



CITY OF SAINT ANTHONY VILLAGE
PLANNING COMMISSION MEETING AGENDA

Tuesday, July 18, 2023 at 7:00 PM

[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.

I. Call To Order

II. Pledge Of Allegiance

III. Roll Call

IV. Approval Of Agenda

V. Approval Of Minutes

A. Approval Of PC Meeting Minutes

Documents:

[PC 06-20-2023.PDF](#)

VI. Public Hearing

A. Ordinance 2023-03 Regulating The Sale And Distribution Of Hemp-Based Cannabinoid Products

Steve Gritman, City Planner, presenting.

Documents:

[COVER MEMO.PDF](#)

[ORDINANCE 2023-03 REDLINED.PDF](#)

[NOTICE - PUBLIC HEARING - HEMP-THC CODE.PDF](#)

VII. Staff Reports

VIII. Other Business

IX. Community Forum

Individuals may address the Planning Commission about any City business item not included on the regular agenda. Speakers are requested to come to the podium, sign their name and address on the form at the podium, state their name and address for the

Clerk's record, and limit their remarks to five minutes. Generally, the Planning Commission will not take official action on items discussed at this time, but may typically refer the matter to staff for a future report or direct the matter to be scheduled on an upcoming agenda.

X. Information And Announcements

XI. 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 promote a high quality of life to those we serve through outstanding city services.

1 CITY OF ST. ANTHONY
2 PLANNING COMMISSION MEETING
3 JUNE 20, 2023
4 7:00 p.m.
5

6 **CALL TO ORDER.**

7
8 Chair Socha called the meeting to order at 7:00 p.m.
9

10 **PLEDGE OF ALLEGIANCE.**

11
12 Chair Socha invited the Commission and the audience to join her in the Pledge of Allegiance.
13

14 **ROLL CALL.**

15
16 Commissioners Present: Chair Socha, Commissioners Erickson, Gaveske, Hendrickson
17 (arrived at 7:10 p.m.), Kuykendall, Morita, and Rude.
18

19 Absent: None.
20

21 Also Present: City Planner Stephen Grittman, and Assistant to the City Manager
22 Nicole Miller.
23
24

25 **I. APPROVAL OF THE JUNE 20, 2023 PLANNING COMMISSION MEETING**
26 **AGENDA.**

27
28 Motion by Commissioner Morita, seconded by Commissioner Erickson, to approve the June
29 20, 2023, Regular Planning Commission Meeting Agenda.
30

31 **Motion carried 6-0.**
32

33 **II. APPROVAL OF THE MAY 16, 2023, REGULAR PLANNING COMMISSION**
34 **MEETING MINUTES.**

35
36 Motion by Commissioner Erickson, seconded by Commissioner Morita, to approve the May
37 16, 2023, Regular Planning Commission Meeting Minutes as presented.
38

39 **Motion carried 6-0.**
40

41 **III. PUBLIC HEARING.**

42
43 A. CUP – 3801 Stinson.
44

45 Chair Socha opened the public hearing at 7:02 p.m.
46

47 City Planner Steven Grittman reviewed the Applicants are seeking a Conditional Use Permit
48 to modify and add vacuum facilities to an existing car wash located at 3801 Stinson
49 Boulevard. He indicated the location on a map. The North Star Car Wash is an automatic car

1 wash building with a few individual vacuum stations in a portion of the parking area near the
2 exit from the wash building. Traffic enters the site – primarily from 38th Street NE, enters the
3 car wash building at its east side, proceeds through the wash to the exit on the west side, and
4 then may park to the south at individual vacuum locations near that exit. Traffic can exit the
5 site back to 38th Street NE, or there is a shared access point to the 3803 parcel to the north.

6
7 The applicant’s plan shows the replacement of these individual vacuum sites with a common
8 vacuum system all along the parking area on the south side of the building. What is currently
9 an open parking area (adequate for approximately 10 parked vehicles) would be converted to
10 8 vacuum stations. These stations would be fed from an equipment area at the east end of the
11 row of parking spaces. The plan drawing shows the equipment in an island area, but no curb
12 or island currently exists in that space. It appears that the project would plan to add that island
13 area.

14
15 Mr. Grittmann reviewed the General CUP Requirements for any Conditional Use Permit.

- 16
17 1. The use is one of the conditional uses specifically listed for the district in which the
18 property is located – Car wash facilities are listed in the C, Commercial District.
19
20 2. The City Council has specified all conditions which the City Council deems necessary to
21 make the use compatible with other uses in the area – Those conditions taken directly
22 from the City’s code are listed below, and any others would be established as a part of the
23 City’s action on the CUP request.
24
25 3. The use will not be detrimental to the health, safety, or general welfare of persons residing
26 or working in the vicinity or to the values of property in the vicinity – The conditions
27 attached to this recommendation and any others added by the Commission and/or Council
28 are designed to address detrimental impacts, if any.
29
30 4. The use will provide a service or a facility which is in the interest of public convenience
31 and will contribute to the general welfare – The use has operated in this location for
32 several years, and the upgrade in services (via the common vacuum system) would be a
33 component of public “convenience” and “general welfare”.
34

35 The following specific conditions come from the City’s zoning ordinance section that allow
36 car washes as Conditional uses, Section 152.122.

