

**CITY OF MONTICELLO
PIATT COUNTY, ILLINOIS**

ORDINANCE NO. 2020-02

“AN ORDINANCE AMENDING CHAPTER 93 OF TITLE IX OF THE
CITY OF MONTICELLO CODE OF ORDINANCES TO REGULATE
CANNABIS AS PROVIDED IN THE CANNABIS REGULATION AND TAX ACT”

ADOPTED BY THE

CITY COUNCIL

CITY OF MONTICELLO

THIS 27TH DAY OF JANUARY 2020

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CITY OF MONTICELLO CODE OF ORDINANCES TO REGULATE CANNABIS AS
PROVIDED IN THE CANNABIS REGULATION AND TAX ACT**

WHEREAS, the City of Monticello (the “City”) is an Illinois municipal corporation organized and operating pursuant to Article VII of the Illinois Constitution of 1970 and the Illinois Municipal Code (65 ILCS 5/1-1-1, *et seq.*) (the “Code”); and

WHEREAS, the Cannabis Regulation and Tax Act (410 ILCS 705/1, *et seq.*) (the “Act”), establishes the general framework for cannabis regulation in Illinois; and

WHEREAS, the Act specifically regulates cannabis-related activities including, but not limited to, the cultivation, sale, possession, and consumption of cannabis in the State of Illinois; and

WHEREAS, the City may not regulate or license the activities described in the Act, except as otherwise provided by the Act (410 ILCS 705/55-90); and

WHEREAS, the Act does not affect City ordinances governing personal use of cannabis and cannabis paraphernalia by persons under 21 years of age (410 ILCS 705/10-5(a)); and

WHEREAS, the Act provides the City may not prohibit home cultivation by registered medical cannabis patients or unreasonably prohibit use of cannabis authorized by the Act (410 ILCS 705/55-25(1)); and

WHEREAS, the City may impose fines upon cannabis other than as defined in the Cannabis Control Act (720 ILCS 550/17.5); and

WHEREAS, the City may regulate cannabis business establishments in a manner as restrictive than the regulation of those activities under the Act (410 ILCS 705/55-25(4)); and

WHEREAS, the City may impose civil penalties for violations of ordinances or rules governing the time, place, manner, and number of cannabis business establishments, not in conflict with the Act or with its rules (410 ILCS 705/55-25(2)); and

WHEREAS, the City may regulate the on-premises consumption of cannabis at or in a cannabis dispensary or retail tobacco store within its jurisdiction (410 ILCS 705/55-25(3)); and

WHEREAS, the City may enact ordinances to prohibit or significantly limit a cannabis business establishment's location (410 ILCS 705/55-25(5)); and

WHEREAS, a cannabis cultivation facility, craft grower facility, or infuser must recycle any recyclable waste generated by the facility per applicable local laws, ordinances, and rules (410 ILCS 705/20-15(a)(21)(A); 30-10(a)(19)(B); 35-10(a)(18)(A)); and

WHEREAS, a cannabis cultivation facility, craft grower facility, or infuser must store, secure, and manage all recyclables and waste in accordance with local laws, ordinance, and rules (410 ILCS 705/20-15(a)(22)(A); 30-10(a)(20)(A); 35-10(a)(18)(B)); and

WHEREAS, the Act does not preclude an authorized government agency from investigating or bringing a civil action against a cannabis business establishment, or an agent thereof, for a violation of State law (410 ILCS 705/45-10(g)); and

WHEREAS, the City may pass and enforce all necessary police ordinances (65 ILCS 5/11-1-1); make all necessary or expedient regulations for the promotion of health (65 ILCS 5/11-20-5); and define, prevent, and abate nuisances (65 ILCS 5/11-60-2); and

WHEREAS, the City may regulate the use of the streets and other municipal property (65 ILCS 5/11-80-2) and nothing in the Act may be construed to require any person or

establishment in lawful possession of property to allow a guest, client, lessee, customer, or visitor to use cannabis on or in that property, 410 ILCS 705/10-30(c); and

WHEREAS, the City wishes to amend to Chapter 93 of the City of Monticello Code of Ordinances to regulate cannabis in the City in a manner that is consistent with the Act; and

WHEREAS, the City declares the unauthorized use, possession, and cultivation of cannabis to be a public nuisance, and hereby desires to adopt this ordinance to regulate cannabis in accordance with State law.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Monticello, Piatt County, Illinois, as follows:

Section 1. RECITALS. The foregoing recitals are incorporated as though fully set forth herein.

