

2L. Consideration to adopt Resolution No. 2023-71 calling for a public hearing on August 28, 2023, for the purpose of establishing an Interim Ordinance Prohibiting the Operation of Cannabis Businesses.

Prepared by: Community Development Director, City Clerk	Meeting Date: 08/14/23	<input checked="" type="checkbox"/> Consent Agenda Item <input type="checkbox"/> Regular Agenda Item
Reviewed by: City Attorney	Approved by: City Administrator	

ACTION REQUESTED

Motion to adopt Resolution No. 2023-71 calling for a public hearing on August 28, 2023, for the purpose of establishing an Interim Ordinance Prohibiting the Operation of Cannabis Businesses.

REFERENCE AND BACKGROUND

City Council is asked to call for a public hearing on an Interim Ordinance prohibiting the operation of Cannabis Businesses within the City of Monticello until January 1, 2025.

A new law, Minnesota Chapter 342, was enacted at the end of the 2023 legislative session and legalizes adult-use cannabis in Minnesota. The law legalizes the possession, use, manufacturing, and sale of cannabis products within the state.

The law also establishes a regulatory framework over the cannabis industry. It establishes the Office of Cannabis Management (OCM), which is charged with enforcing an organized system of regulation for the cannabis industry and the hemp consumer industry.

While possession, use, and home growth under the new law became legal effective August 1, 2023, legal sales of cannabis per the law are anticipated to begin in January of 2025.

To study the products, uses, and businesses authorized under the law, and the necessity for any regulation and restrictions relating to the sales, testing, manufacturing, and distribution of cannabis-related products and uses, an ordinance prohibiting these uses is recommended at this time. Last year’s legislation, related to lower potency hemp products, will also need to be evaluated in terms of municipal impact under the new law.

Over the next year, city staff will work with the city attorney and Council to adopt an ordinance that protects the public health, safety and welfare of Monticello residents. The City intends to study the following:

- Potential joint powers agreement with Wright County for administration, registration and enforcement, and the role of Wright County absent a joint powers agreement, including that of the County attorney and sheriff's office
- City limitations and restrictions as allowed by statute, including direction on the desired number of licenses (no less than 1 per 12,500) and buffer allowances
- Understanding of cannabis business licensures as allowed by the new law, along with recommended land use and zoning regulations
- Role of Office of Cannabis Management as related to local regulation and enforcement

It is important to note that the ordinance for prohibition is specific and applicable to cannabis uses as defined by the new law. Low-potency hemp products were further defined under the new law and are not proposed to be prohibited under the interim ordinance. Rather, those uses will continue to be governed under the prior ordinances adopted by the City Council, which are:

- 1) An interim ordinance for moratorium on the manufacturing and distribution of THC products. This ordinance remains in effect until August 22, 2023.
- 2) An ordinance allowing the sale of THC products only at tobacco shops as licensed by Wright County.

During the period of the interim ordinance, low-potency hemp uses will also be reviewed and addressed for potential City ordinance amendments.

Unlike the interim ordinances for moratorium of certain land uses, the new law requires that the City hold a public hearing prior to considering enactment of an interim ordinance prohibiting cannabis uses.

- I. **Budget Impact:** The costs of calling for the hearing are minimal and limited to the publication of the ordinance and preparation of the notice and draft ordinance. The City will incur additional and on-going legal expenses related to the administration and enforcement of the new law. These costs are unknown at this time.
- II. **Staff Workload Impact:** 4 hours of staff time to prepare public hearing items.
- III. **Comprehensive Plan Impact:** N/A

STAFF RECOMMENDED ACTION

Staff recommends calling for the public hearing. The final text of the interim ordinance and length of prohibition under the interim ordinance are to be determined as part of the Council's consideration of the ordinance itself on August 28, 2023.

SUPPORTING DATA

- A. Resolution 2023-71
- B. Draft Ordinance

**CITY OF MONTICELLO
WRIGHT COUNTY, MINNESOTA
RESOLUTION NO. 2023-71**

**RESOLUTION CALLING FOR A PUBLIC HEARING ON INTERIM ORDINANCE PROHIBITING THE
OPERATION OF CANNABIS BUSINESSES**

WHEREAS, pursuant to Minnesota Statutes, published and posted notice of the hearing;
and

WHEREAS, a public hearing on an Interim Ordinance Prohibiting the Operation of
Cannabis Businesses will be held Monday, August 28, 2023, at 6:30 PM at the Monticello City
Hall:

**NOW THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF MONTICELLO,
MINNESOTA:**

1. The Council will consider the interim ordinance 14th day of August, 2023 before the
City Council in the Council Chambers located at the Monticello Community Center at
6:30 p.m.
2. The City Clerk is hereby directed to give published and posted notice of such hearing
as required by law.

