

**COUNTY OF BENTON
STATE OF MINNESOTA**

ORDINANCE No.: 494

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

THE BENTON COUNTY COMMISSIONERS HEREBY ORDAIN AS FOLLOWS:

SECTION 1. PURPOSE, INTENT AND STATUTORY AUTHORITY

- A. This Ordinance is adopted by the Benton County Commissioners for the purpose of providing sufficient time to complete the study of the application, and impact of the 2023 Minnesota Session Laws Chapter 63 – H.F. No. 100 including enacted Minnesota Statute Chapter 342, (hereinafter “Cannabis Legislation), upon Benton County; and to recommend and enact official controls applicable to and in the best interests of the residents health, safety, and welfare as provided for by Minnesota Statutes Chapter 342, 342.13, 342.22, and Minnesota Statutes section 394.34.
- B. Cannabis Legislation establishes that the sale of cannabis products are subject to local planning and zoning restrictions, and must comply with local zoning ordinances. Cannabis Legislation provides local units of government, including counties, certain authority to regulate Cannabis Businesses, including: 1) authority to require local registration of Cannabis Businesses and retail establishments, 2) authority to adopt reasonable restriction on time, place and manner of operation of Cannabis Businesses, 3) authority to limit the number of Cannabis Businesses based on population, and 4) authority to prohibit the operation of Cannabis Businesses within specified distances of schools, day care or residential treatment facilities, or within public parks, athletic fields or playgrounds.
- C. Pursuant to Minnesota Statute §342.13(e), a local unit of government which is conducting studies or which has authorized a study be conducted or has scheduled or held a hearing to consider the adoption or amendment of reasonable restrictions on time, place and manner of the operation of Cannabis Businesses is authorized to adopt an interim ordinance protecting the planning process and the health, safety, and welfare of its citizens. Minn. Stat. §342.13(e) provides specifically that “the interim ordinance may regulate, restrict, or prohibit the operation of Cannabis Businesses within the jurisdiction or a portion thereof until January 1, 2025”.
- D. 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 the Act and determine whether regulations are appropriate for the purpose of protecting the public health, safety, and welfare of their citizens. The County agrees that a temporary moratorium is necessary to protect the health and safety of county residents.

- E. The Cannabis Legislation requires the Office of Cannabis Management (OCM) to work with local units of government to develop model ordinances relating to reasonable restriction on time, place and manner of operation of Cannabis Businesses. The Cannabis Legislation also requires the OCM to establish additional regulations relating to the operation of Cannabis Businesses. Given the uncertainty regarding the model ordinances, rules and regulations to be developed in a timely manner, given the broad scope of changes brought about by the Cannabis Legislation, and given the many obligations and responsibilities placed on the OCM by the Cannabis Legislation, and given legislation seeking early licensure of Cannabis Businesses, the County desires to adopt an emergency interim ordinance for the purpose of protecting the planning process and the health, safety, and welfare of its citizens.
- F. There are both cannabis business registration and zoning issues associated with the sale of Cannabis Products, and the purpose of the interim ordinance placing a moratorium on the sale of Cannabis Products is to allow the County time to study the issue and consider registration and rules, the adoption or amendment of its comprehensive plan, local planning and zoning restrictions, including reasonable restrictions on the time, place and manner of operation of Cannabis Businesses as well as other regulations local units of government may adopt under the Cannabis Legislation.
- G. After published notice, the Benton County Board of Commissioners held a public hearing to consider the adoption of this interim ordinance prohibiting the operation of Cannabis Businesses within the County until January 1, 2025, and recommended its adoption.

SECTION 2. DEFINITIONS

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The following words, terms, and phrases, when used in this ordinance, shall have the meanings given to them in this section.

