

ORDINANCE NO. 2023-XX

CITY OF CHAMPLIN

COUNTY OF HENNEPIN

STATE OF MINNESOTA

AN INTERIM ORDINANCE PROHIBITING THE SALE, TESTING, MANUFACTURING, CULTIVATING, GROWING, TRANSPORTING, DELIVERY, AND DISTRIBUTION OF CANNABIS PRODUCTS IN THE CITY OF CHAMPLIN.

The City Council of the City of Champlin does ordain:

SECTION 1. 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 recently approved a new law to expand both the legalization of types of THC and cannabis products and also the types of THC and cannabis businesses permitted.

C. This new law establishes a regulatory framework for adult-use cannabis, as well as the lower potency hemp edibles; moves the medical cannabis program under 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 will become effective July 1, 2023, and is directed in the new law to establish a model ordinance for cities, which the City of Champlin would benefit from reviewing and analyzing before making any decisions related to cannabis businesses and products in the City.

E. The law specifies what distance restrictions cities can put in place under their zoning power. 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 Champlin, which are specifically mentioned as a basis of regulation in the new law.

F. Additionally, Champlin City Council passed Ordinance No. 858 on July 25, 2022, which made it illegal for any individual, establishment, organization, or business to sell, test, manufacture, or distribute THC Products for twelve (12) months. The City would

benefit from taking time to analyze and study the impact of the new law on the City's prior ordinance and any necessary modifications to the prior ordinance, if applicable.

G. 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 City is authorized 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.

H. Pursuant to its general police powers, both under its City Code and also set forth in Minn. Stat. § 412.221, 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.

I. Pursuant to the language of the new law, cities, as soon as the law becomes effective, 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 law 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 City Code 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 pursuant to the new law.

SECTION 2. 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 Champlin City Code, including any necessary zoning changes.

C. The time will allow for the Office of Cannabis Management which will be 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 cannabis businesses and the use of the products listed in Section 1, paragraph A above.

D. The City Council, therefore, finds that there is a need to adopt a city-wide moratorium on the retail sale, wholesale sale, testing, growing, cultivating, manufacturing, transporting, delivery of, 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.

SECTION 3. MORATORIUM.

A. No individual, establishment, organization, or business may engage in the retail sale, wholesale sale, testing, growing, cultivating, manufacturing, transporting, delivery of or distribution of Cannabis Products associated with the operation of a cannabis business, 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 Champlin shall not be accepted or considered for 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.

E. This moratorium does not apply to the 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.

SECTION 4. 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 Champlin. 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 Champlin from any potential negative impacts. Upon completion of the study, the City Council will consider the advisability of adopting new ordinances or amending its current ordinances.

SECTION 5. 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 Administrator, in consultation with the City Attorney, to initiate any legal action deemed necessary to secure compliance with this Ordinance. A violation of this Ordinance is also subject to the City's general penalty listed in Champlin City Code § Sec. 1-7.

SECTION 6. 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.

SECTION 7. EFFECTIVE DATE. This Ordinance shall become effective 24 hours after its adoption and posted in three (3) conspicuous places in the newspaper, or until the Ordinance has been published in the official newspaper.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CHAMPLIN THIS ____
DAY OF _____, 2023.

APPROVED:

Ryan Sabas

Mayor of Champlin

ATTEST:

Julie Tembreull

City Clerk