

WABASHA PLANNING COMMISSION

October 8, 2024 6:00 PM

MEETING AGENDA

- 1) Call to Order
- 2) Approval of Minutes-
 - a) Minutes 8-14-2024
- 3) Changes or Additions to Agenda
- 4) Public Comment
- 5) Public Hearings
- 6) Old Business
- 7) New Business
 - a) Cannabis
 - b) Outdoor Wood Burner Memo
 - c) FEMA FIRM Map Process
- 8) Board of Adjustment Business
- 9) Other Business
- 10) Next Regular Meeting Date - * City Council is scheduled to meet Tuesday, November 12th at 6pm. The Planning Commission will need to discuss a different date and time for the November's meeting schedule.
- 11) Adjourn

Planning Commission

2) a)

Meeting Date: 10/08/2024

SUBJECT: Minutes 8-14-2024

DEPARTMENT: Administration

TITLE:

Minutes 8-14-2024

PURPOSE:

Attachments

Minutes

WABASHA PLANNING COMMISSION

August 14, 2024 6:00 PM

MEETING MINUTES

Commission Members:

Tim Wallerich, Chair
Scott Durand
Ozzie Goodman
Richard Heffner

Sara Carrels, Vice Chair
Sharon Burke
Jeff Sulla

Present: Chair Tim Wallerich; Sharon Burke; Sara Carrels; Jeff Sulla; Commissioner Richard Heffner; Ozzie Goodman

Absent: Scott Durand

Also Present: Kristi Clarke, Contracted City Planner; Wendy Busch, Planning & Zoning Assistant

1) Call to Order

Chair Wallerich called the Planning Commission meeting to order at 6:02pm on Wednesday August 14th, 2024.

2) Approval of Minutes- June 11, 2024

Motion made by Sara Carrels, seconded by Jeff Sulla to approve the minutes from June 11, 2024.

Vote: 6 - 0 Adopted - Unanimously

Other: Scott Durand (ABSENT)

3) Changes or Additions to Agenda

4) Public Comment

- 5) Public Hearings
- 6) Old Business
- 7) New Business
 - a) Cannabis Ordinance

The MN State Department of Cannabis Management and the League of Minnesota Cities has been working to outline the issues surrounding cannabis businesses by drafting frequently asked questions, defining key elements that should be regulated, and the LMC has completed a draft ordinance. In July 2023, the City adopted an ordinance establishing a moratorium on all cannabis related businesses until January 1, 2025. While we still have five (5) months to adopt a new ordinance, Wabasha County is moving forward with a draft ordinance that can be extended to all cities within the County if adopted by resolution. On Wednesday, June 26th, Michael Plante, the Wabasha County Administrator, held a county-wide meeting to discuss this issue. Caroline Gregerson and I attended that meeting. The County is working towards adopting an ordinance that was drafted from the LMC's ordinance and per MN State Statute, all cities within an adopted county ordinance can, by resolution, allow the County to manage and regulate all cannabis related businesses within the County. Per State Statute, one (1) cannabis business must be allowed for every 12,500 residents. If a county has one active registration for every 12,500 residents, a city within the county is not obligated to register a cannabis business. Wabasha County intends to allow two (2) cannabis businesses within the County. Other planning and zoning standards include locational criteria and setback standards from schools, day cares, etc., and performance standards including odor and ventilation, security, wastewater and solid waste management, energy and water usage, temporary cannabis use standards, local and state registration standards, and annual

inspections. If a cannabis business submits an application within the City of Wabasha's jurisdictional boundaries AND the City has adopted a resolution approving the County's ordinance, we will be a participant in the review process, but the County will manage all hearings and approve or deny cannabis businesses based on findings of facts and their adopted ordinance standards.

Keep in mind, only two (2) businesses within the County will be allowed. Wabasha County will provide the city with their draft ordinance for review shortly.

Ordinance Discussion Points: Let's discuss the following key ordinance points to be included in the Wabasha County Cannabis Code:

1. Planning process; I would recommend that we only allow these uses by a CUP/IUP process
2. Zoning districts for the uses; We can discuss the Industrial, Highway Commercial, Traditional Downtown Commercial, and perhaps the General Commercial zoning districts as possibly allowing these uses. Though I'm not sure about allowing these uses in the GC zones as these parcels are really spread throughout the city so not necessarily contained in a "typical" downtown or central area. I've attached a copy of our zoning map for this discussion.

Timeline: As the moratorium for both the County and the City ends at the beginning of 2025, we need to act quickly on this matter given our monthly meeting schedules for both the City and the County. The proposed schedule is as follows:

August P&Z Meeting/Discussion and recommendation to City Council

September City Council review and approval of a drafted resolution prepared

by Wabasha County October/November Wabasha County Review, hearing, adoption
Commission Action: Review draft materials and forward a recommendation to City
Council requesting that they adopt or not adopt a resolution provided by Wabasha
County granting the County the authority to regulate all Cannabis businesses within the
City.

