

**AN ORDINANCE CREATING ZONING PROVISIONS FOR THE DISTRIBUTION
AND SALE OF MEDICAL AND RECREATIONAL CANNABIS IN FULTON COUNTY,
ILLINOIS**

WHEREAS, pursuant to the Counties Code (55 ILCS 5/5-12001 *et. seq.*) and the Cannabis Regulation and Tax Act (410 ILCS 705/1 *et. seq.*), the County of Fulton has the authority to determine certain zoning regulations related to the sale and distribution of recreational cannabis and related items;

WHEREAS, the County of Fulton has the authority to authorize or prohibit the sale and distribution within the County of medical and recreational cannabis and related items; and

WHEREAS, The Fulton County Board has determined that it be in the public interest to enact this Ordinance to establish zoning rules and regulations relative to the sale and distribution of medical and recreational cannabis.

NOW, THEREFORE, BE IT ORDAINED, by the County Board of Fulton County, Illinois, as follows:

A new ordinance, establishing Chapter 9.4 of the Fulton County Ordinance of 2009 shall be created and provide as follows:

CHAPTER 9.4

Section 1: **Conditional Use**

(A)

(1) Areas designated and established as B-Business District for zoning purposes may have an additional conditionally permitted use as a dispensing organization involving acquiring cannabis from a cultivation center, craft grower, processing organization, or another dispensary for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia, or related supplies under the Illinois Cannabis Regulation Tax Act to purchasers or to qualified registered medical cannabis patients and caregivers distribution of recreational cannabis pursuant to the Cannabis Regulation and Tax Act (410 ILCS 705/1 *et. seq.*). The County Board authorizes The Fulton County Zoning Board of Appeals to issue five (5) conditional use permits to dispensing organizations to operate within the unincorporated areas of the County and obtain licenses to operate within the unincorporated areas of the County as a dispensing organization. The cost of a dispensing organization conditional use permit shall total one thousand dollars and no cents (\$1,000.00) per year. The conditional use permit fee described in this paragraph shall initially be due whenever the permit is issued, and a renewal fee shall be due January 1 of each subsequent year, regardless of the month and specific date an initial permit is issued. Permits shall be issued at the sole discretion of the Fulton County Zoning Board of Appeals, and said permits may be terminated and revoked at the sole discretion

of the Fulton County Zoning Board of Appeals for failure to comply with the permit conditions.

(2) Areas designated and established as AC- Agriculture/Conservation District for zoning purposes may have an additional conditionally permitted use as a craft grower involving cultivating, drying, curing, and packaging cannabis and performing other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization pursuant to the Cannabis Regulation and Tax Act (410 ILCS 705/1 *et. seq.*). The County Board authorizes The Fulton County Zoning Board of Appeals to issue five (5) conditional use permits to craft growers to operate within the unincorporated areas of the County and obtain licenses to operate within the unincorporated areas of the County as a craft grower organization. The cost of a craft grower organization conditional use permit shall total seven hundred and fifty dollars and no cents (\$750.00) per year. The conditional use permit fee described in this paragraph shall initially be due whenever the permit is issued, and a renewal fee shall be due January 1 of each subsequent year, regardless of the month and specific date an initial permit is issued. Permits shall be issued at the sole discretion of the Fulton County Zoning Board of Appeals, and said permits may be terminated and revoked at the sole discretion of the Fulton County Zoning Board of Appeals for failure to comply with the permit conditions.

(3) Areas designated and established as AC- Agriculture/Conservation District for zoning purposes may have an additional conditionally permitted use as a cultivation center to cultivate, process, transport (unless otherwise limited by this Ordinance), and perform other necessary activities to provide cannabis and cannabis-infused products to cannabis business establishments . The County Board authorizes The Fulton County Zoning Board of Appeals to issue five (5) conditional use permits to cultivation centers to operate within the unincorporated areas of the County and obtain licenses to operate within the unincorporated areas of the County as a cultivation center. The cost of a cultivation center conditional use permit shall total one thousand dollars and no cents (\$1000.00) per year. The conditional use permit fee described in this paragraph shall initially be due whenever the permit is issued, and a renewal fee shall be due January 1 of each subsequent year, regardless of the month and specific date an initial permit is issued. Permits shall be issued at the sole discretion of the Fulton County Zoning Board of Appeals, and said permits may be terminated and revoked at the sole discretion of the Fulton County Zoning Board of Appeals for failure to comply with the permit conditions.

