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MEMORANDUM

TO: PLANNING COMMISSION
FROM: KEN ONDICH, PLANNING / COMMUNITY DEVELOPMENT DIRECTOR
KYRA CHAPMAN, PLANNER
SUBJECT: REVIEW OF ORDINANCE FOR AMENDING VARIOUS SECTIONS OF THE
ZONING ORDINANCE RELATED TO CANNABIS
DATE: OCTOBER 17, 2024

The City of New Prague currently has a moratorium in place, prohibiting all cannabis businesses from operating in city limits until January 1, 2025, or until the city adopts an ordinance, whichever comes first. The moratorium does not apply to low potency THC edibles, which is already addressed in the City Code.

Municipalities may initiate buffers, limit hours of operation, and regulate zoning when it comes to cannabis businesses. However, local governments may not initiate outright bans on cannabis business or operational limitations exceeding the state law. Minimally the state law requires that at least one cannabis retail location must be allowed per 12,500 residents. In the City Code, staff is recommending a cap of two cannabis retail businesses in city limits based on earlier feedback from the City Council.

Under state law, cities may choose to initiate buffers, prohibiting the operation of cannabis businesses. The state may allow a maximum buffer of 1,000 feet from a school, or 500 feet from a daycare, residential treatment facility, or amenities in a public park that is commonly used by children. To determine if buffers should be added to the ordinance, staff created three maps illustrating a 250-foot, 500-foot, and 1,000-foot buffer. After consideration, staff are in opposition to imposing buffers because it would be complicated to delineate, and it prevents most business from happening downtown, where most of the city's commerce occurs.

Over the past several months, staff have been in communication with the city's law firm, Kennedy & Graven, to draft a model Zoning Ordinance and City Code. The purpose of this meeting is to specifically discuss amendments to the Zoning Ordinance regarding cannabis. Attached to this document is also the City Code amendment for reference purposes.

City Staff Comments

Police Department and Planning / Community Development Department are in agreement that cannabis should be treated similarly to alcohol, therefore staff recommend having the same hours of operation and precluding buffers.

Proposed Zoning Ordinance Language-

Staff suggests establishing cannabis business retail sales as a permitted use in the B-1, B-2, and B-3 District. In the I-1 Light Industrial District, staff is recommending requiring conditional use permits for cannabis businesses related to cultivation, manufacturing, testing, transportation, wholesaling, retail, event organizer, or lower-potency hemp edible manufacturer. The proposed amendment would also include language that states that the accessory cannabis retail space in the I-1 Light Industrial District is limited to 30% of the gross floor area or 5,000 sq ft, whichever comes first. Cannabis retail sales in the I-1 Light Industrial District would also count towards the two-cannabis retailer cap.

Amendments are shown as follows: ~~struck out~~ and added.

The following will be added to Section 302 Definitions:

Cannabis business has the same meaning as M.S. §342.01.

Cannabis cultivation business means a business with a cannabis cultivator license, medical cannabis cultivator license, or cultivation endorsement from the State of Minnesota Office of Cannabis Management.

Cannabis delivery business means a business with a cannabis delivery service license or delivery service endorsement from the State of Minnesota Office of Cannabis Management.

Cannabis event organizer means a business with a cannabis event organizer license or event organization endorsement from the State of Minnesota Office of Cannabis Management.

Cannabis manufacturing business means a business with a cannabis manufacturer license, or manufacturing endorsement from the State of Minnesota Office of Cannabis Management.

Cannabis retail business means a business with a cannabis retailer license, medical cannabis retailer license, lower-potency hemp edible retailer license, or retail endorsement from the State of Minnesota Office of Cannabis Management.

Cannabis testing business means a business with a cannabis testing facility license or testing endorsement from the State of Minnesota Office of Cannabis Management.

Cannabis transportation business means a business with a cannabis transporter license or transportation endorsement from the State of Minnesota Office of Cannabis Management.