- 37
38 1. Any such facility is designed to adhere to all noise-related requirements of the City and
39 State.
40
41 2. Headlight glare is fully screened from view of adjoining residential property.
42
43 3. The facility is designed to be fully closed whenever any mechanical activity is in
44 operation, including both entry and exit doors.
45

1 4. Vacuum mechanical equipment is housed within the primary structure, or if in individual
2 equipment outside, is designed so as to avoid noise detection at the boundary of any
3 adjoining residential property.
4

5 Staff has reviewed the project for land use compliance with the intent and policies of the
6 City's Comprehensive Plan, and for zoning consistency with the Commercial District as a
7 baseline. In summary, the Comprehensive Plan supports mixed uses in this area, and
8 Commercial uses are part of that mix. The proposed application would, with appropriate
9 conditions, facilitate that purpose for the subject property. There are conditions that staff has
10 recommended to mitigate potential noise and light impacts from the new vacuum facilities and
11 with attention to the need to replace a portion of the parking lost to the vacuum spaces. Staff
12 recommends the following conditions for approval of the Conditional Use Permit:
13

- 14 1. The applicant adds a structured enclosure of colored block surrounding (at least on three
15 sides) the proposed common equipment shown on the plan to screen views and potential
16 noise issues from adjoining residential property.
17
- 18 2. The applicant verifies that the additional noise generated by the equipment will be
19 dissipated to no more than existing levels at the property line with the proposed enclosure.
20
- 21 3. The applicant considers locating the equipment and enclosure to the west to maximizes its
22 distance from the east property line.
23
- 24 4. The final location should be separated from the paved circulation spaces by concrete curb.
25
- 26 5. The applicant provides a site plan, to scale, showing parking spaces for employees and
27 customers who park while drying their vehicles or performing other details. A total of five
28 such spaces should be adequate, in addition to the vacuum station locations.
29
- 30 6. The applicant should verify that lighting of the vacuum stations will not result in a
31 violation of the City Code lighting standards - .5 footcandles at the east property line, and
32 1.0 footcandles at the adjoining streets to the south and west.
33
- 34 7. Comments and recommendations of the Planning Commission following the public
35 hearing.
36

37 Noise and lights tend to be the biggest concerns about this type of environment.
38

39 Commissioner Morita asked if there would be 8 vacuum bays.
40

41 The applicant, Mr. Mark Fiere, owner of Car Wash Technologies, and Mr. David Martinez
42 Hernandez appeared before the Commission. Mr. Fiere indicated he has installed vacuum
43 systems such as this throughout the Twin Cities area. He stated moving the vacuums from the
44 east to the west is not an issue. Fencing can be installed. He explained the process they use for
45 fencing installation and how the lighting is configured. Noise studies have been done at the

1 current location and his meter reads equal to or less than the current vacuums. He asked how
2 many spaces for parking does the Commission feel would be appropriate.

3
4 Chair Socha asked if the applicant is agreeable to the other conditions proposed by Mr.
5 Grittmann. Mr. Fiere stated they are in agreement.

6
7 Commissioner Morita asked if it is one central vacuum and Mr. Fiere stated it is. He asked
8 what the hours of operation are and Mr. Hernandez stated 8am – 8pm.

9
10 Chair Socha asked if LED lights would be used as are in Oak Grove and Mr. Fiere stated if
11 necessary.

12
13 Commissioner Rude asked about the lighting and it should be limited from shining in the
14 apartment windows. He asked about the block structure and whether that would create a
15 venting/overheating issue for the equipment. Mr. Fiere stated the noise level without any
16 structure is already below the existing noise created. Mr. Fiere suggested putting up a
17 maintenance free PVC fence or a steel sided fence. He noted sometimes an enclosure can
18 increase noise. The inside of the fence could be coated to reduce noise but the cost of the
19 project would increase. An enclosure would not affect the equipment as the exhaust goes up
20 and the enclosure would not have a roof.

21
22 Commissioner Morita asked how many vacuum machines there are currently present and Mr.
23 Hernandez stated there are 6 motors. Mr. Fiere stated the amount of noise would be reduced
24 with the new system.

25
26 Commissioner Erickson stated the maximum noise would be less than currently with all the
27 vacuums running and Mr. Fiere stated that is correct. Commissioner Erickson asked which
28 sides would be enclosed. Mr. Grittmann stated it would be screened but open to the north side
29 of the enclosure.

30
31 Commissioner Rude asked how the new system while using all vacuums compare to using 2-3
32 vacuums of the current systems. Mr. Fiere stated the sound is less when not in full use. Mr.
33 Fiere explained in detail about the noise caused by one vacuum system.

34
35 Mr. Fiere asked Mr. Grittmann to talk more about the fencing. Is it to reduce noise?

36
37 Mr. Mark Anderson, lives in Legends next door to the carwash. He has spoken to the
38 applicant about the enclosure around the vacuum equipment. The carwash looks great with the
39 addition of live plants. The parking lot has been resurfaced. Mr. Anderson stated he spoke
40 with Mr. Hernandez and he would like to surround the equipment with plants which would be
41 better than concrete blocks. The residents of the Legends that smoke go to smoke between the
42 two buildings (apartment and carwash) and say they never hear the vacuums. The vacuums
43 have never been heard inside the building. Mr. Hernandez is the best neighbor to the residents
44 of the Legends. A petition had been started on behalf of Mr. Hernandez. They support Mr.
45 Hernandez and the upgrade to the carwash.

1 Ms. Laura Mivas, lives in Legends, indicated she is a smoker. She hears the cars on Stinson
2 more than she ever hears the vacuums so the noise is not an issue. A cement wall would cause
3 an echo barrier. She noted he has made the property great with beautiful landscaping and
4 plantings around the vacuum would be better than a cement wall.

5
6 City Planner Grittmann stated he received an email from Mr. TJ Heininger, 2407 39th Avenue
7 NE, expressing his support for the carwash as well complimenting the operator. He received
8 another phone call from an unidentified neighbor stating he was still in support of the
9 proposal.

10
11 Chair Socha asked Mr. Hernandez if he preferred a green wall as a barrier and asked if that
12 would be shrubs. Mr. Hernandez suggested arborvitae be used. Commissioner Erickson stated
13 arborvitae would look nice aesthetically but only concern is the limited permanence with
14 plants rather than a structure. A wooden fence would be installed and the arborvitae would
15 block the fence.

16
17 Commissioner Morita stated he would be concerned there may be an echo with an enclosure.
18 He asked Mr. Grittmann if it had to be a block enclosure. Mr. Grittmann referred to the Code
19 that screening could be landscaping.

20
21 Commissioner Gaveske asked what type of wood fence was Mr. Hernandez considering. Mr.
22 Fiere showed a picture of the fence that was constructed in Blaine.

23
24 Commissioner Rude asked how tall is the equipment and how tall would the fence be. Mr.
25 Fiere stated it is a six foot fence. The fence could be constructed at least as high as the
26 equipment. The suction pipe would go over the fence to the arches.

