CITY OF Billings

***VISION STATEMENT:***
"The Magic City: A diverse, welcoming community where people prosper and business succeeds."

# CITY COUNCIL
# REGULAR BUSINESS MEETING
## AGENDA

COUNCIL CHAMBERS | October 25, 2021 | 5:30 P.M.

**CALL TO ORDER:** Mayor Cole

**PLEDGE OF ALLEGIANCE:** Mayor Cole

**INVOCATION:** Councilmember Boyett

**ROLL CALL:** Councilmembers present on roll call were: ☐ Shaw, ☐ Yakawich, ☐ Neese, ☐ Ewalt, ☐ Joy, ☐ Choriki, ☐ Purinton, ☐ Ronning, ☐ Boyett, ☐ Brown

**MINUTES:**

- September 27, 2021
- October 11, 2021 ***(Pending)***

**COURTESIES:**

**PROCLAMATIONS:**

**COUNCIL REPORTS:**

**ADMINISTRATOR REPORTS - CHRIS KUKULSKI**

**PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1 ONLY. Speaker sign-in required.** (Comments are limited to three (3) minutes or as set by the Mayor. Please sign the roster at the cart located at the back of the Council chambers or at the podium. Comments on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item. For items not on this agenda, public comment will be taken at the end of the agenda.)

1. CONSENT AGENDA -- Separations:

   A. Bid Awards:

      1. **95-gallon residential refuse carts.** (Opened 9/21/21) Recommend Schedule I and Schedule II: 95-gallon black trash carts and 95-gallon green yard waste carts; Toter, LLC, $1,210,680.64.

   B. **Professional Services Contract** for W.O. 22-11: Staples Reservoir Evaluation/Design; HDR Engineering, Inc.; $174,400.

   C. **Recommendation of approval** to the Policy Coordinating Committee for Amendment II of the Draft 2020-2024 Transportation Improvement Program (TIP).

   D. **Reallocate** East Billings Urban Renewal District (EBURD) TIF Funds for Project Green Light CPTED Program.

   E. **Sale** of 14.7 acres of Airport land to NorthWestern Energy (NWE) for use as a substation location; $223,000.

F. **Preliminary Subsequent Major Plat** of High Sierra Subdivision, 17th Filing located north of Matador Avenue and west of Entrada Road; High Sierra II, Inc., owner; Sanderson Stewart, agent. * *Quasi-Judicial*

G. **Preliminary Subsequent Major Plat** of High Sierra Subdivision, 18th Filing located north of Matador Avenue and west of Entrada Road; High Sierra II, Inc., owner; Sanderson Stewart, agent. * *Quasi-Judicial*

H. **Preliminary Subsequent Major Plat** of High Sierra Subdivision, 19th Filing located west of Entrada Road and east of Matador Avenue; High Sierra II, Inc., owner; Sanderson Stewart, agent. * *Quasi-Judicial*

I. **Preliminary Subsequent Major Plat** of High Sierra Subdivision, 20th Filing located north of Ortega Street and west of Matador Avenue; High Sierra II, Inc., owner; Sanderson Stewart, agent. * *Quasi-Judicial*

J. **Final Plat** of Yellowstone Landing Commercial Park Subdivision. * *Quasi-Judicial*

K. **Resolution of Intent** to partner with Yellowstone County and the State of Montana for Violent Crime Reduction Partnership.

L. **Bills for the Weeks of:**

1. September 20, 2021
2. September 27, 2021

***Recommended Motion:*** I move to approve the items of the Consent Agenda as submitted, with the exception of items moved for separation.

REGULAR AGENDA:

2. **PUBLIC HEARING AND COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING ALLOCATION** to HAB: Off The Streets property to repair the current boiler, install new heating/air conditioning units, and to make necessary repairs to damaged units; $450,000. Community Development Board recommends approval. (Action: approval or disapproval of Community Development Board recommendation.)

- *Presented by: Wyeth Friday, Planning Director*

***Recommended Motion:*** Having conducted a public hearing, considered written and spoken public testimony, I move to approve the Community Development Block Grant funding allocation to HAB: Off The Streets property, as recommended by the Community Development Board.

3. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 999:** a zone change from Corridor Mixed Use 1 (CMU1) to Corridor Mixed Use 2 (CMU2) located at 733 S. 31st St. W. just north of the Mercedes Benz car dealership on King Avenue West. Patricia Harvey, owner; WWC Engineering, agent. Zoning Commission recommends approval and adoption of the 10 criteria. (Action: approval or disapproval of the Zoning Commission recommendation.)* *Quasi-Judicial*

- *Presented by: Nicole Cromwell, Zoning Coordinator*

***Recommended Motion:*** Having conducted a public hearing, considered written and spoken public testimony, I move to approve Zone Change 999 and adopt the findings of the 10 criteria, as recommended by the Zoning Commission.

4. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 1000:** a zone change from Mid Century Neighborhoods (N-2) to Neighborhood Office (NO) located at 436 Wicks Lane. Laighton D. Jones, DMD, owner; Performance Engineering, agent. Zoning Commission recommends approval and adoption of the 10 criteria. (Action: approval or disapproval of the Zoning Commission recommendation.) * *Quasi-Judicial*

- *Presented by: Karen Husman, Planner I*

***Recommended Motion:*** Having conducted a public hearing, considered written and spoken public testimony, I move to approve Zone Change 1000 and adopt the findings of the 10 criteria, as recommended by the Zoning Commission.

5. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 1001**: Text amendment to Section 27-1000, 27-1005, 27-1006, 27-1400, 27-1803, related to the regulation of marijuana businesses and to include several recommended amendments by the Zoning Commission to the original draft including a reduction -in the separation distances from dispensaries to protected uses, allowing dispensaries in two more zoning districts, and adding language to ensure there is no waiver of the required separation distances. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)
** Quasi-Judicial*

   - *Presented by: Nicole Cromwell, Zoning Coordinator*

   ***Recommended Motion:*** Having conducted a public hearing, considered written and spoken public testimony, I move to approve Zone Change 1001 and adopt the findings of the 10 criteria, as recommended by the Zoning Commission.

6. **PUBLIC HEARING AND FIRST READING ORDINANCE** regulating marijuana and marijuana businesses. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

   - *Presented by*: *Karen Tracy, Assistant City Attorney*

   ***Recommended Motion:*** Having conducted a public hearing, considered written and spoken testimony, I move to approve the Ordinance regulating marijuana and marijuana businesses, as recommended by staff.

**PUBLIC COMMENT on "NON-AGENDA ITEMS". Speaker Sign-in required.** (*Restricted to ONLY items not on this printed agenda. Comments are limited to 3 minutes or as set by the Mayor. Please sign the roster at the cart located at the back of the Council chambers or at the podium.)*

**COUNCIL INITIATIVES:**

**ADJOURN:**

*Council Chambers are readily accessible to individuals with physical disabilities.*

*For more information or to make requests for special arrangements, please contact the City Clerk's Office at 657-8210 or e-mail bohlmand@billingsmt.gov, 72 hours prior to the meeting date.*

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City Council Regular
Date: 10/25/2021
Title: 95-Gallon Residential Refuse Carts for Solid Waste; Bid Award
Presented by: Debi Meling
Department: Public Works
Presentation: No

## RECOMMENDATION

Staff recommends the City Council award a contract for Schedule I and Schedule II: 95-gallon black trash carts and 95-gallon green yard waste carts for the Public Works Solid Waste Division to Toter, LLC, in the amount of $1,210,680.64.

## BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

The Public Works Solid Waste Division delivers and maintains carts used for residential trash and yard waste programs within Billings' city limits. Carts are needed for new services and to replace carts that are unable to be repaired. Additionally, carts are needed to continue to implement the conversion of the alley 300-gallon bins to 95-gallon carts. It is estimated that 16,000 carts are needed to finish the 300-gallon bin transition. This is a one time cost and these carts will be managed under the annual cart maintenance contract once implemented. Schedule I includes the cost of the carts only and Schedule II includes the cost of the carts and delivery to residents.

The bid for Residential Refuse Carts was advertised September 3 and September 10, in the *Yellowstone County News* and on the City's website. Bids were opened on September 21, and seven bids were received. Toter, LLC submitted the lowest, responsible bid.

## ALTERNATIVES

City Council may:

- Approve the award for the purchase of 95-gallon trash and 95-gallon yard waste residential refuse carts to Toter, LLC in the amount of $1,210,680.64; or,
- Not approve the award and reject all bids. If not approved, new customers cannot be served and the conversion of alley 300-gallon bins to 95-gallon carts will not continue.

## FISCAL EFFECTS

| Company | Schedule 1 Base Bid | Schedule 2 Base Bid | Total |
|---|---|---|---|
| Otto Environmental Systems NA, Inc. | $228,629.99 | $1,153,600.00 | $1,382,229.99 |
| Otto Environmental Systems North America, Inc. | $300,552.00 | $1,046,000.00 | $1,346,552.00 |
| Rehrig Pacific Company | $251,751.24 | $956,320.00 | $1,208,071.24* |
| **Toter, LLC** | **$216,440.64** | **$994,240.00** | **$1,210,680.64** |
| IPL North America, Inc. | $267,738.90 | $950,560.00 | $1,218,298.90 |
| Schaeffer Systems, Inc. | $311,601.42 | $1,015,840.00 | $1,327,441.42 |
| Cascade Cart Solutions | $225,747.60 | $998,880.00 | $1,224,627.60 |

*Bidder did not include cost for delivery of containers in the bid.

The purchase of 95-gallon trash and yard waste residential refuse carts is budgeted in the FY22 solid waste operating budget. There is adequate budget to award the contract.

City Council Regular

| | |
|---|---|
| Date: | 10/25/2021 |
| Title: | W.O. 22-11: Staples Reservoir Evaluation/Design, Professional Services Contract with HDR Engineering |
| Presented by: | Debi Meling |
| Department: | Public Works |
| Presentation: | No |

## RECOMMENDATION

Staff recommends that City Council approve the Professional Services Contract with HDR Engineering, Inc. for W.O. 22-11: Staples Reservoir Evaluation/Design in the amount of $174,400.00.

## BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

The 6 million gallon (6MG) Staples Reservoir is the largest tank in the City of Billings water distribution system. This is a round concrete tank, constructed in 1970. The tank is used in conjunction with a 3 MG rectangular concrete tank and the adjacent Staples Pump Station to serve Zones 2, 3, and 4 of the City's water distribution system. Staples is located north of Rimrock Road, near 17$^{th}$ Street West.

In 2002, cracking was detected in the floor of the 6 MG tank, resulting in leaking. Horizontal cracks were also detected in the baffle wall, as well as a void area under the floor slab. These cracks were repaired at that time, but some minor leaking still existed. Further review showed leaking occurring at the floor-to-wall joint, which was subsequently repaired, and a spray-on liner was installed. In 2010, additional cracks developed in the liner, resulting in new leaking. A repair of the tank floor was completed in 2010. However, some leaking resumed earlier this year. Settlement of the tank floor on the south side of the tank was observed as recent as August 2021. A temporary repair was completed by Liquid Engineering in mid-August 2021 and the leak appears to be mitigated. The foundation drain was able to handle all leaking water and conveyed it to the storm drain, so no property damage occurred.

The City requested proposals for professional engineering services from a prequalified list to provide an evaluation of the tank and the ground/subgrade under and around the tank, a recommendation(s) of mitigation, and the respective design(s) for this mitigation. Potential options include, but are not limited to, repair of the existing tank, construction of a new tank inside the existing tank, demolition of the existing tank and construction of a new tank on the same site, and/or construction of a new tank at an alternative site.

HDR Engineering was selected for the project using the proposal process. HDR Engineering, AE2S, KLJ Engineering, and Morrison Maierle submitted proposals. The consultant selection was based on Project Team and Availability; Project Approach; and Firm Qualifications and Experience as related to the project needs. This initial contract includes project management, reservoir/site evaluation, recommendation and design of a short-term repair (to allow the reservoir to be operable during summer of 2022), Zone 2 storage evaluation, recommendation of long-term mitigation, and evaluation of life-cycle costs. Bidding services, construction administration, and design of the long-term mitigation (including any new reservoirs) are not included in this contract, and will be added by amendment in the future as needed.

## ALTERNATIVES

City Council may:

- Approve award of a Professional Services Contract with HDR Engineering, Inc; or,
- Not approve a contract with HDR. If this agreement is not approved, valuable time will be lost to evaluate the reservoir, repair the reservoir, and be ready for operation again in the summer of 2022, which could adversely affect the City's ability to provide sufficient quantities of water during the next high-demand season.

## FISCAL EFFECTS

The contract is in the amount of $174,400.00 and is being funded with water funds as approved in the FY22 budget. There are adequate funds available for this contract amount.

**Attachments**

WO 22-11 Services Agreement-HDR

WO 22-11 Appendix A
WO 22-11 Appendix B
WO 22-11 Appendix C
WO 22-11 Appendix D
WO 22-11 Appendix E
WO 22-11 Appendix F

# Contract for Professional Architectural and Engineering Services

# W.O. 22-11 Staples Reservoir Evaluation/Design

In consideration of the mutual promises herein, City of Billings and HDR Engineering, Inc. agree as follows. This Contract consists of:

Part I, consisting of 15 Sections of Special Provisions;

Part II, consisting of 11 Sections of General Provisions;

Appendix A consisting of 6 pages (Basic Services of Contractor);

Appendix B consisting of 2 pages (Methods and Times of Payment);

Appendix C consisting of 1 page (Additional Services of Contractor);

Appendix D consisting of 4 pages (Schedule of Professional Fees);

Appendix E consisting of 1 page (Project Schedule);

Appendix F consisting of 19 pages (Certificate(s) of Insurance); and

## PART I
## SPECIAL PROVISIONS

Section 1. Definitions.

In this Contract:

A. "Administrator" means the City Engineer of the Engineering Division of the Public Works Department or his designee.
B. “Billings” means the City of Billings.
C. "Contractor" means HDR Engineering, Inc.

Section 2. Scope of Services.

A. The Contractor shall perform professional services in accordance with Appendix A, which is attached hereto and incorporated in this Section by reference.
B. Billings shall pay the Contractor in accordance with the Schedule of Professional Fees attached as Appendix D and incorporated herein by reference for services actually performed under this Contract.
C. Billings shall not allow any claim for services other than those described in this Section. However, the Contractor may provide, at its own expense, any other services that are consistent with this Contract.

D. The Engineer shall provide as-built drawings as approved by the City of Billings, to the Administrator within 30 days after the project completion date. Final payment will be withheld until the as-built drawings are received by the City of Billings.

   Requirements for submitting as constructed documents of completed Private Contracts, Work Orders, Special Improvement Districts and Site plans involving any City of Billings infrastructure: a point file; 1 (*.asc, *.txt, comma delimited; point number, northing, easting, elevation and description) / 2 (*.csv, with headings for; point number, northing, easting, elevation and description), with northings and eastings to the nearest tenth of a foot, elevations to the nearest hundredth of a foot, representing new, updated or relocated City of Billings infrastructure features such as, but not limited to Sanitary Sewer Manholes, Storm Drain Manholes, Water Valves, Water Bends, Signals, Street Light, etc., in the coordinates of Montana State Plane, Zone 2500 using NAD83(2011), Horizontal and NAVD88 Vertical, Horizontal units and Vertical units will be International feet; one half size paper copy to scale, one full size paper copy to scale, two CDs, DVDs, or flash drives with PDF files being half size to scale and full size to scale and AutoCAD DWG files as-constructed / as-built, Version 2016, or equivalent.

~~E. If required, the Contractor shall provide certified construction payrolls to the Administrator stating in writing that the payrolls have been reviewed and are acceptable.~~

Section 3. Time for Performance.

A. This Contract becomes effective when signed on behalf of Billings.
B. The Contractor shall commence performance of the Work described in Section 2 on receipt of written Notice to Proceed and complete that performance in accordance with the schedule set forth in Appendix E.
C. This Contract shall terminate at midnight on July 31, 2022 .

Section 4. Compensation; Method of Payment.

A. Each month, or at the conclusion of each phase of the Work for which payment is due, as negotiated on a per-task basis, the Contractor shall present a bill to the Administrator describing the Work for which it seeks payment and documenting expenses and fees to the satisfaction of the Administrator. If any payment is withheld because the Contractor's performance is unsatisfactory, the Administrator must, within ten (10) days of the payment denial, notify the Contractor of the payment denial and set forth, with reasonable specificity, what was unsatisfactory and why. Billings will pay Contractor within 30 days of receiving an acceptable invoice.
B. The Contractor is not entitled to any compensation under this Contract, other than is expressly provided for in this Section.
C. As a condition of payment, the Contractor shall have paid all City taxes currently due and owing by the Contractor.

Section 5. Termination of the Contractor's Services.

The Contractor's services under Section 2 of this Part may be terminated:

A. By mutual consent of the parties.
B. For the convenience of Billings, provided that Billings notifies the Contractor in writing of its intent to terminate under this paragraph at least 10 days prior to the effective date of the termination.
C. For cause, by either party where the other party fails in any material way to perform its obligations under this Contract. Termination under this Subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefor, and the other party fails to cure the default within 30 days after receiving the notice.

Section 6. Duties Upon Termination

A. If Billings terminates the Contractor's services for convenience, Billings shall pay the Contractor for its actual costs reasonably incurred in performing before termination and Billings shall pay for services rendered prior to termination. Payment under this Subsection shall never exceed the total compensation allowable under Section 4 of this Part. All finished and unfinished documents and materials prepared by the Contractor shall become the property of Billings.
B. If the Contractor's services are terminated for cause, Billings shall pay the Contractor the reasonable value of the services satisfactorily rendered prior to termination, less any damages suffered by Billings because of the Contractor's failure to perform satisfactorily. The reasonable value of the services rendered shall never exceed ninety percent (90%) of the total compensation allowable under Section 4 of this Part. Any finished or unfinished documents or materials prepared by the Contractor under this Contract shall become the property of Billings at its option.
C. If the Contractor receives payments exceeding the amount to which it is entitled under Subsections A or B of this Section, he shall remit the excess to the Administrator within 30 days of receiving notice to do so.
D. The Contractor shall not be entitled to any compensation under this Section until the Contractor has delivered to the Administrator all documents, records, Work product, materials and equipment owned by Billings and requested by the Administrator.
E. If the Contractor's services are terminated for whatever reason the Contractor shall not claim any compensation under this Contract, other than that allowed under this Section.
F. If a final audit has not been performed before the Contractor's services are terminated, Billings may recover any payments for costs disallowed as a result of the final audit.
G. Except as provided in this Section, termination of the Contractor's services under Section 5 of this Part does not affect any other right or obligation of a party under this Contract.

Section 7. Insurance.

A. The Contractor shall maintain in good standing the insurance described in Subsection B of this Section. Before rendering any services under this Contract, the Contractor shall furnish the Administrator with proof of insurance in accordance with Subsection B of this Section.
B. The Contractor shall provide the following insurance:

    1. Workers' compensation and employer's liability coverage as required by Montana law.
    2. Commercial general liability, including contractual and personal injury coverage's -- $1,500,000 per occurrence.
    3. Commercial automobile liability -- $1,500,000 per accident.
    4. Professional liability in the amount of $1,500,000 per claim.

C. Each policy of insurance required by this Section shall provide for no less than 30 days' advance notice to Billings prior to cancellation.
D. Billings SHALL be listed as an additional insured on all policies except Professional Liability and Worker's Compensation Policies. In addition, all policies except Professional Liability and Worker's Compensation shall contain a waiver of subrogation against Billings.

Section 8. Assignments.

Unless otherwise allowed by this Contract or in writing by the Administrator, any assignment by the Contractor of its interest in any part of this Contract or any delegation of duties under this Contract shall be void, and an attempt by the Contractor to assign any part of its interest or delegate duties under this Contract shall give Billings the right immediately to terminate this Contract without any liability for Work performed.

Section 9. Ownership; Publication, Reproduction and Use of Material.

A. Except as otherwise provided herein, all data, documents and materials produced by the Contractor under this Contract shall be the property of Billings, which shall retain the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents, or other materials. Exclusive rights shall not be attributed to portions of such materials presently in the public domain or which are not subject to copyright. Contractor shall retain rights to pre-existing proprietary property including but not limited to interactive models. The Contractor shall have the right to include photographic or artistic representations of the design and construction of the Project among the Contractor's promotional and professional materials. The Contractor's materials shall not include Billings' confidential or proprietary information regardless of whether Billings has previously advised the Contractor in writing of the specific information considered by Billings to be confidential and proprietary.
B. Equipment purchased by the Contractor with Contract funds: See Appendix A, Section 3. Scope of Work.

C. Should Billings elect to reuse Work products provided under this Contract for other than the original project and/or purpose, Billings will indemnify and hold harmless the Contractor from any and all claims, demands and causes of action of any kind or character arising as a result of reusing the documents developed under this contract. Additionally, any reuse of design drawings or specifications provided under this Contract must be limited to conceptual or preliminary use for adaptation, and the original Contractor's or subcontractor's signature, professional seals and dates removed. Such reuse of drawings and specifications, which require professional seals and dates removed, will be signed, sealed, and dated by the professional who is in direct supervisory control and responsible for adaptation.

Section 10. Notices.

Any notice required pertaining to the subject matter of this Contract shall be either sent via e-mail, facsimile (FAX), or mailed by prepaid first class registered or certified mail, return receipt requested to the following addresses:

Billings: Will Robbins
City of Billings
Public Works/Engineering
2224 Montana Avenue
Billings, Montana 59101
e-mail: robbinsw@billingsmt.gov
FAX: (406) 237-6291

Contractor: Craig Habben, PE
HDR Engineering, Inc.
970 S 29th St W
Billings, MT 59102
e-mail: Craig.Habben@hdrinc.com
FAX: (406) 652-2758

Notices are effective upon the earlier of receipt, proof of good transmission (facsimiles only), or 5 days after proof of proper posting.

Section 11. Contract Budget.

In connection with its performance under this Contract, the Contractor shall not make expenditures other than as provided in line items in the Contract budget.

Section 12. Force Majeure.

A. Any failure to perform by either party due to force majeure shall not be deemed a violation or breach hereof.
B. As used in this Contract, force majeure is an act or event of substantial magnitude, beyond the control of the delayed party, which delays the completion of this Contract, including without limitation:

1. Any interruption, suspension or interference resulting solely from the act of Billings or neglect of Billings not otherwise governed by the terms of this Contract.
2. Strikes or Work stoppages.

3. Any interruption, suspension or interference with the project caused by acts of God, or acts of a public enemy, wars, blockades, insurrections, riots, arrests or restraints of governments and people, civil disturbances or similar occurrences.
4. Order of court, administrative agencies or governmental officers other than Billings.

Section 13. Financial Management System.

The Contractor shall establish and maintain a financial management system that:

A. Provides accurate, current, and complete disclosure of all financial transactions relating to the Contract;
B. Maintains separate accounts by source of funds for all revenues and expenditures and identifies the source and application of funds for the Contractor's performance under this Contract, including information pertaining to subcontracts, obligations, unobligated balances, assets, liabilities, outlays and income;
C. Effectively controls and accounts for all municipal funds and Contract property;
D. Compares actual expenditures with budgeted amounts and relates financial information to performance or productivity data including unit cost information where applicable;
E. Allocates administrative costs to direct service delivery units;
F. Minimizes the time between receipt of funds from Billings and their disbursement by the Contractor;
G. Provides accounting records supported by source documentation; and
H. Provides a systematic method assuring the timely and appropriate resolution of audit findings and recommendations.

Section 14. Funding Requirements.

In the event that any funding source for this Contract should impose additional requirements upon Billings for the use of those funds, the Contractor agrees to abide by those additional requirements immediately upon receipt of written notice thereof from Billings.

Section 15. Subcontracts.

The Contractor may enter into subcontracts for the purchase of goods and services necessary for the performance of this Contract, provided:

A. Every subcontract shall be reduced to writing and contain a precise description of the services or goods to be provided and the nature of the consideration paid therefor.
B. Every subcontract under which the Contractor delegates the provision of services shall be subject to review and approval by the Administrator before it is executed by the Contractor.
C. Every subcontract in an amount exceeding $1,000 shall require reasonable access to business records of the subcontractor relating to the purchase of goods or services pursuant to the subcontract.

## PART II
## GENERAL CONTRACT PROVISIONS

Section 1. Relationship of Parties.

The Contractor shall perform its obligations hereunder as an independent Contractor of Billings. Billings may administer the Contract and monitor the Contractor's compliance with its obligations hereunder. Billings shall not supervise or direct the Contractor other than a provided in this Section.

Section 2. Nondiscrimination.

A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, or marital status or who is a "qualified individual with a disability" (as that phrase is defined in the Americans With Disabilities Act of 1990). The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, or mental or physical impairment/disability. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
B. The Contractor shall state, in all solicitations or advertisements for employees to Work on Contract jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex or marital status, or mental or physical impairment/disability.
C. The Contractor shall comply with any and all reporting requirements that may apply to it which the City of Billings may establish by regulation.
D. The Contractor shall include the provisions of Subsections A through C of this Section in every subcontract or purchase order under this Contract, so as to be binding upon every such subcontractor or vendor of the Contractor under this Contract.
E. The Contractor shall comply with all applicable federal, state, and city laws concerning the prohibition of discrimination.
F. The Contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), which prohibit discrimination against qualified protected veterans and/or qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.
G. The Contractor and subcontractor shall abide by the requirements of 41 CRF 60-1.4, which states employees or applicates may not be discharges or in any other manner discriminated against because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant. However, employees who have access to the compensation information of other employees or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation

information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or (c) consistent with the contractor's legal duty to furnish information.

Section 3. Permits, Laws, and Taxes.

The Contractor shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this Contract. All actions taken by the Contractor under this Contract shall comply with all applicable statutes, ordinances, rules and regulations. The Contractor shall pay all taxes pertaining to its performance under this Contract.

Section 4. Nonwaiver.

The failure of either party at any time to enforce a provision of this Contract shall in no way constitute a waiver of the provision, nor in any way affect the validity of this Contract or any part hereof, or the right of such party thereafter to enforce each and every provision hereof.

Section 5. Amendment.

A. This Contract shall only be amended, modified or changed by a writing, executed by authorized representatives of the parties, with the same formality as this Contract was executed.
B. For the purposes of any amendment modification or change to the terms and conditions of this Contract, the only authorized representatives of the parties are:

Contractor: Area Manager
(title of position)

Billings: City Council or Authorized Designee

C. Any attempt to amend, modify, or change this Contract by either an unauthorized representative or unauthorized means shall be void.

Section 6. Jurisdiction; Choice of Law.

Any civil action rising from this Contract shall be brought in the District Court for the Thirteenth Judicial District of the State of Montana, Billings. The law of the State of Montana shall govern the rights and obligations of the parties under this Contract.

Section 7. Severability.

Any provision of this Contract decreed invalid by a court of competent jurisdiction shall not invalidate the remaining provisions of the Contract.

Section 8. Integration.

This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this Contract shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto.

Section 9. Liability.

The Contractor shall indemnify, defend, save, and hold Billings harmless from any and all claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including reasonable attorneys' fees and costs, arising from any wrongful or negligent act, error or omission of the Contractor or any agent, employee or subcontractor as a result of the Contractor's or any subcontractor's performance pursuant to this Contract.

A. The Contractor shall not indemnify, defend, save and hold Billings harmless from claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of Billings occurring during the course of or as a result of the performance of the Contract.
B. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both Billings and the Contractor, the Contractor shall indemnify, defend, save, and hold Billings harmless from only that portion of claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including attorneys' fees and costs, which result from the Contractor's or any subcontractor's wrongful or negligent acts occurring as a result from the Contractor's performance pursuant to this Contract.

Section 10. Inspection and Retention of Records.

The Contractor shall, at any time during normal business hours and as often as Billings may deem necessary, make available to Billings, for examination, all of its records with respect to all matters covered by this Contract for a period ending three years after the date the Contractor is to complete performance in accordance with Section 2 of the Special Provisions. Upon request, and within a reasonable time, the Contractor shall submit such other information and reports relating to its activities under this Contract, to Billings, in such form and at such times as Billings may reasonably require. The Contractor shall permit Billings to audit, examine and make copies of such records, and to make audits of all invoices, materials, payrolls, records of personnel, and other data relating to all matters covered by this Contract. Billings may, at its option, permit the Contractor to submit its records to Billings in lieu of the retention requirements of this Section.

Section 11. Availability of Funds.

Payments under this Contract may require funds from future appropriations. If sufficient funds are not appropriated for payments required under this Contract, this Contract shall terminate without penalty to Billings; and Billings shall not be obligated to make payments under this Contract beyond those which have previously been appropriated.

IN WITNESS WHEREOF, the parties have executed this Contract on the date and at the place shown below.

City of Billings

_____
William A. Cole, Mayor

Date:_____

ATTEST:

_____
City Clerk

Date:_____

HDR Engineering, Inc.

_____

Name: _____
Title: _____
Date:_____

IRS Tax ID #_____

APPROVED AS TO FORM:

By_____
City Attorney

# Appendix A

## Basic Services of Engineer

## W.O. 22-11 Staples Reservoir Evaluation/Design

---

Section 1. Engineer's Rights and Duties.

A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete the Engineer's portion of the project as defined in the scope of work and to prepare and deliver to Billings all plans, specifications, bid documents, and other material as designated herein.

B. Ascertain such information as may have a bearing on the work from local units of government, utility companies, and private organizations and shall be authorized to procure information from other authorities besides Billings but shall keep Billings advised as to the extent of these contacts and the results thereof.

C. Prepare and present such information as may be pertinent and necessary in order for Billings to pass critical judgment on the features of the work. The Engineer shall make changes, amendments or revisions in the detail of the work as may be required by Billings. When alternates are being considered, Billings shall have the right of selection.

D. Engineer's work shall be in accordance with the standards of sound engineering and present City, State, and National standards and policies currently in use.

E. Conform to the requirements of the Montana Code Annotated Title 18 "Public Contracts" and more particularly Sections 18-2-121 and 18-2-122, and all other codes of the State of Montana applicable to providing professional services including codes and standards nationally recognized.

F. The Engineer shall certify with the submission of final plans that the plans are in conformance with applicable sections of Title 69, Chapter 4, Part 5, of the Montana Code Annotated as pertaining to existing utilities.

G. To perform professional services in connection with the project and will serve as Billings' representative in those phases of the project to which this agreement applies.

H. Where Federal funds are involved, the necessary provisions to meet all requirements will be complied with and documents secured and placed in the bidding documents.

I. Submit an estimated progress schedule as to time and costs at the beginning of the work, and monthly progress reports thereafter until complete. The reports will include any problems, potential problems, and delays as foreseen by the Engineer. Reports will be submitted in a timely manner to permit prompt resolution of problems.

J. Name a Task Director who shall be the liaison between Billings and the Engineer. For this project the Task Director designated for the Engineer is Craig Habben working under, Jared Harris.

Section 2. Billings Rights and Duties.

A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete Billings' portion of the project as designated in the scope of work.

B. Name a Task Director who shall be the liaison between the Engineer and Billings. For this project, the Task Director designated is Will Robbins, working under the City Engineer, Mac Fogelsong.

Section 3. Scope of Work.

The W.O. 22-11, Staples Reservoir Evaluation/Design will examine the Staples 6 million gallon (6 MG) Reservoir to attempt to determine the cause of the recent leaks, the stability of the sandstone bedrock and the structural condition of the reservoir. The evaluation will also include how the distribution system operates with the 6 MG, how it might operate without the 6 MG, how planned storage projects in other zones can benefit the system, and how replacement and/or new Zone 2 storage could be accomplished. Short-term and long-term concepts will be developed and the short-term repair designed.

A summary of the Scope includes:

- Reservoir Evaluation
  - Survey roof and floor slab for comparison of survey done in 2010.
  - Survey site in area of 6 MG for potential reservoir replacement options.
  - Inspect reservoir inside and outside.
  - Provide 3D lidar laser scan of interior of reservoir and exterior of the roof to help identify crack locations.
  - Core holes in interior slab to evaluate sandstone bedrock competency.
  - Bore holes on exterior of reservoir to evaluate sandstone bedrock competency.
  - Concrete and Shotcrete evaluation
    - Use cores in floor and visual observations to provide a basic summary of the concrete and shotcrete condition.
- Short-Term Repair Design
  - Evaluate one short-term repair option by December of 2021:
    - The repair will be completed by May 2022.
    - Cost estimate will be completed.
    - Include anticipated design life/life cycle cost.
  - Provide design of repair
    - Base design of repair on using flexible tape all the way around reservoir.
    - Assume some repairs to cracks in floor using flexible tape.
    - Assume no repairs to baffle wall will be required.
    - Provide repairs to core holes including liner.

- Zone 2 Storage Evaluation
    - Summarize Zone 2 storage requirements with and without the 6 MG
        - Include how system could operate without the 6 MG during peak and non-peak seasons.
        - Include how planned reservoirs in other zones could benefit Zone 2 storage and water system operation.
    - Evaluate options to replace the 6 MG
        - Replace reservoir in-place.
        - New 6 MG reservoir on Staples site but not completely in existing location.
            - Round or rectangular
        - Replace 6 MG with two smaller reservoirs on the Staples site in phases.
- Excluded Tasks to be added by amendment as needed
    - Bidding services
    - Construction services
    - Programming services
    - Design of long-term solution
    - Design of new reservoir(s)

## DETAIL SCOPE OF SERVICES

The scope of services that will be utilized on the Staples Reservoir Evaluation/Design Project is presented in the summaries for Tasks 100 through 400. The scope of services is organized as follows:

| Task Series | Description |
|---|---|
| 100 | Project Initiation, Coordination and Management |
| 200 | Reservoir Evaluation |
| 300 | Short-Term Repair Design |
| 400 | Zone 2 Storage Evaluation |
| 500 | Long-Term Solution Design (to be added by amendment if necessary) |
| 600 | Bidding Services (to be added by amendment) |
| 700 | Construction Services (to be added by amendment) |
| 800 | Programming Services (to be added by amendment) |
| 900 | Design of New Reservoir(s) (to be added by amendment if necessary) |

## TASK SERIES 100 – PROJECT INITIATION, COORDINATION AND MANAGEMENT

### 101 – Project Initiation

The purpose of this task is to kick off the project externally and internally. A project management plan (PMP) and all the support paperwork will be developed for all team members to have available to understand the project, the project team and the project requirements. The PMP is updated with significant changes in the project.

**102 – Project Management**

As part of this task, the Engineer's Project Manager will lead coordination of the HDR team with the City as well as supervise the team. Project Manager and Accountant will monitor project status, maintain project schedule and prepare financial documents.

- Deliverable – Monthly invoices

## TASK SERIES 200 – RESERVOIR EVALUATION

**201 – Survey**

Prior to the 6 MG being taken out of service, the roof will be surveyed in a grid similar to the 2010 survey. The floor monitoring rods installed in 2010 will also be surveyed. The Staples site around the 6 MG and east up to the 3 MG Reservoir and the pump station will be surveyed including obtaining utility and topography information. When the reservoir is emptied the roof will again be surveyed and the floor of the reservoir will be surveyed.

- Deliverables – Survey information in Autocad files.
- Assumption – City will provide assistance and equipment for confined space entry and adequate lighting for reservoir floor survey.

**202 – Geotechnical Investigations**

A soils consultant will perform geotechnical investigations to determine the competency of the sandstone bedrock on the south exterior perimeter of the reservoir and below the reservoir floor. An estimated 7 bore holes will be drilled along the outside perimeter of the reservoir and into competent bedrock or to point of refusal. An estimated 10 holes will be cored in the reservoir floor and the sandstone bedrock evaluated at those holes. A price per hole for both investigation types is provided in case more or less holes are needed than estimated. Sample soils for soil corrosivity to assist in shotcrete evaluation.

- Deliverable – Geotechnical Report
- Assumption – Cored holes and lining will be repaired in the temporary repair project.

**203 – Reservoir Inspection**

HDR will inspect the exterior roof of the existing reservoir and surrounding ground. HDR will also inspect the interior of the reservoir for cracking and any structural damage. HDR will perform a 3D lidar laser scan of the interior of the reservoir and the roof of the reservoir on the exterior to facilitate locating cracks.

- Assumption – City will provide assistance and equipment for confined space entry and adequate lighting.

**204 – Concrete Evaluation**

The interior concrete cores from the geotechnical investigation will be observed as well as visual observation of the all the concrete to try to determine any concrete or rebar deterioration or corrosion. Shotcrete on the exterior of the reservoir will be inspected.

- Assumptions – The City will dig down alongside the reservoir 5 feet in three places for observation of the shotcrete condition.
- Deliverables – Brief summary of concrete and shotcrete condition in Task 205.

**205 – Reservoir Evaluation Memorandum**

A summary of the reservoir inspection, concrete evaluation and results from the Geotechnical Report and survey will be include in a technical memorandum. Two meetings will be held. One meeting that summarizes the inspections and observations and a second meeting that reviews the draft memorandum and conclusions.

- Deliverables – Meeting minutes.
- Deliverables – Draft and Final Technical Memorandum.

.

## TASK SERIES 300 – SHORT-TERM REPAIR DESIGN

**301 – Design Development**

Based on observations from the reservoir inspection and from diver video, the flexible tape repair option with a neoprene pad over the observed crack will be evaluated as the short-term repair option and if it can be completed by May of 2022 as well as what the cost estimate is and the design life. One meeting will be held with the City review the short-term repair option and to determine whether to move forward with design.

- Deliverables – Meeting minutes.

**302 – 95% Design**

Drawings and specifications of the short-term repair and cored holes repair will be produced to the 95% design level for internal and City review. The design scope and fee are based on installing one or two layers of flexible tape over a neoprene pad around the full wall to floor joint. Internal QC will be performed. A review meeting with the City will be conducted.

- Deliverables – 95% drawings and specifications by December 15, 2021
- Deliverables – Summary of review meeting with the City.

**303 – Final Design**

Final drawings and specifications. Review comments from the 95% design will be incorporated to produce final design documents ready for advertisement. The cost estimate from the design development will be updated.

- Deliverables – Final drawings and specifications by December 31, 2021
- Deliverables – Summary of review meeting with the City.

## TASK SERIES 400 – ZONE 2 STORAGE EVALUATION

**401 – Distribution System Storage Evaluation**

Provide an analysis of the distribution storage with and without the 6 MG on-line for current demands and 2030 projected demands for both summer and winter. Update the analysis, with the 6 MG off-line, incrementally based on the sequence of planned upcoming reservoir additions. Review with the City the storage scenarios including allocation of storage to various zones. Determine if staff is comfortable with allocations and resultant reservoir operation.

**402 – Options for Replacing 6 MG**

Evaluate options for replacing the 6 MG with new Zone 2 storage on the Staples site. Options to include new storage at the existing 6 MG location and smaller reservoir(s). No storage options will be analyzed at locations other than Staples. Evaluation to include project/life cycle costs and sequencing.

**403 – 6 MG Long-Term Repair Options**

Evaluate options to provide a long-term repair of the 6 MG reservoir that would improve sandstone stability or compensate for the sandstone instability. Structural improvements to the floor will also be analyzed based on the sandstone condition. Cost estimates for each option will be completed. Two review meetings will be conducted for Tasks 401, 402 and 403.

- Deliverables – Summary of review meetings with the City.

**404 – Zone 2 Storage Recommendation**

Summarize the information from Task 301 identifying the projected design life of the short-term repair, Task 401 establishing Zone 2 storage needs, Task 402 to identifying the best approach for additional Zone 2 storage and Task 403 stipulating the most cost-effective long-term repair. Based on the design life of the 6 MG currently, the estimated design life of the short-term and long-term repairs and the options for new Zone 2 storage, develop recommendation for repairs to the 6 MG and/or new Zone 2 storage. Use life cycle costs to facilitate the analysis. One meeting will be included for review of options. Complete by December 31, 2021.

- Deliverables – Summary of meeting
- Deliverables – Draft and final technical memorandum.

# Appendix B

## Methods and Times of Payment

## W.O. 22-11 Staples Reservoir Evaluation/Design

Section 1. Payments for Basic Services.

Billings shall authorize payment to the Engineer for services performed under Appendix A of this Agreement. Partial payment shall be due the Engineer upon receipt of the Engineer's pay estimate, said estimate being proportioned to the work completed by the Engineer.

Partial payment shall be made to the Engineer upon receipt of the Engineer's pay estimate, said estimate being proportioned to the work completed by the Engineer. Billings shall deduct five percent (5%) from each monthly pay estimate to be held until the completion of the final scope of work. The final payment shall be made only after acceptance of final documents by Billings, and determination that the scope of work has been satisfactorily completed.

A. For services rendered prior to construction, Appendix A, the Engineer shall be paid based upon actual time accrued, but not to exceed the total contract amount.

| | |
|---|---|
| Task Series 100 – Project Management | $ 12,600 |
| Task Series 200 – Reservoir Evaluation | $ 92,300 |
| Task 300 – Short-Term Repair | $ 19,800 |
| Task 400 – Zone 2 Storage Evaluation | $ 49,700 |
| **TOTAL** | **$ 174,400** |

B. Final payment shall be the above stated basic fee less all previous payments.

Section 2. Payments for Extra Services when Authorized by Billings.

Requests made or conditions identified by interested groups at the agency or public meetings, which are beyond the scope and intent of this study shall be paid for on an hourly basis at the applicable fees in Appendix D.

Section 3. Corrections.

Costs of Billings work that is required for corrections to the Engineer's work which requires redoing by Billings shall be deducted from any payments due the Engineer, if the Engineer fails to make the required corrections.

Section 4. Fee Increases

For contracts and services that are expected to require more than one (1) year to complete, the above stated basic services payments may be reviewed and adjusted annually by mutual agreement of the parties, based upon documented evidence that the Engineer's costs and hourly rates as shown in Appendix D have increased for all comparable clients.

# Appendix C

## Additional Services of Engineer

## W.O. 22-11 Staples Reservoir Evaluation/Design

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Extra Services of the Engineer will be paid only with written prior authorization by Billings.

A. Requests made or conditions identified which are beyond the scope and intent of the services identified under Appendix A.

# Appendix D

## Schedule of Professional Fees

## W.O. 22-11 Staples Reservoir Evaluation/Design

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Current agreements for engineering services stipulate that the standard hourly rates are subject to review and adjustments. Hourly rates for services effective on the date of this Agreement are included below.

The itemized schedule provided below includes direct labor costs, normal payroll and overhead costs, transportation, furnishing equipment and materials normally required for performance of the work and reasonable profit. Direct project costs not itemized herein shall be paid for at actual cost.

# 2021 HOURLY RATE SCHEDULE

| BILLING CLASSIFICATION | RATE |
|---|---|
| **ENGINEERS** | |
| *Design Engineers* | |
| LEVEL I | 109.00 |
| LEVEL II | 116.00 |
| LEVEL III | 123.00 |
| LEVEL IV | 130.00 |
| *Project Engineers / Project Managers* | |
| LEVEL I | 149.00 |
| LEVEL II | 162.00 |
| LEVEL III | 175.00 |
| LEVEL IV | 188.00 |
| *Senior Engineers / Senior Project Managers* | |
| LEVEL I | 206.00 |
| LEVEL II | 224.00 |
| LEVEL III | 240.00 |
| LEVEL IV | 256.00 |
| LEVEL V | 272.00 |
| *Project Principal / Senior Technical Advisors* | |
| LEVEL I | 241.00 |
| LEVEL II | 263.00 |
| LEVEL III | 300.00 |
| LEVEL IV | 337.00 |

| BILLING CLASSIFICATION | RATE |
|---|---|
| **DESIGNERS / TECHNICIANS / INSPECTORS** | |
| LEVEL I | 83.00 |
| LEVEL II | 96.00 |
| LEVEL III | 109.00 |
| LEVEL IV | 121.00 |
| LEVEL V | 134.00 |
| LEVEL VI | 147.00 |
| LEVEL VII | 160.00 |
| LEVEL VIII | 173.00 |
| LEVEL IX | 185.00 |
| **CADD / BIM Specialist** | |
| LEVEL I | 66.00 |
| LEVEL II | 83.00 |
| LEVEL III | 96.00 |
| LEVEL IV | 109.00 |
| LEVEL V | 121.00 |
| LEVEL VI | 134.00 |
| LEVEL VII | 147.00 |
| LEVEL VIII | 160.00 |
| **ACCOUNTING / ADMINISTRATION** | |
| LEVEL I | 66.00 |
| LEVEL II | 76.00 |
| LEVEL III | 86.00 |
| LEVEL IV | 96.00 |
| LEVEL V | 106.00 |
| LEVEL VI | 123.00 |
| LEVEL VII | 131.00 |
| LEVEL VIII | 146.00 |

# 2021 CHARGEABLE EXPENSE SCHEDULE

Direct project expenses will be charged at the rates listed below unless a separate rate is negotiated for a specific project.

**SUBSISTENCE (PER DIEM)**

Subsistence such as meals and lodging while out on a project will be charged at actual cost or at the per diem rate negotiated for a specific project.

**TRAVEL**

Travel expenses will be charged at the following rates unless a separate rate is negotiated

| | | |
|---|---|---|
| 2 Wheel Drive Vehicle | $ | 0.75 /mile |
| 4 x 4 Vehicle | $ | 0.75 /mile |
| Rental Vehicles & Aircraft | $ | Actual Cost |

**TELEPHONE/FAX/POSTAGE**

Long distance calls, telegrams, fax, cellular phone, and any special class postage will be charged at actual cost.

**PRINTING**

| | | |
|---|---|---|
| B&W 8.5x11 30% RECYCLED | $ | 0.04 each |
| B&W 11x17 30% RECYCLED | $ | 0.08 each |
| COLOR 11X17 | $ | 0.90 each |
| COLOR ON CARD STOCK 11X17 | $ | 1.50 each |
| COLOR 30% RECYCLED 8.5x11 | $ | 0.14 each |
| COLOR 30% RECYCLED 11x17 | $ | 0.28 each |
| PLASTIC COIL BIND TO 1 IN | $ | 1.45 each |
| PAGE INSERTING | $ | 0.01 each |
| 3 HOLE DRILL | $ | 0.01 each |
| 8.5x11 5-TAB DIVIDERS | $ | 0.48 each |
| 11x17 CLEAR COVERS | $ | 1.78 each |
| 11x17 Black COVERS | $ | 1.82 each |
| 8.5x11 BLACK BINDERS | $ | 12.19 each |
| 3" BINDERS | $ | 14.39 each |
| 11x17 BLACK BINDERS | $ | 19.00 each |
| 11x17 TABS | $ | 0.48 each |

**SPECIAL EQUIPMENT CHARGES**

| | | |
|---|---|---|
| Electronic Distance Measuring Equipment UTV | $ | 10.00 /hr. |
| GPS - GEO XT | $ | 20.00 /hr. |
| GPS - RTK | $ | 40.00 /hr. |
| Manta 3-Phase Test Set | $ | 40.00 /hr. |
| Meggar Testing Equipment | $ | 250.00 /day |
| Soil Resistivity Testing | $ | 500.00 /day |

**SURVEYING SUPPLIES**

| | | | |
|---|---|---|---|
| Distribution | $ | 20.00 /mile | *(Includes: Flagging, Stakes, Etc.)* |
| Transmission | $ | 30.00 /mile | *(Includes: Flagging, Stakes, Etc.)* |

**Items invoiced at actual cost plus 5%, due to additional contract administration:**

Consultants and Subcontracted Services

Expendable Supplies and Services (purchased directly in support of the project)

**OVERHEAD**

Overhead costs, such as rent, insurance, utilities, office furniture, employee benefits, and taxes are included in the hourly billing rates.

# Appendix E

## Project Schedule

## W.O. 22-11 Staples Reservoir Evaluation/Design

Based on a notice to proceed by Billings no later than October 26, 2021, the targeted completion dates for the Engineer's work shall be:

1. Reservoir Evaluation – November 22, 2021
2. 95% Design of Short-Term Repair – December 15, 2021
3. Final Design/Bid Package of Short-Term Repair – December 31, 2021
4. Zone 2 Storage Evaluation – December 31, 2021

Delays affecting the completion of the work within the time specified of more than ninety (90) days, not attributable to or caused by the Parties hereto, may be considered as cause for the renegotiation or termination of this Contract.

If the Engineer is behind on this Contract due to no fault of Billings, then the Engineer hereby acknowledges the right of Billings to withhold future Contracts to the Engineer in addition to any other remedy until this Contract is brought back on schedule or otherwise resolved.

# Appendix F

## Certificate(s) of Insurance

## W.O. 22-11 Staples Reservoir Evaluation/Design

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Attach Certificate(s) of Insurance

City Council Regular

| | |
|---|---|
| **Date:** | 10/25/2021 |
| **Title:** | Draft 2020-2024 Transportation Improvement Program (TIP) Amendment 2 |
| **Presented by:** | Scott Walker |
| **Department:** | Planning & Community Services |
| **Presentation:** | No |

## RECOMMENDATION

Staff recommends the City Council approve the 2020-2024 TIP Amendment 2 and forward the recommendation to PCC through its designee, Mayor Cole. The PCC is scheduled to meet on November 16 for action on this item.

## BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

Federal regulations require that Metropolitan Planning Organizations (MPOs) review and update their Transportation Improvement Program (TIP) periodically. Given timing and funding adjustments with several transportation projects, the current Billings 2020-24 TIP must be amended to maintain compliance with State and Federal requirements. The TIP is a short-range program of highway and transit projects in the Billings MPO area and is prepared by City-County Planning Division staff in cooperation with state and local agencies. The purpose of the TIP is to provide the mechanism for scheduling federal funds for surface transportation projects, indicate regional priorities, and demonstrate a short range transportation vision for the area. A secondary purpose of the TIP is to provide information about other transportation projects in the urbanized area that are exempt from the TIP approval process, such as projects that do not utilize federal funds. This TIP amendment is being presented to the Council for review due to timing and cost updates to several projects. Staff has included and attached to this staff report is quick reference indicating what new projects are included.

### 2020-2024 TIP Amendment #2 Highlights

- Billings Bypass - Updated project cost
- Yellowstone River Bridges -- Updated project cost
- Numerous Safety Projects - Updated project cost
- MET Transit Funds Added to the Program

All monetary adjustments to the document are at the request of the Montana Department of Transportation and the Federal Transit Administration.

## ALTERNATIVES

The current TIP includes updates of federal funding for several projects in the Billings area. The Council may:

- Recommend approval to the Policy Coordinating Committee (PCC) of the 2020-2024 TIP Amendment 2 as drafted in order to continue the implementation of federally funded transportation projects in the Billings MPO area.
- Recommend modifications to the proposed 2020-2024 TIP Amendment 2 and present these recommendations to the Policy Coordinating Committee for further consideration.
- Not approving the 2020-2024 TIP Amendment would cause the Billings MPO to be out of compliance with State and Federal requirements and could affect the schedule and completion of transportation projects in the Billings MPO area.

## FISCAL EFFECTS

A range of federal funding sources is available to the Billings MPO area for the purposes of funding transportation system improvements. A list of those sources is shown in the TIP. There is no known direct impact to City or County funds in budgeting for these projects given the use of federal funding sources. Projects in the TIP that are not federally funded have already been identified in other programming documents, like the City's Capital Improvement Program.

**Attachments**

TIP Amendment Quick Reference Sheet
2020-24 TIP Amend. 2

**Multiple Funding**

**Billings Bypass**

Overall (4199000) – Updated RW for all segments to complete project

Five Mile Road (4199002) – Lowered STPU CN Costs due to final billing

Yellowstone River Bridge (4199003) – NH CN Cost increase due to construction embankment

Johnson Lane Interchange (4199007) – STPU CN cost increase due to 5 mile rd decrease

Project moved to 23

Railroad Overpass (4199005) – Project moved to 22

**I-90 Yellowstone River Bridge (7972)**

Bridge PE increase due to scope change

Bridge/IM CN cost increase to engineer estimate

**STPU**

SEE ABOVE

**IM**

Lockwood Interchange – Billings (9978) project added PE, RW, IC, CN phases

**NH**

27th St – 1st Ave S to Airport (7910) – IC, CN Cost increase due to scope change

Underpass Ave (8669) – CN cost estimate adjusted

Main St Billings (8717) – PE cost decrease due to final billing

Airport Rd & Main St (8718) – CN estimate lowered

RW, IC moved to new programming years

Zoo Drive Improvements (9597) – PE adjusted to match programmed amount

Montana Ave Crosswalks (9998) – Project added PE, RW, IC, CN phases

**RRS**

RRXING Steffes Rd (9827) – Adjusted PE for final billing

**HSIP**

SF 129 – Roundabout King 56th (8052) – Updated PE, RW, CN costs to ppms, moved to 2021 for redistribution

SF 139 – Central & 56th Roundabout (8611) – Updated CN costs to ppms

SF 149 Hillcrest Rt Turn (8904) – Updated CN costs to ppms

SF 169 Frntg Rd Wise Ln Intx (9384) – Updated CN cost to awarded cost

SF 169 I90 W King Ave Lighting (9241) – Increased PE, CN costs due to scope change

Zoo Drive Improvements (9597) – PE costs moved to NH, CN costs updated to ppms

**Bridge**

2012 Scour Mitigation (7960) – PE, RW, CN updated due to final billing

**UPP**

Grand 24th to Zimmerman (9509) – PE, CN adjusted to awarded amounts

**MACI**

27th St 1St Ave S to Airport (7910) – CN updated to ppms

Underpass Ave Improvements (8669) – IC costs adjusted; they were higher than estimate

*Costs have been updated based on project listings and updates beginning in January timeframe

# Billings Metropolitan Planning Organization
# TRANSPORTATION IMPROVEMENT PROGRAM (TIP)

## Federal Fiscal Years
# FFY 2020 – 2024

Amendment II
October 14, 2021

Prepared by:

**Billings Metropolitan Planning Organization**

**Yellowstone County Board of Planning**

In cooperation with:

**City of Billings, Montana**
**County of Yellowstone, Montana**
**Billings Urban Transportation District**
**Montana Department of Transportation**
**Federal Highway Administration**
**Federal Transit Administration**

# APPROVALS

**REVIEWED BY**

| | 2020-2024 | 2020-2024 Amd I | 2020-2024 Amend II |
|---|---|---|---|
| Technical Advisory Committee | May 14, 2020 | December 17, 2020 | October 14, 2021 |
| Yellowstone County Board of Planning | June 9, 2020 | January 26, 2021 | November 9, 2021 |
| Billings City Council | June 9, 2020 | February 8, 2021 | October 25, 2021 |
| Yellowstone County Board of County Commissioners | June 9, 2020 | February 2, 2021 | October 19, 2021 |

**APPROVED BY**

| | 2020-2024 | 2020-2024 Amd I | 2020-2024 Amend II |
|---|---|---|---|
| Policy Coordinating Committee | June 16, 2020 | February 16, 2021 | November 16, 2021 |
| Montana Department of Transportation | July 31, 2020 | April 20, 2021 | |
| Federal Highway Administration | July 31, 2020 | April 14, 2021 | |
| Federal Transit Administration | July 31, 2020 | April 14, 2021 | |

The preparation of this report has been financed in part through grant[s] from the Federal Highway Administration and Federal Transit Administration, U.S. Department of Transportation, under the State Planning and Research Program, Section 505 [or Metropolitan Planning Program, Section 104(f)] of Title 23, U.S. Code. The contents of this report do not necessarily reflect the official views or policy of the U.S. Department of Transportation.

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# Acronyms

| | |
|---|---|
| **BUILD** | Better Utilizing Investments to Leverage Development |
| **CMAQ** | Congestion Mitigation and Air Quality |
| **CN** | Construction |
| **CO** | Carbon Monoxide |
| **EPA** | Environmental Protection Agency |
| **FAST Act** | Fixing America's Surface Transportation Act |
| **FHWA** | Federal Highway Administration |
| **FTA** | Federal Transit Administration |
| **FY/FFY** | Fiscal Year/Federal Fiscal Year. The local and state government fiscal year runs from July 1 - June 30. The Federal fiscal year runs from October 1 – September 30. |
| **GROWTH** | Flexible state CMAQ funds distributed to high growth urban areas |
| **HSIP** | Highway Safety Improvement Program |
| **IC** | Incidental Construction |
| **IM** | Interstate Maintenance, IM is a state sub-allocated program funded by the federal National Highway Performance Program |
| **MACI** | Montana Air and Congestion Initiative |
| **MAP-21** | Moving Ahead for Progress in the 21st Century Act |
| **MDT** | Montana Department of Transportation |
| **MPO** | Metropolitan Planning Organization. The Yellowstone County Board of Planning is the MPO for the Billings Urban area. |
| **NAAQS** | National Ambient Air Quality Standards |
| **NH** | National Highway System, NH is a state sub-allocated program funded by the federal National Highway Performance Program |
| **PE** | Preliminary Engineering |
| **PLH** | Public Lands Highways |
| **PLHD** | Public Land Highways Discretionary Fund |
| **$PM_{10}$** | A federal standard for particulate (10 microns or less in size), i.e., road dust, brake lining and/or wood smoke particles. |
| **$PM_{2.5}$** | A federal standard for particulate (2.5 microns or less in size), i.e., road dust, brake lining and/or wood smoke particles. |
| **ROW** | Right of Way |
| **RP** | Road Reference Post |
| **SAFTEA-LU** | Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users |
| **SFC** | State Funded Construction |
| **SRTS** | Safe Routes to Schools |
| **SIP** | State Implementation Plan. A plan for improving air quality in the State, including the Billings area. |
| **STIP** | State Transportation Improvement Program |
| **STPE** | Surface Transportation Program Enhancements |
| **STPP** | Surface Transportation Program Primary |
| **STPU** | Surface Transportation Program Urban |
| **STPX** | Surface Transportation Program Off-System |
| **TA** | Transportation Alternatives Program |

| | |
|---|---|
| **TEA-21** | Transportation Efficiency Act for the 21st Century |
| **TCM** | Transportation Control Measure |
| **TIP** | Transportation Improvement Program. A multi-year program of highway and transit projects on the Federal aid system, which addresses the goals of the long-range plans and lists priority projects and activities for the region. |
| **TPCC** | Transportation Policy Coordinating Committee. Together with the TTAC, the transportation planning organization for Federal aid projects in the Billings urbanized area. |
| **TSP** | Total Suspended Particulate |
| **UHPIP** | Urban Highway Pilot Improvement Program |
| **UPP** | Urban Pavement Preservation |

# Introduction

### Preface

The Yellowstone County Board of Planning (YCBP) is the Metropolitan Planning Organization, (MPO), for the Billings metropolitan planning area. The Transportation Improvement Program, (TIP), is the funding mechanism for transportation projects requesting federal dollars in the Billings urbanized area. All MPO's are required by the current Federal Highway Bill SAFETEA LU to produce a TIP and update it at least every four years. SAFETEA LU was the first Transportation Bill that required a TIP. The bill was signed into law by President Bush in 2005, and extended by President Obama through June 2012. The act and extensions authorized highway, highway safety, transit, and other surface transportation programs.

On July 6, 2012 Moving Ahead for Progress in the 21st Century (MAP-21) was signed into law. The law provides federal program funding through the end of Federal Fiscal Year 2014 and brings program structure changes that will be fully addressed in future long range transportation plans and TIPs. The Fixing America's Surface Transportation Act (FAST Act) was signed into law on December 4, 2015, and authorizes federal transportation funding for federal fiscal years 2016 through 2020. This document contains a list of all surface transportation projects requesting the use of federal funds. Local jurisdictions working through the Billings MPO's Policy Coordinating Committee (PCC) determine how the area's transportation system is developed and expanded.

### About the Transportation Improvement Program

The TIP is a short-range program of highway and transit projects in the Billings metropolitan planning area and is prepared by YCBP staff in cooperation with state and local agencies. The basic purpose of the TIP is to provide the mechanism for scheduling federal funds for surface transportation projects, indicating regional priorities, and demonstrating a short range transportation vision for the area. A secondary purpose of the TIP is to provide information about other transportation projects in the planning area that are exempt from the TIP approval process such as projects that do not utilize federal funds.

### TIP Process and Development

The development of the TIP document is the responsibility of the Billings MPO and provides an opportunity for local officials to determine priorities and spending for federal highway and transit funds. Any transportation project located in the Billings metropolitan planning area must be included in the TIP prior to receiving federal funds. TIP projects must be included in the area's 20-year Transportation Plan, and are proposed for the TIP by local elected officials, transit operating officials, or state highway agencies. The TIP is reviewed and endorsed annually by the Billings MPO's Policy Coordinating Committee, (PCC), and may be modified through the TIP amendment process. The PCC includes a Billings City Council representative, the Chair of the Yellowstone County Commission, the President of the Yellowstone County Board of Planning and the District Administrator of the Montana Department of Transportation. After PCC endorsement, the TIP is submitted to the Montana Department of Transportation (MDT) and to the Federal Highway Administration and Federal Transit Administration for federal review of the document and approval of conformity and fiscal constraint determination.

