



**City of North St. Paul
Planning Commission
Regular Meeting Agenda**

**December 5, 2024
6:30 PM**

The Planning Commission Meeting will be conducted on **December 5, 2024** at 6:30 p.m. in the City Council Chambers of City Hall, located at 2400 Margaret St., North St. Paul.

You can watch the meeting on our YouTube channel here: <https://tinyurl.com/NSPYouTube>

I. Call to Order

II. Roll Call

COMMISSION

Patrick Blee, Chair

Andrew Wise, Vice-Chair

Arthur Alvarez, Jr. Commissioner

Stephanie Kane-Burback, Commissioner

Elizabeth Gadbois, Commissioner

Cameron Muhic, Commissioner

Jim Rathe, Commissioner

STAFF/LIAISONS

Jason Nordby, City Council Liaison

Riley Grams, Community Development Director

Chris Cherne, Planning Commission Secretary

III. Adopt Agenda

IV. Approval of Minutes

A. Approval of November 7, 2024 Meeting Minutes

V. Meeting Open to the Public

This Open Forum is an opportunity for persons to address the Planning Commission on items not on the agenda. A completed public comment form should be presented to the staff liaison prior to the meeting. Comments will be limited to 3 minutes per person. While the Commission may ask clarifying questions of the speaker, no formal action by the Commission or discussion will be held on these items.

VI. Public Hearings

A. Adult-Use Cannabis Ordinance Public Hearing

VII. Commission Business, Action Items & Recommendations

VIII. Reports

IX. Adjournment

The next regularly scheduled Planning Commission meeting is January 2, 2025.



To

Planning Commissioners

Date

December 5, 2024

Agenda Placement #

Approval of Minutes

Subject

Approval of November 7, 2024 Meeting Minutes

Background/Facts

N/A

Recommended Action

Staff recommend approval of the November 7, 2024 Meeting Minutes.

Attachments

1. PC Minutes 11-07-2024

Respectfully submitted,
Chris Cherne, Community Development Administrative Assistant



**Planning Commission
Regular Meeting Minutes
November 7, 2024
6:30 PM**

North St. Paul City Hall – Council Chambers
2400 Margaret Street

I. CALL TO ORDER

Chair Blees called the meeting to order at 6:30 PM.

II. ROLL CALL

COMMISSION

Patrick Blees, Chair

Andrew Wise, Vice-Chair

Absent

Arthur Alvarez, Jr., Commissioner

Stephanie Kane-Burback, Commissioner

Elizabeth Gadbois, Commissioner

Cameron Muhic, Commissioner

Jim Rathe, Commissioner

STAFF/LIAISONS

Jason Nordby, City Council Liaison

Riley Grams, Community Development Director

III. ADOPT AGENDA

Blees asked for a motion to adopt the November 7, 2024 meeting agenda.

M/Muhic, S/Rathe.

Motion carried 6-0.

IV. APPROVAL OF MINUTES

A. Approval of October 3, 2024 Meeting Minutes

Blees asked for a motion to approve the October 3, 2024 meeting minutes.

M/Gadbois, S/Alvarez.

Motion carried 6-0.

V. MEETING OPEN TO THE PUBLIC

There were no public comments.

VI. PUBLIC HEARINGS

A. Zoning Text Amendment as it Relates to Fences

Grams presented the Staff Report for the zoning text amendment relating to fences. Grams noted that the City recently adopted updated fence regulations earlier in 2024, and since then, City Staff has received several inquiries from residents and discovered an unintended hardship relating to front yard fences where homes were located farther than the minimum 25-foot setback from the front property line. Grams stated that under the existing regulations, homeowners were able to install fences of up to seven feet in the side and rear yards and fences up to four feet in the front

yard. Due to potential unanticipated hardships, updated fence regulations are being proposed to amend the definition of the 'front yard' to be the area between the closest point of the principal structure and the front lot line, or a twenty-five-foot setback distance from the front lot line. Grams noted that this amendment is intended to give homeowners more flexibility whose homes are located further than the twenty-five-foot setback requirement. Grams indicated this using the attached diagrams found in the Planning Commission public packet.

Chair Blees opened the Public Hearing at 6:37 PM.

There were no in-person public comments.

Chair Blees closed the Public Hearing at 6:37 PM.

The Planning Commission discussed the information in a received email from a local resident and commented that the requested language essentially provided the same information as the Staff recommended language in the packet. The Planning Commission agreed to keep the Staff-provided language in the text amendment. Grams noted that the proposed amendment would read as follows: "For the purposes of fencing, the front yard shall extend from the closest point of the principal structure toward the front property line, or shall extend from a twenty-five-foot front setback line toward the front property line, whichever is the shorter distance."

Chair Blees asked for a motion to recommend approval to City Council of the Ordinance Amending the North St. Paul City Code as it Relates to Fences and Walls as proposed.

M/Rathe, S/Alvarez.

Motion carried 6-0.

VII. COMMISSION BUSINESS, ACTION ITEMS & RECOMMENDATIONS

There were no items of business, action, or recommendation.

VIII. REPORTS

The Planning Commission discussed an update to the Article No. 7 project and noted the groundbreaking ceremony scheduled for December 4, 2024.

IX. ADJOURNMENT

Blees asked for a motion to adjourn the meeting at 6:54 PM.

M/Rathe, S/Muhic.

Motion carried 6-0.

The next regularly scheduled Planning Commission Meeting is Thursday, December 5, 2024 at 6:30 PM.

Members, please notify any planned absences to:

Chris Cherne
Planning Commission Secretary
651-747-2440
chris.cherne@northstpaul.org



To	Date
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Honorable Mayor Monge and City Council	December 5, 2024
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Agenda Placement # VI.A

Public Hearings

Subject

Adult-Use Cannabis Ordinance Public Hearing

Background/Facts

Conduct a Public Hearing for a New Adult-Use Cannabis Ordinance

Recommended Action

Conduct a Public Hearing and Recommend Approval of a New Adult-Use Cannabis Ordinance

Attachments

1. 24-12-5 PC Staff Memo Cannabis Ordinance
2. DOCS-#233757-v1-ORDINANCE_CANNABIS_REGISTRATION
3. DOCS-#233753-v1-ORDINANCE_CANNABIS_ZONING
4. DOCS-#233278-v1-CANNABIS_ZONING_MEMO_NSP
5. DOCS-#233758-v1-MEMO_RE_CANNABIS_CUP
6. 750 Schools Map
7. 500 Amenities and Group Homes
8. PH Notice Cannabis Ordinance

