

## ORDINANCE NO. 56

### AN INTERIM ORDINANCE AUTHORIZING A STUDY AND IMPOSING A MORATORIUM ON THE OPERATION OF CANNABIS BUSINESSES WITHIN THE CITY OF NEVIS, MINNESOTA

#### (Amendment of Article 2: Definitions, and Article 4: Moratorium )

**WHEREAS**, on July 10, 2023, the city of Nevis (the “City”) adopted Ordinance No. 56 (the “Interim Ordinance”), an interim ordinance authorizing a study and imposing a moratorium on the operation of cannabis businesses within the city of Nevis; and

**WHEREAS**, on May 24, 2024, the Governor signed HF 4757 (the “2024 Amendment”), which amended the Act, as defined in the Interim Ordinance. The 2024 Amendment includes two amendments to the Act, one of which creates license preapproval process for certain businesses and authorizes such businesses to begin certain activities without a cannabis business license issued under the Act (“License Preapproval”), including in some instances allowing such businesses to begin cultivation without a license under the Act (“Early Cultivation”), and another which removes medical cannabis business, medical cannabis processor, and medical cannabis retailer (collectively, “Medical Cannabis Businesses”) from the definition of “cannabis business” in the Act; and

**WHEREAS**, the 2024 Amendment does not preclude the City from adopting 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 those seeking to perform Early Cultivation; or other businesses that must confirm compliance with city land use regulations; and

**WHEREAS**, in an effort to provide clear direction to cannabis-related businesses seeking to operate within the city, the City Council desires to amend the Interim Ordinance to explicitly list and include License Preapproval, Early Cultivation, and Medical Cannabis Businesses in the business types that are subject to the Interim Ordinance; and

**WHEREAS**, the amendments to the Interim Ordinance memorialized herein and adopted following a duly noticed public hearing are merely intended to supplement and clarify the Interim Ordinance to confirm that if a court of competent jurisdiction finds that License Preapproval, Early Cultivation, or Medical Cannabis Businesses are not subject to the authority granted to units of local government in Minnesota Statutes, section 342.13(e), that such 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.

**NOW, THEREFORE**, the city council of the city of Nevis ordains as follows:

#### **Article 1.**     Authority and Legislative Findings.

- A. The Minnesota Legislature recently enacted, and Governor signed, 2023 Minnesota Session Laws, chapter 63 – H.F. No. 100 (“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 businesses 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 certain of edible cannabinoid products.
- B. The Act provides local units of government certain authority related to cannabis businesses, including the authority to (1) require local registration of certain cannabis businesses operating retail establishments, (2) 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 cannabis businesses, (3) limit the number of certain cannabis businesses based on the population of the community, and (4) 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. 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€) 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 January 1, 2025.
- 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 July 10, 2023, after providing at least 10 days published notice, the City Council held a public hearing regarding the consideration and adoption of an interim ordinance prohibiting the operation of cannabis businesses within the City until January 1, 2025.

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

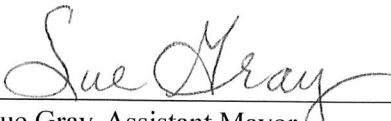
- (a) "2024 Amendment" refers to 2024 Minnesota Session Laws, Chapter 121 (H,F, 4757)
- (b) "Act" means 2023 Minnesota Session Laws, Chapter 63 (H.F. No. 100).
- (c) "Cannabis Business" has the meaning given the term in Minnesota Statutes, section 342.01, subdivision 14. Cannabis Business also includes Medical Cannabis Businesses, Early Cultivators, and License Preapprovals.
- (d) "City" means the City of Nevis, a Minnesota Municipal Corporation.
- (e) "Early Cultivator" means a business authorized to begin cultivating/growing cannabis prior to receive a license as provided under the 2024 Amendment.
- (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 prior to licensure under the 2024 Amendment.
- (h) "Medical Cannabis Business" means a medical cannabis business, as defined in the Act, or any business requiring a license or endorsement to be a medical cannabis processor or medical cannabis retailer 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.



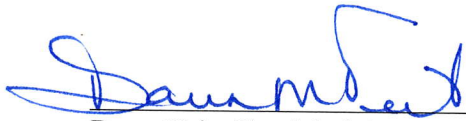
- (j) “Ordinance” means this interim ordinance, which is adopted pursuant to Minnesota Statutes, section 342.13 (e), and Minnesota Statutes, section 462.355, subdivision 4(a).

- Article 3.** Study Authorized. The City Council hereby authorizes and directs the City Administrator to have City staff conduct a study regarding the adoption or amendment of reasonable restrictions on the time, place, and manner for the operation of Cannabis Businesses, as well as the other potential local regulations allowed under the Act, and report to the City Council on the potential regulation of Cannabis Businesses. The study must include a review of the model ordinances the 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 shall include the City staff’s recommendations on whether the City council should adopt regulations and, if so, the recommended types of regulations.
- Article 4.** Moratorium. A moratorium is hereby imposed regarding the operation of a 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 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. For the avoidance of doubt, the moratorium also includes Early Cultivators, License Preapprovals, and Medical Cannabis Businesses.
- Article 5.** Violation. 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.
- Article 6.** Exceptions. The moratorium imposed by this Ordinance does not apply to: (1) the continued operation of a business as part of the Medical Cannabis Program administered by the Minnesota Department of Health that was lawfully operating within the City prior to July 1, 2023; (2) the lawful sale of edible Cannabinoid Products in compliance with Minnesota Statutes, section 151.72; or (3) sales of Edible Cannabinoid Products at an exclusive liquor store in accordance with Minnesota Statutes, section 340A.412, subdivision 14. 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.
- Article 7.** 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 may result in the city reporting the violation of the OCM if relevant to OCM licensing. The City Council hereby authorizes the City Administrator, in consultation with the City Attorney, to initiate any legal action deemed necessary to secure compliance with this Ordinance.
- Article 8.** Duration. This Ordinance shall become effective on the first day of publication after adoption. The Interim Ordinance shall continue to remain in effect until January 1, 2025 or until the city council expressly repeals it, whichever comes first.
- Article 9.** Severability. Every section, provision, and part of this Ordinance is declared severable from every other section, provision, and part thereof. If any section, provision, or part of this Ordinance is held to be invalid by a court of competent jurisdiction, such judgement shall not invalidate any other section, provision, or part of this Ordinance.

Amended this 12<sup>th</sup> day of August, 2024.

  
Sue Gray, Assistant Mayor

ATTEST:

  
Dawn Veit, City Administrator

Date of Publication 7/31, 2024

City Seal