27
28 Mr. Fiere asked if the Commission's recommendation would be to show the parking,
29 landscaping and fencing on the site plan. Chair Socha asked if he would object to changing
30 the requirement for enclosure to a fence with landscaping. Mr. Hernandez stated that would
31 be fine.

32
33 Commissioner Rude stated the site is kept very nice. His one concern is that the business
34 could be sold and new owner may not maintain at the same level. He would like the fence to
35 be as high as the equipment to handle the visual aspect. In other communities the enclosures
36 need to match the building. He asked if the hours can be made a condition for the CUP.

37
38 Chair Socha stated a block fence would be more expensive and may produce an echo.
39 Commissioner Erickson stated he would support the idea of a block fence, there may be ways
40 of doing it to match the existing building. This is a permanent thing and other cities may be
41 more strict about having the structures match. He likes the idea of the concrete block but there
42 may be other ways to accommodate the same thing.

43
44 Chair Socha stated she likes the idea of a maintenance free fence and the addition of
45 greenspace. Commissioner Erickson stated he would be ok with that. Commissioner Rude
46 mentioned the height requirement. Chair Socha summarized to change #1 to have

1 maintenance free fencing as high as the equipment with landscaping around it and that the
2 overall look of the maintenance free fence would be aesthetically pleasing.

3
4 Mr. Grittmann asked if the intent was to move the structure to the west side of the building.
5 Chair Socha suggested the vacuum be moved to the west side of the building. The
6 Commission agreed. Chair Socha mentioned lighting and there has been concerns in other
7 cities with side lights. Mr. Fiere stated shielding could be put on the lights and should be
8 added as a condition to #6.

9
10 Commissioner Hendrickson asked about the footcandles and the applicant can provide a spec
11 sheet. Mr. Fiere asked what the recommendation was for footcandles. Mr. Grittmann read the
12 code pertaining to footcandles. Mr. Fiere stated the light shield would make that not an issue.

13
14 Chair Socha summarized the conditions #1, #3 and #6 would be revised. Commissioner Rude
15 stated on #3 there was discussion about developing the property to the north of this property
16 and making it a gateway to the City. Commissioner Rude asked if there is a setback on the
17 site. Mr. Grittmann stated it wouldn't be any further to the west than the west side of the
18 building and not any closer to the street. Mr. Grittmann stated the Code would require that
19 those types of structures are not within the required setback. The current setback is 57 feet
20 from Stinson. The condition can be added that the vacuum be no closer to the street. Mr. Fiere
21 stated they would not go any more to the west. They would work off the existing curb line.

22
23 Chair Socha asked how that should be worded and Mr. Fiere suggested when it is moved to
24 the west it would go along the existing curb line. The Commission agreed.

25
26 Chair Socha closed the public hearing at 8:09 p.m.

27
28 Motion by Commissioner Morita, seconded by Commissioner Erickson, to recommend the
29 City Council approve the resolution approving a request for a Conditional Use Permit for
30 modifications to a car wash facility in the PUD, Planned Unit Development District with
31 conditions as amended.

32
33 **Motion carried 7-0.**

34
35 Mr. Grittmann stated this will come before the City Council on July 11, 2023.

36
37 **IV. STAFF REPORTS.**

38
39 Mr. Grittmann noted Council will hear second reading of the last group of Code amendments at
40 the June 27, 2023 Council Meeting. There will also be a discussion on hemp based THC
41 products. The current moratorium expires in July 2023. There is a lot of construction going
42 on Hayden Grove Senior Facility is complete and occupied on Stinson. The Lowry Grove
43 Manufactured Home Park was sold to a new owner group and they are working on small
44 changes to that facility. The Ruby multi-family structure is in for second phase building
45 permits. Chase Bank is under construction on Silver Lake Road. The former Bremer Bank site
46 was part of a multi-site PUD approval that allowed for 76 residential units on that site. The

1 developers of that project have been marketing the property. Another developer has indicated
2 interest.

3

4 **V. OTHER BUSINES.**

5

6 Commissioner Hendrickson requested the WalMart sign be removed. There was agreement
7 among the Commission to have the sign removed. Mr. Gritman stated he will follow-up as
8 this is not a new issue for City Staff. He noted the sign site is separate.

9

10 **VI. COMMUNITY FORUM - NONE.**

11

12 No one appeared to address the Planning Commission.

13

14 **VII. INFORMATION AND ANNOUNCEMENTS - NONE.**

15

16 **VIII. ADJOURNMENT.**

17

18 Motion by Commissioner Hendrickson, seconded by Commissioner Morita, to adjourn the
19 meeting at 8:09 p.m.

20

21 **Motion carried 7-0.**

22

23

24 Respectfully submitted,
25 Debbie Wolfe
26 *TimeSaver Off Site Secretarial, Inc.*



MEMORANDUM

To: St. Anthony Village Planning Commission
From: Stephen Grittman, City Planner
Date: July 13, 2023
Meeting Date: July 18, 2023
RE: St. Anthony – THC/Hemp Moratorium and Ordinance
NAC Project No. 140.00

PROJECT STATUS

In response to the 2022 Minnesota Legislature’s adoption of an allowance for the sale and consumption of Hemp-based edible products containing cannabinoids (primarily limited amounts of THC), the City adopted an interim moratorium ordinance in late July of 2022. The purpose of the moratorium ordinance was to study the public policy issues surrounding the new legislation, gain additional guidance from the League of Minnesota Cities and other resources, and eventually, develop local regulations that manage the sale of the products allowed by the Legislature.

In 2023, the Legislature adopted some changes to the Hemp/THC legislation, but in more prominent news, also adopted allowances for adult-use cannabis (marijuana). As it stands, there are two separate tracks occurring on these products – one for the prior Hemp/THC products, and one for the upcoming legalization of marijuana.

Later materials will address the options for marijuana regulation. In short, adult-use marijuana will become legal in August of 2023 (personal use and limited growing), with business sales coming later (probably in 2024) – dependent on further State organization and legislation.

This memorandum updates the information related to THC/Hemp sales pursuant to the City Council’s discussion at a Work Session in June. Staff provided an early draft ordinance for Council discussion, and based on feedback from the work session, created the attached version. The materials below are redlined to identify changes to the attached ordinance draft as they have evolved. The redlines in the memo relate to the redlines in the attached ordinance.

