

## MEMORANDUM



**To:** Blue Earth County Planning Commission  
Blue Earth County Board of Commissioners  
Robert W. Meyer, County Administrator

**From:** Planning and Zoning Staff,  
Property and Environmental Resources

**Date:** September 6, 2023

**Subject:** PC 26-23 Report – Interim Ordinance for Adult-Use Cannabis

### Background

The Minnesota Legislature passed an adult-use cannabis bill during the 2023 legislative session. On May 30, 2023, Minnesota Governor, Tim Walz, signed into law the comprehensive bill which will legalize production, sale, possession and consumption of cannabis products in the State of Minnesota. The bill allows the possession and personal growing of cannabis as of August 1, 2023, with restrictions. The retail sales, commercial cultivation, and manufacturing of cannabis will be regulated by the state. The commercial cannabis uses do not take effect until January 1, 2025 to give the State of Minnesota an opportunity to create the Office of Cannabis Management and regulatory framework which will oversee the cannabis industry.

Many zoning authorities, including the city of Mankato, have adopted an interim ordinance which describes a temporary moratorium for commercial cannabis activities. An interim ordinance may prohibit the operation of a cannabis business within the jurisdiction for the purpose of protecting the planning process and the health, safety, and welfare of its citizens until January 1, 2025, as specified in 2023 Minnesota Session Law Chapter 63. The moratorium allows the jurisdiction adequate time to study the law change and establish a permanent ordinance.

### Study

During the moratorium, Blue Earth County Planning and Zoning staff will review performance standards related to time, place, and manner of operation to protect the planning process and the health, safety, and welfare of the public. Input will be solicited from both the Sherriff and Public Health offices to facilitate common interpretation of the state law.

In the new law, there are 15 different state business licenses for cannabis. Several of these licenses have vertically integrated business models (agricultural production, processing, retail, manufacturing, service, entertainment, etc.), which do not appear to immediately coincide with the purpose of one specific zoning district. During the moratorium, Planning and Zoning staff will review alignment of the County Zoning Districts with the various state cannabis business licenses.

The cannabis business regulatory framework to be developed by the Office of Cannabis Management is still unknown at this point. The state law does specify some broad required processes and procedures needed to be implemented by local jurisdictions. Staff will gather additional information as it is made

available by the Office of Cannabis Management, and other resources, to ensure county alignment with state laws.

Staff will be working with the Minnesota Association of Planning and Zoning Administrators (MACPZA), who is expected to provide a model ordinance, along with other zoning authorities when preparing a permanent ordinance amendment for the Board's consideration. The ordinance is expected to include performance standards for cannabis operations such as parking and septic standards, among others.

Additionally, the moratorium allows staff to be able to review and study any changes to the state law or incorporate additional guidance resulting from the upcoming state legislative session, prior to the January 1, 2025, implementation date.

### **Request**

Planning and Zoning staff recommends the Board adopts an interim ordinance establishing a temporary moratorium (as shown in Attachment 2) to allow staff an opportunity to review the recent legislation and craft language for a permanent ordinance related to cannabis that will ensure the public's health, safety, and welfare.

Staff recommends the moratorium be established and in place until January 1, 2025, as allowed in the state law, or such time as a permanent ordinance is approved by the Board.

### **Attachments**

1 – Resolution

2 – Interim Ordinance

**AN INTERIM ORDINANCE TO PROHIBIT THE OPERATION OF A CANNABIS  
BUSINESS WITHIN BLUE EARTH COUNTY.**

**WHEREAS**, Minnesota Statutes § 342.13 and § 394.34 gives Counties the authority to regulate land development by adopting interim ordinances creating moratoriums on certain types of uses to conduct studies concerning the impact of those uses on public health, safety, and welfare; and,

**WHEREAS**, the County is aware that on May 30, 2023, the Minnesota Governor signed into law a comprehensive bill which will legalize production, possession and consumption of cannabis products in the State of Minnesota; and,

**WHEREAS**, some portions of the new law take effect on August 1, 2023, while other parts of the new state law do not take effect until January 1, 2025 to give the State of Minnesota an opportunity to create the Office of Cannabis Management and a regulatory framework which will oversee the cannabis industry and license cannabis producers and retailers; and,

**WHEREAS**, local units of government including cities, counties and townships, will through their planning and zoning administration authority, have the ability to control certain aspects of the cannabis industry including the “time, place and manner of operation of cannabis businesses” as set forth in Minnesota Statute § 342.13; and,

**WHEREAS**, the County is aware that on May 22, 2023, the City of Mankato has approved an interim ordinance placing a moratorium on the opening of cannabis businesses for twelve (12) months from its effective date, pursuant to authority in the new state cannabis legislation in order to give the City time to study the best ways to oversee the time, place and manner of operation of cannabis businesses in the City; and,

**WHEREAS**, the County has not yet had an opportunity to engage the Planning Department, and other applicable county departments to discuss regulation of the time, place and manner of operation of cannabis businesses in unincorporated areas of the County to agree on a regulatory framework which will cover all areas of the County outside incorporated cities and to ensure there will be no gaps or duplication in this oversight; and,

**WHEREAS;** the County Board of Commissioners on the 20<sup>th</sup> day of June 2023, following proper notice, held a work session on the state cannabis law approved on May 30, 2023; and,

**WHEREAS,** the Planning Agency of the County prepared a report, PC 26-23, presenting the need for review of the County Official Controls for the “time, place, and manner of operation of cannabis businesses,” in order to protect the planning process and the health, safety, and welfare of its citizens, a copy of said report has been presented to the Planning Commission and County Board; and,