### Federal Regulations

The Transportation Improvement Program (TIP) is a required planning program for federally assisted highway and transit improvements for the Billings metropolitan planning area and the Montana Department of Transportation (MDT) over a five-year period. The principal focus is given to the first two years of the program, the Biennial Element, which contains projects that could be implemented between October 1, 2020 –

September 30, 2024 (FFY 2020 & 2024). The TIP is prepared annually and is in conformance with 23 CFR, Part 450 324-330.

## Financial Resources

A range of federal funding sources is available to the Billings planning area for the purposes of funding transportation system improvements. Following is a list of those sources which, when available to the Billings area, are shown in the Transportation Improvement Program. Project implementation is indicated as expected to occur during the pertinent program year. Billings has had a favorable history of receiving federal earmarks as reflected in the table below.

BILLINGS FEDERAL EARMARK HISTORY 1999 – through 2009

| Project | Earmark |
|---|---|
| Billings Bypass | $22,445,600 |
| Zimmerman Trail | $ 6,242,553 |

### Funding Sources

- Surface Transportation Program Off System (STPX)
- Seconday (STPS)
- State Funded Construction (SFCN)
- Surface Transportation Program Urban (STPU)
- Surface Transportation Program Primary (STPP)
- National Highway (NH)
- National Highway System (NHS)
- National Highway Freight (NHFP)
- Interstate Maintenance (IM)
- Railroad Crossing (RRS)
- Highway-Railway Crossing Program (RRX)
- Highway Safety Improvement Program (HSIP)
- Bridge Replacement and Rehabilitation Program (HBRRP)
- Urban Pavement Preservation (UPP)
- Transportation Alternatives Program (TAP)
- State Funded Construction (SFC)
- Congestion Mitigation Air Quality (CMAQ)
- Montana Air Congestion Initiative (MACI)
- Better Utilizing Investments to Leverage Development (BUILD) Grant Program
- FTA Section 5339 (Formerly Sec. 3)
- FTA Section 5307 (Formerly Sec. 9); FTA Section 5307 CARES Act
- FTA Section 5310 (Formerly Sec. 16)
- Transade (State Funded)
- Congressionally Directed Funds (MT, NCPD, DEMO)

# AIR QUALITY CONSISTENCY

Billings was designated as a non-attainment area for both Total Suspended Particulates (TSP) and Carbon Monoxide (CO) on March 3, 1978, (Federal Register, Vol. 44, No. 150, page 45421, August 2, 1979). As such, Billings was required to prepare a Transportation Control Plan (TCP). The TCP identified strategies to mitigate the TSP and CO problems. The TCP is the Billings element of Montana's State Implementation Plan (SIP). The TIP is required to be, and is, consistent with the TCP as discussed in the Billings conformity statement.

In 1987 the standard for TSP was dropped, and a new standard for particulate matter under 10 microns in size (PM - 10) was adopted (7/1/87 at 52 FR 24854). The Environmental Protection Agency (EPA), has also adopted the PM 2.5 standard and Billings is considered to be in compliance with both of these new standards.

## Conformity of the Billings Area Transportation Improvement Program with the 1990 Clean Air Act

A portion of the Billings Urbanized Area, (Billings), was designated non-attainment for carbon monoxide (CO) on 3/3/78 (43 FR 8962) with a secondary classification of "unclassified". EPA approved the Billings CO Control Plan on 1/16/86 (51 FR 2397). Billings was then re-designated as "Not Classified" on 11/6/91 (56 FR 56697). The area meets the qualifications of the Clean Air Act (CAA) for classification as an attainment area for ozone.

The Billings "not classified" carbon monoxide (CO) nonattainment area was re-designated by the Environmental Protection Agency (EPA) to attainment for the CO National Ambient Air Quality Standards (NAAQS) with an approved limited maintenance plan effective April 22, 2002. Under a CO limited maintenance plan, the motor vehicle emissions budgeted may be treated as essentially non-constraining for the length of the maintenance period because growth would need to exceed reasonable expectations to create a violation of the NAAQS for transportation-related CO. Therefore conformity demonstration using regional emissions analysis is not required; however, individual projects may still be required to conduct "hot spot" analysis.

As demonstrated in the following sections, the Transportation Improvement Program (TIP) satisfactorily meets the requirements established by the 1990 amendments to the CAA regarding the conformity of TIP's.

- The most recent estimates of CO mobile source emissions have been developed by the Analytical Services Section, Montana Department of Environmental Quality and are based upon development and transportation data provided by the Yellowstone County Board of Planning.
- EPA has approved the second 10-year carbon monoxide (CO) maintenance plan for the Billings area. This second 10-year CO maintenance plan meets the requirements of CAA section 175A (b) and is also a Limited Maintenance Plan (as was the maintenance plan with the original 2002 EPA approval.) The second 10-year CO maintenance plan continues to correctly reflect the Limited Maintenance Plan transportation conformity requirements. The EPA-approved Billings second 10-year CO maintenance plan is available at the Planning office.

## Transportation Control Measures

Specific Transportation Control Measures have not been proposed for Billings recently, however, the SIP completed in 1986 included the widening of Exposition Drive (Main Street) and the signalization at Main Street and First Avenue North. Both of these projects were completed in 1983.

There are no Transportation Control Measures (TCM's) in the State Implementation Plan (SIP) and therefore there are no specific TCM's recommended for implementation in this TIP.

## TIP Conformity

As a prerequisite for receiving Federal-aid transportation funds through the TIP, a determination must be made that the proposed transportation projects do not cause or contribute to violations of the carbon monoxide ambient air quality standards. An analysis, which meets the EPA conformity determination regulations specified in 40 CFR Part 51 was performed in conjunction with the development of the Billings Urban Area 2018 Long Range Transportation Plan. The plan discusses conformity analysis in Chapter 14, pages 172-174. As the transportation projects in the TIP are contained in the Transportation Plan's analysis, a separate analysis for the TIP is not necessary.

### Regionally Significant Projects

There are no new regionally significant projects in this 2020-2024 Billings Urban Area TIP.

> 40 CFR part 93, subpart A - §93.126 Highway and Transit projects included in subpart A are exempt from the requirement to determine conformity. Such projects may proceed toward implementation even in the absence of a conforming transportation plan and TIP. A project will not be exempt if the MPO in consultation with other agencies, the EPA, FHWA, or FTA concur that it has potentially adverse emissions impacts for any reason.

REGIONALLY SIGNIFICANT PROJECT (2020-2024)

| Project | Scope | Comments |
|---|---|---|
| Billings Bypass (aka North Bypass) | Location/Environmental | New Construction |

## Energy Conservation Considerations

Energy impact analyses have been conducted as a part of the urban transportation planning process. In addition, increased attention has been given to energy conservation and contingency planning on a project specific basis.

As part of the 2018 update of the Billings Urban Area Transportation Plan, energy conservation was considered in each of the proposed alternative transportation networks.

The City of Billings has a well-developed transit system, and ride-sharing opportunities have been examined. Transit facilities and highway system proposals will continue to be considered in a comprehensive method through the adopted Transportation Planning process.

The detailed energy conservation analysis of specific projects has been conducted for each of the major highway construction projects recommended in the 2018 update of the Billings Urban Area Transportation Plan.

### PROGRAMMING OF NON-URBAN SYSTEM, FEDERAL AID, AND STATE FUNDING

Proposed projects involving federal-aid funding, other than urban system funding, that are proposed within existing rights-of-way and which are determined to not significantly change traffic patterns, may not be considered to be of appropriate scale to warrant a modification to a currently valid TIP.

When there is knowledge of such projects prior to the annual adoption of the TIP, each project will be included in the program. Generally, projects falling within this category are those which serve to preserve and maintain the integrity of the existing plant or facility such as: overlays to improve or maintain surface conditions; bridge expansion joints and deck repairs necessary to maintain structural and surface sufficiency; slope repair necessary to maintain drainage adequacy; etc. Projects of this nature will be identified by MDT with appropriate justification when requesting program approval of federal highway funds. Local urban area officials will be advised by the Department through the local planning process of the Department's intent to expend federal funds (non-urban system) for such improvements in their area.

#### Performance Measures

Performance measures have historically been used in Transportation Planning; the Moving Ahead for Progress in the 21st Century Act, (MAP-21), transformed the Federal-aid highway program by establishing requirements for performance management to promote the most efficient investment of Federal transportation funds. The Fixing America's Surface Transportation, (FAST), Act continues these requirements to increase the accountability and transparency of this program and to support improved investment decisions through a focus on performance outcomes for national transportation goals. Establishing performance measures encourage Metropolitan Planning Organizations (MPOs) and State Transportation Departments to maximize the allocation of resources in their respective areas, as well as monitor the performance of the system for eventual use of future resources.

The Billings MPO supports the State targets for applicable performance measures for safety, pavement and bridge condition, system performance, freight, and CMAQ, and will support the Billings MET Transit for associated transit performance measures. Thus, the MPO will plan and program projects that contribute toward relevant targets for each performance measure.

## Safety

The goal of safety performance measures is to reduce the number of traffic fatalities and serious injuries in the public right of way. Interstate Maintenance, National Highway, Highway Safety Improvement Program, Surface Transportation Program Off-System, Secondary, and State

Funded Construction funding sources support projects with the intent to improve safety measures.

## Pavement and Bridge Condition

Pavement and bridge condition performance measures aim to maintain roadway and bridge infrastructure in such a way it remains functional and in good repair. Pavement and Bridge Condition are impacted most by Interstate Maintenance, National Highway, Bridge Program, and Urban Pavement Preservation funding sources. Projects included for funding under these sources were selected in part due to their contribution towards pavement and bridge condition targets.

## System Performance

System performance measures exist to improve the efficiency of the overall transportation system, while helping to reduce congestion and travel times and increase reliability of the system. These measures are related to Congestion Mitigation and Air Quality, Surface Transportation Program Urban, and Transportation Alternatives funding sources. Projects included in these funding sources will contribute to meeting state targets for system performance.

## FREIGHT-NATIONAL HIGHWAY FREIGHT PROGRAM (NHFP)*

The purpose of freight performance measures is to improve the national freight network, while providing access to trade and enhancing the capacity of communities to participate in, and support regional economic development. Freight performance measures are most strongly influenced by the National Highway Freight Program Federal funding source. Project selected for National Highways funding will contribute to improving the national freight network and meeting state targets.

## National Highway Freight Program (NHFP)*

Funding shown in thousands of dollars

| Project Sponsor | Description | Phase | | | | | | | Funding Source | | | Total Project Costs |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Pre-2020 | 2020 | 2021 | 2022 | 2023 | 2024 | Local | State | Federal | |
| | | | | | | | | | | 13.42% | 86.58% | |
| **I-90 Yellowstone River Bridges** | Reconstruction of | CN | | | 17,325.0 | | | | | 2,325.0 | 15,000.0 | 17,325.0 |
| UPN 7972 | interstate bridges | | | | | | | | | 0.0 | 0.0 | 0.0 |
| | | | | | | | | | | 0.0 | 0.0 | 0.0 |
| | | | | | | | | | | 0.0 | 0.0 | 0.0 |
| *MDT* | I-90 RP 450.09 to 452.73 | **Total** | **0.0** | **0.0** | **17,325.0** | **0.0** | **0.0** | **0.0** | **0.0** | **2,325.0** | **15,000.0** | **17,325.0** |
| **NHFP TOTAL** | | | **0.0** | **0.0** | **17,325.0** | **0.0** | **0.0** | **0.0** | **0.0** | **2,325.0** | **15,000.0** | **17,325.0** |

*Funding projections are based on best available information and are subject to change given current funding uncertainties and unknown impacts of future congressional or other federal actions.*
*Federal program funding availability may impact the scheduling of projects. Funding will be subject to the obligation limitation set by the annual appropriations process.*
*NHFP is funded by the federal National Highway Performance Program.
CN estimates include CE costs

## Congestion Mitigation and Air Quality (CMAQ)

The collection of data regarding air quality performance measures helps to evaluate projects to ensure they are protecting and enhancing the health of the natural environment. These performance measures may be impacted by Congestion Mitigation and Air Quality, Montana Air and Congestion Initiative Discretionary Program, Transportation Alternatives, and Federal Transit Administration funding sources and associated projects that provide support for non-motorized transportation projects and programming that enhances air quality and encourages sustainable transportation options.

**Advancement of Projects**

It is mutually agreed that the first two years of this program is the best estimate of the project phase that will be undertaken during the Biennial timeframe. Occasionally, projects advance through the design process faster than anticipated. An approved project may accelerate into the next logical phase providing that the funding source does not change from that, which was initially identified in the TIP. Federal, State, and local governments have agreed that a TIP revision is not required in order to accelerate a specific project phase, so long as other planned work is not unduly delayed. The priorities with regard to the FTA Section 5307 projects in the Biennial Element are:

1) Operating Assistance.
   - The priorities with regard to the FTA Section 5310 projects in the Biennial Element are: 1) Replacement vehicles for MET Special Transit.
   - The priorities with regard to the FTA Section 5339 projects are: 1) Assistance for bus/bus facilities

## PRIVATE ENTERPRISE PARTICIPATION

Both the City of Billings and Yellowstone County have locally developed policies and procedures to examine opportunities for private sector participation in the provision of transit services and related support services. The City of Billings adopted resolution 86-15346 which states said policy and provides a process for implementation. The Council approved that resolution on July 7, 1986. Further, a Private Transportation Enterprise Participation Policy (PEP) and implementing procedures were adopted by the MPO's Technical Advisory Committee on April 24, 1986; by the Policy Coordinating Committee on May 8, 1986; and by the Yellowstone County Planning Board on May 13, 1986.

The City's MET Transit Department has examined various opportunities for private sector provision of services. The Department utilizes private tire firms to handle parts of servicing of the tire inventory. The Department also contracts with various private firms for radiator repair, air compressor rebuilds, as well as glass, bodywork on the vehicles, and occasional component rebuilds.

### The required TIP documentation related to the PEP process is as follows:

a) The City of Billings MET Transit System solicited the possible interest or involvement of the private sector in providing leased tires for the MET Transit fleet of coaches. In the spring of 1993, 1996, 2001, 2006 and 2011, and 2016 a Request for Bids was sent to potentially interested private vendors and was also advertised in a local newspaper and a national transit journal. Bids are evaluated based on cost and ability to perform. Three firms requested bid packages. The current contract for the tire lease is in effect through August 31, 2020 with one additional one-year renewal option. It will again be advertised for bid following execution of the final option.
b) No other proposals were received from the private sector.
c) There are no known impediments to holding service out for competition.
d) There are no known private sector complaints.

The Yellowstone County-City of Billings Planning Division has and will continue to follow its adopted policy and procedures regarding private sector participation. The mailing list of private providers has been updated and used to provide notice about TAC and PCC meetings, including those that deal with the Unified Planning Work Program, (UPWP), projects and process as well as the TIP process. Through these mailings the private providers are aware of the development of the proposed transit capital and operating projects as well as the proposed paratransit capital projects for the five years covered in the TIP.

# FEDERAL TRANSIT ADMINISTRATION PROJECTS

The Federal Transit Act funded projects, including FTA Section 5339 grant projects, (Biennial Element) are intended to insure the continued efficient operation, maintenance and administration of the MET Transit system fleet and facilities, including meeting federal regulations such as the Americans with Disabilities Act (ADA). The operating grants are for the fiscal years of July 1, 2019 to June 30, 2023 and the Section 5339 grant projects will permit Bus and Bus Facilities projects in Fiscal Years 2020 through 2024.

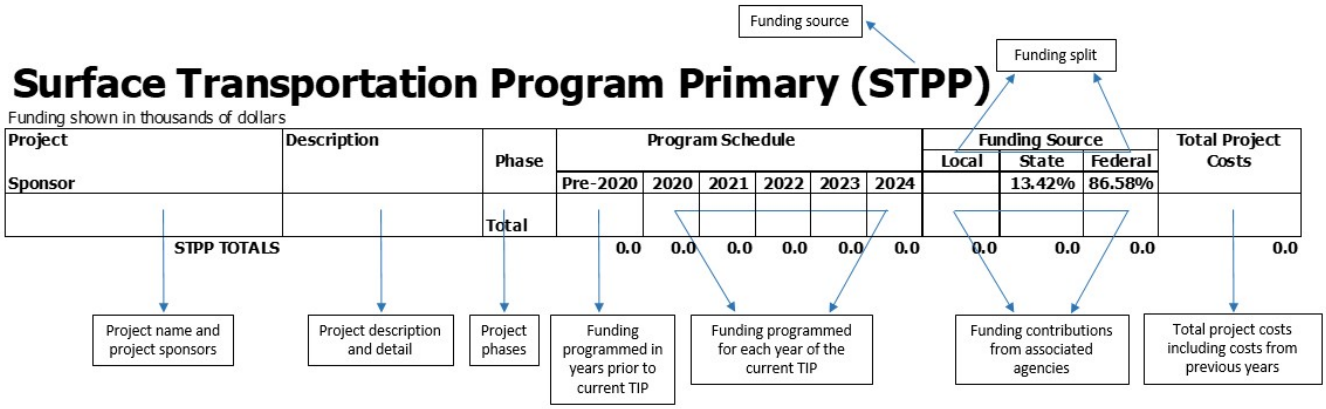
The vehicle purchases for MET PLUS are projects to enable the City to continue providing the required specialized demand-responsive paratransit service for citizens who are unable to use the MET Transit System due to their disabling conditions. The projects to purchase vehicles for other entities will address some of the transportation needs of individuals with disabilities and senior populations.

### Major Federally Funded Project Summary

Section 1203(h)(7)(B) of MAP-21 requires publication of an annual listing of projects for which Federal funds have been obligated in the TIP in the preceding year consistent with the categories identified in the TIP.

# Understanding the TIP Funding Tables

The TIP project funding tables consist of multiple components, and are designed to best display integral information regarding the projects within the TIP. The image below identifies and explains each of the various components of the TIP project funding tables, and can be used as a tool to understand the information being presented within the funding tables.




All construction projects included in the TIP will be completed in multiple phases (i.e. PE, RW, IC, and CN). Funding for each construction project is broken down by the costs of each specific phase. The table below provides a description of construction project phases and additional project phases the reader can expect to see within TIP funding tables.

| Project Phase | Description |
|---|---|
| **CN** | Construction – Construction and/or reconstruction work performed by the agency or contractor |
| **IC** | Incidental Construction – 'Safety net' for unexpected construction expenditures |
| **OT** | Other – Additional programmatic expenditures including costs for education, and outreach |
| **PE** | Preliminary Engineering – Analysis and design work completed prior to project construction (the abbreviation EIS will be added if phase includes an environmental impact statement) |
| **Purch.** | Purchase – Procuring equipment, software, vehicles, or facilities |
| **RW** | Right of Way – Tasks associated with acquiring and preparing the right of way for a project (e.g. property acquisition and utility relocation) |
| **Transit** | Transit operations |

# Projects that are Regionally Significant

| PROJECT | SCOPE | COMMENTS |
|---|---|---|
| Billings Bypass<br>(aka North Bypass) | Location/Environmental | New Construction |

# Billings MPO Project List

| PROJECT | UPN | SCOPE | COMMENTS |
|---|---|---|---|
| **CMAQ** | | | |
| Billings Bypass - Yellowstone River Bridge | 4199-003 | New construction of bridge over the Yellowstone River | |
| Billings Bypass - Johnson Lane Interchange | 4199-007 | Reconstruction of existing Interchange to a diverging diamond design | |
| | | | |
| **STPU** | | | |
| Billings Bypass - Five Mile Road | 4199-002 | Reconstruction of roadway | |
| Billings Bypass - Yellowstone River Bridge | 4199-003 | New construction of bridge over the Yellowstone River | |
| Billings Bypass - Johnson Lane Interchange | 4199-007 | Reconstruction of existing Interchange to a diverging diamond design | |
| **SRTS** | | | |
| **IM** | | | |
| MDT Preventative Maintenance | | Pavement Preservation | Plug to allow project nominations |
| I-90 Yellowstone River - Billings | 7972 | Bridge Replacement | |
| Mossmain Intch - West Blgs Intch | 9198 | Pavement Preservation w/ signal improvements at off ramps | |
| Billings Bypass - Johnson Lane Interchange | 4199-007 | Reconstruction of existing Interchange to a diverging diamond design | |
| Lockwood Intechange - Billings | 9978 | Reconstruction of existing Interchange to a diverging diamond design | |
| **NH** | | | |
| MDT Preventative Maintenance | | Pavement Preservation | Plug to allow project nominations |
| Main St. - Billings | 8717 | Pavement Preservation | |
| 27th St. - 1st Ave S. to Airport Rd | 7910 | Pavement Preservation | |
| Billings Bypass | 4199-001 | New Construction | Covers PE & IC |
| Billings Bypass - Yellowstone River Bridge | 4199-003 | New construction of bridge over the Yellowstone River | |
| Billings Bypass - Johnson Lane Interchange | 4199-007 | Reconstruction of existing Interchange to a diverging diamond design | |
| Billings Bypass - RR O'pass | 4199-005 | New construction of bridge over the railroad | |
| Billings Bypass - Johnson Lane Intch - RR O'pass | 4199-006 | New construction of connection from interchange to the railroad overpass | |
| Billings Bypass - Five Mile Road to US 87 | 4199-004 | New construction of connection from Five Mile to US 87 | |
| Exposition Dr. & 1st Ave N. Blgs | 7908 | Intersection Improvements | |
| 1st Ave. N - N 9th to RR Xing | 9022 | Major Reconstruction | |
| Underpass Ave. Improvements | 8669 | Intersection Improvements | |
| Airport Rd. & Main St. - Blgns | 8718 | Intersection Improvements | |
| Zoo Drive Improvements | 9597 | Intersection Improvements | |
| 1st Ave. N - RR Xing to Broadway | 9880 | Major Reconstruction | |
| 1st Ave. N - Broadway to Division | 9881 | Major Reconstruction | |
| Montana Ave Crosswalks - Billings | 9998 | Sidewalk Improvements ADA Compliance | |
| **NHFP** | | | |
| I-90 Yellowstone River - Billings | | Bridge Replacement | |
| **STPX, STPS, SFCN** | | | |
| 27th Street RR Crossing | 9354 | Railroad Crossing Study | |
| SF 169 Rimrock & 62nd St. W | 9383 | Intersection Improvement Study | |
| Blue Creek Road - Billings | 9503 | Pavement Preservation | |
| Lockwood Interchange | 9588 | Interchange Improvements Study | |
| Jct Main & 87 to Worden | | Roadway Striping | |
| **STPP** | | | |
| **RRS** | | | |

# Billings MPO Project List, (Continued)

| | | | |
|---|---|---|---|
| **HSIP** | | | |
| Various Safety Projects | | | Plug to allow project nominations |
| SF 149 Hillcrest Right Turn Ln | 8904 | Intersection Improvements | |
| SF 169 Frontage Rd. Wise Ln Intersection | 9384 | Intersection Improvements | |
| SF 169 Rimrock & 62nd St. W | 9383 | Intersection Improvements | Roundabout |
| SF 169 Blgs. Area Safety Improvements | 9420 | Signing | |
| SF 169 I-90 W. King Ave Lighting | 9421 | Roadway Lighting | |
| Zoo Drive Improvements | 9597 | Intersection Improvements | |
| SF 169 Blgs. District Safety Improvements | 9423 | Signage | Only portion in MPO bdry |
| **BR** | | | |
| 2012 Scour Mitigation | 7960 | Mitigation | |
| I-90 Yellowstone River - Billings | 7972 | Bridge Replacement | |
| Billing Bypass - Yellowstone River | 4199-003 | New construction of bridge over the Yellowstone River | |
| MONTANA AVE OVERPASS- BILLINGS | 9913 | Bridge Study | |
| MONTANA AVE STRUCTURES - BLGS | 9914 | Bridge Rehab | |
| **UPP** | | | |
| Various Preservation Projects | | Pavement preservation | Plug to allow project nominations |
| Blue Creek Road - Billings | 9503 | Pavement preservation | |
| Grand - 24th to Zimmerman | 9509 | Pavement preservation | |
| **MACI** | | | |
| MDT MACI | | Statewide CMAQ - Various | Plug to allow project nominations |
| MDT MACI | | Statewide CMAQ - ADA Compliance | Plug to allow project nominations |
| MDT MACI | | Equipment Purchases | |
| Underpass Ave. Improvements | 8669 | Intersection Improvements | |
| Mossmain Intch - West Blgs Intch | 9198 | Pavement Preservation w/ signal improvements at off ramps | |
| Laurel Road Signals - Billings | 9568 | Signal Improvements | |
| **CITY TA** | | | |
| **EARMARK** | | | |
| Billings Bypass | 4199-001 | New Construction | Covers Environmental Doc., PE, RW |
| Grand - 24th to Zimmerman | 9509 | Pavement Preservation | |
| **BUILD** | | | |
| Inner Belt Loop | | Road Construction | |
| Skyline Trail | | Multi Use Path Construction | |
| **FTA 5307** | | | |
| **FTA 5339** | | | |
| **FTA 5310** | | | |
| **FTA 5311** | | | |
| **100 % LOCALLY FUNDED PROJECTS** | | | |
| BBWA Canal Connection | Local | Bike Pedestrian Path | Recreational Trails Program $44,355<br>Local (In-Kind) $84,652 |
| Various Projects | | Annual Operation and Maintenance | |
| **State Funded Maintenance** | | | |
| Various Maintenance Projects | | Maintenance | |

# Projects with Multiple Funding

## Billings ByPass

### Billings Bypass

Funding shown in thousands of dollars

| Project: Billings Bypass / Sponsor: MDT | | Description | Phase | Program Schedule Pre-2020 | 2020 | 2021 | 2022 | 2023 | 2024 | 2024+ | Funding Source | Local | State 13.42% | Federal 86.58% | Total Project Costs |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Billings Bypass** | *UPN4199000* | Environmental Impact Statement | PE-EIS | 4,919.6 | | | | | | | EARMARK | | 660.2 | 4,259.4 | 4,919.6 |
| | | Preliminary Engineering | PE | 9,679.0 | | | | | | | EARMARK | | 1,298.9 | 8,380.0 | 9,679.0 |
| | | Preliminary Engineering | PE | 2,734.3 | 2,444.7 | | | | | | NH | | 695.0 | 4,484.0 | 5,179.1 |
| | | Right of Way Acquisition | RW | 7,870.5 | | 3,549.5 | 6,550.0 | | | | MT/NH | | 2,411.6 | 15,558.4 | 17,970.0 |
| | | Utility Moves | IC | | | 3,019.0 | | | | | NH | | 405.1 | 2,613.8 | 3,019.0 |
| *MDT* | | | **Total** | **25,203.5** | **2,444.7** | **6,568.5** | **6,550.0** | **0.0** | **0.0** | | | | **5,470.9** | **35,295.8** | **40,766.7** |
| **Billings Bypass** | *UPN4199002* | Construction of Five Mile Road | IC | 141.0 | 15.8 | | | | | | STPU | | 21.0 | 135.8 | 156.8 |
| **(Five Mile Road)** | | | CN | | 6,077.5 | -210.9 | | | | | STPU | | 787.3 | 5,079.3 | 5,866.6 |
| MDT | | | **Total** | **141.0** | **6,093.3** | **-210.9** | **0.0** | **0.0** | **0.0** | | | | **808.3** | **5,215.1** | **6,023.4** |
| **Billings Bypass** | *UPN4199003* | Construction of a new bridge | IC | | 416.2 | | | | | | NH | | 55.9 | 360.4 | 416.2 |
| **(Yellowstone River Bridge)** | | over the Yellowstone River | CN | | 11,364.2 | | | | | | STPU | | 1,525.1 | 9,839.1 | 11,364.2 |
| | | | CN | | 5,000.0 | | | | | | CMAQ | | 671.0 | 4,329.0 | 5,000.0 |
| | | | CN | | 5,000.0 | | | | | | BRIDGE | | 671.0 | 4,329.0 | 5,000.0 |
| | | | CN | | 15,009.8 | 2,110.7 | | | | | NH | | 2,297.6 | 14,822.9 | 17,120.5 |
| *MDT* | | | **Total** | **0.0** | **36,790.2** | **2,110.7** | **0.0** | **0.0** | **0.0** | | | | **5,220.5** | **33,680.4** | **38,900.9** |
| **Billings Bypass** | *UPN4199007* | Reconstruction of existing | CN | | | | | 2,412.4 | | | STPU | | 323.7 | 2,088.7 | 2,412.4 |
| **(Johnson Lane Interchange)** | | Interchange | CN | | | | | 6,200.0 | | | CMAQ | | 832.0 | 5,368.0 | 6,200.0 |
| | | | CN | | | | | 3,800.0 | | | NH | | 510.0 | 3,290.0 | 3,800.0 |
| | | | CN | | | | | 15,130.5 | | | NHFP | | 1,513.1 | 13,617.5 | 15,130.5 |
| | | | CN | | | | | 15,661.7 | | | IM | | 1,566.2 | 14,095.5 | 15,661.7 |
| *MDT* | | | **Total** | **0.0** | **0.0** | **0.0** | **0.0** | **43,204.6** | **0.0** | | | | **4,745.0** | **38,459.6** | **43,204.6** |
| **Billings Bypass** | *UPN4199005* | Construction of new bridge | CN | | | | 21,778.4 | | | | NH | | 2,922.7 | 18,855.7 | 21,778.4 |
| **(Railroad Overpass)** | | over railroad | | | | | | | | | | | | | |
| *MDT* | | | **Total** | **0.0** | **0.0** | **0.0** | **21,778.4** | **0.0** | **0.0** | | | | **2,922.7** | **18,855.7** | **21,778.4** |
| **Billings Bypass** | *UPN4199006* | Construction of connection | CN | | | | | | 8,397.6 | | NH | | 1,127.0 | 7,270.6 | 8,397.6 |
| **(Johnson Lane Interchange to RR O'pass)** | | from Interchange to RR O'pass | | | | | | | | | | | | | |
| *MDT* | | | **Total** | | | | | | **8,397.6** | | | | **1,127.0** | **7,270.6** | **8,397.6** |
| **Billings Bypass** | *UPN4199004* | Construction of connection | CN | | | | | | | 18,741.7 | NH | | 2,515.1 | 16,226.6 | 18,741.7 |
| **(Five Mile Rd to US 87)** | | from Five Mile to US 87 | | | | | | | | | | | | | |
| *MDT* | | | **Total** | | | | | | | **18,741.7** | | | **2,515.1** | **16,226.6** | **18,741.7** |
| **Totals** | | | | **25,344.4** | **45,328.3** | **8,468.2** | **28,328.4** | **43,204.6** | **8,397.6** | **18,741.7** | | **0.0** | **22,809.5** | **155,003.8** | **177,813.3** |

*Funding projections are based on best available information and are subject to change given current funding uncertainties and unknown impacts of future congressional or other federal actions.*

*CN estimates include CE costs*

## I-90 Yellowstone River Bridges

### I-90 Yellowstone River Bridges

Funding shown in thousands of dollars

| Project: I-90 Yellowstone River Bridges / Sponsor: MDT | Description | Phase | Program Schedule Pre-2020 | 2020 | 2021 | 2022 | 2023 | 2024 | 2024+ | Funding Source | Local | State 13.42% | Federal 86.58% | Total Project Costs |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **I-90 Yellowstone River Bridges** | Reconstruction of Interstate | PE | 6,287.8 | 161.8 | 172.2 | | | | | BRIDGE | | 888.7 | 5,733.2 | 6,621.8 |
| UPN 7972 | bridges over the Yellowstone | RW | | 240.0 | | | | | | IM | | 24.0 | 216.0 | 240.0 |
| | River | IC | | | 341.2 | | | | | IM | | 34.1 | 307.1 | 341.2 |
| | | CN | | | 63,354.4 | | | | | BRIDGE | | 8,502.2 | 54,852.2 | 63,354.4 |
| | | CN | | | 4,384.0 | | | | | IM | | 384.0 | 4,000.0 | 4,384.0 |
| | | CN | | | 17,325.0 | | | | | NHFP | | 2,325.0 | 15,000.0 | 17,325.0 |
| *MDT* | RP 450 to 452.7 | **Total** | **6,287.8** | **401.8** | **85,576.8** | **0.0** | **0.0** | **0.0** | **0.0** | | | **12,158.0** | **80,108.5** | **92,266.4** |
| **Totals** | | | **6,287.8** | **401.8** | **85,576.8** | **0.0** | **0.0** | **0.0** | **0.0** | | | **12,158.0** | **80,108.5** | **92,266.4** |

*CN estimates include CE costs*

# Estimated Revenue

## Estimated Revenue

Amounts shown in thousands of dollars

| Federal | | | | | STP/S*/X* | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Fiscal Year | CMAQ** | STPU* | IM* | NH* | NHFP* | SFCN | STPP* | RRS | HSIP* | BR* | UPP* | MACI* | BUILD** | TA* | SUBTOTAL |
| *Carryover* | 5,841.8 | 20,037.6 | | | | | | | | | | | | | 25,879.4 |
| FFY 2020 | 1,390.2 | 2,489.8 | 2,073.3 | 29,177.0 | 0.0 | 1,082.0 | 0.0 | 225.5 | 2,071.1 | 6,739.8 | 723.0 | 2,139.5 | 0.0 | 380.7 | 48,491.9 |
| FFY 2021 | 1,390.2 | 2,489.8 | 9,808.2 | 11,783.0 | 17,325.0 | 15.5 | 0.0 | -7.9 | 7,888.8 | 63,858.2 | 1,632.7 | 960.7 | 0.0 | 300.0 | 117,444.2 |
| FFY 2022 | 1,390.2 | 2,489.8 | 19,382.3 | 35,609.4 | 0.0 | 0.0 | 0.0 | 0.0 | 10,170.6 | 2,886.7 | 500.0 | 3,138.4 | 9,370.9 | 300.0 | 85,238.3 |
| FFY 2023 | 1,390.2 | 2,489.8 | 18,699.2 | 5,116.4 | 15,130.5 | 0.0 | 0.0 | 0.0 | 500.0 | 1,809.8 | 500.0 | 750.0 | 9,370.9 | 300.0 | 56,056.7 |
| FFY 2024 | 1,390.2 | 2,489.8 | 1,500.0 | 51,300.4 | 0.0 | 0.0 | 0.0 | 0.0 | 1,138.8 | 0.0 | 500.0 | 1,193.5 | 0.0 | 300.0 | 59,812.8 |
| TOTAL | 12,793.0 | 32,486.5 | 51,462.9 | 132,986.2 | 32,455.5 | 1,097.5 | 0.0 | 217.6 | 21,769.3 | 75,294.4 | 3,855.7 | 8,182.1 | 18,741.8 | 1,580.7 | 392,923.3 |

| Federal | FTA 5307 | | FTA 5339 | | FTA 5310 | | GAS TAX | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Fiscal Year | Federal | Local | Federal | Local | Federal | Local | CITY | COUNTY | OTHER | TOTAL |
| *Carryover* | 0.0 | | 3,418.3 | | 22.0 | | | | | 29,319.7 |
| FFY 2020 | 4,733.9 | 1,891.4 | 514.0 | 695.1 | 134.6 | 23.8 | 1,739.8 | 313.8 | 2,225.5 | 60,763.7 |
| FFY 2021 | 1,910.3 | 1,910.3 | 420.0 | 135.2 | 104.5 | 20.8 | 1,739.8 | 313.8 | 1,569.8 | 125,568.6 |
| FFY 2022 | 1,929.3 | 2,548.3 | 420.0 | 105.0 | 160.0 | 29.3 | 1,726.8 | 324.8 | 1,585.0 | 94,066.8 |
| FFY 2023 | 1,948.7 | 1,948.7 | 420.0 | 105.0 | 160.0 | 29.3 | 1,726.8 | 324.8 | 2,432.4 | 65,152.3 |
| FFY 2024 | 1,968.2 | 1,968.2 | 420.0 | 105.0 | 160.1 | 29.3 | 1,726.8 | 324.8 | 1,615.6 | 68,130.7 |
| TOTAL | 12,490.4 | 10,266.7 | 5,612.3 | 1,145.3 | 719.2 | 132.5 | 8,660.0 | 1,602.0 | 9,428.2 | 443,001.9 |

*Funding projections are based on best available information and are subject to change given current funding uncertainties and unknown impacts of future congressional or other federal actions. Federal program funding availability may impact the scheduling of projects. Funding beyond 2020 will be subject to the obligation limitation set by the annual appropriations process.*

**NOTES:**

These estimates are based on historical data and projections.

* STPU, IM, NH, NHFP, STPX, STPP, HSIP, BR, UPP, MACI, and TA funds include match.

**Reflective of federal share only.

Operations and Maintenance funds (average of Fiscal Years 2015-2017), local match, and CMAQ (local match) makes up OTHER

# Congestion Mitigation & Air Quality (CMAQ)

## Congestion Mitigation & Air Quality (CMAQ)

Funding shown in thousands of dollars

*Unless otherwise indicated the matching ratios for these projects are 86.58% Federal and 13.42% Match*

| Project / Sponsor | Description | Phase | Pre-2020 | 2020 | 2021 | 2022 | 2023 | 2024 | Funding Source Local 13.42% | Funding Source State 13.42% | Funding Source Federal 86.58% | Total Project Costs |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| *Carryover (Federal)* | | | | 5,841.8 | 2,903.0 | 4,293.3 | 5,683.5 | 1,705.8 | | | | |
| *Estimated allocation (Federal)* | | | | 1,390.2 | 1,390.2 | 1,390.2 | 1,390.2 | 1,390.2 | | | | |
| **Billings Bypass** *UPN4199003* | Construction of a new bridge | | | | | | | | | | | |
| **(Yellowstone River Bridge)** | over the Yellowstone River | CN | | 5,000.0 | | | | | | 671.0 | 4,329.0 | 5,000.0 |
| *MDT* | | **Total** | **0.0** | **5,000.0** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **671.0** | **4,329.0** | **5,000.0** |
| **Billings Bypass** *UPN4199007* | Reconstruction of existing | | | | | | | | | | | |
| **(Johnson Lane Interchange)** | Interchange | CN | | | | | 6,200.0 | | | 832.0 | 5,368.0 | 6,200.0 |
| *MDT* | | **Total** | **0.0** | **0.0** | **0.0** | **0.0** | **6,200.0** | **0.0** | **0.0** | **832.0** | **5,368.0** | **6,200.0** |
| Project Adjustments/Closures | | | | | | | | | | | | |
| | | **CMAQ Totals** | | **5,000.0** | **0.0** | **0.0** | **6,200.0** | **0.0** | **0.0** | **1,503.0** | **9,697.0** | **11,200.0** |
| | | **Federal** | | **4,329.0** | **0.0** | **0.0** | **5,368.0** | **0.0** | | | | |
| | | **State** | | **671.0** | **0.0** | **0.0** | **832.0** | **0.0** | | | | |
| | | **Ending Balance (Federal)** | | **2,903.0** | **4,293.3** | **5,683.5** | **1,705.8** | **3,096.0** | | | | |

Funding projections are based on best available information and are subject to change given current funding uncertainties and unknown impacts of future congressional or other federal actions.

Federal program funding availability may impact the scheduling of projects. Funding will be subject to the obligation limitation set by the annual appropriations process.

CN estimates include CE costs

# Surface Transportation Program Urban (STPU)

## Surface Transportation Program Urban (STPU)

Funding shown in thousands of dollars

| Project / Sponsor | Description | Phase | Pre-2020 | 2020 | 2021 | 2022 | 2023 | 2024 | Funding Source: Local | Funding Source: State 13.42% | Funding Source: Federal 86.58% | Total Project Costs |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| *Carryover* | | | | 20,037.6 | 5,069.8 | 7,770.5 | 10,260.3 | 10,337.7 | | | | |
| *Estimated Allocation (STPU)* | | | | 2,489.8 | 2,489.8 | 2,489.8 | 2,489.8 | 2,489.8 | | | | |
| **Billings Bypass** *UPN4199002* | Construction of Five Mile Road | IC | 141.0 | 15.8 | | | | | | 21.0 | 135.7 | 156.8 |
| **(Five Mile Road)** | | CN | | 6,077.6 | -211.0 | | | | | 787.3 | 5,079.3 | 5,866.6 |
| *MDT* | | **Total** | **141.0** | **6,093.4** | **-211.0** | **0.0** | **0.0** | **0.0** | | **808.3** | **5,215.0** | **6,023.4** |
| **Billings Bypass** *UPN4199003* **(Yellowstone River Bridge)** | Construction of a new bridge over the Yellowstone River | CN | | 11,364.2 | | | | | | 1,525.1 | 9,839.1 | 11,364.2 |
| *MDT* | | **Total** | **0.0** | **11,364.2** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **1,525.1** | **9,839.1** | **11,364.2** |
| **Billings Bypass** *UPN4199007* **(Johnson Lane Interchange)** | Reconstruction of existing Interchange | CN | | | | | 2,412.4 | | | 323.7 | 2,088.7 | 2,412.4 |
| *MDT* | | **Total** | **0.0** | **0.0** | **0.0** | **0.0** | **2,412.4** | **0.0** | **0.0** | **323.7** | **2,088.7** | **2,412.4** |
| **Adjustment/Closures** | | | | | | | | | | | | |
| | | **STPU Totals** | | **17,457.6** | **-211.0** | **0.0** | **2,412.4** | **0.0** | **0.0** | **2,657.2** | **17,142.8** | **19,800.0** |
| | | **Federal** | | **15,114.8** | **-182.7** | **0.0** | **2,088.7** | **0.0** | | | | |
| | | **State** | | **2,342.8** | **-28.3** | **0.0** | **323.7** | **0.0** | | | | |
| | | **Balance** | | **5,069.8** | **7,770.5** | **10,260.3** | **10,337.7** | **12,827.4** | | | | |

Funding projections are based on best available information and are subject to change given current funding uncertainties and unknown impacts of future congressional or other federal actions.
Federal program funding availability may impact the scheduling of projects. Funding will be subject to the obligation limitation set by the annual appropriations process.
CN estimates include CE costs

# Interstate Maintenance (IM)

## Interstate Maintenance (IM)*

Funding shown in thousands of dollars

| Project / Sponsor | Description | Phase | Pre-2020 | 2020 | 2021 | 2022 | 2023 | 2024 | Funding Source: Local | Funding Source: State 8.76% | Funding Source: Federal 91.24% | Total Project Costs |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **MDT-PREVENTATIVE MAINTENANCE - IM** | Maintenance | All | | 1,500.0 | 1,500.0 | 1,500.0 | 1,500.0 | 1,500.0 | | 657.0 | 6,843.0 | 7,500.0 |
| *MDT* | | **Total** | | **1,500.0** | **1,500.0** | **1,500.0** | **1,500.0** | **1,500.0** | **0.0** | **657.0** | **6,843.0** | **7,500.0** |
| **Billings Bypass - Johnson Lane Intch** | Reconstruction of existing | CN | | | | | 15,661.7 | | | 1,372.0 | 14,289.7 | 15,661.7 |
| UPN 4199-007 | Interchange | | | | | | | | | 0.0 | 0.0 | 0.0 |
| *MDT* | I-90 RP | **Total** | **0.0** | **0.0** | **0.0** | **0.0** | **15,661.7** | **0.0** | **0.0** | **1,372.0** | **14,289.7** | **15,661.7** |
| **I-90 Yellowstone River Bridges** | Bridge Replacement | PE | 6,287.8 | 161.8 | 172.2 | | | | | 580.1 | 6,041.8 | 6,621.8 |
| UPN 7972 | | RW | | 240.0 | | | | | | 21.0 | 219.0 | 240.0 |
| | | IC | | | 319.4 | | | | | 28.0 | 291.5 | 319.4 |
| | | CN | | | 4,384.0 | | | | | 384.0 | 4,000.0 | 4,384.0 |
| *MDT* | I-90 RP 450.09 to 452.73 | **Total** | **6,287.8** | **401.8** | **4,875.7** | **0.0** | **0.0** | **0.0** | **0.0** | **1,013.1** | **10,552.2** | **11,565.3** |
| **Mossmain Intch - West Blgs Intch** | Pavement Preservation | PE | 496.4 | 171.5 | 101.3 | | | | | 67.4 | 701.7 | 769.1 |
| UPN 9198 | Not all locations inside MPO boundary | CN | | | | 17,882.3 | | | | 1,566.5 | 16,315.8 | 17,882.3 |
| *MDT* | I-90 RP 437.12 to 446.7 | **Total** | **496.4** | **171.5** | **101.3** | **17,882.3** | **0.0** | **0.0** | **0.0** | **1,633.9** | **17,017.5** | **18,651.4** |
| **Lockwood Interchange - Billings** | Capital Construction | PE | | | 3,331.2 | | | | | 291.8 | 3,039.4 | 3,331.2 |
| UPN 9978 | Improvements to Lockwood Interchange | RW | | | | | 768.7 | | | 67.3 | 701.4 | 768.7 |
| | | IC | | | | | 768.7 | | | 67.3 | 701.4 | 768.7 |
| | CN outside of TIP timeframe | CN | | | | | | | | 0.0 | 0.0 | 0.0 |
| *MDT* | I-90 RP 450 to RP 453.5 | **Total** | **0.0** | **0.0** | **3,331.2** | **0.0** | **1,537.5** | **0.0** | **0.0** | **426.5** | **4,442.2** | **4,868.7** |
| **IM TOTAL** | | | **6,784.2** | **2,073.3** | **9,808.2** | **19,382.3** | **18,699.2** | **1,500.0** | **0.0** | **5,102.4** | **53,144.7** | **58,247.1** |

*Funding projections are based on best available information and are subject to change given current funding uncertainties and unknown impacts of future congressional or other federal actions.*
*Federal program funding availability may impact the scheduling of projects. Funding will be subject to the obligation limitation set by the annual appropriations process.*
*IM is a state sub-allocated program funded by the federal National Highway Performance Program.
CN estimates include CE costs

# National Highway (NH)*

## National Highway (NH)*

Funding shown in thousands of dollars

| Project / Sponsor | Description | Phase | Pre-2020 | 2020 | 2021 | 2022 | 2023 | 2024 | Funding Source: Local | Funding Source: State 13.42% | Funding Source: Federal 86.58% | Total Project Costs |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **MDT-PREVENTATIVE MAINTENANCE - NH** | Maintenance | All | | 1,000.0 | 1,000.0 | 1,000.0 | 1,000.0 | 1,000.0 | | 671.0 | 4,329.0 | 5,000.0 |
| *MDT* | | **Total** | | **1,000.0** | **1,000.0** | **1,000.0** | **1,000.0** | **1,000.0** | | **671.0** | **4,329.0** | **5,000.0** |
| **Billings Bypass** | New construction | PE | 2,734.3 | 2,444.7 | | | | | | 695.0 | 4,484.0 | 5,179.1 |
| UPN 4199-000 | | RW | | | 3,550.0 | 6,550.0 | | | | 1,355.4 | 8,744.6 | 10,100.0 |
| | | IC | | | 3,019.0 | | | | | 405.1 | 2,613.8 | 3,019.0 |
| *MDT* | | **Total** | **2,734.3** | **2,444.7** | **6,569.0** | **6,550.0** | **0.0** | **0.0** | **0.0** | **2,455.6** | **15,842.5** | **18,298.1** |
| **Billings Bypass - Yellowstone River Bridge** | New construction of bridge | IC | | 416.2 | | | | | | 55.9 | 360.4 | 416.2 |
| UPN 4199-003 | over the Yellowstone River | CN | | 15,009.8 | 2,110.7 | | | | | 2,297.6 | 14,822.9 | 17,120.5 |
| *MDT* | | **Total** | **0.0** | **15,426.0** | **2,110.7** | **0.0** | **0.0** | **0.0** | **0.0** | **2,353.4** | **15,183.3** | **17,536.7** |
| **Billings Bypass - Five Mile Rd to US 87** | Construction of connection | CN | | | | | | 18,741.7 | | 2,515.1 | 16,226.6 | 18,741.7 |
| UPN 4199-004 | from Five Mile to US 87 | | | | | | | | | | | |
| *MDT* | | **Total** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **18,741.7** | **0.0** | **2,515.1** | **16,226.6** | **18,741.7** |
| **Billings Bypass - RR O'pass** | New construction of | CN | | | | 21,778.4 | | | | 2,922.7 | 18,855.7 | 21,778.4 |
| UPN 4199-005 | RR O'pass | | | | | | | | | 0.0 | 0.0 | 0.0 |
| | | | | | | | | | | 0.0 | 0.0 | 0.0 |
| *MDT* | | **Total** | **0.0** | **0.0** | **0.0** | **21,778.4** | **0.0** | **0.0** | **0.0** | **2,922.7** | **18,855.7** | **21,778.4** |
| **Billings Bypass - Johnson Ln. Intch - RR O'pass** | New construction of connection | CN | | | | | | 8,397.6 | | 1,127.0 | 7,270.6 | 8,397.6 |
| UPN 4199-006 | from Interchange to bridge | | | | | | | | | 0.0 | 0.0 | 0.0 |
| | | | | | | | | | | 0.0 | 0.0 | 0.0 |
| *MDT* | | **Total** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **8,397.6** | **0.0** | **1,127.0** | **7,270.6** | **8,397.6** |
| **Billings Bypass - Johnson Lane Intch** | Reconstruction of existing | CN | | | | | 3,800.0 | | | 510.0 | 3,290.0 | 3,800.0 |
| UPN 4199-007 | Interchange | | | | | | | | | 0.0 | 0.0 | 0.0 |
| | RP 455.5 | **Total** | **0.0** | **0.0** | **0.0** | **0.0** | **3,800.0** | **0.0** | **0.0** | **510.0** | **3,290.0** | **3,800.0** |
| **Exposition Dr. & 1st Ave. N. Blgs** | Interesction Improvements | PE | 1,192.3 | | | | | | | 160.0 | 1,032.3 | 1,192.3 |
| UPN 7908 | | | | | | | | | | 0.0 | 0.0 | 0.0 |
| | | CN | | | | | | 2,085.0 | | 279.8 | 1,805.2 | 2,085.0 |
| *MDT* | RP .35 to 1.35 | **Total** | **1,192.3** | **0.0** | **0.0** | **0.0** | **0.0** | **2,085.0** | **0.0** | **439.8** | **2,837.4** | **3,277.2** |
| **27th St - 1st Ave S to Airport** | Mill and overlay | PE | 2,132.5 | | | | | | | 286.2 | 1,846.3 | 2,132.5 |
| UPN 7910 | | RW | 772.6 | | | | | | | 103.7 | 668.9 | 772.6 |
| | | IC | 179.8 | | 22.2 | | | | | 27.1 | 174.8 | 201.9 |
| | | CN | 10,698.0 | 539.8 | 495.2 | | | | 321.8 | 1,574.6 | 10,158.4 | 12,054.8 |
| *MDT* | RP 0.0 to 3.0 | **Total** | **13,782.8** | **539.8** | **517.4** | **0.0** | **0.0** | **0.0** | **321.8** | **1,991.5** | **12,848.5** | **15,161.9** |
| **Underpass Ave. Improvements** | Intersection Improvements | | | | | | | | | 0.0 | 0.0 | 0.0 |
| UPN 8669 | | CN | | | | 6,255.8 | | | | 839.5 | 5,416.3 | 6,255.8 |
| *MDT* | RP .51 to .72 | **Total** | **0.0** | **0.0** | **0.0** | **6,255.8** | **0.0** | **0.0** | **0.0** | **839.5** | **5,416.3** | **6,255.8** |
| **Main Street - Billings** | Pavement Preservation | PE | 668.2 | 130.0 | -17.0 | | | | | 104.8 | 676.4 | 781.2 |
| UPN 8717 | with micro-surfacing | RW | 180.0 | | | | | | | 24.2 | 155.8 | 180.0 |
| | | IC | 77.3 | 38.5 | | | | | | 15.5 | 100.2 | 115.8 |
| | | CN | | 8,469.7 | | | | | | 1,136.6 | 7,333.1 | 8,469.7 |
| *MDT* | RP 1.08 to 4.66 | **Total** | **925.5** | **8,638.2** | **-17.0** | **0.0** | **0.0** | **0.0** | **0.0** | **1,281.2** | **8,265.5** | **9,546.7** |
| **Airport Rd. & Main St. - Blgs** | Intersection Improvements | OT | 295.6 | | | | | | | 39.7 | 255.9 | 295.6 |
| UPN 8718 | | PE | 2,229.8 | | | | | | | 299.2 | 1,930.6 | 2,229.8 |
| | | RW | | | | | 61.2 | | | 8.2 | 53.0 | 61.2 |
| | | IC | | | | | 153.1 | | | 20.5 | 132.5 | 153.1 |
| | | CN | | | | | | 7,514.6 | | 1,008.5 | 6,506.1 | 7,514.6 |
| *MDT* | RP 1.5 to 2.2 | **Total** | **2,525.4** | **0.0** | **0.0** | **0.0** | **214.3** | **7,514.6** | **0.0** | **1,376.1** | **8,878.2** | **10,254.3** |
| **1st Ave. N - N 9th to RR Xing** | Reconstruction of roadway | PE | 1,746.7 | | 1,483.3 | | | | | 433.5 | 2,796.5 | 3,230.0 |
| UPN 9022 | Major Rehab | RW | | | 59.8 | | | | | 8.0 | 51.8 | 59.8 |
| | | IC | | | 59.8 | | | | | 8.0 | 51.8 | 59.8 |
| | | CN | | | | | | 10,795.5 | | 1,448.8 | 9,346.7 | 10,795.5 |
| *MDT* | N-115 RP 0.7 - RP .93 | **Total** | **1,746.7** | **0.0** | **1,603.0** | **0.0** | **0.0** | **10,795.5** | **0.0** | **1,898.3** | **12,246.8** | **14,145.1** |
| **Zoo Drive Improvements** | Intersection Improvements | PE | 128.2 | | | | | | | 17.2 | 111.0 | 128.2 |
| UPN 9597 | I-90 RP 442.9 to 444.3 | CN | | | | | | 2,766.1 | | 371.2 | 2,394.9 | 2,766.1 |
| *MDT* | U-1011 RP 2.36 to 3.04 | **Total** | **128.2** | **0.0** | **0.0** | **0.0** | **0.0** | **2,766.1** | **0.0** | **388.4** | **2,505.8** | **2,894.3** |
| **1st Ave. N - RR Xing to Broadway** | Reconstruction of roadway | PE | | 500.0 | | | | | | 67.1 | 432.9 | 500.0 |
| UPN 9880 | Major Rehab | RW | | | | 12.6 | | | | 1.7 | 10.9 | 12.6 |
| | | IC | | | | 12.6 | | | | 1.7 | 10.9 | 12.6 |
| CN outside of TIP Timeframe 2025 | | CN | | | | | | | | 0.0 | 0.0 | 0.0 |
| *MDT* | N-115 RP 0.93 - RP 1.45 | **Total** | **0.0** | **500.0** | **0.0** | **25.2** | **0.0** | **0.0** | **0.0** | **70.5** | **454.7** | **525.2** |
| **1st Ave. N - Broadway to Division** | Reconstruction of roadway | PE | | 500.0 | | | | | | 67.1 | 432.9 | 500.0 |
| UPN 9881 | Major Rehab | RW | | | | | 12.6 | | | 1.7 | 10.9 | 12.6 |
| | | IC | | | | | 12.6 | | | 1.7 | 10.9 | 12.6 |
| CN outside of TIP Timeframe 2026 | | CN | | | | | | | | 0.0 | 0.0 | 0.0 |
| *MDT* | N-115 RP 1.45 to RP 2.05 | **Total** | **0.0** | **500.0** | **0.0** | **0.0** | **25.2** | **0.0** | **0.0** | **70.5** | **454.7** | **525.2** |
| **Montana Ave Crosswalks - BLGS** | Sidewalk Improvements | PE | | 128.2 | | | | | | 17.2 | 111.0 | 128.2 |
| UPN 9998 | ADA compliance | RW | | | | | 25.6 | | | 3.4 | 22.2 | 25.6 |
| | | IC | | | | | 51.3 | | | 6.9 | 44.4 | 51.3 |
| CN outside of TIP Timeframe 2025 | | CN | | | | | | | | 0.0 | 0.0 | 0.0 |
| *MDT* | N-113 RP .17 to RP 4.25 | **Total** | **0.0** | **128.2** | **0.0** | **0.0** | **76.9** | **0.0** | **0.0** | **27.5** | **177.6** | **205.2** |
| **NH TOTAL** | | | **23,035.2** | **29,177.0** | **11,783.0** | **35,609.4** | **5,116.4** | **51,300.4** | **321.8** | **20,938.1** | **135,083.3** | **156,343.2** |

*Funding projections are based on best available information and are subject to change given current funding uncertainties and unknown impacts of future congressional or other federal actions.*

*Federal program funding availability may impact the scheduling of projects. Funding will be subject to the obligation limitation set by the annual appropriations process.*

*NH is a state sub-allocated program funded by the federal National Highway Performance Program.

CN estimates include CE costs

# National Highway Freight Program (NHFP)*

## National Highway Freight Program (NHFP)*

Funding shown in thousands of dollars

| Project Sponsor | Description | Phase | | | | | | | Funding Source | | | Total Project Costs |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | Local | State | Federal | |
| | | | Pre-2020 | 2020 | 2021 | 2022 | 2023 | 2024 | | 13.42% | 86.58% | |
| **Billings Bypass** **UPN4199007** (Johnson Lane Interchange) | Reconstruction of existing Interchange | CN | | | | | 15,130.5 | | | 2,030.5 | 13,100.0 | 15,130.5 |
| | | | | | | | | | | 0.0 | 0.0 | 0.0 |
| | | | | | | | | | | 0.0 | 0.0 | 0.0 |
| | | | | | | | | | | 0.0 | 0.0 | 0.0 |
| *MDT* | | **Total** | **0.0** | **0.0** | **0.0** | **0.0** | **15,130.5** | **0.0** | **0.0** | **2,030.5** | **13,100.0** | **15,130.5** |
| **I-90 Yellowstone River Bridges** UPN 7972 | Reconstruction of interstate bridges | CN | | | 17,325.0 | | | | | 2,325.0 | 15,000.0 | 17,325.0 |
| | | | | | | | | | | 0.0 | 0.0 | 0.0 |
| | | | | | | | | | | 0.0 | 0.0 | 0.0 |
| | | | | | | | | | | 0.0 | 0.0 | 0.0 |
| *MDT* | I-90 RP 450.09 to 452.73 | **Total** | **0.0** | **0.0** | **17,325.0** | **0.0** | **0.0** | **0.0** | **0.0** | **2,325.0** | **15,000.0** | **17,325.0** |
| **NHFP TOTAL** | | | **0.0** | **0.0** | **17,325.0** | **0.0** | **15,130.5** | **0.0** | **0.0** | **4,355.5** | **28,100.0** | **32,455.5** |

*Funding projections are based on best available information and are subject to change given current funding uncertainties and unknown impacts of future congressional or other federal actions.*

*Federal program funding availability may impact the scheduling of projects. Funding will be subject to the obligation limitation set by the annual appropriations process.*

*NHFP is funded by the federal National Highway Performance Program.

