

COUNTY OF FREEBORN
STATE OF MINNESOTA

ORDINANCE No.: 2024-00

BE IT ORDAINED BY THE COUNTY BOARD OF COMMISSIONERS:

That Section 18 of the Code of Ordinances of Freeborn County, Minnesota is hereby amended to read as follows:

ARTICLE I. IN GENERAL

Sec. 18-1. Interim Ordinance.

(a) This Interim Ordinance is adopted by Freeborn County (hereinafter “the County”) for the purpose of protecting the planning process and the health, safety, and welfare of its citizens during a study regarding reasonable restrictions on Cannabis Businesses by prohibiting the operation of Cannabis Businesses within the county until January 1, 2025.

(b) Minnesota Statute § 342.13 authorizes local units of government conducting studies or having authorized a study to be conducted or having held or scheduled a hearing for the purpose of considering adoption or amendment of reasonable restrictions on the time, place, and manner of the operation of Cannabis Businesses to adopt an interim ordinance applicable to all or part of its jurisdiction for the purpose of protecting the planning process by regulating, restricting, or prohibiting the operation of Cannabis Businesses within the county or a portion thereof until January 1, 2025.

(c) Definitions and Application. “Cannabis Business” has the meaning given the term in Minnesota Statutes, § 342.01, subdivision 14. “OCM” means the Office of Cannabis Management, established as set forth in Minnesota Statutes, § 342.02, subd. 1.

(d) Moratorium. A moratorium is hereby imposed regarding the operation of a Cannabis Business within the County. During the term of this Interim Ordinance, no business, person, or entity may establish or operate a Cannabis Business within the jurisdictional boundaries of the County. The County shall not accept, process, or act on any application, site plan, building permit, zoning request, or other approval, including any requested confirmation, certification, approval, or other request from the OCM or other governmental entity requesting County review of any application or proposal for a business proposing to engage in the operation of a Cannabis Business.

(e) Violation. During the term of the moratorium, it is a violation of this Interim Ordinance for any business, person, or entity to establish or operate a Cannabis Business within the County.

(f) Exceptions. The moratorium imposed by this Interim Ordinance does not apply to: (1) the continued lawful operation of a business as part of the Medical Cannabis Program

administered by the Minnesota Department of Health lawfully operating prior to July 1, 2023; (2) the lawful sale of Edible Cannabinoid Products in compliance with Minnesota Statutes, § 151.72; or (3) sales of Edible Cannabinoid Products at an exclusive liquor store in accordance with Minnesota Statutes, § 340A.412, subdivision 14. Nothing in this Article exempts a business, person, or entity that is selling Edible Cannabinoid Products from having to comply with all requirements and prohibitions of applicable laws and ordinances.

(g) Enforcement. Violation of this Interim Ordinance is a misdemeanor. Freeborn County may also enforce any provision of this Interim Ordinance by mandamus, injunction, or other appropriate civil remedy in any court of competent jurisdiction. The Board hereby authorizes the County Administrator, in consultation with the County Attorney, to initiate any legal action deemed necessary to secure compliance with this Interim Ordinance.

(h) Severability. If any section or provision of this Interim Ordinance is held invalid, such invalidity will not affect any other section or provision that can be given force and effect without the invalidated section or provision.

(i) Effective Date and Duration. This Interim Ordinance set forth in Section 18-1 shall be in full force and effect immediately from and after its passage and publication as required by law until January 1, 2025, unless earlier terminated by the Freeborn County Board of Commissioners.

ARTICLE II. REGULATION OF CANNABIS

Sec. 18-19. Purpose.

(a) This Ordinance is adopted by Freeborn County (hereinafter “the County”) for the purpose of protecting public health and safety by regulating/prohibiting the use of cannabis and cannabis-derived products in public places and places of public accommodation within the County to mitigate threats presented to the public and public health by the public use of cannabis. The County recognizes the risks that unintended access and use of cannabis products and exposure to cannabis and its effects present to the health, welfare, and safety of members of the public and in particular the youth of the County.

(b) Minnesota Session Law 2023, Chapter 63, effective in relevant part August 1, 2023, establishes that the adult use, possession and personal growing of cannabis is legal subject to the requirements and restrictions of Minnesota Statutes.

(c) Minnesota Session Law 2023, Chapter 63, Art. 4, § 19, codified as Minn. Stat. § 342.0263, subd. 5 authorizes the adoption of a local ordinance establishing a petty misdemeanor offense for public use of cannabis.

(d) Minnesota Statutes § 144.417, subd. 4 (a) authorizes enacting and enforcing more stringent measures to protect individuals from secondhand smoke or from involuntary exposure to aerosol or vapor from electronic delivery devices.

(e) Minnesota Statutes § 144.412 declares that the purpose of the Minnesota Clean Indoor Air Act is to protect employees and the general public from the hazards of secondhand smoke and involuntary exposure to aerosol or vapor from electronic delivery devices by eliminating smoking in public places, places of employment, public transportation, and at public meetings.

Sec. 18-20. Definitions.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The following words, terms, and phrases, when used in this ordinance, shall have the meanings ascribed to them except where the context clearly indicates a different meaning.

Adult-use cannabis flower means cannabis flower that is approved for sale by the Minnesota Office of Cannabis Management or is substantially similar to a product approved by the office. Adult-use cannabis flower does not include medical cannabis flower, hemp plant parts, or hemp-derived consumer products.

Adult-use cannabis products “Adult-use cannabis products” means a cannabis product that is approved for sale by the office or is substantially similar to a product approved by the office. Adult-use cannabis product includes edible cannabis products but does not include medical cannabinoid products or lower-potency hemp edibles.

