

Ordinance No. _____ - __

Ordinance amending city code chapter 8 relating to tobacco business regulation

The City of St. Louis Park does ordain:

SECTION 1. The St. Louis Park City Code, Chapter 8, Article II, Division 3, Subdivision X, is hereby amended with the following original text, new text, and ~~deleted text~~:

Sec. 8-372. License required.

(a) No person shall sell or offer to sell any tobacco, tobacco-related device, cannabis paraphernalia, electronic delivery device, nicotine, or lobelia delivery product without first having obtained a license to do so from the city, except that properly registered cannabis retail businesses or lower-potency hemp edibles retail businesses may sell cannabis paraphernalia without needing an additional license under this Section. (Ord. No. 2527-17, 12-4-17)

(b) No license shall be issued for the sale of tobacco, tobacco-related device, cannabis paraphernalia, electronic delivery device, nicotine, or lobelia delivery product at any place other than the applicant's place of business. No license shall be issued for a moveable place of business; nor shall any single license be issued at more than one place of business.

(c) Complete applications shall be reviewed by the city for verification and investigation of the facts set forth in the application, including a criminal background investigation of the applicant. The city may order and conduct such additional investigation as deemed necessary.

(d) The city shall make the determination whether to approve or deny the license. Any denial shall be communicated to the applicant in writing, specifying the reasons for denial. The applicant may appeal the denial in accordance with the procedure specified in section 8-36.

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Sec. 8-373. Denial of license.

The following will be grounds for denying the issuance or renewal of a license under this subdivision, and if a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section:

- (1) The applicant is under the age of 18 years.
- (2) The applicant has been convicted of any violation of a federal, state, or local law, ordinance or other regulation relating to tobacco, tobacco-related devices, electronic delivery devices, nicotine or lobelia delivery products, or drug paraphernalia.
- (3) The applicant has had a license to sell tobacco, tobacco-related devices, cannabis paraphernalia, electronic delivery devices, nicotine or lobelia delivery products revoked.

- (4) The applicant fails to provide any information required on the license application or provides false or misleading information on such license application.
- (5) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding a license under this subdivision.

(Ord. No. 2181-00, § 4(16-311C.), 11-6-2000; Ord. No. 2432-13, 3-29-2013, Ord. No. 2454-14, §8, 9-26-14; Ord. No. 2527-17, 12-4-17)

Sec. 8-374. Regulations Adopted.

(a) It shall be a violation of this subdivision for any person to sell or offer to sell any tobacco, tobacco-related device, electronic delivery device, nicotine, or lobelia delivery product:

- (1) To any person under the age of 21 years. (Ord. No. 2521-17, 7-17-17)
- (2) By means of any type of vending machine.
- (3) By means of self-service merchandising whereby the customer does not need to make a verbal or written request to an employee of the licensed premises in order to receive the tobacco, tobacco-related device, electronic delivery device, nicotine, or lobelia delivery product. All such products shall be stored behind a counter or other area not freely accessible to customers. (Ord. No. 2527-17, 12-4-17)
- (4) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other type of deleterious, hallucinogenic or toxic or controlled substance, except nicotine, and not naturally found in tobacco, tobacco-related devices or electronic delivery devices.
- (5) By any other means or to any other person prohibited by federal, state, or other local laws, ordinances or other regulations.
- (6) That meets the definition of flavored product. (Ord. No. 2527-17, 12-4-17)

(b) ~~Tobacco~~ Sampling, demonstration, or use of tobacco, electronic delivery devices, cannabis paraphernalia, nicotine or lobelia delivery products within an establishment selling any tobacco, tobacco product, tobacco related devices, electronic delivery devices, cannabis paraphernalia, nicotine or lobelia delivery product is prohibited.

(c) No person shall sell, offer to sell, or distribute liquid, whether or not such liquid contains nicotine that is intended for human consumption and use in an electronic delivery device that is not contained in child-resistant packaging as that term is defined in Code of Federal Regulations, title 16, section 1700.15 (b)(1), as in effect on January 1, 2015. A licensee that fails to comply with this subpart is subject to administrative penalty pursuant to Minn. Stat. § 461.12, subd. 2.

