

**LAUDERDALE CITY COUNCIL MEETING AGENDA**  
**7:00 P.M. TUESDAY, JULY 11, 2023**  
**LAUDERDALE CITY HALL, 1891 WALNUT STREET**

The City Council is meeting as a legislative body to conduct the business of the City according to Robert's Rules of Order and the Standing Rules of Order and Business of the City Council. Unless so ordered by the Mayor, citizen participation is limited to the times indicated and always within the prescribed rules of conduct for public input at meetings.

1. **CALL TO ORDER THE LAUDERDALE CITY COUNCIL MEETING**
2. **ROLL CALL**
3. **APPROVALS**
  - a. Agenda
  - b. Minutes of the June 27, 2023 City Council Meetings
  - c. Claims Totaling \$141,719.86
4. **CONSENT**
5. **SPECIAL ORDER OF BUSINESS/RECOGNITIONS/PROCLAMATIONS**
6. **INFORMATIONAL PRESENTATIONS / REPORTS**
  - a. Day in the Park Update
  - b. City Council Updates
7. **PUBLIC HEARINGS**

Public hearings are conducted so that the public affected by a proposal may have input into the decision. During hearings all affected residents will be given an opportunity to speak pursuant to the Robert's Rules of Order and the standing rules of order and business of the City Council.

  - a. Ordinance No. 23-01 – Interim Ordinance Authorizing a Study and Imposing a Moratorium on the Operation of Cannabis Businesses
  - b. Resolution No. 071123A – Authorizing Publication of Ordinance No. 23-01 by Title and Summary
8. **DISCUSSION / ACTION ITEM**
  - a. 2022 Moratorium on the Sale of Hemp Derived THC Products
  - b. 2023-2024 Goal Setting Session
9. **ITEMS REMOVED FROM THE CONSENT AGENDA**
10. **ADDITIONAL ITEMS**
11. **SET AGENDA FOR NEXT MEETING**
  - a. Electronic Funds Transfer Policy
  - b. June Financial Report
  - c. Quarterly Investment Report
  - d. Variance Request by Owners of 1897 Malvern Street
  - e. Annual Storm Water Report

- f. Long-Term Planning Session with Victoria Holthaus of AEM Financial Solutions (September 12)

12. **WORK SESSION**

- a. Community Development Update
- b. Opportunity for the Public to Address the City Council

Any member of the public may speak at this time on any item not on the agenda. In consideration for the public attending the meeting, this portion of the meeting will be limited to fifteen (15) minutes. Individuals are requested to limit their comments to three (3) minutes or less. If the majority of the Council determines that additional time on a specific issue is warranted, then discussion on that issue shall be continued at the end of the agenda. Before addressing the City Council, members of the public are asked to step up to the microphone, give their name, address, and state the subject to be discussed. All remarks shall be addressed to the Council as a whole and not to any member thereof. No person other than members of the Council and the person having the floor shall be permitted to enter any discussion without permission of the presiding officer.

Your participation, as prescribed by the Robert's Rules of Order and the standing rules of order and business of the City Council, is welcomed and your cooperation is greatly appreciated.

13. **ADJOURNMENT**

**To provide public comments, join us via Zoom.**

You are invited to a Zoom webinar.

When: Jul 11, 2023 07:00 PM Central Time (US and Canada)

Topic: July 11, 2023 City Council Webinar

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/84521174113?pwd=dzJhcTNkWjE0WW8wODZIRmNVYTRDZz09>

Passcode: 634544

Or One tap mobile :

+16469313860,,84521174113# US

+13017158592,,84521174113# US (Washington DC)

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago); +1 646 558 8656 US (New York)

+1 253 215 8782 US (Tacoma); +1 346 248 7799 US (Houston)

+1 669 900 9128 US (San Jose)

888 788 0099 US Toll Free; 833 548 0276 US Toll Free

833 548 0282 US Toll Free; 877 853 5247 US Toll Free

Webinar ID: 845 2117 4113

International numbers available: <https://us02web.zoom.us/j/84521174113>

LAUDERDALE CITY COUNCIL  
MEETING MINUTES  
Lauderdale City Hall  
1891 Walnut Street  
Lauderdale, MN 55113

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June 27, 2023

**Call to Order**

Mayor Gaasch called the Regular City Council meeting to order at 7:03 p.m.

**Roll Call**

Councilors present: Jeff Dains, Duane Pulford, Evan Sayre, and Mayor Mary Gaasch.

Councilor absent: Sharon Kelly

Staff present: Heather Butkowski, City Administrator; Jim Bownik, Assistant to the City Administrator; and Miles Cline, Deputy City Clerk.

**Approvals**

Mayor Gaasch asked if there were any additions to the meeting agenda. Dains stated that he would like to add a discussion about the old Lauderdale school bell to the Additional Items section of the Agenda. Gaasch continued to say that she would like to add a Day in the Park update to the Informational Presentations/Reports section of the agenda. There being nothing else, Councilor Dains moved and seconded by Councilor Pulford to approve the agenda as amended. Motion carried unanimously.

Mayor Gaasch asked if there were corrections to the minutes of the June 13, 2023 city council meeting. There being none, Councilor Pulford moved and seconded by Councilor Sayre to approve the minutes of the June 13, 2023 city council meeting. Motion carried unanimously.

Mayor Gaasch asked if there were any questions on the claims. There being none, Councilor Dains moved and seconded by Councilor Pulford to approve the claims totaling \$25,752.48. Motion carried unanimously.

**Consent**

Councilor Sayre moved and seconded by Councilor Pulford to approve the Consent Agenda thereby acknowledging the May financial report and approving the performance agreement with Lazy Does It Band.

**Informational Presentations/Reports**

A. Senator Clare Oumou Verbeten and Representative Leigh Finke

Verbeten and Finke were both in attendance at the meeting. They updated the council on the recently completed legislative session and answered questions from council members.

The council recessed from 7:37 to 7:44 p.m.

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**B. City Council Updates**

Councilor Dains shared that he, Councilor Pulford, and Mayor Gaasch attended the annual League of Minnesota Cities conference where they covered a variety of topics from this past legislative session. They especially noted the ways in which cities are grappling with the new cannabis legislation.

**C. Day in the Park**

Assistant to the City Administrator Bownik gave an update on the food, games, music, and events that will take place at Lauderdale's annual Day in the Park event. The event will take place on Thursday, July 13 from 5:00 – 8:00 p.m. at Lauderdale Community Park.

**Discussion/Action Item**

**A. Resolution No. 062723A – Adopting Comprehensive Emergency Operations Plan**

Butkowski explained that for two decades, Ramsey County has adopted a countywide approach to emergency operations planning. This approach saves money, reduces duplicated efforts, and streamlines training and exercises/practice to save lives, property, and the environment through a common language and a common concept of operations. The Comprehensive Emergency Operations Plan (CEOP) is a complete rewrite of the existing document considering lessons learned from real world emergencies that affected Ramsey County over the past several years. It reflects changes to operational processes and directs attention to Ramsey County's most vulnerable communities. This rewritten CEOP was developed with the input of affected Ramsey County agencies, cities, and subject matter experts to prepare the county for disasters in the decades to come. The countywide CEOP serves as the required plan for all of Ramsey County's suburban municipalities.

Councilor Sayre moved and seconded by Councilor Dains to approve Resolution No. 062723A Adopting Comprehensive Emergency Operations Plan. Motion carried unanimously.

**Additional Items**

**A. Lauderdale School Bell**

Councilor Dains said a resident of Lake Elmo may be in possession of the former Lauderdale school bell. Dains is going to look into this further to authenticate the item before the Council decides on whether they would take possession.

**Set Agenda for Next Meeting**

Butkowski stated that the July 11 council meeting might include an electronic funds transfer policy, a moratorium on the operation of cannabis businesses, and a goal setting session.

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**Work Session**

A. Community Development Update

Butkowski shared that Real Estate Equities plans to host an open house in the fall. The Council discussed visiting the city-owner lots on Walsh Lake before the next meeting on July 11. Staff will post notice.

B. Opportunity for the Public to Address the City Council

Mayor Gaasch opened the floor to those in attendance interested in addressing the Council. There being nobody interested in speaking, Mayor Gaasch closed the floor.

**Adjournment**

Councilor Dains moved and seconded by Councilor Pulford to adjourn the meeting at 8:20 p.m. Motion carried unanimously.

Respectfully submitted,



Miles Cline  
Deputy City Clerk



CITY OF LAUDERDALE  
LAUDERDALE CITY HALL  
1891 WALNUT STREET  
LAUDERDALE, MN 55113  
651-792-7650  
651-631-2066 FAX

### **Request for Council Action**

**To:** Mayor and City Council  
**From:** City Administrator  
**Meeting Date:** July 11, 2023  
**Subject:** List of Claims

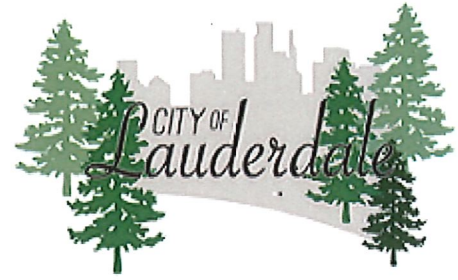
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The claims totaling \$141,719.86 are provided for City Council review and approval that includes check numbers 28498 to 28513.

