

CITY OF MARION

ORDINANCE NO. 4139

**ESTABLISHING LICENSING REQUIREMENTS, LOCATION
RESTRICTIONS, OPERATIONAL REQUIREMENTS, AND
ENFORCEMENT PROVISIONS FOR THE RETAIL SALE OF TOBACCO
PRODUCTS, NICOTINE PRODUCTS, ELECTRONIC SMOKING
DEVICES, HEMP-DERIVED CANNABINOID PRODUCTS, AND
RELATED PARAPHERNALIA WITHIN THE CITY OF MARION,
ILLINOIS**

**ADOPTED BY THE
CITY COUNCIL OF THE
CITY OF MARION**

**Published in pamphlet form by the authority of the City Council of the City of
Marion, Illinois, Williamson County, Illinois,
this 28th day of September 2026.**

ORDINANCE NO. 4139

AN ORDINANCE ESTABLISHING LICENSING REQUIREMENTS, LOCATION RESTRICTIONS, OPERATIONAL REQUIREMENTS, AND ENFORCEMENT PROVISIONS FOR THE RETAIL SALE OF TOBACCO PRODUCTS, NICOTINE PRODUCTS, ELECTRONIC SMOKING DEVICES, HEMP-DERIVED CANNABINOID PRODUCTS, AND RELATED PARAPHERNALIA WITHIN THE CITY OF MARION, ILLINOIS

WHEREAS, the City of Marion, Williamson County, Illinois ("City"), is a home rule unit of government pursuant to Article VII, Section 6 of the Illinois Constitution; and

WHEREAS, the City possesses authority to protect the public health, safety, and welfare and to license and regulate businesses operating within its corporate limits to the fullest extent permitted by law; and

WHEREAS, the Illinois General Assembly has enacted laws regulating the manufacture, distribution, possession, display, and sale of tobacco products, nicotine products, alternative nicotine products, electronic cigarettes and smoking devices, hemp, and hemp-derived cannabinoid products; and

WHEREAS, the City has previously prohibited the sale of kratom and its derivatives within the City pursuant to City of Marion Ordinance No. 4041; and

WHEREAS, the City Council finds that tobacco products, nicotine products, electronic smoking devices, hemp-derived cannabinoid products, and related paraphernalia present particular concerns regarding access by persons under twenty-one (21) years of age, product safety, unlawful or adulterated products, and responsible retail practices; and

WHEREAS, the City Council finds that reasonable licensing, location, product-storage, inspection, age-verification, and operational requirements will assist the City in protecting the public and enforcing applicable federal, State, and local laws; and

WHEREAS, the City Council further finds that reasonable separation requirements between new Regulated Products Retail Establishments and schools, day care centers, public parks, places of worship, and other Regulated Products Retail Establishments are appropriate to prevent the undue concentration of such establishments and to protect the public health, safety, and welfare; and

WHEREAS, the City Council determines that establishing local licensing requirements, operational restrictions, product controls, inspection authority, and enforcement procedures consistent with State and federal law is necessary and appropriate to protect the public health, safety, and welfare;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARION, ILLINOIS, AS FOLLOWS:

SECTION 1. PURPOSE AND INTENT

The purpose of this Ordinance is to:

A. Establish licensing and operational requirements for businesses engaged in the retail sale of Regulated Products within the City;

- B. Prevent the sale, furnishing, or distribution of Regulated Products to persons under twenty-one (21) years of age;
- C. Establish reasonable location and separation requirements for new Regulated Products Retail Establishments;
- D. Prevent customers from having direct or self-service access to Regulated Products;
- E. Prohibit vending-machine sales of Regulated Products;
- F. Provide for inspection of licensed premises, products, stored inventory, and records as authorized by law;
- G. Prevent the retail sale, distribution or possession for retail sale of unlawful, adulterated, mislabeled, counterfeit, or otherwise prohibited products;
- H. Provide an effective system of enforcement, administrative sanctions, and due process; and
- I. Ensure compliance with applicable federal, State, and local law.

Nothing contained in this Ordinance shall be construed to authorize the possession, manufacture, distribution, offer for sale, or sale of any product prohibited by federal or State law.

SECTION 2. DEFINITIONS

For purposes of this Ordinance:

ALTERNATIVE NICOTINE PRODUCT: Any product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, ingested, inhaled, snorted, sniffed, or consumed by any other means, as defined or regulated by applicable Illinois law. The term does not include a product approved by the United States Food and Drug Administration for use as a tobacco-cessation product, medical purpose, or other therapeutic purpose when marketed and sold solely for such approved purpose.

CERTIFICATE OF ANALYSIS: A laboratory report, testing report, certificate, or similar documentation relating to the chemical composition, cannabinoid content, ingredients, contaminants, or other characteristics of a particular product, batch, or lot, when required by the Illinois Hemp Act or other applicable State or federal law.

DAY CARE CENTER: Any facility licensed or otherwise authorized by the State of Illinois to provide day care or child care services to children, excluding a private residence providing services to a limited number of children unless otherwise required by applicable law.

DIRECT EMPLOYEE ASSISTANCE: An employee of the Retailer is physically present and controls access to the Regulated Product so that a customer cannot retrieve, remove, or obtain possession of the Regulated Product without the employee's direct participation.