Section 2. SECTION AMENDED. The following changes are made to § 93.31 of the City of Monticello Code of Ordinances (additions in **bold and underline**, and deletions in **~~bold and strikethrough~~**):

CHAPTER 93: HEALTH AND SANITATION; NUISANCES

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PUBLIC NUISANCES

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§ 93.31 EXAMPLES.

Public nuisances shall include but are not limited to the following, to wit:

* * * * *

(U) The unauthorized use, possession, or cultivation of cannabis which is inconsistent with the provisions of the Cannabis Regulation and Tax Act, ILCS Ch. 410, Act 705, § 1, et seq., or §§ 93.50 through 93.60 of this Code of Ordinances.

~~(U)~~(V) Any other actions, conduct, omissions, conditions, or things defined or specified in this code or by state law as nuisances or public nuisances.

Section 3. CHAPTER AMENDED. Chapter 93 of Title IX of the City of Monticello Code of Ordinances is amended by adding new Sections 93.50 through 93.60:

CHAPTER 93: HEALTH AND SANITATION; NUISANCES

* * * * *

CANNABIS

§ 93.50 PERSONAL USE OF CANNABIS.

- (A) Except as otherwise provided by the Cannabis Regulation and Tax Act (“Act”), Compassionate Use of Medical Cannabis Program Act, or Industrial Hemp Act, the following acts are prohibited in the City:
 - (1) possession, consumption, use, purchase, obtaining, or transporting cannabis paraphernalia or an amount of cannabis for personal use that exceeds the possession limit under Section 10-10 of the Act or otherwise not in accordance with the requirements of the Act;
 - (2) cultivation of cannabis for personal use not in accordance with the requirements of the Act; and
 - (3) controlling property if actions that are authorized by the Act occur on the property not in accordance with the Act.
- (B) Except as otherwise provided in the Cannabis Regulation and Tax Act, Compassionate Use of Medical Cannabis Program Act, or Industrial Hemp Act, it is unlawful for any person knowingly to possess cannabis.
- (C) Except as otherwise provided by the Cannabis Regulation and Tax Act, Compassionate Use of Medical Cannabis Program Act, or Industrial Hemp Act, it is unlawful for any person knowingly to manufacture, deliver, or possess with intent to deliver, or manufacture, cannabis.

§ 93.51 RESTRICTIONS ON CANNABIS CULTIVATION.

- (A) Any person other than a registered qualifying patient under the Compassionate Use of Medical Cannabis Program Act who cultivates cannabis plants is liable for penalties provided by this ordinance.

- (B) Any registered qualifying patient under the Compassionate Use of Medical Cannabis Program Act who:
- (1) cultivates cannabis plants in violation of Section 10-5 of the Cannabis Regulation and Tax Act;
 - (2) cultivates more than the allowable number of cannabis plants; or
 - (3) sells or gives away cannabis plants, cannabis, or cannabis-infused products produced under Section 10-5 of the Cannabis Regulation and Tax Act, is liable for penalties as provided by this ordinance.

§ 93.52 PERSONS UNDER 21 YEARS OF AGE.

- (A) The transfer of cannabis, with or without remuneration, to a person under 21 years of age, or allowing a person under 21 years of age to purchase, possess, use, process, transport, grow, or consume cannabis except where authorized by the Compassionate Use of Medical Cannabis Program Act or by the Community College Cannabis Vocational Program is prohibited.
- (B) It is unlawful for any person under 21 years of age knowingly to possess cannabis or cannabis paraphernalia, except under provisions of law authorizing the possession of medical cannabis.
- (C) It is unlawful for any parent or guardian to knowingly permit his or her residence, any other private property under his or her control, or any vehicle, conveyance, or watercraft under his or her control to be used by an invitee of the parent's child or the guardian's ward, if the invitee is under the age of 21, in a manner that constitutes a violation of this Section. A parent or guardian is deemed to have knowingly permitted his or her residence, any other private property under his or her control, or any vehicle, conveyance, or watercraft under his or her control to be used in violation of this Section if he or she knowingly authorizes or permits consumption of cannabis by underage invitees. In this subsection, where the residence or other property has an owner and a tenant or lessee, the trier of fact may infer that the residence or other property is occupied only by the tenant or lessee.

§ 93.53 IDENTIFICATION AND FALSE IDENTIFICATION.