The moratorium ordinance was adopted for a 12-month period on July 26, 2022, and will expire on that date in 2023, pending any extension necessary to complete the City’s study of the

issues. The attached material includes a sample ordinance that establishes a basic licensing program and process for applying, reviewing, issuing, and enforcing regulations for these products. If the City decides to do so, it may consider the City's municipal liquor stores as eligible licensed locations.

The ordinance language is based on a review of several other communities adopted regulations. The resource ordinances were compiled, and in this version, customized to create three categories of products:

- Solid edible products (such as gummies and bars) which will track the City's tobacco sales licensing.
- THC-infused beverages which will be for sale as packaged products at the City's municipal liquor stores.
- THC-infused beverages which will be available for on-sale consumption at the City's licensed alcohol establishments.

This structure was chosen as these various establishments already have created protocols for sales of regulated products to ensure that minors are not served, that on-sale consumption is addressed in the event of over-use, and similar controls. It further tracks the City's (or County's) enforcement and verification processes. Thus, those with tobacco licenses may apply for a Hemp/THC edibles license, those with on-sale alcohol licenses may apply for a THC-infused beverage license, and the City's municipal liquor stores may apply for a THC-infused beverage off-sale license. Sampling of these products will be limited to the municipal liquor operations only.

WORK SESSION DISCUSSION

The attached draft ordinance includes the following general sections:

060 – **Purpose** (simple statement referencing Statutory section)

061 – **Findings** (findings related to Statutory language and general standards)

062 - **Definitions** Added to the Definitions section of the proposed Ordinance is a distinction between solid and liquid edibles. The purpose of this distinction is to allow the sale of liquid/beverages infused with THC that are produced for bars and restaurants – but not the solid forms (such as gummies). Conversely, the distinction will all the Tobacco licensees to sell the solid gummie forms, but not the liquid beverages. It is noted that many of the regional craft breweries are brewing beverages that have THC, and these are being canned and made available for both off-sale locations (such as the municipal liquor store) as well as for on-sale locations (bars and restaurants).

063 – **Licensing and Requirements** (application and basis for decision)

064 – **Sales of the Specific Hemp Products** (from Statute) In Subp. G of this Section, the three eligible categories of cannabinoid retailing are listed. The first is for licensed off-sale liquor retailers, which in St. Anthony, is limited to the Municipal Liquor operations. The second is for licensed on-sale liquor retailers, such as bars as restaurants with liquor licenses, limited to liquid THC beverages. The third is for licensed tobacco retailers, limited to solid THC edible products. As discussed at the Work Session, these facilities have already established procedures in place for retail regulated products, and the applicable procedures would carry through to the retailing of these products.

065 – **Additional Requirements** (limiting packaging, labeling, and other aspects)

066 – **Prohibited Sales** (No sampling, no self-service, no delivery – over-the-counter only) The original base ordinance used for discussion prohibits sampling of these products. The Municipal Liquor operations staff indicated that they regularly offer sampling of their off-sale products, and would like to provide that for the Cannabinoid products (typically THC-infused beverages). This section is amended to add this allowance, only to the Municipal Liquor locations, however, specifies that the sale of full-serving on-sale beverages is not impacted by the sampling prohibition.

067 – **Other Requirements** (misbranding, signage/warnings, age verification, hours of sales)

068 – **Enforcement** (notice, hearing, revocation)

069 – **Penalties** (includes a sample penalties amount for discussion)

Section 152.138 will eventually be amended to specify that only those establishments licensed to retail the products subject to this licensing may provide these products, otherwise, the City's ban on cannabis product sales or other facilities remains in place. As discussed, this will likely require amendment once the State of Minnesota creates its Office of Cannabis Management in the coming year.

PLANNING COMMISSION ACTION

As discussed above, the moratorium ordinance related to THC/Hemp products expires on July 26, 2023. The Council considered a first reading of the attached Ordinance and made changes primarily to internal language and references. Currently, it is anticipated that the Council will consider adoption of the ordinance at its regular July 25th meeting, waiving the third reading.

The Planning Commission **may** provide comments related to the proposed ordinance for forwarding to the City Council, along with a summary ordinance for the Council agenda on July 25, 2023. A formal recommendation from the Commission may be made, but is not required.

Additional Comments - General Items for Discussion (repeated from the June 27 Work Session memorandum):

1. **Restrictions on the Number of Licenses.** The City could limit the number of licenses it issues. There are communities that have limited the licenses to a specific number (and created a regime for determining who will get them if they have more applicants);
2. **Restrictions on the Nature of Licensee.** Currently, the City limits the number of tobacco licensees to those “grandfathered” as prior licensees. The current tobacco licensees are just a handful of gas stations (Marathon on 29th and Hwy 88, Speedway on 33rd and Stinson, and Holiday on Silver Lake Road at 38th), Cub Foods, Walgreens, and the City’s two municipal liquor stores. The City could choose to follow the tobacco licensing with its cannabinoid licensing, or it could open up cannabinoids to other retailers in the City’s Commercially zoned areas.
3. **Restrictions on the Principal or Accessory Sales.** All of the current tobacco licensees sell tobacco as an accessory aspect of their primary retailing. There are no tobacco-only licensees. The City could limit cannabinoid sales to accessory-only retailing, prohibiting a cannabinoid-only storefront.
4. **Restrictions on Sampling.** The draft regulations prohibit the sampling of products on site at the retail facility. This is unlikely to be an issue for most accessory-only retailers, and would most likely be an aspect of a retailer that specializes in the sale of cannabinoid products.
5. **Decide not to Regulate.** The legislation creates a presumption that edible cannabinoids are allowed, and the City would have to adopt regulations if it wishes to restrict, or even prohibit, the sale. If the City decides not to regulate, the products would be treated as any other edible product, and be eligible for retail sales at any properly zoned site.
6. **Manufacturing.** The attached ordinance does not regulate manufacturing of cannabinoid products. If the City is interested in regulating this aspect, there would need to be an additional section stating that, and probably, an exclusion in the zoning regulations to avoid overlooking that limitation.