ELECTRONIC CIGARETTE OR ELECTRONIC SMOKING DEVICE: Any device that employs a battery, heating element, or other electronic, mechanical, or similar mechanism to heat, vaporize, aerosolize, or otherwise deliver nicotine, tobacco, cannabinoids, or another substance intended for inhalation, including electronic cigarettes, electronic cigars, electronic cigarillos, electronic pipes, vape pens, vaporizers, vaping devices, e-hookahs, and similar devices, together with any component, part, cartridge, pod, tank, atomizer, liquid, solution, or other material intended or reasonably expected to be used with such a device.

FINAL CONSUMER HEMP CANNABINOID PRODUCT: A hemp-derived cannabinoid product intended for sale to or use by an end consumer that satisfies the definition and all applicable requirements for a “final consumer hemp cannabinoid product” under the Illinois Hemp Act, et seq., as amended, and all rules adopted thereunder, specifically products that contain a total tetrahydrocannabinol (THC) concentration of not more than 0.4 milligrams per container.

HEMP: The plant *Cannabis sativa L.* and any part thereof meeting the definition of “hemp” under the Illinois Hemp Act, as amended. The term shall not include any substance or product expressly excluded from the definition of hemp under applicable State or federal law.

HEMP-DERIVED CANNABINOID PRODUCT: Any intermediate or final product derived from hemp that contains cannabinoids in any form and is intended for human or animal use through any means of application or administration, including inhalation, ingestion, absorption, or topical application, as defined by the Illinois Hemp Act, as amended.

LICENSE: A Regulated Products Retailer License issued by the City pursuant to this Ordinance.

LICENSEE: The Person or business entity to whom a License has been issued.

MANAGER: Any Person having responsibility or authority for the supervision, management, direction, or day-to-day operation of a Regulated Products Retail Establishment, regardless of job title.

NICOTINE PRODUCT: Any product containing nicotine in any form intended for human consumption, use, absorption, inhalation, or ingestion, whether derived from tobacco, synthetically produced, or derived from another source, except a product regulated and sold solely as a drug, device, or combination product pursuant to applicable federal law.

OWNER: Any individual who is a sole proprietor or who possesses, directly or indirectly, an ownership or controlling interest in a Regulated Products Retail Establishment or the business entity operating the establishment.

PARAPHERNALIA: Any device, equipment, product, component, accessory, or material designed, marketed, intended, or reasonably expected to be used for smoking, inhaling, vaporizing, aerosolizing, ingesting, or otherwise consuming tobacco, nicotine, hemp-derived cannabinoids, or similar substances, including pipes, rolling papers, wraps, electronic smoking devices, vape devices, cartridges, pods, tanks, atomizers, and similar items.

PERSON: Any individual, partnership, corporation, limited liability company, association, trust, organization, or other legal or commercial entity.

PLACE OF WORSHIP: A building and property primarily and regularly used by a religious organization for public religious worship. The term does not include a temporary meeting location or a building in which religious services are merely incidental to the principal use of the property.

PUBLIC PARK: Real property owned, operated, or maintained by a governmental entity and principally designated and used for public recreational purposes.

REGULATED PRODUCT: Any:

1. Tobacco Product;
2. Nicotine Product or Alternative Nicotine Product;
3. Electronic Cigarette or Electronic Smoking Device;
4. vapor product or vaping device;
5. Hemp-Derived Cannabinoid Product or Final Consumer Hemp Cannabinoid Product;

6. Paraphernalia; or
7. component, accessory, substance, liquid, cartridge, pod, or other product designed, marketed, or intended primarily for use with any product identified above.

The term does not include a prescription drug, medical device, or tobacco-cessation product approved by the United States Food and Drug Administration and marketed and sold solely for its approved therapeutic purpose.

REGULATED PRODUCTS RETAIL ESTABLISHMENT or RETAILER: Any store, shop, business, premises, location, kiosk, or other establishment within the City at which a Regulated Product is sold, offered for sale, displayed for sale, distributed, or otherwise furnished to an ultimate consumer, whether such activity constitutes the principal use or an incidental or accessory portion of the business. Regulated Products Retail Establishment does not include a cannabis business establishment licensed pursuant to the Cannabis Regulation and Tax Act which is otherwise prohibited under Marion City Ordinance 3565.

SCHOOL: Any public or private elementary school, middle school, junior high school, or secondary school recognized or approved under applicable Illinois law.

SELF-SERVICE DISPLAY: Any open display, rack, counter, kiosk, shelving unit, case, or other presentation of Regulated Products that permits a customer to access, handle, select, retrieve, or remove a Regulated Product without Direct Employee Assistance.

SENSITIVE USE: A School, Day Care Center, Public Park, or Place of Worship.

TOBACCO PRODUCT: Any product containing, made from, or derived from tobacco or containing nicotine derived from tobacco and intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, ingested, or consumed by any other means, including cigarettes, cigars, pipe tobacco, chewing tobacco, smokeless tobacco, and any other product included within the definition of “tobacco product” under applicable Illinois law.

TOBACCO RETAILER (CLASS A LICENSE): A Retailer that sells, offers for sale, displays for sale, or possesses for retail sale Tobacco Products, but does not sell, offer for sale, display for sale, distribute, or possess for retail sale any Tobacco Plus Product. A Class A Tobacco Retailer may sell Tobacco Products only as authorized by its Class A License.