- (A) A person who is under 21 years of age may not present or offer to a cannabis business establishment or the cannabis business establishment's principal or employee any written or oral evidence of age that is false, fraudulent, or not actually the person's own, for the purpose of:

- (1) purchasing, attempting to purchase, or otherwise obtaining or attempting to obtain cannabis or any cannabis product; or
 - (2) gaining access to a cannabis business establishment.
- (B) An agent or employee of a cannabis business establishment must demand and be shown adequate written evidence of age and identity of a person before furnishing cannabis or cannabis products to the person.
- (C) An agent or employee of a cannabis business establishment cannot knowingly accept false or fraudulent written evidence of age and identity of a person before furnishing cannabis or cannabis products to the person.
- (D) Adequate written evidence of age and identity of the person is a document showing a person is 21 years of age or older, issued by a federal, State, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Military Selective Service Act, or an identification card issued to a member of the Armed Forces.
- (E) Proof that the cannabis business establishment or its employee or agent was shown and reasonably relied upon such written evidence in any transaction forbidden by this Section is an affirmative defense in any prosecution under this Section.

§ 93.54 PROHIBITED CONDUCT.

- (A) No person may engage in the following conduct:
- (1) possessing cannabis:
 - (a) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act;
 - (b) on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act;
 - (c) in any correctional facility;
 - (d) in a vehicle not open to the public unless the cannabis is in a reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving; or

- (e) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;
- (2) using cannabis:
- (a) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act;
 - (b) on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act;
 - (c) in any correctional facility;
 - (d) in any motor vehicle;
 - (e) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;
 - (f) in any public place;
 - (g) knowingly in close physical proximity to anyone under 21 years of age who is not a registered medical cannabis patient under the Compassionate Use of Medical Cannabis Program Act; or
 - (h) on City streets or other City property.
- (3) smoking cannabis in any place where smoking is prohibited under the Smoke Free Illinois Act;
- (4) operating, navigating, or being in actual physical control of any motor vehicle, aircraft, watercraft, or snowmobile while using or under the influence of cannabis in violation of Section 11-501 or 11-502.1 of the Illinois Vehicle Code, Section 5-16 of the Boat Registration and Safety Act, or Section 5-7 of the Snowmobile Registration and Safety Act;
- (5) facilitating the use of cannabis by any person who is not allowed to use cannabis under this Act or the Compassionate Use of Medical Cannabis Program Act;
- (6) transferring cannabis to any person contrary to the Act or the Compassionate Use of Medical Cannabis Program Act;
- (7) the use of cannabis by a law enforcement officer, corrections officer, probation officer, or firefighter while on duty; or

- (8) the use of cannabis by a person who has a school bus permit or a Commercial Driver's License while on duty.

As used in this Section, "public place" means any place where a person could reasonably be expected to be observed by others. "Public place" includes all parts of buildings owned in whole or in part, or leased, by the State or a unit of local government. "Public place" includes all areas in a park, recreation area, wildlife area, or playground owned in whole or in part, leased, or managed by the State or a unit of local government. "Public place" does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises.

§ 93.55 CANNABIS WASTE.

- (A) Any recyclable waste generated by an authorized cultivator for personal use, cannabis cultivation facility, craft grower facility, or infuser must be recycled per applicable state and local laws, ordinances, and rules.
- (B) Any authorized cultivator for personal use, cannabis cultivation facility, craft grower facility, or infuser must store, secure, and manage all recyclables and waste, including organic waste composed of or containing finished cannabis and cannabis products, in accordance with applicable State and local laws, ordinances, and rules.
- (C) Cannabis waste, liquid waste, or hazardous waste shall be disposed of in accordance with 8 Ill. Adm. Code 1000.460, except, to the greatest extent feasible, all cannabis plant waste will be rendered unusable by grinding and incorporating the cannabis plant waste with compostable mixed waste to be disposed of in accordance with 8 Ill. Adm. Code 1000.460(g)(1).
- (D) Cannabis recyclables and waste must be securely stored and managed and properly disposed of in accordance with applicable federal, State, and local laws, ordinances, and rules.

§ 93.56 CANNABIS ADVERTISING.

- (A) No cannabis business establishment nor any other person or entity shall engage in advertising that contains any statement or illustration that:
 - (1) is false or misleading;
 - (2) promotes overconsumption of cannabis or cannabis products;
 - (3) depicts the actual consumption of cannabis or cannabis products;

