



Tenant Hotline  
Phone: 612-728-5767  
Online: [homelinemn.org/email](mailto:homelinemn.org/email)

# How the New Cannabis Rules Impact Tenant/Landlord Laws

July 19, 2023 – 1:30-3:00pm

HOME Line Housing Attorney, Andrea Palumbo

HOME Line Policy Attorney, Larry McDonough

# What is HOME Line?

- HOME Line is a statewide nonprofit organization providing free legal, educational, and advocacy services to Minnesota renters. We have advised over 300,000 renters since 1992.
- Our primary program is a free and confidential legal hotline any Minnesota renter can contact us to receive legal advice specific to their situation, in 4 languages.
- HOME Line has a staff of 26, including attorneys, tenant advocates, and tenant organizers. We also rely on volunteers and interns.



# What is HOME Line?

HOME Line Tenant Hotline:

**612-728-5767**

Toll-free: 866-866-3546

- Para Español, llame al 612-255-8870
- Af- Soomaali wac 612-255-8860
- Hais lus Hmoob, Hu 612-255-7104
- Online: [homelinemn.org/email](http://homelinemn.org/email)



# Housekeeping

- This session is being recorded and will be available on HOME Line's website in a few days
- Please ask questions through the Q&A function located at the bottom of the Zoom window



# Upcoming Webinars



**August 16, 2023**

Fee Disclosures, Pet Declawing/ Devocalization,  
Move-in/Move-out Inspections, Early Lease renewals

**September 20, 2023**

Pre-Eviction Notices

**October 18, 2023**

Heat, Emergency Repairs, Privacy, Break Lease due to Infirmity

**November 15, 2023**

Expungements, Evictions and the Public Record

**December 20, 2023**

Public Housing Right to Counsel, Eviction Process

**January 17, 2024**

Renters' Credit

Visit [homelinemn.org/newlaws/](https://homelinemn.org/newlaws/) for more information and to register

# Upcoming Trainings

Mark your Calendars!

Thursday, December 7th, 2023 HOME Line will host a full day CLE on the specific rule changes taking place January 1, 2024

**More information to come**



# Session Law 63 - H.F. 100

- Landmark legislation
- Touches multiple areas of law
- [Minnesota Session Law - Chapter 63](#)



# Definitions

## Article 1 - Section 1

- Cannabis flower - harvested flower, bud, leaves and stems of a cannabis plant.
- Cannabis concentrate - extracts and resins of cannabis plant or flower
- Edible cannabis product - cannabis product that is intended to be eaten or consumed as a beverage

Article 1, Sec. 1 [342.09]





# More definitions

Cannabis paraphernalia - all equipment, products, materials used primarily in:

- Ingesting
- Inhaling or
- Otherwise introducing cannabis flower or cannabis products into the human body
- Manufacturing & testing strength, purity of cannabis flower, products

Article 1, Sec. 1 [342.09]



# More definitions

Medical cannabinoid product - product that is provided to a patient enrolled in the registry program.

- Does not include synthetic products
- Does not include adult-use cannabis products
- Medical cannabis flower, medical cannabis paraphernalia - flower and paraphernalia only for use by registry patients

Article 1, Sec. 1 [342.09] amending Minn. Stat. 152.22 - 152.37



# Multiple Effective Dates

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Most definitions take effect July 1, 2023



# Personal Adult Possession & Use

An adult 21 years of age or older may:

- Use, possess or transport cannabis paraphernalia
- Possess or transport 2 ounces or less of adult-use cannabis in a public place
- Possess up to 2 pounds of adult-use cannabis flower in the individual's private residence

Article 1, Sec. 9 [342.09]



# Personal Adult Possession

An adult 21 years of age or older may possess or transport:

- Up to eight grams of adult-use cannabis concentrate
- Edible cannabis products or lower potency hemp edibles infused with up to 80 mg of THC

Article 1, Sec. 9 [342.09]



# Personal Adult Use - Age 21+

An adult years old or older may use adult-use cannabis flower and cannabis products on private property not generally accessible to the public

## UNLESS

the individual is expressly prohibited from consuming cannabis flower and cannabis products on the property by the owner of the property

Article 1, Sec. 9 [342.09]



# Personal Adult Use - Home Cultivation

An adult 21 years of age or older may grow:

- Up to 8 cannabis plants, no more than 4 being mature at a single residence without a license to grow cannabis
- Must be in the primary residence of the individual
- Must be in an enclosed, locked space not open to public view

Article 1, Sec. 9 [342.09]



# Personal Adult Use - Home Cultivation

## Penalties for violation:

- In addition to penalties in subdivision, also subject to applicable criminal penalty
- Civil penalty for plants grown in excess of limit without a license
- More than 8 total or 4 flowering

Article 1, Sec. 9 [342.09]





# Protection for Registry Program Participants

No landlord may refuse to lease to a patient or otherwise penalize a patient solely because the patient is enrolled in the registry program

## UNLESS

Failing to do so would violate federal law or regulations or would cause the landlord to lose a monetary or licensing related benefit under federal law or regulations.

