

**COUNTY OF FILLMORE STATE OF MINNESOTA ORDINANCE NO.
20230926-HEMP**

**AN ORDINANCE REGULATING THE SALE OF HEMP-DERIVED
TOPICAL PRODUCTS, HEMP-DERIVED CONSUMER PRODUCTS,
EDIBLE CANNABINOID PRODUCTS, NONINTOXICATING
CANNABINOIDS, AND LOWER-POTENCY HEMP EDIBLES**

**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, as pursuant Minn. Stat. §145A, by regulating the sale of nonintoxicating cannabinoids, edible cannabinoid product, hemp-derived topical products, hemp-derived consumer products, and lower potency hemp edibles within Fillmore County. The provisions of Minn. Stat. §151.72 and Minn. Stat. §342, 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 nonintoxicating cannabinoids, edible cannabinoid product, hemp-derived topical products, hemp-derived consumer products, and lower potency hemp edibles under Minn. Stat. §151.72 and Minn. Stat. §342 for the following reasons:

- (a) By enacting these statutes, the Minnesota Legislature allowed for the sale of nonintoxicating cannabinoids, edible cannabinoid product, hemp-derived topical products, hemp-derived consumer products, and lower potency hemp edibles containing both nonintoxicating and intoxicating cannabinoids.
- (b) Minn. Stat. §342 and §151.72 do not prohibit counties or municipalities from adopting and enforcing local ordinances intended to regulate persons or businesses who sell hemp-derived topical products, hemp-derived consumer products, edible cannabinoid products, and lower potency hemp edibles. Said local regulations and ordinances which are incorporated herein for the purpose of regulating these products include but are not limited to local zoning and land use regulations, public health and safety regulations (Minnesota Statutes Chapter 145A), and business registration requirements.
- (c) Various public health organizations and entities note that the growing acceptance, accessibility, and use of nonintoxicating cannabinoids, edible cannabinoid product, hemp-derived topical products, hemp-derived consumer products, and lower potency hemp edibles 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 nonintoxicating cannabinoids, edible cannabinoid product, hemp-derived topical products, hemp-derived consumer products, and lower potency hemp edibles 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 nonintoxicating cannabinoids, edible cannabinoid product, hemp-derived topical products, hemp-derived consumer products, and lower potency hemp edibles present to the health, welfare, and safety of youth in Fillmore County.

- (e) The Minnesota Legislature recognized the risks of nonintoxicating cannabinoids, edible cannabinoid products, hemp-derived topical products, hemp-derived consumer products, and lower potency hemp edibles use among the public at large and youth when it limited THC potency and serving size; required testing, labeling, packaging, branding and advertising requirements, of products, and accessibility of said products to individuals under the age of 21.
- (f) State law authorizes the Office of Cannabis Management (“OCM”) to adopt product and testing standards in part to curb the illegal sale and distribution of nonintoxicating cannabinoids, edible cannabinoid product, hemp-derived topical products, hemp-derived consumer products, and lower potency hemp edibles and ensure the safety and compliance of commercially available products in the state of Minnesota. Local regulation of these products and registration of individuals or businesses who sell these products is necessary to protect public health and safety since OCM is not fully operational.
- (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 nonintoxicating cannabinoids, edible cannabinoid product, hemp-derived topical products, hemp-derived consumer products, and lower potency hemp edibles while reducing exposure of young people to the marketing and use of these items. The County also wishes to improve compliance among retailers with laws prohibiting the sale or marketing these products to youth.
- (h) The County also wishes to be proactive in protecting public health and safety by regulating the marketing and sale of nonintoxicating cannabinoids, edible cannabinoid product, hemp-derived topical products, hemp-derived consumer products, and lower potency hemp edibles. These regulations will reduce or eliminate products that contain excessive amounts of THC, adulterated products or ingredients, which may not be properly labeled or packaged, or situations which involve other violations of Minn. Stat. §342 and §151.72 and which negatively impacts public health and safety.
- (i) A local regulatory system for retailers selling nonintoxicating cannabinoids, edible cannabinoid product, hemp-derived topical products, hemp-derived consumer products, and lower potency hemp edibles is appropriate to ensure that retailers comply with 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 nonintoxicating cannabinoid, edible cannabinoid product, hemp-derived topical product, hemp-derived consumer product, and lower potency hemp edible registration will not unduly burden the legitimate business activities of retailers or individuals who sell or distribute these products to adults. State registration and/or licensing and County registration will allow Fillmore County to regulate the operation of lawful businesses and discourage violations of state and local laws related to nonintoxicating cannabinoids, hemp-derived topical products, hemp-derived consumer products, edible cannabinoid product, and lower potency hemp edibles.
- (k) In making these findings and enacting this ordinance, it is the intent of the Fillmore County Commissioners to ensure responsible retailing, allow legal sale and access, and discourage violations related to the sale of nonintoxicating cannabinoid, edible cannabinoid product, hemp-derived topical product, hemp-derived consumer product, and lower potency hemp edible laws, especially those which prohibit or discourage the marketing, sale, or distribution of hemp-derived consumer products and lower potency hemp edibles 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:

- (1) **Advertisement.** Advertisement means any written or oral statement, illustration, or depiction that is intended to promote sales of cannabis flower, cannabis products, nonintoxicating cannabinoids, hemp-derived topical products, hemp-derived consumer products, cannabinoid products, and lower potency hemp edibles, or sales at a specific cannabis business or hemp business that includes any newspapers, radio, internet and electronic media, or television promotion; the distribution of flyers and circulars, and the display of window and interior signs in a cannabis business. Advertisement does not include a fixed outdoor sign that meets the requirements in section Minn. Stat. §342.64, subdivision 2, paragraph (b). Advertisements are also subject to regulations established within the Fillmore County Zoning Ordinance and any applicable city ordinance.
- (2) **Alcohol Retailers** provide alcohol under off-sale or on-sale licenses as defined by Minn. Stat. §340A.101.
- (3) **Artificially Derived Cannabinoid.** Artificially derived cannabinoid means a cannabinoid extracted from a cannabis plant, cannabis flower, hemp plant, or parts with a chemical makeup that is changed after extraction to create a different cannabinoid or other chemical compound by applying a catalyst other than heat or light. Artificially derived cannabinoid includes but is not limited to any tetrahydrocannabinol created from cannabidiol, but does not include cannabis concentrate, cannabis products, hemp concentrate, nonintoxicating cannabinoids, edible cannabinoid products, hemp-derived topical products, lower-potency hemp edibles, or hemp-derived consumer products.
- (4) **Batch.**
As defined by Minn. Stat. §151.72 batch means: a specific quality of a product containing cannabinoids derived from hemp, including an edible cannabinoid product, that is manufactured at the same time and using the same methods, equipment, and ingredients that is uniform and intended to meet specifications for identity, strength, purity, and composition, and that is manufactured, packaged, and labeled according to a single batch production record executed and documented.

