

ORDINANCE NO. 2015- _____

AN INTERIM ORDINANCE IMPOSING A MORATORIUM ON MEDICAL CANNABIS OR MARIJUANA MANUFACTURING AND DISTRIBUTION FACILITIES PENDING COMPLETION OF A PLANNING STUDY ASSESSING THE NEED FOR AN AMENDMENT TO THE CITY’S OFFICIAL CONTROLS

The City Council of the City of Bloomington hereby ordains:

Section 1. That Chapter 21 of the City Code is hereby amended by deleting those words that are contained in brackets [] and adding those words that are underlined, to read as follows:

CHAPTER 21

ZONING AND LAND DEVELOPMENT

* * *

ARTICLE V. ADMINISTRATION AND NONCONFORMITY

* * *

Division E. Moratoria

SEC. 21.505. MORATORIA.

(a) **Authority.** The City of Bloomington is authorized under Minnesota Statutes Section 462.355, Subd. 4, to regulate, restrict, or prohibit any use, development or subdivision within the jurisdiction or a portion thereof while the City is conducting studies, or has authorized a study to be conducted or has scheduled a hearing to consider adoption or amendment of the Comprehensive Plan or official zoning controls. The City declares that the following moratoria are established pursuant to the aforementioned statute.

(c) **Medical Marijuana Facility Moratorium.** A moratorium is hereby adopted City-wide, as follows:

(1) **Findings and Purpose.** The City Council finds that it is necessary to temporarily preserve the status quo regarding the City’s regulation of land uses through its official controls following the passage of 2014 Minnesota Session Laws, Chapter 311, §§ 1-22,

the Medical Cannabis Therapeutic Research Act of 2014 (the "Act"), Minnesota's first law authorizing and regulating the use, manufacturing and distribution of medical marijuana, pending completion of a planning study to determine the need for additions or amendments to the City's zoning controls. The City Council finds that medical marijuana distribution facilities represent a new land use not presently addressed in the City's official controls and never previously studied by City staff that should be studied for the purpose of determining whether amendments or additions to the City's official controls may be necessary to protect the public health, safety and welfare.

The Act requires that approved manufacturers operate a total of eight distribution facilities, dispersed throughout the state. The Act further prohibits dispensaries near schools and co-location with healthcare practitioners, but does not preclude the City from placing additional location limitations or regulatory requirements on medical marijuana distribution facilities.

The City has received an inquiry about potential medical marijuana distribution facilities in the City evidencing the immediate need for the City carefully study and consider the adequacy and effectiveness of its existing official controls. During the course of such a study and amendment process it is critical that the City's planning process be protected.

Medical marijuana dispensaries appear to have significantly different operating characteristics from typical retail uses including, without limitation, that at the current time: (1) medical marijuana dispensaries must be stand-alone uses; (2) federal banking regulations do not clearly authorize banks to provide services to marijuana related businesses and hence several major credit cards prohibit use for a medical marijuana transaction forcing the retail sales to be cash transactions; (3) the national average price for medical marijuana is between \$500 and \$600 per ounce; (4) most of the qualifying customer patients suffer from debilitating illness and are more vulnerable than typical retail customers; and (5) marijuana remains a controlled substance for which there is a black market. This creates a heightened security risk for both dispensaries and their customers.

(2) **Effect of Moratorium.** For the duration stated herein and until the City has completed a study of the need for amendments or additions to the City's official controls to protect the public health, safety and welfare, the City shall not accept, issue or process any application for use of real property anywhere in the City for the purpose of a medical marijuana distribution center. This moratorium shall apply, without limitation, to comprehensive land use plan amendments, requests for rezoning, subdivisions, variances, conditional use permits, site plan review and building permits for the construction, conversion or operation of medical marijuana distribution facilities. Any development or land use applications accepted but not acted upon by the City prior to the effective date of this Section within the City will not be approved by the Planning Commission or City Council.

(3) **Study.** During the period of this moratorium, City staff will conduct a study of the official controls, including appropriate permitting, licensing, land use controls and development standards that may need to be adopted or revised to protect the public health, safety and welfare.

(4) **Duration.** The Medical Cannabis Distribution Facilities moratorium shall expire, without further action of the City Council, one year from its effective date. In the alternative, it may be repealed earlier if the Council determines that the requisite studies have been completed and that appropriate evaluation and action, including any necessary revisions to the City Code, official controls and/or Comprehensive Plan, have been finalized, adopted by the City Council and made effective by publication. The

duration of any moratorium established under this Section may be extended by adoption of an amendment hereto for a total time not to exceed the limits set forth in Minnesota Statutes Section 462.355, subd. 4, as amended from time to time.

(5) **Moratorium Declaration and Applicability.** The City Council specifically finds and declares that the findings, intent and purpose of this Section of City Code applies City-wide and it hereby imposes on any parcel of land, lot or part thereof within the boundaries of the City a prohibition on the construction or operation of any medical marijuana distribution facility as defined in the Act for the duration of the moratorium. City staff is directed for the duration of this moratorium to carefully study and consider the adequacy and effectiveness of the existing licensing, zoning and Comprehensive Plan regulations necessary to protect the public health, safety and welfare, as well as to study and consider amendments to those regulations. The City Council further finds that it is critical to the protection of the public health, safety and welfare that the study process be protected by a moratorium.

(6) **Effective Date.** In order for this Section to be effective, it must apply to any and all development or land use applications between the time of its adoption and its publication, the ordinance must be effective immediately upon adoption. Therefore, the City Council designates this Ordinance as an Emergency Ordinance pursuant to Section 3.06 of the City Charter to protect the integrity of the moratorium and to preserve the health, welfare and safety of the public.

(c) **Hardship.** In cases of hardship, any person having a legal or equitable interest in land and aggrieved by the requirements of this Section may apply to the City Council for a waiver of all or a portion of the applicable restrictions. A waiver may be granted when the City Council finds substantial hardship caused by the restrictions and finds that the waiver will not unduly affect the integrity of the planning process or the purposes for which this Section was enacted.

(d) **Severability.** If any section, subsection, sentence, clause or phrase of this Section is for any reason held to be invalid or any action taken hereunder be held invalid, it shall not affect any other section, subsection, sentence, clause or phrase herein. Every section, subsection, sentence, clause and phrase herein is declared severable from every other section, subsection, sentence, clause or phrase.

(e) **Enforcement.** The City may enforce this ordinance by mandamus, injunction or other appropriate civil remedy in any court of competent jurisdiction.

Passed and adopted this ___ day of January 2015.

Mayor

ATTEST:

Secretary to the Council

APPROVED:

City Attorney

