

**CITY OF IRON RIVER  
IRON COUNTY, MICHIGAN**

**ORDINANCE NO. 2021-03  
AMENDED NO. 2021-04**

**AN ORDINANCE TO PROVIDE FOR THE LICENSING  
OF RECREATIONAL MARIHUANA FACILITIES**

**THE CITY OF IRON RIVER ORDAINS:**

**SECTION 112.01 Purpose, Intent, Relationship to Other Laws and City  
Liability and Indemnification**

**(A) Purpose.**

The purpose of this Ordinance is to implement the provisions of the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq., referred to herein as the “Act” so as to protect the public health, safety, and welfare of the residents of the City by setting forth the manner in which recreational marihuana establishments can be operated in the City.

**(B) Legislative Intent.**

This Ordinance authorizes the establishment of recreational marihuana establishments within the City of Iron River consistent with MCL 333.27951 et seq. and all rules and regulations promulgated by any local, state, or federal agency with authority to establish such rules and regulations

**(C) Relationship to Federal Law.**

As of the effective date of this Ordinance marihuana is classified as a Schedule 1 controlled substance under Federal Law which makes it unlawful to manufacture, distribute, cultivate, produce, possess dispense or transport marihuana. Nothing in this Ordinance is intended to grant immunity from any criminal prosecution under Federal Law.

**(D) Relationship to State Law.**

As of the effective date of this Ordinance, as amended, and except as otherwise provided by the Act; and this Ordinance, a City of Iron River licensee and its employees and agents who are operating within the scope of a valid State-issued operating license are not subject to criminal or civil prosecution under City Ordinances regulating recreational marihuana establishments.

Nothing in this Ordinance is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, distribution or transport of marihuana in any form, that is not in strict compliance with the Act, all applicable rules promulgated by the State of Michigan regarding recreational marihuana establishments and all local laws, ordinances, rules and policies. Strict compliance with any applicable State law or regulation shall be deemed a requirement for the issuance or renewal of any license issued under this Ordinance and non-compliance with any applicable State law or local law or regulation shall be grounds for revocation or nonrenewal of any license issued under the terms of this Ordinance.

**(E) City Liability and Indemnification.**

1. By accepting a license issued pursuant to this Ordinance, the licensee waives and releases the City, its officers, elected officials and employees from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of recreational marihuana establishment owners, operators, employees, clients or customers for a violation of local, State or Federal laws, rules or regulations.
2. By accepting a license issued pursuant to this Ordinance, all licensees, agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising on account of bodily injury, sickness, disease, death, property loss, or damage

or any other loss of any kind, including but not limited to, any claim of diminution of property value by a property owner whose property is located in proximity to a licensed operating facility, arising out of, claimed to have arisen out of, or in any manner connected with the operation of a recreational marihuana establishment or use of a product cultivated, processed, distributed or sold that is subject to the license, or any claim based on an alleged injury to business or property by reason of a claimed violation of the Federal Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1964(c).

3. By accepting a license issued pursuant to the Ordinance, a licensee agrees to indemnify, defend and hold harmless, the City, its officers, elected officials, employees, and insurers, against all liability, claims, penalties, or demands arising on account any alleged violation of the Federal Controlled Substance Act, 21 U.S.C. § 801 et seq. or Article 7 of the Michigan Public Health Code, MCL 33.7101 et seq.

### **Sec. 112.02 – Definitions.**

Through this Ordinance, the City of Iron River adopts all definitions contained in any of the State rules, regulations, statutes, administrative code, enacted for the purpose of regulating recreational marihuana establishments.

### **SEC. 112.03.1: LICENSE APPLICATION SUBMISSION**

1. An application for a license shall be made in writing to the City Clerk, under oath, on forms provided by the City. Attachments, supporting documentation and supplemental submissions shall be considered part of the application.
2. The application shall contain all the following information:
  - a. A nonrefundable license fee in an amount set periodically by the City Council not exceeding any limit under the Act, to help defray the

administrative costs of reviewing the application, including but not limited to application review, communication with the applicant, background investigation, inspections, and verification of data.

b. Documentation that the applicant has received approval for pre-qualification with the State of Michigan.

c. If the applicant is an individual, the applicant's name, date of birth, mailing address, email address, and one or more phone numbers.

d. If the applicant is an entity, the name of the entity, a copy of any articles or DBA for the entity, and the entity's address, phone number, email address, principal office location and names of its officers; additionally, the name and address of each stakeholder in the entity, including designation of one stakeholder or officer as the primary contact person.

