

**CITY OF CRYSTAL FALLS
PUBLIC NOTICE
ORDINANCE NO. 4.20**

AN ORDINANCE TO RESTATE ORDINANCE 2.30 TO THE CITY OF CRYSTAL FALLS CODE TO PROVIDE AND ESTABLISH A PROCESS AND PROCEDURE FOR THE APPLICATION AND LICENSING REQUIREMENT FOR MARIHUANA ESTABLISHMENTS WITHIN THE CITY OF CRYSTAL FALLS AND TO PROVIDE FOR THE SUSPENSION AND REVOCATION FOR VIOLATIONS THEREOF.

SECTION 1. PURPOSE AND DEFINITIONS.

A. PURPOSE

This Ordinance is an exercise of the police powers of the City of Crystal Falls and provides a mechanism for licensing and regulating recreational marihuana establishments to the extent permissible under the laws and regulations of the State of Michigan and to protect the public health, safety, and welfare of the residents of the City.

The City finds that the activities described in the Ordinance are connected to and will impact the public health, safety, and welfare of its citizens and it is therefore necessary to regulate and enforce the safety, security, fire, police, and health and sanitation practices related to such activities, and to provide a method to defray the administrative costs incurred by such regulation and enforcement. It is not the intent of this Ordinance to diminish, abrogate, or restrict the protections for recreational marihuana use found in the Michigan Regulation and Taxation of Marihuana Act (MCL 333.27951 et seq.) (MRTMA).

B. DEFINITIONS. The words and phrases used in this Ordinance shall have the following meanings, or the meanings ascribed in the MRTMA or the State Rules, unless the context clearly indicates otherwise:

1. **“Application”** means an application for a license under this Ordinance and includes all supplemental documentation attached or required to be attached thereto.
2. **“Applicant”** means the person filing the application.
3. **“Building”** means the particular building within which the licensee will be authorized to conduct the establishment activities pursuant to the license.
4. **“City”** means the City of Crystal Falls, Michigan.
5. **“City Manager”** means the City of Crystal Falls manager or the City’s manager designee.

6. **“Clerk”** means the City of Crystal Falls Clerk or his/her designee.
7. **“Distance”** means a straight-line measurement from the respective parcel or lot line next to the applicable parcel or lot line.
8. **“License”** means a current and valid permit for a Marihuana Establishment issued under this Ordinance by the City, which shall be granted to a licensee only for and limited to a specific person, and property.
9. **“Licensee”** means the person that holds a current and valid license issued pursuant to this Ordinance that allows the licensee to operate as one of the following, specified in the license: (i) Grower; (ii) Marihuana Processor; (iii) Marihuana Secure Transporter; (iv) Marihuana Retailer or Marihuana Microbusiness; or (v) Marihuana Safety Compliance Facility.
10. **“Marihuana”** means all parts of the plant of the genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. For purposes of this act, marihuana does not include:
 - (i) the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;
 - (ii) industrial hemp; or
 - (iii) any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products..
11. **“Marihuana Accessories”** means any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marihuana into the human body.
12. **“Marihuana Establishment”** means one of the following:

a. “**Marihuana Grower**” is a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

b. “**Marihuana Safety Compliance Facility**” means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

c. “**Marihuana Microbusiness**” means a person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; sell or otherwise transfer marihuana to individuals who are 21 years age or older or to a marihuana safety compliance establishment, but not to other marihuana establishments.

c. “**Marihuana Retailer**” means a person licensed 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.

i. For purposes of this Ordinance, the City will allow a Marijuana Retailer to also obtain, before or after it receives a state operating license, a Provisioning Center license as defined by the Medical Marihuana Facilities Licensing Act (“MMFLA”) to be operated at the same location. A Provisioning Center may obtain marihuana from a licensed medical marihuana facility to sell to Patients and Caregivers as provided in the MMFLA.

d. “**Marihuana Processor**” means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

e. “**Marihuana Secure Transporter**” means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

13. “**Person**” means a natural person, company, partnership, corporation, limited liability company, or any joint venture for a common purpose.
14. “**Property**” means the real property comprised of a lot, parcel, or other designated unit of real property upon which the establishment is situated.

15. “**Public Place**” means any area in which the public has access.
23. “**State Licensee**” means a person holding a current and valid State Operating License for a Marihuana Establishment.
24. “**State Operating License**” means a license that is issued by the Michigan Department of Licensing and Regulatory Affairs under the MRTMA that allows the State Licensee to operate as one of the following, specified in the License: (i) Marihuana Grower; (ii) Marihuana Processor; (iii) Marihuana Secure Transporter; (iv) Marihuana Retailer or Marihuana Microbusiness; or (v) Marihuana Safety Compliance Facility.
25. “**State Rules**” means the Emergency Rules, or the Final Rules hereafter promulgated, by the State of Michigan Department of Licensing and Regulatory Affairs.

