

CITY OF MONTICELLO
PIATT COUNTY, ILLINOIS

ORDINANCE NO. 2020-
AN ORDINANCE APPROVING A
ZONING TEXT AMENDMENT REGARDING CANNABIS BUSINESSES

ADOPTED BY THE
CITY COUNCIL
CITY OF MONTICELLO
THIS _____ DAY OF _____, 2020

Published in pamphlet form by authority of the City Council of the City of Monticello, Piatt County, Illinois, this _____ day of _____, 2020.

**CITY OF MONTICELLO
PIATT COUNTY, ILLINOIS**

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**AN ORDINANCE APPROVING A
ZONING TEXT AMENDMENT REGARDING CANNABIS BUSINESSES**

WHEREAS, the City of Monticello (“City”) is an Illinois non-home rule municipality organized and operating under the Illinois Municipal Code; and

WHEREAS, the City has a zoning ordinance which comprehensively divides the City into districts and classifies, regulates and restricts the location of land uses by reference to such districts; and

WHEREAS, the Compassionate Use of Medical Cannabis Program Act, 410 ILCS 130/1 *et. seq.*, authorizes the City to enact reasonable zoning ordinances or resolutions, not in conflict with the Act or its rules, regulating registered medical cannabis cultivation center and medical cannabis dispensing organizations; and

WHEREAS, the State of Illinois enacted the Cannabis Regulation and Tax Act, 410 ILCS 705/1-1, *et. seq.* (the “Act”), for the purpose of regulating, licensing and permitting the operation of “cannabis business establishments,” including cultivation centers, craft growers, processing organizations, infuser organization, dispensing organizations, or transporting organizations; and

WHEREAS, Section 55-25 of the Act authorizes the City to:

1. enact reasonable zoning ordinances regulating cannabis business establishments not in conflict with the Act or its administrative rules;
2. enact ordinances governing the time, place, manner, and number of cannabis business establishment operations;

3. regulate on-premises consumption of cannabis at or in a cannabis dispensary or retail tobacco store (as defined in the Smoke Free Illinois Act) within its jurisdiction; and
4. prohibit or significantly limit a cannabis business establishment's location.

WHEREAS, The City approved a moratorium on medical and adult use cannabis business establishments on September 23, 2019 to carefully review and consider the impacts that cannabis-related uses have on the public health, safety, comfort, morals and welfare (Ord. No. 2019-56); and

WHEREAS, the City Council and City staff studied cannabis business regulations during the moratorium period and ultimately referred this matter to the Planning and Zoning Board to consider a zoning text amendment to prohibit the location of adult use cannabis businesses and to reasonably regulate medical cannabis businesses in the City; and

WHEREAS, following publication of due notice on July 29, 2020, in the Piatt County Journal-Republican, the Planning and Zoning Board held a public hearing concerning the proposed text amendment on August 17, 2020; and

WHEREAS, following deliberation on the evidence and testimony elicited during the public hearing the Planning and Zoning Board considered and recommended approval of the proposed text amendment, pursuant to the written findings of fact attached as *Exhibit A* and incorporated herein by reference.

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. AMENDMENT.

A. Section 153.002 of the City of Monticello Code of Ordinances is hereby amended as follows (additions in **bold and underline**, deletions in ~~**bold and strikethrough**~~):

§ 153.002 INTERPRETATION.

[...]

(F) Unlisted uses are prohibited by this Chapter. The listing of a use as “prohibited” or “not permitted” in this Chapter shall not be construed to permit unlisted uses by inference.

B. Section 153.003 of the City of Monticello Code of Ordinances is hereby amended to add the following definitions in proper alphabetical order (additions in **bold and underline**, deletions in ~~**bold and strikethrough**~~):

§ 153.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

[...]

Cannabis. “Cannabis” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

Cannabis Business. A “cannabis business establishment,” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended; such other cannabis business establishments authorized under the Act, as amended; or a medical cannabis business; or an on-premises cannabis consumption establishment.

