



# **Cannabis and THC Policies Opening Public Comment Period**

**November 6, 2024**



# Comment Period and Engagement Overview

- Resolution authorizes a 60-day comment period
  - Starting on or after November 18, 2024
- Before the end of the comment period, staff provide a study report on the policies
- After comment period, comments are tabulated, changes recommended
- Public Hearing held when recommended policies are at committee for consideration of approval

# Work to Date

- September 20, 2023 Study Item
  - Discussed options for restricting use ranging from no action to ordinance with petty misdemeanor
  - Discussed that a petty misdemeanor is not considered a criminal offense
  - Reviewed MPRB's approach to Alcohol (ordinance) and Tobacco (policy)
  - Feedback
    - Interest in restricting use in parks, but didn't want to enact a petty misdemeanor, not unanimous
    - Work toward updating the tobacco policy, not unanimous
- August 7, 2024 Study Item
  - Reviewed changes in law and action by other park systems
  - Reviewed possibility of THC edible sales at events and concessions
  - Feedback
    - Interest in policy to direct sale of THC edibles at events and concessions, not unanimous



# State Law Overview

- Minnesota is 23<sup>rd</sup> state to legalize cannabis for individuals 21 and older
  - Effective August 1, 2023
- Other states prohibit use in public spaces, either directly or as part of a no-smoking law; Minnesota's law does not
- Local unit of Minnesota government can enact an ordinance to prohibit use in public spaces and provide a penalty up to a petty misdemeanor
- Cannabis cannot be used or possessed in the following locations:
  - Public school or charter schools and school buses
  - In a location where the smoke, aerosol or vapor of a cannabis product could be inhaled by a minor
- There are no penalties for prohibited uses in the law
  - Jurisdictions can provide up to a petty misdemeanor for use of cannabis (smoking and vaping) and can provide direction on sale of THC products
- Retail sale anticipated first quarter of 2025



# State Law: Cannabis Regulation related to Sale

## Adult-Use Cannabis

- Effective Aug. 1, 2023, full decriminalization will allow the possession, use, and home grow of cannabis in Minnesota for people 21 and older.
- The Cannabis regulation law passed this session funds the Office of Cannabis Management and addresses the licensing of retail cannabis businesses.
- On June 21, the [OCM released a Guide for Local Govs.](#)
- The Guide also includes a Draft Model Ordinance, which includes the following language:

Section 7 "Use in Public Places: No person shall use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place or a place of public accommodation unless the premises is an establishment or an event licensed to permit on-site consumption of adult-use."



# Ordinance Versus Policy

	Ordinance	Policy
Establishes that the MPRB prohibits smoking and vaping in parks.	✓	✓
Who enforces?	Allows peace officers and park agents to enforce.	Community and Staff.
Penalty	Up to petty misdemeanor is allowed by state law.	No penalty.



# Other Units of Government

- Prior to June 21, City of Minneapolis was allowing sale of THC products.
- St. Louis Park parks do not permit sale of THC products as part of events, unless it is done by a licensed alcohol caterer for a private event (like a reception or party).
- The Saint Paul City Council voted 4-3 on September 27, 2023 to amend its public smoking ordinance in order to ban the use of recreational marijuana in city parks and within 25 feet of the entrances of public buildings and workplaces. This ordinance does not address the use of cannabis edibles or drinks containing THC. Saint Paul has also considered allowing THC beverages to be consumed "in designated locations where alcohol is already allowed."
- The Duluth City Council has voted to ban recreational marijuana smoking in most public places in the city, including parks. The City Council voted 8-1 to approve the new ordinance in August 2023.
- The City of Stillwater passed an ordinance prohibiting smoking, vaping, and use of marijuana in public parks or other public spaces. The use of cannabis in public is punishable by a petty misdemeanor.



# Other Units of Government

- The City of Owatonna in August 2023 passed an ordinance prohibiting use of "cannabis flower, cannabis products, lower-potency hemp edibles and hemp-derived consumer products as defined in Minn. Stat. 342.01, in public places anywhere in the city." In this ordinance Owatonna defines public places as including, but not limited to, "public parks, county fairgrounds, ballparks, trails, streets, or rights-of-way, alleys, sidewalks, boulevards, school property, parking lots, beach, pier, golf courses..."
- Washington County passed an ordinance in May 2024 to make it unlawful to "vaporize, smoke, serve, possess, display, or consume cannabis flower, cannabis products, lower-potency hemp edible, artificially derived cannabinoids, or hemp-derived consumer products within a park or conservation area, unless otherwise authorized by use permit;" or to "be under the influence of cannabis flower, cannabis products, lower-potency hemp edible, artificially derived cannabinoids, or hemp derived consumer products to the point of intoxication, or loss of motor skills or consciousness, or other factors that may injure the party or adversely affect other park or conservation area visitors."
- Scott County passed an ordinance in September 2023 prohibiting use of cannabis in public spaces, including parks, under the county's purview punishable by a petty misdemeanor. This allows an exception for permitted events.
- The Olmsted County (Rochester) Board of Commissioners passed an ordinance prohibiting the smoking and vaping of cannabis in public places, including parks, in November 2023.