Motion made by Chair Tim Wallerich, seconded by Sara Carrels a motion in support of Wabasha
County to manage the new Cannabis Law and Application on behalf of the City of Wabasha
through ordinance including an Interim Use Permit, allowed only in the TDC (Traditional
Downtown Commercial Zone) and allow the City of Wabasha to provide reasonable conditions to
the IUP.

Vote: 6 - 0 Adopted - Unanimously

Other: Scott Durand (ABSENT)

- 8) Board of Adjustment Business
- 9) Other Business
- 10) Next Regular Meeting Date - September 10, 2024
- 11) Adjourn

Motion made by Jeff Sulla, seconded by Sara Carrels to adjourn at 6:40 pm.

Vote: 6 - 0 Adopted - Unanimously

Other: Scott Durand (ABSENT)

Respectfully submitted by: _____
Wendy Busch, City Clerk

Adopted Date

Planning Commission

7) a)

Meeting Date: 10/08/2024

SUBJECT: Cannabis

DEPARTMENT: Administration

TITLE:

Cannabis

PURPOSE:

Attachments

Cannabis Memo

Wabasha County Draft Cannabis Ord



MEMORANDUM

Date: October 8, 2024
To: Planning Commission
From: Kristi Trisko, AICP, PMP
Subject: Cannabis – Zoning Regulations

Wabasha County informed the City on Monday, October 7th that while they want to honor the city's wish to have their zoning requirements followed it will be overly cumbersome to include our zoning district information into their Cannabis Ordinance.

Given this direction, it is up to the City to establish the intended zones for each cannabis use. As you are aware, changing the Zoning Ordinance requires a public hearing at a Planning Commission meeting and a 1st and 2nd read from City Council and the moratorium for all cannabis uses runs out on January 1, 2025.

In order to make this adjustment on time, we need to schedule a PC hearing for these uses BEFORE the planned City Council meeting now schedule for Tuesday November 12th. Proposed schedule:

- PC Meeting 11/6/24 or a date during the last week of October as Tuesday, November 5th could be nearly an all-night experience for staff
- City Council 1st Read – 11/12/24; City Council 2nd Read – 12/3/24

§ 162.060 USE CHART.

MISCELLANEOUS USES									
	RC	RRLA	RRGT	R-1	R-2	TDC	GC	HC	I
Cannabis Businesses						I			
Lower-potency Hemp Edibles						P	P	P	P

§ 162.061 USE DEFINITIONS.

Cannabis Uses. Shall include cannabis cultivation, manufacturer, wholesale, retail, transportation, and delivery, and hemp manufacturer.

Cannabis Cultivation: A cannabis business licensed to grow cannabis plants within the approved amount of space from seed or immature plant to mature plant, harvest cannabis flower from mature plant, package and label immature plants and seedlings and cannabis flower for sale to other cannabis businesses, transport cannabis flower to a cannabis manufacturer located on the same premises, and perform other actions approved by the office.

Cannabis Retail Businesses: A retail location and the retail location(s) of a mezzobusinesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, and lower-potency hemp edible retailers.

Cannabis Retailer: Any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form.

Lower-potency Hemp Edible: As defined under Minn. Stat. 342.01 subd. 50.

§ 162.109 CANNABIS REGULATIONS.

(A) Authority and Jurisdiction:

- (1) The City of Wabasha has delegated all cannabis and lower-potency hemp edible use registration, regulation, and enforcement authority to Wabasha County pursuant to:
 - a) Minn. Stat. 342.13(c), regarding the authority of a local unit of government to adopt reasonable restrictions of the time, place, and manner of the operation of a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis businesses.
 - b) Minn. Stat. 342.22, regarding the local registration and enforcement requirements of state-licensed cannabis retail businesses and lower-potency hemp edible retail businesses.
 - c) Minn. Stat. 152.0263, Subd. 5, regarding the use of cannabis in public places.
 - d) Minn. Stat. 462.357, regarding the authority of a local authority to adopt zoning ordinances.
- (2) This Ordinance shall be applicable to the legal boundaries within the City of Wabasha.

WABASHA COUNTY ORDINANCE TO REGULATE CANNABIS BUSINESSES

County Ordinance Number #

Date of Adoption

##, 2024

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SECTION 1 ADMINISTRATION

1.1 Findings and Purpose

Wabasha County makes the following legislative findings:

The purpose of this ordinance is to implement the provisions of Minnesota Statutes, chapter 342, which authorizes Wabasha County to protect the public health, safety, and welfare of Wabasha County residents by regulating cannabis businesses within the legal boundaries of Wabasha County.

The Wabasha County Board of Commissioners finds and concludes that the proposed provisions are appropriate and lawful land use regulations for Wabasha County, that the proposed amendments will promote the community's interest in reasonable stability in zoning for now and in the future, and that the proposed provisions are in the public interest and for the public good.

1.2 Authority & Jurisdiction

Wabasha County has the Authority to adopt this ordinance pursuant to:

- a) Minn. Stat. 342.13(c), regarding the authority of a local unit of government to adopt reasonable restrictions of the time, place, and manner of the operation of a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis businesses.
- b) Minn. Stat. 342.22, regarding the local registration and enforcement requirements of state-licensed cannabis retail businesses and lower-potency hemp edible retail businesses.
- c) Minn. Stat. 152.0263, Subd. 5, regarding the use of cannabis in public places.
- d) Minn. Stat. 462.357, regarding the authority of a local authority to adopt zoning ordinances.

This Ordinance shall be applicable to the legal boundaries of Wabasha County

(insert city here) has delegated cannabis retail registration authority to Wabasha County. However, (insert city here) may adopt ordinances under Sections (2.6, 3 and 4) if Wabasha County has not adopted conflicting provisions.

1.3 Severability

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

1.4 Enforcement

The Wabasha County Zoning Administrator is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements constitutes a misdemeanor and is punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in this ordinance.

1.5 Definitions

Unless otherwise noted in this section, words and phrases contained in Minn. Stat. 342.01 and the rules promulgated pursuant to any of these acts, shall have the same meanings in this ordinance.

1. Cannabis Cultivation: A cannabis business licensed to grow cannabis plants within the approved amount of space from seed or immature plant to mature plant, harvest cannabis flower from mature plant, package and label immature plants and seedlings and cannabis flower for sale to other cannabis businesses, transport cannabis flower to a cannabis manufacturer located on the same premises, and perform other actions approved by the office.
2. Cannabis Retail Businesses: A retail location and the retail location(s) of a mezzobusinesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, and lower-potency hemp edible retailers.
3. Cannabis Retailer: Any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form.
4. Daycare: A location licensed with the Minnesota Department of Human Services to provide the care of a child in a residence outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.
5. Lower-potency Hemp Edible: As defined under Minn. Stat. 342.01 subd. 50.
6. Office of Cannabis Management: Minnesota Office of Cannabis Management, referred to as "OCM" in this ordinance.

7. Place of Public Accommodation: A business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.
8. Preliminary License Approval: OCM pre-approval for a cannabis business license for applicants who qualify under Minn. Stat. 342.17.
9. Public Place: A public park or trail, public street or sidewalk; any enclosed, indoor area used by the general public, including, but not limited to, restaurants; bars; any other food or liquor establishment; hospitals; nursing homes; auditoriums; arenas; gyms; meeting rooms; common areas of rental apartment buildings, and other places of public accommodation.
10. Residential Treatment Facility: As defined under Minn. Stat. 245.462 subd. 23.
11. Retail Registration: An approved registration issued by Wabasha County to a state-licensed cannabis retail business.
12. School: A public school as defined under Minn. Stat. 120A.05 or a nonpublic school that must meet the reporting requirements under Minn. Stat. 120A.24.
13. State License: An approved license issued by the State of Minnesota's Office of Cannabis Management to a cannabis retail business.

SECTION 2 REGISTRATION OF CANNABIS BUSINESSES

2.1 Consent to Registering of Cannabis Businesses

No individual or entity may operate a state-licensed cannabis retail business within Wabasha County without first registering with Wabasha County.

Any state-licensed cannabis retail business that sells to a customer or patient without valid retail registration shall incur a civil penalty of up to \$2,000 for each violation.

Notwithstanding the foregoing provisions, the state shall not issue a license to any cannabis business to operate in Indian country, as defined in United States Code,

title 18, section 1151, of a Minnesota Tribal government without the consent of the Tribal government.

2.2 Compliance Checks Prior to Retail Registration

Prior to issuance of a cannabis retail business registration, Wabasha County shall conduct a preliminary compliance check to ensure compliance with local ordinances.

Pursuant to Minn. Stat. 342, within 30 days of receiving a copy of a state license application from OCM, Wabasha County shall certify on a form provided by OCM whether a proposed cannabis retail business complies with local zoning ordinances and, if applicable, whether the proposed business complies with the state fire code and building code.

2.3 Registration & Application Procedure

2.3.1 Fees

Wabasha County shall not charge an application fee.

A registration fee, as established in Wabasha County's fee schedule, shall be charged to applicants depending on the type of retail business license applied for.

An initial retail registration fee shall not exceed \$500 or half the amount of an initial state license fee under Minn. Stat. 342.11, whichever is less. The initial registration fee shall include the initial retail registration fee and the first annual renewal fee.

Any renewal retail registration fee imposed by Wabasha County shall be charged at the time of the second renewal and each subsequent renewal thereafter.

A renewal retail registration fee shall not exceed \$1,000 or half the amount of a renewal state license fee under Minn. Stat. 342.11, whichever is less.

A medical combination business operating an adult-use retail location may only be charged a single registration fee, not to exceed the lesser of a single retail registration fee, defined under this section, of the adult-use retail business.

2.3.2 Application Submittal

Wabasha County shall issue a retail registration to a state-licensed cannabis retail business that adheres to the requirements of Minn. Stat. 342.22.

- A) An applicant for a retail registration shall fill out an application form, as provided by Wabasha County. Said form shall include, but is not limited to:
 - i. Full Name of the property owner and applicant;
 - ii. Address, email address, and telephone number of the applicant;
 - iii. The address and parcel ID for the property which the retail registration is sought;
 - iv. Certification that the applicant complies with the requirements of local ordinances established pursuant to Minn. Stat. 342.13.
 - v. (Insert additional standards here)
- B) The applicant shall include with the form:
 - i. The application fee as required in Section 2.3.1
 - ii. A copy of a valid state license or written notice of OCM license preapproval
 - iii. Additional standards
- C) Once an application is considered complete, the Zoning Administrator shall inform the applicant as such, process the application fees, and forward the application to the Wabasha County Planning Commission for a recommendation of approval or denial to the Wabasha Board of County Commissioners. Upon receipt of the report of the Planning Commission, the Board of County Commissioners shall make a decision upon the application.
- D) The application fee shall be non-refundable once processed

2.3.3 Application Approval

- A) A state-licensed cannabis retail business application shall not be approved if the cannabis retail business would exceed the maximum number of registered cannabis retail businesses permitted under Section 2.6.

- B) A state-licensed cannabis retail business application shall not be approved or renewed if the applicant is unable to meet the requirements of this ordinance.
- C) A state-licensed cannabis retail business application that meets the requirements of this ordinance shall be approved.

2.3.4 Annual Compliance Checks

Wabasha County shall complete at minimum one compliance check per calendar year of every cannabis business to assess if the business meets age verification requirements, as required under [Minn. Stat. 342.22 Subd. 4(b) and Minn. Stat. 342.24] and this/these [chapter/section/ordinances].

Wabasha County shall conduct at minimum one unannounced age verification compliance check at least once per calendar year.

Age verification compliance checks shall involve persons at least 17 years of age but under the age of 21 who, with the prior written consent of a parent or guardian if the person is under the age of 18, attempt to purchase adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, or hemp-derived consumer products under the direct supervision of a law enforcement officer or an employee of the local unit of government.

Any failures under this section must be reported to the Office of Cannabis Management.

2.3.5 Location Change

A state-licensed cannabis retail business shall be required to submit a new application for registration under Section 2.3.2 if it seeks to move to a new location still within the legal boundaries of Wabasha County.

2.4 Renewal of Registration

Wabasha County shall renew an annual registration of a state-licensed cannabis retail business at the same time OCM renews the cannabis retail business' license.

A state-licensed cannabis retail business shall apply to renew registration on a form established by Wabasha County.

A cannabis retail registration issued under this ordinance shall not be transferred.

2.4.1 Renewal Fees

Wabasha County may charge a renewal fee for the registration starting at the second renewal, as established in the Wabasha County Fee Schedule

2.4.2 Renewal Application

The application for renewal of a retail registration shall include, but is not limited to:

- Items required under Section 2.3.2 of this Ordinance
- Additional Items

2.5 Suspension of Registration

2.5.1 When Suspension is Warranted

Wabasha County may suspend a cannabis retail business's registration if it violates the ordinance of Wabasha County or poses an immediate threat to the health or safety of the public. Wabasha County shall immediately notify the cannabis retail business in writing the grounds for the suspension.

2.5.2 Notification to OCM

Wabasha County shall immediately notify the OCM in writing the grounds for the suspension. OCM will provide Wabasha County and the cannabis business retailer a response to the complaint within seven calendar days and perform any necessary inspections within 30 calendar days.

2.5.3 Length of Suspension

The suspension of a cannabis retail business registration may be for up to 30 calendar days, unless OCM suspends the license for a longer period.

The business may not make sales to customers if their registration is suspended.

Wabasha County may reinstate a registration if it determines that the violations have been resolved.

Or

Wabasha County may wait for a determination from the OCM before reinstating a registration if OCM determines that the violation(s) have been resolved.

2.5.4 Civil Penalties

Subject to Minn. Stat. 342.22, subd. 5(e) Wabasha County may impose a civil penalty, as specified in the Wabasha County Fee Schedule, for registration violations, not to exceed \$2,000.

2.6 Limiting Registrations

If Wabasha County has one active cannabis retail business registration for every 12,500 residents, Wabasha County shall not be required to register additional state-licensed cannabis retail businesses.

SECTION 3. REQUIREMENTS FOR CANNABIS BUSINESSES

3.1 Minimum Buffer Requirements

Cannabis business are prohibited:

- within 1,000 feet from a lot line of a school.
- within 500 feet from a lot line of a day care
- within 500 feet of a lot line of a residential treatment facility
- within x feet from a lot line of another cannabis retail business
- within 500 feet of a public park attraction that is regularly used by minors
- within 500 feet of an athletic field

Pursuant to Minn. Stat. 462.367 subd. 14, nothing in Section 3.1 shall prohibit an active cannabis business or a cannabis business seeking registration from

continuing operation at the same site if a school/daycare/residential treatment facility/attraction within a public park that is regularly used by minors moves within the minimum buffer zone.

3.2 Zoning and Land Use

3.2.1 Cultivation

Cannabis businesses licensed or endorsed for cultivation are permitted as a conditional use in the following zoning districts:

- A-1 Zoning District(s)

3.2.2 Cannabis Manufacturer

Cannabis businesses licensed or endorsed for cannabis manufacturer are permitted as a conditional use in the following zoning districts:

- X Zoning District(s)

3.2.3 Hemp Manufacturer

Cannabis Businesses licensed or endorsed for low-potency hemp edible manufacturers permitted as a (type of use) in the following zoning districts:

- X Zoning District(s)

3.2.4 Wholesale

- X Zoning District(s)

3.2.5 Cannabis Retail

Cannabis businesses licensed or endorsed for cannabis retail are permitted as a conditional use in the following zoning districts:

- X Zoning District(s)

3.2.6 Cannabis Transportation

Cannabis businesses licensed or endorsed for transportation are permitted as a conditional use in the following zoning districts:

- X Zoning District(s)
-

3.2.7 Cannabis Delivery

Cannabis businesses licensed or endorsed for delivery are permitted as a conditional use in the following zoning districts:

3.3 Hours of Operation

Cannabis businesses are limited to retail sale of cannabis, cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products between the hours of 10 a.m. and 9 p.m., seven days a week.

3.4 Advertising

Advertising devices for Cannabis businesses must comply with all applicable provisions of the Wabasha County Zoning Ordinance.

SECTION 4. TEMPORARY CANNABIS EVENTS

4.1 License or Permit Required for Temporary Cannabis Events

4.1.1 License Required

A license or permit is required to be issued and approved by (insert local here) prior to holding a Temporary Cannabis Event.

4.1.2 Registration & Application Procedure

A registration fee, as established in Wabasha County's fee schedule, shall be charged to applicants for Temporary Cannabis Events.

4.1.3 Application Submittal & Review

Wabasha County shall require an application for Temporary Cannabis Events.

- A) An applicant for a retail registration shall fill out an application form, as provided by Wabasha. Said form shall include , but is not limited to:
- i. Full name of the property owner and applicant
 - ii. Address, email address, and telephone number of the applicant
 - iii. Any additional standards
- B) The applicant shall include with the form:
- i. The application fee as required in section 4.1.2;
 - ii. A copy of the OCM cannabis event license application, submitted pursuant to 342.39 subd. 2.

The application shall be submitted to Wabasha County for review. If Wabasha County determines that a submitted application is incomplete, they shall return the application to the applicant with the notice of deficiencies.

- C) Once an application is considered complete, the designee shall inform the applicant as such, process the application fees, and forward the application to the (insert staff/department, or elected body that will approve or deny the request) for approval or denial.
- D) The application fee shall be non-refundable once processed.
- E) The application for a license for a Temporary Cannabis Event shall meet the following standards:
- Temporary Cannabis Events shall only be held at a licensed retail location
 - Temporary Cannabis Events shall only be held between the hours of 10 a.m. and 9 p.m.
- F) A request for a Temporary Cannabis Event that meets the requirements of this Section shall be approved.
- G) A request for a Temporary Cannabis Event that does not meet the requirements of this Section shall be denied. Wabasha County shall notify the applicant of the standards not met and basis for denial.

SECTION 5. LOWER POTENCY HEMP EDIBLES

5.1 Sale of Low-Potency Hemp Edibles

The sale of Low-Potency Edibles is permitted, subject to the conditions within this Section.

5.2 Zoning Districts

Low-Potency Edibles businesses are permitted as a conditional use in the following zoning districts:

- Allowable Zoning Districts

5.3 Additional Standards

5.3.1 Sales within Municipal Liquor Store

The sale of Low-Potency Edibles is permitted in a Municipal Liquor Store.

5.3.2 Age Requirements

The sale of Low-Potency Edibles is permitted only in places that admit persons 21 years of age or older.

5.3.3 Beverages

The sale of Low-Potency Hemp Beverages is permitted in places that meet requirements of this Section.

5.3.4 Storage of Product

Low-Potency Edibles shall be sold behind a counter, and stored in a locked case.

SECTION 6. LOCAL GOVERNMENT AS A CANNABIS RETAILER

Wabasha County may establish, own, and operate one municipal cannabis retail business subject to the restrictions in this chapter.

The municipal cannabis retail store shall not be included in any limitation of the number of registered cannabis retail businesses under Section 2.6.

Wabasha County shall be subject to all same rental license requirements and procedures applicable to all other applicants.