Respectfully submitted,
Riley Grams, Community Development / Community Services Director

Planning Commission Staff Report



**NORTH
ST. PAUL**

Report To: North St. Paul Planning Commission

Report From: Riley Grams, Community Development Director

Meeting Date: December 5, 2024

Agenda Item: Public Hearing for a New Adult-Use Cannabis Ordinance

Action Requested: ☐ Motion ☐ Discussion ☒ Public Hearing

Form of Action: ☒ Resolution ☐ Ordinance ☐ Contract/Agreement ☐ Other

RECOMMENDED ACTIONS

Recommend Conducting a Public Hearing and Recommendation for Approval of a New Adult-Use Cannabis Ordinance

BACKGROUND

The State Legislature recently approved legal adult-use cannabis consumption in the State of Minnesota, and the Office of Cannabis Management (OCM) is expected to begin issuing licenses in early 2025. Even though the licensing and registration process for these products will largely be handled by the State through the OCM, Cities will retain a limited role in dictating available locations within each municipality where cannabis sales, production, etc. can operate, particularly in the areas of land use.

Attached is a memorandum from the City Attorney that outlines potential local control options authorized by the cannabis act and suggests considerations that each City must consider when developing a new ordinance. It is important to note the difference between cannabis, hemp, and medical cannabis. Cities have limited regulations on these products. Hemp products are currently legally sold under MN State Statute 151.72. This discussion is intended to focus on higher THC potency products that will be sold legally beginning sometime in 2025.

The North St. Paul City Council recently met in a work session on November 19 to discuss available options to the City and to provide clear direction to City Staff and the Planning Commission to consider when finalizing the ordinance specifics. You will note that each section/question will include some background information, the Staff recommendation (generated from meeting with Community Development Department Staff, City Manager Frandle, Police Chief Rozales, and Police Sergeant Badowich, and finally the direction from the City Council based on the November 19 work session.

PROHIBITION:

First and foremost, it's important to note that Cities cannot ban or prohibit the possession, transportation, or use of cannabis or hemp products (MN State Statute 342.12(a)). Cities are also not allowed to ban the operation of business licenses under the cannabis act. Cities may only enact "reasonable" restrictions (meaning, not outright banning or prohibiting cannabis operations). Cities will

need to ensure that they are not effectively banning these operations through local zoning controls allowed under the State Statute. Enacting a de facto ban is not allowed.

ZONING:

Cities are allowed to control the location of cannabis sales through local zoning authority to “adopt a reasonable restriction on the time, place and manner” of cannabis businesses. Cities may restrict such operations to certain zoning districts, set them as conditional uses (which provides Cities with an extra level of review), and any other applicable land use restriction. Additionally, Cities may restrict cannabis operations within certain commercial or retail districts that are deemed historic or part of a notable downtown main street area. Any restrictions on cannabis operations must be based on specific factual findings from the Council demonstrating why a given area is unsuitable for such activities.

STAFF RECOMMENDATION:

Staff recommends that the City prohibit cannabis operations in all zoning districts except for the MU-2 (Transitional Mixed Use) and MU-3 (Corridor Mixed Use) zoning districts. Cannabis operations would not be allowed in the MU-1 (Downtown Mixed Use) zoning district as that area is generally defined as North St. Paul’s historic downtown main street. There appear to be sufficient properties in the MU-2 and MU-3 zoning districts to allow for cannabis operations. Staff also recommends the City require a Conditional Use Permit (CUP) for cannabis operations within the City, which would give the City an additional layer of review and approval. This would require an application process, a public hearing at a Planning Commission meeting, a review and recommendation from the Planning Commission, and eventually a final approval from the City Council. The City would be restricted on what kinds of conditions it can impose on a cannabis business per State Statute, however.

COUNCIL DIRECTION:

The Council agreed with the Staff recommendation to allow cannabis operations only in the MU-2 and MU-3 zones and to require a conditional use permit process before approval. The City Attorney did mention that there are very tight state regulations and limits on city authority when it comes to CUPs for cannabis operations. Attached in your packet is a memorandum from the City Attorney outlining the City’s available process for conducting and enforcing a conditional use permit procedure, at the request of the City Council. The Planning Commission should consider this information and make a recommendation to the City Council on whether a conditional use permit is prudent.

MINIMUM DISTANCE FROM SCHOOLS AND PARKS:

The cannabis act states that Cities may prohibit cannabis operations within 1,000 feet (or less) of schools, and 500 feet (or less) from any daycare, residential treatment facility, or “attraction within a public park that is regularly used by minors.” It’s interesting to note that the State Statute does not define “park attraction” but that it’s clear that it likely means something more specific than park properties. This may present some practical difficulties in measuring distances from “attractions” within a park. Attractions are generally thought of as ballfields, playgrounds, or water features. Staff will have to consider these distances on a case-by-case basis to ensure that the City follows the State Statute appropriately. Staff also notes that the MN DNR manages the Gateway Trail and would likely not qualify as a “park attraction” since it is owned and operated outside of the City’s umbrella.

STAFF RECOMMENDATION:

Staff recommends the City impose a 750-foot minimum distance from schools and a 500-foot minimum distance from daycares, residential treatment facilities, or park attractions. Attached in the packet you will note several maps outlining the 750-foot distance from schools and the 500-foot distance from daycares, residential treatment facilities, and park attractions.

COUNCIL DIRECTION:

The City Council agrees with the Staff recommendation. Impose a 750-foot distance from schools and a 500-foot from daycares, residential treatment facilities, or park attractions.

HOURS OF OPERATION:

State law allows for cannabis operations to operate between 10:00am and 9:00pm and that businesses cannot operate between 2:00am and 8:00am (or 10:00am on Sundays). Cities may pass ordinances restricting operation during the hours not specifically listed (9:00pm to 2:00am, and 8:00am to 10:00am). Many Cities have mirrored liquor store operating hours.

STAFF RECOMMENDATION:

Staff recommends that the City attempt to mirror existing liquor store operations as much as possible to avoid any potential legal challenges, that are within the State law allowances. The recommendation is to allow operations on Monday through Saturday 10:00am to 10:00pm, and on Sunday 10:00am to 9:00pm.

COUNCIL DIRECTION:

The City Council agrees with the Staff recommendation to allow for businesses to operate on Monday through Saturday 10:00am to 10:00pm, and on Sunday 10:00am to 9:00pm.