Cannabis wholesaling business means a business with a cannabis wholesaler license or wholesaling endorsement from the State of Minnesota Office of Cannabis Management.

Lower-potency hemp edible retailer means a business with a lower-potency hemp edible retailer license from the Office of Cannabis Management.

Lower-potency hemp edible manufacturer means a business with a lower-potency hemp edible manufacturer license from the Office of Cannabis Management.

SECTION 2. The City of New Prague Zoning Ordinance is hereby amended by adding the double-underlined language to Zoning Code, section 714 – Home Occupations, as follows:

6. Cannabis businesses and hemp businesses shall not be permitted as home occupations.

SECTION 3: The City of New Prague Zoning Ordinance is hereby amended by adding the double underlined language to Zoning Code, section 608 – B-1 Central Business District, (2) – Permitted Uses as follows:

T. Cannabis retail business

SECTION 4: The City of New Prague Zoning Ordinance is hereby amended by adding the double underlined language to Zoning Code, section 609 – B-2 Community Commercial District, (2) – Permitted Uses as follows:

Q. Cannabis retail business

SECTION 5: The City of New Prague Zoning Ordinance is hereby amended by adding the double underlined language to Zoning Code, section 610 – B-3 Highway Commercial District, (2) – Permitted Uses, as follows:

R. Cannabis retail business

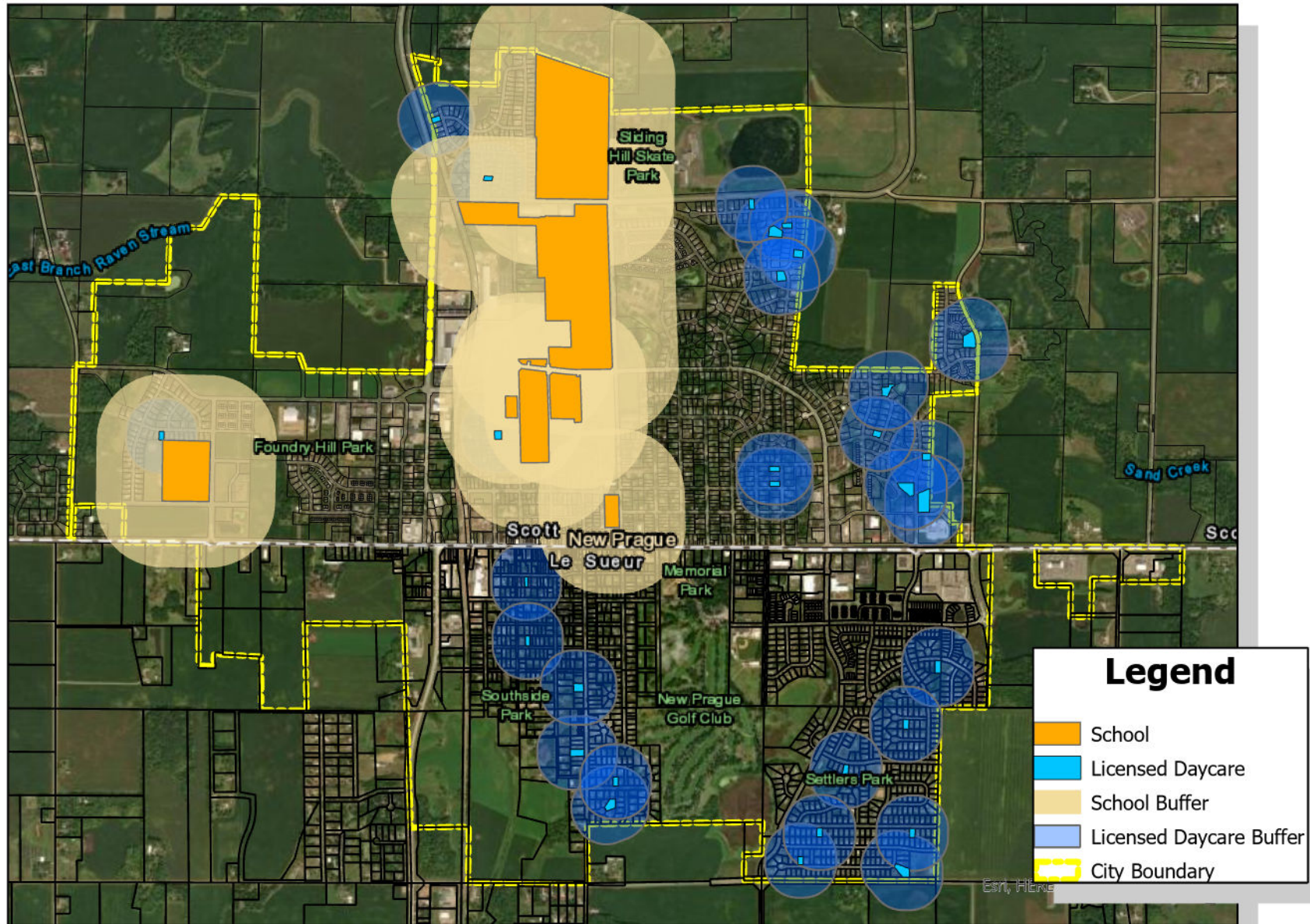
SECTION 6: The City of New Prague Zoning Ordinance is hereby amended by adding the double underlined language to Zoning Code, section 611 – I-1 Light Industrial District, (4) – Conditional Uses as follows:

N. Cannabis cultivation business, cannabis manufacturing business, cannabis wholesaling business, cannabis testing business, cannabis retail business, cannabis event organizer, and lower-potency hemp edible manufacturer. Cannabis retail businesses may not exceed 30% of the gross floor area of the building or 5,000 sq ft; whichever comes first.

Recommendation

Staff recommends that the Planning Commission to hold the required public hearing on October 23rd, 2024 to gather public input and to forward a recommendation on the proposed amendment to the City Council for consideration at their meeting on November 4th, 2024.

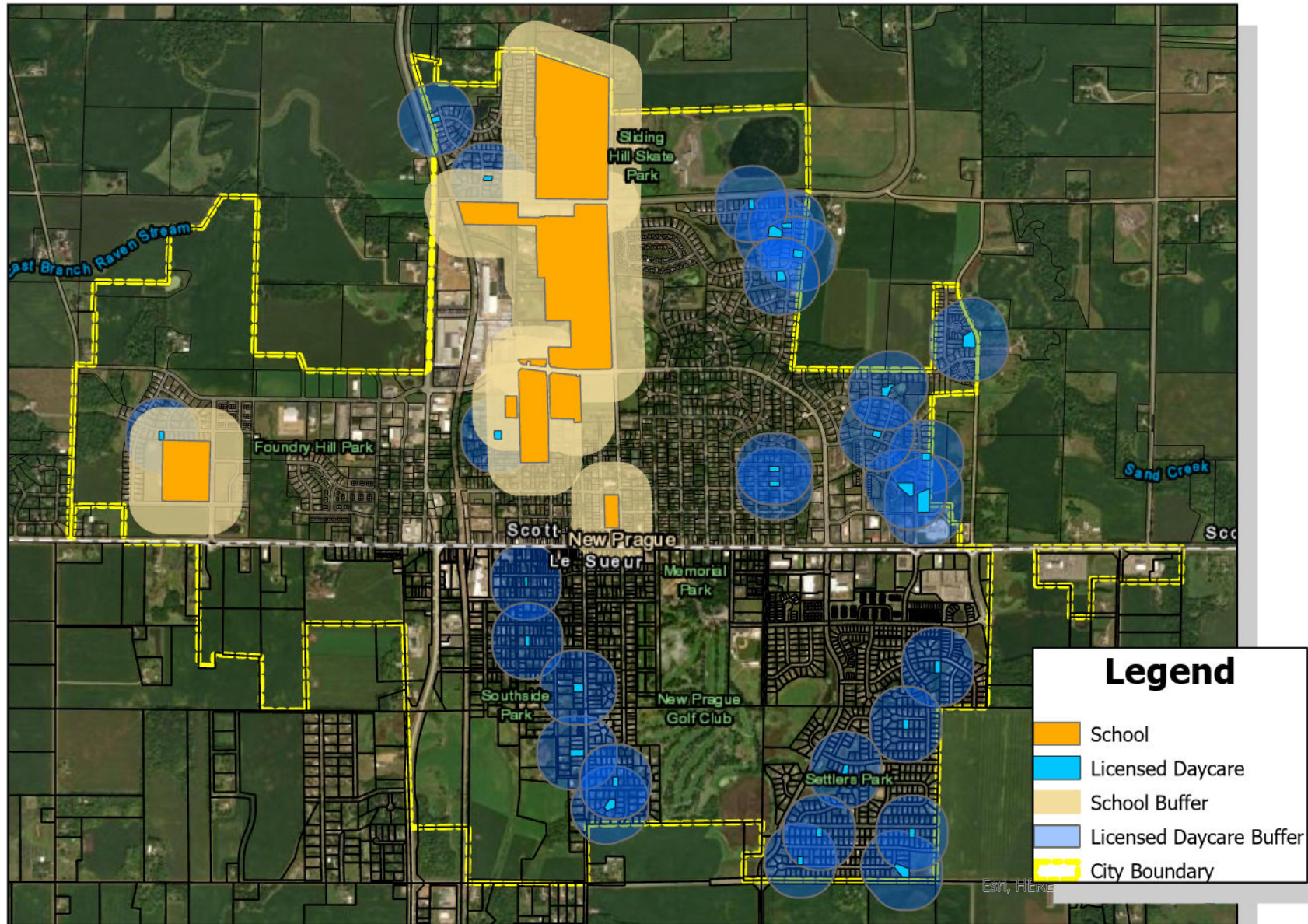
Minnesota Maximum Cannabis Buffer Zones - 1000' from Schools and 500' from Licensed Daycares in New Prague