The League of Cities maintains a webpage that discusses various aspects of the hemp-cannabinoid topic at <https://www.lmc.org/resources/cities-and-regulation-of-edible-cannabinoid-products/#Q8>. It is laid out in the form of an FAQ, and provides a comprehensive background on the issue that is worth reviewing for any other issues the City may wish to address.

ORDINANCE NO. ____

CITY OF ST. ANTHONY
HENNEPIN AND RAMSEY COUNTY, MINNESOTA

AN ORDINANCE AMENDING THE ST. ANTHONY CITY CODE, BY
AMENDING TITLE XI, SECTION 111 RELATING TO REGULATION OF
THE SALE AND DISTRIBUTION OF CANNABINOID PRODUCTS

THE CITY COUNCIL OF THE CITY OF ST. ANTHONY HEREBY ORDAINS:

Section 1. Section §111 is hereby amended to add the following:

Hemp-Derived Cannabinoid Products

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Section 111.060

Purpose. The purpose of this ordinance is to establish licensing regulations for the sale of cannabinoid products derived from hemp as provided in Minn. Stat. § 151.72.

Section 111.061

Findings of City Council. The City Council makes the following findings regarding the need to regulate, license, and inspect establishments that sell certain cannabinoid products:

- (A) By enacting 2022 Session Law Chapter 98, Article 13, the Minnesota Legislature amended Minn. Stat. § 151.72 to allow for the sale of certain cannabinoid products.
- (B) This new law does not prohibit municipalities from licensing the sale of cannabinoid products derived from hemp locally.
- (C) The National Academies of Science, Engineering, and Medicine note that the growing acceptance, accessibility, and use of cannabis and its derivatives have raised important public health concerns, while the lack of aggregated knowledge of cannabis-related health effects has led to uncertainty about the impact of its use.
- (D) The Minnesota Legislature recognized the danger of cannabis use among youth by prohibiting the sale of any product containing cannabinoid or tetrahydrocannabinol (THC) extracted or otherwise derived from hemp to those under the age of 21 and requiring that edible cannabinoid products be packaged without appeal to children and in child-resistant packaging or containers.
- (E) Due to the passage of this new law by the Minnesota Legislature, the City Council believes the following rules, regulations, and standards for licensing the sale of cannabinoid products are necessary to promote and protect the public health, safety, and general welfare of the residents of St. Anthony.

ORDINANCE NO. ____

Section 111.062

Definitions.

- (A) “Cannabinoid product” means any product containing nonintoxicating cannabinoids extracted from hemp, including an edible cannabinoid product, that is sold for human or animal consumption.
- (B) “Certified hemp” means the definition for the same provided in Minn. Stat. § 151.72, Subd. 1(b), as may be amended.
- (C) “Compliance checks” means the system the City uses to investigate and ensure that those authorized to sell cannabinoid products are following and complying with the requirements of state laws and this ordinance. Compliance checks involve the use of persons under the age of 21 who purchase or attempt to purchase cannabinoid products. Compliance checks may also be conducted by the City or other units of government educational, research, and training purposes or for investigating or enforcing federal, state, or local laws and regulations relating to cannabinoid products.
- (D) “Delivery sale” means the sale of any cannabinoid products to any person for personal consumption and not for resale when the sale is conducted by any means other than an in-person, over-the-counter sales transaction in a licensed retail establishment. Delivery sale includes, but is not limited to, the sale of any cannabinoid products when the sale is conducted by telephone, other voice transmission, mail, the internet, or app- based service. Delivery sale includes delivery by licensees or third parties by any means, including curbside pick-up.
- ~~(E)~~ (E) “Edible cannabinoid product - ~~solid~~” means any product that is intended to be eaten and is in the form of a gummie, bar, or similar product, or as an ingredient to be added to other foods, and which ~~or consumed as a beverage by humans,~~ contains a cannabinoid in connection with food ingredients, and is not a drug.
- ~~(F)~~ (F) “Edible cannabinoid product – beverage” means any product that is intended to be consumed as a liquid and is in the form of a beverage, and which contains a cannabinoid in connection with food ingredients, and is not a drug.
- ~~(G)~~ (G) “Hemp” or “Industrial Hemp” means the definition for the same provided in Minn. Stat. § 18K.02, Subd. 3, as may be amended.
- ~~(H)~~ (H) “Label” means the definition for the same provided in Minn. Stat. § 151.01, Subd. 18, as may be amended.
- ~~(I)~~ (I) “Labeling” means the definition for the same provided in Minn. Stat. § 151.72, Subd. 1(f), as may be amended.
- ~~(J)~~ (J) “Matrix barcode” means the definition for the same provided in Minn. Stat. § 151.72, Subd. 1(g), as may be amended.
- ~~(K)~~ (K) “Moveable place of business” means any form of business that is operated out of a kiosk, truck, van, automobile or other type of vehicle or transportable shelter and that is not a fixed address or other permanent type of structure licensed for over-the-counter sales transactions.
- ~~(L)~~ (L) “Nonintoxicating cannabinoid” means substances extracted from

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certified hemp plants that do not produce intoxicating effects when consumed by any route of administration.

~~(L)~~(M) ____ "Operator" means the person in legal possession and control of a location by reason of ownership, lease, contract or agreement, for the sale of cannabinoid products at retail.

~~(M)~~(N) ____ "Retail establishment" means any fixed place of business where cannabinoid products are available for sale to the general public. Retail establishment for purposes of this ordinance does not include exclusive liquor stores or residences.

~~(N)~~(O) ____ "Sale" means any transfer of goods for money, trade, barter or other consideration.

~~(O)~~(P) ____ "Self-service vending" means the display for sale of cannabinoid products that are accessible to the public without the need of assistance of an employee.

~~(P)~~(Q) ____ "Vending machine" means any mechanical, electrical or electronic, or other type of device that dispenses cannabinoid products upon the insertion of money, tokens, or other form of payment into or onto the device by the person seeking to purchase cannabinoid products.

Section 111.063 License Required. It will be unlawful for any person to sell at retail any cannabinoid products within the City unless the person holds a retail cannabinoid products license, in full force and effect.