# Accounts Payable

## Checks by Date - Detail by Check Date

User: miles.cline  
 Printed: 7/7/2023 2:50 PM



Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
ACH	43	Public Employees Retirement Association	07/07/2023	
		PR Batch 51400.07.2023 PERA Coordinated	PR Batch 51400.07.2023 PER	1,244.34
		PR Batch 51400.07.2023 PERA Coordinated	PR Batch 51400.07.2023 PER	1,078.43
Total for this ACH Check for Vendor 43:				2,322.77
ACH	44	Minnesota Department of Revenue	07/07/2023	
		PR Batch 51400.07.2023 State Income Tax	PR Batch 51400.07.2023 Statu	701.74
Total for this ACH Check for Vendor 44:				701.74
ACH	45	ICMA Retirement Corporation	07/07/2023	
		PR Batch 51400.07.2023 Deferred Comp	PR Batch 51400.07.2023 Deft	1,247.57
		PR Batch 51400.07.2023 Deferred Comp	PR Batch 51400.07.2023 Deft	1,656.15
Total for this ACH Check for Vendor 45:				2,903.72
ACH	46	Internal Revenue Service	07/07/2023	
		PR Batch 51400.07.2023 Medicare Employer Po	PR Batch 51400.07.2023 Mec	260.86
		PR Batch 51400.07.2023 Medicare Employee Pc	PR Batch 51400.07.2023 Mec	260.86
		PR Batch 51400.07.2023 Federal Income Tax	PR Batch 51400.07.2023 Fed	1,494.23
		PR Batch 51400.07.2023 FICA Employee Portio	PR Batch 51400.07.2023 FIC.	1,115.40
		PR Batch 51400.07.2023 FICA Employer Portio	PR Batch 51400.07.2023 FIC.	1,115.40
Total for this ACH Check for Vendor 46:				4,246.75
ACH	47	Public Employees Insurance Program	07/07/2023	
		PR Batch 51400.07.2023 Health Insurance	PR Batch 51400.07.2023 Hea	2,788.45
		PR Batch 51400.07.2023 Dental	PR Batch 51400.07.2023 Den	85.20
Total for this ACH Check for Vendor 47:				2,873.65
Total for 7/7/2023:				13,048.63
28498	20	Abdo LLP	07/11/2023	
	473745	2022 Audit		127.50
	473745	2022 Audit		595.00
	473745	2022 Audit		127.50
Total for Check Number 28498:				850.00
28499	373	ARAMARK Uniform & Career Apparel Gr	07/11/2023	
	6290145235	June Uniforms		19.22
	6290145235	June Uniforms		19.21
	6290147393	June Uniforms		19.44
	6290147393	June Uniforms		19.45
Total for Check Number 28499:				77.32
28500	383	Aspen Waste Systems of Minnesota Inc	07/11/2023	

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
	S1474681-070123	July Refuse Service		392.73
			Total for Check Number 28500:	392.73
28501	29 4354	City of St Anthony July Police Services	07/11/2023	71,692.50
			Total for Check Number 28501:	71,692.50
28502	61 3060535	Gopher State One Call June Locates	07/11/2023	35.10
			Total for Check Number 28502:	35.10
28503	78	League of Minnesota Cities Insurance Trust	07/11/2023	
	2023-24	2023-2024 Work Comp Insurance		1,183.92
	2023-24	2023-2024 Work Comp Insurance		105.37
	2023-24	2023-2024 Work Comp Insurance		59.69
	2023-24	2023-2024 Work Comp Insurance		153.32
	2023-24	2023-2024 Work Comp Insurance		85.42
	2023-24	2023-2024 Work Comp Insurance		3,429.35
	2023-24	2023-2024 Work Comp Insurance		1,926.31
	2023-24	2023-2024 Work Comp Insurance		41.07
	2023-24	2023-2024 Work Comp Insurance		2,768.54
	2023-24	2023-2024 Work Comp Insurance		2,263.93
	2023-24	2023-2024 Work Comp Insurance		142.08
			Total for Check Number 28503:	12,159.00
28504	78	League of Minnesota Cities Insurance Trust	07/11/2023	
	2023-2024	2023-2024 Property / Liability Insurance		973.00
	2023-2024	2023-2024 Property / Liability Insurance		3,307.96
	2023-2024	2023-2024 Property / Liability Insurance		9,159.35
	2023-2024	2023-2024 Property / Liability Insurance		4,058.75
	2023-2024	2023-2024 Property / Liability Insurance		109.60
	2023-2024	2023-2024 Property / Liability Insurance		1,460.83
	2023-2024	2023-2024 Property / Liability Insurance		491.32
	2023-2024	2023-2024 Property / Liability Insurance		196.35
	2023-2024	2023-2024 Property / Liability Insurance		50.84
			Total for Check Number 28504:	19,808.00
28505	281 299044	McDonough's Sewer Service Inc Jet and Vacuum Pleasant Street Storm Sewer	07/11/2023	2,890.25
			Total for Check Number 28505:	2,890.25
28506	23 INV2308417	Metro Sales Inc 2Q23 Copy Charges	07/11/2023	111.02
			Total for Check Number 28506:	111.02
28507	387 1351	Metro-INET July IT Services	07/11/2023	2,190.00
			Total for Check Number 28507:	2,190.00
28508	24 0001160266	Metropolitan Council August Waste Water	07/11/2023	12,824.43
			Total for Check Number 28508:	12,824.43



Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
28509	12	NineNorth	07/11/2023	
	2023-116	May Webstreaming & Archiving		255.41
	2023-116	June Virtual Meeting Charge		74.75
	2023-116	June Virtual Meeting Production		360.00
Total for Check Number 28509:				690.16
28510	84	North Star Bank Cardmember Services	07/11/2023	
	072023	June Costco Fuel		43.18
	072023	June Costco Fuel		201.53
	072023	HB - ICMA Management Assessment		75.00
	072023	Jump City - Bounce House		450.40
	072023	June Costco Fuel		43.19
Total for Check Number 28510:				813.30
28511	372	Duane Pulford	07/11/2023	
	072023	DP - LMC Conf Mileage and Hotel		514.48
Total for Check Number 28511:				514.48
28512	4	The Neighborhood Recycling Company Inc	07/11/2023	
	SI007256	June Multi-Family Recycling		420.21
	SI007256	June Single Unit Dwelling		3,026.73
Total for Check Number 28512:				3,446.94
28513	3	US National Equipment Finance Inc	07/11/2023	
	504968736	July Copier Lease		176.00
Total for Check Number 28513:				176.00
Total for 7/11/2023:				128,671.23
Report Total (21 checks):				141,719.86

## LAUDERDALE COUNCIL ACTION FORM

### Action Requested

Consent	_____
Public Hearing	_____
Discussion	_____X_____
Action	_____X_____
Resolution	_____X_____
Work Session	_____

Meeting Date July 11, 2023

ITEM NUMBER New Cannabis Laws

STAFF INITIAL 

APPROVED BY ADMINISTRATOR \_\_\_\_\_

### DESCRIPTION OF ISSUE AND PAST COUNCIL ACTION:

Ron Batty, the city attorney, will join the meeting remotely to discuss the new cannabis legislation. Ron provided a memo, draft interim ordinance, and draft publication resolution along with the following for the discussion:

“The big picture is that the state is going to play the lead on regulating cannabis businesses with cities having a rather limited role. Parts of the statute go into effect on July 1 and August 1 but it is going to be a while before much happens. The new state department needs to be established and rules need to be implemented. It is likely that no licenses will be issued by the state for six months or more. In the meantime, cities need to determine if and how they want to get into the game. In recognition of this, the statute allows cities to adopt an interim ordinance which may prohibit an business from opening in the city. The ordinance may be in effect until January 1, 2025, longer than the 12 months usually allowed for interim ordinances. Since it will be difficult for cities to figure out how they want to participate until the state rules are in place, I think it makes sense to adopt a moratorium to buy some time.”

If the Council decides to adopt the interim ordinance and publish the ordinance by title and summary, then the following two motions need to be made.

### OPTIONS:

### STAFF RECOMMENDATION:

Motion to adopt Ordinance No. 23-01— Interim Ordinance Authorizing a Study and Imposing a Moratorium on the Operation of Cannabis Businesses.

Motion to adopt Resolution No. 071123A – Authorizing Publication of Ordinance No. 23-01 by Title and Summary.



Kennedy & Graven  
Fifth Street Towers  
150 South Fifth Street, Suite 700  
Minneapolis, MN 55402

(612) 337-9262 direct  
rbatty@kennedy-graven.com

## MEMORANDUM

**TO:** Heather Butkowski, City Administrator

**FROM:** Ron Batty, city attorney  
Jason Hill, attorney

**DATE:** June 1, 2023

**RE:** Summary of cannabis legalization and city roles and regulations

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### **I. Introduction**

This memorandum provides a summary of the cannabis legalization (the “Act”) that Governor Walz signed into law on May 30, 2023 and identifies the potential, although limited, regulatory options available to Minnesota cities, including the ability of the City to adopt a moratorium that would remain in place until January 1, 2025. This memorandum does not include a summary of all provisions of the Act, which is approximately 321 pages long, but rather focuses on key provisions that may impact Lauderdale.

Most provisions of the Act take effect on either July 1, 2023 or August 1, 2023. However, certain changes related to edible cannabinoid products (the products that were legalized in 2022) went into effect on May 31, 2023, the day after the Act was signed. I addressed those changes in a separate memorandum, also dated May 31, 2023.

### **II. State Agency and Licensing**

#### **A. Office of Cannabis Management**

The stated purpose of the Act includes (1) elimination of the illicit market for cannabis, (2) meeting the market demand for cannabis, (3) promoting a craft industry for cannabis, and (4) prioritizing growth and recovery in communities that have experienced a disproportionate, negative impact from cannabis prohibition.

The Act creates the Minnesota Office of Cannabis Management (“OCM”), which will have several very broad powers and duties that include, in general, establishing rules and regulating the industry; promoting economic growth; issuance and renewal of licenses; inspections; and authorizing research and studies. The regulation of medical cannabis, which is already legal in

Minnesota, will also transfer to the OCM effective March 1, 2025. The director of the OCM is appointed by the Governor with the consent of the Senate. The Act also requires the creation of a Division of Social Equity within the OCM to “engage with the community and administer grants to communities that experienced a disproportionate, negative impact from cannabis prohibition and usage in order to promote economic development, improve social determinants of health, provide services to prevent violence, support early intervention programs for youth and families, and promote community stability and safety.”

## **B. State Licensing and Rulemaking**

The Act establishes licenses, to be issued by the OCM, and licensing processes, for the following businesses (all of which are expressly defined in the Act):

- cannabis microbusiness;
- cannabis mezzobusiness;
- cannabis cultivator;
- cannabis manufacturer;
- cannabis retailer;
- cannabis wholesaler;
- cannabis transporter;
- cannabis testing facility;
- cannabis event organizer;
- cannabis delivery service;
- lower-potency hemp edible manufacturer;
- lower-potency hemp edible retailer;
- medical cannabis cultivator;
- medical cannabis processor;
- medical cannabis retailer; or
- medical cannabis combination business.

A license is not required for the sale of hemp-derived topical products.