NUMBER OF REGISTRATIONS:

There are a total of six different available State-issued licenses for cannabis operations (from manufacturing to retail sales). Cities may limit the number of registrations for three of those six licenses (cannabis retailers, microbusinesses, and mezzobusinesses). Registrations for these three licenses may be capped at not less than 1 per 12,500 residents (“not less” means there is no rounding down – For example: if a City had 12,501 residents, the City must issue two). Population is defined as the most recent State demographer data (of which, North St Paul has 13,015 residents). Note that if the City were to entertain a municipal cannabis sales operation, the City would be granted a State-issued license which would not count towards the cap.

STAFF RECOMMENDATION:

Staff recommends the City cap the number of cannabis registrations at two.

COUNCIL DIRECTION:

The City Council agrees with the Staff recommendation to cap the total number of registrations at two.

OTHER CONSIDERATIONS:

There are a few other minor considerations that Cities may impose. These are outlined in the attached memo from the City Attorney.

STAFF RECOMMENDATION:

Staff recommends the following additional items:

- Adopt more specific definitions for “enclosed,” “locked,” and “public view” as zoning controls in residential districts relating to homegrown requirements.
- Prohibit outdoor seating and smoking areas at cannabis businesses.

COUNCIL DIRECTION:

The City Council agrees with the Staff recommendation to adopt more specific definitions relating to homegrown requirements and to prohibit outdoor seating and smoking areas.

WHAT ARE OUR NEIGHBORS DOING:

Another consideration should be what our neighboring communities are doing when it comes to cannabis operations. Staff has reached out to Oakdale and Maplewood to gauge how they will handle cannabis operations. Please note that these findings are not yet formally approved or adopted by those communities. These are simply general outlines of what those communities are currently considering:

City of Maplewood:

- Allowed in commercial districts where tobacco and liquor are allowed (no other special zoning restrictions)
- 500-foot minimum distance from schools, daycares, residential treatment facilities, and park attractions
- No cap on the number of registrations (population of 41,989 residents meaning they would have to allow four registrations if the City capped it at 1 per 12,500)

City of Oakdale:

- Cap the number of registrations (population of 28,169 residents meaning they are capping it at three registrations)
- 1000-foot minimum distance for schools, and 500-foot minimum distance for daycares, treatment facilities, or park attractions
- Allowed only in the C-1 or C-2 zoning districts

The Planning Commission should open and conduct a public hearing on the proposed adult-use cannabis ordinance and ultimately recommend a final version of the ordinance to the City Council for consideration and final approval at their December 17 meeting.

ATTACHMENTS

1. Ordinance 2024-## Enacting Chapter 125 of the North St. Paul City Code Concerning Cannabis and Lower-Potency Hemp Edibles Businesses
2. Ordinance 2024-## Amending Chapter 154 of the North St. Paul City Code Concerning Cannabis Businesses
3. City Attorney Adult-Use Cannabis Memorandum
4. City Attorney CUP Memorandum
5. 750-foot and 500-foot buffer maps
6. Public hearing notice

**CITY OF NORTH ST. PAUL
RAMSEY COUNTY, MINNESOTA**

ORDINANCE NO. _____

**AN ORDINANCE ENACTING CHAPTER 125 OF THE NORTH ST. PAUL
CITY CODE CONCERNING CANNABIS AND LOWER-POTENCY HEMP
EDIBLES BUSINESSES**

THE CITY COUNCIL OF NORTH ST. PAUL, RAMSEY COUNTY, MINNESOTA,
ORDAINS:

SECTION 1. Chapter 125 of the North St. Paul City Code is enacted to read as follows:

125.01 Findings and Purpose. The city makes the following legislative findings:

1. The purpose of this chapter is to implement the provisions of Minnesota Statutes, chapter 342, and Minn. Stat. § 412.221, which authorize the city to protect the public health, safety, and welfare of residents by regulating cannabis businesses within the city.
2. The city finds that the proposed provisions are appropriate and lawful regulations for the city, that the proposed regulations will promote the interests of the community for now and in the future, and that the proposed provisions are in the public interest and for the public good.

125.02 Definitions. Unless otherwise noted in this chapter, words and phrases contained in Minnesota Statutes, section 342.01, and the rules promulgated pursuant to any of these acts, and any term defined in City Code § 154.003 shall have the same meanings in this chapter.

ENCLOSED, LOCKED SPACE. Securely locked indoor or outdoor space preventing access to the interior by any person other than the owner. A screen porch is not an enclosed, locked space.

An enclosed, locked space must either be indoors or: Have sidewalls constructed from 11 gauge or heavier wire, with openings not to exceed two inches. Support posts shall be 1 1/4-inch or larger steel pipe buried in the ground 18 inches or more. A cover must be provided over the entire space constructed of the same gauge wire or heavier as the walls. The entrance/exit gate must be equipped with a device capable of being locked and shall be locked at all times when not actively in use.

OPEN TO PUBLIC VIEW. A location that is visible to any person in any area open to or made available for public use, including public parks, public right of way, sidewalks, or parking lots.

125.03 State License Required. No cannabis business may operate within the City of North St. Paul without a current, active, and valid license issued by the Office of Cannabis Management.

125.04 Requirement to Register a Cannabis or Lower-Potency Hemp Retail Businesses

(A) Registration Required

1. No individual or entity may operate a cannabis retail business or lower-potency hemp edibles retailer within the City without first registering with the City.
2. Any cannabis or lower-potency hemp retail business that sells to a customer or patient without valid retail registration shall incur a civil penalty of \$2,000 for each violation.

(B) Compliance Checks Prior to Retail Registration

1. Prior to the issuance of a retail registration, the City shall conduct a preliminary compliance check to ensure compliance with local ordinances.
2. Pursuant to Minn. Stat. 342, within 30 days of receiving a copy of a state license application from OCM, the City shall certify on a form provided by OCM whether a proposed retail location complies with zoning ordinances and, if applicable, whether the proposed business complies with the state fire code and building code.

(C) Registration and Application Procedure

1. Fees

- a) The City shall not charge an application fee.
- b) A registration fee, as established in the City's fee schedule, shall be charged to applicants depending on the type of retail business license applied for.
- c) An initial registration fee shall not exceed \$500 or half the amount of an initial state license fee under Minn. Stat. 342.11, whichever is less. The initial registration fee shall include the initial retail registration fee and the first annual renewal fee.
- d) Any renewal retail registration fee imposed by the City shall be charged at the time of the second renewal and each subsequent renewal thereafter.
- e) A renewal retail registration fee shall not exceed \$1,000 or half the amount of a renewal state license fee under Minn. Stat. 342.11, whichever is less.
- f) A medical combination business operating an adult-use retail location may only be charged a single registration fee, not to exceed the lesser of a single retail registration fee, defined under this section, of the adult-use retail business.

