



Peder Kjeseth and Chris McNulty

November 16, 2023

Personal Possession (21+) & Home Grow

Full decriminalization on Aug. 1

- 2 ounces of flower in public
- 2 pounds of flower in person's private residence
- 8 grams of cannabis concentrate
- Edible products with total of up to 800 mg THC
- Home grow: 8 plants total, no more than 4 mature
- Paraphernalia allowed

Office of Cannabis Management: Early Implementation

- Minnesota Department of Agriculture serving as incubator agency to stand up the Office of Cannabis Management (OCM)
- Interim Leader and Director search
- Posted key leadership positions
 - General Counsel, Gov. Relations, Finance, HR, Communications, Social Equity, Tribal Liaison
- Cannabis Advisory Council
 - Governor's Office of Boards and Commissions leading vetting, screening and notification for 51-member council
 - Governor Walz to name members Fall 2023
 - First meeting to be held before the end of the year

Office of Cannabis Management: Early Implementation (cont.)

- Create cross-agency implementation teams
 - Communications, Engagement and Outreach
 - Rulemaking
 - Licensing System Design
 - Operations (Finance, Human Resources, Facilities, and IT)
 - Temporary Regulations
- Begin creating job descriptions to fill up to 150 positions to staff agency
- Launch rulemaking process
- Procurement, permanent office location, interagency agreements
- Prepare for applications and licensing upon completion of rulemaking

Key Dates of Interest

- **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 cannabinoid products
- **July 1**, cannabis tax on retail sales starts (includes lower-potency hemp products)
- **Aug. 1**, full decriminalization (legal adult-use cannabis possession, consumption, & home grow)
- **Sept. 2023**, posted first key leadership positions
- **Fall 2023**, Cannabis Advisory Council members named
- **Fall 2023**, launch of rulemaking for adult-use cannabis and lower-potency hemp products
- **Fall 2023**, registration of businesses that sell hemp-derived cannabinoid products
- **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)

2024 Legislative Session

- **The 2024 Legislative Session provides an opportunity to clarify and clean up elements of the new law.**
- Considerations for potential OCM proposals:
 - What do we need in the short term to ensure successful implementation?
 - What do we need to ensure that we can effectively regulate and administer the program in the long term?
- What changes might advocates bring forward?

- **Feedback/Input:**

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Office of Cannabis Management Rulemaking

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OCM Rulemaking Authority

- §342.02, subdivision 5: Rulemaking:
 - Grants OCM ability to adopt rules using “expedited rulemaking process” in Administrative Procedures Act (§14.389)
 - Removes some procedural requirements – but required process still exists
 - But does not relieve OCM from drafting the content – most time-consuming component
 - OCM will follow all technical requirements, plus proactive and robust engagement efforts
 - Rules must be published in State Register before July 1, 2025.

Topics Requiring Rulemaking

- Licensing – 16 types (forms, procedures, required disclosures, felony disqualifications, limits on licenses held)
- Social Equity considerations
- Manufacturing and retail (facilities and operations)
- Packaging and Labeling
- Testing (laboratory approval, sampling, protocols and standards)
- Expedited complaint process (for local government)
- Statewide monitoring system (distribution records)
- Environmental controls (odor limits, water use, energy use, solid waste disposal)
- Use of pesticides and fertilizers
- Others

Effect of Rulemaking on Licensing

- Rules **must** be approved before licenses can be issued
 - Need ALJ approval of application forms and procedures
 - Public health and consumer safety concerns
 - Inspection and regulatory enforcement criteria development
- **No licenses can be issued before criteria are approved and in force.**

