

ORDINANCE 21-5784

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTION 27-1000 – USES AND USE STANDARDS; SECTION 27-1005 – COMMERCIAL USE STANDARDS; SECTION 27-1006 - INDUSTRIAL, WHOLESALE AND STORAGE USE STANDARDS; SECTION 27-1400 – SIGNS; SECTION 27-1008 – ACCESSORY USES; SECTION 27-1800 - DEFINITIONS - TO ADD LANGUAGE RELATED TO MEDICAL AND ADULT USE MARIJUANA BUSINESSES WITHIN THE CITY OF BILLINGS AND ADOPT THE REVISION AS AN AMENDMENT TO THE ZONING REGULATIONS AND SET A TIME PERIOD FOR THE REGULATION TO BE EFFECTIVE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Section 27-1628, BMCC,* provide for amendment to the City Zoning Regulations from time to time. The City Council initiated the amendment to the City Zoning Regulations and the City Zoning Commission and staff have reviewed the proposed zoning regulations hereinafter described. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the proposed amendments to the City Zoning Regulations.

2. DESCRIPTION. The zoning regulation shall apply to all land within the City of Billings.

3. ZONE AMENDMENT.

A. SECTION 27-1000 – USES AND USE STANDARDS.

Add the following uses to the Primary Use Table (Table 27-1000.1) under the COMMERCIAL Use Category – Retail Sales

- i. Marijuana Dispensary – Medical Use
- ii. Marijuana Dispensary – Adult Use
- iii. Marijuana Dispensary – Combined Use

Allow ~~these uses~~ Marijuana Dispensary – Medical Use as designated with a letter “PR” in the Heavy Commercial (CX), Light Industrial (I1) and Heavy Industrial (I2) zone districts. Adult Use and Combined Use Dispensaries are prohibited.

The amended table shall read as follows:

Table 27-1000.1: Permitted Primary Uses	Mixed-Use and Commercial											Public	Additional Standards													
	Residential	Key: P = Permitted, PL = Location Limits in Zone District, PR = Applicable Use Restrictions, SR = Special Review																								
Use Table	N3	N2	N1	NX1	NX2	NX3	RMH	NO	NMU	CMU1	CMU2	DX	CBD	CX	I1	I2	RSV MS	RSV	CW	I3	I5	P1	P2	P3Civ	P3 Ed	P3 Med
Office																										
Business or Professional																										
Research and Testing Laboratories																										
Marijuana Testing Laboratory																										

Add the following uses to the Primary Use Table (Table 27-1000/.1) under the INDUSTRIAL, WHOLESAL AND STORAGE Use Category – Manufacturing, Assembly, or Processing

Marijuana Cultivation
 Marijuana Processing/Manufacturing

Allow these uses as designated with a letter "PR" in the Heavy Commercial (CX), Light Industrial (I1) and Heavy Industrial (I2) zone districts

The amended table shall read as follows:

Table 27-1000.1: Permitted Primary Uses	Mixed-Use and Commercial											Public	Additional Standards													
	Residential	Key: P = Permitted, PL = Location Limits in Zone District, PR = Applicable Use Restrictions, SR = Special Review																								
Use Table	N3	N2	N1	NX1	NX2	NX3	RMH	NO	NMU	CMU1	CMU2	DX	CBD	CX	I1	I2	RSV MS	RSV	CW	I3	I5	P1	P2	P3Civ	P3 Ed	P3 Med
Manufacturing, Assembly, or Processing																										
Artisan/Craft																										
Limited - Special Order General																										
Heavy																										
Marijuana Cultivation (Indoor Only)																										
Marijuana Processing/Manufacturing																										

Add the following uses to the Primary Use Table (Table 27-1000/1) under the INDUSTRIAL, WHOLESAL AND STORAGE Use Category – Warehousing and Storage Services

Marijuana Transportation and Temporary Storage
 Allow this use as designated with a letter "P" in the Heavy Commercial (CX), Light Industrial (I1) and Heavy Industrial (I2) zone districts

The amended table shall read as follows:

Use Table	Residential			Mixed-Use and Commercial					Public					Additional Standards														
	N3	N2	N1	NX1	NX2	NX3	RMH	NO	NMU	CMU1	CMU2	DX	CBD		CX	I1	I2	RSV MS	RSV	CW	I3	IS	P1	P2	P3 Civ	P3 Ed	P3 Med	
Warehousing and Storage Services																												
Outdoor Storage																												
Personal Self-Service Storage																												
Trucking and Transportation Service																												
Warehouse																												
Marijuana Transportation and Temporary Storage																												
Wholesale and Distribution (general)																												
Agricultural Products																												
Chemical Products																												
Petroleum Products																												

B. Add the following section to 27-1005 - Standards for commercial uses:

R. Marijuana Dispensaries: The following standards apply to all marijuana dispensaries within the city limits.

1. Separation distances.

(a) All marijuana dispensaries shall be separated by 1,000 feet from religious institutions, primary and secondary educational facilities, public parks that contain a children's playground or playfield, day care centers, youth centers, behavioral health facilities and neighborhood residential zones ("protected use" as defined in subsection 27-1802.G) as measured from the exterior of the occupied building space of the marijuana dispensary to the property line of the protected use. A neighborhood residential zone includes any Planned Development zone district that allows residential uses.

(b) Required separations are not subject to reduction, adjustment, or variance and dispensaries shall not be approved within the distances specified.

2. Combining Marijuana Uses.

(a) A marijuana dispensary may not be combined with another marijuana use, such as a transportation, cultivation, testing laboratory or processing facility, unless the required separation distances can be met for the dispensary use.

(b) All marijuana uses are considered Primary Uses for the purposes of zoning.

3. Marijuana Businesses - The definitions contained in Titles 15, 16, and 50, MCA, shall apply to this Chapter except where the ordinance provides a different definition in Section 27-1803, or the context of this Chapter makes it clear that the statutory definition does not apply.

4. Setback from arterial street property lines.

The occupied building space for all Adult Use marijuana dispensaries and ~~Combine Use marijuana dispensaries~~ shall be setback from an arterial street by at least 150 feet. ~~Medical Use marijuana dispensaries are not required to comply with this setback.~~

C. Add the following section to 27-1008.M.4 – Home Occupations (Accessory Uses).

M. Home occupations. The planning division recognizes that the restrictions set forth in this section do not anticipate all possible types of home occupations. Therefore, the following policies have been adopted to guide the planning division in the enforcement of this section:

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4. Prohibited uses. The following types of uses will not be approved as home occupations:

(a) Uses involving large or oversized goods or materials;

- (b) Automobile, lawn mower, or other engine repair, welding, or machine shops unless the service is offered only at the customer's location (mobile service);
- (c) Uses where other employees visit the site, such as operating/dispatch offices for contractors, offices for businesses having employees who are not occupants;
- (d) Uses involving more than household quantities of volatile liquids or materials;
- or
- (e) Uses involving the grooming, breeding, or boarding of animals. ;
- or
- (f) Uses involving marijuana including but not limited to the dispensaries, sales, cultivation, testing, manufacturing, transporting or temporary storage of marijuana.

D. Add the following section to Sec. 27-1006 Use Standards for INDUSTRIAL, WHOLESALE AND STORAGE

F. Marijuana Cultivation, Processing/Manufacturing & Transporters.

1. Separation distances.

(a) All marijuana cultivation, processing and manufacturing facilities shall be separated by 1,000 feet from religious institutions, primary and secondary educational facilities, public parks that contain a children's playground or playfield, day care centers, youth centers, behavioral health facilities and neighborhood residential zones ("protected use" as defined in subsection 27-1802.G) as measured from the exterior of the occupied building space of the marijuana cultivation operation or marijuana processing/manufacturing to the property line of the protected use. A neighborhood residential zone includes any Planned Development zone district that allows residential uses.

(b) Required separations are not subject to reduction, adjustment, or variance and dispensaries shall not be approved within the distances specified.

2. Enclosed structure required.

(a) All marijuana cultivation shall be done inside of an enclosed structure and not outdoors. Such structure will be outfitted with the best available odor control technology.

(b) All marijuana manufacturing and processing shall be done within an enclosed structure. Such structure will be outfitted with the best available odor control technology.

3. Transporters and Storage.

(a) Marijuana transporters are allowed to store in transit shipments of marijuana for short periods of time, not to exceed 30 days. Products may be temporarily stored either in secured vehicles/trailers or within an enclosed structure or warehouse.

4. Marijuana Businesses - The definitions contained in Titles 15, 16, and 50, MCA, shall apply to this Chapter except where the ordinance provides a different definition in Section 27-1803, or the context of this Chapter makes it clear that the statutory definition does not apply.

E. Amend section 27-1402.B to add language as follows:

27-1402.B. Sign permit required.

1. New signs. A sign permit shall be required to erect, place, modify the size or shape, allow the continued placement, or convert any portion of a sign, including a conversion from temporary to permanent or from non-EMD to EMD unless otherwise provided in this article. Permits submitted for marijuana businesses shall provide proof of compliance with state sign regulations along with a completed city sign permit application.

2. Existing signs. Changes to existing signs that are made nonconforming by the 2020 zoning code update require a sign permit and are subject to section 27-1403, Nonconformities. Changes to existing signs for marijuana businesses shall comply with state sign regulations.