2. Application Submittal

The City shall issue a retail registration to a state-licensed retail business that adheres to the requirements of Minn. Stat. 342.22.

- a) An applicant for a retail registration shall fill out an application form, as provided by the City. Said form shall include, but is not limited to:
 - i. Full name of the property owner and applicant;
 - ii. Address, email address, and telephone number of the applicant;
 - iii. The address and parcel ID for the property from which the retail registration is sought;

- iv. Certification that the applicant complies with the requirements of local ordinances established pursuant to Minn. Stat. 342.13.
 - b) The applicant shall include with the form:
 - i. the registration fee as required;
 - ii. a copy of a valid state license or written notice of OCM license preapproval;
 - c) Once an application is considered complete, the City Manager or designee shall inform the applicant as such, process the application fees, and forward the application to the City Clerk for approval or denial.
 - d) The registration fee shall be non-refundable once processed.
3. Application Approval
- a) A state-licensed cannabis retail business application shall not be approved if the cannabis retail business exceeds the maximum number of registered cannabis retail businesses permitted under Section 125.04(H) of this ordinance.
 - b) A retail registration application shall not be approved or renewed if the applicant is unable to meet the requirements of this ordinance.
 - c) A retail registration application that meets the requirements of this ordinance shall be approved.
4. Annual Compliance Checks
- a) The City shall complete at minimum one compliance check for each registered business per calendar year to assess if the business meets age verification requirements, as required under Minn. Stat. 342.22 Subd. 4(b) and Minn. Stat. 342.24 and this chapter.
 - b) 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 local unit of government.
 - c) Any failures under this section must be reported to the Office of Cannabis Management.
5. Location Change. A state-licensed cannabis retail business shall be required to submit a new application for registration if it seeks to move to a new location still within the legal boundaries of the City. Such application shall be treated as a renewal of the registration.

(D) Renewal of Registration

1. Renewal Process

- a) The City shall renew an annual registration of a state-licensed retail business at the same time OCM renews the retail business license.

- b) A registered business shall apply to renew registration on a form established by the City.
- c) A retail registration issued under this ordinance shall not be transferred.
- 2. Renewal Fees
 - a) The City may charge a renewal fee for the registration starting at the second renewal, as established in its fee schedule.
- 3. Renewal Application
 - a) The application for renewal of a retail registration shall include but is not limited to
 - i. Items required under Section 125.04(C) of this chapter.

(E) Suspension of Registration

- 1. When Suspension is Warranted
 - a) The City may suspend a registration if the registration holder violates this chapter or poses an immediate threat to the health or safety of the public. The City shall immediately notify the business in writing the grounds for the suspension.
- 2. Notification to OCM
 - a) The City shall immediately notify the OCM in writing the grounds for the suspension.
- 3. Length of Suspension
 - a) The suspension of a retail registration may be for up to 30 calendar days unless OCM suspends the license for a longer period. The business may not make sales to customers if their registration is suspended.
- 4. Civil Penalties
 - a) Subject to Minn. Stat. 342.22, subd. 5(e) the City may impose a civil penalty for registration violations, not to exceed \$2,000.

(F) Registration Mistakenly Issued or Renewed. If a registration is mistakenly issued or renewed to any person or entity, for any reason, including but not limited to the submission of false or misleading information by the license holder or applicant, the registration will be suspended upon the discovery of ineligibility for registration under this chapter or state or other local law, ordinance or other regulation. Any suspension will comply with the requirements of Minn. Stat. § 342.22, Subd. 5.

(G) License Holder Responsibility. Every retail registration holder is responsible for conduct on the registered premises and any sale of cannabis, hemp, or products containing cannabis or hemp by an employee is the act of the Registration Holder for the purposes of all provisions of this chapter.

(H) Limiting of Registrations

1. The City shall limit the number of cannabis retail registrations issued to any cannabis retailer, cannabis microbusiness with retail endorsement, or cannabis mezzobusiness with retail endorsement to no fewer than one registration for every 12,500 residents within the City.
2. If Ramsey County has one active cannabis retail registration for every 12,500 residents then the City shall not be required to register additional businesses.

125.05 Home Cultivation. City residents may cultivate up to eight cannabis plants, with no more than four being mature at any one time, per residence without license or registration. All home cultivation must be in an enclosed, locked space and not open to public view. No person may use any volatile solvent to separate or extract cannabis concentrate or hemp concentrate without a cannabis business license to do so. No person may sell any home-cultivated cannabis.

125.06 Administration. The City Manager or designee is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements constitutes a misdemeanor and is punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in this ordinance. Nothing in this chapter shall prohibit the City from enforcing any other applicable remedy including but not limited to injunctive relief.

125.07 Severability. In the event that a court of competent jurisdiction adjudges any part of this chapter to be invalid, such judgment shall not affect any other provision of this chapter not specifically included within the judgment.

SECTION 2. Effective Date. This ordinance shall be effective immediately upon its passage and publication.

ADOPTED by the City Council of the City of North St. Paul this ____ day of _____, 2023.

Motion by Council Member
Second by Council Member

Voting: Aye: Council Member
 Council Member
 Council Member
 Council Member
 Mayor

Nay:
Abstain:
Absent:

John Monge, Mayor

ATTEST:

Brian Frandle, City Manager

**CITY OF NORTH ST. PAUL
RAMSEY COUNTY, MINNESOTA**

ORDINANCE NO. _____

**AN ORDINANCE AMENDING CHAPTER 154 OF THE NORTH ST. PAUL
CITY CODE CONCERNING CANNABIS BUSINESSES**

THE CITY COUNCIL OF NORTH ST. PAUL, RAMSEY COUNTY, MINNESOTA,
ORDAINS:

SECTION 1. Chapter 154, Section 154.003 of the North St. Paul City Code is amended by adding the following terms:

CANNABIS-RELATED –

1. Unless otherwise defined, cannabis-related terms have the definition given them in Minn. Stat. § 342.01, as amended.
2. **CANNABIS RETAIL BUSINESS.** Any cannabis business making retail sales of cannabis or cannabis products to individual customers, including any cannabis retailer, cannabis microbusiness with a retail endorsement, cannabis mezzobusiness with a retail endorsement, medical cannabis retailer, or medical cannabis combination business.
3. **CANNABIS INDUSTRY BUSINESS.** Any cannabis business involved in exclusively non-retail operations, including cannabis cultivation, transportation, wholesaling, manufacturing, or testing. “Cannabis Industry Business” includes both adult use and medical cannabis businesses.

