

**CITY OF EAST BETHEL
ANOKA COUNTY, MINNESOTA
ORDINANCE NO. 2022-03**

**AN ORDINANCE AMENDING CHAPTER 18, ARTICLES VI AND VIII,
AND CHAPTER 42, ARTICLE I
OF THE EAST BETHEL CODE OF ORDINANCES
REGULATING THE SALE OF CANNABINOID PRODUCTS
IN THE CITY OF EAST BETHEL**

The City Council of East Bethel, Minnesota ordains:

Section 1. Chapter 18, Article VI of the East Bethel Code of Ordinances is hereby amended to read as follows:

Sec. 18-252. Criminal history business license background investigations.

The law enforcement agency designated by the City of East Bethel, is hereby authorized to perform a criminal history background investigation on applicants for the following business licenses within the city:

City licenses:

- Adult establishment licenses
- Pawnbroker licenses
- Peddler licenses
- Tobacco licenses
- Cannabinoid licenses

If the applicant is a corporation, limited liability company partnership or other business entity the background investigation may be performed on any or all shareholders, members, partners, directors, governors, officers, or managers of the applicant.

In conducting the criminal history background investigation in order to screen license applicants, the designated law enforcement agency is authorized to access data maintained in the state bureau of criminal apprehension's computerized criminal history information system in accordance with BCA policies. Any data that is accessed and acquired shall be maintained at the designated law enforcement agency under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the computerized criminal history data may be released by the designated law enforcement agency to the licensing authority, including the city council, the city administrator, or other city staff involved in the license approval process.

Before the investigation is undertaken, the applicant must authorize the designated law enforcement agency by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minn. Stats, ch. 13, regarding the collection, maintenance, use, and release of the information. The city will not reject an applicant for a license on the basis of the applicant's prior conviction of a crime or crimes unless the crime or crimes are directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the city rejects the applicant's request on this basis, the city shall notify the applicant in writing of the following:

- (1) The grounds and reasons for denial;
- (2) The applicant complaint and grievance procedure set forth in Minn. Stats. § 364.06;
- (3) The earliest date the applicant may reapply for the license.
- (4) That all relevant evidence of rehabilitation will be considered upon reapplication.

Section 2. Chapter 18, Article VIII of the East Bethel Code of Ordinances is hereby amended to read as follows:

Sec. 18-290. Purpose.

The purpose of this Section is to regulate the authorized sale of adult-use of cannabinoid products that meet the requirements to be sold for human or animal consumption under Minnesota Statutes for the following reasons:

- (a) The City recognizes that, based on the most reliable and up-to-date scientific evidence, the rapid introduction of newly legalized adult-use cannabinoid products, presents a significant potential threat to the public health, safety, and welfare of the residents of East Bethel, and particularly to the City's youth.
- (b) The City has the opportunity to be proactive and make decisions that will mitigate this threat and reduce exposure of young people to cannabinoid products or to the marketing of these products and improve compliance among cannabinoid product retailers with laws prohibiting the sale or marketing of cannabinoid products to minors.
- (c) A local regulatory system for cannabinoid products retailers is appropriate to ensure that retailers comply with cannabinoid product laws and business standards of the City to protect the health, safety, and welfare of the City's youth and most vulnerable residents.
- (d) State law requires cannabinoid product retailers to check the identification of purchasers to verify that they are at least 21 years of age (Minn. Stat. § 151.72, subd. 3(c)), comply with certain packaging and labeling requirements to protect children and youth (Id., subd. 5), and meet certain potency and serving requirements (Id., subd. 5a).
- (e) State law authorizes the Board of Pharmacy to adopt product and testing standards in part to curb the illegal sale and distribution of cannabinoid products and ensure the safety and compliance of commercially available cannabinoid products in the state of Minnesota.
- (f) State law does not preempt the authority of a local government to adopt and enforce local ordinances regulating cannabinoid product businesses, which includes, but is not limited to, local zoning and land use requirements and business license requirements.
- (g) A requirement for a cannabinoid product retailer license will not unduly burden legitimate business activities of retailers who sell or distribute cannabinoid products to adults but will allow the City to regulate the operation of lawful businesses to discourage violations of state and local cannabinoid product-related laws.

In making these findings and enacting this ordinance, it is the intent of the East Bethel City Council to ensure responsible cannabinoid product retailing, by allowing legal sale and access to cannabinoid products in accordance with state law without promoting increases in use, and discouraging violations of cannabinoid product-related laws, especially those which prohibit or discourage the marketing, sale or distribution of cannabinoid products to persons under 21 years of age.

Sec. 18-291. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Article, except where the context clearly indicates a different meaning:

Cannabinoid means any edible cannabinoid product or nonedible cannabinoid product authorized for sale in Minnesota Statute.

