

**CITY OF SHOREWOOD
CITY COUNCIL WORK SESSION
MONDAY, AUGUST 28, 2023**

**5755 COUNTRY CLUB ROAD
COUNCIL CHAMBERS
6:00 P.M.**

AGENDA

1. CONVENE CITY COUNCIL WORK SESSION

A. Roll Call

Mayor Labadie _____

Callies _____

Maddy _____

Sanschagrin _____

Zerby_____

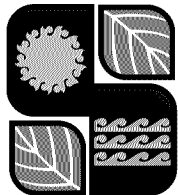
B. Review Agenda

ATTACHMENTS

2. SMOKING IN PUBLIC SPACES

City Administrator Memo

3. ADJOURN



City of Shorewood

City Council Work Session Item

Title/Subject: Smoking in Public Spaces
Meeting Date: August 28, 2023
Prepared by: Marc Nevinski, City Administrator
Attachments: Star Tribune Article – July 24
Excelsior Ordinance No. 655
Draft Text Shorewood Ordinance

Item 2

Background:

A new law enacted at the end of the 2023 legislative session legalized adult-use cannabis in Minnesota which took effect on August 1, 2023. Possession, use, and home growth is now legal. The law authorizes use in the following areas:

- In a private residence including the individual's curtilage or yard
- On private property, unless the owner of the property prohibits the use of the products
- On the premises of an establishment or event license to permit on-site consumption

Use of cannabis flower, cannabis products or hemp-derived consumer products in a manner that involves the inhalation of smokes, aerosol, or vapor at any location where smoking is prohibited under the Clean Indoor Air Act.

According to the League of Minnesota Cities, the law is silent on whether cannabis can be smoked in public places other than public places governed by the MCIAA. While the law does not specifically authorize the use of cannabis in public places, it does not create any penalty for use in a public place other than those governed by the MCIAA. If a city would want an enforcement mechanism to prevent the use of cannabis in public places, it would need to adopt an ordinance prohibiting such use and make it a petty misdemeanor.

Many cities already ban smoking or tobacco use in parks. Shorewood bans the consumption of alcohol in its park (with the exception of Badger Park and then only by permit) but does not prohibit the use of tobacco. Cities are now considering banning the use of cannabis products in parks and other public spaces. Excelsior recently passed an emergency ordinance prohibiting the consumption of all forms of cannabis products in public places, including THC. Duluth recently added cannabinoids to its prohibition of public places where tobacco use is prohibited. Greenwood is also considering an ordinance restricting cannabis use in public places. The SLMPD Police Chief has encouraged member communities to adopt relatively consistent ordinance language to make enforcement easier.

Mission Statement: *The City of Shorewood is committed to providing residents quality public services, a healthy environment, a variety of attractive amenities, a sustainable tax base, and sound financial management through effective, efficient, and visionary leadership.*

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At its meeting on August 22, the Parks Commission discussed smoking in public spaces. There was agreement that there should not be a full ban on smoking in public spaces and that there should be spaces where such activity is allowed. Use may be acceptable in certain locations, such as sidewalks, trails or portions of parking lots, although there was not clear consensus on this.

Financial or Budget Considerations:

None at this time

Discussion Requested:

Council is asked to discuss if an ordinance restricting the use of cannabis and perhaps other substances in public spaces should be drafted, and if so, what parameters it should contain. Leah Koch from Campbell Knutson will be in attendance to assist in the discussion.



POLITICS

You can soon smoke marijuana in public outdoor spaces, but some cities are mulling bans

Duluth among communities moving to prohibit public marijuana use.

By Ryan Faircloth (<https://www.startribune.com/ryan-faircloth/6370411/>) Star Tribune

JULY 24, 2023 — 5:28PM

When state lawmakers were considering a bill to legalize recreational marijuana

(<https://www.startribune.com/minnesota-marijuana-legalization-bill-law-cannabis-cultivation-dispensaries-business-pot-weed-legal/600275325/>), they often described it as allowing Minnesotans to use the drug at home, on private property or at events licensed for on-site consumption.

