

ORDINANCE NO. _____

AN ORDINANCE CREATING SECTIONS 5-23-3, 5-23-4, 5-23-5, 5-23-6, 5-23-7 AND AMENDING SECTION 5-23-1 OF CHAPTER 5-23 OF TITLE 5 OF THE ROCHESTER CODE OF ORDINANCES RELATING TO CANNABIS.

THE COMMON COUNCIL OF THE CITY OF ROCHESTER ORDAINS:

Section 1. Section 5-23-3 of Chapter 5-23 of the Rochester Code is hereby created to read as follows:

Sec. 5-23-3. Prohibited Acts.

- A. No person shall use cannabis flower, cannabis products, or hemp-derived consumer products in a public place or a place of public accommodation unless the premises is an establishment or event licensed to permit on-site consumption of adult-use cannabis flower and adult-use cannabis products. See Minn. Stat. Sec. 342.09, Subd. 1(a)(2) and Sec. 342.09, Subd.1 (a)(7)(i), (ii),(iii), and Minn. Stat. Sec. 152.0263, Subd. 5.
- B. No person shall vaporize or smoke cannabis flower, cannabis products, artificially derived cannabinoids, or hemp-derived consumer products in a public place, place of public accommodation or any location where a minor would inhale the smoke, aerosol, or vapor. See Minn. Stat. Sec. 342.09, Subd. 1(b)(9).

Section 2. Section 5-23-4 of Chapter 5-23 of the Rochester Code is hereby created to read as follows:

Sec. 5-23-4. Limits on cannabis businesses in the City of Rochester.

The number of licensed cannabis retailers, cannabis mezzobusinesses with a retail operations endorsement, and cannabis microbusinesses with a retail operations endorsement shall be limited to allocations awarded to the City of Rochester by Olmsted County based upon the registration agreement entered into via Resolution.

Section 3. Section 5-23-5 of Chapter 5-23 of the Rochester Code is hereby created to read as follows:

Sec. 5-23-5. Temporary cannabis events.

A. License or Permit Required for Temporary Cannabis Events.

A license or permit is required to be issued and approved by the City prior to holding a Temporary Cannabis Event. A license or permit will only be issued for a temporary cannabis event if the applicant currently holds a valid cannabis business license issued by the State of Minnesota. A cannabis event organizer license entitles the license holder to organize a temporary cannabis event lasting no more than four days. All Temporary Cannabis Events fall under the jurisdiction of the Special Event Ordinance, Chapter 8-11 of the Rochester Code of Ordinances, and a permit must be obtained prior to the Temporary Cannabis Event being held.

B. Registration & Application Procedure

A registration fee, as established in the City's Fee Schedule, shall be charged to applicants for Temporary Cannabis Events.

Section 4. Section 5-23-6 of Chapter 5-23 of the Rochester Code is hereby created to read as follows:

Sec. 5-23-6. Violation.

An alleged violation or violation of this ordinance may be investigated by City Staff, Health Inspectors, staff, or by a peace officer as defined in Minn. Stat. Sec. 626.84, Subd. 1. Violations of this ordinance can occur regardless of whether a permit is required for a regulated activity listed in this ordinance. The City Attorney may prosecute any alleged violation of this ordinance.

Section 5. Section 5-23-7 of Chapter 5-23 of the Rochester Code is hereby created to read as follows:

Sec. 5-23-7. Penalty.

A violation of the Prohibited Use of Cannabis in Public Places section of this ordinance shall be a petty misdemeanor punishable by a fine of up to Three Hundred Dollars (\$300) and/or community work service.

Any violation of any of the other provisions of this ordinance or failure to comply with any of those requirements constitutes a misdemeanor criminal offense and is punishable as defined by law.

Nothing in this ordinance shall prohibit the United States, the State of Minnesota, the City of Rochester, or the County of Olmsted from investigating or prosecuting any other activity that is a crime under any other federal or state statute or city/county ordinance.

