

Get Ready for 2024  
Landlord and Tenant Law Is Changing!

Anne W. Grande Hennepin County Law Library  
October 20, 2023

Larry McDonough  
Senior Fellow, National Housing Law Project  
[mcdon056@umn.edu](mailto:mcdon056@umn.edu)  
651-398-8053

Housing Law in Minnesota  
<http://povertylaw.homestead.com/HousingLawinMinnesota.html>

= = =

Outline Prepared for 2023 Legislative Housing Update  
Legal Services State Support  
July 24, 2023

Mary Kaczorek  
Managing Attorney, Mid-Minnesota Legal Aid  
[mkaczorek@mylegalaid.org](mailto:mkaczorek@mylegalaid.org)  
612-746-3619

Larry McDonough  
Senior Fellow, National Housing Law Project  
[mcdon056@umn.edu](mailto:mcdon056@umn.edu)  
651-398-8053

- I. New Session Law Chapters
  - A. Minnesota Session Laws - 2023, Regular Session, Chapter 52, Senate F. No. 2909
    - 1. <https://www.revisor.mn.gov/laws/2023/0/Session+Law/Chapter/52/>
    - 2. Landlord and tenant law sections are in Article 19 §§ 83-120
  - B. Minnesota Session Laws - 2023, Regular Session, Chapter 61, Senate F. No. 2934
    - 1. <https://www.revisor.mn.gov/laws/2023/0/Session+Law/Chapter/61/>
    - 2. Sober houses are regulated in Article 4, §§ 8, 14, 20, 26

C. Minnesota Session Laws - 2023, Regular Session, Chapter 63, House F. No. 100

1. <https://www.revisor.mn.gov/laws/2023/0/Session+Law/Chapter/63/>
2. Cannabis sections affecting landlords and tenants are in Article 1, §§ 9, 58, 74, and 75, and Article 6, §§ 22, 54, 55, 56, and Article §§ 1-2.

II. Eviction Actions – Part 1 – Mary Kaczorek

A. Changes to Eviction Procedures - Chapter 52, Article 19, §§ 103-116, Effective January 1, 2024

(All Minn. Stat. Chapter 504B)

- .285
  - o Removing posting for combined allegations
- .291
  - o Redemption by guarantee letter
- Eviction Process
  - o .321 Complaint and Summons
    - Subd. 1 Procedure
      - Removes summons (covered later)
      - Cross-references Sub 1a
    - Subd. 1a (New) Written Notice
      - Prefiling notice
        - o Amount due, accounting, disclosure
        - o Include statements
        - o How delivered
        - o 14 days
    - Subd. 1b (New) Notice constitutes verification of emergency
      - Pre-filing notice = notice of emergency
    - Subd. 2 Expedited Procedure
      - Updates expedited language
      - Limits what can be considered
    - Subd. 3 (New) Complaint
      - Attach lease & ledger
      - Identify lease provisions and provide details for breach
      - Provide details for .171
      - Attach notice to vacate
      - Identify if subsidized
    - Subd. 4 (New) Summons
      - Include statements
    - Subd. 5 (New) Defective filing or service

- Mandatory dismissal for failure to comply w section 504B.321
  - .331 Summons, How Served
    - Removes “not named” language – civil rules govern service instead
    - Includes complaint
    - New requirement for landlord to attempt to notify tenant by other means in writing at least once
  - .335 Answer; Trial
    - .341 Repealed
    - Factors to consider when scheduling
    - Priority reflects new expedited language
    - No posting required, except for max of prospective rent each month if not resolved in 10 days
  - .345
    - 60.02 is appealable
  - .361
    - Summons follows .321
    - Writ to include statements
  - .371 Appeal Bond
    - Subd. 3: Only prospective rent
    - Subd. 7: Landlord can retake possession if they pay a bond only in .171 cases (formerly just holdover cases)
- B. Eviction Records Expungement - Chapter 52, Article 19, §§ 117-119, Effective January 1, 2024
- Minn. Stat. § 484.014
  - Subd. 2 Discretionary
    - Removes “without basis in fact or law”
    - Solely a balancing test
  - Subd. 3 Mandatory
    - Sua sponte
    - Adds new categories for mandatory
  - Subd. 6 Nonpublic Record (New)
    - Record nonpublic until disposition
    - Parties and attorneys assisting with the case can still access

