

CITY OF MOMENCE

ORDINANCE NO. 848

AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE MOMENCE CITY CODE RELATING TO OFFENSES AND FINES

**ADOPTED BY THE
MAYOR AND CITY COUNCIL
OF THE
CITY OF MOMENCE
THIS 19th DAY OF AUGUST, 2019.**

**Published in pamphlet form by
authority of the Mayor and City Council of the
City of Momence, Kankakee County, Illinois this 19TH
day of August, 2019.**

ORDINANCE NO. _848

**AN ORDINANCE AMENDING VARIOUS SECTIONS
OF THE MOMENCE CITY CODE
RELATING TO OFFENSES AND FINES**

WHEREAS, the City of Momence has various Ordinances which deal with fines for particular offenses; and

WHEREAS, the Corporate Authorities, based upon advice from the Police Department, believe that some of the fines and penalties associated with Ordinance violations should be increased; and

WHEREAS, the existing City Ordinances relating to certain aspects of theft have proved to be inadequate and expanded and modified provisions would better protect the interest of the citizens and mercantile establishments within the City; and

WHEREAS, all of these modifications can be adopted in a single Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOMENCE, KANKAKEE COUNTY, ILLINOIS, as follows:

SECTION 1: Add to Section 4-1-1(C) the following additional language:

Violations of all adopted building codes can be enforced through issuance of citation(s) by the Momence Police or the Momence Building Inspector. The minimum fine for each cited violation shall be \$100.00. The maximum fine shall be \$500.00 each day that a violation of an adopted building code exists. Each day shall constitute a separate offense.

SECTION 2: Section 4-1-2 shall have added a new sub-section (F):

Failure to obtain a building permit will be enforced through the issuance of citation(s) by the Momence Police or the Momence Building Inspector. The minimum fine will be doubled the required permit fee in force from time to time. In the event that compliance is not met within 72 hours of an issued citation, each day thereafter for which a required Building Code is not issued shall constitute a separate offense.

SECTION 3: Section 6-3-7 DUTY TO CLEAN UP SCATTERED GARBAGE, RUBBISH. Add to Section 6-3-7 the following language:

In the event that compliance is not met within 72 hours of an issued citation, each day thereafter shall constitute a separate offense.

SECTION 4: Section 5-1-20 GRAFFITI; NUISANCE ABATEMENT. This shall be added to the existing Sub-section (C) the following language:

In the event that compliance is not met within 72 hours of an issued citation, each day thereafter shall constitute a separate offense.

SECTION 5: Section 4-4-1 COMPLIANCE REQUIRED. Add to Section 4-4-1 the following language:

In the event that compliance is not met within 72 hours of an issued citation, each day thereafter shall constitute a separate offense.

SECTION 6: Section 6-3-2 PREMISES TO BE KEPT CLEAN. Add to Section 6-3-2 the following language:

In the event that compliance is not met within 72 hours of an issued citation, each day thereafter shall constitute a separate offense.

SECTION 7: Section 5-4-3 TALL GRASS/WEEDS. Add to Section 5-4-3 the following language:

In the event that compliance is not met within 72 hours of an issued citation, each day thereafter shall constitute a separate offense.

SECTION 8: Section 5-1-16 PENALTY, shall have its current text deleted, and it shall be renumbered as Section 5-1-31 PENALTY, and shall read as follows:

Any person who violates any provisions of this chapter is guilty of a petty offense and shall be fined (unless there is a specific different penalty provided for within the pertinent section of this Chapter relating to CRIMES AND UNLAWFUL CONDUCT) in accordance with the city of Momence approved fine list found in Section 1-4-1 of this code.

SECTION 9: Section 5-1-16, which previously related to PENALTY and was deleted, shall be replaced with the following Section 5-1-16 THEFT AND RETAIL THEFT.

(A) THEFT OF PROPERTY

A person commits theft of property belonging to another when he or she knowingly:

- Obtains or exerts unauthorized control over property of the owner;
- Obtains control over property of the owner by deception;
- Obtains control over property of the owner by threat;

- Obtains control over stolen property knowing it was stolen or if a reasonable person would know it was stolen; or
- Obtains or exerts control over property in the custody of an undercover law enforcement officer who explicitly represents the property as stolen.