(d) No person shall sell, offer to sell, or distribute an electronic delivery device that:

(1) Is a “new tobacco product” as defined in 21 U.S.C. § 387j(a)(1) as may be amended from time to time,

(2) Requires FDA premarket review under 21 U.S.C § 387j, and

(3) Does not have a premarket review order under 21 U.S.C. § 387j(c)(1)(A)(i), as may be amended from time to time.

(Ord. No. 2181-00, § 4(16-311D.), 11-6-2000; Ord. No. 2415-12, 8-10-2012; Ord. No. 2454-14, §9, 9-26-14; Ord. No. 2521-17, 7-17-17; Ord. No. 2527-17, 12-4-17; Ord. No. 2580-20, 1-6-20)

Sec. 8-375. Responsibility for sales.

Actions of their employees in regard to the sale of tobacco, tobacco-related devices, cannabis paraphernalia, electronic delivery devices, nicotine or lobelia delivery by an employee shall be considered a sale by the licensed owner.

(Ord. No. 2181-00, § 4(16-311E.), 11-6-2000; Ord. No. 2454-14, §10, 9-26-14; Ord. No. 2527-17, 12-4-17)

Sec. 8-376. Compliance checks and inspections.

All premises licensed under this subdivision shall be open to inspection by the city during regular business hours. From time to time the city may conduct compliance checks by engaging minor persons over 15 years of age but under 21 years of age to enter the licensed premises to attempt to purchase tobacco, tobacco-related devices, cannabis paraphernalia, electronic delivery devices, nicotine, or lobelia delivery products.

Sec. 8-377. Illegal acts.

Unless otherwise provided in this subdivision, the following acts shall be a violation of this subdivision:

- (1) Illegal procurement. It shall be a violation of this subdivision for any person to purchase or attempt to purchase, or otherwise obtain, any tobacco, tobacco-related device, cannabis paraphernalia, electronic delivery device, nicotine, or lobelia delivery product on behalf of a person under the age of 21 years. It shall also be a violation of this subdivision for any person to sell or otherwise provide such products to any person under the age of 21 years. It shall be a violation of this subdivision for any person to coerce or attempt to coerce a person under the age of 21 years to illegally purchase or otherwise obtain or use any tobacco, tobacco-related device, electronic delivery device, cannabis paraphernalia, or nicotine or lobelia delivery product.
- (2) Use of false identification. It shall be a violation of this subdivision for any person under the age of 21 years to attempt to disguise their true age by the use of a false form identification, whether the identification is that of another person or one in which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

Sec. 8-378. Violation; penalty.

(a) *Generally.* Any violation of this subdivision shall be grounds to revoke or suspend a license under this subdivision.

(b) *Criminal penalty.* As set forth in M.S.A. Ch. 609, it shall be a:

- (1) Misdemeanor for anyone to sell tobacco, a tobacco-related device, cannabis paraphernalia, electronic delivery device, nicotine, or lobelia delivery product to a person under the age of 21 years for the first violation. Whoever violates this subdivision a subsequent time within five years of a previous conviction under this subdivision is guilty of a gross misdemeanor. (Ord. No. 2521-17, 7-17-17; Ord. No. 2527-17, 12-4-17)
- (2) Misdemeanor to furnish tobacco, a tobacco-related device, cannabis paraphernalia, an electronic delivery device, or nicotine, or lobelia delivery product to a person under the age of 21 years. Whoever violates this paragraph a subsequent time is guilty of a gross misdemeanor. (Ord. No. 2521-17, 7-17-17; Ord. No. 2527-17, 12-4-17)
- (3) Misdemeanor for anyone to sell or offer to sell a flavored product in violation of section 8-374(a)(6). (Ord. No. 2527-17, 12-4-17)
- (4) Misdemeanor for anyone to sell, offer to sell or distribute liquid, whether or not such liquid contains nicotine, that is intended for human consumption and use in an electronic delivery device that is not contained in child-resistant packaging as that term is defined in Code of Federal Regulations, title 16, section 1700.15 (b)(1), as in effect on January 1, 2015. (Ord. No. 2527-17, 12-4-17)
- (5) Petty misdemeanor for anyone under the age of 21 years to sell, furnish or give away any tobacco, tobacco-related device, cannabis paraphernalia, electronic delivery device, nicotine, or lobelia delivery product. This subsection shall not apply to a person aged 18-20 years while working as an employee of a business holding a license granted pursuant to this subdivision. (Ord. No. 2521-17, 7-17-17; Ord. No. 2527-17, 12-4-17)
- (6) Misdemeanor for anyone to sell an electronic delivery device in violation of section 8-374 (d). (Ordinance 2580-20, 1-6-20)