**This section is effective March 1, 2025**

Article 1, Sec. 58 [342.57]



# Protection for Registry Program Participants - Similar Provision

No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for the person's status as a patient enrolled in the registry program under sections 152.22 to 152.37 or for the person's status as a Tribal medical cannabis program patient,

UNLESS

Failing to do so would violate federal law or regulations or cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulations.

**This section is effective the day following final enactment.**

Article 6, Sec. 22, amending 152.32

# Sober Homes

A sober housing program for people with substance use disorders may prohibit people in the program from the possession and use of cannabis flower, products, lower-potency hemp edibles or hemp derived consumer products.

**No date listed, so effective August 1, 2023.**

Article 6, Sec. 56 [504B.175]



# Nuisance

Any use of adult-use cannabis flower which is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property is a nuisance.

A person who is injuriously affected or whose personal enjoyment is lessened by a nuisance under subdivision 1 may bring an action for injunctive relief and the greater of the person's actual damages or a civil penalty of \$250.

# Nuisance

If a landlord, as defined in section 504B.001, subdivision 7, or an association, as defined in section 515B.1-103, clause (4), fails to enforce the terms of a lease, governing document, or policy related to the use of adult-use cannabis flower on the premises or property, a person who is injuriously affected or whose personal enjoyment is lessened by a nuisance under subdivision 1 as a result of the failure to enforce the terms may bring an action against the landlord or association seeking injunctive relief and the greater of the person's actual damages or a civil penalty of \$500.

**Except as otherwise provided, each section of this article is effective July 1, 2023.**

Article 1, Sec. 74. [342.82]

# Expungement

If a tenant brings a motion for the expungement of an eviction, the court shall order the expungement of an eviction case that was commenced on the grounds of a violation of section 504B.171 or any other claim of breach regardless of when the original eviction was ordered, if the tenant could receive an automatic expungement under section 609A.055, or if the breach was based solely on the possession of marijuana or tetrahydrocannabinols.

**No date listed, so effective August 1, 2023.**

Article 6, Sec. 54, Amending 484.014

*NOTE:* Other changes to expungement are in Session Law 52, Senate F. No. 2909, Article 19, Sections 105, 108, and 117-119, effective January 1, 2024. [Link.](#)

# Minn. Stat. § 504B.171 Changes

Subdivision 1. Terms of covenant. (a) In every lease or license of residential premises, whether in writing or parol, the landlord or licensor and the tenant or licensee covenant that:

(1) neither will:

(i) ~~unlawfully~~ allow controlled substances in those premises or in the common area and curtilage of the premises in violation of any criminal provision of chapter 152;

....

# Ch. 152 Crimes

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Medical marijuana possession and use does not violate Ch. 152.  
This section is effective March 1, 2025.  
Article 1, Section 58. [342.57].

Legal possession and use of cannabis discussed on earlier slides  
does not violate Ch. 152.  
The sections are effective August 1, 2023, and apply to crimes  
committed on or after that date.  
Article 4, amending various sections of Ch. 152.



# Minn. Stat. § 504B.171 Changes

[New Subsection]

(c) A landlord cannot prohibit a tenant from legally possessing, and a tenant cannot waive the right to legally possess, any cannabis products, lower-potency hemp edibles, or hemp-derived consumer products, or using any cannabinoid product or hemp-derived consumer product, other than consumption by combustion or vaporization of the product and inhalation of smoke, aerosol, or vapor from the product.

**No date listed, so effective August 1, 2023.**

Article 6, Sec. 55, Amending 504B.171

*NOTE:* Other changes to Minn. Stat. § 504B.171 are in Session Law 52, Senate F. No. 2909, Article 19, Section 99, effective June 1, 2024. [Link](#).

# Limitations

Except for the use of medical cannabis flower or medical cannabinoid products, the vaporizing or smoking of cannabis flower, cannabis products, artificially derived cannabinoids, or hemp-derived consumer products is prohibited in a multifamily housing building, including balconies and patios appurtenant thereto. A violation of this paragraph is punishable through a civil administrative fine in an amount of \$250.