Prepared by:
 City of New Prague
 Planning Department
 Date: 9/30/24
 For Reference Purposes Only.

Disclaimer: This map was prepared using the City's GIS and is based on the County and City Street Data maintained by the County and City. While the City believes that the data is accurate, the City does not warrant that data in the GIS is error free and the City does not represent that the GIS data can be used for purposes such as navigation or any other purpose requiring the exact measurement of distance and direction or the precise depiction of geographic features. This disclaimer is pursuant to Minnesota Statutes 466.03 Subd. 21. The user of this map acknowledges that the City shall not be liable for any damages that may arise from this map or the information it contains.

Minnesota Maximum Cannabis Buffer Zones - 500' from Schools and Licensed Daycares in New Prague

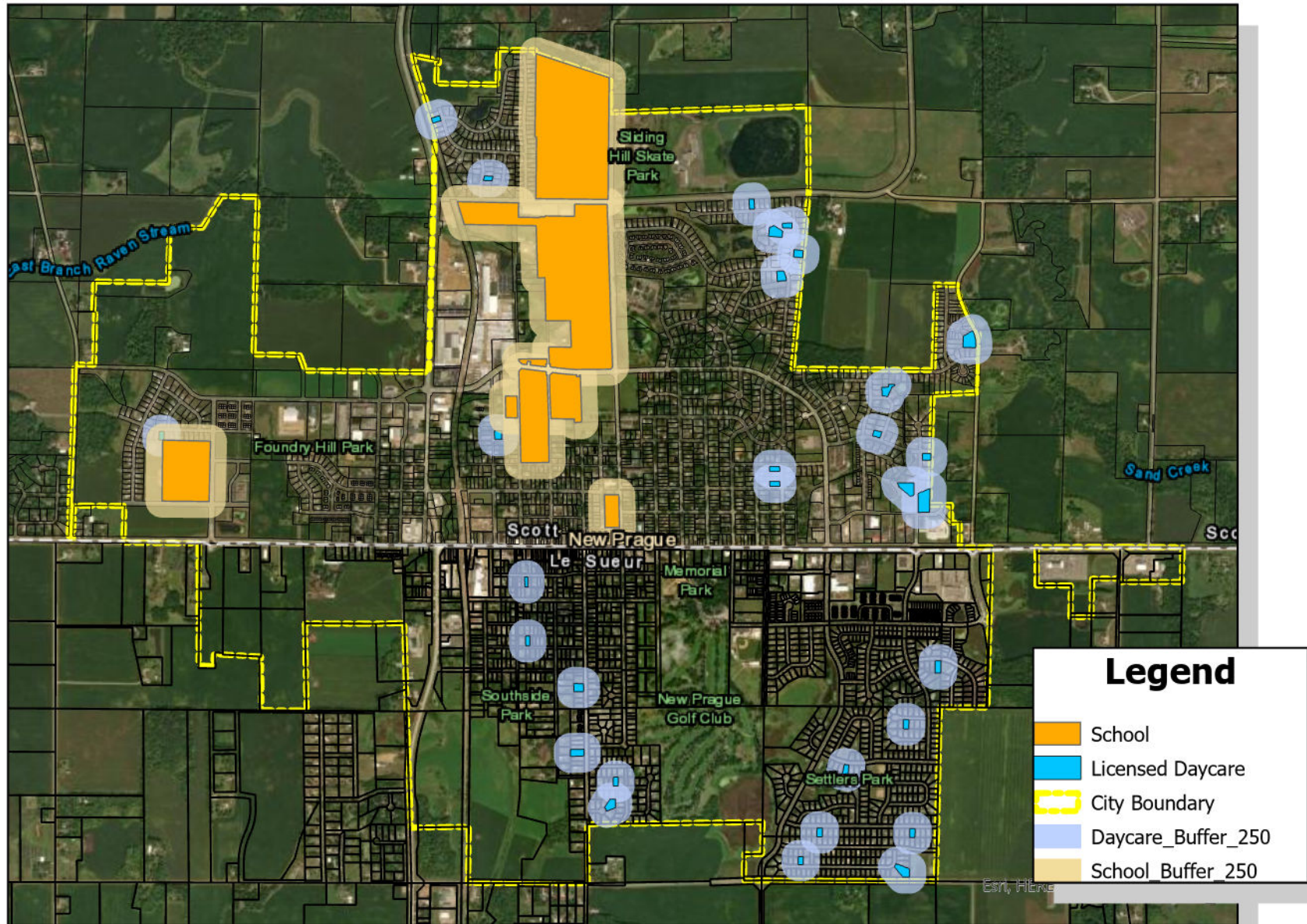


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Minnesota Maximum Cannabis Buffer Zones - 250' from Schools and Licensed Daycares in New Prague



Prepared by:
 City of New Prague
 Planning Department
 Date: 10/07/24
 For Reference Purposes Only.



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ORDINANCE NO. _____
CITY OF NEW PRAGUE

AN ORDINANCE A _____

THE CITY COUNCIL OF THE CITY OF NEW PRAGUE, SCOTT AND LESUEUR,
COUNTIES, MINNESOTA ORDAINS:

SECTION 1. :

Tetrahydrocannabinol Products

- 121.01 Findings and purpose
- 121.02 Definitions
- 121.03 License required
- 121.04 License fee
- 121.05 Prohibited sales
- 121.06 Mobile sales
- 121.07 Compliance checks
- 121.08 Responsibility
- 121.09 Administrative penalties
- 121.10 Administrative penalty procedure

Cannabis and Hemp Businesses

- 121.11 Findings and Purpose
- 121.12 Definitions
- 121.13 Pre-License Certification of Cannabis Businesses
- 121.14 Retailer Registration
- 121.15 Registration Enforcement.
- 121.16 Compliance Checks
- 121.17 Advertising
- 121.18 Hours of Operation
- 121.19 Distances from Certain Properties
- 121.20 Temporary Cannabis Events
- 121.21 Penalties Administration and Enforcement
- 121.22 Administrative Penalties and Administrative Penalties Procedure

