

## ORDINANCE NO. 2024-02

### AN INTERIM ORDINANCE OF THE CITY OF FAIRMONT, MINNESOTA PROHIBITING THE OPERATION OF CANNABIS BUSINESSES WITHIN THE CITY AND ESTABLISHING A STUDY PERIOD PURSUANT TO MINNESOTA STATUTES SECTION 342.13(e)

**Preamble:** The Minnesota Legislature enacted 2023 Session Laws, Chapter 63, including Minnesota Statutes Chapter 342, entitled “Regulation of Adult-Use Cannabis”, which became generally effective July 1, 2023, and subsequently enacted 2024 Session Laws, Chapter 121, amending Minnesota Statutes, Chapter 342, (together hereinafter, the “Cannabis Law”), thereby, among many other provisions, regulating the retail sale of cannabis, cannabis products, and certain hemp products, and establishing the Office of Cannabis Management.

The Cannabis Law provides that local units of government: (1) shall register certain cannabis businesses making retail sales to customers or patients; (2) may adopt reasonable restrictions on the time, place, and manner of the operation of cannabis businesses; (3) may prohibit the operation of a cannabis business within 1,000 feet of a school, or 500 feet of a day care, residential treatment facility, or an attraction within a public park that is regularly used by minors, including a playground or athletic field; and (4) may by ordinance limit the number of certain licensed cannabis businesses based on the population of the local unit of government.

The Cannabis Law directs the Office of Cannabis Management to work with local units of government to: (1) develop model ordinances for reasonable restrictions on the time, place, and manner of the operation of a cannabis business; (2) develop standardized forms and procedures for the issuance of a retail registration; and (3) develop model policies and procedures for the performance of compliance checks local units of government are required to conduct.

The Cannabis Law authorizes local units of government to adopt an interim ordinance, which may regulate, restrict, or prohibit the operation of a cannabis business within its jurisdiction until January 1, 2025, if the local unit of government is conducting studies or has authorized a study or has held or has scheduled a hearing for the purpose of considering adoption or amendment of reasonable restrictions on the time, place, and manner of the operation of a cannabis business.

#### THE CITY COUNCIL OF THE CITY OF FAIRMONT DOES ORDAIN:

##### SECTION 1. **Findings.**

1. The City Council of the City of Fairmont (the “City”) finds there is a need to study the adoption of reasonable restrictions on the time, place, and manner of the operation of cannabis businesses in the City, including through zoning ordinances.
2. The City Council further finds that the City must consider future recommendations of the Office of Cannabis Management that are not yet available regarding licensing, registration, and reasonable restrictions to be imposed on cannabis businesses in the City,

and the model ordinances and policies to be developed by the Office of Cannabis Management.

3. The City Council finds that this interim ordinance prohibiting the operation of cannabis businesses in the City will ensure that any ordinance changes and adoption of reasonable restrictions on the time, place, and manner of the operation of cannabis businesses will be carefully considered and evaluated while protecting the public health, safety and welfare during the moratorium period defined and established herein.
4. The City Council finds that the City, as a local unit of government, may adopt this interim ordinance only after holding a public hearing prior to final adoption. The City held a public hearing on August 12, 2024, after at least ten days published notice.

SECTION 3. **Definitions.** For purposes of this Ordinance, the following terms have the meaning given to them in this section:

*Cannabis Businesses* means any of the businesses as provided under Minn. Stat. § 342.01, subd. 14, as amended by 2024 Session Laws, Chapter 121, Article 2.

*Cannabis Law* means 2023 Session Laws, Chapter 63, Article 1, enacting Minnesota Statutes, Chapter 342, entitled “Regulation of Adult-Use Cannabis,” Minnesota Statutes, Chapter 342, as enacted, and 2024 Session Laws, Chapter 121, Article 2, entitled “Cannabis Policy,” amending Minnesota Statutes, Chapter 342.

*City* means the City of Fairmont.

*Edible cannabinoid product* means any “edible cannabinoid product” as defined under Minn. Stat. § 151.72, subd. 1, and which conforms to all other requirements for retail and consumption of such products under Minn. Stat. § 151.72.

*Ordinance* means this interim ordinance, which is adopted pursuant to Minn. Stat. § 342.13(e).

