

TOWN OF ATHENS
ISANTI COUNTY, MN.

ORDINANCE NO. 2024 -- 06

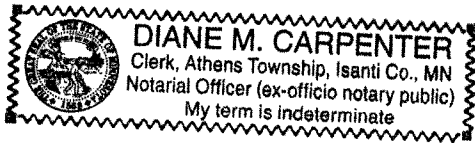
ORDINANCE AMENDING SECTION 20-43 OF THE TOWN CODE RELATING
TO PERMITTED ACCESSORY USSES IN THE BUSINESS DISTRICT AND
ADDING CANNABINOID PRODUCTS

THE TOWN BOARD OF ATHENS ORDAINS:


Section 1: Pursuant to authority granted by Minnesota Statutes, 462.357, The Town of Athens hereby adopts the amendment to Chapter 20, adding Section 20-43 of the Town Code as shown in Exhibit A.

Section 2: This Ordinance shall be in full force upon passage and publication.

Adopted this 9th day of December 2024.




Dave Henderson, Chair


Diane Carpenter, Clerk

	Aye	Nay	Abstain	Absent
Henderson	<input checked="" type="checkbox"/>			
Beckstrom	<input checked="" type="checkbox"/>			
Heinen	<input checked="" type="checkbox"/>			
Olson	<input checked="" type="checkbox"/>			
Christensen	<input checked="" type="checkbox"/>			

EXHIBIT A – AMENDMENT OF SECTION 20-43

**TOWN OF ATHENS
ISANTI COUNTY, MN.**

ORDINANCE NO. 2024 -- 06

**ORDINANCE AMENDING SECTION 20-43 OF THE TOWN CODE
RELATING TO PERMITTED ACCESSORY USSES IN THE BUSINESS
DISTRICT AND ADDING CANNABINOID PRODUCTS**

1. Purpose and intent.

The purpose of this chapter is to regulate the sale of certain legalized adult-use products that contain tetrahydrocannabinol and that meet the requirements to be sold for human or animal consumption under Minn. Stat. § 151.72 ("THC products") for the following reasons:

- A. The Minnesota Legislature amended Minn. Stat. § 151.72 to allow the sale of certain products containing tetrahydrocannabinol (THC).
- B. The new law does not prohibit municipalities from adopting and enforcing local ordinances to regulate THC product businesses including, but not limited to, local zoning and land use requirements and business registration requirements.
- C. The Township has the opportunity to be proactive and make decisions that will mitigate threat and reduce exposure of young people to the products or to the marketing of these products and improve compliance among THC product retailers with laws prohibiting the sale or marketing of THC products to youth

2. Definitions.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The definitions in Minn. Stat. § 151.72., as may be amended from time to time, are hereby incorporated and other terms as applicable are in addition to those.

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CANNABINOID PRODUCT — Any product containing cannabinoids, including an edible cannabinoid product, that is sold for human consumption whether chewed, smoked, inhaled, snorted, sniffed, vaporized, or ingested by other means.

COMPLIANCE CHECKS — The system the Township uses to investigate and ensure that those authorized to sell cannabinoid, or licensed products are following and complying with the requirements of this chapter. Compliance checks involve the use of persons under 21 who purchase or attempt to purchase cannabinoid or licensed products. Compliance checks may also be conducted by the Township 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 cannabinoid or licensed products.

EDIBLE CANNABINOID PRODUCT — Any product that is intended to be eaten or consumed as a beverage by humans, contains a cannabinoid in connection with food ingredients, and is not a drug.

LICENSED PRODUCT or THC PRODUCT — Any product that contains more than trace amounts of tetrahydrocannabinol and that meets the requirements to be sold for human or animal consumption under Minn. Stat. § 151.72, as may be amended from time to time. Licensed product does not include medical cannabis as defined in Minn. Stat. § 152.22, Subd. 6, as may be amended from time to time.

MOVEABLE PLACE OF BUSINESS — Any form of business 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 sales transactions.

OPERATOR — The person in legal possession and control of a location by reason of ownership, lease, contract or agreement, for the sale of cannabinoid products at retail.

RETAIL ESTABLISHMENT — Any place of business where cannabinoid or licensed products are available for sale to the general public, including, but not be limited to, grocery stores, tobacco products shops, CBD stores, convenience stores, gasoline service stations, bars, and restaurants.

SALE — Any transfer of goods for money, trade, barter, or other consideration.

SELF-SERVICE MERCHANDISING — Open displays of cannabinoid or licensed products in any manner where any person has access to the cannabinoid or licensed products without the assistance or intervention of the registered establishment or the registered establishment's employee. Assistance or intervention means the actual physical exchange of the cannabinoid or licensed product between the customer and the registered establishment or employee.

THC — Abbreviation for tetrahydrocannabinol.