SECTION 2. LICENSE REQUIRED

- A. No person shall own or operate a Marihuana Establishment in the City without first providing application requirements from the Clerk’s office.
- B. An establishment shall not include a club, café, or other design that permits consumption of marihuana at the establishment.
- C. A license is not transferable and shall only apply to the person, and property listed on the license. If there are any changes in ownership of the entity approved for the license, the new information must be filed with the City, the City will accept changes in the ownership of the licensed entity if the State approves the changed ownership with regard to its license, along with the \$2,500 review fee.
- D. Licenses shall be valid for a period of one year, from January 1st to December 31st.
- E. Every applicant shall pay a nonrefundable license fee of \$5,000 at the time of application for each establishment.
- F. An application to renew a license shall be filed at least 30-days prior to the date of expiration. Such renewal shall be annual and shall be accompanied by an annual license fee of \$5,000 for each establishment, which shall not be prorated. Any renewals issued to applicants who have an active pending application for a State Operating License with the State of Michigan will be issued day-to-day and will expire if the State application is denied or dismissed for lack of progress by applicant.

G. Licenses shall be displayed at all times, inside the location, in an open and conspicuous place.

SECTION 3. TYPES OF LICENSES PERMITTED WITHIN THE CITY.

The City may issue the following types of Licenses:

- A. Marihuana Grower:
 - 1. Class A (up to 100 plants)
 - 2. Class B (up to 500 plants)
 - 3. Class C (up to 2000 plants)
- B. Marihuana Processor
- C. Marihuana Secure Transporter
- D. Marihuana Retailer or Marihuana Microbusiness
- E. Marihuana Safety Compliance Facility

No more than two (2) Establishment Licenses shall be issued by the City, which shall be limited to the B-1 District and types of Licenses: Marihuana Retailer or Marihuana Microbusiness. Unlimited licenses within the Industrial Zoned District from the following categories: Marihuana Grower, Marihuana Processor, Marihuana Secure Transporter, and Marihuana Safety Compliance Facility.

SECTION 4. APPLICATION

Every applicant for a license to maintain, operate or conduct a Marihuana Establishment as permitted by the Ordinance shall file an application under oath with the City Clerk's office upon a form provided by the City. The application shall contain the following:

- A. The particular License(s) for which the Applicant is applying.
- B. An explanation of the services to be provided to the City Clerk's office.
- C. Name, address, and contact information of both the applicant and operator of the establishment.

D. If the applicant is a company, partnership, corporation, limited liability company, or any other joint venture for a common purpose, the names and addresses of each officer, director, member, partner, or any individual holding an interest in the entity.

E. A copy of the applicant's or in the case of a company, partnership, corporation, limited liability company or joint venture, driver's license of all owners and proposed operator's driver's license(s) or state identification card(s).

F. The address of the proposed establishment, and whether the proposed establishment will be new construction or renovation of an existing building.

G. Proof of ownership interest in the property.

H. If a leased establishment, an executed copy of the lease for the property where the establishment is proposed and a separate written consent from the owner of the property authorizing the proposed use of the property.

I. A zoning map prepared by a registered surveyor demonstrating that the property is in compliance with the applicable zoning regulations and the applicable distance requirements contained therein.

J. The days and hours the establishment is proposed to be open or in operation.

K. All criminal convictions of the applicant and operator, including those of each officer, director, member, partner, or any individual holding an interest in the entity, fully disclosing the jurisdiction of the conviction.

L. Whether the applicant applied for a State Operating License from the State of Michigan. If so, the date of the submittal.

M. Provide the sources and total amount of the applicant's capitalization to operate and maintain the proposed Marihuana Establishment.

N. Whether the applicant is delinquent in the payment of, any tax required under federal, state, or local law, including whether the applicant is in arrears to the City of Crystal Falls.

SECTION 5.

GENERAL REQUIREMENTS.

