

PUBLIC HEALTH OPTIONS FOR LOCAL REGULATION OF LEGALIZED CANNABIS PRODUCTS: PART II OF A SPECIAL WEBINAR SERIES FOR MINNESOTA PREVENTION PROFESSIONALS

September 18, 2023, 11:00 am CDT



**Hosted by the Public Health Law Center, in collaboration with the MN Regional Prevention Coordinators,
funded by the Minnesota Department of Human Services, Behavioral Health Division**



PART 3 OF WEBINAR SERIES
***YOUTH ACCESS AND EXPOSURE TO LEGAL CANNABIS PRODUCTS:
LANDSCAPE, SAFEGUARDS, AND FURTHER PROTECTIONS***

October 23, 2023, 12:30 pm CDT



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Land Acknowledgement

Every community owes its existence and vitality to generations from around the world who contributed their hopes, dreams, and energy to making the history that led to this moment. Some were brought here against their will, some were drawn to leave their distant homes in hope of a better life, and some have lived on this land for more generations than can be counted. Truth and acknowledgment are critical to building mutual respect and connection across all barriers of heritage and difference.

We begin this effort to acknowledge what has been buried by honoring the truth. We are standing on the ancestral lands of the Dakota people. We want to acknowledge the Dakota, the Ojibwe, the Ho Chunk, and the other nations of people who also called this place home. We pay respects to their elders past and present. Please take a moment to consider the treaties made by the Tribal nations that entitle non-Native people to live and work on traditional Native lands. Consider the many legacies of violence, displacement, migration, and settlement that bring us together here today. Please join us in uncovering such truths at any and all public events.*

*This is the acknowledgment given in the USDAC Honor Native Land Guide – edited to reflect this space by Shannon Geshick, MTAG, Executive Director Minnesota Indian Affairs Council

Resources

+

Data

+

1-on-1 Support

+

You

=

**Successful
Prevention**



Prevention Champions

substance abuse professionals,
researchers, law enforcement,
social workers, educators, faith
leaders, community coalitions



**PUBLIC HEALTH
LAW CENTER**
at Mitchell Hamline School of Law

TODAY'S PRESENTERS & MODERATORS



**Kyle Hartnett,
League of Minnesota Cities**



**Jill Suurmeyer,
Association of Minnesota Counties**



**Marisa Katz,
Public Health Law Center**



**Rachel Callanan,
Public Health Law Center**



**Kayla Baker,
Regional Prevention Coordinator,
Region 7**

THE PUBLIC HEALTH LAW CENTER



WHO—WHAT—WHERE—WHEN OF THE MINNESOTA CANNABIS LANDSCAPE

A Public Health and Prevention Take on the Marijuana Landscape In Minnesota

July 24, 2023



PUBLIC HEALTH LAW CENTER
at Mitchell Hamline School of Law

MN - A PUBLIC HEALTH AND PREVENTION TAKE ON THE MARIJUANA LANDSCAPE IN MINNESOTA

A Public Health and Prevention Take on the Marijuana Landscape in Minnes...

Watch later Share

WHEN WILL ADULT-USE CANNABIS BE "LEGAL"? FOR USE/POSSESSION

2023 AUGUST

SUN	MON	TUE	WED	THU	FRI	SAT
		1	2	3	4	5
6	7	8	9	10		
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Public Health Law Center logo

7/24/2023 14

Watch on YouTube

DATE
07/24/2023

Resources:
[Webinar Slides](#)

WHO'S IN CHARGE?

- **Office of Cannabis Management** will be established
 - Commissioner of Agriculture will establish the Office
 - Until the Office is fully established:
 - MDH will continue to operate the Office of Medical Cannabis
 - MDH will take over responsibility for regulating the currently legal lower-potency edibles from the Board of Pharmacy
- **Local Control**
 - Opportunities for local governments to institute regulations, but limited (cannot prohibit cannabis business outright)

m1 MINNESOTA

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](#)

LOCAL CONTROL: TEMPORARY PROHIBITION ON CANNABIS BUSINESSES

INTERIM ORDINANCE May only be effective until January 1, 2025

- May restrict or prohibit cannabis businesses to conduct study on time, place, and manner restrictions.