But earlier this month, after the legislation was signed into law (<https://www.startribune.com/walz-signs-bill-legalizing-marijuana-in-minnesota-cannabis-legal-weed-midwest-states/600278668/>), one of the Democratic legislators who sponsored the bill told news website MinnPost (<https://www.minnpost.com/state-government/2023/07/where-you-can-and-cant-smoke-marijuana-in-minnesota-come-aug-1/>) that smoking will also be allowed anywhere that isn't prohibited by the Minnesota Clean Indoor Air Act or local ordinances. That means starting Aug. 1 Minnesotans can smoke marijuana in a park, on a sidewalk or outside a restaurant or bar, unless their city passes or has an existing ordinance prohibiting it.

That revelation wasn't spelled out in the more than 300-page marijuana legalization law (<https://www.startribune.com/minnesota-marijuana-legalization-law/>)



ALEX KORMANN, STAR TRIBUNE

Starting Aug. 1, Minnesotans can smoke in a park, on a sidewalk or outside a restaurant or bar unless their city passes an ordinance

[legalization-bill-law-cannabis-cultivation-dispensaries-business-pot-weed-legal/600275325/](https://www.startribune.com/legalization-bill-law-cannabis-cultivation-dispensaries-business-pot-weed-legal/600275325/)), which lists only the three locations where cannabis products can be used — home, private property, licensed events — and several where they are prohibited.

"We wanted to put as few restrictions on it as we could, understanding that cities could do more," Democratic Sen. Lindsey Port, the legalization bill's Senate sponsor, said of public marijuana use.

Marijuana in Minnesota

More coverage of the debate over legalization of recreational marijuana.

- What you need to know about Minnesota's marijuana legalization law (<https://www.startribune.com/minnesota-marijuana-legalization-bill-law-cannabis-cultivation-dispensaries-business-pot-weed-legal/600275325/>)
- Growing marijuana at home will be legal Aug. 1: Here's what experts advise (<https://www.startribune.com/minnesotans-prepare-to-grow-cannabis-at-home/600288024/>)
- What you need to know about cannabis-crime expungement in Minnesota (<https://www.startribune.com/if-you-have-low-level-marijuana-cannabis-crime-expect-delay-expunging-your-record/600293129/>)
- Send us your questions about marijuana in Minnesota (<https://www.startribune.com/minnesota-recreational-marijuana-legalize-weed-pot-adult-use-medical-cannabis-federal-thc-walz-biden/600226952/>)
- Cannabis in Minnesota (<https://www.startribune.com/cannabis-marijuana-minnesota/600281477/>)

Cannabis use is explicitly prohibited under the new law for those who are under age 21, in a motor vehicle, in a public school, in a state correctional facility or in the presence of minors who could inhale secondhand smoke. Beyond that, the law doesn't specifically allow or restrict the use of marijuana in public spaces. One provision states that marijuana use is prohibited anywhere that smoking tobacco is banned under the Clean Indoor Air Act, while another states that cities may adopt ordinances banning residents from using the drug in public spaces.

"It was just not a specific thing we wanted 100% protected or 100% banned, so we left it up to the municipalities," Port, DFL-Burnsville, said in an interview Monday. "I don't feel in any way that it was hidden or was something that we tried to obfuscate."

The League of Minnesota Cities issued a memo Monday (<https://www.lmc.org/news-publications/news/all/fonl-cannabis-possession-legal-beginning-aug-1/>) advising cities that they will need to pass an ordinance if they want to have an enforcement mechanism to prevent public cannabis use.

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"The law is silent on whether cannabis can be smoked in public places other than public places governed by the [Clean Indoor Air Act]," the League's memo states. "While the law does not specifically authorize the use of cannabis in public places, it does not create any penalty for use in a public place other than those governed by the MCIAA."

