

**CITY OF MARSHALL
ORDINANCE 24-011**

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

The Common Council of the City of Marshall do ordain as follows:

SECTION 1: **ADOPTION** “MORATORIUM ON THE OPERATION OF
CANNABIS BUSINESSES” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

MORATORIUM ON THE OPERATION OF CANNABIS BUSINESSES(*Added*)

SECTION 2: **ADOPTION** “Section 1. Legislative Findings And Authority”
of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section 1. Legislative Findings And Authority(*Added*)

- A. The Minnesota Legislature, in 2023, enacted, and the Governor signed, 2023 Minnesota Session Laws, Chapter 63 – H.F. No. 100 (the “Act”), which represents comprehensive legislation relating to cannabis including, but not limited to, the establishment of the Office of Cannabis Management (“OCM”), legalizing and limiting the possession and use of cannabis and certain hemp products by adults, providing for the licensing, inspection, and regulation of cannabis and hemp businesses, taxing the sale of cannabis flower, cannabis products, and certain hemp products, establishing grant and loan programs, amending criminal penalties, providing for expungement of certain convictions, and providing for the temporary regulation of Edible Cannabinoid Products.
- B. The Act provides local units of government certain authority related to Cannabis Businesses, including the authority to (i) require local registration of certain Cannabis Businesses operating retail establishments, (ii) 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 Business, (iii) limit the number of certain Cannabis Businesses based on the population of the community, and (iv) 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.
- C. 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. It is anticipated that the city of Marshall (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.
- D. The OCM has not yet created the model ordinance or engaged in rulemaking to develop the licensing scheme for Cannabis Businesses or lower-level hemp products.
- E. The Act (since codified at 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.
- F. 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.
- G. The City 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.
- H. On June 25, 2024, after providing at least 10 days published notice, the City Council held a public hearing regarding the consideration and adoption of this Ordinance prohibiting the operation of Cannabis Businesses within the City until January 1, 2025.

SECTION 3: ADOPTION “Section 2. Definitions” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section 2. Definitions(*Added*)

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. “City” means the city of Marshall, a Minnesota municipal corporation.
- D. “Edible Cannabinoid Product” has the meaning given the term in Minnesota Statutes, section 151.72, subdivision 1(f).
- E. “OCM” means the Office of Cannabis Management, established as set forth in Minnesota Statutes, section 342.02, subd. 1.
- F. “Ordinance” means this interim ordinance, which is adopted pursuant to Minnesota Statutes, section 342.13(e).

SECTION 4: **ADOPTION** “Section 3. Study Authorized” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section 3. Study Authorized(*Added*)

The city council hereby authorizes and directs City staff 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 other potential local regulations allowed under the Act, and report to the city council on the potential regulation of Cannabis Businesses. The study may include a review of any model ordinances that 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 may also include City staff’s recommendations on whether the city council should adopt regulations and, if so, the recommended types of regulations.

SECTION 5: **ADOPTION** “Section 4. Moratorium” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section 4. Moratorium(*Added*)

A moratorium is hereby imposed on the operation of any Cannabis Business within the City, including any preliminary pre-approvals allowed under state law. 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. Accordingly, during the period that this Ordinance is in effect, 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 City review of any application or proposal for a business proposing to engage in the operation of a Cannabis Business. During the term of the moratorium, it is a violation of this Ordinance for any business, person, or entity to establish or operate a Cannabis Business within the City.

SECTION 6: **ADOPTION** “Section 5. Exceptions” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section 5. Exceptions(*Added*)

The moratorium imposed by this Ordinance does not apply to: (i) the continued operation of a duly established business as part of the Medical Cannabis Program administered by the Minnesota Department of Health that was lawfully operating within the City prior to the effective date of this Ordinance; or (ii) the sale of Edible Cannabinoid Products, provided, however, that nothing in this Ordinance exempts a business, person, or entity from complying with all other requirements and prohibitions of applicable laws and ordinances related to such exceptions.

SECTION 7: **ADOPTION** “Section 6. Enforcement” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section 6. Enforcement(*Added*)

Violation of this Ordinance is a misdemeanor. The City may also enforce this Ordinance by mandamus, injunction, or other appropriate civil remedy in any court of competent jurisdiction. A violation of this Ordinance is also subject to the City’s general penalties prescribed in the city code and may further result in the City reporting violations to the OCM, if relevant to OCM licensing. The city council hereby authorizes City staff and consultants to initiate any legal action deemed necessary to secure compliance with this Ordinance.

SECTION 8: **ADOPTION** “Section 7. Severability” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section 7. Severability(*Added*)

Every section, provision, and part of this Ordinance is declared severable from every other section, provision, and part. 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.

SECTION 9: **ADOPTION** “Section 8. Effective Date And Term” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section 8. Effective Date And Term(*Added*)

This Ordinance shall become effective on the first day of publication after adoption. This Ordinance shall remain in effect until January 1, 2025 or until the city council expressly repeals it, whichever occurs first.

PASSED AND ADOPTED BY THE CITY OF MARSHALL COMMON COUNCIL

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Presiding Officer

Attest

Robert Byrnes, Mayor, City of
Marshall

Steven Anderson, City Clerk, City of
Marshall