



CITY OF SAINT ANTHONY VILLAGE
WORKSESSION AGENDA

Tuesday, July 12, 2022 at 5:45PM

[Join Meeting via Zoom](#)

There is also a dial-in option available. Members of the public who wish to attend the meeting may do so in person.

1. Minutes

Documents:

[WS 6-14-22.PDF](#)

2. Worksession Topics

- A. Code Amendments Revisions- Animals, Landscaping, Fencing, Right Of Way Management, Alcohol Licensing, Bus Benches, And Food Trucks
Steve Grittman, City Planner, presenting.

Documents:

[COVER MEMO.PDF](#)
[CODE AMENDMENTS.PDF](#)

B. Cannabinoids

Charlie Yunker, City Manager, presenting.

Documents:

[COVER MEMO.PDF](#)
[FOCUS ON NEW LAWS_ SOME EDIBLE CANNABINOIDS NOW LEGAL - LEAGUE OF MINNESOTA CITIES.PDF](#)

3. Future Worksession Dates, Times And Agenda Items

Next Worksessions:

August 9 5:45 Staff proposed 2023 Budget and Levy Presentation

4. Adjournment

If you would like to request special accommodations or alternative formats, please contact the City Clerk at 612-782-3313 or email city@savmn.com. People who are deaf or hard of hearing can contact us by using 711 Relay.

Our Mission is to be a progressive and welcoming Village that is walkable, sustainable and safe.

City of St. Anthony
CITY COUNCIL WORK SESSION

Minutes

June 14, 2022

Present:

Mayor & Council

Randy Stille, Mayor, Thomas Randle, Councilmember, Wendy Webster, Councilmember and Jan Jenson, Councilmember, Bernard Walker, Councilmember

Staff:

Charlie Yunker, City Manager, Shelly Rueckert, Finance Director

Call to Order:

Mayor Stille called the Work Session to order at 5:45 p.m.

ARPA Funds:

Finance Director Rueckert reviewed the staff memo describing the guidance received from the U.S. Department of the Treasury on the usage of ARPA funds. The City is receiving \$984,960 in funds, and the initial guidance pointed the City to utilize the funds for the upcoming water tower rehabilitation project.

Subsequent guidance has clarified additional areas of use for the funds, which includes public safety. Also, recent extraordinary connect fee revenue has been received by the City which adequately covers the costs of the water tower rehabilitation project. As a result, staff is recommending utilizing ARPA funds for the upcoming Harding Pond Stormwater Project and towards the majority of the costs for a fire truck replacement. Costs are increasing on the fire truck and committing now will save additional inflationary increases, and avoid the need to issue debt to cover the fire truck purchase.

The Council discussed the recommendation and was in agreement on the usage of the ARPA funds. Council also directed staff to commit to the fire truck by the end of the month to avoid additional inflationary cost increases.

Future Work Sessions:

Next Work Sessions will be held on July 12th, 2022, at 5:45pm in the Council Chambers.

Adjournment:

The meeting adjourned at 6:06 p.m.

Respectfully submitted by Charlie Yunker, City Manager.



MEMORANDUM

To: Mayor Stille and St. Anthony Village City Council
From: Stephen Grittman, City Planner
Date: July 7, 2022
Meeting Date: July 12, 2022
NAC Project No. 323.02 – 22.01

BACKGROUND AND ANALYSIS

This memorandum provides background for the upcoming City Council work session addressing several sections of the current City Code. First is related to keeping of animals – particularly wild animals – and associated definitions and other factors related to this activity. The language is written specifically to prohibit this activity. It arose out of concerns over residents feeding deer, but relates to many other potential nuisances in this same regard. The language also addresses farm animals, more broadly than the current ordinance.

The second section is a small amendment to address a conflicting section of the recently adopted natural landscape section. As a part of the formal ordinance, there is some tune-up necessary to fit this material into a few other sections of the zoning ordinance, and to create a clearer understanding of the landscape treatments of the setback and right of way areas.

The third section is an extensive update of the City's fence regulations. To address changes in building code, the proposed language changes the height allowance from six feet to seven feet, and eliminates the building permit/building official role in the permitting process, converting instead to a zoning permit. The language further clarifies height measurement, and common fence construction realities.

The fourth section in the table makes two changes to the City's right of way management regulations, which are found in two sections of code. These changes relate primarily to ensuring that property owners are not to dispose of waste landscape materials or grass clippings in the right of way, nor are they to blow snow into those areas. This is common language found in most municipal codes, and is intended to ensure that those public areas remain clear.

Finally, the table includes regulations to amend the City's Alcohol licensing, creating a license category for Brewer Taprooms and "Brewpubs", both of which are defined and now allowed by the updated Commercial Zoning regulations (by Conditional Use Permit). These licensing regulations are adapted from the State regulations for such uses. The city would (presumably) exempt these uses from the common food-sales percentages otherwise required by the liquor licensing requirements.

Attached as a separate section is language proposed to license and regulate bus benches. The attachment includes proposed language, and summary discussion of the issues surrounding these structures, which are provided by private vendors who then sell advertising space on the benches. As

noted in the text, the public agencies that manage both the transit system and rights-of-way where these benches are located currently have no process for managing the benches.

