



TWO HARBORS PLANNING COMMISSION

Serving the People of Two Harbors

522 First Avenue
Two Harbors, Minnesota
Phone 218-834-5631
FAX 218-834-2674

MEMORANDUM

To: Two Harbors Planning Commission
From: Justin Otsea, ARDC
Date: April 11th, 2023
Subject: April 18th, 2023 Agenda

The Planning Commission will meet on **Tuesday, April 18th, at 5:30 p.m.** in the City Hall Council Chambers at 522 First Avenue.

1. Call to Order
2. Approval of Agenda
3. Approval of March 7th, Meeting Minutes
4. Public Comments- As needed
5. Parcel Acquisition Comprehensive Plan – *Discussion and Recommendation*
6. THC Moratorium – *Discussion*
7. Vacant Building Strategy – *Discussion*
8. Open Streets/Downtown Activation– Parklet, Social District, other related items-*Brief Update and Discussion*
9. Reports & Communications
 - a. Zoning Administration
 - b. Short Term Rental
 - c. Other Reports
10. Next Meeting
 - a. Need to schedule July meeting (Regular meeting is holiday)
11. Adjourn

Next meeting is tentatively scheduled for
May 2nd, 5:30 p.m.

Two Harbors Planning Commission

Meeting Minutes

March 7th, 2023

Present: Koehler, Glaser, Redmann, Snowdon, Emerson, Nielson

Absent: Chapek

Other: Bergstad

Next meeting: April 4th, 2023

I. Call to Order

Koehler called the meeting to order at 5:33 p.m.

II. Approval of Agenda

Motion by Redmann to approve the agenda. Support by Glaser. Motion approved by all members present and voting.

III. Public Hearing-Hotel/Motel Definition-The chair opened the public hearing. Josh detailed the meeting report referencing the new proposed definitions to hotels and motels including minimum unit requirements. No comments from the public were received.

Motion by Glaser to approve the new changes definition of Hotel and Motel in the zoning code. Support by Redmann, Motion approved by all members present and voting. The public hearing was adjourned.

IV. Meeting Minutes - Motion by Emerson to approve the February 28th, 2023. Support by Neilson. Motion approved by all members present and voting.

V. Public Comments - Paul Iverson wanted to follow up with the Planning Commission on the vacant building fees. Brief discussion followed, but no direct action from the Planning Commission. Josh noted he'd follow up with Justin to make it a future agenda item when Justin returns.

VI. Parklets and Social Districts: Josh detailed parklets and reference a recent request for bringing them back after allowance during the Covid-19 Pandemic. Discussion followed, and the Planning Commission seemed to be supportive of making them permanent on City streets. The Commission Asked staff to review zoning and work with public works and public affairs as appropriate. Josh presented additional information around the concept of Social Districts in Minnesota. Todd provided additional insight on the subject as well. Discussion followed about introducing the idea to the City of Two Harbors. Noted topics included Council to look at legislative opportunities and refer to public safety, public affairs, other relevant committees, Justin to come up boundaries, and forwarding the information to Patty for future discussion.

Motion Made by Snowdon to study reestablishing the parklets in Two Harbors. Support by Redmann. Motion approved by all members present and voting.

Motion made by Redmann to forward Social District information to City Council for further consideration and other above noted follow up. Support by Glaser. Motion approved by all members present and voting.

VII. Reports & Communications - No reports from Planning Staff.

VIII. Commissioners- Tom wanted Josh to remind Justin that Planning Commission would like to see some sort of action on the John A Johnson and community has expressed concerns about environmental conditions on Lighthouse Point PUD concept plan.

Next Meeting was set for March 7 at 5:30 p.m.