SECTION 2: Chapter 121 of the City Code of the City of New Prague is hereby amended by adding the double-underlined language as follows:

121.03 License Required

- (A) No person shall sell or offer to sell any licensed product without having obtained a license to do so from the city. However, businesses that have received a license to sell lower-potency hemp edibles, as defined in M.S. § 342.01, from the Minnesota Office of Cannabis Management and have registered with the city pursuant to City Code, § 121.11-121.22, are not required to obtain a city license to sell lower-potency hemp edibles.

SECTION 3: Chapter 121 of the City Code of the City of New Prague is hereby amended by adding new sections 121.11-121.22 language as follows:

121.11 Findings and Purpose

The City of New Prague makes the following legislative findings:

(A) The purpose of this chapter is to protect the public health, safety, welfare in the city by implementing regulations pursuant to M.S. Ch. 342 related to cannabis and hemp businesses within the city.

(B) In making these findings and enacting this chapter, it is the intent of the City Council to ensure responsible product retailing, allowing legal sale and access without promoting increases in use, and to discourage violations of cannabis and hemp related laws.

(C) The city finds and concludes that these regulations are appropriate and lawful, that the proposed amendments will promote the community's interest in reasonable stability in the development and redevelopment of the city for now and in the future, and that the regulations are in the public interest and for the public good.

121.12 Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means an entity with a license issued by the OCM that is applying for an initial registration or for registration renewal.

The Act means M.S. Ch. 342, as is may be amended from time to time.

Cannabis Business has the same meaning as defined in M.S. § 342.01

Cannabis Retailer means a business with a cannabis retailer license or cannabis retail endorsement from OCM.

Hemp Business shall have the definition in M.S. § 342.01

Lower-Potency Hemp Retailer means every lower-potency hemp edible retail business that is licensed under the Act and required to register with the City under Minnesota Statutes, section 342.22.

OCM means the Minnesota Office of Cannabis Management.

Potential Licensee means an applicant that has not received a license from the OCM.

Retailer means every business that is licensed under the Act and required to register with the City under M.S. § 342.22. Including cannabis businesses and lower-potency hemp edible retailers.

121.13 Pre-License Certification of Cannabis Businesses

(A) The City Administrator is authorized to certify whether a proposed Cannabis Business complies with the city's zoning ordinances, this chapter, and if applicable, with state fire code and building code pursuant to M.S. § 342.13.

(B) Potential licensees are responsible for requesting and scheduling any inspections related to building and fire code. Potential licensees may contact the city to have inspections conducted prior to the city receiving the request for certification from the OCM. Building and fire code inspections will be valid for **XX** days from completion. If a potential licensee is not able to have any building or fire code inspection complete within the 30 days allowed under the statute, the city will not certify the application.

(C) If the potential licensee requires a conditional use permit or other zoning approval, the potential licensee must have obtained such an approval prior to the city receiving a request for zoning certification. Failure to obtain the required approval will result in the city informing the OCM that the potential licensee has not met local zoning code requirements.

(D) For retailers, receiving a pre-license certification does not ensure the retailer will receive a registration under § 122.14.

121.14 Retailer Registration

(A) *Retail Registration Required.* Before making retail sales to customers or patients, a retailer must register with the city. Making retail sales to customers or patients without an active registration is prohibited.

(B) *Civil Penalties.* Subject to M.S. § 342.22, subd. 5(e) the city may impose a civil penalty, as specified in the city's fee schedule, for making a sale to a customer or patient without a valid registration from the city and a valid license from the OCM.

(C) *Timeline for Approval.* Applications will be considered complete when all materials in § 121.14 (F) are received by the city, including payment of the required application fee. If the city determines that the application is incomplete, it shall notify the applicant of the deficiencies.

