

ORDINANCE NO. 2024-03

**CITY OF EAST GULL LAKE
STATE OF MINNESOTA**

**AN INTERIM ORDINANCE TEMPORARILY PROHIBITING CANNABIS
BUSINESSES IN THE CITY OF EAST GULL LAKE**

The City Council of the City of East Gull Lake does ordain:

SECTION 1. BACKGROUND.

- A. By enacting 2022 Session Law Chapter 98, Article 13, the Minnesota Legislature amended Minnesota Statutes, section 151.72 regulating the sale of edible cannabinoid products and nonintoxicating cannabinoid products that contain certain cannabinoids derived from hemp, including certain amounts of tetrahydrocannabinol (“THC”) derived from hemp (“Minn. Stat. 151.72 Products”).
- B. Then, the 2023 Legislature, through HF100/SF73 (the “Act”) established Minnesota Statutes, Chapter 342, which legalized, defined, and redefined types of intoxicating and nonintoxicating products derived from hemp plants and the Cannabis plant and greatly expanded the types of legal products to include, among other things, Cannabis Products, which it defined as any of the following: (1) cannabis concentrate; (2) a product infused with cannabinoids, including but not limited to tetrahydrocannabinol, extracted or derived from cannabis plants or cannabis flower; or (3) any other product that contains cannabis concentrate.
- C. Minn. Stat. § 342.01, subd. 14 defines Cannabis Businesses to include (1) cannabis microbusiness; (2) cannabis mezzobusiness; (3) cannabis cultivator; (4) cannabis manufacturer; (5) cannabis retailer; (6) cannabis wholesaler; (7) cannabis transporter; (8) cannabis testing facility; (9) cannabis event organizer; (10) cannabis delivery service; and (11) medical cannabis combination business.
- D. Minn. Stat. § 342.10 allows operation of Cannabis Businesses, as well as the Lower-Potency Hemp Edible Retailers and Lower-Potency Hemp Edible Manufacturers, if appropriately licensed by the newly created state agency, called the Office of Cannabis Management (“OCM”).
- E. Minn. Stat. § 342.02 et. seq. directs the OCM to make rules, establish policy and exercise its regulatory authority over both the cannabis industry, as well as the lower potency hemp edible products and the hemp consumer products.

- F. Minn. Stat. § 342.06 requires to OCM to create and approve product categories of cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products for retail sale.
- G. Minn. Stat. § 342.06 requires the OCM to establish limits on the total THC allowed in cannabis flower, cannabis products, and in hemp-derived consumer products and prohibits approval of certain forms of cannabis product, lower-potency hemp edible, or hemp-derived consumer product.
- H. Minn. Stat. § 324.07 requires the OCM to establish certification, testing, and labeling requirements for the methods used to grow new cannabis plants or hemp plants, including but not limited to growth from seed, clone, cutting, or tissue culture.
- I. Minn. Stat. § 342.07 requires the OCM to establish best practices for: (1) the cultivation and preparation of cannabis plants; and (2) the use of pesticides, fertilizers, soil amendments, and plant amendments in relation to growing cannabis plants.
- J. Minn. Stat. § 342.07 requires the OCM to regulate businesses that manufacture, process, sell, handle, or store an edible cannabis product or lower-potency hemp edibles.
- K. Minn. Stat. § 342.08 requires the OCM to provide regulations establishing energy standards, disposal of waste and addressing odor.
- L. Minn. Stat. § 342.13 allows cities to use their discretion in enacting certain limited time, place, and manner restrictions on the location and operations of Cannabis Businesses but does not allow the City to completely prohibit Cannabis Businesses.
- M. The City currently is updating its zoning code and the OCM still has not adopted regulations related to Cannabis Businesses or Minnesota’s cannabis industry, nor has it started licensing Cannabis Businesses, Lower-Potency Hemp Edible Retailers or Lower-Potency Hemp Edible Manufacturers yet.
- N. Based on the above, the City will benefit from conducting a study of the impact of Cannabis business on communities and better understanding the OCM’s regulations and rules, including reviewing and analyzing final regulations, before making any decisions related to zoning and Cannabis Businesses, Lower-Potency Hemp Edible Retailers or Lower-Potency Hemp Edible Manufacturers.
- O. The City Council has authority, under Minn. Stat. § 462.355, subd. 4, to adopt an interim ordinance and states “the governing body of the municipality may adopt an interim ordinance applicable to all or part of its jurisdiction for the purpose of protecting the planning process and the health, safety and welfare of its citizens. The interim ordinance may regulate, restrict, or prohibit any use, development, or subdivision within the jurisdiction or a portion thereof for a period not to exceed one year from the date it is effective”.
- P. Since the City has authorized its planners to review, revise and update its official zoning controls, and City planners are in the process of doing so, and in light of the

zoning issues associated with Cannabis businesses, as well as Lower-Potency Hemp Edible Retailers and Manufacturers, the City Council determines it needs time to study to consider the development and adoption of appropriate local regulations.