TOBACCO PLUS PRODUCT: Any Regulated Product other than a Tobacco Product, including:

1. Nicotine Products and Alternative Nicotine Products;
2. Electronic Cigarettes and Electronic Smoking Devices;
3. Vapor products and vaping devices;
4. Hemp-Derived Cannabinoid Products and Final Consumer Hemp Cannabinoid Products;
5. Paraphernalia primarily designed, marketed, intended, or reasonably expected for use with an Electronic Cigarette, Electronic Smoking Device, vapor product, Hemp-Derived Cannabinoid Product, or other Tobacco Plus Product; and
6. Any component, accessory, substance, liquid, cartridge, pod, tank, atomizer, or similar product designed, marketed, or intended primarily for use with a Tobacco Plus Product.

TOBACCO PLUS RETAILER (CLASS B LICENSE): A Retailer that sells, offers for sale, displays for sale, distributes, or possesses for retail sale one or more Tobacco Plus Products, whether or not the Retailer also sells Tobacco Products and regardless of whether the sale of Tobacco Plus Products constitutes the principal business of the establishment or an incidental or accessory portion of the business.

VENDING MACHINE: Any mechanical, electronic, automated, app-enabled, coin-operated, cash-operated, card-operated, or other device that dispenses, delivers, or allows retrieval of a Regulated Product without Direct Employee Assistance.

Whenever a term used in this Ordinance is defined by applicable State law and is not separately defined herein, the definition contained in State law, as amended from time to time, shall control.

SECTION 3. REGULATED PRODUCTS RETAILER LICENSE REQUIRED; LICENSE CLASSIFICATIONS

A. No Person shall sell, offer for sale, display for sale, distribute, possess for retail sale, or otherwise furnish a Tobacco Product or Tobacco Plus Product within the corporate limits of the City without first obtaining and maintaining the appropriate License required by this Ordinance.

B. A Retailer shall be classified according to the products sold, offered for sale, displayed for sale, distributed, or possessed for retail sale at the licensed premises and not according to the name, description, principal business activity, percentage of revenue, or percentage of floor area of the establishment.

C. The City shall issue the following classifications of Regulated Products Retailer Licenses:

1. **Class A Tobacco Retailer License.** A Class A License authorizes the Retailer to sell Tobacco Products, subject to all requirements and restrictions imposed by this Ordinance and applicable federal and State law but does not authorize the sale, offer for sale, display for sale, distribution, or possession for retail sale of any Tobacco Plus Product.
2. **Class B Tobacco Plus Retailer License.** A Class B License authorizes the Retailer to sell Tobacco Products and Tobacco Plus Products, subject to all requirements and restrictions imposed by this Ordinance and applicable federal and State law.
 - a. No more than 35 Class B licenses shall be issued for the City of Marion.

D. A Retailer holding a Class A License that desires to sell or possess for retail sale any Tobacco Plus Product shall first apply for and obtain a Class B License. No Tobacco Plus Product may be acquired or maintained as retail inventory at the premises until the Class B License has been issued.

E. A Retailer requiring a Class B License may not avoid Class B classification because Tobacco Plus Products constitute only an incidental or accessory portion of its business.

F. A separate License shall be required for each physical location.

G. A License issued by the City shall be in addition to all licenses, registrations, certificates, permits, or authorizations required by the State of Illinois or the United States.

H. Issuance of either classification of License shall not constitute a representation or determination by the City that any particular product is lawful.

I. Compliance with all applicable federal, State, and local laws shall constitute a continuing condition of every License.

SECTION 4. APPLICATION REQUIREMENTS

An applicant shall submit an application on a form prescribed by the City containing, at minimum:

- A. The legal name, business name, address, telephone number, and email address of the applicant;
- B. The identity and contact information of each Owner and each Person possessing a controlling interest in the applicant;
- C. The name and contact information of each Manager responsible for day-to-day operation of the establishment;
- D. The address of the proposed licensed premises;
- E. A description of the types of Regulated Products proposed to be sold;
- F. Copies of all applicable State licenses, registrations, permits, and certificates;
- G. A current copy of the City of Marion Commercial Occupancy Permit from the Building and Code Services Department.
- H. Disclosure of any denial, suspension, revocation, or nonrenewal of a tobacco, nicotine, electronic cigarette, hemp, cannabis, or similar business or retail license held by the applicant or an Owner during the preceding five (5) years;
- I. A certification that the applicant and premises comply with this Ordinance and applicable federal, State, and local law;
- J. An acknowledgment of the inspection requirements imposed by this Ordinance; and
- K. Such additional information as the City may reasonably require to determine eligibility and compliance.

The application shall be signed by an authorized Person certifying that the information provided is true and correct.

SECTION 5. STATE LICENSES AND AUTHORIZATIONS

- A. Possession and maintenance of every State license, registration, certificate, or authorization required for the business or products sold shall be a condition precedent to issuance and continued validity of the City License.
- B. A Licensee shall notify the City Clerk within five (5) business days after suspension, revocation, expiration, lapse, or other loss of any required State license or authorization.
- C. Upon reliable documentation that a required State authorization is no longer valid, the City may administratively suspend the corresponding City License pending reinstatement of the required State authorization.
- D. Written notice of an administrative suspension shall state the basis for the suspension and advise the Licensee of the right to request a hearing.
- E. Reinstatement of the underlying State authorization shall not preclude independent City disciplinary proceedings for violations of this Ordinance.