CN estimates include CE costs

# Surface Transportation Program Off System (STPX), Secondary (STPS), State Funded Construction, (SFCN)

## Surface Transportation Program Off System (STPX), Secondary (STPS) State Funded Construction (SFCN)

Funding shown in thousands of dollars

| Project | Description | Phase | | | | | | | Funding Source | | | Total Project Costs |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | Local | State | Federal | |
| Sponsor | | | Pre-2020 | 2020 | 2021 | 2022 | 2023 | 2024 | | 13.42% | 86.58% | |
| **27th Street RR Crossing** | Railroad crossing study | OT | 1,075.0 | | | | | | | 144.3 | 930.7 | 1,075.0 |
| UPN 9354 | | RW | | | | | | | | 0.0 | 0.0 | 0.0 |
| *MDT* | RP 1 to 1.6 | **Total** | **1,075.0** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **144.3** | **930.7** | **1,075.0** |
| **SF 169 Rimrock & 62nd St. W** | Intersection Improvement | OT | 563.8 | -64.8 | | | | | | 67.0 | 432.0 | 499.0 |
| UPN 9383 | Study | | | | | | | | | 0.0 | 0.0 | 0.0 |
| *MDT* | RP 2.4 to 2.8 | **Total** | **563.8** | **-64.8** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **67.0** | **432.0** | **499.0** |
| **Lockwood Interchange** | Interchange Improvement | OT | 300.0 | 1,146.8 | | | | | | 194.2 | 1,252.6 | 1,446.8 |
| UPN 9588 | Study | | | | | | | | | | | |
| *MDT* | RP 450 to 455.3 | **Total** | **300.0** | **1,146.8** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **194.2** | **1,252.6** | **1,446.8** |
| **Jct Main &87 to Worden** | Roadway Epoxy Striping | OT | | | 15.5 | | | | | 2.1 | 13.4 | 15.5 |
| UPN | | | | | | | | | | 0.0 | 0.0 | 0.0 |
| *MDT* | RP 0 to 2.453 | **Total** | **0.0** | **0.0** | **15.5** | **0.0** | **0.0** | **0.0** | **0.0** | **2.1** | **13.4** | **15.5** |
| **TOTALS** | | | **1,938.8** | **1,082.0** | **15.5** | **0.0** | **0.0** | **0.0** | **0.0** | **407.5** | **2,628.8** | **3,036.3** |

CN estimates include CE costs

# Surface Transportation Program Primary (STPP)

## Surface Transportation Program Primary (STPP)

Funding shown in thousands of dollars

| Project | Description | Phase | | | | | | | Funding Source | | | Total Project Costs |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | Local | State | Federal | |
| Sponsor | | | Pre-2020 | 2020 | 2021 | 2022 | 2023 | 2024 | 13.42% | 13.42% | 86.58% | |
| No New Projects | | Total | | | | | | | | | | |
| STPP TOTALS | | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

CN estimates include CE costs

# Railroad Crossing (RRS)

## Railroad Crossing (RRS)

Funding shown in thousands of dollars

| Project / Sponsor | Description | Phase | Pre-2020 | 2020 | 2021 | 2022 | 2023 | 2024 | Funding Source: Local | Funding Source: State 10.00% | Funding Source: Federal 90.00% | Total Project Costs |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **RRXING - STEFFES RD - BILLINGS** | Upgrade Rail grade crossing signals | PE | | 9.0 | -7.9 | | | | | 0.1 | 1.0 | 1.1 |
| UPN 9827 | | CN | | 216.5 | | | | | | 21.7 | 194.9 | 216.5 |
| *MDT* | L-56-1059 RP 0.03 | **Total** | | **225.5** | **-7.9** | | | | | **21.8** | **195.8** | **217.6** |
| **TOTALS** | | | **0.0** | **225.5** | **-7.9** | **0.0** | **0.0** | **0.0** | **0.0** | **21.8** | **195.8** | **217.6** |

CN estimates include CE costs

# Highway Safety Improvement Program (HSIP)

## Highway Safety Improvement Program (HSIP)

Funding is shown in thousands of dollars

| Project / Sponsor | Description | Phase | Pre-2020 | 2020 | 2021 | 2022 | 2023 | 2024 | Funding Source: Local | Funding Source: State 10.00% | Funding Source: Federal 90.00% | Total Project Costs |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **SAFETY PROJECTS** | Various Locations | ALL | | 500.0 | 500.0 | 500.0 | 500.0 | 500.0 | | 250.0 | 2,250.0 | 2,500.0 |
| *MDT* | | **Total** | | **500.0** | **500.0** | **500.0** | **500.0** | **500.0** | **0.0** | **250.0** | **2,250.0** | **2,500.0** |
| **SF 129 - Rndabout King 56th** | Intersection Improvements - | PE | 887.3 | 61.7 | 43.5 | | | | | 99.2 | 893.2 | 992.5 |
| UPN 8052 | Roundabout | RW | 975.0 | | 555.0 | | | | | 153.0 | 1,377.0 | 1,530.0 |
| | | IC | 278.3 | | | | | | | 27.8 | 250.4 | 278.3 |
| | ST SEC RTE 532 | CN | 0.0 | | 4,200.0 | | | | | 420.0 | 3,780.0 | 4,200.0 |
| *MDT* | RP 15.4 to 15.7 | **Total** | **2,140.5** | **61.7** | **4,798.5** | **0.0** | **0.0** | **0.0** | **0.0** | **700.1** | **6,300.7** | **7,000.7** |
| **SF 139-CENTRAL & 56TH RNDABOUT** | Intersection Improvements - | PE | 723.9 | 69.9 | 62.7 | | | | | 85.7 | 770.9 | 856.5 |
| UPN 8611 | Roundabout | RW | 230.0 | 670.0 | | | | | | 90.0 | 810.0 | 900.0 |
| | | IC | 0.0 | | 127.0 | | | | | 12.7 | 114.3 | 127.0 |
| | L-56-504 | CN | 0.0 | | | 2,991.2 | | | | 299.1 | 2,692.1 | 2,991.2 |
| *MDT* | RP 1.7 TO RP 2.3 | **Total** | **953.9** | **739.9** | **189.7** | **2,991.2** | **0.0** | **0.0** | **0.0** | **487.5** | **4,387.2** | **4,874.7** |
| **SF-149 HILLCREST RT TURN** | Install Right Turn Lane | PE | 176.3 | -51.0 | | | | | | 12.5 | 112.7 | 125.3 |
| UPN 8904 | | RW | 60.0 | -35.4 | | | | | | 2.5 | 22.1 | 24.6 |
| | | IC | 60.7 | 78.8 | | | | | | 14.0 | 125.6 | 139.6 |
| | | CN | 0.0 | | 432.1 | | | | | 43.2 | 388.9 | 432.1 |
| *MDT* | U1033 RP .9-1.3 | **Total** | **297.0** | **-7.6** | **432.1** | **0.0** | **0.0** | **0.0** | **0.0** | **72.1** | **649.3** | **721.4** |
| **SF 169 RIMROCK & 62ND ST W** | Intersection Improvements - | PE | 0.0 | 750.0 | 158.9 | | | | | 90.9 | 818.0 | 908.9 |
| UPN 9383 | Roundabout | RW | 0.0 | | 125.0 | | | | | 12.5 | 112.5 | 125.0 |
| | | IC | 0.0 | | 750.0 | | | | | 75.0 | 675.0 | 750.0 |
| | | CN | 0.0 | | | 6,679.4 | | | | 667.9 | 6,011.5 | 6,679.4 |
| *MDT* | U1034 RP 2.4-2.8 | **Total** | **0.0** | **750.0** | **1,033.9** | **6,679.4** | **0.0** | **0.0** | **0.0** | **846.3** | **7,617.0** | **8,463.4** |
| **SF 169 FRNTG RD WISE LN INTX** | Intersection warning system | PE | 15.8 | 17.7 | | | | | | 3.3 | 30.1 | 33.5 |
| UPN 9384 | | CN | 0.0 | | 225.0 | | | | | 22.5 | 202.5 | 225.0 |
| *MDT* | RP 3.5 | **Total** | **15.8** | **17.7** | **225.0** | **0.0** | **0.0** | **0.0** | **0.0** | **25.9** | **232.7** | **258.5** |
| **SF 169 BLGS AREA SFTY IMPRV** | Installation of lighting and panel | PE | 21.3 | 2.8 | | | | | | 2.4 | 21.7 | 24.1 |
| UPN 9420 | delineation | CN | 111.1 | 4.5 | | | | | | 11.6 | 104.1 | 115.6 |
| *MDT* | I-90 RP 445.6-447.3 | **Total** | **132.4** | **7.3** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **14.0** | **125.8** | **139.7** |
| **SF 169 I90 W KING AVE LIGHTING** | Installation of lighting and panel | PE | 44.8 | | 13.9 | | | | | 5.9 | 52.8 | 58.7 |
| UPN 9421 | delineation | CN | 0.0 | | 695.8 | | | | | 69.6 | 626.2 | 695.8 |
| *MDT* | I-90 RP 445.6-447.3 | **Total** | **44.8** | **0.0** | **709.6** | **0.0** | **0.0** | **0.0** | **0.0** | **75.4** | **679.0** | **754.4** |
| **SF 169 I90 SF 169 BLGS DISTRIC SFTY IM** | Installation of signage and panel | PE | 13.0 | | | | | | | 1.3 | 11.7 | 13.0 |
| UPN 9423 | delination | CN | 124.3 | 2.1 | | | | | | 12.6 | 113.7 | 126.4 |
| *MDT* | Various Locations | **Total** | **137.3** | **2.1** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **13.9** | **125.4** | **139.4** |
| **ZOO DRIVE IMPROVEMENTS - BLGS** | Safety Improvements for Traffic Opera | PE | 0.0 | | | | | | | 0.0 | 0.0 | 0.0 |
| UPN 9597 | | CN | 0.0 | | | | | 638.8 | | 63.9 | 574.9 | 638.8 |
| *MDT* | Various Locations | **Total** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **638.8** | **0.0** | **63.9** | **574.9** | **638.8** |
| **HSIP Totals** | | | **3,721.8** | **2,071.1** | **7,888.8** | **10,170.6** | **500.0** | **1,138.8** | **0.0** | **2,549.1** | **22,942.0** | **25,491.1** |

CN estimates include CE costs

# Bridge Program

## Bridge Program

Funding shown in thousands of dollars

| Project / Sponsor | Description | Phase | Pre-2020 | 2020 | 2021 | 2022 | 2023 | 2024 | Funding Source: Local | Funding Source: State 13.42% | Funding Source: Federal 86.58% | Total Project Costs |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **BBP-YELLOWSTONE RIVER** | Bridge rehabs | | | | | | | | | 0.0 | 0.0 | 0.0 |
| UPN 4199-003 | | CN | | 5,000.0 | | | | | | 671.0 | 4,329.0 | 5,000.0 |
| *MDT* | Statewide | **Total** | **0.0** | **5,000.0** | **0.0** | **0.0** | **0.0** | **0.0** | | **671.0** | **4,329.0** | **5,000.0** |
| **2012 SCOUR MITIGATION** | Bridge rehabs | PE | 111.9 | | -2.7 | | | | | 14.7 | 94.6 | 109.3 |
| UPN 7960 | | RW | 560.0 | 142.0 | 71.0 | | | | | 103.7 | 669.3 | 773.0 |
| One project in MPO | Using 20% for costs | CN | | 432.8 | 250.9 | | | | | 91.8 | 592.0 | 683.7 |
| *MDT* | Statewide | **Total** | **671.9** | **574.8** | **319.2** | **0.0** | **0.0** | **0.0** | | **210.2** | **1,355.8** | **1,566.0** |
| **I-90 Yellowstone River** | | PE | 6,287.8 | 161.8 | 172.2 | | | | | 888.7 | 5,733.2 | 6,621.8 |
| UPN 7972 | | CN | | | 63,354.4 | | | | | 8,502.2 | 54,852.2 | 63,354.4 |
| *MDT* | RP 2.7 to 3.0 | **Total** | **6,287.8** | **161.8** | **63,526.6** | **0.0** | **0.0** | **0.0** | | **9,390.8** | **60,585.4** | **69,976.2** |
| **SHILOH RD / I-90 BRIDGE - BLGS** | Bridge rehab | PE | 309.9 | | | | | | | 41.6 | 268.3 | 309.9 |
| UPN 9720 | | IC | | | 12.4 | | | | | 1.7 | 10.7 | 12.4 |
| | | CN | | | | 2,810.8 | | | | 377.2 | 2,433.6 | 2,810.8 |
| *MDT* | U-1031 RO 5.0 to 5.3 | **Total** | **309.9** | **0.0** | **12.4** | **2,810.8** | **0.0** | **0.0** | | **420.5** | **2,712.6** | **3,133.1** |
| **MONTANA AVE OVERPASS- BILLINGS** | Bridge rehab | PE | | 253.1 | | | | | | 34.0 | 219.1 | 253.1 |
| UPN 9913 | | RW | | | | 38.0 | | | | 5.1 | 32.9 | 38.0 |
| | | IC | | | | 38.0 | | | | 5.1 | 32.9 | 38.0 |
| | | CN | | | | | 1,809.8 | | | 242.9 | 1,566.9 | 1,809.8 |
| *MDT* | N113 RP1.82 TO 1.92 | **Total** | **0.0** | **253.1** | **0.0** | **75.9** | **1,809.8** | **0.0** | | **287.0** | **1,851.8** | **2,138.8** |
| **MONTANA AVE STRUCTURES - BLGS** | Bridge Study | OT | | 750.0 | | | | | | 100.7 | 649.4 | 750.0 |
| UPN 9914 | | | | | | | | | | 0.0 | 0.0 | 0.0 |
| *MDT* | N113 RP1.82 TO 1.92 | **Total** | **0.0** | **750.0** | **0.0** | **0.0** | **0.0** | **0.0** | | **100.7** | **649.4** | **750.0** |
| **BR TOTAL** | | | **7,269.6** | **6,739.8** | **63,858.2** | **2,886.7** | **1,809.8** | **0.0** | **0.0** | **11,080.1** | **71,484.0** | **82,564.1** |

CN estimates include CE costs

# Urban Pavement Preservation (UPP)

## Urban Pavement Preservation (UPP)

Funding shown in thousands of dollars

| Project / Sponsor | Description | Phase | Program Schedule | | | | | | Funding Source | | | Total Project Costs |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Pre-2020 | 2020 | 2021 | 2022 | 2023 | 2024 | Local | State 13.42% | Federal 86.58% | |
| **URBAN PAVEMENT PRESERVATION** | | ALL | | 500.0 | 500.0 | 500.0 | 500.0 | 500.0 | | 335.5 | 2,164.5 | 2,500.0 |
| *MDT* | Various Locations | **Total** | | **500.0** | **500.0** | **500.0** | **500.0** | **500.0** | **0.0** | **335.5** | **2,164.5** | **2,500.0** |
| **SHILOH ROAD - BILLINGS** | Pavement Preservation | PE | 45.4 | -30.2 | | | | | | 2.0 | 13.2 | 15.2 |
| UPN 9502 | | CN | | 53.4 | | | | | | 7.2 | 46.2 | 53.4 |
| *MDT* | U-1031 RP 4.4-5.4 | **Total** | **45.4** | **23.2** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **9.2** | **59.4** | **68.6** |
| **KING AVE E - BILLINGS** | Pavement Preservation | PE | 26.0 | -12.7 | | | | | | 1.8 | 11.5 | 13.3 |
| UPN 9505 | | CN | | 42.4 | | | | | | 5.7 | 36.7 | 42.4 |
| *MDT* | U-1026 RP 1.7-2.2 | **Total** | **26.0** | **29.7** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **7.5** | **48.2** | **55.7** |
| **HARDIN ROAD - BILLINGS** | Pavement Preservation | PE | 26.0 | -10.5 | | | | | | 2.1 | 13.4 | 15.5 |
| UPN 9506 | | CN | | 180.6 | | | | | | 24.2 | 156.4 | 180.6 |
| *MDT* | U-1028 RP 0-2.1 | **Total** | **26.0** | **170.1** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **26.3** | **169.8** | **196.1** |
| **GRAND-24TH TO ZIMMERMAN (BLGS)** | Pavement Preservation | PE | 77.9 | | 6.5 | | | | | 11.3 | 73.0 | 84.3 |
| UPN 9509 | | CN | | | 1,126.3 | | | | | 151.1 | 975.1 | 1,126.3 |
| *MDT* | U-1004 RP .8- RP2 | **Total** | **77.9** | **0.0** | **1,132.7** | **0.0** | **0.0** | **0.0** | **0.0** | **162.5** | **1,048.1** | **1,210.6** |
| **UPP TOTAL** | | | **175.2** | **723.0** | **1,632.7** | **500.0** | **500.0** | **500.0** | **0.0** | **540.9** | **3,489.9** | **4,030.9** |

CN estimates include CE costs

# Montana Air and Congestion Initiative (MACI)-Discretionary Program

## Montana Air and Congestion Initiative (MACI)-DISCRETIONARY PROGRAM

Funding shown in thousands of dollars

| Project / Sponsor | Description | Phase | Pre-2020 | 2020 | 2021 | 2022 | 2023 | 2024 | Funding Source: Local 13.42% | Funding Source: State 13.42% | Funding Source: Federal 86.58% | Total Project Costs |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **ADA COMPLIANCE** | | All | | 500.0 | 500.0 | 500.0 | 500.0 | 500.0 | | 335.5 | 2,164.5 | 2,500.0 |
| *MDT* | ADA upgrades | **Total** | | **500.0** | **500.0** | **500.0** | **500.0** | **500.0** | | **335.5** | **2,164.5** | **2,500.0** |
| **TRAFFIC MITIGATION** | | All | | 250.0 | 250.0 | 250.0 | 250.0 | 250.0 | | 167.8 | 1,082.3 | 1,250.0 |
| *MDT* | Signalization | **Total** | | **250.0** | **250.0** | **250.0** | **250.0** | **250.0** | | **167.8** | **1,082.3** | **1,250.0** |
| **27th St - 1st Ave S to Airport** | Mill and overlay | | | | | | | | | | | |
| UPN 7910 | | CN | 5,500.0 | 197.1 | 22.4 | | | | | 767.6 | 4,951.9 | 5,719.5 |
| *MDT* | HWAY RT 53/MT3 RP1.1 TO 3.0 | **Total** | **5,500.0** | **197.1** | **22.4** | **0.0** | **0.0** | **0.0** | **0.0** | **767.6** | **4,951.9** | **5,719.5** |
| **Underpass Ave. Improvements** | Intersection Improvements | PE | 1,167.6 | | | | | | | 156.7 | 1,010.9 | 1,167.6 |
| | | IC/RW | | 110.0 | 188.3 | | | | | 40.0 | 258.3 | 298.3 |
| UPN 8669 | | CN | | | | 955.4 | | | | 128.2 | 827.2 | 955.4 |
| *MDT* | RP .51 to .72 | **Total** | **1,167.6** | **110.0** | **188.3** | **955.4** | **0.0** | **0.0** | **0.0** | **324.9** | **2,096.3** | **2,421.3** |
| **Main Street - Billings** | Pavement Preservation | | | | | | | | | | | |
| UPN 8717 | with micro-surfacing | CN | | 1,000.0 | | | | | | 134.2 | 865.8 | 1,000.0 |
| *MDT* | RP 1.08 to 4.66 | **Total** | **0.0** | **1,000.0** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **134.2** | **865.8** | **1,000.0** |
| **Mossmain Intch-West Blgs Inch** | Pavement Preservation | | | | | | | | | | | |
| UPN 9198 | Not all locations inside MPO boundary | CN | | | | 443.5 | | | | 59.5 | 384.0 | 443.5 |
| *MDT* | I-90 RP 437.12 to 446.7 | **Total** | **0.0** | **0.0** | **0.0** | **443.5** | **0.0** | **443.5** | **0.0** | **59.5** | **384.0** | **443.5** |
| **LAUREL ROAD SIGNALS - BILLINGS** | INT UPGRADE/SIGNALS | PE | 51.2 | 82.4 | | | | | | 17.9 | 115.6 | 133.6 |
| *UPN 9568* | | IC | | | | 6.5 | | | | 0.9 | 5.6 | 6.5 |
| *Route N-113* | RP .6 and 1.3 | CN | | | | 983.1 | | | | 131.9 | 851.1 | 983.1 |
| *MDT* | Various Locations | **Total** | **51.2** | **82.4** | **0.0** | **989.6** | **0.0** | **0.0** | **0.0** | **150.7** | **972.4** | **1,123.1** |
| | | **Total** | **6,718.8** | **2,139.5** | **960.7** | **3,138.4** | **750.0** | **1,193.5** | **0.0** | **1,940.2** | **12,517.2** | **14,457.4** |

CN estimates include CE costs

# Transportation Alternatives

## Transportation Alternatives

Funding shown in thousands of dollars

| Project<br>Sponsor | Description | Phase | Pre-2020 | 2020 | 2021 | 2022 | 2023 | 2024 | Funding Source<br>Local<br>13.42% | <br>State<br>13.42% | <br>Federal<br>86.58% | Total Project Costs |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Transportation Alternatives** | | | | | | | | | 0.0 | 0.0 | 0.0 | 0.0 |
| | | All | | 300.0 | 300.0 | 300.0 | 300.0 | 300.0 | 0.0 | 201.3 | 1,298.7 | 1,500.0 |
| *MDT/Locals* | **Various Locations** | **Total** | **0.0** | **300.0** | **300.0** | **300.0** | **300.0** | **300.0** | **0.0** | **201.3** | **1,298.7** | **1,500.0** |
| **BECRAFT LANE SIDEWALK-LOCKWOOD** | Install sidewalks | PE | 238.7 | -0.6 | | | | | 31.9 | | 206.1 | 238.0 |
| UPN 9158 | | CN | 897.6 | 81.4 | | | | | 131.4 | | 847.6 | 979.0 |
| *MDT/Locals* | **Various Locations** | **Total** | **1,136.3** | **80.7** | **0.0** | **0.0** | **0.0** | **0.0** | **163.3** | **0.0** | **1,053.7** | **1,217.0** |
| **TA TOTALS** | | | **1,136.3** | **380.7** | **300.0** | **300.0** | **300.0** | **300.0** | **163.3** | **201.3** | **2,352.4** | **2,717.0** |
| **Federal** | | | **983.8** | **329.6** | **259.7** | **259.7** | **259.7** | **259.7** | | | | |
| **Local** | | | **152.5** | **51.1** | **40.3** | **40.3** | **40.3** | **40.3** | | | | |

Funding dependent on the outcome of a competitive process and funding availability.

CN estimates include CE costs

# Earmarks

## EARMARKS

Funding shown in thousands of dollars

| Project<br>Sponsor | Description | Phase | Pre-2020 | 2020 | 2021 | 2022 | 2023 | 2024 | Funding Source<br>Local<br>13.42% | <br>State<br>13.42% | <br>Federal<br>86.58% | Total Project |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Billings Bypass UPN4199000** | Environmental Impact Statement | PE | 17,332.9 | | | | | | | 2,326.1 | 15,006.8 | 17,332.9 |
| | Preliminary Engineering<br>Right of Way Acquisition | RW | 7,847.0 | | | | | | | 1,053.1 | 6,793.9 | 7,847.0 |
| *MDT* | | **Total** | **25,179.9** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **3,379.1** | **21,800.8** | **25,179.9** |
| **GRAND-24TH TO ZIMMERMAN (BLGS)** | Pavement Preservation | | | | | | | | | | | |
| UPN 9509 | | CN | 84.4 | | | | | | | 11.3 | 73.1 | 84.4 |
| *MDT* | U-1004 RP .8- RP2 | **Total** | **84.4** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **11.3** | **73.1** | **84.4** |
| | | **Total** | **25,264.3** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **3,390.5** | **21,873.8** | **25,264.3** |

CN estimates include CE costs

# Better Utilizing Investments to Leverage Development (BUILD) Grant Program

## Better Utilizing Investments to Leverage Development (BUILD) Grant Program

Funding shown in thousands of dollars

| Project / Sponsor | Description | Phase | 2020 | 2021 | 2022 | 2023 | 2024 | Funding Source: City | County | State | Federal | Total Estimated Obligation FY2020-2024 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Inner Belt Loop** | New Construction of Roadway | | | | 7,310.2 | 7,310.2 | | 7,000.0 | | | 7,620.4 | |
| UPN | | | | | | | | | | | | |
| *MDT* | | **Total** | **0.0** | **0.0** | **7,310.2** | **7,310.2** | **0.0** | **7,000.0** | **0.0** | **0.0** | **7,620.4** | **14,620.4** |
| **Skyline Trail** | Construction of Multi Use Path | | | | 2,060.7 | 2,060.7 | | 85.0 | | | 4,036.4 | |
| UPN | | | | | | | | | | | | |
| | | **Total** | **0.0** | **0.0** | **2,060.7** | **2,060.7** | **0.0** | **85.0** | **0.0** | **0.0** | **4,036.4** | **4,121.4** |
| **BUILD TOTAL** | | | **0.0** | **0.0** | **9,370.9** | **9,370.9** | **0.0** | **7,085.0** | **0.0** | **0.0** | **11,656.8** | **18,741.8** |

*CN estimates include CE costs*

# Federal Transit Administration Section 5307 CARES Act*

## Federal Transit Administration Section 5307 CARES Act*

Funding shown in thousands of dollars

| Project<br>Sponsor | Description | Phase | 2020 | 2021 | 2022 | 2023 | 2024 | Funding Source<br>Local<br>0% | <br>Federal<br>100% | Total Estimated Obligation FY2020-2024 |
|---|---|---|---|---|---|---|---|---|---|---|
| *Carryover* | | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | | | |
| *Allocation* | | | 2,842.6 | 0.0 | 0.0 | 0.0 | 0.0 | | | |
| **Bus Purchases** | Purchase six (6) | | | | | | | | | 0.0 |
| *MET Transit* | replacement ADA | | | | | | | 0.0 | 0.0 | 0.0 |
| | Heavy Duty Buses | | | | | | | 0.0 | 0.0 | 0.0 |
| | | **Total** | **2,249.8** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **2,249.8** | **2,249.8** |
| **Facility Improvement** | Training Lot Construction | | | | | | | | | |
| *MET Tranist* | | | | | | | | | | |
| | | **Total** | **500.0** | | | | | **0.0** | **500.0** | **500.0** |
| **Bus Technology** | Electronic Fare System | | | | | | | 0.0 | 0.0 | 0.0 |
| *MET Transit* | | | | | | | | 0.0 | 0.0 | 0.0 |
| | | **Total** | **92.8** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **92.8** | **92.8** |
| **SECTION 5307 CARES TOTALS*** | | | **2,842.6** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **2,842.6** | **2,842.6** |
| **Federal** | | | **2,842.6** | **0.0** | **0.0** | **0.0** | **0.0** | | | |
| **Local** | | | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | | | |
| **Ending Balance (Federal)** | | | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | | | |

*FTA administered CARES ACT funds are subject to the section 5307 regulations regarding eligible projects and expenses. These projects are 100% federal funds with no requirement for local match. Only funds utilized for capital projects that involve a substantial change to the function, location, or capacity of the system are required to be reflected in this plan.

# Federal Transit Administration Section 5307*

## Federal Transit Administration Section 5307*

Funding shown in thousands of dollars

| Project<br>Sponsor | Description | Phase | 2020 | 2021 | 2022 | 2023 | 2024 | Funding Source<br>Local<br>20% | <br>State | <br>Federal<br>80% | Total Estimated Obligation FY2020-2024 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| *Carryover* | | | 0.0 | 0.0 | 1,237.8 | 0.0 | 0.0 | | | | |
| *5311 Transfer from State(Fed Share)* | | | | 1,237.8 | | | | | | | |
| *Allocation (Estimated)(Fed Share)* | | | 1,891.4 | 1,910.3 | 1,929.3 | 1,948.7 | 1,968.2 | | | | |
| **Bus & Passenger Amenities** | Recurring | | | | | | | | | | 0.0 |
| Automated Passenger Counter System | Purch. | | | | | | | 0.0 | | 0.0 | 0.0 |
| Upgrade Equipment on Cutaways | | | | | | | | 0.0 | | 0.0 | 0.0 |
| Bus Stop Signage | | | | | | | | 0.0 | | 0.0 | 0.0 |
| *Met Transit* | | **Total** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | | **0.0** | **0.0** |
| **Transit Operations*** ** | | | | | | | | | | | |
| *Met Transit* | | **Total** | **3,782.7** | **3,820.5** | 5,096.6 | **3,897.3** | **3,936.3** | **10,266.7** | | **10,266.7** | **20,533.4** |
| **Purchase buses** | Recurring | | | | | | | 0.0 | | 0.0 | 0.0 |
| | Purch. | | | | | | | 0.0 | | 0.0 | 0.0 |
| Expansion Cutaway | | | | | | | | 0.0 | | 0.0 | 0.0 |
| Replacement Buses | | | | | | | | 0.0 | | 0.0 | 0.0 |
| *Met Transit* | | **Total** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | | **0.0** | **0.0** |
| **SECTION 5307 TOTALS*** | | | **3,782.7** | **3,820.5** | **5,096.6** | **3,897.3** | **3,936.3** | **10,266.7** | **0.0** | **10,266.7** | **20,533.4** |
| **Federal** | | | **1,891.4** | **1,910.3** | **2,548.3** | **1,948.7** | **1,968.2** | | | | |
| **Local** | | | **1,891.4** | **1,910.3** | **2,548.3** | **1,948.7** | **1,968.2** | | | | |
| **Ending Balance (Federal)** | | | **0.0** | **1,237.8** | **0.0** | **0.0** | **0.0** | | | | |

*FTA administered funds are not subject to indirect cost recovery. 5307 funds may be supplemented by Small Transit Intensive Cities (STIC) funds based on transit system performance for the urbanized area (MET).

***Total local funding reflects an overmatch on federal share. Operations Match ratio is 50/50.

CARES Act is 100% federally funded

# Federal Transit Administration Section 5339

## Federal Transit Administration Section 5339

Funding shown in thousands of dollars

| Project<br>Sponsor | Description | Phase | 2020 | 2021 | 2022 | 2023 | 2024 | Funding Source<br>Local<br>20% | <br>State | <br>Federal<br>80% | Total Estimated Obligation FY2020-2024 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| *Carryover* | | | 3,418.3 | 120.8 | 0.0 | 0.0 | 0.0 | | | | |
| *Allocation (Estimated)* | | | 514.0 | 420.0 | 420.0 | 420.0 | 420.0 | | | | |
| **Bus Purchases** | Replacement | | | | | | | 0.0 | | 0.0 | 0.0 |
| *Met Transit* | 85/15 for ada | | **4,124.8** | **0.0** | **0.0** | **0.0** | **0.0** | **618.7** | | **3,506.1** | **4,124.8** |
| **Automated Passenger Counter** | Upgrade | | | | | | | | | | |
| *Met Transit* | | | **71.4** | **0.0** | **0.0** | **0.0** | **0.0** | **14.3** | | **57.1** | **71.4** |
| **Bus and Bus Technology** | Upgrade | | | | | | | | | | |
| *Met Transit* | | | **282.7** | **0.0** | **0.0** | **0.0** | **0.0** | **56.5** | | **226.1** | **282.7** |
| **Bus Facilities Security System** | Upgrade | | | | | | | | | | |
| *Met Transit* | | | **27.8** | **0.0** | **0.0** | **0.0** | **0.0** | **5.6** | | **22.2** | **27.8** |
| **Bus, Facilities, and Technology** | Upgrade facilities, replace | | | | | | | | | | |
| *Met Transit* | **buses, add technology** | | **0.0** | **676.0** | **525.0** | **525.0** | **525.0** | **450.2** | | **1,800.8** | **2,251.0** |
| | | **Total** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | | **0.0** | **0.0** |
| **SECTION 5339 TOTALS** | | | **4,506.6** | **676.0** | **525.0** | **525.0** | **525.0** | **1,145.3** | **0.0** | **5,612.3** | **6,757.6** |
| **Federal** | | | **3,811.5** | **540.8** | **420.0** | **420.0** | **420.0** | | | | |
| **Local** | | | **695.1** | **135.2** | **105.0** | **105.0** | **105.0** | | | | |
| **Balance** | | | **120.8** | **0.0** | **0.0** | **0.0** | **0.0** | | | | |

# Federal Transit Administration Section 5310

## Federal Transit Administration Section 5310

Funding shown in thousands of dollars

| Project Sponsor | Description | Phase | 2020 | 2021 | 2022 | 2023 | 2024 | Funding Source Local 15/20% | State | Federal 85/80% | Total Estimated Obligation FY2020-2024 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| *Carryover* | | | 22.0 | 47.3 | 102.8 | 102.9 | 102.9 | | | | |
| *Allocation (Estimated)* | | | 160.0 | 160.0 | 160.0 | 160.0 | 160.0 | | | | |
| **Paratransit Vehicles** | Purchase vehicles (ADA and Cutaway) for MET | Purch. | | | | | | 0.0 | | 0.0 | 0.0 |
| | and other Coordination members as applicable | Purch. | | | | | | 0.0 | | 0.0 | 0.0 |
| *Met Transit and Coordination Group* | | | 158.4 | 85.5 | **170.9** | **170.9** | **170.9** | **0.0** | | **0.0** | **0.0** |
| **Traditional and Non-Trad** | Projects to support identified community needs | Purch. | | | | | | 0.0 | | 0.0 | 0.0 |
| **Projects** | but may be also be used for vehicles | Purch. | | | | | | 0.0 | | 0.0 | 0.0 |
| | | Purch. | | | | | | 0.0 | | 0.0 | 0.0 |
| | | Purch. | | | | | | 0.0 | | 0.0 | 0.0 |
| *Coodination Members* | | | **0.0** | **0.0** | **18.4** | **18.4** | **18.5** | **0.0** | | **0.0** | **0.0** |
| | | Purch. | | | | | | 0.0 | | 0.0 | 0.0 |
| | | Purch. | | | | | | 0.0 | | 0.0 | 0.0 |
| | | Purch. | | | | | | 0.0 | | 0.0 | 0.0 |
| | | Purch. | | | | | | 0.0 | | 0.0 | 0.0 |
| AWARE | Mini van w/ ramp | Purch. | 0.0 | 39.8 | **0.0** | **0.0** | **0.0** | **0.0** | | **0.0** | **0.0** |
| **SECTION 5310 TOTALS** | | | **158.4** | **125.3** | **189.3** | **189.3** | **189.4** | **0.0** | | **0.0** | **0.0** |
| **Federal** | | | **134.6** | **104.5** | **160.0** | **160.0** | **160.1** | | | | |
| **Local** | | | **23.8** | **20.8** | **29.3** | **29.3** | **29.3** | | | | |
| **Balance** | | | **47.3** | **102.8** | **102.9** | **102.9** | **102.8** | | | | |

NOTE: Indirect costs will be recovered on van/bus purchases.
Funding dependent on the outcome of a competitive process and funding availability.

# TRANSADE (STATE FUNDED)

## TRANSADE(STATE FUNDED)

Funding shown in thousands of dollars

| Project<br><br>Sponsor | Description | Phase | 2020 | 2021 | 2022 | 2023 | 2024 | State Funded<br>100% | Total Estimated Obligation<br>FY2020-2024 |
|---|---|---|---|---|---|---|---|---|---|
| *Carryover* | | | 0.0 | 9.5 | 24.8 | 40.0 | 55.3 | | |
| *Allocation (Estimated)* | | | 109.5 | 115.3 | 115.3 | 115.3 | 115.3 | **570.6** | **570.6** |
| **Transit Operations** | Operating | | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | **500.0** | |
| *Met Transit* | | | **100.0** | **100.0** | **100.0** | **100.0** | **100.0** | **500.0** | **500.0** |
| **STATE TOTALS** | | | **9.5** | **24.8** | **40.0** | **55.3** | **70.6** | **500.0** | **500.0** |

# Public Comment

The MPO will post the draft Transportation Improvement Program (TIP) to the Transportation Resource page of the City of Billings Website. Link to the page is: https://www.ci.billings.mt.us/2336/Transportation-Resources . MPO additionally will post agendas for the Boards, Council and Commission that review and act on the Transportation Improvement Program here: https://www.ci.billings.mt.us/117/Agendas-Minutes . The MPO published a Public Hearing Notice in the Yellowstone County News on May 8 and May 22, 2020 noting that public comment will be received on the Transportation Improvement Plan at the Yellowstone County Planning Board Meeting scheduled for Wednesday, May 27, 2020.

Below is a list of the Public Meetings that allow for public review and comment on the Transportation Improvement Program. Each meeting notes the number of public attending and comments received from any public:

| | |
|---|---|
| Technical Advisory Committee: | Thursday, October 14, 2021<br>Attendance at Meeting: TAC Members, Planning Staff<br>Public Comment period |
| YC Planning Board: | Tuesday, November 9, 2021<br>Attendance at Meeting: Planning Board members, Planning Staff<br>Public Comment period |
| Billings City Council: | Monday, October 25, 2021<br>Attendance at Meeting: City Council Members, Staff<br>Public Comment period |
| YC Board of Commissioners: | Monday, October 19, 2021<br>Attendance at Meeting: Commissioners, Staff<br>Public Comment period |
| Policy Coordinating Committee: | Tuesday, November 16, 2021<br>Attendance at Meeting: PCC Members, Staff, MDT Planning; Public Comment period |

# Public Participation Plan City of Billings MET Transit

The purpose of the City of Billings MET Transit Public Participation Plan is to ensure and improve access to MET's decision-making process for all members of the public including low-income, minority, and other disadvantaged populations. MET endeavors to provide opportunities for the public to assist and provide input on transit projects in regards to social, environmental, and economic impacts to the area's population.

The Public Participation Plan identifies methods for informing and involving the public in the decision making process, including minority and limited-English proficiency (LEP) populations. Methods of informing the public include, but are not limited to, printed material, partner and community outreach, press releases, paid advertising, transit advertising, and the MET website and social media platforms. Methods of involving the public include, but are not limited to, public meetings, public hearings, surveys, Aviation and Transit Commission meetings, public comment cards, and multiple feedback options.

To download a copy of MET's updated (10/2019) Public Participation Plan, insert the link below in your browser

https://ci.billings.mt.us/DocumentCenter/View/39212/MET-Transit-Public-Participation-Plan-FINAL-10_2019

# Certification

The Billings Metropolitan Planning Organization for the Billings, Montana, urbanized area hereby certifies that the transportation planning process is addressing the major issues in the metropolitan planning area and is being conducted in accordance with all applicable requirements of:

I. 49 USC. Section 5303 and 23 USC. 134 and CFR 450.334;
II. Title VI of the Civil Rights Act of 1964, as amended (42 USC. 2000d-1) and 49 CFR, Part 21;
III. Section 1101(b) of the MAP-21 (Pub. L. 112-141) regarding the involvement of disadvantaged business enterprises in the FHWA and the FTA funded projects (49 CFR part 26);
IV. The provision of the Americans With Disabilities Act of 1990 (42 USC. 12101 *et esq.*,) and the U. S. DOT implementing regulation (49 CFR Parts 27, 37 and 38);
V. The provision of 49 CFR part 20 regarding restrictions on influencing certain activities;
VI. Sections 174 and 176(c) and (d) of the Clear Air Act as amended (42 USC. 7504, 7506(c) and (d));
VII. 49 USC. 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex or age in employment or business opportunity;
VIII. 23 CFR, Part 230, regarding the implementation of an equal employment opportunity on Federal and Federal-aid highway construction contracts;
IX. The Older Americans Act as amended (42 USC. 6101), prohibiting discrimination on the basis of age in program or projects receiving Federal financial assistance;
X. Section 324 of Title 23 USC. regarding the prohibition of discrimination based on gender; and
XI. Section 504 of the Rehabilitation Act of 1973 (29 USC. 794) and 49 CFR, Part 27 regarding discrimination against individuals with disabilities.

Billings, Montana
Metropolitan Planning Organization

_____

Woody Woods, Planning Board President /Date

City Council Regular

| | |
|---|---|
| Date: | 10/25/2021 |
| Title: | Reallocate EBURD TIF Funds for Project Green Light CPTED Program |
| Presented by: | Wyeth Friday |
| Department: | Planning & Community Services |
| Presentation: | No |

## RECOMMENDATION

The Billings Industrial Revitalization District Board (BIRD) board of directors recommends City Council reallocate $23,526.53 from the existing East Billings Urban Renewal District (EBURD) Legacy Tree program budget to a new EBURD Crime Prevention Through Environmental Design (CPTED) matching grant program budget line.

## BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

This new program is in response to recent criminal activity in the EBURD area that is affecting property owners, existing businesses, and future business investment. It also supports the EBURD Urban Renewal Plan goal of addressing crime prevention and public safety through a cooperative security or business watch program. The new Project Green Light program that the EBURD has been pursuing in conjunction with the Billings Police Department meets the objectives of this EBURD goal. Project Green Light is a neighborhood watch-related program that will use existing security infrastructure to curb the occurrences of crime related to property damage, theft, and graffiti in the district. City Council at its October 4 Work Session heard an overview of this program and directed staff to place this item on a future regular Council meeting consent agenda for action.

This proposed EBURD CPTED program is designed to be similar to the Downtown Urban Renewal District's CPTED Incentive Grant Program approved by the City Council November 2019. Both rely on a CPTED evaluation to be completed on property by someone certified in the CPTED evaluation process. Both programs provide a match to private investment in safety elements that are identified through the CPTED evaluation. The amount to be allocated from the Legacy Tree Program to this new program is $23,526.53. These urban renewal funds will be used for up to $1,000 matching grants to property/business owners in the EBURD. The grants will be provided to match investments in CPTED eligible expenses, including exterior lighting and/or security camera and video system hardware upgrades and signage.

The existing Legacy Tree program for EBURD was approved by the City Council on September 24, 2018 with a total budget of $40,000. Four landscaping projects have utilized the program and expended $16,473.47 to provide trees for existing or redeveloped commercial properties. The current remaining balance of $23,526.53 would be allocated to the new CPTED program. However, landscaping and tree planting is still a critical element of EBURD revitalization and redevelopment efforts and is a goal of the EBURD Master Plan. The BIRD Board and the City intend to continue to encourage increased tree planting and added green space in EBURD, and will look to bring back the goals of the Legacy Tree program as funding in the District allows in the near future.

## STAKEHOLDERS

Through a small working committee, the BIRD Board has identified this CPTED approach as one way to engage with the existing capacity of the Billings Police Department to curb crime in the district. The BIRD Board and EBURD staff has spoken with property owners, business owners, Billings Police Department and different members of the community in developing this strategy.

## ALTERNATIVES

City Council may:

- Reallocate funds from the existing EBURD Legacy Tree program to a new EBURD Crime Prevention Through Environmental Design (CPTED) matching grant program; or
- Not reallocate funds from the existing EBURD Legacy Tree program to a new EBURD Crime Prevention Through Environmental Design (CPTED) matching grant program. If the Council does not wish to move forward with the new program at this time, the EBURD will look for other strategies to combat crime and continue to support the Legacy Tree program in the district.

## FISCAL EFFECTS

The $23,526.53 in funds that would be affected by this action currently exists as part of the East Billings Urban

Renewal District TIF budget. There is no request to increase funding in the budget, but instead to reallocate the remaining Legacy Tree Program budget to this new Project Green Light CPTED Grant Program.

City Council Regular

| | |
|---|---|
| **Date:** | 10/25/2021 |
| **Title:** | Sale of Airport Land to NorthWestern Energy |
| **Presented by:** | Kevin Ploehn, Director of Aviation and Transit |
| **Department:** | Airport |
| **Presentation:** | No |

## RECOMMENDATION

Staff recommends the City Council approve the sale of the 14.7 acres of Airport land to NorthWestern Energy (NWE) for use as a substation location for the price of $223,000, authorizing the Mayor to sign an Agreement to Buy and Sell the property and to execute all final closing documents at a future date. Sale is contingent on approval from the Federal Aviation Administration (FAA) releasing the land for disposal, as well as releasing the associated Grant Assurances that run with the land.

## BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

The Airport's property extends about a third of the way down Airport Road toward the Billings Heights on the south side of the roadway and abuts the existing NWE Rimrock Substation. The Airport's property was purchased with FAA funding assistance to provide runway approach protection. NWE has contacted the Airport about purchasing approximately 14.7 acres on the very east end of this area to rebuild and expand the Rimrock Substation to accommodate a new planned 230 kV power feed coming into the Billings area. Additionally, NWE needs to replace the existing 60-year-old substation, which will stabilize and expand the electrical power needs for the Billings area well into the future. In discussions with the FAA, it was determined that the FAA would consider releasing the land for disposal because the construction of a substation on this property would still meet the intent of protecting the approach to the Airport, mainly because it is almost always unoccupied.

After numerous discussions between staff, NWE, and City Council, NWE has agreed to include the following items in a Post-Closing Agreement, which is attached as part of the Agreement to Buy and Sell:

- Provide a 10 foot high, textured, and colored wall around the substation area with the color and texture to be approved by the City.
- Provide a 5 foot berm on the highway side of the substation.
- Work with City on acceptable landscaping on the east and north perimeter wall areas.
- Deed to the City, 2.2 acres from COS 190, which is located directly south of the existing Rimrock Substation.
- When the substation construction is complete, pave and stripe a portion of the deeded 2.2 acres for a parking area, to include 20 stalls and a new paved approach to Black Otter Trail.
- Provide a zero dollar Right of First Refusal to re-acquire the land should NWE no longer need it.
- Provide a Perpetual Air Rights Easement over the area.

City Council approval to enter into the Agreement to Buy and Sell for the Airport parcel is needed to start the Federal actions to begin a National Environmental Policy Act (NEPA) review of the site, followed by a Federal action to release the land for disposal, and a Federal action to release all Airport Improvement Program (AIP) grant assurances that are tied to the land. The Agreement to Buy and Sell this Airport land specifies that this transaction is contingent on the successful completion of all the above Federal action items and the FAA providing the City with the authority to dispose of the land. The Federal action items will likely take a number of months to complete.

## ALTERNATIVES

City Council may:

- Approve the contingent sale and transfer of the Airport land to NWE based on the terms contained in the Agreement to Buy and Sell, the attached Warranty Deed, and Post-Closing Agreement all contingent on the FAA providing a release of the property for disposal and a release of the AIP grant assurances on said parcel; or
- Not approve the sale and transfer of the Airport land to NWE and provide staff and NWE with direction on how to proceed to accomplish the sale, and delay the approval of the land sale to a future date pending the implementation of Council's direction.

## FISCAL EFFECTS

The appraised value and price for the land is $223,000. With the sale of the land, the $223,000 will be provided to the Airport where 90% will be returned to the FAA and the Airport will keep 10% or $22,300. The $200,700 sent to the FAA will go into the Airport's grant account and will be available to use as grant funds for Airport development in the future, most likely the Airport's Terminal Expansion project.

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**Attachments**

Buy Sell Agreement
Exhibit A
Exhibit B
Exhibit C

# AGREEMENT TO BUY AND SELL

THIS AGREEMENT TO BUY AND SELL (Agreement) is made and entered into this ____ day of _____, 20__, by and between CITY OF BILLINGS, MONTANA of 210 North 27th Street Billings, MT 59101 ("Seller"), and NORTHWESTERN CORPORATION a Delaware Corporation, d/b/a NorthWestern Energy of 11 East Park Street, Butte, Montana 59701-1711 ("Buyer") provides as follows:

## Recitals

1. Seller is the owner of certain real property, located in Yellowstone County, Montana, which is described as follows:

   Tract 1B-5, being 14.760 gross acres, more or less, of Amended Tract 1B-2 of Certificate of Survey No. 1434, being vacated Black Otter Park Subdivision situated in the SE4 and SW4 of Section 28, T1N-R26E, P.M.M. in the City of Billings, Yellowstone County, MT as depicted on the official plat on file with the office of the Clerk and Recorder of Yellowstone County, MT under Document No._____ (the "Real Property")

   As further depicted on Exhibit "A" attached hereto and made a part hereof.

2. Seller desires to sell and the Buyer desires to purchase the Property, as defined herein all pursuant to the terms of this Agreement.

## Agreement

Now therefore for good and valuable consideration, the parties agree as follows:

1. Property. The Seller agrees to sell and the Buyer agrees to purchase for the purchase price as stated below, the Property, described as follows:

   a. *Real Property*. The Real Property, together with all interest of Seller in any adjacent, vacated streets and alleys; all easements and other appurtenances thereto.

   b. *Water*. It is expressly agreed that no water rights are being conveyed pursuant to this Agreement and any water rights shall be retained by the Seller. Seller shall prepare, execute and file any necessary documents with the State of Montana to accomplish both the transfer of the water and/or its reservation of the excluded water.

   c. *Mineral Rights*. No interest of the Seller in any minerals, oil, gas or other hydrocarbons, which are appurtenant to the Real Property. Provided, it is expressly agreed that mineral interests previously severed from the fee are not

included with the Real Property being sold pursuant to this Agreement and shall be retained by the Seller and reserved from the Real Property being conveyed.

2. Purchase Price. The total purchase price for the Property is $223,000.00. This purchase price is to be paid by the Buyer to the Seller as follows:

| | |
|---|---|
| Purchase Price | $223,000 |
| Earnest Money to be Paid Upon Entry into this Agreement | $10,000 |
| Balance of the Purchase Price to be Paid in Cash or other Readily Available Funds Upon Closing | $213,000 |

3. Earnest Money. All parties to this transaction agree that the earnest money described above has been paid and will be held by **First Montana Title 2737 Montana Avenue Billings, MT 59101**, in its trust account, pursuant to the terms of this Agreement. The parties agree that if a dispute arises regarding the disposition of the earnest money, unless written instructions are provided to the holder of the earnest, signed by all parties to this Agreement instructing it as to the parties agreed upon disposition of the earnest money, that said holder may hold such funds indefinitely, in its discretion, and/or may initiate an interpleader action, against all parties and deposit such earnest monies with the clerk of the court in which such action is brought, deducting from the earnest money such sums as necessary to compensate it for the costs and attorney's fees incurred in initiating such action.

4. Contingencies. The parties agree that this transaction is subject to the contingencies as follows:

   a. *Due Diligence*. The Buyer's obligation to purchase is contingent upon its review and approval of a professional, independent due diligence investigation of all conditions relating to the Property (including geotech and soil/subsoil testing) which the Buyer desires to have investigated. If the Buyer's review of such inspection discloses any condition that is unacceptable to Buyer, the Buyer shall give written notice of said condition to the Seller, providing a full copy of the inspection report, on or before 30 days from the date of this Agreement. If Buyer fails to provide such notice and copy by such date, then this contingency shall be deemed waived by the Buyer. Seller upon receipt of written notice of unacceptable condition shall have 10 days to advise the Buyer in writing whether it will agree to remedy the noted conditions. If the Seller elects to remedy such conditions the transaction shall proceed to closing, however the Seller shall have an additional 10 days from the specified closing date to affect the remedy, if necessary. If the Seller elects not to remedy such conditions the Buyer's obligation to purchase shall be terminated, and any earnest money paid by Buyer shall be refunded to Buyer. The Buyer shall be responsible for all costs associated with its due diligence investigations. Seller shall, upon reasonable prior notice, permit the Buyer and those involved in its due diligence

investigations reasonable access to the Property. Provided, that such due diligence investigations shall cause no damage to the property, and if it should the Buyer shall indemnify and hold the Seller completely harmless from such damage.

b. *Title Review*. The Buyer's obligation to purchase is contingent upon its review and approval of a preliminary title commitment concerning the property. If the Buyer's review of the preliminary title commitment discloses any condition that is unacceptable to Buyer, not including an interest or easement to be reserved under this Agreement or any encumbrances or liens to be discharged through the closing of the transaction anticipated herein, the Buyer shall give written notice of said condition to the Seller on or before 30 days from the date the Buyer receives the preliminary title commitment. If Buyer fails to provide such notice and copy by such date, then this contingency shall be deemed waived by the Buyer. Seller upon receipt of written notice of unacceptable condition shall have 10 days to advise the Buyer in writing whether it will agree to remedy the noted conditions. If the Seller elects to remedy such conditions the transaction shall proceed to closing, however the Seller shall have an additional 10 days from the specified closing date to affect the remedy, if necessary. If the Seller elects not to remedy such conditions the Buyer's obligation to purchase shall be terminated, and any earnest money paid by Buyer shall be refunded to Buyer.

c. *Survey.* The property shall be transferred by a legal survey. Buyer shall be responsible for such survey expenses. If a legal survey cannot be reasonably obtained, Buyer may terminate this agreement.

d. *Refund of Earnest Money*. If the purchase cannot be consummated due to these or other specified contingencies, the Seller shall refund Buyer's earnest money payment.

e. *Federal Release Action.* The Seller's ability to sell the Real Property is dependent on a Federal Release Action. Said Real Property was purchased by the Seller with Federal Grant proceeds. Subsequently, a Federal Action is required for the land disposal by the Seller as well as a Release of all Airport Improvement Program Grant Assurances that were put in place with the Real Property when the Seller purchased the land with Federal Grant funds. The release action will trigger a National Environmental Policy Act (NEPA) action that will need to be completed prior to any release. Once the above items are completed and the Federal Government provides the Seller with a Federal Release, the Seller can proceed with the sale to Buyer. If the Federal Government will not approve the Federal Release Action, this agreement terminates.

5. Closing Date. The closing date shall be on or before the 31st day of December, 2021, unless the parties agree in writing to extend the closing date. The closing shall take place at **First Montana Title 2737 Montana Avenue Billings, MT 59101** (the

"Closing Agent"). The parties shall deposit with the Closing Agent all monies and executed documents as necessary to complete the transaction as anticipated by this Agreement.

6. Closing Costs. The Buyer shall pay all costs associated with any financing which the Buyer obtains; all costs associated with any inspections obtained by Buyer; for the recording charges for all deeds, water right transfers, or other documents, other than those to be paid by the Seller per this Section; and any commissions or fees charged by any real estate broker or salesperson, attorney, accountant, appraiser or any other professional retained by the Buyer in conjunction with the transaction anticipated herein. Buyer and Seller agree to split the charges of the Closing Agent related to this transaction. Seller shall pay all title insurance premiums and charges, the recording charges associated with the release of any encumbrances or liens to be satisfied by the Seller per the terms of this Agreement and commissions or fees charged by any real estate broker or salesperson, attorney, accountant, appraiser or any other professional retained by the Seller in conjunction with the transaction anticipated herein and any excise taxes on the transaction.

7. Taxes, Assessments (SID/RSID) and Rents. Seller and Buyer agree to prorate taxes, for the current tax year, as well as pre-paid rents, permit fees, water and sewer charges, irrigation assessments, maintenance fees, and any other pre-paid charges concerning the property, as are applicable, as of the date of closing. If the current year taxes are not known, Buyer and Seller agree that the previous year's tax assessment or an estimated amount can be used to base the pro-ration.

8. Conveyance. Seller agrees, upon receiving full payment of the Purchase Price, as anticipated herein, to execute and deliver to Buyer a Warranty Deed ("Deed") to the Property, substantially in the form attached hereto as Exhibit "B". The Deed shall be free of encumbrances, liens and defects except the following:

    a. zoning ordinances, building and use restrictions, reservations in federal patents, easements of record;

    b. other encumbrances, restrictions, and matters of title not objected to by the Buyer, pursuant to the title review contingency; and

    c. interests and/or easements to be reserved as anticipated by this Agreement

9. Title Insurance. Seller shall purchase for the benefit of the Buyer an Owners Title Insurance Policy in an amount equal to the purchase price. Buyer may, at its option and expense, purchase additional coverages and/or a mineral guarantee. Upon entry into this Agreement by both parties, the Seller will order a preliminary commitment for title insurance and will provide same to Buyer, after such commitment is issued.

10. Possession and Risk of Loss. Seller shall deliver possession and occupancy to the Buyer upon the closing date, after all monies are received and documents delivered.

All loss or damage to any of the property, subject of this Agreement, by any cause is assumed by Seller through the time of closing unless otherwise specified.

11. Disclosures

    a. General Disclosure. Seller has informed the Buyer of all latent and patent defects concerning the Property. Buyer acknowledges that it has examined the property which is subject of this Agreement and acknowledges that it enters into this Agreement reliance upon such examination, upon inspections conducted by the professional inspectors of its choice and upon the representations of the Seller. Buyer understands that it is purchasing the Property, subject of this Agreement "AS IS" without any warranty or representation as to its condition, unless expressly stated or referenced in this Agreement.

    b. Agency. The Seller and Buyer understand that Roy Ishkanian is licensed as real estate broker in the State of Montana, an employee of the Buyer and has been serving solely as the Buyer's agent.

    c. Noxious Weeds. Seller hereby notifies the Buyer that noxious weeds exist or may exist on the property that is the subject of this Agreement. Seller further notifies Buyer that it is unlawful for any person to permit any noxious weed to propagate or go to seed on the person's land, except that any person who adheres to the noxious weed management program of the person's weed management district or who has entered into and is in compliance with a noxious weed management agreement is considered to be in compliance with the law.

    d. Water Right Ownership Update Disclosure. By Montana law, failure of the parties at closing or transfer of real property to pay the required fee to the Montana Department of Natural Resources and Conservation for updating water right ownership may result in the transferee of the property being subject to a penalty. Additionally, in the case of water rights being exempted, severed, or divided, the failure of the parties to comply with section 85-2-424, MCA, could result in a penalty against the transferee and rejection of the deed for recording.

12. Entire Agreement and Modifications. This Agreement supersedes all prior agreements, contracts and understandings between the parties. It may not be modified or terminated orally. No modification, termination or attempted waiver shall be valid unless in writing signed by the party against whom the same is sought to be enforced.

13. Post-Closing Agreement. Following the execution of this Agreement and prior to closing, the parties shall enter into a post-closing agreement substantially in the form attached hereto as Exhibit "C".

14. Time. Time is of the essence in this Agreement and all clauses herein. Provided, that in the event an act is required to occur upon a Saturday, Sunday or Legal Holiday that said act may be performed on the next business day.

15. Assignment. This Agreement is binding upon the parties, their respective heirs, successors, and assigns.

16. Remedies.

    a. Buyer's Remedies. If the Seller refuses or neglects to consummate the transaction within the time period provided in this Agreement, the Buyer may demand immediate repayment of all monies that Buyer has paid as earnest money, and upon the return of such money the rights and duties of parties under this Agreement shall be terminated; or demand that Seller specifically perform Seller's obligations under this Agreement, or demand monetary damages from Seller for Seller's failure to perform the terms of this Agreement.

    b. Seller's Remedies. If the Buyer refuses or neglects to consummate the transaction within the time period provided in this Agreement, the Sellers may declare the earnest money paid by Buyer be forfeited; or demand that Buyer specifically perform Buyer's obligations under this Agreement, or demand that Buyer pay monetary damages for Buyer's failure to perform the terms of this Agreement.

17. Controlling Law and Venue. This Agreement shall be interpreted under the laws of the State of Montana. In the event of any dispute, the parties agree that the proper jurisdiction and venue for any actions arising shall be in the District Court for Yellowstone County, Montana.

18. Interpretation. This Agreement has been reviewed by both parties, each of whom has had the opportunity to consult with independent counsel regarding it and has done so to the extent that such party desired. No stricter construction or interpretation of the terms hereof shall be applied against either party as the drafter hereof.

19. Attorney's Fees. In the event either party finds it necessary to employ counsel in order to enforce, rescind or interpret any term or provision of this Agreement, including any proceeding in bankruptcy, before any officer or judge of the U.S. Bankruptcy Court or any proceeding pertaining thereto, the prevailing party shall be entitled to recover from the other party in addition to costs and disbursements allowed by law, the prevailing party's reasonable attorneys fees. Attorneys fees shall include any attorneys services rendered prior to the institution of litigation or proceedings in bankruptcy and include all matters pertaining to litigation, or proceedings in bankruptcy as may be necessarily incurred in such proceedings and shall include an estimate of the attorneys' fees to be incurred by the prevailing party following any initial decision or judgment entered in connection with that matter.

20. Facsimile and Counterparts. The parties agree that a facsimile copy, which contains the parties' respective signatures, shall be considered an original. Further, this Agreement may be executed in counterparts, each of which when taken together shall constitute a fully executed Agreement.

| | |
|---|---|
| CITY OF BILLINGS, MONTANA<br><br>By:_____<br><br>Print:_____<br><br>Its: _____ | NORTHWESTERN CORPORATION, a Delaware corporation, d/b/a NorthWestern Energy<br><br>By:_____<br><br>Print:_____<br><br>Its: _____ |

AMENDED TRACT 1B–2

# CERTIFICATE OF SURVEY No. 1434

# EXHIBIT A

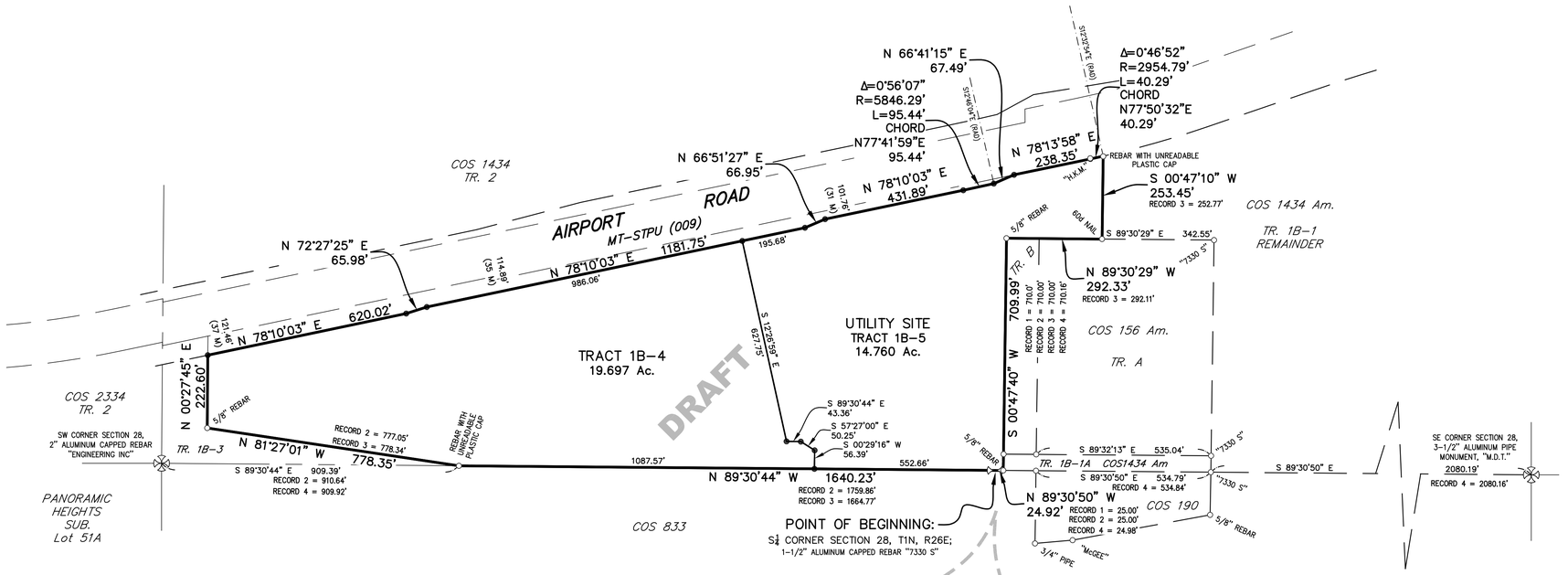
BEING VACATED BLACK OTTER PARK SUBDIVISION
SITUATED IN THE SE1/4 AND THE SW1/4 OF SECTION 28, T. 1 N., R. 26 E., P.M.M.
IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

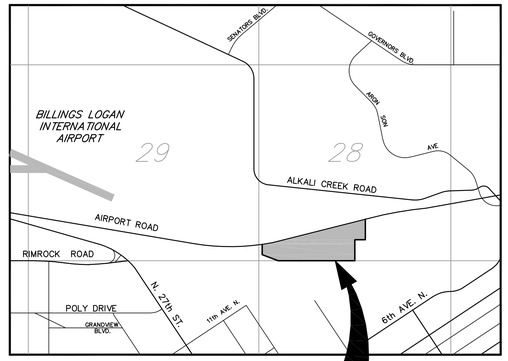
PREPARED FOR : NORTHWESTERN ENERGY

APRIL, 2021

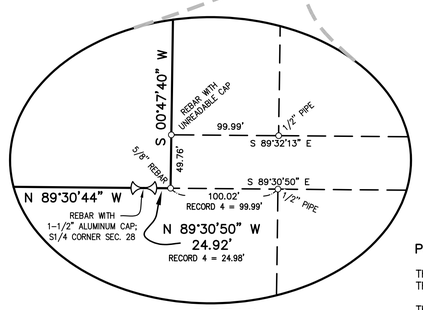
PREPARED BY : SANDERSON STEWART

BILLINGS, MONTANA




VICINITY MAP
NOT TO SCALE




DETAIL
NOT TO SCALE

THE BASIS OF BEARINGS FOR THIS SURVEY HAS BEEN DERIVED FROM GPS OBSERVATIONS AND IS BASED ON A NAD 83, LAMBERT CONFORMAL CONIC, SINGLE PARALLEL, LOW DISTORTION PROJECTION FOR THE CITY OF BILLINGS; HAVING A POINT OF ORIGIN AT 45°47'00"N LATITUDE AND 108°25'00"W LONGITUDE WITH A SCALE FACTOR OF 1.0001515.