Cannabis Craft Grower. A “craft grower” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

Cannabis Cultivation Center. A “cultivation center” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

Cannabis Dispensary. A “dispensing organization” or “dispensary” as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

Cannabis Infuser. An “infuser organization” or “infuser” as defined in **Section 1-10 of the Cannabis Regulation and Tax Act, as amended.**

Cannabis Processor. A “processing organization” or “processor” as defined in **Section 1-10 of the Cannabis Regulation and Tax Act, as amended.**

Cannabis Transporter. A “transporting organization” or “transporter” as defined in **Section 1-10 of the Cannabis Regulation and Tax Act, as amended.**

[...]

Medical Cannabis Businesses. A medical cannabis cultivation center or medical cannabis dispensary.

Medical Cannabis Cultivation Center. A “cultivation center” as defined in **Section 10 of the Compassionate Use of Medical Cannabis Program Act, as amended.**

Medical Cannabis Dispensary. A “medical cannabis dispensing organization”, or “dispensing organization”, or “dispensary organization,” as defined in **Section 10 of the Compassionate Use of Medical Cannabis Program Act, as amended.**

[...]

On-Premises Cannabis Consumption Establishment. A cannabis dispensary or retail tobacco store (as defined in **Section 10 of the Smoke Free Illinois Act**) authorized or permitted to allow the on-premises consumption of cannabis.

C. Section 153.017, Table I of the City Monticello Code of Ordinances is hereby amended as follows (additions in **bold and underline**, deletions in **~~bold and strikethrough~~**):

§ 153.017 PRINCIPAL USES PERMITTED IN ZONING DISTRICTS.

[...]

Table I – Principal Uses by Zoning District									
X = Permitted by Right C = Permitted by Conditional Use * = Prohibited Use in all Districts									
Principal Use	Zoning Districts								
	B	I-C	I-1	RC	RD	RE-1	RM	RS	RU
[...]									
<u>Cannabis Craft Grower</u>	*	*	*	*	*	*	*	*	*

<u>Cannabis Cultivation Center</u>	*	*	*	*	*	*	*	*	*
<u>Cannabis Dispensary</u>	*	*	*	*	*	*	*	*	*
<u>Cannabis Infuser</u>	*	*	*	*	*	*	*	*	*
<u>Cannabis Processor</u>	*	*	*	*	*	*	*	*	*
<u>Cannabis Transporter</u>	*	*	*	*	*	*	*	*	*
[...]									
<u>Medical Cannabis Cultivation Center</u>	<u>C</u>		<u>C</u>						
<u>Medical Cannabis Dispensary</u>	<u>C</u>								
[...]									
<u>On-Premises Cannabis Consumption Establishment</u>	*	*	*	*	*	*	*	*	*

D. Section 153.031 of the City of Monticello Code of Ordinances is hereby amended as follows:

§ 153.031 HOME OCCUPATIONS.

[...]

(D) Prohibited occupations.

(1) The following home occupations are prohibited in the city:

[...]

(n) Cannabis businesses.

E. Chapter 153 of the City Monticello Code of Ordinances is hereby amended to add new Section 153.041 as follows:

§ 153.041 Medical Cannabis Businesses.

Cannabis businesses are prohibited in the City of Monticello, except for medical cannabis businesses in compliance with the requirements of this chapter.

(A) Application Requirements. In addition to all other applicable conditional use application requirements, a medical cannabis business applicant must submit all documents requested by the Building and Zoning Administrator for evaluation under the applicable conditional use standards, which may include:

(1) a complete copy of all applications and plans submitted for required state licenses;