Finally, attached to the table separately is a section that creates an allowance for food trucks (or, “Mobile Food Units”) in the City. The language is accompanied by common definitions and some limitations to the licensing of this use. The City Council should consider whether the use should be accommodated, and whether the proposed language is acceptable or additional requirements should be made. For many communities, the primary objection to food trucks comes from the brick-and-mortar restaurants, although several such restaurants also operate mobile food units in addition to their brick-and-mortar sites.

The bulk of the material is presented as a table-form list of proposed amended language for the three categories of material. The table includes the original or current code language in black, with proposed changes in redline. Text that is proposed to carryover from the existing code is referenced in the second column. The third column includes changes to each of the proposed sections highlighted as noted above. The fourth column provides some commentary explaining the purpose of the changes (or in a few cases, why no change is proposed).

The purpose of the work session discussion is to address any policy reaction to the material, and examine the proposed changes as to consistency with Council policy. With this direction, staff expects to refine the material in preparation for a public hearing by the Planning Commission, eventually returning to the City Council with a formal ordinance proposal.

Code Section No.	Existing Text to Remain as is	Proposed Text (redlined)	Issue/Discussion
<p>Animals</p> <p>§ 91.06</p>		<p><u>Domesticated animals means house pets such as dogs, cats, and birds, or other common pets kept in small containments which can be contained within a principal structure throughout the entire year, provided that containment can be accomplished without special modification to the structure requiring a building permit from the city. In addition, the term "domestic animals" includes birds (other than chickens, ducks and geese) and rabbits normally sheltered outside the home.</u></p> <p><u>Farm animals means cattle, hogs, bees, sheep, goats, chickens, turkeys, horses and other animals commonly accepted as farm animals in the state, and/or which are kept for agricultural purposes or food production.</u></p> <p><u>Wild Animal: Any animal which is not a domesticated animal as defined herein, or which is not naturally tame or gentle, but is of a wild nature or disposition, or which would constitute a danger to human life or property. The term includes animals and birds, the keeping of which is licensed by the State or federal government, such as, wolves, raptors, and pheasants. By way of example and not of limitation, the term includes: ducks, pheasants, geese, turkeys, birds of prey, squirrels, chipmunks, raccoons, coyotes, weasels, wild ferrets, sheep, goats, swine, monkeys, chimpanzees and deer.</u></p>	<p>This section adds definitions for 3 classes of animals: Domesticated, Farm, and Wild.</p> <p>The current regulations in code address how “domestic” animals are regulated, but have no definition.</p> <p>A few farm animals are listed as being prohibited, but the list is not very inclusive, so the ordinance creates a definition, and a list that is more inclusive. (Chickens would continue to be treated as they currently are: prohibited, but with the allowance by Council permit).</p> <p>Finally, a definition for wild animals is created, and then a series of provisions to regulate/prohibit the feeding of such animals is new text. An exception made for songbirds and a few other specific situations.</p>
<p>§ 91.56</p>		<p>KEEPING OF CERTAIN ANIMALS. No person may keep swine, cattle, horses,</p>	<p>The current language allows 2 dogs, or a “kennel” license for</p>

		<p><u>goats farm animals or wild animals as defined in this Code</u>, nor more than 2 dogs or 3 dogs allowed under § 91.01 through 91.05 or fowl, within the city nearer than 500 feet to any human habitation or platted land, without approval of the City Council. The City Council may, before approving or denying any request for approval, request a report from the Health Officer concerning the effect on public health.</p>	<p>3 dogs. No change is proposed in that language. Cats (addressed by some city's codes), are not subject to these limitations.</p>
<p><u>§ 91.57</u></p>		<p><u>KEEPING OF CERTAIN ANIMALS. FEEDING OF WILD ANIMALS.</u> <u>1)) No person shall intentionally feed wild animals within the City. Intentional feeding means the provision of any grain, fruit, vegetables, nuts, salt licks, or any other food that attracts wild animals.</u> <u>a) Living food sources such as trees and other live vegetation shall not be considered food for wild animals.</u> <u>2) Feeding Songbirds. The feeding of songbirds is permitted under the following conditions:</u> <u>a) Feeding is done from a bird feeder that is designed to prevent other wild animals from feeding and is placed at least 5 feet above the ground.</u> <u>b) The bird feeder does not become an attractive nuisance to other wild animals.</u> <u>c) Songbird feeding occurs on private property owned or controlled by the person responsible for the feeder.</u> <u>3) Exemptions.</u> <u>a) Specific to Section 91.57(2a), persons that cannot physically place materials 5 feet or higher from the ground, must place feeder at the highest point physically possible and must comply with the other standards contained in Section 91.57(2).</u> <u>b) Snakes (less than four (4) feet in length), gerbils, hamsters, guinea pigs mice, turtles, fish (not prohibited by</u></p>	

