

ORDINANCE NO. 11 _____

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, AS AUTHORIZED BY MONTANA CODE ANNOTATED SECTION 7-5-104, DEFINING MEDICAL MARIJUANA STOREFRONTS AND PROHIBITING THE CONTINUED OPERATION OF MEDICAL MARIJUANA STOREFRONTS BEYOND JULY 1, 2011, PURSUANT TO SB 423 PASSED BY THE 2011 MONTANA LEGISLATURE.

RECITALS

WHEREAS, THE 2011 Montana Legislature passed the Montana Marijuana Act, Senate Bill (SB) 423, with most sections effective July 1, 2011, which extensively changes, restricts and regulates the use and prohibits the sale for profit of medical marijuana, including the option granted to local governments to prohibit storefront medical marijuana facilities to operate beyond July 1, 2011;

WHEREAS, the City Council of the City of Billings has deemed it appropriate to use its legislative discretion under Section 13(2) of SB 423 to immediately prohibit medical marijuana providers and marijuana-infused providers from operating as storefront businesses beyond July 1, 2011, which have previously been allowed to continue operating under Section 6 of Interim Ordinance No. 10-5523 pending action by the 2011 Montana Legislature;

WHEREAS, in order to protect and preserve the public peace, health, safety and welfare, the City Council of the City of Billings has determined that because of the July 1, 2011, effective date of SB 423, an immediate, emergency ordinance is necessary to implement the storefront prohibition authorized by SB 423 Section 13(2).

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Billings, Montana, as follows:

Section 1: All of the Recitals set forth above are hereby adopted as Findings of Fact.

Section 2: The terms “marijuana”, “provider”, “marijuana-infused product”, “marijuana-infused product provider”, “registered cardholder” or “cardholder” shall have the meaning provided to such terms by the Montana Marijuana Act, Section 2, (SB 423) passed by the 2011 Montana Legislature. The term “storefront” shall mean any commercial establishment, structure, vehicle, or building that is accessible from a public right-of-way by the general public or sectors of the public for the purpose of obtaining marijuana or marijuana-infused product.

Section 3: As authorized in Section 13(2) of the Montana Marijuana Act, passed by the 2011 Montana legislature, no provider of marijuana or marijuana-infused products shall be allowed to open and operate a storefront business within the Billings City Limits on and after July 5, 2011.

Section 4: As authorized in Section 13(2), of the Montana Marijuana Act, passed by the 2011 Montana Legislature, no individual, entity, establishment, group or company previously granted a business license to operate a medical marijuana business within the Billings City limits shall operate a storefront to provide marijuana or marijuana-infused products to registered cardholders. Such individuals, entities, establishments, groups or businesses shall cease operating any storefront facility that provides marijuana or marijuana-infused products to registered cardholders on and after July 5, 2011.

Section 5: Any individual, entity or establishment that violates the terms of this ordinance set forth above shall be deemed to be creating a public nuisance and shall be subject to criminal penalties as provided in Billings, Montana City code (BMCC) section 1-110 and shall further be subject to civil action to restrain or abate as authorized in B.M.C.C. section 18-301, et. seq. as the City deems appropriate. Such ability of the City to prosecute and/or enjoin or abate is in addition to any other remedies available to the City at law or in equity.

Section 6: In the event any word, phrase, clause, sentence, paragraph, section or other part of the ordinance set forth herein is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid and the remaining provisions thereof shall continue in full force and effect.

Section 7: Pursuant to MCA section 7-5-104, upon its adoption at First Reading by a two-thirds vote of the entire City Council of the City of Billings, Montana, and signing of the Mayor thereof, this Ordinance shall take effect 12:00 a.m. July 1, 2011, and expire Ninety (90) calendar days thereafter.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this 5^h day of July, 2011.

Thomas W. Hanel, Mayor

Attest:

Cari Martin, City Clerk