

ORDINANCE NO. 527

**AN INTERIM ORDINANCE AMENDING CITY CODE CHAPTER 170 –
TOBACCO: SALE OF COMMERCIAL TOBACCO AND RELATED DEVICES AND
PRODUCTS – CANNABIS IN PUBLIC**

THE CITY COUNCIL OF THE CITY OF BRECKENRIDGE DOES ORDAIN:

Adding the following section to Chapter 170:

**§170-14. Prohibiting the Sale, Testing, Manufacturing, Delivery, and
Distribution of Cannabis Products in the City of Breckenridge.**

A. Background.

1. By enacting 2022 Session Law Chapter 98, Article 13, the Minnesota Legislature amended Minn. Stat. § 151.72 and permitted the sale of edible and nonedible cannabinoid products that contain no more than 0.3% of Tetrahydrocannabinol, commonly known as THC (“THC Products”).
2. The 2023 Legislature has expanded both the legalization of types of THC and cannabis products and the types of THC and cannabis businesses permitted. The House passed HF100, and the Senate passed a similar companion bill, SF73. A conference committee worked out the minor differences and the Governor signed the resulting bill.
3. This final bill established a regulatory framework for adult-use cannabis, as well as the lower potency hemp edibles; move the medical cannabis program under a newly created state agency called the Office of Cannabis Management; establish taxes on regulated products; create 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 July 1, 2023, and may establish a model ordinance for cities, which the City of Breckenridge would benefit from reviewing and analyzing before making any decisions related to cannabis businesses and products in the City.
5. The final bill 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 that would be feasible for the City of Breckenridge.
6. Pursuant to Minn. Stat. § 462.355, subd. 4, and section 342.13 Chapter 63-H.F.No. 100. 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. Specifically, the City is authorized to enact a moratorium ordinance to allow it to undertake a study to determine whether to adopt any regulations or restrictions, including siting and location of uses, related to the sales, testing, manufacturing, cultivating, growing, transporting, delivery and distribution of Cannabis Products.

7. Pursuant to its general police powers, both under its Charter and set forth in Minn. Stat. § 421.221, subd. 32, and under section 342.13 Chapter 63-H.F.No. 100. 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.
8. Pursuant to the language of the passed bill signed into law by Governor Walz, cities, as soon as the bill becomes effective, have authority to adopt an interim ordinance to prohibit a cannabis business from opening until January 1, 2025, to conduct studies or consider adopting or amending allowed restrictions on the operation of a cannabis business. Because the effective date of the bill is July 1, 2023, the City can take advantage of this authorization by having the effective date of the interim ordinance after July 1, 2023. Accordingly, the City Council can extend the interim ordinance moratorium to January 1, 2025.

B. 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, manufacturing, 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 City Code of the City of Breckenridge,

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, manufacturing, 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.

C. Moratorium.

1. No individual, establishment, organization, or business may engage in the retail sale, wholesale sale, testing, manufacturing, 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); or 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, for either twelve (12) months from the effective date of this ordinance, or until January 1, 2025 unless sooner rescinded.
2. Planning or zoning applications related to any of the products listed in Subsection A of Section 3 herein or applications from individuals, establishments, organizations, or businesses involved in the proposed sale, testing, manufacturing, delivery of or distribution of Cannabis Products within the City of Breckenridge shall not be accepted or considered until 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 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, which included edible and nonedible cannabinoid products that contain no more than 0.3% of Tetrahydrocannabinol, by retailers in existence before July 1, 2023, who have registered as a Hemp-Derived Cannabinoid Products Business with the Minnesota Department of Health before October 1, 2023.

- D. Study. The City Council directs City Staff to study the need for local regulation regarding the retail sale, wholesale sale, testing, manufacturing, delivery or distribution of Cannabis Products listed in Section C (1) herein within the City. 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 by the state or any other ordinances, as allowed and not preempted by the State, to protect the citizens of Breckenridge 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 required by law, will consider the advisability of adopting new ordinances or amending its current ordinances.

- E. 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 City Manager, 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 in City Code §1-1 and City Charter.

- F. Term. Unless rescinded earlier by the City Council, the moratorium established under this ordinance shall remain in effect until January 1, 2025, as provided in section 342.13 Chapter 63-H.F.No. 100.

- G. Effective date. This ordinance shall take effect the day after its adoption and publication.

RUSSELL WILSON, Mayor

ATTEST:

LORI A. CONWAY, City Administrator

First Reading:	<u>October 16, 2023</u>
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