration is sought.
- iii. If the applicant does not own the business premises, a true and complete copy of the executed lease for the premises, if applicable.
- iv. Certification that the applicant complies with the requirements of local ordinances established pursuant to Minn. Stat. § 342.13, as amended from time to time.
- v. A copy of a valid state license or written notice of OCM license, if approved but not yet issued.
- vi. The name of the business, if it is to be conducted under a designation, name or style other than the name of the applicant and a certified copy of the certificate as required by Minn. Stat. § 333.01, as amended from time to time.
- vii. Whether all real estate and personal property taxes that are due and payable for the premises have been paid and, if not paid, the years and amounts that are unpaid.
- viii. A written declaration by the applicant, under penalty of perjury, that the information contained in the application is true. If the applicant is a corporation, an officer must sign the written declaration. If the applicant is a partnership, a general partner must sign the written declaration. If the applicant is an unincorporated association, the manager or managing officer must sign the written declaration.

- ix. Other information that the City may require but is not otherwise prohibited under Minn. Stat. §§342.10-342.118 as amended from time to time.

(2) *Natural Persons*. In addition to (1) above, Natural Person Applicants must also provide:

- i. Address, email address, telephone number and date of birth of the applicant;
- ii. Street resident addresses of where the applicant has lived during the past five years and telephone numbers and dates for which such addresses and phone numbers were used;
- iii. Whether the applicant has ever been known by a name other than the applicant's name and, if so, the name or names used, including maiden names, and information concerning dates and places used;
- iv. The type, name and location of every business or occupation in which the applicant has been engaged during the preceding five years and the names or addresses of the applicant's employers and partners, if any, for the preceding five years, and corresponding dates of employment;
- v. A physical description of the applicant;
- vi. If the applicant does not manage the business, the name of the managers or other persons in charge of the business and all information concerning each of them pursuant to above (i)-(v) in this subsection (2).

(3) *Partnership*. If the applicant is a partnership, the applicant may be required to provide the following information:

- i. The names and addresses of all general and limited partners and all information concerning each general partner pursuant to divisions (B)(2)(i) through (B)(2)(v) above;
- ii. The names of the managing partners and the interest of each partner in the licensed business;
- iii. A copy of the partnership agreement. If the partnership is required to file a certificate as to a trade name pursuant to Minn. Stat. § 333.01, as it may be amended from time to time, a certified copy of the certificate must be attached to the application;
- iv. The applicant's federal tax identification number and state employer identification number; and
- v. If the applicant does not manage the business, the name of the managers or other persons in charge of the business and all information concerning each of them pursuant to divisions (B)(2)(i) through (B)(2)(v) above.

(4) *Corporation*. If the applicant is a corporation or other organization, the applicant may be required to provide the following information:

- i. The name of the corporation or business and the state of incorporation;
- ii. A copy of the articles of incorporation or association agreement and bylaws. If the applicant is a foreign corporation, a certificate of authority as required by Minn. Stat. § 303.06, as it may be amended from time to time, must be attached;
- iii. The applicant's federal tax identification number and state employer identification number;
- iv. The name of the managers or other persons in charge of the business and all information concerning each manager, proprietor or agent pursuant to (B)(2)(i) through (B)(2)(v) above; and
- v. A list of all persons who control or own an interest in excess of 5% in the organization or business or who are officers of the corporation or business and all information concerning the persons pursuant to (B)(2)(i) through (B)(2)(v) above. This provision, however, does not apply to a corporation whose stock is publicly traded on a stock exchange and the corporation is applying for a license to be owned and operated by itself.

(C) *Registration fee.* For Cannabis Retail Business registrations, the applicant shall submit the registration fee pursuant to City Fee Schedule and consistent with Minn. Stat. § 342.11, as amended from time to time. The City shall not charge an application fee. A medical combination business operating an adult-use Cannabis Retail Business location may only be charged a single registration fee. The initial registration fee shall include the initial retail registration fee and the first annual renewal fee. The registration fee is non-refundable once processed. For Cannabis Businesses as that term is defined herein and in state law, other than Cannabis Retail Businesses or those Cannabis Businesses with a retail endorsement, no registration fee is required but those businesses still must comply with state law, City Code, including applicable building and fire code, and City zoning.

