

**AN ORDINANCE TO AMEND CHAPTER 5 OF THE CODE OF ORDINANCES
OF THE CITY OF FOLEY, ALABAMA TO ADD PROVISIONS PERTAINING
TO THE LICENSING OF THE SALE OF CONSUMABLE HEMP PRODUCTS IN
THE CORPORATE LIMITS AND POLICE JURISDICTION OF THE CITY OF
FOLEY**

WHEREAS, pursuant to state law, municipalities are granted the authority to license and tax businesses operating within their jurisdiction; and

WHEREAS, pursuant to Code of Alabama, Sections 28-12-1, et seq., consumable hemp products are eligible for sale in the state by retailers licensed by the Alabama Alcohol Beverage Control Board (“ABC Board”) upon approval by the local governing body of the county or municipality in which the licensee's facility is located; and

WHEREAS, the City of Foley desires to establish rules, regulations, license fees and operational regulations for businesses engaged in the sale of consumable hemp products;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FOLEY, ALABAMA AS FOLLOWS:

1. That the following shall be codified as Article XI in Chapter 5 of the Code of Ordinances of the City of Foley, Alabama:

ARTICLE XI. – CONSUMABLE HEMP PRODUCTS

SECTION 1. Authority.

This article is enacted pursuant to the authority granted in Code of Ala., §§ 28-12-1 et seq., as amended. Any federal or state law that comes into effect after the effective date of this article that conflicts with a provision of this article shall supersede the conflicting provision of this article.

SECTION 2. Definitions.

Words and phrases used in this article which are not herein specifically defined, but which are specifically defined in Code of Alabama, Section 28-12-2, shall be given the meaning ascribed to them in said Section 28-12-2. Further, for purposes of this article, the following words shall have the following meanings:

1. "City" shall mean the City of Foley, an Alabama municipal corporation.
2. "Person" shall include every individual, corporation, partnership, limited liability company, association, limited liability partnership, or other form of business organization engaged in any for-profit or not-for-profit activity.

3. "Consumable Hemp Product" shall mean:

a. A finished product that is intended for human or animal consumption and that contains any part of the hemp plant or any compound, concentrate, extract, isolate, or resin derived from hemp. The term includes, but is not limited to, products that contain cannabinoids. The term does not include seeds or seed-derived ingredients that are generally recognized as safe by the United States Food and Drug Administration.

b. The term excludes both of the following, which are strictly prohibited in the state:

1. Any smokable hemp product. Smokable hemp products include, but are not limited to, any plant product or raw hemp material that is marketed to consumers as hemp cigarettes, hemp cigars, hemp joints, hemp buds, hemp flowers, hemp leaves, ground hemp flowers, or any variation of these terms to include any product that contains a cannabinoid, whether psychoactive or not.

2. Any product that contains psychoactive cannabinoids that are created by a chemical synthesis, modification, or chemical conversion from another cannabinoid, utilizing non-cannabis materials. This does not include a cannabinoid produced via decarboxylation of naturally occurring acidic forms of cannabinoids, such as tetrahydrocannabinolic acid, into the corresponding neutral cannabinoid, through the use of heat or light, without the use of chemical reagents or catalysts, and that results in no other chemical change.

4. "Consumption" shall mean ingesting or topically applying to skin or hair.

5. "Retailer" shall mean any person or business entity who sells consumable hemp products to individual consumers or to the end-user, whether from a storefront or online, within the corporate limits or police jurisdiction of the City.

6. "CHP License" shall mean an annual license issued by the City for the privilege of selling consumable hemp products.

7. "CHP Licensee" shall mean a person who has received a license to sell consumable hemp products from the City.

SECTION 3. CHP License - Required for each place of business.

No person may sell, or engage in business as a retailer of, a consumable hemp product in the corporate limits or police jurisdiction of the City, without first obtaining a CHP License from the City. A separate CHP License is required for each business location.

SECTION 4. Application and Background Verification.

The City Council shall prescribe the form of application, if different from the standard City business license application, and the application fee for a person to apply for a CHP License. Upon receipt of a completed application for a CHP License, the City Council shall set down for hearing the application not more than forty-five (45) days after the date of the next regular council meeting following receipt of such completed application.

