

## **§ 1. Title.**

This chapter shall be known and cited as the “City of Ironwood Regulation of Adult-Use Marihuana Establishment Ordinance.”

- A. The purpose of this ordinance is to regulate adult-use marihuana establishments. The City finds that these activities are significantly connected to the public health, safety, security, and welfare of its citizens and it is therefore necessary to regulate and enforce safety, security, fire, policing, health, and sanitation practices related to such activities and also to provide a method to defray administrative costs incurred by such regulation and enforcement. It is not the intent of this ordinance to diminish, abrogate, or restrict the protection for adult-use marihuana use found in the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 *et seq.* (the “Act”).

## **§ 2. Definitions.**

A. The words and phrases used in this ordinance shall have the following meanings, or the meanings ascribed in the Act or the state rules, unless the context clearly indicates otherwise.

1. “Act” means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 *et seq.*
2. “City” means the City of Ironwood.
3. “Clerk” means the clerk of the City of Ironwood.
4. “Department” means the Michigan Department of Licensing and Regulatory Affairs or its successor agency.
5. “Designated Consumption Establishment” means a commercial space that is licensed by the Department and authorized to permit adults 21 years of age and older to consume Marihuana products at the location indicated on the state license.
6. “Marihuana Establishment” means a Marihuana Grower, Marihuana Safety Compliance Facility, Marihuana Processor, Marihuana Microbusiness, Marihuana Retailer, Marihuana Secure Transporter, or any other type of business licensed by the Department to operate under the Act.
7. “Marihuana event organizer” means a person licensed to apply for a temporary marihuana event license under these rules.
8. “Marihuana Grower” means a person licensed by the Department to cultivate marihuana and sell or otherwise transfer marihuana to Marihuana Establishments. Marihuana grower license types are:
  1. Class A – not more than 100 marihuana plants;
  2. Class B – not more than 500 marihuana plants;

3. Class C – not more than 2000 marihuana plants;
4. Excess marihuana grower – issued to a person who holds 5 stacked Class C licenses.
9. “Marihuana Microbusiness” means a person licensed by the Department to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a Marihuana Safety Compliance Facility, but not to other Marihuana Establishments.
10. “Marihuana Processor” means a person licensed by the Department to obtain marihuana from Marihuana Establishments; process and package marihuana; and sell or otherwise transfer marihuana to Marihuana Establishments.
11. “Marihuana Retailer” means a person licensed by the Department to obtain marihuana from Marihuana Establishments and to sell or otherwise transfer marihuana to Marihuana Establishments and to individuals who are 21 years of age or older.
12. “Marihuana Safety Compliance Facility” means a person licensed by the Department to test marihuana, including certification for potency and the presence of contaminants.
13. “Marihuana Secure Transporter” means a person licensed by the Department to obtain marihuana from Marihuana Establishments in order to transport marihuana to Marihuana Establishments.
14. “Ordinance” means this corpus and any amendments thereto.
15. “Person” means any firm, person, partnership, association, corporation, company, or legal entity of any kind.
16. “School” means private or public licensed institution where children attend classes in preschool programs, kindergarten programs, or grades 1 through 12.
17. “Temporary marihuana event license” means a state license held by a marihuana event organizer for an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the state license during the dates indicated on the state license.

**§ 3. Operation Without a License.**

- A. No person shall operate a Marihuana Establishment in the City without first obtaining a license to do so from the Clerk.

- B. The City Commission may establish, by resolution, an appropriate nonrefundable license annual fee, not to exceed five thousand dollars (\$5,000.00) or as defined by state law, to help defray application and administrative costs.
- C. The City shall issue no more than a total of four (4) licenses for Marihuana Retailers and Microbusinesses in the City. Not more than two (2) of either a Marihuana Microbusiness or a Marihuana Retailer will be issued. Licenses for Marihuana Growers is limited to two (2) of each class. Stacking of licenses is prohibited. Licenses for Marihuana Processors is limited to two (2) licenses. Marihuana Safety Compliance Facilities and Marihuana Secure Transporters licenses are unlimited. The following establishments are prohibited and can only be licensed by a change to this ordinance: Designated Consumption Establishment, Marihuana Event Organizer, and Temporary Marihuana Event Licenses.