(A) Procurement of License.

- (1) Any person desiring a retail cannabinoid products license will make and file with the City Clerk an application, in writing, on a form provided by the City. Such application will give the name and residence address of the applicant, if an individual, will identify the location at which it is proposed to sell the cannabinoid products at retail, and will provide such other information as the City Council may require from time to time. The application will be accompanied by the required fee.
- (2) The City Clerk will immediately transmit a copy of the application to the Chief of Police, who will investigate all facts and information which he/she can reasonably find, bearing upon the question of the applicant's fitness to receive the license and to perform the duties imposed by this ordinance. Upon completing the investigation, the Chief of Police will report, in writing, her/his findings to the City Manager or designee, together with the Chief's recommendation as to the issuance of a license to the applicant. The City Manager or designee will submit to the City Council the report of the Chief of Police, together with the recommendation as to the issuance of the license to the applicant.
- (3) The City Council will consider the facts and recommendation of the Chief of Police and of the City Manager, together with any material facts which it may have or obtain, and then, by motion, will approve or deny the application to the City Clerk together with a copy of the motion. If the City Council has

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approved the application, it is the duty of the City Clerk to execute and deliver a license to the applicant on a form approved by the City Attorney. Such license will be for October 1st of the year of the issuance to September 30th of the following year or other such time frame as specified.

(B) Basis for Denial of License.

- (1) Grounds for denying the issuance or renewal of a license include, but are not limited to, the following:
 - (a) The applicant is under 21 years of age.
 - (b) The applicant has been convicted within the past five years of any violation of federal, state, or local law, ordinance provision, or other regulation relating to cannabinoid products.
 - (c) The applicant has had a license to sell cannabinoid products suspended or revoked within the preceding 12 months of the date of application.
 - (d) The applicant fails to provide any of the information required on the licensing application, or provides false or misleading information.
 - (e) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding a license.
 - (f) The business for which the license is requested is a moveable place of business. Only fixed-location retail establishments that are not excluded under the definition for retail establishments in this ordinance are eligible to be licensed.
- (2) Location Ineligible. No license will be approved unless the premises proposed to be licensed complies with all applicable zoning requirements.

(C) Issued Mistakenly. If a license is mistakenly issued or renewed to a person, the City will revoke the license upon the discovery that the person was ineligible for the license under this ordinance. The City will provide the license holder with notice of the revocation, along with information on the right to appeal.

Section 111.064. Sales of Cannabinoids Derived from Hemp. In accordance with Minn. Stat. § 151.72, Subd.3, as may be amended:

- (A) A product containing nonintoxicating cannabinoids, including an edible cannabinoid product, may be sold for human or animal consumption only if all of the requirements of this section are met, provided that a product sold for human or animal consumption does not contain more than 0.3 percent of any tetrahydrocannabinol and an edible cannabinoid product does not contain more than five milligrams of any tetrahydrocannabinol in a single serving, or more than a total of 50 milligrams of any tetrahydrocannabinol per package.
- (B) No other substance extracted or otherwise derived from hemp may be sold for human consumption if the substance is intended:

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- (1) For external or internal use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals; or
- (2) To affect the structure or any function of the bodies of humans or other animals.
- (C) No product containing any cannabinoid or tetrahydrocannabinol extracted or otherwise derived from hemp may be sold to any individual who is under the age of 21.
- (D) Products that meet the requirements of this section are not controlled substances under Minn. Stat. § 152.02.
- (E) Testing Requirements. All testing must comply with the requirements set forth in Minn. Stat. § 151.72, Subd. 4, as may be amended.
- (F) Labeling Requirements. All labeling must comply with the requirements set forth in Minn. Stat. § 151.72, Subd. 5, as may be amended.

(G) Eligible Licensed Establishments. Only the following establishments shall be eligible to apply for or receive a license from the City for the sales of products subject to this Section in one of three categories.

- a. City-Licensed Off-sale Retail Liquor Establishments. This category of license is limited to Municipal Liquor retail locations. The sale and licensing of edible cannabinoid-beverage products (both *solid* and *beverages*) in such establishments shall be subject to the regulations of this Section, as well as to all of the same requirements of the Liquor License and City Codes regulating such licensing, including St. Anthony City Code Chapter 112.
- b. City-Licensed On-sale Retail Liquor Establishments. The sale and licensing of edible cannabinoid products – *beverages*, as an accessory use, and expressly excluding solids. Such establishments shall be subject to the regulations of this Section, as well as to all of the same requirements of the Liquor License and City Codes regulating such licensing, including St. Anthony City Code Chapter 112.
- a-c. City-Licensed Tobacco retail establishments, limited to the sale of edible cannabinoid products - *solids* as defined herein as an accessory use, and expressly excluding beverages. The sale and licensing of THC-infused products in such establishments shall be subject to the regulations of this Section, as well as to all of the same requirements of the Tobacco License and City Codes regulating such licensing, including St. Anthony City Code Section 111.045 – 111.057.

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Section 111.165. Additional Requirements for Edible Cannabinoid Products. In accordance with Minn. Stat. § 151.72, Subd. 5a, as may be amended:

- (A) An edible cannabinoid product must not:

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- (1) Bear the likeness or contain cartoon-like characteristics of a real or fictional person, animal, or fruit that appeals to children;
 - (2) Be modeled after a brand of products primarily consumed by or marketed to children;
 - (3) Be made by applying an extracted or concentrated hemp-derived cannabinoid to a commercially available candy, beverage, ~~or~~ snack food, or any other consumable item;
 - (4) Contain an ingredient, other than a hemp-derived cannabinoid, that is not approved by the United States Food and Drug Administration for use in food;
 - (5) Be packaged in a way that resembles the trademarked, characteristic, or product-specialized packaging of any commercially available food product; or
 - (6) Be packaged in a container that includes a statement, artwork, or design that could reasonably mislead any person to believe that the package contains anything other than an edible cannabinoid product.
- (B) An edible cannabinoid product must be prepackaged in packaging or a container that is child-resistant, tamper-evident, and opaque or placed in packaging or a container that is child-resistant, tamper-evident, and opaque at the final point of sale to a customer. The requirement that packaging be child-resistant does not apply to an edible cannabinoid product that is intended to be consumed as a beverage and which contains no more than a trace amount of any tetrahydrocannabinol.
- (C) If an edible cannabinoid product is intended for more than a single use or contains multiple servings, each serving must be indicated by scoring, wrapping, or other indicators designating the individual serving size.
- (D) A label containing at least the following information must be affixed to the packaging or container of all edible cannabinoid products sold to consumers:
- (1) The serving size;
 - (2) The cannabinoid profile per serving and in total;
 - (3) A list of ingredients, including identification of any major food allergens declared by name; and
 - (4) The following statement: "Keep this product out of reach of children."
- (E) An edible cannabinoid product must not contain more than five milligrams of any tetrahydrocannabinol in a single serving, or more than a total of 50 milligrams of any tetrahydrocannabinol per package.