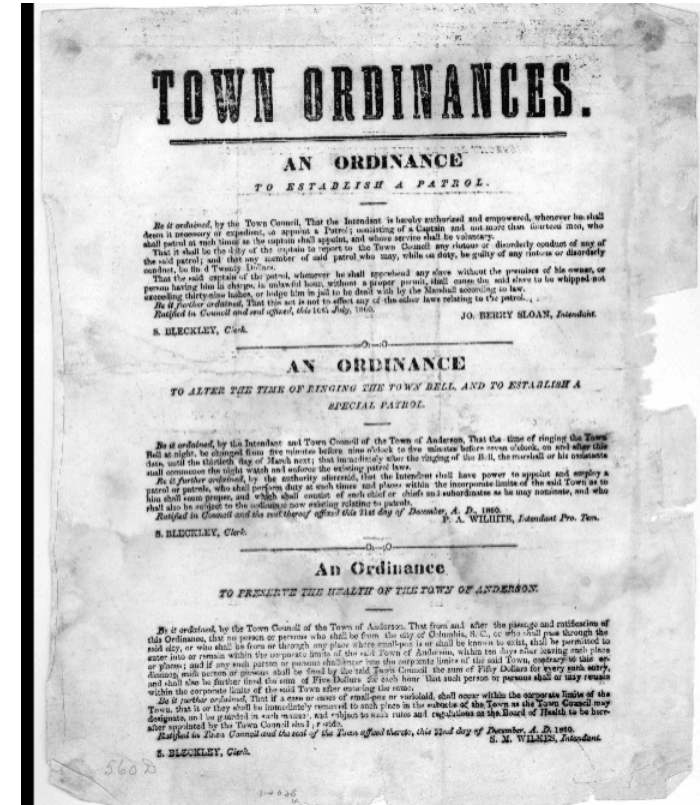
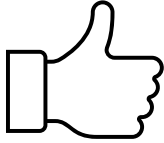


Photo credit: Library of Congress

LOCAL CONTROL AND PREEMPTION

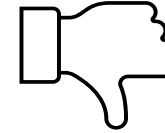
ART. 1 § 13

Allowed:



- May prohibit cannabis business within 1,000 feet of a school, or 500 feet of a day care, residential treatment facility, or an attraction in public park used by minors
- May adopt ordinance to limit retailers to 1 per 12,500 residents
- May further limit retail hours of operation beyond statutory minimum.
- Approve/reject cannabis events, or on-site consumption at cannabis events (Art. 1 § 40)

Not allowed:

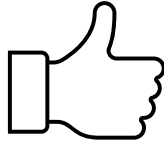


- Cannot prohibit possession, transport, or use within jurisdiction
- May not prohibit establishment or operation of cannabis business (except as allowed under § 342.22)
- Allowable time restrictions are specified (§ 342.24, subd. 7)

WHERE CAN/CAN'T PEOPLE USE CANNABIS?

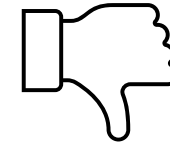
ART. 1 § 9 (CODIFIED AT § 342.09 SUBD. 1)

Use allowed



- Private residence including curtilage or yard
- On private property not generally accessible to the public (but owner can restrict)
- On premises of licensed establishment or licensed event

Use not allowed



- In a motor vehicle
- Public and charter schools
- Correctional facilities
- If smoke/aerosol/vapor, then cannot be used where smoking is prohibited by MN Clean Indoor Air Act
- In any location where smoke/vapor “could be inhaled by a minor.”

WHAT PRODUCTS ARE, AND WILL BE, LEGAL? FOR SALE/USE/POSSESSION/MANUFACTURE

Previously legal:

- Medical cannabis
- Certain non-intoxicating hemp products
- Hemp-derived THC edibles (will be called “lower-potency hemp edible”)

Legal Aug. 1 for use/possession:

- Adult-use cannabis concentrate
- Adult-use cannabis flower
- Adult-use cannabis product
- Artificially derived cannabinoid
- Cannabis paraphernalia
- Cannabis seed
- Edible cannabis products

HEMP-DERIVED EDIBLE CANNABINOID PRODUCTS LEGAL AS OF JULY 1, 2022



Photo: www.groupon.com/deals/gg-mp-cbd-gummies-from-happy-hemp-250mg-3000mg

- **MDH in charge of oversight until March 1, 2025, then OCM.**
- **Sellers of hemp-derived edible cannabinoid products must register with MDH by October 1, 2023.**
- **“Edible Cannabinoid Product” = any product intended to be eaten or consumed as a beverage, contains a cannabinoid in combination with food ingredients, and is not a drug**
- **Includes products containing CBD**