Any materially false or fraudulent information provided during the application process, or discovered later throughout the duration of the CHP License, is grounds for denial or revocation of the CHP License, subject to the procedures set forth in Section 14. Incomplete applications shall not be processed until the missing information is provided; applicants shall be given written notice of any deficiency and fourteen (14) days to cure. The City reserves the right to verify the veracity of all information submitted in a CHP License application, which may include personal interviews and criminal background checks. In addition to any information required under state law or regulations, every applicant shall also submit:

- (i) the name, date of birth, place of birth, address, telephone number, and driver's license number of every person who has a ten percent (10%) or greater proprietary or profit interest in the licensed establishment, except in the case of public corporations whose shares are traded on a recognized stock exchange. Social security numbers shall be collected only as necessary to conduct criminal background checks and shall not be retained in City records after the background check is completed;
- (ii) proof that every such person is qualified to receive a CHP License and meets all applicable requirements under state and federal law;
- (iii) the true, correct, and complete criminal court record of all convictions, guilty pleas, and pending criminal charges for the past ten (10) years of the applicant and any person having a ten percent (10%) or greater proprietary or profit interest therein, and in the case of corporations, of each officer and/or member of the board of directors (this includes, but is not limited to, any convictions for driving while under the influence and reckless driving);
- (iv) evidence of ownership, lawful possession, or lease of the real property where the business will be located, in the form of a recorded deed, sales contract, use agreement, or lease agreement, as applicable.

SECTION 5. RESERVED.

SECTION 6. City Council Action on CHP License Applications

At a regularly scheduled City Council meeting, the City Council will take up the matter of the CHP License application and, if necessary, the applicant's corresponding request for the City's consent in connection with their ABC Board application to sell consumable hemp products. The City Council shall approve the application unless it finds one or more of the following grounds for denial: (a) the applicant has failed to provide complete and accurate information as required by Section 4; (b) the applicant or any person with a ten percent (10%) or greater proprietary or profit interest has been convicted of a felony involving fraud, controlled substances, or moral turpitude within the preceding ten (10) years; (c) the applicant's proposed premises does not comply with applicable zoning, building, fire, or health codes; (d) the applicant has had a CHP License revoked within the preceding year; or (e) the applicant is not in compliance with all applicable state licensing requirements. Any denial shall be in writing and shall state the specific grounds therefor.

SECTION 7. CHP Licenses nontransferable; separate CHP License; display of CHP License.

CHP Licenses are non-transferable. Any successor in title or new tenant to the licensed premises must apply for their own CHP License. Each place of business shall require a separate CHP License. No CHP License will be issued to mobile businesses like food trucks. CHP Licenses are required to be posted in a conspicuous place at or in the place for which the same was issued and must be made available for review and inspection by City personnel and all law enforcement agencies.

SECTION 8. RESERVED.

SECTION 9. CHP License fees imposed.

The annual CHP License fee for each person desiring to engage in the retail sale of consumable hemp products is \$1,000.00 per licensed place of business in the corporate limits of the City, and half that amount per licensed place of business in the police jurisdiction of the City. This CHP License fee is in addition to any and all business licenses, sales taxes, and other sums owed to the City by the CHP Licensee or the business.

CHP License fees are not prorated for partial years, and they are not refunded, rebated, or prorated due to voluntary surrender of such CHP License before the expiration thereof. In the event of revocation or suspension that is subsequently overturned on appeal, the CHP Licensee shall be entitled to a prorated refund of the license fee for the unexpired portion of the license term.

Renewals of CHP License fees are due and payable annually as and when annual business licenses are renewed, and they are subject to the same provisions as business licenses for penalties and interest.

SECTION 10. Age Restrictions and Signage.

Prior to initiating any sale of consumable hemp products to a customer, an employee of the CHP Licensee must verify that the customer is at least 21 years of age. Proof of age may be established only by one of the following: (1) a valid driver license of any state; (2) a valid United States Uniformed Service Identification card; (3) a valid passport; or (4) a valid identification card issued by any agency of a state for the purpose of identification, bearing a photograph and date of birth of the individual in question.

Specialty Retailer (Category 700):

The licensed premises is restricted to those 21 years of age or older, including all employees. The CHP Licensee shall sell only consumable hemp products and related accessories unless the CHP Licensee also holds an applicable retail liquor license. Sales shall be restricted to off-premises consumption only. The CHP Licensee shall maintain a minimum of five hundred (500) square feet of dedicated sales and service area, which shall not include offices, storage areas, or areas not open to customers or not used for the sale or display of products authorized under this CHP License.

A sign no less than 8½ by 11 inches with letters at least two inches in height must be posted on or inside the door, stating: "It is illegal for anyone under 21 years of age to enter this licensed location".

Pharmacy (Category 710):

A pharmacy CHP Licensee may sell topical and sublingual consumable hemp products only, in a pharmacy licensed by the Alabama Board of Pharmacy and the ABC Board. Products must be placed in an area not accessible to the general public.

Individuals under 21, but at least 18 years, of age may sell consumable hemp products only under the direct supervision of a licensed pharmacist and only if the CHP Licensee is certified in the State's Responsible Vendor Program.