### III. Eviction Actions – Part 2- Larry McDonough

- A. Right to Counsel in Public Housing Breach Cases - Chapter 52, Article 19, § 89
  1. Minn. Stat. § 504B.268 (new statute)
  2. Similar to other Minnesota right to counsel statutes, such as guardianship.
  3. Only applies to public housing breach of lease eviction actions and not rent eviction actions
  4. Complaint notice
  5. Court inquiry

6. Attorney qualifications
7. Compensation
8. Effective August 1, 2023

B. Limitation on Crime-Free Lease Provisions - Chapter 52, Article 19, § 99

1. Amends Minn. Stat. § 504B.171.
2. “A residential landlord may not impose a penalty on a residential tenant or terminate the lease of a residential tenant for the conduct of the residential tenant, household member, or guest occurring off of the premises or curtilage of the premises.”
3. Exceptions: “(1) the conduct would constitute a crime of violence against another tenant, the tenant's guest, the landlord, or the landlord's employees, regardless of whether a charge was brought or a conviction obtained; or (2) the conduct results in a conviction of a crime of violence against a person unrelated to the premises.”
4. Crime of violence has the meaning given in Minn. Stat. § 624.712, subdivision 5 but does not include offenses under Chapter 152 (drugs and controlled substances).
5. Effective June 1, 2024

IV. Tenant Rights - Larry McDonough

A. Pet Declawing and Devocalization Prohibited - Chapter 52, Article 19, § 83

1. Minn. Stat. § 504B.114 (new statute)
2. “A landlord who allows an animal on the premises shall not:”
  - a. “(1) advertise the availability of a real property for occupancy in a manner designed to discourage application for occupancy of that real property because an applicant's animal has not been declawed or devocalized;”
  - b. “(2) refuse to allow the occupancy of a real property, refuse to negotiate the occupancy of a real property, or otherwise make unavailable or deny to another person the occupancy of a real property because of that person's refusal to declaw or devocalize an animal; or”
  - c. “(3) require a tenant or occupant of real property to declaw or

devocalize an animal allowed on the premises.”

3. “Any requirement or lease provision that violates this subdivision is void and unenforceable.”
4. A city attorney, a county attorney, or the attorney general may bring an action in district court to obtain injunctive relief for a violation of this section and to enforce the civil penalties up to \$1,000 per violation.
5. Effective January 1, 2024

B. Fee Disclosure - Chapter 52, Article 19, § 84

1. Minn. Stat. § 504B.120 (new statute)
2. “A landlord must disclose all nonoptional fees in the lease agreement. The sum total of rent and all nonoptional fees must be described as the Total Monthly Payment and be listed on the first page of the lease.”
3. “A unit advertised for a residential tenancy must disclose the nonoptional fees included with the total amount for rent in any advertisement or posting.”
4. “In a lease agreement disclosure or unit advertisement, the landlord must disclose whether utilities are included or not included in the rent.”
5. “A landlord who violates this section is liable to the residential tenant for treble damages and the court may award the tenant reasonable attorney fees.”
6. Effective January 1, 2024

C. Security Deposits and Initial and Final Inspections - Chapter 52, Article 19, §§ 85-86

1. Amended Minn. Stat. § 504B.178 and created § 504B. 182 (new statute)
2. Initial inspection.
  - a. “At the commencement of a residential tenancy, or within 14 days of a residential tenant occupying a unit, the landlord must notify the tenant of their option to request an initial inspection of the residential unit for the purposes of identifying existing deficiencies in the rental unit to avoid deductions for the security deposit of the

tenant at a future date. If the tenant requests an inspection, the landlord and tenant shall schedule the inspection at a mutually acceptable date and time.”

- b. “In lieu of an initial inspection or move-out inspection under subdivision 2, when a tenant agrees, a landlord may provide written acknowledgment to the tenant of photos or videos of a rental unit and agree to the condition of the rental unit at the start or end of the tenancy.”

