

ORDINANCE NO. 2022 - 021

**AN INTERIM ORDINANCE IMPOSING A
MORATORIUM ON THE SALE OF CANNABIS PRODUCTS AND AUTHORIZING
STUDIES REGARDING SUCH PRODUCTS**

The City Council of the City of Shakopee, Minnesota ordains:

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”) to allow the sale of edible cannabinoid products (“Cannabis Products”).
- (B) Because the proposal to allow the sale of Cannabis Products received little publicity until the Act went into effect on July 1, 2022, the City of Shakopee did not have an opportunity to study and consider the potential impacts of the Act or to engage in policy discussions regarding the potential regulation of the sale of Cannabis Products in the City.
- (C) The Act authorizes the Minnesota Board of Pharmacy to enforce the Act, but the Act does not provide for any licensing of businesses that manufacture Cannabis Products or of businesses that sell Cannabis Products and is also silent regarding the enactment of local regulations related to Cannabis Products.
- (D) The Act does not expressly prohibit or limit local regulations, but the regulations established in the Act clearly do not constitute the Legislature having occupied the field of regulation regarding the sale of Cannabis Products.
- (E) The City Council finds the uncertainties associated with the sale of Cannabis Products, as well as the options of local regulation, strongly suggests the need for a study to develop information the City Council may use related to potential regulation of the sale of Cannabis Products through the adoption of licensing and 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 as part of its general police powers to adopt business licensing requirements related to the sale of Cannabis 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 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 business to study and potentially implement licensing regulations on that business.
- (I) There are both licensing and zoning issues associated with the sale of Cannabis Products. 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 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 Cannabis Products.

Section 2. Definitions. For the purposes of this Ordinance, the following words, terms, and phrases shall have the meanings given them in this section.

- (A) "Act" means 2022 Minnesota Session Laws, Chapter 98 (H.F. No. 4065), amending Minnesota Statutes, section 151.72.
- (B) "Cannabis Products" means Edible Cannabinoid Product and any other product that became lawful to sell for the first time in Minnesota effective July 1, 2022, as a result of the adoption of the Act.
- (C) "Edible Cannabinoid Product" has the same meaning given the term in Minnesota Statutes, section 151.72, subdivision 1(c).

Section 3. Study. The City Council authorizes and directs the city administrator to conduct a study regarding Cannabis Products and provide a report to the City Council on the potential regulations relating to the sale of such products. 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:

- (A) The potential impacts of the sale of Cannabis Products within the City;
- (B) Licensing the sale of Cannabis Products and related regulations; and
- (C) Zoning regulations related to the sale and distribution of Cannabis Products.

Section 4. Moratorium. A moratorium is imposed within the City regarding the sale of Cannabis Products. No business, person, or entity may sell Cannabis 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 Cannabis 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 or hemp products that were lawful to sell prior to the effective date of the Act.

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. Effective Date and Term. This Ordinance is effective upon adoption and publication in the City's official newspaper. This Ordinance shall remain in effect for one year after its effective date, or until the City Council expressly repeals it or until the effective date of an ordinance amending the City Code to address Cannabis Products, whichever occurs first.

Section 8. 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.

Passed in regular session of the City Council of the City of Shakopee, Minnesota held on the 16th day of August 2022.

Mayor of the City of Shakopee

Attest:

Lori Hensen, City Clerk

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