

**City of Gem Lake, Ramsey County, Minnesota
Cannabis & CBD Sales & Distribution
Ordinance No. 139**

AN INTERIM ORDINANCE REPEALING AND REPLACING THE CURRENT ORDINANCE NO. 139 WITH AN UPDATED VERSION PROHIBITING THE SALE, TESTING, MANUFACTURING, CULTIVATING, GROWING, TRANSPORTING, DELIVERY, AND DISTRIBUTION OF CANNABIS PRODUCTS IN THE CITY OF GEM LAKE

The Gem Lake City Council ordains as follows:

Section 1. Background.

1. In 2022, the Minnesota Legislature amended M.S. § 151.72 to permit the sale of edible and nonedible cannabinoid products that contain no more than 0.3% of Tetrahydrocannabinol, commonly known as THC.
2. The 2023 Legislature approved 2023 Session Law Ch. 63 expanding both the legalization of types of THC and cannabis products and also the types of THC and cannabis businesses permitted.
3. The final bill establishes a regulatory framework for adult-use cannabis, as well as the lower potency hemp edibles; moves the medical cannabis program under a newly created state agency called the Office of Cannabis Management; establishes taxes on regulated products; creates grants to assist individuals entering into the legal cannabis market; amend criminal penalties; provide for expungement and resentencing of certain convictions; provide for temporary regulation of hemp-derived edible cannabinoid products; reschedule marijuana and appropriates money.
4. The state licensing agency became effective on July 1, 2023 and will, among others tasks, establish a model ordinance for cities, which the City of Gem Lake would benefit from reviewing and analyzing before making any decisions related to cannabis businesses and products in the city.
5. The law specifies what distance restrictions cities can put in place under their zoning power. The City would benefit from having time to study and analyze acceptable time, place and manner restrictions on the operation of a cannabis business that would be feasible for the City of Gem Lake.
6. Pursuant to Session Law 63, §13(e), the City is authorized 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 a cannabis business within the City or a portion thereof until January 1, 2025. Before adopting the interim ordinance, the governing body must hold a public hearing.
7. Additionally, pursuant to Minn. Stat. §462.355, subd. 4, the City is authorized to enact by ordinance a moratorium to regulate, restrict, or prohibit land uses within its jurisdiction to protect the public health, safety, and welfare and is authorized pursuant to its general police powers, set forth in Minn. Stat. § 421.221, subd. 32, the City may enact and enforce regulations or restrictions on Cannabis Products within the City to protect the public safety, health, and welfare, including restrictions and a moratorium on the sales, testing, manufacturing, cultivating, growing, transporting, delivery and distribution, during the pendency of a study to determine the need for police power regulations, including but not necessarily limited to any additional licensing and permitting that may be allowed, if any, by the State.

Section 2. Findings.

1. The City Council finds there is a need to study (i) cannabis products, including products: using any part of the genus Cannabis plant; containing cannabis concentrate; infused with cannabinoids (including but not limited to tetrahydrocannabinol); extracted or derived from cannabis plants or cannabis flower; synthetically derived cannabinoids; and any lower potency hemp edibles that contain more than 0.3% of Tetrahydrocannabinol, (ii) cannabis businesses related thereto, and (iii) the impact of those businesses and products as related to allowed land uses and zoning, in order to assess the necessity for and efficacy of regulation and restrictions relating to the retail sales, wholesale sales, testing, growing, cultivating, manufacturing, transporting, delivery of or distribution of any of the products referenced herein, including through zoning ordinances or licensing, if allowed, in order to protect the public health, safety, and welfares of its residents.
2. The study will allow the City Council to determine the appropriate changes, if any, that it should make to the Gem Lake City Code, including any necessary zoning changes.
3. The time will allow for any state agency licensing cannabis businesses to rule make and adopt its model ordinances which will further aid the Council in studying and considering restrictions on the operation of a cannabis businesses and the use of the products listed in paragraph 1 above.

4. The City Council, therefore, finds that there is a need to adopt a city-wide moratorium on the retail sale, wholesale sale, testing, growing, cultivating, manufacturing, transporting, delivery of, and distribution of Cannabis Products, including products: using any part of the genus Cannabis plant; containing cannabis concentrate; infused with cannabinoids (including but not limited to tetrahydrocannabinol); extracted or derived from cannabis plants or cannabis flower; synthetically derived cannabinoids, or lower potency hemp edibles that contain more than 0.3% of Tetrahydrocannabinol, within the City while City staff studies the issue.

Section 3. Moratorium.

1. No individual, establishment, organization, or business may engage in the retail sale, wholesale sale, testing, growing, cultivating, manufacturing, transporting, delivery of or distribution of Cannabis Products, including products using any part of the plant of the genus Cannabis plant; containing cannabis concentrate; infused with cannabinoids (including but not limited to tetrahydrocannabinol); extracted or derived from cannabis plants or cannabis flower; synthetically derived cannabinoids, or lower potency hemp edibles that contain more than 0.3% of Tetrahydrocannabinol, before January 1, 2025.
2. Planning or zoning applications related to any of the products listed in Section 3.1 herein or applications from individuals, establishments, organizations, or businesses involved in the proposed sale, testing, growing, cultivating, manufacturing, transporting, delivery of or distribution of Cannabis Products within the City of Gem Lake shall not be accepted or considered before January 1, 2025.
3. This moratorium does not apply to the selling, testing, manufacturing, or distributing of Cannabis 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.
4. This moratorium does not apply to the continued sale of THC Products allowed under the 2022 Legislation and Gem Lake City Code Ordinance No. 139, which includes edible and nonedible cannabinoid products that contain no more than 0.3% of Tetrahydrocannabinol, by retailers in existence before July 1, 2023.

Section 4. Study. The City Council directs City staff to study the need for local regulation regarding the retail sale, wholesale sale, testing, growing, cultivating, manufacturing, transporting, delivery or distribution of Cannabis Products listed in Section 3.1 herein within the City of Gem Lake. Staff must also study the need for creating or amending zoning ordinances, licensing ordinances, as allowed by the state, or any other ordinances, as allowed and not preempted by the state, to protect the citizens of Gem Lake from any potential negative impacts. Upon completion of the study, the City Council, together with such commission as the City Council deems appropriate or, as may be required by law, will consider the advisability of adopting new ordinances or amending its current ordinances.

Section 5. Enforcement. The City may enforce this Ordinance by mandamus, injunctive relief, or other appropriate civil remedy in any court of competent jurisdiction. The City Council hereby authorizes the Administrator, Clerk/Treasurer, in consultation with the City Attorney, to initiate any legal action deemed necessary to secure compliance with this Ordinance. A violation of this Ordinance is also subject to the City's general penalty.

Section 6. Term. Unless earlier rescinded by the City Council, the moratorium established under this Ordinance shall remain in effect until January 1, 2025. The City Council hereby elects that all legally compliant portions of this Ordinance be extended for the maximum duration permitted by law, unless rescinded earlier by separate action of the City Council.

Section 7. Effective Date. This ordinance shall have full force and effect upon its passage and publication.

Dated: July 18, 2023

APPROVED:

Gretchen Artig-Swomley

Gretchen Artig-Swomley, Mayor

ATTEST:

Melissa Lawrence

Melissa Lawrence, Acting City Clerk