Retail Food Store (Category 720):

A sign (8½ by 11 inches, font no smaller than 2 inches) must be posted on the glass stating: "These products contain hemp derived compounds. Must be 21 years of age or older to purchase." All consumable hemp beverages shall be placed behind glass or a clear plastic or acrylic material in an area dedicated only to consumable hemp beverages.

Consumable hemp beverages shall not be visible from any area that contains candy, toys, or other products intended for, or primarily of interest to, children.

SECTION 11. Record Keeping and Audits.

No CHP Licensee shall offer for sale or sell any consumable hemp product that does not comply with the requirements of Code of Alabama § 28-12-20, including: (1) a corresponding certificate of analysis from an independent testing laboratory; (2) being in the original sealed container as packaged by the producer; (3) meeting the serving size and total THC content requirements of § 28-12-23; and (4) meeting the labeling requirements of § 28-12-25. Each CHP Licensee shall maintain and make immediately available for inspection a copy of the certificate of analysis for each consumable hemp product offered for sale on the licensed premises.

CHP Licensees shall retain all records and receipts for hemp product purchases, including certificates of analysis, for three (3) years from the date of purchase.

Records must be immediately available for inspection by authorized personnel and may be maintained electronically if they are immediately transferable.

SECTION 12. Right of Entry and Inspection.

As a privilege of holding a CHP License, the CHP Licensee agrees and consents that it shall, at all times during business hours, allow authorized City code enforcement and law enforcement officers to enter and inspect the those portions of the licensed premises used for the storage, display, sale, bookkeeping, or record keeping of consumable hemp products, including locked areas, locked cabinets, and locked facilities located thereon. Failure or refusal to comply shall constitute grounds for revocation of the CHP License by the City Council following the procedures set forth herein.

SECTION 13. Operational Prohibitions.

Consumption: No person may consume a consumable hemp product on the licensed premises.

Staffing: A CHP Licensee must have an employee present in the sales and service area of the licensed premises at all times the premises is open to customers. All purchases of consumable hemp products must take place inside and within the licensed premises.

Inventory: No CHP Licensee shall have any consumable hemp products on the premises that are not intended for legal sale, except for items being held for return to a distributor or for quality control purposes.

Sales to Impaired Persons: No person may sell or provide a consumable hemp product to any person who exhibits clearly visible signs of intoxication from alcohol or controlled substances, such as slurred speech, inability to maintain balance, or loss of consciousness.

SECTION 14. Revocation of CHP License

The City Council may revoke a CHP License upon their finding of the CHP Licensee's violation of this article or of any County, State or Federal laws or regulations

pertaining to the sale of consumable hemp products. Further, the City Council may revoke a CHP License upon their finding that any criminal conduct is occurring on the licensed premises by an employee, agent, owner, or representative of the CHP Licensee.

Prior to revocation, the City shall provide the CHP Licensee with written notice specifying the grounds for revocation and shall afford the CHP Licensee an opportunity to appear and be heard before the City Council at a properly called meeting no fewer than fourteen (14) days after the date of such notice. The CHP Licensee may present evidence and testimony in their defense at this meeting. The City Council's decision shall be rendered in writing, and the CHP Licensee may appeal the decision to a court of competent jurisdiction within thirty (30) days.

SECTION 15. Post-Revocation Bar.

In the event of a revocation of a CHP License, no renewal or reissuance of such CHP License shall be issued to permit the sale of consumable hemp products by the same business enterprise, its owners, officers, directors, or any person who held a ten percent (10%) or greater proprietary or profit interest in the revoked licensee's business at the time of the violation, until after the expiration of one (1) year from the date any such revocation becomes final and effective. The one-year period will be extended for any period of time that the former CHP Licensee continues to violate this article.

SECTION 16. Penalties and Violations.

ABC Board Violations: The rules and regulations adopted and promulgated by the Alabama ABC Board, in effect as of the date of adoption of this article, are hereby adopted as laws and ordinances of the City to the extent they pertain to the sale of consumable hemp products. The City Council may, by resolution, adopt subsequent amendments to ABC Board rules and regulations as they are promulgated.

Any violation of this article shall be a misdemeanor and, if found guilty, may result in a fine up to \$500.00, imprisonment for up to six months, or both. If the violation relates to the unauthorized sale of consumable hemp products, then each day the activity occurs, or each unauthorized sale, shall constitute a separate offense.

Any violation of this article may result in the revocation of the CHP License. The City reserves the right to consider violations of this article in connection with any other licensing decisions involving the CHP Licensee, subject to the applicable procedures governing such other licenses.

2. That the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable. If any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, then such ruling shall not affect any other paragraphs and sections, since the same would have

been enacted by the City Council without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph, or section.

3. That all City of Foley ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.
4. That this ordinance shall become effective immediately upon its adoption and lawful publication.

Passed, adopted and approved on this _____ day of _____, 2026.

Presiding Officer

Attest:

City Clerk