



Adult-Use Cannabis Update

August 24, 2023



Cannabis: What is Legal Now?

- Edible cannabinoid products regulated under Dept. of Health
- Cannabis now legal to possess:
 - 2 ounces of cannabis flower.
 - 8 grams of concentrate.
 - 800 mg of edible products.
 - 2 pounds of flower in private residence.
 - In vehicle trunk or area not normally occupied by driver if opened.
- Home growth allowed of up to 8 plants (4 mature)
- Selling not legal until likely 2025, except for Tribal Nations
- Purchase of marijuana seeds now legal
- Hemp must follow Dept. of Ag Industrial Hemp Program

Selling Seeds

- Seed that produces plants with delta-9 THC concentration of less than 0.3% on a dry weight basis are defined as hemp. Anything above is defined as marijuana.
- Dept. of Ag distinguishes between seed “labelers” and seed “retailers”.
- Labelers and retailers could begin selling seed August 1, 2023.
- https://www.mda.state.mn.us/sites/default/files/docs/2023-06/Marijuana_seed_FAQ_2.pdf

Who can label marijuana seed for sale in Minnesota?

Any person or company labeling seed for sale must have a permit. Permits will be issued starting July 1, 2023, by the Minnesota Department of Agriculture. Labelers selling seed for home use should apply for a Type B permit and pay a fee of \$75. This is an annual permit, and fees are based on sales in the prior year. This permit will need to be renewed every year. You can find a permit application [here](#).

Permits for commercial sales will be available in 2025.

POLITICS

Should Minnesotans be able to sell marijuana they grow? Advocates say state Constitution allows it.

The state's marijuana law says selling it without a license is a crime ranging from a petty misdemeanor to a felony.

By Ryan Faircloth Star Tribune | AUGUST 19, 2023 — 2:44PM



SHARI L. GROSS, STAR TRIBUNE

- MN Constitution: “any person may sell or peddle the products of the farm or garden occupied and cultivated by him without obtaining a license therefor.”
- New law: selling without a license is a crime ranging from a petty misdemeanor to a felony.
- Other instances in which the state regulates selling farm products: raw milk.

Dept. of Health – Edible Cannabinoids

- Maximum of 5mg THC/serving and 50mg THC/package
- Beverages: max 2 servings per container
- Edibles must be behind a locked case or counter, doesn't apply to beverages
- Topical products can be sold to anyone and do not require a locked case
- Not compliant:
 - Vapes
 - Tinctures (compound dissolved in alcohol)
 - Capsules
 - Raw flower with THC or CBD applied

Dept. of Health – Edible Cannabinoids



**Does your city have a moratorium or
licensing in place for edible
cannabinoid products?**

**Where can I possess and
use cannabis?**

Where *can't* I possess?

- Public school or charter schools and school buses
- State correctional facilities.
- On federal property.
- If under 21 years old.
- In vehicle if open and not in trunk.



Where *can't* I use?



- Where prohibited by clean indoor air act.
- While operating motor vehicles.
- Public or charter schools and school buses.
- State correctional facilities.
- In a location where the smoke or vapor may be inhaled by a minor.
- On federal property.
- If under 21 years old.

City Public Use Ordinance

- Cities may adopt ordinance prohibiting use in a public place if definition of “public place” does not include:
 - Private residence, including person’s curtilage or yard.
 - Private property not generally accessible by the public, unless prohibited by the owner.
 - Licensed on-site consumption or event.
- Check current ordinance, may be broad enough.

Section 1101 Use of Cannabis in Public.

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, in public places anywhere in the City.

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

- A. Private residences, including the curtilage and yard; and
- B. Private property not generally accessible by the public, unless a 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; and
- C. 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. This Section may be enforced by the City of Detroit Lakes Administrative Penalty Procedure, City Code Section 214.

Sec. 52-23 – CANNABIS USE WITHIN PUBLIC PROPERTY AND PUBLIC PLACES

Subd. 1. Definitions

Public place means property that is generally open to or accessible by the public, and includes public property, but does not include those premises licensed by the State of Minnesota to permit on-site consumption.

Public property means property, real and personal, that is owned, managed, or controlled by the City, including, but not limited to: City buildings and all the land thereon, parking lots, parks, pathways and trails, and city rights-of-way consisting of both the traveled portion and the abutting boulevard, sidewalks and trails, and any City personal property, such as motor vehicles, city equipment, and the like.

Cannabis flower, cannabis products, lower-potency hemp edibles, and hemp derived consumer products shall have the meanings as defined in Minn. Stat. §342.01.

Subd. 2. Prohibition. No person shall use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place.