**§ 4. License Application Submission.**

- A. Applications for a license shall be made in writing to the Clerk. All completed applications submitted to the Clerk shall be considered for issuance of a license. Completed applications shall be considered through a competitive process. Licenses for Marihuana Safety Compliance Facilities and Marihuana Secure Transporters will not be part of a competitive process.
- B. An application for a license required by this Ordinance shall be made under oath on forms provided by the City, and shall be deemed to be complete only if it contains all of the following:
  - 1. The appropriate nonrefundable license fee in the amount set by City Commission resolution pursuant to Section 3;
  - 2. If the applicant is an individual, the applicant's name, date of birth, social security number, physical address, including residential and any business address; copy of government-issued photo identification; email address, and one or more phone numbers including emergency contact information;
  - 3. If the applicant is an entity, the names, dates of birth, physical addresses including residential and any business address; copy of government-issued photo identification, email addresses, and one or more phone numbers of each individual with an ownership interest, including designation of one such individual as the primary point of contact; contact information for an emergency contact person, articles of incorporation, assumed name registration; Internal Revenue Service EIN confirmation letter; copy of the operating agreement of the applicant, if a limited liability company; copy of the partnership agreement, if a partnership; names and addresses of the beneficiaries, if a trust or a copy of the bylaws or shareholder agreement, if a corporation;
  - 4. A notice of prequalification status approval from the Department, as defined under the state rules, specifically the Emergency Rules of July 3, 2019, Rule 6, Section 2;

5. The name and physical address of the proposed Marihuana Establishment; site plan and building layout; and location area map of the marihuana establishment and surrounding area that identifies the relative locations and the distances (as measured from the parcel lines of the individual properties) to the closest real property comprising a public or private elementary, vocational or secondary school, or public park;
6. A signed acknowledgment that the applicant is aware and understands that all matters related to marihuana growing, cultivation, possession, testing, safety compliance and transporting, are currently subject to state and federal laws, rules and regulations, and that the approval or granting of a license hereunder does not exonerate or exculpate the applicant from abiding by the provisions and requirements and penalties associated with those laws, rules, and regulations, or exposure to any penalties associated therewith; and further, the applicant waives and forever releases any claim, demand, action, legal redress, or recourse against the City, its elected and appointed officials, and its employees and agents for any claims, damages, liabilities, causes of action, damages, or attorney fees that the applicant may incur as a result of the violation by the applicant, its stakeholders and agents of those laws, rules, and regulations; and
7. One of the following: (a) proof of ownership of the entire premises wherein the Marihuana 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 the Act along with a copy of the lease for the premises.
8. Any other information which may be required by the clerk.

If the applicant is denied, the clerk shall issue a written notice of denial to the applicant. All communication will be sent by first class mail to the address for the applicant provided on the application.

A license will not be granted until the applicant, and each person holding an ownership interest in the applicant, have passed a criminal background check conducted by the Ironwood Public Safety Department.

A license will not be granted until the City Finance Director verifies that the applicant does not owe to the City any taxes or other default.

License holders shall report any other change in the information required by this ordinance to the city clerk within 10 business days of the change. Failure to do so may result in suspension or revocation of the license.

- C. Nothing in this Ordinance shall be read as prohibiting a person from obtaining multiple licenses under this Ordinance. An individual or entity must apply for a license for each Marihuana Establishment that the individual or entity intends to operate in the City.

- D. To the extent permissible, all information submitted in conjunction with an application under this Ordinance is confidential and exempt from disclosure under the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231 *et seq.*

**§ 5. License Application Evaluation.**

- A. Upon receipt of a completed application meeting the requirements of this Ordinance and confirmation that the number of existing licenses does not exceed the maximum number established by this Ordinance, the Clerk shall refer a copy of the application to each of the following for their review: the Planning & Zoning Administrator, the Building Inspector, the Electrical Inspector, the Mechanical & Plumbing Inspector, and City of Ironwood Public Safety Director and/or designee. Once reviewed for completeness by the above-mentioned individuals, the application will be reviewed by the Planning Commission and the City Commission through a competitive process.
- B. No application shall be approved unless:
1. The Planning & Zoning Administrator has confirmed that the proposed location complies with this Ordinance and the Zoning Code; and
  2. The Building Inspector, Electrical Inspector, the Mechanical & Plumbing Inspector, and public safety director and/or designee have inspected the proposed location for compliance with all local and state fire codes, laws and ordinances for which they are charged with enforcement.
  3. Application is approved by City Commission and Planning Commission
- C. If written approval is given by each of the parties identified in subsection B, the Clerk shall issue a license to the applicant.
- D. Licenses issued under this Ordinance may not be transferred to another person without the approval of the City Commission and Planning Commission and not within 12 months of the original issuance date. For purposes of this subsection, a change in, transfer of, or acquisition of control of the licensee is considered to be a transfer. In order to receive approval to transfer a license to a different person, the licensee must make a written request to the Clerk, indicating the current licensee and the proposed licensee. License transfers must also be reviewed by the City Planning Commission and City Commission.
- E. Licenses issued under this Ordinance may not be transferred to a different location without the approval of the City Commission and Planning Commission. In order to receive approval to transfer a license to a different location, the licensee must make a written request to the Clerk, indicating the current location and the proposed location. The Clerk shall refer a copy of the application to each of the following for their approval: the Planning & Zoning Administrator, the Building Inspector, the Electrical Inspector, the Mechanical & Plumbing Inspector, and City of Ironwood Public Safety Director and/or designee. Transfer of the license to a different location will only be approved after review by the City Commission and Planning Commission and must meet the following:

