

**CITY OF BAUDETTE  
LAKE OF THE WOODS COUNTY  
STATE OF MINNESOTA**

**ORDINANCE NO. 114**

**AN ORDINANCE AMENDING TITLE XI OF THE BAUDETTE  
CITY CODE BY CREATING A NEW CHAPTER 114 REGARDING  
EDIBLE CANNABINOID RETAIL LICENSES**

The city council of the city of Baudette ordains as follows:

**Section 1:** A new chapter 114 of the Baudette City Code is hereby created by adding the material as follows:

**Section 116.01. Purpose.** The purpose of this chapter is to regulate the sale of certain products that contain tetrahydrocannabinol and meets the requirements to be sold for human or animal consumption under Minnesota Statutes, section 151.72 (“THC products”) for the following reasons:

(A) The city recognizes that, based on the most reliable and up-to-date scientific evidence, the introduction of legalized THC products presents a potential threat to the public health, safety, and welfare of the residents of Baudette.

(B) The city has the opportunity to be proactive and make decisions that will mitigate this threat, reduce exposure of young people to THC products, curtail the marketing of THC products to young people, and improve retailer compliance with existing laws related to THC products.

(C) Until statewide regulatory licensing is in place pursuant to Minnesota Statutes, chapter 342, a local regulatory system for retailers of THC products is appropriate to ensure that such retailers comply with laws and business standards of the city of Baudette to protect the health, safety, and welfare of our youth and other vulnerable residents.

(D) Minnesota Statutes, section 151.72 requires THC product retailers to check the identification of purchasers to verify that they are at least 21 years of age, comply with certain packaging and labeling requirements to protect children and youth, and meet certain potency and serving size requirements.

(E) State law further establishes product and testing standards in part to curb the illegal sale and distribution of THC products and to ensure the safety and compliance of commercially available THC products in the State of Minnesota.

(F) State law does not preempt municipalities from adopting and enforcing local ordinances to regulate retailers of THC products selling pursuant to Minnesota Statutes, section 151.72, including, but not limited to, business licensing requirements.

(G) A licensing requirement for such retailers will not unduly burden legitimate business activities of such retailers who sell or distribute THC products to adults but will allow the city to effectively regulate the operation of lawful businesses and discourage violations of THC product-related laws.

In making these findings and enacting this chapter, it is the intent of the city to facilitate responsible retail activities associated with THC products by allowing legal sale and access without promoting increases in use, and to discourage violations of THC product-related laws, especially those which prohibit or discourage the marketing, sale or distribution of THC products to underage persons, as defined herein.

**Section 116.03. Definitions.** Except as may otherwise be provided or clearly implied by context, all terms used in this chapter shall be given their commonly accepted definitions. Additionally, the following terms shall have the definitions given to them below:

**Subd. 1. Applicant.** “Applicant” shall mean a person, as defined herein, who completes or signs an application for a license to sell THC products pursuant to Minnesota Statutes, section 151.72 and this chapter.

**Subd. 2. Business.** “Business” shall mean the business of selling THC products.

**Subd 3. Compliance Checks.** “Compliance checks” shall refer to the system the city uses to investigate and ensure that those authorized to sell THC products under this chapter are following and complying with the requirements of this chapter. Compliance checks may also be conducted by the city or other units of government for educational, research, and training purposes, or for investigating or enforcing federal, state, or local laws and regulations relating to THC products.

**Subd. 4. License Holder or Licensee.** “License holder” or “licensee” shall mean the owner of a business licensed to sell THC products under this chapter.

**Subd. 5. THC Product.** “THC product” shall mean any product that contains tetrahydrocannabinol and that meets the requirements to be sold for human or animal consumption under Minnesota Statutes, section 151.72, except for nonintoxicating cannabinoids.

**Subd. 6. Moveable Place of Business.** "Moveable place of business" shall refer to any business operated out of a mobile sales kiosk, kiosk, trailer, truck, van, automobile or other vehicle or transportable shelter and not at a fixed address, store front or other permanent structure authorized for sales transactions.