		<p><u>Minnesota DNR) and birds (not prohibited by Minnesota DNR) kept inside of a residence and within a restrictive cage or habitat</u></p> <p><u>c) Animal Species otherwise allowed and/or licensed by the City.</u></p> <p><u>d) The provisions of Section 91.57 shall not apply to the employees or agents of the City, County, the State, the Federal government or veterinarians who in the course of their official duties have wild animals in their custody or under their management.</u></p>	
§ 91.5758		<p>INTERFERENCE WITH CITY PERSONNEL. No person may in any manner molest, hinder, or interfere with any person employed by the city to capture and impound dogs or other animals while the person is within the course and scope of employment.</p>	<p>This section is renumbered, with no text changes.</p>
Gardens and Yards			
§150.094 (E)		<p>(E) Yard cover. Every yard of premises on which a dwelling stands must be covered by lawns and/or ground cover of vegetation, gardens, hedges, shrubbery or related decorative materials and must be maintained. Once an area has been converted to turf grass the land owner shall not allow the turf grass to exceed the height of 6 inches or be allowed to go to seed. No land owner may permit or maintain on the land any growth of weeds, grass, brush or other rank vegetation to exceed the height of an average height greater than 6 inches, any accumulation of dead weeds, grass or brush, or any noxious weeds or plants as defined by the Minnesota Department of Agriculture. Gardens (pollinator, vegetable, flower, rock, etc.) are permitted types of yard cover, and must be maintained. and not encroach on other property or the right of way.</p>	<p>This proposal cleans up a reference that should have been removed from the Code as a part of the prior round of updates. That Code established a setback requirement of 3 feet from adjoining property; and it has been the City's policy to allow/promote pollinator-friendly plantings in the right of way. This change deletes the conflicting language. Additional language will help limit the encroachment and extent of natural landscapes in the setback or public areas.</p>
Fences			

<p>§ 150.071</p>		<p><u>BUILDING ZONING PERMITS REQUIRED.</u> A building zoning permit is required for the construction or alteration of a fence, and for any additions to a fence. The permit must be obtained in the name of the owner of the property on which the fence is or will be located. Applications must be made on forms provided by the city. The applicant must provide the Building Inspector with a set of plans and specifications for the fence. Permit fees must be paid in accordance with Ordinance 33.061 of the City Code.</p>	<p>This change corrects the application process and permitting, which is no longer a building permit under that separate code. The zoning ordinance regulations fences, so a zoning permit is the proper avenue.</p>
<p>§ 150.072</p>		<p>REQUIREMENTS. (A) <i>Location.</i> Any fence constructed or altered after 6-3-1982 must be located entirely upon the private property of the owner to whom the building permit was issued. Ownership of the permit passes with ownership of the property. The fence must be setback a distance from the owner’s property line sufficient to avoid encroachment onto adjoining private or public property or a public right-of-way. The city may require the applicant for the permit to locate and mark the property line abutting the public property by having a registered surveyor place permanent survey pins or stakes on the property line. If the survey information is not available and the applicant elects not to establish the property line by survey, the permit will not be issued unless the applicant signs an affidavit stating that the applicant is the owner of the premises upon which the fence exists or is to be located.</p>	<p>Add the requirement for survey data to the location section, as it applies to any fence permit (not just when the fence is adjacent to the public right of way as in (B) below).</p>
		<p>(B) <i>Abutting public property.</i> If a fence is or is to be adjacent to a street, alley, public right-of-way, or other public property, the city may require the applicant for the permit to locate and mark the property line abutting the public property by having a registered surveyor place permanent survey pins or stakes on the property line. If the survey information is not available and the applicant elects not to establish the</p>	<p>This section is deleted, with the elimination of the building permit requirement, and the inclusion of the property line notes in (A) above.</p>

		<p>property line by survey, the permit will not be issued unless the applicant signs an affidavit stating that the applicant is the owner of the premises upon which the fence exists or is to be located.</p>	
		<p>(C) <i>Fence size.</i> All fence and wall heights shall be measured from the finished grade, except that the height of a railing, wall, fence, or screening affixed to a deck constructed on the ground but raised above ground level, will be measured from the elevation of the raised deck for that portion which is affixed to the raised deck. The grade at the fence line shall not be altered in any way that artificially increases the maximum permitted height of the fence. <u>Required fence height shall be measured and applied only at each post, and no section of fence between posts shall exceed the height of the tallest of the two posts between which it is constructed.</u></p>	<p>This addition specifies measurement requirements. Because land can fluctuate, there is a potentially infinite number of locations for fence measurement. By restricting the measurement locations to the posts only, planning, construction, and enforcement of fence regulations is simplified. The proposed language specifies that the fence sections may not exceed the height of the post(s) to which it is attached.</p> <p>These clauses also accommodate fences constructed on a slope, in which the manufactured fence panels can be installed without running afoul of the height regulations as the ground falls away to the next (lower) post location.</p>
		<p>(C)(1) Residential Uses. a. Front Yards. No fence, <u>fence post, or post cap</u> shall be over <u>four (4) feet fifty-two (52) inches</u> in height within a required front yard setback. b. Side Yards. No fence shall be over six (6) <u>seven (7)</u> feet in height. A fence up to six (6) feet in height shall be allowed on corner lots along the corner side behind the nearest front corner of the principal building. c. Rear Yards. No fence shall be over six (6) <u>seven (7)</u> feet in height.</p>	<p>Height is changed here to accommodate the fluctuations noted above by allowing a slight increase over current height limitations, again to accommodate slope, and to acknowledge that posts (and ornamental post caps) will often extend above the top line of the fence itself.</p> <p>Further, the change from 6 feet to 7 feet incorporates the building code change that increased the height threshold for when a building permit is required for fences and other structures.</p>
150.072 C.2, C.3, D, and E.		<p>C. (2) Commercial/Industrial Uses. a. Front Yards. No fence shall be over six (6) <u>seven (7)</u> feet in height within a required front yard setback. Fences</p>	<p>This section incorporates the changes from 6 feet to 7 feet heights into the Commercial District.</p>

