



118 Central Avenue North, New Prague, MN 56071
phone: 952-758-4401 fax: 952-758-1149

MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JOSHUA M. TETZLAFF, CITY ADMINISTRATOR
KEN ONDICH, PLANNING / COMMUNITY DEVELOPMENT DIRECTOR
TIM APPLEN, POLICE CHIEF

SUBJECT: ADOPTION OF ORDINANCE CREATING NEW CHAPTER 132 TO THE CITY CODE
RELATING TO PUBLIC USE OF CANNABIS AND HEMP PRODUCTS AND THE
SMOKING OF ANY SUBSTANCE ON PUBLIC PROPERTY

DATE: AUGUST 24, 2023

As the Council is aware, at the July 17th, 2023 City Council meeting an interim ordinance (moratorium) was approved until January 1, 2025 (unless repealed earlier) so that the City can further study the effect of the state's new law regarding cannabis, specifically related to cannabis businesses regarding time/place/manner restrictions.

As noted during discussion at the City Council meeting on August 7, 2023, the law that took effect statewide on August 1, 2023 does not prohibit use (which can include smoking or ingesting cannabis) in "public spaces" but cities can prohibit use in public places, similar to how Section 110.21 of the City Code states where alcohol cannot be consumed. Public places can be defined by each city and can include parks, city property, trails, sidewalks, streets or even places of business where outdoor smoking is otherwise allowed. General consensus of the City Council directed staff to draft ordinance language for review at the August 21st Council meeting that would limit only the smoking aspect of public cannabis use which was not limited by the new state law that went into effect on August 1st.

The draft ordinance introduced at the August 21st Council meeting included a ban on smoking tobacco in public places (except for public streets, boulevards and sidewalks and the golf course), in addition to using (both smoking and ingesting) cannabis in public places, however the Council amended the ordinance language at the meeting to ban cannabis use on the golf course. A redline and final version of the ordinance is included for review.

Recommendation

Staff would like the Council to conduct a second reading of the proposed ordinance at tonight's meeting and consider adoption.

ORDINANCE NO. 339

CITY OF NEW PRAGUE

**AN ORDINANCE AMENDING TITLE XIII OF THE CITY CODE BY CREATING A NEW
CHAPTER 132 AS TO THE PUBLIC USE OF CANNABIS AND HEMP PRODUCTS AND THE
SMOKING OF ANY SUBSTANCE ON PUBLIC PROPERTY**

The City of New Prague Ordains:

SECTION 1. The recitals set forth above in this ordinance are incorporated herein by reference.

SECTION 2. Chapter 132 of Title XIII of the City of New Prague City Code is hereby created by adding the material as follows:

**CHAPTER 132: PUBLIC USE OF CANNABIS AND HEMP PRODUCTS AND SMOKING OF
ANY SUBSTANCE ON PUBLIC PROPERTY**

Section

132.01 Definitions

132.02 Cannabis and Hemp Use Prohibited In Public Places

132.03 All Smoking and Vaporizing Prohibited on Public Property

132.04 Penalty

132.01 DEFINITIONS:

For purposes of this chapter, 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.

PUBLIC PLACE: Property owned, leased, or controlled by a governmental unit which includes, but is not limited to public parks (including ballparks, trails, playgrounds), streets (including all public right of way including sidewalks and boulevards), school property, public parking lots, public library, New Prague Utilities Commission facilities, but does not include the following:

- ~~1. The New Prague Golf Course’s outdoor space that is more than 200’ from any building held open to the public, including the clubhouse, patio, and on-course refreshment buildings;~~
- ~~2.~~1. a private residence including the person’s curtilage or yard;
- ~~3.~~2. 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
- ~~4.~~3. the premises of an establishment or event licensed to permit on-site consumption.

132.02 CANNABIS AND HEMP USE PROHIBITED IN PUBLIC PLACES

(A) No person shall use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place.

~~(B) The active smoking, inhaling, or vaporizing of cannabis flower, cannabis products, or hemp derived consumer products is prohibited when within 50 feet of any city employee within the New Prague Golf Course.~~

132.03 ALL SMOKING AND VAPORIZING PROHIBITED ON PUBLIC PROPERTY

(A) The smoking or vaporizing of any substance, including cannabis and hemp as identified in Section 132.02 and tobacco as defined in Chapter 117, is expressly prohibited in all public places except the following:

- (1) smoking and vaporizing tobacco is not prohibited on streets (including all public right of way including sidewalks and boulevards) unless otherwise prohibited by ordinance, state, or federal law; and
- (2) smoking or vaporizing of tobacco is not prohibited while within the New Prague Golf Course.

132.04 PENALTY

Violation of this section shall be a petty misdemeanor.

SECTION 3. This ordinance shall take effect upon its passage and publication, in accordance with Section 3.13 of the City Charter.

Introduced to the City Council of the City of New Prague, Minnesota, this 21st day of August, 2023.

The required 10 days posted notice was completed on the City Website and City Hall Bulletin Board on August 22nd, 2023.

Passed by the City Council of the City of New Prague, Minnesota, this 5th day of September, 2023 and to be published on the 14th day of September, 2023.

Duane J. Jirik, Mayor

State of Minnesota)

)ss. (CORPORATE ACKNOWLEDGMENT)

County of Scott & Le Sueur)

Subscribed and sworn before me, a Notary Public this _____ day of _____, 2023.

Notary Public

ATTEST: _____

Joshua M. Tetzlaff, City Administrator

State of Minnesota)

)ss.

(CORPORATE ACKNOWLEDGMENT)

County of Scott & Le Sueur)

Subscribed and sworn before me, a Notary Public this _____ day of _____, 2023.

Notary Public

THIS INSTRUMENT DRAFTED BY:

Kenneth D. Ondich

City of New Prague

118 Central Ave. N.

New Prague, MN 56071

(952) 758-4401

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Joshua M. Tetzlaff, City Administrator

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