- Q. In order to protect the planning process and the health, safety, and welfare of the residents while the City updates its official controls and the City Council engages in policy discussions regarding updated zoning, the City Council determines it is in the best interests of the City to impose a temporary moratorium on Cannabis Businesses and Lower-Potency Hemp Edible Retailers and Manufacturers.

SECTION 2. FINDINGS.

- A. The City Council finds there is a need to study (i) Cannabinoid Products, which includes Cannabis Products, Lower-Potency Hemp Edibles, and Hemp-Derived Consumer Products, (ii) Cannabis Businesses and Lower-Potency Hemp Edible Retailers and Manufacturers, and (iii) the impact of those products and businesses, 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, commercial growing, commercial cultivating, manufacturing, transporting, delivery of or commercial distribution of any of the products referenced herein, including through zoning ordinances in order to protect the public health, safety, and welfare of its residents.
- B. The study will allow the City Council to determine the appropriate changes, if any, that it should make to the East Gull Lake City Code, including any necessary zoning changes.
- C. The time will allow for any state agency rulemaking, particularly with respect to licensing Cannabis Businesses and Lower-Potency Hemp Edible Retailers and Manufacturers which will further aid the Council in studying and considering reasonable restrictions, if any, on the operation of these businesses in the City.
- D. The City Council therefore finds that there is a need to adopt a city-wide moratorium on the retail sale, wholesale sale, testing, commercial growing, commercial cultivating, manufacturing, transporting, delivery of, and commercial distribution of Cannabinoid Products, which includes Cannabis Products, Lower-Potency Hemp Edibles, and Hemp-Derived Consumer Products, including the establishment or approval of Cannabis Businesses and Lower-Potency Hemp Edible Retailer and Lower-Potency Hemp Edible Manufacturers, including any preapprovals by the OCM, within the City while City staff studies the issue and updates the City local controls.

SECTION 3. MORATORIUM.

- A. A moratorium is hereby imposed to prohibit any business, person, or entity from offering for retail sale, wholesale, testing, commercial growing, commercial cultivating, manufacturing, transporting, delivering or commercial distribution of Cannabinoid Products, including Cannabis Products, Lower-Potency Hemp Edibles, or

Hemp-Derived Consumer Products, including the establishment or operation as a Cannabis Business or a Lower-Potency Hemp Retailer or Manufacturer, including OCM preapprovals, within the jurisdictional boundaries of the City of East Gull Lake. The City shall not process, or act on any application, site plan, building permit, or other zoning approval for a Cannabis Business, a Lower-Potency Hemp Retailer or a Lower-Potency Hemp Manufacturer.

- B. This moratorium does not apply to the selling, testing, manufacturing, or distributing of 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 4. STUDY. The City Council directs City staff to study the need for local regulation regarding the retail sale, wholesale sale, testing, commercial growing, commercial cultivating, manufacturing, transporting, delivery or commercial distribution of Cannabinoid Products, which includes Cannabis Products, Lower-Potency Hemp Edibles, and Hemp-Derived Consumer Products within the City of East Gull Lake. Staff must also study the need for creating or amending zoning ordinances as allowed by the state, or any other ordinances, as allowed and not preempted by the state, to protect the citizens of East Gull Lake from any potential negative impacts of Cannabis Businesses, Lower-Potency Hemp Edible Retailers or Lower-Potency Hemp Edible Manufacturers. 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 and may result in the City reporting the violator to the OCM.

SECTION 6. TERM. Unless earlier rescinded by the City Council, the moratorium established under this Ordinance shall remain in effect until twelve (12) months from its effective date, at which point, it will automatically expire.

SECTION 7. EFFECTIVE DATE. This ordinance shall become effective on the first day of publication after adoption.

Passed this 8th day of October, 2024.

Dave Kavanaugh, Mayor

ATTEST

Laura Christensen, Clerk/Administrator