		<p>may extend to a total height of eight (8) with a security arm for barbed wire if a conditional use permit is obtained.</p> <p>b. Side Yards. No fence shall be over-six (6) <u>seven (7)</u> feet in height. Fences may extend to a total height of eight (8) with a security arm for barbed wire if a conditional use permit is obtained.</p> <p>c. Rear Yards. No fence shall be over-six (6) <u>seven (7)</u> feet in height. Fences may extend to a total height of eight (8) with a security arm for barbed wire if a conditional use permit is obtained.</p> <p>d. Exemption. <u>Through the approval of a conditional use permit (CUP),</u> Fence heights as listed above in §150.072, C, 2, a-c may be increased for the following types of fencing</p>	<p>No changes are proposed to Industrial or Recreational fencing standards. Sight visibility at intersections is likewise retained as currently stated.</p>
<p>§ 150.073</p>	<p>CONSTRUCTION AND MAINTENANCE. Every fence must be constructed in a substantial manner and of substantial material, reasonably suitable for the purpose for which the fence is intended as listed in the criteria below. Any fence which is dangerous by reason of its construction or state of disrepair or is otherwise injurious to public safety, health, or welfare is hereby declared to be a nuisance.</p>		
		<p>(A) Fences and walls shall be constructed in a manner and of such materials that do not adversely affect the appearance of the neighborhood or adjacent property values. Fences shall not be constructed from poultry netting (chicken wire), <u>non-prefabricated</u> welded wire, snow fence, branches, or materials originally intended for other purposes, unless upon the showing of a high degree of architectural quality achieved through the use of such materials and prior approval is granted by the Zoning Administrator or other Authorized Agent.</p>	<p>Staff discussed the prohibited materials portion of this section, acknowledging that some (particularly the welded wire) were commonly available as fencing material within wood framing or other options. Apart from this note, and because this element has not otherwise been a significant issue, no other changes are proposed.</p>
	<p>(B) Fences and walls hereafter erected shall be</p>		

	<p>durable, weather resistant, rust proof, and easily maintained.</p>		
		<p>(C) Fences shall have structural supports (posts/footings) as required <u>by the Building Official to ensure that the fence will continue to be structurally sound.</u></p>	<p>This change replaces “Building Official” review (which does not occur) with general language.</p>
		<p>(D) Fences and walls shall be constructed of new or like new materials. <u>Like new materials used shall require prior approval is granted by the Zoning Administrator or other Authorized Agent prior to issuance of the required zoning permit.</u></p>	<p>Amending this section to clarify the use of materials that may require additional review.</p>
		<p>(E) The finished appearance of fences and walls shall be constructed with the higher quality finish directed toward the exterior of the property outward <u>toward adjoining property or public right of way</u> if the visual quality of the fence or wall is not the same on both sides.</p>	<p>Minor change to clarify intent.</p>
	<p>(F) The framing and posts of wood, chain link, picket, stockade, and decorative metal fences shall face the inside of the parcel area fenced. The side of the fence considered to be the face (facing as applied to fence posts) shall face the abutting property.</p>		
	<p>(G) No more than two (2) types of related fencing materials shall be used in any fence and wall.</p>		
		<p>(H) Both sides of any fence or wall shall be maintained in a condition of reasonable repair and appearance by its owner and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. <u>Property owners should take due care in selecting maintenance-free fence materials, or in placement of fence location, in areas where ongoing maintenance activities may require</u></p>	<p>This addition reinforces the caution to fence builders that maintenance should be considered and will continue to be a requirement, despite conditions that could restrict maintenance requirements.</p>

		<u>access through adjoining property or is otherwise restricted.</u>	
		(I) The property owner is responsible for providing proof of property line location.	Deleted, covered in 150.072 (A) and (B).
	(J) Retaining walls shall not be placed within any drainage, utility or ponding easements unless also reviewed and approved by the City Engineer.		
Depositing of Snow and/or debris on public ROW			
§ 94.15		OBSTRUCTIONS PROHIBITED. No person, except under a proper building permit issued by the <u>City Manager or otherwise permitted in this code</u> , shall obstruct or encumber any sidewalk, street, avenue, alley, lane, or other public way in the city with <u>yard clippings, leaves</u> , stone, brick, sand, lumber, or other material or property. <u>Consistent with Minnesota Statute 160.2715 Section (a) subdivision (1) which advises that pushing / blowing snow from driveways and sidewalks onto public roads may be punishable as a misdemeanor, no person shall plow, shovel or blow or permit the plowing, shoveling or blowing of snow onto any sidewalk, street, avenue, alley, lane, or other public way in the city. except as permitted in this code.</u>	These two sections relate to use of the public right-of-way, and clarify prohibition to obstruct or deposit materials in the right of way consistent with the relevant statutory sections for each.
§ 96.02		ELECTION TO MANAGE THE PUBLIC RIGHTS-OF-WAY Pursuant to the authority granted to the city under state and federal statutory, administrative and common law, the city hereby elects, pursuant Minn. Stat. 237.163 subd. 2(b), to manage rights-of-way within its jurisdiction.	Adding a specific prohibition to blowing leaves, grass, snow, etc. into the public street or alley. This prohibition applies to the traveled portions of streets or alleys only, not the