SECTION 6. INITIAL LICENSING; LICENSE TERM AND RENEWAL; LICENSE FEES

A. Every Retailer lawfully operating within the City on the effective date of this Ordinance shall submit a complete initial License application to the City Clerk no later than **October 31, 2026**.

B. A Retailer lawfully operating on the effective date that timely submits a complete application shall be eligible for initial licensure subject to compliance with this Ordinance.

C. Lawful Retailers existing on the effective date of this Ordinance may continue operating pending disposition of an initial application that is timely filed, and shall not be deemed in violation of Section 3 solely for lack of a City License during that transition period.

D. Each License shall expire annually on the last business day of October unless sooner suspended, revoked, surrendered, or terminated.

E. A Licensee shall timely submit a renewal application and the applicable annual fee prior to expiration.

F. The annual License fees shall be:

1. **Class A Tobacco Retailer License: \$300.00 per licensed location.**
2. **Class B Tobacco Plus Retailer License: \$500.00 per licensed location.**

The difference between the Class A and Class B License fees reflects, among other considerations, the additional administrative, inspection, product-verification, compliance, and enforcement responsibilities reasonably associated with Tobacco Plus Products.

G. The Initial License and any Renewal may be denied for failure to satisfy the requirements of this Ordinance and may include such reasons as providing a false statement or application, revoked or suspended State License, unpaid City fines and fees, applicant legally ineligible, prohibited location, or unresolved prior revocation for this location or another.

H. A legal nonconforming location qualifying under Section 14 shall not be denied renewal solely because the location does not satisfy the location requirements applicable to new establishments.

SECTION 7. NON-TRANSFERABILITY AND NON-ASSIGNABILITY

A. Every License shall be personal to the Licensee and specific to the licensed premises.

B. A licensee must notify the Clerk within 5 business days of changes in:

- legal name;
- DBA;
- owners;
- controlling interests;
- registered agent;
- manager;
- contact information;
- State licenses.

C. A License shall not be sold, transferred, assigned, pledged, leased, or otherwise conveyed, voluntarily, involuntarily, by operation of law, or otherwise.

D. A change in ownership or controlling interest shall require submission and approval of a new License application before the new owner may sell Regulated Products. A change of manager merely requires notice.

E. A License does not authorize sales from any premises other than the licensed location.

F. Relocation requires a new License and subjects the proposed premises to all requirements applicable to a new location.

SECTION 8. LOCATION REVIEW AND PRIORITY OF APPLICATIONS

A. Before issuing a License for a new location, the City shall determine whether the proposed premises complies with Section 14.

B. Priority shall be given to the first complete application received by the City Clerk who shall record the date and time upon which the application is determined to be complete.

C. An incomplete application, preliminary inquiry, letter of intent, zoning inquiry, or similar submission does not establish priority.

D. Priority does not guarantee issuance of a License. The applicant must satisfy every requirement of this Ordinance.

E. If the application having priority is denied, withdrawn, or abandoned, the City may consider the next complete application in the order received.

SECTION 9. SALES TO PERSONS UNDER TWENTY-ONE PROHIBITED; AGE VERIFICATION; PURCHASE OR POSSESSION BY MINORS

A. No Licensee, Owner, Manager, employee, agent, or other Person shall sell, furnish, give, distribute, or otherwise provide any Regulated Product to a Person under twenty-one (21) years of age.

B. Prior to completing a sale of a Regulated Product, the seller shall verify that the purchaser is at least twenty-one (21) years of age in accordance with applicable State law.

C. A valid government-issued photographic identification shall be examined from any purchaser who appears to be under thirty (30) years of age or whenever otherwise required by applicable State law.

D. No Person shall knowingly accept identification that is expired, altered, fraudulent, or does not reasonably appear to belong to the purchaser.

E. Each Licensee shall establish procedures and train employees regarding age restrictions and identification requirements.

F. Nothing in this Section prohibits a lawful compliance check or enforcement operation.

G. It shall be unlawful for any person under twenty-one (21) years of age to purchase or possess any Regulated Products.

SECTION 10. BEHIND-THE-COUNTER REQUIREMENT; SELF-

SERVICE PROHIBITED

- A. All Regulated Products shall at all times be located behind a sales or service counter or within another area inaccessible to customers and under the direct control and supervision of an employee.
- B. No customer shall be permitted to access, handle, select, retrieve, remove, possess, or otherwise obtain a Regulated Product prior to sale without Direct Employee Assistance.
- C. Self-Service Displays are prohibited.
- D. Regulated Products maintained as stored inventory shall be kept in an area controlled by the Licensee and inaccessible to customers.
- E. The requirements of this Section apply to all Regulated Products notwithstanding any less restrictive display method otherwise permitted by State law, to the extent such additional local restriction is permitted by law.
- F. No licensed establishment shall obstruct the windows, doors, or other areas open to the public, of the licensed establishment, and such windows, doors, and other areas shall be maintained to provide an open and clear view into the establishment.
- G. Compliance with this Section shall constitute a continuing condition of licensure.