As defined by Minn. Stat. §340A.101 batch means:

- (1) a specific quantity of cannabis plants that are cultivated from the same seed or plant stock, are cultivated together, are intended to be harvested together, and receive an identical propagation and cultivation treatment;
- (2) a specific quantity of cannabis flower that is harvested together; is uniform and intended to meet specifications for identity, strength, purity, and composition; and receives identical sorting, drying, curing, and storage treatment; or
- (3) a specific quantity of a specific cannabis product, nonintoxicating cannabinoid, edible cannabinoid product, lower potency hemp edible, artificially derived cannabinoid, hemp-derived consumer product, or hemp-derived topical product that is manufactured at the same time and using the same methods, equipment, and ingredients that is uniform and intended to meet specifications for identity, strength, purity, and composition, and that is manufactured, packaged, and labeled according to a single batch production record executed and documented.

- (5) **Batch Number** is a unique numeric or alphanumeric identifier assigned to a batch of cannabis plants, cannabis flower, cannabis products, nonintoxicating cannabinoid product, edible cannabinoid product, lower-potency hemp edibles, artificially derived cannabinoids, hemp-derived consumer products, or hemp-derived topical products.
- (6) **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.
- (7) **Cannabinoid Extraction** is the process of extracting cannabis concentrate from cannabis plants or cannabis flower using heat, pressure, water, lipids, gases, solvents, or other chemicals or chemical processes, but does not include the process of extracting concentrate from hemp plants or hemp plant parts or the process of creating any artificially derived cannabinoid.
- (8) **Cannabinoid Products** means a cannabis product, a hemp-derived consumer product, or a lower-potency hemp edible. The only cannabinoid products authorized for sale and purchase under this ordinance are hemp-derived consumer products and lower-potency hemp edibles derived from certified hemp or industrial hemp and which comply with the THC limits and other requirements set forth in Minn. Stat. §342.
- (9) **Cannabinoid Profile** means the amounts of each cannabinoid that the office requires to be identified in testing and labeling, including but not limited to delta-9 tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid in a lower-potency hemp edible, a hemp-derived consumer product, or a hemp-derived topical product expressed as percentages measured by weight and, in the case of, lower-potency hemp edibles and hemp-derived consumer products, expressed as milligrams in each serving and package.
- (10) **Cannabis Business.** Businesses licensed by the Minnesota Office of Cannabis Management under Minn. Stat. §342.
- (11) **Cannabis Concentrate.** (a) "Cannabis concentrate" means:
(1) the extracts and resins of a cannabis plant or cannabis flower;
(2) the extracts or resins of a cannabis plant or cannabis flower that are refined increase the presence of targeted cannabinoids; or
(3) a product that is produced by refining extracts or resins of a cannabis plant or cannabis flower and is intended to be consumed by combustion or vaporization of the product and inhalation of smoke, aerosol, or vapor from the product.
(b) Cannabis concentrate does not include hemp concentrate, artificially derived cannabinoid, or hemp-derived consumer products.
- (12) **Cannabis Flower.** Cannabis flower" means the harvested flower, bud, leaves, and stems of a cannabis plant. Cannabis flower includes adult-use cannabis flower and medical cannabis flower. Cannabis flower does not include cannabis seed, hemp plant parts, hemp-derived consumer products, or hemp plant material with less than 0.3% tetrahydrocannabinol that is accompanied by a certificate of analysis indicating the same.

- (13) **Cannabis Plant.** "Cannabis plant" means all parts of the plant of the genus Cannabis that is growing or has not been harvested and has a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis.
- (14) **Cannabis Product.** (a) "Cannabis product" means any of the following:
(1) cannabis concentrate;
(2) a product infused with cannabinoids, including but not limited to tetrahydrocannabinol, extracted or derived from cannabis plants or cannabis flower; or
(3) any other product that contains cannabis concentrate.
b) Cannabis product includes adult-use cannabis products, including but not limited to edible cannabis products and medical cannabinoid products. Cannabis product does not include cannabis flower, artificially derived cannabinoid, nonintoxicating cannabinoids, edible cannabinoid products, lower-potency hemp edibles, hemp-derived consumer products, or hemp-derived topical products.
- (15) **Cannabis Seed.** "Cannabis seed" means the viable seed of the plant of the genus Cannabis that is reasonably expected to grow into a cannabis plant. Cannabis seed does not include hemp seed.
- (16) **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), and was tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20.
- (17) **Coupon:** Allows customers to purchase goods or services at a reduced price.
- (18) **Compliance Checks.** System the city, county, or state uses to investigate and ensure that those authorized to sell licensed or registered products containing cannabinoids 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 regulated products.
- (19) **Delivery Service.** A licensee under Minn. Stat. §342 who is entitled to: purchase cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products from licensed cannabis microbusinesses with a retail endorsement, cannabis mezzobusinesses with a retail endorsement, cannabis retailers, medical cannabis retailers, and medical cannabis combination businesses; transport and deliver cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumable products to customers; and perform other actions approved by the Office of Cannabis Management. Delivery service in Fillmore County is only permitted for registered businesses with a valid Minnesota license who also follow the rules set forth by Minn. Stat. §342.
- (20) **Distributor** means a person who sells, arranges a sale, or delivers a product containing cannabinoids derived from hemp, including an edible cannabinoid product, that the person did not manufacture to a retail establishment for the sale of consumers. Distribution does not include a common carrier used only to complete delivery to a retailer.