Section 111.166 Prohibited Sales.

~~(5)(A)~~ Samples Prohibited. Sampling of cannabinoid products within any retail establishment licensed for on-sale cannabinoid beverages, or for retail cannabinoid solids under this ordinance is prohibited. No person subject to this section shall distribute samples of any cannabinoid products free of charge or at a nominal cost. The distribution of cannabinoid

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products as a free donation is prohibited. This clause is not intended to prohibit licensed retail sales of full-serving on-sale THC-infused beverages at licensed on-sale liquor establishments.

- ~~(A)~~(B) Coupon and Price Promotion. No person shall accept or redeem any coupon, price promotion, or other instrument or mechanism, whether in paper, digital, electronic, mobile, or any other form, that provides any cannabinoid products to a consumer at no cost or at a price that is less than the non-discounted, standard price listed by a retailer on the item or on any related shelving, posting, advertising, or display at the location where the item is sold or offered for sale, including all applicable taxes.
- ~~(B)~~(C) Self-service Displays. All cannabinoid products must be stored behind the sales counter, in a locked case, in a storage unit, or in another area not freely accessible to the general public. No person shall allow the sale of cannabinoid products in open displays that are accessible to the public without the intervention of a store employee. This section does not apply to a retail establishment, as defined in this ordinance, that is continuously staffed by an employee from which persons under 21 years of age are prohibited from entering the store.
- ~~(C)~~(D) Prohibition Against Retail Sales of Cannabinoid Products by Vending Machines. No person will sell or dispense cannabinoid products through use of a vending machine.
- ~~(D)~~(E) Delivery Sales. All sales of cannabinoid products must be conducted in person, in a licensed retail establishment under this ordinance, in over-the-counter sales transactions.

Section 111.167 Other Regulations

- (A) Adulterated or Misbranded Products. A cannabinoid product shall be considered adulterated or misbranded under the provisions set forth in Minn. Stat. §151.72, Subd. 6, as may be amended.
- (B) Signage. At each location where cannabinoid products are sold, the licensee shall display a sign in plain view to provide public notice that selling any of these products to any person under the age of 21 is illegal and subject to penalties. The notice shall be placed in a conspicuous location in the licensed establishment and shall be readily visible to any person who is purchasing or attempting to purchase these products. The sign shall provide notice that all persons responsible for selling these products must verify, by means of photographic identification containing the bearer's date of birth, the age of any person under 30 years of age.
- (C) Age Verification. At each location where edible cannabinoid products are sold, the licensee shall verify, by means of government-issued photographic identification containing the bearer's date of birth, that the purchaser or person attempting to make the purchase is at least 21 years of age. Verification is not required if the purchaser or person attempting to make the purchase is 30 years of age or older. It shall not constitute a defense to a violation of this Section that the

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person appeared to be 30 years of age or older.

- (D) Responsibility. All licensees are responsible for the actions of their employees regarding the sale, offer to sell, and furnishing of cannabinoid products on the licensed premises. The sale, offer to sell, or furnishing of any cannabinoid product by an employee shall be considered an act of the licensee.
- (E) Hours of Sales. No sales of cannabinoid products will be allowed at the licensed premises after 10:00 p.m. and before 8:00 a.m. daily.

Section 111.168. Enforcement

(A) Compliance Checks and Inspections. All licensed premises must be open to inspections by law enforcement or other authorized city officials during regular business hours. From time to time, but at least once per year, the City will conduct compliance checks. The City will conduct a compliance check that involves the participation of a person at least 17 years of age, but under the age of 21 to enter the licensed premises to attempt to purchase cannabinoid products. Prior written consent from a parent or guardian is required for any person under the age of 18 to participate in a compliance check. Persons used for the purpose of compliance checks will be supervised by law enforcement or other designated personnel.

(B) Civil Penalty, Suspension or Revocation of Licenses.

- (1) The City Council will follow the provisions of this section of the ordinance on the suspension, revocation or imposition of a civil penalty against any license granted under this ordinance.
- (2) Notice of Violation. The Chief of Police will provide, in writing, to the licensee either personally or by mail, notice of any alleged violation of the provisions of this ordinance or Minnesota Statutes Chapter 151, committed in the operation of the licensee's business, and provide notice to the City Attorney's Office. If the City Attorney's Office determines from the facts and circumstances reported, together with any other facts and circumstances known to it, that the violation may warrant a civil penalty, suspension or revocation of the license held by the licensee, it will notify the licensee, and set a time and place for a hearing sufficiently in advance to provide ten days written notice of the time, place and purpose of such hearing to the licensee.
- (3) Hearing on Alleged Violations. The hearing will be held before an independent hearing officer, in accordance with Section 1100 of the 2007 Code of Ordinances of the City of St. Cloud. At the time of the hearing, the licensee may appear and present any evidence which is material to the investigation. The hearing officer will make findings of fact as to whether a violation of the provisions of this ordinance or Minnesota Statutes Chapter 151 have been committed in the operation of the licensee's business and whether the violation was willful in nature. The hearing officer will also make a recommendation as to what penalty, if any, will be applied. The City Council will adopt the hearing officer's findings of fact that the licensee has violated any of the

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provisions of this ordinance or State law, and may impose a civil fine, suspend or revoke the license in accordance with the schedule in Section 111.xxx 90 of this ordinance.