SECTION 11. VENDING MACHINES AND AUTOMATED SALES PROHIBITED

- A. No Retailer shall sell, offer for sale, distribute, furnish, or otherwise provide a Regulated Product through a Vending Machine, automated retail device, unattended kiosk, or other mechanism permitting customer retrieval without Direct Employee Assistance.
- B. No Retailer shall maintain on the licensed premises a Vending Machine containing or capable of dispensing Regulated Products.
- C. Any Retailer possessing such a machine on the effective date of this Ordinance shall remove or permanently disable the machine within thirty (30) days.
- D. A Retailer shall not circumvent this Section by labeling, programming, stocking, configuring, or operating a Vending Machine or other device in a manner that indirectly dispenses or provides Regulated Products.
- E. Compliance with this Section is a continuing condition of licensure and subject to inspection.

SECTION 12. PROHIBITED PRODUCTS AND CONDUCT

No Licensee, Owner, Manager, employee, or agent shall:

- A. Sell, offer for sale, display for sale, distribute, furnish, or possess for retail sale any Regulated Product prohibited by federal or State law or Municipal Ordinance;
- B. Sell, offer for sale, distribute, furnish, or possess for retail sale a Hemp-Derived Cannabinoid Product that does not comply with the Illinois Hemp Act, as amended, or applicable administrative rules;

- C. Sell, offer for sale, or possess for retail sale a cannabinoid, cannabinoid product, THC isomer, synthesized cannabinoid, chemically converted cannabinoid, or similar substance prohibited from retail sale under applicable State or federal law;
- D. Sell or possess for sale any Regulated Product that is counterfeit, adulterated, materially mislabeled, unlawfully packaged, recalled, or otherwise prohibited from retail sale;
- E. Sell, offer for sale, or possess for retail sale any beverage infused with tetrahydrocannabinol (THC) or cannabidiol (CBD);
- F. Sell any product in a form, package, or manner prohibited by law;
- G. Sell or distribute samples without charge where prohibited by applicable law;
- H. Permit unlawful on-premises consumption, smoking, vaping, or use of Regulated Products;
- I. Sell or possess for retail sale kratom or kratom-derived products in violation of City of Marion Ordinance No. 4041, or as amended;
- J. Knowingly obtain Regulated Products for resale from a source that is not lawfully authorized to manufacture, distribute, or sell the products;
- K. Conceal, remove, destroy, falsify, or alter products, inventory, labels, packaging, Certificates of Analysis, invoices, or required records for the purpose of interfering with a lawful inspection or investigation; or
- L. Otherwise violate an applicable federal, State, or local law governing the sale, distribution, storage, display, or possession for sale of Regulated Products.

SECTION 13. PROHIBITION AGAINST MISLEADING CANNABIS REPRESENTATIONS

A. The purpose of this Section is to protect consumers from confusion concerning the nature and legal status of products offered for sale by retailers regulated under this Ordinance and to prevent a retailer that is not licensed or otherwise authorized under the Illinois Cannabis Regulation and Tax Act from representing or implying that the retailer is a licensed cannabis dispensary or is authorized to sell cannabis.

B. No Tobacco Plus retailer, hemp retailer, or other retailer licensed or regulated under Marion Code that is not licensed or otherwise authorized by the State of Illinois to operate as a cannabis dispensing organization shall use any business name, assumed business name, trade name, exterior or interior sign, advertisement, website, social-media account, product display, storefront design, logo, symbol, or other commercial representation that falsely or misleadingly represents or reasonably implies:

1. that the retailer is a cannabis dispensary or cannabis business establishment licensed by the State of Illinois;
2. that the retailer is authorized by the State of Illinois to sell cannabis or cannabis products when it is not so authorized; or
3. that a hemp or hemp-derived cannabinoid product offered by the retailer is cannabis or a cannabis product when such representation is prohibited by State law.

C. In determining whether a representation violates subsection B, the City may consider the retailer's use,

individually or in combination, of terms including "cannabis," "marijuana," "dispensary," "weed," or substantially similar terminology; depictions or symbols commonly associated with cannabis; the retailer's signage and trade dress; descriptions of products offered for sale; and the overall context in which such terminology or imagery is presented.

D. Nothing in this Section shall be construed to authorize conduct prohibited by the Illinois Hemp Act, the Cannabis Regulation and Tax Act, the Cannabis Control Act, or any other applicable State or federal law, or to regulate any activity over which State law has vested exclusive regulatory authority in the State of Illinois.

E. A violation of this Section by a retailer subject to licensing under the Marion Code shall constitute a violation of the retailer's City license and may constitute grounds for citation, fine, suspension, nonrenewal, or revocation in accordance with the enforcement procedures established.

SECTION 14. LOCATION RESTRICTIONS FOR CLASS B TOBACCO PLUS RETAILERS

A. The location restrictions contained in this Section apply to Class B Tobacco Plus Retailers and shall not apply solely by reason of an establishment holding a Class A Tobacco Retailer License.

B. After the effective date of this Ordinance, no Class B Tobacco Plus Retailer License shall be issued for a new location that is within one thousand (1,000) feet of a Sensitive Use.

C. A Class A Tobacco Retailer seeking to obtain a Class B Tobacco Plus Retailer License shall be treated as a new Class B location for purposes of this Section, notwithstanding the length of time the establishment has operated under a Class A License.

D. All distances shall be measured in a straight line, property line to property line, from the nearest point of the property line of the parcel containing the proposed Class B Tobacco Plus Retailer to the nearest point of the property line of the parcel containing the Sensitive Use.

E. The applicant bears the burden of demonstrating compliance with all applicable distance requirements.

F. The City may require a survey, site plan, GIS map, or other documentation reasonably satisfactory to the City to establish compliance.