The provision establishing the OCM has an effective date of July 1, 2023, and it authorizes expedited state rulemaking. Under the expedited process, an agency publishes notice of its proposed rule(s) in the State Register and mails notices to those who have requested notice. The agency must then allow at least 30 days for comment. At the end of the comment period, and after an administrative law judge approves the form and legality, the agency may adopt the rule(s). Unlike the customary rulemaking process, there is no opportunity for public hearings under the expedited process unless the legislature specifically provides for this opportunity. Technically, the OCM could adopt rules within 30 days and start issuing licenses after that rulemaking is completed. However, given the scope of the task at hand, it seems apparent that rulemaking will not be completed for a significant period of time. The State must go through the process of establishing the OCM and retaining employees before it can even start the rulemaking process. According to the League of Minnesota Cities’ website, the authors of the Act anticipate that the first retail licenses for products will be issued sometime in 2024.

### C. Communications with Cities

Cities will be involved, to an extent, in the OCM's licensing process. Upon receipt of an application for a license, the OCM is required to contact the city and provide it with 30 days in which to provide input on the application. Within 30 days of receiving a copy of an application for a cannabis business license from the OCM, the city shall certify on a form provided by the OCM whether a proposed cannabis business complies with local zoning ordinances and, if applicable, whether the proposed business complies with the state fire code and building code. The city can provide the OCM with any additional information it believes is relevant to the OCM's decision on whether to issue a license, including, but not limited to, identifying concerns about the proposed location of a cannabis business or sharing public information about an applicant.

The OCM will establish an expedited complaint process to receive, review, and respond to complaints made by cities about a cannabis business. Complaints may include alleged violations of local ordinances or other alleged violations. At a minimum, the expedited complaint process will require the OCM to provide an initial response to the complaint within seven days and perform any necessary inspections within 30 days.

If the city notifies the OCM that a cannabis business (other than a cannabis retailer, cannabis microbusiness with a retail operations endorsement, cannabis mezzobusiness, lower-potency hemp edible retailer, medical cannabis retailer, or medical cannabis combination business) poses an immediate threat to the health or safety of the public, the OCM must respond within one business day and may take certain enforcement action against the business.

### III. Local Control and Obligations

In general, the degree of local control available to cities is extremely limited. However, there are a few options in the Act that a city can pursue.

#### A. General Regulatory and Zoning Authority

The Act expressly provides that a city cannot prohibit the possession, transportation, or use of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products authorized under the statutes, and a city may not prohibit the establishment or operation of a cannabis business licensed under state statute. **However, the city may adopt "reasonable restrictions on the time, place, and manner of the operation of a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis businesses."** The OCM is tasked with working with local governments to develop model ordinances that includes these provisions, standardized forms, and procedures for the issuance of retail registration (see below) and model policies and procedures for compliance checks.

The Act also allows regulation on distances from certain types of buildings/uses through zoning regulations. Specifically, cities may prohibit the operation of a cannabis business within 1,000 feet

of a school or 500 feet of a day care, residential treatment facility, or an attraction within a public park that is regularly used by minors, including a playground or athletic field.

Additionally, cities can limit, **by ordinance**, the number of *cannabis retailers, cannabis mezzobusinesses with a retail operations endorsement, and cannabis microbusinesses with a retail operation* to no fewer than one registration for every 12,500 residents. A city may also allow licensed cannabis retailers in excess of these minimums. It is important to note that the language of the ordinance must reference “registrations” as opposed to licenses. Furthermore, if a county has one active registration for every 12,500 county residents, a city within the county is not obligated to register a cannabis business. The Act does not address when populations don’t exactly match the 12,500 number or multiples thereof, and whether cities should round up or round down. The future OCM rules may address this question.

In the zoning context, the Act also requires that prior to the issuance of a cannabis business license, the OCM “**shall request a land use compatibility statement** from the city, town, or county that authorizes the land use. The land use compatibility statement must demonstrate that the requested license is for a land use that is allowable within the given zoning district in which the land is located. The OCM **may not issue a license** if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone or if the applicant has failed to meet the land use requirements of the jurisdiction. A city that receives such a request must act on the request within 21 days of receipt if the use is allowable and has applied for and received all necessary land use approvals. Based on the language used in the Act, it is unclear if the OCM will also be requesting land use compatibility statement for lower potency hemp licenses. Again, that might be clarified in the OCM rules. As a general rule, structures housing cannabis businesses must also comply with local building and fire regulations.

## **B. Interim Ordinance/Moratorium**

The Act provides that if a city is “conducting studies or has authorized a study to be conducted or has held or has scheduled a hearing for the purpose of considering adoption or amendment of reasonable restrictions on the time, place, and manner of the operation of a cannabis business, the governing body of the local unit of government may adopt an interim ordinance applicable to all or part of its jurisdiction for the purpose of protecting the planning process and the health, safety, and welfare of its citizens.” **As part of this interim ordinance, a city may prohibit a cannabis business from opening in its jurisdictional boundaries until January 1, 2025.** Before adopting the interim ordinance, a city must hold a public hearing. There are no specific provisions regarding notice or other public hearing guidelines. Lauderdale should determine now whether it wants to adopt a moratorium on cannabis businesses as authorized by the Act, which will buy the city some time to consider what options are available and what policy direction is most desirable. Given all of the questions and uncertainties surrounding the Act and its potential impacts, I recommend that the city adopt such a moratorium.

## C. City Cannabis Store/Liquor Store Sales

If a city desires, it may establish, own, and operate a municipal cannabis store subject to the restrictions in the Act. Liquor stores may also sell edible cannabinoids immediately with the passage of the Act.

## D. Retailer Registration

### 1. General Provisions

The Act requires the following retailers to register with the city prior to making sales to customers or patients:

- A cannabis microbusiness with a retail operations endorsement;
- Cannabis mezzobusiness with a retail operations endorsement;
- Cannabis retailer;
- Medical cannabis retailer;
- Medical cannabis combination business; and
- Lower-potency hemp edible retailer.

The registration requirement **does not apply** to other cannabis businesses (manufacturers, wholesalers, cultivators, transporters, etc.). **A city may impose an initial retail registration fee of \$500, or up to half the amount of the applicable initial license fee paid to the State, whichever is less. The city may also impose a renewal retail registration fee of \$1,000, or up to half the amount of the applicable renewal license fee paid to the State, whichever is less.** The initial license fee includes the fee for initial registration and the first annual renewal. Therefore, renewal fees must be charged by the city at the time of the second renewal and each subsequent annual renewal thereafter. The city cannot charge an application fee, and a cannabis business with a cannabis and medical cannabis retail license for the same location can only be charged a single registration fee. For reference, the following are the fees charged by the State:

- Cannabis microbusiness: initial license fee of \$0 and a renewal license fee of \$2,000;
- Cannabis mezzobusiness: an initial license fee of \$5,000 and a renewal license fee of \$10,000;
- Cannabis retailer: an initial license fee of \$2,500 and a renewal license fee of \$5,000;
- Medical cannabis retailer: an initial license fee of \$0 and a renewal license fee of \$0;
- Medical cannabis combination business: an initial license fee of \$20,000 and a renewal license fee of \$70,000; and
- Lower-potency hemp edible retailer: an initial license fee of \$250 per retail location and a renewal license fee of \$250 per retail location.

### 2. Registration Obligations Imposed Upon the City

The city must issue a registration if the business meets certain criteria (valid license, paid fees, compliant with preliminary check and current on property taxes). **Before issuing a retail registration, the city can conduct a “preliminary compliance check” to ensure that the**

**cannabis business is in compliance with the applicable operation requirements and the limits on the types of products that may be sold.** When the OCM renews a license, the city must renew the registration.

Registration creates additional obligations on the part of the city. **The city is required to “conduct compliance checks of every cannabis business and hemp business with a retail registration issued by” the city.** The checks must assess compliance with age verification requirements, the applicable operation requirements, and the applicable limits on the types of products being sold. Checks regarding compliance with operation requirement and the limits on the types of products sold must be performed at least once each calendar year and may be performed by a law enforcement officer or another city employee.

**Similar to tobacco licensing, the city is also required to conduct unannounced age verification compliance checks at least once each calendar year.** Age verification compliance checks must involve persons at least 17 years of age, but under the age of 21, who, with the prior written consent of a parent or guardian if the person is under the age of 18, attempt to purchase adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, or hemp-derived consumer products under the direct supervision of a law enforcement officer or an employee of the city.

### 3. Registration Suspension

**If the city determines that a cannabis business or hemp business with a retail registration is not operating in compliance with the statute or that it poses an immediate threat to the health or safety of the public, the city may suspend the retail registration of the cannabis business or hemp business.** The city must immediately notify the OCM of the suspension and include a description of the grounds for the suspension. The OCM will review the suspension and may order reinstatement of the retail registration or other licensed based penalties or enforcement action. The retail registration suspension may not exceed 30 days unless the OCM suspends the license and operating privileges of the cannabis business or hemp business for a longer period or revokes the license. The city may reinstate the retail registration if the city determines that any violation has been cured. The city must reinstate the retail registration if the OCM orders reinstatement.

Sales are prohibited without registration, and the city may impose a civil penalty of up to \$2,000 for each violation of the registration provisions.

### 4. Retailer Operation Standards

The Act includes operational standards for retail facilities, which are regulated by the State. A few standards that the city may want to know about are below:

- Cannabis retailers are authorized to sell a variety of other products.
- A cannabis retailer may operate up to five retail locations in the state.
- A person, cooperative, or business holding a cannabis retailer license may also hold a cannabis delivery service license, a medical cannabis retailer license, and a cannabis event organizer license. It cannot hold any other cannabis license or operate any other cannabis business.



- No person, cooperative, or business may hold a license to **own or operate more than one cannabis retail business in any city** or three retail businesses in one county. A restriction on the number or type of license a business may hold applies to every cooperative member or every director, manager, and general partner of a cannabis business. (This is potentially an issue for current cannabis businesses that appear to be very interconnected.)

The Act also establishes hours of operation for cannabis retailers, but a city may by ordinance further restrict the hours of sale. The Act prohibits sales during the following hours:

- On Sundays, except between the hours of 11:00 a.m. and 6:00 p.m.;
- Before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday;
- On Thanksgiving Day and Christmas Day; and
- After 8:00 p.m. on Christmas Eve, December 24.
- Any additional *reasonable* restriction on hours imposed by the city.