**Subd. 7. Person.** “Person” shall refer to one or more natural persons, a partnership, limited liability company, corporation, including a foreign, domestic, or nonprofit corporation, a trust, a political subdivision of the state or any other business organization.

**Subd. 8. Sale.** A "sale" shall mean any transfer of goods for money, trade, barter or other consideration, including giving goods away for free, whether alone or in conjunction with other goods or products.

**Subd. 9. Self-Service Merchandising.** "Self-service merchandising" shall mean open displays of THC products in any manner in which any person may have access to the THC products without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the THC products between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

**Subd. 10. Vending Machine.** "Vending machine" shall mean any mechanical, electric or electronic, or other type of device which dispenses THC products upon the insertion of money, tokens or other form of payment directly into the machine by the person seeking to purchase the THC product.

**Subd. 11. Underage Person.** "Underage person" shall mean any natural person who has not yet reached the age of 21 years.

**Section 116.05. License.** No person shall sell or offer to sell any THC product under Minnesota Statutes, section 151.72, without first having obtained a license from the city to do so in compliance with this chapter.

**Subd. 1. Application.** An application for a license to sell THC products shall be made on a form provided by the city. The application shall contain 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, and any additional information the city deems necessary. Upon receipt of a completed application, the city clerk shall forward the application to its local law enforcement agency to perform a background investigation of the applicant to determine eligibility under this chapter. If the clerk determines that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

**Subd. 2. Action.** Following the completion of a background investigation, the application will be forwarded to the city council for either approval or denial. The city council may delay action for such reasonable period of time as may be necessary to complete any investigation of the application or the applicant. If the city council approves the license, the clerk shall issue the license to the applicant. If the city council denies the license, notice of the denial shall be given to the applicant stating the reasons why.

**Subd. 3. Term.** Each license, if approved, shall be issued through March 1, 2025, after which it shall expire pursuant to the March 1, 2025 repeal of Minnesota Statutes, section 151.72.

**Subd. 4. Revocation or Suspension.** Any license issued under this chapter may be revoked or suspended as provided in section 116.17.

**Subd. 5. Transfers.** All licenses issued under this chapter 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 to another location or person shall be valid without the prior approval of the city council.

**Subd. 6. Moveable Places 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 chapter.

**Subd. 7. Display.** All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

**Subd. 8. Fees.** No license shall be issued under this chapter until the appropriate license fee has been paid in full. The fee for a license under this chapter shall be \$250.00.

**Section 116.07. Basis for Denial or Revocation of License.** The following shall be grounds for denying the issuance or renewal of a license under this chapter; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city council must deny the license:

**Subd. 1.** The applicant is an underage person;

**Subd. 2.** The applicant has been convicted within the five years preceding the date of application of any violation of a felony, or of any federal, state, or local law, ordinance provision or other regulation relating to sales of THC products;

**Subd. 3.** The applicant has had a license to sell THC products revoked within the five years preceding the date of application, whether by the city or by any other jurisdiction that licenses such business activities;

**Subd. 4.** The applicant fails to provide any information required on the application, or provides false or misleading information;

**Subd. 5.** The applicant is prohibited by federal, state, or other local law, ordinance or other regulation from holding such a license;

**Subd. 6.** The retail sale of THC products on the subject premises is not allowed due to an underlying city zoning control; or

**Subd. 7.** The subject premises has delinquent taxes, special assessments, utility charges, service charges, or other city financial claims.

If a license is mistakenly issued or renewed to a person, it may be revoked upon the discovery that the person was ineligible for the license under this section 116.07 at the time of issuance.

**Section 116.09. Prohibited Sales.** It shall be a violation of this chapter for any person to sell or

offer to sell any THC product as follows:

**Subd. 1.** To any person under the age of 21.

**Subd. 2.** By means of any type of vending machine.

**Subd. 3.** By means of self-service merchandising or by any means whereby the customer may have access to the items without having to request the items from the license holder, their agents, or employees.