3. Move-out inspection.

- a. “Within a reasonable time after notification of either a landlord or residential tenant's intention to terminate the tenancy, or before the end of the lease term, the landlord shall notify the tenant in writing of the tenant's option to request a move-out inspection and of the tenant's right to be present at the inspection.”
- b. “At a reasonable time, but no earlier than five days before the termination or the end of the lease date, or day the tenant plans to vacate the unit, the landlord, or an agent of the landlord, shall, upon the request of the tenant, make a move-out inspection of the premises.”
- c. “The purpose of the move-out inspection shall be to allow the tenant an opportunity to remedy identified deficiencies, in a manner consistent with the rights and obligations of the parties under the rental agreement, in order to avoid deductions from the security deposit. If a tenant chooses not to request a move-out inspection, the duties of the landlord under this subdivision are discharged. If an inspection is requested, the parties shall attempt to schedule the inspection at a mutually acceptable date and time.”

4. “Nothing in this section changes the requirements or obligations under any other section of law, including but not limited to sections 504B.178, 504B.185, 504B.195, or 504B.271, 504B.375, and 504B.381.”

5. Except when a tenant chooses not to request an initial or move-out inspection, or alternate inspection, any provision, whether oral or written, of any lease or other agreement, whereby any provision of this section is waived by a tenant, is contrary to public policy and void.

6. Any landlord who fails to provide the tenant with notice for an initial inspection and move-out inspection and complete an initial inspection and

move-out inspection when requested by the tenant, is liable to the tenant for damages in an amount equal to the portion of the deposit withheld by the landlord and interest as a penalty, in addition to the portion of the deposit wrongfully withheld by the landlord and interest thereon.

7. Effective January 1, 2024

D. Privacy - Chapter 52, Article 19, §§ 87-88

1. Amended Minn. Stat. § 504B.211

2. Notice changes

a. Except for an emergency, “a landlord may enter the premises rented by a residential tenant only for a reasonable business purpose and after making a good faith effort to give the residential tenant reasonable notice under the circumstances of not less than 24 hours in advance of the intent to enter.”

b. “A residential tenant may permit a landlord to enter the rented premises with less than 24 hours notice if desired.”

c. “The notice must specify a time or anticipated window of time of entry and the landlord may only enter between the hours of 8:00 a.m. and 8:00 p.m. unless the landlord and tenant agree to an earlier or later time.”

3. Penalties increased

a. Up to \$500 civil penalty for each violation and reasonable attorney fees

b. A residential tenant may but is not required to follow the procedures in §§ 504B.381, 504B.385, and 504B.395 to 504B.471 to enforce the provisions of this section.

c. A violation of this section by the landlord is a violation of § 504B.161, so it can be raised in eviction action defense and in conciliation court.

4. Effective January 1, 2024

E. Minimum Heat - Chapter 52, Article 19, § 91

1. Amended Minn. Stat. § 504B.161
2. “In every lease or license of residential premises, the landlord or licensor covenants ... to supply or furnish heat at a minimum temperature of 68 degrees Fahrenheit from October 1 through April 30, unless a utility company requires and instructs the heat to be reduced.”
3. It is enforceable like other violations of Minn. Stat. § 504B.161.
4. Effective January 1, 2024

F. Lockout Action File Fee - Chapter 52, Article 19, § 92

1. Amends Minn. Stat. § 504B.375
2. “The court administrator may charge a filing fee in the amount set for complaints and counterclaims in conciliation court, subject to the filing of an inability to pay affidavit.”
3. Effective January 1, 2024

G. Emergency Tenant Remedies Actions - Chapter 52, Article 19, §§ 93-95

1. Amended Minn. Stat. § 504B.381
2. Expanded bases for an emergency tenant remedies action
  - a. “when a unit of government has revoked a rental license, issued a condemnation order, issued a notice of intent to condemn, or otherwise deemed the property uninhabitable;”
  - b. “in cases of emergency involving the following services and facilities when the landlord is responsible for providing them:”
    - (1) “(i) a serious infestation;”
    - (2) “(ii) the loss of running water;”
    - (3) “(iii) the loss of hot water;”
    - (4) “(iv) the loss of heat;”
    - (5) “(v) the loss of electricity;”
    - (6) “(vi) the loss of sanitary facilities;”
    - (7) “(vii) a nonfunctioning refrigerator;”
    - (8) “(viii) if included in the lease, a nonfunctioning air conditioner;”



- (9) “(iv) if included in the lease, no functioning elevator;”
- (10) “(x) any conditions, services, or facilities that pose a serious and negative impact on health or safety; or”
- (11) “(xi) other essential services or facilities.”