Cannabidiol/CBD means any non-intoxicating cannabidiol not containing tetrahydrocannabinol (THC).

Cannabinoid-related devices means any equipment, products or materials of any kind which are used, intended for use, or designed for use in repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

Certified hemp means hemp plants that have been tested and found to meet the requirements of Minnesota Statute Chapter 18K and the rules adopted thereunder by the state of Minnesota.

Compliance checks means the system the City uses to investigate and ensure that those authorized to sell cannabinoid products and/or cannabinoid-related devices are following and complying with the requirements of this Article. Compliance checks under this Article are not subject to the Minnesota statutory restrictions for conducting compliance checks for tobacco products.

Delivery sale means the sale of any cannabinoid products to any person for personal consumption and not for resale when the sale is conducted by any means other than an in-person, over-the-counter sales transaction in a licensed retail establishment. Delivery sale includes, but is not limited to, the sale of any cannabinoid products 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.

Edible cannabinoid product means any product authorized for sale under Minnesota Statute 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.

Exclusive tobacco store means a brick and mortar retail store which derives at least 90 percent of its revenue from tobacco and tobacco products and which cannot be entered at any time by persons younger than 21 years of age except as provided herein.

Exclusive cannabinoid store means a brick and mortar retail store which derives at least 90 percent of its revenue from Cannabinoid products and which cannot be entered at any time by persons younger than 21 years of age except as provided herein.

Hemp means the plant *Cannabis sativa* L. and any part of the plant, whether growing or not, including the plant's seeds, and all the plant's derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis. Industrial hemp is not marijuana as defined in Section 152.01, subdivision 9.

Label has the meaning given in Minnesota Statute Section 151.01, subdivision 18.

Labeling means all labels and other written, printed, or graphic matter that are:

- (1) affixed to the immediate container in which a product regulated under this Article is sold;
- (2) provided, in any manner, with the immediate container, including but not limited to outer containers, wrappers, package inserts, brochures, or pamphlets.; or
- (3) provided on that portion of a manufacturer's website that is linked by a scannable barcode or matrix barcode.

Licensee means a human person licensed under this Article.

Licensee's clerk means a person employed by a licensee to work at a sales or service counter or otherwise make sales to the licensee's customers.

Marijuana 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.

Matrix Barcode means a code that stores data in a two-dimensional array of geometrically shaped dark and light cells capable of being read by the camera on a smartphone or other mobile device.

Minor means any natural person who has not yet reached the age of 18 years.

Movable place of business shall refer to any form of business operated out of a truck, van, automobile or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

Nonedible cannabinoids include, but are not limited to tablets, capsules, solutions, tinctures, or other products meant for oral administration/ingestion; creams, lotions, ointments, salves, or other products meant for topical administration; products meant to be inhaled, smoked, vaped, sprayed into nostrils, or insufflated (sniffed); and hemp flowers and buds.

Retail establishment means any place of business where cannabinoid products or cannabinoid-related devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

Sale means any transfer of goods for money, trade, barter, or other consideration.

Self-service merchandising means open displays of cannabinoid products or cannabinoid-related devices in any manner where any person shall have access to the cannabinoid products or cannabinoid-related devices without the assistance or intervention of the licensee or the licensee's clerk. The assistance or intervention shall entail the actual physical exchange of the cannabinoid products or cannabinoid-related device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines or any other form of self-checkout.

Vending machine means any mechanical, electric or electronic, or other type of device which dispenses displays of cannabinoid products or cannabinoid-related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the displays of cannabinoid products or cannabinoid-related device, unless the machine can be controlled by an electronic device by an employee of the business.

Sec. 18-292. Scope.

- (1) This Article applies to the sale of any cannabinoid product.
- (2) This Article does not apply to the sale of any cannabidiol/CBD product as defined by this Article.
- (3) This Article does not apply to any product dispensed by a registered medical cannabis manufacturer pursuant to Minn. Stat. 152.22 to 152.37.

Sec. 18-293. Licensing.

No person shall directly or indirectly sell or offer for sale any cannabinoid products or cannabinoid-related devices in any form at any price without first having obtained a license to do so from the city.

- (1) *Application.* Application for such license shall be made to the City Administrator on a form provided by the city. Such application shall state the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, the location of the building and the part intended to be used by the applicant under such license, the kind of business conducted and such other 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.

- (2) *Action.* Upon receipt of a completed application, it shall be presented to the city council for consideration at its next regularly scheduled council meeting. The city council may approve the license, deny the license, or it may delay action for such 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 the decision.