VENDING MACHINE — Any mechanical, electric, or electronic, or other type of device that dispenses cannabinoid or licensed products upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the cannabinoid or licensed product.

3. Registration required.

It will be unlawful for any person to sell at retail any cannabinoid product as defined above within the Township unless the owner has registered their business with the Township.

*The Township shall reserve the right to delegate registrations and enforcement to Isanti County under a delegation agreement.

4. Registration procurement.

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- A. Application.
- (1) Any retail business owner desiring to sell cannabinoid products will make and file with the Township Zoning Administrator an application, in writing. Such application will give the name and resident address of the applicant, if an individual; will identify the location at which it is proposed to sell the cannabinoid products at retail and will provide such other information as the Township may require from time to time.
 - (2) The Township Zoning Administrator will immediately transmit a copy of the application to the Isanti County Sheriff, who will investigate all facts and information which they can reasonably find, bearing upon the question of the applicant's fitness to receive the registration and to perform the duties imposed by this chapter. Upon completing the investigation, the Isanti County Sheriff will report, in writing, his/her findings to the Township Zoning Administrator or designee, together with their recommendation as to the issuance of registration certificate to the applicant. The Township Zoning Administrator or designee will submit to the Town Board the report of the Isanti County Sheriff, together with the recommendation as to the issuance of the registration certificate to the applicant.
- B. Action. The Town Board will consider the facts and recommendations of the Isanti County Sheriff and of the Township Zoning Administrator, together with any material facts which it may have or obtain, and then, by motion, will approve or deny the application. If the Town Board has approved the application, it is the duty of the Township Zoning Administrator to notify the applicant and provide a registration certificate.
- C. Term. All registrations issued under this chapter shall expire at 12:00 midnight on December 31 of each year.
- D. Renewals. The renewal of a registration certificate issued under this chapter 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.
- E. Revocation or suspension. Any registration issued under this chapter may be revoked or suspended as provided in 4.
- F. Transfers. All registrations issued under this chapter shall be valid only on the premises for which the registration was issued and only for the person or business to whom the registration was issued. The transfer of any registration certificate to another location, business, or person is prohibited.
- G. Display. All registration certificates shall be posted and displayed in plain view of the general public on the registered premises.
- H. Issuance as privilege and not a right. The issuance of a registration certificate issued under this chapter is a privilege and does not entitle the registration holder to automatic renewal of the registration.

SECTION 2. REQUIREMENTS FOR CANNABIS RETAIL BUSINESSES

2.1. Location

(A) Cannabis Businesses shall only be located in a tier 2 retail location on the east side of highway 65, located north of 257th and south of 262nd and 660' east of highway 65 to 1320' east of highway 65.

Subsection 2.2. Land Use Buffer

- (A) Cannabis Product sales are prohibited from locating or operating within the following prescribed buffer distances. Measurements shall be made in a straight line, without regard to city or county boundaries, intervening structures, or objects, from the nearest point of the approved premises containing the cannabinoid use to the nearest point of the following prescribed facility or building:
- a. 1000 feet of a school (including public/nonpublic school, college, or university)
 - b. 1000 feet of a licensed childcare/daycare
 - c. 500 feet of a residential treatment facility
 - d. 500 feet of an attraction within a public park that is regularly used by minors, including a playground or athletic field
 - e. 500 feet of a local or regional public trail that is regularly used by minors
 - f. 500 feet of a hospital, clinic, assisted senior living facility, rehabilitation facility, or psychiatric or counseling center, office, or business
 - g. 500 feet of a residential home, group home, or ground floor apartment
 - h. 1,000 feet of a place of worship, church, or religious institution; community center; fairgrounds; event center; residential shelter, or similar place of public accommodation or gathering place as determined by the Zoning Administrator.
- (B) Nothing in the land use buffer section shall prohibit an active cannabis business or a cannabis business seeking registration or licensing renewal from continuing operation at the same site if the above buffered uses move within the minimum buffer zone.

Subsection 2.3. Hours of Operation for Retail Businesses

A cannabis retail business with a license or endorsement authorizing the retail sale of cannabis flower or cannabis products, excluding lower-potency hemp edible retail businesses, may not:

- (A) Sell cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products for any period between 10:00 p.m. and 8:00 a.m. the following day and shall remain closed. on Sundays.
- (B) Be open to the public or sell any other products at times when the cannabis business is prohibited from selling cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products.

5. Fees.

No registration shall be issued under this chapter until the appropriate registration fee shall be paid in full. The fee for the registration under this chapter shall be established by the Town Board and adopted in the Township Fee Schedule and may be amended from time to time. The fee will not be pro-rated for mid-year licenses.

*Township fees shall be in addition to what Isanti County may charge for their license fees.

6. Ineligibility and basis for denial of license.

- A. Ineligibility.