SECTION 15. EXISTING LAWFUL BUSINESSES; LEGAL NONCONFORMING USES

A. A Regulated Products Retail Establishment lawfully established and actually engaged in the retail sale of Regulated Products at its current location immediately prior to the effective date of this Ordinance may continue operating at that location notwithstanding failure to satisfy a location requirement imposed by Section 14.

B. Such establishment shall constitute a legal nonconforming use for purposes of this Ordinance.

C. The City shall permit renewal of the License for a legal nonconforming use provided:

1. The establishment remains at the same location;
2. A timely and complete renewal application is submitted;
3. All required fees are paid;
4. The Licensee has otherwise complied with this Ordinance and applicable federal, State, and local law; and
5. The License has not been revoked or otherwise terminated.

D. Renewal of a License shall not constitute establishment of a new Regulated Products Retail Establishment.

E. Legal nonconforming status attaches solely to the existing location and may not be transferred to another location.

F. Relocation terminates the legal nonconforming status associated with the existing premises. Any proposed new location shall comply with all location requirements applicable to new establishments.

G. A change in ownership or controlling interest requires the new owner to obtain a new License. A change in ownership alone shall not terminate the legal nonconforming status of the location, provided:

1. The regulated retail use has not been abandoned or discontinued;
2. The establishment remains at the same premises; and
3. The new owner otherwise qualifies for a License.

H. If the establishment ceases operation or discontinues retail sales of Regulated Products for a continuous period exceeding one hundred eighty (180) days, legal nonconforming status shall terminate, unless the City determines the cessation resulted from fire, casualty, governmental order, substantial renovation, or circumstances beyond the reasonable control of the Licensee.

I. Once legal nonconforming status terminates, a Regulated Products Retail Establishment may not thereafter be established or reestablished at the premises unless the location satisfies all requirements applicable to a new location.

J. Legal nonconforming status provides an exemption only from the location restrictions contained in Section 14. Every other requirement of this Ordinance applies fully to the establishment.

SECTION 16. INSPECTIONS

A. As a condition of obtaining and maintaining a License, a Licensee shall permit sworn officers of the Marion Police Department and other duly authorized City officials to conduct inspections of the licensed premises during reasonable business hours to the extent authorized by law.

B. Inspections may include any business area in which Regulated Products are:

1. Displayed;
2. Offered for sale;
3. Stored;
4. Maintained as inventory;
5. Received or prepared for retail sale; or
6. Otherwise kept in connection with the licensed business.

C. Stored inventory shall be subject to inspection to the same extent as products displayed or offered for

sale.

D. Authorized personnel may inspect Regulated Products and their:

1. Packaging;
2. Labels;
3. Warnings;
4. Ingredients or product information;
5. Certificates of Analysis and testing documentation;
6. Invoices and purchase records;
7. State licenses and registrations; and
8. Other records reasonably necessary to determine compliance, to the extent authorized by law.

E. No Licensee, Owner, Manager, employee, or agent shall knowingly obstruct or interfere with a lawful inspection.

F. Refusal to permit an inspection authorized by law constitutes a violation and grounds for License discipline.

G. Nothing contained herein authorizes a search beyond the scope permitted by the United States Constitution, Illinois Constitution, or applicable law.

SECTION 17. RECORDS AND PRODUCT DOCUMENTATION

A. Each Licensee shall maintain invoices, purchase records, or other documentation sufficient to identify the source of all Regulated Products offered for retail sale.

B. For Hemp-Derived Cannabinoid Products, the Licensee shall maintain or have reasonably available all Certificates of Analysis, testing documentation, and other records required by the Illinois Hemp Act or rules adopted thereunder.

C. Documentation shall identify the particular product, batch, or lot when such identification is required by State law.

D. Required records shall be retained for the period required by applicable federal or State law and, where no period is prescribed, for not less than two (2) years.

E. Required records shall be made available during a lawful inspection to the extent authorized by law.

SECTION 18. RESPONSIBILITY OF LICENSEE, OWNERS, AND MANAGERS

A. The Licensee shall be primarily responsible for compliance with this Ordinance and for violations occurring at the licensed premises in connection with the operation of the Regulated Products Retail Establishment.

B. An Owner or Manager who personally commits, directs, authorizes, knowingly permits, or knowingly fails to prevent or correct a violation within that Person's authority and responsibility may also be held responsible for the violation.

C. A Manager responsible for day-to-day operations shall exercise reasonable supervision over employees

engaged in the sale, display, storage, or distribution of Regulated Products.

D. A Licensee shall establish reasonable compliance procedures and provide appropriate employee training regarding:

1. Minimum-age requirements;
2. Identification verification;
3. Behind-the-counter requirements;
4. Vending-machine and Self-Service Display prohibitions;
5. Prohibited products;
6. Product documentation; and
7. Inspection requirements.

E. The fact that a violation was physically committed by an employee shall not, standing alone, relieve the Licensee of administrative responsibility for compliance with this Ordinance.

SECTION 19. COMPLIANCE CHECKS

A. The Marion Police Department and other authorized governmental agencies may conduct lawful compliance checks to determine compliance with this Ordinance.

B. Compliance checks may include supervised purchase attempts involving persons under twenty-one (21) years of age when conducted in accordance with applicable law.

C. A prohibited sale occurring during a lawful compliance check constitutes a violation to the same extent as any other prohibited sale.