1. The Planning & Zoning Administrator has confirmed that the proposed new location complies with this Ordinance and the Zoning Code; and
  2. The Building Inspector, the Electrical Inspector, the Mechanical & Plumbing Inspector, and the City of Ironwood Public Safety Director and/or designee have confirmed that the proposed new location is in compliance with all laws and ordinances for which they are charged with enforcement.
- F. A City of Ironwood License will not be issued until all required State Licenses have been approved and granted. City of Ironwood licenses will be issued for the term of one year and will run concurrently with the term of the applicant's state license.
- G. Before a license is issued or renewed, the licensee or renewal applicant shall file a proof of financial responsibility for the liability for bodily injury on the form prescribed, for an amount not less than \$1,000,000.

**§ 6. Licenses Generally.**

- A. No consumption of marihuana shall be permitted on the premises of a Marihuana Establishment, and a sign shall be posted on the premises of each Marihuana Establishment indicating that consumption is prohibited on the premises.
- B. The license required by this Ordinance shall be prominently displayed on the premises of the Marihuana Establishment.
- C. A Marihuana Establishment receiving a license under this Ordinance shall be subject to inspection by City Law Enforcement and other City Personnel for compliance with all applicable state and local permits and licenses at any time.
- D. All necessary building, electrical, plumbing, and/or mechanical permits shall be obtained from the City or other applicable governmental authority. All buildings shall be brought up to local and state building code requirements.
- E. All persons working in direct contact with marihuana shall conform to hygienic practices while on duty, including, but not limited to:
1. Maintaining adequate personal cleanliness.
  2. Washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when the hands may have become soiled or contaminated.
  3. Refraining from having direct contact with marihuana if the person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.
- F. Litter and waste (liquid or solid) shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where marihuana is exposed.

- G. Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
- H. There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for waste becoming an attractant, harborage, or breeding place for pests.
- I. Any buildings, fixtures, and other facilities shall be maintained in a sanitary condition.
- J. Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of those microorganisms.
- K. Marihuana Establishments shall be free from infestation by insects, rodents, birds, or vermin of any kind.
- L. A Marihuana Establishment shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras. The video recordings from such systems shall be maintained in a secure, off-site location for a period of thirty (30) days.
- M. No Marihuana Establishment shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the structure on which the Marihuana Establishment is operated (this includes the structure where the growing, retail, or processing facility is located). No Marihuana Establishment shall violate Ch. 17 (Nuisances) of the City of Ironwood Code of Ordinances.
- N. Disposal of marihuana shall be accomplished by a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise in conformance with the Act and the rules promulgated thereunder. Disposal structures must be locked and secured.
- O. It shall be prohibited to display any signs that are inconsistent with this Ordinance, local ordinances, the Act, or rules promulgated thereunder. No off-premise signage is permitted.
- P. It shall be prohibited to use advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors.
- Q. No Marihuana Establishment shall be located within an area zoned exclusively for residential use (R-1, R-2, C-1) and not within any of the following buffers; 500 feet of a property line of a pre-existing school, 100 feet of a property line of a church, and 100 feet of a property line of a city park. It shall be the responsibility of the owner or operator of the proposed state-licensed Marihuana Establishment to demonstrate and ensure that a proposed location is not within one of the buffers. If any part of the property is in the prohibited buffer or district the entire property is affected.
- R. Marihuana Retailers and Microbusinesses shall not include deliveries, drive-thru, exterior, or off-site sales. Marijuana retailers shall not be located in a mobile or temporary structure.

