

CHAPTER 32

INTERIM ORDINANCE PROHIBITING THE SALE, TESTING, MANUFACTURING, CULTIVATING, GROWING, TRANSPORTING, DELIVERY, AND DISTRIBTUION OF CANANABILS PRODUCTS IN THE CITY OF EAGLE LAKE

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SECTION 32.010 BACKGROUND

- A. By enacting 2022 Session Law Chapter 98, Article 13, the Minnesota Legislature amended Minn. Stat. §151.72 and permitted the sale of edible and nonedible cannabinoid products that contain no more than 0.3% of Tetrahydrocannabinol, commonly known as THC (“THC Products”).
- B. The 2023 Legislature expanded both the legalization of types of THC and cannabis products and also the types of THC and cannabis businesses permitted.
- C. This newly established regulatory framework for adult-use cannabis, as well as the lower potency hemp edibles; and the medical cannabis program are moved to a newly created state agency called the Office of Cannabis Management; establish taxes on regulated products; create grants to assist individuals entering into the legal cannabis market; amend criminal penalties; provide for expungement and resentencing of certain convictions; provide for temporary regulation of hemp-derived edible cannabinoid products; reschedule marijuana; and appropriates money.
- D. The state licensing agency became effective July 1, 2023, and is in the process of establishing a model ordinance for cities, which the City of Eagle Lake would benefit from reviewing and analyzing before making any decisions related to cannabis businesses and products in the City.
- E. The new law established some distance restrictions cities can put in place under their zoning power. It also provides that cities may enact time, place and manner restrictions. The City would benefit from having time to study and analyze acceptable time, place and manner restrictions that would be feasible for the City of Eagle Lake.
- F. Pursuant to Minn. Stat. § 462.355, subd. 4, the City is authorized to enact by ordinance a moratorium to regulate, restrict or prohibit land uses within its jurisdiction to protect the public health, safety, and welfare. Specifically, the new statute authorizes the City to enact a moratorium ordinance to allow it to undertake a study to determine whether to adopt any regulations or restrictions, including siting and location of uses, related to the sales, testing, manufacturing, cultivating, growing, transporting, delivery and distribution of Cannabis Products.
- G. Pursuant to its general police powers and also set forth in Minn. Stat. § 421.221, subd. 32, the City may enact and enforce regulations or restrictions on Cannabis Products within the City to protect the public safety, health, and welfare, including restrictions and a moratorium on the sales, testing, manufacturing, cultivating, growing, transporting, delivery and distribution, during the pendency of a study to determine the need for police power regulations, including but not necessarily limited to any additional licensing and permitting that may be allowed, if any, by the State.

- H. Pursuant to the language of the passed law, cities, as soon as the bill becomes effective, may have authority to adopt an interim ordinance to prohibit a cannabis business from opening until January 1, 2025, to conduct studies or consider adopting or amending allowed restrictions on the operation of a cannabis business. Because the effective date of the bill is not until July 1, 2023, the City cannot take advantage of this authorization until on or after that date. Accordingly, any action by the City Council on an interim ordinance before that date should be pursuant to its statutory and Charter authority which allow moratoriums for up to one year. If the City needs more time to complete its study and analysis, the City Council can take additional action to extend the interim ordinance to January 1, 2025, if the final bill provides that authority, since the bill will be in effect by then.