- (a) “Cannabis Business” has the meaning given the term in Minnesota Statutes, section 342.01, subdivision 14.
- (b) “Cannabis Legislation” means 2023 Minnesota Session Laws, Chapter 63 (House File No. 100) and Minnesota Statutes Chapter 342.
- (c) “County” means Benton County.
- (d) “Edible Cannabinoid Product” has the meaning given the term in Minnesota Statutes, section 151.72, subdivision 1(f).
- (e) “Local unit of government” means a home rule charter or statutory city, county, town, or other political subdivision.
- (f) “OCM” means the Office of Cannabis Management, established as set forth in Minnesota Statutes, section 342.02, subdivision 1.

(g) “This Ordinance” means this interim ordinance, which was adopted pursuant to Minnesota Statutes, section 342.13(e) and Minnesota Statutes, section 394.34.

SECTION 3. STUDY AUTHORIZED

The County Board of Commissioners hereby authorizes and directs the Benton County Land Services Director and Benton County Public Health 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 the other potential local regulations allowed under the Cannabis Legislation, and report to the County Board of Commissioners on the potential regulation of Cannabis Businesses under the Cannabis Legislation. The study must include a review of model ordinances drafted by the OCM pursuant to Minnesota Statutes, section 342.13(d), an analysis of potential setback regulations allowed under Minnesota Statutes, section 342.13(c), an analysis of the existing official controls within the zoning ordinance and the comprehensive plan, and such other matters as staff may determine relevant for consideration by the County Board of Commissioners for the purpose of protecting the planning process and the health, safety, and welfare of its citizens. The report shall specifically include recommendations on whether the County Board of Commissioners should adopt regulations and the types of regulations recommended for adoption.

SECTION 4. MORATORIUM

A moratorium is hereby imposed regarding the registration and operation of Cannabis Businesses within the unincorporated areas and cities of Benton County which have consented to Benton County acting on their behalf and in the unincorporated areas where Benton County exercises zoning in the research and development of a comprehensive cannabis ordinance pursuant to Minn. Stat. 342.13 and official controls pursuant to Minn. Stat. Ch. 394 relating to Cannabis Businesses. During the term of this Ordinance, the County shall not accept, process, nor act on any application, registration, site plan, building permit, zoning request, nor any related proposal from any person, or entity. No Cannabis Business may be established or operate during this moratorium unless it was lawfully operating prior to this Interim Ordinance or falls within the exceptions listed in Section 6.

SECTION 5. EXCEPTIONS

The moratorium imposed by this Ordinance does not apply to the incorporated areas of Benton County which have not consented to the County acting on their behalf. Nor does the moratorium imposed by this Ordinance apply to the continued operation of a Cannabis Business which is 1) lawfully operating within the County as part of the Medical Cannabis Program administered by the Minnesota Dept. of Health or 2) selling Edible Cannabinoid Products in compliance with Minnesota Statute, section 151.72. Nothing in this Article exempts a business, person, or entity that is selling Edible Cannabinoid Products from having to comply with all requirements and prohibitions of applicable laws and ordinances.

SECTION 6. ENFORCEMENT

Violation of this Ordinance is a misdemeanor. The County 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 considered a violation of the Benton County Development Code and shall be subject to County enforcement pursuant to the provisions set forth in the Development Code.

SECTION 7. DURATION

This Ordinance shall become effective on the first day of publication after adoption and shall remain in effect until January 1, 2025. This Ordinance may be repealed earlier upon the effective date of an ordinance adopting or amending reasonable restrictions on the time, place and manner of the operation of a Cannabis Businesses within the County or by resolution of the County Board of Commissioners terminating this Ordinance prior to the expiration date.

SECTION 8. SEVERABILITY

If any section or provision of this Ordinance is held invalid, such invalidity will not affect other sections or provisions that can be given force and effect without the invalidated section or provision.

SECTION 9. EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its adoption and publication as required by law.

ADOPTED by the Benton County Board of Commissioners this 16th day of July, 2024.

Jared Gapinski, Benton County Board Chair

Attest: _____
Monty Headley,
Benton County Administrator