

**CITY OF MOUNDS VIEW**

**MOUNDS VIEW CITY HALL**

**NOTICE OF SPECIAL CITY COUNCIL MEETING**

**Monday, August 7, 2023**

**6:00 p.m. (before or after the regularly-scheduled Work Session)**

NOTICE IS HEREBY GIVEN that the City Council of the City of Mounds View, Minnesota (the “City”) will hold a special meeting on August 7, 2023, at 6:00 p.m. (before or after the regularly-scheduled Work Session), at Mounds View City Hall, 2401 Mounds View Boulevard, Mounds View, Minnesota for the following purposes:

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL:** Acting Mayor Meehlhause, Cermak, Gunn and Lindstrom
- 4. APPROVAL OF AGENDA**
- 5. CONSENT AGENDA**
  - A.** Resolution 9792 A Resolution Terminating the Employment of R.M.
- 6. SPECIAL ORDER OF BUSINESS**
- 7. PUBLIC COMMENT**

Citizens may speak to issues not on tonight’s agenda. Before speaking, please give your full name and address for the minutes. Also, please limit your comments to three minutes.
- 8. CITY BUSINESS**
  - A.** Second reading of Ordinance Prohibiting Use of Cannabis and Hemp in Public Places; and
  - B.** General Discussion/Issues regarding the above-referenced matters; and
  - C.** Other matters.

**9. REPORTS**

- A. Reports of Mayor and Council
- B. Reports of Staff
- C. Reports of City Attorney

**10. NEXT COUNCIL WORK SESSION: Tuesday, September 5, 2023, at 6:00 p.m.**  
**NEXT COUNCIL MEETING: Monday, August 14, 2023, at 6:00 p.m.**

**11. ADJOURNMENT**

/s/ Nyle Zikmund

Nyle Zikmund, City Administrator

Dated: August 3, 2023.



Item No: 5A.  
Meeting Date: August 7, 2023  
Type of Business: Consent Agenda  
Administrator review: \_\_\_\_\_

## City of Mounds View Staff Report

**To:** Honorable Mayor and City Council  
**From:** Rayla Sue Ewald, Human Resource Director  
**Item Title/Subject:** Resolution 9792, Terminating the Employment of Rene Montero

**Background:**

Public Service Workers are required to have a Commercial Driver’s License (CDL) upon hire at the City of Mounds View. Consistent when transferring from other departments into the Public Works department, employees without a CDL are given six months to obtain their licensure.

**Discussion:**

Public Service Worker Rene Montero transferred from the position of Facilities Maintenance effective March 29, 2022. He received a copy of the job description and was aware of the requirements for the CDL, and notified he would receive the six month extension to obtain the CDL. After multiple failed attempts testing for the CDL with the Department of Motor Vehicles (DMV), Mr. Montero was placed on an extended probation effective March 17, 2023. During the period of March 17, 2023 – July 14, 2023, Mr. Montero received multiple coaching sessions from the Public Works Superintendent and Human Resource Director Ewald. During the June 8, 2023 coaching session, staff informed Mr. Montero the City would pay for one-on-one training with Class A Leasing, Minnesota Truck & Trailer School. And, Mr. Montero was notified his employment would cease if he had not obtained his CDL by July 28, 2023. Class A Leasing provides students two attempts to test at the DMV using their CDL vehicle. Mr. Montero failed his first attempt on July 13, 2023, and was unable to re-test with the DMV again until August 3, 2023. The City extended the July 28, 2023 deadline to August 3, 2023 in order to assist Mr. Montero.

On August 3, 2023, Mr. Montero arrived at the DMV testing site without requesting Class A Leasing attend with a CDL vehicle, required for testing (provided as a part of the training payment). Mr. Montero was required to schedule a truck for the test with Class A Leasing; he had done previously for his CDL test on July 13, 2023. Mr. Montero was placed on paid administrative leave effective August 3, 2023.

The HR Committee was made aware of this situation earlier this summer, and supports the termination process.

Article 26 of the Labor Agreement provides for separation compensation of accrued and unused vacation hours and accrued compensatory time. Mr. Montero has a remaining vacation balance of 57.18 hours and zero hours of compensatory time. Article 27 of the Labor Agreement states employees who have completed two years of service shall contribute 50% of unused sick leave to the Retirement Health Savings Plan. Fifty-percent of Mr. Montero’s accumulated sick leave equals 19.06 hours. However, Policy 2.11 in the City’s Personnel Manual states employees must leave the City in good standing in order to be eligible for their sick leave hours.

The following represents the separation payout for Mr. Montero:

	Hours	Hourly rate	Payout
Vacation Hours	57.18	\$29.30	\$1,675.37 cash payout
<b>Total Separation Payout:</b>			<b>\$1,675.37</b>

**Strategic Plan Strategy/Goal:**

Create a culture where employees desire to work.

**Financial Impact:**

The amount of separation payout is estimated to be \$1,675.37

**Recommendation:**

Staff recommends Resolution 9792, Terminating the Employment of Rene Montero effective August 7, 2023.