No license to conduct a Marihuana Establishment shall be issued unless the City confirms that the proposed Establishment complies with the following requirements:

- A. The proposed location is in an allowable zoning district.
- B. There shall be no residence or living quarters on the property.
- C. The hours of operation for Marihuana Retailers shall be no earlier than 8:00 a.m., and no later than 8:00 p.m. and on Sunday from 12:00 noon to 8:00 p.m.
- D. Smoking and/or the use of marihuana is prohibited in any establishment and on any establishment's property.
- E. Signs shall comply with all local ordinances and regulations and shall not use the words "marihuana" or "marijuana" or any other word or phrase which would refer to "marihuana" or "marijuana", nor may pictures of a leaf or leaves, green cross, marihuana accessories, or any other rendering which would depict "marihuana" or "marijuana" be displayed on a sign or any part of the building. Only one sign per building shall be allowed. Said buildings or signs shall not include border lighting or outline lighting of any kind.
- F. An approved site plan shall be required, showing the proposed building to be used, remodeled or reconstructed, along with the parking, landscaping, and lighting plans.
- G. An approved security plan shall be required.
- H. An approved plan for waste disposal and chemical is required.
- I. An approved plan to eliminate noxious odors and prevent nuisance odors is required.
- J. The outdoor storage or discharge of toxic, flammable, or hazardous materials into City sewer is prohibited.
- K. A copy of property liability and casualty damage insurance in a minimum amount of one million dollars shall be submitted to the City when the applicant has been notified that they are ready for final approval.

L. Each establishment shall have a minimum capitalization amounts to operate and maintain the establishment in accordance with the MRTMA.

M. No outdoor events or displays are permitted on the property or anywhere in the city.

N. The establishment shall be subject to inspection by law enforcement, City buildings officials, and any other entity or person necessary at any time during business hours to ensure compliance with this Ordinance and the MRTMA.

SECTION 6. SPECIFIC REQUIREMENTS

A. Marihuana Retailer (including those with dual use as a Provision Center) or Marihuana Microbusiness:

1. Shall not sell or dispense alcohol.
2. Shall not have an interest in a Marihuana Secure Transporter or Marihuana Safety Compliance Facility.
3. Shall not permit outdoor storage of any kind.
4. Shall not permit the sampling of products or supplies in or on the property.
5. Must provide a professionally prepared security and floor plan to the City for approval.
6. Shall not be located within an area zoned exclusively for residential use and is not within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12.

B. Marihuana Grower:

1. Shall not cultivate, grow, manufacture, or process marihuana in any manner that would emit odors beyond the interior of the structure or which is otherwise discernable to another person. The odor must be prevented by the installation of an operable filtration ventilation system and odors must otherwise be effectively confined to the interior of the building from which the odor is generated.
2. Shall not emit noise beyond the interior of the structure.
3. Shall not permit outdoor storage or growing of any kind.
4. Must provide a professionally prepared security and floor plan to the City for approval.
5. Shall not be located within an area zoned exclusively for residential use and is not within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12.
6. Must be within any Industrial Zoned District.
7. Shall not have an interest in a Marihuana Secure Transporter or Marihuana Safety Compliance Facility.

8. The stacking of grower licenses within a single building is permitted within a property.

C. Marihuana Processor:

1. Shall not manufacture or process marihuana in any manner that would emit odors beyond the interior of the structure or which is otherwise discernable to another person. The odor must be prevented by the installation of an operable filtration to ventilation and exhaust equipment, and odors must otherwise be confined to the interior of the building or dwelling from which the odor is generated.
2. Shall not emit noise beyond the interior of the structure.
3. Shall not permit outdoor storage of any kind.
4. Shall not be located within an area zoned exclusively for residential use and is not within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12.
5. Must be within any Industrial Zoning District.
6. Shall not have an interest in a Marihuana Secure Transporter or Marihuana Safety Compliance Facility.
7. Must provide a professionally prepared security and floor plan to the City for approval.

D. Marihuana Secure Transporter:

1. Must not have an interest in a Marihuana Grower, Marihuana Processor, Marihuana Retailer, or Marihuana Microbusiness, or Marihuana Safety Compliance Facility.
2. Must employ drivers that have a valid Michigan Chauffeur's License.
3. Must operate each vehicle with at least a two-person crew.
4. Shall not permit its vehicles to bear any markings or identification that it is carrying marihuana, a marihuana infused product, or currency.
5. Shall not permit outdoor storage of any kind, other than the parking or storage of the secure transporting vehicle(s).
6. Shall not be located within an area zoned exclusively for residential use and is not within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12.
7. Must be within any Industrial Zoned District.
8. Must provide a professionally prepared security and floor plan to the City for approval.

E. Marihuana Safety Compliance Facility:

1. Shall have a secured laboratory space that cannot be accessed by the general public.
2. Shall not permit outdoor storage of any kind.

3. Shall have appropriate education, training, and/or experience to comply with State regulations on testing marihuana.
4. Shall not be located within an area zoned exclusively for residential use and is not within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12.
5. Must be within any Industrial Zoned District.
6. Shall not have an interest in a Marihuana Secure Transporter or Marihuana Processor.
7. Must provide a professionally prepared security and floor plan to the City for approval.

