

**AN ORDINANCE TO IMPOSE CIVIL PENALTIES FOR
THE SALE OR POSSESSION OF CANNABIS NEAR SCHOOLS**

WHEREAS, the sale of certain hemp-derived products to persons under the age of 21 years old is currently not regulated by the State of North Carolina; and

WHEREAS, there are many hemp-derived products containing legal cannabinoids that can have the psychoactive effects as marijuana; and

WHEREAS, approval by the Food and Drug Administration of hemp-derived consumable products is not required, and therefore presence of contaminants and the amount of THC present in a product is not subject to quality control, placing the consuming public at risk; and

WHEREAS, the City Council finds that many retail establishments, including but not limited to hemp shops or vape products sell hemp derived consumable products, and there is no law or ordinance prohibiting the sale or distribution of hemp derived consumable products to persons under the age of 21 within a certain distance from a public or private school, making these products readily accessible to students; and

WHEREAS, the City Council wishes protect the public health and safety of persons under the age of 21 by making hemp-derived consumable products less readily available by prohibiting the sale or distribution of hemp derived consumable products to persons under the age of 21 years in close proximity to schools.

NOW, THEREFORE, BE IT ORDAINED by City Council of the City of Hendersonville, North Carolina as follows:

SECTION 1. The title of Chapter 6 of the City of Hendersonville City Code shall be amended as follows:

Chapter 6 – ALCOHOLIC BEVERAGES AND CONSUMABLE HEMP DERIVED PRODUCTS

SECTION 2. The of Section 6-7 of the City of Hendersonville City Code shall be amended as follows:

Sec. 6-7 – Sale of alcohol near schools

SECTION 3. Sections 6-1 through 6-7 of Chapter 6 of the City of Hendersonville City Code shall be reorganized into a new Article I of Chapter 6 of the City of Hendersonville Code of Ordinances entitled, “ALCOHOLIC BEVERAGES.”

SECTION 4. There shall be enacted a new Article II of Chapter 6 of the City of Hendersonville Code of Ordinances entitled, “HEMP-DERIVED CONSUMABLE PRODUCTS,” to read as follows:

ARTICLE II – HEMP DERIVED CONSUMABLE PRODUCTS

Sec. 6-8 Definitions. The following words, terms, and phrases, when used in this Chapter, shall have the meanings stated below, except where the context clearly indicates a different meaning:

- (1) Hemp has the same meaning as defined in N.C.G.S. § 90-87 of the North Carolina Controlled Substances Act, as the same may be amended.
- (2) Hemp-derived cannabinoid means any phytocannabinoid found in hemp, including but not limited to delta-9 tetrahydrocannabinol (delta-9 THC), tetrahydrocannabinolic acid (THCA), cannabidiol (CBD), cannabidiolic acid (CBDA), cannabinol (CBN), cannabigerol (CBG), cannabichromene (CBC), cannabicyclol (CBL), 9 cannabivarin (CBV), tetrahydrocannabivarin (THCV), cannabidivarin (CBDV), cannabicitran (CBT), delta-7 tetrahydrocannabinol (delta-7 THC), delta-8 tetrahydrocannabinol (delta-8 THC), or delta-10 tetrahydrocannabinol (delta-10 THC). This term also includes any synthetic cannabinoid derived from hemp and contained in a hemp-derived consumable product.
- (3) Hemp-derived consumable products means a hemp product that is a finished good intended for human ingestion or inhalation that contains less than 0.3% of delta-9 THC concentration on a dry weight basis, but which contain concentrations of any other hemp-derived cannabinoid(s), in excess of that amount. This term does not include hemp products intended for topical application in which transdermal absorption does not occur, or seeds or seed derived ingredients that are generally recognized as safe by the United States Food and Drug Administration (FDA).
- (4) Hemp product has the same meaning as defined in N.C.G.S. § 90-87 of the North Carolina Controlled Substances Act, as the same may be amended.
- (5) Ingestion means the process of consuming a substance in any of the following manners:
 - a. Through the mouth, by swallowing the substance into the gastrointestinal system;
 - b. Through tissue absorption by transdermal delivery, or any other method of delivery in which the substance or any of its components is absorbed beneath the skin and into the body or into the blood stream;
 - c. Subcutaneously through injection beneath the skin; or
 - d. By needle injection into the blood stream.

- (6) Inhalation means the process of consuming hemp into the respiratory system through the mouth or nasal passages.
- (7) School means any public or private school providing elementary and/or secondary education pursuant to Chapter 115C of the North Carolina General Statutes, but excluding home schools as defined in N.C.G.S. § 115C-563.
- (8) Seller means any person or entity who sells a hemp-derived consumable product to the consumer of the product, or who sells a hemp-derived consumable product at retail.

Sec. 6-9 Restriction on hemp-derived consumable products for persons under the age of 21.

It shall be unlawful of any person or entity to do any of the following:

- (1) Knowingly, or having reason to know, sell or give a hemp-derived consumable product to a person who is under 21 years of age at any of the following prohibited locations:
 - a. Within 1,000 feet of the property line of any public or private school.
 - b. In any public park.

Any seller or giver of hemp-derived consumable products at any of these prohibited locations shall demand proof of age from a prospective purchaser or recipient of hemp-derived consumable products before the hemp-derived consumable product(s) are released to the purchaser or recipient if the seller or giver has reasonable grounds to believe that the prospective purchaser or recipient is under 30 years of age.
- (2) Knowingly, or having reason to know, distribute samples of hemp-derived consumable products in any location where sales to a person under the age of 21 are prohibited.
- (3) If a person is under the age of twenty-one (21), to possess, purchase, or attempt to purchase any hemp-derived consumable product at any location where the sale of hemp-derived consumable products to persons under the age of twenty-one (21) is prohibited.
- (4) If a person is under the age of twenty-one (21), to use any type of fraudulent or altered identification, or any identification belonging to another person, to attempt to possess or purchase a hemp-derived consumable product in violation of this Section.

Sec. 6-10 Civil Penalties for Violation

Violations of Section 6-9 of the City of Hendersonville City Code shall subject the offender to the following penalties:

- (1) For the first violation, a civil penalty of \$500.00 shall be assessed.

(2) For a second and any additional violation within a three (3) year period, a civil penalty of \$1,000 shall be assessed.

SECTION 5. If any provision of this ordinance or its application is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provisions or application, and to this end the provisions of this ordinance are severable.

SECTION 6. It is the intention of the City Council and it is hereby ordained, that the provisions of this ordinance shall become and be made part of the Code of Ordinances, City of Hendersonville, North Carolina, and the sections of this ordinance may be renumbered to accomplish such intention.

SECTION 7. This Ordinance shall be effective upon its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina on this ____ day of _____ 202__.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney