

**ORDINANCE NO. 482**

**AN INTERIM ORDINANCE PROHIBITING THE SALE, MANUFACTURING, AND DISTRIBUTION OF CANNABIS WITHIN THE CITY OF FOLEY**

**WHEREAS**, the Foley City Council administers zoning within the City of Foley (the “City”); and

**WHEREAS**, the Council may regulate land use as part of the City’s zoning authority; and

**WHEREAS**, the State of Minnesota recently adopted Minn. Stat. § 342, which allows for the sale, manufacturing, and distribution of cannabis within the State of Minnesota, provided a license is obtained under Minn. Stat. § 342; and

**WHEREAS**, the adoption of Minn. Stat. § 342 created the Office of Cannabis Management, which is tasked with providing particular guidance to municipalities; and

**WHEREAS**, Minn. Stat. § 342.13, allows for a local unit of government to adopt reasonable restrictions on the time, place, and manner of the operation of a cannabis business, which includes the ability to adopt an interim ordinance prohibiting the sale, manufacturing, or distribution of adult use cannabis to study the issue further; and

**WHEREAS**, the City needs to evaluate the provisions of Minn. Stat. § 342 and determine how to best proceed with any time, place, and manner restrictions, as well as receive guidance from the Office of Cannabis Management; and

**WHEREAS**, the City is concerned about how the sale of cannabis products will affect its planning process and its citizens' health, safety, and welfare and needs time to properly study the issue.

**NOW, THEREFORE**, the Foley City Council adopts the following findings:

1. The recitals above are incorporated into the findings;
2. The City desires to foster business growth and development within the City;
3. The City acknowledges that recent amendments to Minn. Stat. § 342 allow for adult use cannabis to be sold, manufactured, or distributed, following the provisions of the statute;
4. The City desires to impose a moratorium on the sale, manufacturing, and distribution of adult use cannabis businesses located within the City to ensure that no adverse, aesthetic, environmental, social, health, or safety impact occur within the City;
5. The City Council needs an opportunity to conduct a study regarding the sale of adult use cannabis by businesses, consider appropriate performance standards, consider appropriate ordinance revisions, to codify appropriate ordinance revisions, and schedule a public hearing before amending the zoning ordinance if necessary;

6. During the time of the study, it is necessary to protect existing planning and licensing procedures, protect existing land uses and preserve and protect the health, safety, and welfare of residents within the City;
7. An interim ordinance, pursuant to Minn. Stat. § 342.13, is necessary to allow the City time to update its ordinances and regulations, ensure compliance with state law, as well as restrict businesses and individuals from selling, manufacturing, or distributing adult use cannabis to protect the rights and protect safety of citizens and existing businesses during this time;
8. An interim ordinance temporarily prohibiting the sale, manufacturing, and distribution of adult use cannabis is necessary to protect the City's planning process, development of a licensing procedure within the City, and the health, safety, and welfare of the citizens of the City; and
9. The City intends to lift or scale back the moratorium as quickly as new licensing regulations are adopted.

**NOW, THEREFORE**, pursuant to Minn. Stat. § 342.13, the Foley City Council hereby ordains:

## **Section 1. Interim Ordinance.**

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

- a. Minn. Stat. § 342 (the “**Cannabis Law**”) is comprehensive legislation relating to cannabis including, but not limited to, the establishment of the Office of Cannabis Management (the “**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 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 Edible Cannabinoid products.
- b. The Cannabis Law provides local units of government certain authority related to Cannabis Businesses, including the authority to (i) require local registration of certain Cannabis Businesses operating retail establishments, (ii) 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 a Cannabis Business, except within 1,000 feet of a school, or 500 feet of a daycare, residential treatment facility, or an attraction within a public park that is regularly used by minors, including a playground or athletic field.
- c. The Cannabis Law requires the OCM, which was established effective July 1, 2023, to work with local government to develop model ordinances for reasonable restrictions on the time, place, and manner of the operation of Cannabis Businesses. The Cannabis Law also requires the OCM to establish additional rules and regulations relating to the operation of Cannabis Businesses. It is anticipated that the City of Foley (the “City”) will benefit from reviewing and analyzing the OCM’s model ordinances, rules, and

regulations before making and decisions related to the regulation of Cannabis Businesses in the City.

d. Minn. Stat. § 342.13(e) 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 adopting 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 Cannabis Law, 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 time, place, and manner of the operation of Cannabis Businesses as well as the other regulations local units of government may adopt under the Cannabis Law.

g. On \_\_\_\_\_, after providing at least ten (10) days published notice, the City Council held a public hearing regarding the consideration and adoption of an interim ordinance prohibiting the sale, manufacturing, or distribution of cannabis by a Cannabis Business within the City until January 1, 2025.

**2. Definitions.** For the purpose of this Ordinance, the following terms mean:

a. *Cannabis Business.* Cannabis business shall have the same meaning as Minn. Stat. § 342.01, Subd. 14.

b. *Cannabis Law.* Cannabis law shall mean Minn. Stat. § 342.

c. *Cannabis Product.* Cannabis product shall have the same meaning as Minn. Stat. § 342.01, Subd. 20.

d. *City.* The City shall mean the City of Foley.

e. *Edible Cannabinoid Product.* Edible cannabinoid product shall have the same meaning as Minn. Stat. § 151.72 Subd. 1(f).

f. *OCM.* OCM means the Office of Cannabis Management, established as set forth in Minn. Stat. § 342.02.

g. *Ordinance.* Ordinance means this interim ordinance, which is adopted pursuant to Minn. Stat. § 342.13(e).

**3. Study Authorized.** The City Council hereby authorizes and directs City staff to conduct a study regarding the adoption or amendment of reasonable restrictions on the time, place, and manner of the operation of Cannabis Businesses, as well as other potential local regulations allowed under the Cannabis Law, and report to the City Council on the potential regulation of

Cannabis Businesses. The study may include a review of any model ordinances that the OCM is directed to draft under Minn. Stat. § 342.13(d), an analysis of potential setback regulation allowed under Minn. Stat. § 342.13(c), and such other matters as staff may determine are relevant to the City Council's consideration of this matter. The report may also include City staff's recommendations on whether the City Council should adopt regulations and, if so, the recommended types of regulations.

**4. Temporary Restriction.** A moratorium prohibiting the operation of any Cannabis Business within the City is hereby established. 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 Ordinance 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.

**5. Exemptions.** This restriction on the sale of cannabis product does not apply to (i) the continued operation of a duly established business as part of the Medical Cannabis Program administered by the Minnesota Department of Health that was lawfully operating within the City prior to the effective date of this Ordinance; or (ii) the sale of Edible Cannabinoid Products, provided, however, that nothing in this Ordinance exempts a business, person, or entity from complying with all other requirements and prohibitions of applicable laws and ordinances related to such exceptions.

**6. Duration.** This moratorium shall be in effect under January 1, 2025, or until such earlier time as the Foley City Council determines the moratorium is no longer necessary.

**7. Effective Date.** The Ordinance shall be effective immediately upon its adoption.

**8. Validity.** Every section, provision, or part of this Ordinance is declared severable for every other section, provision, or part thereof to the extent that if any section, provision, or part of this Ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.

**9. Enforcement and Penalty.** The City may enforce this Ordinance by injunction or any other appropriate civil remedy in any court of competent jurisdiction. A violation of this Interim Ordinance shall constitute a misdemeanor. Each day a violation occurs shall be considered a separate offense. 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 is also subject to the City's general penalties prescribed in the City Code and may further result in the City reporting violations to the OCM, if relevant to OCM licensing. The City Council hereby authorizes City staff and consultants to initiate any legal action deemed necessary to secure compliance with this Ordinance.

## **Section 2. Summary Publication.**

At least four-fifths of the City Council's member direct the City Administrator to publish only the title and summary of this Ordinance as follows:

“AN INTERIM ORDINANCE PROHIBITING THE SALE, MANUFACTURING, OR DISTRIBUTION OF CANNABIS WITHIN THE CITY OF FOLEY. It is the intent and effect of this Ordinance to prohibit the sale, manufacturing, or distribution of cannabis products within a cannabis business within the City until the City of Foley can study the effects of such activities, the appropriateness of existing regulations and designations, and ensure that zoning regulations and designations are consistent with existing law and adequately protect the public health, safety, and welfare.”

A printed copy of the ordinance is available for inspection by any person during regular office hours at City Hall.

ADOPTED BY THE FOLEY CITY COUNCIL THIS 9<sup>TH</sup> DAY OF JULY, 2024.

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Jack Brosh  
Mayor

Attest:

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Sarah Brunn  
City Administrator