e. The name and physical address of the proposed marijuana establishment.

f. One of the following: (a) proof of ownership of the entire premises wherein the marijuana establishment is to be operated; or (b) written consent from the property owner for the use of the premises in a manner requiring licensure under this ordinance along with a copy of the lease for the premises.

g. A copy of the applicant's submissions to the State of Michigan for prequalification approval, including waste, air quality, safety, and security plans.

h. A waiver, release and hold harmless agreement as to the City, its officers, elected officials, employees, and its other agents from any liability for injuries, damages, and losses of any kind resulting from the operation of any marijuana establishment, including any arrest, prosecution, or damages arising from an alleged violation of local, State or Federal laws or regulations.

- i. A covenant not to sue the City, its officers, elected officials, employees or its other agents for any loss, damage, wrong or claim related to the application, issuance, denial or revocation of a license under this ordinance.
3. If the application contains any deficiency, the City Clerk shall notify the applicant by first class mail, and the applicant shall have ten business days from the date of mailing to correct all deficiencies.
4. Upon receipt of a complete application meeting the requirements of this Ordinance, the City Clerk shall transmit a copy of the application to the Chief of Police, City Attorney, and the City Zoning Administrator for their review.

#### **SEC. 112.03.2: LICENSE APPLICATION EVALUATION**

1. An application shall not be approved unless:
  - a. The City Zoning Administrator has verified that the proposed marihuana establishment type and location will not exceed the maximum number of applicable licenses as established by the City Council, and that the location complies with the City of Iron River Zoning Ordinance; and, upon completion of the review, has endorsed approval upon the application.
  - b. The Chief of Police has investigated the business and moral character of the applicant as the Chief of Police deems necessary for the protection of the public interest; and the Chief of Police has investigated the suitability of the proposed location, including the parking, traffic, and congestion, to best protect the safety and general welfare of the public and patrons of the proposed marihuana establishment; and, upon completion of the investigation, the Chief of Police has endorsed approval upon the application.
  - c. The City Attorney has reviewed the application for compliance with this ordinance, and all other applicable State laws and regulations;

and, upon completion of the review, has endorsed approval upon the application.

2. If the application is not approved, the basis for disapproval shall be stated on the application. The City Clerk shall then notify the applicant by first class mail of the denial, all reasons for the denial, and that no license shall be issued unless all reasons for disapproval are cured within ten business days from the date of the notice.
3. An applicant may amend an application within ten business days after the City Clerk mails a notice of disapproval. An amended application may include additional supplemental material. Upon timely receipt of an amended application, the City Clerk shall resubmit the application for any additional evaluation by the City Zoning Administrator, Chief of Police or City Attorney, as appropriate. If the amended application is again disapproved on the same basis, no further amendments will be considered.
4. Upon obtaining the written approvals required in this Section, the City Clerk shall submit the application to the City Manager, or the City Manager's designee, who shall evaluate each applicant based on the applicant's ability to operate in compliance with the Act at the proposed location within the City, which may or may not include the following considerations:
  - a. Compliance with the application requirements;
  - b. Capitalization and means to operate the proposed establishment;
  - c. Business history and experience;
  - d. Regulatory compliance history;
  - e. Thoroughness of the proposed business plan;
  - f. Integrity and moral character of the applicant;

- g. History of cooperation with the City during the application process and in previous dealings;
  - h. Adequacy of the proposed location and local economy to support the proposed operations;
  - i. History of investment and involvement in the local community;
  - j. Level of proposed investment in the local community;
  - k. The number of licenses available for that type of marijuana establishment at that location.
5. Upon completion of the report, the City Manager, or the City Manager's designee, shall place the applicant's name on a roll of nominees with a report detailing the evaluation, and deliver the same to the City Council for consideration. The City Council shall then select those nominees who are best suited to operate in compliance with the Act in the City. Any nominee approved by the City Council shall be issued a license by the City Clerk consistent with this ordinance.

### **SEC. 112.03.3: LICENSE RENEWAL APPLICATION**

1. A renewal application shall be made in writing to the City Clerk at least thirty (30) days prior to the expiration of an existing license but not more than ninety (90) days prior to the expiration. While under consideration, the term of an existing license is the later of its original expiration date, and ten business days after notice of a denial is sent by first class mail.
2. A renewal application shall be made under oath on a form provided by the City and shall contain the information required in an initial application under this ordinance.
3. A renewal application must be accompanied by a renewal fee in an amount established by the City Council, not to exceed any limit under

the Act, to help defray the administrative and enforcement costs associated with the operation and activities of marijuana establishments in the City.