(D) *Registration term.* The term of an adult-use Cannabis Retail Business Registration shall be for the same term as the OCM approved term. Registration fees will not be prorated.

(E) *Non-transferability.* Other than state approved transfers of ownership required by Minn. Stat. § 342.12, a registration is non-transferable. All registrations issued under this section are valid only on the premises for which the registration was issued. The transfer of any registration to another location is prohibited. If there is a change in the ownership of the license holder pursuant to Minn. Stat. § 342.12, the license holder must notify the City of the change, along with submitting a copy of the newly transferred state issued license so that the City can update the registration.

(F) *Instructional program for Cannabis Retail Businesses.* No person shall be issued a registration or renewal registration as a Cannabis Retail Business unless an applicant has a program for instructing all employees regarding the legal requirements pertaining to the sale of

registered products at the retail establishment for which the registration was issued. The instructional program shall include, but is not limited to, reviewing the law on the sale of registered products, requiring employees to request identification from every customer who is under 27 years of age, providing information that the sale of registered products to anyone under 21 is illegal, explaining what kind of proof of age is legally acceptable, and that a sale to a person below the legal sales age can subject the applicant and its employees to criminal and/or civil liability.

(G) *Age verification device and digital security video at Cannabis Retail Businesses.* All Cannabis Retail Business registration holders shall be required to install or possess age verification devices and digital security video at the registered location. The Police Department shall confirm that the devices have been installed prior to approval of the registration.

(H) *Moveable place of business.* No Cannabis Retail Business registration shall be issued to a movable place of business. Only fixed retail establishment locations shall be eligible to be registered under this section.

(I) *Signage.* Notice of the legal sales age and age verification requirements must be posted at each location where registered products are offered for sale. The required signage, which shall be provided to the applicant by the City, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase. On-site signs advertising the business must comply with the City's sign code.

(J) *Zoning and City Code compliance.* No registration shall be granted until all applicable code requirements and zoning requirements are met or until all conditions for approval of the use have been satisfied. Upon receipt of an application for a license from the state, the City shall respond to the OCM within thirty (30) days if the application or the location listed in the application violates City Code, including building or fire code, or zoning requirements.

(1) Hours of operation. Cannabis Business Retailers hours are limited to the same hours of operation as liquor stores in the City.

(K) *Limit on Cannabis Retail Businesses.* The City shall limit the number of Cannabis Retail Business to two at any one time, regardless of the varying types of state retail licenses included in MN. Stat. §342.01, subd.14, as amended from time to time. In the event that the OCM contacts the City notifying it of an application for any type of license included in the definition of Cannabis Businesses that intends to sell product at retail, and the granting of the additional application would create more than two registered Cannabis Business Retailers in the City, the City shall respond to the OCM within thirty (30) days that the applicant does not comply with city code and recommend denial by the OCM.

(L) *First Come, First Served.* Applications for registration will be processed on a first-come, first-served basis based on the City receiving a complete application and payment of all fees. Applications will be considered complete when all materials and information required herein are received by the City.

(M) *Exceptions.* No registration shall be required for the following:

(1) Medical Cannabis Combination Businesses licensed by the state not selling product at retail.

(2) Nothing in this article shall prevent the providing Adult-Use Cannabis Products or Intoxicating Hemp Products to an individual as part of a lawfully recognized religious, spiritual or cultural ceremony.

(N) *Basis for recommendation of denial of license.* Upon notice of application of license from OCM related to a Cannabis Retail Business, any of the following reasons are grounds for recommending denial of licensing to the OCM or denying registration, except as may otherwise be provided by law:

(1) The proposed use does not comply with the Zoning Ordinance (Chapter 153 of City code).

(2) The proposed use does not comply with health, building, maintenance or other provisions of the City code, fire code or state law.

(3) The applicant has failed to pay all of the appropriate fees related to the registration.

