

City Council Work Session  
August 7, 2023

The Fergus Falls City Council held a work session on August 7, 2023, at 4:30 pm in the City Council Chambers regarding the public use and zoning of cannabis products. Mayor Schierer called the meeting to order, and the following council members were in attendance: Kvamme, Rufer, Kremeier, Thompson, Rachels, Hicks, Fish, and Job.

The State of Minnesota legalized the possession, home growth and use of cannabis products effective August 1, 2023. The Fergus Falls City Council adopted a moratorium restricting sales of these products until January 1, 2025, to give the state the time to establish the Office of Cannabis Management. The new law does not affect hemp derived THC edibles which still can be legally sold. Cities and counties can prohibit the use of cannabis in public places by adopting an ordinance establishing a petty misdemeanor offense for those unlawfully using cannabis flower, cannabis products, and lower potency hemp edibles in a public place. Chief of Public Safety Kile Bergren provided a sample ordinance he recommends the city consider adopting. The ordinance states public places include all areas contained within the city boundaries, except as defined in Minn. Stat. Section 342.09: private residences including the curtilage and yard; private property not generally accessible by the public unless a person 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 on the premises of an establishment or event license to permit on-site consumption of cannabis flower, cannabis products, lower-potency hemp edibles or hemp-derived consumer products. The Clean Indoor Act applies to cannabis flower, products, and hemp-derived consumer products that involve smoking/aerosol/vapor.

Bergren addressed questions from the council. He was asked how the new law affects apartments. Individual property owners or apartment owners as private businesses can ban the use of products on their property with their lease agreement and the property owners can post signs prohibiting smoking of any material on the premise. The city's ordinance is specific to public property and the city is not regulating private property.

Cities cannot prohibit temporary cannabis events, but they may set standards which the event organizer must meet. The events can last up to four days in duration and applicants must obtain any necessary permits or licenses issued by local units of government. Cities may but are not required to permit on-site consumption for events, and they can restrict these events on public property if they choose. Staff anticipate the state will align this process to that of temporary liquor events where proof of insurance must be provided, and the state agency makes the final approval decision. There was discussion on the differences in using and regulating alcohol, tobacco, and cannabis products, what is allowed by law and odors that adversely affect others. The city currently has a policy restricting the use of tobacco products in city parks during youth events. If the council wants staff to pursue a ban of smoking tobacco and/or cannabis products, this could be incorporated into the ordinance language.

The council asked about restricting usage at the municipal campground and at Pebble Lake Golf Course. Bergren said the council could include these spaces in their ordinance but felt the golf course is unique as it is not a public park, a fee is paid to use the facility and users must follow their rules. As the council representative on the golf board Fish said he would bring up this conversation with them and their lease agreement with the city is up this year.

Community Development Director Klara Beck spoke about the new laws authorizing the city to regulate where the sales and manufacturing of cannabis products are allowed. The city can place reasonable restrictions on the time, place and manner of operations and can prohibit operations within 1,000 feet of a school or 500 feet of a day care, residential treatment facility or attraction within a public park. The Office of Cannabis Management cannot issue a cannabis business license if the business does not comply with local zoning ordinances. A small group of the Planning Commission is studying the new laws and regulations and will make a recommendation as to the new zoning regulations. The new state laws will not allow shared kitchens and a licensing will be required for manufacturing products. It contains better definitions for growing products used in the manufacturing process. Beck said it would be helpful for the council to define manufacturing, where they would like to see this occur and they were asked for other suggested changes to be incorporated.

Staff was asked if the city can restrict the number of licensed cannabis retailers. Cities with a population of 24,999 or less must provide one license but is not obligated to provide more than that. If the county has one active registration for every 12,500 residents, a city within a county is not obligated to register any additional cannabis businesses.

The council discussed the oversight and enforcement of these new rules and Bergren expects jurisdictional changes have and will continue to occur. The Pharmacy Board is no longer be involved in the regulation process. The Department of Health is currently conducting the compliance checks and will likely continue that role until the Office of Cannabis Management is up and running. Another agency is monitoring the manufacturing of medical marijuana products.

Regarding training, our department has two drug recognition experts, and he expects more officers will be trained in this detection process. There is currently a lack of a roadside test to judge a driver's impairment, but feels this technology will advance and he anticipates a large learning curve as all state agencies navigate the new laws. The process for driving under the influence remains the same and DWI and open possession in a vehicle is prohibited for cannabis products. Legalization does not equate to safety and he emphasized the importance of using these products responsibly as other states have seen a sharp rise in traffic related incidents due to the initial legalization of these products. Tonight, the council could take action to direct the City Attorney to draft an ordinance and Schierer explained the ordinance timeline and the availability of opportunities for public input to the proposed ordinance.

The work session adjourned at 5:24 PM

*Lynne Olson*