

ORDINANCE NO. 3609

AN ORDINANCE AMENDING MARION CITY CODE
CONCERNING POLICE AND PUBLIC SAFETY

WHEREAS The City finds it necessary, on occasion to amend and update sections of the Marion City Code; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARION, ILLINOIS THE FOLLOWING SECTIONS OF THE CODE ARE AMENDED:

Chapter 5: GENERAL OFFENSES

6-5-1: RIOTS:

It is unlawful for two (2) or more persons within the corporate limits of the City to do the following:

- A. To meet to do any unlawful act upon a common cause or quarrel, and make advances toward it.
- B. To engage in a fight by agreement in a public place. (1977 Code § 9.28.010)

6-5-2: DISTURBING THE PEACE:

It is unlawful for any person within the corporate limits of the City to commit the following acts:

A. To commit any act in such an unreasonable manner as to alarm and disturb another and provoke a breach of the peace.

B. To transmit or cause to be transmitted in any manner to the fire department or police department a false alarm or false report, knowing at the time of the transmission that there is no reasonable basis to believe it exists.

B. To disturb the peace and quiet of any family or neighborhood by loud or unusual noises or by tumultuous and offensive carriage, threatening bodily harm or damage to property, quarreling, challenging to fight or fighting.

C. To wear or carry concealed upon or about the person any pistol, revolver, metallic knuckles, bowie knife, dirk or other dangerous or deadly weapon, unless authorized by law, or to flourish any such weapon in a manner that may reasonably be construed as threatening to the life, limb or property of another. (1977 Code § 9.26.010)

D. To engage in profane swearing, loud and unusual noises or any other conduct disorderly in nature that disturbs or interrupts any assembly of people met for worship. (1977 Code § 9.26.010; amd. 2013 Code)

E. To engage in conduct disorderly in nature that interrupts or disturbs any school or other assembly of people met for lawful purpose.

F. To interrupt or disturb any funeral service or procession. (1977 Code § 9.26.010)

6-5-3: DISORDERLY CONDUCT AT FUNERAL OR MEMORIAL SERVICE:

A. Definitions: For purposes of this section, the following words and terms shall have the meanings ascribed to them in this subsection:

FUNERAL: Any ceremony, ritual, procession, or memorial service held at a funeral site in connection with the burial, cremation, or memorial of a deceased person. The term does not include the wake (sometimes referred to as a visitation or vigil).

FUNERAL SITE: A church, synagogue, mosque, funeral home, mortuary, cemetery, gravesite, mausoleum, or other place at which a funeral is conducted or is scheduled to be conducted within the next hour or has been conducted within the last hour.

B. Determination Of Offense: A person commits the offense of disorderly conduct at a funeral or memorial service when he or she:

1. Engages, with knowledge of the existence of a funeral site, in any loud singing, playing of music, chanting, whistling, yelling, or noisemaking with or without noise amplification including, but not limited to, bullhorns, auto horns, and microphones within two hundred feet (200') of any ingress or egress of that funeral site, where the volume of such singing, music, chanting, whistling, yelling, or noisemaking is likely to be audible at and disturbing to the funeral site;

2. Displays, with knowledge of the existence of a funeral site and within two hundred feet (200') of any ingress or egress of that funeral site, any visual images that convey fighting words or actual or veiled threats against any other person; or

3. With knowledge of the existence of a funeral site, knowingly obstructs, hinders, impedes, or blocks another person's entry to or exit from that funeral site or a facility containing that funeral site; except, that the owner or occupant of property may take lawful actions to exclude others from that property. (Ord. 2337, 2-14-2011)

C. Penalty: Any person who violates any provisions of this section is guilty of disorderly conduct at a funeral or memorial service and shall be fined as provided in section 1-4-1 of this Code. (Ord. 2337, 2-14-2011; amd. 2013 Code)

6-5-4: ASSAULT AND BATTERY:

A. it is unlawful for a person to commit an assault, when, without lawful authority, he engages in conduct which places another in reasonable apprehension or receiving a battery.

B. It is unlawful for a person to commit a battery, when he intentionally or knowingly and without lawful authority, cause bodily harm to another or makes physical contact of an insulting or provoking nature with another. (Ord. _____, 2020).

6-5-5: TRESPASS TO LAND:

A. No person shall enter upon the land or any part thereof of another, after receiving, immediately prior to the entry, notice from the owner or occupant that entry was forbidden, or remains upon the land of another after receiving notice from the owner or occupant to depart.