3. Changed relief and procedure

- a. “Provided proof that the petitioner has given the notice required in subdivision 4 to the landlord, if the court finds based on the petitioner's emergency ex parte motion for relief, affidavit, and other evidence presented that the landlord violated subdivision 1, then the court shall order that the landlord immediately begin to remedy the violation and may order relief as provided in section 504B.425.”
- b. “The court and petitioner shall serve the petition and order on the landlord personally or by mail as soon as practicable. The court shall include notice of a hearing and, at the hearing, shall consider evidence of alleged violations, defenses, compliance with the order, and any additional relief available under section 504B.425. The court and petitioner shall serve the notice of hearing on the ex parte petition and emergency order personally or by mail as soon as practicable.”

- 4. “The court administrator may charge a filing fee in the amount set for complaints and counterclaims in conciliation court, subject to the filing of an inability to pay affidavit.”

5. Effective January 1, 2024

H. Deletion of 14-Day Rent Notice Provision in Tenancy At Will Termination Statute - Chapter 52, Article 19, § 97

- 1. Amended Minn. Stat. § 504B.135
- 2. Minn. Stat. § 504B.135 currently allows landlords to give a 14-day written notice to terminate a tenancy at will rental situation for nonpayment of rent as opposed to a longer notice without a reason.
- 3. In conjunction with Chapter 52, Article 19, § 105, this notice is replaced with the new nonpayment of rent notice in Minn. Stat. § 504B.321.
- 4. Effective January 1, 2024

I. Early Lease Renewals - Chapter 52, Article 19, § 98

1. Minn. Stat. § 504B.144 (new statute)
2. “A landlord must wait until six months from the expiration of the current lease before requiring a tenant to renew the lease, if the lease is for a period of time longer than ten months. Nothing prevents a landlord from waiting until closer to the expiration of a lease to ask a tenant to renew the lease. Any provision, whether oral or written, of any lease or other agreement whereby any provision of this section is waived by a tenant is contrary to public policy and void.”
3. Effective January 1, 2024

J. Attorney’s Fees - Chapter 52, Article 19, § 100

1. Amended Minn. Stat. § 504B.172
2. “If a residential lease specifies an action, circumstances, or an extent to which a landlord, directly, or through additional rent, may recover attorney fees in an action between the landlord and tenant, the tenant is entitled to attorney fees if the tenant prevails in the same type of action, under the same circumstances, or is entitled to costs under section 549.02, and to the same extent as specified in the lease for the landlord.”
3. Minn. Stat. § 549.02: “discontinuance or dismissal or when judgment is rendered in the defendant's favor on the merits”
4. Effective January 1, 2024

K. Termination of Lease Upon Infirmity of Tenant - Chapter 52, Article 19, § 101

1. Minn. Stat. § 504B.266 (New statute)
2. Termination
  - a. “(a) A tenant or the authorized representative of the tenant may terminate the lease prior to the expiration of the lease in the manner provided in subdivision 3 if the tenant has or, if there is more than one tenant, all the tenants have, been found by a medical professional to need to move into a medical care facility and:”
    - (1) “(1) require assistance with instrumental activities of daily living or personal activities of daily living due to medical reasons or a disability;”