SECTION 3. **Purpose and Intent.** The purpose and intent of this Ordinance is to prohibit the registration and operation of Cannabis Businesses within the City for the purpose of researching, studying, and considering the impacts and potential impacts of the above-referenced Cannabis Businesses in order to determine the necessary or appropriate reasonable restrictions and/or regulations in City Code on the time, place, and manner of the operation of Cannabis Businesses in the City, as well as to consult with the newly established Office of Cannabis Management on a model ordinance, policies, and standardized forms for the registration of Cannabis Businesses.

SECTION 4. **Moratorium Declaration.** For the duration stated herein and until the City has studied and adopted any reasonable restrictions and/or regulations in City Code on the time, place, and manner of the operation of Cannabis Businesses, the City shall not register any

Cannabis Businesses in the City and no business, person, or entity may operate a Cannabis Business within the City. The City shall not accept, process, or act on any license application or registration request, site plan, building permit, zoning request, or other approval, including any requested confirmation, certification, approval, or other request from the Office of Cannabis Management or other governmental entity requesting City review of any application or proposal for a Cannabis Business.

**SECTION 5. Study Authorized.** The Council hereby authorizes and directs City staff to study the need for reasonable restrictions and/or regulations in City Code on the time, place, and manner of the operation of Cannabis Businesses that may need to be adopted as authorized under Minn. Stat. § 342.13(e) to protect the public's health, safety and welfare. The Council hereby directs City staff to study the impacts and effects of the operation of Cannabis Businesses within the City for the purpose of determining the adequacy and effectiveness of current regulations and to study and consider the model ordinances and policies promulgated by the Office of Cannabis Management for possible inclusion in City Code. Upon completion of the study, the Council, together with such boards and commissions as the Council deems appropriate, or as may be required by law or City Code, will consider the advisability of adopting new ordinances or amending its current ordinances, and the Council hereby authorizes and directs City staff to draft such ordinances if determined necessary based on the study of the same for future Council consideration.

**SECTION 6. Duration.** This Ordinance shall expire, without further City Council action, on January 1, 2025; or it may be repealed earlier if the Council determines that no further study is necessary, that no further action is necessary, and/or any reasonable restrictions and/or regulations in City Code on the time, place, and manner of the operation of Cannabis Businesses within the City have been adopted by the City Council and are effective.

**SECTION 7. Violation and Penalty.** During the term of this moratorium, it is a violation of this Ordinance for any business, person, or entity to operate a Cannabis Business within the City. A violation of this Ordinance shall be deemed a misdemeanor.

**SECTION 8. Enforcement.** Any business, person, or entity in violation of this Ordinance shall be subject to any enforcement actions authorized in City Code, including without limitation, criminal prosecution and/or civil penalties and fines. The City may also enforce this Ordinance by mandamus, injunctive relief, or other appropriate civil remedy. A violation of this Ordinance may result in the City reporting the violation to the Office of Cannabis Management if such violation is relevant to Office of Cannabis Management licensing. 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.


**SECTION 9. Exceptions.** The moratorium imposed by this Ordinance does not apply to: (1) the continued operation of a business as part of the Medical Cannabis Program administered by the Minnesota Department of Health that was lawfully operating within the City prior to July 1, 2023; (2) the lawful sale of edible cannabinoid products in compliance with Minn. Stat. § 151.72; or (3) sales of edible cannabinoid products at an exclusive liquor store in accordance with Minn. Stat. § 340A.412, subdivision 14. Nothing in this Ordinance exempts a business,

person, or entity that is selling edible cannabinoid products from having to comply with all requirements and prohibitions of applicable laws and ordinances.


SECTION 10. **Separability.** Every section, provision, or part of this Ordinance is declared separable from every other section, provision or part; and if any section, provision, or part thereof or action taken hereunder shall be held invalid, it shall not affect any other section, provision, or part.

SECTION 11. **Effective Date.** This Ordinance shall take effect immediately upon its final adoption and publication.

Passed by the City Council of the City of Fairmont this 12<sup>th</sup> day of August, 2024.

  
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Lee C. Baarts, Mayor

ATTEST:

  
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Betsy Steuber, City Clerk

Motion by: Councilmember Miller  
Seconded by: Councilmember Hasek  
All in Favor: Councilmember Kawecki, Councilmember Lubenow, Councilmember Maynard  
Opposed: None  
Abstained: None  
Absent: None

Reading Dates: July 22, 2024 and August 12, 2024