THE CONVERGENCE ANGLE AT THE POINT OF BEGINNING IS –0°03'28".

DISTANCES ARE INTERNATIONAL FEET.
THE GRID TO GROUND COMBINED SCALE FACTOR IS 0.9999933993;
FOR THIS SURVEY, GRID DISTANCE IS ESSENTIALLY EQUAL TO GROUND DISTANCE.

- ○ FOUND SURVEY MONUMENT, REBAR WITH CAP MARKED AS SHOWN OR OTHER MONUMENT AS NOTED
- ● SET 5/8" X 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "SANDERSON STEWART"

RECORD 1: CERTIFICATE OF SURVEY No 156 & 156 AM.

RECORD 2: AMENDMENT OF TRACT 1B, CERTIFICATE OF SURVEY No 1434.

RECORD 3: PLAT OF BLACK OTTER PARK SUBDIVISION. (VACATED 6/14/89, Bk 1336, Pg 1889)

RECORD 4: AMENDMENT OF TRACT 1B–1, CERTIFICATE OF SURVEY No 1434.

## CERTIFICATE OF SURVEYOR

STATE OF MONTANA )
: ss
County of Yellowstone )

The undersigned, a Montana Registered Land Surveyor, being first duly sworn, deposes and says that during the month of December 2019, a survey was performed under his supervision of a tract of land situated in the SE1/4 and the SW1/4 of Section 28, T. 1 N., R. 26 E., P.M.M., in the City of Billings, Yellowstone County, Montana, said tract being more particularly described as follows, to wit:

Beginning at a point which is the south one–quarter corner of Section 28, T. 1 N, R. 26 E., P.M.M.;
thence from said point of beginning N 89°30'44" W a distance of 1640.23 feet;
thence N 81°27.01" W a distance of 778.35 feet;
thence N 00°27'45" E a distance of 222.60 feet to a point on the south right–of–way line of Airport Road;
thence along said south right–of–way line the following courses and distances:
N 78°10'03" E a distance of 620.02 feet,
N 72°27'25" E a distance of 65.98 feet,
N 78°10'03" E a distance of 1181.75 feet,
N 66°51'27" E a distance of 66.95 feet,
N 78°10'03" E a distance of 431.89 feet,
along a curve to the left with a radius of 5846.29 feet a distance of 95.44 feet (chord bearing N 77°41'59" E, chord length 95.44 feet),
N 66°41'15" E a distance of 67.49 feet,
N 78°13'58" E a distance of 238.35 feet and
along a curve to the left with a radius of 2954.79 feet a distance of 40.29 feet (chord bearing 77°50'32" E, chord length 40.29 feet) to the northwest corner of Tract 1B–1 Remainder, Amended Certificate of Survey No. 1434;
thence along the west line of said Tract 1B–1 Remainder, S 00°47'10" W a distance of 253.46 feet to a point on the north line of Tract A, Amended Certificate of Survey No. 156;
thence along the north line of Tracts A and B in said Amended Certificate of Survey No. 156, N 89°30'29" W a distance of 292.38 feet to the northwest corner of said Amended Certificate of Survey No. 156;
thence along the west line of said Amended Certificate of Survey No. 156 and the west line of Tract 1B–1A of Amended Certificate of Survey No. 1434, S 00°47'40" W a distance of 709.95 feet to a point on the south line of Section 28, T. 1 N., R. 26 E., P.M.M.;
thence along said south section line, N 89°30'50" W a distance of 24.92 feet to the point of beginning; said described tract containing a gross area and a net area of 34.457 acres, more or less, subject to all easements of record or apparent on the ground..

That the monuments found and set are of the character and occupy the positions shown hereon, that said survey and the plat hereof shows true and correct dimensions and that the plat conforms with the work on the ground.

SANDERSON STEWART

By: _____

Montana Registration No. _____

Date: _____

DRAFT

## ERRORS AND OMISSIONS REVIEW

I hereby certify that I have examined the annexed and foregoing plat for errors and omissions in computations and drafting.

_____ _____
Examining Land Surveyor Date

## CERTIFICATE OF CITY ATTORNEY

This document has been reviewed by the City Attorney's office and is acceptable as to form.

DATED: _____

Reviewed by: _____

## CERTIFICATE OF COUNTY TREASURER

I hereby certify that all real property taxes and special assessments have been paid per 76–3–611(1)(b) / 76–3–207(3), M.C.A.

Date _____

Yellowstone County Treasurer

BY: _____
Deputy

RESERVED FOR CLERK AND RECORDER

## PURPOSE OF SURVEY – CREATE UTILITY SITE

The undersigned hereby certify that the purpose of this survey is to create TRACT 1B–5 as shown hereon as a UTILITY SITE.

Therefore this survey is exempt from review as a subdivision pursuant to Section 76–30201 (1)(h), M.C.A. and is not subject to review by the Department of Environmental Quality pursuant to Section 76–4–125(2)(a) M.C.A.

CITY OF BILLINGS, MONTANA

By: _____
Mayor

Attest: _____
City Clerk

STATE OF MONTANA )
:SS
County of Yellowstone )

Subscribed to before me this _____ day of _____ , 20____ by _____ and _____ as Mayor and City Clerk of the City of Billings, Montana.

_____
Notary Public in and for the State of Montana

DRAFT




P:\19079_NWE_Rimrock_Substation_Survey\CADD_CED\PRODUCTION_DWG\19079_Utility_Site_COS.dwg, 8/23/2021 12:49:59 PM

**Exhibit B**

**After Recording, Return To:**
NorthWestern Energy
Attn: Lands Department
11 E. Park Street
Butte, MT 59701-1711

# WARRANTY DEED

**FOR VALUE RECEIVED,**

**GRANTOR:** **THE CITY OF BILLINGS, MONTANA**
210 North 27th Street Billings, MT 59101

**GRANTEE:** **NORTHWESTERN CORPORATION, a Delaware Corporation**
d/b/a NorthWestern Energy
11 East Park Street Butte, MT 59701-1711

And to their heirs, successors, and assigns, the following described premises, in **Yellowstone County, Montana**, to-wit:

Tract 1B-5, being 14.760 gross acres, more or less, of Amended Tract 1B-2 of Certificate of Survey No. 1434, being vacated Black Otter Park Subdivision situated in the SE4 and SW4 of Section 28, T1N-R26E, P.M.M. in the City of Billings, Yellowstone County, MT as depicted on the official plat on file with the office of the Clerk and Recorder of Yellowstone County, MT under Document No._____ (the "Real Property")

TO HAVE AND TO HOLD unto the Grantee, its heirs, successors, and assigns forever, SUBJECT TO THE FOLLOWING:

(a) Reservations and exceptions in patents from the United States or the State of Montana.
(b) Existing easements and rights-of-way whether of record or as presently located on the ground.
(c) All building, use, zoning, sanitary, and environmental restrictions.
(d) All prior conveyances, leases or transfers of any interest in minerals, including oil, gas, and all other hydrocarbons and minerals.
(e) Taxes and assessments for 2019 and subsequent years.

## Exhibit B

**EXCEPT** with reference to the items referred to in paragraphs (a) to (e) inclusive, this deed is given with the usual covenants expressed in Section 30-11-110, Montana Code Annotated.

Grantor further covenants and warrants that Grantor is now seized in fee simple absolute of said premises; that Grantor has full power to convey the same; that the premises is free from all encumbrances except those set forth above; that Grantee shall enjoy the quiet and peaceful possession thereof without any disturbance; that Grantor will, on demand, execute and deliver to Grantee, at the expense of Grantor, any further assurance of the same that may be reasonably required; and, with the exceptions set forth above, Grantor agrees to defend all right, title, and interest in the premises against any person lawfully claiming the same.

DATED this _____ day of _____, 20___

**GRANTOR:** **THE CITY OF BILLINGS, MONTANA**

**By:**_____
**Signature** **Print**

**Its:**_____

**Date**:_____

**STATE OF_____)**
**)ss.**
**COUNTY OF _____)**

This instrument was acknowledged before me on the _____day of_____ 20___, by _____
_____

NOTARY SEAL

Notary Signature:_____
Printed Name: _____
Notary Public for the State of _____
Residing at _____
My Commission Expires _____,20___

**Exhibit C**

# POST-CLOSING AGREEMENT

THIS POST-CLOSING AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 20__, by and between CITY OF BILLINGS, MONTANA of 210 North 27th Street Billings, MT 59101 ("City"), and NORTHWESTERN CORPORATION a Delaware Corporation, d/b/a NorthWestern Energy of 11 East Park Street, Butte, Montana 59701-1711 ("NorthWestern") and provides as follows:

## Recitals

1. The parties previously executed an Agreement to Buy and Sell ("Underlying Agreement") on _____, 20_____, in which City agreed to convey certain real property located in Yellowstone County, Montana to NorthWestern as depicted on Exhibit A ("Subject Property");

2. The parties desire to enter this Agreement to establish their respective post-closing obligations relating to the Underlying Agreement pursuant to all the terms set forth herein.

## Agreement

Now therefore for good and valuable consideration, the parties agree as follows:

1. Perimeter Substation Wall Design. NorthWestern shall consult with the City as to the design and appearance of the perimeter wall surrounding NorthWestern's facilities. The final wall to be constructed will be mutually acceptable to both City and NorthWestern as to cost, design, appearance and functionality.

2. Donated Property. NorthWestern shall, upon the successful completion of the purchase of Tract 1B-5 from City, quit claim to the City all its right title and interest to the 2.2 acre parcel depicted on the Exhibit A identified as COS 190. Upon completion of the new substation, NorthWestern will pave and stripe a parking lot that will accommodate 20 vehicles, with a new paved approach to the parking area from Black Otter Trail.

3. Right to Reacquire. If at any time NorthWestern no longer desires or needs Utility Tract 1B-5 as depicted on Exhibit A, the City shall have the option to reacquire the real property at no cost to the City. If the City does not complete the reacquisition within 180 days of being first notified in writing by NorthWestern, then NorthWestern shall be free to sell Tract 1B-5 to any ready, willing and able buyer without further obligation to City.

4. Perpetual Air Rights Easement. Upon notice from the Federal Aviation Administration that the real property described herein can be released to be sold to NorthWestern, the sale and transfer shall be completed. During the execution of the sale and transfer documents, Northwestern will execute the City's Perpetual Air Rights Easement

granting the use and protection of the air space over the property for aircraft utilizing the Billings Logan International Airport.

5. Landscaping. NorthWestern agrees that landscape vegetation is an important part of the final look of the new Rimrock Substation. NorthWestern will work with the City to find a mutually acceptable landscaping solution to a portion of the east wall of the substation site and along the whole north side of the substation site.

6. Condition Precedent. This Agreement is expressly conditioned and shall be executed by the parties upon the closing of the Underlying Agreement and satisfaction of all of its respective contingencies. In the event the closing of the Underlying Agreement does not occur for any reason, this Agreement shall be deemed null and void and shall have no effect whatsoever.

7. Modifications. This Agreement may not be modified or terminated orally. No modification, termination or attempted waiver shall be valid unless in writing signed by the party against whom the same is sought to be enforced.

8. Time. Time is of the essence in this Agreement and all clauses herein.

9. Assignment. This Agreement is binding upon the parties, their respective heirs, successors, and assigns.

10. Controlling Law and Venue. This Agreement shall be interpreted under the laws of the State of Montana. In the event of any dispute, the parties agree that the proper jurisdiction and venue for any actions arising shall be in the District Court for Yellowstone County, Montana.

11. Interpretation. This Agreement has been reviewed by both parties, each of whom has had the opportunity to consult with independent counsel regarding it and has done so to the extent that such party desired. No stricter construction or interpretation of the terms hereof shall be applied against either party as the drafter hereof.

12. Attorney's Fees. In the event either party finds it necessary to employ counsel in order to enforce, rescind or interpret any term or provision of this Agreement, including any proceeding in bankruptcy, before any officer or judge of the U.S. Bankruptcy Court or any proceeding pertaining thereto, the prevailing party shall be entitled to recover from the other party in addition to costs and disbursements allowed by law, the prevailing party's reasonable attorney's fees. Attorney's fees shall include any attorney's services rendered prior to the institution of litigation or proceedings in bankruptcy and include all matters pertaining to litigation, or proceedings in bankruptcy as may be necessarily incurred in such proceedings and shall include an estimate of the attorneys' fees to be incurred by the prevailing party following any initial decision or judgment entered in connection with that matter.

**Exhibit C**

13. Facsimile and Counterparts. The parties agree that a facsimile copy, which contains the parties' respective signatures, shall be considered an original. Further, this Agreement may be executed in counterparts, each of which when taken together shall constitute a fully executed Agreement.

| | |
|---|---|
| CITY OF BILLINGS, MONTANA<br><br>By:_____<br><br>Print:_____<br><br>Its: _____ | NORTHWESTERN CORPORATION, a Delaware corporation, d/b/a NORTHWESTERN ENERGY<br><br>By:_____<br><br>Print:_____<br><br>Its: _____ |

**City Council Regular**

| | |
|---|---|
| **Date:** | 10/25/2021 |
| **Title:** | High Sierra Subdivision, 17th Filing, Preliminary Major Plat |
| **Presented by:** | Monica Plecker |
| **Department:** | Planning & Community Services |
| **Presentation:** | No |

## RECOMMENDATION

The Planning Board recommends conditional approval of the preliminary plat of High Sierra Subdivision, 17th Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.

## BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On August 2, 2021, Sanderson Stewart, agent for High Sierra II, Inc., applied for preliminary major plat approval for High Sierra Subdivision, 17th Filing. The proposed subdivision creates 38 lots for residential development. The subject property is generally located north of Matador Avenue, west of Entrada Road in Billings Heights. The property is zoned Suburban Neighborhood (N3). The proposed lots will follow the current zoning for lot frontage.

VARIANCES REQUESTED

The applicant is not requesting a variance from the subdivision regulations.

PROPOSED CONDITIONS OF APPROVAL

Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably minimize potential adverse impacts identified within the Findings of Fact.

1. To minimize the effects on local service, prior to final plat approval, the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.
2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
3. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

PROCEDURAL HISTORY

- Pre-application meeting May 27, 2021
- Preliminary plat application submitted to Planning Division on August 2, 2021
- Departmental review meeting August 19, 2021
- Preliminary plat resubmittal August 26, 2021
- Planning Board plat review September 14, 2021
- Planning Board public hearing September 28, 2021
- Preliminary plat to City Council October 25, 2021
- 60 working-day preliminary plat review period ends October 26, 2021

PLAT INFORMATION

| | |
|---|---|
| General location: | North of Matador Avenue, west of Entrada Road in Billings Heights |
| Legal Description: | Lot 1A, Block 33 of Amended Plat of Lot 1, Block 22, High Sierra Subdivision 14th Filing |
| Owner/Subdivider: | High Sierra II, Inc. |
| Engineer and Surveyor: | Sanderson Stewart |
| Existing Zoning: | N3 |
| Existing land use: | Vacant Lane |
| Proposed land use: | Residential |

| | |
|---|---|
| Gross and Net area: | 191.57 acres / 189.36 acres |
| Proposed number of lots: | 38 |
| Lot size: | Max: 73.67 acres<br>Min.: 6,776 square feet |
| Parkland requirements: | Parkland dedication requirement is 0.811 acres. This requirement was met with the 14th Filing. |

## STAKEHOLDERS

A combined public hearing was held September 28, 2021, for this subdivision and 3 other filings of High Sierra. A brief presentation was given by staff to the Planning Board. After the presentation the staff stood for questions from the Board. President Woods asked for questions and discussion from the Board. There were no questions from the Planning Board for staff. Gary Oakland of Oakland and Companies, developer of the subdivision, stood to answer any questions that board may have for him, there were no questions for Mr. Oakland.

President Woods opened the public hearing, there was no one from the public at the meeting and there were no calls into the meeting from the public regarding the proposed subdivision. The public hearing was closed, and a motion was made to forward a recommendation to the city council of conditional approval of the proposed plat and adoption of the findings of fact as presented in the staff report. The motion was seconded, a vote was taken and passed unanimously.

## ALTERNATIVES

In accordance with state law, the City Council has 60 working days to act upon this major preliminary plat. The 60 working day review period for the proposed plat ends on October 26, 2021. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 60 working day review period, the City Council is required to:

1. Approve;
2. Conditionally Approve; or
3. Deny the Preliminary Plat

## FISCAL EFFECTS

This plat will have no fiscal impacts on the City/County Planning Division.

## SUMMARY

One of the purposes of the City's subdivision review process is to identify potential negative effects of property being subdivided. Negative effects that are identified become the subdivider's responsibility to mitigate. Various City departments, private service/utility providers and the affected school district/s, have reviewed this application and provided input on effects and mitigation. The Findings of Fact, which are presented as an attachment, discuss potential negative impacts of the subdivision and conditions of approval are recommended as measures to further mitigate any impacts. In this case, there were found to be minimal impacts from this proposed subdivision.

---

**Attachments**

Findings of Fact
Proposed Plat
SIA Draft
Master Site Plan
Mayors Letter

# FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of High Sierra Subdivision, 17th Filing. These findings are based on the preliminary plat application and supplemental documents; addressing the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Billings Subdivision Regulations (Section 23-303(H), BMCC).

**A. What are the effects on agriculture, local services, the natural environment, wildlife, wildlife habitat, and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-302.H.2.]**

**1. Effect on agriculture and agricultural water user facilities**

The subject property is currently dry land grass and shrubs. There are no water rights being transferred to subdivision property owners. There are no existing ditches near this proposed development. The subdivision should not affect agricultural water users' facilities.

**2. Effect on local services**

**a.** **Utilities** – Public water services to the subject property will be provided by the City of Billings. The subdivision will be served by making two connections to public water mains, one in Matador Avenue, just north of the Matador Avenue/Entrada Road intersection and one on Modera Avenue just north of the intersection of Modera Avenue/Ortega Street. A new 12-inch water main will be installed in Modera Avenue. A new 8-inch water main will be installed in the remaining local interior streets of the subdivision. The water main within the subdivision will make looped connections whenever possible. All water line construction shall be installed in conformance with the design standards, specification, rules and regulations of the City of Billings. The City of Billings Engineering Department will review and approve all proposed water lines prior to installation.

Fire hydrants will also be installed as required by the City of Billings Fire Department. The City Fire Department with review and approve all proposed hydrant locations prior to installation.

Sanitary sewer service will be provided by the City of Billings by connecting to an existing 8- inch diameter sewer main located in Matador Avenue and Modera Avenue and extending the 8-inch sewer main within Matador Avenue, Modera Avenue and Street 1 (Temporary Name). All sanitary sewer mains will be stubbed to each lot. All sewer line construction shall be installed in conformance with the design standards, specification, rules and regulations of the City of Billings Engineering Department. The City of Billings Engineering Department will review and approve all proposed sanitary sewer lines prior to installation.

All telephone, gas, electrical power, and cable television lines that are placed within the public right-of-way shall be installed prior to surface improvements.

**b.** **Storm water** – Stormwater management for the proposed subdivision will be provided by a combination of surface drainage and curbs and gutters, drained to underground storm drains. Storm water will discharge to a stormwater detention facility located in an off-site area on Lot 17, Block 6, High Sierra Subdivision, 11th Filing. It is generally located north of the future projection of Gleneagles Boulevard designated specifically for storm water detention. This detention facility will be sized to accept runoff generated from the High Sierra Subdivision, 17th Filing. Stormwater management facilities for the subdivision must be able to pass flows generated outside the subdivision area without inundating existing and proposed home sites. All proposed stormwater management will be reviewed and approved by City of Billings Engineering Department to ensure it meets the master planned stormwater plan for High Sierra Subdivision. All drainage improvements shall comply with the provisions of the City of Billings Stormwater Management Manual and Section 23-706, BMCC, a stormwater management plan shall be submitted to the Engineering Division prior to filing of the final plat.

**c.** **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.

**d.** **Streets** – Access to the lots in this proposed subdivision is from Matador Avenue, Modera Avenue and Street 1 (Temporary Name). All new streets will be in a 56-foot-wide right of way and will be constructed to 34-foot wide, back of curb to back of curb road. Road construction will include installation of accessible ramps at the intersections.

Sidewalks will be installed at the time of individual lot development. All sidewalks will be boulevard type walks with 5-foot wide boulevard sidewalks.

A 12-foot-wide sidewalk shall be constructed in the 20-foot-wide right-of-way corridors, leading to the park, and shall be installed at the time of private contract construction of the road.

**e.** **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The fire station that serves this area is located at 1601 St. Andrews Drive (Station #6).

The subdivision is located within the ambulance service area of American Medical Response (AMR).

Comments from the Police department state that continued expansion of subdivisions will require additional resources to maintain acceptable levels of service.

**f.** **Schools** – School District #2 provides service to students within this subdivision from elementary to high school (Eagle Cliffs Elementary School, Castle Rock

Middle School, and Skyview High School). School District #2 shows some additional capacity at the schools listed above.

**g.** **Parks and Recreation** – The parkland dedication requirement for this subdivision is 0.811 acres. With High Sierra 14th Filings there was a parkland dedication of 5.310 acres. With this dedication parkland requirements have been met for several High Sierra Filings in the immediate area.

The following is a summary of the required parkland dedications that have been previously attributed to the High Sierra Subdivision, 14th Filing park:

High Sierra Sub., 14th Filing 1.876 acres
High Sierra Sub., 15th Filing 0.587 acres
High Sierra Sub., 16th Filing 0.255 acres
High Sierra Sub., 10th Filing 0.895 acres
Total 3.613 acres

Remaining land for parkland dedication 1.697 acres
High Sierra 17th Filing, 0.811 acres
Total remaining 0.886 acres

With High Sierra 17th Filing requirement of 0.811 acres, the total remaining parkland dedication still has enough land to provide the required parkland dedication.

Lot owners are advised they will be subject to inclusion in a Parks Maintenance District (PMD) for the operation and maintenance of existing and future parks within High Sierra Subdivision.

**h.** **Mail Delivery -** The United States Postal Service will provide postal service to the subdivision. They have requested the installation of centralized mailbox unit (CBUs). The developer will work with the USPS to provide a satisfactory location for a CBU for this filing. **(Condition #1)**

**3. Effect on the natural environment**

The subject property is relatively level land adjacent to urban development to the south. A geotechnical study was performed for the subdivision, a summary of the information from that study is included in the SIA under the heading IX. Soils/Geotechnical Study. The subdivision should have a minimal effect on the natural environment.

**4. Effect on wildlife and wildlife habitat**

There are no known endangered or threatened species on the property. Future property owners should be aware that the proposed subdivision is located near prime wildlife habitat and adjacent to open grassland areas, therefore conflicts with wildlife may occur. Any damage caused by wildlife is the responsibility of the owner. This notice is in the SIA under the heading II. Property Conditions and Information for Lot Purchasers.

**5. Effect on the public health, safety and welfare**

Fire hydrants will be installed to meet fire department requirements. Sidewalks will offer a safe place for pedestrians to walk. The effects on public health and safety should be minimal.

**B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMCC 23-302.H.1.]**

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-616, MCA.

**C. Does the subdivision conform to the City of Billings 2016 Growth Policy, the 2018 Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan? [BMCC 23-(8)]**

**1. City of Billings 2016 Growth Policy**

The proposed subdivision is consistent with the following goals of the Growth Policy:

> **Essential Investments:** Infill development and development near existing City infrastructure may be the most cost effective. (p.6)
>
> **Strong Neighborhoods (livable, safe, sociable and resilient neighborhoods):** Neighborhoods that are safe and attractive and provide essential services are much desired. (p.8)
>
> **Home Base (healthy, safe and diverse housing options)** Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings. (p.9)

**2. Billings Heights Neighborhood Plan**

The Billings Heights Neighborhood Plan, adopted in 2006, identifies this area for low-density residential development. The subdivision meets the following goals of the Heights Neighborhood Plan:

> **Issue: Urban Sprawl**
>
> **Issue:** Residential Development
>
> **Goal:** To provide safe, good quality and affordable housing in the Heights. Develop housing patterns that are compatible with existing neighborhoods. Maintain similar housing in established neighborhoods.
>
> **Objectives:** To encourage infill development and housing development that meets residents' desire to have similar housing within their neighborhood.

*This subdivision provides low-density residential single-family development in a neighborhood with existing low-density single-family development.*

**3. 2018 Billings Urban Area Long Range Transportation Plan**

The proposed subdivision adheres to the goals and objectives of the 2018 Transportation Plan and preserves the street network and street hierarchy specified in the plan.

**4. Billings Area Bikeway and Trail Master Plan (BABTMP)**

The proposed subdivision lies within the jurisdiction of the BABTMP. The BABTMP does not show any trails within the proposed subdivision.

**D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608 (3) (b) and BMCC 23-302.H.3.a.]**

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and to the design standards specified in the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

**E. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-302.H.3.e.]**

The subject property is located within the Suburban Neighborhood 3 (N3) zoning district. All building development on the lots shall comply with current zoning when applying for a building permit.

**F. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-302.H.3.b.]**

The subdivider will furnish private utility easements as required by private utility providers.

**G. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608 (3) (d) and BMCC 23-302.H.3.c.]**

Legal and physical access is provided to the proposed lots from Modera Avenue and Matador Avenue. Street 1 (Temporary Name), a new internal street, will provide access to individual lots. All streets are dedicated to the public as shown on the plat.

**CONCLUSIONS OF FINDINGS OF FACT**

- The preliminary plat of High Sierra Subdivision, 17th Filing does not create any adverse impacts that warrant denial of the subdivision.

- The proposed subdivision conforms to several goals and policies of the 2016 Growth Policy and does not conflict with the Transportation or Bikeway and Trail Plans.

- The proposed subdivision complies with state and local subdivision regulations, local zoning, and provides legal and physical access to each lot.

- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

**RECOMMENDATION**

Staff recommends the Planning Board forward a recommendation of conditional approval of the preliminary plat of High Sierra Subdivision, 17th Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

Approved by the Billings City Council, October 25, 2021

_____

William A. Cole, Mayor

PRELIMINARY PLAT OF

# HIGH SIERRA SUBDIVISION, 17TH FILING

BEING LOT 1A, BLOCK 33 OF AMENDED PLAT OF LOT 1, BLOCK 33 HIGH SIERRA SUBDIVISION, 14TH FILING
SITUATED IN THE SE1/4 OF SECTION 8, THE SW1/4 OF SECTION 9 AND NE1/4 AND NW1/4 OF SECTION 17, T.1N., R. 26 E., P.M.M.,
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : HIGH SIERRA II, INC.

PREPARED BY : SANDERSON STEWART

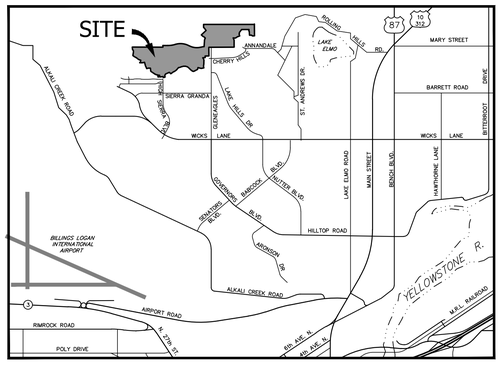
JULY 2021

BILLINGS, MONTANA

NORTH

250' 125' 0 250' 500'

SCALE: 1" = 250'




VICINITY MAP

NOT TO SCALE

DRAFT



*NOTE: EX. TEMPORARY TURN AROUND EASEMENT. DOC No 3863941.

| LINE TABLE | | |
|---|---|---|
| Line # | Bearing | Distance |
| L1 | N 89°52'30" W | 220.28' |
| L2 | S 83°48'10" W | 147.82' |
| L3 | S 38°36'43" E | 82.92' |
| L4 | S 14°57'00" E | 70.82' |
| L5 | S 01°17'33" W | 231.98' |
| L6 | S 10°44'19" W | 73.17' |
| L7 | S 00°02'33" W | 70.42' |
| L8 | S 09°57'38" E | 70.00' |
| L9 | S 79°28'33" W | 136.36' |
| L10 | N 83°00'11" W | 57.75' |
| L11 | N 74°27'28" W | 150.89' |
| L12 | S 10°28'46" W | 105.22' |
| L13 | S 61°16'41" W | 107.18' |
| L14 | S 04°29'30" E | 94.66' |
| L15 | S 85°30'30" W | 39.83' |
| L16 | S 61°16'41" W | 2.26' |
| L17 | N 80°52'30" W | 72.76' |
| L18 | N 52°52'30" W | 129.53' |
| L19 | N 45°52'29" W | 158.74' |
| L20 | N 50°15'34" W | 91.25' |
| L21 | N 70°52'29" W | 118.35' |
| L22 | S 88°07'31" W | 119.98' |
| L23 | S 75°07'31" W | 134.41' |
| L24 | S 68°07'31" W | 84.33' |

| LINE TABLE | | |
|---|---|---|
| Line # | Bearing | Distance |
| L25 | S 85°25'50" W | 71.42' |
| L26 | S 41°07'30" W | 188.95' |
| L27 | S 54°07'31" W | 142.62' |
| L28 | S 67°33'45" W | 56.83' |
| L29 | S 54°07'30" W | 186.98' |
| L30 | N 42°52'30" W | 144.89' |
| L31 | S 66°07'30" W | 236.67' |
| L32 | S 28°07'30" W | 86.07' |
| L33 | S 03°24'04" E | 112.00' |
| L34 | S 79°07'31" W | 101.13' |
| L35 | N 09°54'43" W | 62.50' |
| L36 | S 80°05'17" W | 74.00' |
| L37 | S 82°07'30" W | 122.77' |
| L38 | N 03°52'30" W | 94.37' |
| L39 | S 01°58'10" W | 47.40' |
| L40 | S 14°32'00" E | 59.22' |
| L41 | N 14°32'00" W | 92.72' |
| L42 | N 05°52'30" W | 24.95' |
| L43 | N 79°38'20" W | 78.77' |
| L44 | N 55°38'54" W | 271.40' |
| L45 | N 20°18'00" W | 20.85' |
| L46 | N 07°09'52" W | 170.00' |
| L47 | S 88°37'05" W | 124.13' |
| L48 | S 74°22'41" W | 91.79' |

| LINE TABLE | | |
|---|---|---|
| Line # | Bearing | Distance |
| L49 | N 21°00'28" W | 105.22' |
| L50 | N 29°41'04" W | 58.36' |
| L51 | N 15°52'30" W | 214.22' |
| L52 | N 37°15'02" E | 63.42' |
| L53 | N 07°37'30" E | 100.27' |
| L54 | N 77°52'29" W | 58.08' |
| L55 | N 66°52'29" W | 71.38' |
| L56 | N 53°52'30" W | 156.95' |
| L57 | N 60°52'29" W | 155.12' |
| L58 | N 48°52'29" W | 85.79' |
| L59 | N 08°07'31" E | 214.92' |
| L60 | N 02°29'12" W | 77.66' |
| L61 | N 42°26'15" W | 73.42' |
| L62 | N 05°52'30" W | 148.39' |
| L63 | N 04°07'26" E | 388.99' |
| L64 | N 18°07'26" E | 121.54' |
| L65 | N 47°52'34" W | 103.08' |
| L66 | N 70°35'45" W | 57.50' |
| L67 | N 45°52'34" W | 129.14' |
| L68 | N 47°07'26" E | 370.96' |
| L69 | N 36°43'59" W | 167.89' |
| L70 | N 47°43'24" W | 56.85' |
| L71 | N 00°57'00" E | 178.69' |
| L72 | S 89°35'42" W | 116.87' |

| LINE TABLE | | |
|---|---|---|
| Line # | Bearing | Distance |
| L73 | N 55°30'08" W | 74.06' |
| L74 | S 87°06'28" W | 107.80' |
| L75 | N 03°52'26" W | 218.30' |
| L76 | S 31°03'23" E | 56.20' |
| L77 | N 12°07'25" E | 68.53' |
| L78 | S 83°11'45" W | 21.14' |
| L79 | N 89°52'35" W | 400.43' |
| L80 | S 37°07'25" W | 216.55' |
| L81 | S 00°07'25" W | 55.39' |
| L82 | S 17°52'35" E | 103.74' |
| L83 | S 69°07'25" W | 141.85' |
| L84 | S 55°07'25" W | 93.67' |
| L85 | N 82°43'48" W | 66.56' |
| L86 | N 76°37'21" W | 89.29' |
| L87 | S 62°51'25" W | 28.94' |
| L88 | S 23°52'35" E | 154.68' |
| L89 | S 05°52'35" E | 121.87' |
| L90 | S 10°45'24" E | 20.15' |
| L91 | S 06°52'35" E | 240.47' |
| L92 | S 00°24'44" E | 40.00' |
| L93 | S 89°45'56" W | 95.00' |

| CURVE TABLE | | | | | |
|---|---|---|---|---|---|
| Curve # | Delta | Radius | Length | Chord Bearing | Chord Distance |
| C1 | 9°21'52" | 556.00' | 90.87' | S 05°19'03" E | 90.77' |
| C2 | 20°59'01" | 200.00' | 73.25' | N 84°00'00" W | 72.84' |
| C3 | 90°49'23" | 20.00' | 31.70' | N 28°05'48" W | 28.49' |
| C4 | 7°14'25" | 665.00' | 84.03' | N 83°25'52" W | 83.98' |
| C5 | 15°40'14" | 50.00' | 13.68' | N 76°12'21" W | 13.63' |
| C6 | 8°33'13" | 665.00' | 99.28' | N 66°19'01" W | 99.19' |
| C7 | 29°41'26" | 528.00' | 273.61' | S 86°04'33" W | 270.56' |
| C8 | 43°39'22" | 60.00' | 45.72' | S 21°57'05" W | 44.62' |

PRELIMINARY PLAT OF

# HIGH SIERRA SUBDIVISION, 17TH FILING

BEING LOT 1A, BLOCK 33 OF AMENDED PLAT OF LOT 1, BLOCK 33 HIGH SIERRA SUBDIVISION, 14TH FILING
SITUATED IN THE SE1/4 OF SECTION 8, THE SW1/4 OF SECTION 9 AND NE1/4 AND NW1/4 OF SECTION 17, T.1N., R. 26 E., P.M.M.,
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : HIGH SIERRA II, INC.

PREPARED BY : SANDERSON STEWART

JULY 2021

BILLINGS, MONTANA

## LIST OF ADJACENT OWNERS

| OWNER NAME | LAKE HILLS SUB 14TH FIL | ADDRESS |
|---|---|---|
| RON S HILL LIVING TRUST | BLOCK 47, Lot 19 | PO BOX 50636 BILLINGS MT 59105-0636 |
| DISANTE, NORBERTO F | BLOCK 47, Lot 18 | 15 ARGOSY DR AMHERST NY 14226-1223 |
| RON S HILL LIVING TRUST | BLOCK 47, Lot 17 | PO BOX 50636 BILLINGS MT 59105-0636 |
| RON S HILL LIVING TRUST | BLOCK 47, Lot 16 | PO BOX 50636 BILLINGS MT 59105-0636 |
| RON S HILL LIVING TRUST | BLOCK 47, Lot 15 | PO BOX 50636 BILLINGS MT 59105-0636 |
| SUSAN B LOVELY INC & LAURE TAYLOR INC | BLOCK 47, LOT 14 | 2519 SUNNYVIEW LN BILLINGS MT 59102-1544 |

| OWNER NAME | LAKE HILLS SUB 15TH FIL | ADDRESS |
|---|---|---|
| MINER, VICTORIA L | BLOCK 19, Lot 5 | 155 BLACKWOOD LN DOUGLASVILLE PA 19518-9366 |
| RON S HILL LIVING TRUST | BLOCK 47, Lot 13 | PO BOX 50636 BILLINGS MT 59105-0636 |
| RON S HILL LIVING TRUST | BLOCK 47, Lot 12 | PO BOX 50636 BILLINGS MT 59105-0636 |
| RON S HILL LIVING TRUST | BLOCK 47, Lot 11 | PO BOX 50636 BILLINGS MT 59105-0636 |

| OWNER NAME | LAKE HILLS SUB 25TH FIL | ADDRESS |
|---|---|---|
| GAMPE, DANE M & LAUREL R | BLOCK 64, Lot 9 | 2440 LAKE HEIGHTS DR BILLINGS MT 59105-3509 |
| BUSHMAN, BRIAN G & LEIA D | BLOCK 64, Lot 8 | 2502 LAKE HEIGHTS DR BILLINGS MT 59105-3509 |
| WALD, NATHAN & AMBER | BLOCK 64, Lot 9 | 2508 LAKE HEIGHTS DR BILLINGS MT 59105-3509 |
| MASOOD, AMBRIN | BLOCK 64, Lot 6 | 2514 LAKE HEIGHTS DR BILLINGS MT 59105-3509 |
| COPELAND, NATHANIAL A & MEGAN K | BLOCK 64, Lot 5 | 2520 LAKE HEIGHTS DR BILLINGS MT 59105-3509 |
| NOSEEP, DOUG G & JODI L | BLOCK 64, Lot 4 | 2526 LAKE HEIGHTS DR BILLINGS MT 59105-3509 |
| JOHNSON, DAVID R & KATHLEEN E | BLOCK 64, Lot 3 | 2532 LAKE HEIGHTS DR BILLINGS MT 59105-3509 |
| DAVIS, JOSHUA A & CANDICE M | BLOCK 64, Lot 2 | 2538 LAKE HEIGHTS DR BILLINGS MT 59105-3509 |
| DAVIS, TIMOTHY E & KERRY L | BLOCK 64, Lot 1 | 2544 LAKE HEIGHTS DR BILLINGS MT 59105-3509 |
| CITY OF BILLINGS (PARK) | SALLY ANN PARK | PO BOX 1178 BILLINGS, MT 59103-1178 |

| OWNER NAME | LAKE HILLS SUB 35TH FIL | ADDRESS |
|---|---|---|
| STARKS REAL ESTATE GROUP LLC | BLOCK 2, LOTS 1-7 | 634 CLAREMONT RD BILLINGS MT 59105-3580 |
| PARKS, TRENT | BLOCK 2, LOT 1 | 2344 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| COPPER RIVER REAL ESTATE LLC | BLOCK 1, LOT 1 | 2011 PRYOR LN BILLINGS MT 59102-1628 |
| STARKS REAL ESTATE GROUP LLC | BLOCK 1, LOT 1 & LOT 5 | 634 CLAREMONT RD BILLINGS MT 59105-3580 |
| FETCHE, LANCE J | BLOCK 1, LOT 7 | 2304 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| SLOAN, JAMI G | BLOCK 1, LOT 7 | 2306 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| STEVENSON, EDWARD O & CONSTANCE A | BLOCK 1, LOT 6 | 2312 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| DINKEL, EDWIN N & TERESA | BLOCK 1, LOT 6 | 2314 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| HALVORSON, ANNIE B | BLOCK 1, LOT 5 | 2320 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| NOYES, LACY & SETH & RESELAND, MOLLY | BLOCK 1, LOT 5 | 2322 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| LIPTAC, JOYCE M & PHIL | BLOCK 1, LOT 2 | 2344 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| DUTCHER, HELEN J & PARKS, TRENTON & GRANLUND, KAYCEE | BLOCK 1, LOT 2 | 1439 ELAINE ST BILLINGS MT 59105-4207 |
| FOSNES, DREW K | BLOCK 1, LOT 2 | 2346 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| STEWART, MATT | BLOCK 1, LOT 3 | 5234 GOLDEN HOLLOW RD BILLINGS MT 59101-8958 |
| BUCHER, ROCHELLE J | BLOCK 1, LOT 3 | 2336 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| TURK, DEBORAH | BLOCK 1, LOT 3 | 2338 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| PARKS, JAYSON R & KIMBERLY R | BLOCK 1, LOT 4 | 3625 DRURY LN BILLINGS MT 59105-5120 |
| STARKS REAL ESTATE GROUP INC | BLOCK 1, LOTS 5-7 | 634 CLAREMONT RD BILLINGS, MT 59105-3580 |

| OWNER NAME | CERTIFICATE OF SURVEY 3776 | ADDRESS |
|---|---|---|
| DOVER RANCH | TRACT A1-2 | PO BOX 51389 BILLINGS, MT 59105-1361 |

| OWNER NAME | HIGH SIERRA SUB 5TH FIL | ADDRESS |
|---|---|---|
| SCHNELBACH, ERIC A | BLOCK 5, LOT 29 | 119 GLENHAVEN DR BILLINGS, MT 59105-3505 |
| JENSEN, ARIN ELAINE | BLOCK 5, LOT 30 | 1215 BENJAMIN BLVD BILLINGS, MT 59105-5457 |
| WAHL, NATHAN & KARA | BLOCK 5, LOT 31 | 1207 BENJAMIN BLVD BILLINGS, MT 59105-5457 |
| JACOBSON, LORI L | BLOCK 5, LOT 32 | 622 W HARVARD PL ONTARIO, CA 91762-1904 |
| KETCHUM, KARENA L | BLOCK 29, LOT 57 | 2117 HIGH SIERRA BLVD BILLINGS, MT 59105-545 |

| OWNER NAME | HIGH SIERRA SUB 8TH FIL | ADDRESS |
|---|---|---|
| CITY OF BILLINGS | BLOCK 7, PARK | PO BOX 1178 BILLINGS, MT 59103-1178 |
| KESSLER, KELLEN J & CAITLIN R | BLOCK 5, LOT 85 | 1276 TOPANGA AVE BILLINGS, MT 59105-5519 |
| REA, JESSE L | BLOCK 5, LOT 16 | 2154 LARGO CIR BILLINGS, MT 59105-5100 |
| MICHAEL, EDWARD J & CONNIE ANN | BLOCK 5, LOT 17 | 2158 LARGO CIR BILLINGS, MT 59105 |
| JACKSON, RICHARD III | BLOCK 5, LOT 18 | 2151 LARGO CIR BILLINGS, MT 59105-5100 |
| WINNICK, JAMES EDWARD & JEANNE FRANCES | BLOCK 5, LOT 19 | 2147 LARGO CIR BILLINGS, MT 59105-5100 |
| VOURNAS, LINDA | BLOCK 5, LOT 20 | 2143 LARGO CIR BILLINGS, MT 59105-5100 |
| STIFFARM, MICHAEL A & FREDRECA J | BLOCK 5, LOT 22 | 2135 LARGO CIR BILLINGS, MT 59105-5100 |
| SPENCER, DONNA | BLOCK 5, LOT 23 | 2131 LARGO CIR BILLINGS, MT 59105-5100 |
| PAWLOWSKI, NORMA | BLOCK 5, LOT 24 | 2127 LARGO CIR BILLINGS, MT 59105-5100 |
| TURLEY, RACHEL | BLOCK 5, LOT 25A | 2123 LARGO CIR BILLINGS, MT 59105-5100 |
| ELSTON, WESLEY & CAITLIN | BLOCK 29, LOT 40 | 1130 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| NELSON, ANN K | BLOCK 29, LOT 39 | 1134 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| OMMUNDSON, DENNIS | BLOCK 29, LOT 38 | 1129 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| SPARROW, KEVIN A | BLOCK 29, LOT 37 | 1125 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| DAMON, JEFFREY & KRISTY | BLOCK 29, LOT 36 | 1121 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| BACHMANN, CHAD & ALISHA | BLOCK 29, LOT 35 | 1117 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| BURKHALTER, JAMES G | BLOCK 29, LOT 34 | 1113 VERA CRUZ CIR BILLINGS, MT 59105-8503 |

| OWNER NAME | HIGH SIERRA SUB 9TH FIL | ADDRESS |
|---|---|---|
| JKC INC | BLOCK 14, LOT 5 | 2759 DOSS LN BILLINGS MT 59105-6014 |
| BAKICH BUILDERS LLC | BLOCK 17, LOT 1 | 4260 SMOHAWK TRAIL BILLINGS MT 59106-9646 |
| BEJOT, ARNOLD & JEANETTE | BLOCK 17, LOT 3 | 2439 BONITO LOOP BILLINGS MT 59105-3861 |

| OWNER NAME | HIGH SIERRA SUB 10TH FIL | ADDRESS |
|---|---|---|
| HIGH SIERRA II INC | BLOCK 17, LOTS 4-18 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| HIGH SIERRA II INC | BLOCK 17, LOTS 33-39 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |

| OWNER NAME | HIGH SIERRA SUB 12TH FIL | ADDRESS |
|---|---|---|
| OAKLAND BUILT HOMES INC | BLOCK 8, LOT 1 | 175 N 27TH ST STE 900 BILLINGS, MT 59101-2065 |
| BROWER, BRANDWELL SCOTT & RACHEAL | BLOCK 8, LOT 2 | 1441 LAS PALMAS AVE BILLINGS, MT 59105-5541 |
| ZMOLEK, MARTIN A & SUSAN S | BLOCK 8, LOT 3 | 1437 LAS PALMAS AVE BILLINGS, MT 59105-5541 |
| LOWRY, ROGER & GRACE C | BLOCK 8, LOT 4 | PO BOX 51326 BILLINGS, MT 59105-1326 |
| HIGH SIERRA II INC | BLOCK 8, LOT 5 | 175 N 27TH ST STE 940 BILLINGS, MT 59101-2048 |
| VIERTHALER, KYLE D & KORTNEY L | BLOCK 8, LOT 6 | 1425 LAS PALMAS AVEBILLINGS, MT 59105-5541 |
| PAYOVICH, CHERE D | BLOCK 8, LOT 7 | 1421 LAS PALMAS AVEBILLINGS, MT 59105-5541 |
| HAD INC | BLOCK 8, LOT 8 | 2236 BITTERROOT DR BILLINGS, MT 59105-4834 |
| BIGLER, JASON M & JULIA D | BLOCK 8, LOT 9 | 1413 LAS PALMAS AVE BILLINGS, MT 59105-5541 |
| WEBER, LANCE & MEREDITH | BLOCK 8, LOT 10 | 1409 LAS PALMAS AVE BILLINGS, MT 59105-5541 |
| SCHWARZINGER, TAYLOR S & BRITTANY A | BLOCK 8, LOT 11 | 1405 LAS PALMAS AVE BILLINGS, MT 59105-5541 |
| JENNETTE, CHARLES B & MAXINE R | BLOCK 8, LOT 12 | 1401 LAS PALMAS AVE BILLINGS, MT 59105-5541 |
| OAKLAND BUILT HOMES INC | BLOCK 1, LOT 56 | 175 N 27TH ST STE 900 BILLINGS, MT 59101-2065 |
| HIGH SIERRA II INC | BLOCK 1, LOT17A | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |

| OWNER NAME | HIGH SIERRA SUB 14TH FIL | ADDRESS |
|---|---|---|
| HIGH SIERRA II INC | BLOCK 23, Lot 2 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| INFINITY HOME LLC | BLOCK 23, Lot 29 | PO BOX 20174 BILLINGS MT 59104-0174 |
| INFINITY HOME LLC | BLOCK 23, Lot 30 | PO BOX 20174 BILLINGS MT 59104-0174 |
| HIGH SIERRA II INC | BLOCK 23, Lot 31 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| HIGH SIERRA II INC | BLOCK 23, Lot 32 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| HIGH SIERRA II INC | BLOCK 23, Lot 33 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| UPFRONT DEVELOPMENT LLP | BLOCK 23, Lot 34 | 1731 SAVONA ST BILLINGS MT 59105-4167 |
| INFINITY HOMES LLC | BLOCK 23, Lot 35 | PO BOX 20174 BILLINGS MT 59104-0174 |
| JEFF KREITZBERG HOMES INC | BLOCK 23, Lot 36 | 2454 SOUTHRIDGE DR BILLINGS MT 59102-7925 |
| HIGH SIERRA II INC | BLOCK 23, Lot 37 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| HIGH SIERRA II INC | BLOCK 23, Lot 38 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| HIGH SIERRA II INC | BLOCK 21, LOTS 1 & 2 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| HIGH SIERRA II INC | BLOCK 26, Lot 1 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| HIGH SIERRA II INC | BLOCK 27, Lots 3-6 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| HIGH SIERRA II INC | BLOCK 33, Lots 2-3 & 6 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |

| OWNER NAME | HIGH SIERRA SUB 15TH FIL | ADDRESS |
|---|---|---|
| HIGH SIERRA II INC | BLOCK 26, LOTS 2-10<br>BLOCK 29, LOT 29<br>BLOCK 30, LOTS 1-4 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |

DRAFT

PRELIMINARY PLAT OF

# HIGH SIERRA SUBDIVISION, 17TH FILING

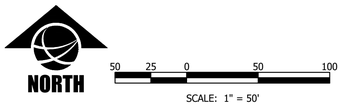
BEING LOT 1A, BLOCK 33 OF AMENDED PLAT OF LOT 1, BLOCK 33 HIGH SIERRA SUBDIVISION, 14TH FILING
SITUATED IN THE SE1/4 OF SECTION 8, THE SW1/4 OF SECTION 9 AND
NE1/4 AND NW1/4 OF SECTION 17,T. 1 N., R. 26 E., P.M.M.,
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : HIGH SIERRA II, INC.

PREPARED BY : SANDERSON STEWART

JULY 2021

BILLINGS, MONTANA

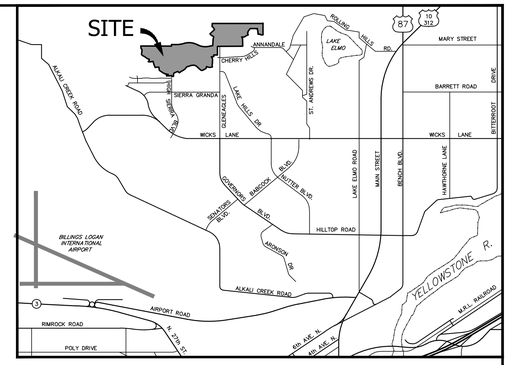



NOTES:

1. ALL INTERNAL STREETS SHALL BE BUILT TO CITY OF BILLINGS STANDARDS
   34' BACK TO BACK IN A 56' WIDE R.O.W.
2. STORM DRAIN STORAGE WILL BE PROVIDED IN A TEMP. STORMWATER DETENTION POND LOCATED NORTH OF THE SUBDIVISION. MAIN AND INLETS WILL BE PROVIDED AS NECESSARY.
3. IT IS ANTICIPATED THAT PRIVATE UTILITIES AND EASEMENT WILL BE LOCATED ON THE FRONT LOT LINES. THIS WILL BE CONFIRMED WITH THE PRIVATE UTILITY COMPANIES.

## PLAT DATA

| | | |
|---|---|---|
| GROSS AREA | = | 191.5665 ACRES |
| NET AREA | = | 189.357 ACRES |
| NUMBER OF LOTS | = | 38 |
| MINIMUM LOT SIZE | = | 6,762 S.F. |
| MAXIMUM LOT SIZE | = | 73.671 ACRES |
| LINEAL FEET OF STREETS | = | ±1,882 L.F. |
| PARKLAND REQUIREMENT | = | 0.811 ACRES |
| PARKLAND DEDICATION | = | MET WITH HIGH SIERRA 14TH FILING |
| EXISTING ZONING | = | N3 |
| SURROUNDING ZONING: | | |
| NORTH | = | N3 AND AG OPEN |
| SOUTH | = | N3, N2 AND NMU |
| EAST | = | N3 AND N2 |
| WEST | = | N3 |
| EXISTING LAND USE | = | AGRICULTURE |
| PROPOSED LAND USE | = | N3 |




VICINITY MAP

NOT TO SCALE

DRAFT





82061.142_17TH PREPLAT SHT2.DWG 82061.142 8/26/21 BG

Return to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

# SUBDIVISION IMPROVEMENTS AGREEMENT & WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT DISTRICTS

## HIGH SIERRA SUBDIVISION, SEVENTEENTH FILING

### CITY OF BILLINGS

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Return to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

# SUBDIVISION IMPROVEMENTS AGREEMENT & WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT DISTRICTS HIGH SIERRA SUBDIVISION, SEVENTEENTH FILING

**THIS AGREEMENT** is made and entered into this ____ day of _____, 20___, by and between **HIGH SIERRA II, INC**., whose address for the purpose of this agreement is 175 North 27th Street, Suite 900, Billings, MT 59101, hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

**WITNESSETH:**

**WHEREAS**, at a regular meeting conducted on ____ day of _____, 20_____, the Board of Planning recommended conditional approval of a preliminary plat of High Sierra Subdivision, 17th Filing; and

**WHEREAS**, at a regular meeting conducted on _____ day of _____, 20____, the City Council conditionally approved a preliminary plat of High Sierra Subdivision, 17th Filing; and

**WHEREAS**, a Subdivision Improvements Agreement is required by the City prior to the approval of the final plat.

**WHEREAS,** the provisions of this agreement shall be effective and applicable to High Sierra Subdivision, 17th Filing upon the filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The Subdivision shall comply with all requirements of the City of Billings Subdivision Regulations, the rules, regulations, policies, and resolutions of the City of Billings, and the laws and administrative rules of the State of Montana.

**THEREFORE, THE PARTIES TO THIS AGREEMENT**, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, do hereby agree as follows:

## I. VARIANCES

**A.** Subdivider has requested, and the City hereby grants, the following variances by the City Council from the strict interpretation of the City's Subdivision Regulations (Section 23.1401, BMCC):

1. No Variances are requested.

## II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS

**A.** Lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development. If sidewalk is not constructed within 5 years, the City has the right to construct the sidewalk and assess the property owners.

**B.** Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.

**C.** No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.

**D.** There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider, and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.

**E.** Lot owners are advised they will be subject to inclusion in a Parks Maintenance District (PMD) for the operation and maintenance of the parkland dedicated with various filings of High Sierra Subdivision, including High Sierra Subdivision, 17th Filing, and future filings of High Sierra Subdivision.

**F.** The Subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution and Prevention Plan (SWPPP) filed with the City and the Montana Department of Environmental Quality (MDEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by MDEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.

**G.** Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for new construction on lots. Best Management Practices are defined within Chapter 28, BMCC and detailed in the Billings Stormwater Management Manual.

1. The lowest finish floor elevation (which includes the garage) shall be a minimum of 18-inches higher than the top of curb, measured from the highest location along the lot frontage. Home builder and lot owner may find it necessary to raise the finish floor elevation of house or garage above this minimum during on-site building design and/or during on-lot grading.

2. The stormwater runoff from individual lots shall be directed toward the public right-of-way wherever possible. However, due to the existing terrain of the subdivision this is not possible for every lot. Where runoff from lots cannot be directed to public right-of-way because existing terrain is falling away from the public right of way, the stormwater runoff shall be directed to flow to the same location as it has historically. Home builder and lot owners shall consider the effect of potential off-lot run-on waters from lots uphill of the subject lot, and grade around the home to provide positive drainage away from the home. Home builder and lot owners must take necessary measures to protect the house from surface stormwater flows. Lots shall allow, through on-site building design and on-lot grading, for stormwater to pass through each lot without negatively impacting adjacent lots. The lowest openings on each home (window wells) are to be located outside the designated drainage paths. If this is not possible, the builder and lot owners must take necessary measures to protect these

openings from inundating from surface water flows. In any case, the homebuilder shall allow enough space between window wells and property lines to provide sufficient swales and proper storm water drainage away from window wells.

3. Each owner of a completed lot shall be a member of the High Sierra Subdivision Homeowners Association (HOA). Membership shall be appurtenant to and may not be separated from ownership of a lot. The Homeowners Association will be set up to maintain the permanent stormwater detention facilities. The HOA Board of Directors shall have the power, in its discretion, to exclude costs of major repairs or approved capital improvements to the HOA Storm Water System from the regular monthly assessments and, instead, impose special assessments for these expenses, and for emergencies, as they are incurred.

## III. TRANSPORTATION

### A. Streets

1. Subdivider will enter into a private contract for the construction of all required improvements for those streets within the subdivision, as follows:

   Matador Avenue, Modera Avenue and Street 1 (Temporary Name) will be constructed within a 56-foot right-of-way using curb and gutter and full-width pavement (34-feet back of curb to back of curb). Curb and Gutter will be installed per the City of Billings Standards in place at time of construction.

### B. Sidewalks

1. Sidewalk on the internal streets shall be installed at the time of individual lot development. The sidewalk shall consist of a 5-foot-wide boulevard type sidewalk with a minimum 5-foot-wide boulevard.

2. Subdivider will install accessible ramps at the intersections, which shall be completed with the subdivision improvements.

3. A 12-foot-wide sidewalk shall be constructed in the 20-foot-wide right-of-way corridors and shall be installed at the time of private contract construction.

**C. Street Lighting**

Construction or installation of streetlights within the public rights-of-way shall not be required at this time, but streetlights are included in the Waiver referenced herein for construction of the same in the future. A maintenance district for streetlights may be formed for future maintenance of any streetlights installed in the future.

**D. Traffic Control Devices**

The Subdivider shall furnish and install all necessary traffic control devices within and adjacent to the Subdivision in accordance with the plans and specification submitted to and approved by the City Engineer. Traffic control devices shall include all necessary signing, striping, and channelization devices to properly complete the implementation of the proposed street construction.

Based on the Traffic Impact Study (TIS) update letter, the 17th Filing development's portion of critical volumes for impacted intersections are as follows (based on a $250,000.00 intersection improvement cost):

| | |
|---|---|
| Wicks Lane/Gleneagles Blvd | 0.77% ($1,925.00) |
| Wicks Lane/Fantan Street | 0.86% ($2,150.00) |
| Wicks Lane/St. Andrews Dr. | 0.68% ($1,700.00) |
| Annandale Road/Gleneagles Blvd | 0.08% ($200.00) |
| Annandale Road/St. Andrews Dr. | 0.09% ($225.00) |

City and Subdivider agree that the Subdivider will be required to make cash contributions to these intersections prior to final plat approval.

**E. Access**

Matador Avenue and Modera Avenue provide access to the subdivision. The interior streets will be located within a 56-foot right-of-way and will have a width of 34-feet back of curb to back of curb.

**F. Billings Area Bikeway and Trail Master Plan**

The Billings Area Bikeway Plan (2017) shows no trail connections within the proposed area of High Sierra Subdivision, 17th Filing, and as such, no trail improvements are required as part of this subdivision.

### G. Public Transit

The subdivision does not require improvements to ensure public transit service.

## IV. EMERGENCY SERVICE

The City will provide emergency service. Fire hydrants shall be provided at each street intersection and at intermediate locations where distances exceed 500-feet. Appropriate turnarounds will be located on any dead-end street in excess of 150-feet.

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and fire hydrant(s) in place to allow for fire suppression requirements. Prior to issuance of a building permit for construction using combustible materials (i.e., lumber, plywood, wood trusses, etc.), fire apparatus access roads, and water supply requirements shall be provided in accordance with the International Fire Code as adopted by the City of Billings.