(D) *Processing Registrations.*

(1) Applications will be processed on a first-come, first-served basis based on the city receiving a complete application and payment of all fees.

(2) The date a certification under § 122.13 is issued will have no impact on the applicant's registration processing and is not an indication that the retail registration limit in § 122.14 (E) has been met.

- (3) Once an application is considered complete, the City Clerk shall inform the applicant as such, process the application fees, and forward the application to the [insert authority] for approval or denial.

(E) *Retail Registration Limits.*

The city will issue two registrations to cannabis retailers in the city.

(F) *Application.* The applicant must submit a registration application or renewal form provided by the city. The form may be amended from time to time by the City Administrator, but must include or be accompanied by:

- (1) Name of the property owner
- (2) Name of the applicant
- (3) Address and parcel ID for the property for which the registration is sought
- (4) Certification that the applicant complies with the requirements of this chapter
- (5) *Fee Required.* At the time of initial application, and prior to the city's consideration of any renewal application, each retailer must pay, as established in the city's fee schedule, the following fees:
 - (a) At the time of initial registration:
 - i. An initial registration fee. The initial registration fee will pay for the costs of registration and the cost of the first year of operation.
 - ii. The renewal fee for the second year of operation.
 - (b) At the time of the first annual renewal (prior to the second year of operation), no fee will be due.
 - (c) At the time of the second annual renewal, and each year thereafter, the renewal fee must be paid prior to the city issuing any renewal registration.
 - (d) Initial registration fee and renewal registration fees are nonrefundable.
- (6) Proof of taxes, assessments, utility charges of other financial claims of the city of the state are current.
- (7) A copy of a valid state license or written notice of OCM license preapproval.

(G) *Preliminary Compliance Check.* The City shall conduct a preliminary compliance check on every retailer to ensure compliance with this chapter and any other regulations established

pursuant to M.S. § 342.13. The preliminary compliance check must be complete prior to the city issuing the retail registration.

(H) *Reasons for Denial.* The City shall not issue a registration or renewal if any of the following conditions are true:

- (1) The applicant has not submitted a complete application.
- (2) The applicant does not comply with the requirements of this chapter.
- (3) The applicant does not comply with applicable zoning and land use regulations.
- (4) The applicant is found to not comply with the requirements of the Act or this chapter at the preliminary compliance check.
- (5) The maximum number of registrations, pursuant to § 122.14 (E), have been issued by the city or the applicable county.
- (6) The applicant does not have a valid license or license preapproval from the OCM.

(I) *Issuing the Registration or Renewal.* The city shall issue the registration or renewal if the retailer meets the requirements of this chapter, including that none of the reasons for denial in § 122.14 (H) are true.

(J) *Nontransferable.* A registration is not transferable to another person, entity, or location.

121.15 Registration Enforcement.

(A) *Generally.* The City Council may impose a fine or suspend a registration under this chapter on a finding that the registered business has failed to comply with the requirements of this chapter or any applicable statute or regulation.

(B) *Notice and Right to Hearing.* Prior to imposing a fine or suspending any registration any registration under this chapter, the city shall provide the registered business with written notice of the alleged violations and inform the registered business of its right to a hearing on the alleged violation.

1. Notice shall be delivered in person or by regular mail to the address of the registered business and shall inform the registered business of its right to a hearing. The notice will indicate that a response must be submitted within ten (10) business days of receipt of the notice, or the right to a hearing will be waived.
2. The registered business will be given an opportunity for a hearing before the city's [HEARING OFFICER] before final action to fine or suspend a registration. Provided, the registered business has submitted a written application for appeal within ten (10) business days after the notice was served.

The [HEARING OFFICER] shall give due regard to the frequency and seriousness of the violations, the ease with which such violations could have been cured or avoided and good faith efforts to comply and shall issue a decision to fine, suspend, revoke, or not renew the registration only upon written findings. Within ten (10) business days of the [HEARING OFFICER'S] order, the decision may be appealed to the City Council.