SECTION 7. USE IN PUBLIC PLACES

No person shall use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place or a place of public accommodation unless the premises is an establishment or an event licensed to permit on-site consumption of adult-use.

Planning Commission

7) b)

Meeting Date: 10/08/2024

SUBJECT: Outdoor Wood Burner Memo

DEPARTMENT: Administration

TITLE:

Outdoor Wood Burner Memo

PURPOSE:

ITEM SUMMARY:

See staff memo attached.

Attachments

Staff Memo



Real People. Real Solutions.

MEMORANDUM

Date: 10/1/24
To: Wabasha Planning Commission
From: Kristi Trisko
Subject: Prohibiting Outdoor Wood Burners

Last month, a city resident asked staff if they could install an outdoor wood burner to heat their home. The resident lived in the RC (Residential Conservancy) zoning district and had quite a large lot.

The question was forwarded to me, and I assumed that the city already had an ordinance as most cities in MN have prohibited them quite a few years ago. However, I determined that there is no ordinance on this use in city code. It was to be discussed with the Planning Commission when it was first a statewide issue, but due to planning personnel changes, was not drafted at that time.

Several questions might come to mind at this point if you are not familiar with outdoor wood burners. They are:

1. **What are they:** A fired burner, stove or furnace located within a stand-alone structure designed to be used solely for the purpose of providing heat or hot water to a separate structure by the burning of clean wood or other solid fuel.
2. **Why prohibited:** Outdoor wood burners, in even the largest of traditional city lots, if burning "clean wood," still creates air pollution the entire time they are burning and also creates a possible fire hazard. In the worst cases, extreme nuisances for neighbors and ultimately city staff, police and fire departments are initiated. If non-clean items are burned the conditions can be exponentially exacerbated.

In my 32 years as a planner, I have regrettably seen a home burn down in one of my communities which started with an outdoor wood burner, while the family was gone. I have also assisted city staff with a 3-year nuisance issue with an asthmatic neighbor which ultimately ended with them suing their adjacent neighbor over the air pollution generated by their outdoor wood burned. In this case, the unit was placed within 15' of the neighbor's side window. The placement of this unit was in a logical place for the home, but given traditional lot sizes, still too close for the neighbor and the smoke generated by the unit.

Name: Wabasha Planning Commission

Date: 5/6/24

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I would highly recommend prohibiting outdoor wood burners in all our smaller lot zones. I.E. R-1, R-2, TDC, GC, HC, and I. We can discuss allowing them in RC, RRLA and RRGT. If the Commission would like to allow them in areas that have large enough lots that they likely cannot generate a nuisance for neighbors. Though this doesn't address the fire hazard issue. That could be considered a private insurance and installing issue for those owners.

I have attached a draft ordinance that I created years ago for several other communities. Just as a place holder, I put this ordinance at the end of Title XV: Land Usage, Section 163 after the zoning section.

I look forward to our discussion on this topic.

Next Steps: To be determined after our discussion.

Chapter 163: Outdoor Solid Wood Burner

§163.01 Purpose.

This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the City of Wabasha by regulating the air pollution and fire hazards of outdoor solid fuel burners.

§163.02 Applicability.

This ordinance applies to all outdoor solid fuel burners within the City of Wabasha

- A. This ordinance does not apply to grilling or cooking food using charcoal, wood, propane or natural gas in appliances intended for cooking or grilling other than outdoor solid fuel burners.
- B. This ordinance does not apply to burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.
- C. This ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.
- D. This ordinance does not apply to campfires which are small outdoor fires on the ground using clean wood intended for recreation or cooking. However, it shall be unlawful for any person to create a campfire intended for disposal of waste wood, garbage, or refuse.

§163.03 Definitions.

For purposes of this chapter, the following words, phrases or terms have the meaning set forth below:

Clean wood. Natural wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives, and does not contain any manufactured resin or glue as do plywood or other composite wood products.

Construction and demolition debris. Waste material, including, but not limited to: Shingles; siding; insulation; tar paper or plastic wrap; gypsum or wall board; treated wood; painted wood; wiring; plastic (including pipe); packaging and rubble; or other similar material capable of causing smoke when burned that results from building construction, remodeling, repair, maintenance or demolition activity.

Garbage. Any of the following material: Food waste; food wrap; cardboard, newspaper or other paper product containing ink or dye; packaging; animal carcass; paint or painted material; furniture; construction and demolition debris; household or business waste; asphalt or a product containing asphalt; treated or painted wood, plywood or any composite wood product, or any wood product that is painted, varnished or treated with a preservative; any plastic product or container including those composed of nylon, PVC, ABS, polystyrene or urethane foam; synthetic fabric; rubber or synthetic rubber products including tires.

Outdoor solid fuel burner. A fired burner, stove or furnace located within a stand-alone structure designed to be used solely for the purpose of providing heat or hot water to a separate structure by the burning of clean wood or other solid fuel.