B. A person has received notice from the owner or occupant within the meaning of subsection (A) if he has been notified personally, either orally or in writing, or if a printed or written notice forbidding entry has been conspicuously posted or exhibited at the main entrance to the land or the forbidden part thereof. (Ord. 3609, 2020).

6-5-6: DAMAGE TO PROPERTY, VANDALISM:

A. No person shall knowingly or recklessly damage any City property without the City's consent. This includes damage caused by fire or explosion.

B. No person shall engage in the willful or malicious destruction, injury, disfigurement or defacement of any public or private property. This offense includes, but is not limited to, cutting, tearing, breaking, marking, drawing or painting when these actions are intended to or have the effect of causing damage to property.

1. Graffiti shall mean any words, letters, pictures, symbols, graphics, or other drawings place on any building or other premises by someone other than the owner or owner's agent, using spray paint, chalk, or any other substance which does not include information relating to the location and/or address of the building.

2. Duty of Person in Control of Property: It shall be the duty of any person owning or controlling a house or other building visible from any public place, located within the City, to maintain such premises free from graffiti and shall not permit the accumulation of graffiti thereon. (Ord. 3609, 2020).

6-5-7: DISCHARGE OF WEAPONS:

A. No person shall fire or discharge any gun, pistol, cannon or firearms of any description within the corporate limits of the city without written permission or proclamation from the mayor of the city to do so, which permission or proclamation shall limit the time of such firing and shall be subject to revocation by the mayor at any time after it has been granted. (1977 Code § 9.52.010; amd. 2013 Code)

B. No person, firm or corporation shall fire, discharge or explode, within the corporate limits of the city, any gun, pistol or firearm unless in discharge of a legal duty or official act, except by written consent or proclamation of the mayor, and then only at such time or times as may be designated in such written consent or proclamation of the mayor. (1977 Code § 9.52.020; amd. 2013 Code)

6-5-8: RESISTING OR OBSTRUCTING POLICE/FIRE PROHIBITED:

It shall be unlawful to knowingly resist or obstruct the performance by one known to the person to be a peace officer or firefighter of any authorized act within their official capacity. (1977 Code § 2.24.050; amd. 2013 Code, amd. Ord. 3609, 2020)

6-5-9: THEFT, RETAIL THEFT, THEFT OF SERVICES:

A. It is unlawful for any individual to knowingly exert unauthorized control over property of another, to obtain control over property of another by deception or threat, or to obtain control over stolen property knowing it to have been stolen or under such circumstances as would reasonably induce him to believe that the property was stolen, and Intends to permanently deprive the owner permanently of the use or benefit of the property, or knowingly uses or conceals the property in such a manner as to deprive the owner of the use or benefit thereof.

B. It is unlawful to Knowingly take possession of, carry away, or cause to be carried away any merchandise offered for sale in a retail mercantile establishment with the intention of depriving the merchant permanently of the possession, use or benefit of the merchandise without paying full retail value of such merchandise.

C. It is unlawful to knowingly obtain the temporary use of property, labor, or services of another which are available only for hire or fee, by means of threat or deception or knowing that such use is without the consent of the person or entity providing the property, labor or services. For purposes of this subsection, library material is available for hire. (1977 Code § 9.40.010, Amd. Ord. 3609, 2020).

6-5-10: POSTING SIGNS ON UTILITY POLES:

No placard, sign or poster of any kind shall be nailed, stapled, pasted, taped or otherwise attached in any fashion to any utility pole located upon any City street right-of-way. Any person, firm or organization found to be in violation of this section shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) for the first violation. For a second violation, the fine shall be not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00). (Ord. 1639, 11-12-1996)

6-5-11: SOUND AMPLIFICATION IN RESIDENTIAL DISTRICTS:

No person within the City shall operate or permit the operation, in an area zoned residential, of any type of sound amplification equipment, including, but not limited to, radios, boom boxes, and musical equipment that can be heard a distance of twenty five feet (25') from the point of emanation. Any violation of this section shall be a petty offense punishable by a fine not to exceed fifty dollars (\$50.00). (Ord. 1980, 8-9-2004)

6-5-12: GRADING AND HAULING DIRT:

It is unlawful for any person to perform dirt grading, hauling dirt, or causing dirt to be hauled to or from any location within the City that would in any way change the storm drainage pattern or intensity on property, without first obtaining a permit from the Code Enforcement Department.