- (21) **Edible Cannabinoid Product.** Means any product that:
- (1) is intended to be eaten or consumed as a beverage by humans;
 - (2) contains a cannabinoid in combination with food ingredients;
 - (3) is not a drug;
 - (4) does not contain more than 0.3% of any tetrahydrocannabinol;
 - (5) may only contain delta-8 or delta-9 tetrahydrocannabinol from hemp plants or hemp parts or is an artificially derived cannabinoids;
 - (6) consists of not more than 5 milligrams of any tetrahydrocannabinol per serving;
 - (7) consists of not more than 50 milligrams of any tetrahydrocannabinol per package;
 - (8) if intended to beverage may not contain more than 2 servings or 10 milligrams of tetrahydrocannabinol per container;
 - (9) is not substantially similar to a meat, poultry, or dairy food product.
 - (10) may be sold in Minnesota under Minn. Stat. §151.72 from the period of May 31, 2023 to March 1, 2025.
- (22) **Edible Cannabinoid Product Handler Endorsement.** An endorsement issued under Minn. Stat. §342 to any person seeking to manufacture, process, sell, handle, or store an edible cannabis product or lower potency hemp edible, other than and an edible cannabis product or lower potency hemp edible, that has been placed in its final packaging. Handlers must comply with Minn. Stat. §342 requirements and are exempt from fees associated with initial and renewal of endorsements.
- (23) **Edible Cannabis Product.** "Edible cannabis product" means any product that is intended to be eaten or consumed as a beverage by humans; contains a cannabinoid other than an artificially derived cannabinoid in combination with food ingredients; is not a drug or food; and is a type of product approved for sale by the office, or is substantially similar to a product approved by the office including but not limited to products that resemble nonalcoholic beverages, candy, and baked goods. Edible cannabis product does not include lower-potency hemp edibles.
- (24) **Exclusive Liquor Stores.** An establishment that meets the definition of exclusive liquor store in Minn. Stat. §340A.101, subd. 10.
- (25) **Hemp Business.** (a) "Hemp business" means either of the following licensed under this Minn. Stat. §342:
- (1) lower-potency hemp edible manufacturer;
 - (2) lower-potency hemp edible retailer.
- (b) Hemp business does not include a person or entity licensed under Minnesota Chapter 18K to grow industrial hemp for commercial or research purposes or to process industrial hemp for commercial purposes.

- (26) **Hemp Concentrate.** (a) "Hemp concentrate" means:
- (1) the extracts and resins of a hemp plant or hemp plant parts;
 - (2) the extracts or resins of a hemp plant or hemp plant parts that are refined to increase the presence of targeted cannabinoids; or
 - (3) product that is produced by refining extracts or resins of a hemp plant or hemp plant parts and is intended to be consumed by combustion or vaporization of the product and inhalation of smoke, aerosol, or vapor from the product.
- (b) Hemp concentrate does not include artificially derived cannabinoids, nonintoxicating cannabinoid products, edible cannabinoid products, lower-potency hemp edibles, hemp-derived consumer products, or hemp-derived topical products.
- (27) **Hemp Consumer Industry.** Refers to every item, product, person, process, action, business, or other thing related to artificially derived cannabinoids, lower-potency hemp edibles, and hemp-derived consumer products and subject to regulation under this ordinance.
- (28) **Hemp-Derived Consumer Products.** (a) Means a product intended for human or animal consumption, does not contain cannabis flower or cannabis concentrate, and:
- (1) contains or consists of hemp plant parts; or
 - (2) contains hemp concentrate or artificially derived cannabinoids in combination with other ingredients;
 - (3) consists of not more than 10 milligrams of any tetrahydrocannabinol per serving;
 - (4) consists of not more than 200 milligrams of any tetrahydrocannabinol per package;
 - (5) if intended to beverage may not contain more than 2 servings or 20 milligrams of any tetrahydrocannabinol per container; and
 - (6) may be sold in Minnesota under Minn. Stat. §342 effective March 1, 2025.
- (b) Hemp-derived consumer product does not include artificially derived cannabinoids, nonintoxicating cannabinoid products, edible cannabinoid products, lower-potency hemp edibles, hemp-derived topical products, hemp fiber products, or hemp grain.
- (29) **Hemp-Derived Topical Products.** (a) Means a product generally expected to be used by applying the product externally to a part of a human or animal body, does not contain cannabis flower or cannabis concentrate, and:
- (1) contains cannabinoids from hemp plant or hemp plant parts
 - (2) may contain cannabinoids other than cannabidiol, cannabigerol, or any other cannabinoid approved in Minnesota provided that the cannabinoids are naturally occurring in hemp plants or hemp plant parts and the total of all other cannabinoids present in a product does not exceed one milligram per package.
 - (3) may not be comprised of tetrahydrocannabinol;
 - (4) May be sold in Minnesota under Minn. Stat. §342 effective March 1, 2025.
- (30) **Hemp Fiber Product.** Hemp fiber product means an intermediate or finished product made from the fiber of hemp plant parts that is not intended for human or animal consumption. Hemp fiber product includes but is not limited to cordage, paper, fuel, textiles, bedding, insulation, construction materials, compost materials, and industrial materials.

- (31) **Hemp Grain.** Hemp grain means the harvested seeds of the hemp plant intended for consumption as a food or part of a food product. Hemp grain includes oils pressed or extracted from harvested hemp seeds.
- (32) **Hemp Plant.** Hemp plant means all parts of the plant of the genus Cannabis that is growing or has not been harvested and has a delta-9 tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight basis.
- (33) **Hemp Plant Parts.** Hemp plant parts means any part of the harvested hemp plant, including the flower, bud, leaves, stems, and stalk, but does not include derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers that are separated from the plant. Hemp plant parts does not include hemp fiber products, hemp grain, or hemp seed.
- (34) **Hemp Seed.** Hemp seed means the viable seed of the plant of the genus Cannabis that is intended to be planted and is reasonably expected to grow into a hemp plant. Hemp seed does not include cannabis seed or hemp grain.
- (35) **Industrial Hemp.** Means hemp plants that have been tested and found to meet the requirements of Minnesota Statutes Chapter 18K.02 and the rules adopted thereunder.
- (36) **Intoxicating Cannabinoids.** Are naturally-occurring or artificially derived cannabinoids 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. Intoxicating cannabinoids includes but is not limited to tetrahydrocannabinol (THC).
- (37) **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 Minn. Stat. §151.72 and Minn. Stat. §342 to appear on the label.
- (38) **Labeling** means all labels that are affixed to a container in which the product is sold, provided in with the immediate container, or provided on a portion of the manufacturer's website that is linked to a QR code. Labeling may include but is not limited to outer containers, wrappers, package inserts, brochures, or pamphlets.
- (39) **Licensed Child Care/Licensed Daycare:** Means an individual, corporation, partnership, voluntary association, or other organization legally responsible for the operation of the childcare program that has been granted a license by the commissioner under Minnesota Statutes Chapter 245A and Minnesota Administrative Rule 9502