4. Upon receipt of a timely and complete renewal application, the City Clerk shall refer a copy of the renewal application to the City Zoning Administrator, Chief of Police and City Attorney for review and approval consistent with the review required for an initial application under this ordinance.
5. A renewal application shall not be approved unless:
  - a. The City Zoning Administrator has verified that the proposed location complies with the City of Iron River Zoning Ordinance, including any ordinance amendments since initial issuance of the license, and that the applicant holds a valid special use permit if required; and, upon completion of the review, has endorsed approval upon the renewal application.
  - b. The Chief of Police has reviewed the history of the marijuana establishment's operations to date, and investigated any circumstances, including the business and moral character of the applicant, such as to best protect the safety and general welfare of the public and the marijuana establishment's patrons; and, upon completion of the review and investigation, the Chief of Police has endorsed approval upon the renewal application.
  - c. The City Attorney has reviewed the renewal application for compliance with this ordinance, and continued compliance with all other State laws and regulations, as may have been amended since the initial issuance of the license.
6. A marijuana establishment is not in compliance with this ordinance if a new use within the applicable spacing requirements is established after the marijuana establishment is licensed that would have prohibited the marijuana establishment's operation under the City of



Iron River Zoning Ordinance had the use existed prior to the licensing of the marihuana establishment.

7. The process for disapproving a renewal application, including notice of the disapproval, opportunity to amend the application, reconsideration, and final disapproval, shall be the same as the disapproval of an initial application, as set forth in this ordinance.
8. Upon obtaining the written approvals required in this Section, the City Clerk shall issue a renewed license to the applicant.

#### **SEC. 112.03.4 : LICENSES GENERALLY**

1. The City Council will, by resolution, establish the fee for the issuance of an initial license and for the renewal of an existing license.
2. The City Council may, by resolution, limit the number of licenses available for any type of marihuana establishment within each zoning district under the City of Iron River Zoning Ordinance.
3. Upon receipt of notification from the State of Michigan that a person has applied for a state operating license under the Act to operate a marihuana establishment in the City, the City Clerk will forward a copy of any license issued under this ordinance together with a copy of this ordinance to the Marihuana Licensing Board within 90 days.
4. Each license issued under this ordinance shall be only for a single marihuana establishment type at a single location.
5. A person may hold multiple licenses under this ordinance; however, a person must apply for a separate license for each marihuana establishment at each distinct location that the person intends to operate in the City.
6. Issuance of a license under this ordinance does not guarantee issuance of a license under the Act.

7. A licensee agrees to indemnify, defend and hold City harmless, together with its officers, elected officials, insurers, employees, and other agents from all liability, claims and demands for any and all injury, damage or other loss arising from operation of and activities related to any marihuana establishment.
8. A licensee agrees to not sue the City, or its officers, elected official, insurers, employees, and other agents, for any loss, damage, wrong or claim related to the application, issuance, denial or revocation of the license under this ordinance.
9. A licensee shall not operate a recreational marihuana establishment at any place in the City other than the address provided in the application on file with the City Clerk. Provided further, no such establishment shall be located within 1,500 feet from a school.

#### **SEC.112.03.5: LICENSE TRANSFERS**

1. Licenses issued under this ordinance may not be transferred to another person, another location, or both, without the approval of the City Council.
2. To receive approval for a transfer, the person must request the transfer in writing to the City Clerk. The City Clerk shall refer a copy of the transfer application to the City Zoning Administrator, Chief of Police, and City Attorney. No transfer application shall be approved unless the City Zoning Administrator, Chief of Police, and City Attorney all endorse their approval to the transfer application following a review and investigation of the changed circumstances as though the request is an initial license application.
3. The process for disapproving a transfer request, including notice of the disapproval, opportunity to amend the request, reconsideration, and final disapproval, shall be the same as the disapproval of an initial application, as set forth in this ordinance.

4. If written approvals are given as required in this Section, the City Clerk shall submit the request to the City Council for consideration.
5. An operating license granted by this Ordinance is a revocable privilege granted by the City and is not a property right. Granting a license does not create or vest any right, title, franchise, or other property interest.
6. A licensee or any other person shall not lease, pledge, or borrow or loan money against a license.