(4) Areas designated and established as B- Business District or AC- Agriculture/Conservation District for zoning purposes may have an additional conditionally permitted use as a processing organization to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product. The County Board authorizes The Fulton County Zoning Board of Appeals to issue five (5) conditional use permits to processing organizations to operate within the unincorporated areas of the County and obtain licenses to operate within the unincorporated areas of the County as a processing organization. The cost of a processing organization license shall total five hundred dollars and no cents (\$500.00) per year. The conditional use permit fee

described in this paragraph shall initially be due whenever the permit is issued, and a renewal fee shall be due January 1 of each subsequent year, regardless of the month and specific date an initial permit is issued. Permits shall be issued at the sole discretion of the Fulton County Zoning Board of Appeals, and said permits may be terminated and revoked at the sole discretion of the Fulton County Zoning Board of Appeals for failure to comply with the permit conditions.

(5) Areas designated and established as B- Business District or AC- Agriculture/Conservation District for zoning purposes may have an additional conditionally permitted use as a transporting organization to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program. The County Board authorizes The Fulton County Zoning Board of Appeals to issue five (5) conditional use permits to transporting organizations to operate within the unincorporated areas of the County and obtain licenses to operate within the unincorporated areas of the County as a transporting organization. The cost of a transporting organization conditional use permit shall total one thousand dollars and no cents (\$1000.00) per year. The conditional use permit fee described in this paragraph shall initially be due whenever the permit is issued, and a renewal fee shall be due January 1 of each subsequent year, regardless of the month and specific date an initial permit is issued. Permits shall be issued at the sole discretion of the Fulton County Zoning Board of Appeals, and said permits may be terminated and revoked at the sole discretion of the Fulton County Zoning Board of Appeals for failure to comply with the permit conditions.

(B) "Cannabis" means marijuana, hashish, and other substances that are identified as including any parts of the plant *Cannabis sativa* and including derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction; however, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Cannabis" does not include industrial hemp as defined and authorized under the Industrial Hemp Act. "Cannabis" also means concentrate and cannabis-infused products.

"Cannabis-infused product" means a beverage, food, oil, ointment, tincture, topical formulation, or another product containing cannabis that is not intended to be smoked.

"Craft grower" or "Craft grower organization" means a facility operated by an organization or business that is licensed by the Department of Agriculture to cultivate, dry, cure, and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization. A craft grower may contain up to 5,000 square feet of canopy space on its premises for plants in the flowering state. The Department of Agriculture may authorize an increase or decrease of flowering stage cultivation space in

increments of 3,000 square feet by rule based on market need, craft grower capacity, and the licensee's history of compliance or noncompliance, with a maximum space of 14,000 square feet for cultivating plants in the flowering stage, which must be cultivated in all stages of growth in an enclosed and secure area. A craft grower may share premises with a processing organization or a dispensing organization, or both, provided each licensee stores currency and cannabis or cannabis-infused products in a separate secured vault to which the other licensee does not have access or all licensees sharing a vault share more than 50% of the same ownership.

"Cultivation center" means a facility operated by an organization or business that is licensed by the Department of Agriculture to cultivate, process, transport (unless otherwise limited by this Act), and perform other necessary activities to provide cannabis and cannabis-infused products to cannabis business establishments.

"Dispensing organization" means a facility operated by an organization or business that is licensed by the Department of Financial and Professional Regulation to acquire cannabis from a cultivation center, craft grower, processing organization, or another dispensary for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia, or related supplies under the Illinois Cannabis Regulation Tax Act to purchasers or to qualified registered medical cannabis patients and caregivers. As used in this Ordinance, dispensary organization shall include a registered medical cannabis organization as defined in the Compassionate Use of Medical Cannabis Pilot Program Act or its successor Act that has obtained an Early Approval Adult Use Dispensing Organization License.