WHEN: IMPORTANT DATES

August 1, 2023	Adult-use & possession legal; home cultivation permitted; registration with MDH opens for hemp-derived cannabinoid edibles
October 1, 2023	Retailers selling hemp-derived cannabinoid edibles <u>must</u> be registered with MDH
July 1, 2024	\$10M in additional appropriations for local public health and tribal public health departments
December 26, 2024	Dept of Revenue must pay cities and counties revenue owed in the first year, and the same date annually thereafter. Revenue generated comes from the 10% gross receipts tax on cannabis retail sales; based on the number of retailers within the local jurisdiction.

WHEN: IMPORTANT DATES

Anticipated Quarter 1, 2025	Sales of adult-use recreational cannabis begins (sovereign Tribal nations permitted to sell earlier)
January 1, 2025	Interim ordinances prohibiting cannabis businesses expire.
March 1, 2025	Medical Cannabis Program regulatory authority transfers from MDH to OCM.
	Interim regulations for hemp-derived THC edibles expires; regulatory authority transfers from MDH to OCM.
	Smoking/vaping adult-use recreational cannabis flower prohibited in “multifamily housing buildings” (allows for smoking/vaping of medical cannabis).

WHERE CAN I FIND MORE INFORMATION?

- League of Minnesota Cities [website](#)
- Association of Minnesota Counties [website](#)
- Office of Cannabis Management website: <https://cannabis.state.mn.us/>
- MDH site re: Lower-Potency Hemp Edible Products
<https://www.health.state.mn.us/people/cannabis/edibles/index.html>
- [2023 Session Law Chapter 63](#)
- Fiscal summary may be found here:
<https://assets.senate.mn/fiscalpol/tracking/2023/Adult-Use-Cannabis-Conference-Agreement.pdf>



**What steps
Minnesota cities
are taking related
to cannabis.**

Kyle Hartnett





City Public Use Ordinance

- Cities may adopt ordinance prohibiting 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.
- Current ordinances, may be broad enough.
- Also check county ordinance

City Use Ordinance

- Cities may adopt ordinance to prohibit in public places.
 - Cities get to define “public place.”
- Considerations
 - Smoking v. edible
 - What areas
 - Parks
 - City Property
 - Trails
 - Streets
 - Sidewalks
 - Places where outdoor smoking is otherwise allowed

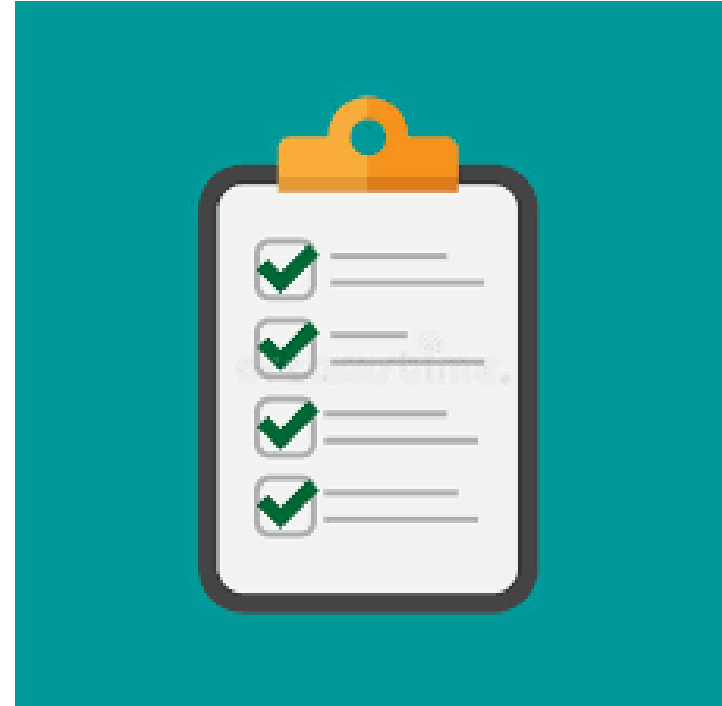
Moratoriums on Retailers

- Cities may adopt moratorium on cannabis businesses until 2025.
- Prohibits establishing cannabis retailer so city can study the issue.



Edible Temporary Regulations?

