

**CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA**

ORDINANCE NO. 255

**AN INTERIM ORDINANCE PROHIBITING THE MANUFACTURE, TESTING,
DISTRIBUTION, AND SALE OF CANNABINOIDS**

The City Council of the City of Elko New Market does ordain:

SECTION 1. FINDINGS AND PURPOSE.

A. 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 for human consumption. This law permits the sale of such products so long as they contain no more than 0.3%, or 5mg per serving if edible, of tetrahydrocannabinol commonly known as THC. There is no limit for the serving size of other cannabinoids in this law aside from a prohibition on those cannabinoid products which are sold with the intent to intoxicate. Minn. Stat. §151.72, Subd. 3, paragraph (b).

B. The new law does enact some requirements for labeling and testing, but provides no parameters regulating production, compliance checks, or licensing of Cannabinoid Products retailers. The new law does not prohibit local regulation.

C. Pursuant to Minn. Stat. § 462.355, subd. 4, the City is authorized to enact a moratorium to temporarily prohibit a use within the jurisdiction to protect the health, safety, and welfare of the City and undertake a study of the issue for future regulation.

D. Pursuant to its general police powers, including but not limited to, Minn. Stat. § 421.221, subd. 32, the City may enact regulations regarding to promote the health, safety, order, convenience, and the general welfare of the City. This power permits the City to implement a moratorium to study the sales, testing, manufacturing, and distribution of cannabinoid products to determine if regulations are necessary for the sake of good order of the City.

E. The City Council finds that it is necessary to there is a need to study cannabinoid products and uses and businesses related thereto, in order to assess the necessity for and efficacy of regulation and restrictions relating to the sales, testing, manufacturing, and distribution of cannabinoid products, including through licensing or zoning ordinances, in order to protect the public health, safety, and welfare of its residents.

SECTION 2. DEFINITIONS: The following terms when used in this ordinance shall mean:

Official controls. “Official controls” or “controls” means ordinances and regulations which control the physical development of the city or any part thereof or any detail thereof and implement the general objectives of the comprehensive plan. Official controls include

ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes and official maps.

Cannabinoid Product. “Cannabinoid Product” means any edible or nonedible product which contains one or more chemical compound derived from the cannabis plant or derived from hemp and is authorized for sale in Minnesota Statute and is for human consumption. Cannabinoid products may include, but are not limited to, vape pens, flower buds, tinctures, lotions, seltzers, and food products.

SECTION 3. INTENT AND AUTHORIZATION:

A. It is the intent of this ordinance to allow the City of Elko New Market time to complete an in-depth study concerning adoption of revisions of the City’s official controls for the manufacturing, testing, distributing, and selling of Cannabinoid Products.

B. City staff is directed and authorized to conduct a study of the City’s official controls that may need to be adopted or amended to protect the public health, safety, and welfare as they relate to the manufacturing, testing, distributing, and selling of Cannabinoid Products.

SECTION 4. TEMPORARY PROHIBITION:

A. Pending the completion of the above referenced study and the adoption of appropriate official controls, the following is prohibited within the City:

The manufacturing, distributing, and selling of Cannabinoid Products.

B. This moratorium does not apply to Cannabinoid Products wherein the only cannabinoids present are non-intoxicating cannabinoids, including but not limited to Cannabidiol (“CBD”) or Cannabinol (“CBN”).

C. This moratorium does not apply to the selling, testing, manufacturing, or distributing of THC 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.

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 City Administrator, 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 § 1-4-1.

SECTION 6. EFFECTIVE DATE: This ordinance shall take effect immediately upon its passage and shall remain in effect for Ninety (90) days from the effective date of this ordinance or until the adoption of the official controls being studied, whichever occurs first.

ADOPTED this 27th day of October, 2022 by the City Council for the City of Elko New Market.

CITY OF ELKO NEW MARKET

BY: _____
Joe Julius, Mayor

ATTEST:

Thomas Terry, City Administrator/Clerk