- (40) **Licensee:** means the individual, cooperative, or business which has been issued or possesses a registration and/or license, as available from the State of Minnesota, giving the entity permission for cultivation, testing, manufacturing, processing, wholesaling, transporting, or retail sale of products made from cannabinoids. For the purpose of this ordinance, "licensee" includes cannabis retailers, cannabis microbusinesses with retailer endorsement, cannabis mezzobusinesses with retailer endorsement, medical cannabis retailers, medical cannabis combination businesses, and lower potency hemp-edible retailers and any other person or business who may sell nonintoxicating cannabinoids, edible cannabinoid products, hemp-derived topical products, hemp-derived consumer products, and lower-potency hemp edibles pursuant to this ordinance and who has registered with Fillmore County.
- (41) **Loosies:** A single or individually packaged nonintoxicating cannabinoid product, hemp-derived topical product, hemp-derived consumer product, edible cannabinoid product, or lower-potency edible product that has been removed from its intended retail packaging and sold individually.
- (42) **Lower-Potency Hemp Edible** means any product that:
- (1) is intended to be eaten or consumed as a beverage by humans;
 - (2) contains hemp concentrate or an artificially derived cannabinoid, in combination with food ingredients;
 - (3) is not a drug;
 - (4) consists of servings that contain no more than 5 milligrams of delta-9 tetrahydrocannabinol, 25 milligrams of cannabidiol, 25 milligrams of cannabigerol, or any combination of those cannabinoids that does not exceed the identified amounts;
 - (5) does not contain more than a combined total of 0.5 milligrams of all other cannabinoids per serving;
 - (6) does not contain an artificially derived cannabinoid other than delta-9 tetrahydrocannabinol;
 - (7) does not contain a cannabinoid derived from cannabis plants or cannabis flower;
 - (8) is a type of product approved for sale by the office or is substantially similar to a product approved by the office, including but not limited to products that resemble nonalcoholic beverages, candy, and baked goods;
 - (9) is not a lollipop or ice cream product;
 - (10) is not substantially similar to a meat, poultry, or dairy food product;
 - (11) may be sold in Minnesota under Minn. Stat. §342 effective March 1, 2025.
- (43) **Manufacture:** Means the production, quality control, standardization, packaging, re-packaging, tableting, encapsulating, labeling, or other processing of cannabinoid products. Several manufacturing licensing types are available and are only permitted once available and issued as defined under Minn. Stat. §342. "Manufacture" for the purposes of this ordinance does not include adding a label from a county registered licensee to a legally manufactured product and package from another Minnesota licensed manufacturer as long as the original package and label are not removed, altered, or changed.

- (44) **Matrix or Code or Quick Response Code (QR):** 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.
- (45) **Medical Cannabis** is a cannabinoid product available to patients with qualifying medical conditions who are registered as described by the State of Minnesota. Sale of medical cannabis is regulated by the State of Minnesota and must adhere to requirements under the law.
- (46) **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. Retail sale of cannabinoids is not permitted by moveable places of business in Fillmore County. Moveable Place of Business does not include delivery service.
- (47) **Nonintoxicating Cannabinoid.** Nonintoxicating cannabinoid means a cannabinoid that when introduced into the human body does not impair the central nervous system and does not impair human audio, visual, or mental processes. Nonintoxicating cannabinoid includes but is not limited to cannabidiol (CBD) and cannabigerol (CBG) but does not include any artificially derived cannabinoid. May be consumed by approved administration routes outlined in Minn. Stat. §151.72 and sold under Minn. Stat. §151.72 from the period of May 31, 2023 to March 1, 2025.
- (48) **Off-Sale:** "Off-sale" is the sale of nonintoxicating cannabinoid, nonintoxicating cannabinoids, edible cannabinoid products, hemp-derived topical products, hemp-derived consumer products, and lower-potency hemp edibles in original packages for consumption off licensed premises only.
- (49) **On-Sale:** "On-sale" is the sale of nonintoxicating cannabinoids, hemp-derived consumer products, edible cannabinoid products, and lower potency hemp edibles for consumption only on the licensed premises as directed by Minn. Stat. §340 and Minn. Stat. §342. Consumption may not include smoking or vaping as defined by Minnesota Clean Indoor Air Act (MCIAA) Minn. Stat. §144.411 to 144.417.
- (50) **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.
- (51) **Outdoor Advertisement** means an advertisement that is located outdoors or can be seen or heard by an individual who is outdoors and includes billboards; advertisements on benches; advertisements at transit stations or transit shelters; advertisements on the exterior or interior of buses, taxis, light rail transit, or business vehicles; and print signs that do not meet the requirements of Minn. Stat. §342.64, subdivision 2, paragraph (b), but that are placed or located on the exterior property of a cannabis business. Advertisements are also subject to regulations established within the Fillmore County Zoning Ordinance and any applicable city ordinance.

- (52) **Package.** Means any container or receptacle used for holding nonintoxicating cannabinoids, edible cannabinoid products, hemp-derived topical products, hemp-derived consumer products, and lower-potency hemp edibles.
- (53) **Registration.** The act of completing an enrollment application as a person, business, or any other entity prior to selling nonintoxicating cannabinoids, hemp-derived topical products, hemp-derived consumer products, edible cannabinoids products, or lower-potency hemp edibles within the County and/or the State. Registrants must also obtain a license under Minn. Stat. §342 as required.
- (54) **Regulated Product.** Means nonintoxicating cannabinoids, edible cannabinoid products, hemp-derived topical products, hemp-derived consumer products, and lower potency hemp edibles approved, regulated, and/or licensed by the State of Minnesota. A license for these products must be obtained from the State of Minnesota per statute requirements.
- (55) **Regulated Premises.** The property, building, land, transporter, or delivery service location described in the license that may sell nonintoxicating cannabinoid products, hemp-derived topical products, hemp-derived consumer products, edible cannabinoid products, and/or lower-potency hemp edibles as described in Minn. Stat. §342.
- (56) **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 Minn. Stat. §157.15. Restaurant does not include a food cart, mobile food unit, or moveable place of business.
- (57) **Sale/Sell.**
- (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).
- (58) **Sample.** A small quantity of a product containing cannabinoids that is exhibited as a specimen of a larger quantity.
- (59) **School.** Any public or private elementary, vocational, or secondary school, or a public or private college or university.