A. All applications for dirt grading permits shall be submitted to the Code Enforcement Department. The application shall contain the following information:

1. Name, address and telephone number of applicant;
2. Number of yards to be hauled;

3. Approximate date when hauling is to occur;
4. The destination of the dirt;
5. Proposed grading plan.

B. The following shall be conditions of every permit issued:

1. Trucks shall be loaded in such a manner that there shall be no spillage.
2. The permit shall specify the number of yards of dirt to be hauled.
3. All loads shall be sprinkled to keep down the dust when necessary.
4. The City streets shall be kept clean of spillage and wheel dirt on allotted routes.
5. Crossing guards shall be provided at the expense of the applicant when necessary in the opinion of the Street Department Superintendent or his/her designee.
6. Grading shall not alter drainage pattern or intensity.
7. IEPA NPDES stormwater permit is obtained when applicable.

C. If the Code Enforcement or Street Department official or his/her designee deems that the conditions of the permit are being violated, he/she may suspend the permit. Notice of such suspension shall be delivered to the permittee either in person or by certified mail.

D. Any person who shall violate or assist in the violation of any provision of this section shall, upon a finding of guilt, be fined not more than seven hundred fifty dollars (\$750.00) for each offense. (Ord. 3484, 12-26-2018)

6-5-13: PENALTY:

Any person who shall violate any provision of this article shall, upon conviction thereof, be subject to a fine as provided in section 1-4-1 of this code. (2013 Code, amd. Ord. 3609, 2020)

ARTICLE A. OFFENSES AGAINST MORALS AND DECENCY

6-5A-1: PROHIBITED GENERALLY:

It is unlawful for any person in any public place within the corporate limits of the city to engage in open lewdness, disorderly conduct, loud and profane swearing, the use of obscene language or other act of indecency, or keep a disorderly house to the encouragement of gaming, drinking of intoxicating liquor, or fornication, and it is unlawful for any person to patronize any such house or to be an inmate thereof, or to lease or let any house, room or other premises for any such purpose. It is also unlawful for any person, as agent, custodian or owner, to lease or let to another any house, room or other premises, in whole or in part, for the use of the same as a disorderly house to the encouragement of gaming, drinking of intoxicating liquor or fornication, or knowingly permit the same to be used or occupied as such. (1977 Code § 9.18.010)

6-5A-2: PROSTITUTION:

- A. Practicing Prostitution: It shall be unlawful for any person to practice prostitution in the city.
- B. Soliciting: It shall be unlawful for any person to solicit on any street, alley or other public place in the city for the purpose of inducing any person to engage in prostitution or any unlawful sexual intercourse of any kind.
- C. House of Prostitution: It shall be unlawful to maintain, frequent or patronize any house of prostitution in the city. (2013 Code)

6-5A-3: PUBLIC INDECENCY:

- A. Definition: "Public place", for purposes of this section, means any place where the conduct may reasonably be expected to be viewed by others.
- B. Determination of Public Indecency: Any person of the age of seventeen (17) years and upwards who performs any of the following acts in a public place commits a public indecency:
1. An act of sexual penetration or sexual conduct; or
 2. A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of the person.
- C. Exemption: Breast feeding of infants is not an act of public indecency. (2013 Code)

6-5A-4: OBSCENE PUBLICATIONS AND GRAFFITI:

- A. It is unlawful for any person within the corporate limits of the city to write, mark, cut, draw, paint, post or otherwise make, leave, put up or expose to public view any obscene, lewd or indecent word, line, sentence, phrase, picture, painting, drawing, caricature, poster, or a combination thereof, upon any building, bulletin board, post, pole, fence, billboard, wall, pavement, wall or vehicle, or, within the corporate limits of the city, sell, expose or offer for sale, circulate, distribute, or expose, or offer for circulation or distribution, whether for gain or gratuity, any obscene, lewd or indecent book, pamphlet, circular, periodical, magazine, paper, picture, drawing, painting, poster or caricature.
- B. A thing is obscene if, considered as a whole, its predominant appeal is to prurient interest, that is, a shameful or morbid interest in nudity, sex or excretion, and if it goes substantially beyond customary limits of candor in description or representation of such matters. (1977 Code § 9.20.010)

6-5A-5: WINDOW PEEPING:

It is unlawful for any person to enter upon any lot or plot of ground within the city which has thereon any building occupied as a private residence or home and, while on said lot or plot of ground, to look through any door, window or aperture in said building to see or observe anyone or anything within said building, without having the permission so to do of the person occupying or using the building as a residence or home. (1977 Code § 9.42.010; amd. 2013 Code)

6-5A-6: PENALTY:

Any person who shall violate any provision of this article shall, upon conviction thereof, be subject to a fine as provided in section 1-4-1 of this code. (2013 Code)

ARTICLE B. OFFENSES INVOLVING LIQUOR, CANNABIS AND CONTROLLED SUBSTANCES

6-5B-1: PUBLIC LIQUOR CONSUMPTION IN CERTAIN AREAS PROHIBITED:

A. Prohibitions: Consumption of alcoholic beverages in public, including consumption in public view on private property contrary to the public good, within one hundred feet (100') of a school, park or church is prohibited. (Ord. 1821, 11-13-2001; amd. 2013 Code)

B. Exemptions: The prohibition herein provided does not include alcoholic beverages that may be consumed in privately owned buildings or fully enclosed structures.

C. Penalty: Any violation of this section shall subject the violator to a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00). (Ord. 1821, 11-13-2001)

6-5B-2: CANNABIS AND DRUG PARAPHERNALIA:

A. DEFINITIONS: When used in this section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

CANNABIS: Includes marijuana, hashish or other substances which are identified as including any parts of the plant *Cannabis sativa*, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seeds of such plant. Cannabis shall also include any substance defined as cannabis in section 3 of the Illinois cannabis control act, 720 Illinois Compiled Statutes 550/3, and as hereafter amended.

CONTROLLED SUBSTANCE: Any substance as defined in article II of the Illinois controlled substances act, 720 Illinois Compiled Statutes 570/201 et seq.

DELIVER OR DELIVERY: Actual, constructive or attempted transfer of possession of cannabis, with or without consideration, whether or not there is an agency relationship.

DRUG PARAPHERNALIA: All equipment, products, and materials of any kind, other than "methamphetamine manufacturing materials", as defined in 720 Illinois Compiled Statutes 646/10, which are intended to be used unlawfully in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body cannabis or a controlled substance in violation of this section, the

cannabis control act, 720 Illinois Compiled Statutes 500/1 et seq., or the Illinois controlled substances act, 720 Illinois Compiled Statutes 570/100 et seq. The term includes, but is not limited to:

1. Kits intended to be used unlawfully in manufacturing, compounding, converting, producing, processing, or preparing cannabis or a controlled substance.
2. Isomerization devices intended to be used unlawfully in increasing the potency of any species of plant which is cannabis or a controlled substance.
3. Testing equipment intended to be used unlawfully in a private home for identifying or in analyzing the strength, effectiveness, or purity of cannabis or controlled substances.
4. Diluents and adulterants intended to be used unlawfully for cutting cannabis or a controlled substance by private persons.
5. Objects intended to be used unlawfully in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body including, where applicable, the following items:
 - a. Water pipes.
 - b. Carburetion tubes and devices.
 - c. Smoking and carburetion masks.
 - d. Miniature cocaine spoons and cocaine vials.
 - e. Carburetor pipes.
 - f. Electric pipes.
 - g. Air driven pipes.
 - h. Chillums.
 - i. Bongs.
 - j. Ice pipes or chillers.
6. Any item whose purpose, as announced or described by the seller, is for use in violation of this section.

KNOWLEDGE: Knows, acts knowingly or with knowledge:

1. The nature or attendant circumstances of his/her conduct, described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist. Knowledge of a material fact includes awareness of the substantial probability that such fact exists.
2. The result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.
3. Knowledge may be inferred from the surrounding circumstances.

MANUFACTURE: The production, preparation, propagation, compounding, conversion or processing of cannabis, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of cannabis or labeling of its container; except, that this term does not include the preparation, compounding, packaging or labeling of cannabis as an incident to lawful research, teaching or chemical analysis and not for sale.

PERSON: Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.

POSSESSION: May be either actual or constructive.

1. "Actual possession" means exercising physical dominion.
2. Constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cannabis or drug paraphernalia.