#### **SEC. 112.03.6: DENIAL, REVOCATION, AND APPEAL**

1. A license application shall be denied if it does not meet the requirements of this ordinance.
2. A license issued under this ordinance may be revoked by the City Clerk, City Manager or City Attorney for any of the following:
  - a. Violation of any provision of this ordinance.
  - b. A fraud, misrepresentation, or false statement contained in the application, or its accompanying documents, statements, certificates or permits, filed to obtain the license, regardless of when it is discovered.
  - c. Fraud, misrepresentation, or false statement while operating the establishment or failure to operate the establishment under the terms of the license.
  - d. The person's conviction of any crime or misdemeanor involving moral turpitude.
  - e. Operating the establishment in an unlawful manner or in such a manner as to constitute a nuisance, a breach of the peace, or to constitute a menace to the health, safety, or general welfare of the public.

- f. Not conducting operations authorized by the license for a period of greater than thirty (30) days in any one calendar year, excepting from that period those days where the applicant has a pending application for a marihuana license with the State of Michigan or a special use permit with the City of Iron River, or unless otherwise approved by the City Council.
3. Any person subject to a denial or revocation under this ordinance may appeal the denial or revocation to the City Council. The appeal must be requested in writing, stating the grounds for the appeal, within thirty (30) days of the date of the denial or revocation. The City Council, upon hearing the appeal, may uphold the denial or revocation, order the license to be issued or reissued, or modify the license with specific conditions. The City Council's determination is final and not subject to judicial review.

#### **Sec. 112.04 General Requirements and Restrictions**

All facilities operating within the City shall be subject to the following general requirements and restrictions. To the extent there is a conflict between these requirements and restrictions and the Act, the Act shall prevail

1. **Exterior Signage.** Establishments may not use exterior signage or displays with neon, flashing lights, or similarly noxious or obtrusive lighting or effects. Establishments may not use exterior signage or displays that contain an image of a marihuana leaf or other commonly recognized symbol for marihuana or which utilize any of the following words: marihuana, mary jane weed, cannabis, blunt, doobie, joint, hooch, hash or other similar slang term for marihuana or marihuana related products.

2. Hours of Operation. Provisioning Centers may only operate between the hours of 8:00 a.m. and 9:00 p.m.
3. Indoor Operations/No Drive-Thru Service. All business operations of an establishment must occur indoors. Establishments may not provide drive-thru service.
4. Odors. Establishments may not emit noxious odors or fumes and shall install equipment and devices to control the emissions of visible fumes and odors.
5. Artificial Lighting. Any artificial grow lighting must not be visible from neighboring properties streets or right of ways.
6. Security. Establishments must have:
  - a. A monitored alarm system (24 hours a day 7 days a week);
  - b. A safe for all cash, cash equivalents, and marihuana stored in the facility overnight shall be in room secured commercial grade security doors;
  - c. Monitored security cameras covering at a minimum, all parking areas, entrances and exits, points of sale, and all areas where marihuana is stored or handled. All security recordings must be maintained for a minimum of forty-five (45) days and provided to law enforcement upon request.
  - d. All establishments must provide to the City an IP address which provides the City with real-time access to all security camera feeds at the facility.
7. Display of Permit. The permit issued by the City and the license issued by the State of Michigan shall be prominently

displayed within the facility in a location where it can be easily viewed by the public.

8. **Systems.** All facilities must have electrical, fire safety, plumbing, filtration and waste disposal systems, which are appropriate and consistent with best industry practices for the business being conducted.

**(A) Prohibited Acts**

1. No person under the age of twenty-one (21) shall be permitted to enter a facility unless the person has a medical marihuana card and is accompanied by a legal guardian over the age of **twenty-one (21)**.
2. No marihuana may be smoked, used, or consumed at any facility.
3. It shall be unlawful for any licensee to permit the consumption of alcohol beverages on the licensed premises.
4. No establishment may operate under a temporary certificate of occupancy. Establishments must be in full compliance with all all applicable legal requirements in order to operate.
5. It shall be unlawful for any licensee holding a provisioning center license, or for any agent, manager or employee thereof to:
  - a. Sell, give, disperse or otherwise distribute recreational marihuana or paraphernalia from any outdoor location;
  - b. It shall be unlawful for retail recreational marihuana establishments to distribute recreational marihuana or recreational marihuana-infused products to a consumer free of charge;

- c. It shall be unlawful to sell recreational marihuana to any person under the age of twenty-one (21).

**(B) Reports of Crime**

Reports of all criminal activities or attempts of violation of any law at the recreational marihuana establishment or related thereto shall be reported to the City of Iron River Manager, Police and Fire Departments within twelve (12) hours of occurrence, or its discovery, whichever is sooner.