- (60) **Self-Service Merchandising:** Self-service occurs from open product displays in any manner where any person has access to the products without the assistance or intervention of the licensee or the licensee's employee. Assistance or intervention means the actual physical exchange of the product between the customer and the licensee or employee. Self-service merchandising for licensees who prohibit consumers under the age of 21 is permitted for non-intoxicating cannabinoids and hemp-derived topical products. Self-service merchandising for licensees who prohibit consumers under the age of 21 is prohibited for edible cannabinoid products, hemp-derived consumer products, lower-potency hemp edibles. Licensed premises that permit consumers under the age of 21 are prohibited from the self-service merchandising of non-intoxicating cannabinoids, edible cannabinoid products, hemp-derived topical products, hemp-derived consumer products, and lower-potency hemp edibles and must ensure these items are displayed behind a checkout counter where the public is not permitted or in a locked case. All nonintoxicating cannabinoids, nonintoxicating cannabinoids, edible cannabinoid products, hemp-derived topical products, hemp-derived consumer products, and lower-potency hemp edibles that are not displayed must be stored in a secure area at all licensed premises.
- (61) **Synthetic Cannabinoid.** Synthetic cannabinoid means a substance with a similar chemical structure and pharmacological activity to a cannabinoid, but which is not extracted or derived from hemp plants, or hemp plant parts and is instead created or produced by chemical or biochemical synthesis. The sale of synthetic cannabinoid products is prohibited under this ordinance.
- (62) **Tamper-Evident:** 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.
- (63) **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" but a "tobacco retailer."
- (64) **Vending Machine:** Any mechanical, electric, or electronic, or other type of device that dispenses items that contain cannabinoids upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the regulated product.

SECTION 4. LICENSE AND REGISTRATION.

Subd. 1. Registration and License Required. Effective upon enactment of this ordinance, no person, business, cooperative, or other entity shall sell, offer to sell, or possess with intent to sell any nonintoxicating cannabinoids, edible cannabinoid products, hemp-derived topical products, hemp-derived consumer products, and lower-potency hemp edibles within Fillmore County without registering with the county. Upon availability from the state, potential licensees must also register and/or obtain a license and endorsements as prescribed by the State of Minnesota within Minn. Stat. §342. The state licensees with retail licenses that must register with Fillmore County before providing hemp-derived consumer products and lower potency hemp edibles to the public include: cannabis retailers, cannabis microbusinesses with retailer endorsement, cannabis mezzobusinesses with retailer endorsement, medical cannabis retailers, medical cannabis combination businesses, and lower potency hemp-edible retailers.

Subd. 2. Application. An application for a registration to sell nonintoxicating cannabinoids, edible cannabinoid product, hemp-derived topical products, hemp-derived consumer products, and lower potency hemp edibles 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 trade name of the business for which the registration 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 registrant and/or licensee 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. State license applications requiring county approval shall be certified within 30 days of completed application receipt.

Subd. 3. Background Compliance. State licensees are required to complete background investigations per Minn. Stat. §342. Potential county registrants are subject to preliminary compliance as outlined in Minn. Stat. §151.72 and Minn. Stat. §342.

Upon receipt of a completed registration application to sell nonintoxicating cannabinoids, edible cannabinoid product, hemp-derived topical products, hemp-derived consumer products, or lower potency hemp edibles the Fillmore County Auditor-Treasurer shall immediately forward a copy of the application to the Fillmore County Sheriffs' Office, or such other enforcement agency as is designated to conduct a compliance check as outlined in Minn. Stat. §342. The background investigation shall examine all facts or information, including compliance with local zoning and distancing regulations, which is relevant to the question of the applicant's fitness to receive registration and to perform the duties imposed by this ordinance. Upon completing the investigation, 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 registration to the applicant. The County Auditor-Treasurer will then forward to the County Administrator the

compliance report, license and/or registration application, and other relevant information or documents. These documents shall also include a recommendation from the County Auditor-Treasurer as to whether the registration should be issued to the applicant. This information may also be submitted as part of the licensing process as required under Minn. Stat. §342.

Upon receipt of the background compliance 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. As defined in Minn. Stat. §342, the County may revoke any registration defined as a transfer or to be found in noncompliance as defined by processes in the statute.

Subd. 4. Action. The Fillmore County Commissioners may either approve or deny the registration application or 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 registration, the County Auditor-Treasurer shall issue the registration to the applicant. If the Fillmore County Commissioners deny the registration, a 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.

Subd. 5. Term. All registrations under this ordinance shall be issued annually and/or align with state licensing timelines as noted by Minn. Stat. §342. Per Minn. Stat. §342 registration fees are non-transferrable, non-refundable, and will not be pro-rated based on the number of whole months left during that registration year.

Subd. 6. Revocation or Suspension.

- (1) Any registration issued under this ordinance may be revoked or suspended for failure of the registrant or license holder to meet Section 6, Section 7, or any other requirements in this ordinance. Registration may also be revoked or suspended for failure of the registrant or license holder to comply with testing, labeling, packaging, branding, advertising, or any other provision under Minn. Stat. §342 and Minn. Stat. §151.72. License revocations will be reported to the State of Minnesota for further actions.
- (2) If a registration is mistakenly issued or renewed to a licensee, it shall be revoked upon the discovery that the person or business was ineligible for the registration 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, and any associated hearing process.

Subd. 7. Transfers. Licensee transfers must follow requirements as established by Minn. Stat. §342. Transfer of county registration is not permitted and requires reapplication by the new potential registrant or licensee.