		<p><u>Except as specifically authorized by this Chapter, no person shall deposit or permit to be deposited onto the traveled portion of any public street or alley, leaves, grass, sand or similar materials, nor shall any person plow, shovel or blow or permit the plowing, shoveling or blowing of snow onto the traveled portion of any public street or alley. Violation of this provision shall constitute a petty misdemeanor. This provision shall not apply to any person who is in the process of constructing or maintaining a yard or drive provided that the materials are immediately removed from the street. Nothing in this section is intended to exempt any person from the requirement for permit under this Chapter.</u></p>	<p>“boulevard” or easement areas.</p>
Brewery Taprooms			Adds language to create a licensing process and requirements for Brewery Taprooms and Brew Pubs
§ 112.01		<p><u>BREWER TAPROOM:</u> <u>A brewer licensed for on-sale of malt liquor produced by a license brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer subject to the restrictions set forth in M.S.A. § 340A.26.</u></p>	Added definition
		<p><u>BREW PUB.</u> <u>"Brew pub" is a brewer who also holds one or more retail on-sale licenses and who manufactures fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, the entire production of which is solely for consumption on tap on any licensed premises owned by the brewer, or for off-sale from those licensed premises as permitted in section 340A.24, subdivision 2.</u></p>	Added Definition
Alcoholic Beverages			Chapter 112
§ 112.02		<p>OFF-SALE LIMITED TO MUNICIPAL LIQUOR STORES. No intoxicating liquor, intoxicating malt liquor, or wine shall be sold, or caused to be sold, at off-sale within the city by any person, or by any store or establishment, or by any agent</p>	Adds a “Growler” exception to the municipal-only off-sale requirement.

		or employee of the person, store, or establishment, except by the city and on the premises in the city occupied by the municipal stores for off-sale of liquor. <u>The City may, at its sole discretion, issue a properly licensed Brew-Pub or Brewer Taproom a supplemental license to sell Growlers as defined in State law, and as limited in this Chapter.</u>	
§ 112.04		LICENSE TYPES.	
		<u>(I) Brew Pub and Brewer-Taprooms. Permits the production of alcoholic beverages and the on-sale serving of same produced exclusively on the premises, pursuant to MN Statutes Chapter 340A.24 and 340A.26 as may be amended. Holders of this license shall be subject to all other applicable limitations of this Chapter, and nothing shall be interpreted to allow the off-sale of any beverage, with the exception of “growler” sales as authorized in MN Statutes Chapter 340A.285.</u>	<p>Introduces a new license for Brew Pub and Brewer-Taprooms, recently approved under the Commercial zoning district amendments.</p> <p>The last sentence incorporates permission for off-sale “Growler” sales – the City should consider this aspect carefully in the context of its municipal off-sale provisions.</p>
§ 112.11A Special Conditions for Brew Pub and Brewer Taproom Licensees		<u>Brewer's off-sale license.</u> (A) <u>Number of licenses limited; fee. The council may issue a license for the off-sale of malt liquor to a brewer located within city limits. No more than two licenses shall be issued under this section. The annual license fee for a brewer off-sale license shall be as set forth in the city fee schedule.</u> (B) <u>Qualification for licensure. Applicants for the off-sale license must meet the following requirements licensed by the state as a manufacturer or wholesaler under M.S.A. § 340A.301, manufacture fewer than 3,500 barrels of malt liquor in one year at any one licensed premises or hold an on-sale restaurant license issued by the city, and obtain the consent of the commissioner of public safety to hold an off-sale license.</u>	<p>This section limits the number of Off-Sale (Growler) licenses for Brew-Pub and Brewer-Taprooms to 2 in the City, and references the Statutory limitations for such uses.</p>

		<p>(C) <u>Restrictions, conditions and prohibited acts. The off-sale licensee shall be subject to the following restrictions and conditions:</u></p> <p><u>(1) Off-sale shall be limited to 64-ounce containers known as growlers or in 750 milliliter containers of malt liquor produced and packaged on the licensed premises which have been labeled and sealed in accordance with statutory specifications.</u></p> <p><u>(2) Off-sale may not exceed 750 barrels per year.</u></p> <p><u>(3) Total of on-sale and off-sale by the brewer's off-sale license holder cannot exceed 3,500 barrels per year.</u></p> <p><u>(4) Off-sale hours shall be limited to the hours of operation of the municipal dispensary, and on Sundays between the hours of 10:00 a.m. and 10:00 p.m.</u></p> <p><u>(5) It is unlawful for any brewer to sell malt liquor in violation of this section.</u></p> <p><u>(D) Hours and days of brewer malt liquor sales. No on-sale of malt liquor by a brewer shall be made between 2:00 a.m. and 8:00 a.m. on Monday through Sunday.</u></p>	

BUS/TRANSIT BENCHES

This material codifies the regulation of Bus Benches that are placed by private vendors on public right of way at bus stops in the city. This is an aspect of the City's right of way management, not technically a zoning code element, although a few changes to the Sign section of the code will need to accompany this section, included after the Bench Section below. The issues related to such benches have tended to be maintenance of the areas – particularly snow removal during winter months. They are usually located on main roadways, and often on sidewalks.