ADOPTED BY the City Council of Monticello, Minnesota this 14th day of August, 2023.

CITY OF MONTICELLO

Lloyd Hilgart, Mayor

ATTEST:

Jennifer Schreiber, City Clerk

**CITY OF MONTICELLO MONTICELLO
WRIGHT COUNTY, MINNESOTA**

ORDINANCE NO. _____

**AN INTERIM ORDINANCE PROHIBITING THE OPERATION OF CANNABIS
BUSINESSES**

The City Council of the City of Monticello Monticello does ordain:

SECTION 1. FINDINGS AND PURPOSE.

A. By enacting 2023 Session Laws Chapter 63, the Minnesota Legislature enacted Minn. Stat. chapter 342, legalizing adult-use cannabis and permitting the operation of cannabis businesses and the sale of cannabis flower and cannabis products for human consumption. This law creates a new agency, the Office of Cannabis Management, to regulate the sales of cannabis products.

B. The new law does enact some requirements for production, labeling and testing, and sale of cannabis products at the state government level. However, the new law creates uncertainty that will need to be resolved by the passage of further regulations by the Office.

C. The new law establishes that the sale of cannabis products are still subject to local planning and zoning restrictions, and must comply with local zoning code. The new law provides no guidance on how cities are to zone the new businesses, leaving it to local control.

D. Pursuant to Minn. Stat. § 342.13, the City is authorized to adopt an interim ordinance protecting the planning process and the health, safety, and welfare of its citizens. Under Section 342.13, such ordinance may remain in effect until January 1, 2025.

E. Pursuant to its general police powers, including but not limited to, Minn. Stat. § 421.221, subd. 32, the City may enact regulations regarding to promote the health, safety, order, convenience, and the general welfare of the City. This power permits the City to implement a moratorium to study the sales, testing, manufacturing, and distribution of cannabis products to determine if regulations are necessary for the sake of good order of the City.

F. The City Council finds that it is necessary to study the application of 2023 Session Laws Chapter 63, and the products, 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 cannabis flower, cannabis products, and lower-potency products including through zoning ordinances, in order to protect the public health, safety, and welfare of its residents.

SECTION 2. DEFINITIONS: The following terms when used in this ordinance shall mean:

Official controls. “Official controls” or “controls” means ordinances and regulations which control the physical development of the city or any part thereof or any detail thereof and

implement the general objectives of the comprehensive plan. Official controls include ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes and official maps.

Cannabis Business. “Cannabis Business” has the meaning given in Minn. Stat. § 342.01, subd. 14.

Cannabis Flower. “Cannabis Flower” means the harvested flower, bud, leaves, and stems of a cannabis plant.

Cannabis Product. “Cannabis Product” means a product infused with cannabinoids, including but not limited to tetrahydrocannabinol (THC), including hemp-derived cannabinoids.

SECTION 3. INTENT AND AUTHORIZATION:

A. It is the intent of this ordinance to allow the City of Monticello time to complete an in-depth study concerning adoption of revisions of the City’s official controls for the manufacturing, testing, distributing, and selling of Cannabis Flower and Cannabis Products, and the operation of Cannabis Businesses.

B. City staff is directed and authorized to conduct a study of the City’s official controls that may need to be adopted or amended to protect the public health, safety, and welfare as they relate to the manufacturing, testing, distributing, and selling of Cannabis Flower and Cannabis Products, and the operation of Cannabis Businesses.

SECTION 4. TEMPORARY PROHIBITION:

A. Pending the completion of the above referenced study and the adoption of appropriate official controls, the following is prohibited within the City:

The manufacturing, distributing, and selling of Cannabis Flower and Cannabis Products, and the operation of any Cannabis Business.

B. 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.

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 Manager, 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 § 104.100 et seq.

SECTION 6. EFFECTIVE DATE: This ordinance shall take effect immediately upon its passage and shall remain in effect until January 1, 2025, or until the adoption of the official controls being studied, whichever occurs first.

ADOPTED this ____ day of _____, 2023 by the City Council for the City of Monticello.

CITY OF MONTICELLO

Lloyd Hilgart, Mayor

ATTEST:

Rachel Leonard, Administrator

AYES:

NAYS:

Passed by the City Council of the City of Monticello, Wright County, Minnesota, this ____ day of _____, 2023.

Lloyd Hilgart, Mayor

ATTEST:

Jennifer Schreiber, City Clerk