"Processing organization" or "processor" means a facility operated by an organization or business that is licensed by the Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product.

"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" 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.

"Transporting organization" or "transporter" means an organization or business that is licensed by the Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program.

(C) It shall be lawful to operate a medical cannabis dispensing organization, recreational cannabis dispensary center, craft grower organization, cultivation center, processing organization, or transporting organization so long as the following applies and is adhered to:

- (1) The organization or center is licensed by the Department of Financial and Professional Regulation through the State of Illinois;

- (2) The organization has a conditional use permit issued by the County of Fulton;
- (3) That the center or organization is not located within 1,000 feet of the property line of a pre-existing public or private preschool, or elementary or secondary school or daycare center, daycare home, group daycare home, part day childcare facility. A dispensing center or organization may not be located in a house, apartment or condominium;
- (4) A center or organization may not be located in the offices of a physician;
- (5) A center or organization may be open from the hours of 7:00 a.m. and 10:00 p.m. on any day of the week, including holidays;
- (6) A center or organization may not utilize amplified music outdoors;
- (7) Cannabis, cannabis infused products and cannabis concentrate may not be displayed or stored in an area accessible to the public;
- (8) A center or organization shall have appropriate security employed and security measures implemented at all time, in accordance with State regulations, to deter and prevent theft of cannabis and unauthorized entrance into areas containing cannabis, cannabis infused products and cannabis concentrate;
- (9) No person, organization or center who is licensed to sell cannabis, at retail, shall sell, give or deliver cannabis to any person as to whom the prohibition thereof any applicable law of the state would apply;
- (10) Organizations and centers shall fully comply with all requirements of the Compassionate Use of Medical Cannabis Program Act (410 ILCS 130/1, *et. seq.*), and the Cannabis Regulation and Tax Act (410 ILCS 705/1 *et. seq.*);

(D) It shall be lawful for a person twenty-one (21) years of age or older to purchase and possess from a licensed organization or center cannabis, cannabis infused products, and cannabis concentrate based upon the following restrictions:

- (1) For a resident of this State, the possession limit is as follows: (1) 30 grams of cannabis flower; (2) no more than 500 milligrams of THC contained in cannabis-infused product; (3) 5 grams of cannabis concentrate; and (4) for registered qualifying patients, any cannabis produced by cannabis plants grown under subsection (b) of Section 10-5, provided any amount of cannabis produced in excess of 30 grams of raw cannabis or its equivalent must remain secured within the residence or residential property in which it was grown.
- (2) For a person who is 21 years of age or older and who is not a resident of this State, the possession limit is: (1) 15 grams of cannabis flower; (2) 2.5 grams of cannabis concentrate; and (3) 250 milligrams of THC contained in a cannabis-infused product.
- (3) The possession limits found in subsections (1) and (2) of this Section are to be considered cumulative.
- (4) No person shall knowingly obtain, seek to obtain, or possess an amount of cannabis from an organization or center that would cause him or her to exceed the possession limit under this Section, including cannabis that is cultivated by a person under the Cannabis Regulation and Tax Act or obtained under the Compassionate Use of Medical Cannabis Pilot Program Act.

(5) A person who violates any of the provisions in this section shall be subject to a fine of not less than \$250.00 but no more than \$750.00. An organization or center granted and issued a license under these provisions shall be subject to a fine of not less than \$500.00 for a violation of any provision herein, in addition to being subject to having their license terminated and revoked for a violation of any provision herein.

(E) Additional Limitations and penalties.