(4) The applicant is under the age of 21 years.

(5) The applicant has made fraudulent statements, misrepresentations, not fully disclosed information or made false statements in the application or investigation for or in the course of the applicant's business.

(6) The applicant is prohibited by federal, state or other local law, ordinance or other regulation, from holding such a registration.

(7) The applicant is applying for a location in an area that is prohibited for such use by state law or the City zoning code or where the property line is within 1,000 feet of a school.

(8) The applicant's application, if granted, would result in more than the allowable number of Cannabis Business Retailers or Specialty Lower Potency Hemp Edible Businesses under City Code and specifically in this Chapter.

The City shall immediately notify the retailer in writing the grounds for its decision.

(O) *Basis for suspension of registration.* A registration may be suspended if:

(1) It does not comply with the Zoning Ordinance (Chapter 153 of City Code).

(2) It is in an area prohibited for the use by state law or city zoning, including within 1,000 feet of property line of a school.

- (3) It does not comply with health, building, maintenance or other provisions of the City code, fire code or state law.
- (4) It poses an immediate threat to the health or safety of the public.
- (5) It operates illegally under state law or city code or exceeds the allowable number of retailers.
- (6) It sells to customers under the age of 21 years.
- (7) It sells or offers for sale products not complying with labeling or packaging requirements set forth in state law or sells or offers to sell products outside scope of state license.

The City shall immediately notify the retailer in writing the grounds for the suspension.

(P) *Renewals.* The City shall renew an annual registration of a state-licensed Cannabis Retail Business that otherwise meets City Code and other criteria set forth herein, at the same time OCM renews the state license. A state-licensed Cannabis Retail Business shall apply to renew registration on a form established by the City. A Cannabis Business Retail registration issued under this ordinance shall not be transferred. Any renewal retail registration fee imposed by the City shall be charged at the time of the second renewal and each subsequent renewal thereafter. A renewal retail registration fee shall not exceed the limits set forth in Minn. Stat. § 342.11, as amended from time to time.

§ 115.04 PERFORMANCE STANDARDS.

All Cannabis Business Retailer registration holders must meet the following conditions:

- (A) No Adult-Use Cannabis Product may be sold to anyone under the age of 21.
- (B) No one under 21 shall be allowed to enter a Cannabis Business Retailer.
- (C) Any person or business selling or distributing registered products shall require proof of age by means of government issued photographic identification from the prospective purchaser showing purchaser is 21 years old or older.
- (D) Signage identifying the legal sales age and the age verification requirement shall be posted at the point of sale. The required signage shall be posted in a manner so that it is clearly visible to anyone who is considering or making a purchase.
- (E) No one under 21 shall sell Adult-Use Cannabis Products.
- (F) Any business selling or distributing registered products shall comply with the applicable state operation requirements and the limits on the types of cannabis flower and Adult-Use Cannabis Products that may be sold.
- (G) Any business selling or distributing registered products shall comply with the applicable labeling and packaging requirements of state law and as established by the OCM, as may be amended.
- (H) Adult-Use Cannabis Products cannot be sold in vending machines, by transient merchants, peddlers, by a moveable place of business, or through a drive-through.
- (I) No sampling is allowed.

§ 115.05 COMPLIANCE CHECKS.

(A) All registered Cannabis Business Retail establishments shall be open to inspection by the Police Department or other delegated law enforcement officers or agencies and city code enforcement officials during regular business hours.

(B) From time to time, but at least once per year, a law enforcement officer shall conduct unannounced compliance checks to ensure compliance with the provisions of this Chapter.

(C) Compliance checks shall utilize persons 17 years old but less than 21 years old, to enter the retail establishments to attempt to purchase registered products. Prior written parental or guardian consent is required for any person under the age of 18 who participates in a compliance check.

(D) Persons used for the purpose of compliance checks shall be supervised by designated law enforcement officers.

(E) Nothing in this Chapter shall prohibit other 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.

§ 115.06 OTHER PROHIBITED ACTS.