(c) *Presumed penalties for Violations:* The presumed penalties for violations are as follows (unless specified, numbers below indicate consecutive business days' suspension):

<i>Type of Violation</i>	1st Violation	2nd Violation within 36 months	3rd Violation within 36 months	4th Violation within 36 months
1. Commission of a felony related to the licensed activity.	Revocation	N/A	N/A	N/A
2. Sale of tobacco, tobacco-related device, <u>cannabis paraphernalia</u> electronic delivery device, nicotine, or lobelia delivery product while license is under suspension.	Revocation	N/A	N/A	N/A
3. Sale of tobacco, tobacco-related device, <u>cannabis paraphernalia</u> electronic delivery device, nicotine, or lobelia delivery product to underage person.	\$500	\$1,000 and 1 day	\$2,000 and 30 days	Revocation
4. Refusal to allow government inspectors or police admission to inspect premises.	5 days	15 days	Revocation	N/A
5. Illegal gambling on premises.	3 days	6 days	18 days	Revocation
6. Failure to attend mandatory education training.	\$250	\$750 and 1 day	\$2,000 and 3 days	Revocation
7. Prohibited sale or offer for sale of flavored products.	\$500	\$1,000 and 1 day	\$2,000 and 30 days	Revocation
8. Prohibited sale or offer for sale of liquid intended for human consumption in an electronic delivery device that is not contained in child resistant packaging.	\$500	\$1,000 and 1 day	\$2,000 and 30 days	Revocation

SECTION 2. The St. Louis Park City Code, Chapter 18, Article IV, Sections 18-94, 18-95, and 18-96 are hereby amended with the following existing text, added text, and ~~deleted text~~:

Sec. 18-94. Definitions.

(a) Drug paraphernalia. Except as otherwise provided in subsection (b) of this definition, "drug paraphernalia" means all equipment, products, and materials of any kind, which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, enhancing, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of M.S.A. Chapter 152. The term "paraphernalia" includes, without limitation:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived except for materials used for the personal cultivation of cannabis as permitted under Minnesota Statutes Chapter 342.

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant, which is a controlled substance.

~~(4) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.~~

~~(5)~~ (4) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.

~~(6)~~ (5) Diluents and adulterants, including quinine hydrochloride, mannitol, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances.

~~(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.~~

~~(8)~~ (6) Blenders, bowls, containers, spoons, grinders, and mixing devices used, intended for use, or designed for use in compounding, manufacturing, producing, processing, or preparing controlled substances.

~~(9)~~ (7) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

~~(10)~~ (8) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or products or materials used or intended for use in manufacturing, producing, processing, or preparing controlled substances.

~~(11)~~ (9) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing controlled substances to include, but not limited to, ~~marijuana, cocaine, hashish, or hashish oil~~ into the human body, including:

a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, ~~hashish heads~~, or punctured metal bowls.

b) Water pipes.

c) Carburetion tubes and devices.

d) Smoking and carburetion masks.