Staff has found that these benches can generate significant income for the bench owners through leasing advertising space on the bench. Staff has also found that neither Metro Transit nor the right of way owners (usually Hennepin and Ramsey Counties) do not regulate these benches in their rights-of-way. This licensing process will allow the city the opportunity to ensure that any such benches are properly placed and maintained. It further provides for appropriate insurance of those occupying the right of way, and requires a clause indemnifying the city in the event of a liability claim.

The benches serve a public purpose in that persons utilizing scheduled transit often rely on them as both markers and rest while waiting for their ride. Because these benches provide advertising, they become a *de facto* sign. As such, the proposed regulations provide for size, location, and various other requirements to ensure that they serve their public purpose, but do not become a nuisance.

Section 96.03 – Definitions

Bus/Transit Bench - A bench maintained on a publicly dedicated street or right-of-way for the convenience and comfort of persons waiting for buses or other vehicles.

Section 96.38 – Bus/Transit Benches

Purpose. The purpose of this section is to regulate the placing and maintenance of bus/transit benches in public rights of ways in order to control location, appearance, proliferation and traffic safety.

A) License Required: No bench may be placed or maintained in a public right of way without securing a License from the City Manager, or designee thereof, and the payment of an annual license fee as established in Section 33.061.

B) Application: Applications for licenses shall be made to the City Manager. The application shall contain the following:

- (1) A scale drawing showing the size and location of the bus/transit bench relative to all other objects on the property including the layout of applicable.
- (2) Scale drawing showing the size and location details of the bus/transit bench relative to all other objects on the property including the layout of applicable adjacent roadways, intersections, traffic signage, sidewalks, trails, utility poles, fences and other objects in the vicinity.
- (3) Written consent of the road authority, as defined in Minnesota State Statutes 160.02, if the City of Saint Anthony Village is not the road authority.
- (4) Detailed plans and specifications of the proposed bench including the general nature of the advertising matter, if any, to be posted thereon and total surface area intended as

signage not to exceed 12 square feet using the front, or seating side surface only of the bench back.

(5) General liability Certificate of Insurance from an insurance company rated “A” by A.M. Best Company and authorized to do business in the State of Minnesota, naming the City as additional insured in the minimum amount of one million dollars (\$1,000,000) for any and all claims arising out of the use or existence of a bus/transit bench. The certificate shall provide for automatic notification of the City with a minimum thirty (30) days advanced notice in the event of cancellation.

(6) An executed hold harmless agreement from the licensee, protecting the City from any and all claims arising out of the use, existence and potential removal of the bus/transit bench.

C) Bus/Transit Stops: A bench shall only be placed at a bus/transit stop on an established bus route.

D) Location: A bench shall be placed parallel to and no nearer than three (3) feet from the roadway curb or the edge of the roadway where no curb exists and shall not obstruct a pathway.

E) Number: No more than one bus/transit bench, located outside of a shelter, may be placed at a single established bus/transit stop location.

F) Proximity to Other Benches: No bus/transit bench may be placed within 300 feet of any other bench on the same side of the roadway from which service is to be delivered.

G) Materials: A bus/transit bench shall be constructed of durable materials including, but not limited to concrete, wood, plastic, or combination thereof, with colors limited to whites, earth tones of subdued greens, grays, browns, reddish-browns, and golds.

H) Construction and Size: The bus/transit bench shall be of sufficient weight or shall be secured in a manner to minimize the potential of accidental tipping or vandalism. No bus/transit bench shall be fastened, secured, or anchored to any property of the City, County or public utility. Size limitations of bus/transit benches shall be; Height – 42 inches maximum, Width – 30 inches maximum and Length – seven feet maximum.

I) Structure Maintenance: When directed by the Code Official, Licensee shall with fourth-eight (48) hours remedy any report of refuse and litter issues. Within 72 hours of a snow fall or other weather event, removal of ice and snow in a manner such that each bench shall be fully accessible to and from any sidewalk or roadway adjacent to the bus/transit bench shall be achieved. Licensee shall inspect benches monthly for any grass or weeds in excess of six (6) inches, graffiti, damaged or broken parts and shall remedy deficiencies within 48 hours after being discovered or reported.

J) Revocation of License: The City Council may revoke a license for failure to comply with the conditions of the license by three (3) affirmative votes.