(1) This Ordinance does not permit any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalties for engaging in, any of the following conduct:

(a) undertaking any task under the influence of cannabis when doing so would constitute negligence, professional malpractice, or professional misconduct;

(b) possessing cannabis:

(i) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act;

(ii) 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 Pilot Program Act;

(iii) in any correctional facility;

(iv) 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

(v) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;

(c) using cannabis:

(i) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act;

(ii) 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 Pilot Program Act;

(iii) in any correctional facility;

(iv) in any motor vehicle;

(v) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;

(vi) in any public place, except as described in Chapter 9.4, Section 1(E)(6); or

(vii) 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 Pilot Program Act;

(d) smoking cannabis in any place where smoking is prohibited under the Smoke Free Illinois Act;

(e) operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat while using or under the influence of cannabis in violation of Section 11-501 or 11-502.1 of the Illinois Vehicle Code;

(f) 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 Pilot Program Act;

(g) transferring cannabis to any person contrary to this Act or the Compassionate Use of Medical Cannabis Pilot Program Act;

(h) the use of cannabis by a law enforcement officer, corrections officer, probation officer, or firefighter while on duty; or

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

(2) Nothing in this Ordinance shall be construed to prevent the arrest or prosecution of a person for reckless driving or driving under the influence of cannabis if probable cause exists.

(3) Nothing in this Ordinance shall prevent a private business from restricting or prohibiting the use of cannabis on its property, including areas where motor vehicles are parked.

(4) Nothing in this Ordinance shall require an individual or business entity to violate the provisions of federal law, including colleges or universities that must abide by the Drug-Free Schools and Communities Act Amendments of 1989, which require campuses to be drug free.”

(5) Any person or entity granted a conditional use permit pursuant to this Ordinance shall grant the Zoning Officer of Fulton County the authority to come upon the premises for which the conditional use permit was granted to inspect the premises for compliance with this Ordinance. As used in this paragraph, “premises” includes entering into any buildings or structures upon the

real property described in the conditional use permit, as well as the curtilage of the buildings or structures.

(6) Except as described in this paragraph, the consumption of cannabis or any cannabis infused product is prohibited upon the premises of any real property described in a conditional use permit granted pursuant to this Ordinance. Any person or entity granted a dispensing organization conditional use permit or a craft grower conditional use permit pursuant to this Ordinance shall have the authority to allow invitees on to the premises of the real property described in such permit for the purpose of consuming cannabis or cannabis infused products in conformity with Illinois law.

Section 2: **Severability:** The provisions of this Ordinance shall be deemed severable, and the invalidity of any portion hereof shall not affect the validity of the remainder hereof.

Section 3: **Repeal:** All ordinances and parts of ordinances in conflict with the provisions of this Ordinance shall be, and the same are, to the extent of such conflict, hereby repealed.

Section 4: **Change of Law:** This Ordinance shall be deemed repealed by operation of law if the Compassionate Use of Medical Cannabis Program Act, as amended, or the Cannabis Regulation and Tax Act, as amended, is adjudged, in a final non-appealable order enforceable in Illinois, or pursuant to subsequent legislative enactment, that the operation of an organization, center or dispensary to be illegal, unconstitutional or in violation of Illinois law. In the event an organization, center or dispensary commences operation under this Ordinance and said ability to operate same becomes illegal, unconstitutional or in violation of Illinois law, all licenses issued pursuant to this Ordinance shall be deemed immediately terminated and vacated, without notice or compensation of any kind.

Section 5: **Effective date:** This Ordinance shall be in full force and effect from and after its passage, adoption, and publication pursuant to law

Section 6: **State Law:** This Chapter does not prohibit home cultivation or prohibit the use of cannabis as authorized by this Illinois Cannabis Regulation and Use Act.

Section 7: **Penalties:** In addition to any other penalty described in this chapter, a violation of this Chapter shall constitute a civil penalty and shall be punishable by a fine not to exceed \$500.00 with each week the violation remains uncorrected constituting a separate offense.

Passed by the County Board of Fulton County, Illinois, at a regular meeting this 8 day of October, 2019 upon a roll call vote as follows:

AYES:

NAYS:

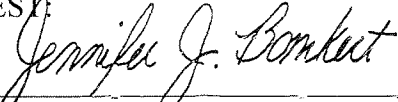
ABSENT:

APPROVED:



PATRICK O'BRIAN
Fulton County Board Chairman

ATTEST:



JENNIFER BANKERT
Ex-Officio Clerk of the Fulton County
Board