OCM Rulemaking Timeline

- OCM Rulemaking Process and Estimated Timeline:
 1. Drafting of Rules: Fall 2023 – Fall 2024
 2. **Outreach and Collaboration:**
 - **Input gathering has begun (300 survey responses in first two days)**
 - **Ongoing conversations with stakeholders and general public throughout drafting process**
 - **Inform and consult with public and experts; solicit feedback to improve finished rules**
 3. Coordination with Minnesota Revisor of Statutes: Rolling 2024
 4. Notice of Intent to Adopt Publication: Late 2024
 5. Public written comment period: may submit comments for 30 days following NOI publication
 6. Approval by ALJ: within 14 days after submission by OCM
 7. **Publication of Notice of Adoption (rules become effective): Spring 2025**
 8. Governor has option to veto

Until OCM Rules are Approved

- Regulation of low potency edibles resides with Minnesota Department of Health.
- Operation of other cannabis businesses without a license is against the law.

Local Government Provisions

Local Gov – Prohibitions on Use

- § 342.09 – Cannabis products may not be used:
 - By those under 21
 - In a motor vehicle
 - Where smoking, etc. is prohibited under § 144.414 (Minnesota Clean Air Act)
 - On public or charter school grounds or facilities
 - In state correctional facilities
 - Where smoke/vapor would be inhaled by a minor
 - **In violation of local ordinance established pursuant to § 152.0263, subd. 5**
 - Local gov may adopt ordinance establishing petty misdemeanor offense for person using cannabis or cannabis product in a public place

Municipal or County Cannabis Store

- Minn. Stat. § 342.32, subd. 5:

"A city or county may establish, own, and operate a municipal cannabis store subject to the restrictions of this chapter."

- Law is otherwise silent.

- § 342.13 – Local Control
 - (a) – Cannot prohibit personal possession, transportation, or use as allowed under new law.*
 - (b) – Except per 342.22, local gov. cannot prohibit establishment of licensed canna-businesses.
 - (c) – May adopt reasonable time, place, and manner restrictions on canna-businesses, including: within 1,000 feet of school or 500 feet of day care, residential treatment facility, or an attraction in public park regularly used by minors (playground, athletic field).
 - (d) - OCM will work with local governments to establish templates for ordinances, local registration and compliance checks required in 342.22
 - (e) – Interim ordinance OK if local gov is conducting a study; can prohibit throughout jurisdiction if conducting a study and public hearing is held before ordinance adoption and ordinance expires 1/1/2025.

Local Government, Con't.

- (f) – Local gov must certify on OCM form that business applicant complies with local ordinances (and fire and building codes) before OCM issues license.
- (g) – OCM must contact local gov about applicants and allow 30 days for comment on license application; zoning violations, concerns, “public information about business” may be shared.
- (h) – OCM must adopt expedited complaint process for local govts.
 - Must provide initial response within 7 days
 - Necessary inspections within 30 days
 - Immediate threat to public health or safety for certain license types (e.g. cultivator, wholesaler)– response in 1 day.
 - Local gov may enforce local ordinance on its own

Local Government, Con't

- (i) - Local gov business limitations – may limit licensed retailers, micro, and mezzobusinesses with retail endorsement to (1) registration per 12,500 residents.
- (j) – If county has one registration for every 12,500 residents, city or town within the county not obligated to register any (but may!).

- § 342.22 – Retailers; Local Registration and Enforcement.
 - Before making retail sales, cannabis businesses must register with local gov.
 - City may give county authority to issue registrations
 - Subd. 2 – fee schedule.
 - Annual Compliance checks: local gov shall conduct compliance checks
 - Age verification systems
 - Operations
 - Limits on cannabis products being sold
 - Unannounced age verification checks (with specific requirements)
 - May suspend license for up to 30 days and notify OCM
 - OCM can issue longer suspension or order re-instatement

Ways to Engage With OCM

- OCM website: mn.gov/cannabis
- Rulemaking email list sign-up
- Topical rulemaking survey on OCM website
 - Ongoing
- Office of Administrative Hearings comment portal for final rule drafts
 - 30-day comment period - late 2024, early 2025

Thank You!

Send your questions to:

cannabis.info@state.mn.us