Motion by Glaser to adjourn. Supported by Emerson . *Motion approved by all members present and voting.*

Meeting adjourned at 7:09 p.m. Minutes Submitted by Justin Otsea, City Planner with assistance from Josh Bergstad, Principal Planner

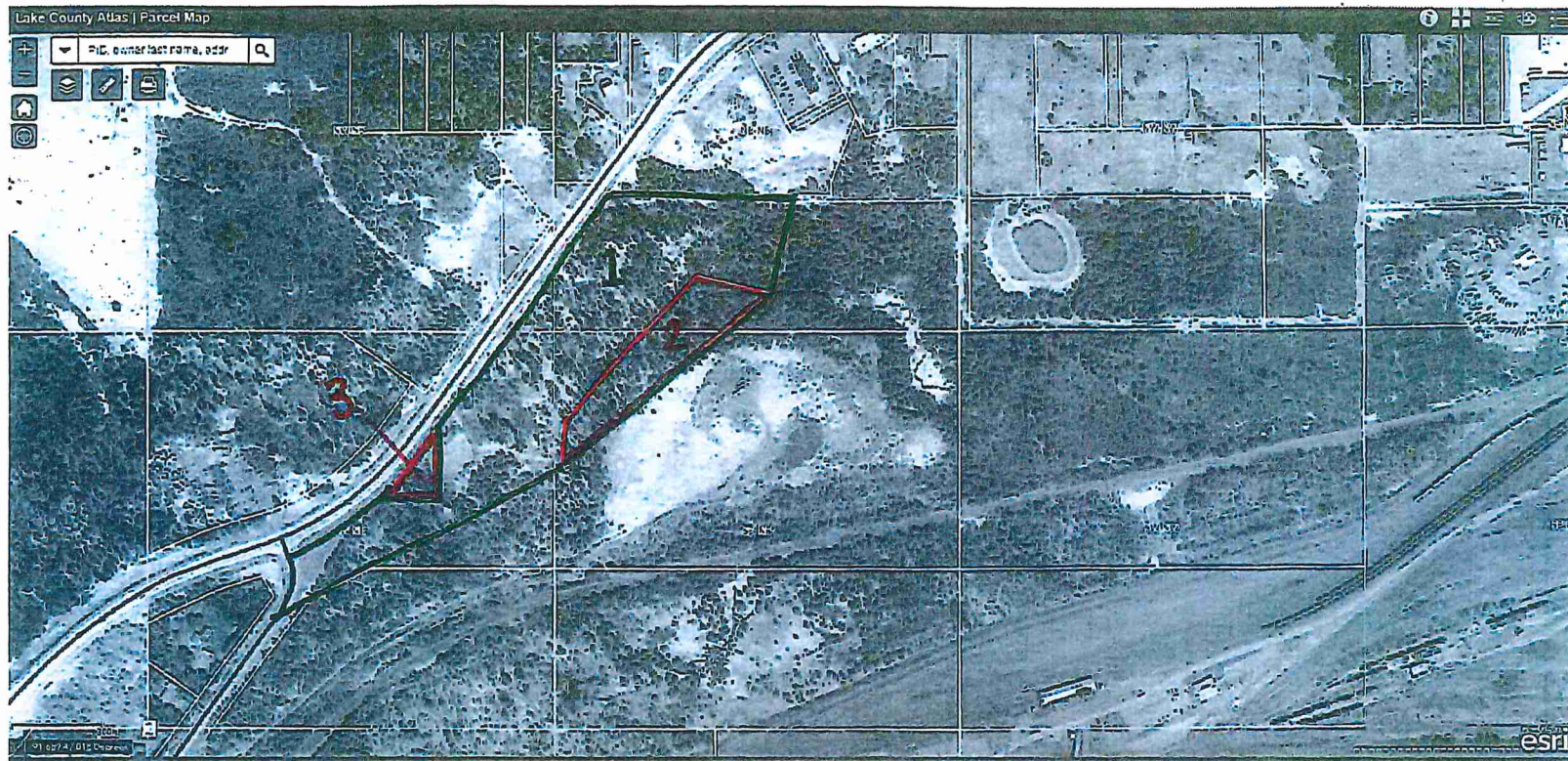


Exhibit A

- 1 - Parcel No. 23-7600-02047
- 2 - Parcel No. 25-5211-02145
- 3 - Parcel No. 23-7600-02143



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MEMORANDUM

To: Two Harbors Planning Commission
From: Justin Otsea, ARDC
Date: February 28th, 2023
Subject: Draft CBD/THC License Ordinance

The following is an example ordinance for licensure of the THC/CBD products we currently have under moratorium. I intend to use the ordinance as a framework for discussion around the need of a license related to the sales of these products.