SECTION 20. VIOLATIONS

A violation includes, but is not limited to:

- B. Sale, furnishing, or distribution of a Regulated Product to a Person under twenty-one (21) years of age;
- C. Failure to verify age as required by this Ordinance or applicable law;
- D. Sale, offer for sale, distribution, display, or possession for retail sale of a prohibited or unlawful product;
- E. Sale or possession for sale of a noncompliant Hemp-Derived Cannabinoid Product;
- F. Failure to maintain Regulated Products behind the counter or otherwise inaccessible to customers;
- G. Use of a Self-Service Display;
- H. Sale or distribution through a Vending Machine or other prohibited automated mechanism;
- I. Refusal to permit a lawful inspection;
- J. Obstruction or interference with an inspection;
- K. Failure to maintain required State licenses or registrations;
- L. Material false statement or omission in a License application;

M. Transfer or attempted transfer or assignment of a License;

N. Sale or possession for retail sale of kratom or kratom-derived products contrary to City of Marion Ordinance No. 4041, or as amended;

O. Concealment, destruction, alteration, or falsification of products or records for the purpose of interfering with enforcement; or

P. Violation of another applicable federal, State, or local law governing Regulated Products.

SECTION 21. PENALTIES AND LICENSE DISCIPLINE

A. First Violation within a twenty-four (24) month period may include:

1. A fine of up to \$500.00; and
2. License suspension of no more than ten (10) days.
3. Reimbursement of any official advanced funds used by Law Enforcement.

B. Second Violation within a twenty-four (24) month period may include:

1. A fine of up to \$750.00; and
2. License suspension of no more than fifteen (15) days.
3. Reimbursement of any official advanced funds used by Law Enforcement.

C. Third Violation within a twenty-four (24) month period may include:

1. A fine of up to \$750.00; and
2. Suspension for a determined period or Revocation of the license.
3. Reimbursement of any official advanced funds used by Law Enforcement.

D. Each unlawful retail sale may constitute a separate violation.

E. Each day a continuing violation exists after notice may constitute a separate violation.

F. In addition to the foregoing, the City may seek injunctive relief or any other remedy available at law or equity.

G. Nothing in this Section limits the imposition of penalties or sanctions under applicable federal or State law.

H. To the extent a fine stated herein exceeds the maximum monetary penalty lawfully authorized for the particular violation, the maximum amount permitted by law shall apply without affecting the validity of the remaining sanctions.

I. Violations of this Ordinance that also violate Illinois State law will be reported to the appropriate State Agency or Department and any penalties therefrom will be in addition to and not in lieu of penalties under this Ordinance.

SECTION 22. AGGRAVATING AND MITIGATING CIRCUMSTANCES

In determining an appropriate sanction where discretion is permitted, the City may consider:

- A. The seriousness of the violation;
- B. Whether the conduct was intentional, knowing, reckless, or inadvertent;
- C. The Licensee's prior compliance history;
- D. The number and frequency of violations;
- E. Whether the violation involved a Person under twenty-one (21) years of age;
- F. Whether the violation involved an unlawful, adulterated, counterfeit, or potentially dangerous product;
- G. Whether the Licensee, Owner, or Manager attempted to conceal the violation or interfere with an inspection;
- H. Corrective action promptly undertaken by the Licensee; and
- I. Other circumstances reasonably related to the purposes of this Ordinance.

SECTION 23. SUMMARY SUSPENSION

- A. The Mayor may summarily suspend a License only upon a written finding that continued operation of the licensed Regulated Products Retail Establishment presents an immediate and substantial threat to the public health, safety, or welfare.
- B. The written order shall state the specific facts supporting the determination.
- C. The City shall serve the order upon the Licensee in a manner reasonably calculated to provide prompt actual notice.
- D. A summary suspension shall remain in effect only as reasonably necessary pending a hearing.
- E. A hearing shall commence within ten (10) business days following the summary suspension unless continued at the request of, or by agreement with, the Licensee.

SECTION 24. NOTICE AND HEARING

- A. Except for a summary suspension authorized by Section 22, no License shall be suspended, revoked, or denied renewal for disciplinary reasons without written notice and a reasonable opportunity for hearing.
- B. The written notice shall include:
 - 1. The nature of each alleged violation;
 - 2. The factual basis for the alleged violation;
 - 3. The date, time, and location of the hearing;
 - 4. The legal authority under which the hearing will be conducted;
 - 5. The potential penalties and License consequences; and
 - 6. The consequences of failure to appear.
- C. The hearing shall be conducted before the Mayor, or a duly appointed hearing officer as designated by the City.

D. The Licensee may be represented by counsel.

E. The Licensee shall have the right to present testimony, documents, and other evidence and to question adverse witnesses to the extent permitted by the hearing authority.

F. The City shall bear the burden of establishing a violation by a preponderance of the evidence.

G. The rules of evidence applicable in judicial proceedings need not be strictly applied; however, the decision shall be based upon competent and relevant evidence.

H. A written decision shall be issued containing findings sufficient to identify the violations found and sanctions imposed.

I. The City Clerk shall maintain the notices, evidence, hearing record, and final written decision as the official administrative record.