- (2) “(2) meet one of the nursing facility level of care criteria under section 144.0724, subdivision 11; or”
    - (3) “(3) have a disability or functional impairment in three or more of the areas listed in section 245.462, subdivision 11a, so that self-sufficiency is markedly reduced because of a mental illness.”
  - b. “(b) When a tenant requires an accessible unit as defined in section 363A.40, subdivision 1, and the landlord can provide an accessible unit in the same complex where the tenant currently resides that is available within two months of the request, then the provisions of this section do not apply and the tenant may not terminate the lease.”
- 3. Notice
  - a. The “tenant or the tenant's authorized representative may terminate the lease by providing at least two months' written notice to be effective on the last day of a calendar month. The notice must be either hand-delivered or mailed by postage prepaid, first class United States mail.”
  - b. “The notice must include: (1) a copy of the medical professional's written documentation of the infirmity; and (2) documentation showing that the tenant has been accepted as a resident or has a pending application at a location where the medical professional has indicated that the tenant needs to move.”
  - c. “The termination of a lease under this section shall not relieve the eligible tenant from liability either for the payment of rent or other sums owed prior to or during the notice period, or for the payment of amounts necessary to restore the premises to their condition at the commencement of the tenancy, ordinary wear and tear excepted.”
- 4. Definitions include authorized representative, disability, and medical care facility.
- 5. Waiver prohibited
- 6. Effective January 1, 2024, and applies to leases entered into or renewed on or after January 1, 2024

- A. Minnesota Session Laws - 2023, Regular Session, Chapter 61, Senate F. No. 2934 - <https://www.revisor.mn.gov/laws/2023/0/Session+Law/Chapter/61/>
- B. Sober houses are regulated in Article 4, §§ 8, 14, 20, 26
- C. § 8
  - 1. Amended Minn. Stat. § 254B.01
  - 2. Definition
- D. § 14
  - 1. Created Minn. Stat. § 254B.181
  - 2. Requirements
  - 3. Conditions
  - 4. Eviction policies
  - 5. Other policies
  - 6. Discharge
  - 7. Personal property
  - 8. Bill of rights
- E. Effective August 1, 2023

VI. Cannabis – Larry McDonough

- A. Minnesota Session Laws - 2023, Regular Session, Chapter 63, House F. No. 100 - <https://www.revisor.mn.gov/laws/2023/0/Session+Law/Chapter/63/>
- B. Cannabis sections affecting landlords and tenants are in Article 1, §§ 1, 9, 58, 74, and 75, and Article 6, §§ 22, 54, 55, 56, and Article §§ 1-2.
- C. Article 1, Sec. 1 [342.09] Definitions
- D. Article 1, Sec. 9. [342.09] Personal Adult Use of Cannabis.
  - 1. “(a) An individual 21 years of age or older may:”
    - a. “(1) use, possess, or transport cannabis paraphernalia;”
    - b. “(2) possess or transport two ounces or less of adult-use cannabis flower in a public place;”
    - c. “(3) possess two pounds or less of adult-use cannabis flower in the individual's private residence;”
    - d. “(4) possess or transport eight grams or less of adult-use cannabis

- concentrate;”
- e. “(5) possess or transport edible cannabis products or lower-potency hemp edibles infused with a combined total of 800 milligrams or less of tetrahydrocannabinol; ...”
  - f. “(7) use adult-use cannabis flower and adult-use cannabis products in the following locations:”
    - (1) “(i) a private residence, including the individual's curtilage or yard;”
    - (2) “(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” *[this would apply to guests of a tenant; landlord restrictions discussed below]*
    - (3) “(iii) on the premises of an establishment or event licensed to permit on-site consumption.”
    - (4) *NOTE: This is not an exclusive list, but it implies that public use is not an authorized location. However, another section below implies public use is authorized.*
2. “Subd. 2. Home cultivation of cannabis for personal adult use. Up to eight cannabis plants, with no more than four being mature, flowering plants may be grown at a single residence, including the curtilage or yard, without a license to cultivate cannabis issued under this chapter provided that cultivation takes place at the primary residence of an individual 21 years of age or older and in an enclosed, locked space that is not open to public view.”
3. Subd. 6. Violations; penalties.
- a. *[Mostly for selling and importing]*
  - b. “(a) In addition to penalties listed in this subdivision, a person who violates the provisions of this chapter is subject to any applicable criminal penalty.”
  - c. “(e) The office may assess a civil penalty of up to \$500 for each plant grown in excess of the limit on a person who grows more than eight cannabis plants or more than four mature, flowering plants, without a license to cultivate cannabis issued under this chapter.” *[Office of Cannabis Management]*
4. Article 1, Sec. 75: “Except as otherwise provided, each section of this article is effective July 1, 2023.”
- E. Article 1, Sec. 58. [342.57] Protections for Registry Program Participants.