Respectfully submitted,

Rayla Sue Ewald  
Human Resource Director

Attachment: Res. No. 9792

**RESOLUTION NO. 9792**

**CITY OF MOUNDS VIEW  
COUNTY OF RAMSEY  
STATE OF MINNESOTA**

**RESOLUTION TERMINATING THE EMPLOYMENT OF  
RENE MONTERO**

**WHEREAS**, the City Administrator for the City of Mounds View (the "City") has the authority under the City's Personnel Manual to terminate employees of the City subject to the concurrence by the City Council (the "Council"); and

**WHEREAS**, the City Administrator has concluded after consultation with the Director of Public Works that it is in the best interest of the City that the employment of Rene Montero (the "Employee") be terminated; and

**WHEREAS**, the recommendation is based the Employee's failure to obtain a Commercial Driver's License, which is required for him to perform the essential functions of his position as a Public Service Worker with the City; and

**WHEREAS**, the Employee is a probationary employee with the City and can be removed from his position for any reason; and

**WHEREAS**, the City provided a letter to the Employee on August 3, 2023, advising him of the City Council's consideration of the recommendation of termination; and

**WHEREAS**, the City Council relies on the professional experience and opinion of the City Administrator obtained during the administration of the City's business;

**NOW, THEREFORE, BE IT RESOLVED THAT** the above-referenced recitals are incorporated herein to this Resolution.

**NOW, THEREFORE, BE IT FURTHER RESOLVED THAT** the City Council of the City of Mounds View approves the recommendation for the termination of the employment of the Employee effective August 7, 2023.

**NOW, THEREFORE, BE IT FURTHER RESOLVED THAT** the City Council directs City staff to provide an appropriate Notice of Termination to the Employee with the effective date of termination being on August 7, 2023.

**NOW, THEREFORE, BE IT FURTHER RESOLVED THAT** the City Council directs City staff to provide separation compensation according to the Labor Agreement and Personnel Manual, paying the following cash payout on August 10, 2023:

	Hours	Hourly rate	Payout
Vacation Hours	57.18	\$29.30	\$1,675.37 cash payout
<b>Total Separation Payout:</b>			<b>\$1,675.37</b>

Adopted this 7th day of August, 2023.

ATTEST:

\_\_\_\_\_  
Gary Meehlhause, Acting Mayor

\_\_\_\_\_  
Nyle Zikmund, City Administrator

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**ORDINANCE NO. 1007**

**CITY OF MOUNDS VIEW  
COUNTY OF RAMSEY  
STATE OF MINNESOTA**

**AN ORDINANCE ADDING A NEW CHAPTER TO THE MOUNDS VIEW CITY CODE  
TO PROHIBIT THE USE OF CANNABIS AND HEMP IN PUBLIC PLACES**

**THE CITY OF MOUNDS VIEW ORDAINS:**

**SECTION 1.** The City Council of the City of Mounds View hereby amends Title 8 of the Mounds View Municipal Code by adding a new Chapter 133 as follows:

**CHAPTER 133: USE OF CANNABIS AND HEMP PRODUCTS PROHIBITED IN PUBLIC PLACES.**

**§ 133.001 DEFINITIONS.**

(A) For purposes of this chapter, the terms “cannabis flower,” “cannabis products,” “lower-potency hemp edibles,” and “hemp-derived consumer products” shall have the definitions given to them in Minnesota Statutes, section 342.01, as it may be amended from time to time.

(B) For purposes of this chapter, “public place” is defined as any indoor or outdoor area that is used or held out for use by the public whether owned or operated by public or private interests. Pursuant to Minnesota Statutes, section 152.0263, subd. 5, “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; and (iii) the premises of an establishment or event licensed to permit on-site consumption of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products.

**§ 133.002 USE OF CANNABIS AND HEMP PROHIBITED IN PUBLIC PLACES.**

No person shall use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place. A violation of this section shall be considered a petty misdemeanor notwithstanding any other penalty provision in the city code, and the city council may establish a corresponding fine in its fee schedule for violations of this section.

**§ 133.003 MEDICAL CANNABINOID EXEMPTION**

Use of a medical cannabinoid product, as defined in Minnesota Statutes, section 342.01, that meets all requirements under applicable law, by a patient enrolled and registered in the medical cannabis program, is not subject to the prohibition contained in Sec. 133.002. This exemption does not apply to the smoking or vaporizing of medical cannabinoid products, as defined in Minnesota Statutes, section 342.01, in public places.

**SECTION 2.** This ordinance shall take effect and be in force 30 days from and after its passage and publication, in accordance with Section 3.09 of the City Charter.

Introduction and First Reading by the Mounds View City Council on: July 31, 2023.

Second Reading and Adoption by the Mounds View City Council on: August 7, 2023.

Publication Date: \_\_\_\_\_, 2023.