#### IV. Data Practices Implications

The Act includes data practices provisions that expressly apply to the OCM and indirectly apply to the city. Application data submitted by an applicant for a cannabis business license or hemp business license, other than the specific data listed in Minnesota Statutes, section 342.20, is not public, nor is the identity of a complainant who has made a report concerning a license holder or an applicant that appears in inactive investigative data unless the complainant consents to the disclosure. Even though the OCM receives the application or may receive the complaint, the protection travels with the data, so if the city receives any of that data from the OCM, the applicant, or the complainant, the protected data classification still applies. Once an applicant for a cannabis business license or hemp business license becomes a license holder, most of the application data that the license holder previously submitted become public data with a few exceptions.

#### V. Local Government Cannabis Aid/Revenue Sharing

The Act includes aid to local governments. With regard to cities, it provides:

- Beginning for aid payable in 2024, the amount available for aid to cities equals 50 percent of the amount certified in that year to the commissioner (balance of the local government cannabis aid account in the special revenue fund).
- The amount available “must be distributed proportionally to each city according to the number of cannabis businesses located in the city as compared to the number of cannabis businesses in all cities as of the most recent certification.”
- Beginning in fiscal year 2025 and annually thereafter, the amount in the local government cannabis aid account in the special revenue fund is annually appropriated to the commissioner of revenue to make the aid payments.

The local government cannabis aid account is funded with state sales revenue. Specifically, state tax revenue is divided as follows: 80 percent to the general fund and 20 percent to the local government cannabis aid account in the special revenue fund.

## VI. Additional Act Highlights

- A cannabis event organizer must receive city approval, including obtaining any necessary permits or licenses issued by the city, before holding a cannabis event.
- Upon city approval, a cannabis event may designate an area for consumption of adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, hemp-derived consumer products, or any combination of those items.
- The Act creates a private cause of action for a “nuisance” with relief being limited to injunctive relief and the “greater of the person’s actual damages or a civil penalty of \$250.”
- If a landlord or association “fails to enforce the terms of a lease, governing document, or policy related to the use of adult-use cannabis flower on the premises or property, a person who is injuriously affected or whose personal enjoyment is lessened by a nuisance . . . as a result of the failure to enforce the terms may bring an action against the landlord or association seeking injunctive relief and the greater of the person’s actual damages or a civil penalty of \$500.”
- The State imposes a sales tax of 10% on sales, in addition to existing taxes that may apply to sales. **Cities are prohibited from imposing a tax on the sale of cannabis products.**
- The Act includes provisions for certain grants, and cities are eligible participants for many of the grants.
- The Act includes regulatory provisions enforced by the State, including packaging, labeling, testing, and advertising.

## VII. Scope of Personal Adult Use of Cannabis

Under the Act, personal use cannabis for a person 21 years of age or older is allowed as follows (cities cannot establish stricter regulations):

- Use, possess, or transport cannabis paraphernalia;
- Possess or transport **two ounces or less** of adult-use cannabis flower **in a public place**;
- Possess **two pounds or less** of adult-use cannabis flower in the individual’s private residence;
- Possess or transport eight grams or less of adult-use cannabis concentrate;
- Possess or transport edible cannabis products or lower-potency hemp edibles infused with a combined total of 800 milligrams or less of THC;
- Give for no remuneration to an individual who is at least 21 years of age:
  - two ounces or less of adult-use cannabis flower;
  - eight grams or less of adult-use cannabis concentrate; or
  - an edible cannabis product or lower-potency hemp edible infused with 800 milligrams or less of THC; and
- Use adult-use cannabis flower and adult-use cannabis products in the following locations:

- **A private residence**, including the individual's curtilage or yard;
- **On private property**, not generally accessible by the public, **unless the individual is explicitly prohibited** from consuming adult-use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on the property by the owner of the property; or
- **On the premises of an establishment or event licensed to permit on-site consumption.**
- Up to **eight cannabis plants, with no more than four being mature**, may be grown at a single residence without a license to cultivate cannabis provided **cultivation takes place at the primary residence** of an individual 21 years of age or older and **in an enclosed, locked space that is not open to public view.**

### **VIII. Human Resources Considerations**

In light of the Act, there are employment/human resources provisions that will trigger amendments to a city's personnel policies. Some considerations by cities as employers will include:

- Drug testing and how policies are written. The Act redefines the term “drug” not to include specified cannabis products, separates newly created “cannabis testing” from “drug testing”, includes limitations to such cannabis testing, and, as confusing as it seems, lists the instances, based on type of job, when cannabis use can be treated as a “drug” for purposes of “drug testing” rather than a cannabis product subject to “cannabis testing.”
- Impact of the Act with respect to CDL holders and safety-sensitive employees.
- Impact of the Act regarding statutory protection of off-duty use of legal products under Minn. Stat. § 181.938. The Act expands the statutory protections to the newly legalized products. However, the Act specifically states that section 181.938 does not limit an employer's ability to discipline or discharge an employee for cannabis flower, cannabis product, lower-potency hemp edible, or hemp-derived consumer product use, possession, impairment, sale, or transfer during working hours, on work premises, or while operating an employer's vehicle, machinery, or equipment, or if a failure to do so would violate federal or state law or regulations or cause an employer to lose a monetary or licensing-related benefit under federal law or regulations.

### **IX. Further Limitations on Use of Cannabis**

- Use in public is not allowed. Indeed, a city may adopt an ordinance establishing a petty misdemeanor offense for a person who unlawfully uses cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place provided that the definition of public place does not include the following:
  - a private residence, including the person's curtilage or yard;
  - 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
  - the premises of an establishment or event licensed to permit on-site consumption.

- Use in a vehicle is not allowed and operation while impaired is still unlawful.
- Use in schools is not allowed.
- Use in areas where smoking is prohibited is not allowed.
- Cannot “vaporize or smoke cannabis flower, cannabis products, artificially derived cannabinoids, or hemp-derived consumer products in any location where the smoke, aerosol, or vapor would be inhaled by a minor.”
- “A proprietor of a family or group family day care program must disclose to parents or guardians of children cared for on the premises of the family or group family day care program, if the proprietor permits the smoking or use of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on the premises outside of its hours of operation. Disclosure must include posting on the premises a conspicuous written notice and orally informing parents or guardians. Cannabis flower or cannabis products must be inaccessible to children and stored away from food products.”
- Extraction of cannabis concentrate using solvents is not allowed without a license.

## **X. Summary of Key Impacts to the City**

- On or after July 1, 2023:
  - The city may adopt an interim ordinance and moratorium through January 1, 2025.
  - The city may adopt “reasonable restrictions on the time, place, and manner of the operation of a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis businesses.” There will be model ordinances prepared, but they likely will not be available for a significant period of time.
  - The city may enforce other ordinances. Based on the language of the Act, this would include public nuisance provisions.
  - The city may, by ordinance, limit the number of licensed cannabis retailers, cannabis mezzobusinesses with a retail operations endorsement, and cannabis microbusinesses with a retail operations endorsement in the city, but it can go no lower than one registration for every 12,500 residents. If the county has one active registration for every 12,500 residents in the county, the city is not obligated to register a cannabis business.
- Once state rulemaking and licensing begins:
  - Within 30 days of receipt, the city must certify to the OCM that an applicant’s proposed business plan complies with local zoning ordinances and, if applicable, whether the proposed business complies with the state fire code and building code.
  - The city may give OCM additional relevant information prior to the issuance of a license, including concerns about the proposed location of a cannabis business or sharing public information about an applicant.
  - The city may charge limited registration fees for businesses that have to register with the city. The city has no discretion as to the issuance of the registration or the maximum amount of the fees.
  - The city has limited authority to suspend a registration, but the ultimate license authority rests with the OCM.

- Before issuing a retail registration, the city may conduct a “preliminary compliance check” to ensure that the cannabis business is in compliance with the applicable operation requirements and the limits on the types of products that may be sold.
- The city must conduct compliance and age verification checks for retailers registered in the city on an annual basis. The compliance checks must assess compliance with age verification requirements, the applicable operation requirements, and the applicable limits on the types of products being sold.
- The Act provides retailer hours of operation, but the city may limit those hours a little further by ordinance.
- The city may establish, own, and operate a municipal cannabis store subject to the restrictions in the statutes.
- A cannabis event organizer must receive city approval, including obtaining any necessary permits or licenses issued by the city, before holding a cannabis event.

## **XI. Conclusion and Recommendation**

As you might glean from the information summarized above, the Act is extensive and contains numerous provisions, many of which are still being interpreted and reconciled. It is anticipated that OCM is still many months away from rulemaking and license issuance. **That said, due to all of the uncertainty around potential rules and impacts, I recommend that Lauderdale adopt an interim ordinance after July 1, 2023 to allow it time to establish local regulations that satisfy the city’s policy concerns within the extent authorized.** Following the adoption of such an interim ordinance, the city would have until January 1, 2025 to establish reasonable restrictions on the time, place and manner of the operation of cannabis businesses. The interim ordinance would not necessarily need to remain in effect through January 1, 2025 should the city determine how it wishes to regulate prior to then.

ORDINANCE NO. 23-01

CITY OF LAUDERDALE  
COUNTY OF RAMSEY  
STATE OF MINNESOTA

AN INTERIM ORDINANCE AUTHORIZING A STUDY AND IMPOSING A  
MORATORIUM ON THE OPERATION OF CANNABIS BUSINESSES

The City Council of the City of Lauderdale ordains as follows:

**ARTICLE I.** Authority and Legislative Findings.

- A. The Minnesota Legislature recently enacted and Governor Walz signed 2023 Minnesota Session Laws, Chapter 63 – H.F. No. 100 (“Act”), codified as Minnesota Statutes, sections 342.01, et seq., which is comprehensive legislation relating to cannabis including, but not limited to, the establishment of the Office of Cannabis Management (“OCM”), legalizing and limiting the possession and use of cannabis and certain hemp products by adults, providing for the licensing, inspection, and regulation of cannabis businesses and hemp businesses, taxing the sale of cannabis flower, cannabis products, and certain hemp products, establishing grant and loan programs, amending criminal penalties, providing for expungement of certain convictions and providing for the temporary regulation of certain edible cannabinoid products.
- B. The Act provides local units of government certain authority related to cannabis businesses, including the authority to (1) require local registration of certain cannabis businesses operating retail establishments, (2) adopt reasonable restrictions on the time, place, and manner of the operation of cannabis businesses, provided that such restrictions do not prohibit the establishment or operation of a cannabis businesses, (3) limit the number of certain cannabis businesses based on the population of the community, and (4) prohibit the operation of a cannabis business within 1,000 feet of a school or 500 feet of a day care, residential treatment facility, or an attraction within a public park that is regularly used by minors, including a playground or athletic field.
- C. The Act requires the OCM, which was established effective July 1, 2023, to work with local governments to develop model ordinances for reasonable restrictions on the time, place, and manner of the operation of cannabis businesses. The Act also requires the OCM to establish additional rules and regulations relating to the operation of cannabis businesses. Lauderdale will benefit from reviewing and analyzing the OCM’s model ordinances, rules and regulations before making any decisions related to the regulation of cannabis businesses in the City.
- D. Minnesota Statutes, section 342.13(e) expressly allows a local unit of government that is conducting studies or has authorized a study to be conducted or has held or scheduled a hearing for the purpose of considering adoption or amendment of reasonable restrictions

on the time, place and manner of the operation of cannabis businesses to adopt an interim ordinance applicable to all or part of its jurisdiction for the purpose of protecting the planning process and the health, safety, and welfare of its citizens. The interim ordinance may regulate, restrict, or prohibit the operation of cannabis businesses within the jurisdiction or a portion thereof until January 1, 2025.