- (2) an air treatment and odor control plan;
 - (3) a security plan;
 - (4) an inventory control plan;
 - (5) a floor plan;
 - (6) a traffic study;
 - (7) a plan for the recycling and destruction of cannabis waste;
 - (8) a site plan for the proposed medical cannabis business and, for any medical cannabis dispensary, showing adequate public access, the layout promotes the safe dispensing of cannabis, the location is sufficient in size, power allocation, lighting, parking, handicapped accessible parking spaces, accessible entry and exists as required by the Americans with Disabilities Act, product handling, and storage; and
 - (9) a recoverable costs agreement, in a form acceptable to the Building and Zoning Administrator, to reimburse the City for the actual costs incurred in processing the application, including costs for legal publication, court reporter services, administrative preparation and review, document preparation and review, professional and technical consultants, legal review and consultation, and document recording.
- (B) Conditions. In addition to all other conditions the City Council imposes on a conditional use approval, medical cannabis businesses must comply with the following conditions:
- (1) Compliance with State Regulations and Rules. All medical cannabis businesses must comply with all applicable state and local laws, including the Compassionate Use of Medical Cannabis Program Act, as amended, and applicable administrative rules.
 - (2) Compliance with Plans. The development, use, operation, and maintenance of the medical cannabis business will be in substantial compliance with all application documents and plans, except for minor changes and site work approved by the Building and Zoning Administrator in accordance with all applicable City rules, regulations, and ordinances.
 - (3) Minimum Distance Limits. In addition to all state-imposed minimum distance limits, any building used for a medical cannabis

business may not be located within the following distances of a pre-existing protected use:

Public or Private	Protected Use	Medical Cannabis Cultivation Center	Medical Cannabis Dispensary
	<i>Day Cares</i>		
Public and Private	Day Care Center	2,500'	1,000'
Public and Private	Day Care Home	2,500'	1,000'
Public and Private	Group Day Care Home	2,500'	1,000'
Public and Private	Part Day Child Care Facility	2,500'	1,000'
	<i>Green Space</i>		
Public and Private	Cemetery	1,000'	1,000'
Public	Forest Preserve	1,000'	1,000'
Public	Park	1,000'	1,000'
	<i>Place of Worship</i>		
Private	Place of Worship	1000'	1000'
	<i>Schools</i>		
Public and Private	Preschool	2,500'	1,000'
Public and Private	Elementary School	2,500'	1,000'
Public and Private	Secondary School	2,500'	1,000'

- (4) Prohibited locations. A medical cannabis dispensary may not be located in a house, apartment, or condominium.
- (5) Security. In addition to all state-imposed security requirements, the City Council may require a medical cannabis business to provide sufficient additional safeguards in response to any special security concerns.
- (6) Air Treatment. In addition to all state-imposed air treatment requirements, the City Council may impose additional air treatment requirements on a medical cannabis business to promote compliance with City nuisance and other ordinances.
- (7) Traffic. The City Council may impose conditions requiring the design of the medical cannabis business to minimize traffic

congestion, pedestrian hazards, and adverse impacts on surrounding properties.

- (8) Cannabis Waste. All medical cannabis businesses must comply with all state, county, and City regulations governing cannabis waste.
- (9) Hours of Operation. Unless otherwise prescribed by state law, the City Council may impose hours of operation for a medical cannabis business as a condition of any conditional use permit to reduce conflicts with surrounding land uses.
- (10) Drive-Through Windows. Medical cannabis dispensaries may not operate drive-through windows.
- (11) On-Premises Consumption. No medical cannabis business may allow the smoking, inhalation, or consumption of cannabis in any form anywhere inside or outside the building on its property. A sign, at least 8.5 by 11 inches, shall be posted inside the medical cannabis business in a conspicuous place visible to patrons and employees stating: “Smoking, eating, drinking, and other forms of consumption of cannabis products are prohibited on the premises of this establishment.”
- (12) Principal Use. Medical cannabis businesses are only permitted as a principal use and are not allowed as an accessory or temporary use.
- (13) State License. Before issuance of a certificate of occupancy or otherwise opening to the public, medical cannabis businesses must file a copy of all required state licenses with the Building and Zoning Administrator. Medical cannabis businesses must maintain all required state licenses in effect at all times and keep satisfactory proof thereof on file with the Building and Zoning Administrator.
- (14) Non-Transferability. Unless otherwise expressly provided by ordinance, the privileges, obligations, and provisions of a conditional use permit for a medical cannabis business:
 - (a) are for the sole benefit of and will be binding on the applicant; and
 - (b) may not be transferred to any other person or entity without a new application for approval for a person or entity other than the applicant.

