

**COUNTY OF BROWN  
STATE OF MINNESOTA**

**ORDINANCE No.: 2023-1**

**ORDINANCE REGULATING THE USE AND POSSESSION  
OF CANNABIS AND CANNABIS DERIVED PRODUCTS  
IN PUBLIC PLACES**

**THE BROWN COUNTY COMMISSIONERS HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1. PURPOSE, INTENT AND STATUTORY AUTHORITY**

**1.1 Statement of Purpose and Intent.**

This Ordinance is adopted by the Brown County Commissioners for the purpose of protecting public health and safety by regulating the use of Cannabis and cannabis derived products in public places and places of public accommodation within Brown County.

By enacting 2023 Session Law, Chapter 63, H. F. No. 100 [hereinafter referred to as "State Legislation"], the Minnesota Legislature passed the adult-use cannabis bill. Under that bill, the adult use, possession, and personal growing of cannabis became legal August 1, 2023.

State legislation authorizes adoption of a local ordinance establishing a petty misdemeanor offense for public use of cannabis. See State Legislation Article 4, Sec. 19, Minn. Stat. 152.0263, Subd. 5, or successor statute.

State legislation authorizes adoption of ordinances to regulate actual or potential threats to public health. See Minn. Stat. 145A.05, subd. 1.

State legislation authorizes enforcement of local government ordinances which are more stringent than state law in protecting individuals from secondhand smoke or from involuntary exposure to aerosol or vapor from electronic delivery devices, including in areas outside of restaurants and bars. See Minn. Stat. 144.417, subd. 4.

Brown County, hereinafter "the County" wishes to be proactive in protecting public health and safety by enacting regulations that will mitigate threats presented to the public by the public use of cannabis, including unintended access and exposure of cannabis to the general public and youth of Brown County.

**1.2 Statutory Authority.**

This Ordinance is enacted pursuant to and incorporates the following: 2023 Session Law, Chapter 63, H. F. No. 100 [hereinafter referred to "State Legislation"]; State Legislation Article 1, Sec. 1 Minn. Stat. 342.01; State Legislation Article 1, Sec. 9 Minn. Stat. 342.09 Subd. 1(b) or successor statute; State Legislation Sec. 9 Minn. Stat. 342.09, Subd. 1 (b)(9) or successor statute; State Legislation Minn. Stat. 342.09 Subd.1(a)(7) or successor statute; and State Legislation Article 4, Sec. 19 Minn. Stat. 152.0263, Subd. 5, or successor statute; 145A.05, subd. 1, or successor statute; and Minn. Stat. 144.417, subd. 4, or successor statute.

## SECTION 2. DEFINITIONS

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.

(a) Adult-use cannabis flower. “Adult-use cannabis flower” means cannabis flower that is approved for sale by the office 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.

(b) 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.

(c) 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.

(d) Cannabis product. “Cannabis product” means any of the following:

- (1) cannabis concentrate;
- (2) a product infused with cannabinoids, including but not limited to tetrahydrocannabinol, extracted, or derived from cannabis plants or cannabis flower; or
- (3) any other product that contains cannabis concentrate.

(e) Hemp derived consumer products.

- (1) “Hemp derived consumer products” means a product intended for human or animal consumption, does not contain cannabis flower or cannabis concentrate, and:
  - (i) contains or consists of hemp plant parts; or
  - (ii) contains hemp concentrate or artificially derived cannabinoids in combination with other ingredients.
- (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.

(f) Lower-potency hemp edible. A “lower-potency hemp edible” means any product that:

- (1) is intended to be eaten or consumed as a beverage by humans;

(2) contains hemp concentrate or an artificially derived cannabinoid; in combination with food ingredients;

(3) is not a drug;

(4) consists of servings that contain no more than five milligrams of delta-9 tetrahydrocannabinol, 25 milligrams of cannabidiol, 25 milligrams of cannabigerol, or any combination of those cannabinoids that does not exceed the identified amounts;

(5) does not contain more than a combined total of 0.5 milligrams of all other cannabinoids per serving;

(6) does not contain an artificially derived cannabinoid other than delta-9 tetrahydrocannabinol;

(7) does not contain a cannabinoid derived from cannabis plants or cannabis flower; and

(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.

(g) Public place. A “public place”, means a public park or trail, public recreation area, public street or sidewalk, any public waters, including, but not limited to lakes, rivers, sloughs, etc., any publicly owned property, any enclosed area used by the general public, including but not limited to, theaters; restaurants, bars, food establishments and their decks; 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.

(h) 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.”

(i) Exceptions to public place or place of public accommodation. “A public place” or “a place of public accommodation” does not include the following:

1. a private residence, including the individual’s curtilage or yard.
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
3. on the premises of an establishment or event licensed to permit on-site consumption.

(j) 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. JURISDICTION**

This Ordinance shall be applicable within the legal boundaries of Brown County with the exception of cities of the first class and those cities or townships that have adopted their own ordinance establishing standards for public use of cannabis within their jurisdiction. It is the intention of this Ordinance that said city or town ordinances shall supersede and preempt this ordinance within those jurisdictions.

### **SECTION 4. PROHIBITED ACTS**

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 an event licensed to permit on-site consumption of adult-use cannabis flower and adult use cannabis products. See State Legislation Article 4, Sec. 19, Minn. Stat. 152.0263, Subd. 5, or successor statute.

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. See State Legislation Article 1, Sec. 9 Minn. Stat. 342.09, Subd. 1(b)(9) or successor statute.

Subd. 3. No minor person under the age of 21 shall possess cannabis flower, cannabis products, artificially derived cannabinoids, or hemp-derived consumer products.

### **SECTION 5. PENALTY**

Subd. 1. A violation of Section 4, Subdivisions 1 or 2 of this ordinance shall be a petty misdemeanor having a fine payable up to \$300. Nothing in this ordinance prohibits the County from seeking prosecution for an alleged violation.

Subd 2. Penalty for Possession by Certain Individuals.

- a. A violation of Section 4, Subdivision 3 of this ordinance by an individual under the age of 18 shall be a juvenile petty offense having a fine payable up to \$100.
- b. A violation of Section 4, subdivision 3 of this ordinance by an individual between the ages of 18 and 21 shall be a petty misdemeanor having a fine payable up to \$300.
- c. Nothing in this ordinance prohibits the County from seeking prosecution for an alleged violation.


### **SECTION 6. SEVERABILITY**

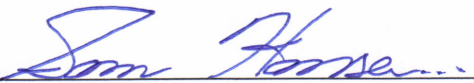
If any section or provision of this ordinance is held invalid, such invalidity will not affect other sections or provisions that can be given force and effect without the invalidated section or provision.

**SECTION 6. EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and publications as required by law.

ADOPTED by the Brown County Board of Commissioners this 17<sup>th</sup> day of  
October, 2023.

  
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Jeffrey Veerkamp, Brown County Board Chair

Attest:   
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Sam Hansen,  
Brown County Administrator