



Ordinance 22 - 20

An Interim Ordinance Prohibiting the Sale, Testing, Manufacturing, and Distribution of Intoxicating and Psychoactive Cannabinoids

The City Council of the City of Elk River does hereby ordain as follows:

SECTION 1. BACKGROUND.

1. 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 of Tetrahydrocannabinol, commonly known as THC (“THC Products”).
2. The new law does enact some requirements for labeling and testing, but the law provides no parameters regulating production, compliance checks, or sales of THC Products. The new law does not prohibit local regulation.
3. Since the enactment of the new law, local government and law enforcement remain concerned about legal status and classification of the production, sale, and use of other intoxicating and psychoactive cannabinoids, such as HHC, as primary or secondary ingredients in edible and nonedible cannabinoid products (“Intoxicating Cannabinoids”).
4. Pursuant to Minn. Stat. § 462.355, subd. 4, the City is authorized to enact by ordinance a moratorium to regulate, restrict or prohibit any use within the 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, and distribution of THC Products and Intoxicating Cannabinoids.
5. Pursuant to its general police powers, including but not limited to, Minn. Stat. § 421.221, subd. 32, the City may enact and enforce regulations or restrictions on THC Products and Intoxicating Cannabinoids within the City to protect the public safety, health, and welfare, including restrictions and a moratorium on the use of sales, testing, manufacturing, and distribution, during the pendency of a study to determine the need for police power regulations, including but not necessarily limited to licensing and permitting.

SECTION 2. FINDINGS.

1. The City Council finds there is a need to study THC Products Intoxicating Cannabinoids and uses and businesses related thereto, in order to assess the necessity for and efficacy of regulation and restrictions relating to the sales, testing, manufacturing, and distribution of THC Products, including through licensing or zoning ordinances, in order to protect the public health, safety, and welfares of its residents.
2. The study will allow the City Council to determine the appropriate changes, if any, that that it should make to City ordinances.
3. The City Council, therefore, finds that there is a need to adopt a City-wide moratorium of the sale, testing, manufacturing, and distribution of THC Products and Intoxicating Cannabinoids within the City while City staff studies the issue.

SECTION 3. MORATORIUM.

1. No individual, establishment, organization, or business may sell, test, manufacture, or distribute THC Products and Intoxicating Cannabinoids for sixty (60) days from the effective date of this ordinance.
2. The City shall not issue any license or permit related to THC Products and Intoxicating Cannabinoids for sixty (60) days from the effective date of this ordinance. No license or permit application, of any kind, by any individual, establishment, organization, or businesses involved in the proposed sale, testing, manufacturing, or distribution of THC Products and Intoxicating Cannabinoids within the City of Elk River shall be accepted or considered for sixty (60) days from the effective date of this ordinance.
3. Planning or zoning applications related to THC Products and Intoxicating Cannabinoids or applications from individuals, establishments, organizations, or businesses involved in the proposed sale, testing, manufacturing, or distribution of THC Products and Intoxicating Cannabinoids within the City of Elk River shall not be accepted or considered for sixty (60) days from the effective date of this ordinance.
4. **Exemptions:**
 - a. This moratorium does not apply to the selling, testing, manufacturing, or distributing of THC 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.
 - b. This moratorium does not apply to the selling, manufacturing, or distribution of products that contain non-intoxicating, non-psychoactive cannabinoids as the

primary cannabinoid ingredient, such Cannabidiol (“CBD”) or Cannabinol (“CBN”), and which have no more than trace amounts of THC.

- c. This moratorium does not apply to sales by existing businesses of products currently lawful under state law.

SECTION 4. STUDY. The City Council directs City staff to study the need for local regulation regarding the sale, testing, manufacturing, or distribution of THC Products and Intoxicating Cannabinoids within the City of Elk River. Staff must also study the need for creating or amending zoning ordinances, licensing ordinances, or any other ordinances to protect the citizens of Elk River from any potential negative impacts of THC Products and Intoxicating Cannabinoids. 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 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 in City Code § 1-8.

SECTION 6. TERM. Unless earlier rescinded by the City Council, the moratorium established under this Ordinance shall remain in effect until sixty (60) days from its effective date, at which point, it will automatically expire.

SECTION 7. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage by the City Council.

Passed and adopted by the City Council of the City of Elk River this 6th day of September, 2022.

John J. Dietz, Mayor

ATTEST:

Tina Allard, City Clerk