Subd. 8. Display Licenses and Signage. All licenses and registrations to sell nonintoxicating cannabinoids, edible cannabinoid product, hemp-derived topical products, hemp-derived consumer products, and lower potency hemp edibles shall be posted and displayed in plain view of the general public on the licensed and registered 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 regulated products are offered for sale. The required signage, which will be provided to the licensee or registered business by the County or State, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

Subd. 9. Renewals. The renewal of a registration issued under this ordinance shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current registration. Renewal of registration will align with any required state license renewal.

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

Subd. 11. Minimum Clerk Age. Individuals employed by a registrant or licensee for the sale of hemp-derived consumer products and lower potency hemp edibles must be at least 21 years of age.

SECTION 5. FEES.

No registration for the sale of nonintoxicating cannabinoids, edible cannabinoid products, hemp-derived topical products, hemp-derived consumer products, and lower-potency hemp edibles shall be issued under this ordinance until the appropriate registration fee has been paid in full. The fees for registration 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. The basis for and fee structure are outlined in Minn. Stat. §342 and Minn. Stat. §151.72. Registration fees are non-transferrable, non-refundable, and will not be pro-rated based on the number of whole months left during that registration year.

SECTION 6. ELIGIBILITY AND BASIS FOR DENIAL OF REGISTRATION.

Subd. 1. Eligibility.

- (1) **Valid Registration:** Eligible individuals, businesses, or other entities must register with Fillmore County upon enactment of this ordinance and must also register with the State of Minnesota by October 1, 2023, or as required.
- (2) **Valid License.** Once Minnesota State licenses are available, no registration will be issued to individuals, businesses, or other entities without first having a valid license as required by Minn. Stat. §342.
- (3) **Registration Fees.** Registrations will not be issued to registrants with unpaid registration and renewal fees.
- (4) **Delinquent Taxes and Charges.** No registration to sell nonintoxicating cannabinoids, edible cannabinoid products, hemp-derived topical products, hemp-derived consumer products, and lower-potency hemp edibles shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the City, County, or State are delinquent and unpaid. In the event an action has been commenced pursuant to the provisions of Minn. Stat. §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 registrant, 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.
- (5) **Compliance Requirements.** No registration will be issued to licensees who do not pass preliminary compliance checks or are not in good standing with requirements defined in Minn. Stat. §151.72 and Minn. Stat. §342.
- (6) **Moveable Place of Business.** No license or registration for the sale of nonintoxicating cannabinoids, edible cannabinoid product, hemp-derived topical products, hemp-derived consumer products, and lower potency hemp edibles shall be issued to a moveable place of business. Only fixed-location businesses or retail establishments shall be eligible to receive an annual registration under this ordinance.

- (7) **Prohibited Areas.** Registration and/or licenses shall not be issued to premises located in an area zoned for residential or agricultural activities. Areas zoned as agricultural may only receive a license and registration to sell nonintoxicating cannabinoids, edible cannabinoid products, hemp-derived topical products, hemp-derived consumer products, and lower-potency hemp edibles upon being re-zoned as commercial or industrial and upon receipt of a conditional use permit.
- (8) **Proximity to Schools or Licensed Childcare Facilities.** No license or registration shall be issued for a premises within 250 feet of any school or licensed daycare/licensed childcare 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.

Subd. 2. Reasons for Denial of License or Registration. The reasons for denying the issuance or renewal of a license or registration 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 registration, license, and/or endorsement.
- (3) In the judgment 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.
- (4) The applicant is a business that does not have an operating officer or manager who is eligible pursuant to the provisions of this chapter.
- (5) 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 a 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.
- (6) The premises for which the license is sought has real estate taxes, assessments, or other financial claims of the City, County, or of 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.
- (7) The applicant does not have an edible cannabinoid product handler endorsement as required by Minn. Stat. §342.
- (8) An applicant operates a moveable place of business or event. Only fixed-location retail establishments are eligible to be licensed and registered.
- (9) An applicant whose regulated premises, building, or property is within 250 feet of a school or licensed daycare.
- (10) An applicant whose licensed premises, building, or property is not located within an area that is zoned commercial or 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 regulated product:
 - (i) By means of any type of vending machine.
 - (ii) By means of self-service merchandising unless as outlined by this ordinance.
 - (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 an edible cannabinoid product and may be consumed by: combustion or vaporization of the product an inhalation of smoke, aerosol, or vapor from the product; chewing, drinking, or swallowing; or through injection or application to a mucous membrane or nonintact skin.
 - (v) Manufactured outside of Minnesota that does not comply with Minn. Stat. §151.72 and Minn. Stat. §342.
 - (vi) That is not in the original packaging with labeling and packaging compliance required by Minn. Stat. §342 and Minn. Stat. §151.72, as may be amended from time to time.
- (2) No person, business or other entity shall sell or offer for sale a non-intoxicating cannabinoid, hemp-derived topical product, hemp-derived consumer product, edible cannabinoid product, or lower potency hemp edible that does not meet all the requirements of Minn. Stat. 151.72 or §342 as amended from time to time.
- (3) No person or licensee shall sell or offer cannabis flower, cannabis products, or hemp-derived consumer products under this ordinance.
- (4) No person or licensee shall allow consumption of a non-intoxicating cannabinoid, hemp-derived consumer product, edible cannabinoid product lower-potency hemp edibles to be visible outside of the regulated premises of the building.
- (5) No person shall be allowed to consume nonintoxicating cannabinoids, hemp-derived consumer products, edible cannabinoid products, and lower potency hemp edibles in the building or anywhere on the property of licensed/registered premises with the exception of the following businesses:
 - a. Restaurants, bars, and similar retail establishments with an on-sale liquor license. These types of licensees which are registered and/or licensed to sell nonintoxicating cannabinoids, hemp-derived consumer products, edible cannabinoid products, and lower potency hemp edibles may also allow consumption of nonintoxicating cannabinoids, hemp-derived consumer products, edible cannabinoid products, and lower potency hemp edibles that are purchased at that restaurant, bar, or retail establishment. Products purchased off of the regulated premises cannot be brought onto the premises and consumed. These regulated premises 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, product specific self-service merchandising requirements, prohibit loosies, prohibit samples, etc.

Subd. 2. Legal Age. No person shall sell any nonintoxicating cannabinoids, hemp-derived topical products, hemp-derived consumer products, cannabinoid products, or lower-potency hemp edibles to any person under the age of 21.

