



Wayzata City Council Workshop Meeting Agenda
Wayzata City Hall Community Room, 600 Rice Street
TUESDAY, JULY 18, 2023

WORKSHOP TOPICS FOR DISCUSSION:

1. Discussion of Legislation Pertaining to Adult-Use Cannabis and Hemp-Derived Consumables (5:15-6:30 p.m.)



City Council Workshop City Council Agenda Report

MEETING DATE: July 18, 2023	WORKSHOP AGENDA ITEM: 1
TITLE: Discussion of Legislation Pertaining to Adult-Use Cannabis and Hemp-Derived Consumables (5:15-6:30 p.m.)	
PREPARED BY: Jeffrey Dahl, City Manager	
REVIEWED BY: N/A	

DISCUSSION OBJECTIVE:

To inform, discuss, and provide feedback on the expiring moratorium of Hemp-Derived Consumables and the legalization of Adult-Use Cannabis.

BACKGROUND:

On August 3rd of last year, the City adopted a one-year emergency moratorium on hemp-derived consumables or edible cannabinoid products to allow staff time to study the surprise state legislation that legalized sale and use without almost any direction. Many cities have chosen not to regulate these products and some have added ordinance restructures and licensing in order to provide more control. The City's approach was to not allow sale of products until it could study and update its ordinances at the same time cannabis was likely going to be legalized.

This year in May, legislation was passed that legalized use of cannabis starting August 1st. It also authorized the legalization of sale and manufacturing of cannabis but, for that part of it, it will need to set up a new state office and finalize a licensing process. It is expected that cannabis could be manufactured and sold in the state around the beginning of 2025.

There are, of course, many implications to local governments, and the first portion of this workshop will be utilized to go over the highlights of the legislation as it relates to the City of Wayzata. Staff (Administration, Community Development, Licensing, Police, Legal) has met several times since the legislation passed to discuss the latest updates and potential ways to move forward in the areas of Zoning, Licensing, Public Safety, Human Resources, etc. We have leaned on the League of Minnesota Cities to provide us with the most updated information.

Unfortunately, even with the legalization of manufacturing, sale, and usage of cannabis, hemp-derived consumables are still under separate parameters, providing for a lot of confusion. Because of the confusion and needing more time for state direction to play out, but also due to an expiring moratorium at the beginning of the next month, staff would like to discuss and receive feedback regarding the following next steps which are in order of urgency:

1. Update the City's Ordinance and Licensing to regulate the manufacturing and sale of hemp-derived consumables—Consider in August
2. Update the City's Ordinance regarding the usage of alcohol, tobacco, hemp-derived consumable products, and cannabinoid products in City parks and owned public spaces. (Unlike most communities in Minnesota, City parks are not tobacco free although the Code does give the City Manager some discretion in this area)—Consider in August
3. Consider a moratorium on the manufacturing and sale of cannabis in order to study the issue and provide additional time for the state to provide guidance and set up their Office of Cannabis—Consider in Late Summer/Early Fall

Attached for your information, which will be referred to at the meeting, is an FAQ regarding Cannabis Legislation from the League of Minnesota Cities as well as more information about hemp-derived consumables/cannabinoid products including an example from Minnetonka. In addition, the City Attorney has

drafted a moratorium resolution for future consideration of cannabis.

It should also be noted the City's approach with regulation of sale of cannabis is also to be discussed at the City Council Strategic Planning Meetings in August.

ATTACHMENTS:

1. Cannabis FAQ
2. Definitions
3. Cannabinoid Article from the League
4. Minnetonka Ordinance
5. ORD Immediate Cannabis Moratorium (Draft 7.7.23)

General information

Q1. What does the new law do?

A1. The new law legalizes the possession, use, manufacturing, and sale of certain cannabis products within the state. It establishes the Office of Cannabis Management (OCM), which is charged with, among other things, enforcing an organized system of regulation for the cannabis industry and the hemp consumer industry. The law also:

- Establishes labor standards for the use of cannabis and hemp products by employees and testing of employees.
- Establishes expungement procedures for certain individuals previously convicted of a crime related to cannabis.

Possession, use, and home growth under this new law will be legal beginning Aug. 1, 2023, and legal sales are expected to begin in January of 2025. Various other effective dates are noted throughout these FAQs as they apply.

Q2. How much cannabis can a person legally possess?

A2. This law allows a person of 21 years of age or older to:

- Use, possess, or transport cannabis paraphernalia.
- Possess 2 ounces or less of cannabis flower in a public place.
- Possess 2 pounds or less of cannabis flower in a person's residence.
- Possess or transport 8 grams or less of adult-use cannabis concentrate.
- Possess or transport edible products infused with a total of 800 milligrams or less of tetrahydrocannabinol.
- Give away cannabis flower and products in an amount that is legal for a person to possess in public.

The law authorizes an individual to use adult-use cannabis flower and adult-use cannabis products:

- In a private residence including the individual's curtilage or yard.
- On private property, unless the owner of the property prohibits the use of the products.
- On the premises of an establishment or event licensed to permit on-site consumption.

Q3. Are cannabis products legal under federal regulations?

A3. Marijuana remains a Schedule I drug under federal law, meaning it is illegal, with limited exceptions, to grow, process, sell or possess marijuana from a federal standpoint.

Q4. Can a person grow their own cannabis?

A4. The law authorizes a person to cultivate up to eight cannabis plants, of which four or fewer may be mature, flowering plants provided that it is in an enclosed, locked space that is not open to public view.

Q5. Does the Clean Indoor Air Act apply to cannabis products?

A5. A person may not use cannabis flower, cannabis products, or hemp-derived consumer products in a manner that involves the inhalation of smokes, aerosol, or vapor at any location where smoking is prohibited under the Clean Indoor Air Act.

Q6. What types of licenses will the OCM issue?

A6. The OCM will issue the following types of licenses:

- Cannabis microbusiness.
- Cannabis mezzobusiness.
- Cannabis cultivator.
- Cannabis manufacturer.
- Cannabis retailer.
- Cannabis wholesaler.
- Cannabis transporter.
- Cannabis testing facility.
- Cannabis event organizer.
- Cannabis delivery service.
- Lower-potency hemp edible manufacturer.
- Medical cannabis cultivator.
- Medical cannabis processor.
- Medical cannabis retailer.

Q7. Can cannabis start to be sold now?

A7. Cannabis will not be able to be sold until the Office of Cannabis Management is established and able to issue licenses. Communication from state agencies indicate an intended timeline of January 2025 for when sales will be live to the public. Before beginning sales, a cannabis retailer must obtain a local retail registration. Any business attempting to sell cannabis products before licenses are issued should be reported to the Department of Health.

Q8. Under the new law, where can adult-use cannabis be sold?

A8. Cannabis products and hemp derived consumer products may only be sold in business with a license issued by the OCM.

Q9. Could my city's municipal liquor store sell adult-use cannabis?