K) Removal: At the request of the City, a bench shall be removed within thirty days of notice, at the permittee’s sole expense, if; 1) to permit right of way improvements or maintenance, 2) the location of the bench is a safety hazard or if it interferes with pedestrian or vehicular traffic on

the right of way, 3) if the bus stop location is removed from service or 4) the license issued by the City is allowed to expire or is revoked. The licensee shall incur the cost of removal within thirty (30) days of notice to remove. Licensee shall make repairs to the vacated space within the right-of-way to make it visibly consistent with the surrounding space. If licensee fails to remove the bench within the prescribed time, the City shall remove licensee's bench and hold at the City Public Works facility for no less than thirty (30) days, after which time the bench may be disposed of. All costs for removal, disposal and remediation of ground shall be payable to City by licensee.

L) Advertising Matter: Advertising matter may be displayed only on the front (roadway side) surface of the backrest of bus/transit bench and shall not exceed 12 square feet in surface area. Advertisements for liquor or beer, tobacco, political advertisements, obscene, immoral or illegal matter is prohibited on all transit bench signs. No advertising matter on any transit bench may display the words "Stop", "Look", "Drive In", "Danger" or any other word, phrase or symbol, reflective material, or illumination device, which might interfere with, mislead or distract traffic.

155.03 DEFINITIONS.

Bus/Transit Bench Sign: A bench maintained on a publicly dedicated street or right-of-way for the convenience and comfort of persons waiting for buses or other vehicles, which may include off-premise advertising content, not to exceed 12 square feet in surface area.

155.22 PROHIBITED SIGNS.

(20) Off-premise signs; with the exception of bus/transit bench signs as defined in Section 96.03

155.23 SIGNS REQUIRING NO PERMITS.

(D) Signs affixed on benches at public bus stops or signs within bus/transit benches as defined in Section 96.03

“Mobile Food Unit” means a food and beverage service establishment that is a vehicle mounted unit, such as:

1. Motorized or trailer, operating no more than twenty-one (21) days annually at any one place with the approval of the regulatory authority as defined in Minnesota Rules, part 4626.0020, subpart 70; and a self-contained unit, in which food is stored, cooked, and prepared for direct sale to the consumer.
2. Operated in conjunction with a permanent business licensed under Chapter 157 or Chapter 128A of the Minnesota State Statutes at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location; and a self-contained unit, in which food is stored, cooked, and prepared for direct sale to the consumer.
3. Food Cart: A food and beverage service establishment that is a non-motorized vehicle self-propelled by the operator.
4. Ice Cream Truck: A motor vehicle utilized as the point of retail sales of pre-wrapped or prepackaged ice cream, frozen yogurt, frozen custard, flavored frozen water, or similar frozen dessert products.

Section ____ Mobile Food Units (MFUs). Mobile food units (MFUs) are required to meet the additional following standards:

1. MFU licenses issued by the City require approval from the City Clerk. Licenses are issued on an event basis, and permit MFUs to operate at up to four locations in the community during the course of the year, not to exceed twenty-one (21) days per location.
2. MFUs must be licensed by the Minnesota Health Department and must adhere to State regulations for food trucks as provided in Food Code Chapter 4626.1860 Mobile Food Establishments; Seasonal Temporary Food Stands; Seasonal Permanent Food Stands. Evidence of the State license must be provided to the City as part of the local license application.
3. With the exception of MFUs serving special events for public, institutional, or non-profit uses, located at parks, schools, or churches sites in residential zoning districts, MFUs operations are limited to the business and industrial districts. Ice cream truck vendors may operate in all zoning districts.



MEMORANDUM

To: Saint Anthony Village City Council
From: Charlie Yunker, City Manager
Date: July 12, 2022 City Council Work Session
Request: Discussion regarding regulating sellers of certain edibles and beverages infused with the cannabis ingredient THC

OVERVIEW

On July 1, 2022, a new law was passed that allows people 21 and over to buy and consume food and beverages with no more than 5 milligrams of hemp-derived THC per serving and no more than 50 milligrams per package.

The City's Code regulates the sale of medical cannabis and dispensaries, however, it does not regulate the sale of edible cannabinoid products. And, the new law does not require edible cannabinoid products to be sold from a dispensary. The City has the authority to be more restrictive than state law, but not less restrictive. City Staff is in the process of initial research to provide guidance on the new law. However, staff would like to know the City Council's stance on how the City should approach any desired regulation related to this new law.

Should the council decide to consider developing additional regulations related to the sale of hemp-derived THC food and beverages, staff would need time to research and draft appropriate code language. In the meantime, the Council could adopt an interim ordinance to establish a moratorium to allow adequate time to study the issue. Including zoning code amendments and/or licensing rules similar to tobacco (products behind the counter, checking IDs, enforcement, other sales management controls, etc.).

DISCUSSION ITEMS FOR COUNCIL FEEDBACK

Below are the specific items for discussion and feedback:

- What questions or comments does the city council have related to this new law staff can research?
- Does the council wish to consider developing additional regulations related to the sale of hemp-derived THC food and beverages?
- Other considerations for staff?

ATTACHMENTS:

- League of Minnesota Cities information on the new law



Focus on New Laws: Some Edible Cannabinoids Now Legal

July 5, 2022

Cities may want to consider regulating sellers of certain edibles and beverages infused with the cannabis ingredient THC.