- (4) depicts a person under 21 years of age consuming cannabis;
 - (5) makes any health, medicinal, or therapeutic claims about cannabis or cannabis-infused products;
 - (6) includes the image of a cannabis leaf or bud; or
 - (7) includes any image designed or likely to appeal to minors, including cartoons, toys, animals, or children, or any other likeness to images, characters, or phrases that is designed in any manner to be appealing to or encourage consumption by persons under 21 years of age.
- (B) No cannabis business establishment nor any other person or entity shall place or maintain, or cause to be placed or maintained, an advertisement of cannabis or a cannabis-infused product in any form or through any medium:
- (1) within 1,000 feet of the perimeter of school grounds, a playground, a recreation center or facility, a child care center, a public park or public library, or a game arcade to which admission is not restricted to persons 21 years of age or older;
 - (2) on or in a public transit vehicle or public transit shelter;
 - (3) on or in publicly owned or publicly operated property; or
 - (4) that contains information that:
 - (a) is false or misleading;
 - (b) promotes excessive consumption;
 - (c) depicts a person under 21 years of age consuming cannabis;
 - (d) includes the image of a cannabis leaf; or
 - (e) includes any image designed or likely to appeal to minors, including cartoons, toys, animals, or children, or any other likeness to images, characters, or phrases that are popularly used to advertise to children, or any imitation of candy packaging or labeling, or that promotes consumption of cannabis.
- (C) Subsections A and B do not apply to an educational message.

- (D) Sales promotions. No cannabis business establishment nor any other person or entity may encourage the sale of cannabis or cannabis products by giving away cannabis or cannabis products, by conducting games or competitions related to the consumption of cannabis or cannabis products, or by providing promotional materials or activities of a manner or type that would be appealing to children.

For purposes of this section, “Advertise” means to engage in promotional activities including, but not limited to: newspaper, radio, Internet and electronic media, and television advertising; the distribution of fliers and circulars; billboard advertising; and the display of window and interior signs. “Advertise” does not mean exterior signage displaying only the name of the licensed cannabis business establishment.

§ 93.57 ON-PREMISES CONSUMPTION OF CANNABIS.

On-premises consumption of cannabis is prohibited at or in a dispensing organization (as defined in the Cannabis Regulation and Tax Act) or retail tobacco store (as defined in the Smoke Free Illinois Act) in the City’s jurisdiction.

§ 93.58 POSSESSION OF ADULT USE CANNABIS IN A MOTOR VEHICLE.

- (A) No driver may use cannabis within the passenger area of any motor vehicle upon a highway in the City.
- (B) No driver may possess cannabis within any area of any motor vehicle upon a highway in this State except in a sealed, odor-proof, child-resistant cannabis container.
- (C) No passenger may possess cannabis within any passenger area of any motor vehicle upon a highway in this State except in a sealed, odor-proof, child-resistant cannabis container.

§ 93.59 PREEMPTION.

- (A) This Chapter should not be construed to regulate or license the activities described in the Cannabis Regulations and Tax Act, except as otherwise provided in the Act.
- (B) This Chapter should not be construed to regulate the activities described in paragraphs (1), (2), or (3) of section 55-25 of the Cannabis Regulation and Tax Act in a manner more restrictive than the regulation of those activities by the State under the Act.

- (C) In the event of a conflict between this Chapter, and the Act and its administrative rules, the Act and its rules will prevail.

§ 93.60 DRUG PARAPHERNALIA.

- A. A person who knowingly possesses an item of drug paraphernalia with the intent to use it in ingesting, inhaling, or otherwise introducing a controlled substance into the human body, or in preparing a controlled substance for that use, is guilty of a violation of this section. This subsection (a) does not apply to a person who is legally authorized to possess hypodermic syringes or needles under the Hypodermic Syringes and Needles Act.
- B. Any person who keeps for sale, offers for sale, sells, or delivers for any commercial consideration an item of drug paraphernalia, is guilty of a violation of this section.
- C. In determining intent under subsection A of this section, the trier of fact may take into consideration the proximity of the controlled substances to drug paraphernalia or the presence of a controlled substance on the drug paraphernalia.
- D. For the purpose of this section, the definitions and exemptions in the Drug Paraphernalia Control Act, as amended, 720 ILCS 600/2 and 600/4, shall apply unless the context clearly indicates or requires a different meaning. “Drug paraphernalia” does not include “cannabis paraphernalia” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

Penalty, see § 93.99.

Section 5. SUPERSEDER AND SEVERABILITY. In the event a conflict exists between the terms of this Ordinance and any other ordinance of the City, the terms of this Ordinance shall govern. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 6. **EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law. The provisions of the City of Monticello Code of Ordinances amended herein shall be reprinted with the changes.

Passed by the City Council of the City of Monticello, Piatt County, this 27th day of January, 2020, by the following roll-call vote:

AYES:

NAYS:

ABSENT:

City Clerk
City of Monticello, Piatt County, Illinois

Approved by the City of Monticello this 27th day of January, 2020.

Larry Stoner, Mayor

ATTEST:

City Clerk
City of Monticello, Piatt County, Illinois