A9. The law adds edible cannabinoid products as an item allowed to be sold at exclusive liquor stores, including municipal liquor stores. The ability of cities to sell cannabinoid products at a liquor store is unique to Minnesota and may create new and complex coverage and liability questions around these products. The League and the League of Minnesota Cities Insurance Trust (LMCIT) are working on guidance for cities considering selling cannabinoid products at their municipal liquor stores. This information will be updated when such guidance is drafted.

Q10. Can my city have a municipal cannabis retail store?

A10. The new law authorizes cities to operate a municipal cannabis retail store. This is a unique opportunity for Minnesota cities and more research is needed to determine the legal ramifications of such an operation.

Taxation and revenue

Q11. How will these new products be taxed?

A11. A tax equal to 10% of gross receipts from retail sales of taxable cannabis products will be imposed on any taxable cannabis product retailer that sells cannabis products to customers.

Q12. Can our city impose its own cannabis tax?

A12. Cities are prohibited from imposing a tax solely on the sale of taxable cannabis products.

Q13. Do sales taxes apply?

A13. The state sales tax and local sales taxes apply to cannabis and hemp-derived cannabinoid products.

Q14. Who receives taxes collected from the sale of cannabis products?

A14. Revenues from the retail sales of cannabis products will be divided, with 80% going to the general fund and 20% to the local government cannabis aid account. Cities will receive 50% of the amount certified to the local government cannabis aid account.

Q15. What is considered a “taxable cannabis product retailer?”

A15. A taxable cannabis product retailer is a retailer that sells any taxable cannabis products. This includes a cannabis retailer, cannabis microbusiness, cannabis mezzobusiness, and lower-potency hemp edible retailer. Minn. Stat § 295.81, subd. 1(s).

Q16. How much revenue will cities receive from the local government cannabis aid fund?

A16. Half of the amount certified in the cannabis local government aid fund will go to cities. Cities will receive a distribution proportional to the number of cannabis businesses located in the city as compared to the number of cannabis businesses in all cities.

Q17. When will cities receive revenue from the local government cannabis aid account?

A17. The gross receipts tax goes is effective for gross receipts received after June 30, 2023. The law requires the Department of Revenue to certify the amount to be paid to each city by Sept. 1, 2024, and every year after, and the full amount must be paid on Dec. 26, 2024, and every year after.

Enforcement and public safety

Q18. How is the new law enforced?

A18. All licensing issues will be enforced by the Office of Cannabis Management. Until the OCM is up and running, the currently legal hemp-derived edible products under Minn. Stat. § 151.72 will be temporarily regulated by the Department of Health, which is taking over the enforcement of edible cannabis products previously done by the Board of Pharmacy. Local law enforcement may still enforce illegal possession or use crimes where applicable.

Q19. What are penalties for someone selling edible cannabis products that do not meet the state’s requirements?

A19. If a retailer is found to be selling edible cannabis products that do not meet state requirements, the Department of Health may embargo the products and potentially destroy the products with the retailer paying for all court costs and fees, storage, and other proper expenses.

Q20. Can a person still be charged with possession of cannabis products?

A20. Beginning Aug. 1, 2023, the following actions are considered cannabis possession crimes:

- *Possession of cannabis in the first degree.* (Punishable by imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both).
 - More than 2 pounds but not more than 10 kilograms of cannabis flower.
 - More than 160 grams but not more than 2 kilograms of cannabis concentrate.
 - Edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products infused with more than 16 grams but not more than 200 grams of THC.
- *Possession of cannabis in the second degree.* (Punishable by imprisonment for not more than one year or payment of a fine of not more than \$3,000, or both).
 - More than 1 pound but not more than 2 pounds of cannabis flower in any place other than the person's residence.
 - More than 80 grams but not more than 160 grams of cannabis concentrate.
 - Edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products infused with more than 8 grams but not more than 16 grams of THC.
- *Possession of cannabis in the third degree.* (Punishable by imprisonment for not more than 90 days or payment of a fine of not more than \$1,000, or both).
 - More than 4 ounces but not more than 1 pound of cannabis flower in any place other than the person's residence.
 - More than 16 grams but not more than 80 grams of cannabis concentrate.
 - Edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products infused with more than 1,600 milligrams but not more than 8 grams of THC.
- *Possession of cannabis in the fourth degree.* (Punishable as a petty misdemeanor).
 - More than 2 ounces but not more than 4 ounces of cannabis flower in any place other than the person's residence.
 - More than 8 grams but not more than 16 grams of cannabis concentrate.
 - Edible cannabinoid products infused with more than 800 milligrams but not more than 1,600 milligrams of THC.

Q21. Can a person still be charged with sale of cannabis products?

A21. Beginning Aug. 1, 2023, the following actions are considered cannabis sale crimes:

- *Sale of cannabis in the first degree.* Punishable by imprisonment for not more than five years or to a payment of a fine of not more than \$10,000 or both if a person unlawfully sells more than 2 ounces of cannabis flower; more than 8 grams of cannabis concentrate; or edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products infused with more than 800 milligrams of THC:
 - To a minor and the defendant is more than 36 months older than the minor.
 - Within 10 years of two or more convictions of sale in the second or third degree.
 - Within 10 years of a conviction of first degree
- *Sale of cannabis in the second degree.* May be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both if an adult:
 - Unlawfully sells more than 2 ounces of cannabis flower; more than 8 grams of cannabis concentrate; or edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products infused with more than 800 milligrams of THC:
 - In a school zone, a park zone, or a drug treatment facility; or
 - Within 10 years of a conviction of sale of cannabis in the first, second, or third degree.
 - Unlawfully sells cannabis flower, cannabis concentrate, edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products to a minor.

- *Sale of cannabis in the third degree.* An adult may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000, or both, if the adult unlawfully sells:
 - More than 2 ounces of cannabis flower.
 - More than 8 grams of cannabis concentrate.
 - Edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products infused with more than 800 milligrams of THC.
- *Sale of cannabis in the fourth degree.* An adult is guilty of a petty misdemeanor if they unlawfully sell:
 - Not more than 2 ounces of cannabis flower.
 - Not more than 8 grams of cannabis concentrate.
 - Edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products infused with not more than 800 milligrams of THC.

A sale for no remuneration by an individual over the age of 21 to another individual over the age of 21 is not unlawful as cannabis sale in the fourth degree.

- *Sale of cannabis by a minor.* A minor is guilty of a petty misdemeanor if the minor unlawfully sells:
 - Not more than 2 ounces of cannabis flower.
 - Not more than 8 grams of cannabis concentrate.
 - Edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products infused with not more than 800 milligrams of THC.

A minor is guilty of a misdemeanor if the minor unlawfully sells:

- - More than 2 ounces of cannabis flower.
 - More than 8 grams of cannabis concentrate.
 - Edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products infused with more than 800 milligrams of THC.

Q22. Can a person be charged with a crime for cultivating cannabis?

A22. Beginning Aug. 1, 2023, the following are crimes related to the cultivation of cannabis.

