



MEMORANDUM

DATE: August 8, 2022
TO: Honorable Mayor and City Councilmembers
Dave Perrault, City Administrator
FROM: Julie Hanson, Assistant to the City Administrator/City Clerk
SUBJECT: THC Edibles Discussion

Budgeted Amount:
N/A

Actual Amount:
N/A

Funding Source:
N/A

For Council Consideration

Council should consider providing direction on whether or not it wants to update the City’s ordinance to address the recent law allowing for certain tetrahydrocannabinol (THC) edible products.

Background

A new law (Minn. Stat. Section 151.72) was enacted effective July 1, 2022 making it legal to sell certain edibles and beverages infused with THC, the cannabis ingredient extracted from hemp for human or animal consumption. This law provides for the sale of non-intoxicating cannabinoids, including edible products, provided they do not contain more than 0.3% of any THC. An edible cannabinoid product also cannot exceed more than five milligrams of any THC in a single serving, or more than a total of 50 milligrams of any THC per package.

This new law does not limit where edible cannabinoids products can be sold with the exception of exclusive liquor stores. Minn. Stat. 340A.412, subd.14 limits exclusive liquor stores’ ability to sell certain products. Based on this, the Alcohol and Gambling Enforcement Division (AGED) has confirmed with the League of Minnesota Cities (LMC) that products containing CBD, hemp, or THC are not allowed for sale at an exclusive liquor store. This means any business in Arden Hills, with the exception of Cub Discount Liquor, legally can sell THC products right now.

While cities cannot prohibit the sale of edible cannabinoids entirely, they can adopt certain regulations and/or create a new license for sale of these products, similar to tobacco and other business licenses. It is important to note that should a city wish to require a license for the sale of THC products, the LMC recommends that this license be completely separate from tobacco as the regulations are quite different and unique to each. The LMC does also provide for various considerations when drafting regulations for licensing such as the areas where the products can be

sold, what business should be allowed to sell, the age of the person selling the product, location of product within the retail establishment, pop up sales, online or delivery, hours, background checks, age verification and limiting the number of establishments within a city. There is no guidance provided for licensing fees; however, guidance states the fee “must approximate the direct and indirect costs associated with issuing the license and policing the licensed activities” (per LMC guidance).

Should the Council wish to not adopt additional regulations, the sale and production of these products would be governed by the City’s existing zoning regulations. It is important to note the new law does provide for enforcement of violations as a misdemeanor.

Staff has been keeping an eye on the information and guidance provided by the LMC as well as staying apprised of what other metro cities may be doing, and right now it is a mix.

At this time, staff is requesting guidance from the City Council regarding this matter. City Council may choose to do nothing at this time and instead wait and watch for further developments and guidance from the LMC and other cities (some cities are continuing to watch the situation evolve, some have chosen to pursue restrictions and some have chosen to impose a moratorium in order to have more time to collect information (and the city must follow a certain procedure set forth in Minn. Stat. Section 462.352, Subd. 4 for moratoriums)), or the Council may wish to move forward with some type of regulation.

Another important factor of this topic relates to the City’s policies. It is important to note that this new law will require updates to the City’s policy language pertaining to drug testing and drug-free workplace. Because Federal law preempts state law related to CBD use, the LMC recommends that cities continue to follow their current drug testing procedures related to CDL holders and enforce prohibitions against any use of cannabis for CDL holders. For non-CDL drivers (such as seasonal Public Works staff), the new law provides no allowance for an employee to use or be impaired by cannabis while on duty. The LMC continues to research this aspect of the law and staff will bring forward language modification in the future.

More comprehensive guidance information from the LMC, including FAQs, can be found at <https://www.lmc.org/resources/cities-and-regulation-of-edible-cannabinoid-products/Budget Impact>

N/A

Attachment

N/A