

ORDINANCE NO. 2023 - 09

AN ORDINANCE OF THE CITY OF MONTICELLO, FLORIDA, AMENDING SECTION 54, ARTICLE III, DIVISION 2. SEC. 54-160 SCHEDULE OF DISTRICT REGULATIONS SCHEDULE OF DIMENSIONAL REGULATIONS, TO CLARIFY THE ALLOWABLE MAXIMUM BUILDING HEIGHT IN ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR SCRIVENER’S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Monticello, upon recommendation of the Local Planning Agency, desires to clarify language regarding building height allowances; and

NOW, THEREFORE, in keeping with the requirements of the Code of Ordinances of the City of Monticello, Florida, it is hereby ordained and decreed:

Section 1. That Section 54-160(a). Schedule of Dimensional Regulations of the Code of Ordinances of the City of Monticello, Florida is amended as follows:

Sec. 54-160. Schedule of dimensional regulations.

(a) *Table A: Minimum lot area and minimum yard requirements.*

District	Minimum Lot Area	Minimum Lot Width	Minimum Yard Requirements				Minimum Floor Area	Maximum Lot Coverage	Maximum Height from Street Grade at Building Frontage
			Front	Side	Rear	Corner			
R-1 Single-family	7,500 sq. ft.	75'	25'	10'	20'	25'	900 sq. ft.	50%	30'
R-1A Single-family/Mobile Home	5,000 sq. ft.	75'	18'	10'	10'	25'	*Note 1	50%	30'
R-2 Multifamily	8,500 sq. ft.	100'	18'	10'	10'	25'	Section 54-161	50%	30'
Mobile Home Park	2.5 acres	100'	18'	10'	10'	25'	N/A	45%	15'
Mobile Home Space w/in MH park	5,000 sq. ft.	50'	18'	7'	10'	10'	400 sq. ft.	45%	15'

B-1 Central Business	None	None	See	Table	B	Below	N/A	100%	40'
B-2 Highway Business	10,000 sq. ft.	100'	25'	10'	10'	25'	N/A	50%	30'
BR Mixed Use Business/Residential	7,500 sq. ft.	75'	25'	10'	10	25	N/A	50%	30'
I Industrial	10,000 sq. ft.	80'	25'	15'	15'	25'	N/A	75%	45'
A Agriculture	Note 2*	125'	25'	25'	25'	25'	N/A	20%	45'

*Note 1: Minimum floor area for single-family: 900 square feet. Minimum floor area for mobile homes: 400 square feet.

*Note 2: One acre for residential use. Setbacks and floor area must conform to R-1.

Section 2. If any word, phrase, clause, section or portion of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or word shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 3. It is the intention of the City Council of the City of Monticello that the provisions of this Ordinance shall become and be made a part of the City of Monticello Code of Ordinances, and that sections of this Ordinance may be numbered or re-lettered, and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the Code is accomplished, sections of this Ordinance may be renumbered or re-lettered, and the correction of typographical errors which do not affect the intent may be authorized by the City Clerk, without need of public hearing, by filing a corrected or recodified copy of same, in the official records of the City.

Section 4. This Ordinance shall become effective as provided by law.

PASSED AND APPROVED IN OPEN SESSION ON THE _____ DAY OF

_____, 2023.

GLORIA COX
MAYOR

ATTEST:

APPROVED AS TO FORM:

EMILY ANDERSON
CITY CLERK/TREASURER

BRUCE A. LEINBACK
CITY ATTORNEY

Memorandum

To: City of Monticello City Council

From: Emily Anderson *EA*

Re: Recommendation from Local Planning Agency to Disallow Medical Marijuana
Dispensaries

A company has contacted the city regarding the allowance for operation of a medical marijuana dispensary.

The matter was discussed by the Local Planning Agency at its February 23rd meeting, and the Board has recommended that the City Council adopt an ordinance disallowing medical marijuana dispensaries within the city. The meeting minutes are below:

CITY ATTORNEY LEINBACK RE: DISCUSSION OF ALLOWANCES OF MEDICAL MARIJUANA DISPENSARIES AND/OR CULTIVATION FACILITIES City Attorney Leinback reported that a company has asked for information on the allowance of medical marijuana dispensaries within the city limits. Attorney Leinback reported that Florida law allows a governmental unit to disallow medical marijuana dispensaries. It was noted that many communities have banned such facilities in anticipation of eventual legalization of the sale of recreational marijuana. The Board discussed the option of highly regulating the location and operation of such facilities, but, since the city is close to the Georgia state line, there is an assumption that there could be intense traffic across the state line to buy recreational marijuana, if allowed eventually.

Board Member Carly Peary noted that medical marijuana facilities are available in Tallahassee, and Chairman Anderson noted that a dispensary is being developed in the City of Madison. The issue of tax revenue from sale of marijuana was discussed, with the assumption that medical marijuana does not provide sales tax revenue since it is a medicine. The Board also noted that a ban can be lifted, but such facilities cannot be retroactively banned once established.

It was also noted by Attorney Leinback that, without a specific ban, such businesses cannot be disallowed. It was also noted that the county could still allow medical dispensaries even if the city disallows them.

Board Member Peary opined that such a facility located here would have a larger impact than the same facility located in a larger city. Board Member Lester noted that there are several types of businesses which are not compatible with Monticello, as a rural community. Chairman Anderson noted that the path of recreational marijuana sales may follow the same path as communities which banned alcohol sales for some time, but eventually incorporated allowances.

