

CITY COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

Work Session – June 26, 2023

Pursuant to due call and notice, a work session of the City Council of the City of Bemidji, Beltrami County, Minnesota, was held on Monday June 26, 2023, at 5:30 p.m. in the Council Chambers of City Hall, Mayor Prince presiding.

Upon roll call, the following Councilmembers were declared present: Prince, Fiskevold Gould, Peterson, Johnson, Rivera, Eaton, Thayer

Staff Present: City Attorney Katie Nolting, City Engineer Sam Anderson, Police Chief Mike Mastin, City Clerk/acting City Manager Michelle Miller.

Mayor Prince stated that the purpose of the meeting was regarding cannabis legislation discussion.

CANNABIS LEGISLATION DISCUSSION

Nolting stated that as the Council is aware, the new Cannabis legislation has been signed into law by Governor Walz, and portions of it are set to go into effect on August 1, 2023, specifically the personal possession of cannabis and the personal growing of cannabis plants. Retail sales of recreational cannabis will be legal as of January 1, 2025. With the legalization of recreational cannabis, the City has the authority to regulate certain components of the sale and/or use of recreational cannabis within the City, if the City so chooses.

Prince stated that he had reached out by email to Chief Mastin earlier in the day and asked Chief Mastin to comment on his email response, which supports an ordinance related to public use, including parks.

Restriction on Reasonable Time, Place, and Manner

The new statute allows cities to regulate reasonable time, place, and manner for the operation of a cannabis business, so long as the city does not outright prohibit the establishment or operation of such a business. The statute specifically allows cities to "...prohibit the operation of a cannabis business within 1,000 feet of a school, or 500 feet of a day care, residential treatment facility, or an attraction within a public park that is regularly used by minors, including a playground or athletic field." Minn. Stat. §342.13. As part of the statute, the newly created Office of Cannabis Management is required to develop model ordinances in regards to reasonable restrictions on time, place, and manner of the operation of cannabis businesses for cities to utilize.

Upon discussion, no action was taken related to the city regulating reasonable time, place and manner for the operation of a cannabis business.

Moratorium

Minn. Stat. §342.13 (3)(e) gives cities the authority to adopt an ordinance that would regulate, restrict or prohibit the operation of a cannabis business within the jurisdiction, or a portion of the jurisdiction, of the city until *January 1, 2025*. This option is only available to the City if the City were conducting studies, had authorized a study, has held or has scheduled a hearing for the purposes of considering the adoption or amendment of reasonable time, place, and manner restrictions on operations of cannabis businesses. The purpose of the moratorium must be to protect the planning process and the health, safety, and welfare of the City's citizens.

If the Council is considering a moratorium on the operation of cannabis businesses, the Council would need to hold a public hearing before adopting the interim ordinance. The public hearing required under the City's ordinance process could satisfy this statutory requirement. If the Council wanted to hold an additional public hearing on the matter, there would be nothing to preclude that.

Upon discussion, no action was taken related to a moratorium related to operation of cannabis businesses.

Registration

If the Council decides to enact an ordinance requiring registration, then City then can:

1. Limit the number of licenses to 1 for every 12,500 residents (more can be allowed).
2. Collect up to the following fees:
 - a. Initial and first renewal fee of up to \$500 or half the amount of the initial license fee
 - b. 2nd renewal and thereafter: \$1,000 or half renewal license fee (*Cannot collect an application fee) (**registration fees are nonrefundable per statute)

3. If a cannabis business is not in compliance with the statute or is an immediate threat to the health or safety of the public, the City would be able to suspend the registration for up to 30 days.

With the registration comes requirements for the City, some of which are no small requirements, including:

1. Annual age verification compliance checks.
2. Unannounced age checks (similar to how law enforcement currently does tobacco and alcohol sale compliance checks).
3. Annual operations requirement checks.

If the Council chooses not to require registration through the City, the City can consent to the County registering retail cannabis businesses within the City.

Upon discussion, council supports requiring registration with the City.

Prohibit Sales During Certain Times of Day

Minn. Stat. §342.27 prohibits the sale of recreational cannabis from 2:00 a.m. - 8:00 a.m. Monday through Saturday, and 2:00 a.m. through 10:00 a.m. on Sunday. The same statute allows cities to extend those prohibition periods to 9:00 p.m. to 2:00 a.m. the following day or between 8:00 a.m. and 10:00 a.m. on the days of Monday through Saturday. The Council has the choice to adopt all, some, or none of these additional restrictions on hours.

Upon discussion, council supports prohibiting sales similar to liquor store hours.

City Establish, Own, and Operate a Municipal Cannabis Retail Establishment

The statute does allow for municipalities to own and operate recreational cannabis retail establishments. Unlike municipal liquor stores, if the City establishes a municipal cannabis business, that does not allow the City to prohibit other recreational cannabis retail establishments within the City limits.

If the City wants to own and operate a recreational cannabis retail establishment, the City would have to apply for a license like any other prospective proprietor. There would also be no guarantee the City would be granted a license by the Officer of Cannabis Management (OCM), as the statute requires the OCM to give certain priority to particular classes of applicants.

Upon discussion, a majority of the councilmembers expressed a desire to keep this option open. Council also expressed a desire to hear from the public regarding this topic. Staff will bring options for scheduling a public meeting at the July 17 council meeting.

Cannabis Events

In order for a cannabis event to take place, the OCM needs to issue an event license to the organizer. In order to get an event license from the OCM for a cannabis event to take place in the City, the event organizer is required to show proof of local approval, including obtaining any necessary permits or licenses issued by the City. The Council needs to provide direction as to whether the City should allow on-site consumption events, and if there are any specific requirements, other than those required by the statute, the Council would like to see put in place.

There are two types of recreational cannabis events contemplated in the statute: non-on-site consumption events and on-site consumption events. Both types of events must only allow individuals who are over the age of 21 to have access to the event and must also have security.

Non-on-site consumption events would authorize sales of recreational cannabis, information on products, and any other event type activities for individuals over the age of 21. Alcohol could be sold at a non-on-site consumption recreational cannabis event under the statute.

An on-site consumption event would not be allowed under the statute to permit the consumption of alcohol or tobacco at the event. If the City were to allow on-site consumption events, the organizer would have to designate an area for consumption of the recreational cannabis. There could also not have smoking of recreational cannabis at any location where smoking is not allowed or where the City or County has enacted more stringent measures to protect individuals from second hand smoke.

The statute does allow the City to enact and enforce more stringent measures to protect individuals from second-hand smoke or involuntary exposure to aerosol or vapor from electronic delivery devices at these events.

Upon discussion, council expressed a desire to add this topic for a public meeting. Staff will bring options for scheduling a public meeting at the July 17 council meeting.

Make It Unlawful for an Individual to Use Cannabis Products in Public Places

Minn. Stat. §152.0263 authorizes the City to enact an ordinance that would make it a petty misdemeanor (maximum penalty being a \$300 fine) for a person who unlawfully uses cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place provided that the definition of a public place does not include the following:

1. A private residence, including the person’s curtilage or yard;
2. Private property not generally accessible by the public, unless the person is explicitly prohibited from consuming cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on property by the owner of the property; or
3. The premises of an establishment or event licensed to permit on-site consumption.

Upon discussion, council supports an ordinance regulating cannabis use in public places.

ADJOURN

There being no further business, motion by Peterson, seconded by Fiskevold Gould, to adjourn the meeting. Motion carried. Meeting adjourned at 7:38 p.m.

Respectfully submitted,



Michelle R. Miller
City Clerk