

CITY OF OAK GROVE

ORDINANCE NO. 2023-01.

AN ORDINANCE PROHIBITING THE SALE OF EDIBLE CANNABINOID PRODUCTS PURSUANT TO MINNESOTA STATUTES, SECTION 151.72

WHEREAS, Minnesota Statutes, section 151.72 expressly allows the retail sale of edible cannabinoid products, as that term is defined therein; and

WHEREAS, the City of Oak Grove (the “City”) adopted an interim ordinance establishing a one-year moratorium, effective until September 9, 2023, on the sale of edible cannabinoid products in the City and authorizing a study to determine how the City should regulate such products; and

WHEREAS, in May of 2023, 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 Minnesota Office of Cannabis Management (“OCM”), legalizing and limiting the sale, possession and use of cannabis and certain hemp products, providing for statewide licensing and regulation of cannabis and hemp businesses by OCM, 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, by way of an amendment to Minn. Stat. 151.72, providing certain temporary regulations relating to the unlicensed retail sale of edible cannabinoid products; and

WHEREAS, the Act provides that OCM, upon its formation and eventual operation, will regulate and license cannabis and hemp retail establishments that sell the various products regulated under the Act, including, but certainly not limited to, edible cannabinoid products that presently may be sold under Minn. Stat. 151.72 without OCM licensure; and

WHEREAS, the sale of edible cannabinoid products under Minn. Stat. 151.72 prior to the commencement of a comprehensive statewide regulatory scheme and licensing program administered by OCM could have drastic effects on the community due to the lack of regulatory oversight, including on those who use the products as well as those who are affected by the actions of such users; and

WHEREAS, Minn. Stat. 151.72 does not expressly prohibit or limit local regulations of edible cannabinoid products that are authorized for retail therein, and furthermore, the temporary regulations established in Minn. Stat. 151.72 clearly do not constitute the Legislature having occupied the field of regulation regarding the sale of edible cannabinoid products; and

WHEREAS, additionally, the city council is authorized, under Minnesota Statutes, section 412.221, subd. 32, “to provide for the government and good order of the city, the suppression of vice and immorality, the prevention of crime, 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”; and

WHEREAS, based on the recitals contained herein, which are hereby adopted as factual findings of the city council, it is determined to be in the best interests of the City and its residents that a prohibition on the sale of edible cannabinoid products under section 151.72 be implemented to ensure that such products are not sold in the City unless and until they are regulated via OCM licensure and otherwise operate in accordance with all applicable state and local regulations, as contemplated under the Act.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAK GROVE, ORDAINS AS FOLLOWS:

SECTION 1. Chapter 16 of the Oak Grove, Minnesota, City Code, entitled Offenses and Miscellaneous Provisions, is hereby amended to include a new Section 16-7 as follows:

§ 16-7 EDIBLE CANNABINOID PRODUCTS

- (a) The retail sale of edible cannabinoid products, to the extent authorized under Minnesota Statutes, section 151.72, is hereby prohibited in the City. Nothing contained in this section shall be interpreted or construed to prohibit the sale of any product pursuant to Minnesota Statutes, chapter 342, including, but certainly not limited to, lower-potency hemp edibles, provided that such sales are made in compliance with Minn. Stat. Ch. 342 and any other applicable state or local law.
- (b) Any violation of this section shall be considered a misdemeanor, and the City may also enforce this section by mandamus, injunction, or other appropriate civil remedy, in law or equity, in any court of competent jurisdiction. A violation of this section is also subject to the City's general penalties prescribed in the city code and may further result in the City reporting such violation to the Minnesota Office of Cannabis Management ("OCM"), if deemed relevant to OCM licensing.

SECTION 2. Upon the effective date of this ordinance, City Ordinance No. 22-07, shall be repealed in its entirety.

SECTION 3. This ordinance shall take effect following its adoption and publication in accordance with law.

Passed and adopted this 31st day of July, 2023, by the City Council of the City of Oak Grove.

By: 
Weston Rolf, Mayor

ATTEST:


Loren Wickham, City Administrator & Deputy City Clerk