3. Sign permit exemptions. The following activities shall not require a sign permit, provided that these exemptions shall not be construed as relieving the owner from the responsibility to comply with the provisions of this zoning code or any other law or ordinance, including the city's adopted building code(s), and any related state sign regulations:

(a) Changing of the advertising copy or message on an existing approved painted or printed sign, marquee, changeable copy sign or a similar approved sign whether electrical, illuminated, electronic changing message display or non-illuminated painted message which are all specifically designed for the use of replaceable copy;

(b) Painting, repainting, cleaning or other normal maintenance and repair of a sign not involving structural changes. Replacement of or a change of a plastic sign face will be included as an exempt operation;

(c) Changes in the content of show window displays and permitted temporary signs.

F. Amend Section 27-1402.C to add the following language:

Section 27-1402.C.4

Exemptions. The following signs, items, and operations shall not require a sign permit, but shall be undertaken in conformance with this article, and all adopted building code(s):

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4. Public signs.

(a) Official public signs approved by a governmental body with jurisdiction over issues such as traffic safety, pedestrian safety, schools, railroads, or public notice, as well as signs required by the Manual of Uniform Traffic Controls.

(b) Signs and notices required to be displayed, maintained, or posted by law or by any court or governmental order, rule, or regulation, including any notices required for marijuana businesses.

(c) Government signs and notices provided for the convenience and safety of the community.

(d) Bench signs. Bench signs on benches located on active, fixed bus routes, controlled or authorized by the Billings MET. The benches must be located on active, fixed routes. Signs shall be removed from or prohibited

on benches located in prohibited sign locations or where the bench is not associated with an active, fixed route.

G. Amend Section 27-1803 to add the following language:

B: B terms: Add the following after "Bed and Breakfast Inn" and before "Billboard Sign"

Behavioral Health Facility: means a facility or a distinct part of a facility licensed or certified by the State of Montana as a mental health center, a substance use disorder provider, a residential treatment facility, or a residential treatment center that provides treatment to children or adults with a mental or substance use disorder.

M: M terms: Add the following after "Manufacturing" terms and before "Marquee"

Marijuana: means all plant material from the genus Cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination.

Marijuana Cultivation: means a location where growing, harvesting and drying marijuana occurs and where marijuana is packaged and labelled in a natural or naturally dried form that has not been converted, concentrated, or compounded. Cultivated marijuana is for sale to dispensaries but not for direct sale to consumers.

Marijuana Dispensary – Medical Use: means a location or premises from which a medical marijuana provider or marijuana products provider is approved by the state and local government to dispense marijuana or marijuana products solely to a registered cardholder.

Marijuana Dispensary – Adult Use: means a location or premises from which an adult-use provider or adult-use marijuana products provider is approved by the state and local government to dispense marijuana or marijuana products to a consumer.

Marijuana Dispensary – Combined Use: means a premises from which a medical marijuana provider or medical marijuana products provider and adult-use provider or adult-use marijuana products provider is approved by the state and local government to dispense marijuana or marijuana products to a registered cardholder or to a consumer.

Marijuana Product: means a product that contains marijuana and is intended for use by a consumer by a means other than smoking. The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives, and marijuana concentrates.

Marijuana Processing/Manufacturing: means the conversion or compounding of marijuana into marijuana products, marijuana concentrates, or marijuana extracts and packaging, repackaging, labeling, or relabeling marijuana products for sale to dispensaries but not for direct sale to consumers.

Marijuana Testing Laboratory: means a location that provides 1) testing of representative samples of marijuana and marijuana products and 2) provides information regarding the chemical composition, the potency of a sample, and the presence of molds, pesticides, or other contaminants in a sample.

Marijuana Transportation: means the packaging, transportation and delivery of processed marijuana, or marijuana products to or from marijuana dispensaries, testing laboratories, or cultivation facilities. This definition does not include any transportation from a dispensary to its consumers or cardholders.

Y: *Y Terms* Add the following after "Yard sign" terms and before "Youth foster home"

Youth Center: means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, or social service teenage club facilities. Examples, of youth centers are Boys and Girls Clubs, Audubon Centers, zoos, children's museums and similar facilities.

4. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

5. EFFECTIVE DATE. This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading October 25, 2021

PASSED, by the City Council on second reading November 8, 2021.

PASSED, ADOPTED AND APPROVED by the City Council on third reading November 22, 2021.



CITY OF BILLINGS:

BY: William A. Cole
William A. Cole, Mayor

ATTEST:

BY: Denise R. Bohlman
Denise R. Bohlman, City Clerk

(ZC 1001: Marijuana Zoning Regulations)