Refuse. Any waste material, including wood, brush, grass clippings or other vegetative matter. Solid fuel means a material not liquid or gaseous that is capable of being burned in a fireplace, stove, furnace or boiler to provide heat and that is not classified as: Construction debris; garbage; or refuse under the provisions of the ordinance from which this chapter derives.

§118.04 Prohibition.

It is unlawful for any person to use an outdoor solid fuel burner to provide heat or hot water to any building designed for human or animal habitation within the city. (or within Zones R-1, R-2, TDG, GC, HC, or I)

§163.05 Non-Conforming Use.

- A. The lawful use of any existing outdoor wood-burning unit or outdoor solid fuel- fired heating device existing at the time of the effective date of this ordinance may be continued, although such use may not conform to the provision of this ordinance.
- B. No pre-existing, non-conforming outdoor wood-burning unit or outdoor solid fuel-fired heating device shall hereafter be replaced, extended, enlarged, or expanded.
- C. At such time as the useful life of an outdoor non-conforming wood-burning unit or outdoor solid fuel-fired heating device has elapsed or would need to be repaired to function properly, the unit cannot be replaced and must be abandoned, not used, and removed from the property immediately.
- D. All outdoor wood burning or solid fuel burners in existence prior to the date that this ordinance was adopted must be registered and recorded at City Hall. Owner must supply the following information to City Hall: date the solid fuel burner was installed, manufacturer name, model number, and a photocopy of the manufactures' recommendations and operating instructions, and the last time the owner maintained the device per manufactures recommendations. The City may also require inspections of the devices.

§163.06 Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

§163.07 Liability.

A person utilizing or maintaining an outdoor solid fuel burner shall be responsible for all fire suppression costs incurred by the City or its authorized agents and any other liability resulting from damage caused by the fire.

§163.08 Penalty.

Any person convicted or violating a provision of the ordinance is guilty of a misdemeanor punishable by a fine of up to \$1000 or up to 90 days in jail or both

Planning Commission

7) c)

Meeting Date: 10/08/2024

SUBJECT: FEMA FIRM Map Process

DEPARTMENT: Administration

TITLE:

FEMA FIRM Map Process

PURPOSE:

ITEM SUMMARY:

See attached staff memo on FEMA FIRM Map update and 90 day review process.

Attachments

Staff Memo



Real People. Real Solutions.

MEMORANDUM

Date: October 2, 2024
To: Wabasha Planning Commission
From: Kristi Trisko, AICP, PMP
Subject: FIRM Maps Process Update

The Department of Homeland Security's Federal Emergency Management Agency (FEMA) has been working on updated Wabasha County's FIRM maps for the last 3+ years. The preliminary maps are ready for their official 90-day review process. There are a few steps in this final process:

1. FEMA has placed a notice in the paper on Tuesday 10/1 and will repeat on Tuesday 10/8 that the 90-day review period as started.
2. The City will be sending out letters to all affected homeowners by 10/11 explaining what the new FIRM maps are doing and giving them some additional information and contacts. The city will also have a news section placed on their website with additional information.
3. Residents can petition FEMA if they believe that their floodplain designation is incorrect but can ONLY use "scientific or technical" data to support their findings.
 - a. All appeals have to come through the City for a first review and then be forward to FEMA within the 90 days
4. Once the 90-day review process is over we will have 6 months to update and approve our floodplain ordinance to include the FINAL FIRM maps.
5. Below is a snippet of the draft letter we will send out to residents.

DRAFT LETTER:

As a result of FEMA'S countywide floodplain map update, flood risk on your property is more accurately depicted than on FEMA's current maps, last updated in 2000. The City of Wabasha has received the preliminary Flood Insurance Rate Maps (FIRMs) from the Department of Homeland Security (DHS) / Federal Emergency Management Agency (FEMA) as part of this countywide update. To review your property's detailed preliminary maps, please go to FEMA's website at [FEMA Flood Map Changes Viewer](#).

As a result of the change, your property has been **<added to / removed from>** the FEMA floodplain for the City of Wabasha.

The maps were updated to reflect floodplain analyses completed in the early 2000s and more accurately show floodplain boundaries using topographic data collected in 2008. The maps now better represent the flood risk within city limits. City review of the new flood elevations show that within city limits, FEMA flood elevations universally decreased compared to the prior study.

Name: FIRM Map Process Update

As stated in the formal notice, property owners will have a 90-day review/appeal period before the FIRMs are finalized. Information on the statutory 90-day period provided for appeals and copies of the FIRM Maps can be found on FEMA's website at www.fema.gov/plan/prevent/fhm/bfe or call 1-877-FEMA MAP. The 90-day review period started on September 23, 2024.

Once the FIRMs are finalized, the City of Wabasha is required to adopt and comply with the revised boundaries and floodplain regulations defined by FEMA to continue its participation in the National Flood Insurance Program.

