

CITY OF FOLEY
COUNTY OF BENTON
STATE OF MINNESOTA

ORDINANCE NUMBER 477

AN ORDINANCE LIMITING THE USE OF CANNABIS IN PUBLIC PLACES

WHEREAS, the Minnesota legislature recently adopted Minnesota Statute § 342, which allows an individuals 21 years of age or older to use, possess, and transport cannabis flower and cannabinoid products under certain circumstances; and

WHEREAS, Minnesota Statute § 152.0263 Subd. 5 allows a local unit of government to adopt an ordinance establishing a petty misdemeanor offense for a person who unlawfully uses cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer product in a public place; and

WHEREAS, the City of Foley (the “City”) has an interest in preserving the public’s health, safety, and morals under the police powers granted to the City; and

WHEREAS, the City recognizes the risks of cannabis use, especially in youth, which “can affect normal brain development, leading to problems learning, memory, coordination, reaction time and judgment” and “excessive and frequent use of marijuana is associated with hallucinations, paranoia, and a range of emotional problems.”¹

WHEREAS, the City recognizes the risk of secondhand smoke, including secondhand marijuana smoke, which “contains many of the same toxic and cancer-causing chemicals found in tobacco smoke and contains some of those chemicals in higher amounts,” which are associated with risks to hearts and lungs.²

WHEREAS, secondhand marijuana smoke “also contains s tetrahydrocannabinol (THC), the compound responsible for most of marijuana’s psychoactive effects (or the “high”),” which can be passed to infants and children.³

WHEREAS, Benton County adopted Ordinance No. 489, which prohibits the use of certain cannabis products in public places; and

WHEREAS, the City desires to be consistent with Benton County’s cannabis use ordinance to allow for continuity in the enforcement of cannabis products within the county; and

WHEREAS, the City, under its police power, wishes to adopt a substantially similar ordinance to Benton County Ordinance No. 489.

¹ <https://www.mayoclinichealthsystem.org/hometown-health/speaking-of-health/how-teen-marijuana-use-impacts-brain-development#:~:text=Marjuana%20use%20among%20adolescents%20and,a%20range%20of%20emotional>

² <https://www.cdc.gov/marijuana/health-effects/second-hand-smoke.html>

³ <https://www.cdc.gov/marijuana/health-effects/second-hand-smoke.html>

NOW, THEREFORE, the Foley City Council hereby ordains that the following additions shall be made to the City Code:

SECTION 1. REGULATIONS LIMITING THE USE OF CANNABIS IN PUBLIC PLACES.

The following Section 812 shall be added to Chapter VIII of the City Code:

Chapter VIII

LIMITING THE USE OF CANNABIS IN PUBLIC PLACES

Section 812

Section 812:01. Definitions.

For the purpose of this Ordinance, the following terms are defined:

1. City. The “City” is the City of Foley, State of Minnesota.
2. Person. A “person” is any individual, natural human being, partnership, corporation, firm, company, association, society, or group.
3. Cannabis Flower. “Cannabis Flower” shall have the same meaning as defined in Minn. Stat. § 342.01, subd. 16, or its successor statute.
4. Cannabis Products. “Cannabis Products” shall have the same meaning as defined in Minn. Stat. § 342.01, subd. 20, or successor statute.
5. Hemp-derived consumer products. “Hemp-derived consumer products” shall have the same meaning as defined in Minn. Stat. §342.01, subd. 37, or successor statute.
6. Lower-potency hemp edibles. “Lower-potency hemp edibles” shall have the same meaning as defined in Minn. Stat. §342.01, subd. 50, or successor statute.
7. Park. “Park” shall mean:
 - a. Any park, parkway, zoological or horticultural garden, recreation open space, lake or other waters, golf course, swimming pool, athletic field, trails and pathways, or
 - b. Any other area owned, improved, maintained, operated, or otherwise controlled by the City of Foley for recreation and natural resource preservation purposes.
8. Place of Public Accommodation. “Place of Public Accommodation” means a business or a refreshment, entertainment, recreation, or transportation facility of any kind whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.
9. Public Place. “Public Place” means:
 - a. Any outdoor area or indoor area, whether privately or publicly owned, to which the public has access by right of invitation, expressed or implied. This includes but is not limited to theaters, restaurants, bars, food establishments and their decks, places licensed to sell intoxicating liquor, wine, or malt beverages, retail businesses, gyms, common areas in buildings, public shopping areas, auditoriums, arenas, or other places of public accommodation;
 - b. Any Park or Public Recreation Area;
 - c. Any City-owned or leased property.
 - d. A “Public Place” does not include the following:
 - i. a private residence, including the person's curtilage or yard;
 - ii. private property not generally accessible by the public unless the person is explicitly prohibited from consuming regulated products on the property by the owner of the property; or

iii. the premises of an establishment or event licensed to permit on-site consumption.

10. Regulated Products. “Regulated Products” means cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products.

11. Smoking. “Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated product containing cannabis flower, cannabis products, artificially derived cannabinoids, or hemp-derived consumer products. Smoking includes carrying or using an activated electronic delivery device for human consumption through inhalation of aerosol or vapor from the product.

Section 812:02. Restriction of Use of Regulated Products.

Subd. 1. A Person shall not use regulated products in a Public Place.

Subd. 2. A Person shall not vaporize or smoke cannabis flower, cannabis products, artificially derived cannabinoids, or hemp-derived consumer products in any location where the smoke, aerosol, or vapor would be inhaled by a minor.

Section 812:03. Criminal Penalty.

Violation of this Ordinance shall be a petty misdemeanor. A fine of not more than \$300.00 may be imposed.

Section 812:04. Severability.

The provisions of this Ordinance shall be severable and should any court of competent jurisdiction adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.

Section 2. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

Section 3. SUMMARY PUBLICATION. At least four-fifths of the City Council’s members direct the Administrator to publish only the title and summary of this Ordinance as follows:

“AN ORDINANCE LIMITING THE USE OF CANNABIS IN PUBLIC PLACES. It is the intent and effect of this Ordinance to amend the City Code to prohibit the use of cannabis products in certain public places within the City of Foley.”

Adopted this 6th day of February, 2024.

Jack M. Brosh
Mayor

ATTEST:

Sarah A. Brunn
City Administrator