- (1) **Age Verification.** Licensees shall verify by means of government-issued photographic identification that the purchase 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 nonintoxicating cannabinoids, hemp-derived topical products, hemp-derived consumer products, edible cannabinoid products, or lower-potency hemp edibles are offered for sale. The required signage, which will be provided to the registrant/licensee by the County or State, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

Subd. 3. Samples Prohibited. Licensees may display samples, but they may not sell the product used as a sample for display. No person, business, or other entity shall distribute or provide samples of any nonintoxicating cannabinoids, hemp-derived topical products, hemp-derived consumer products, cannabinoid products, or lower-potency hemp edibles free of charge or at a nominal cost. Licensees may display samples, but they may not sell the product used as a sample for display.

Subd. 4. Manufacturing or Production Prohibited. The manufacturing and production of nonintoxicating cannabinoids, hemp-derived topical products, hemp-derived consumer products, edible cannabinoid products, or lower-potency hemp edibles is prohibited until a business receives a license and/or endorsement from the State of Minnesota that permits manufacturing or production as defined by Minn. Stat. §342. Any manufacturing or production must be located in an area zoned for commercial or industrial activities, must obtain the necessary zoning permits, and must comply with all Fillmore County zoning regulations and other rules.

Subd. 5. Delivery Service Sales Prohibited. Delivery service sale of nonintoxicating cannabinoids, hemp-derived topical products, hemp-derived consumer products, edible cannabinoid products, or lower-potency hemp edibles is prohibited until a business receives a license and/or endorsement from the State of Minnesota that permits delivery service sales as defined by Minn. Stat. §342.

Subd. 6. Hours and Days of Sale. Nonintoxicating cannabinoids, edible cannabinoid product, hemp-derived topical products, hemp-derived consumer products, and lower potency hemp edibles may be sold only during the following days and hours:

- a. Registered businesses which are also issued an on-sale license may sell nonintoxicating cannabinoids, hemp-derived consumer products, edible cannabinoid products, and lower potency hemp edibles only between the hours of 8:00 a.m. through 1:00 a.m. Monday through Saturday. On Sundays, these same products may only be sold from 10:00 a.m. through 11:59 p.m.
- b. Other registered business, including those issued an off-sale license, are prohibited from allowing consumption on the registered premises of nonintoxicating cannabinoids, hemp-derived topical products, hemp-derived consumer products, edible cannabinoid products, and lower potency hemp edibles. These businesses may only sell these 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 to be in possession of any nonintoxicating cannabinoid, hemp-derived topical product, hemp-derived consumer product, cannabinoid product, or lower-potency hemp edible. Employee handling and use of these products is outlined in Minn. Stat. §342 Section 24.

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.

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

Subd. 11. Temporary Registration Prohibited. No temporary registrations to sell nonintoxicating cannabinoids, hemp-derived topical products, hemp-derived consumer products, edible cannabinoid products, or lower-potency hemp edibles shall be issued or allowed. Registration shall only be for a period of one a year and may align with licensure per Minn. Stat. §342.

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 registrations to sell nonintoxicating cannabinoids, hemp-derived topical products, hemp-derived consumer products, edible cannabinoid products, or lower-potency hemp edibles under this ordinance. Revocation of registration must be reported to the State and may result in temporary or permanent removal of state licensure.

Subd. 13. Advertising. No person or business may advertise cannabinoid products by means not approved within Minn. Stat. §342, Fillmore County Zoning Ordinance, or applicable city ordinance.

SECTION 8. STORAGE REQUIREMENTS.

Licensees may display samples, but they may not sell the product used as a sample for display. Licensees who prohibit customers under the age of 21 shall ensure that all edible cannabinoid products, hemp-derived consumer products, and lower-potency hemp edibles, other than edible cannabinoid products and lower-potency hemp edibles that are intended to be consumed as a beverage, are displayed behind a checkout counter where the public is not permitted or in a locked case. Licensees who permit customers under the age of 21 shall ensure that all nonintoxicating cannabinoids, edible cannabinoid products, hemp-derived topical products, hemp-derived consumer products, and lower-potency hemp edibles are displayed behind a checkout counter where the public is not permitted or in a locked case. All nonintoxicating cannabinoids, edible cannabinoid products, hemp-derived topical products, hemp-derived consumer products, and lower-potency hemp edibles that are not displayed must be stored in a secure area.

SECTION 9. RESPONSIBILITY.

All licensees are responsible for the actions of their employees in regard to the sale, offer to sell, and furnishing of nonintoxicating cannabinoids, hemp-derived topical, hemp-derived consumer products, edible cannabinoid products, and lower potency hemp edibles on the regulated premises. The sale, offer to sell, or furnishing of any these products 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 and registered under this ordinance shall be open to inspection by the County or their agents or employees during regular business hours. The Fillmore County Sheriff's Office shall conduct compliance checks at least once every calendar year. The results of the annual compliance checks will be reported to the Fillmore County Board of Commissioners.

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 17 years of age with parental consent, but under the age of 21 to enter the regulated premises to attempt to purchase 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, including that any hemp-plant material offered for sale contains less than 0.3% tetrahydrocannabinol.

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 and registrations to sell nonintoxicating cannabinoids, edible cannabinoid products, hemp-derived topical products, hemp-derived consumer products, and lower-potency hemp edibles under this ordinance. Failure to cooperate in compliance checks and inspections shall also be reported to the State of Minnesota.

SECTION 11. VIOLATIONS AND PENALTIES.

Subd. 1 Criminal Penalty.

- a. As per Minn. Stat. §342 Section 9, a violation of any sale provisions may be prosecuted as a gross misdemeanor offense and is subject to a sentence of not more than 364 days in jail, a fine not to exceed \$3,000, or both. Nothing in this ordinance prohibits violators from receiving criminal penalties under Minnesota law as set forth in Minn. Stat. §342 Section 9 or section 144.99 subdivision 11, or elsewhere.
- b. A violation of any sale provisions or other terms of this ordinance by any person, business or other entity may also be punishable under the terms of this ordinance unless preempted by or contrary to Minnesota law as follows:
 1. A first violation of this ordinance shall be a petty misdemeanor offense punishable by a fine not to exceed \$300.00.
 2. A second or any subsequent violation of this ordinance shall be a misdemeanor offense which is punishable by not more than 90 days in jail, 90 days in jail, or both. Nothing in this ordinance prohibits the County from seeking prosecution as a misdemeanor for alleged violations of this ordinance.