SECTION 32.020 FINDINGS

- A. The City Council finds there is a need to study (i) cannabis products, including products: using any part of the genus Cannabis plant; containing cannabis concentrate; infused with cannabinoids (including but not limited to tetrahydrocannabinol); extracted or derived from cannabis plants or cannabis flower; synthetically derived cannabinoids; and any lower potency hemp edibles that contain more than 0.3% of Tetrahydrocannabinol, (ii) cannabis businesses related thereto, and (iii) the impact of those businesses and products as related to allowed land uses and zoning, in order to assess the necessity for and efficacy of regulation and restrictions relating to the retail sales, wholesale sales, testing, growing, cultivating, manufacturing, transporting, delivery of or distribution of any of the products referenced herein, including through zoning ordinances or licensing, if allowed, in order to protect the public health, safety, and welfares of its residents.
- B. The study will allow the City Council to determine the appropriate changes, if any, that it should make to the Eagle Lake City Code, including any necessary zoning changes.
- C. The time will allow for any state agency licensing cannabis businesses to rule make and adopt its model ordinances which will further aid the Council in studying and considering restrictions on the operation of a cannabis businesses and the use of the products listed in paragraph 1 above.
- D. The City Council, therefore, finds that there is a need to adopt a city-wide moratorium on the retail sale and distribution of Cannabis Products, including products: using any part of the genus Cannabis plant; containing cannabis concentrate; infused with cannabinoids (including but not limited to tetrahydrocannabinol); extracted or derived from cannabis plants or cannabis flower; synthetically derived cannabinoids, or lower potency hemp edibles that contain more than 0.3% of Tetrahydrocannabinol, within the City while City staff studies the issue.

- E. This moratorium will not apply to any wholesale operation that is properly licensed by the State, or any business currently conducting business in the City that is properly licensed by the State.

SECTION 32.030 MORATORIUM

- A. No new individual, establishment, organization, or business may engage in the retail sale or distribution of Cannabis Products, including products using any part of the plant of the genus Cannabis plant; containing cannabis concentrate; infused with cannabinoids (including but not limited to tetrahydrocannabinol); extracted or derived from cannabis plants or cannabis flower; synthetically derived cannabinoids, or lower potency hemp edibles that contain more than 0.3% of Tetrahydrocannabinol, for twelve (12) months from the effective date of this ordinance.
- B. Planning or zoning applications related to any of the products listed in Subsection A of Section 3 herein or applications from individuals, establishments, organizations, or businesses involved in the proposed sale, testing, growing, cultivating, manufacturing, transporting, delivery of or distribution of Cannabis Products within the City of Eagle Lake shall not be accepted or considered for up to twelve (12) months from the effective date of this ordinance.
- C. Should, at the end of the year, Council deems it necessary to continue to study the need for local regulation regarding the retail sale, wholesale sale, testing, growing, cultivating, manufacturing, transporting, delivery or distribution of Cannabis Products listed in Section 3(A), Council shall extend this Moratorium by adoption of an interim ordinance pursuant to the new 2023 law if so allowed under that law.
- D. This moratorium does not apply to the selling, testing, manufacturing, or distributing of Cannabis Products related to the Medical Cannabis Program as administered by the Minnesota Department of Health, provided that such activity is done in accordance with the regulations and laws of Minnesota regarding Medical Cannabis. This moratorium shall also not apply to any wholesale operation that is properly licensed by the state.
- E. This moratorium does not apply to the continued sale of THC Products allowed under the 2022 Legislation, which includes edible and nonedible cannabinoid products that contain no more than 0.3% of Tetrahydrocannabinol, by retailers in existence before July 1, 2023.

SECTION 32.040 STUDY

The City Council directs City staff to study the need for local regulation regarding the retail sale, wholesale sale, testing, growing, cultivating, manufacturing, transporting, delivery or distribution of Cannabis Products listed in Section 3(A) herein within the

City of Eagle Lake. Staff must also study the need for creating or amending zoning ordinances, licensing ordinances, as allowed by the state, or any other ordinances, as allowed and not preempted by the state, to protect the citizens of Eagle Lake from any potential negative impacts. Upon completion of the study, the City Council, together with such commission as the City Council deems appropriate or, as may be required by law, will consider the advisability of adopting new ordinances or amending its current ordinances.

SECTION 32.050 ENFORCEMENT

The City may enforce this Ordinance by mandamus, injunctive relief, or other appropriate civil remedy in any court of competent jurisdiction. The City Council hereby authorizes the City Manager, in consultation with the City Attorney, to initiate any legal action deemed necessary to secure compliance with this Ordinance.

SECTION 32.060 TERM

Unless earlier rescinded by the City Council, the moratorium established under this Ordinance shall remain in effect until twelve (12) months from its effective date, at which point, it will either automatically expire or be extended pursuant to other statutory authority until January 1, 2025.