

ORDINANCE NO. 23-09-2070

AN ORDINANCE AMENDING THE ZONING REGULATIONS IN THE MUNICIPAL CODE OF
THE CITY OF WHITE BEAR LAKE REGARDING TOBACCO PRODUCT SHOPS AND
EDIBLE CANNABINOID RETAILERS

The Council of the City of White Bear Lake does ordain:

ARTICLE I. Tobacco Products Shop. Chapter 1302 of the Municipal Code of the City of White Bear Lake is hereby amended by adding a new Section 1302.160 as follows:

§1302.160 TOBACCO PRODUCTS SHOP

Subd. 1. Purpose. The purpose of this section is to allow tobacco products shops in certain zoning districts within the City, subject to certain regulations.

Subd. 2. Definitions. For the purposes of this section, the following terms shall have the meanings given them in this subdivision.

- a) Day Care. "Day care" has the meaning given the term in Section 1302.170, subd. 2 of this Code.
- b) Public Park. "Public park" has the meaning given the term in Section 1302.170, subd. 2 of this Code.
- c) Residential Treatment Facility. "Residential treatment facility" has the meaning given the term in Section 1302.170, subd. 2 of this Code.
- d) School. "School" has the meaning given the term in Section 1302.170, subd. 2 of this Code.
- e) Tobacco Products Shop. A retail establishment with a current tobacco license issued by the City that:
 - 1) Has an entrance door opening directly to the outside;
 - 2) Prohibits persons under the age of 21 years from entering the establishment at any time;
 - 3) Is in compliance with all applicable provisions of this Code; and
 - 4) Derives more than 90 percent of its gross revenue from the sale of tobacco, tobacco-related devices, and electronic delivery devices, as defined in Minnesota Statutes, section 609.685, and in which the sale of other products is merely incidental.

The term does not include a tobacco department or section of any individual business establishment with any type of liquor, food, or restaurant license.

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Subd. 3. Allowed Use. A tobacco products shop is a permitted use within the B-4, General Business District.

Subd. 4. Separation Buffer. A tobacco products shop shall not be located within 1,000 feet of a school and shall not be located within 500 feet of a day care, residential treatment facility, or a public park.

ARTICLE II. Edible Cannabinoid Businesses. Chapter 1302 of the Municipal Code of the City of White Bear Lake is hereby amended by adding a new Section 1302.170 as follows:

§1302.170 EDIBLE CANNABINOID BUSINESS

Subd. 1. Purpose. The purpose of this section is to initially establish zoning regulations associated with businesses selling edible cannabinoid products at retail under Minnesota Statutes, section 151.72, and in anticipation of the eventual retail sales of cannabis products by cannabis businesses under Minnesota Statutes, chapter 342. The City is expressly authorized by Minnesota Statutes, section 342.13(c) to adopt reasonable time, place, and matter restrictions on the operation of cannabis businesses. The City has adopted a moratorium on cannabis businesses, which does not apply to businesses selling edible cannabinoid products at retail under Minnesota Statutes, section 151.72, and anticipates updating these regulations before the moratorium expires no later than January 1, 2025. The Office of Cannabis Management will be developing sample regulations for local governments to consider when adopting or amending its regulations. It is not clear when these guidance documents will be available and so these regulations are intended to apply to cannabis businesses licensed under Minnesota Statutes, chapter 342 in case the guidance documents are not available in time to update these regulations before January 1, 2025. The City anticipates being able to update these regulations before that date, but if that is not reasonably possible the City Council does not want to leave a gap in the zoning regulations applicable to state licensed cannabis businesses.

Subd. 2. Definitions. For the purposes of this section, the following terms shall have the meanings given them in this subdivision. If a term is not defined herein, it shall have the meaning given the term in Section 1301.030 of this Code and, if not defined therein, it shall have the meaning given it in Minnesota Statutes, section 151.72 or Minnesota Statutes, section 342.01.

- a) Cannabis Business. “Cannabis business” means any business included in the definition of cannabis business in Minnesota Statutes, section 342.01, subdivision 14. The term does not include an edible cannabinoid business as defined in this subdivision.
- b) Edible Cannabinoid Business. “Edible cannabinoid business” means any business offering for sale or selling at retail an edible cannabinoid product, as defined in Minnesota Statutes, section 151.72, subdivision 1(f), or a lower-potency hemp edible product, as defined in Minnesota Statutes, section 342.01, subdivision 50, to the public. The term does not include any business that also sells any other product containing tetrahydrocannabinol that requires a license to sell under Minnesota Statutes, section 342.

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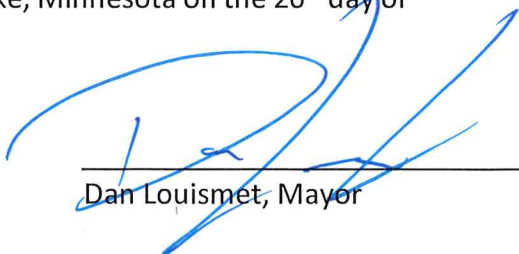
- c) Day Care. "Day care" means a facility that is licensed by the Minnesota Department of Human Services as any of the following: (1) an adult day care licensed under Minnesota Rules, parts 9555.9600 to 9555.9730; (2) a residential or nonresidential day care program required to be licensed under Minnesota Statutes, section 245A.03; (3) a family day care or group family day care facility required to be licensed under Minnesota Rules, parts 9502.0315 to 9502.0445; or (4) any other day care facility required to be licensed by the state to provide day care services.
- d) School. "School" means a public or private facility that provides educational programs to 10 or more persons that are under the age of 21 in a classroom setting. The term includes, but is not limited to, any school operated by an independent school district or a charter school operating under Minnesota Statutes, chapter 124E.
- e) Residential Treatment Facility. "Residential treatment facility" means a facility providing mental health, alcohol, or drug treatment services established or operated in accordance with Minnesota Rules, chapter 2960, or Minnesota Statutes, chapters 245G or 260C.
- f) Public Park. "Public park" means an open space, playground, athletic field, or other facility owned by the City, a school district, the county, or other public entity that is open to, and regularly used by, those under the age of 21.

Subd. 3. Edible Cannabinoid Business. An edible cannabinoid business is a permitted use within any of the commercial districts identified in Section 1303.010, Subd. 1(b) of this Code, provided the business also has a current tobacco license or a current on-sale or off-sale intoxicating liquor license.

ARTICLE III. Severability. If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as invalidation or affect the validity and enforceability of any other section or provision of this ordinance.

ARTICLE IV. Effective Date. This ordinance shall become effective on the first day of publication after adoption.

Adopted by the City Council of the City of White Bear Lake, Minnesota on the 26th day of September 2023.



Dan Louismet, Mayor

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ATTEST:

Caley Longendyke
Caley Longendyke, City Clerk

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Second Reading: September 26, 2023

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