- *Cultivation of cannabis in the first degree.* A person is guilty of cultivation of cannabis in the first degree and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person unlawfully cultivates more than 23 cannabis plants.
- *Cultivation of cannabis in the second degree.* A person is guilty of cultivation of cannabis in the second degree and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the person unlawfully cultivates more than 16 cannabis plants but not more than 23 cannabis plants.

Q23. Can a person be charged with a crime for using cannabis in public?

A23. Beginning Aug. 1, 2023, a city may adopt an ordinance establishing a petty misdemeanor offense for a person who unlawfully uses cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place other than the following.

- A private residence including the person's curtilage or yard.
- Private property not generally accessible by the public, unless the person is explicitly prohibited from consuming cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on the property by the owner of the property.
- The premises of an establishment or event licensed to permit on-site consumption.

Q24. How do our officers determine if a driver is under the influence of adult-use cannabis?

A24. Officers will need to use the same process for determining if a person is under the influence of cannabis while operating a vehicle as they would have prior to the new law being enacted.

Q25. Is it a crime to use cannabis products while operating a motor vehicle?

A25. It is a misdemeanor for a person to use cannabis flower, a cannabis product, a lower-potency hemp edible, a hemp-derived consumer product, or any other product containing an artificially derived cannabinoid in a motor vehicle when the vehicle is on a street or highway.

Q26. Is it a crime to possess cannabis products in a motor vehicle?

A26. Beginning Aug. 1, 2023, a person may be charged with a misdemeanor if they possess cannabis products in a motor vehicle on a street or highway if the products meet any of the following conditions:

- Do not meet the packaging requirements set in statute.
- Have been removed from the packaging in which they were sold.
- Are in packaging that has been opened, or the seal has been broken.
- Are in packaging in which the contents have been partially removed.

It is not considered a crime if the cannabis products are in the trunk of the vehicle or in another area of the vehicle not normally occupied by the driver and passengers if the vehicle is not equipped with a trunk. A utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers.

Q27. Could cities prohibit the sale of adult-use cannabis entirely?

A27. Cities may not prohibit the possession, transportation, or use of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products authorized by the new law.

Q28. Is our city required to adopt regulations under the new law?

A28. Cities are not required to adopt any new regulations under the new law. However, they will be required to register retail sellers and perform compliance checks.

Q29. Are prior convictions for cannabis use expunged and what is the city's role in that process?

A29. Certain cannabis-related convictions will be expunged by the Bureau of Criminal Apprehension. Upon receipt of a notice of expungement, cities are required to seal all records related to the expungement, including the records of the person's arrest, indictment, trial verdict, and dismissal or discharge of the case.

Certain felony convictions will be reviewed by the Cannabis Expungement Board to determine what, if any, action should be taken related to a prior conviction. Cities will be required to provide the Cannabis Expungement Board free access to records held by law enforcement agencies or prosecuting authorities.

City regulation

Q30. Can the city require sellers to have a city-issued license?

A30. A city may not require additional licenses other than the cannabis licenses issued by the OCM. However, the OCM will forward applications to cities for them to certify whether the proposed cannabis business

complies with local zoning ordinance and, if applicable whether the proposed business complies with the state fire and building code. The OCM may not issue a license to a cannabis business that does not meet local zoning and land use laws.

In addition, upon receipt of an application for a cannabis license, the OCM will contact the city in which the business would be located and provide the city with 30 days in which to provide input on the application. This is the city's opportunity to provide the OCM with any additional information it believes is relevant to the OCM's decision on whether to issue a license, including but not limited to identifying concerns about the proposed location of a cannabis business, or sharing public information about the applicant.

Before a cannabis business begins making retail sales, it will be required to register with the city in which it is located.

Q31. When is our city required to issue retail registration to a cannabis retail business?

A31. A city is required to issue a retail registration to a cannabis microbusiness with a retail operations endorsement, cannabis mezzobusiness with a retail operations endorsement, cannabis retailer, medical cannabis retailer, or lower-potency hemp edible retailer that:

- Has a valid license issued by the OCM.
- Has paid the registration fee.
- Is found to be in compliance with the requirements of the applicable state laws through a preliminary compliance check performed by the city.
- Is current on all property taxes and assessments at the location where the retail establishment is located.

Q32. Can a retail registration issued by our city be transferred?

A32. Retail registration may not be transferred.

Q33. Is our city required to conduct compliance checks on businesses with a cannabis retail registration?

A33. Cities will be required to conduct compliance checks on retail cannabis businesses with a retail registration by the city. The OCM will develop standardized forms and procedures for these compliance checks.

Q34. Can our city charge a fee for a cannabis retail registration?

A34. city may impose an initial retail fee of \$500 or up to half the amount of the applicable initial license fee charged by the OCM, whichever is less. The city may also charge a renewal retail registration fee of \$1,000 or up to half the amount of the applicable renewal license fee charged by the OCM, whichever is less.

Q35. Can my city limit the number of cannabis retailer licenses issued in our city?

A35. A city that issues cannabis retailer registrations may, by ordinance, limit the number of licensed cannabis retailers, cannabis mezzobusinesses with a retail operations endorsement, and cannabis microbusinesses with a retail operations endorsement to no fewer than one registration for every 12,500 residents. In addition, if a county has one active registration for every 12,500 residents, a city within the county is not obligated to register any additional cannabis businesses.

Q36. How does this impact my city's existing license for THC products?

A36. It appears that cities may continue to license edible cannabinoid products until the OCM begins issuing licenses. Those businesses that sell edible cannabinoid products to consumers must register with the Minnesota Department of Health by Oct. 1, 2023. However, once the OCM begins issuing lower-potency hemp edible retailer licenses, cities are likely preempted from continuing to issue their own licenses and would begin registering retailers through the city's cannabis retailer registration process.

Q37. Which state agency is charged with regulating edible cannabinoid products until the OCM begins licensing cannabis products?

A37. The Minnesota Department of Health is now charged with the regulations of edible cannabinoid products until the OCM begins issuing licenses.

Q38. What changes have been made to the edible cannabinoid law adopted in 2022?

A38. The new law allows for the continued sale of certain edible cannabinoid products with new limitations including:

- Manufacturers must have each batch of products tested to certify they comply with the standards adopted by the Minnesota Department of Health.
- Manufacturers must disclose information regarding foreign materials applied or added to the products.
- Labels must contain a batch number.
- Beverages cannot contain more than two servings per container.
- Edible cannabinoid products may not contain artificially derived or synthetic cannabinoids.
- Edible cannabinoid products, other than beverages, must be displayed behind a checkout counter.
- Retailers must verify age of purchaser.

Q39. Can edible cannabinoid products be sold for on-site consumption?

A39. Until the OCM begins issuing licenses, the on-site consumption of edible cannabinoid products is limited to those businesses with an on-sale liquor license issued under Minnesota Statutes, Chapter 340A. In addition, the following conditions must be met:

- Products must be served in original.
- Products may not be sold to an intoxicated customer.
- Products must not be permitted to be mixed with alcoholic beverages.
- Products removed from packaging must remain on premises.

After the OCM is set up, it will issue on-site consumption endorsements for cannabis license holders.