- (4) Mandatory Revocation. The Council will revoke the license of any licensee under this ordinance if the licensee willfully violates any provisions of this ordinance or Minnesota Statutes Chapter 151.

Section 111.169 Penalties for Violations.

- (1) Upon a violation by a licensee holding a cannabinoid products license of any provision of this ordinance or any provision of state law regulating the sale of cannabinoid products, or failing to comply with any other requirements of Minn. Stat. § 151.72, the City Council may impose a civil fine, suspend or revoke the license in accordance with the following schedule:

| | |
|--|---|
| First violation... | fine up to \$300.00 |
| Second violation within 36 months..... | fine up to \$600.00 and a 30-day license suspension |
| Third violation within 36 months..... | fine up to \$1,000.00 and a license revocation |
| Violation during period of suspension... | license revocation |

- (2) Any civil fine assessed against a licensee pursuant to this section must be paid in full within 30 days from receipt of written notification of the City Council's imposition of the civil fine. Failure to pay the fine within that time period will result in a ten-day license suspension. Licensees whose licenses have been revoked may not be issued a new license within six months from the effective date of such revocation.

Section 2. The City Clerk is hereby directed to make the changes required by this Ordinance as part of the Official St. Anthony City Code, Title XI, Business Regulations, and to renumber the tables and chapters accordingly as necessary to provide the intended effect of this Ordinance. The City Clerk is further directed to make necessary corrections to any internal citations that result from said renumbering process, provided that such changes retain the purpose and intent of the Zoning Ordinance as has been adopted.

Section 3. This Ordinance shall take effect and be in full force from and after its passage and publication. This ordinance may be published by summary publication, per a duly adopted resolution of the City Council. The ordinance in its entirety and any related map shall be posted on the City website after publication. Copies of the complete Ordinance and map are available online and at St. Anthony City Hall for examination upon request.

ADOPTED BY the St. Anthony City Council this ____ day of _____, 2022.

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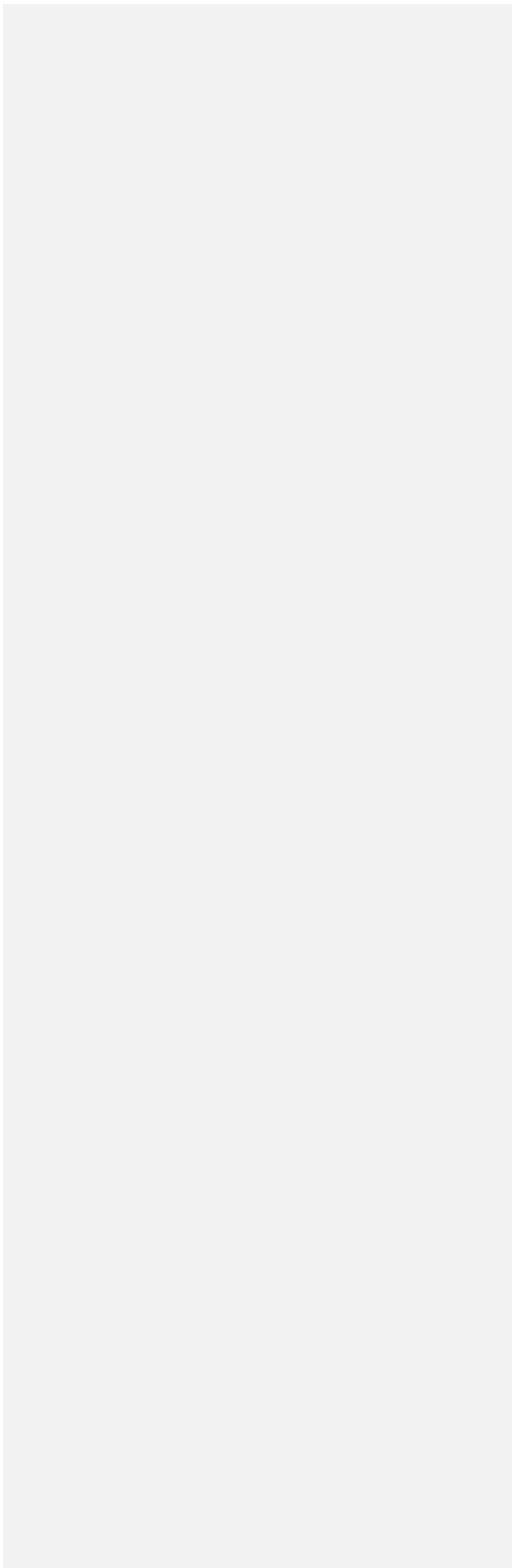
Randy Stille, Mayor

ATTEST:

City Clerk

AYES:

NAYS:





NOTICE OF A PUBLIC HEARING

July 18, 2023, 7:00 p.m.

City Hall, 3301 Silver Lake Road, St. Anthony, MN 55418

Notice is hereby given that the City of Saint Anthony Village Planning Commission will hold a public hearing to solicit public response to a proposed amendment to the Zoning Ordinance and other City Code sections managing the regulating the sale and distribution of hemp-based cannabinoid products. The City Council will also consider a first reading of the proposed amendments at their regular meeting on July 11, 2023, with subsequent readings to follow.

The Planning Commission agenda and packet item relating to this application will be made available prior to the meeting online at www.savmn.com.

Ways to Comment:

Online

Those persons having an interest are encouraged to attend via Zoom. The link to participate via Zoom can be found at <https://savmn.com/Calendar.aspx?EID=1822>

In Person

The public is welcome to attend in person at the City of Saint Anthony Community Center, 3301 Silver Lake Road, in the Council Chambers at 7:00 p.m.

Written

Written comments may be taken at the St. Anthony Village City Hall, 3301 Silver Lake Road, St. Anthony Village, Minnesota 55418 until the date of the public hearing.

Comments can also be conveyed via email, to planner@savmn.com until the date of the public hearing.

Questions?

Questions may be directed to the City Planner at 612-409-6503.

The Planning Commission will make a recommendation regarding the proposed request to the City Council for their meeting tentatively to be scheduled on July 25, 2023 at 7:00 p.m. at City Hall.

Steve Grittman
City Planner