DAYCARE. A location licensed with the Minnesota Department of Human Services to provide the care of a child in a residence outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

RESIDENTIAL TREATMENT FACILITY. As defined under Minn. Stat. 245.462 subd. 23 or a facility licensed under Minn. Stat. § 245G.21.

SECTION 2. Chapter 154, Table 3 of the North St. Paul City Code is amended by adding the following uses:

Cannabis-Related	R-1	R-2	R-3	MU-1	MU-2	MU-3	Supplemental Regulations
Cannabis Retail Business					C	C	X
Cannabis Industry Business					C	C	X
Temporary Cannabis Event					P	P	X

SECTION 3. Chapter 154, Section 154.010(d)(53) of the North St. Paul City Code is enacted to read as follows:

Commented [JSB1]: We are required to permit these, subject to some further regulations below. These events also cannot exceed 4 days. The city usually does not impose a CUP on temporary uses under 45 days, and it did not seem appropriate here.

53. *Cannabis Businesses*

(a) *Buffer.* A cannabis business shall not operate within 750 feet of a school, or within 500 feet of a daycare, residential treatment facility, or attraction within a public park regularly used by minors.

Nothing in this section shall prohibit an active cannabis business or a cannabis business seeking registration from continuing operation at the same site if a school, daycare, residential treatment facility, or attraction within a public park regularly used by minors moves within the minimum buffer zone.

(b) *Cannabis Retail Business.*

(i.) Hours of operation. The hours of operation of any cannabis retail business shall be limited to 10:00 a.m. to 10:00 p.m. Monday–Saturday, 10:00 a.m. to 9:00 p.m. Sunday.

(ii.) Retail Registration Required. No cannabis retail business may operate without active registration under Section XXXXXX.

(iii.) On-Site Consumption limited. No cannabis retail business may allow the on-site consumption of cannabis, cannabis products, or lower-potency hemp edibles unless specifically permitted by State license or endorsement. This includes both indoor and outdoor consumption.

(c) *Cannabis Industry Business.*

(i) Odor management. All cannabis industry businesses shall have air filtration and treatment sufficient to ensure that no odor of cannabis is detectable by a person with a normal sense of smell at the property line.

(d) *Cannabis Events.*

(i.) Special Event Permit Required. Cannabis events require a special event permit pursuant to City Code Chapter 122, in addition to meeting all state licensing requirements and regulations.

(ii.) On-site consumption prohibited. No temporary cannabis event may permit the on-site consumption of cannabis, cannabis products, or lower-potency hemp edibles.

Commented [JSB2]: The city is allowed to determine this. At minimum, on-site consumption is limited to separated, access-controlled 21+ sites (think beer garden within a normal special event).

Could allow such consumption, or limit consumption to lower-potency hemp, or prohibit entirely.

(e) *Compliance with Laws.* All cannabis businesses must comply with all applicable state and local laws and regulations, specifically including any restrictions or requirements of a state cannabis business license issued by the Office of Cannabis Management and any cannabis business requirements found in City Code Chapter 125.

SECTION 2. Effective Date. This ordinance shall be effective immediately upon its passage and publication.

ADOPTED by the City Council of the City of North St. Paul this ____ day of _____, 2024.

Motion by Council Member
Second by Council Member

Voting: Aye: Council Member
 Council Member
 Council Member
 Council Member
 Mayor
 Nay:
 Abstain:
 Absent:

John Monge, Mayor

ATTEST:

Brian Frandle, City Manager

MEMORANDUM



FROM: CAMPBELL KNUTSON
TO: NORTH ST. PAUL PLANNING STAFF
DATE: OCTOBER 25, 2024
RE: CANNABIS AND HEMP ZONING CONTROLS

Minnesota Statutes, Chapter 342, legalized adult-use cannabis and certain hemp THC products. The licensing and regulation process for these products will be largely handled by the State through the new Office of Cannabis Management (OCM). However, Cities retain a limited role, particularly in the land use and planning areas. This memorandum considers potential local controls authorized or suggested by the new cannabis act, and suggests considerations for any future zoning ordinance.

It is also important to remain aware of the distinction between cannabis, hemp, and medical cannabis. The city's ability to regulate these products varies under state law in some specific instances. Hemp products may also currently be sold under Minn. Stat. § 151.72, so there may be preexisting use concerns. This memorandum largely treats these products together, with specific notes where the city's authority differs. There may also be further differences or restrictions as OCM begins to develop its regulations.

I. CITY MAY NOT BAN CANNABIS OR HEMP

Cities are specifically preempted from banning possession, transportation, or use of cannabis or hemp products allowed under state law. Minn. Stat. § 342.13(a). Cities are also preempted from banning the operation of businesses licensed under the new state regulations. Minn. Stat. § 342.13(b). The new law also provides that cities may enact only “reasonable” restrictions—i.e. nothing amounting to a ban on cannabis, or cannabis businesses. Minn. Stat. § 342.13(c). In considering an overall regulatory approach, the city will need to ensure that it is not banning individuals or businesses, or enacting any control that could be considered a de facto ban.

II. GENERAL AUTHORITY TO IMPOSE ZONING CONTROLS

The cannabis act grants municipalities general zoning authority to “adopt reasonable restrictions on the time, place, and manner” of cannabis businesses. Minn. Stat. § 342.13(c). This grants the city the authority to enact general zoning controls over cannabis or hemp businesses. The city may restrict such businesses to certain zoning districts, set them as conditional uses, set lot size and setback requirements, etc. These businesses will also be subject to any generally applicable code provisions, such as nuisance, parking, snow removal, landscaping, outdoor storage, fencing, or architectural standards.

The city should, at minimum, set which zoning districts hemp and cannabis businesses may operate within. We have generally seen cities mimic their preexisting zoning designation for liquor stores or tobacco stores, whether that be general retail or certain specific districts.

The city should also consider reviewing its general business performance standards to ensure that there are no potential oversights.

We have also seen some communities require a CUP to operate cannabis or hemp businesses, requiring an affirmative showing of anticipated traffic and noise impacts, smell or other potential nuisance characteristics, land use compatibility with surrounding uses, or other specific concerns. Note, however, that the City is preempted from adopting any conditions that conflict with State licensure conditions. Potential conditions should be discussed with the City Attorney before adoption to ensure compliance. For example, the state license application requires an approved “security plan” and has restrictions on the visibility of products for sale. The city may therefore be preempted from including certain security or visibility requirements in a CUP.