Subd. 3. Penalty. A violation of this Section is a petty misdemeanor.

SECTION 2 SUMMARY PUBLICATION. Pursuant to Minn. Stat. § 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance:

The City is prohibiting the use of cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products within public property or in a public place.

**Has your city enacted a public
use ordinance?**

What can you do now?

- Moratoriums until 2025, excluding low-potency hemp products.
- Continue licensing edible cannabinoid products.
- Public Use Ordinance.
- Public safety considerations.
- Begin thinking about zoning for cannabis businesses:
 - Setbacks authorized by statute
 - License limits of 1 retailer/12,500

Municipal Cannabis

- Authorizes cities to sell cannabis.
- Analyzing insurance and liability issues.
- Still much to learn from State on operation requirements, number of licenses issued, etc.
- Challenges with industry.



BUSINESS

First month of Minnesota's cannabis tax nets the state nearly \$600K

The July haul is a partial snapshot of the state's hemp-derived THC gummy and drink market.

By Brooks Johnson and Ryan Faircloth Star Tribune | AUGUST 23, 2023 — 12:44PM



JEFF WHEELER, STAR TRIBUNE FILE

- July resulted in \$6 million of hemp-derived THC product sales.
- Potential of \$70 million of hemp-derived THC product sales annually.
- Dept. of Revenue collected \$594,000 from 571 businesses last month.
- Some predictions indicate cannabis industry sales could reach \$1.5 billion by end of decade.
- State estimates more than \$100 million in annual tax collections when market matures
- Local cannabis aid: potentially \$20 million with half going to cities.

Future of the Office of Cannabis Management

- **May 30**, Gov. Walz signs adult-use cannabis bill (23rd state in the nation to legalize adult-use cannabis)
- **May 31**, MDH assumes regulatory authority over hemp-derived edible products & topicals
- **June 30**, OCM director applications open
- **July 1**, cannabis tax on retail sales starts (includes lower-potency hemp products)
- **July 1**, annual enrollment fee for medical cannabis patients eliminated
- **July 1**, MDA starts issuing seed permits to businesses labeling cannabis seed for sale
- **July 3**, Cannabis Advisory Council applications open
- **July 24**, Cannabis Advisory Council 1st application review date
- **July 31**, OCM director applications close

- **Aug. 1**, full decriminalization (legal adult-use cannabis possession, consumption, & home grow)
- **Aug. 1**, labelers and retailers begin selling cannabis seed
- **Aug. 1**, MDH registration opens for businesses that sell hemp-derived edible products & topicals
- **Sept. 2023**, OCM director named by Governor
- **Fall 2023**, launch of rulemaking for adult-use cannabis and lower-potency hemp products
- **Fall 2023**, Governor plans to name members of the Cannabis Advisory Council
- **Oct. 1**, MDH registration deadline for businesses that sell hemp-derived edible products & topicals
- **2024**, rulemaking continues; hiring continues; testing and final preparation for licensing system launch; education and outreach for prospective business applicants
- **Early 2025**, license applications anticipated for adult-use cannabis and lower-potency hemp product businesses
- **First quarter 2025**, first retail dispensary sales anticipated (outside of tribal nations)
- **March 1, 2025**, Office of Medical Cannabis moves to OCM

Rulemaking

- Legislature directs a state agency to develop rules (regulations) necessary to implement a law.
- Must follow formal process:
 - Notice requirements to public and stakeholders
 - Opportunity for public comment (possibly public hearing)
 - Review by Administrative Law Judge
- Law requires rules to be published in State Register by July 1, 2025.
- Rules must be approved before licenses may be issued.
- Governor has the option to veto.

Example Areas Needing Rulemaking

- 16 types of licenses – each will require forms, procedures, etc.
- Social equity considerations
- Manufacturing and retail facilities and operations
- Packaging and labeling
- Testing requirements and protocols
- Expedited complaint process for local governments
- Statewide monitoring system
- Environmental controls including odor limits, waste disposal

Minnesota Office of Cannabis Management

Minnesota is the 23rd state in the nation to legalize cannabis use for people 21 and older. Learn more [about the legislation](#).



For Adult Consumers

Find out about limits on possession and how much cannabis can be grown at a person's home.

Adult Consumers



For People Interested in Starting a Business

Get details about the types of licenses that will be available.

Starting a Business



Rulemaking Overview

Get an overview of the rulemaking process.

Rulemaking

League Resources

- Law Summaries <https://www.lmc.org/advocacy/law-summaries/focus-on-new-laws/>
- Cannabis FAQ – www.lmc.org/cannabis
- Cannabis Webinar (July 25, 2023) on LMC MemberLearn



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