Unless otherwise provided, the following acts shall be a violation of this Chapter.

(A) *Legal age.* It shall be unlawful for any person to sell or otherwise provide any registered product to any person under the age of 21.

(B) *Illegal purchase on behalf of persons under 21.* It shall be unlawful for any person to distribute Adult-Use Cannabis Products to a person under the age of 21 in a public place, public meeting, on public transportation or in places of employment. It shall be a violation for any person to coerce or attempt to coerce a person under the age of 21 to illegally purchase or to coerce or attempt to coerce a person under the age of 21 to obtain or use any registered product.

(C) *Use of false identification.* It shall be unlawful for any person under the age of 21 to attempt to disguise the person's 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 the person.

(D) No person under 21 may furnish, sell or attempt to sell registered products on behalf of an applicant.

§ 115.07 PROCESS REGISTRATION DENIAL, SUSPENSION OR REVOCATION.

(A) *Grounds for denial, suspension or revocation.* The City may deny or suspend a registration for any of the reasons listed in § 115.04 above, including violating a provision of this Chapter or non-compliance with other applicable city code or state law requirements. In addition, the City may impose a civil penalty for each violation pursuant to the City's fee schedule.

(B) *Notice.* Notice must be provided pursuant to § 110.12(D)(1) of City Code.

(C) *Hearing.* A hearing will be conducted pursuant to § 110.12(D) of City Code. It is not necessary that criminal charges be brought in order to support a determination of a registration

violation nor does the dismissal or acquittal of such a criminal charge operate as a bar to adverse registration actions under this Chapter.

(D) *Final decision.* Following the hearing, the Council may continue consideration of the registration or renewal to accommodate necessary notification to the OCM or may suspend the registration upon such terms and conditions as it deems reasonable and necessary to accomplish the purposes of this Chapter. Subject to any applicable OCM actions, the decision by the City Council following a hearing is final.

(E) *Non-exclusive remedy.* Enforcement actions provided in this Chapter are not exclusive, and the City may take any action with respect to a registrant, employee or the retail establishments as is authorized by the City code, state or federal law.

(F) *Notification to OCM.* Within 5 days of any decision which impacts a state licensed Cannabis Retail Business, the City shall notify OCM of the suspension and shall include the grounds for the suspension. Unless stated otherwise in state law, the OCM will provide the City and lower-potency edible retailer a response to the complaint within seven calendar days and perform any necessary inspections within thirty (30) calendar days.

(G) *Length of Suspension.* The continuation of consideration of an application or renewal for registration or the suspension of a Cannabis Retail Business registration may be for up to thirty (30) calendar days. If the OCM suspends the businesses' corresponding license for a longer period, then the City can continue consideration of an application or renewal for registration or suspend a Cannabis Business Retailer registration for longer. The business may not make sales to customers if their registration is suspended or not on active status due to a continuation. With respect to suspensions, the City may reinstate a registration if it determines that the violations have been resolved and it has received notification from OCM that violations have been resolved.

§115.08 PENALTIES.

Any registration issued under this Chapter may be revoked or suspended. In addition, any person who violates any provision of this Chapter is subject to the general penalties section, § 10.99 of City Code.

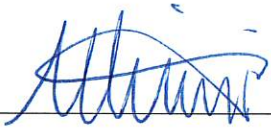
§115.09 SEVERABILITY.

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

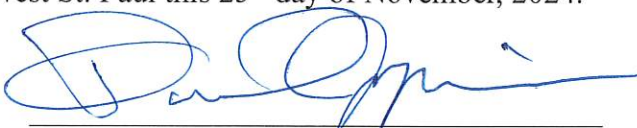
SECTION 2. Repealer. Interim Ordinance No. 23-010 Authorizing a Study and Imposing a Moratorium on the Operation of Cannabis Businesses in the City shall be repealed in its entirety as of the effective date of this Ordinance.

SECTION 3. Effective Date. This Ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed by the City Council of the City of West St. Paul this 25th day of November, 2024.

Attest:  _____

Nicole Tillander, City Clerk



David J. Napier, Mayor