Q40. Will I be able to prohibit cannabis events in my city?

A40. The new law authorizes temporary cannabis events lasting no more than four days. To be approved for a cannabis event license, applicants must obtain any necessary permits or licenses issued by a local unit of government. Cities may not prohibit cannabis events, but they may set standards which the event organizer must meet. Cities may also permit on-site consumption for events but are not required to.

Q41. How does this impact my city's existing THC license program?

A41. Local THC licenses may continue until the OCM begins issuing its own licenses, which state agencies anticipate beginning in January of 2025. When the OCM licensing begins, cities will need to follow the retail registration procedures outlined in the law.

Q42. How does the new law impact my city's existing THC moratorium?

A42. The new law does not affect a current moratorium. If a city adopted a moratorium on low-potency edibles, it remains in place and will expire as noted when it was adopted.

Q43. Can the city's zoning regulation restrict where a business can operate?

A43. Cities are allowed to adopt reasonable restrictions on the time, place, and manner of the operations of a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis businesses. Cities may prohibit the operations of a cannabis business within 1,000 feet of a school, or 500 feet of a day care, residential treatment facility, or an attraction within a public park that is regularly used by minors, including a playground or athletic field.

The OCM will develop model ordinances for reasonable restrictions on the time, place, and manner of a cannabis business.

Q44. Can cities adopt a moratorium prohibiting the sale, manufacturing, or distribution of adult-use cannabis to study the issue?

A44. Cities may adopt an interim ordinance if:

- It is conducting studies.
- Has authorized a study to be conducted.
- Has held or has scheduled a hearing for the purpose of considering adoption or amendment of reasonable restriction on the time, place, and manner of the operation of a cannabis business as defined in the new law.

Before adopting an interim ordinance, the city must hold a public hearing on the issue. The interim ordinance may be in place until Jan. 1, 2025. The authority for an extended moratorium does not apply to the sale or production of low-potency hemp edible products.

Q45: What if my city has complaints about a licensed cannabis business?

A45. The OCM will establish an expedited complaint process to receive, review, and respond to complaints made by cities about a cannabis business. The OCM will be required to respond to the complaint within seven days and perform any necessary inspections within 30 days. If certain cannabis businesses are deemed by the city to pose an immediate threat to the health or safety of the public, the OCM must respond within one business day.

Q46: Can a city deny a liquor license if they find that the business is selling cannabis or low-potency hemp products without a license?

A46. Yes. The new law prohibits a retail license from being issued to a person who has had a license or registration issued under ch. 342 or Minn. Stat. § 151.72, subd. 5b revoked; has been convicted of an offense under Minn. Stat. § 151.72, subd. 7; or has been convicted under any other statute for the illegal sale of marijuana, cannabis flower, cannabis products, lower-potency hemp edibles, hemp-derived consumer products, or edible cannabinoid products and the sale took place on the premises of a business that sells intoxicating liquor or 3.2% malt liquor.

Q47. Can a city suspend or revoke a tobacco license if they find that they are selling cannabis or low-potency hemp products without a license?

A47. Yes. The new law allows a tobacco license to be suspended or revoked if the licensee has a registration or licensed under ch. 342 or Minn. Stat. § 151.72, subd. 5b revoked; is convicted of an offense under Minn. Stat. § 151.72, subd. 7; or has been convicted under any other statute for the illegal sale of marijuana, cannabis flower, cannabis products, lower-potency hemp edibles, hemp-derived consumer products, or edible cannabinoid products and the sale took place on the premises of a business that sells tobacco. A city must provide notice and an opportunity for a hearing before suspension or revocation.

City employment and personnel issues

Q48. Does the new law allowing adult-use cannabis change anything about how we do drug testing for CDL holders?

A48. No, cities with positions requiring an employee to hold a commercial driver's license (CDL) will recall these positions are regulated by federal law, and those regulations are supervised by the Federal Department of Transportation (DOT). Federal law preempts state law related to cannabinoid use; in fact, the DOT states in its [DOT Recreational Marijuana Notice](#) that it does not authorize the use of Schedule I drugs, including marijuana, for any reason. As a result, cities should continue to follow their drug-testing procedures related to CDL holders and may enforce prohibitions against any use of cannabinoids for CDL holders, regardless of state law protections.

Cities can find more information on existing drug testing policies in the [LMC Drug and Alcohol Testing Toolkit](#), starting on page 22. An updated model Non-DOT Drug, Alcohol and Cannabis Policies will be available once legal consultants have reviewed.

Q49. Does the new law change anything related to employees who carry a firearm?

A49. No. Public safety employees who carry a firearm cannot lawfully use marijuana under federal law. Federal law prohibits cities from providing firearms or ammunition to an employee it knows or has reason to think is using marijuana. Although there is a legal difference between marijuana products and hemp products, it may not be possible to differentiate the products in a drug test. Officers should be mindful of any substance they ingest because they are ultimately responsible if those products lead to a positive marijuana test.

Q50. Besides positions requiring a CDL or carrying a firearm, are there any other positions which are not affected by the new law?

A50. Yes. The law excludes the following seven position classes from the law's changes:

1. A safety-sensitive position, as defined in as defined in Minn. Stat. § 181.950, subd. 13.
2. A peace officer position, as defined in Minn. Stat. § 626.84, subd. 1.
3. A firefighter position, as defined in Minn. Stat. § 299N.01, subd. 3.
4. A position requiring face-to-face care, training, education, supervision, counseling, consultation, or medical assistance to:
 1. Children.
 2. Vulnerable adults, as defined in Minn. Stat. § 626.5572, subd. 21.
 3. Patients who receive health care services from a provider for the treatment, examination, or emergency care of a medical, psychiatric, or mental condition.
5. A position funded by a federal grant.
6. Any other position for which state or federal law requires testing of a job applicant or employee for cannabis.
7. A position requiring a commercial driver's license or requiring an employee to operate a motor vehicle for which state or federal law requires drug or alcohol testing of a job applicant or employee.

Q51. Can we still prohibit employees from being under the influence of cannabis while at work? Does the League have a model policy with updated language?

A51. Yes, employers can continue to prohibit employees from being under the influence of cannabis products, while at work. For employers, a key focus will be workplace safety with the consideration that cannabis is more difficult to detect and test than alcohol. Employers may continue to maintain drug-free policies at the workplace and discipline employees who use cannabis during working hours or who report to work impaired.

Under the [Occupational Safety and Health Administration's \(OSHA\) General Duty Clause](#) of the Occupational Safety and Health Act, employers are required to furnish a workplace free from recognized hazards that are likely to cause serious physical harm. This provision of the Act is typically used in accident cases where toxicology screens are positive. [OSHA's new electronic recordkeeping rule, clarified on Oct. 11, 2018](#), states "If the employer chooses to use drug testing to investigate the incident, the employer should test all employees whose conduct could have contributed to the incident, not just employees who reported injuries," with respect to using drug testing to evaluate the root cause of a workplace incident that harmed or could have harmed employees. Thus, a non-DOT drug and cannabis-city testing policy with protocols following this guidance is important.

