



MEMORANDUM

DATE: June 20, 2023
TO: Honorable Mayor and City Councilmembers
Dave Perrault, City Administrator
FROM: Julie Hanson, Assistant to the City Administrator/City Clerk
SUBJECT: THC Moratorium and Cannabis

Budgeted Amount: N/A Actual Amount: N/A Funding Source: N/A

For Council Consideration

Council should consider providing direction regarding the City’s current THC moratorium, which expires on August 22, 2023.

Background

At a special worksession on August 8, 2022, the City Council discussed the July 2022 change in state law that allowed for the sale of THC products (see Attachment A). Based on that discussion, Council had directed staff to prepare, with the City Attorney’s guidance, a moratorium for consideration at its next regular meeting (see Attachments B and C). Ordinance 2022-006 was adopted by the City Council on August 22, 2022 that provided for an interim ordinance prohibiting the sale, testing, manufacturing, and distribution within the City of products containing THC and businesses were notified. The moratorium is set to expire on August 22, 2023.

While recent state law has changed relating to adult use marijuana/cannabis that will impact the city from a registration and zoning standpoint, in the short term the City Council must address the current moratorium as it relates to THC products.

As of May 31, 2023, under new State law lower-potency THC hemp products in the form of edibles or beverages could be sold anywhere in the city, including exclusive liquor stores. While the city cannot regulate where the lower-potency products can be sold, all establishments that sell lower-potency edible hemp products containing THC, CBD or both must register with the State of Minnesota by October 1, 2023.

The following explains lower-potency edible cannabinoid products (per the Minnesota Department of Health):

- Beverages must have a maximum of 5 mg delta-9 THC per serving and the container cannot contain more than 2 servings, with 10 mg total THC.
- If it is an edible, the package of edibles cannot contain more than 5 mg delta-8 or delta-9 THC per serving and 50 mg total THC.
 - Each serving must be scored, wrapped, or another indicator which clearly distinguishes each serving.
 - The edible products cannot contain synthetic cannabinoids or artificially derived cannabinoids (other than delta-8 or delta-9 THC).
- Edibles must be in a child-resistant, tamper-evident, and opaque package or container. The product cannot contain any ingredient not approved by the U.S. Food and Drug Administration (FDA) for use in food.
- The product cannot be a commercially available candy or snack food item where CBD or hemp-THC has been applied to or added.
- The product must not be packaged in a container that includes a statement, artwork, or design that could reasonably mislead any person to believe that the package contains anything other than an edible cannabinoid product.
- The product cannot be contaminated or have more than trace amounts of mold, residual solvents or other catalysts from processing, pesticides, fertilizers, or heavy metals. Batch testing of the product by an accredited lab must be completed to ensure the product is safe for consumption.
- Products containing nonintoxicating cannabinoids intended to be smoked or vaped **are not allowed** in Minnesota. Nonintoxicating cannabinoid means substances extracted from certified hemp plants that do not produce intoxicating effects when consumed by any route of administration.
- Edible cannabinoid products must not be in a shape that bears the likeness or contain cartoon-like characteristics of real or fictional person, animal, or fruit that appeals to children.
- All edible cannabinoid products must be displayed behind a checkout counter where the general public is not permitted or in a locked case, with the exception of beverages.

With the current moratorium expiring on August 22, 2023, staff is requesting Council provide direction in order to give staff to prepare for any necessary licensing or other regulations. Options to consider include the following:

- *Letting the current moratorium expire on August 22, 2023.* The new law requires sellers of lower-potency hemp products (edible cannabinoid products) to register with the State of Minnesota by Oct. 1, 2023. This would mean that until the Office of Cannabis Management begins issuing licenses, all businesses, including the city's exclusive liquor store and any business holding an on-sale liquor license, can sell the edible cannabinoid products. The City could implement a license regarding the sale of THC products (currently this would be classified as a "retail" license for \$53.00); however, this would only be applicable through December 31, 2023, following that date we can no longer license THC sales as it will be done by the State.
- *Enacting a new moratorium for both THC edibles and adult use cannabis products.* The new law gives cities the ability to adopt a new moratorium that provides for both edible THC cannabinoid products as well as adult use cannabis that could be in effect through January 1, 2025. A public hearing must be held should Council decide to go this direction.

A new moratorium would prohibit the sales of any recreational THC products regardless of dosage. A new moratorium would provide for ample time to continue to follow the League of Minnesota Cities' guidance and allow staff to address zoning as it relates to adult use cannabis. This moratorium could be repealed at any time prior to January 1, 2025 should the City Council allow for recreational sales prior to that date.

It is expected that future consideration will need to be paid to how the City plans to regulate the sale of recreational cannabis, but additional guidance and legislative changes are likely to happen before recreational cannabis can be sold. This may include a registration system and/or zoning rules regarding where recreational cannabis can be sold. Additional items will be brought forward when appropriate, but Staff will need direction on the upcoming moratorium expiration should Council want to take any action other than letting it expire.

Budget Impact

N/A

Attachments

- Attachment A: August 8, 2022 special worksession memo
- Attachment B: August 22, 2022 City Council memo
- Attachment C: Ordinance 2022-006 (Moratorium)