

ORDINANCE NO. 2022-04

**AN EMERGENCY INTERIM ORDINANCE PROHIBITING THE
ESTABLISHMENT OF NEW USES OR THE EXPANSION OF EXISTING
USES RELATED TO SALES, TESTING, MANUFACTURING, AND
DISTRIBUTION OF THC PRODUCTS**

THE CITY OF HEIDELBERG DOES ORDAIN:

PREAMBLE: The following 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 recently legalized sale of edible cannabinoid products containing Tetrahydrocannabinol (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 the City has sufficient time to study potential regulations that will protect the health and safety of the residents of Heidelberg. There is insufficient time to complete the ordinary procedure for introduction and adoption of a city ordinance as required by City Charter and Code.

Section 1. Authority and Findings.

- A. The Minnesota Legislature recently amended Minnesota Statutes, section 151.72 relating to the sale of certain cannabinoid products. The new law permits the sale of edible cannabinoid products, provided that a product sold for human or animal consumption does not contain more than 0.3% of tetrahydrocannabinol and an edible cannabinoid product does not contain an amount of any tetrahydrocannabinol that exceeds more than five milligrams of any tetrahydrocannabinol in a single serving, or more than a total of 50 milligrams of any tetrahydrocannabinol per package (“THC Products”). Sales of THC Products became legal on July 1, 2022.
- B. The new law allows sales and establishes some labeling and testing requirements, but it does not establish any licensing criteria or parameters for compliance by retailers. The new law does not prohibit local regulation.
- C. Minnesota Statutes, section 462.355, subd. 4 provides that if a municipality is conducting studies or has authorized a study to be conducted for the purpose of considering adoption or amendment to an official control, the City Council may adopt an interim ordinance for the purpose of protecting the planning process and the health, safety, and welfare of its citizens. An interim ordinance may regulate, restrict, or prohibit any use within the city for a period not to exceed one year from the effective date of the interim ordinance. Many cities 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 citizens; and
- D. The City Council believes that authorizing a study regarding the types of uses that involve the sales, testing, manufacturing, and distribution of THC Products is necessary to evaluate

the regulatory options available to the City and is for the purpose of protecting the health and safety of Heidelberg's residents.

Section 2. Study. The City Council hereby authorizes and directs City staff to conduct a study of the issues relating to the sales, testing, manufacturing, and distribution of THC Products. Staff will then make a recommendation to the City Council about whether the City should amend its zoning, business-licensing, or other general Code provisions related to these types of uses to better protect the residents of Heidelberg.

Section 3. Moratorium. In accordance with the findings set forth herein, a moratorium is established as follows:

- A. No business, person or entity may establish a new use or expand an existing use that includes or involves the sale, testing, manufacturing, or distribution of THC Products, for a period of up to twelve (12) months from the effective date of this Ordinance or until the Council repeals this Ordinance, whichever occurs first.
- B. During the term of this Ordinance, the City staff will not issue any license or permit, nor will it accept or process any applications for uses related to the sale, testing, manufacturing, or distribution of THC Products.
- C. The moratorium established by this Ordinance does not apply to the sale, testing, manufacturing, or distribution of products that were lawful prior to enactment of the new law relating to THC Products.

Section 4. Enforcement. In addition to any criminal penalties allowed by law, the City 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 subject to the City's general penalty in chapter 10 of the Heidelberg City Code.

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. Effective Date; Duration. Pursuant to chapter 2, subd. 4, (C) of the City Code, this emergency ordinance shall become effective immediately upon its approval by a majority of all members of the Council; however no prosecution based on the provisions of this Ordinance shall occur until twenty-four hours after the Ordinance has been filed with the city clerk and posted in two conspicuous places or until the ordinance has been published, unless the person charged with violation had actual notice of the passage of the Ordinance prior to the act or omission complained of. It shall be effective until the earlier of the following events: (a) one year from the effective date of this Ordinance or (b) the date upon which the City Council adopts an ordinance repealing this Ordinance.

Section 7. Summary. That the following summary clearly informs the public of the intent and effect of the Ordinance and is approved for publication: “The purpose of this Ordinance is to authorize a study related to the sales, testing, manufacturing, and distribution of recently legalized consumable cannabinoid products. Staff will then make a recommendation to the City Council about whether the City should amend its zoning, business-licensing, or other general Code provisions related to these types of products and associated uses to better protect the residents of Heidelberg. During the term of this Ordinance, no business, person, or entity may establish a new use or expand an existing use that includes or involves the sale, testing, manufacturing, or distribution of consumable cannabinoid products that were legalized on July 1, 2022, by the Minnesota Legislature’s amendment of Minnesota Statutes, section 151.72.”

The required 10 days posted notice was posted on the City Website and the Heidelberg City Message Board on September 15th, 2022 and completed on September 24th, 2022.

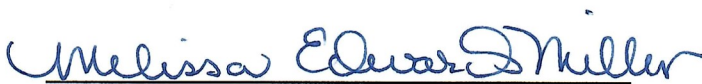
Passed by the City Council this 7th day of November 2022 and to be published on the 17th day of November 2022.

APPROVED:



Mayor, Lori Weldon

ATTESTED:



City Clerk, Melissa Edwards Miller