- (15) Inspections. When reasonable cause of a violation exists, all medical cannabis businesses are subject to inspections by the Building and Zoning Administrator with the assistance of the City Attorney, the Police Department, or other City agents and employees.

Section 3. SEVERABILITY. This Ordinance and every provision thereof shall be considered severable and the invalidity of any section clause, paragraph, sentence or provision of this Ordinance will not affect the validity of any other portion of this Ordinance.

Section 4. SUPERSEDER. All ordinances, resolutions, motions, or orders in conflict herewith shall be, and the same hereby are, repealed to the extent of such conflict.

Section 5. EFFECTIVE DATE. This Ordinance shall be in full force and effect, after its passage and publication in pamphlet form, in accordance with 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 _____ day of _____, 2020, by the following roll-call vote:

AYES:

NAYS:

ABSENT:

Approved by the Mayor of the City of Monticello this _____ day of _____, 2020.

Mayor

ATTEST:

Jill Potts, City Clerk
City of Monticello, Piatt County, Illinois

Exhibit A
PZB Findings of Fact

(see attached)

MOTION FOR THE PLANNING & ZONING BOARD
City of Monticello – Cannabis Business Text Amendment

WHEREAS, the City Council of the City of Monticello, pursuant to authority conferred by the statutes of the State of Illinois, has established certain standards and procedures for zoning approvals under the City of Monticello Code of Ordinances; and

WHEREAS, at the direction of City Council, City staff filed an application for a text amendment under Section 153.079 of the Monticello Zoning Regulations to prohibit adult use cannabis businesses and to regulate medical cannabis businesses in the City of Monticello; and

WHEREAS, the Planning and Zoning Board held a public hearing concerning the requested text amendment on August 17, 2020, and solicited comment from the public; and

WHEREAS, the Planning & Zoning Board reviewed the evidence and testimony submitted and considered all the factual evidence regarding the subject request;

BE IT THEREFORE RESOLVED this 17th day of August, 2020 by the Planning & Zoning Board of the City of Monticello, that:

- A. The Planning & Zoning Board considered the proposed amendment on its merits and hereby determines that the proposed amendment meets the applicable guiding criteria regarding text amendments, as follows:
 - 1. The proposed amendment shall correct an error in the original zoning.

The proposed amendment addresses the introduction of new cannabis business land uses created under state law.

- 2. The area under application has changed so that the zoning is no longer contributing to the community welfare.

This map amendment standard is not applicable to the proposed text amendment.

- 3. The proposed amendment shall be consistent with the intent of this chapter and with its various provisions.

The proposed amendment furthers the purposes of the City’s zoning regulations,

“To divide the city into zoning districts, prescribing and regulating therein the location, erection, reconstruction, alteration, and use of buildings, structures, and land for residential, business, manufacturing, and other specified needs.

[. . . and]

To prohibit uses or structures which are incompatible with the character of other appropriate existing or intended development within zoning districts;" (Section 153.001(C, M))."

4. The proposed amendment shall not be detrimental to the development of the city;

The proposed amendment will reduce the negative secondary effects associated with cannabis businesses by prohibiting adult use cannabis businesses and reasonably regulating medical cannabis businesses.

5. Every use permitted under the new classification be a suitable use for the further development of the area in the vicinity of the rezoning, and be compatible with the uses already developed in the vicinity.

This map amendment standard is not applicable to the proposed text amendment.

6. Adequate public facilities, water and sewer lines, other needed services or facilities exist or be capable of being provided prior to the development of the uses which would be permitted on the property if it were classified.

This map amendment standard is not applicable to the proposed text amendment.

- B. The Planning & Zoning Board does hereby recommend *approval* of the proposed text amendment to prohibit adult use cannabis businesses and to regulate medical cannabis businesses in the City of Monticello.

Chairman, Planning and Zoning Board
City of Monticello