~~e) Objects, sometimes commonly referred to as roach clips, used to hold burning material, for example, a marijuana cigarette, that has become too small or too short to be held in the hand.~~

~~f) e) Miniature cocaine spoons and cocaine vials.~~

~~g) f) Chamber pipes.~~

~~h) g) Carburetor pipes.~~

~~i) h) Electric pipes.~~

~~j) i) Air driven pipes.~~

~~k) j) Chillums.~~

~~l) k) Bongs.~~

~~m) l) Ice pipes or chillers~~

(b) Exceptions. Drug paraphernalia shall not include:

(1) Those items used in conjunction with permitted uses of controlled substances under the Uniform Controlled Substances Act;

(2) Those items used by law enforcement officials as it relates to the seizure or forfeiture of drug paraphernalia in connection with a crime or offense;

(3) Those items used by federal, state or local law enforcement officials for educational purposes;

(4) ~~The possession, manufacture, delivery or sale of hypodermic needles or syringes in accordance with M.S.A. § 151.40 or as it may be amended; Syringes or needles or any instrument or implement which can be adapted for subcutaneous injections;~~

(5) Those items defined as cannabis paraphernalia or medical cannabis paraphernalia as defined in Minn. Stat. §342.01, as amended;

(6) Materials and equipment used by a cannabis business holding an active license under Minn. Stat. Chapter 342.

(7) Products that detect the presence of fentanyl or a fentanyl analog in a controlled substance.

(c) Other terms. Other terms are defined as specified in M.S.A. § 152.01 and any amendment thereto.

Sec. 18-95. Drug paraphernalia evidence. In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors:

(a) Statements by an owner or by anyone in control of the object concerning its use.

(b) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.

(c) The proximity of the object, in time and space, to a direct violation of this section.

(d) The proximity of the object to controlled substances.

(e) The existence of any residue of controlled substances on the object, though an object may not be found to be drug paraphernalia on the sole basis of a residual amount of one or more controlled substances.

- (f) Direct or circumstantial evidence of the intent of an owner, or of any person in control of the object, to deliver the object to another person whom the owner or person in control of the object knows, or should reasonably know, intends to use the object to facilitate a violation of this section. The innocence of an owner, or of any person in control of the object, as to a direct violation of this section may not prevent a finding that the object is intended or designed for use as drug paraphernalia.
- (g) Instructions, oral or written, provided with the object concerning the object's use.
- (h) Descriptive materials accompanying the object, which explain or depict the object's use.
- (i) National and local advertising concerning the object's use.
- (j) The manner in which the object is displayed for sale.
- (k) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, for example, a licensed distributor or dealer of tobacco products.
- (l) Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise.
- (m) The existence and scope of legitimate uses for the object in the community.
- (n) Expert testimony concerning the object's use.
- (o) The actual or constructive possession by the owner or by a person in control of the object or the presence in a vehicle or structure where the object is located of written instructions, directions, or recipes to be used, or intended or designed to be used, in manufacturing, producing, processing, preparing, testing, or analyzing a controlled substance.

Sec. 18-96. Prohibited acts.

- (a) Use or possession prohibited. It is unlawful for any person knowingly or intentionally to use or to possess drug paraphernalia. Any violation of this subsection is a petty misdemeanor.
- (b) Delivery or manufacturing prohibited. A person may not deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, if that person knows or should reasonably know that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, enhance, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of M.S.A. Chapter 152, as amended, or any other State or Federal law, rule, or regulation governing the manufacture, delivery, sale, advertisement, possession, and/or use of controlled substances. Any violation of this subsection is a misdemeanor.
- (c) Delivery or sale to minors prohibited. Any person 18 years of age or over who violates Sec. 18-~~21096~~(b) by selling or delivering drug paraphernalia and said sale or delivery is to a person who is under 18 year of age and at least 3 years his or her junior shall also be violating this paragraph as well as Sec. 18-~~21096~~ (b). Any violation of this subsection is a misdemeanor.
- (d) Advertisement prohibited. It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement knowing, or under circumstances where one

reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any violation of this subsection is a misdemeanor.

SECTION 3. EFFECTIVE DATE AND TERM. This ordinance shall take effect immediately upon its passage and publication by law.

First reading	March 3, 2025
Second reading	March 17, 2025
Date of publication	March 27, 2025
Date ordinance takes effect	April 11, 2025

Reviewed for administration:

Adopted by the city council _____

By _____
Kim Keller, city manager

By _____
Nadia Mohamed, mayor

Attest:

Approved as to form and execution:

Melissa Kennedy, city clerk

Soren M. Mattick, city attorney