Under the new law, employers can enact and enforce work policies prohibiting the use, possession, and impairment of cannabis while at work or operating employer vehicles, equipment, and machinery. It is difficult to test for cannabis to determine if an employee is currently under the influence due to the drug's ability to be detectable for weeks after it is used. With the prohibitions on disciplining employees other than those listed in [Q3](#), employers will be in a difficult position to take action against an employee who tests positive for cannabis. A best practice is for cities to train supervisors about the behavioral signs and symptoms of drug and cannabis use as well as how to document observations of potential impairment so should a situation occur in the workplace, supervisors can effectively respond and document what they observed leading to the situation.

An updated model Non-DOT Drug, Alcohol and Cannabis Policies will be available once legal consultants have reviewed.

Q52. If an employee is injured while being under the influence of cannabis at work, are they still entitled to workers' compensation benefits?

A52. While each case is very fact-specific, the general rule is that if the injury was intentionally self-inflicted or the intoxication of the employee is the proximate cause of the injury, then the employer is not liable for compensation. The burden of proof of these facts is upon the employer.

Q53. Can employees be in possession of edibles or other cannabis products while at work?

A53. Cities may enact policies prohibiting employees from bringing cannabis products, including edibles, to work. A best practice is for cities to train supervisors about the behavioral signs and symptoms of drug and cannabis use as well as documenting observations of potential impairment so should a situation occur in the workplace, supervisors can effectively respond and document what they observed leading to the situation.

Q54. Do we need to change anything in our collective bargaining agreement (CBA) regarding discipline of employees who use cannabis products?

A54. Maybe. If cities have policies within their CBAs that relate to cannabis use and discipline, cities should consult with their city attorney to determine if any changes are needed. CBAs may address cannabis and cannabis testing, but the CBAs must at least meet the minimum employee rights guaranteed by the statute.

Ensure your city's drug and cannabis-testing policies have been updated and your supervisors are trained on the behavioral signs and symptoms associated with impairment as well as documenting observations of potential impairment. If the CBA includes language that policy changes need to be negotiated, then there would need to be a meeting with the union if the city's policy changes.

Q55. Can employees use cannabis products off-duty?

A55. It depends. See [Q1](#), [Q2](#), and [Q3](#) for a list of employees who can be prohibited from using cannabis products both on and off duty due to federal or state regulations. Other employees would be able to use cannabis products while they are off duty, if they are not impaired at work. If there are any questions regarding whether an employee could be prevented from using cannabis products while off-duty, please consult your city attorney before any action is taken.

In addition, the law prohibits an employer from taking adverse employment action against an employee who is a patient in the state's medical cannabis program unless a failure to do so would violate federal or state law or regulations, or cause an employer to lose a monetary or incensing-related benefit under federal law or regulations.

Q56. How does this impact the requirements of the Drug-Free Workplace Act?

A56. It does not. The Drug-Free Workplace Act of 1988 (DFWA) requires federal grantees and contractors to implement a drug-free workplace policy and establish a drug-free awareness program as a precondition for receiving a federal grant or a contract. However, the DFWA does not require covered employers to test employees for drugs or terminate them for drug-related violations, so the new Minnesota state law does not impact the DFWA directly. Minnesota law allows employers to prohibit employees from bringing legal cannabis products to work and permits employers to prohibit employees from being under the influence while at work. It would be best practice for cities with drug-free work policies to keep those in effect. If a city wishes to do so, it can update its policy to include lawful cannabis products within its scope.

An updated model Non-DOT Drug, Alcohol and Cannabis Policies will be available once legal consultants have reviewed.

Q57. Should my city continue to include cannabis as a pre-employment panel screen for my non-DOT/safety-sensitive employees?

A57. The new Minnesota law prohibits an employer from refusing to hire an applicant simply because of a positive cannabis drug test. There are exceptions for positions where such testing and denial of job offer is required under applicable federal or state law. Cities will want to refer to the [Q3](#), which provides a list of positions excepted from cannabis testing prohibitions. Practically speaking, if a position is not excepted, cities will need to determine whether they want to continue to test for cannabis in light of the limitation of the testing and confer with their city attorney before taking an action as a result of a positive test.

Simple, Plain-Language Definitions:

Cannabis – a plant family that includes many species, including both marijuana and hemp. Cannabis is made up of cannabinoids. Two of the most discussed are cannabidiol (CBD) and tetrahydrocannabinol (THC).

Cannabinoid - Cannabinoids are a group of substances found in the cannabis plant. Cannabinoid includes but is not limited to tetrahydrocannabinol (THC) and cannabidiol (CBD).

Hemp – A variety of cannabis with low levels of THC, most often used for industrial purposes. Less than .3% THC while still in plant form. Therefore, it takes a lot of hemp to make a 5 mg edible THC product.

Low-Potency Edibles – this refers to the 2022 MN law that allows hemp-derived low-potency edibles are maxed out at 5 mg of THC per serving, whereas edible cannabis products we will see for sale in 2025 will be 10 mg per serving or much, much higher.

Marijuana – A variety of the cannabis plant that has more than .3% THC while still in plant form

THC – tetrahydrocannabinol, the intoxicating cannabinoid

CBD – cannabidiol, the nonintoxicating cannabinoid

Is The THC Law Here To Stay?

Facebook, opens in a new window
Twitter, opens in a new window
Email, opens in a new window

By Deborah Lynn Blumberg

When the Minnesota Legislature unexpectedly legalized certain hemp-derived tetrahydrocannabinol (THC) products last spring, consumers lined up outside shops to stock up on edibles. The media espoused on “gummy bears with a bite,” and edible THC products — from caramel popcorn to cookies to potato chips — flooded store shelves.

For cities, the products’ legalization in the last days of session accompanied by minimal guidance created immediate and numerous questions. The law, passed as part of Chapter 98, centers around Article 13, which makes changes to Minnesota Statutes, section 151.72 regarding the processing and sale of hemp-derived THC edibles and beverages. It legalizes products with less than .3% THC. Changes took effect July 1.

While the law focuses on how to package and label products and specifies sales only to those over 21, the onus of how and where to allow sales, plus enforcement, has fallen on the shoulders of cities. It’s a law unique to Minnesota — no other state has legalized adult-use cannabis in such a limited manner with little guidance. From Roseau to Rochester, local officials, with guidance from the League of Minnesota Cities, scrambled to make sense of it and decide if, and how, to craft new policies.

“What Minnesota did is very unusual,” says Patricia Beety, general counsel with the League of Minnesota Cities. “There’s no other scheme like this in the country. It’s kind of this middle ground, and it’s created a lot of work and attention to sort it out.”

LMC Communications Manager Julie Liew said media attention from across the country as to what cities may do was swift and hasn’t let up. “It’s been constant interest nationwide,” she says. “I’m surprised interest hasn’t tapered much.”