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- (1) Moveable place of business. No registration certificate shall be issued to a moveable place of business.
 - (2) No registration will be approved unless the premises proposed to be registered complies with all applicable zoning requirements.
 - (3) The retail establishment shall be located not less than 1000 feet from a school.
- B. Grounds for denial. Grounds for denying the issuance or renewal of a registration under this chapter 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 registration.
 - (3) The applicant has been convicted within the past five years for any violation of a federal, state, or local law, other ordinance, provision, or other regulation relating to licensed products.
 - (4) The applicant has had a registration to sell licensed 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 licensed products, whether in the Township or in another jurisdiction, that has had a registration to sell licensed products suspended or revoked during the same time period, provided the applicant had an interest in the premises at the time of the revocation or suspension, or at the time of the violation that led to the revocation or suspension.
 - (5) The applicant is a business that does not have an operating officer or manager who is eligible pursuant to the provisions of this chapter.
 - (6) The applicant is the spouse of a person ineligible for registration pursuant to the provision of Subsections B (2) and (3) of this section or who, in the judgement of the Town Board, is not the real party in interest or beneficial owner of the business to be operated, under the registration.
 - (7) 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 registration, or if already issued, shall render any registration issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this chapter, or any part thereof.
- C. No registration shall be granted or renewed for operation on any premises on which real estate taxes, assessments, or other financial claims of the Township or of the state are due, delinquent, or unpaid. If an action has been commenced pursuant to the provisions of Minn. Stat. Ch. 278, questioning the amount or validity of taxes, the Town Board may, on application by the business owner, 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. Sales of cannabinoids derived from hemp.

In accordance with Minn. Stat. § 151.72, Subd. 3, as may be amended from time to time:

- A. A product containing nonintoxicating cannabinoids, including cannabinoid products and edible cannabinoid products, may be sold for human or animal consumption only if all of the requirements

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of this section are met, provided that a product sold for human, or animal consumption does not contain more than 0.3% of any tetrahydrocannabinol and an edible cannabinoid product does not contain more than five milligrams of any tetrahydrocannabinol in a single serving, or more than a total of 50 milligrams of any tetrahydrocannabinol per package.

- B. No other substance extracted or otherwise derived from hemp may be sold for human consumption if the substance is intended:
 - (1) For external or internal use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals; or
 - (2) To affect the structure or any function of the bodies of humans or other animals.
- C. No product containing any cannabinoid or tetrahydrocannabinol extracted or otherwise derived from hemp may be sold to any individual who is under the age of 21.
- D. Products that meet the requirements of this section are not controlled substances under Minn. Stat. § 152.02.

8. Testing requirements.

In accordance with Minn. Stat. § 151.72, Subd. 4, as may be amended from time to time.

9. Labeling requirements.

In accordance with Minn. Stat. § 151.72, Subd. 5, as may be amended from time to time.

- A. A label containing at least the following information must be affixed to the packaging or container of all edible cannabinoid products sold to consumers:
 - (1) The serving size;
 - (2) The cannabinoid profile per serving and in total;
 - (3) A list of ingredients, including identification of any major food allergens declared by name; and
 - (4) The following statement: "Keep this product out of reach of children."

10. Additional requirements for edible cannabinoid products.

In accordance with Minn. Stat. § 151.72, Subd. 5a, as may be amended from time to time.

- A. An edible cannabinoid product must not:
 - (1) Bear the likeness or contain cartoon-like characteristics of a real or fictional person, animal, or fruit that appeals to children;
 - (2) Be modeled after a brand of products primarily consumed by or marketed to children;
 - (3) Be made by applying an extracted or concentrated hemp-derived cannabinoid to a commercially available candy or snack food item,
 - (4) Contain an ingredient, other than a hemp-derived cannabinoid, that is not approved by the United States Food and Drug Administration for use in food;

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- (5) Be packaged in a way that resembles the trademarked, characteristic, or product-specialized packaging of any commercially available food product; or
 - (6) Be packaged in a container that includes a statement, artwork, or design that could reasonably mislead any person to believe that the package contains anything other than an edible cannabinoid product.
- B. An edible cannabinoid product must be prepackaged in packaging or a container that is child-resistant, tamper-evident, and opaque or placed in packaging or a container that is child-resistant, tamper-evident, and opaque at the final point of sale to a customer. The requirement that packaging be child-resistant does not apply to an edible cannabinoid product that is intended to be consumed as a beverage, and which contains no more than a trace amount of any tetrahydrocannabinol.
 - C. If an edible cannabinoid product is intended for more than a single use or contains multiple servings, each serving must be indicated by scoring, wrapping, or other indicators designating the individual serving size.
 - D. An edible cannabinoid product must not contain more than five milligrams of any tetrahydrocannabinol in a single serving, or more than a total of 50 milligrams of any tetrahydrocannabinol per package.