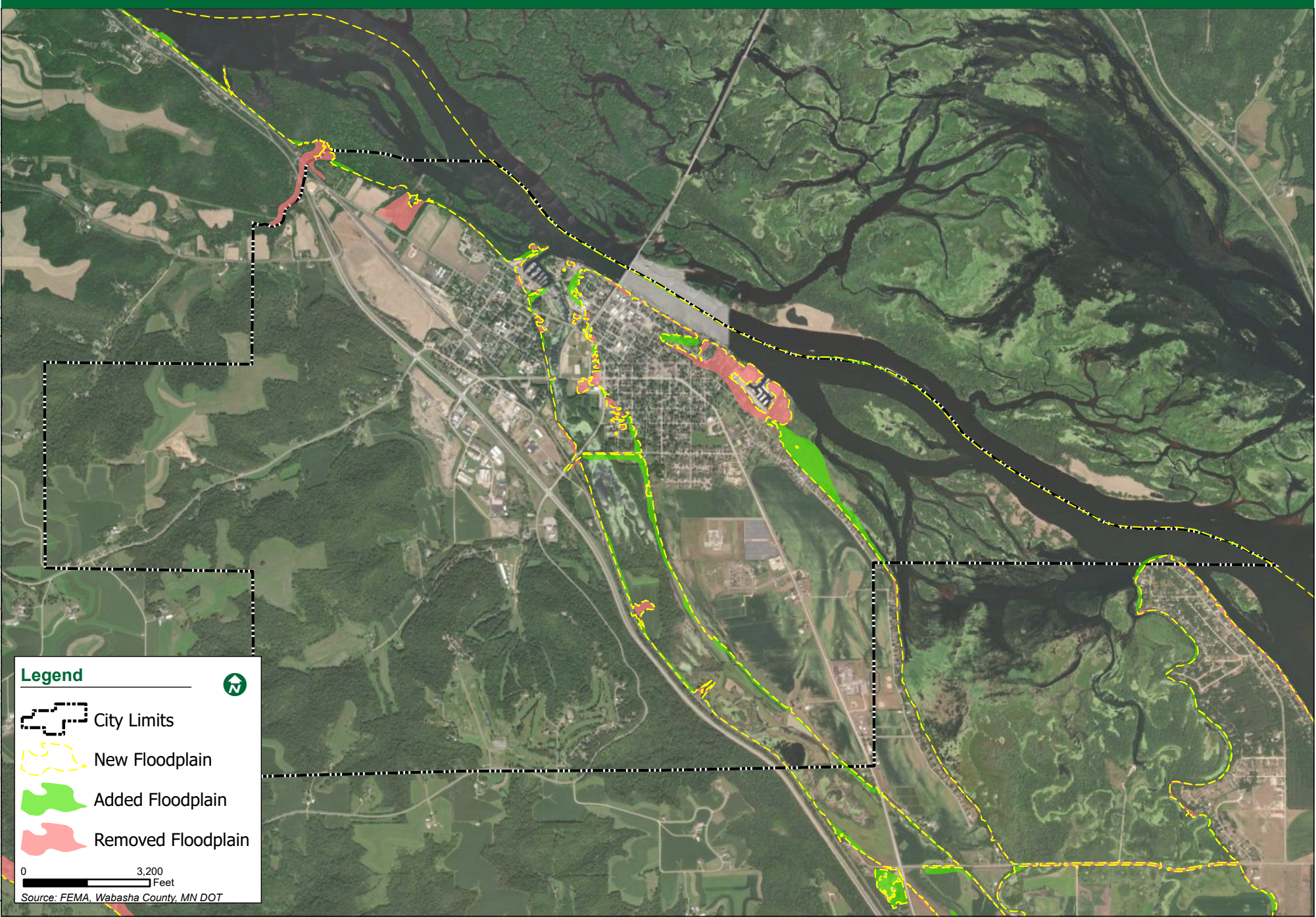
If you have questions concerning this information as it relates to the City of Wabasha's floodplain management policies, I can be reached at 651-363-4971. If you have questions concerning the 90-day appeal process or the FIRM, please contact FEMA directly.

Additional Information - that will be available on our news section or in office includes the following:

1. Wabasha's official letter of notice
2. Scientific Resolution Panels
3. The Complete MnDNR Floodway Mapping PowerPoint (presented to the City in July)
4. Draft FIRM map overview
5. FIRM Map Appeal Process
6. FIRM Map Contacts
7. Flood Insurance
8. New FIRM maps FAQ's
9. NEW Citywide floodplain map (11 x 17)

Affected property owners:

- ✓ **199** property owners are to be removed from the FIRM maps; and
- ✓ **132** property owners are to be added to the FIRM Maps.



Map Document: \\arcserver1\BIM\GIS\MINNESOTA\WABASHA_CI_MN\General\2024\IP\Wabasha_FEMA_Flood_Data.aprx | Username: Ben Oman | Date Saved: 5/14/2024 3:10 PM