

**Regular City
Council**

August 16, 2022

To: Dave Callister, City Manager**Prepared by:** Jodi Gallup, City Clerk/Administrative Coordinator**Reviewed by:** Maria Solano, Deputy City Manager**Item:** **Discuss new law related to edible cannabinoid products and potential local regulation****1. Action Requested:**

Discuss new law related to edible cannabinoid products and consider an interim ordinance prohibiting the sale, testing, manufacturing and distribution of THC products.

2. Background:

On July 1, 2022, a new law was enacted that allows certain edible and beverage products infused with no more than 5 milligrams of hemp derived tetrahydrocannabinol (THC) per serving to be sold to people 21 and older.

The new legislation includes some requirements for labeling and testing but does not provide adequate information on many parameters including the regulation of production, compliance checks or sales of THC products. Some Minnesota cities are enacting moratoriums to temporarily ban THC sales, while they study the issue. Other cities are discussing creating local licensing regulations such as where edibles can be manufactured or sold, the age of the person selling the products, where products can be located within a retail store, if pop-up sales are allowed, and minimum distances from schools, parks, and residential areas, etc.

The new law does not prohibit local regulation or require cities to take local action in regulating such products. It is also unclear if cities can completely prohibit the sale because the new law does not include opt-in or opt-out provisions for cities. It is likely that additional legislation that creates a regulatory framework will be introduced and passed at the 2023 legislative session.

Since the new law was enacted, staff contacted grocery stores, gas stations, tobacco shops, and liquor stores in the city to inquire if they are selling THC infused edibles or beverages. Currently, staff is aware of four businesses in the city selling THC infused edibles. No business is selling THC infused beverages at this time. State law limits what liquor stores are allowed to sell and under current law, liquor stores are not allowed to sell any THC infused edibles; however, it is unclear whether liquor stores will be able to sell THC infused products that are labeled "mixers". Three businesses have confirmed they sell CBD gummies without THC. Additionally, four existing businesses have indicated they may sell THC infused edibles in the future.

The State of Minnesota has created a "Law Enforcement Hemp-Derived THC Inspection Checklist", which has been distributed to local law enforcement offices to use in the field when reviewing products (see attached). The checklist covers proper product labeling and packaging, verifying sales

are not to those under 21 and checking for cannabinoids that are not allowed. Without a city license, the city does not have a method to collect a fee to cover the inspections of sites for compliance.

Option A

Staff recommends the city council consider a moratorium on the sale of THC products in the City. Pursuant to Minnesota State Statute, the City may enact by ordinance a moratorium to regulate, restrict or prohibit any use within the jurisdiction to protect the public health, safety and welfare. A moratorium would prohibit the sale, testing, manufacturing and distribution of THC products in the City for up to one year to allow time to study the land use impacts of THC products and develop a system of regulation and licensure of the sale of these products.

If the council is in support of a moratorium, staff could present the ordinance as early as the August 30, 2022 council meeting. The only notice requirement would be to post the proposed ordinance on the City website at least 10 days in advance of the meeting. If approved, the moratorium would take effect immediately on August 30, 2022. Attached is a draft interim ordinance.

Option B

The council may select to allow sales to continue, while developing a city license that addresses zoning, fee structure to off-set inspection costs, etc. A concern with this option is that it is likely that additional regulations will be passed by the state legislature which could affect the city licensing process that is selected.

Option C

The council may select to allow sales to continue and wait for the state to take further action on a state regulatory framework. Concerns with this option include that public safety personnel would be responsible for the unfunded state mandate of inspecting sites that sell THC products and the City may see an influx of businesses selling THC products once they realize the City has no local licensing requirements.

The attached League of Minnesota Cities' FAQ provides additional information pertaining to local regulatory authority, law enforcement, taxing, and employment. It can also be viewed online at: <https://www.lmc.org/resources/cities-and-regulation-of-edible-cannabinoid-products/>.

3. Budget Impact:

There is currently no license that allows for the collection of a city fee to cover the regulation and compliance of TCH products.

4. Attachments:

[FAQ](#)

[THC Inspection Checklist](#)

[Draft Interim Ordinance](#)