At a minimum, the following is required:

- An unobstructed gravel road or gravel road base must be within 150-feet of the furthest portion of a building under construction as measured along an approved route.
- The access roads are required to support fire apparatus vehicle loading (40 tons) during all weather conditions and shall be a minimum of 20-feet-wide.
- An operational fire hydrant shall be located within 600-feet of the furthest portion of a residence under construction or within 400-feet of the furthest portion of a commercial building under construction as measured along the access roads to the site.
- The above requirements do not alter or effect the current minimum subdivision requirements for fire apparatus access and water supply.

## V. STORM DRAINAGE

Storm drainage for the public streets shall be provided by a combination of surface drainage and curbs and gutters, drained to underground storm drains, and with discharge to a stormwater detention facility that is located within an off-site area on Lot 17, Block 6, High Sierra Subdivision, 11th Filing generally north of the future projection of Gleneagles Boulevard designated for storm water detention. This detention facility will be sized to accept runoff generated from the High Sierra Subdivision, 17th Filing. Stormwater management facilities for the

subdivision must be able to pass flows generated outside the subdivision area without inundating existing and proposed home sites. All drainage improvements shall comply with the provisions of the *Stormwater Management Manual* and Section 23-706, BMCC, a stormwater management plan shall be submitted to and approved by the Engineering Division prior to filing of the final plat.

The drainage system improvements will be in accordance with the recommendations of the stormwater analysis and report prepared and submitted with the improvement plans and specifications. Maintenance of the stormwater detention area and associated drainage facilities shall be by the High Sierra Subdivision HOA.

## VI. UTILITIES

The Subdivision Improvements Agreement does not constitute an approval for extension of or connection to water mains and sanitary sewers. The property owner shall make application for extension/connection of water mains and sanitary sewers to the Public Works Department – Engineering Division. The extension/connection of/to water mains and sanitary sewers is subject to the approval of the applications and the conditions of approval. Applications shall be submitted for processing prior to the start of any construction and prior to review and approval of any project plans and specifications.

The Developer/Owner acknowledges that the Subdivision shall be subject to the applicable System Development Fees in effect at the time new water and/or sanitary sewer service connections are made.

The design/installation of sanitary sewers and appurtenances, and water mains and appurtenances (fire hydrants, etc.) shall be in accordance with design standards, specifications, rules, regulations of and as approved by the City of Billings Public Works Department, Fire Department, and the Montana Department of Environmental Quality.

### A. Water

The subdivision will be served by making two connections to public water mains, one on Matador Avenue, just north of the Matador Avenue/Entrada Road intersection and one on Modera Avenue just north of the intersection of Modera Avenue/Ortega Street. A new 12-inch water main will be installed in Modera Avenue. A new 8-inch water main will be installed in the remaining local interior streets of the subdivision which is subject to approval from the City of Billings. The water main within the subdivision will make looped connections whenever possible. Fire hydrants will be

provided at all appropriate locations and are also subject to approval by the City of Billings.

**B. Sanitary Sewer**

The subdivision will be served by making a connection to an existing 8-inch diameter sewer main located in Matador Avenue and Modera Avenue and extending the 8-inch sewer main within Matador Avenue, Modera Avenue and Street 1 (Temporary Name).

**C. Power, Telephone, Gas, and Cable Television**

All telephone, gas, electrical power, and cable television lines shall be the responsibility of the Subdivider. Any line located within public right-of-way shall be subject to approval of the City Engineer.

## VII. PARKS/OPEN SPACE

The park land required for this subdivision is 0.811 acres. This parkland dedication will be met through a previous parkland dedication with High Sierra Subdivision, 14th Filing. The total parkland dedicated with High Sierra Subdivision; 14th Filing was 5.310 acres.

The following is a summary of the required parkland dedications that have been previously attributed to the High Sierra Subdivision, 14th Filing park:

| | |
|---|---|
| High Sierra Sub., 14th Filing | 1.876 acres |
| High Sierra Sub., 15th Filing | 0.587 acres |
| High Sierra Sub., 16th Filing | 0.255 acres |
| High Sierra Sub., 10th Filing | 0.895 acres |
| Total | 3.613 acres |

Therefore, there is sufficient area remaining within the parkland dedication from High Sierra Subdivision, 14th Filing to meet the 0.811 acres parkland requirement for High Sierra Subdivision, 17th Filing. No additional parkland is required with High Sierra Subdivision, 17th Filing.

Lot owners are advised they will be subject to inclusion in a Special Improvement District (SID) for the development and a Parks Maintenance District (PMD) for the operation and maintenance of this and future parks within High Sierra Subdivision.

## VIII. IRRIGATION

No permanent irrigation ditches, field laterals, or irrigation easements exist on the subdivision.

## IX. SOILS/GEOTECHNICAL STUDY

A geotechnical report was performed within the area of this subdivision and submitted with the preliminary plat and is available for review at the City of Billings Planning Department. The Geotechnical Investigation Report for High Sierra Subdivision 17th Filing Billings, Montana was completed by Rimrock Engineering Inc. and dated July 28, 2021.

It is recommended that owners, purchasers, realtors, builders, and developers fully familiarize themselves with the information contained in this report prior to design or construction.

## X. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install, and construct said required improvements with cash or by utilizing the mechanics of a special improvement district or private contracts secured by letters of credit or a letter of commitment to lend funds from a commercial lender. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said special improvement district or private contract, and the improvements shall be installed as approved by the City Engineer and Utility Department Manager.

## XI. LEGAL PROVISIONS APPLYING TO SUBDIVIDER

**A.** Subdivider agrees to guarantee all public improvements for a period of two year from the date of final acceptance by the City of Billings.

**B.** The owners of the properties involved in this proposed Subdivision by signature subscribed herein below agree, consent, and shall be bound by the provisions of this Agreement.

**C.** The covenants, agreements, and all statements in this Agreement run with the land and apply to and shall be binding on the heirs, personal representatives, successors, assigns and transferees of the respective parties.

**D.** In the event it becomes necessary for either party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney fees and costs.

**E.** Any amendments or modifications of this Agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this Agreement.

**F.** Subdivider shall comply with all applicable federal, state, and local statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider acknowledges and agrees that nothing contained herein shall relieve or exempt it from such compliance.

**IN WITNESS WHEREOF**, the parties hereto have set their hands and official seals on the date first above written.

"SUBDIVIDER" **HIGH SIERRA II, INC.**

By:_____

Its:_____

STATE OF MONTANA )
: ss
County of Yellowstone )

On this _____ day of _____, 20___, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the person who executed the foregoing instrument as the _____ _____ of **HIGH SIERRA II, INC.**, and acknowledged to me that he/she executed the same.

_____
Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

This agreement is hereby approved and accepted by the City of Billings, this ____ day of _____, 20___.

"CITY" **CITY OF BILLINGS, MONTANA**

By: _____
Mayor

Attest: _____
City Clerk

STATE OF MONTANA )
: ss
County of Yellowstone )

On this ____ day of _____, 20___, before me, a Notary Public in and for the State of Montana, personally appeared _____ and _____, known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.

_____
Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

# WAIVER OF RIGHT TO PROTEST
# FUTURE SPECIAL IMPROVEMENT DISTRICTS

FOR VALUABLE CONSIDERATION, the undersigned, being the Subdivider and all of the owners of the hereinafter described real property, do hereby waive the right to protest the formation of one or more special improvement district(s) for a period of no more than twenty years from the recording of this waiver, for street light maintenance and energy, and for the construction of streets, street widening, sidewalks, survey monuments, street name signs, curb and gutter, street lights, driveways, traffic signals, and traffic control devices, parks and park maintenance, trails, sanitary sewer lines, water lines, storm drains (either within or outside the area), and other improvements which the City of Billings may require.

This Waiver and Agreement is independent from all other agreements and is supported by sufficient independent consideration to which the undersigned are parties and shall run with the land and shall be binding upon the undersigned, their successors, and assigns, and the same shall be recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana.

The real property hereinabove mentioned is more particularly described as follows:

High Sierra Subdivision, 17th Filing

Signed and dated this _____ day of _____, 20___.

"SUBDIVIDER" **HIGH SIERRA II, INC.**

_____

STATE OF MONTANA )
: ss
County of Yellowstone )

On this ____ day of _____, 20___, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the _____of **HIGH SIERRA II, INC.,** the person who executed the forgoing instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEROF, I have hereunto set my hand and affixed my Notarial Seal the day and year hereinabove written.

_____
Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

High Sierra

A NEIGHBORHOOD TRADITION

N

ANNANDALE ROAD

HIGH SIERRA BLVD

GLENEAGLES BLVD

PREVIOUS FILINGS OF HIGH SIERRA

MASTER PLAN BOUNDARY

HIGH SIERRA, 20TH FILING

HIGH SIERRA, 19TH FILING

HIGH SIERRA, 18TH FILING

HIGH SIERRA, 17TH FILING

PREVIOUS FILINGS OF HIGH SIERRA

PREVIOUS FILINGS OF HIGH SIERRA

# HIGH SIERRA SUBDIVISION - MASTER PLAN

Bill Cole, Mayor
P.O. Box 1178
Billings, MT 59103
P 406.657.8296
F 406.657.8390

CITY OF
Billings
MAYOR'S OFFFICE

October 25, 2021

High Sierra II, Inc.
175 N 27th Street, Suite 900
Billings, MT 59101

Dear Applicant:

On October 25, 2021, the Billings City Council conditionally approved the preliminary plat of High Sierra Subdivision, 17th Filing, subject to the following conditions of approval:

1. To minimize the effects on local service, prior to final plat approval, the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.

2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.

3. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

Should you have any questions please contact Dave Green at (406) 247-8666 or by email at greend@billingsmt.gov

Sincerely,

_____
William A. Cole, Mayor

pc: Sanderson Stewart
High Sierra II, Inc.

**City Council Regular**

| | |
|---|---|
| **Date:** | 10/25/2021 |
| **Title:** | High Sierra Subdivision, 18th Filing, Preliminary Major Plat |
| **Presented by:** | Monica Plecker |
| **Department:** | Planning & Community Services |
| **Presentation:** | No |

## RECOMMENDATION

The Planning Board recommends conditional approval of the preliminary plat of High Sierra Subdivision, 18th Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.

## BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On August 2, 2021, Sanderson Stewart, agent for High Sierra II, Inc., applied for preliminary major plat approval for High Sierra Subdivision, 18th Filing. The proposed subdivision creates 26 lots for residential development. The subject property is generally located north of Entrada Road and also west of Entrada Road in Billings Heights. The property is zoned Suburban Neighborhood (N3). The proposed lots will follow the current zoning for lot frontage.

VARIANCES REQUESTED

The applicant is not requesting a variance from the subdivision regulations.

PROPOSED CONDITIONS OF APPROVAL

Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably minimize potential adverse impacts identified within the Findings of Fact.

1. To minimize the effects on local service, prior to final plat approval, the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.
2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
3. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

PROCEDURAL HISTORY

- Pre-application meeting May 27, 2021
- Preliminary plat application submitted to Planning Division on August 2, 2021
- Departmental review meeting August 19, 2021
- Preliminary plat resubmittal August 26, 2021
- Planning Board plat review September 14, 2021
- Planning Board public hearing September 28, 2021
- Preliminary plat to City Council October 25, 2021
- 60 working-day preliminary plat review period ends October 26, 2021

PLAT INFORMATION

| | |
|---|---|
| General location: | North and west of Entrada Road in Billings Heights |
| Legal Description: | Lot 14, Block 8, of High Sierra Subdivision 17th Filing |
| Owner/Subdivider: | High Sierra II, Inc. |
| Engineer and Surveyor: | Sanderson Stewart |
| Existing Zoning: | N3 |
| Existing land use: | Vacant Lane |
| Proposed land use: | Residential |
| Gross and Net area: | 73.671 acres / 72.031 acres |

Proposed number of lots: 26

Lot size: Max: 66.29 acres
Min.: 6,091 square feet

Parkland requirements: Parkland dedication requirement is 0.630 acres. This requirement was met with the 14th Filing.

## STAKEHOLDERS

A combined public hearing was held September 28, 2021, for this subdivision and 3 other filings of High Sierra. A brief presentation was given by staff to the Planning Board. After the presentation the staff stood for questions from the Board. President Woods asked for questions and discussion from the Board. There were no questions from the Planning Board for staff.Gary Oakland of Oakland and Companies, developer of the subdivision, stood to answer any questions that board may have for him, there were no questions for Mr. Oakland.

President Woods opened the public hearing, there was no one from the public at the meeting and there were no calls from the public regarding the proposed subdivision. The public hearing was closed, and a motion was made to forward a recommendation to the city council of conditional approval of the proposed plat and adoption of the findings of fact as presented in the staff report. The motion was seconded, a vote was taken and passed unanimously.

## ALTERNATIVES

In accordance with state law, the City Council has 60 working days to act upon this major preliminary plat. The 60 working day review period for the proposed plat ends on October 26, 2021. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 60 working day review period, the City Council is required to:

1. Approve;
2. Conditionally Approve; or
3. Deny the Preliminary Plat

## FISCAL EFFECTS

This plat will have no fiscal impacts on the City/County Planning Division.

## SUMMARY

One of the purposes of the City's subdivision review process is to identify potential negative effects of property being subdivided. Negative effects that are identified become the subdivider's responsibility to mitigate. Various City departments, private service/utility providers and the affected school district/s, have reviewed this application and provided input on effects and mitigation. The Findings of Fact, which are presented as an attachment, discuss potential negative impacts of the subdivision and conditions of approval are recommended as measures to further mitigate any impacts. In this case, there were found to be minimal impacts from this proposed subdivision.

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**Attachments**

Findings of Fact
Proposed Plat
SIA Draft
Master Site Plan
Mayors Letter

# FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of High Sierra Subdivision, 18th Filing. These findings are based on the preliminary plat application and supplemental documents; addressing the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Billings Subdivision Regulations (Section 23-303(H), BMCC).

**A. What are the effects on agriculture, local services, the natural environment, wildlife, wildlife habitat, and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-302.H.2.]**

**1. Effect on agriculture and agricultural water user facilities**

The subject property is currently dry land grass and shrubs. There are no water rights being transferred to subdivision property owners. There are no existing ditches near this proposed development. The subdivision should not affect agricultural water users' facilities.

**2. Effect on local services**

**a.** **Utilities** – Public water services to the subject property will be provided by the City of Billings. The subdivision will be served by making two connections to public water mains, one on Matador Avenue, just north of the Matador Avenue/Street 1 (Temp Name) intersection and one on Lindero Boulevard just north of the intersection of Lindero Boulevard/Entrada Road. A new 8-inch water main will be installed in the local interior streets of the subdivision. The water main within the subdivision will make looped connections whenever possible. All water line construction shall be installed in conformance with the design standards, specification, rules and regulations of the City of Billings. The City of Billings Engineering Department will review and approve all proposed water lines prior to installation.

Fire hydrants will also be installed as required by the City of Billings Fire Department. The City Fire Department with review and approve all proposed hydrant locations prior to installation.

Sanitary sewer service will be provided by the City of Billings by making a connection to an existing 8- inch diameter sewer main located in Matador Avenue and extending 8- inch sanitary sewer main in Matador Avenue. An existing 15-inch sanitary sewer main is in Lindero Boulevard and the 15-inch sanitary sewer main will be extended in Lindero Boulevard. Sanitary sewer mains will be stubbed to each lot. All sewer line construction shall be installed in conformance with the design standards, specification, rules and regulations of the City of Billings Engineering Department. The City of Billings Engineering Department will review and approve all proposed sanitary sewer lines prior to installation.

All telephone, gas, electrical power, and cable television lines that are placed within the public right-of-way shall be installed prior to surface improvements.

**b.** **Storm water** – Stormwater management for the proposed subdivision will be provided by a combination of surface drainage and curbs and gutters, drained to underground storm drains. Storm water will discharge to a stormwater detention facility located in an off-site area on Lot 17, Block 6, High Sierra Subdivision, 11th Filing. It is generally located north of the future projection of Gleneagles Boulevard designated specifically for storm water detention. This detention facility will be sized to accept runoff generated from the High Sierra Subdivision, 18th Filing. Stormwater management facilities for the subdivision must be able to pass flows generated outside the subdivision area without inundating existing and proposed home sites. All proposed stormwater management will be reviewed and approved by City of Billings Engineering Department to ensure it meets the master planned stormwater plan for High Sierra Subdivision. All drainage improvements shall comply with the provisions of the City of Billings Stormwater Management Manual and Section 23-706, BMCC, a stormwater management plan shall be submitted to the Engineering Division prior to filing of the final plat.

**c.** **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.

**d.** **Streets** – Access to the lots in this proposed subdivision is from Matador Avenue, Lindero Boulevard. All new streets will be in a 56-foot-wide right of way and will be constructed to 34-foot wide, back of curb to back of curb road. Road construction will include installation of accessible ramps at the intersections.

Sidewalks will be installed at the time of individual lot development. All sidewalks will be boulevard type walks with 5-foot wide boulevard sidewalks.

**e.** **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The fire station that serves this area is located at 1601 St. Andrews Drive (Station #6).

The subdivision is located within the ambulance service area of American Medical Response (AMR).

Comments from the Police department state that continued expansion of subdivisions will require additional resources to maintain acceptable levels of service.

**f.** **Schools** – School District #2 provides service to students within this subdivision from elementary to high school (Eagle Cliffs Elementary School, Castle Rock Middle School, and Skyview High School). School District #2 shows some additional capacity at the schools listed above.

**g.** **Parks and Recreation** – The parkland dedication requirement for this subdivision is 0.630 acres. With High Sierra 14th Filings there was a parkland

dedication of 5.310 acres. With this dedication parkland requirements have been met for several High Sierra Filings in the immediate area.

The following is a summary of the required parkland dedications that have been previously attributed to the High Sierra Subdivision, 14th Filing park:

High Sierra Sub., 14th Filing 1.876 acres
High Sierra Sub., 15th Filing 0.587 acres
High Sierra Sub., 16th Filing 0.255 acres
High Sierra Sub., 10th Filing 0.895 acres
High Sierra Sub., 17th Filing 0.811 acres
Total 4.424 acres

Remaining land for parkland dedication 0.866 acres
High Sierra 18th Filing, 0.630 acres
Total remaining after 18th Filing 0.256 acres

With High Sierra 18th Filing requirement of 0.630 acres, the total remaining parkland dedication still has enough land to provide the required parkland dedication for this filing.

Lot owners are advised they will be subject to inclusion in a Parks Maintenance District (PMD) for the operation and maintenance of existing and future parks within High Sierra Subdivision.

**h.** **Mail Delivery -** The United States Postal Service will provide postal service to the subdivision. They have requested the installation of centralized mailbox unit (CBUs). The developer will work with the USPS to provide a satisfactory location for a CBU for this filing. **(Condition #1)**

**3. Effect on the natural environment**

The subject property is relatively level land adjacent to urban development to the south. A geotechnical study was performed for the subdivision by Rimrock Engineering, Inc. dated July 28, 2021. It is recommended lot purchasers fully review that report prior to building on lots. The subdivision should have a minimal effect on the natural environment.

**4. Effect on wildlife and wildlife habitat**

There are no known endangered or threatened species on the property. Future property owners should be aware that the proposed subdivision is located near prime wildlife habitat and adjacent to open grassland areas, therefore conflicts with wildlife may occur. Any damage caused by wildlife is the responsibility of the owner. This notice is in the SIA under the heading II. Property Conditions and Information for Lot Purchasers.

**5. Effect on the public health, safety and welfare**

Fire hydrants will be installed to meet fire department requirements. Sidewalks will offer a safe place for pedestrians to walk. The effects on public health and safety should be minimal.

**B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMCC 23-302.H.1.]**

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-616, MCA.

**C. Does the subdivision conform to the City of Billings 2016 Growth Policy, the 2018 Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan? [BMCC 23-(8)]**

**1. City of Billings 2016 Growth Policy**

The proposed subdivision is consistent with the following goals of the Growth Policy:

> **Essential Investments:** Infill development and development near existing City infrastructure may be the most cost effective. (p.6)
>
> **Strong Neighborhoods (livable, safe, sociable and resilient neighborhoods):** Neighborhoods that are safe and attractive and provide essential services are much desired. (p.8)
>
> **Home Base (healthy, safe and diverse housing options)** Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings. (p.9)

**2. Billings Heights Neighborhood Plan**

The Billings Heights Neighborhood Plan, adopted in 2006, identifies this area for low-density residential development. The subdivision meets the following goals of the Heights Neighborhood Plan:

> **Issue: Urban Sprawl**
>
> **Issue:** Residential Development
>
> **Goal:** To provide safe, good quality and affordable housing in the Heights. Develop housing patterns that are compatible with existing neighborhoods. Maintain similar housing in established neighborhoods.
>
> **Objectives:** To encourage infill development and housing development that meets residents' desire to have similar housing within their neighborhood.
>
> *This subdivision provides low-density residential single-family development in a neighborhood with existing low-density single-family development.*

**3. 2018 Billings Urban Area Long Range Transportation Plan**

The proposed subdivision adheres to the goals and objectives of the 2018 Transportation Plan and preserves the street network and street hierarchy specified in the plan.

**4. Billings Area Bikeway and Trail Master Plan (BABTMP)**

The proposed subdivision lies within the jurisdiction of the BABTMP. The BABTMP does not show any trails within the proposed subdivision.

**D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608 (3) (b) and BMCC 23-302.H.3.a.]**

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and to the design standards specified in the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

**E. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-302.H.3.e.]**

The subject property is located within the Suburban Neighborhood 3 (N3) zoning district. All building development on the lots shall comply with current zoning when applying for a building permit.

**F. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-302.H.3.b.]**

The subdivider will furnish private utility easements as required by private utility providers.

**G. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608 (3) (d) and BMCC 23-302.H.3.c.]**

Legal and physical access is provided to the proposed lots from Modera Avenue and Lindero Boulevard will provide access to individual lots. All streets are dedicated to the public as shown on the plat.

**CONCLUSIONS OF FINDINGS OF FACT**

- The preliminary plat of High Sierra Subdivision, 18th Filing does not create any adverse impacts that warrant denial of the subdivision.

- The proposed subdivision conforms to several goals and policies of the 2016 Growth Policy and does not conflict with the Transportation or Bikeway and Trail Plans.

- The proposed subdivision complies with state and local subdivision regulations, local zoning, and provides legal and physical access to each lot.

- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

**RECOMMENDATION**

Staff recommends the Planning Board forward a recommendation of conditional approval of the preliminary plat of High Sierra Subdivision, 18th Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

Approved by the Billings City Council, October 25, 2021

_____

William A. Cole, Mayor

PRELIMINARY PLAT OF

# HIGH SIERRA SUBDIVISION, 18TH FILING

BEING THE PROPOSED LOT 14, BLOCK 8 HIGH SIERRA SUBDIVISION, 17TH FILING

SITUATED IN THE SE1/4 OF SECTION 8, THE SW1/4 OF SECTION 9 AND NE1/4 AND NW1/4 OF SECTION 17, T.1N., R. 26 E., P.M.M.,

CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : HIGH SIERRA II, INC.

PREPARED BY : SANDERSON STEWART

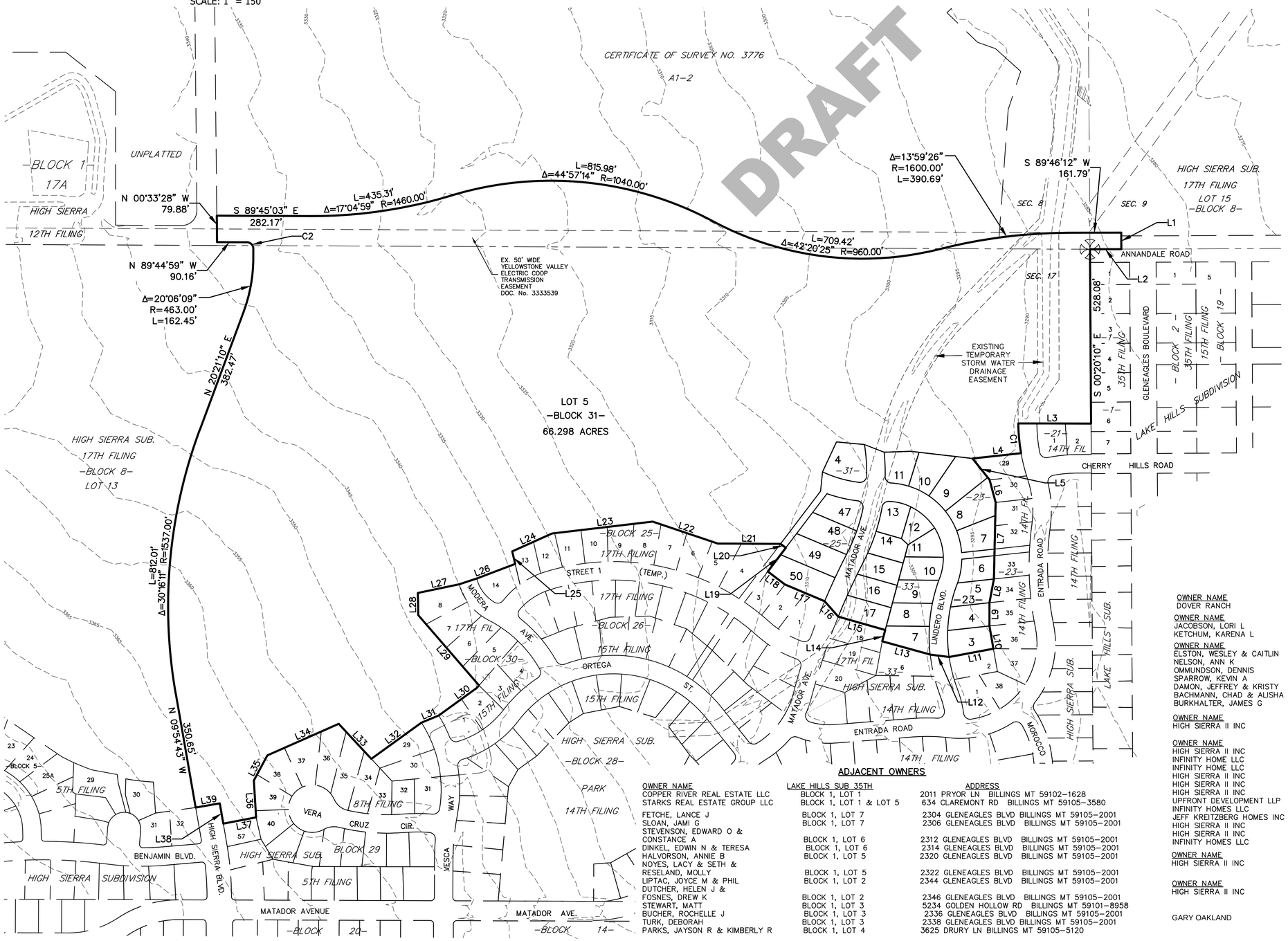
JULY 2021

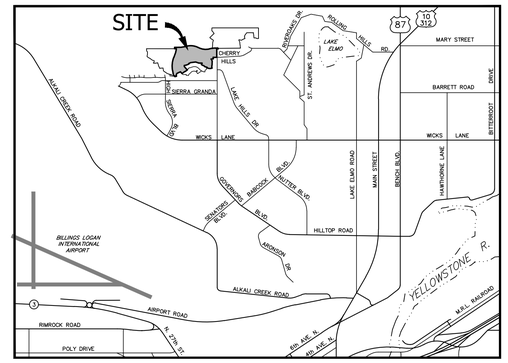
BILLINGS, MONTANA

NORTH

150' 75' 0 150' 300'

SCALE: 1" = 150'




## VICINITY MAP

NOT TO SCALE

| LINE TABLE | | |
|---|---|---|
| Line # | Bearing | Distance |
| L1 | N 00°24'44" W | 50.14' |
| L2 | N 89°45'56" E | 95.00' |
| L3 | S 89°52'30" E | 220.28' |
| L4 | N 83°48'10" E | 147.82' |
| L5 | N 38°36'43" W | 82.92' |
| L6 | N 14°57'00" W | 70.82' |
| L7 | N 01°17'33" E | 231.98' |
| L8 | N 10°44'19" E | 73.17' |
| L9 | N 00°02'33" E | 70.42' |
| L10 | N 09°57'38" W | 70.00' |
| L11 | N 79°28'33" E | 136.36' |
| L12 | S 83°00'11" E | 57.75' |
| L13 | S 74°27'28" E | 150.89' |
| L14 | N 14°58'01" E | 35.25' |
| L15 | N 74°06'16" W | 147.99' |
| L16 | N 41°19'23" W | 62.42' |
| L17 | N 67°08'47" W | 130.50' |
| L18 | N 52°47'49" W | 65.00' |
| L19 | S 37°12'11" W | 89.93' |
| L20 | S 52°47'49" E | 20.00' |

| LINE TABLE | | |
|---|---|---|
| Line # | Bearing | Distance |
| L21 | S 89°41'37" E | 190.15' |
| L22 | S 71°21'58" E | 207.86' |
| L23 | N 83°16'17" E | 306.95' |
| L24 | N 65°46'06" E | 132.41' |
| L25 | N 13°17'13" W | 38.88' |
| L26 | N 69°09'25" E | 124.56' |
| L27 | N 78°07'31" E | 127.55' |
| L28 | N 00°52'29" W | 67.11' |
| L29 | N 40°48'24" W | 281.53' |
| L30 | N 54°07'31" E | 142.29' |
| L31 | N 67°33'43" E | 56.83' |
| L32 | N 54°07'30" E | 187.31' |
| L33 | S 42°52'30" E | 144.89' |
| L34 | N 66°07'30" E | 236.67' |
| L35 | N 28°07'30" E | 86.07' |
| L36 | N 03°24'04" W | 112.00' |
| L37 | N 79°07'31" E | 101.13' |
| L38 | S 09°54'43" E | 62.50' |
| L39 | N 80°05'17" E | 74.00' |

| CURVE TABLE | | | |
|---|---|---|---|
| Curve # | Delta | Radius | Length |
| C1 | 9°21'52" | 556.00' | 90.87' |
| C2 | 90°00'00" | 20.00' | 31.42' |

## ADJACENT OWNERS

| OWNER NAME | LAKE HILLS SUB 35TH | ADDRESS |
|---|---|---|
| COPPER RIVER REAL ESTATE LLC | BLOCK 1, LOT 1 | 2011 PRYOR LN BILLINGS MT 59102-1628 |
| STARKS REAL ESTATE GROUP LLC | BLOCK 1, LOT 1 & LOT 5 | 634 CLAREMONT RD BILLINGS MT 59105-3580 |
| FETCHE, LANCE J | BLOCK 1, LOT 7 | 2304 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| SLOAN, JAMI G | BLOCK 1, LOT 7 | 2306 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| STEVENSON, EDWARD O & CONSTANCE A | BLOCK 1, LOT 6 | 2312 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| DINKEL, EDWIN N & TERESA | BLOCK 1, LOT 6 | 2314 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| HALVORSON, ANNIE B | BLOCK 1, LOT 5 | 2320 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| NOYES, LACY & SETH & RESELAND, MOLLY | BLOCK 1, LOT 5 | 2322 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| LIPTAC, JOYCE M & PHIL | BLOCK 1, LOT 2 | 2344 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| DUTCHER, HELEN J & FOSNES, DREW K | BLOCK 1, LOT 2 | 2346 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| STEWART, MATT | BLOCK 1, LOT 3 | 5234 GOLDEN HOLLOW RD BILLINGS MT 59101-8958 |
| BUCHER, ROCHELLE J | BLOCK 1, LOT 3 | 2336 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| TURK, DEBORAH | BLOCK 1, LOT 3 | 2338 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| PARKS, JAYSON R & KIMBERLY R | BLOCK 1, LOT 4 | 3625 DRURY LN BILLINGS MT 59105-5120 |

## ADJACENT OWNERS

| OWNER NAME | CERTIFICATE OF SURVEY 3776 | ADDRESS |
|---|---|---|
| DOVER RANCH | TRACT A1-2 | PO BOX 51389 BILLINGS, MT 59105-1361 |
| OWNER NAME | HIGH SIERRA SUB 5TH FIL | ADDRESS |
| JACOBSON, LORI L | BLOCK 5, LOT 32 | 622 W HARVARD PL ONTARIO, CA 91762-1904 |
| KETCHUM, KARENA L | BLOCK 29, LOT 57 | 2117 HIGH SIERRA BLVD. BILLINGS, MT. 59105-5455 |
| OWNER NAME | HIGH SIERRA SUB 8TH FIL | ADDRESS |
| ELSTON, WESLEY & CAITLIN | BLOCK 29, LOT 40 | 1130 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| NELSON, ANN K | BLOCK 29, LOT 39 | 1134 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| OMMUNDSON, DENNIS | BLOCK 29, LOT 38 | 1129 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| SPARROW, KEVIN A | BLOCK 29, LOT 37 | 1125 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| DAMON, JEFFREY & KRISTY | BLOCK 29, LOT 36 | 1121 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| BACHMANN, CHAD & ALISHA | BLOCK 29, LOT 35 | 1117 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| BURKHALTER, JAMES G | BLOCK 29, LOT 34 | 1113 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| OWNER NAME | HIGH SIERRA SUB 12TH FIL | ADDRESS |
| HIGH SIERRA II INC | BLOCK 1, LOT 17A | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| OWNER NAME | HIGH SIERRA SUB 14TH FIL | ADDRESS |
| HIGH SIERRA II INC | BLOCK 23, Lot 2 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| INFINITY HOME LLC | BLOCK 23, Lot 29 | PO BOX 20174 BILLINGS MT 59104-0174 |
| INFINITY HOME LLC | BLOCK 23, Lot 30 | PO BOX 20174 BILLINGS MT 59104-0174 |
| HIGH SIERRA II INC | BLOCK 23, Lot 31 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| HIGH SIERRA II INC | BLOCK 23, Lot 32 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| HIGH SIERRA II INC | BLOCK 23, Lot 33 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| UPFRONT DEVELOPMENT LLP | BLOCK 23, Lot 34 | 1731 SAVONA ST BILLINGS MT 59105-4167 |
| INFINITY HOMES LLC | BLOCK 23, Lot 35 | PO BOX 20174 BILLINGS MT 59104-0174 |
| JEFF KREITZBERG HOMES INC | BLOCK 23, Lot 36 | 2454 SOUTHRIDGE DR BILLINGS MT 59102-7925 |
| HIGH SIERRA II INC | BLOCK 23, Lot 37 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| HIGH SIERRA II INC | BLOCK 21, LOTS 1 & 2 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| INFINITY HOMES LLC | BLOCK 33, LOT 6 | PO BOX 20174 BILLINGS MT 59104-0174 |
| OWNER NAME | HIGH SIERRA SUB 15TH FIL | ADDRESS |
| HIGH SIERRA II INC | BLOCK 30, LOTS 1-3<br>BLOCK 29, LOT 29 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| OWNER NAME | HIGH SIERRA SUB 17TH FIL | ADDRESS |
| HIGH SIERRA II INC | BLOCK 25, LOTS 1-14<br>BLOCK 30, LOTS 5-8<br>BLOCK 33, LOT 18 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| GARY OAKLAND | BLOCK 8, LOT 13 & 15 | 175 N 27TH ST STE 900 BILLINGS, MT 59101-2065 |



82061.142_18TH PREPLAT SHT1.DWG **82061.142** 8/26/21 BG

PRELIMINARY PLAT OF

# HIGH SIERRA SUBDIVISION, 18TH FILING

BEING THE PROPOSED LOT 14, BLOCK 8 HIGH SIERRA SUBDIVISION, 17TH FILING
SITUATED IN THE SE1/4 OF SECTION 8, THE SW1/4 OF SECTION 9 AND NE1/4 AND NW1/4 OF SECTION 17, T.1N., R. 26 E., P.M.M.,
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

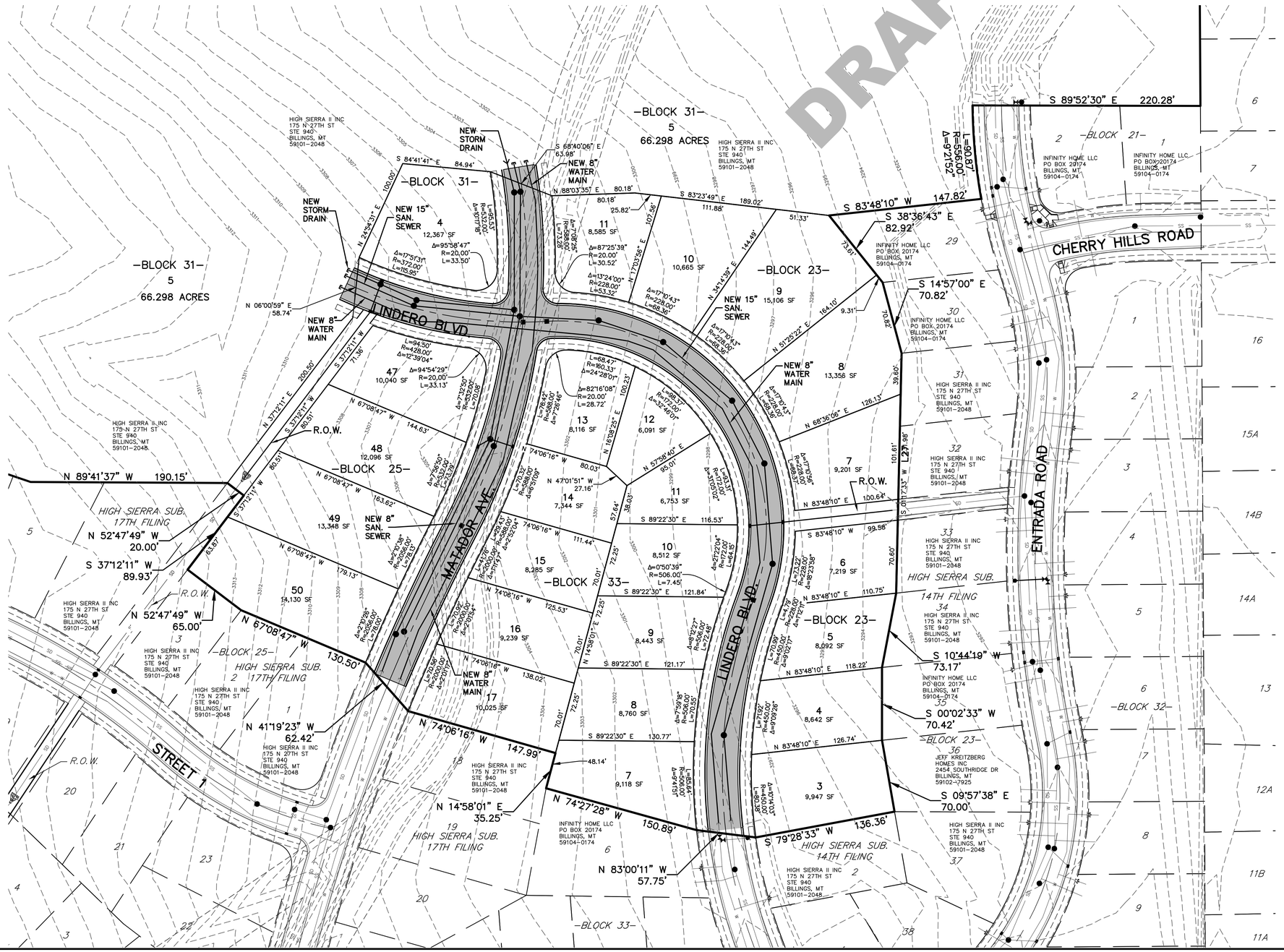
PREPARED FOR : HIGH SIERRA II, INC.

PREPARED BY : SANDERSON STEWART

JULY 2021

BILLINGS, MONTANA

DRAFT


NORTH
50 25 0 50 100
SCALE: 1" = 50'
LINDERO BLVD
MATADOR AVE
STREET 1
ENTRADA ROAD
CHERRY HILLS ROAD
-BLOCK 31-
-BLOCK 25-
-BLOCK 33-
-BLOCK 23-
-BLOCK 21-
-BLOCK 32-
HIGH SIERRA SUB. 17TH FILING
HIGH SIERRA SUB. 14TH FILING
R.O.W.
NEW STORM DRAIN
NEW 15" SAN. SEWER
NEW 8" WATER MAIN
NEW 8" SAN. SEWER
HIGH SIERRA II INC 175 N 27TH ST STE 940 BILLINGS, MT 59101-2048
INFINITY HOME LLC PO BOX 20174 BILLINGS, MT 59104-0174
JEFF KREITZBERG HOMES INC 2454 SOUTHRIDGE DR BILLINGS, MT 59102-7925
N 89°41'37" W 190.15'
N 52°47'49" W 20.00'
S 37°12'11" W 89.93'
N 52°47'49" W 65.00'
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N 74°06'16" W 147.99'
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N 74°27'28" W 150.89'
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S 10°44'19" W 73.17'
S 00°02'33" W 70.42'
S 09°57'38" E 70.00'
L=90.87' R=565.00' Δ=9°12'52"
L=27.98' S 01°17'33" W
N 65°36'06" E 126.13'
N 83°48'10" E 100.64'
S 83°48'10" W 99.98'
N 83°48'10" E 110.75'
N 83°48'10" E 118.22'
N 83°48'10" E 126.74'
N 51°25'22" E 164.10'
N 34°41'39" E 144.49'
N 17°03'58" E 107.56'
S 83°23'49" E 189.02'
N 88°03'35" E 80.18'
S 68°40'06" E 63.98'
S 84°41'41" E 84.94'
N 24°54'31" E 100.00'
N 06°00'59" E 58.74'
S 37°12'11" W 200.50'
S 37°12'11" W 71.36'
N 67°08'47" W 144.63'
N 67°08'47" W 163.62'
N 67°08'47" W 179.13'
S 89°22'30" E 116.53'
S 89°22'30" E 121.84'
S 89°22'30" E 121.17'
S 89°22'30" E 130.77'
N 74°06'16" W 111.44'
N 74°06'16" W 125.53'
N 74°06'16" W 138.02'
N 74°01'51" W 27.16'
N 57°58'40" E 95.01'
N 16°08'25" E 100.23'
S 89°22'30" E 111.88'
N 14°58'01" E 72.25'
S 89°22'30" E 72.25'
N 14°58'01" E 72.25'
48.14'
L=68.47' R=180.33' Δ=24°28'01"
Δ=82°16'08" R=20.00' L=28.72'
Δ=87°25'39" R=20.00' L=30.52'
Δ=13°24'00" R=228.00' L=53.32'
Δ=17°51'31" R=372.00' L=115.95'
Δ=95°58'47" R=20.00' L=33.50'
Δ=94°54'29" R=20.00' L=33.13'
Δ=12°39'04" R=428.00' L=94.50'
Δ=95°58'47" R=20.00' L=33.50'
Δ=17°10'43" R=228.00' L=68.36'
Δ=17°10'43" R=228.00' L=68.36'
Δ=32°46'09" R=200.00' L=114.37'
Δ=0°50'39" R=506.00' L=7.45'
Δ=8°12'27" R=506.00' L=72.48'
Δ=7°59'18" R=506.00' L=70.55'
Δ=24°49'15" R=506.00' L=219.15'
Δ=24°28'01" R=180.33' L=77.00'
Δ=17°10'43" R=228.00' L=68.36'
Δ=8°23'58" R=228.00' L=33.53'
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Δ=17°10'43" R=228.00' L=68.36

Return to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

# SUBDIVISION IMPROVEMENTS AGREEMENT & WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT DISTRICTS

## HIGH SIERRA SUBDIVISION, EIGHTEENTH FILING

### CITY OF BILLINGS

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Return to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

# SUBDIVISION IMPROVEMENTS AGREEMENT & WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT DISTRICTS HIGH SIERRA SUBDIVISION, EIGHTEENTH FILING

**THIS AGREEMENT** is made and entered into this ____ day of _____, 20___, by and between **HIGH SIERRA II, INC**., whose address for the purpose of this agreement is 175 North 27th Street, Suite 900, Billings, MT 59101, hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

**WITNESSETH:**

**WHEREAS**, at a regular meeting conducted on ____ day of _____, 20_____, the Board of Planning recommended conditional approval of a preliminary plat of High Sierra Subdivision, 18th Filing; and

**WHEREAS**, at a regular meeting conducted on _____ day of _____, 20____, the City Council conditionally approved a preliminary plat of High Sierra Subdivision, 18th Filing; and

**WHEREAS**, a Subdivision Improvements Agreement is required by the City prior to the approval of the final plat.

**WHEREAS,** the provisions of this agreement shall be effective and applicable to High Sierra Subdivision, 18th Filing upon the filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The Subdivision shall comply with all requirements of the City of Billings Subdivision Regulations, the rules, regulations, policies, and resolutions of the City of Billings, and the laws and administrative rules of the State of Montana.

**THEREFORE, THE PARTIES TO THIS AGREEMENT**, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, do hereby agree as follows:

## I. VARIANCES

**A.** Subdivider has requested, and the City hereby grants, the following variances by the City Council from the strict interpretation of the City's Subdivision Regulations (Section 23.1401, BMCC):

1. No Variances are requested.

## II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS

**A.** Lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development. If sidewalk is not constructed within 5 years, the City has the right to construct the sidewalk and assess the property owners.

**B.** Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.

**C.** No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.

**D.** There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider, and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.

**E.** Lot owners are advised they will be subject to inclusion in a Parks Maintenance District (PMD) for the operation and maintenance of the parkland dedicated with various filings of High Sierra Subdivision, including High Sierra Subdivision, 18th Filing, and future filings of High Sierra Subdivision.

**F.** The Subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution and Prevention Plan (SWPPP) filed with the City and the Montana Department of Environmental Quality (MDEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by MDEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.

**G.** Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for new construction on lots. Best Management Practices are defined within Chapter 28, BMCC and detailed in the Billings Stormwater Management Manual.

1. The lowest finish floor elevation (which includes the garage) shall be a minimum of 18-inches higher than the top of curb, measured from the highest location along the lot frontage. Home builder and lot owner may find it necessary to raise the finish floor elevation of house or garage above this minimum during on-site building design and/or during on-lot grading.

2. The stormwater runoff from individual lots shall be directed toward the public right-of-way wherever possible. However, due to the existing terrain of the subdivision this is not possible for every lot. Where runoff from lots cannot be directed to public right-of-way because existing terrain is falling away from the public right of way, the stormwater runoff shall be directed to flow to the same location as it has historically. Home builder and lot owners shall consider the effect of potential off-lot run-on waters from lots uphill of the subject lot, and grade around the home to provide positive drainage away from the home. Home builder and lot owners must take necessary measures to protect the house from surface stormwater flows. Lots shall allow, through on-site building design and on-lot grading, for stormwater to pass through each lot without negatively impacting adjacent lots. The lowest openings on each home (window wells) are to be located outside the designated drainage paths. If this is not possible, the builder and lot owners must take necessary measures to protect these openings from inundating from surface water flows. In any case,

the homebuilder shall allow enough space between window wells and property lines to provide sufficient swales and proper storm water drainage away from window wells.

3. Each owner of a completed lot shall be a member of the High Sierra Subdivision Homeowners Association (HOA). Membership shall be appurtenant to and may not be separated from ownership of a lot. The Homeowners Association will be set up to maintain the permanent stormwater detention facilities. The HOA Board of Directors shall have the power, in its discretion, to exclude costs of major repairs or approved capital improvements to the HOA Storm Water System from the regular monthly assessments and, instead, impose special assessments for these expenses, and for emergencies, as they are incurred.

## III. TRANSPORTATION

### A. Streets

1. Subdivider will enter into a private contract for the construction of all required improvements for those streets within the subdivision, as follows:

   Matador Avenue and Lindero Boulevard will be constructed within a 56-foot right-of-way using curb and gutter and full-width pavement (34-feet back of curb to back of curb). Curb and Gutter will be installed per the City of Billings Standards in place at time of construction.

### B. Sidewalks

1. Sidewalk on the internal streets shall be installed at the time of individual lot development. The sidewalk shall consist of a 5-foot-wide boulevard type sidewalk with a minimum 5-foot-wide boulevard.

2. Subdivider will install accessible ramps at the intersections, which shall be completed with the subdivision improvements.

3. A 12-foot-wide sidewalk shall be constructed in the 20-foot-wide right-of-way corridors and shall be installed at the time of private contract construction.

**C. Street Lighting**

Construction or installation of streetlights within the public rights-of-way shall not be required at this time, but streetlights are included in the Waiver referenced herein for construction of the same in the future. A maintenance district for streetlights may be formed for future maintenance of any streetlights installed in the future.

**D. Traffic Control Devices**

The Subdivider shall furnish and install all necessary traffic control devices within and adjacent to the Subdivision in accordance with the plans and specification submitted to and approved by the City Engineer. Traffic control devices shall include all necessary signing, striping, and channelization devices to properly complete the implementation of the proposed street construction.

Based on the Traffic Impact Study (TIS) update letter, the 18th Filing development's portion of critical volumes for impacted intersections are as follows (based on a $250,000.00 intersection improvement cost):

| | |
|---|---|
| Wicks Lane/Gleneagles Blvd | 0.55% ($1,375.00) |
| Wicks Lane/Fantan Street | 0.62% ($1,550.00) |
| Wicks Lane/St. Andrews Dr. | 0.49% ($1,225.00) |
| Annandale Road/Gleneagles Blvd | 0.08% ($200.00) |
| Annandale Road/St. Andrews Dr. | 0.09% ($225.00) |

City and Subdivider agree that the Subdivider will be required to make cash contributions to these intersections prior to final plat approval.

**E. Access**

Matador Avenue and Lindero Boulevard provide access to the subdivision. The interior streets will be located within a 56-foot right-of-way and will have a width of 34-feet back of curb to back of curb.

**F. Billings Area Bikeway and Trail Master Plan**

The Billings Area Bikeway Plan (2017) shows no trail connections within the proposed area of High Sierra Subdivision, 18th Filing, and as such, no trail improvements are required as part of this subdivision.

### G. Public Transit

The subdivision does not require improvements to ensure public transit service.

## IV. EMERGENCY SERVICE

The City will provide emergency service. Fire hydrants shall be provided at each street intersection and at intermediate locations where distances exceed 500-feet. Appropriate turnarounds will be located on any dead-end street in excess of 150-feet.

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and fire hydrant(s) in place to allow for fire suppression requirements. Prior to issuance of a building permit for construction using combustible materials (i.e., lumber, plywood, wood trusses, etc.), fire apparatus access roads, and water supply requirements shall be provided in accordance with the International Fire Code as adopted by the City of Billings.

At a minimum, the following is required:

- An unobstructed gravel road or gravel road base must be within 150-feet of the furthest portion of a building under construction as measured along an approved route.
- The access roads are required to support fire apparatus vehicle loading (40 tons) during all weather conditions and shall be a minimum of 20-feet-wide.
- An operational fire hydrant shall be located within 600-feet of the furthest portion of a residence under construction or within 400-feet of the furthest portion of a commercial building under construction as measured along the access roads to the site.
- The above requirements do not alter or effect the current minimum subdivision requirements for fire apparatus access and water supply.

## V. STORM DRAINAGE

Storm drainage for the public streets shall be provided by a combination of surface drainage and curbs and gutters, drained to underground storm drains, and with discharge to a stormwater detention facility that is located within an off-site area on Lot 17, Block 6, High Sierra Subdivision, 11th Filing generally north of the future projection of Gleneagles Boulevard designated for storm water detention. This detention facility will be sized to accept runoff generated from the High Sierra Subdivision, 18th Filing. Stormwater management facilities for the subdivision must be able to pass flows generated outside the subdivision area

without inundating existing and proposed home sites. All drainage improvements shall comply with the provisions of the *Stormwater Management Manual* and Section 23-706, BMCC, a stormwater management plan shall be submitted to and approved by the Engineering Division prior to filing of the final plat.

The drainage system improvements will be in accordance with the recommendations of the stormwater analysis and report prepared and submitted with the improvement plans and specifications. Maintenance of the stormwater detention area and associated drainage facilities shall be by the High Sierra Subdivision HOA.

## VI. UTILITIES

The Subdivision Improvements Agreement does not constitute an approval for extension of or connection to water mains and sanitary sewers. The property owner shall make application for extension/connection of water mains and sanitary sewers to the Public Works Department – Engineering Division. The extension/connection of/to water mains and sanitary sewers is subject to the approval of the applications and the conditions of approval. Applications shall be submitted for processing prior to the start of any construction and prior to review and approval of any project plans and specifications.

The Developer/Owner acknowledges that the Subdivision shall be subject to the applicable System Development Fees in effect at the time new water and/or sanitary sewer service connections are made.

The design/installation of sanitary sewers and appurtenances, and water mains and appurtenances (fire hydrants, etc.) shall be in accordance with design standards, specifications, rules, regulations of and as approved by the City of Billings Public Works Department, Fire Department, and the Montana Department of Environmental Quality.

### A. Water

The subdivision will be served by making two connections to public water mains, one on Matador Avenue, just north of the Matador Avenue/Street 1 (Temp Name) intersection and one on Lindero Boulevard just north of the intersection of Lindero Boulevard/Entrada Road. A new 8-inch water main will be installed in the local interior streets of the subdivision which is subject to approval from the City of Billings. The water main within the subdivision will make looped connections whenever possible. Fire hydrants will be provided at all appropriate locations and are also subject to approval by the City of Billings.

### B. Sanitary Sewer

The subdivision will be served by making a connection to an existing 8-inch diameter sewer main located in Matador Avenue and extending 8-inch sanitary sewer main in Matador Avenue. An existing 15-inch sanitary sewer main is located in Lindero Boulevard and the 15-inch sanitary sewer main will be extended in Lindero Boulevard.

### C. Power, Telephone, Gas, and Cable Television

All telephone, gas, electrical power, and cable television lines shall be the responsibility of the Subdivider. Any line located within public right-of-way shall be subject to approval of the City Engineer.

## VII. PARKS/OPEN SPACE

The parkland required for this subdivision is 0.630 acres. This parkland dedication will be met through a previous parkland dedication with High Sierra Subdivision, 14th Filing. The total parkland dedicated with High Sierra Subdivision; 14th Filing was 5.310 acres.

The following is a summary of the required parkland dedications that have been previously attributed to the High Sierra Subdivision, 14th Filing park:

| | |
|---|---|
| High Sierra Sub., 14th Filing | 1.876 acres |
| High Sierra Sub., 15th Filing | 0.587 acres |
| High Sierra Sub., 16th Filing | 0.255 acres |
| High Sierra Sub., 10th Filing | 0.895 acres |
| High Sierra Sub., 17th Filing | 0.811 acres |
| Total | 4.424 acres |

Therefore, there is sufficient area remaining within the parkland dedication from High Sierra Subdivision, 14th Filing to meet the 0.630 acres parkland requirement for High Sierra Subdivision, 18th Filing. No additional parkland is required with High Sierra Subdivision, 18th Filing.

Lot owners are advised they will be subject to inclusion in a Special Improvement District (SID) for the development and a Parks Maintenance District (PMD) for the operation and maintenance of this and future parks within High Sierra Subdivision.

## VIII. IRRIGATION

No permanent irrigation ditches, field laterals, or irrigation easements exist on the subdivision.

## IX. SOILS/GEOTECHNICAL STUDY

A geotechnical report was performed within the area of this subdivision and submitted with the preliminary plat and is available for review at the City of Billings Planning Department. The Geotechnical Investigation Report for High Sierra Subdivision 18th Filing Billings, Montana was completed by Rimrock Engineering Inc. and dated July 28, 2021.

It is recommended that owners, purchasers, realtors, builders, and developers fully familiarize themselves with the information contained in this report prior to design or construction.

## X. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install, and construct said required improvements with cash or by utilizing the mechanics of a special improvement district or private contracts secured by letters of credit or a letter of commitment to lend funds from a commercial lender. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said special improvement district or private contract, and the improvements shall be installed as approved by the City Engineer and Utility Department Manager.

## XI. LEGAL PROVISIONS APPLYING TO SUBDIVIDER

**A.** Subdivider agrees to guarantee all public improvements for a period of two year from the date of final acceptance by the City of Billings.

**B.** The owners of the properties involved in this proposed Subdivision by signature subscribed herein below agree, consent, and shall be bound by the provisions of this Agreement.

**C.** The covenants, agreements, and all statements in this Agreement run with the land and apply to and shall be binding on the heirs, personal representatives, successors, assigns and transferees of the respective parties.

**D.** In the event it becomes necessary for either party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney fees and costs.

**E.** Any amendments or modifications of this Agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this Agreement.

**F.** Subdivider shall comply with all applicable federal, state, and local statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider acknowledges and agrees that nothing contained herein shall relieve or exempt it from such compliance.

**IN WITNESS WHEREOF**, the parties hereto have set their hands and official seals on the date first above written.

"SUBDIVIDER" **HIGH SIERRA II, INC.**

By:_____

Its:_____

STATE OF MONTANA )
: ss
County of Yellowstone )

On this _____ day of _____, 20___, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the person who executed the foregoing instrument as the _____ _____ of **HIGH SIERRA II, INC.**, and acknowledged to me that he/she executed the same.

_____
Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

This agreement is hereby approved and accepted by the City of Billings, this ____ day of _____, 20___.

"CITY" **CITY OF BILLINGS, MONTANA**

By: _____
Mayor

Attest: _____
City Clerk

STATE OF MONTANA )
: ss
County of Yellowstone )

On this ____ day of _____, 20___, before me, a Notary Public in and for the State of Montana, personally appeared _____ and _____, known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.

_____
Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

# WAIVER OF RIGHT TO PROTEST
# FUTURE SPECIAL IMPROVEMENT DISTRICTS

FOR VALUABLE CONSIDERATION, the undersigned, being the Subdivider and all of the owners of the hereinafter described real property, do hereby waive the right to protest the formation of one or more special improvement district(s) for a period of no more than twenty years from the recording of this waiver, for street light maintenance and energy, and for the construction of streets, street widening, sidewalks, survey monuments, street name signs, curb and gutter, street lights, driveways, traffic signals, and traffic control devices, parks and park maintenance, trails, sanitary sewer lines, water lines, storm drains (either within or outside the area), and other improvements which the City of Billings may require.

This Waiver and Agreement is independent from all other agreements and is supported by sufficient independent consideration to which the undersigned are parties and shall run with the land and shall be binding upon the undersigned, their successors, and assigns, and the same shall be recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana.

The real property hereinabove mentioned is more particularly described as follows:

High Sierra Subdivision, 18th Filing

Signed and dated this _____ day of _____, 20___.

"SUBDIVIDER" **HIGH SIERRA II, INC.**

_____

STATE OF MONTANA )
: ss
County of Yellowstone )

On this ____ day of _____, 20___, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the _____of **HIGH SIERRA II, INC.,** the person who executed the forgoing instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEROF, I have hereunto set my hand and affixed my Notarial Seal the day and year hereinabove written.

_____
Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

High Sierra

A NEIGHBORHOOD TRADITION

N

ANNANDALE ROAD

HIGH SIERRA BLVD

GLENEAGLES BLVD

PREVIOUS FILINGS OF HIGH SIERRA

MASTER PLAN BOUNDARY

HIGH SIERRA, 20TH FILING

HIGH SIERRA, 19TH FILING

HIGH SIERRA, 18TH FILING

HIGH SIERRA, 17TH FILING

PREVIOUS FILINGS OF HIGH SIERRA

PREVIOUS FILINGS OF HIGH SIERRA

# HIGH SIERRA SUBDIVISION - MASTER PLAN

Bill Cole, Mayor
P.O. Box 1178
Billings, MT 59103
P 406.657.8296
F 406.657.8390

CITY OF
Billings
MAYOR'S OFFFICE

October 25, 2021

High Sierra II, Inc.
175 N 27th Street, Suite 900
Billings, MT 59101

Dear Applicant:

On October 25, 2021, the Billings City Council conditionally approved the preliminary plat of High Sierra Subdivision, 18th Filing, subject to the following conditions of approval:

1. To minimize the effects on local service, prior to final plat approval, the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.

2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.

3. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

Should you have any questions please contact Dave Green at (406) 247-8666 or by email at greend@billingsmt.gov

Sincerely,

_____
William A. Cole, Mayor

pc: Sanderson Stewart
High Sierra II, Inc.

**City Council Regular**

| | |
|---|---|
| **Date:** | 10/25/2021 |
| **Title:** | High Sierra Subdivision, 19th Filing, Preliminary Major Plat |
| **Presented by:** | Monica Plecker |
| **Department:** | Planning & Community Services |
| **Presentation:** | No |

## RECOMMENDATION

The Planning Board recommends conditional approval of the preliminary plat of High Sierra Subdivision, 19th Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.

## BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On August 2, 2021, Sanderson Stewart, agent for High Sierra II, Inc., applied for preliminary major plat approval for High Sierra Subdivision, 19th Filing. The proposed subdivision creates 17 lots for residential development. The subject property is generally located west of Entrada Road and east of Matador Avenue in Billings Heights. The property is zoned Suburban Neighborhood (N3). The proposed lots will follow the current zoning for lot frontage.