City of Stillwater
Washington County, Minnesota

ORDINANCE NO. 1190

**AN ORDINANCE AMENDING THE STILLWATER CITY CODE BY ENACTING CITY
CODE §41-9 CBD RETAIL ESTABLISHMENT LICENSE**

The City Council of Stillwater does ordain:

SECTION 1 ENACTMENT. Stillwater City Code Chapter 41-9 is hereby enacted as follows:

Sec. 41-9 – CBD RETAIL ESTABLISHMENT LICENSE

Subd. 1. *Purpose.* Because the city recognizes that persons under the age of 21 years may purchase or otherwise obtain, possess and use intoxicating CBD products; and the sale of these products to persons under 21 years of age are violations of state and federal laws; and because the use of intoxicating CBD products by those underage subsequently places a financial burden on all levels of government, this chapter is intended to regulate the sale of intoxicating CBD products for the purpose of enforcing and furthering existing laws.

Subd. 2. *Definitions*

CBD means a compound of the cannabis plant known as cannabidiol.

CBD retail establishment means a business that sells CBD products and derives more than 50% of its gross revenue from the sale of any CBD products (intoxicating and non-intoxicating) or related devices.

CBD products means and includes industrial hemp products and hemp derived products.

CBD incidental sales means any business that sells or provides CBD products as an incidental part of its business but is not a CBD retail establishment (intoxicating or non-intoxicating).

Edible cannabinoid (CBD) product means any product that is intended to be eaten or consumed as a beverage, contains a cannabinoid in combination with food ingredients, and is not a drug.

Hemp or Industrial Hemp means the "Industrial Hemp" definition provided under Minn. Stat. § 18K.02 subd. 3, as may be amended.

Hemp manufacturing means the ability to facilitate the manufacturing of industrial hemp.

Intoxicating cannabinoid (CBD) products means products made from substances extracted from certified hemp plants that produce intoxicating effects when consumed by any route of administration and have more than a trace amount of THC. Intoxicating CBD products include but are not limited to products made with Delta-8, Delta-9 and Delta-10.

Medical cannabis means the definition provided under Minn. Stat. § 152.22, subd. 6, as may be amended.

Medical cannabis distribution facility means a facility operated by a medical cannabis manufacturer for purposes of distributing medical cannabis in accordance with Minn. Stat. § 152.29, subd. 1(a), as may be amended, and the requirements of the commissioner of Minnesota department of health or other applicable state law.

Nonintoxicating cannabinoid (CBD) product means products made from substances extracted from certified hemp plants that do not produce intoxicating effects when consumed by any route of administration.

THC means tetrahydrocannabinol.

Subd. 3. *CBD Retail Establishment License required.* No person may operate a CBD retail establishment without first having obtained a CBD retail establishment license from the city. No person shall sell intoxicating CBD products except at a CBD retail establishment.

- (1) *Application.* An application for a CBD retail establishment must be made on a form provided by the city. The application must contain the full name of the applicant, date of birth, driver's license number, social security number the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, names of all managers, addresses, date of birth, driver's license number, and any additional information the city deems necessary. The city clerk, with the assistance of the police chief or the chief's designee, is responsible to see that background checks are done on all applicants and managers. Upon receipt of a completed application, the city clerk will forward the application to city council for action
- (2) After the city has received a completed application, including all required documentation, appropriate fees and a completed background investigation, the license will be submitted to the city council for consideration.
- (3) Incomplete applications will be rejected by the city clerk and will not be submitted to the city council.

Subd. 4. *Investigation.* In order to protect the general welfare of the public, new and renewal license applications require a background investigation. The investigations will be conducted pursuant to this section.

- (1) *Authorization.* At the time of making an initial or renewal license application, the applicant must provide written authorization to the city to investigate all

facts set out in the application and to do a background investigation on the applicant. The information obtained from the investigation shall be used to assist the police chief in making a recommendation as to whether the applicant should be granted a license. The recommendation may be based on any of the following criteria:

- a. Whether the applicant was convicted of a crime or offense in the last five years involving or directly relating to the business for which a license is sought;
 - b. Whether there is a material misrepresentation in the application
 - c. Any of the reasons for denial in city code Sec. 41-9 subd. 10.
- (2) *Investigation fee.* All applicants that must undergo a background investigation must pay an investigation fee with the license application. The city council establishes the investigation fees by city council resolution.