PRODUCE OR PRODUCTION: Planting, cultivating, tending or harvesting. (Ord. 2177, 12-10-2007; amd. 2013 Code)

B. POSSESSION OF CANNABIS:

1. Violation: No person shall possess more than thirty grams (30g) of raw cannabis, cannabis-infused products containing more than five hundred milligrams (500mg) of THC, or five grams (5g) of cannabis product in concentrated form. (Ord. 2177, 12-10-2007, amd. Ord. 3609 2020).

2. No person under the age of twenty-one (21) shall possess, consume, or use any substance containing cannabis or THC, except as allowed by the Compassionate Use of Medical Cannabis Program Act as amended.

3. No person shall sell, deliver, or give any substance containing cannabis or THC to a person under the age of twenty-one (21), except as allowed by the Compassionate Use of Medical Cannabis Program Act as amended.

2. Penalty: Any person who pleads guilty or is found guilty by a court of law of a violation of this subsection shall be punishable by a fine as provided in section 1-4-1 of this code. (Ord. 2177, 12-10-2007; amd. 2013 Code)

3. Administrative Fee: In addition, any person who violates any provision of this subsection and is convicted, pleads guilty, and receives court supervision or probation by a court of law shall be ordered to pay an administrative fee of one hundred dollars (\$100.00) to be paid to the law enforcement agency for testing of the substance(s) collected.

4. Forfeiture: Any items which may be seized or forfeited pursuant to 720 Illinois Compiled Statutes 550/12 may be forfeited in the same manner as described therein for a violation of this section.

5. Exceptions: Any person who manufactures, distributes, dispenses, or is in possession of cannabis for research purposes pursuant to 720 Illinois Compiled Statutes 550/11, as hereafter amended, shall be exempt from the provisions of this subsection.

C. Unlawful Consumption of Cannabis: No person shall use cannabis or cannabis-infused products in public or knowingly within the presence of a person under the age of twenty-one (21), except as allowed by the Compassionate Use of Medical Cannabis Program Act as amended. For purposes of this subsection, public does not include a residential property when the person is within their residential structure or is not visible from the public right-of-way.

D. POSSESSION OF DRUG PARAPHERNALIA:

1. Violation: No person shall knowingly possess any item of drug paraphernalia with the intent to use it for the purpose of unlawfully ingesting, inhaling, or otherwise introducing cannabis or a controlled substance into the human body, or in preparing cannabis or a controlled substance for that use within the corporate limits of the city. In determining intent for purposes of this subsection, the trier of fact may take into consideration the proximity of the cannabis or controlled substances to drug paraphernalia or the presence of cannabis or a controlled substance on the drug paraphernalia. (Ord. 2177, 12-10-2007)

2. Penalty: Any person who pleads guilty or is found guilty by a court of law for violating this subsection shall be punishable by a fine as provided in section 1-4-1 of this code. (Ord. 2177, 12-10-2007; amd. 2013 Code)

3. Forfeiture: "Drug paraphernalia", as defined in subsection A of this section, seized by police officers pursuant to an arrest or issuance of a notice to appear for a violation of this subsection, shall be forfeited to the city upon a plea of guilty, a finding of guilt and/or a disposition of court supervision or probation by a court of law or upon the individual utilizing any administrative remedy allowed by the city without further order of the court. Any other items which may be seized or forfeited pursuant to 720 Illinois Compiled Statutes 600/5 may be forfeited in the same manner as described therein for a violation of this subsection.

4. Exceptions: This subsection does not apply to:

a. Items used in the preparation, compounding, packaging, labeling, or other use of cannabis or a controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.

b. Items historically and customarily used in connection with the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling tobacco or any other lawful substance unless such item has the presence of cannabis or a controlled substance. Items exempt under this subsection C4b include, but are not limited to, garden hoes, rakes, sickles, baggies, tobacco pipes, and cigarette rolling papers.

c. Items listed in the definition of "drug paraphernalia" in subsection A of this section, if said items are used solely for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purposes prohibited by this subsection.

d. A person who is legally authorized to possess hypodermic syringes or needles under the hypodermic syringes and needles act, 720 Illinois Compiled Statutes 635/0.01 et seq.

