

CITY OF ELYSIAN
COUNTY OF LE SUEUR
STATE OF MINNESOTA
ORDINANCE NO. 116/24

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

The City Council of the City of Elysian 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 Minnesota Legislature recently passed, and Minnesota Governor Tim Walz recently signed into law, Minnesota Statutes Chapter 342 which legalized THC products containing more than 0.3% of Tetrahydrocannabinol, commonly known as THC ("THC Products").
- C. Minnesota Statutes Chapter 342 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; establishes taxes on regulated products; creates grants to assist individuals entering into the legal cannabis market; amends criminal penalties; provides for expungement and resentencing of certain convictions; provides for temporary regulation of hemp-derived edible cannabinoid products; reschedules marijuana; and appropriates money.
- D. Various provisions of Minnesota Statutes Chapter 342 becomes effective July 1, 2023, and the Legislation calls for the State to establish a model ordinance for cities, which the City of Elysian would benefit from reviewing and analyzing before making any decisions related to cannabis businesses and products regulated under Minnesota Chapter 342 in the City.
- E. Chapter 342 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 Elysian as allowed under Chapter 342.
- G. Pursuant to Minn. Stat. Chapter 342 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 and also 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.
- I. Pursuant to the language of Chapter 342 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 Legislation is not until July 1, 2023, the City cannot take advantage of this authorization until on or after that date.

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; and synthetically derived cannabinoids; (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 Elysian 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, wholesale sale, testing, growing, cultivating, manufacturing, transporting, delivery of, and distribution of Cannabis Products as those products are defined in Minnesota Statutes Chapter 342, 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; and synthetically derived cannabinoids.

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 that contain more than 0.3% of Tetrahydrocannabinol, 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; or synthetically derived cannabinoids. The City can, pursuant to Chapter 342, terminate this moratorium prior to January 1, 2025 if it so chooses.

- 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 Elysian shall not be accepted or considered from the effective date of this ordinance up to the time outlined in Subsection A of Section 3.
- 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 shall not apply to the sale of THC Products allowed under the 2022 Legislation, which includes edible 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 Elysian. 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 Elysian 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 5. ENFORCEMENT. The City may enforce this Ordinance by mandamus, injunctive relief, or other appropriate civil or criminal 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 a misdemeanor penalty which is incarceration of up to 90 days and a fine of up to \$1,000 or both. Each day that a violation occurs constitutes a separate violation.

SECTION 6. TERM. Unless earlier rescinded by the City Council, the moratorium established under this Ordinance shall remain in effect until January 1, 2025.

SECTION 7. EFFECTIVE DATE. This ordinance shall be effective upon Summary Publication as allowed by law.

Passed this 8th day of July, 2024.

Tom McBroom, Sr.- Mayor

ATTEST:

Lorri Kopischke - City Administrator