III. SPECIFIC STATUTORY PERFORMANCE STANDARDS

The cannabis act also contemplates certain specific performance standards:

Minimum Distance from Schools and Parks. The act states that cities may prohibit the operation of cannabis businesses within 1,000 feet of schools, or 500 feet of any day care, residential treatment facility, or “attraction within a public park that is regularly used by minors,” (e.g. playgrounds, athletic fields, public water features). Although written as a grant of authority, this functions as a cap—that is, the city cannot impose a distance requirement of more than 1,000 feet from a school, but could impose a lower distance if it desired.

The statute only discusses these distances with regard to cannabis businesses. However, under the city’s general zoning power it would also be free to adopt similar restrictions for hemp businesses.

Note in particular that “attraction within a public park that is regularly used by minors” is not defined in the statute. However, it is clear that it means something more specific than “park properties,” so the setback cannot be calculated from the property boundary at the nearest park. This is going to present significant practical enforcement difficulties. The statute lists athletic fields as an example “attraction.” But, for example, there is often no clear line around many baseball fields where the outfield becomes the main park again. Adopting this setback would likely require some significant discretion by city staff in determining where exactly to measure from.

Hours of Operation. The state law provides that cannabis business *can* operate between 10:00 am and 9:00 pm, and businesses *cannot* operate between 2:00 am and 8:00 am (10:00 am on Sundays). Cities may pass ordinances restricting operations during the hours not specifically listed (9:00 pm to 2:00 am and 8:00 am to 10:00 am). We have generally seen communities mirror liquor store hours of operation.

Again, the statute only mentions cannabis businesses, but there is no restriction against adopting similar restrictions for hemp businesses. These restrictions should not be more restrictive than the requirements for cannabis businesses to avoid legal challenge.

Number of Registrations. To operate, businesses require a state license. Six types of business then also require a local registration: cannabis retailers, cannabis microbusinesses, cannabis mezzobusinesses, medical cannabis retailers, medical cannabis combination businesses, and hemp edible retailers. The city may limit the number of registrations for three of these six: cannabis retailers, microbusinesses, and mezzobusinesses. Registrations for these three may be capped at not less than 1 per 12,500 city residents. “Not less than” means there is no rounding down—i.e. a city with 12,501 residents must issue 2 registrations. The city could also set a cap at

some number above the minimum, or not set a cap. North St. Paul would currently have to issue 2 of the restricted registrations.

The city does not have the authority to restrict the number of registrations issued to hemp businesses, non-retail cannabis businesses, or medical cannabis businesses.

IV. OTHER SPECIFIC CONSIDERATIONS

Home Growing Requirements. The act allows individuals to grow their own cannabis plants at their primary residence, up to 8 plants per *residence* (not per resident). These plants must be grown in “an enclosed, locked space that is not open to public view.” The act does not define “enclosed,” “locked,” or “public view.” The city could therefore adopt more specific definitions of these terms as zoning controls in residential districts.

Flavored Product Bans. Several cities have adopted bans on flavored tobacco products (i.e., flavored vapes). The city could adopt a similar ban on the sale of flavored cannabis products. Note that flavors are explicitly allowed for edible products; such a ban could cover only inhaled products.

Other licenses. Hemp products are often sold by businesses that otherwise deal in regulated products, including tobacco stores, and bars or restaurants with on-sale liquor licenses. The city may wish to tie these licenses together to create more effective enforcement authority. The cannabis act provides that illegal sales of cannabis and hemp products in some cases carry penalties towards other licenses. By state law, if a licensed tobacco store has its hemp edibles license or registration revoked, or is convicted of illegal sales of cannabis or hemp, the store’s tobacco license must be suspended for not less than 7 days and may be revoked. Minn. Stat. § 461.12, subd. 2a.

Cities may also impose more restrictive conditions on tobacco or liquor licenses. Minn. Stat. §§ 340A.509 (liquor); 461.19 (tobacco). The city may wish to make compliance with cannabis and hemp laws a condition of a tobacco or liquor license. Thus, a tobacco store that sold hemp edibles with more than the allowable amount of THC could face administrative license enforcement. This grants the city the ability to ensure compliance without needing to secure a criminal conviction before taking action. Depending on the specific product sold, an illegal hemp product may already be a license violation. However, to make this connection clear and as unambiguous as possible, it is likely advisable to state it directly in the code.

Minimum distance requirements. The act specifically contemplates a minimum distance between cannabis businesses and schools and certain other facilities. Although not specifically contemplated by the statute, the city could also consider other minimum distance requirements. For example, the city could require a minimum distance between two cannabis or hemp businesses. We have also seen communities in other states impose a minimum distance between cannabis or hemp businesses and residential zones. To forestall challenges, this should likely be no greater than the 500-foot minimum distance between cannabis businesses and day cares. That distance is set by state law, and it may be difficult to justify a larger distance between businesses than between a business and a place minors congregate.

Odor. We have heard several cities raise concerns about potential odor, especially from cultivation or production facilities. OCM has been directed to create regulations dealing with odor

from cannabis businesses. However, the city could also consider adopting local odor controls as part of zoning or nuisance controls.

Specific site restrictions. The city could carve out specific areas even within retail districts where cannabis and hemp businesses are not allowed (e.g., businesses can be located in a central business district but not on a historic main street). Note that any such restrictions would need to be based on specific factual findings from the council as to why a given location is not suitable for sales.

Smoking or seating restrictions. Smoking is not allowed in indoor public spaces, and “on-sale” cannabis does not appear to be allowed by state licensure. However, we have sometimes seen tobacco stores maintain outdoor seating areas, which patrons can then choose on their own to use for smoking. The city could adopt restrictions prohibiting outdoor seating areas at cannabis businesses. This is likely not a concern at hemp businesses, as no smoke-able hemp products are legal under state law.

Reporting. The city could consider performance standards requiring the disclosure to the city of any adverse action by other regulators, e.g., if the business fails compliance inspections or receives a cease and desist letter from OCM relating to a product or business practice. The state should be reporting these actions as well, but it could also be incorporated into local code.

MEMORANDUM



CAMPBELL KNUTSON
PROFESSIONAL ASSOCIATION

FROM: CAMPBELL KNUTSON
TO: NORTH ST. PAUL PLANNING COMMISSION AND
CITY COUNCIL
DATE: NOVEMBER 25, 2024
RE: CONDITIONAL USE PERMIT FOR CANNABIS BUSINESSES

Minnesota Statutes, Chapter 342, legalized adult-use cannabis and certain hemp THC products and authorized the City to enact “reasonable restrictions on the time, place, and manner of the operation of a cannabis business.” As part of enacting its controls on the operation of cannabis businesses within the City, the Council inquired about the possibility of making cannabis businesses a conditional use requiring a conditional use permit (CUP). This memorandum discusses some of the legal restrictions on conditional uses for these businesses.