E. SALE OR DELIVERY OF DRUG PARAPHERNALIA:

1. Violation: It shall be unlawful for any person to keep for sale, offer for sale, sell, or deliver for any commercial consideration any item of drug paraphernalia within the corporate limits of the city. (Ord. 2177, 12-10-2007)

2. Penalty: Any person who pleads guilty or is found guilty by a court of law for violating this subsection shall be punishable by a fine as provided in section 1-4-1 of this code for each item of drug paraphernalia. (Ord. 2177, 12-10-2007; amd. 2013 Code)

3. Forfeiture: "Drug paraphernalia", as defined in subsection A of this section, seized by police officers pursuant to an arrest or issuance of a notice to appear for a violation of this subsection, shall be forfeited

to the city upon a plea of guilty, a finding of guilt and/or a disposition of court supervision or probation by a court of law or upon the individual utilizing any administrative remedy allowed by the city without further order of the court. Any other items which may be seized or forfeited pursuant to 720 Illinois Compiled Statutes 600/5 may be forfeited in the same manner as described therein for a violation of this subsection. (Ord. 2177, 12-10-2007)

6-5B-3: POSSESSION OF SYNTHETIC CANNABIS:

A. DEFINITIONS: When used in this section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

DELIVER OR DELIVERY: Actual, constructive or attempted transfer of possession of synthetic cannabis, with or without consideration, whether or not there is an agency relationship.

KNOWLEDGE: Knows, acts knowingly or with knowledge:

1. The nature or attendant circumstances of his/her conduct, described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist. Knowledge of a material fact includes awareness of the substantial probability that such fact exists.
2. The result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.
3. Knowledge may be inferred from the surrounding circumstances.

MANUFACTURE: The production, preparation, propagation, compounding, conversion or processing of synthetic cannabis, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cannabis or labeling of its container; except, that this term does not include the preparation, compounding, packaging or labeling of synthetic cannabis as an incident to lawful research, teaching or chemical analysis and not for sale.

PERSON: Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.

POSSESSION: May be either actual or constructive.

1. "Actual possession" means exercising physical dominion.
2. Constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cannabis or drug paraphernalia.

PRODUCE OR PRODUCTION: Planting, cultivating, tending or harvesting.

SYNTHETIC CANNABIS: Includes the brand names K2 and spice. The term is an herbal and chemical product which mimics the effects of cannabis including, but not limited to, synthetic cannabinoids, cannabicyclohexanol, JWH-018, JWH-073 and HU-210.

B. Possession Prohibited: No person shall possess any substance containing synthetic cannabis. (Ord. 2329, 9-27-2010)

C. Penalty: Any person who pleads guilty or is found guilty by a court of law shall be punishable by a fine as provided in section 1-4-1 of this code. (Ord. 2329, 9-27-2010; amd. 2013 Code)

D. Administrative Fee: In addition, any person who violates any provision of this section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee of one hundred dollars (\$100.00) to be paid to the law enforcement agency for the testing of the substance(s) collected.

E. Forfeiture: Any items which may be seized or forfeited pursuant to 720 Illinois Compiled Statutes 550/12 may be forfeited in the same manner as described therein for a violation of this section. (Ord. 2329, 9-27-2010)

F. Exceptions: Any person who manufactures, distributes, dispenses, or is in possession of any synthetic cannabis for research purposes pursuant to 720 Illinois Compiled Statutes 550/11, as hereafter amended, shall be exempt from the provisions of this section. (Ord. 2329, 9-27-2010; amd. 2013 Code)

6-5B-4: POSSESSION OF SYNTHETIC COCAINE OR SUBSTANCES CONTAINING COCAINE:

A. Definitions: When used in this section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

DELIVER OR DELIVERY: Actual, constructive or attempted transfer of possession of synthetic cocaine or substance containing cocaine, with or without consideration, whether or not there is an agency relationship.

KNOWLEDGE: Knows, acts knowingly or with knowledge:

1. The nature or attendant circumstances of his/her conduct, described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist. Knowledge of a material fact includes awareness of the substantial probability that such fact exists.
2. The result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.
3. Knowledge may be inferred from the surrounding circumstances.

MANUFACTURE: The production, preparation, propagation, compounding, conversion or processing of synthetic cocaine or a substance containing cocaine, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis and includes any packaging or repackaging of synthetic cocaine or a substance containing cocaine or labeling of its container; except, that this term does not include the preparation, compounding, packaging or labeling of synthetic cocaine as an incident to lawful research, teaching or chemical analysis and not for sale.

PERSON: Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.

POSSESSION: May be either actual or constructive.

1. "Actual possession" means exercising physical dominion.
2. Constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the synthetic cocaine or substance containing cocaine or drug paraphernalia.

