

ORDINANCE NO. 17-_____

**AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING THAT THE BILLINGS, MONTANA
CITY CODE RELATING TO MEDICAL
MARIJUANA BE AMENDED BY REVISING
SECTIONS 7-1701, 7-1702, 7-1703, ADDING
AND DEFINING "DISPENSARY" AND
DELETING OUTDATED LANGUAGE IN
SECTION 13-438.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY BILLINGS
THAT:

Section 1. That section 7-1701 of the Billings, Montana City Code is amended so that such section shall read as follows:

Sec. 7-1701. – Definitions

The terms "dispensary," "marijuana," "provider," "marijuana-infused product," "marijuana-infused product provider," "registered cardholder" or "cardholder" shall have the meaning provided to such terms by the Montana Medical Marijuana Act, as amended; ~~Section 2, (SB 423) passed by the 2011 Montana Legislature.~~

The term "storefront business" means any commercial establishment, structure or building that is openly accessible by members of the general public. ~~Storefront business does not include a commercial establishment, structure, or building that is inaccessible to the general public, which only provides access to cardholders registered with that provider by the Montana Department of Health and Human Services or other persons, by appointment, who are intending to establish a bona fide provider/cardholder relationship with that provider.~~

Section 2. That section 7-1702 of the Billings, Montana, City Code is amended so that such section shall include "Dispensaries" and shall delete outdated references to past state legislation, to read as follows:

Sec. 7-1702. – Dispensaries and Storefronts prohibited.

- a) ~~As authorized by Senate Bill (SB) 423, Section 13(2) of the Montana Medical Marijuana Act, as amended, passed by the 2011 Montana Legislature, no "provider" of marijuana or marijuana-infused products shall be permitted to open or operate a dispensary or "storefront business" within the city limits. "Providers" who are in full compliance with the Montana Medical Marijuana Act shall be permitted to dispense medical marijuana and marijuana infused products to "cardholders" who are registered with that provider by the Montana Department of Health and Human Services, provided that access to the storefront business is limited to cardholders registered with that provider and other persons, by appointment, who are intending to establish a bona fide provider/cardholder relationship with that provider.~~
- (b) ~~As authorized by Senate Bill (SB) 423, Section 13(1) of the Montana Marijuana Act, passed by the 2011 Montana Legislature, "providers" permitted to dispense medical marijuana and medical marijuana infused products under subsection (a) above are prohibited from displaying, in an open or visible manner to the general public, any medical marijuana plant, marijuana infused product, or any depictions, caricatures, or other artistic renditions of a marijuana plant, leaf, bud or parts in a manner visible from the exterior of the establishment, structure or building in which the "provider" does business.~~

Section 3. That section 7-1703 of the Billings, Montana City Code is amended so that such section shall read as follows:

Sec. 7-1703. - Penalties.

Any individual, entity or establishment that violates the terms of Section 7-1702 ~~this ordinance set forth above~~ shall be deemed to be creating a public nuisance and shall be subject to misdemeanor criminal penalties as provided in section 1-110 and shall further be subject to civil action to restrain or abate as authorized in sections 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.

~~It shall be a defense to a violation of this section that a provider did not allow members of the general public, who were not registered cardholders with that provider or persons seeking, by appointment, to establish a bona fide provider/cardholder relationship with that provider, to access the provider's place of business.~~

Section 4. That section 13-438 of the Billings, Montana City Code is amended so that such section shall read as follows:

Sec. 13-438. – All businesses, occupations, and professions to comply with local, state and federal law.

- a) No business tax determination or business license shall be issued for any business, occupation, or profession that violates any provision of city, state, or federal ordinance, regulation, law, or statute. The issuance of a business tax determination or acceptance of payment by the city does not authorize any business, occupation, or profession to operate in violation of any provision or local, state, or federal ordinance, regulation, law, or statute. Any such ~~business tax or business determination~~ license mistakenly issued by the city shall be deemed void from the date of issuance.
- ~~(b) All existing businesses with current business tax determinations or licenses shall fully comply with this provision within two (2) years of the effective date of this section. Any such businesses, occupation or profession licensed on the effective date of this section but in violation of this section shall be deemed a legal non-conforming use, and shall be permitted to renew such business tax determination or license for a period of two (2) years from the effective date of this section. Two (2) years from the effective date of this section, any prior issued business tax determination or license which violates this section shall be cancelled and deemed void, no matter when issued or renewed.~~

Section 5. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

Section 6. Repealer. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 7. Effective Date. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

PASSED by the City Council on first reading this ____ day of _____, 2017.

PASSED, ADOPTED and APPROVED on second reading this ____ day of _____, 2017.

CITY OF BILLINGS

Thomas W. Hanel, Mayor

ATTEST:

Denise Bohlman, City Clerk