SECTION 7. REVIEW OF A LICENSE

A. Approval

An applicant may be granted a license by the City if the applicant satisfies all of the criteria contained in this ordinance and is selected to receive the license via the selection process outlined by the City in the application. No license will be issued until preliminary approval for a licensee has been obtained for a State Operating License from the State of Michigan. No final certificate of occupancy will be issued for a site proposed for licensee operations until the State of Michigan has approved that applicant for a State Operating License. Upon approval of all conditions in this ordinance, an applicant will be provided a conditional certificate of occupancy to comply with the state licensing process.

B. Denial

1. The City shall use the information provided on the application as a basis to conduct a thorough background investigation on the applicant and its operator. Any false information provided on the application is cause to deny a license.
2. An applicant is ineligible to receive a license if any of the following circumstances exist:
 - a) The applicant has been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past ten (10) years or has been convicted of a controlled substance-related felony within the past ten (10) years.
 - b) The applicant has been convicted of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state, or been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state, within the past five (5) years.

- c) The applicant fails to demonstrate the ability to maintain adequate property liability and casualty insurance for its proposed establishment.
- d) If the applicant, or any officer, director, member, partner, or any individual holding an interest in the entity is delinquent in any tax under federal, state, or local law or is in arrears to the city, including water, special assessment(s) or taxes.
- e) If the applicant has a history of noncompliance with any regulatory requirements in the city or any other jurisdiction.
- f) 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 Marihuana Establishment owners or operators, employees, clients, or customers for a violation of any laws, rules, or regulations.
- g) 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.

SECTION 8. VIOLATIONS, PENALTIES, REVOCATION.

- A. If an applicant or licensee fails to comply with this ordinance, if a licensee no longer meets the eligibility requirements for license under this ordinance, or if an applicant or licensee fails to provide information the City requests to assist in any investigation or inquiry, the City may deny, suspend, or revoke a license.
- B. The City Manager, or his or her designee, may suspend a license without notice or hearing, upon a determination that false information was provided on the application, the safety or health of patrons, employees, or the public is jeopardized by continuing the establishment's operation, or for a failure to comply with City ordinances. The suspension may remain in effect until the City Manager, or his or her designee, determines that the cause for suspension has been abated. The City Manager, or his or her designee, may revoke the license upon a determination that the licensee has not made satisfactory progress toward abating the hazard.
- C. A license will automatically be revoked upon revocation or denial of a State Operating License under the MRTMA by the state.
- D. Any party aggrieved by an action of the City Manager or his or her designee suspending or revoking a license shall be given a hearing before the City Council upon request. A request for a hearing must be received by the City Clerk's Office, in

writing, within 21 days after the date of mailing of the action by the City Manager or his or her designee.

- E. The City Council may conduct investigative and contested case hearings, issue subpoenas for the attendance of witnesses, issue subpoenas duces tecum for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents, and administer oaths and affirmations to witnesses as appropriate to exercise and discharge the powers and duties of the City Council under this ordinance.
- F. In addition to the sanctions outlined in this section, any person who violates any provision of this Ordinance shall be responsible for a civil infraction and subject to the payment of a civil fine of five hundred dollars (\$500.00), in addition to costs incurred for each offense. A separate offense shall be deemed committed each day or on which a violation or noncompliance occurs or continues, unless otherwise provided.
- G. A violation of this Ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, the City may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this ordinance.

SECTION 9. CITY RESPONSIBILITY.

The Clerk shall provide the following information to the applicant within 90 days after the City receives notification from the applicant that the applicant has applied for a State Operating License under this Ordinance:

- A. A copy of the local ordinance that authorizes the establishment.
- B. A copy of any zoning regulations that apply to the proposed Establishment within the City.
- C. A description of any violation of the local ordinance or zoning regulations committed by the applicant, but only if those violations relate to activities licensed under this Ordinance or the MRTMA.
- D. Final approval or denial of an application.
- E. Information the City obtains from an applicant related to licensure under this ordinance is exempt from disclosure under the Freedom of Information Act, 1976 FA 442, MCL 15.231 to 15.246. 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. Nothing in this ordinance is intended to promote or condone the production, distribution, or possession of marihuana in violation of any applicable law.

SECTION 10. SEVERABILITY.

The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

SECTION 11. REPEAL.

All other ordinances inconsistent with the provisions of this ordinance are, to the extent of such inconsistencies, hereby repealed.

SECTION 12. PUBLICATION.

The Clerk shall cause this ordinance to be published in the manner required by law.

Tara L. Peltoma, Clerk/Treasurer

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Effective 3-27-2020
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