In addition to obtaining or exerting control over another person's property, the person committing theft must also:

1. Intend to permanently deprive the owner of the use or benefit of the property;
2. Knowingly use, conceal or abandon the property in such a way as to permanently deprive the owner of its use or benefit; or
3. Use, conceal, or abandon the property knowing that such use, concealment or abandonment will probably permanently deprive the owner of its use or benefit.

(B) RETAIL THEFT

(a) A person commits retail theft when he or she knowingly:

- (1) Takes possession of, carries away, transfers or causes to be carried away or transferred any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment with the intention of retaining such merchandise or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the full retail value of such merchandise. Taking possession shall include but not limited to placing or hiding merchandise in the pockets, clothing, purse, backpack or container supplied by the mercantile establishment. Taking possession shall also include hiding or placing merchandise indicated as a privately owned container such as a bag or other similar commonly used to transport merchandise to a checkout and paying location and in that or any other case to remove merchandise from the mercantile establishment. without paying in full for all merchandise so removed.

SECTION 10: Section 5-1-27: POSSESSION OF SMOKING MATERIALS BY MINORS: Shall hereafter read as follows:

(A) Definitions: For the purpose of this section, the following words and phrases shall have the meanings respectively ascribed to them:

MINOR: For the purpose of this Section, a person under the age of twenty-one (21).

PERSON: Any individual, firm, partnership, corporation, company, association, joint venture or any employee or agent thereof.

SMOKING MATERIALS: Cigarette papers, pipes, holders of smoking materials of all types, cigarette rolling machines, and other items designed primarily for the smoking or ingestion of tobacco products or of substances made illegal under any ordinance or of substances whose sale, gift, barter, or exchange is made unlawful under this section and any substance containing either smoking herbs or tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, loose tobacco, snuff chewing tobacco or dipping tobacco.

(B) Prohibited Sales, Delivery:

1. It shall be unlawful for any person to sell, offer for sale, give away or deliver smoking materials to any person under the age of twenty-one (21) years.

If any person contemplating the sale or furnishing of smoking materials believes or has reason to believe that a sale or delivery of smoking materials is prohibited because of the nonage of the prospective recipient, he shall before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his/her official duties.

(C) Warning Signs: Every person engaged in the business of selling smoking materials shall at all times display signs informing the public of the age restrictions provided for herein. The sign shall be posted by or near every display of smoking materials and on or upon every vending machine that offers smoking materials for sale. Each such sign shall be plainly visible and shall state:

THE SALE OF SMOKING MATERIALS TO PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE IS PROHIBITED BY LAW

This text of such sign shall be in red letters on a white background, said letters to be at least one inch (1") high.

(D) Purchase By Minors Prohibited: It shall be unlawful for any person under the age of twenty-one (21) years to purchase smoking materials, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing smoking materials. No person shall transfer, alter or deface such an identification card; use the identification card of another, carry or use a false or forged

identification card; or obtain an identification card by means of false information.

(E) Possession By Minors Prohibited: It shall be unlawful for any person under the age of twenty-one (21) years to possess any smoking material(s) on any street or highway, or in any public place, or any place open to the public; possession by a person under the age of twenty-one (21) years under direct supervision of the parent or guardian of such person in the privacy of the parent's or guardian's home shall not be prohibited.

(F) Certain Free Distribution Prohibited: It shall be unlawful for any person in the business of selling or otherwise distributing, promoting or advertising smoking materials, or any employee or agent of any such person, in the course of such person's business, to distribute, give away or deliver smoking materials free of charge to any person on any right of way, park, playground, or other property owned by the city, any school district, any park district, or any public library.

(G) Penalty: Any person who violates any provision of this section is guilty of a petty offense and shall be fined in accordance to the city of Momence approved fine list. If a fine is issued to a minor for possession, in lieu of a monetary fine, the offender may perform community services as approved through the city of Momence adjudication process.

SECTION 11: The provisions of this Ordinance shall take effect upon its passage and publication in the manner provided by law, and the changes made in this Ordinance shall also be made in the Momence City Code.

APPROVED and ADOPTED by the Mayor and City Council of the City of Momence this 19th day of August, 2019, pursuant to roll call vote, as follows:

INTRODUCED this 5th day of August, 2019.

PASSED this 19th day of August, 2019.

APPROVED this 19th day of August, 2019.

AYES: 8

NAYS: 0

ABSENT: 0

Charles S. ...

Mayor

ATTEST:

[Handwritten Signature]

City Clerk

4832-6720-6045, v. 1