3. If no request for a hearing is received within ten (10) days following the service of the notice, the matter shall be submitted to the City Council for imposition of the fine and/or suspension.

(C) *Emergency.* If, in the discretion of the city, a registered business poses an imminent threat to the health or safety of the public, the City Administrator may immediately suspend the registration and provide notice of the right to hold a subsequent hearing as prescribed in part (B) of this section.

(D) *Reinstatement.* The city may reinstate a registration if it determines that the violations have been resolved. The city shall reinstate a registration if the OCM determines the violations have been resolved.

121.16 Compliance Checks

The City shall complete at minimum one compliance check per calendar year of every registered business to assess if the business meets age verification requirements, as required under M.S. § 342.22, subd. 4(b) and M.S. § 342.24 and any applicable cannabis or hemp regulations adopted by the city.

The city shall conduct at minimum of at least one unannounced age verification compliance check per calendar year. Age verification compliance checks shall 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.

Any failures under this section are a basis for enforcement action and must be reported to the OCM.

121.17 Advertising.

Signage is subject to the City's sign code and M.S. 342.62, subd. 4.

121.18 Hours of Operation.

Cannabis Retailers are prohibited from engaging in the retail sale of cannabis, cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products between the hours of 1:00am -8:00am Monday-Saturday and 1:00am-10:00am on Sunday.

121.19 Temporary Cannabis Events.

- (A) Cannabis event organizers receive a permit from the city to hold a temporary cannabis event within the city. Cannabis event organizers must apply for the permit on a form provided by the city and pay an application fee as established in the city's fee schedule.
- (B) Temporary cannabis events are subject to all applicable requirements of the City Code, including under Chapter 95 – Regulations Pertaining to Large Assemblies.
- (C) Temporary cannabis events are prohibited on city property.
- (D) No more than three temporary cannabis events may occur at a single location in the same calendar year.

121.21 Penalties Administration and Enforcement

Any violation of the provisions of this chapter or failure to comply with any of its requirements constitutes a misdemeanor and is punishable as defined by law. Each day each violation continues or exists, constitutes a separate offense. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in this ordinance. Violations may also be addressed using the administrative penalties process in §121.22

Violation of this chapter shall be grounds for enforcement against any business license issued by the City.

121.22 Administrative Penalties and Administrative Penalty Procedure

(A) If a retailer or employee of a retailer fails a compliance check or violates any other provision of this chapter, the business shall be charged an administrative penalty of \$300. An administrative penalty of \$600 shall be imposed for a second violation at the same location within 36 months after the initial violation. For a third or any subsequent violation at the same location within 36 months after the initial violation, an administrative penalty of \$1,000 shall be imposed.

(B) An individual who makes a retail sale in to a person under the age of 21 years, resulting in a failed compliance check, that individual shall be charged an administrative penalty of \$50.

(C) *Procedure.*

(1) Upon discovery of a suspected violation under this chapter, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and the administrative penalty for the violation, and informs the alleged violator of his or her right to be heard on the accusation.

(2) If, within twenty (20) days after receipt of a citation, a person accused of violating this chapter so requests, a hearing shall be scheduled, the time and place of which shall be provided to the accused violator.

(3) The City Council, or any other person as the Council may by resolution designate, shall serve as the hearing officer.

(4) If the hearing officer determines that a violation of this chapter did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under this section, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, the findings shall be recorded and a copy provided to the accused violator.

(5) Appeals of any decision made by the hearing officer shall be filed in the district court for the county in which the violator resides in accordance with applicable laws.

(6) Nothing in this section shall prohibit the city from seeking prosecution as a criminal offense for any alleged violation of this chapter and shall not prohibit the city from taking action under the Act.

(7) Each violation shall constitute a separate offense, and for violations that are ongoing by their nature, each day that such violation continues shall constitute a separate offense.

SECTION 4. INTERIM ORDINANCE TERMINATION. Upon the Effective Date of this Ordinance, _____ Interim Ordinance shall automatically terminate.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect following its passage and publication in accordance with state law.