# MPRB Ordinances

- Article 6.2-c of the City Charter gives the Board of Commissioners authority to adopt ordinances
- Ordinances serve as locally adopted laws, established by the Board of Commissioners, for governance of the Minneapolis park and recreation system
- Ordinances can be a petty misdemeanor offense or a misdemeanor crime
- All licensed peace officers (and, additionally, park patrol agents) can enforce ordinance violations; in practical terms, Park Police officers typically enforce MPRB Ordinances
- MPRB has Chapter 14 – Administrative Offenses, which allows for administrative fines (previously used for off-leash dog and parking violations)



# Petty Misdemeanor

- Rule 23 Minnesota Court Rules:

[https://www.revisor.mn.gov/court\\_rules/cr/id/23/](https://www.revisor.mn.gov/court_rules/cr/id/23/)

- Rule 23.01 Definition of Petty Misdemeanor

"Petty misdemeanor" means an offense punishable by a fine of not more than \$300 or other amount established by statute as the maximum fine for a petty misdemeanor.

- Rule 23.06 Effect of Conviction

A petty misdemeanor is not considered a crime.

➤ Examples: Off-leash dog violation; parking violation



# Administrative Offense

- A petty misdemeanor ordinance would still need to be adopted prohibiting public consumption of cannabis
- The adopted ordinance would then need to be designated as an administrative offense
- The MPRB would establish the penalty/fine associated with a violation
- If the fine is paid, there is no court record
- Failure to pay the administrative fine may result in prosecution in the courts as a petty misdemeanor or could result in a collections referral
- MPRB currently has the authority to create Administrative Ordinances, but the staffing and procedural infrastructure would need to be developed



# Existing Practices

- Alcohol – addressed through an ordinance that prohibits consumption outside of areas designated by a policy. Enforced by law enforcement (including park agents). Violations are a misdemeanor crime.
- Tobacco – added through a policy. Enforced by all staff through ejection. If patron refuses ejection, can escalate to disorderly conduct, which would be enforced by law enforcement. Disorderly conduct is a misdemeanor crime.



# Options for Consideration

1. Take no action
2. Adopt a policy
3. Adopt a petty misdemeanor ordinance with ability to create exceptions/designated areas for use by policy
4. Adopt a petty misdemeanor ordinance
5. Adopt a petty misdemeanor ordinance with an administrative penalty



# Options in review

## 1. Take no action

- Focus on existing state law that considers impacts on minors, impacts related to school facilities
- Definitions are not clear in all cases and no penalties

## 2. Adopt a policy

- Establishes expectation of not using cannabis in the parks
- Will rely on staff and community to enforce
- If it escalates to disorderly conduct it becomes a misdemeanor



# Options in review

## 3. Adopt a petty misdemeanor ordinance with ability to create designated areas for use by policy

- Establishes expectation of not using cannabis in the parks, except in designated areas
- Enforceable by staff (policy) and peace officers and park patrol agents (ordinance)
- Maximum penalty is petty misdemeanor
- Provides opportunity for permitted use areas

## 4. Adopt a petty misdemeanor ordinance

- Establishes expectation of not using cannabis in the parks
- Enforceable by peace officers and park patrol agents
- Maximum penalty is petty misdemeanor



# Options in review

## 5. Adopt a petty misdemeanor ordinance with an administrative penalty

- Establishes expectation of not using cannabis in the parks
- Enforceable by peace officers and park patrol agents
- Penalty is an administrative fine, un-paid fines are referred to court as a petty misdemeanor or advanced to collections
- No existing infrastructure to manage program, may require additional staffing



# Options for Consideration

1. Take no action
2. Adopt a policy
3. Adopt a petty misdemeanor ordinance with ability to create exceptions/designated areas for use by policy
4. Adopt a petty misdemeanor ordinance
5. Adopt a petty misdemeanor ordinance with an administrative penalty



# Board Discussion and Direction