Subd. 5. *Insurance.* The applicant must file with the city clerk a certificate of insurance from an insurance company duly licensed and qualified to do business in the state, on a form approved by the city.

- (1) *Coverage requirements.* The insurance policy certified must provide coverages and amounts as required by state law and by the city.
- (2) *Coverage changes and cancellation.* The applicant may not cancel or change the insurance without 30 days' prior written notice to the city clerk. The certification of insurance must be continuously in effect until 30 days after receipt of the written notice of cancellation or change.

Subd. 6. *Term.* All licenses issued under this section are valid from January 1 and terminate on December 31 of each calendar year.

Subd. 7. *Limit on licenses.* No more than two (2) CBD retail establishment licenses shall be issued at any one time. In the event that more than two applications are submitted at the same time, then a point system shall be used to determine which businesses are issued the two (2) licenses, with one point for each of the criteria below:

- (1) It is an existing business that has been established at the location for more than 6 months or it is a business applying for a renewal application.
- (2) The CBD retail establishment location is a legal conforming use.
- (3) The applicant/owner is a Stillwater resident.
- (4) A completed application was submitted that complies with all information required and fees paid.

The two applications with the highest number of points shall be issued a license. In case of a tie, the licenses shall be determined through a drawing by the Mayor.

Subd. 8. *Fees*. No license may be issued under this section until the appropriate license fee is paid in full. Fees shall not be pro-rated for a license that is issued mid-year.

Subd. 9. *Exceptions*. No license shall be required for the following:

- (1) Medical marijuana distribution facilities licensed or approved by the State.
- (2) The sale of non-intoxicating CBD products, which may be sold in any business establishment in the CA, CBD, VC, BP-C, BP-I, BP-O or HMU zoning districts.

Subd. 10. *Basis for denial of license*. Any one of the following are grounds for denying the issuance or renewal of a license under this section; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license. If a license is mistakenly issued or renewed to a person, it will be revoked upon the discovery that the person was ineligible for the license under this subdivision.

- (1) The applicant is under the age of 21 years.
- (2) The applicant has been convicted within the past five years of any violation of a federal, state or local law, ordinance provision, or other regulation relating to marijuana or CBD products.
- (3) The applicant has had a license to sell CBD products suspended or revoked by the city or any other jurisdiction during the 12 months preceding the date of application.
- (4) The applicant fails to provide any information required on the application or provides false or misleading information.
- (5) The applicant is prohibited by federal, state or other local law, ordinance or other regulation, from holding such a license.
- (6) The location proposed is or has been maintained as a public nuisance, place of unlawful assembly, disrepute or criminal activity.
- (7) The applicant is applying for a location in an area that is prohibited for such use by state law or the city zoning Code or where the property line is within 500 feet of a school or church.
- (8) Real estate taxes or assessments for the premises on which the business is located are delinquent and unpaid.
- (9) The applicant owes outstanding fees to the city.
- (10) The applicant already has a CBD retail establishment license from the city.

Subd. 11. *Transfers*. All licenses issued under this section are valid only on the premises for which the license was issued and only for the person to whom the license was issued. The transfer of any license to another location, business or person is prohibited.

Subd. 12. *Display*. All licenses must be posted and displayed in plain view of the general public on the licensed premise.

Subd. 13. *Renewals*. The renewal of a license issued under this section must be handled in the same manner as the original application. The request for a renewal must be made at least 60 days before the expiration of the current license.

