

**CITY OF WELLS
COUNTY OF FARIBAULT
STATE OF MINNESOTA**

ORDINANCE NO. 2024-03

**AN ORDINANCE AMENDING INTERIM ORDINANCE NO. 2023-03 AUTHORIZING
A STUDY AND IMPOSING A MORATORIUM ON THE OPERATION OF CANNABIS
BUSINESSES WITHIN THE CITY OF WELLS**

THE CITY COUNCIL OF THE CITY OF WELLS HEREBY ORDAINS AS FOLLOWS:

Section 1. Legislative Findings and Authority.

- (A) The Minnesota Legislature enacted, and the Governor signed, 2023 Minnesota Session Laws, Chapter 63 – H.F. No. 100 (the “Act”), which is 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 Wells, Minnesota (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 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 November 24, 2023.

- (E) 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.
- (F) 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.
- (G) On August 14, 2023, after providing at least 10 days published notice, the City Council of the City (the “City Council”) held a public hearing regarding the consideration and adoption of Interim Ordinance No. 2023-03 (the “Original Interim Ordinance”) prohibiting the operation of Cannabis Businesses within the City until the date twelve (12) months from its effective date.
- (H) On May 24, 2024 the Governor signed HF 4757 amending the Act (“2024 Amendment”). The 2024 Amendment included two amendments to the Act. The first of those amendments creates a license preapproval for certain businesses that will authorize a business to begin certain processes without a Cannabis Business license under Minnesota Laws, chapter 121, section 148 (“License Preapproval”), including in some instances allowing a business to begin cultivation without a license under Minnesota Laws chapter 121, section 151 (“Early Cultivation”). The second of those amendments removes medical cannabis business, medical cannabis processor, and medical cannabis retailer (“Medical Cannabis Businesses”) from the definition of Cannabis Business in Minnesota Statutes 324.01, subdivision 14.
- (I) The Legislature’s decision to change the definition of Cannabis Business in the 2024 Amendment does not preclude the City from having a moratorium on businesses related to cannabis that will be subject to city zoning and operational regulations and which are Cannabis Businesses; Medical Cannabis Businesses; businesses with a License Preapproval, including Early Cultivators; or other businesses that must confirm compliance with city regulations.
- (J) To provide clear communication to businesses seeking to operate within the City and to create a clear record, the City Council desires to amend the Original Interim Ordinance to explicitly list and include License Preapproval, Early Cultivation, and Medical Cannabis Combination Business in the businesses that are subject to the interim ordinance.

- (K) These amendments to the Original Interim Ordinance are intended to supplement and clarify the Original Interim Ordinance to confirm that if a court of competent jurisdiction finds that License Preapproval, Early Cultivators, or Medical Cannabis Combination Businesses are not subject to the authority granted to units of local government in Minnesota Statutes, section 342.13 (e) that these amendments invoke the authority granted under Minnesota Statutes, section 462.355, subdivision 4(a) “to regulate, restrict, or prohibit any use ... within the jurisdiction or a portion thereof for a period not to exceed one year from the date it is effective” by enacting an interim ordinance.
- (L) On August 12, 2024, after providing at least 10 days published notice pursuant to Minnesota Statutes, section 342.13 (e), the City Council held a public hearing regarding the consideration and adoption of an amendment to the Original Interim Ordinance prohibiting the operation of Cannabis Businesses within the City until the January 1, 2025.

Section 2. Definitions. For purposes of this Ordinance, the following terms shall have the meaning given them in this section.

- (A) “2024 Amendment” refers to 2024 Minnesota Session Laws, Chapter 121 (H.F. 4757).
- (B) “Act” means 2023 Minnesota Session Laws, Chapter 63 (H.F. No. 100).
- (C) “Cannabis Business” has the meaning given the term in Minnesota Statutes, section 342.01, subdivision 14. Cannabis Business also includes Medical Cannabis Combination Businesses, Early Cultivators, and License Preapprovals.
- (D) “City” means the city of Wells, a Minnesota municipal corporation.
- (E) “Early Cultivator” means a business authorized to begin cultivating/growing cannabis prior to receiving a license as provided under 2024 Minnesota Session Laws, chapter 121, section 151.
- (F) “Edible Cannabinoid Product” has the meaning given the term in Minnesota Statutes, section 151.72, subdivision 1(f).
- (G) “License Preapproval” means a business authorized to begin certain business operations related to cannabis under 2024 Minnesota Session Laws, chapter 121, section 148.
- (H) “Medical Cannabis Combination Business” means medical cannabis business, medical cannabis processor, and medical cannabis retailers as defined in the Act and any business requiring a license or endorsement under Minnesota Statutes, Chapter 342.
- (I) “OCM” means the Office of Cannabis Management, established as set forth in Minnesota Statutes, section 342.02, subd. 1.

- (J) “Ordinance” means this interim ordinance, which is adopted pursuant to Minnesota Statutes, section 342.13(e).

Section 3. Study Authorized. 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 4. Moratorium. A moratorium is hereby imposed on the operation of any Cannabis Business within the City. 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. The moratorium also includes Early Cultivators, License Preapprovals, and Medical Cannabis Combination Businesses to the extent they are considered to be outside of the definition of Cannabis Business.

Section 5. Exceptions. 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 and the OCM 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 6. Enforcement. 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 7. Severability. 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 8. Effective Date and Term. This Ordinance shall become effective on the first day of publication after adoption. Unless earlier rescinded by the City Council, this Ordinance shall remain in effect until January 1, 2025, or until the City Council expressly repeals it .

David Braun, Mayor

ATTEST:

Tiffany Schrader, City Administrator