SYNTHETIC COCAINE, BATH SALTS OR SUBSTANCES CONTAINING COCAINE: Includes, but not limited to, the names, MDPK, magic, super coke, PV, ivory wave, ocean, cloud nine, charge plus, white lightning, scarface, hurricane, charlie red dove and white dove. They are herbal and chemical products which mimic the effects of cocaine including, but not limited to, methylenedioxypropylamphetamine (a psychoactive drug) or cathinone derivatives. "Bath salts" is a substance that contains methylenedioxypropylamphetamine (MDPV) or contains a norepinephrine-dopamine reuptake inhibitor (NDRI). (Ord. 2340, 2-28-2011; amd. 2013 Code)

B. Possession Prohibited: No person shall possess any substance containing synthetic cocaine or a substance containing cocaine. (Ord. 2340, 2-28-2011)

C. Penalty: Any person who pleads guilty or is found guilty by a court of law shall be punishable by a fine as provided in section 1-4-1 of this code. (Ord. 2340, 2-28-2011; amd. 2013 Code)

D. Administrative Fee: In addition, any person who violates any provision of this section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee of one hundred dollars (\$100.00) to be paid to the law enforcement agency for testing of the substance(s) collected.

E. Forfeiture of Seized Items: Any items which may be seized or forfeited pursuant to 720 Illinois Compiled Statutes 550/12 may be forfeited in the same manner as described therein for a violation of this section. (Ord. 2340, 2-28-2011)

F. Exemptions: Any person who manufactures, distributes, dispenses, or is in possession of any synthetic cocaine or substances containing cocaine for research purposes shall be exempt from the provisions of this section. (Ord. 2340, 2-28-2011; amd. 2013 Code)

6-5B-5: CONTROLLED SUBSTANCES AND LIQUOR ON CITY PROPERTY:

A. Prohibitions:

1. Possession or use of any controlled substance or drug, not prescribed by a physician, upon any property owned by the city is prohibited.

2. Possession or consumption of any alcoholic beverage upon any property owned by the city is prohibited.

B. Special Permit for Liquor: Notwithstanding the prohibition set forth in subsection A2 of this section, the liquor control commissioner, upon application, may, at his discretion, allow the possession, sale and consumption of alcoholic beverages on city owned property for such time and on such conditions as he deems allowable. (Ord. 2226, 10-20-2008)

C. Penalty: Any person who is found guilty of violating the terms of subsection A1 or A2 of this section shall be subject to a fine as provided in section 1-4-1 of this code. (Ord. 2226, 10-20-2008; amd. 2013 Code)

ARTICLE C. LOITERING

6-5C-1: DEFINITIONS:

As used in this article, the following words and terms shall have the meanings ascribed to them in this section:

DRUG RELATED ACTIVITIES: Remaining in any one place under circumstances that would warrant a reasonable person to believe that the purpose or effect of that behavior is to facilitate the distribution of substances in violation of the cannabis control act or the Illinois controlled substances act.

LOITERING: Standing around, moving slowly about, spending time idly, sauntering, delaying, lingering, or lagging behind, whether on foot, in a motor vehicle, or any other form, method, or conveyance.

PUBLIC PLACE: The public way and any other location open to the public, whether publicly or privately owned. (Ord. 3007, 10-10-2011)

6-5C-2: LOITERING WHICH OBSTRUCTS TRAFFIC:

A. Prohibited Conduct: It is hereby declared to be a nuisance for any person or any group of persons to loiter, obstruct, encroach upon, or block the flow of pedestrian or vehicular traffic in an unreasonable manner upon any public highway, street, sidewalk, alley or common area or upon any private way, or any part thereof, by any means whatsoever.

B. Exceptions: Nothing in this section shall be construed to prohibit any such conduct which is protected under local, state, or federal law. (Ord. 3007, 10-10-2011)

C. Penalty: Any person or group of persons who is found guilty of violating any provision of this section shall be ordered to cease and desist the prohibited conduct and/or be fined as provided in section 1-4-1 of this code. (Ord. 3007, 10-10-2011; amd. 2013 Code)

6-5C-3: LOITERING FOR DRUG RELATED ACTIVITIES:

A. Prohibited Conduct: It is hereby declared to be a nuisance for any person or any group of persons to loiter in or near any thoroughfare, in or near any place open to the public, or near any public or private place in a manner and under circumstances manifesting the purpose to engage in drug related activity contrary to any of the laws of the state of Illinois.