Subd. 2. Administrative Penalty. Administrative penalties for violation of sales provisions for nonintoxicating cannabinoids, edible cannabinoid products, hemp-derived topical products, hemp-derived consumer products, and lower-potency hemp edibles may also be imposed pursuant to Minnesota law, or this ordinance as follows:

- a. **Pursuant to Minnesota law,** if a licensee or an employee of a licensee is found to have sold without a valid retail registration, a \$2,000 the civil penalty may be imposed for each violation. Licensees/registrants out of compliance with Minn. Stat. §151.72 and Minn. Stat. §342 are subject to penalties including suspension or revocation of their registration to sell products containing cannabinoids for a minimum of 30 days. Both license and registration suspension or revocation are reported to the County and State. The State may suspend or revoke any license noted in Minn. Stat. §342. Registration and license reinstatement may occur if County or State determines a violation has been cured.

Licensees or registrants who also hold tobacco licenses must have this authority suspended for a period of at least seven days and are subject to revocation per Minn. Stat. §342.

Licensees or registrants who also hold liquor licenses shall be disqualified from holding a liquor license if they have had a license or registration pursuant to chapter 342 or section 151.72 subdivision 5b revoked; have been convicted of an offense under section 151.72, subdivision 7; or have been convicted under any other statute for the illegal sale of marijuana, cannabis flower, cannabis products, lower-potency hemp edibles, hemp-derived consumer products, or edible cannabinoid products and the sale took place on the premises of a business that sells intoxicating liquor or 3.2 percent malt liquor to customers per Minn. Stat. §151.72, Minn. Stat. §342, and Minn. Stat. §340A.402.

- b. In addition to administrative penalties under Minnesota law, there may also be administrative penalties imposed for violations of this ordinance unless preempted or contrary to Minnesota law. Those administrative penalties are as follows:
 1. **First Violation.** The County Commissioners shall impose a civil penalty of \$300.00 and suspend the registration and/or 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 \$900.00 and suspend the registration and/or 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 registration and/or license for not less than 90 days.
 4. **Fourth Violation Within 60 Months.** The County Commissioners shall revoke the registration and/or license for at least three years and impose a \$2,000.00 civil penalty.
 5. **Tobacco and Liquor License Suspension and/or Revocation.** County and local tobacco licenses and liquor licenses may also be suspended or revoked as a result of violations of this ordinance if they are not already suspended pursuant to the requirements of Minn. Stat. Sec. 342, or Minn. Stat. Sec. 151.72.

Subd. 3. Training in Lieu of Suspension. All violations are to be reported to the State regardless of this training option. 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. Training shall be at the expense of the licensee, may be in lieu of the entire registration suspension for a first violation, and shall be conducted per the following conditions:

- (1) Training for all employees of a registrant must be completed within two training sessions at the discretion of the Fillmore County Sheriffs' Office.
- (2) If more than one registrant 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 registrant to make certain that all employees successfully complete the required training. Failure to do so means the registrant has failed to meet the "training in lieu of suspension" requirement of the administrative penalty and will be subject to entire license and registration suspension or revocation.
- (4) The registrant 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 registration and license suspension.

Subd. 4. Administrative Penalty Procedures. No penalty shall take effect until the licensee has received written notice by United States mail of the alleged violation and of the opportunity for a hearing before the County Commissioners. Licensees have the right to a hearing before the County Commissioners. A hearing date will be established by the county for a date at least 20 days after registrant notification.

Subd. 5. Suspension and Revocation. In addition to any other penalty imposed under this ordinance, any registration issued under this section may be suspended or revoked by the County Commissioners for a violation of any provision of this chapter if the registrant or 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.

Licensees are subject to deadlines and application, initial fees, and renewal license fees established by the State of Minnesota under Minn. Stat. §342 and Minn. Stat. §151.72. Businesses with retail licenses or retail endorsements selling nonintoxicating cannabinoids, edible cannabinoid product, hemp-derived topical products, hemp-derived consumer products, and lower potency hemp edibles are subject to applicable initial and renewal registration fees with Fillmore County. The Fillmore County Fee Schedule shall be amended to include registrations fees for businesses selling nonintoxicating cannabinoids, hemp-derived topical products, hemp-derived consumer products, edible cannabinoid products, and lower potency hemp edibles. The County will provide this fee schedule to all applicants and the public upon request.

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 nonintoxicating cannabinoid, edible cannabinoid product, hemp-derived topical product, hemp-derived consumer product, and lower potency hemp edible ordinance or similar ordinance for the purpose of regulating the sale of these products, that city ordinance shall preempt and supersede the Fillmore County ordinance so as to control the sale of these 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 on September 26, 2023, 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. 20230926-HEMP

AN ORDINANCE REGULATING THE SALE OF
SALE OF HEMP-DERIVED TOPICAL PRODUCTS, HEMP-DERIVED CONSUMER
PRODUCTS, EDIBLE CANNABINOID PRODUCTS,
NONINTOXICATING CANNABINOIDS, AND LOWER-POTENCY HEMP EDIBLES

The above-referenced Ordinance is adopted for the purpose of protecting public health and safety by regulating non-intoxicating cannabinoids, edible cannabinoids, hemp-derived topical products, hemp-derived consumer products, and lower potency hemp edibles 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 Administrator's Office located at 101 Fillmore Street Preston, Minnesota, 55965 Bobbie Hillery, Fillmore County Administrator.

ADOPTED by the Fillmore County Board of Commissioners this 26th day of September, 2023.



Larry Hindt, Fillmore County (Chairman)

ATTESTED:



Bobbie Hillery, Fillmore County (Administrator)

ADOPTED by the Fillmore County Board of Commissioners this 26th day of September, 2023.

I, Bobbie Hillery, Fillmore County Administrator, do hereby certify that this is true and correct transcript of the resolution that was adopted at a meeting held on the 26th day of September, 2023 the original which is on file in this office. I further certify that the following Commissioners were present and voted in favor of this resolution: Larry Hindt, Duane Bakke, Marc Prestby, Randy Dahl, and Mitch Lentz.

Date: 9/26/2023

Signature: 