

**CITY OF MARSHALL
LYON COUNTY, MINNESOTA**

ORDINANCE NO. 23-019

**AN EMERGENCY ORDINANCE PROHIBITING THE USE OF CANNABIS AND
CANNABIS PRODUCTS IN PUBLIC PLACES**

PREAMBLE:

WHEREAS, The Minnesota State Legislature passed bill H.F. 100, signed into law by Minnesota Governor Tim Walz on May 30, 2023, legalizing the possession, use, transportation, and cultivation of cannabis and cannabis products in the State of Minnesota, effective August 1, 2023;

WHEREAS, The new law, amongst other things, allows a person of 21 years of age or older to: (1) use, possess, or transport cannabis paraphernalia; (2) possess 2 ounces or less of cannabis flower in a public place; (3) possess 2 pounds or less of cannabis flower in a person's residence; (4) possess or transport 8 grams or less of adult-use cannabis concentrate; (5) possess or transport edible products infused with a total of 800 milligrams or less of tetrahydrocannabinol; and (6) cultivate up to 8 cannabis plants, of which four or fewer may be mature, flowering plants provided they are in an enclosed, locked space that is not open to public view; and

WHEREAS, H.F. 100 is silent on whether cannabis can be used or smoked in public places other than public places governed by the Minnesota Clean Indoor Air Act (MICA);

WHEREAS, in order to prevent the use of cannabis and cannabis products in public places, the City Council of the City of Marshall must pass an ordinance prohibiting such use and imposing criminal penalties; and

WHEREAS, pursuant to Section 3.09 and 3.11 of the Marshall City Charter, the City Council of the City of Marshall may pass an emergency ordinance for the immediate preservation of the public peace, health, morals, safety or welfare; and

WHEREAS, the City, aware of concerns about use of intoxicating products in public spaces, has set parameters for use of alcohol in parks and City owned facilities in Article -VII; and

WHEREAS, the City recognizes that the Legislature discussed the health and safety risk of Cannabis use to youth and adopted Minn. Stat. §120B.215 entitled EDUCATION ON CANNABIS USE AND SUBSTANCE USE which focuses on educating middle school and high school students on the health effects on children and adolescents of cannabis use and substance use; and

WHEREAS, the Legislature recognized concerns raised about exposure of Cannabis use to youth and also adopted Minn. Stat. § 342.13 to allow cities to regulate the distance of Cannabis retailers from an attraction within a public park that is regularly used by minors, including a playground or athletic field; and

WHEREAS, as part of that same commitment, the City has recognized that, based on the most reliable and up-to-date scientific evidence, the rapid introduction of newly legalized adult-use

cannabis products presents a significant potential threat to the public health, safety, and welfare of the residents of Marshall, and particularly to youth; and

WHEREAS, the City has the opportunity to be proactive and make decisions that will mitigate this threat and reduce exposure of young people to cannabis and related products and to the marketing of these products and improve compliance among cannabis users with laws prohibiting the use of such products in public places; and

WHEREAS, to preserve the public peace, health, morals, safety, and welfare, the City Council of the City of Marshall declares that the use of cannabis and cannabis products in public places constitutes an emergency that requires an emergency ordinance to be enacted.

NOW THEREFORE, THE COMMON COUNCIL OF THE CITY OF MARSHALL DO ORDAIN:

SECTION 1: Definitions.

(i) For purposes of this article, the terms “cannabis flower,” “cannabis products,” “lower-potency hemp edibles,” and “hemp-derived consumer products” shall have the definitions given to them in Minnesota Statutes, section 342.01, as it may be amended from time to time.

(ii) For purposes of this article, “public place” is defined as any indoor or outdoor area that is used or held out for use by the public whether owned or operated by public or private interests. Pursuant to Minnesota Statutes, section 152.0263, subd. 5, “public place” does not include the following: (i) a private residence, including the person's curtilage or yard; (ii) private property not generally accessible by the public; and (iii) the premises of an establishment or event licensed to permit on-site consumption of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products.

SECTION 2: Prohibition. Use of cannabis and hemp prohibited in public places.

No person shall use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place. A violation of this section shall be a petty misdemeanor offense, punishable by a fine of \$200.

SECTION 3. Pursuant to Section 3.11 of the Marshall City Charter, this ordinance shall take effect immediately upon its passage and violations of this Ordinance will be able to be prosecuted as soon as twenty-four (24) hours after publication of this ordinance by the City Clerk as provided by Section 3.09 of the City Charter.

Adopted by the Marshall City Council this 31st day of July 2023.

Attest:

City Clerk

Mayor