Section 6. Section 5-23-1 of Chapter 5-23 of the Rochester Code is hereby amended to read as follows:

Sec. 5-23-1. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) *Cannabis business* means any of the following licensed under this chapter:

- a. Cannabis microbusiness;
- b. Cannabis mezzobusiness;
- c. Cannabis cultivator;
- d. Cannabis manufacturer;
- e. Cannabis retailer;
- f. Cannabis wholesaler;
- g. Cannabis transporter;
- h. Cannabis testing facility;
- i. Cannabis event organizer;
- j. Cannabis delivery service;
- k. Medical cannabis cultivator;
- l. Medical cannabis processor;
- m. Medical cannabis retailer; and
- n. Medical cannabis combination business.

(2) *Adult-use cannabis flower* means cannabis flower that is approved for sale by the Minnesota Office of Cannabis Management (hereinafter the "Office") or is substantially similar to a product approved by the Office. Adult-use cannabis flower does not include medical cannabis flower as defined in Minn. Stat. Sec. 342.01, Subd. 54, hemp plant parts as defined in Minn. Stat. Sec. 342.01, Subd. 42, or hemp-derived consumer products.

(3) *Adult-use cannabis products* means a cannabis product that is approved for sale by the Office or is substantially similar to a product approved by the Office. Adult-use cannabis products include edible cannabis products but do not include medical cannabinoid products as defined in Minn. Stat. Sec. 342.01, Subd. 52 or lower-potency hemp edibles.

(4) *Cannabis cultivation* means a cannabis business licensed to grow cannabis plants within the approved amount of space, from seed or immature plants to mature plants. These activities include, but are not limited to, harvesting cannabis flower from mature plants, packaging and labeling immature plants and seedlings and cannabis flower for sale to other cannabis

businesses, transporting cannabis flower to a cannabis manufacturer located on the same premises, and performing other actions approved by the “Office”.

(5) Cannabis flower means the harvested flower, bud, leaves, and stems of a cannabis plant. Cannabis flower includes adult-use cannabis flower and medical cannabis flower. Cannabis flower does not include cannabis seed as defined in Minn. Stat. Sec. 342.01, Subd. 22, hemp plant parts, or hemp-derived consumer products.

(6) Cannabis product.

A. “Cannabis product” means any of the following

1. cannabis concentrate as defined in Minn. Stat. Sec. 342.01, Subd. 15;
 2. a product infused with cannabinoids, including but not limited to tetrahydrocannabinol, extracted or derived from cannabis plants as defined in Minn. Stat. Sec. 342.01, Subd. 19, or cannabis flower as defined in Minn. Stat. Sec. 342.01, Subd. 16; or
- B. any other product that contains cannabis concentrate.

(7) Cannabis Retail Business means a retail location and the retail location(s) of a mezzobusiness with a retail operations endorsement, a microbusiness with a retail operations endorsement, or a medical combination business operating a retail location. This excludes lower-potency hemp edible retailers.

(8) Cannabis Retailer means any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form.

(9) Hemp derived consumer products.

A. “Hemp derived consumer products” means a product intended for human or animal consumption, does not contain cannabis flower or cannabis concentrate, and:

1. contains or consists of hemp plant parts; or
2. contains hemp concentrate or artificially derived cannabinoids in combination with other ingredients.

B. Hemp-derived consumer products does not include artificially derived cannabinoids as defined in Minn. Stat. Sec. 342.01, Subd. 6, lower-potency hemp edibles, hemp-derived topical products as defined in Minn. Stat. Sec. 342.01, Subd. 38, hemp fiber products as defined in Minn. Stat. Sec. 342.01, Subd. 39, or hemp grain as defined in Minn. Stat. Sec. 342.01, Subd. 40.

(10) Lower-potency hemp edible.