- E. Given the uncertainty regarding the model ordinances to be developed by the OCM and the broad scope of the changes to Minnesota law brought about by the Act, Lauderdale desires to adopt an interim ordinance for the purpose of protecting the planning process and the health, safety, and welfare of its citizens.
- F. Lauderdale desires to conduct a study for the purpose of considering the adoption or amendment of reasonable restrictions on the time, place and manner of the operation of cannabis businesses as well as the other regulations local units of government may adopt under the Act.
- G. On July 11, 2023, after providing at least 10 days published notice, the City Council held a public hearing regarding the consideration and adoption of an interim ordinance prohibiting the operation of cannabis businesses within the City until January 1, 2025.

**ARTICLE II. Definitions.** For purposes of this Ordinance, the following terms shall have the meanings given them in this section.

- (a) “Act” means 2023 Minnesota Session Laws, Chapter 63 (H.F. No. 100), codified as Minnesota Statutes, sections 342.01, et seq.
- (b) “Cannabis Business” has the meaning given the term in Minnesota Statutes, section 342.01, subd. 14.
- (c) “City” means the City of Lauderdale, Minnesota.
- (d) “Edible Cannabinoid Product” has the meaning given the term in Minnesota Statutes, section 151.72, subd. 1(f).
- (e) “OCM” means the Office of Cannabis Management, established as set forth in Minnesota Statutes, section 342.02, subd. 1.
- (f) “Ordinance” means this interim ordinance, which is adopted pursuant to Minnesota Statutes, section 342.13(e).

**ARTICLE III. Study Authorized.** The City Council hereby authorizes and directs the City Administrator to have City staff and consultants conduct a study regarding the adoption or amendment of reasonable restrictions on the time, place, and manner of the operation of Cannabis Businesses, as well as the other potential local regulations allowed under the Act, and report to the City Council on the potential regulation of Cannabis Businesses. The study must include a review of the model ordinances the OCM is directed to draft under Minnesota Statutes, section 342.13(d),

an analysis of potential setback regulations allowed under Minnesota Statutes, section 342.13(c), and such other matters as staff may determine are relevant to the City Council's consideration of this matter. The report shall include the City staff's recommendations on whether the City Council should adopt regulations and, if so, the recommended types of regulations.

**ARTICLE IV. Moratorium.** A moratorium is hereby imposed regarding the operation of a Cannabis Business within the City. During the term of this Ordinance, no business, person, or entity may establish or operate a Cannabis Business within Lauderdale. The City shall not accept, process, or act on any application, site plan, building permit, zoning request, or other approval, including any requested confirmation, certification, approval, or other request from the OCM or other governmental entity requesting City review of any application or proposal for a business proposing to engage in the operation of a Cannabis Business.

**ARTICLE V. Violation.** During the term of the moratorium, it is a violation of this Ordinance for any business, person, or entity to establish or operate a Cannabis Business within the City.

**ARTICLE VI. Exceptions.** The moratorium imposed by this Ordinance does not apply to: (1) the continued operation of a business as part of the Medical Cannabis Program administered by the Minnesota Department of Health that was lawfully operating within the City prior to July 1, 2023; (2) the lawful sale of Edible Cannabinoid Products in compliance with Minnesota Statutes, section 151.72; or (3) sales of Edible Cannabinoid Products at an exclusive liquor store in accordance with Minnesota Statutes, section 340A.412, subd. 14. Nothing in this Article exempts a business, person, or entity that is selling Edible Cannabinoid Products from having to comply with all requirements and prohibitions of applicable laws and ordinances.

**ARTICLE VII. Enforcement.** Violation of this Ordinance is a misdemeanor. The City may also enforce this Ordinance by mandamus, injunction, or other appropriate civil remedy in any court of competent jurisdiction. A violation of this Ordinance is also subject to the City's general penalty in City Code and may result in the City reporting the violation to the OCM if relevant to OCM licensing. The City Council hereby authorizes the City Administrator, in consultation with the City Attorney, to initiate any legal action deemed necessary to secure compliance with this Ordinance.

**ARTICLE VIII. Duration.** This Ordinance shall become effective on the first day of publication after adoption and shall remain in effect until January 1, 2025. This Ordinance may be repealed earlier upon the effective date of an ordinance adopting or amending reasonable restrictions on the time, place and manner of the operation of a Cannabis Business within the City or by resolution of the City Council terminating this Ordinance prior to the expiration date.

**ARTICLE IX. Severability.** Every section, provision, and part of this Ordinance is declared severable from every other section, provision, and part thereof. If any section, provision, or part of this Ordinance is held to be invalid by a court of competent jurisdiction, such judgment shall not invalidate any other section, provision, or part of this Ordinance.



**Adopted by the City Council of the City of Lauderdale, Minnesota this 11<sup>th</sup> day of July 2023.**

\_\_\_\_\_  
Mary Gaasch, Mayor

ATTEST: \_\_\_\_\_  
Heather Butkowski, City Clerk-Administrator

Member \_\_\_\_\_ introduced the following resolution and moved its adoption.

CITY OF LAUDERDALE

RESOLUTION NO. 071123A

RESOLUTION AUTHORIZING PUBLICATION OF  
ORDINANCE NO. 23-01 BY TITLE AND SUMMARY

WHEREAS, the city council of the city of Lauderdale has adopted Ordinance No. 23-01, an interim ordinance establishing a moratorium on the operation of Cannabis Businesses; and

WHEREAS, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

WHEREAS, the ordinance is three pages in length; and

WHEREAS, the city council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

NOW, THEREFORE, BE IT RESOLVED by the city council of the city of Lauderdale that the city administrator shall cause the following summary of Ordinance No. 23-01 to be published in the official newspaper in lieu of the entire ordinance:

**Public Notice**

On July 11, 2023, the city council of the city of Lauderdale adopted Ordinance No. 23-01, an ordinance establishing a moratorium on the operation of cannabis businesses, as that term is now defined in state law. The 2023 Legislature adopted Minnesota Statutes, section 342.01, *et seq.* which permits the establishment and operation of cannabis businesses. The statute establishes a state Office of Cannabis Management (the “OCM”) which will be responsible for licensing cannabis businesses. Cities are allowed limited authority to regulate cannabis businesses. The OCM is required to draft model ordinances regarding reasonable restrictions on the time, place and manner of local regulations. However, cities cannot develop their ordinances until the OCM is in operation and has adopted rules and developed sample ordinances. The interim ordinance declares a moratorium on the operation of cannabis businesses and authorizes a study to determine if and how the city wishes to regulate them. Medical cannabis and other products which could be sold legally before July 1, 2023 are not covered by the moratorium, The moratorium will be in effect until

January 1, 2025 unless repealed earlier. This public notice is intended only to summarize the ordinance. The full text of the ordinance is available for inspection at Lauderdale city hall during regular business hours and has been posted to the city's website.

BE IT FURTHER RESOLVED by the city council of the city of Lauderdale that the city administrator keep a copy of the ordinance in her office at city hall for public inspection and that she post a full copy of the ordinance in a public place within the city.

Dated: July 11, 2023.

\_\_\_\_\_  
Mary Gaasch, Mayor

ATTEST:

\_\_\_\_\_  
Heather Butkowski, City Administrator

The motion for the adoption of the foregoing resolution was duly seconded by member \_\_\_\_\_ and upon vote being taken thereon, the following voted in favor thereof:

And the following voted against same:

Whereupon said resolution was declared duly passed and adopted.

**LAUDERDALE COUNCIL  
ACTION FORM**

**Action Requested**

Consent \_\_\_\_\_  
Public Hearing \_\_\_\_\_  
Discussion   X    
Action \_\_\_\_\_  
Resolution \_\_\_\_\_  
Work Session \_\_\_\_\_

Meeting Date July 11, 2023

ITEM NUMBER '22 Hemp-Derived THC Law

STAFF INITIAL AB

APPROVED BY ADMINISTRATOR

**DESCRIPTION OF ISSUE AND PAST COUNCIL ACTION:**

Ron Batty also prepared a memo regarding last year's legalization of hemp-derived edibles. The City Council adopted a moratorium that is set to expire on July 30. The purpose of this discussion is to address whether the Council finds the need to regulate the hemp-derived edibles going forward. If so, staff would prepare the necessary ordinance for adoption at the next meeting.

**OPTIONS:**

**STAFF RECOMMENDATION:**



Ronald H. Batty  
Fifth Street Towers  
150 South Fifth Street, Suite 700  
Minneapolis, MN 55402

(612) 337-9262 telephone  
(612) 337-9310 fax  
rbatty@kennedy-graven.com

## MEMORANDUM

**TO:** Heather Butkowski, City Administrator

**FROM:** Ron Batty, city attorney  
Jason Hill, attorney

**DATE:** May 31, 2023

**RE:** Summary of immediately effective changes to Minnesota Statutes, section 151.72  
(2022 legalized edible cannabinoid products)

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### **I. Introduction**

The purpose of this memorandum is to provide guidance on the impact of the recently enacted cannabis legalization bill (the “Act”) to Minnesota Statutes, section 151.72, which you will recall was amended in 2022 and resulted in the expanded sales of hemp-derived THC products in Minnesota. Governor Walz signed the Act on May 30, 2023. Unlike the majority of the provisions in the Act, which take effect on July 1, 2023, the provisions amending section 151.72 are effective immediately. In addition to amending section 151.72, the Act also amends Minnesota Statutes, section 340A.412 to allow edible cannabinoid products to be sold at exclusive liquor stores.