Attest:

\_\_\_\_\_  
Gary Meehlhause  
Acting Mayor

(SEAL)

\_\_\_\_\_  
Nyle Zikmund  
City Administrator





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## MEMORANDUM

**DATE:** August 7, 2023

**TO:** Honorable Mayor and City Council Members

**CC:** Nyle Zikmund, City Administrator  
Brian Beeman, Assistant City Administrator

**FROM:** Scott J. Riggs, City Attorney  
Joseph L. Sathe, Assistant City Attorney

**RE:** Prohibiting Use of Cannabis and Hemp in Public Places – Updated Ordinance

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The purpose of this memo is to provide an explanation of the proposed ordinance prohibiting use of cannabis and hemp products in public places and provide an overview of the two requests from the City Council at the meeting on July 31, 2023: 1) examples of other cities’ definition of “public place”; and 2) the inclusion of an exemption for certain products related to the medical cannabis program.

### I. Background

The Cannabis Act legalizes the possession and use of cannabis flower and cannabis products on August 1, 2023, meaning personal possession and use are generally no longer illegal under Minnesota law.

The Cannabis Act makes use of cannabis illegal when operating a motor vehicle and at the following locations: public school or charter schools and buses; state correctional facilities; in a location where the smoke, aerosol or vapor from the use of cannabis could be inhaled by a minor; on federal property; and smoking or vaping with in a multifamily housing building. Additionally, owners of day care must disclose to parents if the proprietors permit use of cannabis outside of normal business hours.

### II. Definition of Public Place

In addition to the statewide prohibitions listed above, the Cannabis Act allows a local unit of government to prohibit use of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place and allows the local unit of government to define what constitutes a “public place.”

However, the definition of “public place” *cannot* include the following places: (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.

The draft ordinance defines public place broadly to include “any indoor or outdoor area that is used or held out for use by the public whether owned or operated by public or private interests.” The definition also excludes the places listed above that must be excluded.

The following are select examples from other cities that have considered prohibiting cannabis use in public places.

***Lakeville:***

Property owner, leased, or controlled by a governmental unit and private property that is regularly and frequently open to or made available for use by the public in sufficient numbers to give clear notice of the property's current dedication to public use but 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.

***Alexandria:***

“Public Place.” For the purposes of this section, the term “Public Place” shall mean any and all public places within the City of Alexandria, including but not limited to any public street, avenue, boulevard, right of way, road, alley, sidewalk, park, trail, parking lot, beach, pier, building, and vehicle. Provided, however, that the following shall not be considered a Public Place:

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.

***Apple Valley*** (bans use both within “Public Place” and “Public Property”):

***PUBLIC PLACE.*** Property that is generally open to or accessible by the public, except on those premises licensed by the State of Minnesota to permit on-site consumption.

***PUBLIC PROPERTY.*** Property, real and personal, that is owned, managed, or controlled by the City, including, but not limited to: City buildings and all the land thereon, parking lots, parks, golf course, pathways and trails, and city rights-of-way consisting of both the traveled portion and the abutting boulevard, sidewalks and trails, and any City personal property, such as motor vehicles, city equipment, and the like.

***Inver Grove Heights***

***PUBLIC PLACE.*** Property owned, leased, or controlled by a governmental unit including the City but does not include: (1) a private residence, including the person’s curtilage or yard; (2) private property not generally accessible to 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. Public places include but are not limited to: City buildings and all the land thereon, parking lots, golf course, parks, pathways and trails, and city rights-of-way consisting of both the traveled portion and the abutting boulevard, sidewalks and trails, and any City personal property, such as motor vehicles, city equipment, and the like.

**III. Medical Cannabinoid Exemption**

The 7/31 draft of the ordinance prohibited the use of medical cannabis flower (because it is included in the definition of cannabis flower) and medical cannabinoids (because it is included in the definition of cannabis product) in public places.

The 8/7 draft now includes an exemption for the use of medical cannabinoid products used by patients registered with the state medical cannabis program. That language is included below as Option 1. The draft still prohibits the smoking or vaping of medical cannabinoid products in public places, however this language can be amended to allow smoking and vaping of medical cannabinoid products.

Option 2 would allow a person registered with the medical cannabis program to use medical cannabis flower or a medical cannabinoid in any approved delivery method, including smoking and vaping.

***Option 1: Medical Cannabinoid Exemption prohibiting smoking and vaping***

*Use of a medical cannabinoid product, as defined in Minnesota Statutes, section 342.01, that meets all requirements under applicable law, by a patient enrolled and registered in the medical cannabis program, is not subject to the prohibition contained in Sec. 133.002. This*

Honorable Mayor and City Council Members

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*exemption does not apply to the smoking or vaporizing of medical cannabinoid products, as defined in Minnesota Statutes, section 342.01, in public places.*

***Option 2: Medical Cannabis Flower and Medical Cannabinoid Exemption allowing smoking and vaping***

*Use of a medical cannabinoid product or medical cannabis flower, as those terms are defined in Minnesota Statutes, section 342.01, that meets all requirements under applicable law, by a patient enrolled and registered in the medical cannabis program, is not subject to the prohibition contained in Sec. 133.002.*