

ORDINANCE 2023-04

AN INTERIM ORDINANCE PLACING A MORATORIUM ON THE LICENSURE AND RETAIL SALE OF CANNABIS IN THE CITY OF BREEZY POINT

The Breezy Point City Council so Ordains:

Section 1. Purpose

The Minnesota Legislature enacted, and Governor signed, 2023 Minnesota Session Laws, Chapter 63 – H.F. No. 100 (“Act”), which is comprehensive legislation relating to cannabis. The Act provides local units of government certain authority related to cannabis businesses, including the authority to (1) require local registration of certain cannabis businesses operating retail establishments, (2) adopt reasonable restrictions on the time, place, and manner of the operation of cannabis businesses, provided that such restrictions do not prohibit the establishment or operation of a cannabis businesses, (3) limit the number of certain cannabis businesses based on the population of the community, and (4) 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.

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.

Section 2. Reasoning

The Act requires the OCM, which was established effective July 1, 2023, to work with local governments to develop model ordinances for 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 City 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 City.

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 City desires to adopt an interim ordinance for the purpose of protecting the planning process and the health, safety, and welfare of its citizens.

Section 3. Moratorium

A moratorium is hereby imposed on the establishment and operation of a Cannabis Business within the City of Breezy Point. During the term of this Ordinance, no business, person, or entity may establish or operate a Cannabis Business within the jurisdictional boundaries of the City. The City 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 City to review an application or proposal for a business proposing to engage in the operation of a Cannabis Business.

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 Minnesota Statutes, section 151.72 once the City's current moratorium on such sales ends; or (3) sales of Edible Cannabinoid Products at an exclusive liquor store in accordance with Minnesota Statutes, section 340A.412, subdivision 14. Nothing in this Article 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 4. Study

The City Council hereby authorizes and directs the City Administrator to 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, and report to the City Council on the potential regulation of Cannabis Businesses. 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 as staff may determine are relevant to the City Council's consideration of this matter. 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.

Section 5. Effective Date

This ordinance becomes effective from and after its passage and publication until through December 31, 2024. 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 City or by resolution of the City Council terminating this Ordinance prior to the expiration date.

Adopted this 5th day of September 2023 by the Breezy Point City Council.

Attest:

Mayor Angel Zierden

David C. Chanski, City Administrator/Clerk