- (3) *Term.* Every such license shall expire on December 31 next after its issuance. For any license issued after January 31 in any year, the fee shall be prorated for each month, or fractional part thereof, covered by the license.
- (4) *Display.*
 - a. All licenses shall be posted and displayed in plain view of the general public on the licensed premises.
 - b. All exclusive tobacco store and exclusive cannabinoid store establishments shall post a notice prohibiting the entering of the store by persons under 21 years of age. The notice shall be in plain view of the general public on the licensed public on the licensed premises. The notice shall be at least 8½ inch by 11 inch in size.
- (5) *Renewals.* The renewal of a license 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. The issuance of a license issued under this Article shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.
- (6) *Revocation or suspension.* Violation of any provision of federal, state, or local law, ordinance provision, or other regulation relating to Article VIII may result in license revocation and/or suspension. Any licensee subject to revocation and/or suspension shall be given reasonable notice and an opportunity to be heard.
- (7) *Transfers.* All licenses issued under this Article shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license will be allowed. It is the duty of each business licensee to notify the City in writing of any change in ownership in the business. Any change in the ownership or control of the 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 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 Council 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 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 Council on notice to the licensee.
- (8) *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.
- (9) *Educational requirements.* The licensee shall be required to educate each new employee who will be selling cannabinoid products with regard to the requirements of this Article and state law pertaining to the sale of cannabinoid products to minors and persons under age 21. The licensee shall be required to keep on file evidence of the employee educational session and make available for review said evidence upon reasonable request by the city or its designee.

- (10) *Refunds.* No part of the fee paid for any license issued under this Article shall be refunded except in the following instances upon application to the city council within 30 days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis when operation of the licensed business ceases not less than one month before expiration of the license because of:
- a. Destruction or damage of the licensed premises by fire or other catastrophe that the licensee shall cease to carry on the licensed business;
 - b. The licensee's death; or
 - c. A change in the legal status of the city, or some other event making it unlawful for the licensee to carry on the licensed business under his license, except when such license is revoked.

Sec. 18-294. Fees.

No license shall be issued under this Article until the appropriate license fee shall be paid in full. The fee for a license under this Article shall be established pursuant to the city council's adoption of the fee schedule.

Sec. 18-295. Investigation.

Applicants must comply with and consent to the provisions of Article VI. – Other Business License Background Checks.

Sec. 18-296. Basis for denial, revocation, or nonissue of license.

The following shall be grounds for denying, revoking, or not issuing a license under this Article; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license if a licensee is ineligible for the license under this Article:

- (1) The applicant is under the age of 21 years.
- (2) The applicant has been found within the past five years to have violated any federal, state, or local law, ordinance provision, or other regulation relating to tobacco, tobacco products, or tobacco-related devices.
- (3) The applicant has been found within the past five years to have violated any federal, state, or local law, ordinance provision, or other regulation relating to marijuana, cannabinoid products, or cannabinoid-related devices.
- (4) The applicant and/or the applicant's business establishment has been found in violation of Minnesota Statutes Chapter 151, Article IV, or this Article.
- (5) The applicant has had a license to sell tobacco, tobacco products, or tobacco-related devices revoked or a license to sell cannabinoid products or cannabinoid-related devices revoked within the preceding 12 months of the date of application.
- (6) The applicant fails to provide any information required on the application or provides false or misleading information.
- (7) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding such a license.
- (8) The applicant has had a license to sell cannabinoid 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 cannabinoid products, whether in the City or in another jurisdiction, that has had a license to sell cannabinoid 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.
- (9) The applicant is a business that has an owner, operating officer, and/or manager who is not eligible pursuant to the provisions of this article.

- (10) The applicant is the spouse of a person ineligible for a license pursuant to the provisions of Article VII or who, in the judgement of the Council, is not the real party in interest or beneficial owner of the business to be operated, under the license.
- (11) No license shall be granted or renewed for operation on any premises on which real estate taxes, assessments, or other financial claims of the City or of the State are due, delinquent, or unpaid. If an action has been commenced pursuant to the provisions of Minn. Stats. Ch. 278, questioning the amount or validity of taxes, the Council may, on application by the licensee, waive strict compliance with this provision; no waiver may be granted, however, for taxes, or any portion thereof, which remain unpaid for a period exceeding one year after becoming due unless such one-year period is extended through no fault of the licensee.
- (12) No license will be approved unless the premises proposed to be licensed complies with all applicable zoning requirements.
- (13) Other unforeseen circumstances or conditions exist such that the issuance of a license may unreasonably endanger the health, safety, and welfare of the public.

If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this article and the City shall provide the person with a notice of revocation, along with information on the right to appeal.

Sec. 18-297. Prohibited Acts.