B. Determination of Conduct: Among the circumstances which may be considered in determining whether such purposes are "manifested":

1. Such person is a known unlawful drug user, possessor, or seller. For purposes of this section, a "known unlawful drug user, possessor, or seller" is a person who has, with the knowledge of the arresting officer, been convicted in any court within this state of any violation involving the use, possession, or sale of any of the substances referred to in the Illinois criminal code as controlled substances or such person has been convicted of any drug violations or similar laws of any political subdivision of this state or of any other state; or a person who displays physical characteristics of drug intoxication or usage, such as "needle tracks"; or a person who possesses "drug paraphernalia" as defined in the Illinois criminal code.

2. Such person is currently subject to an order prohibiting his/her presence in a high drug activity geographic area.

3. Such person behaves in such a manner as to raise a reasonable suspicion that he or she is about to engage in or is then engaged in an unlawful drug related activity including, by way of example only, such person acting as a "lookout".
 4. Such person is physically identified by the officer as a member of a "gang" or association which has as one of its purposes illegal drug activity.
 5. Such person transfers small objects or packages for currency in a furtive fashion.
 6. Such person takes flight upon the appearance of a police officer.
 7. Such person manifestly endeavors to conceal himself or herself or any object which reasonably could be involved in an unlawful drug related activity.
 8. The area involved is, by public repute, known to be an area of unlawful drug use and trafficking.
 9. The premises involved is known to have been reported to law enforcement as a place suspected of drug activity.
- C. Exceptions: Nothing in this section shall be construed to prohibit any such conduct which is protected under local, state, or federal law. (Ord. 3007, 10-10-2011)
- D. Penalty: Any person or group of persons who is found guilty of violating any provision of this section shall be ordered to cease and desist the prohibited conduct and/or be fined as provided in section 1-4-1 of this code. (Ord. 3007, 10-10-2011; amd. 2013 Code)

6-5C-4: LOITERING RESULTING IN LITTERING OR DESTRUCTION OF PROPERTY:

- A. Prohibited Conduct: It is hereby declared to be a nuisance for any person or any group of persons to loiter in or near any thoroughfare, in or near any place open to the public, or near any public or private place under which such circumstances cause the depositing of litter or debris onto such above described property or which cause the destruction of property whatsoever.
- B. Exceptions: Nothing in this section shall be construed to prohibit any such conduct which is protected under local, state, or federal law. (Ord. 3007, 10-10-2011)
- C. Penalty: Any person or group of persons who is found guilty of violating any provision of this section shall be ordered to cease and desist the prohibited conduct and/or be fined as provided in section 1-4-1 of this code. (Ord. 3007, 10-10-2011; amd. 2013 Code)

6-5C-5: LOITERING ON BUSINESS PROPERTY:

- A. Definitions: As used in this section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
- LITTERING: Dropping, throwing or otherwise disposing of any material or object other than in a container provided for that purpose.
- LOITERING: Remaining idle in one location, including walking around aimlessly, and sitting or standing in or out of a motor vehicle.

B. Prohibited:

1. No person shall engage in loitering in any area that has been posted with "NO LOITERING".
2. No person shall loiter on private property that is customarily used by the public as an integral part of a commercial venture in such a manner as to:
 - a. Disturb the peace as defined by state law and the city of Marion's ordinances;
 - b. Obstruct the free passage of pedestrians or vehicles;
 - c. Obstruct or interfere with any person lawfully seeking access or the use of the commercial enterprise conducted on the property or adjacent or contiguous to said private property.
3. No person shall litter while loitering on any property on which loitering is prohibited.

C. Notice: No person shall be guilty of a violation of this section unless:

1. The business property owner or tenant shall post the property with "NO LOITERING" signs or other notices of like meaning at the entrance or entrances to the property and at intervals of not less than one hundred fifty feet (150') on such property. Property of fifty feet (50') or less may contain only one sign.

D. Penalty: Any person, firm or corporation violating any provision of this section shall be fined seven hundred fifty dollars (\$750.00) for each offense, and a separate offense shall be deemed committed on each day during or on which violation occurs or continues. (Ord. 3197, 8-11-2014)

PASSED BY THE COUNCIL THE 13TH DAY OF APRIL, 2020.

SIGNED BY THE MAYOR THE 13TH DAY OF APRIL, 2020.

Michael W. Absher, Mayor

ATTEST:

Tammy Beasley, City Clerk