**Subd. 4.** By means of providing samples of any THC product free of charge or at a nominal cost.

**Subd. 5.** By any other means, to any other person, or in any other manner or form that is prohibited by federal, state, or other local law, ordinance provision or other regulation.

**Section 116.11. Adherence to Laws.** Licensees and their employees shall adhere to all state requirements related to THC products, including, but certainly not limited to, all express requirements contained in Minnesota Statutes, section 151.72.

**Section 116.13. Responsibility.** All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of THC products on the licensed premises. The sale of any such item by an employee shall be considered a sale by the license holder and shall subject the license holder to the provisions of section 116.17. Nothing in this chapter shall be construed as prohibiting the city from also subjecting the employee to appropriate penalties under this chapter, state or federal law, or other applicable law or regulation.

**Section 116.15. Compliance Checks and Inspections.** All licensed premises shall be open to inspection by law enforcement or other authorized city officials during regular business hours. From time to time, the city may conduct compliance checks by engaging underage persons at least 17 years of age, but under the age of 21, who, with the prior written consent of a parent or guardian if the person is under the age of 18, attempt to purchase THC products under the direct supervision of a law enforcement officer or an employee of the licensing authority. No underage person engaged in a compliance check shall use or attempt to use false identification to misrepresent the person's age. Underage persons engaged in a compliance check shall answer truthfully all questions about the person's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section 116.15 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 may conduct inspections to determine compliance with any or all other aspects of this chapter 116.

**Section 116.17. Violations: Penalties.**

**Subd. 1. Violation Hearing; Adverse License Action.** If any licensee or employee of such licensee violates any provision of this chapter 116, the city shall mail a notice of violation

to the licensee summarizing the alleged violation. The notice shall include the date, time, and location of a hearing before the city council during which the licensee will be provided with an opportunity to be heard regarding the alleged violation. If, following said hearing, the city council finds by a preponderance of the evidence that a violation occurred and said violation was the licensee's first violation during the two years preceding the current violation, the underlying license shall be suspended for five days. If, following said hearing, the city council finds by a preponderance of the evidence that a violation occurred and said violation was the licensee's second violation during the two years preceding the current violation, the underlying license shall be suspended for 20 days. If, following said hearing, the city council finds by a preponderance of the evidence that a violation occurred and said violation was the licensee's third violation during the two years preceding the current violation, the underlying license shall be revoked.

**Subd. 2. Continued Violation.** Each violation of this chapter, and every day in which a violation occurs or continues, shall constitute a separate offense under this chapter.

**Subd. 3. Criminal Penalty; Prosecution.** Any violation of this chapter 116 shall be considered a misdemeanor and nothing contained herein shall prohibit the city from seeking criminal prosecution of any person for any alleged violation of this chapter 116 in addition to or separate from any adverse license action authorized herein.

**Section 116.19. Severability and Savings Clause.** If any portion of this chapter 116 shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation or effect the validity and enforceability of any other provision of this chapter 116.

**Section 116.21. Applicability; Automatic Repeal.** This chapter only applies to the sale of products pursuant to Minnesota Statutes, section 151.72, except that the city is not required to obtain a license under this chapter to sell THC products at its municipal liquor store. Nothing contained herein shall be interpreted or construed to require licensure for the sale of any product pursuant to Minnesota Statutes, chapter 342, including, but certainly not limited to, lower-potency hemp edibles, provided that such sales are made in compliance with chapter 342 and any other applicable state or local law. Additionally, this chapter shall automatically repeal on March 1, 2025.

**SECTION 2.** This ordinance shall take effect following its adoption and publication in accordance with law.

Adopted by the Baudette City Council on this \_\_\_\_ day of \_\_\_\_\_, 2023.

**CITY OF BAUDETTE:**

**ATTEST:**

\_\_\_\_\_  
Rick Rone, Mayor

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Tina Rennemo, City Clerk/Treasurer