- (a) In general. No person shall sell or offer to sell any cannabinoid product or cannabinoid related-device:
 - (1) By means of any type of vending machine.
 - (2) By means of self-service merchandising. Exclusive tobacco stores and exclusive cannabinoid stores are excluded from this provision.
 - (3) From any form of movable place of business.
 - (4) Containing controlled substances as defined in Minn. Stat. Ch. 152.
 - (5) By delivery sale.
 - (6) By any employee under the age of 21.
 - (7) By any other means, to any other person, on in any other manner or form prohibited by state or other local law, ordinance provision, or other regulation.
 - (8) To an obviously intoxicated person.
- (b) Legal Age. No person shall sell any cannabinoid product or cannabinoid-related device 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 cannabinoid products or cannabinoid-related devices are offered for sale. The required signage, which will be provided to the licensee by the City, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase. The sign shall provide notice that all persons responsible for selling these products must verify, by means of photographic identification containing the bearer's date of birth, the age of any person under 30 years of age.
- (c) Samples Prohibited. No person shall distribute samples of any cannabinoid products free of charge or at a nominal cost. The distribution of cannabinoid products as a free donation is prohibited.
- (d) Self-Checkout. No sales of cannabinoid products or cannabinoid related-devices may be completed through self-checkout. A licensee or licensee's clerk must process each transaction at a point of sale.

Sec. 18-298. Storage

It shall be unlawful for a license under this Article to allow the sale of cannabinoid products or cannabinoid-related devices by any means where by a customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the cannabinoid product or cannabinoid-related devices between the licensee or his clerk and the customer. All cannabinoid product or cannabinoid-related devices 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. Exclusive tobacco stores or exclusive cannabinoid stores are not subject to this provision.

Sec. 18-299. Responsibility.

All licensees under this Article shall be responsible for the actions of their employees in regard to the sale of cannabinoid products or cannabinoid-related devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this Article shall be construed as prohibiting the city from also subjecting a licensee's clerk to whatever penalties are appropriate under this Article, state or federal law, or other applicable law or regulation.

Sec. 18-300. Compliance checks and inspections.

All premises licensed under this subdivision shall be open to inspection by the City's law enforcement during regular business hours. From time to time, but at least once per year, the City shall direct law enforcement to 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. Persons used for the purpose of compliance checks shall be supervised by law enforcement or other designated personnel. Nothing in this article shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law. Additionally, from time to time, the City or law enforcement will conduct inspections to determine compliance with any or all other aspects of this ordinance.

Sec. 18-301. Penalties.

- (a) *Administrative civil penalties—Licensees.* If a licensee or an employee of a licensee is found to have sold cannabis or cannabinoid products to a person under the age of 21 years, the licensee shall be subject to an administrative penalty as follows:
- (1) *First violation:* The city shall impose a civil fine of \$150.00. In addition, the city may suspend the license for a period up to 20 days. The city may agree with the licensee to waive up to ten days of suspension at a rate of two days for every eight hours of community service performed by the licensee's employee.
 - (2) *Second violation within 24 months:* The city shall impose a civil fine of \$300.00. In addition, the city may suspend the license for a period up to 40 days. The city may agree with the licensee to waive up to ten days of suspension at a rate of two days for every eight hours of community service performed by the licensee's employee.
 - (3) *Third violation within 24 months:* The city shall impose a civil fine of \$400.00 and suspend the license for a minimum period of 30 days, not to exceed one year.
 - (4) The penalties provided for in this Article shall apply to individuals who are licensees and who make such a sale in addition to any penalty imposed under this Code.
- (b) *Misdemeanors.* Nothing in this Article shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this Article.
- (c) *Council Review.*
- (1) If one of the foregoing administrative civil penalties is imposed by the City, the penalty shall not take effect until the licensee or person has received notice (served personally or by mail) of civil

penalty and their right to a hearing before the Council. The licensee must request a hearing before the City Council within 10 business days of receipt of the notice or such right shall terminate.

- (2) If a licensee requests a hearing before the City Council, the Council shall determine by the preponderance of evidence whether the licensee has violated any provision of this Article. If the City Council determines by a preponderance of the evidence that the licensee has violated any provision of this Article, the City Council shall sustain the administrative civil penalty issued. If the City Council determines by a preponderance of the evidence that the licensee has not violated this Article, the administrative civil penalty shall be vacated.

Sec. 18-302. 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.

Sec. 18-303—18-402. Reserved.

Section 3. Chapter 42, Article I of the East Bethel Code of Ordinances is hereby amended to read as follows:

Sec. 42-20 Illegal Sales of Cannabinoid Products and Cannabinoid-Related Devices.

Effective November 1, 2022, it is a misdemeanor for any person to directly or indirectly sell or offer for sale any cannabinoid products or cannabinoid-related devices, as defined by Chapter 18 Article VIII of the City of East Bethel Code of Ordinances, without first having obtained a license to sell such products from the City.


Section 4. The ordinance amendments herein become effective from and after its passage and publication.

Passed by the City Council of East Bethel, Minnesota this 26th day of September, 2022.



Steven R. Voss, Mayor

Attested:



Jack Davis, City Administrator