1. “Subd. 3. School enrollment; rental property.”
  2. “(b) 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 cause the landlord to lose a monetary or licensing-related benefit under federal law or regulations.”
  3. This section is effective March 1, 2025.
- F. Similar Provision - Article 6, Sec. 22, Amending 152.32 Protections for Registry Program or Tribal Medical Cannabis Program Participation.
1. “Subd. 3. Discrimination prohibited.
  2. “(a) 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.”
  3. “This section is effective the day following final enactment.”
- G. Article 1, Sec. 74. [342.82] Nuisance; Action.
1. “Subdivision 1. 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.”
  2. “Subd. 2. Actions; landlord; association.”
    - a. (a) “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.”
    - b. “(b) 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.”

3. Article 1, Sec. 75: “Except as otherwise provided, each section of this article is effective July 1, 2023.”
- H. Article 6, Sec. 54, Amended Minn. Stat. § 484.014
1. Subd. 3. Mandatory expungement.
  2. “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.”
  3. No date listed, so effective August 1, 2023.
  4. *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.*
- I. Article 6, Sec. 55, Amended Minn. Stat. § 504B.171
1. “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:”
  2. “(i) 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;”
    - a. *NOTE: Article 1, Section 58. [342.57]. Medical marijuana possession and use does not violate Ch. 152. This section is effective March 1, 2025.*
    - b. *NOTE: Article 4, amending various sections of Ch. 152. 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.*
  3. “(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.”
  4. No date listed, so effective August 1, 2023.
  5. *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.*
- J. *But see* Article 1, Sec. 57. [342.56] Limitations

1. “(b) 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.”
2. “This section is effective March 1, 2025.”

K. Article 6, Sec. 56. [504B.1715] COVENANTS; SOBER HOMES.

1. “A sober housing program for people with substance use disorders may prohibit people in the program from the possession and use of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products.”
2. No date listed, so effective August 1, 2023.

L. Article 8 - Scheduling of Marijuana

1. Sec. 1
  - a. Amended Minn. Stat. § 152.02, Subdivision 2
  - b. Subd. 2. Schedule I.
  - c. Deleted (h) on marijuana
  - d. “This section is effective the day following final enactment.”
2. Sec. 2
  - a. Amended Minn. Stat. § 152.02, Subdivision 4
  - b. Subd. 4. Schedule III.
  - c. Added (i) on marijuana
  - d. “This section is effective the day following final enactment.”

M. Use in Public?

1. 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:
  - a. (i) a private residence, including the individual's curtilage or yard;
  - b. (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

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

2. The only section that discusses public use is Article 4, Sec. 19. [152.0263]:

- a. “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) (1) a private residence, including the person's curtilage or yard;
- (2) (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) (3) the premises of an establishment or event licensed to permit on-site consumption.

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

- c. *NOTE: This implies public use is allowed unless locally prohibited.*

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

- a. “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.

- b. 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.

- c. The broadest category for where smoking can occur under that law is anywhere outdoors. ....
- d. 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. ....
- e. 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."

#### N. Public and Subsidized Housing

1. 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.
2. 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(1)(6), 1437f(o)(7)(D) (West 2023); 24 C.F.R. §§ 5.100, 5.858, 982.310(c)(1), 982.551(1); 982.553(b)(1), 966.4(1)(5), 966.4(f)(12).
3. 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.\(3\)\(a0\).](#)
4. It may end up being an issue of preemption. [Id. at I.A.5.](#)
5. [See generally HUD Housing Programs: Tenants' Rights \(National Housing Law Project\) \(also known as the Green Book\) at 11.2.4.4 and 14.9.2.6.](#)

VII. HOME Line Trainings

A. Recorded monthly detailed training on new housing laws.

B. <https://homelinemn.org/9974/webinars-on-new-tenant-landlord-laws/>