

CITY OF THE VILLAGE OF MINNETONKA BEACH, MINNESOTA

ORDINANCE NO. 143, 2nd Series

AN ORDINANCE AMENDING CHAPTER 5 OF THE CITY CODE
REGARDING THE USE OF TOBACCO AND CANNABIS IN PUBLIC PLACES

The city council of the City of the Village of Minnetonka Beach ordains as follows:

Section 1. Section 516 of the city code is amended by deleting the ~~stricken~~ language and inserting the double-underlined language as follows:

516 **Tobacco Free and Cannabis Use in Public Places**

(1) **Purpose.** The City of the Village of Minnetonka Beach believes there is sufficient medical evidence showing that tobacco smoke is a major contributor to indoor air pollution and that breathing secondhand smoke or environmental tobacco smoke is a cause of diseases such as lung cancer, cardiovascular disease, and respiratory disease and a cause of strokes and heart attacks; that the discarding of tobacco products pollute the land and water and may be ingested by small children, pets, birds or fish; and that it is desirable to provide a safe and healthy environment for residents and members of the public while using city owned facilities and parks. The City also believes that use of cannabis in public places will have an adverse impact on the environment similar to that of tobacco products and will discourage the use and enjoyment of such places by members of the public. The purpose of this Ordinance is to set forth the rules banning the use of tobacco ~~products~~ and cannabis in city parks, facilities and public areas, thereby making such areas cleaner, safer, and more enjoyable for city residents and the public.

Application: This ordinance shall apply to all ~~City-owned~~ property or ~~operated~~ facilities owned or operated by the City.

(2) **Definitions.** The following terms when used in this ordinance shall have the meanings ascribed to them in this section unless the context clearly indicates or requires a different meaning. Terms used in this ordinance which are not specifically defined herein shall have the meanings given to them in Minnesota statutes unless the context clearly indicates or requires a different meaning.

(A) **Cannabis** means, cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products as those terms are defined in Minnesota Statutes, section 342.01, as it may be amended from time to time.

(B) **City facilities** means any building owned or operated by the City of Minnetonka Beach, including outdoor areas of the lot or parcel on which the building is situated unless specifically exempted.

(C) **City park** means any open or enclosed land and improvements or facility which is owned, leased or operated by the City of Minnetonka Beach and which is reserved, designated or used for a playground, picnic area, garden area, beach, bike or walking path, trail, nature preserve, green space, sports or athletic field, skating rink, warming house, or any other recreational open space area, and includes city owned parking areas serving a city park or city facility and sidewalks located directly adjacent to a city park or facility.

(D) **Edible Cannabinoid Product** means any product that is intended to be either eaten, or consumed as a beverage, by humans, and which contains a cannabinoid product in combination with other consumable ingredients as defined in Minnesota Statutes, section 151.72, subd. 1.

(E) **Electronic Delivery Device** means any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption through inhalation of aerosol or vapor from the product. Electronic delivery device includes but is not limited to devices manufactured, marketed, or sold as electronic cigarettes, electronic cigars, electronic pipe, vape pens, modes, tank systems, or under any other product name or descriptor. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device excludes drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.

(F) **Smoking** means inhaling, or exhaling smoke from any lighted or heated cigar, cigarette, pipe, electronic cigarette, or any other lighted or heated tobacco or plant product, and includes carry a lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product intended for inhalation, burning or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. Smoking includes carrying or using an activated electronic delivery device.

(G) **Tobacco or tobacco product** means or tobacco product any substance, item or product containing, made, or derived from

tobacco leaf, including but not limited to cigarettes; electronic cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff flowers; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse serapes, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product including but not limited to cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. Tobacco excludes any drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.

(H) Use means smoking, inhaling, exhaling, burning, ingesting or carrying any lighted cigar, cigarette, electronic cigarette, pipe, weed, or plant in any manner or in any form; chewing; sniffing; and spitting. tobacco or cannabis product or ingesting any edible cannabinoid product.

(3) Prohibited Activities.

~~(A) Tobacco~~ Use of tobacco and cannabis is prohibited ~~in certain areas.~~ Smoking and other tobacco use is prohibited in the following areas:

1. City parks;
2. City facilities;
3. Inside motor vehicles owned or operated by the City;
4. Inside motor vehicles at City facilities and parks.

~~(B) Exceptions.~~ Notwithstanding any other provision to the contrary, the following areas are exempt from the provisions of this chapter regarding the use of tobacco and cannabis:

1. Any specifically designated outdoor areas of City facilities;
2. City streets, easements, and sidewalks unless located adjacent to or within City parks or facilities.

~~(C)~~ (B) It is unlawful for a person under the age of 21 to possess or consume an edible cannabinoid product or to distribute to another person under the age of 21 an edible cannabinoid product in a city park or city facility.

(4) Posting of Signs.

(A) “Tobacco and cannabis-Free Grounds” signs or signs with a similar designation will be clearly and conspicuously displayed at City parks and facilities to notify the public that smoking and other use of tobacco use and cannabis is prohibited.

(B) All ashtrays and other smoking paraphernalia shall be removed from every area where tobacco and cannabis use is prohibited under this chapter.

(5) Enforcement/Penalty.

(A) Violators of this Ordinance will be asked to extinguish and dispose of the tobacco or cannabis product and/or leave the City park or City facility. A refusal to extinguish and dispose of the tobacco or cannabis product or leave upon request of a police officer or other City official may result in a charge of trespassing or the issuance of a citation and administrative fine for tobacco violations and is a petty misdemeanor for cannabis violations.

(B) Violation of section (3)~~(C)~~(B) regarding edible cannabinoid products is a petty misdemeanor.

(C) Complaints. Any citizen who witnesses violation of this chapter may register a complaint with City law enforcement.

(6) Violation and Penalty.

~~Violation of any provision of this chapter, whether by action or failure to act, is an administrative citation and the imposition of an administrative fine in an amount determined by the City Council from time to time. The city council shall establish an administrative fine for any violation of this ordinance resulting in an administrative citation.~~

Section 2. Effective Date. This Ordinance shall become effective immediately following adoption and publication as required by law.

Adopted by the city council of the city of the Village of Minnetonka Beach this ____ day
of _____, 2023.

Joe Pagano, Mayor

ATTEST:

Heidi Honey, City Administrator