First, there is nothing that would prevent the City from making cannabis businesses require a CUP. These are “reasonable restrictions” imposed on a variety of businesses, from senior housing to schools. There could be difficulties with the timing of getting the CUP and the required state licensing. Under state law, the Office of Cannabis Management (OCM) will, after receiving a license application, send a letter to the City to confirm the proposed location conforms with local land use controls. The City will have 30 days to respond. This is not enough time to process and grant a CUP. However, it appears that the City can simply respond that a location is allowable if the applicant secures a CUP. Based on our current understanding this will satisfy the agency, though there is a risk that the city may have to revisit based on as-yet-incomplete regulations.

However, there are some restrictions on the City’s power that limit the practical benefit of requiring a CUP for cannabis businesses. If an applicant meets all requirements as set forth in the city code, the City Council *must* approve the CUP. While the city generally has great discretion in setting the conditions required, there is very little discretion in evaluating a CUP application. And in the specific instance of cannabis businesses, there are significant restrictions in what conditions the city may require because cannabis business regulation is generally preempted and left to the State.

Under city code § 154.004(F), an applicant for a CUP must show that:

- i. The use is consistent with the general purposes and intent of the Comprehensive Plan;
- ii. The use will not adversely affect the health, safety, or general welfare of the city;
- iii. The use is compatible with present and future land uses in the surrounding area and reasonably related to the overall needs of the city;
- iv. The use or appearance of the use is compatible with adjacent properties;
- v. The use can be adequately supported by public urban services including the water supply, transportation system and capacity, police and fire protection, utilities, and sanitary waste disposal and stormwater disposal systems;

- vi. The use will not create an excessive burden on existing parks, schools, and other public facilities which serve or are proposed to serve the area;
- vii. The use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned land;
- viii. The use is in harmony with the general purposes and intent of this chapter and the zoning district in which the applicant intends to locate the proposed use;
- ix. The use will not create an intrusion of excessive noise, glare, or general unsightliness; and
- x. If applicable, the proposed use is consistent with officially adopted city plans and overlays.

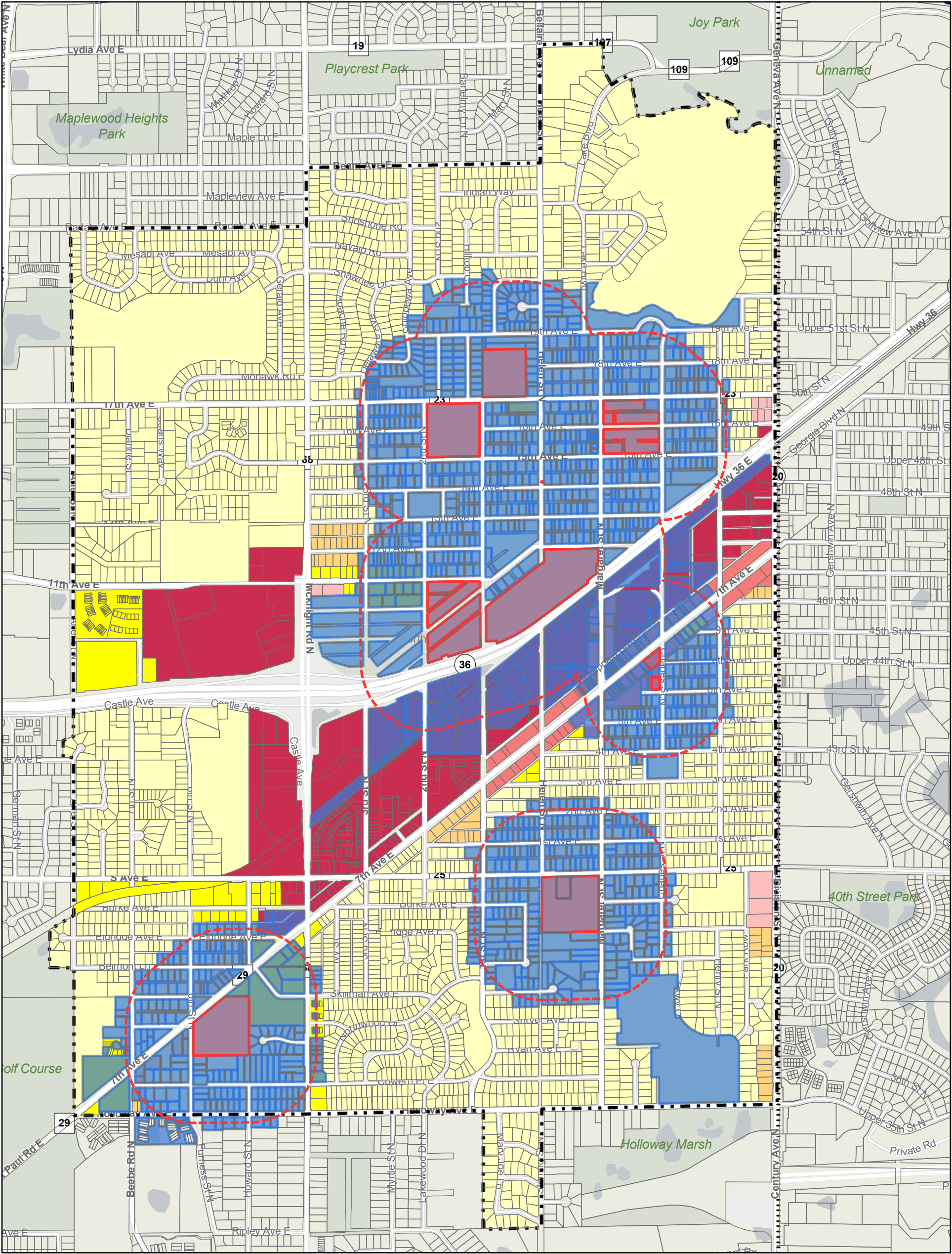
Because of state regulation some of these terms are constrained. For example, city code provides that the use must be sufficiently separated from residential land. However, state statute sets the maximum setback allowed between cannabis businesses and certain uses. Noise, lighting, security, signs, advertising, packaging, displays, screening of products, and entryway design of cannabis businesses are all tightly controlled by state statute. The city is also preempted from adding inconsistent requirements to these terms. By prohibiting the city from banning the operation of cannabis businesses, the state has likely preempted the city from finding that these uses will “adversely affect the health, safety, or general welfare of the city.”