On July 26, 2022, the Lauderdale city council adopted a one-year moratorium on the sale of edible cannabinoid products, meaning that no business, person, or entity may sell these products in the city while the moratorium is in effect. The purpose of the moratorium was to provide time to study the issues related to regulating edible cannabinoid products.

### **II. Regulation for Sales**

The Act clarifies what types of products are considered under the two categories of products created in 2022: 1) nonintoxicating cannabinoids; and 2) edible cannabinoid products.

#### **A. Nonintoxicating Cannabinoids**

Previous guidance from the Minnesota Board of Pharmacy provided that nonintoxicating cannabinoids could include a wide range of products that could be ingested by humans and animals in many ways. The Act limits nonintoxicating cannabinoid products to products that are meant for external application only, but which do not produce an intoxicating effect when consumed by any

route of administration. The new language explicitly prohibits the sale of nonintoxicating nonedible products meant for vaping or inhaling of smoke, chewing, drinking, swallowing, injection, or by application to the mucus membrane.

## **B. Edible Cannabinoid Products**

The definition of edible cannabinoid products remains the same – a product that is intended to be eaten or consumed as a beverage by humans, contains cannabinoids in combination with food ingredients, and is not a drug – but a number of minor changes contained in the Act impact the sale edible cannabinoid products.

### 1. Likeness

Previous requirements provided that edible cannabinoid products not bear resemblance to a real or fictional person, animal, or fruit that appeals to children, be modeled after a brand of products primarily consumed or marketed to children, or be made by applying an extracted or concentrated hemp-derived cannabinoid to a commercially available candy or food snack item. The Act now also provides that they must not be substantially similar to a meat food product, poultry food product, or dairy product. (The latter two have statutory definitions elsewhere in law.)

### 2. Beverage Serving Size

Edible cannabinoid products that are meant to be consumed as a beverage may contain no more than two servings (5 mg per serving means a beverage may contain no more than 10 mg per package). The limits for edible cannabinoid products that are *not* intended to be consumed as a beverage remain the same – 50 mg of any THC total per package and each serving must be differentiated by wrapping, scoring or other indicator, and must not contain more than 5 mg of any THC.

### 3. Type of THC Allowed

The Act adds new definitions for “artificially derived cannabinoid” and “synthetically derived cannabinoids.” Artificially derived cannabinoids are cannabinoids derived from hemp that are changed after extraction. Synthetically derived cannabinoids are substances with a similar chemical structure and have a similar impact to a cannabinoid but which are not extracted or derived from hemp plants or parts. The Act clarifies that an edible cannabinoid product may contain delta-8 or delta-9 cannabinoids that is extracted or derived from the hemp plant or is an artificially derived cannabinoid but edible cannabinoid products cannot contain a synthetically derived cannabinoid (not derived or extracted from hemp).

### 4. Display and Storage

The Act requires that all edible cannabinoid products available for retail sale must be displayed in a locked case or behind the checkout counter where the public is not permitted. This display and storage requirement does not apply to edible cannabinoid products meant to be consumed as beverages.

The Act adds additional and specific age verification requirements. Retailers must verify that a customer is over the age of 21 before completing a sale. Proof of age can be established only via passport, driver's license, Tribal ID, state ID, or instructional permit. Retailers may seize IDs if they believe them to be falsified or used in violation of the law but must then deliver the same to law enforcement within 24 hours of seizure.

#### 5. Exclusive Liquor Store Sales Authorized

In addition to amending Minnesota Statutes, section 151.72, the Act amends Minnesota Statutes, section 340A.412 to specifically allow exclusive liquor stores to sell edible cannabinoid products.

#### **C. On-Site Consumption – Edible Cannabinoid Products and Nonintoxicating Cannabinoids**

Products may be sold for on-site consumption if the retailer has an on-sale liquor license under Minnesota Statutes, section 340A. Additionally, products must be served in their original packaging and cannot be sold to patrons who a retailer knows or should reasonably know is intoxicated. Retailers cannot permit the products to be mixed with alcohol, and products that are removed from packaging must be consumed on-site. This change allows the on-site consumption of both nonintoxicating cannabinoid products and edible cannabinoid products, including both traditional edibles and products meant to be consumed as beverages.

#### **D. Regulations for Testing**

The Act adds a definition for “batch.” A batch is a specified amount of product that must meet certain manufacturing requirements, a portion of which is then submitted to the testing facility. Each batch must be tested and each label must identify the batch. The Act also requires additional testing and disclosure requirements.

Manufacturers must submit a sample of each batch of product for testing to an accredited, independent laboratory before July 2, 2023. The manufacturer must further disclose to the lab all known information regarding pesticides, fertilizers, solvents, and other foreign materials applied or added to the hemp during manufacturing. The commissioner of health is entitled to review test results at any time.

#### **E. Regulations for Registration**

The Act also transitions the state level enforcement of aspects of Minnesota Statutes, section 151.72 to the Minnesota Department of Health. All individuals selling edible cannabinoid products must register with the Minnesota Department of Health on or before October 1, 2023. Selling without registration after that date is prohibited.

## **F. Penalties for Violations**

The new legislation makes violating or falsifying records to comply with Minnesota Statutes, section 151.72 a gross misdemeanor punishable by a \$3,000 fine, up to one year imprisonment, or both.

## **III. Termination of Minnesota Statutes, section 151.72**

Under the Act, Minnesota Statutes, section 151.72 will be automatically repealed on March 1, 2025. The Act also contains regulations for products defined as “lower-potency hemp edibles” which are defined similarly (but not the same) as edible cannabinoid products. It is still unclear how the transition between Minnesota Statutes, section 151.72, i.e., edible cannabinoid products, to lower-potency hemp edibles will occur between now and March 1, 2025.

## **IV. Conclusions; Next Steps**

The amendments to Minnesota Statutes, section 151.72 make clarifications to the types of products that may be sold as edible cannabinoid products, increase testing and labeling requirements, and provide for additional criteria and requirements related to sales. In addition, changes to Minnesota Statutes, section 340A.412 allows edible cannabinoid products to be sold in exclusive liquor stores.

Because Lauderdale’s moratorium is still in place, the city council will need to decide between now and July 30, 2023 how it wishes to regulate edible cannabinoid products through March 1, 2025 when section 151.72 is repealed. Given the expansion of cannabis legalization in the Act that goes well beyond product allowed via section 151.72, there is still some confusion and uncertainty about what the city’s options might be. That said, my office will continue to work with staff as it relates to the ongoing study regarding edible cannabinoid products and provide the city with a summary of options in the future.





Kennedy & Graven  
Fifth Street Towers  
150 South Fifth Street, Suite 700  
Minneapolis, MN 55402  
  
(612) 337-9262 direct  
rbatty@kennedy-graven.com

## MEMORANDUM

**TO:** Heather Butkowski, City Administrator

**FROM:** Ron Batty, city attorney  
Jason Hill, attorney

**DATE:** June 1, 2023

**RE:** Summary of cannabis legalization and city roles and regulations

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### **I. Introduction**

This memorandum provides a summary of the cannabis legalization (the “Act”) that Governor Walz signed into law on May 30, 2023 and identifies the potential, although limited, regulatory options available to Minnesota cities, including the ability of the City to adopt a moratorium that would remain in place until January 1, 2025. This memorandum does not include a summary of all provisions of the Act, which is approximately 321 pages long, but rather focuses on key provisions that may impact Lauderdale.

Most provisions of the Act take effect on either July 1, 2023 or August 1, 2023. However, certain changes related to edible cannabinoid products (the products that were legalized in 2022) went into effect on May 31, 2023, the day after the Act was signed. I addressed those changes in a separate memorandum, also dated May 31, 2023.

### **II. State Agency and Licensing**

#### **A. Office of Cannabis Management**

The stated purpose of the Act includes (1) elimination of the illicit market for cannabis, (2) meeting the market demand for cannabis, (3) promoting a craft industry for cannabis, and (4) prioritizing growth and recovery in communities that have experienced a disproportionate, negative impact from cannabis prohibition.

The Act creates the Minnesota Office of Cannabis Management (“OCM”), which will have several very broad powers and duties that include, in general, establishing rules and regulating the industry; promoting economic growth; issuance and renewal of licenses; inspections; and authorizing research and studies. The regulation of medical cannabis, which is already legal in

Minnesota, will also transfer to the OCM effective March 1, 2025. The director of the OCM is appointed by the Governor with the consent of the Senate. The Act also requires the creation of a Division of Social Equity within the OCM to “engage with the community and administer grants to communities that experienced a disproportionate, negative impact from cannabis prohibition and usage in order to promote economic development, improve social determinants of health, provide services to prevent violence, support early intervention programs for youth and families, and promote community stability and safety.”

## **B. State Licensing and Rulemaking**

The Act establishes licenses, to be issued by the OCM, and licensing processes, for the following businesses (all of which are expressly defined in the Act):

- cannabis microbusiness;
- cannabis mezzobusiness;
- cannabis cultivator;
- cannabis manufacturer;
- cannabis retailer;
- cannabis wholesaler;
- cannabis transporter;
- cannabis testing facility;
- cannabis event organizer;
- cannabis delivery service;
- lower-potency hemp edible manufacturer;
- lower-potency hemp edible retailer;
- medical cannabis cultivator;
- medical cannabis processor;
- medical cannabis retailer; or
- medical cannabis combination business.

A license is not required for the sale of hemp-derived topical products.

The provision establishing the OCM has an effective date of July 1, 2023, and it authorizes expedited state rulemaking. Under the expedited process, an agency publishes notice of its proposed rule(s) in the State Register and mails notices to those who have requested notice. The agency must then allow at least 30 days for comment. At the end of the comment period, and after an administrative law judge approves the form and legality, the agency may adopt the rule(s). Unlike the customary rulemaking process, there is no opportunity for public hearings under the expedited process unless the legislature specifically provides for this opportunity. Technically, the OCM could adopt rules within 30 days and start issuing licenses after that rulemaking is completed. However, given the scope of the task at hand, it seems apparent that rulemaking will not be completed for a significant period of time. The State must go through the process of establishing the OCM and retaining employees before it can even start the rulemaking process. According to the League of Minnesota Cities’ website, the authors of the Act anticipate that the first retail licenses for products will be issued sometime in 2024.