A booming market

Some link the original intention of the law to addressing a murky area with respect to a certain type of cannabis, Delta 8, which is a strain of THC. Delta 8 products were not explicitly

prohibited on a federal level following a change in the federal farm bill in 2018. Delta 9, however, Delta 8's stronger sibling, was prohibited.

"Delta 8 was on the market, and it was pretty widely unregulated," says Alex Hassel, intergovernmental relations representative with the League. "These products were in a gray area, and this law was intended to rein in that market."

The result was Minnesota's law explicitly legalized THC products up to a certain threshold, including Delta 8 and 9. Hemp-derived THC edibles and beverages with five milligrams or less THC in a single serving, and less than 50 milligrams per package, are now allowed. Sales of these products exploded at establishments around the state, from gas stations to smoke shops.

"The bill created a market," says Hassel, who helps educate cities on the law. "The market has boomed since, and these products are being sold at levels never seen before."

While many other states that have adult-use cannabis have a robust, fully staffed oversight process, regulation is still a work in progress in Minnesota.

Hassel receives pictures several times a week from residents and officials of products in their community that fail to meet state requirements. For example, some stores are selling 50 milligram gummies, 10 times the allowed serving size.

"We're seeing an influx of products that aren't legal," she says. "A lot have been from out of state, but now we're seeing more made in Minnesota."

Roundtables and policy options

The League mobilized to help its members tease apart the particulars of the law, and devise solutions and plans of actions.

Beety organized virtual roundtables for city attorneys to brainstorm what cities could do to regulate, limit, or even ban sales of the products within the framework of the law. Participants asked if cities had to act at all? The answer, determined the roundtable, was no.

"Statutes say local leaders don't have to do anything," Beety says, "so as a city, you could do nothing. Another consensus has been, you could regulate these products if you want to. So, we looked at what that would look like."

Attorneys drew comparisons to tobacco and alcohol, both of which have state laws with respect to regulation but also allow for a degree of local control. Cities could develop a licensing framework that would allow them to control some of the hemp-derived THC edibles within their community. Ultimately, with guidance from the League, more than a dozen cities have opted to create a local licensing framework.

Lakeville, for example, held a work session on a proposed ordinance to get feedback from its City Council. Others, like Alexandria, went even further, completing a second reading of its

ordinance. Restrictions that accompany these types of local policies could include not allowing sales in residential areas, prohibiting sales within a certain number of feet from a school or day care center, or requiring merchants to sell products behind a counter or in an enclosed case.

Other cities chose to put in place a moratorium of up to a year to ban the sale of products by new vendors while they study the issue and draft regulations to meet their needs. According to the League's informal tracking, some 30 member cities have passed moratoriums on edible sales. The League is talking with industry players, and studying states and cities that already have licensing regulations.

"Ideally, you'd have some guidance or uniformity," says Hassel. "But with the absence of that at the state level, cities have taken initiative. They've done a really good job stepping up and figuring out their needs. They're crafting thoughtful ordinances and serving as examples to others."

The vast majority of Minnesota cities — both large and small — appear to be taking a wait-and-see approach. Many are unwilling to put a plan in place they may later have to significantly modify or scrap altogether, following future guidance from the state, Beety says.

Maintaining local control

Plenty of gaps exist when it comes to the law, says Hassel. These include ambiguity around law enforcement, oversight on manufacturing of the products, and taxing products as a way to generate income to help with enforcement.

"Cities may want to add a separate tax on," Hassel says, "and there are several ways that the state could do that in partnership with cities."

Many questions remain, such as can cities refuse permits, and if so, on what grounds? Employment is also a murky area. Other states that have legalized cannabis have updated their employment laws to reflect the change and provide guidance — what exactly is legal to consume and what can be tested for.

"Our Minnesota law is silent on this," Hassel says. "It's a big conundrum for cities, and we need clarity on all these pieces."

The League is developing a wish list for how the state and cities can partner to solve gaps as the law evolves. Critical is for cities to be able to maintain some degree of local control.

"We don't want the state to tell cities exactly how to license products, and what they can or can't include. We would want the ability to craft those as cities see fit, including the ability to opt out of doing licensing at all," Hassel says.

It's an opportunity, say Hassel and Beety, and cities can proactively lend their voice to add support for measures promoted by the League.

Looking forward

THC will likely be a big topic in the 2023 legislative session. “We have to be on our legislators, to tell them why this is an issue,” Hassel says. “There’s going to have to be more legislation on this to clean up the statute, but I wouldn’t predict it being easy to solve at the Legislature.”

The Board of Pharmacy supports legislation to create an Office of Cannabis Management to have authority issues related to cannabis, and members of the cannabis industry are requesting more regulations to clarify what is legal in Minnesota.

Beety commends cities for handling this unprecedented, challenging development with grace. “We’re in this unique area navigating something nobody ever had to deal with before,” she says. “I’m very proud of our cities. Within a short period of time, they’ve made some good policy decisions, even the wait-and-sees.”

Deborah Lynn Blumberg is a freelance writer.

SECTION 620. EDIBLE THC PRODUCTS.

620.05. Purpose and findings.

The Minnetonka city council finds that, based on the most reliable and up-to-date scientific evidence, the rapid introduction of newly legalized edible THC products presents a potential threat to the public health, safety, and welfare of the residents of the city, and particularly to youth. Edible THC products have become increasingly common and are available in a variety of flavors and forms that appeal to children and young adults and may lead to negative health consequences. The city desires to enact this licensing requirement in an effort to prevent children and young adults from purchasing and using edible THC products. The intent of this section is to require a license for the sale of those edible THC products that may be legally sold under Minnesota law.

(Added by Ord. No. 2023-01, effective May 1, 2023)

620.10. Definitions.

When used in this section, the following terms have the following meanings:

1. "Cannabinoid product" means any product containing nonintoxicating cannabinoids extracted from hemp, including an edible cannabinoid product that is sold for human or animal consumption.
2. "Certified hemp" has the same meaning as provided in Minn. Stat. § 151.72, Subd. 1(b), as may be amended.
3. "Edible THC product" means any product that contains more than trace amounts of THC and that meets the requirements to be sold for human or animal consumption under Minn. Stat. § 151.72, as may be amended. Edible THC product does not include medical cannabis as defined in Minn. Stat. section 152.22, subd. 6, as may be amended.
4. "Hemp" or "industrial hemp" has the meaning given to "industrial hemp" in Minn. Stat. § 18K.02, Subd. 3, as may be amended.
5. "Labeling" has the meaning as provided in Minn. Stat. § 151.72, Subd. 1(f), as may be amended.
6. "Movable place of business" means any form of business that is operated out of a kiosk, other transportable structure or shelter, or a motorized or nonmotorized vehicle.
7. "Nonintoxicating cannabinoid" has the means as provided in Minn. Stat. § 151.72, subd. 1(h) as may be amended.
8. "Sale" means any transfer of goods for money, trade, barter or other consideration.
9. "THC" means tetrahydrocannabinol.
10. "Vending machine" means any mechanical, electrical or electronic, or other type of device which, upon the insertion of money, tokens, or other form of payment into or onto the device, dispenses edible THC products and includes vending machines equipped with manual, electric or electronic locking devices.