Essentially, the CUP process is designed to prevent the establishment of businesses that are not fit to operate safely. But OCM—by granting the business a license—will already have found that the business is fit to operate. It could be very difficult for the City to justify reaching the opposite conclusion.

There are terms that remain subject to local control. One of the CUP criteria is the “appearance of the use.” Aesthetics are largely not subject to state regulation. The City also could conduct an analysis of whether the public utilities can meet the demand, especially for resource-intensive uses such as cannabis cultivation.

In sum, the city is within its rights to make cannabis businesses conditional uses. But the city should consider, given the tight state regulation and limits on city authority, what benefit it would get from doing so. There is not a clear list of allowable CUP conditions; each concern would have to be addressed individually based on the specific concern the council wanted to address. But in general, the state licensing process will constrain the City’s discretion. The City will have to determine whether the resources required to administer a CUP process are worth it given the constraints on the City’s authority.

750 Schools



Municipal Boundary

Address Label

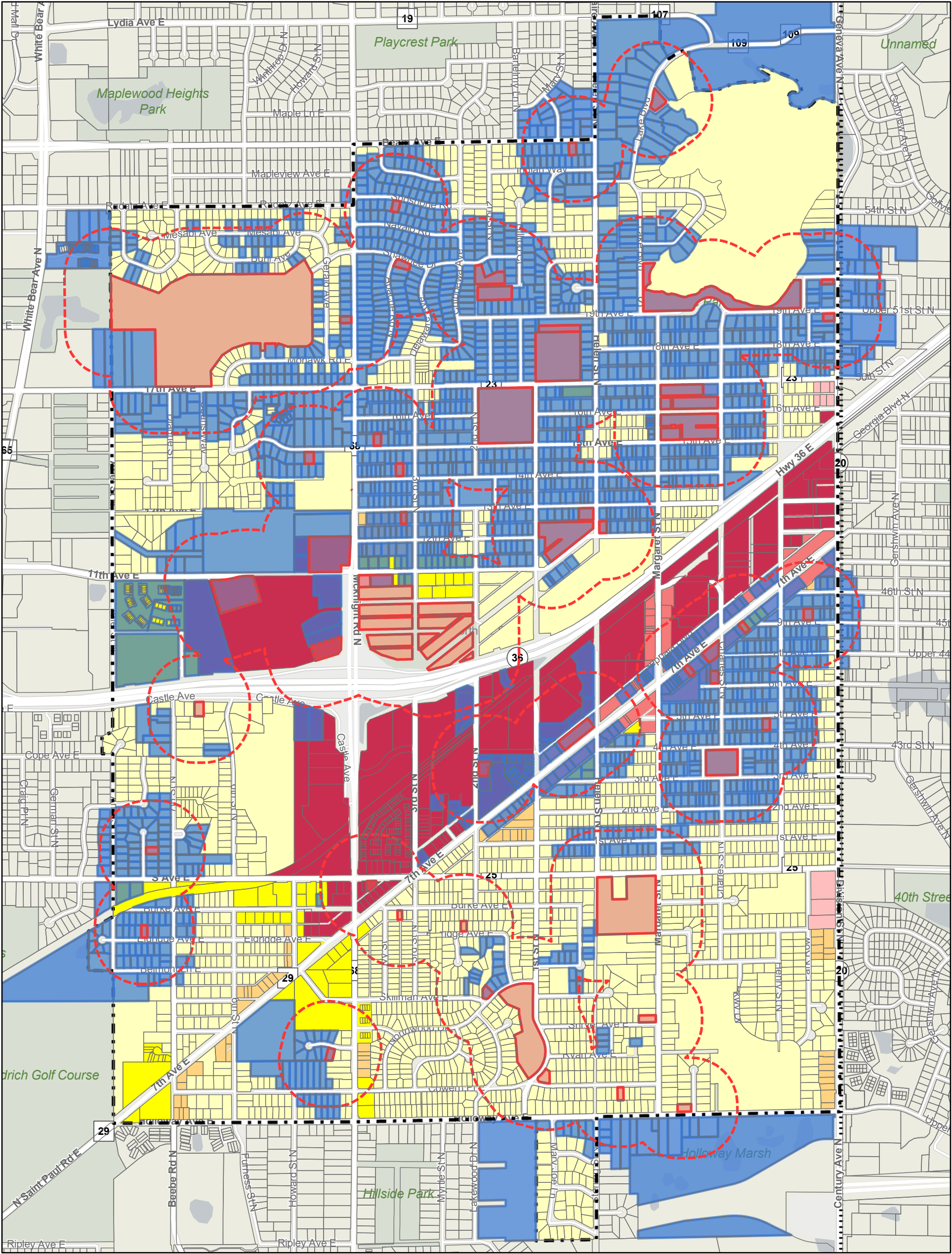
- R1: Single Family Residential
- R2: Mixed Residential
- R3: Multiple Family Residential
- MU1: Downtown Mixed-Use
- MU2: Transistional Mixed-Use
- MU3: Corridor Mixed-Use

1 in = 1,497 Ft



November 5, 2024
Map Powered By Datafi

500 Park Amenities and Day Cares/Group Homes



--- Municipal Boundary

Address Label

- R1: Single Family Residential
- R2: Mixed Residential
- R3: Multiple Family Residential
- MU1: Downtown Mixed-Use
- MU2: Transistional Mixed-Use
- MU3: Corridor Mixed-Use

1 in = 1,449 Ft



N
November 5, 2024
Map Powered By Datafi

**CITY OF NORTH ST. PAUL
NOTICE OF PUBLIC HEARING
ON PROPOSED ORDINANCE TO REGULATE
ADULT-USE CANNABIS BUSINESSES**

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of North St. Paul will hold a public hearing to consider an Ordinance to the North St. Paul City Code as it relates to the regulation of adult-use cannabis businesses.

The public hearing will be conducted on Thursday, December 5, 2024 at approximately 6:30 PM. The meeting will be held in the City Council Chambers of City Hall, located at 2400 Margaret St. N, North St. Paul.

The entire proposed ordinance will be published here 10 days before its review:
<https://northstpaul.org/1014/Proposed-Ordinances>

All persons who desire to speak on this issue are encouraged to attend and will be given an opportunity to be heard at this meeting. Persons unable to attend may email comments to chris.cherne@northstpaul.org or call (651) 747-2440 prior to the meeting.

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