

ORDINANCE NO. 24-002

**CITY OF MARSHALL
STATE OF MINNESOTA**

**AN ORDINANCE AMENDING INTERIM ORDINANCE PROHIBITING THE
COMMERCIAL SALE, TESTING, MANUFACTURING, COMMERCIAL
CULTIVATING, COMMERCIAL GROWING, TRANSPORTING, DELIVERY, AND
DISTRIBUTION OF CANNABINOID PRODUCTS, WHICH INCLUDES CANNABIS
PRODUCTS, LOWER-POTENCY HEMP EDIBLES, AND HEMP-DERIVED
CONSUMER PRODUCTS IN THE CITY OF MARSHALL**

WHEREAS, pursuant to the City of Marshall’s City Charter, Section 1.02, and Minnesota Statutes, Section 412.221, subd. 32, the Council “shall have power to provide for the government and good order of the city, . . . the protection of public and private property, the benefit of residence, trade, and commerce, and the promotion of health, safety, order, convenience, and the general welfare by . . . ordinances”; and

WHEREAS, the City enacted an interim ordinance to allow the City Council time to study and consider adoption or amendment of reasonable restrictions on the operation or location of commercial businesses related to cannabinoid products, including retail stores in the City of Marshall offering Cannabis products, and Lower-Potency Hemp products, for the purpose of protecting the planning process and the health, safety, and welfare of the public; and

WHEREAS, although certain nuisance factors, including noise and odor, exist from manufacturing from seed to product, the Council has learned that with the Lower-Potency Hemp beverages, the manufacturing is not typically produced from seed to product, but instead, the manufacturers, such as breweries, purchase the THC in a liquid form and mix it with various seltzers to produce the THC-infused beverages. This type of manufacturing is less of a nuisance concern and allowing these Lower-Potency Hemp beverages to be manufactured at facilities that already produce intoxicating beverages represents a reasonable extension of their business and product lines, as long as it is not produced from the plant; and

WHEREAS, the City Council has determined that commercial businesses involved in limited manufacturing, and the transporting, or delivery and distribution of that infusion based lower potency hemp beverages do not pose a risk to the health, safety and welfare of the public since the operation of those businesses do not result in an introduction of THC related intoxicating products for off sale use by the public within the City of Marshall; and

WHEREAS, the City Council has determined that commercial businesses involved in testing, manufacturing, transporting, or delivery and distribution of lower potency hemp edibles and hemp-derived consumer products would not result in increased exposure or availability of these intoxicating products to youth in the community; and

WHEREAS, the City Council has determined that opportunities exist for commercial businesses in the City to provide services involving the manufacturing, transporting, or delivery and distribution of lower potency hemp beverages; and that opportunities exist for commercial on-

sale liquor licensed establishments to sell lower potency hemp beverages on their premises, all of which will benefit commerce in the City.

NOW, THEREFORE, The Common Council of the City of Marshall do ordain:

SECTION 1. City Code of Ordinances, Interim Cannabis Prohibition, adopted by Ord. 23-015 on June 27, 2023, is hereby amended to read as follows:

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SECTION 3. MORATORIUM.

(a) A moratorium is hereby imposed to:

(1) ~~Other than as allowed in subparagraphs a, b, and c herein,~~ 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, f, or~~ Lower Potency Hemp Edibles or Hemp-Derived Consumer Products, including the establishment or operation as a ~~Cannabis Business or~~ Lower Potency Hemp Business within the jurisdictional boundaries of the City of the City of Marshall.

- a. Manufacturing of Lower-Potency Hemp Edibles intended to be consumed as a beverage (“Lower Potency Hemp Beverages”) is allowed as an accessory use only at breweries and distilleries licensed as such under Minnesota Statutes Chapter 340A, as long as the manufacturing process for the beverages does not involve the cannabis plant. For purposes of this Section, accessory use is defined to mean not accounting for more than 50% of the production of total product produced at the brewery or distillery. The transporting or distribution of Lower-Potency Hemp Beverages manufactured as an accessory use at a brewery or distillery to locations outside of the City also is allowed as part of the accessory use.
- b. Exclusive liquor stores may sell Lower Potency Hemp Edibles, including Lower Potency Hemp Beverages. No off-sale of Lower-Potency Hemp beverage growers are allowed by breweries or distilleries.
- c. On-site consumption of Lower Potency Hemp Beverages is allowed at establishments that hold a current on-sale liquor license, licensed by the City pursuant to Minnesota Statutes Chapter 340A.
- d. Breweries or distilleries manufacturing Lower-Potency Hemp Beverages as an accessory use, and any licensed on-sale liquor establishment selling Lower-Potency Hemp Beverages, must be registered with the applicable state agency, which may include the State Office of Cannabis Management, or, where applicable, the Minnesota Department of Health, and will be subject to any future applicable licensing or registration requirements by the state or the City of Marshall. The breweries, distilleries, and on-sale liquor establishments subject to this Section must provide the City with proof of registration

with the applicable state agency, which generally is in the form of a copy of the agency's registration certificate.

- e. All manufacturing and sales authorized in this Section 3(A)(i) must adhere to all applicable City Code requirements, including being current on payments of all licensing fees, as well as in compliance with all applicable statutory requirements, including those in Minnesota Statutes, section 151.72 and Minnesota Statutes, chapter 342.
 - f. Businesses found to have violated this Ordinance may be prohibited from selling or manufacturing Lower-Potency Hemp Beverages.
- (2) Prohibit any business, person, or entity from offering for retail sale, wholesale, testing, commercial growing, commercial cultivating, manufacturing, transporting, delivering or commercial distribution of cannabis flower or Cannabis Products, as those terms are defined in Minnesota Statutes Chapter 342, within the jurisdictional boundaries of the City of the City of Marshall.
- (3) The City shall not process, or act on any application, site plan, building permit, or other zoning approval for a business, person, or entity proposing to engage in the sale of any Cannabinoid Products, including Cannabis Products, Lower-Potency Hemp Edibles, or Hemp-Derived Consumer Products, covered herein, other than sales and limited manufacturing allowed under Section 3(A)(i) above.~~proposing to engage in the sale of any Cannabinoid Products, including Cannabis Products, Lower Potency Hemp Edibles, or Hemp Derived Consumer Products.~~
- (4) This moratorium does not relate to the retail sale of Hemp Derived Topical Products, or Hemp Derived Fiber Products. The moratorium also does not relate to the sale of edible cannabinoid products as that term is defined in current statute, 151.72, subd. 1, in exclusive liquor stores.

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SECTION 2. EFFECTIVE DATE. The amendments to this ordinance shall become effective on the first day of publication after adoption.

PASSED AND ADOPTED BY THE CITY OF MARSHALL COMMON COUNCIL this ____ day of January 2024.

Presiding Officer

Attest

Robert Byrnes, Mayor, City of Marshall

Steven Anderson, City Clerk,