

Dodge County Board of Commissioners

Resolution No.:

AN INTERIM ORDINANCE PROHIBITING THE ESTABLISHMENT OF NEW USES OR THE EXPANSION OF EXISTING USES RELATED TO SALES, TESTING, MANUFACTURING, CULTIVATING, GROWING, TRANSPORTING, DELIVERY AND DISTRIBUTION OF CANNABIS PRODUCTS

WHEREAS, the Dodge County Board of Commissioners held a public hearing for input on the proposed interim ordinance on Tuesday, September 12, 2023, at 10:00 AM at the Conference Room B, Government Services Building, 721 Main Street North, Mantorville, MN 55955.

WHEREAS, the County of Dodge recognizes significant public interest in changes to state law that took effect on August 1, 2023, that will make it legal to use, possess, and sell cannabis and other products containing THC.

NOW, THEREFORE, BE IT RESOLVED by the County Board of Dodge County, Minnesota that the Dodge County Board adopts the following interim ordinance:

Section 1. Purpose, Authority, and Findings.

- A. This ordinance is necessary for the immediate preservation of the public peace, health, morals, safety, and welfare because of the inherent risk of injury to persons related to the recent amendments to Minnesota Statute Chapter 152, allowing for the use and possession of cannabis and other products containing Tetrahydrocannabinol, commonly known as THC, and Minnesota Statute §151.72, allowing the sale of edible and nonedible cannabinoid products that contain no more than 0.3% of THC. A prohibition on the establishment of new uses or the expansion of existing uses related to the sale of such products is necessary to ensure that Dodge County has sufficient time to study potential regulations that will protect the health and safety of the residents of the County. Due to recent legislative changes there is insufficient time to complete the ordinary process and procedure for introduction and adoption of a County ordinance.
- B. Minnesota Statute §342.13 Subd. E provides that if a local unit of government is conducting studies or has authorized a study to be conducted 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 governing body of the local unit of government may 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 residents. Before adopting the interim ordinance, the governing body must hold a public hearing. The interim ordinance may regulate, restrict or prohibit the operation of a cannabis business within the jurisdiction or a portion thereof until January 1, 2025.
- C. Minnesota Statute §394.34 provides that if a county is conducting, or in good faith intends to conduct studies within a reasonable time for the purpose of considering adopting an official control

or an amendment, extension, or addition to an official control, the board, in order to protect the public health, safety, and general welfare, may adopt as an emergency measure, a temporary interim zoning ordinance. The purpose of the interim ordinance is to provide the county with the opportunity to study its comprehensive plan and official controls so that it can, in a meaningful way, consider potential amendments to its ordinances. An interim ordinance may regulate, restrict, or prohibit any use within the County for a period not to exceed one year from the effective date of the interim ordinance. Many jurisdictions have adopted interim ordinances to study the impacts of certain uses and determine whether regulations are appropriate for the purpose of protecting the public health, safety, and welfare of their residents.

- D. The County Board finds there is a need to conduct a study regarding the types of uses that involve the sales, testing, manufacturing, cultivating, growing, transporting, delivery and distribution of Cannabis Products to evaluate the regulatory options available to the County and is for the purpose of protecting the health, safety, and welfare of county residents.
- E. The time will allow for the Office of Cannabis Management (OCM) to provide model ordinances which will further aid the County Board in studying and considering restrictions on the operation of a cannabis business.
- F. Due to the effective date of the new legislation, the lack of adequate time to evaluate the situation and enact appropriate controls, and the potential negative impacts on the health, safety, and welfare of its residents, a situation that justifies a temporary interim ordinance exists.

Section 2. Study. The County Board hereby authorizes and directs County staff to study the need for local regulation regarding the sales, testing, manufacturing, cultivating, growing, transporting, delivery or distribution of Cannabis Products within Dodge County. Staff must also study the need for creating or amending zoning ordinances, licensing ordinances, as allowed by the state, or any other ordinances, as allowed and not preempted by the state, to protect the public health, safety, and welfare of the Dodge County residents. Upon completion of the study, staff shall make a recommendation to the County Board about whether the County should amend its zoning, business-licensing, or other ordinance provisions related to these types of uses to better protect county residents.

Section 3. Conditions of the Interim Ordinance.

- A. No business, person or entity may establish a new use or expand an existing use that includes or involves the sale, testing, manufacturing, cultivating, growing, transporting, delivery or distribution of Cannabis Products until this ordinance is repealed by the County Board or January 1, 2025, whichever comes first.
- B. During the term of this interim ordinance, County staff shall not issue any license or permit, nor will it accept or process any applications for uses related to the sale, testing, manufacturing, cultivating, growing, transporting, delivery, or distribution of Cannabis Products unless required by the MN OCM.
- C. Planning or zoning applications related to any Cannabis Products from businesses, persons, or entities involved in the proposed sale, testing, manufacturing, cultivating, growing, transporting,

delivery and distribution in Dodge County shall not be accepted or considered until January 1, 2025 unless required by the MN OCM.

- D. This interim ordinance does not apply to the sale, testing, manufacturing, cultivating, growing, transporting, delivery or distribution of Cannabis Products related to Medical Cannabis Program as administered by the Minnesota Department of Health (MDH) provided that such activity is done in accordance with regulations and laws of Minnesota regarding Medical Cannabis.
- E. This interim ordinance does not apply to the continued sale of THC products allowed under MN Statute §342, which includes edible and nonedible cannabinoid products that contain no more than 0.3% THC, by retailers in existence before August 1, 2023.

Section 4. Enforcement. In addition to any criminal penalties allowed by law, the County may enforce this interim ordinance by injunction or any other appropriate civil remedy in any court of competent jurisdiction. A violation of this Ordinance is also considered a violation of the Dodge County Zoning Ordinance and shall be subject to the County enforcement pursuant to provisions set forth in Chapter 19 of the Zoning Ordinance.

Section 5. Severability. Every section, subsection, provision, or part of this Ordinance is declared severable from every other section, subsection, provision, or part. If any section, subsection, provision, or part of this interim ordinance is adjudged to be invalid by a court of competent jurisdiction, such judgment shall not invalidate any other section, subsection, provision, or part.

Section 6. Term. It shall be effective until the earlier of the following events: (a) January 1, 2025 per MN Statute §342 or (b) the date upon which the County Board repeals this Ordinance.

Section 7. Effective Date. Pursuant to Minnesota Statute §375.51, this interim ordinance shall become effective immediately upon its approval by the Board; however, no prosecution based on the provisions of this Ordinance shall occur until the Ordinance has been filed with the County Auditor, unless the person charged with violation had actual notice of the passage of the Ordinance prior to the act or omission complained of.

ADOPTED this 12th day of September, 2023.

DODGE COUNTY BOARD OF COMMISSIONERS

By: _____

Chairman

Attest: _____

Jim Elmquist, County Administrator