**(C) Inspection of Licensed Premises**

1. Application for recreational marihuana establishment license or operation of a recreational marihuana establishment, or leasing property to a recreational marihuana establishment, constitutes consent by the applicant, and all owners, managers, and employees of the business, and the owner of the property to permit the Police Chief, or their designee to conduct routine examinations and inspections of the recreational marihuana establishment to ensure compliance with this Ordinance or any other applicable law, rule or regulation.
2. During all business hours and other times when the premises are occupied by the licensee or an employee or an agent of the licensee, all licensed premises shall be subject to examination and inspection by City of Iron River Police Department and all other City Departments for the purpose of investigating and determining compliance with the provisions of this Ordinance and any other applicable State and local laws or regulations.
3. For the purposes of this Ordinance, examination, and inspections of recreational marihuana establishments and recordings from security cameras in such businesses are part of the routine policy of enforcement of this Ordinance for the purpose of protecting the public safety, individuals operating and using the services of the recreational marihuana establishment and the adjoining properties and neighborhoods.

4. A licensee, or an employee or agent of the licensee, shall not threaten, hinder or obstruct law enforcement officers or a City inspector or Investigator in the course of making an examination or inspection of the licensed premises and shall not refuse, fail, or neglect to cooperate with law enforcement officers, inspectors or investigators in the performance of his or her duties to enforce this Ordinance, the Act or applicable State administrative rules.

**(D) Other Laws Remain Applicable**

To the extent the State adopts in the future any additional or stricter law or regulation governing the sale or distribution of recreational marihuana, the additional or stricter regulation shall control the establishment or operation of any recreational marihuana establishment in the City. Compliance with any applicable State law or regulation shall be deemed an additional requirement for issuance or denial of any license, and noncompliance with any applicable State law or regulation shall be grounds for the revocation or suspension of any license.

**(E) Grant of Administrative Authority**

The City Clerk is granted the power and duty through its official designation to fully and effectively implement and administer the license application process and issuance of Provisional Approval Certificates and Operating Licenses issued by the City under this Ordinance. The City Clerk, after consultation with other City departments, may promulgate such rules as necessary to implement and administer this Ordinance.

**(F) Violations and Penalties**

1. In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Ordinance, any person, including, but not limited to, any licensee, manger or employee of a recreational marihuana establishment or any customer of such business, who violates any of the provisions



of this Ordinance, shall be guilty of a misdemeanor punishable in accordance with this Ordinance unless a different penalty is provided herein.

2. If an establishment is operated in violation of the Act or any applicable ordinance, or the licensee is found to have submitted false or misleading information in its permit application, the City may revoke the permit for such establishment to operate within the City. The City retains the right to alter the number and type of establishments authorized hereunder at any time. Any permit granted hereunder is a revocable privilege granted by the City and is not a property or other legal right.
3. With respect to any establishment that is in violation of any requirement or restriction set forth in this Ordinance, the licensee of an establishment all persons identified pursuant to the Act, and any on-site manager shall be subject to the following penalties:
  - a. Any violation shall be a misdemeanor and may be punished by a fine of not more than \$1,500 and/or imprisonment not exceeding ninety (90) days and the violator(s) shall pay all court costs and expenses.
  - b. The penalties set forth herein are non-exclusive and cumulative and nothing herein shall be deemed to prevent the City from enforcing any other applicable ordinances.
  - c. In addition to the remedies provided here, the City may file for injunctive relief to abate any violation hereof.

**(G) Repealer**

All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this Ordinance are repealed as of the effective date of this Ordinance, provided the rights, benefits, duties and obligations imposed by

earlier ordinances on individuals and entities proceeding under those earlier ordinances shall be continued in force and effect.

**(H) Severability**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the remaining portions of this Ordinance.

**(I) Effective Date**

This Ordinance shall take effect thirty (30) days after the final publication thereof.

Public Hearing: September 15, 2021

Passed:	<u>Yeas</u>	<u>Nays</u>
Dennis Powell,	X	
Anthony Clements	X	
Rodney Dood	X	
Benjamin Garcia	X	
RonJo Leonoff	X	

Published: September 22, 2021

Effective: October 22, 2021

**ORDINANCE DECLARED ADOPTED.**

Dated: September 15, 2021

**CERTIFICATION**

I, the undersigned duly appointed City Clerk of the City of Iron River, Iron County, Michigan, do hereby certify that the above Ordinance, or summary thereof, was published in the Iron County Reporter, a newspaper of general circulation in the City of