- If licensing, continue with new restrictions.
- Start licensing?
- Nothing?



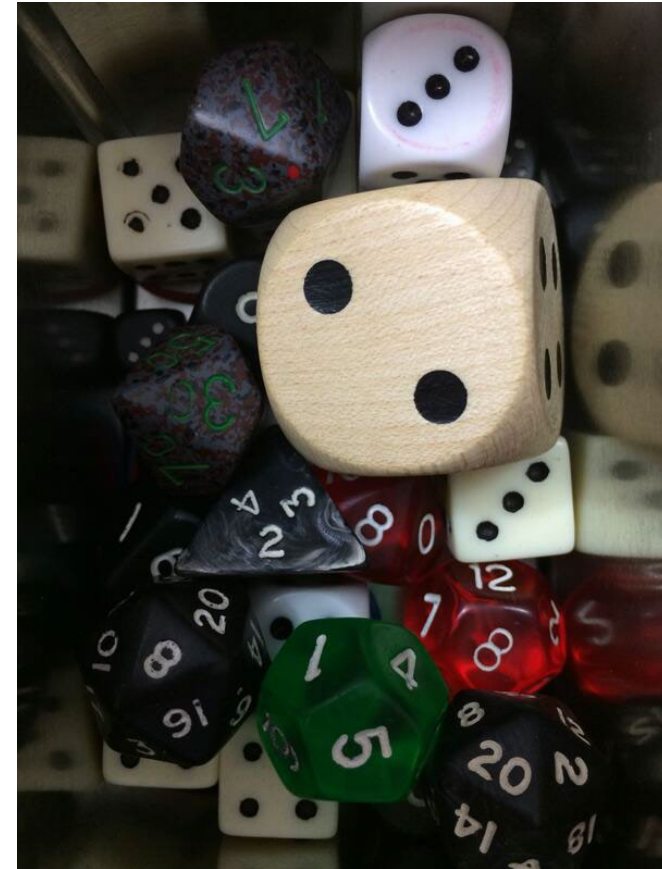
Zoning

- Begin thinking about where to allow cannabis businesses.
 - Retailers
 - Manufacturers
 - Growers
- What types of restrictions?
 - CUP
 - Allowed Use



License limits?

- Cities can limit number of retail licenses.
- Cities need to discuss if they want to limit the number.
- Amount of state funding depends on number of licenses in jurisdiction.



- Department of Health enforcing current products.
- Department of Health issued a [fact sheet](#).
- Submit [complaints](#) to Department of Health.



County Government Organization

- **Cooley Doctrine**

Counties can do anything not prohibited by state/federal government.

- **Dillon Rule**

Counties can only do things expressly granted by the state.

Minnesota is a Dillon Rule state



County Government & Public Health



- Minnesota's public health system is approximately 70 local public health departments, which are organized as 51 community health boards (CHBs).
- A CHB may be a single county or city health department, or multiple local health departments working together.
- Local Public Health have 6 state-mandated responsibilities:
 - Assure an adequate public health infrastructure
 - Promote healthy communities/behaviors
 - Prevent the spread of infectious disease
 - Protect against environmental health hazards
 - Prepare/respond to disasters & assist in recovery
 - Assure the quality and accessibility of health services

County Government & Chapter 63



- Local governments may adopt an ordinance prohibiting public use.
- Local governments can utilize land and zoning policies; state must ensure compliance with these policies before approving a license.
- Local governments can establish a retail registration system and limit retail licenses to 1 per 12,500 residents.
- \$10 million/year in local public health resources for education and outreach efforts.
- Model ordinance collaboration with the OCM.

County Government Current Efforts



Association *of*
Minnesota Counties

- Ordinances on public use and moratoriums
- Updating employee substance use policies
- Outreach with partner government agencies– cities and schools

Cannabis Munis



- Local governments may establish, own, and operate a municipal cannabis store.
 - Unique provision in Minnesota not explicitly permitted in other states.
 - Need additional clarity from state and federal government before proceeding.

State Rulemaking



- Rulemaking deadline July 1, 2025
- Process begins Fall 2023; update sign up available soon
- Process will cover rules on wide range of subjects. From public health perspective we're interested in:
 - Packaging
 - Labeling
 - Potency

Questions & Answers

- Regional Prevention Coordinators - rpcmn.org
- Public Health Law Center - publichealthlawcenter.org