### C. Communications with Cities

Cities will be involved, to an extent, in the OCM's licensing process. Upon receipt of an application for a license, the OCM is required to contact the city and provide it with 30 days in which to provide input on the application. Within 30 days of receiving a copy of an application for a cannabis business license from the OCM, the city shall certify on a form provided by the OCM whether a proposed cannabis business complies with local zoning ordinances and, if applicable, whether the proposed business complies with the state fire code and building code. The city can provide the OCM with any additional information it believes is relevant to the OCM's decision on whether to issue a license, including, but not limited to, identifying concerns about the proposed location of a cannabis business or sharing public information about an applicant.

The OCM will establish an expedited complaint process to receive, review, and respond to complaints made by cities about a cannabis business. Complaints may include alleged violations of local ordinances or other alleged violations. At a minimum, the expedited complaint process will require the OCM to provide an initial response to the complaint within seven days and perform any necessary inspections within 30 days.

If the city notifies the OCM that a cannabis business (other than a cannabis retailer, cannabis microbusiness with a retail operations endorsement, cannabis mezzobusiness, lower-potency hemp edible retailer, medical cannabis retailer, or medical cannabis combination business) poses an immediate threat to the health or safety of the public, the OCM must respond within one business day and may take certain enforcement action against the business.

### III. Local Control and Obligations

In general, the degree of local control available to cities is extremely limited. However, there are a few options in the Act that a city can pursue.

#### A. General Regulatory and Zoning Authority

The Act expressly provides that a city cannot prohibit the possession, transportation, or use of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products authorized under the statutes, and a city may not prohibit the establishment or operation of a cannabis business licensed under state statute. **However, the city may adopt "reasonable restrictions on the time, place, and manner of the operation of a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis businesses."** The OCM is tasked with working with local governments to develop model ordinances that includes these provisions, standardized forms, and procedures for the issuance of retail registration (see below) and model policies and procedures for compliance checks.

The Act also allows regulation on distances from certain types of buildings/uses through zoning regulations. Specifically, cities may prohibit the operation of a cannabis business within 1,000 feet

of a school or 500 feet of a day care, residential treatment facility, or an attraction within a public park that is regularly used by minors, including a playground or athletic field.

Additionally, cities can limit, **by ordinance**, the number of *cannabis retailers, cannabis mezzobusinesses with a retail operations endorsement, and cannabis microbusinesses with a retail operation* to no fewer than one registration for every 12,500 residents. A city may also allow licensed cannabis retailers in excess of these minimums. It is important to note that the language of the ordinance must reference “registrations” as opposed to licenses. Furthermore, if a county has one active registration for every 12,500 county residents, a city within the county is not obligated to register a cannabis business. The Act does not address when populations don’t exactly match the 12,500 number or multiples thereof, and whether cities should round up or round down. The future OCM rules may address this question.

In the zoning context, the Act also requires that prior to the issuance of a cannabis business license, the OCM “**shall request a land use compatibility statement** from the city, town, or county that authorizes the land use. The land use compatibility statement must demonstrate that the requested license is for a land use that is allowable within the given zoning district in which the land is located. The OCM **may not issue a license** if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone or if the applicant has failed to meet the land use requirements of the jurisdiction. A city that receives such a request must act on the request within 21 days of receipt if the use is allowable and has applied for and received all necessary land use approvals. Based on the language used in the Act, it is unclear if the OCM will also be requesting land use compatibility statement for lower potency hemp licenses. Again, that might be clarified in the OCM rules. As a general rule, structures housing cannabis businesses must also comply with local building and fire regulations.

## **B. Interim Ordinance/Moratorium**

The Act provides that if a city is “conducting studies or has authorized a study to be conducted or has held or has scheduled a hearing for the purpose of considering adoption or amendment of reasonable restrictions on the time, place, and manner of the operation of a cannabis business, the governing body of the local unit of government may adopt an interim ordinance applicable to all or part of its jurisdiction for the purpose of protecting the planning process and the health, safety, and welfare of its citizens.” **As part of this interim ordinance, a city may prohibit a cannabis business from opening in its jurisdictional boundaries until January 1, 2025.** Before adopting the interim ordinance, a city must hold a public hearing. There are no specific provisions regarding notice or other public hearing guidelines. Lauderdale should determine now whether it wants to adopt a moratorium on cannabis businesses as authorized by the Act, which will buy the city some time to consider what options are available and what policy direction is most desirable. Given all of the questions and uncertainties surrounding the Act and its potential impacts, I recommend that the city adopt such a moratorium.

## C. City Cannabis Store/Liquor Store Sales

If a city desires, it may establish, own, and operate a municipal cannabis store subject to the restrictions in the Act. Liquor stores may also sell edible cannabinoids immediately with the passage of the Act.

## D. Retailer Registration

### 1. General Provisions

The Act requires the following retailers to register with the city prior to making sales to customers or patients:

- A cannabis microbusiness with a retail operations endorsement;
- Cannabis mezzobusiness with a retail operations endorsement;
- Cannabis retailer;
- Medical cannabis retailer;
- Medical cannabis combination business; and
- Lower-potency hemp edible retailer.

The registration requirement **does not apply** to other cannabis businesses (manufacturers, wholesalers, cultivators, transporters, etc.). **A city may impose an initial retail registration fee of \$500, or up to half the amount of the applicable initial license fee paid to the State, whichever is less. The city may also impose a renewal retail registration fee of \$1,000, or up to half the amount of the applicable renewal license fee paid to the State, whichever is less.** The initial license fee includes the fee for initial registration and the first annual renewal. Therefore, renewal fees must be charged by the city at the time of the second renewal and each subsequent annual renewal thereafter. The city cannot charge an application fee, and a cannabis business with a cannabis and medical cannabis retail license for the same location can only be charged a single registration fee. For reference, the following are the fees charged by the State:

- Cannabis microbusiness: initial license fee of \$0 and a renewal license fee of \$2,000;
- Cannabis mezzobusiness: an initial license fee of \$5,000 and a renewal license fee of \$10,000;
- Cannabis retailer: an initial license fee of \$2,500 and a renewal license fee of \$5,000;
- Medical cannabis retailer: an initial license fee of \$0 and a renewal license fee of \$0;
- Medical cannabis combination business: an initial license fee of \$20,000 and a renewal license fee of \$70,000; and
- Lower-potency hemp edible retailer: an initial license fee of \$250 per retail location and a renewal license fee of \$250 per retail location.

### 2. Registration Obligations Imposed Upon the City

The city must issue a registration if the business meets certain criteria (valid license, paid fees, compliant with preliminary check and current on property taxes). **Before issuing a retail registration, the city can conduct a “preliminary compliance check” to ensure that the**

**cannabis business is in compliance with the applicable operation requirements and the limits on the types of products that may be sold.** When the OCM renews a license, the city must renew the registration.

Registration creates additional obligations on the part of the city. **The city is required to “conduct compliance checks of every cannabis business and hemp business with a retail registration issued by” the city.** The checks must assess compliance with age verification requirements, the applicable operation requirements, and the applicable limits on the types of products being sold. Checks regarding compliance with operation requirement and the limits on the types of products sold must be performed at least once each calendar year and may be performed by a law enforcement officer or another city employee.

**Similar to tobacco licensing, the city is also required to conduct unannounced age verification compliance checks at least once each calendar year.** Age verification compliance checks must involve persons at least 17 years of age, but under the age of 21, who, with the prior written consent of a parent or guardian if the person is under the age of 18, attempt to purchase adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, or hemp-derived consumer products under the direct supervision of a law enforcement officer or an employee of the city.

### 3. Registration Suspension

**If the city determines that a cannabis business or hemp business with a retail registration is not operating in compliance with the statute or that it poses an immediate threat to the health or safety of the public, the city may suspend the retail registration of the cannabis business or hemp business.** The city must immediately notify the OCM of the suspension and include a description of the grounds for the suspension. The OCM will review the suspension and may order reinstatement of the retail registration or other licensed based penalties or enforcement action. The retail registration suspension may not exceed 30 days unless the OCM suspends the license and operating privileges of the cannabis business or hemp business for a longer period or revokes the license. The city may reinstate the retail registration if the city determines that any violation has been cured. The city must reinstate the retail registration if the OCM orders reinstatement.

Sales are prohibited without registration, and the city may impose a civil penalty of up to \$2,000 for each violation of the registration provisions.

### 4. Retailer Operation Standards

The Act includes operational standards for retail facilities, which are regulated by the State. A few standards that the city may want to know about are below:

- Cannabis retailers are authorized to sell a variety of other products.
- A cannabis retailer may operate up to five retail locations in the state.
- A person, cooperative, or business holding a cannabis retailer license may also hold a cannabis delivery service license, a medical cannabis retailer license, and a cannabis event organizer license. It cannot hold any other cannabis license or operate any other cannabis business.

- No person, cooperative, or business may hold a license to **own or operate more than one cannabis retail business in any city** or three retail businesses in one county. A restriction on the number or type of license a business may hold applies to every cooperative member or every director, manager, and general partner of a cannabis business. (This is potentially an issue for current cannabis businesses that appear to be very interconnected.)

The Act also establishes hours of operation for cannabis retailers, but a city may by ordinance further restrict the hours of sale. The Act prohibits sales during the following hours:

- On Sundays, except between the hours of 11:00 a.m. and 6:00 p.m.;
- Before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday;
- On Thanksgiving Day and Christmas Day; and
- After 8:00 p.m. on Christmas Eve, December 24.
- Any additional *reasonable* restriction on hours imposed by the city.

#### **IV. Data Practices Implications**

The Act includes data practices provisions that expressly apply to the OCM and indirectly apply to the city. Application data submitted by an applicant for a cannabis business license or hemp business license, other than the specific data listed in Minnesota Statutes, section 342.20, is not public, nor is the identity of a complainant who has made a report concerning a license holder or an applicant that appears in inactive investigative data unless the complainant consents to the disclosure. Even though the OCM receives the application or may receive the complaint, the protection travels with the data, so if the city receives any of that data from the OCM, the applicant, or the complainant, the protected data classification still applies. Once an applicant for a cannabis business license or hemp business license becomes a license holder, most of the application data that the license holder previously submitted become public data with a few exceptions.