After consideration of the issues associated with allowance of medical marijuana facilities, and noting that a ban can be lifted at some point in the future, Board Member Carly Peary made a motion to recommend that the City Council proactively ban medical marijuana dispensaries as an allowable business within the city. The motion was seconded by Board Member Tami Lester. During discussion, it was noted that the Council can consider reversing the ban in the future. Board Member Frisby opined that it can be assumed that recreational marijuana sales will be eventually legalized, with unknown consequences to this community at this point. Chairman Anderson opined that there are citizens who need medical marijuana who will not be able to obtain it locally. The vote on the motion was as follows:

YES

Carly Peary

Tami Lester

Bob Canter

Merry Ann Frisby

NO

Rick Anderson

ORDINANCE 2023-10

AN ORDINANCE OF THE CITY OF MONTICELLO, FLORIDA, AMENDING CHAPTER 26, BUSINESSES OF THE CODE OF ORDINANCES OF THE CITY BY ADDING ARTICLE VIII PROHIBITING MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY OF MONTICELLO, FLORIDA; PROVIDING FOR SEVERABILITY; PROVIDING FOR SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the laws of the State of Florida allow the possession and use of medical marijuana, but the sale of medical marijuana is limited to State licensed medical marijuana treatment center dispensary facilities; and

WHEREAS, pursuant to Section 381.986(11), Florida Statutes, counties and municipalities in Florida may ban medical marijuana treatment center dispensary facilities from being located within the boundaries of such local governments; and

WHEREAS, Section 381.986 (11), further provides that if a county or municipality does not ban such dispensing facilities from operating within its jurisdictional boundaries, it may not limit the number of such dispensing facilities that may locate within its boundaries; and

WHEREAS, millions of dollars have been spent by a company which currently owns medical marijuana treatment center dispensing facilities in the State of Florida and other states to place on the 2024 general election ballot, an amendment to the Florida Constitution legalizing the possession and use of recreational marijuana by persons 21 years of age and older, and the sale thereof by State licensed medical marijuana treatment center facilities dispensaries and other licensed facilities; and

WHEREAS, 21 states have already licensed the sale, possession and use of recreational marijuana by adults; and

WHEREAS, the majority of those states first legalized medical marijuana, and then subsequently allowed the sale, possession, and use of recreational marijuana; and

WHEREAS, a South Florida company which owns and operates medical marijuana treatment center dispensaries in several states and in at least one of those states also sells recreational marijuana, has contacted the City of Monticello and inquired where medical marijuana dispensaries may operate within the City limits; and

WHEREAS, currently there are no medical marijuana treatment center dispensing facilities located within Monticello; and

WHEREAS, if any medical marijuana treatment center dispensing facilities open in the City and recreational marijuana is subsequently legalized in Florida, under the language of the proposed constitutional amendment such dispensing facilities would also be allowed to sell recreational marijuana; and

WHEREAS, the Local Planning Agency of the City of Monticello recently voted to request that the City Council pass an ordinance banning medical marijuana dispensing facilities from operating within the City limits. Several members expressed concerns that if one or more medical marijuana treatment center dispensing facilities are opened in the City, and if recreational marijuana is legalized in Florida, significant numbers of out-of-state residents could be driving to the City for the sole purpose of purchasing recreational marijuana. This could negatively impact the small town character and quality of life in Monticello; and

NOW THEREFORE, in keeping with the requirements of the City Code of Ordinances of the City of Monticello, Florida, it is hereby ordained and decreed;

Section 1. That Chapter 26, Businesses, of the Code of Ordinances of the City of Monticello, Florida is amended by adding a new article VIII, and section to be numbered 261, which article and section read as follows:

ARTICLE VIII. - MEDICAL MARIJUANA

Sec. 26-261. - Medical Marijuana Treatment Center Dispensing Facilities

- (a) Prohibition. Medical marijuana treatment center dispensing facilities are prohibited and shall not be located within the boundaries of the City. The City shall not accept, process, or approve any request or application for a development order, building permit or other approval associated with a proposed medical marijuana treatment center dispensing facility.
- (b) Definition. For the purposes of this section, the term “medical marijuana treatment center dispensing facility” means any facility where medical marijuana or any product derived therefrom is dispensed at retail.
- (c) Interpretation. This section and the terms used herein shall be interpreted in accordance with Section 381.986, Florida Statutes, and Chapter 64-4 of the Florida Administrative Code. The intent of this section is to ban medical marijuana treatment center dispensing facilities from being located within the boundaries of the City, as authorized by Section 381.986(11) Florida Statutes.

Section 2. If any word, sentence, clause, phrase or provision of this ordinance, for any reason, is held to be unconstitutional, void, or invalid, the validity of the remainder of this Ordinance shall not be affected thereby.

Section 3. It is the intention of the City Council of the City of Monticello that the provisions of this Ordinance shall become and be made a part of the City of Monticello Code of Ordinances, and that sections of this Ordinance may be numbered or re-lettered, and the word “ordinance” may be changed to “section,” “article,” or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the Code is accomplished, sections of this Ordinance may be renumbered or re-lettered, and the correction of typographical errors which do not affect the intent may be authorized by the City Clerk, without need of public hearing, by filing a corrected or recodified copy of same, in the official records of the City.

Section 4. This Ordinance shall become effective immediately upon becoming law.

PASSED AND APPROVED IN OPEN SESSION THIS ____ DAY OF _____, 2023.

GLORIA COX
MAYOR

ATTEST:

EMILY ANDERSON
CITY CLERK/TREASURER

APPROVED AS TO FORM:

BRUCE A. LEINBACK
CITY ATTORNEY