It is now legal to sell certain edibles and beverages infused with tetrahydrocannabinol (THC), the cannabis ingredient extracted from hemp. Cities may want to update regulations and employee policies as a result of this new law.

The new law was passed by the Legislature as part of [Chapter 98](#). Article 13 makes several changes to [Minnesota Statutes, section 151.72](#) regarding the sale of certain cannabinoid (CBD) products. The changes took effect on July 1.

This new law was a surprise to many stakeholder groups and even to legislators, as many were not aware of the full extent of the language's authorizations. Many lawmakers were hoping to pass a provision to reign in the selling of delta-8, a substance manufactured from hemp-derived cannabidiol that has similar intoxicating effects as the more commonly known cannabinoid delta-9.

Instead, the language authorized certain amounts of both delta-8 and delta-9 in edible CBD products. This legislation was passed in the last days of session without broad discussion, with the provision added into the health and human services policy omnibus bill. It has been a source of frustration for both stakeholders and legislators, as the full impacts of the legislation are realized.

The League is continuing to work with the involved stakeholders to better understand the new law and provide guidance to cities on potential paths forward.

New definitions added

The new law creates several new definitions, including the following:

- Defining “certified hemp” to mean hemp plants that have been tested and found to meet the requirements of Minnesota Statutes, [chapter 18K](#).
- Defining “edible cannabinoid product” to mean any product that is intended to be eaten or consumed as a beverage by humans, contains a cannabinoid in combination with food ingredients, and is not a drug.
- Defining “nonintoxicating cannabinoid” to mean substances extracted from certified hemp plants that do not produce intoxicating effects when consumed by any route of administration.

Cannabinoids extracted from hemp

The new law amends the scope of sale of any product that contains cannabinoids extracted from hemp and that is an edible cannabinoid product or is intended for human or animal consumption.

Previous law authorized a product containing nonintoxicating cannabinoids to be sold, but the authority to sell edible CBD products was unclear. The new law expands the authority to include nonintoxicating cannabinoids, including edible cannabinoid 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.

Requirements for edible cannabinoid products

Along with testing and labeling requirements, an edible CBD must meet several requirements, including that it:

- Not bear the likeness or contain cartoon-like characteristics.
- Not be modeled after a brand of products primarily consumed or marketed to children.
- Not be made by applying an extracted or concentrated hemp-derived cannabinoid to a commercially available candy or snack food item.
- May not contain an ingredient, other than a hemp-derived cannabinoid, that is not approved by the federal Food and Drug Administration.
- May not be packaged in a way that resembles any commercially available food product.
- Must not be packaged in a container that could reasonably mislead any person to believe that it contains anything other than an edible cannabinoid product.

An edible CBD product must be prepackaged in a container with certain requirements, including being child-resistant and tamper-evident. Any CBD product intended for more than a single use or containing multiple servings must have indicators or separate wrapping for the individual serving sizes.

The new law prohibits the sale of any product containing any CBD or THC extracted or otherwise derived from hemp to be sold to any individual under the age of 21.

Regulation of edible cannabinoids

Regulation of the edible CBD products falls under the state Board of Pharmacy. The board has the authority to issue cease-and-desist orders under Minnesota Statutes, section 151.06; to embargo adulterated and misbranded drugs under Minnesota Statutes, section 151.38; and to seek injunctive relief under Minnesota Statutes, section 214.11.

Guidance from the Board of Pharmacy indicates that retailers selling products that contain cannabinoid to individuals under the age of 21 should be reported to local law enforcement agencies.

Local regulation of edible cannabinoids

The new law does not specifically prohibit cities from regulating the sale of cannabinoid products locally. Cities will need to work with their attorneys to determine what, if any, local

regulation would be right for their communities. Local regulations will most likely be through a city's zoning or licensing authority.

Employment impacts of edible cannabinoids

It is important to consider both federal and state laws with respect to employee CBD use and related impacts to the workplace.

Cities often have positions requiring an employee to hold a commercial driver's license (CDL). These positions are regulated by federal law and those regulations are supervised by the Federal Department of Transportation (DOT).

Federal law preempts state law related to CBD use. In fact, in a [December 2012 notice](#), the DOT states it does not authorize the use of Schedule I drugs, including marijuana, for any reason. As a result, cities should continue to follow their current drug testing procedures related to CDL holders and to enforce prohibitions against any use of cannabis for CDL holders, regardless of state law protections.

Additionally, public safety employees who carry a firearm cannot lawfully use cannabis under federal law. Federal law prohibits cities from providing firearms or ammunition to an employee it knows or has reason to know is using cannabis.

For non-sworn police officer positions and non-CDL drivers, the new law provides no allowance for an employee to use, possess, or be impaired by cannabis while on duty. Dealing with impaired behavior on the job site can be challenging, so League staff will continue to research this new law and next steps for this groups of workers.

Law enforcement impacts of edible cannabinoids

The new law and recent rulings by the Board of Pharmacy have changed Minnesota's controlled substances schedules related to certain types of THC products. The League is working with the Minnesota Chiefs of Police Association to explore the public safety implications of the new law.

[Read more news articles](#)

Your LMC Resource

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