#### **V. Local Government Cannabis Aid/Revenue Sharing**

The Act includes aid to local governments. With regard to cities, it provides:

- Beginning for aid payable in 2024, the amount available for aid to cities equals 50 percent of the amount certified in that year to the commissioner (balance of the local government cannabis aid account in the special revenue fund).
- The amount available “must be distributed proportionally to each city according to the number of cannabis businesses located in the city as compared to the number of cannabis businesses in all cities as of the most recent certification.”
- Beginning in fiscal year 2025 and annually thereafter, the amount in the local government cannabis aid account in the special revenue fund is annually appropriated to the commissioner of revenue to make the aid payments.

The local government cannabis aid account is funded with state sales revenue. Specifically, state tax revenue is divided as follows: 80 percent to the general fund and 20 percent to the local government cannabis aid account in the special revenue fund.

## VI. Additional Act Highlights

- A cannabis event organizer must receive city approval, including obtaining any necessary permits or licenses issued by the city, before holding a cannabis event.
- Upon city approval, a cannabis event may designate an area for consumption of adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, hemp-derived consumer products, or any combination of those items.
- The Act creates a private cause of action for a “nuisance” with relief being limited to injunctive relief and the “greater of the person’s actual damages or a civil penalty of \$250.”
- If a landlord or association “fails to enforce the terms of a lease, governing document, or policy related to the use of adult-use cannabis flower on the premises or property, a person who is injuriously affected or whose personal enjoyment is lessened by a nuisance . . . as a result of the failure to enforce the terms may bring an action against the landlord or association seeking injunctive relief and the greater of the person’s actual damages or a civil penalty of \$500.”
- The State imposes a sales tax of 10% on sales, in addition to existing taxes that may apply to sales. **Cities are prohibited from imposing a tax on the sale of cannabis products.**
- The Act includes provisions for certain grants, and cities are eligible participants for many of the grants.
- The Act includes regulatory provisions enforced by the State, including packaging, labeling, testing, and advertising.

## VII. Scope of Personal Adult Use of Cannabis

Under the Act, personal use cannabis for a person 21 years of age or older is allowed as follows (cities cannot establish stricter regulations):

- Use, possess, or transport cannabis paraphernalia;
- Possess or transport **two ounces or less** of adult-use cannabis flower **in a public place**;
- Possess **two pounds or less** of adult-use cannabis flower in the individual’s private residence;
- Possess or transport eight grams or less of adult-use cannabis concentrate;
- Possess or transport edible cannabis products or lower-potency hemp edibles infused with a combined total of 800 milligrams or less of THC;
- Give for no remuneration to an individual who is at least 21 years of age:
  - two ounces or less of adult-use cannabis flower;
  - eight grams or less of adult-use cannabis concentrate; or
  - an edible cannabis product or lower-potency hemp edible infused with 800 milligrams or less of THC; and
- Use adult-use cannabis flower and adult-use cannabis products in the following locations:



- **A private residence**, including the individual's curtilage or yard;
  - **On private property**, not generally accessible by the public, **unless the individual is explicitly prohibited** from consuming adult-use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on the property by the owner of the property; or
  - **On the premises of an establishment or event licensed to permit on-site consumption.**
- Up to **eight cannabis plants, with no more than four being mature**, may be grown at a single residence without a license to cultivate cannabis provided **cultivation takes place at the primary residence** of an individual 21 years of age or older and **in an enclosed, locked space that is not open to public view.**

### **VIII. Human Resources Considerations**

In light of the Act, there are employment/human resources provisions that will trigger amendments to a city's personnel policies. Some considerations by cities as employers will include:

- Drug testing and how policies are written. The Act redefines the term "drug" not to include specified cannabis products, separates newly created "cannabis testing" from "drug testing", includes limitations to such cannabis testing, and, as confusing as it seems, lists the instances, based on type of job, when cannabis use can be treated as a "drug" for purposes of "drug testing" rather than a cannabis product subject to "cannabis testing."
- Impact of the Act with respect to CDL holders and safety-sensitive employees.
- Impact of the Act regarding statutory protection of off-duty use of legal products under Minn. Stat. § 181.938. The Act expands the statutory protections to the newly legalized products. However, the Act specifically states that section 181.938 does not limit an employer's ability to discipline or discharge an employee for cannabis flower, cannabis product, lower-potency hemp edible, or hemp-derived consumer product use, possession, impairment, sale, or transfer during working hours, on work premises, or while operating an employer's vehicle, machinery, or equipment, or if a failure to do so would violate federal or state law or regulations or cause an employer to lose a monetary or licensing-related benefit under federal law or regulations.

### **IX. Further Limitations on Use of Cannabis**

- Use in public is not allowed. Indeed, a city may adopt an ordinance establishing a petty misdemeanor offense for a person who unlawfully uses cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place provided that the definition of public place does not include the following:
  - a private residence, including the person's curtilage or yard;
  - 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
  - the premises of an establishment or event licensed to permit on-site consumption.

- Use in a vehicle is not allowed and operation while impaired is still unlawful.
- Use in schools is not allowed.
- Use in areas where smoking is prohibited is not allowed.
- Cannot “vaporize or smoke cannabis flower, cannabis products, artificially derived cannabinoids, or hemp-derived consumer products in any location where the smoke, aerosol, or vapor would be inhaled by a minor.”
- “A proprietor of a family or group family day care program must disclose to parents or guardians of children cared for on the premises of the family or group family day care program, if the proprietor permits the smoking or use of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on the premises outside of its hours of operation. Disclosure must include posting on the premises a conspicuous written notice and orally informing parents or guardians. Cannabis flower or cannabis products must be inaccessible to children and stored away from food products.”
- Extraction of cannabis concentrate using solvents is not allowed without a license.

**X. Summary of Key Impacts to the City**

- On or after July 1, 2023:
  - The city may adopt an interim ordinance and moratorium through January 1, 2025.
  - The city may adopt “reasonable restrictions on the time, place, and manner of the operation of a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis businesses.” There will be model ordinances prepared, but they likely will not be available for a significant period of time.
  - The city may enforce other ordinances. Based on the language of the Act, this would include public nuisance provisions.
  - The city may, by ordinance, limit the number of licensed cannabis retailers, cannabis mezzobusinesses with a retail operations endorsement, and cannabis microbusinesses with a retail operations endorsement in the city, but it can go no lower than one registration for every 12,500 residents. If the county has one active registration for every 12,500 residents in the county, the city is not obligated to register a cannabis business.
- Once state rulemaking and licensing begins:
  - Within 30 days of receipt, the city must certify to the OCM that an applicant’s proposed business plan complies with local zoning ordinances and, if applicable, whether the proposed business complies with the state fire code and building code.
  - The city may give OCM additional relevant information prior to the issuance of a license, including concerns about the proposed location of a cannabis business or sharing public information about an applicant.
  - The city may charge limited registration fees for businesses that have to register with the city. The city has no discretion as to the issuance of the registration or the maximum amount of the fees.
  - The city has limited authority to suspend a registration, but the ultimate license authority rests with the OCM.

- Before issuing a retail registration, the city may conduct a “preliminary compliance check” to ensure that the cannabis business is in compliance with the applicable operation requirements and the limits on the types of products that may be sold.
- The city must conduct compliance and age verification checks for retailers registered in the city on an annual basis. The compliance checks must assess compliance with age verification requirements, the applicable operation requirements, and the applicable limits on the types of products being sold.
- The Act provides retailer hours of operation, but the city may limit those hours a little further by ordinance.
- The city may establish, own, and operate a municipal cannabis store subject to the restrictions in the statutes.
- A cannabis event organizer must receive city approval, including obtaining any necessary permits or licenses issued by the city, before holding a cannabis event.

## **XI. Conclusion and Recommendation**

As you might glean from the information summarized above, the Act is extensive and contains numerous provisions, many of which are still being interpreted and reconciled. It is anticipated that OCM is still many months away from rulemaking and license issuance. **That said, due to all of the uncertainty around potential rules and impacts, I recommend that Lauderdale adopt an interim ordinance after July 1, 2023 to allow it time to establish local regulations that satisfy the city’s policy concerns within the extent authorized.** Following the adoption of such an interim ordinance, the city would have until January 1, 2025 to establish reasonable restrictions on the time, place and manner of the operation of cannabis businesses. The interim ordinance would not necessarily need to remain in effect through January 1, 2025 should the city determine how it wishes to regulate prior to then.

**LAUDERDALE COUNCIL  
ACTION FORM**

**Action Requested**

Consent \_\_\_\_\_  
Public Hearing \_\_\_\_\_  
Discussion \_\_\_\_\_ X \_\_\_\_\_  
Action \_\_\_\_\_  
Resolution \_\_\_\_\_  
Work Session \_\_\_\_\_

Meeting Date July 11, 2023

ITEM NUMBER 2023-2024 Goal Setting

STAFF INITIAL AB

APPROVED BY ADMINISTRATOR

**DESCRIPTION OF ISSUE AND PAST COUNCIL ACTION:**

The City Council did not hold the traditional goal setting session last year while budget setting as so much was happening with the sale of 1795 Eustis Street. As that winds down with that project, it is a good time to discuss staff's administrative goals and the City Council's policy goals for the upcoming year. Staff look forward to the discussion and hearing council member priorities. We made note of some that we expect to discuss based upon previous conversations with the Council and in-house. This is by no means an exhaustive list.

**OPTIONS:**

**STAFF RECOMMENDATION:**

# Goal Setting

2023-2024



# Administrative Goals

- ▶ Capital Purchases: new dump truck and mower
- ▶ Work with St. Anthony PD - VCET position
- ▶ Complete Zoning Ordinance Update
- ▶ Shade, boulevard, and hazardous tree ordinance
- ▶ Evaluate moving Springbrook to the cloud
- ▶ Retire file server in favor of Office 365

# Council Goals

- ▶ **Future of Elections Administration**
- ▶ **Implementation of GARE goals and objectives**
- ▶ **Environmental Committee**
  - ▶ Discuss solid waste collection
  - ▶ Purpose of Walsh Lake land
- ▶ **Implementation of Cannabis Legislation**