

ORDINANCE 226

AN ORDINANCE REGULATING THE USE OF CANNABIS AND CANNABIS DERIVED PRODUCTS IN PUBLIC PLACES IN THE CITY OF BIRD ISLAND

Section 1: PURPOSE AND INTENT

- 1.1 This Ordinance is adopted by the City Council of the City of Bird Island for the purpose of protecting public health and safety by REGULATING/PROHIBITING the use of Cannabis and cannabis derived products in public places and places of public accommodation within the City of Bird Island.
- 1.2 Minnesota Session Law 2023, Chapter 63, effective in relevant part August 1, 2023, establishes that the adult use, possession and personal growing of cannabis is legal subject to the requirements and restrictions of Minnesota Statutes.
- 1.3 Minnesota Session Law 2023, Chapter 63, Art. 4, section 19, codified as Minn. Stat. 342.0263, subd. 5 authorizes the adoption of a local ordinance establishing a petty misdemeanor offense for public use of cannabis.
- 1.4 The City of Bird Island intends to be proactive in protecting public health and safety by enacting an ordinance that will mitigate threats presented to the public and public health by the public use of cannabis.
- 1.5 The City of Bird Island (hereinafter “the City”) recognizes the risks that unintended access and use of cannabis products and exposure to cannabis and its effects present to the health, welfare, and safety of members of the public and in particular the youth of the City.

Section 2: DEFINITIONS

- 2.1 Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The following words, terms, and phrases, when used in this ordinance, shall have the meanings ascribed to them except where the context clearly indicates a different meaning.
- 2.2 Adult-use cannabis flower. “Adult-use cannabis flower” means cannabis flower that is approved for sale by the Minnesota Office of Cannabis Management or is substantially similar to a product approved by the office. Adult-use cannabis flower does not include medical cannabis flower, hemp plant parts, or hemp-derived consumer products.
- 2.3 Adult-use cannabis products. “Adult-use cannabis products” means a cannabis product that is approved for sale by the office or is substantially similar to a product approved by the office. Adult-use cannabis product includes edible cannabis products but does not include medical cannabinoid products or lower-potency hemp edibles.
- 2.4 Cannabis flower. “Cannabis flower” means the harvested flower, bud, leaves, and stems of a cannabis plant. Cannabis flower includes adult-use cannabis flower and medical cannabis flower. Cannabis flower does not include cannabis seed, hemp plant parts, or hemp-derived consumer products.
- 2.5 Cannabis product. “Cannabis product” means any of the following:

- 2.5.1 cannabis concentrate;
 - 2.5.2 a product infused with cannabinoids, including but not limited to tetrahydrocannabinol, extracted or derived from cannabis plants or cannabis flower; or
 - 2.5.3 any other product that contains cannabis concentrate.
- 2.6 Hemp derived consumer products.
- 2.6.1 “Hemp derived consumer products” means a product intended for human or animal consumption, does not contain cannabis flower or cannabis concentrate, and:
 - a) contains or consists of hemp plant parts; or
 - b) contains hemp concentrate or artificially derived cannabinoids in combination with other ingredients.
 - 2.6.2 Hemp-derived consumer products does not include artificially derived cannabinoids, lower-potency hemp edibles, hemp-derived topical products, hemp fiber products, or hemp grain.
- 2.7 Lower-potency hemp edible. A “lower-potency hemp edible” means any product that:
- 2.7.1 is intended to be eaten or consumed as a beverage by humans;
 - 2.7.2 contains hemp concentrate or an artificially derived cannabinoid; in combination with food ingredients;
 - 2.7.3 is not a drug;
 - 2.7.4 consists of servings that contain no more than five milligrams of delta-9 tetrahydrocannabinol, 25 milligrams of cannabidiol, 25 milligrams of cannabivarin, or any combination of those cannabinoids that does not exceed the identified amounts;
 - 2.7.5 does not contain more than a combined total of 0.5 milligrams of all other cannabinoids per serving;
 - 2.7.6 does not contain an artificially derived cannabinoid other than delta-9 tetrahydrocannabinol;
 - 2.7.7 does not contain a cannabinoid derived from cannabis plants or cannabis flower; and
 - 2.7.8 is a type of product approved for sale by the office or is substantially similar to a product approved by the office, including but not limited to products that resemble nonalcoholic beverages, candy, and baked goods.
- 2.8 Public place. A “public place” means a public park or trail, public street or sidewalk, any enclosed, indoor area used by the general public, including, but not limited to, theaters, restaurants, bars, food establishments, places licensed to sell intoxicating liquor, wine, or malt beverages, retail businesses, gyms, common areas in buildings, public shopping areas, auditoriums, arenas, or other places of public accommodation.
- 2.9 Place of public accommodation. “Place of public accommodation” means a business, refreshment, entertainment, recreation, or transportation facility of any kind, whose goods,

services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.”

- 2.10 Exceptions to the definition of public place or place of public accommodation. “A public place” or “a place of public accommodation” does not include the following:
 - 2.10.1 a private residence, including the individual’s curtilage or yard.
 - 2.10.2 a private property, not generally accessible by the public, unless the individual 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
 - 2.10.3 on the premises of an establishment or event licensed to permit on-site consumption.
- 2.11 Smoking. “Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated product containing cannabis flower, cannabis products, artificially derived cannabinoids, or hemp-derived consumer products. Smoking includes carrying or using an activated electronic delivery device for human consumption through inhalation of aerosol or vapor from the product.

Section 3: **PROHIBITED ACTS**

- 3.1 Subd. 1. No person shall use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp- derived consumer products in a public place or a place of public accommodation unless the premises is an establishment or event licensed to permit on-site consumption of adult-use cannabis flower and adult use cannabis products. See Minnesota Session Law 2023, Chpt. 63, Art. 1, Sec. 9 codified as Minn. Stat. 342.09, subd. 1(2) and 342.09, subd.1 (7)(iii) and Art. 4, Sec. 19 codified as Minn. Stat. Sec. 152.0263, subd. 5.
- 3.2 Subd. 2. No person shall 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. Minnesota Session Law 2023, Chpt. 63, Art.1, Sec. 9 codified as Minn. Stat. Sec. 342.09, subd. 1 (7)(b)(9).

Section 4: **PENALTY**

- 4.1 Subd. 1. Criminal Penalty. A violation of this ordinance shall be a petty misdemeanor. Nothing in this ordinance shall prohibit the United States, the State of Minnesota, or the City from investigating or prosecuting any other activity that is a crime under any other federal or state statute or city ordinance.
- 4.2 Subd.2. An alleged violation or violation of this ordinance may be investigated by a peace officer as defined in Minn. Stat. 626.84, Subd. 1. Any alleged violation or violation of this ordinance shall be prosecuted by the City Attorney.

Section 5: **SEVERABILITY**

- 5.1 If any section or provision of this ordinance is held invalid, such invalidity will not affect any other section or provision that can be given force and effect without the invalidated section or provision.

Section 6: **EFFECTIVE DATE**

- 6.1 This Ordinance shall be in full force and effect immediately from and after its passage and publication as required by law.

Passed by the City Council of Bird Island this 11th day of December, 2023.

Mayor Julie Sander

ATTEST:

Tracey Ahl, Administrator