



City of Sunfish Lake
City Council Agenda Report

8f

TO: Mayor O'Leary and Members of the Sunfish Lake City Council
FROM: Kori Land, City Attorney
DATE: December 10, 2024
RE: Cannabis and Lower-Potency Hemp Zoning Ordinance

BACKGROUND

With the enactment of the State cannabis laws in 2023 and amendments in 2024, there are 13 cannabis uses legally recognized by the state of Minnesota. The statute, found at Minn. Stat. Chapter 342, authorizes cities to protect the public health, safety, and welfare of residents by regulating cannabis and lower-potency hemp edible uses within its jurisdiction. The City also has the authority in Minn. Stat. § 462.357 to regulate by ordinance the zoning of the City to promote the public health, safety, morals, and general welfare of the City. The City of Sunfish Lake has identified as additional purposes and intent of Sunfish Lake Zoning Ordinance to preserve property values by providing for orderly and compatible development of the various land uses and to protect residential uses. Given these justifications for allowing, restricting, and prohibiting zoning regulations in the City, we have prepared the attached ordinance amendment that **prohibits** all cannabis and lower-potency hemp edible uses within the City. The Planning Commission met on Nov. 21 and held a public hearing on the proposed ordinance and unanimously voted to recommend it to the City Council.

DISCUSSION

The City only has 2 zoning districts: Single-Family Residential and Institutional. These districts allow for limited commercial uses:

1. Industrial: A not-for-profit business is allowed if it is associated with a religious use (as an accessory use to the religious use, not as a primary use)
2. Residential: Home occupations are allowed.

I am not aware of a cannabis business that is non-profit and cannabis and lower-potency hemp edible businesses are prohibited by state law from being operated in residential dwellings, therefore, simply put, there is no place for a cannabis and lower-potency hemp edible use to operate within the City.

We have provided justification in the proposed ordinance that shows there is a factual basis to support the prohibition of cannabis and lower-potency hemp edible uses within the City.

RECOMMENDATION

Adopt the Zoning Ordinance Amendment to Section 1201.08 – Uses Not Provided within Zoning Districts

ATTACHMENT

Zoning Ordinance Amendment 1201.08

City of Sunfish Lake
Dakota County, Minnesota

ORDINANCE NO. 24-_____

**AN ORDINANCE AMENDING THE SUNFISH LAKE CITY CODE SECTION 1201.08
USES NOT PROVIDED WITHIN ZONING DISTRICTS**

The City Council of Sunfish Lake does ordain:

SECTION 1 AMENDMENT. Sunfish Lake City Code Section 1201.08 is hereby amended as followed:

Sec. 1201.08 USES NOT PROVIDED WITHIN ZONING DISTRICTS:

A. Whenever in any zoning district a use is neither specifically allowed nor denied, the use shall be considered prohibited. In such cases, the City Council or the Planning Commission, on their own initiative or upon request, may conduct a study to determine if the use is acceptable and if so what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The City Council, Planning Commission or property owner, upon receipt of the staff study shall, if appropriate, initiate an amendment to this Ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the City.

B. Prohibition on Cannabis and Lower-Potency Hemp Edible Uses in the City of Sunfish Lake.

1. Authority to regulate Cannabis and Lower-Potency Hemp Edible Uses. The City of Sunfish Lake has the authority in Minn. Stat. § 462.357 to regulate by ordinance the zoning of the City to promote the public health, safety, morals, and general welfare of the City. In addition, Minn. Stat. Chapter 342 authorizes cities to protect the public health, safety, and welfare of residents by regulating cannabis and lower-potency hemp edible uses within its jurisdiction.

2. Purpose and Intent of Sunfish Lake's Zoning Ordinance. The City has stated that the purpose and intent of the Sunfish Lake Zoning Ordinance is to preserve property values by providing for orderly and compatible development of the various land uses and to protect residential uses. The City has two Zoning Districts: Single-Family Residential and Institutional. The allowed uses in the Single-Family Residential Zoning District are single-family dwellings, public parks and playgrounds, residential care facilities serving six or fewer persons, and government and essential service buildings. The Institutional Zoning District allows religious institutions, government and essential service buildings, and publicly owned civic or

cultural buildings. The City's Land Use Plan guides the City as single-family residential dwellings and institutional uses.

3. Incompatibility of Cannabis and Lower-Potency Hemp Edible Businesses with Existing Land Use Designations. Cannabis and lower-potency hemp edible businesses include cultivation, manufacturing, retail and on-site consumption, all of which are either farming or commercial uses and none of which are allowed in the City's Zoning Districts or Land Use Plan. There is no Zoning District available for these uses to operate.

4. Findings for Prohibition of Cannabis and Lower-Potency Hemp Edible Uses. The City Council finds that due to the limited zoning districts of Residential and Institutional that do not provide for commercial uses, agricultural cultivation or business uses, due to the Comprehensive Plan which anticipates no plan or guide for commercial uses, agricultural cultivation or business uses, the fully developed community with uses that are comprised of nearly all single-family residential dwellings or religious institutions, therefore all cannabis uses and lower-potency hemp edible uses are hereby prohibited within the City of Sunfish Lake. The City Council further finds that these regulations are in the best interest of the City in order to protect the public health, safety, and general welfare, to provide for the orderly, economic and safe development of land.

SECTION 2 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 Ordinance prohibits all cannabis and lower-potency hemp edible businesses within the City.

SECTION 3 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 Sunfish Lake this _day of ____, 2024.

CITY OF SUNFISH LAKE

Dan O'Leary, Mayor

ATTEST:

Christy Wilcox, City Clerk