Port noted that many cities ban smoking in their parks and on their property. Some of those existing ordinances might need to be updated if they only address tobacco and not smoking broadly, she said.

"If they explicitly mention tobacco or cigarettes, they would need to be updated to include cannabis. If they just say smoking, I think they would cover cannabis," Port said.

Some cities are already considering ordinances specifically prohibiting public marijuana use.

The Duluth City Council will vote next month on whether to ban marijuana smoking in all city parks and in other public outdoor places where tobacco smoking is already banned, such as the Lakewalk.

Alexandria and Detroit Lakes are also working on ordinances, while Lakeville and West St. Paul are considering it, said Alex Hassel, a lobbyist for the League of Minnesota Cities.

"This is probably top priority for many cities, looking at their public-use ordinances for smoking," Hassel said.

Leili Fatehi, campaign manager for the pro-legalization MN is Ready Coalition, worked with lawmakers throughout the year on the recreational marijuana bill. She said cities should think carefully about how their public-use ordinances could affect renters.

Starting in March 2025, Minnesota's recreational marijuana law will ban smoking and vaping of cannabis in multifamily housing building units, including on apartment balconies and patios, except for registered medical cannabis patients. Until then, the law lets property managers decide whether to allow or prohibit smoking in units.

"What we're really monitoring to make sure is that local governments are not prohibiting public use in a way that makes it so that only homeowners are able to smoke and vape and those who are renters end up in a situation where there's literally nowhere where legally they can consume these products," Fatehi said.

Chris Tholkes, director of Minnesota's Office of Medical Cannabis, said that allowing marijuana use in public could have mixed health impacts. On one hand, she said it's likely beneficial to give people an alternative to smoking indoors. But it also could expose more minors to the drug, she said.

"It impacts social norms, for sure," Tholkes said.

In allowing public marijuana use, Port and Fatehi said legislators were trying to treat the drug like tobacco. But marijuana is intoxicating, like alcohol, while cigarettes are not. So, is public marijuana use more like cigarette smoking or more like having an open alcohol container?

Port said it's a "fair question" and that legislators did their best to "thread that needle."

"You can't smoke in your car. You can't have an open container of cannabis even in your car. We put that much more on the alcohol side of it because driving a vehicle while intoxicated is a concern," Port said. "In places where it was about the smoking and the secondhand smoke, the carcinogens and things like that, we tried to put it more in line with cigarette smoking."

Staff writer Jana Hollingsworth contributed to this report.

LATEST UPDATES



Cannabis in Minnesota

Minnesota is the 23rd state in the country to legalize recreational marijuana for adults.
(<https://www.startribune.com/cannabis-marijuana-minnesota/600281477/>)

Ryan Faircloth covers Minnesota politics and government for the Star Tribune.

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City of Excelsior
Hennepin County, Minnesota

Ordinance No. 655

An Emergency Ordinance

THE CITY COUNCIL OF EXCELSIOR, MINNESOTA, HEREBY ORDAINS:

SECTION ONE: Preamble. In May of 2023, the state legislature passed (and the governor signed) a new law permitting the recreational use of Cannabis. The law went into effect on August 1, 2023 and, as of that date, it permits the use and possession of Cannabis and related products in public places absent a local ordinance prohibiting the use in public places.

The city council finds that unrestricted use of cannabis and related products in public places would have a detrimental impact on the public health, safety, and welfare by exposing people (including minors) to both the direct consequences (i.e., second-hand smoke) and indirect consequences (i.e., open use of intoxicating products) of the use of such products in public places.

Under the circumstances, it is important to protect the public health, safety, and welfare by adopting an emergency ordinance that will allow the limitations on such use in public to be in place sooner (by August 17) rather than later (by October 7).

SECTION TWO: Amendment. That Chapter 22, Article V of the Excelsior City Code be amended to add the following:

Section 22-154 Sale or Use of Cannabis.