(Added by Ord. No. 2023-01, effective May 1, 2023)

620.15. License Required.

No person may keep for sale, sell or offer to sell, or otherwise dispose of any edible THC product at any place in the City without first obtaining a license from the City.

(Added by Ord. No. 2023-01, effective May 1, 2023)

620.20. Exceptions.

Reserved.

(Added by Ord. No. 2023-01, effective May 1, 2023)

620.25. Persons ineligible.

No license will be issued under this section to:

1. A person under twenty-one (21) years of age.
2. A person who has been convicted within the past five (5) years of any violation of a federal, state, or local law, ordinance provision or other regulation governing the manufacture, sale, distribution or possession for sale or distribution of any drug, as defined in Minn. Stat. § 151.01, subd. 5, or products containing THC.
3. A person who is prohibited by federal, state, or other local law, ordinance, or other regulation from holding a license.
4. A person who is not the real party in interest or beneficial owner of the business operated under the license.
5. An applicant whose manager or agent does not satisfy the residency requirements of section 620.35 of this code.
6. As further described in this subdivision, the applicant or related person has had an interest in a license that was suspended or revoked within the five (5) years preceding the application; provided that the applicant or related person 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. For purposes of this subdivision: (a) the license must have been a license for the manufacture or sale of any product containing THC or a nonintoxicating cannabinoid or for the sale of a tobacco product, issued by the city or another jurisdiction; (b) a related person includes any person investing in the business, building, premises, fixtures, furniture or equipment of the proposed licensee; (c) the applicant or related person may have held their interest in the license as an individual or as part of a firm, association, partnership, corporation, limited liability company, or joint venture.

(Added by Ord. No. 2023-01, effective May 1, 2023)

620.30. Places ineligible.

1. No license may be issued for any movable place of business.
2. No license may be issued for a business located within an exclusive liquor store as defined in Minn. Stat. sec. 340A.101, subd. 10.
3. No license may be issued for operation on any premises on which taxes, assessments or other financial claims of the city are delinquent and unpaid. If an action has been commenced pursuant to the provisions of Minnesota Statutes, Chapter 278, questioning the amount or validity of taxes, the Council may, on application by the licensee, 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.

(Added by Ord. No. 2023-01, effective May 1, 2023)

620.35. License application procedure.

1. Application. Application for a new license or license renewal must be filed with the community development director on forms supplied by the city. Applicants must answer fully and completely all questions asked and supply information required by the application forms.
2. Fees. Except as modified by this subdivision, applications must be accompanied by payment of the fee as established in Section 710 of this code, to cover the city's costs in processing the application, the investigation and administering the provisions of this section. The application fee is nonrefundable. If the applicant holds a liquor license or massage license, no charge will be made for the license under this section. If the applicant holds a tobacco license, the only fee charged will be a fee to cover the additional cost of the background investigation required by this section.

3. **Manager or Agent.** If the applicant is a firm, association, partnership, corporation, limited liability company, or joint venture, the application must include the name of the natural person who will serve as the manager or agent of the licensed premises. Such manager or agent must, by the terms of their written consent, (1) take full responsibility for the conduct of the licensed premises, and (2) serve as agent for service of notices and other process relating to the license. The manager or agent must reside within 75 miles of city hall. The required residency must be established by the time the license is issued and must be maintained throughout the existence of the license and all renewals. The time for establishing residency may be extended, for good cause, by the city council. A licensee must notify the city in writing within 15 days of any change in such manager or agent indicating the name and address of the new manager or agent and the effective date of such change.

4. **Investigation.** The city is empowered to conduct any and all investigations to verify the information on applications and renewal applications submitted under this section, including but not limited to ordering a criminal history check pursuant to Minn. Stat. § 299C.72 and conducting an inspection of any premises proposed to be licensed. The city must conduct a background check on all new applications. The investigation shall consider all facts and information bearing on the question of the applicant's fitness to receive the license and to perform the duties imposed by this ordinance. The city may conduct a background check on an application for a renewal of a license if it is in the public interest to do so. Failure of an applicant to allow an inspection is grounds for denial of the license. The results of any investigation must be submitted to the city council.

5. **License decision.** The city council may grant or deny the application. The following are grounds for denial or nonrenewal of a license:

- a. The applicant or location fails to meet the eligibility requirements of this section.
- b. The applicant failed to provide information required by the application or provided false or misleading information.

(Added by Ord. No. 2023-01, effective May 1, 2023)

620.40. License term; renewal; transfer.

1. **Term.** Each license will expire on December 31st of the year in which it is issued; except that licenses issued under this section to any person or entity that also holds a massage license will have the same license term as the massage license.

2. **Renewal.** An application for renewal must be made at least 90 days prior to the expiration of the current license.

3. **Issuance as privilege and not a right.** The issuance of a license issued under this section is a privilege and does not entitle the license holder to automatic renewal of the license.

4. **Non-transferable licenses.** All licenses issued under this section shall be valid only on the premises for which the license was issued and only for the person or business to whom the license was issued. The transfer of any license to another location, business, or person is prohibited.

(Added by Ord. No. 2023-01, effective May 1, 2023)

620.45. Suspension, revocation or civil penalty.

1. **Grounds for suspension, revocation.** A license issued under this section is subject to the right of the city council to suspend or revoke the license upon any of the grounds identified below. The grounds for suspension, revocation or civil penalty include:

- a. Fraud, misrepresentation, or false statement contained in a license application or a renewal application.
- b. Failure to comply with any applicable statute, regulation, or ordinance, including this section, relating to the sale or use of edible THC products.
- c. If the licensee is also the holder of a tobacco license issued by the city pursuant to section 625 of this code, any grounds for suspension or revocation of the tobacco license under that section.

d. If the licensee is also the holder of a massage business license issued by the city pursuant to section 810 of this code, any grounds for suspension or revocation of the massage license under that section.

e. If the licensee is also the holder of a liquor license issued by the city pursuant to section 600 of this code, any grounds for suspension or revocation of the liquor license under that section.

2. Procedure. The city will follow the procedure set forth at section 700.035 of this code.

(Added by Ord. No. 2023-01, effective May 1, 2023)

620.50. License restrictions.

1. Legal age. A person must not sell, offer to sell, give away, or otherwise furnish any THC edible product to any person below the age of 21 years.

a. Age verification. Licensees must verify by means of government-issued photographic identification that the purchaser is at least 21 years of age. Verification is not required for a person over the age of 30; however, it is not a defense to a violation of this section that the person appeared to be over the age of 30.

b. Signage. Notice of the legal sales age and age verification requirement must be posted prominently and in plain view at all times at each location where THC edible products are offered for sale. The required signage must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

2. Sale, display and storage.

a. A licensee may sell edible THC products only in a direct face-to-face exchange between the licensee or the licensee's employee and the consumer.

b. A person must not sell, dispense, or give away any THC edible product through the use of a vending machine or similar automated dispensing device or by means of delivery.

c. All THC edible products must be stored either behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public.

d. No person under twenty-one (21) years of age may sell, give, or otherwise furnish edible THC products at an exclusive tobacco store as defined by section 625.005 of this code. No person under eighteen (18) years of age may sell, give, or otherwise furnish THC products at any other establishment licensed under this section.

e. A person must not distribute samples of any THC edible product free of charge or at a nominal cost.

f. A person must not sell, offer to sell, give away, distribute or display any THC edible products outside the location or area covered by a license.

g. A person must not sell, offer to sell, give away, distribute or display any edible THC product that does not comply with the requirements of Minn. Stat. § 151.72, including but not limited to the packaging, labeling and other requirements provided by that section.

h. A person must not sell, or offer to sell, give away, distribute or display THC edible products in a manner that violates federal or state law.

