

**CITY OF MANTORVILLE
DODGE COUNTY, MINNESOTA**

ORDINANCE NO. 2023-04

**An Interim Ordinance Authorizing a Study and
Imposing a Moratorium on the Sale of Certain Edible Cannabinoid Products**

The city council of the city of Mantorville ordains as follows:

Section 1. Legislative Findings and Authority

- (A) There is a great deal of uncertainty regarding the effect of Minnesota Laws 2022, Chapter 98 amending Minnesota Statutes, section 151.72 (the “Act”), which expressly allows the sale of edible cannabinoid products, as that term is defined therein, containing tetrahydrocannabinol (THC).
- (B) Because the proposal to allow the sale of such products received little publicity until after the Act went into effect on July 1, 2022, the City of Mantorville (the “City”) did not have an opportunity to fully study or consider the potential impacts of the Act or engage in policy discussions regarding the potential regulation of the sale of edible cannabinoid products in the City.
- (C) Although the Minnesota Board of Pharmacy is authorized to enforce the Act, the Act does not provide for any state-level licensing of businesses that manufacture or sell edible cannabinoid products. The Act is also silent regarding the enactment of local regulations related to edible cannabinoid products.
- (D) The Act does not expressly prohibit or limit local regulations of edible cannabinoid products. Additionally, the regulations established in the Act clearly do not constitute the Legislature having occupied the field of regulation regarding the sale of edible cannabinoid products.
- (E) The City Council finds that the uncertainties associated with the sale of edible cannabinoid products, as well as the options for local regulation, strongly suggest the need for a study to develop information the city council may use related to potential local regulation of the sale of edible cannabinoid products through the adoption of licensing or zoning controls.
- (F) Pursuant to Minnesota Statutes, section 462.355, subdivision 4(a), the City Council is authorized to adopt an interim ordinance “to regulate, restrict, or prohibit any use . . . within the jurisdiction or a portion thereof for a period not to exceed one year from the date it is effective.”
- (G) The City Council is also authorized, under to Minnesota Statutes, section 412.221, subd. 32, “to provide for the government and good order of the city, the suppression

of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of residence, trade, and commerce, and the promotion of health, safety, order, convenience, and the general welfare.” Pursuant to its general police power authority, the City Council may, for example, adopt business licensing requirements related to the sale of edible cannabinoid products.

- (H) The Minnesota Supreme Court in *Almquist v. Town of Marshan*, 245 N.W.2d 819 (Minn. 1976) upheld the enactment of a moratorium despite the lack of express statutory authority as being a power inherent in a broad grant of power to municipalities. The enactment of business licensing requirements, for example, is based on a City’s police powers, which is the broadest grant of power to cities. Inherent in that broad grant of authority is the power to place a temporary moratorium on a particular business activity to study and potentially implement regulations on that business activity.
- (I) There are both licensing and zoning issues associated with the sale of edible cannabinoid products containing THC. The City Council determines that it needs time to study the matter and to consider the development and adoption of appropriate local regulations. To protect the planning and decision-making process and the health, safety, and welfare of the residents while the City conducts its study and the City Council engages in policy discussions regarding possible regulations, the City Council determines it is in the best interests of the City to impose a temporary moratorium on the sale of certain edible cannabinoid products.

Section 2. Definition. For the purposes of this ordinance, the term “edible cannabinoid product” has the same meaning given the term in Minnesota Statutes, section 151.72, subdivision 1(c), as recently amended by the Act and as may be amended from time to time.

Section 3. Study. The City Council authorizes and directs City Staff and Consultants to conduct a study regarding edible cannabinoid products and provide a report to the City Council on the potential regulations relating to the sale of such products in the community. The report shall include recommendations on whether the City Council should adopt regulations and, if so, the recommended types of regulations. The study shall consider, but is not limited to, the following: (i) the potential impacts of the sale of edible cannabinoid products within the city; (ii) licensing the sale of edible cannabinoid products and related regulations; and (iii) zoning regulations related to the sale and distribution of edible cannabinoid products.

Section 4. Moratorium. A moratorium is hereby imposed within the city regarding the sale of edible cannabinoid products. No business, person, or entity may sell edible cannabinoid products to the public within the jurisdictional boundaries of the city during the period that this ordinance is in effect. The City shall not accept, process, or act on any application, site plan, building permit, or zoning or other approval for a business proposing to engage in the sale of edible cannabinoid products during the period that this ordinance is in effect.

Section 5. Exceptions. The moratorium imposed by this ordinance does not apply to the sale of medical cannabis. The moratorium imposed by this ordinance also does not apply to the sale of

products containing cannabidiol (CBD), provided, however, that such products do not contain tetrahydrocannabinol (THC).

Section 6. Enforcement. Violation of this ordinance is a misdemeanor. In addition, the City may enforce this ordinance by mandamus, injunction, or other appropriate civil remedy in any court of competent jurisdiction.

Section 7. Severability. Every section, provision, and part of this ordinance is declared severable from every other section, provision, and part of this ordinance. If any section, provision, or part of this ordinance is held to be invalid by a court of competent jurisdiction, such judgment shall not invalidate any other section, provision, or part of this ordinance.

Section 8. Effective Date and Term. This ordinance shall take effect and be in full force from and after its adoption and publication, as provided by law. This ordinance shall remain in effect for one year after its effective date or until the city council expressly repeals it, whichever occurs first.

Passed by the City Council of the City of Mantorville, Minnesota, this 9th day of January 2023.

ATTEST:

Chuck Bradford
Mayor

Shirley R Buecksler
City Clerk-Treasurer