- S. Marihuana producers, marihuana processors, and marihuana retailers shall connect to all City utilities. (Additional Treatment of waste may be required before entering the municipal sewer system)
- T. The Marihuana Establishment shall be designed, located, constructed and buffered to blend in with its surroundings and mitigate significant adverse impacts on adjoining properties and the community. Odors shall be minimized by installing filtration systems. Special attention will be given to noise, light, glare, and traffic impacts. No barred windows and doors are permitted.
- U. Marihuana Establishments are not permitted as home occupations.
- V. All distances under this Ordinance shall be measured along the center line of the street or streets of address between two fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the school building nearest to the contemplated location of the Marihuana Establishment and from the part of the Marihuana Establishment nearest to the school building.
- W. Any Marihuana Secure Transporter who has been granted a license under the Act may transport marihuana or money associated with the purchase or sale of marihuana through the City but may not store marihuana or money associated with the purchase or sale of marihuana in the City for more than 48 hours.
- X. The annual license fee, not to exceed five thousand dollars (\$5,000.00) or as designated by state law, to help defray application, administrative, and enforcement costs associated with the operation of Marihuana Establishments in the City will be collected at the time the license application is submitted and is non-refundable.
- Y. An applicant or licensee shall notify the Clerk of any changes in the information submitted in Section 4(B) within two (2) business days of such changes occurring.

**§ 7. License Renewal**

- A. The term of each license shall be one year. Within ninety (90) days of the expiration of a license, the licensee shall apply to renew its license. Applications to renew a license shall be made in writing to the Clerk. If a licensee fails to file an application to renew a license prior to the date that the license expires, the license shall be deemed forfeited.
- B. An application to renew a license required by this Ordinance shall be made under oath on forms provided by the City and shall contain substantially the same information as required in Section 4(B), as well as the appropriate nonrefundable annual license fee in the amount up to \$5,000 set by City Commission resolution pursuant to Section 6(Y).
- C. Unless the Clerk finds that denial of a renewal application is warranted pursuant to Section 12, the Clerk shall grant a renewal license to a licensee as long as the licensee has a valid state license issued by the Department to operate that Marihuana Establishment.

**§ 8. Marihuana Retailer.**



- A. A Marihuana Retailer shall be limited to the C-3 (Highway Commercial) and C-2 (Downtown Commercial) Districts pursuant to the Zoning Ordinance of City.
- B. No Marihuana Retailer shall be open between the hours of 10:00 p.m. and 8:00 a.m.
- C. A Marihuana Retailer shall not permit a person under twenty-one (21) years of age on its premises.
- D. No Marihuana Retailer will be permitted in areas of downtown as described in Figure 1.

**§ 9. Marihuana Microbusiness.**

- A. A Marihuana Microbusiness shall be limited to the C-3 (Highway Commercial) and C-2 (Downtown Commercial) District pursuant to the Zoning Ordinance of City.
- B. A Marihuana Microbusiness may operate twenty-four (24) hours a day, seven (7) days a week, but may only be open to the public between the hours of 8:00 a.m. and 10:00 p.m.
- C. A Marihuana Microbusiness shall not permit a person under twenty-one (21) years of age on its premises.
- D. No Marihuana Microbusiness will be permitted in the downtown as described in Figure 1.
- E. Marihuana Microbusinesses must be free standing, single story, and must meet all the setback requirements for the C-3 zoning district regardless of location.

**§ 10. Marihuana Grower.**

- A. A Marihuana Grower shall be limited to the I-1 (Industrial) District pursuant to the Zoning Ordinance of City.
- B. A Marihuana Grower may operate twenty-four (24) hours a day, seven (7) days a week.
- C. A Marihuana Grower shall not permit a person under twenty-one (21) years of age on its premises.
- D. A Marihuana Grower must meet all setbacks specified under the appropriated district in the City of Ironwood Zoning Ordinance.
- E. A Marihuana Growing facility must be indoors in a locked facility. Outdoor growing is prohibited.
- F. No Marihuana Grower will be permitted in the downtown as described in Figure 1.

**§ 11. Marihuana Processor.**

- A. A Marihuana Processor shall be limited to the I-1 (Industrial) District pursuant to the Zoning Ordinance of City.

- B. A Marihuana Processor may operate twenty-four (24) hours a day, seven (7) days a week.
- C. A Marihuana Processor shall not permit a person under twenty-one (21) years of age on its premises.
- D. A Marihuana Processor must meet all setbacks specified under the appropriated district in the City of Ironwood Zoning Ordinance.
- E. No Marihuana Processor will be permitted in the downtown as described in Figure 1.

**§ 12. Marihuana Secure Transporter.**

- A. A Marihuana Secure Transporter facility and/or office shall be limited to the I-1 (Industrial) District pursuant to the Zoning Ordinance of City.
- B. A Marihuana Secure Transporter may operate twenty-four (24) hours a day, seven (7) days a week.
- C. A Marihuana Secure Transporter shall not permit a person under twenty-one (21) years of age on its premises.
- D. A Marihuana Secure Transporter is solely for transportation between Marihuana Establishments not to the general public.

