

EUREKA TOWNSHIP
DAKOTA COUNTY, MINNESOTA
Ordinance No. 2023-05

**AN INTERIM ORDINANCE AUTHORIZING A STUDY AND IMPOSING A
MORATORIUM ON THE OPERATION OF CANNABIS BUSINESSES**

The Board of Supervisors of the Town of Eureka ordains:

Section 1. Authority and Legislative Findings.

- a. The Minnesota Legislature enacted, and Governor signed, 2023 Minnesota Session Laws, Chapter 63 – H.F. No. 100 (“Act”), which providing for the legalization and licensing of cannabis and cannabis businesses over time.
- b. The Act provides local units of government certain authority related to cannabis businesses, including the authority to adopt reasonable restrictions on the time, place, and manner of the operation of such businesses, review license requests and register cannabis businesses, and adopt certain other regulations related to cannabis businesses.
- c. The Act requires the newly created Office of Cannabis Management (“OCM”) to work with local governments to develop model ordinances to impose reasonable restrictions on the time, place, and manner of the operation of cannabis businesses. The Act also requires the OCM to establish additional rules and regulations relating to the operation of cannabis businesses. The Town will benefit from reviewing and analyzing the OCM’s model ordinances, rules, and regulations before making any decisions related to the regulation of cannabis businesses in the Town.
- d. The Act (Minnesota Statutes, section 342.13(e)) expressly allows a local unit of government that is conducting studies or has authorized a study to be conducted or has held or scheduled a hearing for the purpose of considering adoption or amendment of reasonable restrictions on the time, place and manner of the operation of cannabis businesses to 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 the operation of cannabis businesses within the jurisdiction or a portion thereof until January 1, 2025.
- e. Given the uncertainty regarding the model ordinances to be developed by the OCM and the broad scope of the changes to Minnesota law brought about by the Act, the Town Board determines it is in the best interests of the Town to adopt an interim ordinance for the purpose of protecting the planning process and the health, safety, and welfare of its citizens.
- f. The Town Board desires to conduct a study for the purpose of considering the adoption or amendment of reasonable restrictions on the time, place, and manner of the operation of cannabis businesses as well as the other regulations local units of government may adopt under the Act.

- g. On July 24, 2023, after providing at least 10 days published notice, the Town Board held a public hearing regarding the consideration and adoption of an interim ordinance placing a moratorium on the establishment or operation of cannabis businesses within the Town until January 1, 2025.

Section 2. Definitions. For purposes of this Ordinance, the following terms shall have the meaning given them in this section.

- (a) “Act” means 2023 Minnesota Session Laws, Chapter 63 (H.F. No. 100).
- (b) “Cannabis Business” has the meaning given the term in Minnesota Statutes, section 342.01, subdivision 14.
- (c) “Town” means Eureka Township, Dakota County, Minnesota.
- (d) “Town Board” means the board of supervisors of Eureka Township.
- (e) “Edible Cannabinoid Product” has the meaning given the term in Minnesota Statutes, section 151.72, subdivision 1(f).
- (f) “OCM” means the Office of Cannabis Management, established as set forth in Minnesota Statutes, section 342.02, subd. 1.
- (g) “Ordinance” means this interim ordinance, which is adopted pursuant to Minnesota Statutes, section 342.13(e).

Section 3. Study Authorized. The Town will conduct a study regarding the adoption or amendment of reasonable restrictions on the time, place, and manner of the operation of Cannabis Businesses, as well as the other potential local regulations allowed under the Act. The Town Board may have the Town Planning Commission assist in conducting the study and report to the Town Board with its recommendations. The study must include a review of the model ordinances the OCM is directed to draft under Minnesota Statutes, section 342.13(d), an analysis of potential setback regulations allowed under Minnesota Statutes, section 342.13(c), and such other matters those conducting the study may determine are relevant to the Town Board’s consideration of this matter. If the Town Board requests the Planning Commission to assist with the study, the Planning Commission shall make a recommendation to the Town Board on whether the Town should adopt regulations and, if so, the recommended types of regulations.

Section 4. Moratorium. A moratorium is hereby imposed regarding the operation of a Cannabis Business within the Town. During the term of this Ordinance, no business, person, or entity may establish or operate a Cannabis Business within the jurisdictional boundaries of the Town. During the term of this Ordinance, the Town shall not accept, process, or act on any application, site plan, building permit, zoning request, or other approval, including any requested confirmation, certification, approval, or other request from the OCM or other governmental entity requesting the Town to review an application or proposal for a business proposing to engage in the operation of a Cannabis Business.

Section 5. 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 Town prior to July 1, 2023; (2) the lawful sale of Edible Cannabinoid Products in compliance with Minnesota Statutes, section 151.72; (3) sales of Edible Cannabinoid Products at an exclusive liquor store in accordance with Minnesota Statutes, section 340A.412, subdivision 14; or (4) the continued lawful cultivation of hemp or cannabis in compliance with all applicable laws. The purpose of these exceptions is to not interfere with the continued operation of businesses that were lawfully established prior to the Act. These exemptions are not intended to allow a business to seek a license under the Act to operate as a Cannabis Business within the Town while this moratorium is in effect. Nothing in this Section 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 6. Duration. This Ordinance shall become effective immediately upon adoption and shall remain in effect until January 1, 2025. This Ordinance may be repealed earlier upon the effective date of an ordinance adopting or amending reasonable restrictions on the time, place, and manner of the operation of a Cannabis Business within the Town or by resolution of the Town Board terminating this Ordinance prior to the expiration date.

Section 7. Penalty and Enforcement. Any person, firm, partnership, corporation, or other entity violating any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to imprisonment for up to 90 days, a fine of up to \$1,000, or both, plus the costs of prosecution. Each day that a violation occurs shall be considered a separate offense. The Town may enforce this Ordinance through criminal prosecution or by undertaking such civil actions or proceedings, including injunctive relief, as it determines appropriate to prevent, restrain, correct, or abate any violation or threatened violation of this Ordinance. The initiation of one type of enforcement action shall not preclude the Town from instituting any other action or proceeding available to it under law to enforce this Ordinance.

Section 8. Severability. Every section, provision, and part of this Ordinance is declared severable from every other section, provision, and part thereof. If any 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 section, provision, or part of this Ordinance.

Adopted this 25th day of July 2023.

BY THE TOWN BOARD



Lu Barfknecht, Chairperson

Attest: 

Liz Atwater, Clerk-Treasurer