CITY OF MOUND

ORDINANCE NO. 06-2022

**AN INTERIM ORDINANCE AUTHORIZING A STUDY AND**

**IMPOSING A MORATORIUM ON THE SALE OF CANNABIS PRODUCTS**

The City Council of the City of Mound ordains:

**ARTICLE I. Legislative Findings**

1. There is a great deal of uncertainty regarding the effect of Minnesota Laws 2022, Chapter 98 amending Minnesota Statutes, section 151.72 (“Act”) to allow the sale of edible cannabinoid products (“Cannabis Products”) within the state.
2. 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 Mound (“City”) did not have an opportunity to study and consider the potential impacts of the Act on the City. Nor did the City Council have sufficient time to engage in policy discussions regarding the regulations the City Council may elect to impose on the sale of Cannabis Products.
3. The Act authorizes the Minnesota Board of Pharmacy to enforce the Act, but the Act does not provide for any licensing of manufacturers or of those who sell Cannabis Products. The Act is also silent regarding the enactment of local regulations related to Cannabis Products.
4. The Legislature did not expressly prohibit or limit local regulations, and the regulations established in the Act clearly do not constitute the Legislature having occupied the field of regulation regarding the sale of Cannabis Products.
5. The City Council finds the uncertainties associated with sale of Cannabis Products, and the options for local regulation, compels the need for a study to develop information the City Council can rely on as it engages in policy discussions related to potential regulation of Cannabis Products through the adoption of licensing and zoning controls.
6. 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.” Minnesota Statutes, section 462.355, subdivision 4(a).
7. 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.
8. 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 legislative grant of power to municipalities. In most cases, 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 temporarily place a moratorium on a business activity to study and potentially implement licensing regulations on that business activity.
9. There are both business licensing and zoning issues associated with the sale of Cannabis Products the City Council determines it needs time to study to consider the development and adoption of appropriate local regulations. In order 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.

**ARTICLE II. Definitions**. For the purposes of this Ordinance, the following words, terms, and phrases shall have the meanings given them in this Article.

1. “Act” means 2022 Minnesota Session Laws, Chapter 98 (H.F. No. 4065), amending Minnesota Statutes, section 151.72.
2. “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.
3. “City” means the City of Mound.
4. “City Code” means The Mound City Code.
5. “Edible Cannabinoid Product” has the same meaning given the term in Minnesota Statutes, section 151.72, subdivision 1(c).

**ARTICLE III. Study**. The City shall conduct a study regarding Cannabis Products and provide the City Council a report on the potential regulations of such products. The report shall include the City staff’s 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:

1. The potential impacts of the sale of Cannabis Products within the City;
2. Licensing the sale of Cannabis Products and related regulations; and
3. Zoning regulations related to the sale, manufacture, and distribution of Cannabis Products as uses within the City.

**ARTICLE IV. Moratorium**. A moratorium is hereby imposed to prohibit any business, person, or entity from offering for sale or selling Cannabis Products to the public within the jurisdictional boundaries of the City. The City shall not accept, process, or act on any application, site plan, building permit, or other zoning approval for a business proposing to engage in the sale of Cannabis Products.

**ARTICLE V. Violations**. During the term of the moratorium, it is a violation of this Ordinance for any business, person, or entity to offer for sale, or to sell, Cannabis Products to the public within the City.

**ARTICLE VI. 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.

**ARTICLE VII. Enforcement**. A violation of this Ordinance shall be a misdemeanor. In addition, the City may enforce this Ordinance by mandamus, injunction, other appropriate civil remedy in any court of competent jurisdiction.

**ARTICLE VIII. Effective Date and Term**. This Ordinance shall be effective immediately and shall have a term of 12 months. This Ordinance shall remain in effect until the expiration of the 12 month term, until it is expressly repealed by the City Council, or until the effective date of an ordinance amending the City Code to address the sale of Cannabis Products, whichever occurs first.

**ARTICLE IX. General Provisions**.

1. Not Codified. This Ordinance is transitory in nature and shall not be codified into the City Code.
2. Severability. Every section, provision, and part of this Ordinance is declared severable from every other article, section, provision, and part thereof. If any article, 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 article, section, provision, or part of this Ordinance.

Adopted by the City Council this 10th day of August, 2022.

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Mayor Raymond J. Salazar

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Attest: Kevin Kelly, Clerk

Published in The Laker on the 3rd day of September, 2022.

Effective on the 4th day of September, 2022.