Subd. 1 Use. It is unlawful to use cannabis flower, cannabis products, lower-potency hemp edibles or hemp-derived consumer products, as defined in Minn. Stat. Section 342.01 (and successor laws), and regulations adopted pursuant thereto, or THC Products (as that term is defined by section 10-1201 of the Excelsior City Code), in public places anywhere in the City.

Subd. 2 Definition of Public Places. As used in this Section, Public Places include all areas contained within the City boundaries, except the following:

- A. Private residences, including the curtilage and yard; and
- B. Private property not generally accessible by the public, unless a person is explicitly prohibited from consuming cannabis flower, cannabis products, lower-potency hemp edibles, hemp-derived consumer products, or THC Products (as that term is defined by section 10-1201 of the Excelsior City Code), on the property by the owner of the property; and
- C. The premises of an establishment or event licensed to permit on-site consumption of cannabis flower, cannabis products, lower-potency hemp edibles, hemp-derived

consumer products, or THC Products (as that term is defined by section 10-1201 of the Excelsior City Code).

Subd. 3 Sale. The sale of cannabis flower, cannabis products, lower-potency hemp edibles or hemp-derived consumer products, as defined in Minn. Stat. Section 342.01 (and successor laws), and regulations adopted pursuant thereto, or THC Products (as that term is defined by section 10-1201 of the Excelsior City Code) is unlawful except as permitted by Excelsior Code Section 10-1201, et seq. or by state law.

Subd. 4 Enforcement. Any violation of this section shall be a misdemeanor as defined by state law.

SECTION THREE: Effective Date. This Emergency Ordinance will be effective upon Publication.

Adopted by the City Council of the City of Excelsior, Minnesota, this 7th day of August, 2023.

ATTEST:

Todd R. Carlson, Mayor

Nalisha Williams, City Clerk

Kristi Luger, City Manager

First Reading and Adoption:
Publication of Ordinance:
Effective Date:

August 7, 2023
August 17, 2023
August 17, 2023

ORDINANCE NO. _____
CITY OF SHOREWOOD
HENNEPIN COUNTY, MINNESOTA

**AN ORDINANCE AMENDING TITLE 500
OF THE SHOREWOOD CITY CODE CONCERNING THE USE OF
CANNABIS AND HEMP PRODUCTS IN PUBLIC**

THE CITY COUNCIL OF THE CITY OF SHOREWOOD, MINNESOTA ORDAINS:

SECTION 1. Title 500, PUBLIC HEALTH, is hereby amended to create Chapter 507, section 507.01, section 507.02, and section 507.03 by adding the following language:

CHAPTER 507 PUBLIC CONSUMPTION OF CANNABIS AND HEMP PRODUCTS

507.01: DEFINITIONS

As used in this chapter, the terms defined in Minn. Stat. §151.72, Minn. Stat. § 342.01, and this section shall have the meaning ascribed to them:

PUBLIC PLACE: Property owned, leased, or controlled by a governmental unit and private property that is regularly and frequently open to or made available for use by the public in sufficient numbers to give clear notice of the property's current dedication to public use but does not include:

1. A person's dwelling house or premises, including the person's curtilage or yard; or
2. Private property not generally accessible by the public, unless the person is explicitly prohibited from consuming cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on the property by the owner of the property; or
3. The premises of an establishment or event licensed to permit on-site consumption.

507.02: PROHIBITED ACTIVITY

No person shall use cannabis flower, cannabis products, hemp-derived consumer products, or certain cannabinoid products in a public place. Low-potency hemp edibles and edible cannabis products are exempt from prohibition under this section.

507.03: PENALTY

Violation of this section shall be a petty misdemeanor punishable to the maximum extent authorized in Minn. Stat. § 412.231 and Minn. Stat. § 609.0332.

SECTION 2. This ordinance shall be effective immediately upon its passage and publication.

ADOPTED this ____ day of _____, 2023 by the City Council of the City of Shorewood, Minnesota.

Jennifer Labadie, Mayor

ATTEST:

Sandie Thone, City Clerk