11. Prohibited activities.

- A. Samples prohibited. Sampling of cannabinoid products within any retail establishment under this chapter is 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.
- B. Coupon and price promotion. No person shall accept or redeem any coupon, price promotion, or other instrument or mechanism, whether in paper, digital, electronic, mobile, or any other form, that provides any cannabinoid products to a consumer at no cost or at a price that is less than the non-discounted, standard price listed by a retailer on the item or on any related shelving, posting, advertising, or display at the location where the item is sold or offered for sale, including all applicable taxes.
- C. Self-service displays. All cannabinoid products must be stored behind the sales counter, in a locked case, in a storage unit, or in another area not freely accessible to the general public. No person shall allow the sale of cannabinoid products in open displays that are accessible to the public without the intervention of a store employee. This section does not apply to a retail establishment, as defined in this chapter, that is continuously staffed by an employee from which persons under 21 years of age are prohibited from entering the store.
- D. Prohibition against retail sales of cannabinoid products by vending machines. No person will sell or dispense cannabinoid products through use of a vending machine.
- E. Delivery sales. All sales of cannabinoid products must be conducted in person, in a registered retail establishment under this chapter, in over-the-counter sales transactions.
- F. Use or possession. It shall be a violation of this chapter for any person under age 21 to use or possess any cannabinoid product. This subsection shall not apply to persons under the age of 21 lawfully involved in a compliance check.

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- G. Procurement. It shall be a violation of this chapter for any person under age 21 to purchase or sell or attempt to purchase or sell or otherwise obtain any cannabinoid product and it shall be a violation of this chapter for any person to purchase or sell to or otherwise obtain such items on behalf of a person under the age of 21. It shall further be a violation for any person to coerce or attempt to coerce a person under the age of 21 to illegally purchase or otherwise obtain or use cannabinoid product. This subsection shall not apply to persons under the age of 21 lawfully involved in a compliance check.

12. Signage.

At each location where cannabinoid products are sold, the registered establishment shall display signage in plain view to provide public notice that selling any of these products to any person under the age of 21 is illegal and subject to penalties. The notice shall be placed in a conspicuous location in the registered establishment and shall be readily visible to any person who is purchasing or attempting to purchase these products. Signage 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.

13. Age verification.

At each location where cannabinoid products or edible cannabinoid products are sold, the registered establishment shall verify, by means of government-issued photographic identification containing the bearer's date of birth, that the purchaser or person attempting to make the purchase is at least 21 years of age. Verification is not required if the purchaser or person attempting to make the purchase is 30 years of age or older. It shall not constitute a defense of a violation of this section that the person appeared to be 30 years of age or older.

14. Suspension or revocation of registration.

- A. Notice of violation. The Isanti County Sheriff will provide, in writing, to the registered establishment either personally or by mail, notice of any alleged violation of the provisions of this chapter or Minnesota Statutes Chapter 151.
- B. Mandatory revocation. The Town Board may revoke the registration of any registered establishment under this chapter upon review of violations of any provisions of this chapter or Minnesota Statutes Chapter 151.
- This section may be delegated to Isanti County under a delegation agreement

15. Responsibility.

All registered establishments are responsible for the actions of their employees regarding the sale, offer to sell, and furnishing of licensed products on the registered premises. The sale, offer to sell, or furnishing of any licensed product by an employee shall be considered an act of the registered establishment. Nothing in this section shall be construed as prohibiting the Township from also subjecting the employee to any civil penalties that the Township deems to be appropriate under this chapter, state or federal law, or other applicable law or regulation.

16. Compliance checks and inspections.

- A. All premises registered under this chapter shall be open to inspection by the Township during regular business hours. Any police officer sheriff, building inspector, or any properly designated officer or employee of the Township shall have the unqualified right to enter, inspect and search the public portion of the premises of a registered establishment under this chapter during business hours without a search

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warrant. From time to time, but at least once per year, the Township shall conduct compliance checks. No person used in compliance checks shall attempt to use false identification misrepresenting their age. All persons lawfully engaged in a compliance check shall answer all questions about their age asked by the registered establishment or their employee, and produce any identification, if any exists, for which they are asked. The Township may conduct a compliance check that involves the participation of a person at least 18 years of age, but under the age of 21 to enter the registered premises to attempt to purchase the licensed 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.

- B. Additionally, from time to time, the Township will conduct inspections to determine compliance with any or all other aspects of this chapter.
- Compliance checks may be delegated to Isanti County under a delegation agreement.

17. Exemption.

This chapter does not apply to the sale of any product by a registered medical cannabis manufacturer pursuant to Minn. Stat. §§ 152.22 to 152.37.

18. Violations and penalties.

Violation of any section of this chapter is punishable as a misdemeanor and upon conviction shall be punished as provided by Chapter 1, Article I, of this Code of the Athens Township.

Some violations could arise to felony level based on Minnesota Statutes

19. Severability.

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