A. A “lower-potency hemp edible” as defined in Minnesota Statutes Section 342.01, Subd. 50 means any product that:

1. is intended to be eaten or consumed as a beverage by humans;
2. contains hemp concentrate or an artificially derived cannabinoid; in combination with food ingredients;
3. is not a drug;

4. consists of servings that contain no more than five milligrams of delta-9 tetrahydrocannabinol, 25 milligrams of cannabiniol, or any combination of those cannabinoids that does not exceed the identified amounts;
5. does not contain more than a combined total of 0.5 milligrams of all other cannabinoids per serving;
6. does not contain an artificially derived cannabinoid other than delta-9 tetrahydrocannabinol;
7. does not contain a cannabinoid derived from cannabis plants or cannabis flower; and
8. is a type of product approved for sale by the Office or is substantially similar to a product approved by the Office, including but not limited to products that resemble nonalcoholic beverages, candy, and baked goods.

(11) *Office of Cannabis Management* means the Minnesota Office of Cannabis Management, referred to as “OCM” in this ordinance.

(12) *Place of public accommodation* means a business, refreshment, entertainment, recreation, or transportation facility of any kind, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

“A public place” or “a place of public accommodation” does not include the following:

1. a private residence, including the individual’s curtilage or yard.
2. a private property, not generally accessible by the public, (unless the individual 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.
3. on the premises of an establishment or event licensed to permit on-site consumption.

Public place.

A “public place” means any indoor area used by the general public or serving as a place of work including, but not limited to:

1. Arenas, auditoriums, bowling alleys, bingo halls, commercial establishments including licensed retail tobacco establishments, pool halls, public conveyances, restaurants and establishments licensed to sell alcoholic beverages under Chapter 340A of the Minnesota Statutes and their patios and decks.
2. Publicly owned property and outdoor areas of a public recreation center or public park or trail, including, but not limited to, a public playground, swimming pool or other recreational area, and gymnasiums. This specifically includes but is not limited to the County’s Graham Park and County Parks properties. See Section 3963 of the County Code of Ordinances -- Graham Parks Rules and Regulations, and Section 3917 of the County Code of Ordinances – County Parks Rules and Regulations, for additional details concerning cannabis use restrictions on those properties.
3. Hospitals, nursing homes, offices and other commercial establishments, retail stores, and common areas of rental apartment buildings.

4. Taxis, limousines, and other for-hire vehicles used to transport the public during hours of operation.
5. Educational institutions including all facilities, whether owned, rented, or leased, and all vehicles that a school owns, leases, rents, contracts for, or controls:
6. Public School. As defined by Minnesota Statutes Section 120A.20, any schools supported in whole or in part by state funds are public schools.
7. Charter School. Any school licensed by the Minnesota Department of Education as a charter school.
8. Nonpublic Schools. Any nonpublic school, person, or other institution that is accredited by an accrediting agency is required to meet the reporting requirements under Minnesota Statutes Section 120A.24 or recognized by the Commissioner of the Minnesota Department of Education.
9. Post Secondary Educational Facilities. Any colleges, universities and technical schools.
10. This also applies to the following outdoor spaces: Public streets or sidewalks.

(13) Retail Registration means an approved registration issued by Olmsted County to a state licensed cannabis retail business.

(14) Smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated product containing cannabis flower, cannabis products, artificially derived cannabinoids, or hemp-derived consumer products. Smoking includes carrying or using an activated electronic delivery device for human consumption through inhalation of aerosol or vapor from the product.

(15) State License means an approved license issued by the State of Minnesota's Office of Cannabis Management to a cannabis retail business.

Section 7. This ordinance shall become effective from and after its publication.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF
ROCHESTER, MINNESOTA, THIS _____ DAY OF _____, 2024.

PRESIDENT OF SAID COMMON COUNCIL

ATTEST: _____
CITY CLERK

APPROVED THIS _____ DAY OF _____, 2024.

MAYOR OF SAID CITY

(Seal of the City of
Rochester, Minnesota)

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