Subd. 14. *Performance Standards*. All CBD retail establishments must meet the following conditions:

- (1) CBD products and edible CBD products may be sold for human or animal consumption only if all of the packaging requirements of Minn. Stat. § 151.72 subd. 3, or as may be amended.
- (2) No CBD product may contain more than 0.3% of THC.
- (3) No edible CBD product can contain an amount of any TCH that exceeds 5 mg per serving or 50 mg per package.
- (4) No intoxicating CBD product may be sold to anyone under the age of 21.
- (5) No one under 21 shall be allowed to enter an CBD retail establishment that sells intoxicating CBD products.
- (6) Any person selling or distributing licensed products shall require proof of age by means of government issued photographic identification from the prospective purchaser showing purchaser is 21 years old or older.
- (7) Signage identifying the legal sales age and the age verification requirement shall be posted at the point of sale. The required signage shall be posted in a manner so that it is clearly visible to anyone who is considering or making a purchase.
- (8) No one under 21 shall sell intoxicating CBD products.
- (9) CBD products must comply with the testing requirements in Minn. Stat. § 151.72 subd. 4, as may be amended.
- (10) CBD products must comply with the labeling and packaging requirements of Minn. Stat. § 151.72 subd. 5 and 5a, as may be amended.
- (11) Intoxicating CBD products cannot be sold in vending machines, by transient merchants, peddlers, by a moveable place of business, through a drive-through or by internet sales for in-store pick up.
- (12) Intoxicating CBD products cannot be sold at exclusive liquor stores.
- (13) Intoxicating CBD products cannot be delivered to a location outside of the CBD retail establishment.

(14) No sampling is allowed.

(15) No on-site entertainment is allowed.

(16) No flavored inhaled intoxicating CBD products may be sold.

(17) No gels, powders or other forms of intoxicating CBD that are mixed with liquid may be sold.

Subd. 15. *Compliance checks and inspections.* All licensed premises must be open to inspection by the local law enforcement or other authorized city official during regular business hours. From time to time, but at least once per year, the city must conduct compliance checks by engaging persons between the ages of 17 and 21 years, to enter the licensed premises to attempt to purchase intoxicating CBD products. Compliance checks using persons under the age of 18 shall require parent or guardian consent. Persons used for the purpose of compliance checks must be supervised by designated law enforcement officers or other designated city personnel. Persons used for compliance checks are not guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of intoxicating CBD products when the items are obtained or attempted to be obtained as a part of the compliance check. No person used in compliance checks may attempt to use a false identification misrepresenting the person's age, and all persons lawfully engaged in a compliance check may answer all questions about the person's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section prohibits compliance checks authorized by state or federal laws for educational, research or training purposes, or required for the enforcement of a particular state or federal law.

Subd. 16. *Penalties.* Any license issued under this section may be revoked or suspended. In addition, any person who violates any provision of this ordinance is subject to the general penalties section of city code section 22-11.

Subd. 17. *Prohibited Acts.*

- (1) *Legal age.* It shall be unlawful for any person to sell, purchase, obtain or otherwise provide any intoxicating CBD product to any person under the age of 21.
- (2) *Illegal possession.* It shall be unlawful for any person under the age of 21 to possess any intoxicated CBD product. This chapter shall not apply to persons under the age of 21 lawfully involved in a compliance check.
- (3) *Illegal use.* It shall be unlawful for any person under the age of 21 to use any intoxicating CBD product, unless it is legally authorized medical marijuana.
- (4) *Use of false identification.* It shall be unlawful for any person under the age of 21 to attempt to disguise the person's true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with, to

represent an age older than the actual age of the person, in order to purchase any intoxicating CBD product.

SECTION 2 FIRST YEAR LICENSE TERM. Any initial license issued after adoption of this ordinance shall be for a term from the date of issue through December 31, 2023. No application shall be accepted before October 1, 2022.

SECTION 3 SUMMARY PUBLICATION. Pursuant to Minn. Stat. § 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance:

The City is enacting license regulations for retail sales of intoxicating CBD products, which are limited to being sold at exclusive CBD stores only, and only 2 licenses will be issued.

SECTION 4 INTERIM ORDINANCE TERMINATION. Upon the Effective Date of this Ordinance, Interim Use Ordinance No. 1178 adopted on November 16, 2021, shall automatically terminate.

SECTION 5 EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage and publication according to law.

Adopted by the City Council of the City of Stillwater this 6th day of September, 2022.

CITY OF STILLWATER


Ted Kozlowski, Mayor

ATTEST:


Beth Wolf, City Clerk