**WHEREAS;** the Planning Commission of the County on the 6<sup>th</sup> day of September 2023, following proper notice held a public meeting regarding the interim ordinance, and following discussion, voted unanimously to forward the interim ordinance to the County Board with a recommendation for approval; and,

**WHEREAS;** the County Board of Commissioners on the 26<sup>th</sup> day of September 2023, following proper notice, held a public hearing regarding the request, and following due consideration of presented testimony and information, voted unanimously to adopt the interim ordinance; and,

**WHEREAS,** the Blue Earth County Board of Commissioners finds:

1. An interim ordinance may prohibit the operation of a cannabis business within the jurisdiction for the purpose of protecting the planning process and the health, safety, and welfare of its citizens until January 1, 2025, as specified in 2023 Minnesota Session Law Chapter 63.
2. Minnesota Statute § 394.21 grants counties the authority to regulate land development by adopting and amending official controls.

**NOW THEREFORE BE IT ORDAINED,** by the Blue Earth County Board of Commissioners, that the interim ordinance to prohibit the operation of cannabis businesses, as shown in Attachment 1, is hereby adopted.

This interim ordinance shall become effective after its passage.

Passed this 26<sup>th</sup> day of September 26, 2023.

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Chair, Blue Earth County Board of Commissioners

ATTEST: \_\_\_\_\_  
County Administrator

STATE OF MINNESOTA, COUNTY OF BLUE EARTH

This instrument was acknowledged before me on \_\_\_\_\_,  
by Vance Stuehrenberg, Chair of the Board, and by Robert W Meyer, County Administrator.

\_\_\_\_\_  
(Signature of Notary Officer)

Title \_\_\_\_\_

My commission expires: \_\_\_\_\_  
(Month/day/year)

DRAFTED BY:  
Blue Earth County - Property and Environmental Resources  
P.O. Box 3566  
Mankato, MN 56002-3566

## **AN INTERIM ORDINANCE PROHIBITING THE OPERATION OF CANNABIS BUSINESSES**

### **Section 1. Purpose and Jurisdiction.**

- A.** By enacting 2023 Session Laws Chapter 63, the Minnesota Legislature enacted Minn. Stat. chapter 342, legalizing adult-use cannabis and permitting the operation of cannabis businesses and the sale of cannabis flower and cannabis products for human consumption. This law creates a new agency, the Office of Cannabis Management, to regulate the sales of cannabis products.
- B.** The new law establishes that the Office of Cannabis Management may not issue a license if a cannabis business does not meet local zoning and land use laws. However, the new law provides limited guidance on how local governments may zone new businesses and states that: “A local unit of government may adopt reasonable restrictions on the time, place, and manner of the operation of a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis businesses.”
- C.** Pursuant to Minn. Stat. § 342.13, the County is authorized to adopt an interim ordinance to regulate, restrict, or prohibit the operation of a cannabis business. Under Minn. Stat. § 342.13, such ordinance may remain in effect until January 1, 2025. The interim ordinance is subject to a study of “considering adoption or amendment of reasonable restrictions on the time, place, and manner of the operation of a cannabis business.”

### **Section 2. Definitions:** The following terms when used in this ordinance shall mean:

**Official controls.** “Official controls” means legislatively defined and enacted policies, standards, precise detailed maps, and other criteria, all of which control the physical development of a municipality or a county or any part thereof or any detail thereof, and are the means of translating into ordinances all or any part of the general objectives of the comprehensive plan. Such official controls may include but are not limited to ordinances establishing zoning, subdivision controls, site plan rules, sanitary codes, building codes, housing codes, and official maps.

**Cannabis Business.** “Cannabis Business” has the meaning given in Minn. Stat. § 342.01, subd. 14.

### **Section 3. Study Authorization and Intent.**

- A.** It is the intent of this ordinance to allow Blue Earth County time to complete a study concerning adoption of revisions of the County’s official controls related to the operation of cannabis businesses.
- B.** County staff is directed and authorized to conduct a study of official controls that may need to be adopted or amended to protect the public health, safety, and welfare as they relate to the operation of a cannabis businesses. The study shall include but is not limited to:

- (1) Reviewing model ordinances for reasonable restrictions on the time, place, and manner of the operation of a cannabis business.
- (2) Developing policies and procedures for the issuance of a retail registration pursuant to Minnesota Statutes Section 342.22.
- (3) Developing policies and procedures for the performance of compliance checks required under section 342.22.
- (4) Clarifying the process by which the County will report to the State whether or not a cannabis business complies with applicable local zoning ordinances and the state fire code and building code requirements and other information relevant to the State's decision whether to issue a license.
- (5) Determining how many cannabis business registrations will be permitted in unincorporated areas of the county with the minimum threshold in Minnesota Statutes Section 342.13 of at one least one cannabis business per every 12,500 residents.

**Section 4. Temporary Prohibition.**

- A. Pending the completion of the above referenced study and the adoption of appropriate official controls, the establishment and operation of a cannabis business is prohibited.
- B. This moratorium does not apply to the selling, testing, manufacturing, or distributing of THC Products related to the Medical Cannabis Program as administered by the Minnesota Department of Health, provided that such activity is done in accordance with the regulations and laws of Minnesota regarding Medical Cannabis.

**Section 6. Effective Date:** This ordinance shall take effect immediately upon its passage and shall remain in effect until January 1, 2025, or until the adoption of the official controls being studied, whichever occurs first.