**§ 13. Marihuana Safety Compliance Facility.**

- A. A Marihuana Safety Compliance Facility shall be limited to the I-1 (Industrial), C-3 (Highway Commercial), and C-2 (Downtown Commercial) District pursuant to the Zoning Ordinance of City.
- B. A Marihuana Safety Compliance Facility may operate twenty-four (24) hours a day, seven (7) days a week.
- C. A Marihuana Safety Compliance Facility shall not permit a person under twenty-one (21) years of age on its premises.
- D. No Marihuana Safety Compliance Facility will be permitted in the downtown as described in Figure 1.

Figure 1. Map of Downtown Ironwood (Red – Marihuana Microbusinesses, Marihuana Retailers, Marihuana Growers, Marihuana Processors, Marihuana Secure Transporters, and Marihuana Safety Compliance Facilities prohibited)



**§ 14. Marihuana Establishment Signage Requirements**

- A. All signs must be preapproved in the licensing process and meet all zoning ordinance requirements.
- B. All the signs in the C-2 District must meet all requirements of the zoning ordinance (see Section 34-134(7)) of the City of Ironwood Zoning Ordinance and the following; No lighted signs, lettering limited to three inches in height, no free standing or flag signs, no graphical signs, and black and white lettering only.
- C. All Signs in the C-3 District must meet all requirements of the zoning ordinance (see Section 34-154(7)) of the City of Ironwood Zoning Ordinance and the following; No lighted signs, lettering limited to three inches in height, no flag signs, no graphical signs, and black and white lettering only.
- D. All signs in the I-1 District must meet all the requirements of the zoning ordinance (see Section 34-175(9)) of the City of Ironwood Zoning Ordinance.

**§ 15. Marihuana Establishment Façade Requirements**

- A. Windows must be clear and not covered with paper or any type of film or frosting.
- B. Facades must meet the character of the surrounding buildings.
- C. Barred doors and windows are prohibited.
- D. Front entrances are the only entrance allowed to be used by customers.

**§ 16. Denial and Revocation.**

- A. An initial or renewal license application shall be denied if it does not meet the requirements of this Ordinance.
- B. Should the city clerk revoke or deny an application, the applicant shall have 14 days from the mailing of the denial/revocation to appeal the denial/revocation to the city manager by filling a notice of appeal with the city manager's office. The city manager may require additional information or act upon the appeal based upon the information supplied to the city clerk. Should the city manager reverse the decision of the clerk, the clerk shall issue a provisional license. Should the city manager affirm the decision of the clerk, the city manager shall issue a written notice of affirming the decision of the clerk. All communications will be sent by first class mail to the address for the applicant provided in the application.

The applicant shall have 14 days from the mailing of a decision by the city manager affirming the decision of the city clerk to appeal to the city commission. To appeal the decision of the city manager, the applicant must file a notice of appeal with the city clerk. The city commission shall hear the appeal at its next regular meeting, but not sooner than seven (7) days from the receipt of the appeal.

- B. A license issued under this Ordinance may be revoked on any of the following basis.
  - 1. Any violation of this ordinance;
  - 2. Any conviction of delivery of a controlled substance to a minor;
  - 3. City clerk finding of fraud, misrepresentation or the making of a false statement by the applicant or any stakeholder of the applicant while engaging in any activity for which this ordinance requires a municipal license or in connection with the application for a license or request to renew a license;
  - 4. The license holder or any of its stakeholders is in default to the city personally or in connection with any business in which they hold an ownership interest, for failure to pay property taxes, special assessments, fines, fees or other financial obligation;
  - 5. The marihuana establishment is determined by the city to have become a public nuisance; or
  - 6. The department has denied, revoked or suspended the applicant's state operating license.

**§ 17. No Vested Rights.**

A property owner, lessor, license applicant, or licensee shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this Ordinance.

**§ 18. Penalties.**

Any person in violation of any provision of this Ordinance or any provision of a license issued under this Ordinance is responsible for a civil infraction, punishable by a fine of up to five hundred dollars (\$500.00) for each violation. Each day that a violation continues to exist shall constitute a separate offense. Any criminal prosecutions hereunder shall not prevent civil proceedings for abatement and termination of the activity complained of.

**§ 19. Severability.**

Nothing in this Ordinance is intended to limit an individual's or entity's rights under the Act. The Act or the rules promulgated thereunder supersede this Ordinance where this is a conflict between them. This Ordinance and various parts, sections and clauses thereof, are hereby declared severable. If any parts, sections, paragraphs or clauses are adjudged invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

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