3. Display of license. All licenses must be posted and displayed in plain view of the general public on the licensed premises.

4. Inspection. The premises licensed under this section must be open to inspection by any authorized representative of the city during regular business hours, for purposes of ensuring compliance with this section.

5. Responsibility. A licensee is responsible for the conduct of its place of business and the conditions of order in it. The act of an employee of the licensee is deemed the act of the licensee as well, and the licensee is liable for all penalties provided by this section equally with the employee.

(Added by Ord. No. 2023-01, effective May 1, 2023)

620.55. Compliance checks.

From time to time, but at least once per year, the city shall conduct compliance checks of licensed establishments. No person used in compliance checks may attempt to use a form of identification that misrepresents the person's age. All persons lawfully engaged in a compliance check shall answer all questions about their age asked by the licensee or their employee, and produce any identification, if any exists, for which they are asked. The city will 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 licensed 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 article 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.

(Added by Ord. No. 2023-01, effective May 1, 2023)

620.60. Violations and penalties.

1. Violations: administrative penalties. Any person violating a provision of this section may be subject to the administrative enforcement program contained in section 1310.015 through 1310.050 of this code.

a. Licensees. Any licensee who has violated this section, or whose employee has violated this section, will be charged an administrative fine of at least \$300.00 for a first violation of this section; at least \$600.00 for a second offense at the same licensed premises within 36 months after the initial violation; and at least \$1,000.00 for a third or subsequent offense at the same location within 36 months after the initial violation. In addition, for the third offense, the license will be suspended for not less than seven days and may be revoked.

b. Other Adults. Other adults who have violated this section will be charged an administrative fine of at least \$150.00.

c. Minors. A person under the age of 21 years who purchases or attempts to purchase, tobacco-related products using a driver's license, permit, Minnesota identification card, or any other type of false identification to misrepresent the person's age, may be required to participate in a youth diversion, tobacco free education, or other alternative program selected by the chief of police. Notwithstanding any provision to the contrary in this section 625, no other monetary or criminal penalty may be imposed for violation of this subdivision 1(c).

d. Judicial Review. Any person aggrieved by a decision under paragraphs a. or b. above may have the decision reviewed in the district court in the same manner and procedure as provided in Minn. Stat. § 462.361.

Except as otherwise provided in section 1(c) of this section, every person who commits or attempts to commit, conspires to commit or aids or abets in the commission of any act constituting a violation of this section, is guilty of a misdemeanor and every person who causes, coerces, permits or directs another to violate any of the provisions of this section is likewise guilty of a misdemeanor. Subdivision 1 of this section does not prohibit the city from seeking prosecution as a misdemeanor for any violation of this section.

(Added by Ord. No. 2023-01, effective May 1, 2023)

DRAFT ORDINANCE NO. _____

**AN EMERGENCY INTERIM ORDINANCE
IMPOSING AN IMMEDIATE [TWELVE MONTH or UNTIL 1/1/25] MORATORIUM
ON [CERTAIN CANNABIS ACTIVITIES]
PENDING COMPLETION OF STUDY AND CONSIDERATION OF AMENDMENTS
TO THE CITY'S REGULATIONS AND OFFICAL CONTROLS**

THE CITY OF WAYZATA ORDAINS:

PREAMBLE

Emergency Declaration. Under the authority of Section 22 of the Wayzata City Charter, the Wayzata City Council hereby finds and declares that there is an immediate, pressing, and emergency need to place a moratorium on [the operation of a cannabis business as defined... or the manufacture, distribution, and/or sale of cannabis products legalized and regulated... under Chapter 63--H.F.No.10 of the 2023 Minnesota Legislative Session], and the construction, development, or operation of a business or facility involving any activity related to the foregoing ("Cannabis Activities").

Basis of Declaration. The 2023 Minnesota State Legislature adopted an act relating to cannabis, legalizing and limiting the possession and use and sale of cannabis and certain hemp products by adults, and providing for the regulation thereof by the State of Minnesota and its governmental subdivisions (the "Act"). Because the Office of Cannabis Management that has been established by the Act has not yet developed "an organized system of regulation for the cannabis industry and hemp consumer industry" and the "model ordinances", "standardized forms and procedures" and policies as required by the Act, and the zoning ordinance, licensing framework and other regulations of the City presently do not address the issues presented by the legalization, use and authority to sell cannabinoid products, and based on the recommendations made and the information presented by City Staff during the City Council Meeting of _____, 2023, the Wayzata City Council finds that Cannabis Activities in the City have the potential to negatively impact the health, safety and welfare of the City of Wayzata if not properly regulated. The Council further finds that the City needs time to study the matter and not yet adopted state regulatory framework, and make any necessary and appropriate changes to the City's policies, ordinances, and official controls. To give the City such time, and to protect and preserve the public peace, health, safety and welfare of the City and its citizens, such study, review and consideration of the matter should be conducted and completed, and a moratorium immediately put in place during such time.

MORATORIUM

Moratorium Imposed. Pursuant to Minnesota Statute 462.355, subd. 4 and the Wayzata City Charter, the City Council of Wayzata hereby imposes a Twelve (12) Month moratorium [or until 1/1/25] prohibiting any Cannabis Activities (as defined above) in the City.

Scope of Moratorium. During the moratorium, the City shall not accept, issue or process any application for, or related to, any Cannabis Activities (as defined above) in the City. Any such application received by the City is hereby denied based on the findings and effect of this Ordinance.

Study Authorized. During the moratorium, City staff is authorized and directed to study, review, and consider the impacts and potential regulation of Cannabis Activities in the City of Wayzata, and propose any necessary and appropriate changes to the City's policies, ordinances, and official controls.

Effective Date and Duration. Pursuant to City Charter Section 27 and the Act, this Ordinance shall become effective immediately upon adoption and shall expire, without further action of the City Council, [Twelve Months from its effective date or January 1, 2025].

Adopted by the City Council of Wayzata, Minnesota this ___ day of ____ 2023.

Johanna Mouton
Mayor

ATTEST:

Jeffrey Dahl
City Manager

SEPARATE VOTE ON PREAMBLE DECLARING EMERGENCY:
(affirmative vote of at least four-fifths of the members of the council required)

VOTE ON ORDINANCE: