



19 13th Avenue North
Waite Park, MN 56387

CITY COUNCIL WORK SESSION AGENDA

Upper Conference Room at Waite Park City Hall
Monday, August 7th, 2023 at 4:30 PM

Lower Level Conference Room

1. 4:30 P.M. **Review Of Cannabis Use In Public Spaces**

With the recent legalization of cannabis use in Minnesota, many cities are considering the impacts of cannabis use in public spaces. Attached is a memo that summarizes Attorney Paul Storm's review of the law and also a proposed ordinance that the City Council could consider if they choose. In addition, Stearns County is also considering an Ordinance that addresses cannabis use in public spaces that would include the entire county. The County will be considering this on Tuesday, August 8th Board meeting. Their proposed Ordinance will address some of this on our behalf and the proposed County ordinance is included for your review.

Staff would like to discuss with the Council on whether or not they are interested in considering a city ordinance or whether they feel the county's ordinance address any potential concerns related to cannabis use in public spaces.

Documents:

[CANNABIS USE PUBLIC PLACES ALTERNATIVE 7.20.23.PDF](#)
[STEARNS COUNTY CANNABIS PUBLIC USE ORDINANCE \(5\) \(004\).PDF](#)
[STEARNS COUNTY EMAIL CORRESPONDENCE FROM MIKE WILLIAMS.PDF](#)
[MEMO FROM PAUL STORM.PDF](#)

2. 4:50 P.M. **Consideration Of A Moratorium On Selling Of Cannabis**

There are several cities in the area considering moratoriums on the selling of cannabis within their communities to ensure adequate time to consider the licensing of cannabis within a community. While the State's licensing process for cannabis is not anticipated to be in place for about a year, some cities want to ensure they have adequate time to review the impacts of this in their communities. Staff would like to discuss with the Council whether or not there is a desire to consider a similar moratorium.

3. 5:00 P.M. **Review Of Babe Ruth Concession Stand Request**
Staff would like to discuss the remaining Park projects and the new proposal for a small concession building at Rivers Edge Park in between Kwik Trip Fields, in order to get some direction from the Council

4. 5:15 P.M. **Consideration Of A Drone Ordinance**
Attached is a copy of a proposed Drone Ordinance that staff would like to discuss with the city council. The ordinance was drafted to address some of the concerns brought forward by performers at The Ledge. There are no ordinances in place that prohibit this from occurring by members of the public so the ordinance being proposed will address these concerns.

Documents:

[DRONE ORDINANCE DRAFT 7.20.23.PDF](#)

5. 5:30 P.M. **Review Of Pay Plan Implementation**
Baker Tilly was present at a work session in July to discuss the proposed pay plan with the City Council. As part of this process, we discussed that employee's would have the ability to request a review of their job description as part of an appeal process. We have had seven job description reviews that are in the process of being completed by Sarah Towne of Baker Tilly. Ms. Towne would like to discuss her recommendations on these appeals with the Council and would also like to give the City Council an opportunity to answer any other questions on the pay plan or its implementation. The city council will have the opportunity to consider implementing the pay plan at the council meeting this evening as well and Ms. Towne will be a part of that meeting as well to provide an overview on the process and discuss what would need to be considered by the council moving forward.
6. 6:00 P.M. **Planning & Community Development Update**
Jon Noerenberg, Planning and Community Development Director will provide the City Council with an update on activities involving the Planning, Building, and Community Development.

Prohibiting the Use of Cannabis in Public Places

WHEREAS, on May 30, 2023, Governor Tim Walz signed into law House File 100, legalizing the possession, sale, and adult-use of cannabis products; and

WHEREAS, House File 100 authorizes local units of government to adopt ordinances prohibiting use of cannabis products in certain public places, and establishing a petty misdemeanor offense for use in such places; and

WHEREAS, the City of Waite Park has already determined that the unregulated use of alcohol in its parks and other public spaces is detrimental to the health and safety of its community, and adversely impacts the use and enjoyment of such spaces; and

WHEREAS, the City has recognized, based on the most reliable and up-to-date scientific evidence, the rapid introduction of newly legalized adult-use cannabis products presents a significant potential threat to the public health, safety, and welfare of residents and visitors to the City, and particularly to youth; and

WHEREAS, the City has determined that an ordinance to mitigate these risks and reduce exposure of young people to cannabis products is in the public interest of maintaining safe, healthy, and welcoming public spaces.

NOW, THEREFORE, the City hereby ordains and establishes regulations as authorized by House File 100.

Prohibition of Cannabis Use in Public Places.

Subd. 1. Definitions.

A. For the purposes of this section, the definitions included in Minnesota Statutes, Section 342.01, as enacted by the 93rd Legislature of the State of Minnesota in House File 100, and as the same may be amended from time to time, shall apply.

B. “Public Place.” For the purposes of this section, the term “Public Place” shall mean any and all public places within the City of Waite Park, including but not limited to any public street, avenue, boulevard, right of way, road, alley, sidewalk, park, trail, parking lot, building, and vehicle. Provided, however, that the following shall not be considered a Public Place:

1. a private residence, including the person's curtilage or yard;
2. 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; or
3. the premises of an establishment or event licensed to permit on-site consumption.

Subd. 2. Use in Public Places Unlawful.

A. It shall be unlawful for any person to use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a Public Place.

B. Any person who violates this ordinance shall be guilty of a petty misdemeanor and fined up to **\$300.00** or the maximum amount for a petty misdemeanor allowed by state law.

**COUNTY OF STEARNS
STATE OF MINNESOTA**

ORDINANCE No.: 654

**ORDINANCE REGULATING THE USE OF CANNABIS AND
CANNABIS DERIVED PRODUCTS
IN PUBLIC PLACES**

THE STEARNS COUNTY COMMISSIONERS HEREBY ORDAIN AS FOLLOWS:

SECTION 1. PURPOSE, INTENT AND STATUTORY AUTHORITY

1.1 Statement of Purpose and Intent.

This Ordinance is adopted by the Stearns County Commissioners for the purpose of protecting public health and safety by regulating the use of Cannabis and cannabis derived products in public places and places of public accommodation within Stearns County.

By enacting 2023 Session Law, Chapter 63, H. F. No. 100 [hereinafter referred to “State Legislation”], the Minnesota Legislature passed the adult-use cannabis bill. Under that bill, the adult use, possession and personal growing of cannabis will become legal August 1, 2023.

State legislation authorizes adoption of a local ordinance establishing a petty misdemeanor offense for public use of cannabis. See State Legislation Article 4, Sec. 19, Minn. Stat. 152.0263, Subd. 5, or successor statute.

The County wishes to be proactive in protecting public health and safety by enacting regulations that will mitigate threats presented to the public by the public use of cannabis.

Stearns County (hereinafter “the County”) recognizes the risks that unintended access and use of cannabis products present to the health, welfare, and safety of youth in Stearns County.

1.2 Statutory Authority.

This Ordinance is enacted pursuant to 2023 Session Law, Chapter 63, H. F. No. 100 [hereinafter referred to “State Legislation”]; State Legislation Article 1, Sec. 1 Minn. Stat. 342.01; State Legislation Article 1, Sec. 9 Minn. Stat. 342.09 Subd. 1(b) or successor statute; State Legislation Sec. 9 Minn. Stat. 342.09, Subd. 1 (b)(9) or successor statute; State Legislation Minn. Stat. 342.09 Subd.1(a)(7) or successor statute; and State Legislation Article 4, Sec. 19 Minn. Stat. 152.0263, Subd. 5, or successor statute.

SECTION 2. 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.

(a) Adult-use cannabis flower. “Adult-use cannabis flower” means cannabis flower that is approved for sale by the office 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.

(b) 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.

(c) Cannabis flower. “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.

(d) Cannabis product. “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.

(e) Hemp derived consumer products.

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

(f) Lower-potency hemp edible. A “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 cannabidiol, 25 milligrams of cannabigerol, 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.

(g) Public place. A “public place”, means a public park or trail, public street or sidewalk, any enclosed, indoor 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, public shopping areas, auditoriums, arenas, or other places of public accommodation.

(h) Place of public accommodation. “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.”

(i) Exceptions to public place or place of public accommodation. “A public place” or “a place of public accommodation” 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. on the premises of an establishment or event licensed to permit on-site consumption.

(j) Smoking. “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.

SECTION 3. JURISDICTION

This Ordinance shall be applicable within the legal boundaries of Stearns County with the exception of cities of the first class and those cities or townships that have adopted their own ordinance establishing standards for public use of cannabis.

SECTION 4. PROHIBITED ACTS

Subd. 1. 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 an event licensed to permit on-site consumption of adult-use cannabis flower and adult use cannabis products. See State Legislation Article 4, Sec. 19, Minn. Stat. 152.0263, Subd. 5, or successor statute.

Subd. 2. 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. See State Legislation Article 1, Sec. 9 Minn. Stat. 342.09, Subd. 1(b)(9) or successor statute.

SECTION 5. PENALTY

Subd. 1. Criminal Penalty. A violation of this ordinance shall be a petty misdemeanor **having a fine payable up to \$300**. Nothing in this ordinance prohibits the County from seeking prosecution for an alleged violation.

SECTION 6. SEVERABILITY

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

SECTION 6. EFFECTIVE DATE

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

ADOPTED by the Stearns County Board of Commissioners this _____ day of _____, 2023.

Joseph E. Perske, Stearns County Board Chair

Attest: _____
Randy R. Schreifels,
Stearns County Auditor-Treasurer

Email from Mike Williams, Stearns County Administrator

Subject: Stearns County Ordinance regulating the use of cannabis in public places

Hello City Representatives.

As you know, the Minnesota Legislature passed the adult-use cannabis bill this session, legalizing the use, possession, and sale of cannabis in Minnesota. The possession and personal growing of cannabis is legal as of August 1, 2023, and retail, agricultural, and manufacturing cannabis businesses will likely become licensed in early 2025.

State law allows the county to prohibit the use of cannabis in public spaces and makes violation of such ordinances a petty misdemeanor. Thus, the County Board will consider an ordinance on Tuesday, August 8th that will prohibit the use of cannabis in public places and places of public accommodation. Public places and places of accommodation are defined below:

Public place. A “public place”, means a public park or trail, public street or sidewalk, any enclosed, indoor 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, public shopping areas, auditoriums, arenas, or other places of public accommodation.

Place of public accommodation. “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.

This ordinance covers the *entire county* unless a local government adopts different regulations. I wanted to make you aware of this ordinance beyond the official public notice. If your city has adopted an ordinance or is preparing to adopt an ordinance, please let me know. If you have comments about this proposed ordinance, please let me know or attend the public hearing next week.

Thank you!

Michael Williams, PhD, ICMA-CM
County Administrator
Administration Center, Rm 121
705 Courthouse Square
St. Cloud, MN 56303
(320) 656-3601 Office
(320) 493-1123 Cell

MEMO

TO: City Council & Staff

FROM: Paul Storm

RE: New Legalized Status of Marijuana & Impacts

As you know, August 1 is the beginning of the new legalized status of marijuana in Minnesota. A few items to note:

- Retail Sale of marijuana remains illegal until the office of cannabis management issues licenses. That is not expected to happen until 2025.
 - CAVEAT: Any retailer can sell marijuana seeds provided that they are property labeled by a business licensed by the MN Dept. of Ag.
- No change has occurred with respect to the low potency edibles and drinks that are currently allowed. The Waite Park Ordinance also remains in effect.
- Possession and transportation by 21+ persons is legal (2 oz of plant material, 8 grams of concentrate, and edibles containing no more than 800 milligrams (0.8g) of THC)
- Residents can possess up to 2 lbs in their homes.
- Residents can grow 8 plants, but only 4 can be flowering. The Plants must be kept in an enclosed, locked space out of public view.
- Marijuana use is legal:
 - At home
 - On private property (with permission)
 - Public places that it is not expressly prohibited, HOWEVER
 - **It is ILLEGAL anywhere that smoke or vapor could be inhaled by minors.** See: <https://cannabis.mn.gov/consumers.html>
 - **It is my opinion that this prohibition would allow the city to prohibit use in public park areas for the time being. An ordinance is still prudent for the city to consider.**
 - Use in vehicles operated on the roadways is illegal
 - Use in schools is illegal.
 - Use is illegal anywhere smoking is prohibited by the Minnesota Clean Indoor Air Act (restaurants, bars, shopping malls, etc).

Please also note that the MN law does not alter the federal laws, including the Federal Gun Control Act's prohibition on marijuana users from owning firearms.

There are a number of cities considering ordinances to ban use in public parks, etc. To date, the Cities of Duluth, Detroit Lakes, and Alexandria have all put ordinances before their City Councils

regulating the use of marijuana in public places. I put some draft language together for the council to consider after reviewing those cities' proposed ordinances.

Subd. 1 It is unlawful to use cannabis flower, cannabis products, lower-potency hemp edibles and hemp-derived consumer products, as defined in Minn. Stat. Section 342.01, on public property maintained by the City of Waite Park

Subd. 2 As used in this Section, 'public property' include all areas contained within the City boundaries, except the following:

1. Private residences, including the curtilage and yard; and
2. Private property not generally accessible by the public, provided that this ordinance does not alter a private property owner's ability to prohibit a use of cannabis flower, cannabis products, lower-potency hemp edibles or hemp-derived consumer products; and
3. The premises of an establishment or event licensed to permit on-site consumption of cannabis flower, cannabis products, lower-potency hemp edibles or hemp-derived consumer products.

Subd. 3 Violation of this Section is a petty misdemeanor as defined by Minnesota law.

I also looked at the language of some of the current Waite Park Ordinances:

Ord. 32 Public Parks

Section 32.14. Drugs and Other Activities. Use or possession of drugs, or disorderly conduct in parks shall be prohibited.

This language would, arguably, prohibit smoking marijuana, even under the new legalization law, but a clarification would be prudent. "Possession" would be omitted (that aspect cannot be modified by local ordinance). The "use" language could be expanded upon to clarify that it applies to marijuana products legalized by the new law.

Ord. 82 Public Health and Sanitation

Section 82.3. Drugs and Medicines. No person shall distribute or cause to be distributed among persons or shall place or cause to be placed in or upon any private or public premises, any drug, patent medicine, or any sample of them. No person shall sell or peddle from house to house or upon any public street or other public place, any medicine or drug without having been licensed to sell or peddle the same pursuant to the provisions of the Ordinance relating to peddling and transient merchants. No license to sell or peddle any medicine or drugs shall be issued without the approval of the President of the Board of Health. The applicant for the license at the time of making application, shall furnish the Health Department with a sample of the drug or medicine and its formula. This section shall not apply to traveling salesmen dealing directly and exclusively with physicians, surgeons, druggists, dentists or hospitals.

This language is intended to regard medicines, but there's ambiguity. Language to the effect of "unless expressly authorized by Minnesota law" would reconcile the language to the new legalization law.

Regulating the Use of Drones in the City of Waite Park

WHEREAS, the City of Waite Park recognizes that with the improvement of certain technologies, the availability of and interest in unmanned aircraft, more commonly referred to as “drones”, has increased in recent years; and

WHEREAS, the City desires to ensure that the use of drones, whether for private or business purposes, occurs in a manner that does not unreasonably interfere with the health, safety, and welfare of citizens and visitors to the City; and

WHEREAS, The City has determined that an ordinance to mitigate risks to safety, health, and welfare is in the public interest.

NOW THEREFORE, the City hereby ordains and establishes regulations on the use of drones in the City of Waite Park.

Subd. 1. Purpose. It is the purpose of this Ordinance to uphold the public interest and protect from invasions of privacy and nuisances arising from the growing use of drone technology, while balancing the legitimate use of drone technology by individuals, private entities, governmental bodies, and law enforcement agencies. Use of drones and unmanned aerial vehicles poses unique risks in the event of drone malfunction, loss of control, or other inability to sustain flight as intended, as well as improper uses that infringe upon rights.

Subd. 2. Definitions.

A. "City" means the City of Waite Park, Minnesota.

B. An unmanned aerial vehicle or "drone" means a powered, aerial vehicle that:

1. Is not occupied by a human; and
2. Uses aerodynamic forces to provide the vehicle lift; and
3. Can fly autonomously or be piloted remotely; and
4. Can be expendable or recoverable.

C. “Public Property” shall mean any and all public places within the City, including but not limited to any public street, avenue, boulevard, right of way, road, alley, sidewalk, trail or parking lot adjacent to a building owned by the City. “Public Property” additionally means any park space, recreational trail, events venue, and/or building maintained by the City. Provided, however, that the following shall not be considered a Public Property for purposes of this ordinance:

1. a private residence, including the person's curtilage or yard, and any adjacent sidewalks or roadways, provided that there is no building onward by the City that is also adjacent to such sidewalks and roadways;
2. private property not generally accessible by the public, unless the person is explicitly prohibited from utilizing drones on the property by the owner of the property; or

3. the premises of any establishment or event that has been authorized by the City to permit usage of drones.

Subd. 3. Permitted Uses. A drone may be operated within the City, provided that the drone operator complies with all FAA and other governmental regulations, when:

- A. It is operated only within the boundaries of an individual's real property, and has no surveillance capabilities; or
- B. The drone operator is hired to do aerial photography of a property by the property owner, and the drone is operated only within the boundaries of the customer's real property; or
- C. It is operated only within the boundaries of an establishment or event that has been authorized by the City to permit usage of drones, provided that all related requirements and restrictions are followed.
- D. The City permitting procedure may require the drone operator to carry liability insurance for said drone operation, in coverage amounts and terms as set by the City Council from time to time.

Subd. 4. Prohibited Uses. No private person or entity may operate a drone within the airspace above Public Property, unless such use has been expressly permitted by the City, using forms, procedures and fees as set by resolution of the City Council from time to time. In addition:

- A. Drone use shall be restricted to no more than a 400 foot ceiling altitude.
- B. No drone shall be operated beyond the line of sight of the drone operator, unless the operator is assisted by a drone observer who keeps the drone in line of sight and who is in constant radio contact with the drone operator.
- C. No drone shall be operated within the designated flight corridors of any helicopter air ambulance, or in any manner that disrupts any helicopter air ambulance in flight within the city limits.

Subd. 4. Law enforcement usage. A drone may be operated within City air space without permit by any law enforcement agency if:

- A. The law enforcement agency first obtains a warrant authorizing its use; or
- B. The law enforcement agency determines, under particular circumstances, that there is immediate danger of death or serious injury to any person, and the law enforcement agency reasonably believes that the use of a drone may help to avoid said death or serious injury; or
- C. The law enforcement agency needs to train officers on the use of a drone. Law enforcement may operate a drone on city-owned property for training purposes.

Subd. 5. Penalty. Use or operation of a drone within the City in violation of this Ordinance shall be considered a petty misdemeanor, punishable by fines as authorized by state law.