**This section is effective March 1, 2025.**

Article 1, Sec. 57. [342.56]

# Public and Subsidized Housing

Public and subsidized housing owners must establish admission standards that prohibit the admission of applicants if any member of the household is “currently engaging in” the illegal use of a drug, or if there is cause to believe that a household member’s illegal use or pattern of illegal use may interfere with the health, safety or the right to peaceful enjoyment of the premises by other tenants.

42 U.S.C.A. § 13661(b) (West 2023); 24 C.F.R. §§ 5.854 (federally assisted housing), 882.518(a)(1)(ii) (Section 8 moderate rehabilitation), 960.204(a)(2) (Public Housing), 982.553(a)(1)(ii) (Voucher) (2018); HUD Notice H 2002-22.

# Public and Subsidized Housing

Most public and subsidized housing programs allow the landlord to terminate leases and subsidies and evict tenants for drug-related criminal activity and illegal drug use or pattern of illegal drug use that interferes with health, safety, or right to peaceful enjoyment of the premises by other residents.

42 U.S.C.A. § 1437d(l)(6), 1437f(o)(7)(D) (West 2023); 24 C.F.R. §§ 5.100, 5.858, 982.310(c)(1), 982.551(l); 982.553(b)(1), 966.4(l)(5), 966.4(f)(12).

# Public and Subsidized Housing

The question will be whether courts will evict tenants with legal use under Minnesota law and criminal use under Federal law. Some courts have said no to eviction.

[Lawrence R. McDonough, \*Residential Eviction Defense and Tenant Claims in Minnesota\* at VI.G.10.b.\(3\)\(a0\).](#)

It may end up being an issue of preemption. [Id. at I.A.5.](#)

*NOTE:* Public housing tenants have the right to court-appointed attorneys in eviction actions claiming breach of lease beginning August 1, 2023. Session Law 52, Senate F. No. 2909, Article 19, Section 89, effective August 1, 2023. [Link.](#)

# Use in Public?

The law does not expressly permit or prohibit use in public. Article 1, Sec. 9 states:

(a) An individual 21 years of age or older may:

(7) use adult-use cannabis flower and adult-use cannabis products in the following locations:

(i) a private residence, including the individual's curtilage or yard;

(ii) on private property, not generally accessible by the public, unless the individual is explicitly prohibited from consuming cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on the property by the owner of the property; or

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

# Use in Public?

The only section that discusses public use is this:

Use of cannabis in public. A local unit of government may 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 products in a public place provided that the definition of public place does not include the following:

- (1) a private residence, including the person's curtilage or yard;
- (2) private property not generally accessible by the public, unless the person is explicitly prohibited from consuming cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on the property by the owner of the property; or
- (3) the premises of an establishment or event licensed to permit on-site consumption.

**This section is effective August 1, 2023, and applies to crimes committed on or after that date.**

Article 4, Sec. 19. [152.0263]

# Use in Public?

[Peter Callaghan, Where you can and can't smoke marijuana in Minnesota come Aug. 1, MinnPost July 11, 2023](#)

Such wide public use was not a topic of debate during the session, with most of the discussion and amendments related to local control and public safety. Opponents did not use public consumption as a reason to oppose the bill. But [Senator Lindsey] Port said the law was always meant to allow smoking and vaping marijuana pretty much anywhere that smoking and vaping tobacco is allowed under the Minnesota Clean Indoor Air Act and local ordinances. While the new marijuana law references the Clean Indoor Air Act, that law already includes marijuana and vaping in its regulation.



# Use in Public?

If smoking laws and ordinances ban smoking somewhere, then marijuana would be banned as well, Port said. The most obvious places are indoor public places, transportation facilities, transportation vehicles and health facilities. In addition, employees are generally protected from smoking in workplaces due to the hazards of secondhand smoke.

The broadest category for where smoking can occur under that law is anywhere outdoors.

...

Leili Fatehi, the manager of the marijuana legalization advocacy group MN is Ready, said she thought it was understood that public use would be allowed.

...

But Alex Hassel, a lobbyist for the League of Minnesota Cities, said she hadn't interpreted the law to explicitly allow marijuana smoking and vaping on sidewalks and outside bars.

# Scheduling of Marijuana

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Marijuana was moved from Schedule I to Schedule III.

The sections are effective the day following final enactment.

Article 8, Sections 1-2, Amending 152.02.



Questions?

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- Peb lub koom haum HOME Line muaj neeg txhais lus Hmoob. Hais lus Hmoob, Hu 612-255-7104.



Thank You