Cannabinoid. "Cannabinoid" means any of the chemical constituents of hemp plants or cannabis plants that are naturally occurring, biologically active, and act on the cannabinoid receptors of the brain. Cannabinoid includes but is not limited to tetrahydrocannabinol and cannabidiol.

Cannabis flower means the harvested flower, bud, leaves, and stems of a cannabis plant. Cannabis flower includes adult-use cannabis flower and medical cannabis flower. Cannabis flower does not include cannabis seed, hemp plant parts, or hemp-derived consumer products.

Cannabis product means any of the following:

- (1) cannabis concentrate;
- (2) a product infused with cannabinoids, including but not limited to tetrahydrocannabinol, extracted or derived from cannabis plants or cannabis flower; or
- (3) any other product that contains cannabis concentrate.

Hemp derived consumer products means a product intended for human or animal consumption, does not contain cannabis flower or cannabis concentrate, and either (1) contains or consists of hemp plant parts; or (2) contains hemp concentrate or artificially derived cannabinoids in combination with other ingredients. Hemp-derived consumer products does not include artificially derived cannabinoids, lower-potency hemp edibles, hemp-derived topical products, hemp fiber products, or hemp grain.

Lower-potency hemp edible means any product that:

- (1) is intended to be eaten or consumed as a beverage by humans;
- (2) contains hemp concentrate or an artificially derived cannabinoid; in combination with food ingredients;

- (3) is not a drug;
- (4) consists of servings that contain no more than five milligrams of delta-9 tetrahydrocannabinol, 25 milligrams of cannabiniol, or any combination of those cannabinoids that does not exceed the identified amounts;
- (5) does not contain more than a combined total of 0.5 milligrams of all other cannabinoids per serving;
- (6) does not contain an artificially derived cannabinoid other than delta-9 tetrahydrocannabinol;
- (7) does not contain a cannabinoid derived from cannabis plants or cannabis flower; and
- (8) is a type of product approved for sale by the office or is substantially similar to a product approved by the office, including but not limited to products that resemble nonalcoholic beverages, candy, and baked goods.

Public place means a public park or trail; public street or sidewalk; the public waters, public boat launch; any area used by the general public including, but not limited to: theaters, restaurants, bars, food establishments, places licensed to sell intoxicating liquor, wine, or malt beverages, retail businesses, gyms, common areas in buildings including without limitation rental apartment buildings, public meeting places, educational facilities, hospitals, nursing homes, public shopping areas, auditoriums, arenas, any place owned by the county; and places of public accommodation; but does not include the following:

- (1) a private residence, including the individual's curtilage or yard.
- (2) a private property, not generally accessible by the public, unless the individual 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; or
- (3) the premises of an establishment or event licensed to permit on-site consumption.

Place of public accommodation means a business, refreshment, entertainment, recreation, or transportation facility of any kind whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public, but does not include the following:

- (1) a private residence, including the individual's curtilage or yard.
- (2) a private property, not generally accessible by the public, unless the individual 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; or
- (3) the premises of an establishment or event licensed to permit on-site consumption.

Smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette,

pipe, or any other lighted or heated product containing cannabis flower, cannabis products, artificially derived cannabinoids, or hemp-derived consumer products. Smoking includes carrying or using an activated electronic delivery device for human consumption through inhalation of aerosol or vapor from the product.

Sec. 18-21. Applicability

This Ordinance shall be applicable within the legal boundaries of Freeborn County.

Sec. 18-22. Prohibited Acts

(a) No person shall use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place or a place of public accommodation unless the premises is an establishment or event licensed to permit on-site consumption of adult-use cannabis flower and adult use cannabis products. See Minnesota Session Law 2023, Chpt. 63, Art. 1, Sec. 9 codified as Minn. Stat. 342.09, subd. 1(2) and 342.09, subd.1 (7)(iii) and Art. 4, Sec. 19 codified as Minn. Stat. Sec. 152.0263, subd. 5.

(b) No person shall vaporize or smoke cannabis flower, cannabis products, artificially derived cannabinoids, or hemp-derived consumer products in a public place or a place of public accommodation.

(c) No person shall vaporize or smoke cannabis flower, cannabis products, artificially derived cannabinoids, or hemp-derived consumer products in any location where the smoke, aerosol, or vapor would be inhaled by a minor. Minnesota Session Law 2023, Chpt. 63, Art. 1, Sec. 9 codified as Minn. Stat. Sec. 342.09, subd. 1 (7)(b)(9).

Sec. 18-23. Penalty

(a) Violation. A violation of this ordinance, section 18-22(a) shall be a petty misdemeanor punishable by a fine of up to \$300. Nothing in this ordinance shall prohibit the United States, the State of Minnesota, or the County from investigating or prosecuting any other activity that is a crime under any other federal or state statute or county ordinance.

(b) Crime. A violation of this ordinance, section 18-22(b) or (c) shall be a misdemeanor punishable by imprisonment of up to 90 days and by a fine of up to \$1,000.

(c) An alleged violation or violation of this ordinance may be investigated by a peace officer as defined in Minn. Stat. 626.84, Subd. 1. Any alleged violation or violation of this ordinance shall be prosecuted by the Office of the County Attorney.

Sec. 18-24. Severability.

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

Sec. 18-25. Effective Date.

This ordinance shall be in full force and effect immediately from and after its passage and publication as required by law.

ADOPTED by the County Board of Commissioners this 2nd day of July, 2024.



Brad Edwin, County Board Chair

Attest: 

Ryan Rasmusson, County Administrator