SECTION 25. APPEAL

A. A Licensee may appeal the decision of the Mayor or appointed hearing officer to the City Council by filing a notice of appeal at the City Clerk's Office within ten (10) days of the date of the decision stating all the reasons for the appeal in writing. The Council shall consider the appeal at its next regularly scheduled meeting, unless extended by agreement, at which time the applicant will be entitled to present their appeal orally or in writing. New evidence that was not submitted at the original hearing may not be introduced during the appeal unless good cause is shown as to why it was not produced at the original hearing. The Council shall affirm unless it finds that the decision is contrary to law, unsupported by the record and evidence, an abuse of discretion, or the penalty imposed is unauthorized by this Ordinance. The City Council shall issue a final decision within fourteen (14) days unless extended by agreement or for good cause stated on the record.

B. A final administrative decision may be reviewed in a court of competent jurisdiction in accordance with applicable Illinois Administrative Review law.

SECTION 26. ENFORCEMENT

A. This Ordinance may be enforced by:

1. The Marion Police Department;
2. The City Clerk to the extent of licensing administration;
3. The City's Building and Code Enforcement Department when authorized;
4. The Mayor or designated hearing officer; and
5. Any other City official authorized by the Mayor or City Council.

B. Enforcement of this Ordinance by the City is cumulative to enforcement by State or federal agencies.

SECTION 27. RELATIONSHIP TO STATE AND FEDERAL LAW

A. Nothing contained in this Ordinance authorizes conduct prohibited by federal or State law.

B. Licensees shall comply with all applicable provisions of the Illinois Hemp Act, the Prevention of Tobacco Use by Persons under 21 Years of Age and Sale and Distribution of Tobacco Products Act, the

Tobacco Accessories and Smoking Herbs Control Act, the Tobacco Products Tax Act of 1995, the Smoke Free Illinois Act, applicable federal law, and all other applicable statutes, regulations, and administrative rules, as amended.

C. Where this Ordinance imposes a requirement more restrictive than State law and such local regulation is permitted by law, the more restrictive local requirement shall apply.

D. In the event State or federal law expressly preempts or limits the City's authority concerning a subject regulated herein, this Ordinance shall be construed, narrowed, or deemed modified only to the extent necessary to comply with controlling law.

E. Any provision not preempted or otherwise rendered invalid shall remain in full force and effect.

F. References to federal or State statutes include amendments and successor provisions.

G. This Ordinance is intended to exercise the City's home rule authority to the fullest extent permitted by Article VII, Section 6 of the Illinois Constitution.

SECTION 28. ADMINISTRATION

The City may establish forms, application procedures, inspection procedures, administrative rules, and other reasonable requirements necessary to implement this Ordinance, provided that such requirements are consistent with this Ordinance and applicable law.

SECTION 29. SEVERABILITY

If any section, subsection, sentence, clause, phrase, definition, penalty, or other provision of this Ordinance is held invalid, unlawful, unconstitutional, or preempted by a court of competent jurisdiction, such determination shall not affect the validity of the remaining provisions.

It is expressly declared to be the intent of the City Council that this Ordinance would have been adopted without the invalid or preempted provision and that any invalid provision shall, where legally permissible, be narrowed in application rather than invalidating this Ordinance in its entirety.

SECTION 30. REPEALER

All ordinances, resolutions, or portions thereof in conflict with this Ordinance are repealed to the extent of such conflict.

Nothing herein repeals or limits City of Marion Ordinance No. 4041, as amended, concerning kratom and kratom-derived products.

SECTION 31. EFFECTIVE DATE AND TRANSITION

A. Except as otherwise provided herein, this Ordinance shall be in full force and effect upon its passage, approval, and publication in pamphlet form as provided by law.

B. Existing Retailers shall submit applications for initial licensure no later than October 31, 2026.

C. Any provision of this Ordinance specifically dependent upon the Illinois Hemp Act, 410 ILCS 707/1 et

seq., shall become enforceable on November 12, 2026.

D. Nothing in subsection C prevents enforcement before November 12, 2026 of other provisions of this Ordinance or existing federal, State, or local law independently applicable.

PASSED by the City Council of the City of Marion, Illinois, this 28th day of September, 2026.

AYES: 5

NAYS: 0

ABSENT: 0

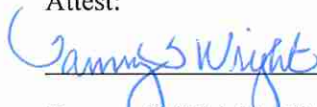
ABSTAIN: 0

APPROVED this 28th day of September, 2026.



Michael W. Absher, Mayor

Attest:



Tammy S. Wright, City Clerk

Published in pamphlet form this 29th day of September, 2026.

STATE OF ILLINOIS)
) SS
COUNTY OF WILLIAMSON)

Certification of Publication in Pamphlet Form

I, Tammy Beasley Wright, certify that I am the duly appointed and acting Municipal Clerk of the City of Marion, Williamson County, Illinois.

I further certify that on the 28th day of September, 2026, the Corporate Authorities of such municipality passed and approved Ordinance No. 4139 Establishing Licensing Requirements, Location Restrictions, Operational Requirements, and Enforcement Provisions for the Retail Sale of Tobacco Products, Nicotine Products, Electronic Smoking Devices, Hemp-Derived Cannabinoid Products, and Related Paraphernalia Within the City of Marion, Illinois, which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 4139, including the Ordinance and a cover sheet, thereof, was prepared, and a copy of such Ordinance was posted in City Hall, commencing on September 29, 2026, and continuing for at least 10 days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Municipal Clerk.

Dated at Marion, Illinois, this 29th day of September, 2026.



TAMMY BEASLEY WRIGHT, CITY CLERK