VARIANCES REQUESTED

The applicant is not requesting a variance from the subdivision regulations.

PROPOSED CONDITIONS OF APPROVAL

Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably minimize potential adverse impacts identified within the Findings of Fact.

1. To minimize the effects on local service, prior to final plat approval, the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.
2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
3. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

PROCEDURAL HISTORY

- Pre-application meeting May 27, 2021
- Preliminary plat application submitted to Planning Division on August 2, 2021
- Departmental review meeting August 19, 2021
- Preliminary plat resubmittal August 26, 2021
- Planning Board plat review September 14, 2021
- Planning Board public hearing September 28, 2021
- Preliminary plat to City Council October 25, 2021
- 60 working-day preliminary plat review period ends October 26, 2021

PLAT INFORMATION

| | |
|---|---|
| General location: | West of Entrada Road and east of Matador Avenue in Billings Heights |
| Legal Description: | Lot 5, Block 31, of High Sierra Subdivision 18th Filing |
| Owner/Subdivider: | High Sierra II, Inc. |
| Engineer and Surveyor: | Sanderson Stewart |
| Existing Zoning: | N3 |
| Existing land use: | Vacant Lane |
| Proposed land use: | Residential |
| Gross and Net area: | 66.298 acres / 65.218 acres |

Proposed number of lots: 17

Lot size: Max: 61.825 acres
Min.: 7,053 square feet

Parkland requirements: Parkland dedication requirement is 0.373 acres. Part of this requirement is met with the 14th Filing, 0.256 will be met in land with 0.117 as a cash in lieu contribution.

## STAKEHOLDERS

A combined public hearing was held September 28, 2021, for this subdivision and 3 other filings of High Sierra. A brief presentation was given by staff to the Planning Board. After the presentation the staff stood for questions from the Board. President Woods asked for questions and discussion from the Board. There were no questions from the Planning Board for staff. Gary Oakland of Oakland and Companies, developer of the subdivision, stood to answer any questions that board may have for him, there were no questions for Mr. Oakland.

President Woods opened the public hearing, there was no one from the public at the meeting and there were no calls from the public regarding the proposed subdivision. The public hearing was closed, and a motion was made to forward a recommendation to the city council of conditional approval of the proposed plat and adoption of the findings of fact as presented in the staff report. The motion was seconded, a vote was taken and passed unanimously. The public hearing was closed, and a motion was made to forward a recommendation to the city council of conditional approval of the proposed plat and adoption of the findings of fact as presented in the staff report. The motion was seconded, a vote was taken and passed unanimously.

## ALTERNATIVES

In accordance with state law, the City Council has 60 working days to act upon this major preliminary plat. The 60 working day review period for the proposed plat ends on October 26, 2021. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 60 working day review period, the City Council is required to:

1. Approve;
2. Conditionally Approve; or
3. Deny the Preliminary Plat

## FISCAL EFFECTS

This plat will have no fiscal impacts on the City/County Planning Division.

## SUMMARY

One of the purposes of the City's subdivision review process is to identify potential negative effects of property being subdivided. Negative effects that are identified become the subdivider's responsibility to mitigate. Various City departments, private service/utility providers and the affected school district/s, have reviewed this application and provided input on effects and mitigation. The Findings of Fact, which are presented as an attachment, discuss potential negative impacts of the subdivision and conditions of approval are recommended as measures to further mitigate any impacts. In this case, there were found to be minimal impacts from this proposed subdivision.

---

**Attachments**

Findings of Fact
Proposed Plat
SIA Draft
Master Site Plan
Mayors Letter

# FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of High Sierra Subdivision, 19th Filing. These findings are based on the preliminary plat application and supplemental documents; addressing the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Billings Subdivision Regulations (Section 23-303(H), BMCC).

**A. What are the effects on agriculture, local services, the natural environment, wildlife, wildlife habitat, and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-302.H.2.]**

**1. Effect on agriculture and agricultural water user facilities**

The subject property is currently dry land grass and shrubs. There are no water rights being transferred to subdivision property owners. There are no existing ditches near this proposed development. The subdivision should not affect agricultural water users' facilities.

**2. Effect on local services**

**a.** **Utilities** – Public water services to the subject property will be provided by the City of Billings. The subdivision will be served by making two connections to public water mains, one on Matador Avenue, just north of the Matador Avenue/Lindero Boulevard intersection and one on Entrada Road just north of the intersection of Entrada Road/Cherry Hills Road. A 12-inch water main will be installed in Entrada Road and 8-inch water main will be installed in the remaining local interior streets of the subdivision. The water main within the subdivision will make looped connections whenever possible. All water line construction shall be installed in conformance with the design standards, specification, rules and regulations of the City of Billings. The City of Billings Engineering Department will review and approve all proposed water lines prior to installation.

Fire hydrants will also be installed as required by the City of Billings Fire Department. The City Fire Department with review and approve all proposed hydrant locations prior to installation.

Sanitary sewer service will be provided by the City of Billings by making a connection to an existing 8- inch diameter sewer main located in Matador Avenue and Entrada Road. The 8-inch sanitary sewer main will be extended through the streets in the subdivision, Sanitary sewer mains will be stubbed to each lot. All sewer line construction shall be installed in conformance with the design standards, specification, rules and regulations of the City of Billings Engineering Department. The City of Billings Engineering Department will review and approve all proposed sanitary sewer lines prior to installation.

All telephone, gas, electrical power, and cable television lines that are placed within the public right-of-way shall be installed prior to surface improvements.

**b.** **Storm water** – Stormwater management for the proposed subdivision will be provided by a combination of surface drainage and curbs and gutters, drained to underground storm drains. Storm water will discharge to a stormwater detention facility located in an off-site area on Lot 17, Block 6, High Sierra Subdivision, 11th Filing. It is generally located north of the future projection of Gleneagles Boulevard designated specifically for storm water detention. This detention facility will be sized to accept runoff generated from the High Sierra Subdivision, 19th Filing. Stormwater management facilities for the subdivision must be able to pass flows generated outside the subdivision area without inundating existing and proposed home sites. All proposed stormwater management will be reviewed and approved by City of Billings Engineering Department to ensure it meets the master planned stormwater plan for High Sierra Subdivision. All drainage improvements shall comply with the provisions of the City of Billings Stormwater Management Manual and Section 23-706, BMCC, a stormwater management plan shall be submitted to the Engineering Division prior to filing of the final plat.

**c.** **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.

**d.** **Streets** – Access to the lots in this proposed subdivision is from Matador Avenue and Lindero Boulevard. All new streets will be in a 56-foot-wide right of way and will be constructed to 34-foot wide, back of curb to back of curb road. Road construction will include installation of accessible ramps at the intersections.

Sidewalks will be installed at the time of individual lot development. All sidewalks will be boulevard type walks with 5-foot wide boulevard sidewalks.

**e.** **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The fire station that serves this area is located at 1601 St. Andrews Drive (Station #6).

The subdivision is located within the ambulance service area of American Medical Response (AMR).

Comments from the Police department state that continued expansion of subdivisions will require additional resources to maintain acceptable levels of service.

**f.** **Schools** – School District #2 provides service to students within this subdivision from elementary to high school (Eagle Cliffs Elementary School, Castle Rock Middle School, and Skyview High School). School District #2 shows some additional capacity at the schools listed above.

**g.** **Parks and Recreation** – The parkland dedication requirement for this subdivision is 0.373 acres. With High Sierra 14th Filings there was a parkland

dedication of 5.310 acres. With this dedication parkland requirements have been met for several High Sierra Filings in the immediate area.

The following is a summary of the required parkland dedications that have been previously attributed to the High Sierra Subdivision, 14th Filing park:

High Sierra Sub., 14th Filing 1.876 acres
High Sierra Sub., 15th Filing 0.587 acres
High Sierra Sub., 16th Filing 0.255 acres
High Sierra Sub., 10th Filing 0.895 acres
High Sierra Sub., 17th Filing 0.811 acres
High Sierra Sub., 18th Filing 0.630 acres
Total 5.054 acres

Remaining land for parkland dedication 0.256 acres
High Sierra 19th Filing, 0.373 acres
Total after 19th Filing -0.117 acres, to be met with a cash in lieu contribution. 0.256 will be the remaining land contribution from the 14th filing.

With High Sierra 19th Filing requirement of 0.373 acres, the total parkland dedication from the 14th Filing has been used.

Lot owners are advised they will be subject to inclusion in a Parks Maintenance District (PMD) for the operation and maintenance of existing and future parks within High Sierra Subdivision.

**h.** **Mail Delivery -** The United States Postal Service will provide postal service to the subdivision. They have requested the installation of centralized mailbox unit (CBUs). The developer will work with the USPS to provide a satisfactory location for a CBU for this filing. **(Condition #1)**

**3. Effect on the natural environment**

The subject property is relatively level land adjacent to urban development to the south. A geotechnical study was performed for the subdivision by Rimrock Engineering, Inc. dated July 28, 2021. It is recommended lot purchasers fully review that report prior to building on lots. The subdivision should have a minimal effect on the natural environment.

**4. Effect on wildlife and wildlife habitat**

There are no known endangered or threatened species on the property. Future property owners should be aware that the proposed subdivision is located near prime wildlife habitat and adjacent to open grassland areas, therefore conflicts with wildlife may occur. Any damage caused by wildlife is the responsibility of the owner. This notice is in the SIA under the heading II. Property Conditions and Information for Lot Purchasers.

**5. Effect on the public health, safety and welfare**

Fire hydrants will be installed to meet fire department requirements. Sidewalks will offer a safe place for pedestrians to walk. The effects on public health and safety should be minimal.

**B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMCC 23-302.H.1.]**

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-616, MCA.

**C. Does the subdivision conform to the City of Billings 2016 Growth Policy, the 2018 Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan? [BMCC 23-(8)]**

**1. City of Billings 2016 Growth Policy**

The proposed subdivision is consistent with the following goals of the Growth Policy:

> **Essential Investments:** Infill development and development near existing City infrastructure may be the most cost effective. (p.6)
>
> **Strong Neighborhoods (livable, safe, sociable and resilient neighborhoods):** Neighborhoods that are safe and attractive and provide essential services are much desired. (p.8)
>
> **Home Base (healthy, safe and diverse housing options)** Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings. (p.9)

**2. Billings Heights Neighborhood Plan**

The Billings Heights Neighborhood Plan, adopted in 2006, identifies this area for low-density residential development. The subdivision meets the following goals of the Heights Neighborhood Plan:

> **Issue: Urban Sprawl**
>
> **Issue:** Residential Development
>
> **Goal:** To provide safe, good quality and affordable housing in the Heights. Develop housing patterns that are compatible with existing neighborhoods. Maintain similar housing in established neighborhoods.
>
> **Objectives:** To encourage infill development and housing development that meets residents' desire to have similar housing within their neighborhood.
>
> *This subdivision provides low-density residential single-family development in a neighborhood with existing low-density single-family development.*

**3. 2018 Billings Urban Area Long Range Transportation Plan**

The proposed subdivision adheres to the goals and objectives of the 2018 Transportation Plan and preserves the street network and street hierarchy specified in the plan.

**4. Billings Area Bikeway and Trail Master Plan (BABTMP)**

The proposed subdivision lies within the jurisdiction of the BABTMP. The BABTMP does not show any trails within the proposed subdivision.

**D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608 (3) (b) and BMCC 23-302.H.3.a.]**

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and to the design standards specified in the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

**E. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-302.H.3.e.]**

The subject property is located within the Suburban Neighborhood 3 (N3) zoning district. All building development on the lots shall comply with current zoning when applying for a building permit.

**F. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-302.H.3.b.]**

The subdivider will furnish private utility easements as required by private utility providers.

**G. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608 (3) (d) and BMCC 23-302.H.3.c.]**

Legal and physical access is provided to the proposed lots from Matador Avenue and Entrada Road. A new internal road will provide access to individual lots. All streets are dedicated to the public as shown on the plat.

**CONCLUSIONS OF FINDINGS OF FACT**

- The preliminary plat of High Sierra Subdivision, 19th Filing does not create any adverse impacts that warrant denial of the subdivision.

- The proposed subdivision conforms to several goals and policies of the 2016 Growth Policy and does not conflict with the Transportation or Bikeway and Trail Plans.

- The proposed subdivision complies with state and local subdivision regulations, local zoning, and provides legal and physical access to each lot.

- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

**RECOMMENDATION**

Staff recommends the Planning Board forward a recommendation of conditional approval of the preliminary plat of High Sierra Subdivision, 19th Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

Approved by the Billings City Council, October 25, 2021

_____

William A. Cole, Mayor

PRELIMINARY PLAT OF

# HIGH SIERRA SUBDIVISION, 19TH FILING

BEING THE PROPOSED LOT 5, BLOCK 31 HIGH SIERRA SUBDIVISION, 18TH FILING

SITUATED IN THE SE1/4 OF SECTION 8, THE SW1/4 OF SECTION 9 AND NE1/4 AND NW1/4 OF SECTION 17, T.1N., R. 26 E., P.M.M.,

CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

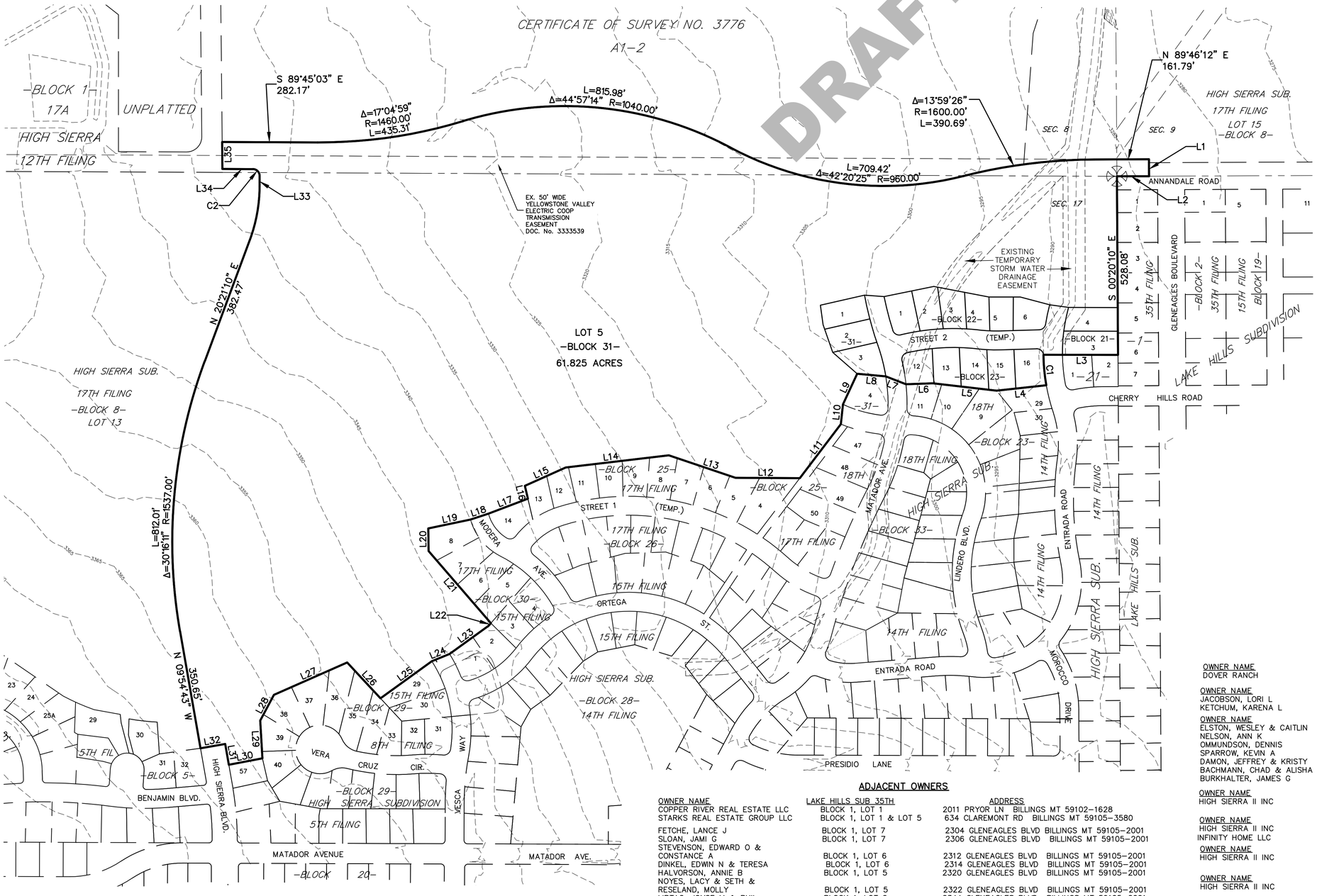
PREPARED FOR : HIGH SIERRA II, INC.

PREPARED BY : SANDERSON STEWART

JULY 2021

BILLINGS, MONTANA

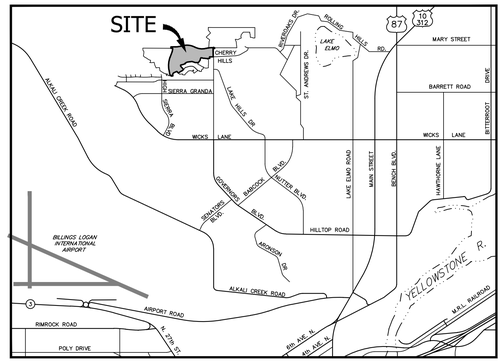
DRAFT




NORTH

300' 75' 0 150' 300'

SCALE: 1" = 150'




## VICINITY MAP

NOT TO SCALE

| LINE TABLE | | |
|---|---|---|
| Line # | Bearing | Distance |
| L1 | N 00°24'44" W | 50.14' |
| L2 | N 89°45'56" E | 95.00' |
| L3 | S 89°52'30" E | 220.28' |
| L4 | N 83°48'10" E | 147.82' |
| L5 | S 83°23'49" E | 189.02' |
| L6 | N 88°03'35" E | 80.18' |
| L7 | S 68°40'06" E | 63.98' |
| L8 | S 84°41'41" E | 84.94' |
| L9 | N 24°54'31" E | 100.00' |
| L10 | N 06°00'59" E | 58.74' |
| L11 | N 37°12'11" E | 200.50' |
| L12 | S 89°41'37" E | 190.15' |
| L13 | S 71°21'58" E | 207.86' |
| L14 | N 83°16'17" E | 306.95' |
| L15 | N 65°46'06" E | 132.41' |
| L16 | N 13°17'13" W | 38.88' |
| L17 | N 69°09'25" E | 124.56' |
| L18 | N 71°49'10" E | 56.08' |
| L19 | N 78°07'31" E | 127.55' |
| L20 | N 00°52'29" W | 67.11' |

| LINE TABLE | | |
|---|---|---|
| Line # | Bearing | Distance |
| L21 | N 40°48'24" W | 281.53' |
| L22 | N 41°07'30" E | 10.00' |
| L23 | N 54°07'31" E | 142.29' |
| L24 | N 67°33'43" E | 56.83' |
| L25 | N 54°07'30" E | 187.31' |
| L26 | S 42°52'30" E | 144.89' |
| L27 | N 66°07'30" E | 236.67' |
| L28 | N 28°07'30" E | 86.07' |
| L29 | N 03°24'04" W | 112.00' |
| L30 | N 79°07'31" E | 101.13' |
| L31 | S 09°54'43" E | 62.50' |
| L32 | N 80°05'17" E | 74.00' |
| L33 | N 00°15'01" E | 30.50' |
| L34 | S 89°44'59" E | 90.16' |
| L35 | S 00°33'28" E | 79.88' |

| CURVE TABLE | | | |
|---|---|---|---|
| Curve # | Delta | Radius | Length |
| C1 | 9°21'52" | 556.00' | 90.87' |
| C2 | 90°00'00" | 20.00' | 31.42' |

## ADJACENT OWNERS

| OWNER NAME | LAKE HILLS SUB 35TH | ADDRESS |
|---|---|---|
| COPPER RIVER REAL ESTATE LLC | BLOCK 1, LOT 1 | 2011 PRYOR LN BILLINGS MT 59102-1628 |
| STARKS REAL ESTATE GROUP LLC | BLOCK 1, LOT 1 & LOT 5 | 634 CLAREMONT RD BILLINGS MT 59105-3580 |
| FETCHE, LANCE J | BLOCK 1, LOT 7 | 2304 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| SLOAN, JAMI G | BLOCK 1, LOT 7 | 2306 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| STEVENSON, EDWARD O & CONSTANCE A | BLOCK 1, LOT 6 | 2312 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| DINKEL, EDWIN N & TERESA | BLOCK 1, LOT 6 | 2314 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| HALVORSON, ANNIE B | BLOCK 1, LOT 5 | 2320 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| NOYES, LACY & SETH & RESELAND, MOLLY | BLOCK 1, LOT 5 | 2322 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| LIPTAC, JOYCE M & PHIL DUTCHER, HELEN J & | BLOCK 1, LOT 2 | 2344 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| FOSNES, DREW K | BLOCK 1, LOT 2 | 2346 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| STEWART, MATT | BLOCK 1, LOT 3 | 5234 GOLDEN HOLLOW RD BILLINGS MT 59101-8958 |
| BUCHER, ROCHELLE J | BLOCK 1, LOT 3 | 2336 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| TURK, DEBORAH | BLOCK 1, LOT 3 | 2338 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| PARKS, JAYSON R & KIMBERLY R | BLOCK 1, LOT 4 | 3625 DRURY LN BILLINGS MT 59105-5120 |

## ADJACENT OWNERS

| OWNER NAME | CERTIFICATE OF SURVEY 3776 | ADDRESS |
|---|---|---|
| DOVER RANCH | TRACT A1-2 | PO BOX 51389 BILLINGS, MT 59105-1361 |
| OWNER NAME | HIGH SIERRA SUB 5TH FIL | ADDRESS |
| JACOBSON, LORI L | BLOCK 5, LOT 32 | 622 W HARVARD PL ONTARIO, CA 91762-1904 |
| KETCHUM, KARENA L | BLOCK 29, LOT 57 | 2117 HIGH SIERRA BLVD. BILLINGS, MT. 59105-5455 |
| OWNER NAME | HIGH SIERRA SUB 8TH FIL | ADDRESS |
| ELSTON, WESLEY & CAITLIN | BLOCK 29, LOT 40 | 1130 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| NELSON, ANN K | BLOCK 29, LOT 39 | 1134 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| OMMUNDSON, DENNIS | BLOCK 29, LOT 38 | 1129 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| SPARROW, KEVIN A | BLOCK 29, LOT 37 | 1125 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| DAMON, JEFFREY & KRISTY | BLOCK 29, LOT 36 | 1121 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| BACHMANN, CHAD & ALISHA | BLOCK 29, LOT 35 | 1117 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| BURKHALTER, JAMES G | BLOCK 29, LOT 34 | 1113 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| OWNER NAME | HIGH SIERRA SUB 12TH FIL | ADDRESS |
| HIGH SIERRA II INC | BLOCK 1, LOT 17A | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| OWNER NAME | HIGH SIERRA SUB 14TH FIL | ADDRESS |
| HIGH SIERRA II INC | BLOCK 21, LOTS 1-2 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| INFINITY HOME LLC | BLOCK 23, Lot 29 | PO BOX 20174 BILLINGS MT 59104-0174 |
| OWNER NAME | HIGH SIERRA SUB 15TH FIL | ADDRESS |
| HIGH SIERRA II INC | BLOCK 30, LOTS 1-3 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| | BLOCK 29, LOT 29 | |
| OWNER NAME | HIGH SIERRA SUB 17TH FIL | ADDRESS |
| HIGH SIERRA II INC | BLOCK 25, LOTS 4-14 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| | BLOCK 30, LOTS 5-8 | |
| GARY OAKLAND | BLOCK 8, LOTS 13 & 15 | 175 N 27TH ST STE 900 BILLINGS MT 59101-2048 |
| OWNER NAME | HIGH SIERRA SUB 18TH FIL | ADDRESS |
| HIGH SIERRA II INC | BLOCK 23, LOTS 9-11 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| | BLOCK 25, LOTS 47-49 | |
| | BLOCK 31, LOT 4 | |



82061.142_19TH PREPLAT SHT1.DWG 82061.142 8/26/21 BG

PRELIMINARY PLAT OF

# HIGH SIERRA SUBDIVISION, 19TH FILING

BEING THE PROPOSED LOT 5, BLOCK 31 HIGH SIERRA SUBDIVISION, 18TH FILING

SITUATED IN THE SE1/4 OF SECTION 8, THE SW1/4 OF SECTION 9 AND NE1/4 AND NW1/4 OF SECTION 17, T.1N., R. 26 E., P.M.M.,

CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : HIGH SIERRA II, INC.

PREPARED BY : SANDERSON STEWART

JULY 2021

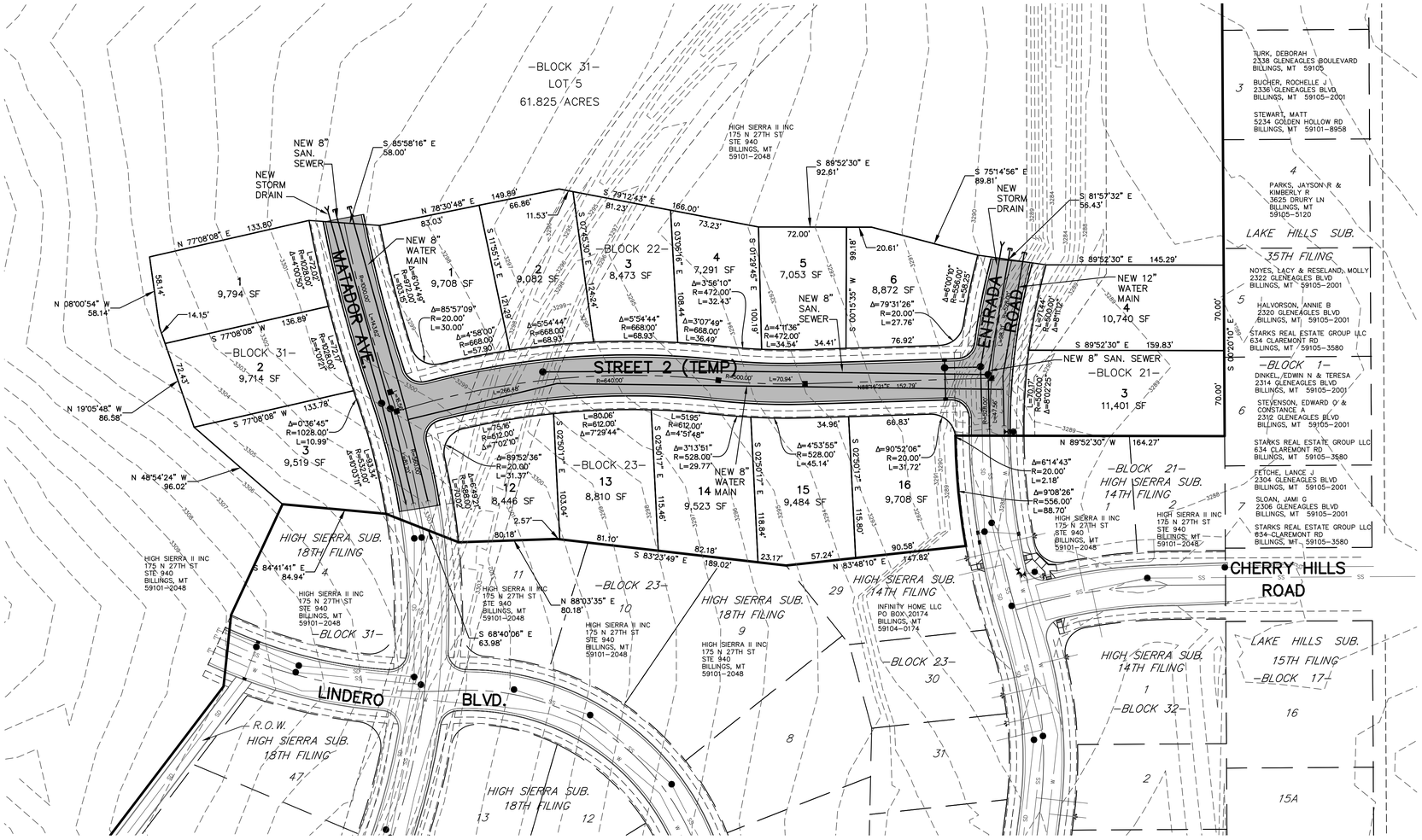
BILLINGS, MONTANA

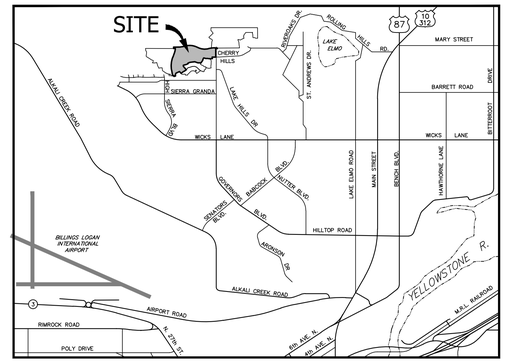
DRAFT

NORTH

50 25 0 50 100

SCALE: 1" = 50'




VICINITY MAP

NOT TO SCALE

## PLAT DATA

| | | |
|---|---|---|
| GROSS AREA | = | 66.298 ACRES |
| NET AREA | = | 65.218 ACRES |
| NUMBER OF LOTS | = | 17 |
| MINIMUM LOT SIZE | = | 7,053 S.F. |
| MAXIMUM LOT SIZE | = | 61.825 ACRES |
| LINEAL FEET OF STREETS | = | ±878 L.F. |
| PARKLAND REQUIREMENT | = | 0.630 ACRES |
| PARKLAND DEDICATION | = | MET WITH HIGH SIERRA 14TH FILING AND A CASH CONTRIBUTION |
| EXISTING ZONING | = | N3 |
| SURROUNDING ZONING: | | |
| NORTH | = | N3 |
| SOUTH | = | N3 |
| EAST | = | N3 AND N2 |
| WEST | = | N3 |
| EXISTING LAND USE | = | AGRICULTURE |
| PROPOSED LAND USE | = | N3 |

NOTES:

1. ALL INTERNAL STREETS SHALL BE BUILT TO CITY OF BILLINGS STANDARDS 34' BACK TO BACK IN A 56' WIDE R.O.W.
2. STORM DRAIN STORAGE WILL BE PROVIDED IN A TEMP. STORMWATER DETENTION POND LOCATED NORTH OF THE SUBDIVISION. MAIN AND INLETS WILL BE PROVIDED AS NECESSARY.
3. IT IS ANTICIPATED THAT PRIVATE UTILITIES AND EASEMENT WILL BE LOCATED ON THE FRONT LOT LINES. THIS WILL BE CONFIRMED WITH THE PRIVATE UTILITY COMPANIES.

Return to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

# SUBDIVISION IMPROVEMENTS AGREEMENT & WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT DISTRICTS HIGH SIERRA SUBDIVISION, NINETEENTH FILING

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Return to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

# SUBDIVISION IMPROVEMENTS AGREEMENT & WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT DISTRICTS HIGH SIERRA SUBDIVISION, NINETEENTH FILING

**THIS AGREEMENT** is made and entered into this ____ day of _____, 20___, by and between **HIGH SIERRA II, INC**., whose address for the purpose of this agreement is 175 North 27th Street, Suite 900, Billings, MT 59101, hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

**WITNESSETH:**

**WHEREAS**, at a regular meeting conducted on ____ day of _____, 20____, the Board of Planning recommended conditional approval of a preliminary plat of High Sierra Subdivision, 19th Filing; and

**WHEREAS**, at a regular meeting conducted on _____ day of _____, 20___, the City Council conditionally approved a preliminary plat of High Sierra Subdivision, 19th Filing; and

**WHEREAS**, a Subdivision Improvements Agreement is required by the City prior to the approval of the final plat.

**WHEREAS,** the provisions of this agreement shall be effective and applicable to High Sierra Subdivision, 19th Filing upon the filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The Subdivision shall comply with all requirements of the City of Billings Subdivision Regulations, the rules, regulations, policies, and resolutions of the City of Billings, and the laws and administrative rules of the State of Montana.

**THEREFORE, THE PARTIES TO THIS AGREEMENT**, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, do hereby agree as follows:

## I. VARIANCES

**A.** Subdivider has requested, and the City hereby grants, the following variances by the City Council from the strict interpretation of the City's Subdivision Regulations (Section 23.1401, BMCC):

1. No Variances are requested.

## II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS

**A.** Lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development. If sidewalk is not constructed within 5 years, the City has the right to construct the sidewalk and assess the property owners.

**B.** Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.

**C.** No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.

**D.** There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider, and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.

**E.** Lot owners are advised they will be subject to inclusion in a Parks Maintenance District (PMD) for the operation and maintenance of the

parkland dedicated with various filings of High Sierra Subdivision, including High Sierra Subdivision, 19th Filing, and future filings of High Sierra Subdivision.

**F.** The Subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution and Prevention Plan (SWPPP) filed with the City and the Montana Department of Environmental Quality (MDEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by MDEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.

**G.** Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for new construction on lots. Best Management Practices are defined within Chapter 28, BMCC and detailed in the Billings Stormwater Management Manual.

1. The lowest finish floor elevation (which includes the garage) shall be a minimum of 18-inches higher than the top of curb, measured from the highest location along the lot frontage. Home builder and lot owner may find it necessary to raise the finish floor elevation of house or garage above this minimum during on-site building design and/or during on-lot grading.

2. The stormwater runoff from individual lots shall be directed toward the public right-of-way wherever possible. However, due to the existing terrain of the subdivision this is not possible for every lot. Where runoff from lots cannot be directed to public right-of-way because existing terrain is falling away from the public right of way, the stormwater runoff shall be directed to flow to the same location as it has historically. Home builder and lot owners shall consider the effect of potential off-lot run-on waters from lots uphill of the subject lot, and grade around the home to provide positive drainage away from the home. Home builder and lot owners must take necessary measures to protect the house from surface stormwater flows. Lots shall allow, through on-site building design and on-lot grading, for stormwater to pass through each lot without negatively impacting adjacent lots. The lowest openings on each home (window wells) are to be located outside the designated drainage paths. If this is not possible, the builder and lot owners must take necessary measures to protect these openings from inundating from surface water flows. In any case, the homebuilder shall allow enough space between window wells

and property lines to provide sufficient swales and proper storm water drainage away from window wells.

3. Each owner of a completed lot shall be a member of the High Sierra Subdivision Homeowners Association (HOA). Membership shall be appurtenant to and may not be separated from ownership of a lot. The Homeowners Association will be set up to maintain the permanent stormwater detention facilities. The HOA Board of Directors shall have the power, in its discretion, to exclude costs of major repairs or approved capital improvements to the HOA Storm Water System from the regular monthly assessments and, instead, impose special assessments for these expenses, and for emergencies, as they are incurred.

## III. TRANSPORTATION

### A. Streets

1. Subdivider will enter into a private contract for the construction of all required improvements for those streets within the subdivision, as follows:

   Matador Avenue, Entrada Road and Street 2 (Temporary Name) will be constructed within a 56-foot right-of-way using curb and gutter and full-width pavement (34-feet back of curb to back of curb). Curb and Gutter will be installed per the City of Billings Standards in place at time of construction.

### B. Sidewalks

1. Sidewalk on the internal streets shall be installed at the time of individual lot development. The sidewalk shall consist of a 5-foot-wide boulevard type sidewalk with a minimum 5-foot-wide boulevard.

2. Subdivider will install accessible ramps at the intersections, which shall be completed with the subdivision improvements.

### C. Street Lighting

Construction or installation of streetlights within the public rights-of-way shall not be required at this time, but streetlights are included in the Waiver referenced herein for construction of the same in the future. A

maintenance district for streetlights may be formed for future maintenance of any streetlights installed in the future.

**D. Traffic Control Devices**

The Subdivider shall furnish and install all necessary traffic control devices within and adjacent to the Subdivision in accordance with the plans and specification submitted to and approved by the City Engineer. Traffic control devices shall include all necessary signing, striping, and channelization devices to properly complete the implementation of the proposed street construction.

Based on the Traffic Impact Study (TIS) update letter, the 19th Filing development's portion of critical volumes for impacted intersections are as follows (based on a $250,000.00 intersection improvement cost):

| | |
|---|---|
| Wicks Lane/Gleneagles Blvd | 0.35% ($875.00) |
| Wicks Lane/Fantan Street | 0.39% ($975.00) |
| Wicks Lane/St. Andrews Dr. | 0.31% ($775.00) |
| Annandale Road/Gleneagles Blvd | 0.08% ($200.00) |
| Annandale Road/St. Andrews Dr. | 0.09% ($225.00) |

City and Subdivider agree that the Subdivider will be required to make cash contributions to these intersections prior to final plat approval.

**E. Access**

Matador Avenue and Entrada Road provide access to the subdivision. The interior streets will be located within a 56-foot right-of-way and will have a width of 34-feet back of curb to back of curb.

**F. Billings Area Bikeway and Trail Master Plan**

The Billings Area Bikeway Plan (2017) shows no trail connections within the proposed area of High Sierra Subdivision, 19th Filing, and as such, no trail improvements are required as part of this subdivision.

**G. Public Transit**

The subdivision does not require improvements to ensure public transit service.

## IV. EMERGENCY SERVICE

The City will provide emergency service. Fire hydrants shall be provided at each street intersection and at intermediate locations where distances exceed 500-feet. Appropriate turnarounds will be located on any dead-end street in excess of 150-feet.

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and fire hydrant(s) in place to allow for fire suppression requirements. Prior to issuance of a building permit for construction using combustible materials (i.e., lumber, plywood, wood trusses, etc.), fire apparatus access roads, and water supply requirements shall be provided in accordance with the International Fire Code as adopted by the City of Billings.

At a minimum, the following is required:

- An unobstructed gravel road or gravel road base must be within 150-feet of the furthest portion of a building under construction as measured along an approved route.
- The access roads are required to support fire apparatus vehicle loading (40 tons) during all weather conditions and shall be a minimum of 20-feet-wide.
- An operational fire hydrant shall be located within 600-feet of the furthest portion of a residence under construction or within 400-feet of the furthest portion of a commercial building under construction as measured along the access roads to the site.
- The above requirements do not alter or effect the current minimum subdivision requirements for fire apparatus access and water supply.

## V. STORM DRAINAGE

Storm drainage for the public streets shall be provided by a combination of surface drainage and curbs and gutters, drained to underground storm drains, and with discharge to a stormwater detention facility that is located within an off-site area on Lot 17, Block 6, High Sierra Subdivision, 11th Filing generally north of the future projection of Gleneagles Boulevard designated for storm water detention. This detention facility will be sized to accept runoff generated from the High Sierra Subdivision, 19th Filing. Stormwater management facilities for the subdivision must be able to pass flows generated outside the subdivision area without inundating existing and proposed home sites. All drainage improvements shall comply with the provisions of the *Stormwater Management Manual* and Section 23-706, BMCC, a stormwater management plan shall be submitted to and approved by the Engineering Division prior to filing of the final plat.

The drainage system improvements will be in accordance with the recommendations of the stormwater analysis and report prepared and submitted with the improvement plans and specifications. Maintenance of the stormwater detention area and associated drainage facilities shall be by the High Sierra Subdivision HOA.

## VI. UTILITIES

The Subdivision Improvements Agreement does not constitute an approval for extension of or connection to water mains and sanitary sewers. The property owner shall make application for extension/connection of water mains and sanitary sewers to the Public Works Department – Engineering Division. The extension/connection of/to water mains and sanitary sewers is subject to the approval of the applications and the conditions of approval. Applications shall be submitted for processing prior to the start of any construction and prior to review and approval of any project plans and specifications.

The Developer/Owner acknowledges that the Subdivision shall be subject to the applicable System Development Fees in effect at the time new water and/or sanitary sewer service connections are made.

The design/installation of sanitary sewers and appurtenances, and water mains and appurtenances (fire hydrants, etc.) shall be in accordance with design standards, specifications, rules, regulations of and as approved by the City of Billings Public Works Department, Fire Department, and the Montana Department of Environmental Quality.

### A. Water

The subdivision will be served by making two connections to public water mains, one on Matador Avenue, just north of the Matador Avenue/Lindero Boulevard intersection and one on Entrada Road just north of the intersection of Entrada Road/Cherry Hills Road. A 12-inch water main will be installed in Entrada Road and 8-inch water main will be installed in the remaining local interior streets of the subdivision which is subject to approval from the City of Billings. The water main within the subdivision will make looped connections whenever possible. Fire hydrants will be provided at all appropriate locations and are also subject to approval by the City of Billings.

### B. Sanitary Sewer

The subdivision will be served by making a connection to an existing 8-inch diameter sewer main located in Matador Avenue and Entrada Road.

The 8-inch sanitary sewer main will be extended through the streets in the subdivision.

### C. Power, Telephone, Gas, and Cable Television

All telephone, gas, electrical power, and cable television lines shall be the responsibility of the Subdivider. Any line located within public right-of-way shall be subject to approval of the City Engineer.

## VII. PARKS/OPEN SPACE

The park land required for this subdivision is 0.373 acres. A portion of the required dedication will be met through a previous parkland dedication with High Sierra Subdivision, 14th Filing. The remaining will be met with a cash in lieu contribution. The total parkland dedicated with High Sierra Subdivision, 14th Filing was 5.310 acres.

The following is a summary of the required parkland dedications that have been previously attributed to the High Sierra Subdivision, 14th Filing park:

| | |
|---|---|
| High Sierra Sub., 14th Filing | 1.876 acres |
| High Sierra Sub., 15th Filing | 0.587 acres |
| High Sierra Sub., 16th Filing | 0.255 acres |
| High Sierra Sub., 10th Filing | 0.895 acres |
| High Sierra Sub., 17th Filing | 0.811 acres |
| High Sierra Sub., 18th Filing | 0.630 acres |
| Total | 5.054 acres |

Therefore, 0.256 acres will be met by the previous High Sierra Subdivision, 14th Filing parkland dedication and 0.117 acres will be met by a cash in lieu contribution.

Lot owners are advised they will be subject to inclusion in a Special Improvement District (SID) for the development and a Parks Maintenance District (PMD) for the operation and maintenance of this and future parks within High Sierra Subdivision.

## VIII. IRRIGATION

No permanent irrigation ditches, field laterals, or irrigation easements exist on the subdivision.

## IX. SOILS/GEOTECHNICAL STUDY

A geotechnical report was performed within the area of this subdivision and submitted with the preliminary plat and is available for review at the City of Billings

Planning Department. The Geotechnical Investigation Report for High Sierra Subdivision 19th Filing Billings, Montana was completed by Rimrock Engineering Inc. and dated July 28, 2021.

It is recommended that owners, purchasers, realtors, builders, and developers fully familiarize themselves with the information contained in this report prior to design or construction.

## X. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install, and construct said required improvements with cash or by utilizing the mechanics of a special improvement district or private contracts secured by letters of credit or a letter of commitment to lend funds from a commercial lender. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said special improvement district or private contract, and the improvements shall be installed as approved by the City Engineer and Utility Department Manager.

## XI. LEGAL PROVISIONS APPLYING TO SUBDIVIDER

**A.** Subdivider agrees to guarantee all public improvements for a period of two year from the date of final acceptance by the City of Billings.

**B.** The owners of the properties involved in this proposed Subdivision by signature subscribed herein below agree, consent, and shall be bound by the provisions of this Agreement.

**C.** The covenants, agreements, and all statements in this Agreement run with the land and apply to and shall be binding on the heirs, personal representatives, successors, assigns and transferees of the respective parties.

**D.** In the event it becomes necessary for either party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney fees and costs.

**E.** Any amendments or modifications of this Agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this Agreement.

**F.** Subdivider shall comply with all applicable federal, state, and local

statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider acknowledges and agrees that nothing contained herein shall relieve or exempt it from such compliance.

**IN WITNESS WHEREOF**, the parties hereto have set their hands and official seals on the date first above written.

"SUBDIVIDER" **HIGH SIERRA II, INC.**

By:_____

Its:_____

STATE OF MONTANA )
: ss
County of Yellowstone )

On this _____ day of _____, 20___, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the person who executed the foregoing instrument as the _____ _____ of **HIGH SIERRA II, INC.**, and acknowledged to me that he/she executed the same.

_____
Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

This agreement is hereby approved and accepted by the City of Billings, this ____ day of _____, 20___.

"CITY" **CITY OF BILLINGS, MONTANA**

By: _____
Mayor

Attest: _____
City Clerk

STATE OF MONTANA )
: ss
County of Yellowstone )

On this ____ day of _____, 20___, before me, a Notary Public in and for the State of Montana, personally appeared _____ and _____, known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.

_____
Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

# WAIVER OF RIGHT TO PROTEST
# FUTURE SPECIAL IMPROVEMENT DISTRICTS

FOR VALUABLE CONSIDERATION, the undersigned, being the Subdivider and all of the owners of the hereinafter described real property, do hereby waive the right to protest the formation of one or more special improvement district(s) for a period of no more than twenty years from the recording of this waiver, for street light maintenance and energy, and for the construction of streets, street widening, sidewalks, survey monuments, street name signs, curb and gutter, street lights, driveways, traffic signals, and traffic control devices, parks and park maintenance, trails, sanitary sewer lines, water lines, storm drains (either within or outside the area), and other improvements which the City of Billings may require.

This Waiver and Agreement is independent from all other agreements and is supported by sufficient independent consideration to which the undersigned are parties and shall run with the land and shall be binding upon the undersigned, their successors, and assigns, and the same shall be recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana.

The real property hereinabove mentioned is more particularly described as follows:

High Sierra Subdivision, 19th Filing

Signed and dated this _____ day of _____, 20___.

"SUBDIVIDER" **HIGH SIERRA II, INC.**

_____

STATE OF MONTANA )
: ss
County of Yellowstone )

On this ____ day of _____, 20___, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the _____of **HIGH SIERRA II, INC.,** the person who executed the forgoing instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEROF, I have hereunto set my hand and affixed my Notarial Seal the day and year hereinabove written.

_____
Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

High Sierra

A NEIGHBORHOOD TRADITION

N

ANNANDALE ROAD

HIGH SIERRA BLVD

GLENEAGLES BLVD

PREVIOUS FILINGS OF HIGH SIERRA

MASTER PLAN BOUNDARY

HIGH SIERRA, 20TH FILING

HIGH SIERRA, 19TH FILING

HIGH SIERRA, 18TH FILING

HIGH SIERRA, 17TH FILING

PREVIOUS FILINGS OF HIGH SIERRA

PREVIOUS FILINGS OF HIGH SIERRA

# HIGH SIERRA SUBDIVISION - MASTER PLAN

Bill Cole, Mayor
P.O. Box 1178
Billings, MT 59103
P 406.657.8296
F 406.657.8390

CITY OF
Billings
MAYOR'S OFFFICE

October 25, 2021

High Sierra II, Inc.
175 N 27th Street, Suite 900
Billings, MT 59101

Dear Applicant:

On October 25, 2021, the Billings City Council conditionally approved the preliminary plat of High Sierra Subdivision, 19th Filing, subject to the following conditions of approval:

1. To minimize the effects on local service, prior to final plat approval, the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.

2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.

3. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

Should you have any questions please contact Dave Green at (406) 247-8666 or by email at greend@billingsmt.gov

Sincerely,

_____
William A. Cole, Mayor

pc: Sanderson Stewart
High Sierra II, Inc.

Consent

**City Council Regular**

| | |
|---|---|
| **Date:** | 10/25/2021 |
| **Title:** | High Sierra Subdivision, 20th Filing, Preliminary Plat |
| **Presented by:** | Monica Plecker |
| **Department:** | Planning & Community Services |
| **Presentation:** | No |

## RECOMMENDATION

The Planning Board recommends conditional approval of the preliminary plat of High Sierra Subdivision, 20th Filing to the City Council, and adoption of the Findings of Fact as presented in the staff report.

## BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On August 2, 2021, Sanderson Stewart, agent for High Sierra II, Inc., applied for preliminary major plat approval for High Sierra Subdivision, 20th Filing. The proposed subdivision creates 63 lots for residential development. The subject property is generally located north of Ortega Street and west of Matador Avenue in Billings Heights. The property is zoned Suburban Neighborhood (N3). The proposed lots will follow the current zoning for lot frontage.

VARIANCES REQUESTED

The applicant is not requesting a variance from the subdivision regulations.

PROPOSED CONDITIONS OF APPROVAL

Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably minimize potential adverse impacts identified within the Findings of Fact.

1. To minimize the effects on local service, prior to final plat approval, the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.
2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
3. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

PROCEDURAL HISTORY

- Pre-application meeting May 27, 2021
- Preliminary plat application submitted to Planning Division on August 2, 2021
- Departmental review meeting August 19, 2021
- Preliminary plat resubmittal August 26, 2021
- Planning Board plat review September 14, 2021
- Planning Board public hearing September 28, 2021
- Preliminary plat to City Council October 25, 2021
- 60 working-day preliminary plat review period ends October 26, 2021

PLAT INFORMATION

| | |
|---|---|
| General location: | North of Ortega Street and west of Matador Avenue |
| Legal Description: | Lot 5, Block 31, of High Sierra Subdivision 19th Filing |
| Owner/Subdivider: | High Sierra II, Inc. |
| Engineer and Surveyor: | Sanderson Stewart |
| Existing Zoning: | N3 |
| Existing land use: | Vacant Lane |
| Proposed land use: | Residential |

| | |
|---|---|
| Gross and Net area: | 61.825 acres / 58.245 acres |
| Proposed number of lots: | 63 |
| Lot size: | Max: 45.69 acres<br>Min.: 6,001 square feet |
| Parkland requirements: | Parkland dedication requirement is 1.382 acres. This requirement will be met with a cash in lieu contribution. |

## STAKEHOLDERS

A combined public hearing was held September 28, 2021, for this subdivision and 3 other filings of High Sierra. A brief presentation was given by staff to the Planning Board. After the presentation the staff stood for questions from the Board. President Woods asked for questions and discussion from the Board. There were no questions from the Planning Board for staff.Gary Oakland of Oakland and Companies, developer of the subdivision, stood to answer any questions that board may have for him, there were no questions for Mr. Oakland.

President Woods opened the public hearing, there was no one from the public at the meeting and there were no calls from the public regarding the proposed subdivision. The public hearing was closed, and a motion was made to forward a recommendation to the city council of conditional approval of the proposed plat and adoption of the findings of fact as presented in the staff report. The motion was seconded, a vote was taken and passed unanimously.

## ALTERNATIVES

In accordance with state law, the City Council has 60 working days to act upon this major preliminary plat. The 60 working day review period for the proposed plat ends on October 26, 2021. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 60 working day review period, the City Council is required to:

1. Approve;
2. Conditionally Approve; or
3. Deny the Preliminary Plat

## FISCAL EFFECTS

This plat will have no fiscal impacts on the City/County Planning Division.

## SUMMARY

One of the purposes of the City's subdivision review process is to identify potential negative effects of property being subdivided. Negative effects that are identified become the subdivider's responsibility to mitigate. Various City departments, private service/utility providers and the affected school district/s, have reviewed this application and provided input on effects and mitigation. The Findings of Fact, which are presented as an attachment, discuss potential negative impacts of the subdivision and conditions of approval are recommended as measures to further mitigate any impacts. In this case, there were found to be minimal impacts from this proposed subdivision.

---

**Attachments**

Findings of Fact
Proposed Plat
SIA Draft
Master Site Plan
Mayors Letter

# FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of High Sierra Subdivision, 20th Filing. These findings are based on the preliminary plat application and supplemental documents; addressing the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Billings Subdivision Regulations (Section 23-303(H), BMCC).

**A. What are the effects on agriculture, local services, the natural environment, wildlife, wildlife habitat, and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-302.H.2.]**

**1. Effect on agriculture and agricultural water user facilities**

The subject property is currently dry land grass and shrubs. There are no water rights being transferred to subdivision property owners. There are no existing ditches near this proposed development. The subdivision should not affect agricultural water users' facilities.

**2. Effect on local services**

**a.** **Utilities** – Public water services to the subject property will be provided by the City of Billings. The subdivision will be served by making two connections to public water mains, one on Modera Avenue, just north of the Modera Avenue/Street 1 (Temporary Name) intersection and one on Lindero Boulevard just west of the intersection of Lindero Boulevard/Matador Avenue. A 12-inch water main will be installed in Modera Avenue and Street 3 (Temporary Name) west of Modera Avenue. An 8-inch water main will be installed in the remaining local interior streets of the subdivision. The water main within the subdivision will make looped connections whenever possible. All water line construction shall be installed in conformance with the design standards, specification, rules and regulations of the City of Billings. The City of Billings Engineering Department will review and approve all proposed water lines prior to installation.

Fire hydrants will also be installed as required by the City of Billings Fire Department. The City Fire Department with review and approve all proposed hydrant locations prior to installation.

Sanitary sewer service will be provided by the City of Billings by making a connection to an existing 8-inch diameter sewer main located in Modera Avenue and to an existing 15-inch sewer main located in Lindero Boulevard. The 15-inch sewer main will be extended in Lindero Boulevard to Street 3 (Temporary Name), a 12- inch sanitary sewer main will be located in Street 3 (Temporary Name), and an 8-inch sanitary sewer main will be located in the remaining streets in the subdivision. All sewer line construction shall be installed in conformance with the design standards, specification, rules and regulations of the City of Billings Engineering Department. The City of Billings Engineering Department will review and approve all proposed sanitary sewer lines prior to installation.

All telephone, gas, electrical power, and cable television lines that are placed within the public right-of-way shall be installed prior to surface improvements.

**b.** **Storm water** – Stormwater management for the proposed subdivision will be provided by a combination of surface drainage and curbs and gutters, drained to underground storm drains. Storm water will discharge to a stormwater detention facility located in an off-site area on Lot 17, Block 6, High Sierra Subdivision, 11th Filing. It is generally located north of the future projection of Gleneagles Boulevard designated specifically for storm water detention. This detention facility will be sized to accept runoff generated from the High Sierra Subdivision, 20th Filing. Stormwater management facilities for the subdivision must be able to pass flows generated outside the subdivision area without inundating existing and proposed home sites. All proposed stormwater management will be reviewed and approved by City of Billings Engineering Department to ensure it meets the master planned stormwater plan for High Sierra Subdivision. All drainage improvements shall comply with the provisions of the City of Billings Stormwater Management Manual and Section 23-706, BMCC, a stormwater management plan shall be submitted to the Engineering Division prior to filing of the final plat.

**c.** **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.

**d.** **Streets** – Access to the lots in this proposed subdivision is from Modera Avenue and Lindero Boulevard. All new streets will be in a 56-foot-wide right of way and will be constructed to 34-foot wide, back of curb to back of curb road. Road construction will include installation of accessible ramps at the intersections.

Sidewalks will be installed at the time of individual lot development. All sidewalks will be boulevard type walks with 5-foot wide boulevard sidewalks.

**e.** **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The fire station that serves this area is located at 1601 St. Andrews Drive (Station #6).

The subdivision is located within the ambulance service area of American Medical Response (AMR).

Comments from the Police department state that continued expansion of subdivisions will require additional resources to maintain acceptable levels of service.

**f.** **Schools** – School District #2 provides service to students within this subdivision from elementary to high school (Eagle Cliffs Elementary School, Castle Rock Middle School, and Skyview High School). School District #2 shows some additional capacity at the schools listed above.

**g.** **Parks and Recreation** – The parkland dedication requirement for this subdivision is 1.382 acres. This will be met with a cash in lieu contribution.

Lot owners are advised they will be subject to inclusion in a Parks Maintenance District (PMD) for the operation and maintenance of existing and future parks within High Sierra Subdivision.

**h.** **Mail Delivery -** The United States Postal Service will provide postal service to the subdivision. They have requested the installation of centralized mailbox unit (CBUs). The developer will work with the USPS to provide a satisfactory location for a CBU for this filing. **(Condition #1)**

**3. Effect on the natural environment**

The subject property is relatively level land adjacent to urban development to the south. A geotechnical study was performed for the subdivision by Rimrock Engineering, Inc. dated July 28, 2021. It is recommended lot purchasers fully review that report prior to building on lots. The subdivision should have a minimal effect on the natural environment.

**4. Effect on wildlife and wildlife habitat**

There are no known endangered or threatened species on the property. Future property owners should be aware that the proposed subdivision is located near prime wildlife habitat and adjacent to open grassland areas, therefore conflicts with wildlife may occur. Any damage caused by wildlife is the responsibility of the owner. This notice is in the SIA under the heading II. Property Conditions and Information for Lot Purchasers.

**5. Effect on the public health, safety and welfare**

Fire hydrants will be installed to meet fire department requirements. Sidewalks will offer a safe place for pedestrians to walk. The effects on public health and safety should be minimal.

**B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMCC 23-302.H.1.]**

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-616, MCA.

**C. Does the subdivision conform to the City of Billings 2016 Growth Policy, the 2018 Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan? [BMCC 23-(8)]**

**1. City of Billings 2016 Growth Policy**

The proposed subdivision is consistent with the following goals of the Growth Policy:

> **Essential Investments:** Infill development and development near existing City infrastructure may be the most cost effective. (p.6)

**Strong Neighborhoods (livable, safe, sociable and resilient neighborhoods):** Neighborhoods that are safe and attractive and provide essential services are much desired. (p.8)

**Home Base (healthy, safe and diverse housing options)** Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings. (p.9)

**2. Billings Heights Neighborhood Plan**

The Billings Heights Neighborhood Plan, adopted in 2006, identifies this area for low-density residential development. The subdivision meets the following goals of the Heights Neighborhood Plan:

**Issue: Urban Sprawl**

**Issue:** Residential Development

**Goal:** To provide safe, good quality and affordable housing in the Heights. Develop housing patterns that are compatible with existing neighborhoods. Maintain similar housing in established neighborhoods.

**Objectives:** To encourage infill development and housing development that meets residents' desire to have similar housing within their neighborhood.

*This subdivision provides low-density residential single-family development in a neighborhood with existing low-density single-family development.*

**3. 2018 Billings Urban Area Long Range Transportation Plan**

The proposed subdivision adheres to the goals and objectives of the 2018 Transportation Plan and preserves the street network and street hierarchy specified in the plan.

**4. Billings Area Bikeway and Trail Master Plan (BABTMP)**

The proposed subdivision lies within the jurisdiction of the BABTMP. The BABTMP does not show any trails within the proposed subdivision.

**D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608 (3) (b) and BMCC 23-302.H.3.a.]**

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and to the design standards specified in the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

**E. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-302.H.3.e.]**

The subject property is located within the Suburban Neighborhood 3 (N3) zoning district. All building development on the lots shall comply with current zoning when applying for a building permit.

**F. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-302.H.3.b.]**

The subdivider will furnish private utility easements as required by private utility providers.

**G. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608 (3) (d) and BMCC 23-302.H.3.c.]**

Legal and physical access is provided to the proposed lots from Modera Avenue and Lindero Boulevard. A new internal road will provide access to individual lots. All streets are dedicated to the public as shown on the plat.

## CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of High Sierra Subdivision, 20th Filing does not create any adverse impacts that warrant denial of the subdivision.

- The proposed subdivision conforms to several goals and policies of the 2016 Growth Policy and does not conflict with the Transportation or Bikeway and Trail Plans.

- The proposed subdivision complies with state and local subdivision regulations, local zoning, and provides legal and physical access to each lot.

- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

## RECOMMENDATION

Staff recommends the Planning Board forward a recommendation of conditional approval of the preliminary plat of High Sierra Subdivision, 20th Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

Approved by the Billings City Council, October 25, 2021

_____

William A. Cole, Mayor

PRELIMINARY PLAT OF

# HIGH SIERRA SUBDIVISION, 20TH FILING

BEING THE PROPOSED LOT 5, BLOCK 31 HIGH SIERRA SUBDIVISION, 19TH FILING

SITUATED IN THE SE1/4 OF SECTION 8, THE SW1/4 OF SECTION 9 AND NE1/4 AND NW1/4 OF SECTION 17, T.1N., R. 26 E., P.M.M.,

CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

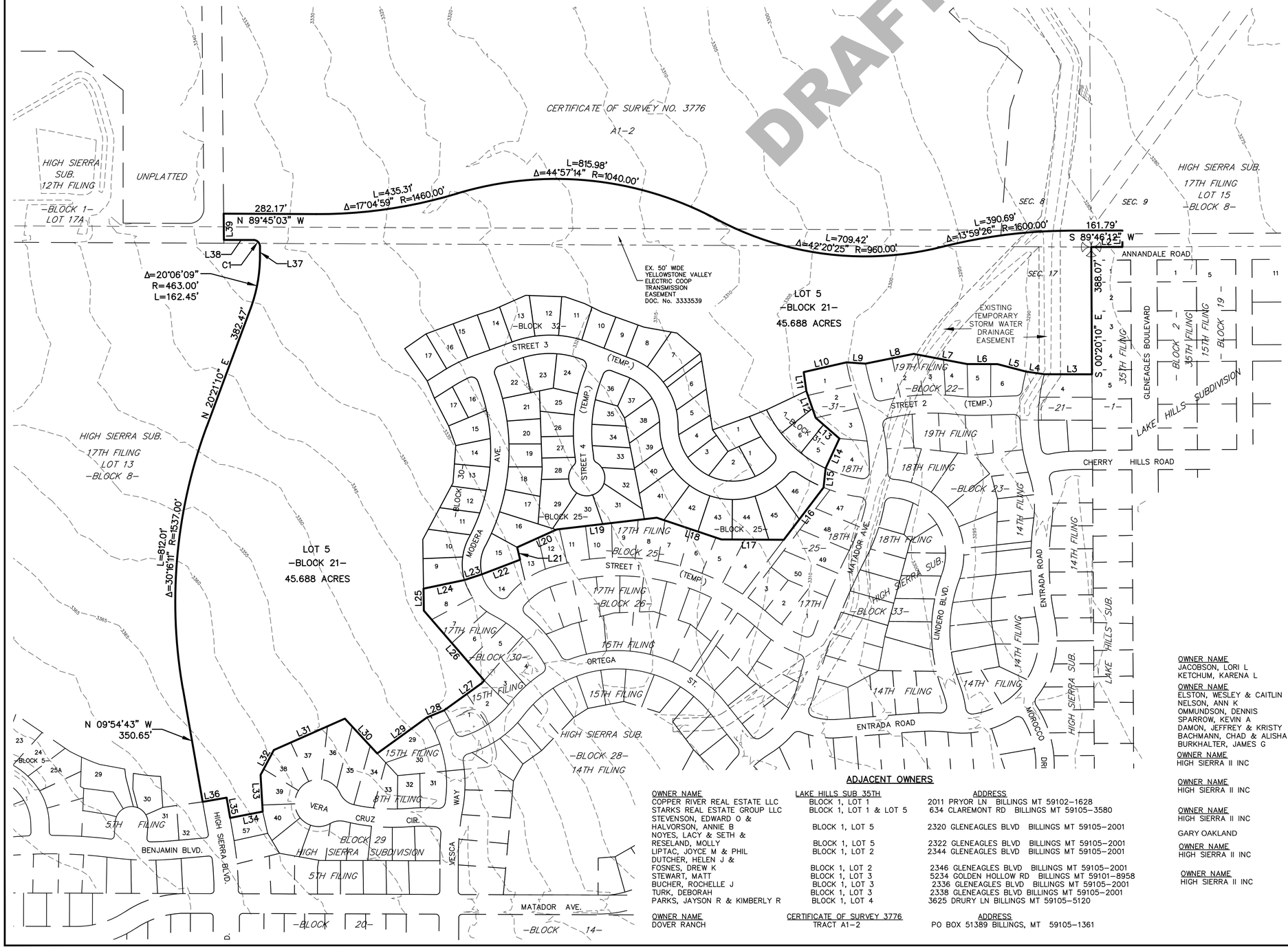
PREPARED FOR : HIGH SIERRA II, INC.

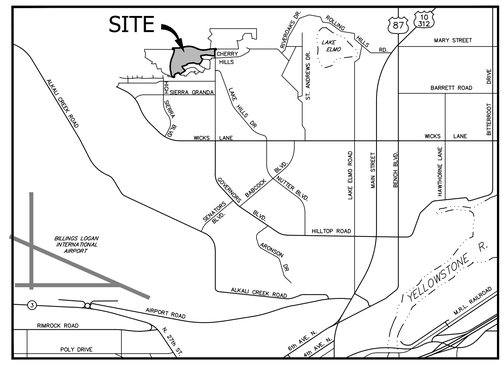
PREPARED BY : SANDERSON STEWART

JULY 2021

BILLINGS, MONTANA

DRAFT




## VICINITY MAP

NOT TO SCALE

NORTH

150' 75' 0 150' 300'

SCALE: 1" = 150'

| LINE TABLE | | |
|---|---|---|
| Line # | Bearing | Distance |
| L1 | N 00°24'44" W | 50.14' |
| L2 | N 89°45'56" E | 95.00' |
| L3 | S 89°52'30" E | 145.29' |
| L4 | S 81°57'32" E | 56.43' |
| L5 | S 75°14'56" E | 89.81' |
| L6 | S 89°52'30" E | 92.61' |
| L7 | S 79°12'43" E | 166.00' |
| L8 | N 78°30'48" E | 149.89' |
| L9 | S 85°58'16" E | 58.00' |
| L10 | N 77°08'08" E | 133.80' |
| L11 | N 08°00'54" W | 58.14' |
| L12 | N 19°05'48" W | 72.43' |
| L13 | N 48°54'24" W | 96.02' |
| L14 | N 24°54'31" E | 100.00' |
| L15 | N 06°00'59" E | 58.74' |
| L16 | N 37°12'11" E | 200.50' |
| L17 | S 89°41'37" E | 190.15' |
| L18 | S 71°21'58" E | 207.86' |
| L19 | N 83°16'17" E | 306.95' |
| L20 | N 65°46'06" E | 132.41' |

| LINE TABLE | | |
|---|---|---|
| Line # | Bearing | Distance |
| L21 | N 13°17'13" W | 38.88' |
| L22 | N 69°09'25" E | 124.56' |
| L23 | N 71°49'10" E | 56.08' |
| L24 | N 78°07'31" E | 127.55' |
| L25 | N 00°52'29" W | 67.11' |
| L26 | N 40°48'24" W | 281.53' |
| L27 | N 54°07'31" E | 142.29' |
| L28 | N 67°33'43" E | 56.83' |
| L29 | N 54°07'30" E | 187.31' |
| L30 | S 42°52'30" E | 144.89' |
| L31 | N 66°07'30" E | 236.67' |
| L32 | N 28°07'30" E | 86.07' |
| L33 | N 03°24'04" W | 112.00' |
| L34 | N 79°07'31" E | 101.13' |
| L35 | S 09°54'43" E | 62.50' |
| L36 | N 80°05'17" E | 74.00' |
| L37 | S 00°15'01" W | 30.50' |
| L38 | N 89°44'59" W | 90.16' |
| L39 | S 00°33'28" E | 79.88' |

| CURVE TABLE | | | |
|---|---|---|---|
| Curve # | Delta | Radius | Length |
| C1 | 90°00'00" | 20.00' | 31.42' |

## ADJACENT OWNERS

| OWNER NAME | LAKE HILLS SUB 35TH | ADDRESS |
|---|---|---|
| COPPER RIVER REAL ESTATE LLC | BLOCK 1, LOT 1 | 2011 PRYOR LN BILLINGS MT 59102-1628 |
| STARKS REAL ESTATE GROUP LLC | BLOCK 1, LOT 1 & LOT 5 | 634 CLAREMONT RD BILLINGS MT 59105-3580 |
| STEVENSON, EDWARD O & | | |
| HALVORSON, ANNIE B | BLOCK 1, LOT 5 | 2320 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| NOYES, LACY & SETH & | | |
| RESELAND, MOLLY | BLOCK 1, LOT 5 | 2322 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| LIPTAC, JOYCE M & PHIL | BLOCK 1, LOT 2 | 2344 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| DUTCHER, HELEN J & | | |
| FOSNES, DREW K | BLOCK 1, LOT 2 | 2346 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| STEWART, MATT | BLOCK 1, LOT 3 | 5234 GOLDEN HOLLOW RD BILLINGS MT 59101-8958 |
| BUCHER, ROCHELLE J | BLOCK 1, LOT 3 | 2336 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| TURK, DEBORAH | BLOCK 1, LOT 3 | 2338 GLENEAGLES BLVD BILLINGS MT 59105-2001 |
| PARKS, JAYSON R & KIMBERLY R | BLOCK 1, LOT 4 | 3625 DRURY LN BILLINGS MT 59105-5120 |
| OWNER NAME | CERTIFICATE OF SURVEY 3776 | ADDRESS |
| DOVER RANCH | TRACT A1-2 | PO BOX 51389 BILLINGS, MT 59105-1361 |

## ADJACENT OWNERS

| OWNER NAME | HIGH SIERRA SUB 5TH FIL | ADDRESS |
|---|---|---|
| JACOBSON, LORI L | BLOCK 5, LOT 32 | 622 W HARVARD PL ONTARIO, CA 91762-1904 |
| KETCHUM, KARENA L | BLOCK 29, LOT 57 | 2117 HIGH SIERRA BLVD. BILLINGS, MT. 59105-5455 |
| OWNER NAME | HIGH SIERRA SUB 8TH FIL | ADDRESS |
| ELSTON, WESLEY & CAITLIN | BLOCK 29, LOT 40 | 1130 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| NELSON, ANN K | BLOCK 29, LOT 39 | 1134 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| OMMUNDSON, DENNIS | BLOCK 29, LOT 38 | 1129 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| SPARROW, KEVIN A | BLOCK 29, LOT 37 | 1125 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| DAMON, JEFFREY & KRISTY | BLOCK 29, LOT 36 | 1121 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| BACHMANN, CHAD & ALISHA | BLOCK 29, LOT 35 | 1117 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| BURKHALTER, JAMES G | BLOCK 29, LOT 34 | 1113 VERA CRUZ CIR BILLINGS, MT 59105-8503 |
| OWNER NAME | HIGH SIERRA SUB 12TH FIL | ADDRESS |
| HIGH SIERRA II INC | BLOCK 1, LOT 17A | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| OWNER NAME | HIGH SIERRA SUB 15TH FIL | ADDRESS |
| HIGH SIERRA II INC | BLOCK 30, LOTS 1-3 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| | BLOCK 29, LOT 29 | |
| OWNER NAME | HIGH SIERRA SUB 17TH FIL | ADDRESS |
| HIGH SIERRA II INC | BLOCK 25, LOTS 4-14 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| | BLOCK 30, LOTS 5-8 | |
| GARY OAKLAND | BLOCK 8, LOTS 13 & 15 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| OWNER NAME | HIGH SIERRA SUB 18TH FIL | ADDRESS |
| HIGH SIERRA II INC | BLOCK 25, LOTS 47-49 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| | BLOCK 31, LOT 4 | |
| OWNER NAME | HIGH SIERRA SUB 19TH FIL | ADDRESS |
| HIGH SIERRA II INC | BLOCK 22, LOTS 1-6 | 175 N 27TH ST STE 940 BILLINGS MT 59101-2048 |
| | BLOCK 21, LOT 4 | |
| | BLOCK 31, LOTS 1-4 | |



82061.142_20TH PREPLAT SHT1.DWG 82061.142 8/26/21 BG

PRELIMINARY PLAT OF

# HIGH SIERRA SUBDIVISION, 20TH FILING

BEING THE PROPOSED LOT 5, BLOCK 31 HIGH SIERRA SUBDIVISION, 19TH FILING
SITUATED IN THE SE1/4 OF SECTION 8, THE SW1/4 OF SECTION 9 AND
NE1/4 AND NW1/4 OF SECTION 17, T.1N., R. 26 E., P.M.M.,
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : HIGH SIERRA II, INC.

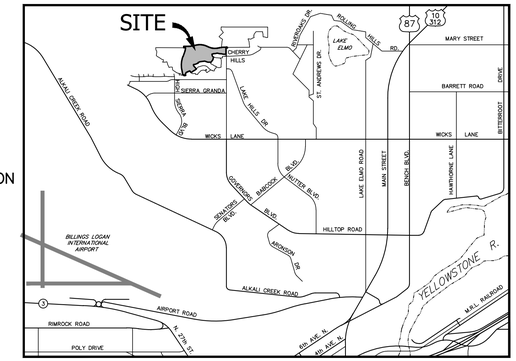
PREPARED BY : SANDERSON STEWART

JULY 2021

BILLINGS, MONTANA

## PLAT DATA

| | | |
|---|---|---|
| GROSS AREA | = | 61.825 ACRES |
| NET AREA | = | 58.245 ACRES |
| NUMBER OF LOTS | = | 63 |
| MINIMUM LOT SIZE | = | 6,001 S.F. |
| MAXIMUM LOT SIZE | = | 45.688 ACRES |
| LINEAL FEET OF STREETS | = | ±2,710 L.F. |
| PARKLAND REQUIREMENT | = | 1.382 ACRES |
| PARKLAND DEDICATION | = | MET WITH CASH CONTRIBUTION |
| EXISTING ZONING | = | N3 |
| SURROUNDING ZONING: | | |
| NORTH | = | N3 |
| SOUTH | = | N3 |
| EAST | = | N3 AND N2 |
| WEST | = | N3 |
| EXISTING LAND USE | = | AGRICULTURE |
| PROPOSED LAND USE | = | N3 |




## VICINITY MAP

NOT TO SCALE

NOTES:

1. ALL INTERNAL STREETS SHALL BE BUILT TO CITY OF BILLINGS STANDARDS 34' BACK TO BACK IN A 56' WIDE R.O.W.
2. STORM DRAIN STORAGE WILL BE PROVIDED IN A TEMP. STORMWATER DETENTION POND LOCATED NORTH OF THE SUBDIVISION. MAIN AND INLETS WILL BE PROVIDED AS NECESSARY.
3. IT IS ANTICIPATED THAT PRIVATE UTILITIES AND EASEMENT WILL BE LOCATED ON THE FRONT LOT LINES. THIS WILL BE CONFIRMED WITH THE PRIVATE UTILITY COMPANIES.

NORTH

50 25 0 50 100

SCALE: 1" = 50'

DRAFT

SHEET 2 of 2

82061.142_20TH PREPLAT SHT2.DWG 82061.142 8/26/21 BG

Return to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

# SUBDIVISION IMPROVEMENTS AGREEMENT & WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT DISTRICTS HIGH SIERRA SUBDIVISION, TWENTIETH FILING

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Return to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

# SUBDIVISION IMPROVEMENTS AGREEMENT & WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT DISTRICTS HIGH SIERRA SUBDIVISION, TWENTIETH FILING

**THIS AGREEMENT** is made and entered into this ____ day of _____, 20___, by and between **HIGH SIERRA II, INC.**, whose address for the purpose of this agreement is 175 North 27th Street, Suite 900, Billings, MT 59101, hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

**WITNESSETH:**

**WHEREAS**, at a regular meeting conducted on ____ day of _____, 20_____, the Board of Planning recommended conditional approval of a preliminary plat of High Sierra Subdivision, 20th Filing; and

**WHEREAS**, at a regular meeting conducted on _____ day of _____, 20____, the City Council conditionally approved a preliminary plat of High Sierra Subdivision, 20th Filing; and

**WHEREAS**, a Subdivision Improvements Agreement is required by the City prior to the approval of the final plat.

**WHEREAS,** the provisions of this agreement shall be effective and applicable to High Sierra Subdivision, 20th Filing upon the filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The Subdivision shall comply with all requirements of the City of Billings Subdivision Regulations, the rules, regulations, policies, and resolutions of the City of Billings, and the laws and administrative rules of the State of Montana.

**THEREFORE, THE PARTIES TO THIS AGREEMENT**, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, do hereby agree as follows:

## I. VARIANCES

**A.** Subdivider has requested, and the City hereby grants, the following variances by the City Council from the strict interpretation of the City's Subdivision Regulations (Section 23.1401, BMCC):

1. No Variances are requested.

## II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS

**A.** Lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development. If sidewalk is not constructed within 5 years, the City has the right to construct the sidewalk and assess the property owners.

**B.** Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.

**C.** No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.

**D.** There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider, and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.

**E.** Lot owners are advised they will be subject to inclusion in a Parks Maintenance District (PMD) for the operation and maintenance of the

parkland dedicated with various filings of High Sierra Subdivision, including High Sierra Subdivision, 20th Filing, and future filings of High Sierra Subdivision.

**F.** The Subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution and Prevention Plan (SWPPP) filed with the City and the Montana Department of Environmental Quality (MDEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by MDEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.

**G.** Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for new construction on lots. Best Management Practices are defined within Chapter 28, BMCC and detailed in the Billings Stormwater Management Manual.

1. The lowest finish floor elevation (which includes the garage) shall be a minimum of 18-inches higher than the top of curb, measured from the highest location along the lot frontage. Home builder and lot owner may find it necessary to raise the finish floor elevation of house or garage above this minimum during on-site building design and/or during on-lot grading.

2. The stormwater runoff from individual lots shall be directed toward the public right-of-way wherever possible. However, due to the existing terrain of the subdivision this is not possible for every lot. Where runoff from lots cannot be directed to public right-of-way because existing terrain is falling away from the public right of way, the stormwater runoff shall be directed to flow to the same location as it has historically. Home builder and lot owners shall consider the effect of potential off-lot run-on waters from lots uphill of the subject lot, and grade around the home to provide positive drainage away from the home. Home builder and lot owners must take necessary measures to protect the house from surface stormwater flows. Lots shall allow, through on-site building design and on-lot grading, for stormwater to pass through each lot without negatively impacting adjacent lots. The lowest openings on each home (window wells) are to be located outside the designated drainage paths. If this is not possible, the builder and lot owners must take necessary measures to protect these openings from inundating from surface water flows. In any case, the homebuilder shall allow enough space between window wells

and property lines to provide sufficient swales and proper storm water drainage away from window wells.

3. Each owner of a completed lot shall be a member of the High Sierra Subdivision Homeowners Association (HOA). Membership shall be appurtenant to and may not be separated from ownership of a lot. The Homeowners Association will be set up to maintain the permanent stormwater detention facilities. The HOA Board of Directors shall have the power, in its discretion, to exclude costs of major repairs or approved capital improvements to the HOA Storm Water System from the regular monthly assessments and, instead, impose special assessments for these expenses, and for emergencies, as they are incurred.

## III. TRANSPORTATION

### A. Streets

1. Subdivider will enter into a private contract for the construction of all required improvements for those streets within the subdivision, as follows:

   Modera Avenue, Lindero Boulevard, Street 3 (Temporary Name) and Street 4 (Temporary Name) will be constructed within a 56-foot right-of-way using curb and gutter and full-width pavement (34-feet back of curb to back of curb). Curb and Gutter will be installed per the City of Billings Standards in place at time of construction.

### B. Sidewalks

1. Sidewalk on the internal streets shall be installed at the time of individual lot development. The sidewalk shall consist of a 5-foot-wide boulevard type sidewalk with a minimum 5-foot-wide boulevard.

2. Subdivider will install accessible ramps at the intersections, which shall be completed with the subdivision improvements.

3. A 12-foot-wide sidewalk shall be constructed in the 20-foot-wide right-of-way corridors and shall be installed at the time of private contract construction.

**C. Street Lighting**

Construction or installation of streetlights within the public rights-of-way shall not be required at this time, but streetlights are included in the Waiver referenced herein for construction of the same in the future. A maintenance district for streetlights may be formed for future maintenance of any streetlights installed in the future.

**D. Traffic Control Devices**

The Subdivider shall furnish and install all necessary traffic control devices within and adjacent to the Subdivision in accordance with the plans and specification submitted to and approved by the City Engineer. Traffic control devices shall include all necessary signing, striping, and channelization devices to properly complete the implementation of the proposed street construction.

Based on the Traffic Impact Study (TIS) update letter, the 20th Filing development's portion of critical volumes for impacted intersections are as follows (based on a $250,000.00 intersection improvement cost):

| | |
|---|---|
| Wicks Lane/Gleneagles Blvd | 1.37% ($3,425.00) |
| Wicks Lane/Fantan Street | 1.53% ($3,825.00) |
| Wicks Lane/St. Andrews Dr. | 1.21% ($3,025.00) |
| Annandale Road/Gleneagles Blvd | 0.17% ($425.00) |
| Annandale Road/St. Andrews Dr. | 0.18% ($450.00) |

City and Subdivider agree that the Subdivider will be required to make cash contributions to these intersections prior to final plat approval.

**E. Access**

Modera Avenue and Lindero Boulevard provide access to the subdivision. The interior streets will be located within a 56-foot right-of-way and will have a width of 34-feet back of curb to back of curb.

**F. Billings Area Bikeway and Trail Master Plan**

The Billings Area Bikeway Plan (2017) shows no trail connections within the proposed area of High Sierra Subdivision, 20th Filing, and as such, no trail improvements are required as part of this subdivision.

### G. Public Transit

The subdivision does not require improvements to ensure public transit service.

## IV. EMERGENCY SERVICE

The City will provide emergency service. Fire hydrants shall be provided at each street intersection and at intermediate locations where distances exceed 500-feet. Appropriate turnarounds will be located on any dead-end street in excess of 150-feet.

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and fire hydrant(s) in place to allow for fire suppression requirements. Prior to issuance of a building permit for construction using combustible materials (i.e., lumber, plywood, wood trusses, etc.), fire apparatus access roads, and water supply requirements shall be provided in accordance with the International Fire Code as adopted by the City of Billings.

At a minimum, the following is required:

- An unobstructed gravel road or gravel road base must be within 150-feet of the furthest portion of a building under construction as measured along an approved route.
- The access roads are required to support fire apparatus vehicle loading (40 tons) during all weather conditions and shall be a minimum of 20-feet-wide.
- An operational fire hydrant shall be located within 600-feet of the furthest portion of a residence under construction or within 400-feet of the furthest portion of a commercial building under construction as measured along the access roads to the site.
- The above requirements do not alter or effect the current minimum subdivision requirements for fire apparatus access and water supply.

## V. STORM DRAINAGE

Storm drainage for the public streets shall be provided by a combination of surface drainage and curbs and gutters, drained to underground storm drains, and with discharge to a stormwater detention facility that is located within an off-site area on Lot 17, Block 6, High Sierra Subdivision, 11th Filing generally north of the future projection of Gleneagles Boulevard designated for storm water detention. This detention facility will be sized to accept runoff generated from the High Sierra Subdivision, 20th Filing. Stormwater management facilities for the subdivision must be able to pass flows generated outside the subdivision area

without inundating existing and proposed home sites. All drainage improvements shall comply with the provisions of the *Stormwater Management Manual* and Section 23-706, BMCC, a stormwater management plan shall be submitted to and approved by the Engineering Division prior to filing of the final plat.

The drainage system improvements will be in accordance with the recommendations of the stormwater analysis and report prepared and submitted with the improvement plans and specifications. Maintenance of the stormwater detention area and associated drainage facilities shall be by the High Sierra Subdivision HOA.

## VI. UTILITIES

The Subdivision Improvements Agreement does not constitute an approval for extension of or connection to water mains and sanitary sewers. The property owner shall make application for extension/connection of water mains and sanitary sewers to the Public Works Department – Engineering Division. The extension/connection of/to water mains and sanitary sewers is subject to the approval of the applications and the conditions of approval. Applications shall be submitted for processing prior to the start of any construction and prior to review and approval of any project plans and specifications.

The Developer/Owner acknowledges that the Subdivision shall be subject to the applicable System Development Fees in effect at the time new water and/or sanitary sewer service connections are made.

The design/installation of sanitary sewers and appurtenances, and water mains and appurtenances (fire hydrants, etc.) shall be in accordance with design standards, specifications, rules, regulations of and as approved by the City of Billings Public Works Department, Fire Department, and the Montana Department of Environmental Quality.

### A. Water

The subdivision will be served by making two connections to public water mains, one on Modera Avenue, just north of the Modera Avenue/Street 1 (Temporary Name) intersection and one on Lindero Boulevard just west of the intersection of Lindero Boulevard/Matador Avenue. A 12-inch water main will be installed in Modera Avenue and Street 3 (Temporary Name) west of Modera Avenue. An 8-inch water main will be installed in the remaining local interior streets of the subdivision which is subject to approval from the City of Billings. The water main within the subdivision will make looped connections whenever possible. Fire hydrants will be

provided at all appropriate locations and are also subject to approval by the City of Billings.

**B. Sanitary Sewer**

The subdivision will be served by making a connection to an existing 8-inch diameter sewer main located in Modera Avenue and to an existing 15-inch sewer main located in Lindero Boulevard. 15-inch sewer main will be extended in Lindero Boulevard to Street 3 (Temporary Name), 12-inch sanitary sewer main will be located in Street 3 (Temporary Name), and 8-inch sanitary sewer main will be located in the remaining streets in the subdivision.

**C. Power, Telephone, Gas, and Cable Television**

All telephone, gas, electrical power, and cable television lines shall be the responsibility of the Subdivider. Any line located within public right-of-way shall be subject to approval of the City Engineer.

## VII. PARKS/OPEN SPACE

Section 76-3-621 of the Montana Subdivision and Platting Act covers the park dedication requirement. Additionally, Section 23-1002. B.1 of the City of Billings municipal code covers parkland dedication of major subdivisions. High Sierra Subdivision, 20th Filing requires a parkland dedication 1.382 acres. The Subdivider will make a cash in-lieu contribution for the 1.382 acres in lieu of parkland dedication.

Lot owners are advised they will be subject to inclusion in a Special Improvement District (SID) for the development and a Parks Maintenance District (PMD) for the operation and maintenance of this and future parks within High Sierra Subdivision.

## VIII. IRRIGATION

No permanent irrigation ditches, field laterals, or irrigation easements exist on the subdivision.

## IX. SOILS/GEOTECHNICAL STUDY

A geotechnical report was performed within the area of this subdivision and submitted with the preliminary plat and is available for review at the City of Billings Planning Department. The Geotechnical Investigation Report for High Sierra Subdivision 20th Filing Billings, Montana was completed by Rimrock Engineering Inc. and dated July 28, 2021.

It is recommended that owners, purchasers, realtors, builders, and developers fully familiarize themselves with the information contained in this report prior to design or construction.

## X. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install, and construct said required improvements with cash or by utilizing the mechanics of a special improvement district or private contracts secured by letters of credit or a letter of commitment to lend funds from a commercial lender. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said special improvement district or private contract, and the improvements shall be installed as approved by the City Engineer and Utility Department Manager.

## XI. LEGAL PROVISIONS APPLYING TO SUBDIVIDER

**A.** Subdivider agrees to guarantee all public improvements for a period of two year from the date of final acceptance by the City of Billings.

**B.** The owners of the properties involved in this proposed Subdivision by signature subscribed herein below agree, consent, and shall be bound by the provisions of this Agreement.

**C.** The covenants, agreements, and all statements in this Agreement run with the land and apply to and shall be binding on the heirs, personal representatives, successors, assigns and transferees of the respective parties.

**D.** In the event it becomes necessary for either party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney fees and costs.

**E.** Any amendments or modifications of this Agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this Agreement.

**F.** Subdivider shall comply with all applicable federal, state, & local statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider acknowledges and agrees that nothing contained herein shall relieve or exempt it from such compliance.

**IN WITNESS WHEREOF**, the parties hereto have set their hands and official seals on the date first above written.

"SUBDIVIDER" **HIGH SIERRA II, INC.**

By:_____

Its:_____

STATE OF MONTANA )
: ss
County of Yellowstone )

On this _____ day of _____, 20___, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the person who executed the foregoing instrument as the _____ _____ of **HIGH SIERRA II, INC.**, and acknowledged to me that he/she executed the same.

_____
Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

This agreement is hereby approved and accepted by the City of Billings, this ____ day of _____, 20___.

"CITY" **CITY OF BILLINGS, MONTANA**

By: _____
Mayor

Attest: _____
City Clerk

STATE OF MONTANA )
: ss
County of Yellowstone )

On this ____ day of _____, 20___, before me, a Notary Public in and for the State of Montana, personally appeared _____ and _____, known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.

_____
Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

# WAIVER OF RIGHT TO PROTEST
# FUTURE SPECIAL IMPROVEMENT DISTRICTS

FOR VALUABLE CONSIDERATION, the undersigned, being the Subdivider and all of the owners of the hereinafter described real property, do hereby waive the right to protest the formation of one or more special improvement district(s) for a period of no more than twenty years from the recording of this waiver, for street light maintenance and energy, and for the construction of streets, street widening, sidewalks, survey monuments, street name signs, curb and gutter, street lights, driveways, traffic signals, and traffic control devices, parks and park maintenance, trails, sanitary sewer lines, water lines, storm drains (either within or outside the area), and other improvements which the City of Billings may require.

This Waiver and Agreement is independent from all other agreements and is supported by sufficient independent consideration to which the undersigned are parties and shall run with the land and shall be binding upon the undersigned, their successors, and assigns, and the same shall be recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana.

The real property hereinabove mentioned is more particularly described as follows:

High Sierra Subdivision, 20th Filing

Signed and dated this _____ day of _____, 20___.

"SUBDIVIDER" **HIGH SIERRA II, INC.**

_____

STATE OF MONTANA )
: ss
County of Yellowstone )

On this ____ day of _____, 20___, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the _____of **HIGH SIERRA II, INC.,** the person who executed the forgoing instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEROF, I have hereunto set my hand and affixed my Notarial Seal the day and year hereinabove written.

_____
Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

High Sierra

A NEIGHBORHOOD TRADITION

N

ANNANDALE ROAD

HIGH SIERRA BLVD

GLENEAGLES BLVD

PREVIOUS FILINGS OF HIGH SIERRA

MASTER PLAN BOUNDARY

HIGH SIERRA, 20TH FILING

HIGH SIERRA, 19TH FILING

HIGH SIERRA, 18TH FILING

HIGH SIERRA, 17TH FILING

PREVIOUS FILINGS OF HIGH SIERRA

PREVIOUS FILINGS OF HIGH SIERRA

# HIGH SIERRA SUBDIVISION - MASTER PLAN

Bill Cole, Mayor
P.O. Box 1178
Billings, MT 59103
P 406.657.8296
F 406.657.8390

CITY OF
Billings
MAYOR'S OFFFICE

October 25, 2021

High Sierra II, Inc.
175 N 27th Street, Suite 900
Billings, MT 59101

Dear Applicant:

On October 25, 2021, the Billings City Council conditionally approved the preliminary plat of High Sierra Subdivision, 20th Filing, subject to the following conditions of approval:

1. To minimize the effects on local service, prior to final plat approval, the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.

2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.

3. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

Should you have any questions please contact Dave Green at (406) 247-8666 or by email at greend@billingsmt.gov

Sincerely,

_____
William A. Cole, Mayor

pc: Sanderson Stewart
High Sierra II, Inc.

City Council Regular

| | |
|---|---|
| Date: | 10/25/2021 |
| Title: | Yellowstone Landing Commercial Park Subdivision - Final plat |
| Presented by: | Monica Plecker |
| Department: | Planning & Community Services |
| Presentation: | No |

## RECOMMENDATION

Staff recommends the City Council approve the final plat and SIA of Yellowstone Landing Commercial Park Subdivision.

## BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On October 6, 2021, Performance Engineering applied for final major plat approval for Yellowstone Landing Commercial Park Subdivision. The proposed subdivision creates 10 lots for commercial development. The subject property is located North of Highway 3 and east of AJ Way. The property is zoned Heavy Commercial (CX).

## ALTERNATIVES

The City Council may approve, conditionally approve or deny the final plat of Yellowstone Landing Commercial Park Subdivision. If the City Council chooses to deny the final plat, the denial must be because the criteria in Section 76-3-611, MCA are not met. The criteria are as follows:

76-3-611. Review of final plat.
(1) The governing body or the agent or agency designated by the governing body shall examine each final plat, and the governing body shall approve the plat only if:
(a) it conforms to the conditions of approval set forth on the preliminary plat and to the terms of this chapter and (local) regulations adopted pursuant to this chapter; and
(b) the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid.

Staff finds the final plat meets the criteria outlined in 76-3-611 above.

## FISCAL EFFECTS

The final plat of this subdivision will have no financial impact on the Planning Division.

**Attachments**

Final Plat
SIA
Conditions of Approval

PLOTTED: 5/5/2021 4:43:53 PM

# PLAT OF
# YELLOWSTONE LANDING COMMERCIAL PARK SUBDIVISION

BEING TRACT 14A OF AMENDED PLAT OF TRACTS 13 AND 14 OF CERTIFICATE OF SURVEY 2037 (DOCUMENT NO. 3968450)
LOCATED IN THE NE ¼ AND SE ¼ OF SECTION 26, T 01 NORTH, RANGE 25 EAST, P.M.M., CITY OF BILLINGS,
YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : AVIATION PROPERTIES, LLC

PREPARED BY : PERFORMANCE ENGINEERING, LLC

AREA OF SUBDIVISION : ± 25.956 AC

DATE OF SURVEY : JUNE 2021

**LEGEND**

| | |
|---|---|
| PROPERTY LINE | ——— |
| 1' NO ACCESS EASEMENT | ~~~ |
| RIGHT- OF- WAY | ——— — — ——— |
| FOUND PROPERTY CORNER, AS DESCRIBED | ● |
| SET PROPERTY CORNER | ○ |
| FOUND QUARTER CORNER, AS DESCRIBED | ⋈ |

**NOTICE OF APPROVAL**

STATE OF MONTANA )
:ss
County of Yellowstone )

This plat has been approved for filing by the Yellowstone County Board of Planning and conforms to the recommendations of this board.

Date _____ President _____ Executive Secretary _____

**BASIS OF BEARING**

Bearings derived from those shown on Certificate of Survey No. 3755. Distances are ground.

**SURVEYOR'S NOTE**

Unless otherwise noted, record distances between found monuments shown hereon are within local accepted practice.

**CERTIFICATE OF SURVEYOR**

I, the undersigned Mark W. Kadrmas, Registered Land Surveyor, do hereby certify that this survey was done under my direct supervision of a tract of land located in a portion of the East 1/2 of Section 26, Township 01N, Range 25E, P.M.M., City of Billings, Yellowstone County, Montana, said tract being Tract 14A of Certificate of Survey No. 2037, Amended.

Said tract containing 25.956 acres, more or less, in gross.

Said tracts subject to all easements and right-of-ways of record or apparent on the ground.

This survey was prepared in accordance with the provisions of the Montana Subdivision and Platting Act, Sections 76-3-101 through 76-3-625, MCA.

Dated this _____ day of _____, 20__.

MONTANA
MARK W. KADRMAS
No. 51414 LS
LICENSED LAND SURVEYOR

Mark W. Kadrmas, PLS 51414LS

**CERTIFICATE OF COUNTY TREASURER**

I hereby certify, pursuant to Section 76-3-611 MCA, that the accompanying plat has been duly examined and that all real property taxes and special assessments assessed and levied on the land have been paid.

Dated this _____ day of _____, 20__.

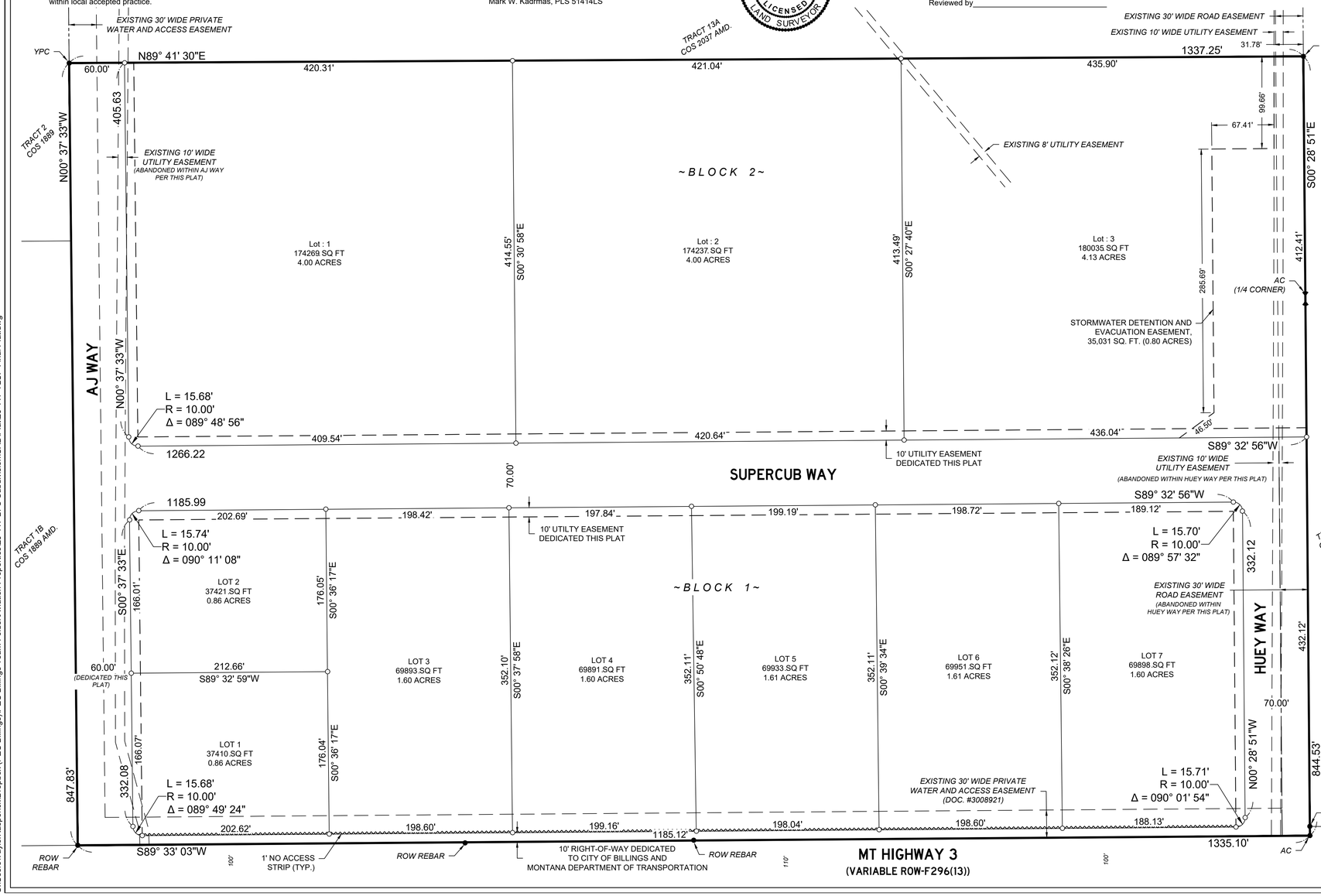
_____
Yellowstone County Treasurer

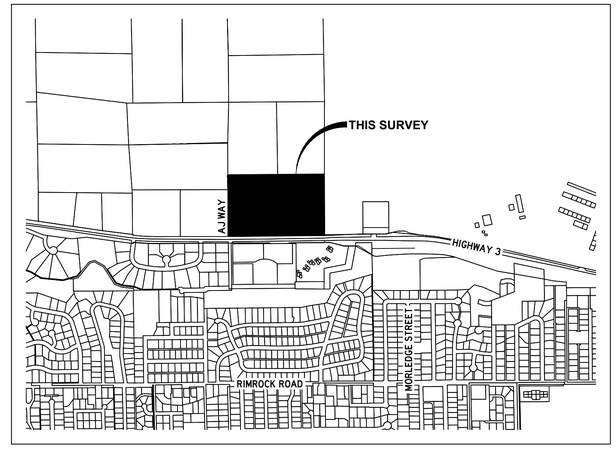
**CERTIFICATE OF CITY ATTORNEY**

This document has been reviewed by the City Attorney and it is acceptable as to form:

Dated this _____ day of _____, 20__.

Reviewed by_____




**VICINITY MAP**

**CERTIFICATE OF DEDICATION**

STATE OF MONTANA )
:ss
County of Yellowstone )

KNOW ALL BY THESE PRESENTS that the undersigned owners of the following described tract of land, do hereby certify that they have cause to be surveyed, subdivided, and platted into lots, blocks, and streets as shown on the plat, said tract being situated in the NE ¼ and SE ¼ of Section 26, Township 01 North, Range 25 East, P.M.M., City of Billings, Yellowstone County, Montana, said tract containing a gross area of 25.956 acres, and a net area of 21.876 acres, more or less.

The undersigned hereby grants unto all utility companies, as such are defined and established by Montana Law, and cable television companies, an easement for the location, maintenance, repair and removal of lines over, under and across the areas designated on the plat as Utility Easement to have and hold forever. Said tract to be known and designated as YELLOWSTONE LANDING COMMERCIAL PARK SUBDIVISION.

Said plat is subject to any easements and/or rights-of-way of record or reserved per this plat and the lands included in all roads as shown on the plat are hereby granted and donated to the use of the public forever.

Pursuant to 76-3-621(3)(b), no parkland dedication is required for a "subdivision into parcels that are all nonresidential."

This survey is not subject to review by the Department of Environmental Quality pursuant to 76-4-130(2), MCA as the "deviation consists solely of connection to municipal or county water and/or sewer district facilities."

Aviation Properties, LLC

_____
Representative
Print Name_____

STATE OF MONTANA )
:ss
County of Yellowstone )

On this ____ day of _____, 20__, before me, a Notary Public in and for the State of Montana, personally appeared _____ _____, known to me to be the _____ of Aviation Properties, LLC, known to me to be the person who signed the foregoing instrument and who acknowledged to me that they executed the same. Witness my hand and seal the day and year herein above written.

_____
Notary Public in and for the State of Montana
Printed Name_____
Residing at_____
My commission expires_____

**CERTIFICATE OF CITY COUNCIL APPROVAL**

STATE OF MONTANA )
:ss
County of Yellowstone )

We hereby certify that we have examined the plat of YELLOWSTONE LANDING COMMERCIAL PARK SUBDIVISION and find that said plat conforms with the requirements of the law of the State of Montana and the Yellowstone County Board of Planning. It is therefore approved and the dedication to public use of any and all lands shown on this plat as being dedicated to such use are accepted.

IN WITNESS WHEREOF, we have set our hands and the seal of the City of Billings, Montana, this ____ day of _____, 20__.

CITY OF BILLINGS, MONTANA

By:_____ Attest:_____
Mayor City Clerk

**CERTIFICATE OF CITY ENGINEER'S OFFICE**

I hereby certify that I have examined the annexed plat and find that it conforms with Section 76-4-125(1)(d) MCA removing sanitary restrictions since said plat is inside a master planning area and is provided with municipal facilities for the supply of water, disposal of sewage, storm drainage, and solid waste.

Dated this_____day of _____, 20_____.

_____
City Engineer's Office

**ERRORS AND OMISSIONS REVIEW**

I hereby certify that I have examined the foregoing plat for errors and omissions in computations and drafting.

Dated this _____ day of _____, 20__.

Reviewed by_____

0 60 120
IN FEET

# SHEET 1 OF 1

C:\Users\TaylorKasperick\Dropbox (PEC Billings)\PEC Billings Team Folder\Aviation Properties\20-117 BFS Subdivision\CAD\Plat\20-117 YLCP Final Plat.dwg

**SUBDIVISION IMPROVEMENTS AGREEMENT**
**& WAIVER OF RIGHT TO PROTEST FURTURE SPECIAL IMPROVEMENT DISTRICTS**

# *YELLOWSTONE LANDING COMMERCIAL PARK SUBDIVISION*

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**(City of Billings)**


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# SUBDIVISION IMPROVEMENTS AGREEMENT & WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT DISTRICTS

## *YELLOWSTONE LANDING COMMERCIAL PARK SUBDIVISION*

**This agreement** is made and entered this 6th day of October, 2021, by and between *Aviation Properties, LLC,* whose address for the purpose of this agreement is **6309 Jellison Road, Billings, Montana, 59101**, hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

**WITNESSETH:**

**WHEREAS**, at a regular meeting conducted on ____ day of _____, 20___, the Board of Planning recommended conditional approval of a preliminary plat of *Yellowstone Landing Commercial Park Subdivision*; and

**WHEREAS**, at a regular meeting conducted on ____ day of _____, 20___, the City Council conditionally approved a preliminary plat of *Yellowstone Landing Commercial Park Subdivision*; and

**WHEREAS**, a Subdivision Improvements Agreement is required by the City prior to the approval of the final plat.

**WHEREAS**, the provisions of this agreement shall be effective and applicable to *Yellowstone Landing Commercial Park Subdivision* upon the filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The Subdivision shall comply with all requirements of the City of Billings Subdivision Regulations, the rules, regulations, policies, and resolutions of the City of Billings, and the laws and administrative rules of the State of Montana.

**THEREFORE, THE PARTIES TO THIS AGREEMENT**, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, do hereby agree as follows:

### I. Variances

Subdivider has requested, and the City hereby grants, the following variances by the City Council from the strict interpretation of the City's Subdivision Regulations (Section 23.1101, BMCC):

1. *No variances are requested as part of this Subdivision.*

## II. Property Conditions and Information for Lot Purchasers

**A.** Lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development. If sidewalk is not constructed within 5 years from the date of each subdivision phase opening, the City has the right to construct the sidewalk and assess the property owners.

**B.** Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that lot owners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.

**C.** Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction. Additional geotechnical studies may be required by the City of Billings Building Department and Engineering Division at the time of individual lot development to acquire a Building Permit.

**D.** No water rights have been transferred to the lot owners.

**E.** There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.

**F.** The subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution and Prevention Plan (SWPPP) filed with the city and the Montana Department of Environmental Quality (MDEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by MDEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.

**G.** Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for new construction on lots. Best

Management Practices are defined within Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.

**H.** Lot owners should be aware of Agreement between Subdivider and Neighboring Property Owners entered into September, 2016, of which a copy shall be provided by the Subdivider prior to property closing and an abstract is recorded under Document No. 3790799 at the Yellowstone County Clerk and Recorder's Office. Terms and duration of the Agreement are binding to Lot Owners and include requirements pertaining to building color, lighting, noise, and landscaping. Any requirements not explicitly addressed in said agreement shall comply with the current City of Billings Zoning Code.

**I.** Lot owners shall be aware of and comply with Federal Aviation Administration requirements pertaining to building requirements as agreed to in the Perpetual Air Rights Easement for the Property.

## III. Transportation

### A. Streets

- Subdivider will execute a private contract to construct public streets, curb and gutter, and some sidewalks within the public Right-of-Way (ROW) dedicated in conjunction with the Subdivision (60' along AJ Way, 70' along Supercub Way and Huey Way) as well as adjacent properties (14' along Tract 1B of COS 1889 Amended and Tract 2 of COS 1889). The improvements will consist of constructing a collector roadway (45' TBC-TBC) from State Highway 3 to the Subdivision extents along AJ Way, and a local commercial roadway (45' TBC-TBC) along the interior of the Subdivision. Dedicated ROW widths will be per the City of Billings Subdivision Regulations.
- Standard curb and gutter will be installed along roadways within the Subdivision. Extent of curb and gutter within Montana Department of Transportation (MDT) Right-of-Way will be determined based on findings from the Traffic Impact Study and MDT approval.
- All streets will be provided with asphalt concrete driving surface.

### B. Sidewalks

- Individual lot owners will be responsible for the construction of the sidewalks along their lot frontages at the time of lot construction and shall be included in each building permit.
- Sidewalks shall be 5-foot wide with a 5-foot boulevard planting strip between the sidewalk and the curb. Subdivider will install, within the private contract, corner intersection handicap ramps and aprons.
- An 8-foot sidewalk along the north side of State Highway 3 will be constructed in the future. Subdivider and/or individual lot owners waive the right to protest being included in a Special Improvement District (SID) for the proportionate share of said cost. All of the lots within *Yellowstone*

*Landing Commercial Park Subdivision* can be assessed for installation of the sidewalk/trail along the State Highway 3 frontage of the subdivision. The Subdivider shall be responsible for the maintenance of the sidewalk/trail after construction.

**C. Street Lighting**

- No street lighting is proposed for the development; however, street lighting is included in the waiver of right to protest.

**D. Traffic Control Devices**

- Subdivider will install necessary traffic control devices within or adjacent to the Subdivision in conformance with the City of Billings and Montana Department of Transportation standards.
- Street name signs for streets within the Subdivision, or located immediately adjacent thereto, shall be furnished and installed by the subdivider in accordance with the specifications of the City of Billings standards.
- Subdivider shall provide a Traffic Impact Study (TIS) to MDT and City Engineering for review and approval, identifying any off-site contributions. Subdivider is responsible for the cost of the TIS and any off-site contributions identified in the TIS.

**E. Access**

- The Subdivision will be accessed via two approaches off State Highway 3. The approaches will be located at, or in the immediate vicinity of, the existing paved approaches accessing the Subdivision. A 1-foot no-access easement is proposed along the south property line of those lots adjacent to State Highway 3.
- Approaches will be designed to comply with MDT rules and regulations and shall be approved and permitted by MDT prior to construction.
- Improvements to State Highway 3 and approach sizing will be determined based on a TIS prepared for the Subdivision by the Subdivider and submitted to the City of Billings and MDT for review and approval.
- The Subdivider will construct a center turn lane on State Highway 3 to serve AJ Way that will be inspected and approved by the City of Billings and MDT prior to the release of deed restrictions for Phase II of the subdivision. The Subdivider will construct a center turn lane on State Highway 3 to serve Huey Way that will be inspected and approved by the City of Billings and MDT prior to the release of deed restrictions for Phase III of the subdivision. The subdivider is responsible for all costs associated with the improvements and for obtaining all necessary permits.

**F. Billings Area Bikeway and Trail Master Plan**

- The Billings Area Bikeway and Trails Master Plan does not identify any pathways or trails internal or connecting to the Subdivision.

### G. Public Transit

- Met Transit provides service to the City of Billings, with the closest route including a pick-up and drop-off area located in the Airport, approximately 1.85 miles from the Subdivision. No improvements are required to ensure public transit service.

## IV. Emergency Service

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and water supply (fire hydrants) in place to allow for fire suppression requirements. Prior to the issuance of a building permit for construction using combustible materials (i.e. lumber, plywood, wood trusses, etc.), fire apparatus access roads and water supply requirements shall be provided in accordance with the International Fire Code as adopted by the City of Billings.

At a minimum, the following is required:

- An unobstructed gravel road or gravel road base must be within 150 feet of the furthest portion of a building under construction as measured along the approved route.
- The access roads are required to support fire apparatus vehicle loading (40 tons) during all weather conditions and shall be a minimum of twenty (20) feet wide.
- An operational fire hydrant shall be located within 600 feet of the furthest portion of a residence under construction or within 400 feet of the furthest portion of a commercial building under construction as measured along the access roads to the site.
- The above requirements do not alter or effect the current minimum subdivision requirements for fire apparatus access and water supply.
- Should a terminated roadway during Subdivision phasing exceed 150' in length and there be no other approved means for apparatus turnaround on individual lots, a fire apparatus turnaround shall be installed at the termination point of roadways between each Subdivision phase.
- No fire apparatus turnaround is required along AJ Way as the roadway extends as a private road north of the Subdivision and fire apparatus' are able to turnaround outside Subdivision extents.

## V. Storm Drainage

All drainage improvements shall comply with the provisions set forth in Chapter 28, BMCC, and the Stormwater Management Manual in place at the time of development. A complete stormwater management plan shall be submitted to the Engineering Division for review and approval at the time of development.

- Stormwater runoff from all of the right-of-way and all of Lot 1, Block 2, within the Subdivision shall be directed and conveyed via pipes, curbs and gutters to a detention facility located on Lot 3, Block 2 where it will be detained and pumped in accordance with the Stormwater Management Manual and the approved Subdivision Comprehensive Drainage Plan.

Said improvements are collectively referred to as the Subdivision Collection and Storage System.

- All other lots within the subdivision, including Lot 3, Block 2 will be required to size and construct onsite stormwater facilities in accordance with the Stormwater Management Manual in effect at the time of individual lot development. If any lot within the Subdivision other than Lot 1, Block 2 wishes to utilize the Subdivision Collection and Storage System for stormwater purposes, the capacity of the Subdivision Collection and Storage System shall be reevaluated and resized as necessary.
- The Subdivision Collection and Storage System shall be maintained by a Homeowner's Association (HOA). Subdivider shall provide a HOA Storm Water Facility Maintenance Agreement for review and approval prior to acceptance of the Subdivision. This Agreement shall outline the maintenance responsibilities of the Subdivision Collection and Storage System.

## VI. Utilities

The Subdivision Improvements Agreement does not constitute an approval for extension of or connection to water mains and sanitary sewers. The property owner shall make application for extension/connection of water mains and sanitary sewers to the Public Works Department – Engineering Division. The extension/connection of/to water mains and sanitary sewers is subject to the approval of the applications and the conditions of approval. Applications shall be submitted for processing prior to the start of any construction and prior to review and approval of any project plans and specifications.

The Developer/Owner acknowledges that the subdivision shall be subject to the applicable System Development in effect at the time building permits are issued.

The design/installation of sanitary sewers and appurtenances, and water mains and appurtenances (fire hydrants, etc) shall be in accordance with design standards, specifications, rules, regulations of and as approved by the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality.

### A. Water

- 12-inch water mains to serve the Subdivision shall be installed by the Subdivider along AJ Way, Supercub Way, and Huey Way, and connect to the existing 12-inch water main located in State Highway 3.

### B. Sanitary Sewer

- The sanitary sewer system for the Subdivision will be installed by the Subdivider and will consist of a low-pressure sanitary sewer force main (size to be determined by Subdivider and approved by the Public Works Engineering Division) and 8-inch gravity sewer main. The 8-inch gravity

sewer main will be constructed along AJ Way from a new connection to the existing manhole in Stoney Ridge Road to the point where depth of cover of the pipeline becomes infeasible. From this point, low-pressure sanitary sewer force main will be constructed along AJ Way to the northern extent of the subdivision and Supercub Way to the extent necessary to serve Lot 7 of Block 1.

- Should the City extend a sanitary sewer main along the subdivision frontage on State Highway 3 east of AJ Way, the Subdivider waives the right to protest inclusion in a Special Improvement District to assess the proportionate cost of those improvements.

**C. Power, Telephone, Gas, and Cable Television**

- Existing power, natural gas, and communication utilities exist within the Subdivision boundary. Mainlines for each utility will be installed by the private utility companies within the dedicated 10' utility easements on the front of each lot.

## VII. Parks/Open Space

There is no parkland requirement for proposed Yellowstone Landing Commercial Park Subdivision, as this is a commercial subdivision [MCA 76-3-621(3)(b)].

## VIII. Irrigation

No irrigation rights, infrastructure, or amenities are affected by the Subdivision.

## IX. Soils/Geotechnical Study

At the time of individual lot development, the City of Billings may require a geotechnical investigation or study per Building Permit requirements.

## X. Phasing of Improvements

Phasing of the Subdivision is proposed. The improvements made during each phase, and the anticipated schedule of each phase, are as follows:

Phase I - Lots 1, 2, and 3 of Block 1, and Lot 1, Block 2 (2021)

- Roadway, curb and gutter, water main, fire hydrants, gravity sanitary sewer, and low-pressure force main shall be constructed to the northern extents of the Subdivision and to the eastern boundary of Lot 1, Block 2.
- The Subdivision Collection and Storage System, minus inlets within portions of Subdivision roadway not being constructed, shall be constructed during Phase 1.

Phase II – Lots 4 & 5 of Block 1, and Lot 2 of Block 2 (2025)

- Roadway, curb and gutter, water main, fire hydrants, and low-pressure force main shall be constructed to the eastern boundary of Lot 2, Block 2.

- Center turn lane for AJ Way on State Highway 3 to be designed and constructed by Subdivider. Construction plans for the center turn lane for AJ Way on State Highway 3 to be reviewed and approved by MDT, and all necessary permits issued by MDT prior to the release of deed restrictions for Phase II.

Phase III – Lots 6 & 7 of Block 1, and Lot 3 of Block 2 (2029)

- Roadway, curb and gutter, water main, and fire hydrants, shall be constructed along Supercub Way and Huey Way to its access point and approach onto State Highway 3.
- Low-pressure force main shall be constructed to the extents necessary to provide service to Lot 7 of Block 1.
- Center turn lane for Huey Way on State Highway 3 to be designed and constructed by Subdivider. Construction plans for the center turn lane for Huey Way on State Highway 3 to be reviewed and approved by MDT, and all necessary permits issued by MDT prior to the release of deed restrictions for Phase III.

## XI. Financial Guarantees

Except as otherwise provided, Subdivider shall install and construct said required improvements with cash or by utilizing the mechanics of a private contract secured by letters of credit or a letter of commitment to lend funds from a commercial lender. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said private contract, and the improvements shall be installed as approved by the City Engineer and Utility Department Manager.

## XII. Legal Provisions Applying to Subdivider

**A.** Subdivider agrees to guarantee all public improvements for a period of two years from the date of final acceptance by the City of Billings.

**B.** The owners of the properties involved in this proposed Subdivision by signature subscribed herein below agree, consent, and shall be bound by the provisions of this Agreement.

**C.** The covenants, agreements, and all statements in this Agreement run with the land and apply to and shall be binding on the heirs, personal representatives, successors, assigns and transferees of the respective parties.

**D.** In the event it becomes necessary for either party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney fees and costs.

**E.** Any amendments or modifications of this Agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this Agreement.

**F.** Subdivider shall comply with all applicable federal, state, and local statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider acknowledges and agrees that nothing contained herein shall relieve or exempt it from such compliance.

**IN WITNESS WHEREOF**, the parties hereto have set their hands and official seals on the date first above written.

"SUBDIVIDER" *Aviation Properties, LLC*

By: _____

Title: Representative

STATE OF MONTANA )
: ss
County of Yellowstone )

On this 14th day of October, 2021, before me, a Notary Public in and for the State of Montana, personally appeared Erin Heringer, known to me to be the Representative of *Aviation Properties, LLC*, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

TAMARA FRANK NOTARIAL SEAL STATE OF MONTANA

TAMARA FRANK
NOTARY PUBLIC for the
State of Montana
Residing at Laurel, Montana
My Commission Expires
December 02, 2022

_____
Notary Public in and for the State of Montana
Printed Name: TAMARA FRANK
Residing at: Laurel MT
My commission expires: 12-02-2022

This agreement is hereby approved and accepted by the City of Billings, this ____ day of _____, 20__.

"CITY"
CITY OF BILLINGS
MONTANA

By: _____
Mayor

Attest: _____
City Clerk

STATE OF MONTANA )
: ss
County of Yellowstone )

On this ____ day of _____, 20__, before me, a Notary Public in and for the State of Montana, personally appeared _____ and _____, known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.

_____
Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

# Waiver of Right to Protest
## FUTURE SPECIAL IMPROVEMENT DISTRICTS

FOR VALUABLE CONSIDERATION, the undersigned, being the Subdivider and all of the owners of the hereinafter described real property, do hereby waive the right to protest the formation of one or more special improvement district(s) for a period of no more than twenty years from the recording of this waiver, for street light maintenance and energy, and for the construction of streets, street widening, sidewalks, survey monuments, street name signs, curb and gutter, street lights, driveways, traffic signals, and traffic control devices, parks and park maintenance, trails, sanitary sewer lines, water lines, storm drains (either within or outside the area), and other improvements which the City of Billings may require.

This Waiver and Agreement is independent from all other agreements and is supported by sufficient independent consideration to which the undersigned are parties and shall run with the land and shall be binding upon the undersigned, their successors and assigns, and the same shall be recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana.

The real property hereinabove mentioned is more particularly described as follows:

*Yellowstone Landing Commercial Park Subdivision*

Signed and dated this 06th day of October, 2021.

*Aviation Properties, LLC*

By: _____

Title: Representative

STATE OF MONTANA )
: ss
County of Yellowstone )

On this 6th day of October, 2021, before me, a Notary Public in and for the State of Montana, personally appeared Erin Heringer, known to me to be the Representative of *Aviation Properties, LLC*, the person who executed the forgoing instrument, and acknowledged to me that he/she executed the same.

TAMARA FRANK NOTARIAL SEAL STATE OF MONTANA

TAMARA FRANK
NOTARY PUBLIC for the
State of Montana
Residing at Laurel, Montana
My Commission Expires
December 02, 2022

_____
Notary Public in and for the State of Montana
Printed Name: TAMARA FRANK
Residing at: Laurel MT
My commission expires: 12-02-2022

CITY OF
Billings
MAYOR'S OFFFICE

Bill Cole, Mayor
P.O. Box 1178
Billings, MT 59103
P 406.657.8296
F 406.657.8390

May 24, 2021

Erin Heringer/Aviation Properties, LLC
3655 AJ Way
Billings, MT 59106

Dear Applicant:

On May 24, 2021, the Billings City Council conditionally approved the preliminary plat of Yellowstone Landing Commercial Park Subdivision, subject to the following conditions of approval:

1. To protect public health and safety in relation to traffic movement, prior to final plat approval, the applicant will provide City Engineering Department and the Montana Department of Transportation with a TIS. Any required improvement identified in the TIS will be installed by the applicant as well as striping AJ Way as outlined in the Findings of Fact.

2. To minimize the effects on local service, prior to final plat approval the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the subdivision.

3. To protect public health and safety and to ensure proper documentation for the proposed phasing of the subdivision, prior to final plat approval the applicant will include the Exhibit and Declaration of Restriction on Transfer documents for future phases.

4. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.

5. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

Should you have any questions please contact Dave Green at (406) 247-8666 or by email at greend@billingsmt.gov

Sincerely,

William A. Cole

William A. Cole, Mayor

pc: Performance Engineering / Taylor Kasperick

**Date:** 10/25/2021
**Title:** Violent Crime Reduction Partnership
**Presented by:** Chris Kukulski, City Administrator
**Department:** Finance
**Presentation:**

## RECOMMENDATION

During the October 25 City Council meeting the Council will be asked to adopt a resolution of intention to partner with Yellowstone County and the State of Montana to invest funds locally to combat increases in violent crime in our community. The work session this evening will provide City Council with an update on the potential program and the desired outcomes of this partnership.

## BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

Attorney General Knudsen and former Budget Director Kurt Alme's offices recently met with representatives from the City and County to positively impact the surge in violent crime in Billings. This goal will be accomplished by freeing up space in the jail to house criminals and to fight violent crimes tied to drugs and domestic violence. The idea is to have each of the three entities commit to increasing resources to accomplish these priorities. We have discussed a partnership investing a total of $4,000,000 to assist victims and hold criminals accountable to reduce violent crime in Billings over the next three years. Yellowstone County and the City will each commit $1,000,000 of investment to match $2,000,000 from the State over the next three years. This program is being implemented with one-time money, and the commitment is expected to end after three years. The State will be making their request to a legislative sub-committee in late October. We believe it is beneficial to make our local commitment prior to the October 27 hearing.

The City is coordinating with the Attorney General and Governor's offices, Yellowstone County Attorney Twito, Sheriff Linder and the County Commissioners to prioritize freeing up jail space and preventing and prosecuting violent crimes connected to drug and domestic violence with these one-time additional resources. We plan to create teams of city, county and state personnel to collaboratively address these two key areas of violent crime. The City can accomplish its commitment by adding one (1) major case agent, one (1) prosecutor and one (1) victim witness specialist for an estimated cost of approx. $1.14M over three years. In addition to the areas identified above, the State will increase its capacity to provide public defenders so that criminal cases can be adjudicated through the criminal justice system. This last step is critical to freeing up space at the jail.

The City's resolution of intention, as well as support from the County will be presented along with the State's funding request to the legislative ARPA Commission on 10/27/2021. If approved by the commission and the Governor, the State, County, and City will begin implementing investments to reduce violent crime in our community as soon as possible.

## ALTERNATIVES

Council may:

- Approve a resolution of intention to support this investment of funds;
- or Disapprove.

## FISCAL EFFECTS

The anticipated costs to the City of Billings over the next 3 years is approximately $1.14M. If voters approve the 2021 Public Safety Mill Levy, much of the additional resources identified in that levy will be used to kickstart this program and no new funding will be needed, as the goals are identical.

If the levy is not approved, City staff will ask City Council to use either ARPA funds or cash reserves to fund this program for 3 years.

| Fiscal Year | 2nd half 2022 | 2023 | 2024 | 1st half 2025 | Total |
|---|---|---|---|---|---|
| Major Case Agent (Detective) | 55,976 | 115,311 | 118,770 | 61,166 | 351,223 |
| Prosecutor | 67,065 | 138,153 | 142,297 | 73,283 | 420,798 |
| Victim Witness Specialist | 46,209 | 95,191 | 98,046 | 50,494 | 289,940 |
| Total Salary & Benefit Costs | 169,250 | 348,654 | 359,114 | 184,943 | 1,061,961 |
| O&M | 12,895 | 22,000 | 22,000 | 22,000 | 78,895 |
| Total Costs | $ 182,145 | $ 370,654 | $ 381,114 | $ 206,943 | $ 1,140,856 |

## Attachments

DRAFT Resolution

**RESOLUTION 21-__**

**A RESOLUTION OF INTENT TO COMMIT FUNDS DIRECTED TO A PUBLIC SAFETY PLAN IN CONCERT WITH YELLOWSTONE COUNTY AND THE STATE OF MONTANA TO ADDRESS VIOLENT CRIME IN BILLINGS, YELLOWSTONE COUNTY, MONTANA**

**WHEREAS**, violent crime in Billings has increased by over 70% during the COVID-19 pandemic in both 2020 and 2021; and,

**WHEREAS**, the Courts are experiencing backlogs due to this increased crime and due to COVID-19 related processes; and,

**WHEREAS,** these court backlogs have resulted in criminal defendants remaining in pretrial or pre-revocation hearing status longer, resulting in more criminal defendants being released pretrial ore pre-revocation hearing because of jail occupancy limits and because defendants are released into the community for a longer time.

**WHEREAS**, the National Police Services Survey conducted between October 2020 and December 2020 indicates that only 31% of 3000 households in Billings felt safe in downtown Billings at night compared to 74% who felt safe in their neighborhood at night; and,

**WHEREAS,** a Billings Chamber of Commerce survey between April 2021 and May 2021 indicates that 89% of businesses responded that their business was impacted by public safety issues and concerns and 53% were impacted moderately or greatly; and,

**WHEREAS**, Billings is experiencing economic instability related to an increase in COVID-19 related crime, including violent crime; and,

**WHEREAS,** more law enforcement is needed to address the crime increase and more prosecutors and more criminal defense attorneys are needed to reduce case backlogs; and,

**WHEREAS,** considering these challenges, the State of Montana has indicated a willingness to aid Billings and Yellowstone County by dedicating up to $2 million of its ARPA funds to local agencies for the next three years to address pandemic-related issues resulting in increased crime, court backlogs, and extended pre-trial or pre-revocation hearing status of defendants; and,

**WHEREAS,** the Billings City Council intends to work cooperatively with the State of Montana and Yellowstone County to address these issues by committing an additional

$1 million to fund resources for law enforcement and prosecution services over the next three years.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA**:

The City Council intends to dedicate an additional $1 million to fund resources for law enforcement and prosecution services over the next three years starting January 1, 2022, in coordination with Yellowstone County dedicating an additional $1 million and the State dedicating $2 million of its ARPA funds to temporarily provide for supplemental resources within the criminal justice systems of the City of Billings and Yellowstone County.

APPROVED AND PASSED by the Billings City Council this _____ day of _____, 2021.

CITY OF BILLINGS

By:_____
William A. Cole, Mayor

ATTEST:

By: _____
Denise R. Bohlman, City Clerk

DRAFT

City Council Regular

| | |
|---|---|
| Date: | 10/25/2021 |
| Title: | Payment of Claims for week of September 20, 2021 |
| Presented by: | Andy Zoeller, Finance Director |
| Department: | Finance |
| Presentation: | No |

## RECOMMENDATION

Staff recommends Council approve the Payment of Claims

## BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

Claims in the amount of $1,603,426.29 have been reviewed and are presented for City Council payment approval. A complete listing of the claims for the week are available in the Finance Department.

### Payment Approval Process

Every invoice for payment in entered into the City's accounting system and the backup documentation is scanned in and attached (physical invoices, additional e-mails explaining payments, bids, contracts, etc.) Each invoice goes through a multi-step approval process depending upon the amount of the payment.

First, invoices are entered by the department requesting the payment and the department director or designee must perform an initial review and approval of the purchase. The number of approvals within the department can vary based upon the size of the department, but no less than one approver within each department must verify the payment.

Second, all payments, regardless of size, must be approved by the Purchasing Agent or designee. The Purchasing Agent will review the payment to ensure purchasing procedures are followed and appropriate documentation is attached.

If the payment is greater than $1,000, then it must be approved by the Finance Director or designee.
If that payment is greater than $10,000, then it must be approved by the City Administrator or Assistant City Administrator.

Once all approvals are completed, the payment is able to be made and the Accounts Payable Clerk can print the check. After all checks are printed, a list of all checks in excess of $2,500 is generated and placed on the next City Council meeting for review.

## ALTERNATIVES

- No other alternatives were analyzed

## FISCAL EFFECTS

Claims have a varying impact on department budgets, but are submitted by the departments and reviewed by Finance staff before being sent to the Council.

**Attachments**

Councilmemo wk of 09202021

| Check Date | Check# | Name | Fund Name | Amount | Item Desc |
|---|---|---|---|---|---|
| 09/20/2021 | 846143 | Archie Cochrane | IT Resources | $ 9.45 | 5382922 |
| 09/20/2021 | 846143 | Archie Cochrane | IT Resources | $ 35.42 | 5383137 |
| 09/20/2021 | 846143 | Archie Cochrane | Public Safety | $ 17.24 | 538132 |
| 09/20/2021 | 846143 | Archie Cochrane | Public Safety | $ 276.92 | 5382726 |
| 09/20/2021 | 846143 | Archie Cochrane | Public Safety | $ 985.77 | 5382866 |
| 09/20/2021 | 846143 | Archie Cochrane | Public Safety | $ 276.92 | 5383248 |
| 09/20/2021 | 846143 | Archie Cochrane | Public Safety | $ 39.65 | 5383254 |
| 09/20/2021 | 846143 | Archie Cochrane | Public Safety | $ 67.50 | 5383479 |
| 09/20/2021 | 846143 | Archie Cochrane | Public Safety | $ 102.76 | 5383499 |
| 09/20/2021 | 846143 | Archie Cochrane | Public Safety | $ 141.45 | 5383520 |
| 09/20/2021 | 846143 | Archie Cochrane | Public Safety | $ 260.24 | 5383890 |
| 09/20/2021 | 846143 | Archie Cochrane | Public Safety | $ (70.00) | 5384228 |
| 09/20/2021 | 846143 | Archie Cochrane | Public Safety | $ 291.70 | 5384263 |
| 09/20/2021 | 846143 | Archie Cochrane | Public Safety | $ 200.10 | 5384605 |
| 09/20/2021 | 846145 | Bcs Scrip | City Ins Fund | $ 5,000.00 | Gift Cards for Health Is Event from 9/16 to 9/20, 2021 |
| 09/22/2021 | 846265 | Bcs Scrip | City Ins Fund | $ 9,550.00 | VISA Gift cards for Wellness Incentives |
| 09/20/2021 | 846149 | Bison Engineering | Solid Waste | $ 2,685.76 | Title V Renewal for Landfill. |
| 09/20/2021 | 846147 | Blgs Community Cable | General | $ 49,172.50 | Quarterly Payment September 2021 |
| 09/20/2021 | 846152 | Business Tax Section | Airport | $ 6,287.33 | AIP-69 Commercial Aircraft Concrete Ramps - CA - Federal Share |
| 09/20/2021 | 846152 | Business Tax Section | Arterial Streets | $ 4,671.47 | S 32nd Street W |
| 09/20/2021 | 846152 | Business Tax Section | Gas Tax | $ 168.48 | Gleneagles Blvd |
| 09/20/2021 | 846152 | Business Tax Section | Gas Tax | $ 707.29 | WO 21-04 City ADA Project |
| 09/20/2021 | 846152 | Business Tax Section | SID Const | $ 1,818.03 | Gleneagles Blvd |
| 09/20/2021 | 846152 | Business Tax Section | SID Const | $ 8,842.77 | SID 1417 Elysian Rd |
| 09/20/2021 | 846152 | Business Tax Section | SID Const | $ - | SID 1417 Elysian Road |
| 09/20/2021 | 846152 | Business Tax Section | Sidewalk Const | $ 492.25 | S 32nd Street W |
| 09/20/2021 | 846152 | Business Tax Section | Solid Waste | $ 1,904.73 | WO 20-23 Solid Waste Container Storage Facility |
| 09/20/2021 | 846152 | Business Tax Section | Solid Waste | $ 1,025.41 | WO 20-23 Solid Waste Container Storage Facility |
| 09/20/2021 | 846152 | Business Tax Section | Storm Sewer | $ 675.35 | Gleneagles Blvd |
| 09/20/2021 | 846152 | Business Tax Section | Storm Sewer | $ 1,307.98 | Storm Drain  Rehabilitation |
| 09/20/2021 | 846152 | Business Tax Section | Tax Incrmnt N27 | $ 299.25 | WO 20-42 North 29th & 30th Streets Two-Way Conversion |
| 09/20/2021 | 846152 | Business Tax Section | Tax Incrmnt S | $ 4,527.10 | Hallowell Lane Improvements |
| 09/20/2021 | 846152 | Business Tax Section | Water | $ 2,458.79 | Hallowell Lane Improvements |
| 09/20/2021 | 846152 | Business Tax Section | Water | $ 164.81 | S 32nd Street W |
| 09/20/2021 | 846152 | Business Tax Section | Water | $ 142.08 | WO 20-40 Walter Pump Station Generator |
| 09/20/2021 | 846156 | Chicago Title of MT | CDBG | $ 10,000.00 | FTHB Jordan Tillman 3440 Granger S #40 |

| Check Date | Check# | Name | Fund Name | Amount | Item Desc |
|---|---|---|---|---|---|
| 09/20/2021 | 846159 | City of Kalispell | Wastewater | $ 2,719.44 | Nutrient Work Group 1/7 payment |
| 09/20/2021 | 846162 | Co Water Dist- Blgs Heights | Park Dist 1 | $ 21.05 | water charges for Arrowhead 13137 |
| 09/20/2021 | 846162 | Co Water Dist- Blgs Heights | Park Dist 1 | $ 1,740.28 | water charges for Arrowhead 13138 |
| 09/20/2021 | 846162 | Co Water Dist- Blgs Heights | Park Dist 1 | $ 353.53 | water charges for Cleavenger 01019 |
| 09/20/2021 | 846162 | Co Water Dist- Blgs Heights | Park Dist 1 | $ 2,827.72 | water charges for Hawthorne 08163 |
| 09/20/2021 | 846162 | Co Water Dist- Blgs Heights | Park Dist 1 | $ 2,226.54 | water charges for Primrose 06100 |
| 09/20/2021 | 846162 | Co Water Dist- Blgs Heights | Parks Maint | $ 1,616.12 | water charges for Frances 16219 |
| 09/20/2021 | 846162 | Co Water Dist- Blgs Heights | Parks Maint | $ 923.04 | water charges for Luthern 10112 |
| 09/20/2021 | 846162 | Co Water Dist- Blgs Heights | Parks Maint | $ 962.67 | water charges for Rolling Hills 09174 |
| 09/20/2021 | 846162 | Co Water Dist- Blgs Heights | Parks Maint | $ 2,099.20 | water charges for Twin Oaks 17196 |
| 09/20/2021 | 846162 | Co Water Dist- Blgs Heights | Parks Maint | $ 2,043.77 | water charges for Uinta 17140 |
| 09/20/2021 | 846162 | Co Water Dist- Blgs Heights | Parks Maint | $ 2,993.32 | water charges for Walden Grove 30388 |
| 09/20/2021 | 846160 | Columbine Control | Wastewater | $ 6,081.26 | Thermal Valve |
| 09/20/2021 | 846167 | Cummins Rocky Mt | Solid Waste | $ 893.38 | 38-50002 |
| 09/20/2021 | 846167 | Cummins Rocky Mt | Solid Waste | $ 80.34 | 38-50357 |
| 09/20/2021 | 846167 | Cummins Rocky Mt | Wastewater | $ 2,175.19 | 38-50187 |
| 09/20/2021 | 846171 | Data Imaging System | Building | $ 3,576.56 | scanning of large format plansets |
| 09/20/2021 | 846172 | Dell Computer | Public Safety | $ 3,023.94 | 2- 3450 SSF, i7, 8GB RAM, 256GB SSD, sound bars, & 27" monitors |
| 09/20/2021 | 846176 | Dixie Petro-Chem | Water | $ 12,264.00 | BULK CHLORINE |
| 09/20/2021 | 846176 | Dixie Petro-Chem | Water | $ 1,080.00 | BULK CHLORINE |
| 09/20/2021 | 846176 | Dixie Petro-Chem | Water | $ 12,264.00 | BULK CHLORINE |
| 09/20/2021 | 846176 | Dixie Petro-Chem | Water | $ 7,231.00 | BULK CHLORINE |
| 09/20/2021 | 846179 | Eastern Oregon Com | Wastewater | $ 1,400.00 | 450 MHz band |
| 09/20/2021 | 846179 | Eastern Oregon Com | Water | $ 1,400.00 | 450 MHz band |
| 09/20/2021 | 846180 | EBSCO Industries | Library | $ 5,363.00 | 1000165461-1 Academic Search Elite 9/2021-8/2022 |
| 09/20/2021 | 846182 | Energy Laboratory | Wastewater | $ (1,084.00) | Credit from invoice # 416392 |
| 09/20/2021 | 846182 | Energy Laboratory | Wastewater | $ 594.00 | Sample testing B21081922-001 & 002 |
| 09/20/2021 | 846182 | Energy Laboratory | Water | $ 2,748.00 | B21081026 Analysis |
| 09/20/2021 | 846182 | Energy Laboratory | Water | $ 104.00 | B21081546 Analysis |
| 09/20/2021 | 846182 | Energy Laboratory | Water | $ 737.00 | B21081548 |
| 09/20/2021 | 846185 | First Montana Title | CDBG | $ 10,000.00 | FTHB Rosalyn Bigback 1017 N. 23rd |
| 09/20/2021 | 846187 | Goetz Baldwin & Geddes | General | $ 800.00 | Inv.#31722 Watters et al v. COB |
| 09/20/2021 | 846187 | Goetz Baldwin & Geddes | General | $ 4,819.91 | Inv.#31724 Watters et al v. COB |
| 09/20/2021 | 846188 | Governmentjobs.com | General | $ 2,579.85 | January 2022 - January 2023 job vacancy posting |
| 09/20/2021 | 846193 | Hawkins | Water | $ 23,765.20 | AQUA HAWK 457 COAGULANT |
| 09/20/2021 | 846193 | Hawkins | Water | $ 23,691.00 | AQUA HAWK 457 COAGULANT |

| Check Date | Check# | Name | Fund Name | Amount | Item Desc |
|---|---|---|---|---|---|
| 09/20/2021 | 846193 | Hawkins | Water | $ 23,606.20 | AQUA HAWK 457 COAGULANT |
| 09/20/2021 | 846193 | Hawkins | Water | $ 14,716.80 | Emergency order of chlorine |
| 09/20/2021 | 846193 | Hawkins | Water | $ 2,449.99 | Sodium hypochlorite for staples pump station |
| 09/20/2021 | 846194 | HDR | Engineering | $ 1,416.26 | WO 20-33 Public Works GIS Services |
| 09/20/2021 | 846194 | HDR | Light Maint | $ 272.36 | WO 20-33 Public Works GIS Services |
| 09/20/2021 | 846194 | HDR | P.W. Admin | $ 2,505.69 | WO 20-33 Public Works GIS Services |
| 09/20/2021 | 846194 | HDR | Solid Waste | $ 1,198.38 | WO 20-33 Public Works GIS Services |
| 09/20/2021 | 846194 | HDR | Storm Sewer | $ 3,186.59 | WO 20-33 Public Works GIS Services |
| 09/20/2021 | 846194 | HDR | Street/Traffic | $ 2,859.76 | WO 20-33 Public Works GIS Services |
| 09/20/2021 | 846194 | HDR | Wastewater | $ 3,731.31 | WO 20-33 Public Works GIS Services |
| 09/20/2021 | 846194 | HDR | Water | $ 12,065.46 | WO 20-33 Public Works GIS Services |
| 09/20/2021 | 846199 | Idexx Distribute | Water | $ 2,828.19 | WP200I Gamma Irrad Colilert |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 48.96 | 54319550 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 7.80 | 54319550 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 39.61 | 54319551 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 33.01 | 54319551 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 6.59 | 54319551 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 12.98 | 54319552 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 14.97 | 54319552 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 90.00 | 54319553 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 10.61 | 54319554 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 17.70 | 54319554 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 73.20 | 54319555 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 11.20 | 54319555 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 28.17 | 54319555 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 18.60 | 54319556 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 113.70 | 54319557 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 82.48 | 54339862 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 51.50 | 54339862 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 82.48 | 54339862 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 51.50 | 54339862 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 337.53 | 54339862 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 337.53 | 54339862 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 27.00 | 54339863 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 123.63 | 54339864 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 125.62 | 54339864 |

| Check Date | Check# | Name | Fund Name | Amount | Item Desc |
|---|---|---|---|---|---|
| 09/20/2021 | 846200 | Ingram Library | Library | $ 55.52 | 54339864 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 9.60 | 54339865 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 11.97 | 54345266 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 11.97 | 54345266 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 30.66 | 54345267 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 36.70 | 54345267 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 30.07 | 54391031 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 10.02 | 54391031 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 18.88 | 54391032 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 15.93 | 54391032 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 29.64 | 54391033 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 26.11 | 54410897 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 16.52 | 54410898 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 74.27 | 54410898 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 33.14 | 54410899 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 24.91 | 54410900 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 18.28 | 54410901 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 73.75 | 54410902 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 325.59 | 54410902 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 453.09 | 54410902 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 87.42 | 54410902 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 107.43 | 54513869 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 10.77 | 54513869 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 32.18 | 54513869 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 14.43 | 54513870 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 95.78 | 54513870 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 7.80 | 54516002 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 20.23 | 54516002 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 18.40 | 54516002 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 16.50 | 54516002 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 26.13 | 54516003 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 42.99 | 54516003 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 10.19 | 54516004 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 57.89 | 54516004 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 10.61 | 54516005 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 14.98 | 54516005 |

| Check Date | Check# | Name | Fund Name | Amount | Item Desc |
|---|---|---|---|---|---|
| 09/20/2021 | 846200 | Ingram Library | Library | $ 15.93 | 54516005 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 64.58 | 54516006 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 65.90 | 54516007 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 15.93 | 54516008 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 27.87 | 54516008 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 10.02 | 54516008 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 10.61 | 54516009 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 101.90 | 54516010 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 14.97 | 54516011 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 130.81 | 54516012 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 19.25 | 54516012 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 234.31 | 54516012 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 560.36 | 54516012 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 16.52 | 54567805 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 17.70 | 54567805 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 16.49 | 54567806 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 16.51 | 54567806 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 34.20 | 54567806 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 34.22 | 54567807 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 43.21 | 54567807 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 187.81 | 54567808 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 17.70 | 54567809 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 15.90 | 54567810 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 47.73 | 54567810 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 60.30 | 54567811 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 227.90 | 54567812 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 31.95 | 54591487 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 137.64 | 54591487 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 21.99 | 54591487 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 73.03 | 54591487 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 16.51 | 54591488 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 17.66 | 54591488 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 55.45 | 54591489 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 84.63 | 54591489 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 148.30 | 54591489 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 363.36 | 54591490 |

| Check Date | Check# | Name | Fund Name | Amount | Item Desc |
|---|---|---|---|---|---|
| 09/20/2021 | 846200 | Ingram Library | Library | $ 8.39 | 54591490 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 18.54 | 54591490 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 127.32 | 54591490 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 16.52 | 54641316 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 16.51 | 54641317 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 17.70 | 54641318 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 66.96 | 54641318 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 11.39 | 54641318 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 15.93 | 54641319 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 15.92 | 54641320 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 46.74 | 54641320 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 10.19 | 54641321 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 17.70 | 54641322 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 10.61 | 54641323 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 324.22 | 54641324 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 7.80 | 54641324 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 194.15 | 54641324 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ 22.00 | 54641324 |
| 09/20/2021 | 846200 | Ingram Library | Library | $ (35.00) | 54639154 Credit |
| 09/20/2021 | 846201 | Inland Truck Parts | Solid Waste | $ 3,894.74 | 950253 |
| 09/20/2021 | 846208 | Knife River | Airport | $ 622,445.90 | AIP-69 Commercial Aircraft Concrete Ramps - CA- Federal Share |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 17.99 | 500775790 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 18.74 | 500775790 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 299.07 | 500775792 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 171.65 | 500812147 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 101.93 | 500812149 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 128.91 | 500838517 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 29.98 | 500838518 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 22.49 | 500838520 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 89.96 | 500872013 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 93.70 | 500872014 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 11.24 | 500872015 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 230.88 | 500872016 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 31.32 | 500872017 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 122.93 | 500872019 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 86.22 | 500872019 |

| Check Date | Check# | Name | Fund Name | Amount | Item Desc |
|---|---|---|---|---|---|
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 22.49 | 500872080 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 294.93 | 500872081 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 22.48 | 500898618 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 62.20 | 500898619 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 279.93 | 500899900 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 490.58 | 500899901 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 17.97 | 500899903 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 98.94 | 500899904 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 27.73 | 500899905 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 136.44 | 500899906 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 18.73 | 500899907 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 18.74 | 500899908 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 59.95 | 500929468 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 23.24 | 500929469 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 131.19 | 500929770 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 34.49 | 500929771 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 35.22 | 500929772 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 21.73 | 500929773 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 28.48 | 500929774 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 84.67 | 500929774 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 49.99 | 500929776 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 89.94 | 500929777 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 7.49 | 500929778 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 77.21 | 500929779 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 17.24 | 500929780 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 39.99 | 500929781 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 40.49 | 5007755793 |
| 09/20/2021 | 846217 | Midwest Tape | Library | $ 29.98 | 5007755794 |
| 09/20/2021 | 846220 | Morrison Maierle | Airport | $ 669.97 | Amendment 22. Misc. Airport Engineering |
| 09/20/2021 | 846220 | Morrison Maierle | Airport | $ 51,088.94 | Amend 26- AIP-69 Commercial Concrete Ramps-CA-Federal Share |
| 09/20/2021 | 846220 | Morrison Maierle | Airport | $ 57,665.60 | Terminal Expansion - MM - Eligible For Reimburse |
| 09/20/2021 | 846220 | Morrison Maierle | Airport | $ 6,407.29 | Terminal Expansion - MM - Eligible Local Costs |
| 09/20/2021 | 846220 | Morrison Maierle | Airport | $ 5,420.48 | Terminal Expansion - MM - Ineligible Costs |
| 09/20/2021 | 846225 | NorthWestern Energy | Park Dist 1 | $ 287.30 | 1191404-1 |
| 09/20/2021 | 846225 | NorthWestern Energy | Transit | $ 2,359.58 | 0100473-8. 1705 Monad. September 2021 |
| 09/20/2021 | 846225 | NorthWestern Energy | Transit | $ 151.05 | 0719225-5 |

| Check Date | Check# | Name | Fund Name | Amount | Item Desc |
|---|---|---|---|---|---|
| 09/20/2021 | 846225 | NorthWestern Energy | Wastewater | $ 65,041.99 | 0100591-7 |
| 09/20/2021 | 846225 | NorthWestern Energy | Wastewater | $ 7.02 | August usage for 6114 Sam Snead Trail Lift |
| 09/20/2021 | 846225 | NorthWestern Energy | Water | $ 201.74 | 1142253-2 |
| 09/20/2021 | 846225 | NorthWestern Energy | Water | $ 1,534.52 | 1699 High Sierra Blvd August usage |
| 09/20/2021 | 846225 | NorthWestern Energy | Water | $ 54.34 | August usage for 63 1/2 Charlene ST |
| 09/20/2021 | 846225 | NorthWestern Energy | Water | $ 472.07 | August usage for 805 Constitution |
| 09/20/2021 | 846228 | Pinnacle Peak Holding | Airport | $ 4,926.94 | Invoice #9545889. Snow Removal Equipment Headsets |
| 09/20/2021 | 846230 | Polydyne | Wastewater | $ 54,101.52 | Chemicals |
| 09/20/2021 | 846231 | Public Utilities | Park Dist 1 | $ 721.44 | 180092 |
| 09/20/2021 | 846231 | Public Utilities | Parking | $ 141.57 | 102086 |
| 09/20/2021 | 846231 | Public Utilities | Parking | $ 222.42 | 102980 |
| 09/20/2021 | 846231 | Public Utilities | Parking | $ 10.65 | 102981 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 165.33 | 102418 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 826.89 | 136082 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 2,241.22 | 136087 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 5,134.28 | 136090 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 2,214.30 | 136091 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 24,328.76 | 136092 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 57.17 | 136093 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 6,897.74 | 136095 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 3,953.71 | 136096 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 321.06 | 136098 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 1,521.57 | 136099 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 4,140.18 | 136100 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 718.44 | 136101 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 13,627.16 | 136103 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 2,031.72 | 136108 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 128.79 | 136111 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 20.34 | 136113 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 64.35 | 136115 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 1,557.21 | 148074 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 4,195.36 | 148398 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 461.73 | 148423 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 2,826.48 | 148654 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 1,008.42 | 148702 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 1,401.48 | 158252 |

| Check Date | Check# | Name | Fund Name | Amount | Item Desc |
|---|---|---|---|---|---|
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 7,883.25 | 163614 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 122.37 | 163944 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 8,047.73 | 164211 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 9,411.71 | 164212 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 2,284.11 | 166674 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 1,940.43 | 168362 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 2,058.57 | 175850 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 112.68 | 176577 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 155.64 | 177710 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 14.97 | 179987 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 746.34 | 180090 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 181.44 | 180091 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 380.13 | 187900 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 3,565.59 | 192352 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 482.16 | 201942 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 11,193.74 | 236250 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 1,612.86 | 242652 |
| 09/20/2021 | 846231 | Public Utilities | Parks Maint | $ 9.60 | 260404 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 2,964.33 | 168593 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 394.94 | 178621 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 16.67 | 180331 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 2,153.93 | 180332 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 499.50 | 180333 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 1,611.56 | 180335 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 1,326.95 | 180336 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 9.35 | 180337 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 358.40 | 180338 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 208.04 | 180339 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 8.30 | 180396 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 2,025.05 | 184751 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 2,905.73 | 185688 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 832.91 | 185689 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 54.26 | 185690 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 2,460.02 | 185691 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 2,567.42 | 191161 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 4,049.54 | 191162 |

| Check Date | Check# | Name | Fund Name | Amount | Item Desc |
|---|---|---|---|---|---|
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 416.42 | 241853 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 8.30 | 243345 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 174.77 | 243891 |
| 09/20/2021 | 846231 | Public Utilities | Street/Traffic | $ 421.79 | 248978 |
| 09/20/2021 | 846232 | PW-Administration | Wastewater | $ 1,335.00 | PWU Engineering Permits - Sewer |
| 09/20/2021 | 846232 | PW-Administration | Water | $ 13,685.00 | PWU Engineering Permits - WSRP |
| 09/20/2021 | 846232 | PW-Administration | Water | $ 4,780.00 | PWU Nov Engineering Permits - Watermain Repair |
| 09/20/2021 | 846236 | Rexel USA Inc | Wastewater | $ 5,213.90 | 400 amp breakers |
| 09/20/2021 | 846236 | Rexel USA Inc | Water | $ 136.43 | L Structure radio work |
| 09/20/2021 | 846237 | Rocky Mt Compost | Park Dist 1 | $ 9,464.00 | compost 20200 |
| 09/20/2021 | 846237 | Rocky Mt Compost | Parks Maint | $ 80.00 | mulch for broadway 20386 |
| 09/20/2021 | 846237 | Rocky Mt Compost | Parks Maint | $ 3,840.00 | playground chips for vets and kiwanis 20379 |
| 09/20/2021 | 846243 | Stevens Brothers | Airport | $ 2,750.00 | Invoice #376869. Repair A/C in Lighting Vault |
| 09/20/2021 | 846247 | Tetra Tech | GO Const | $ 8,424.00 | Asbestos inspection and radon assessment |
| 09/20/2021 | 846249 | Town & Country Supply | Airport | $ 14,657.51 | Invoice #420473. Gas and Diesel for Operations |
| 09/20/2021 | 846249 | Town & Country Supply | Fleet | $ 23,653.02 | 420121 PO NUM 313173 |
| 09/20/2021 | 846249 | Town & Country Supply | Fleet | $ 18,488.48 | 420132 PO NUM 313191 |
| 09/20/2021 | 846249 | Town & Country Supply | Transit | $ 5,705.60 | 420679 PO NUM 313186. 2000 Gal Unleaded Fuel |
| 09/20/2021 | 846250 | Tvetene Turf | Park Dist 1 | $ 2,682.50 | sod for Rose park; paying invoice 829703 minus credit of 380 |
| 09/20/2021 | 846254 | Verizon Wireless | Airport | $ 51.74 | Airport |
| 09/20/2021 | 846254 | Verizon Wireless | Engineering | $ 136.60 | PW-Engineering |
| 09/20/2021 | 846254 | Verizon Wireless | General | $ 99.09 | City Administrator |
| 09/20/2021 | 846254 | Verizon Wireless | Parking | $ 27.32 | Parking |
| 09/20/2021 | 846254 | Verizon Wireless | PD Program | $ 49.99 | CCSIU Cell/PTT |
| 09/20/2021 | 846254 | Verizon Wireless | PD Program | $ 390.70 | CCSIU Cell/PTT |
| 09/20/2021 | 846254 | Verizon Wireless | PD Program | $ 54.64 | CCSIU MDT |
| 09/20/2021 | 846254 | Verizon Wireless | PD Program | $ 80.02 | CCSIU RAVEN |
| 09/20/2021 | 846254 | Verizon Wireless | Public Safety | $ 440.46 | MDT Toughbooks |
| 09/20/2021 | 846254 | Verizon Wireless | Public Safety | $ 80.02 | Police iPad St John & Lawrence |
| 09/20/2021 | 846254 | Verizon Wireless | Public Safety | $ 40.01 | Police MiFi |
| 09/20/2021 | 846254 | Verizon Wireless | Public Safety | $ 38.39 | Police -Mike Robinson |
| 09/20/2021 | 846254 | Verizon Wireless | Solid Waste | $ 27.32 | PW Dozer Trimble Dozer |
| 09/20/2021 | 846254 | Verizon Wireless | Solid Waste | $ 109.28 | PW-Solid Waste |
| 09/20/2021 | 846254 | Verizon Wireless | Solid Waste | $ 259.41 | PW-SW-ON CALL  Solid Waste On Call |
| 09/20/2021 | 846254 | Verizon Wireless | Solid Waste | $ 479.90 | Solid Waste Tablets -Routware |
| 09/20/2021 | 846254 | Verizon Wireless | Street/Traffic | $ 81.96 | PW-Streets iPad |

| Check Date | Check# | Name | Fund Name | Amount | Item Desc |
|---|---|---|---|---|---|
| 09/20/2021 | 846254 | Verizon Wireless | Street/Traffic | $ 163.92 | |
| 09/20/2021 | 846254 | Verizon Wireless | Transit | $ 309.02 | MET AVL |
| 09/20/2021 | 846254 | Verizon Wireless | Wastewater | $ - | PW Environmental iPads |
| 09/20/2021 | 846254 | Verizon Wireless | Wastewater | $ - | PW-DIS-COLL Cityworks 60/40 |
| 09/20/2021 | 846254 | Verizon Wireless | Wastewater | $ 32.78 | PW-Distribution Collection Tablets 60/40 |
| 09/20/2021 | 846254 | Verizon Wireless | Water | $ 27.32 | PW Belknap Meter Shop |
| 09/20/2021 | 846254 | Verizon Wireless | Water | $ 90.06 | PW Environmental iPads |
| 09/20/2021 | 846254 | Verizon Wireless | Water | $ 27.32 | PWBLKNP Water Treatment |
| 09/20/2021 | 846254 | Verizon Wireless | Water | $ 54.64 | PWBLNP Comm-Meter CityWorks/Neptune |
| 09/20/2021 | 846254 | Verizon Wireless | Water | $ 49.18 | PW-Distribution Collection Tablets 60/40 |
| 09/20/2021 | 846257 | Warren Transport | Gas Tax | $ 70,021.71 | WO 21-04 City ADA Project |
| 09/20/2021 | 846262 | Ylwstn Polaris Rec | Capital Replace | $ 23,966.00 | 2 side by side utility vehicles with cargo box for parks |
| 09/20/2021 | 846264 | Zeta-Meter Inc | Water | $ 9,034.90 | Emergency replacement of a Zeta-Meter Instrument unit |

City Council Regular

| | |
|---|---|
| Date: | 10/25/2021 |
| Title: | Payment of Claims for week of September 27, 2021 |
| Presented by: | Andy Zoeller, Finance Director |
| Department: | Finance |
| Presentation: | No |

## RECOMMENDATION

Staff recommends Council approve the Payment of Claims

## BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

Claims in the amount of $6,920,698.29 have been reviewed and are presented for City Council payment approval. A complete listing of the claims for the week are available in the Finance Department.

### Payment Approval Process

Every invoice for payment in entered into the City's accounting system and the backup documentation is scanned in and attached (physical invoices, additional e-mails explaining payments, bids, contracts, etc.) Each invoice goes through a multi-step approval process depending upon the amount of the payment.

First, invoices are entered by the department requesting the payment and the department director or designee must perform an initial review and approval of the purchase. The number of approvals within the department can vary based upon the size of the department, but no less than one approver within each department must verify the payment.

Second, all payments, regardless of size, must be approved by the Purchasing Agent or designee. The Purchasing Agent will review the payment to ensure purchasing procedures are followed and appropriate documentation is attached.

If the payment is greater than $1,000, then it must be approved by the Finance Director or designee.
If that payment is greater than $10,000, then it must be approved by the City Administrator or Assistant City Administrator.

Once all approvals are completed, the payment is able to be made and the Accounts Payable Clerk can print the check. After all checks are printed, a list of all checks in excess of $2,500 is generated and placed on the next City Council meeting for review.

## ALTERNATIVES

- No other alternatives were analyzed

## FISCAL EFFECTS

Claims have a varying impact on department budgets, but are submitted by the departments and reviewed by Finance staff before being sent to the Council.

**Attachments**

Councilmemo wk of 09272021

| Check Date | Check | Name | Fund Name | Amount | Item Desc |
|---|---|---|---|---|---|
| 09/27/2021 | 846268 | 5 Star Industries | Solid Waste | $ 58,400.00 | 30 yard tub style roll off container. |
| 09/27/2021 | 846268 | 6 Star Industries | Solid Waste | $ 2,500.00 | Estimated shipping. |
| 09/27/2021 | 846268 | 7 Star Industries | Solid Waste | $ 4,500.00 | container bottom kits- Collections. |
| 09/27/2021 | 846271 | A & I Distributors | Airport | $ 1,648.90 | 3671990. Chevron 15W40 Motor Oil |
| 09/27/2021 | 846271 | A & I Distributors | Fleet | $ 626.12 | 3678280 PO NUM 312779 |
| 09/27/2021 | 846271 | A & I Distributors | Fleet | $ 1,494.85 | 3678280 PO NUM 312779 |
| 09/27/2021 | 846271 | A & I Distributors | Fleet | $ 23.37 | 3678280 |
| 09/27/2021 | 846271 | A & I Distributors | Solid Waste | $ 46.97 | 3678280 |
| 09/27/2021 | 846271 | A & I Distributors | Street/Traffic | $ 561.00 | 3680410 |
| 09/27/2021 | 846271 | A & I Distributors | Street/Traffic | $ 60.23 | 3678280 |
| 09/27/2021 | 846271 | A & I Distributors | Fleet | $ 331.80 | 3678791 |
| 09/27/2021 | 846271 | A & I Distributors | Public Safety | $ 46.35 | 3678280 |
| 09/27/2021 | 846271 | A & I Distributors | Water | $ 187.00 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846271 | A & I Distributors | Solid Waste | $ 561.00 | 330 gal DEF tote. |
| 09/27/2021 | 846271 | A & I Distributors | Water | $ 37.40 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846271 | A & I Distributors | Fleet | $ 2,890.43 | 3668732 PO NUM 312779 |
| 09/27/2021 | 846271 | A & I Distributors | Wastewater | $ 149.60 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846271 | A & I Distributors | Transit | $ 405.57 | 3670909 PO NUM 312779. 220 Qts. Coolant |
| 09/27/2021 | 846271 | A & I Distributors | Fleet | $ 1,996.22 | 3666114 PO NUM 312779 |
| 09/27/2021 | 846271 | A & I Distributors | Transit | $ 93.50 | 3675480. 55 Gal DEF |
| 09/27/2021 | 846271 | A & I Distributors | Public Safety | $ 93.50 | FIRE 5: 55 GALLONS DEF DELIVERED, DRUM DEPOSIT |
| 09/27/2021 | 846271 | A & I Distributors | Fleet | $ 253.91 | 3671509 |
| 09/27/2021 | 846271 | A & I Distributors | Public Safety | $ 238.53 | 3666252 |
| 09/27/2021 | 846271 | A & I Distributors | Solid Waste | $ 561.00 | 330 GAL DEF TOTE. Collections. |
| 09/27/2021 | 846277 | Alfa Laval | Wastewater | $ 1,417.68 | Belt Pulley |
| 09/27/2021 | 846277 | Alfa Laval | Wastewater | $ 1,468.13 | Invoice 281050129 Pulley |
| 09/27/2021 | 846282 | Altitude Signal | Arterial Streets | $ 136,950.00 | WO 21-99 Traffic Controller Equipment |
| 09/27/2021 | 846289 | Askin Const | Storm Sewer | $ 41,146.88 | Storm Drain Rehabilitation |
| 09/27/2021 | 846289 | Askin Const | Haz Sidewalk | $ 17,424.00 | WO 20-51 Small Concrete Repair |
| 09/27/2021 | 846290 | AT & T Corp | Phone System | $ 3.46 | Metro Cell Account#287284178560 |
| 09/27/2021 | 846290 | AT & T Corp | Wastewater | $ 359.86 | PW-Distribution Collection Tablets 60/40 |
| 09/27/2021 | 846290 | AT & T Corp | Library | $ 107.31 | Library Out Reach |
| 09/27/2021 | 846290 | AT & T Corp | Water | $ 49.68 | PWBLKNP MTRSHOP CELL PHONE AND IPADS |
| 09/27/2021 | 846290 | AT & T Corp | Wastewater | $ 27.66 | PWBLKNP STORES -75/25 |
| 09/27/2021 | 846290 | AT & T Corp | Water | $ 1,047.51 | PWBELKNAP-WT Water Treatment |
| 09/27/2021 | 846290 | AT & T Corp | P.W. Admin | $ 41.15 | PWBLKNP OFFICE -60/40 |

| Check Date | Check | Name | Fund Name | Amount | Item Desc |
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| 09/27/2021 | 846290 | AT & T Corp | Phone System | $ 56.41 | TeleComm Manager  Doug and Brenda |
| 09/27/2021 | 846290 | AT & T Corp | Park Dist 1 | $ 452.92 | PRPL Parks Tablets |
| 09/27/2021 | 846290 | AT & T Corp | Water | $ 124.20 | PWBLKNP MTRSHOP CELL PHONE AND IPADS |
| 09/27/2021 | 846290 | AT & T Corp | General | $ 31.34 | Code Enforcement +Trina Arnold |
| 09/27/2021 | 846290 | AT & T Corp | Park Dist 1 | $ 637.11 | Parks Dept. |
| 09/27/2021 | 846290 | AT & T Corp | Water | $ 214.83 | PWBLKNP MTRSHOP CELL PHONE AND IPADS |
| 09/27/2021 | 846290 | AT & T Corp | Water | $ 428.04 | PWBELKNAP-DIST COLL CELL PHONES 60/40 |
| 09/27/2021 | 846290 | AT & T Corp | Wastewater | $ 861.11 | PWBLNP-WWTRMNT1 Wastewater Treatment Plant |
| 09/27/2021 | 846290 | AT & T Corp | Engineering | $ 101.30 | PW-Engineering Cell Phones and MiFi |
| 09/27/2021 | 846290 | AT & T Corp | Facilities | $ 103.96 | Facilities City Hall |
| 09/27/2021 | 846290 | AT & T Corp | Transit | $ 642.24 | MET Transit Tablets |
| 09/27/2021 | 846290 | AT & T Corp | Building | $ 90.40 | BUILDING |
| 09/27/2021 | 846290 | AT & T Corp | Phone System | $ 49.68 | IT iPads |
| 09/27/2021 | 846290 | AT & T Corp | Park Dist 1 | $ 87.49 | Parks Seasonal and Rec Seasonal |
| 09/27/2021 | 846290 | AT & T Corp | Facilities | $ 90.40 | Facilities |
| 09/27/2021 | 846290 | AT & T Corp | Water | $ 609.89 | PWBLKNP COMM-METER CityWorks/Neptune |
| 09/27/2021 | 846290 | AT & T Corp | Court Grants | $ 211.83 | Muni Court DC |
| 09/27/2021 | 846290 | AT & T Corp | General | $ 283.39 | Code Enforcement |
| 09/27/2021 | 846290 | AT & T Corp | Water | $ 82.97 | PWBLKNP STORES -75/25 |
| 09/27/2021 | 846290 | AT & T Corp | General | $ 45.51 | Municipal Court |
| 09/27/2021 | 846290 | AT & T Corp | P.W. Admin | $ 27.43 | PWBLKNP OFFICE -60/40 |
| 09/27/2021 | 846290 | AT & T Corp | Library | $ 241.86 | Library |
| 09/27/2021 | 846290 | AT & T Corp | General | $ 321.44 | PRPL - Recreation Division |
| 09/27/2021 | 846290 | AT & T Corp | Water | $ 539.79 | PW-Distribution Collection Tablets 60/40 |
| 09/27/2021 | 846290 | AT & T Corp | Wastewater | $ 285.36 | PWBELKNAP-DIST COLL CELL PHONES 60/40 |
| 09/27/2021 | 846290 | AT & T Corp | Parking | $ 274.30 | Parking Phones |
| 09/27/2021 | 846290 | AT & T Corp | General | $ 95.75 | City Attorney -Legal |
| 09/27/2021 | 846290 | AT & T Corp | Facilities | $ 122.04 | Facilities BOC |
| 09/27/2021 | 846290 | AT & T Corp | Street/Traffic | $ 11.74 | Street Traffic iPads |
| 09/27/2021 | 846290 | AT & T Corp | General | $ 122.43 | Parks Seasonal and Rec Seasonal |
| 09/27/2021 | 846290 | AT & T Corp | Street/Traffic | $ 273.24 | Street Traffic iPads |
| 09/27/2021 | 846290 | AT & T Corp | Engineering | $ 104.52 | Engineering Tablets |
| 09/27/2021 | 846290 | AT & T Corp | Phone System | $ 17.49 | TeleComm Manager |
| 09/27/2021 | 846290 | AT & T Corp | Wastewater | $ 475.10 | PWBLKNP Electricians -Phones |
| 09/27/2021 | 846290 | AT & T Corp | Park Dist 1 | $ 130.88 | PRPL Parks Tablets |
| 09/27/2021 | 846290 | AT & T Corp | Planning | $ 62.69 | PLANNING |

| Check Date | Check | Name | Fund Name | Amount | Item Desc |
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| 09/27/2021 | 846290 | AT & T Corp | Facilities | $ 34.84 | Facilities iPad |
| 09/27/2021 | 846290 | AT & T Corp | Engineering | $ 118.23 | PW-Engineering Cell Phones and MiFi |
| 09/27/2021 | 846290 | AT & T Corp | General | $ 139.36 | REC Tablets |
| 09/27/2021 | 846290 | AT & T Corp | Solid Waste | $ 45.20 | SOLID WASTE SUPERINTENDANT |
| 09/27/2021 | 846290 | AT & T Corp | CDBG | $ 145.68 | Comm Dev |
| 09/27/2021 | 846291 | Baker Tilly Virchow Krause | Sidewalk Debt | $ 3,100.00 | Arbitrage Compliance |
| 09/27/2021 | 846291 | Baker Tilly Virchow Krause | Sidewalk Debt | $ 1,561.00 | Arbitrage Compliance |
| 09/27/2021 | 846291 | Baker Tilly Virchow Krause | Tax Incrmnt S | $ 3,100.00 | Arbitrage Compliance |
| 09/27/2021 | 846291 | Baker Tilly Virchow Krause | Sidewalk Debt | $ 339.00 | Arbitrage Compliance |
| 09/27/2021 | 846291 | Baker Tilly Virchow Krause | SID Fund | $ 3,100.00 | Arbitrage Compliance |
| 09/27/2021 | 846296 | Blgs Industrial Revital Dist | Tax Incrmnt E | $ 450.00 | Tree Program |
| 09/27/2021 | 846296 | Blgs Industrial Revital Dist | Tax Incrmnt E | $ 34,987.00 | TIF Management FY 2022; Qtr 1 |
| 09/27/2021 | 846298 | Border States Electric | Water | $ 433.23 | Conduit and parts |
| 09/27/2021 | 846298 | Border States Electric | Water | $ 88.57 | Ribbon cable replacements for water pump station |
| 09/27/2021 | 846298 | Border States Electric | Water | $ 75.37 | Sticky backs |
| 09/27/2021 | 846298 | Border States Electric | Water | $ 344.67 | fuses and tape |
| 09/27/2021 | 846298 | Border States Electric | Water | $ 244.47 | Fan |
| 09/27/2021 | 846298 | Border States Electric | Water | $ 109.70 | Relays for UPS alarms |
| 09/27/2021 | 846298 | Border States Electric | Water | $ 140.53 | Wire for L-Structure key-Pad upgrade |
| 09/27/2021 | 846298 | Border States Electric | Water | $ 109.70 | Relays |
| 09/27/2021 | 846298 | Border States Electric | Water | $ 1,262.00 | Thinclient upgrade at L-Structure |
| 09/27/2021 | 846298 | Border States Electric | Wastewater | $ 395.07 | Parts for WTP and WRF PLC's |
| 09/27/2021 | 846298 | Border States Electric | Water | $ 132.28 | Parts for heat trace |
| 09/27/2021 | 846298 | Border States Electric | Water | $ 395.07 | Parts for WTP and WRF PLC's |
| 09/27/2021 | 846298 | Border States Electric | Water | $ 185.34 | PLC Chassis Covers |
| 09/27/2021 | 846298 | Border States Electric | Water | $ 138.34 | Parts for heat trace |
| 09/27/2021 | 846298 | Border States Electric | Water | $ 241.95 | switches and connectors |
| 09/27/2021 | 846298 | Border States Electric | Water | $ 372.00 | Analog signal meter for testing PLC inputs |
| 09/27/2021 | 846298 | Border States Electric | Water | $ 167.00 | Parts for L structure |
| 09/27/2021 | 846298 | Border States Electric | Water | $ 252.62 | Thermals and fuse blocks for PLC Cabinet upgrades |
| 09/27/2021 | 846298 | Border States Electric | Wastewater | $ 372.00 | Analog signal meter for testing PLC inputs |
| 09/27/2021 | 846298 | Border States Electric | Water | $ 129.59 | Tools |
| 09/27/2021 | 846298 | Border States Electric | Water | $ 185.40 | Conduit and parts |
| 09/27/2021 | 846298 | Border States Electric | Wastewater | $ 129.60 | Tools |
| 09/27/2021 | 846298 | Border States Electric | Wastewater | $ 133.00 | Bulbs |
| 09/27/2021 | 846298 | Border States Electric | Wastewater | $ 158.30 | Relays |

| Check Date | Check | Name | Fund Name | Amount | Item Desc |
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| 09/27/2021 | 846298 | Border States Electric | Wastewater | $ 124.50 | Circuit Breaker Lugs |
| 09/27/2021 | 846299 | Bound Tree Medical | PD Program | $ 1,619.40 | 290693 EMS, NITRILE GLOVES |
| 09/27/2021 | 846299 | Bound Tree Medical | Public Safety | $ 21.18 | COVID: FACE MASKS, 1031-12127, ASTM LEVEL 2 |
| 09/27/2021 | 846299 | Bound Tree Medical | Public Safety | $ 1,493.19 | COVID: FACE MASKS, 1031-12127, ASTM LEVEL 2 |
| 09/27/2021 | 846299 | Bound Tree Medical | Public Safety | $ 1.29 | Curaplex Non-rebreather oxygen mask |
| 09/27/2021 | 846302 | Bruco | Water | $ 133.27 | Cleaner |
| 09/27/2021 | 846302 | Bruco | Wastewater | $ 44.43 | Cleaner |
| 09/27/2021 | 846302 | Bruco | Airport | $ 555.82 | Cleaner and Soap. |
| 09/27/2021 | 846302 | Bruco | Airport | $ 2,348.60 | Vacuum and Battery |
| 09/27/2021 | 846302 | Bruco | Airport | $ 482.80 | Cleaner and Soap |
| 09/27/2021 | 846305 | Business Tax Section | Wastewater | $ 5,795.29 | WO 21-19 WRF Primary Digester Cleaning/Imp |
| 09/27/2021 | 846305 | Business Tax Section | Tax Incrmnt S | $ 3,540.54 | Hallowell Lane Improvements |
| 09/27/2021 | 846305 | Business Tax Section | Water | $ 714.19 | Hallowell Lane Improvements |
| 09/27/2021 | 846305 | Business Tax Section | Haz Sidewalk | $ 176.00 | WO 20-51 Small Concrete Repair |
| 09/27/2021 | 846305 | Business Tax Section | Gas Tax | $ 1,831.50 | Wicks Lane Improvements |
| 09/27/2021 | 846305 | Business Tax Section | Arterial Streets | $ 654.29 | Wicks Lane Improvements |
| 09/27/2021 | 846305 | Business Tax Section | Sidewalk Const | $ 811.01 | Wicks Lane Improvements |
| 09/27/2021 | 846305 | Business Tax Section | Gas Tax | $ 11,656.24 | City Overlay Schedule 1-Milling and Overlay |
| 09/27/2021 | 846305 | Business Tax Section | SID Const | $ 2,829.81 | SID 1417 Elysian Rd |
| 09/27/2021 | 846305 | Business Tax Section | SID Const | $ 2,113.08 | Gleneagles Blvd |
| 09/27/2021 | 846305 | Business Tax Section | Storm Sewer | $ 31.14 | Gleneagles Blvd |
| 09/27/2021 | 846305 | Business Tax Section | Gas Tax | $ 214.66 | Gleneagles Blvd |
| 09/27/2021 | 846305 | Business Tax Section | Gas Tax | $ 467.64 | WO 21-12 Harrow Drive Reconstruction |
| 09/27/2021 | 846305 | Business Tax Section | Sidewalk Const | $ 171.93 | WO 21-12 Harrow Drive Reconstruction |
| 09/27/2021 | 846305 | Business Tax Section | Water | $ 801.13 | WO 21-12 Harrow Drive Reconstruction |
| 09/27/2021 | 846305 | Business Tax Section | Wastewater | $ 93.07 | WO 21-12 Harrow Drive Reconstruction |
| 09/27/2021 | 846305 | Business Tax Section | Water | $ 4,582.78 | 2021 Water Replacement Project |
| 09/27/2021 | 846305 | Business Tax Section | Gas Tax | $ 850.40 | Bike Boulevard-Avenue D |
| 09/27/2021 | 846305 | Business Tax Section | Wastewater | $ 9,057.62 | WO 19-21: WRF Influent Lift Station |
| 09/27/2021 | 846305 | Business Tax Section | Wastewater | $ 80.10 | WRF Administration Building Second floor remodel project |
| 09/27/2021 | 846312 | Cengage Learning | Library | $ 4,006.05 | 74730701 Chilton 11/21 - 11/22 |
| 09/27/2021 | 846313 | Center- Public Safety | General | $ 1,923.10 | Consultant Agreement |
| 09/27/2021 | 846313 | Center- Public Safety | General | $ 13,413.66 | Consultant Agreement |
| 09/27/2021 | 846313 | Center- Public Safety | General | $ 15,577.14 | Consultant Agreement |
| 09/27/2021 | 846324 | Cop Construction | Gas Tax | $ 46,296.58 | WO 21-12 Harrow Drive Reconstruction |
| 09/27/2021 | 846324 | Cop Construction | Sidewalk Const | $ 17,021.10 | WO 21-12 Harrow Drive Reconstruction |

| Check Date | Check | Name | Fund Name | Amount | Item Desc |
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| 09/27/2021 | 846324 | Cop Construction | Water | $ 79,311.37 | WO 21-12 Harrow Drive Reconstruction |
| 09/27/2021 | 846324 | Cop Construction | Wastewater | $ 9,214.43 | WO 21-12 Harrow Drive Reconstruction |
| 09/27/2021 | 846332 | Cucancic Const | Wastewater | $ 7,929.90 | WRF Administration Building Second floor remodel project |
| 09/27/2021 | 846340 | DOWL | Planning | $ 4,455.98 | Billings ByPass Corridor Study |
| 09/27/2021 | 846340 | DOWL | Planning | $ 3,150.00 | BILLINGS CTSP UPDATE |
| 09/27/2021 | 846347 | Empire Entrepreneurs | Tax Incrmnt E | $ 98,776.00 | EBURD TIF Reimbursement; Lazy KT Demolition |
| 09/27/2021 | 846356 | Galles Filter Service | Water | $ 28.68 | WINDSHIELD WASHER SOLVENT |
| 09/27/2021 | 846356 | Galles Filter Service | Solid Waste | $ 292.17 | Outer Air Elements |
| 09/27/2021 | 846356 | Galles Filter Service | Wastewater | $ 27.88 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846356 | Galles Filter Service | Fleet | $ 135.42 | P1-07773.01 PO NUM 312782 |
| 09/27/2021 | 846356 | Galles Filter Service | Fleet | $ 36.20 | T-97855 PO NUM 312782 |
| 09/27/2021 | 846356 | Galles Filter Service | Fleet | $ 407.68 | T-97969 PO NUM 312782 |
| 09/27/2021 | 846356 | Galles Filter Service | Fleet | $ 72.22 | P1-07893.01 PO NUM 312782 |
| 09/27/2021 | 846356 | Galles Filter Service | Fleet | $ 566.57 | P1-07697.01 PO NUM 312782 |
| 09/27/2021 | 846356 | Galles Filter Service | Fleet | $ 5.33 | T-97938 PO NUM 312782 |
| 09/27/2021 | 846356 | Galles Filter Service | Solid Waste | $ 350.62 | Outer Air Elements |
| 09/27/2021 | 846356 | Galles Filter Service | Fleet | $ 44.60 | P1-06989.01 PO NUM 312782 |
| 09/27/2021 | 846356 | Galles Filter Service | Water | $ 28.19 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846356 | Galles Filter Service | Wastewater | $ 204.92 | REHBERG BLOWERS |
| 09/27/2021 | 846356 | Galles Filter Service | Wastewater | $ 42.88 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846356 | Galles Filter Service | Water | $ 16.70 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846356 | Galles Filter Service | Solid Waste | $ 445.56 | Outer Air Elements |
| 09/27/2021 | 846356 | Galles Filter Service | General | $ 18.99 | P1-08160.01 |
| 09/27/2021 | 846356 | Galles Filter Service | Fleet | $ 148.13 | P1-08083.01 PO NUM 312782 |
| 09/27/2021 | 846356 | Galles Filter Service | Fleet | $ 99.68 | P1-08159.01 PO NUM 312782 |
| 09/27/2021 | 846356 | Galles Filter Service | Fleet | $ 21.74 | P1-08276.01 PO NUM 312782 |
| 09/27/2021 | 846356 | Galles Filter Service | Fleet | $ 10.98 | P1-08159.02 PO NUM 312782 |
| 09/27/2021 | 846356 | Galles Filter Service | Water | $ 10.41 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846356 | Galles Filter Service | Wastewater | $ 15.62 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846356 | Galles Filter Service | Wastewater | $ 6.70 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846356 | Galles Filter Service | Water | $ 257.22 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846356 | Galles Filter Service | Water | $ 3.08 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846356 | Galles Filter Service | Water | $ 90.00 | WATER PARTS AND SUPPLIES PO NUM 313133 |
| 09/27/2021 | 846356 | Galles Filter Service | Water | $ 48.54 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846356 | Galles Filter Service | Water | $ 16.86 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846356 | Galles Filter Service | Water | $ 132.46 | NONSTOCKING ITEMS-P.U.D. |

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| 09/27/2021 | 846356 | Galles Filter Service | Fleet | $ 25.37 | P1-08350.01 PO NUM 312782 |
| 09/27/2021 | 846356 | Galles Filter Service | Public Safety | $ 93.15 | P1-07781.01 |
| 09/27/2021 | 846356 | Galles Filter Service | Public Safety | $ 43.16 | T-97884 |
| 09/27/2021 | 846356 | Galles Filter Service | Fleet | $ 120.98 | P1-08455.01 PO NUM 312782 |
| 09/27/2021 | 846356 | Galles Filter Service | Building | $ 5.86 | P1-07754.01 |
| 09/27/2021 | 846356 | Galles Filter Service | Fleet | $ 2.78 | P1-08277.01 PO NUM 312782 |
| 09/27/2021 | 846356 | Galles Filter Service | Public Safety | $ (34.23) | T-97905 |
| 09/27/2021 | 846356 | Galles Filter Service | Water | $ 91.48 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846356 | Galles Filter Service | Water | $ 106.73 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846356 | Galles Filter Service | Wastewater | $ 26.16 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846356 | Galles Filter Service | Transit | $ 180.00 | P1-08505-01 PO NUM 312782. Filters |
| 09/27/2021 | 846356 | Galles Filter Service | Solid Waste | $ 1,598.27 | Outer Air Elements |
| 09/27/2021 | 846356 | Galles Filter Service | Water | $ 149.04 | WATER PARTS AND SUPPLIES |
| 09/27/2021 | 846356 | Galles Filter Service | Water | $ 16.86 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846356 | Galles Filter Service | Wastewater | $ 19.95 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846356 | Galles Filter Service | Water | $ 109.73 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846356 | Galles Filter Service | Wastewater | $ 59.19 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846356 | Galles Filter Service | Wastewater | $ 37.47 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846356 | Galles Filter Service | Water | $ 14.05 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846356 | Galles Filter Service | Water | $ 8.68 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846359 | Grainger Parts | Facilities | $ 346.18 | door closer, aluminum, nonhanded |
| 09/27/2021 | 846359 | Grainger Parts | Wastewater | $ 154.64 | Filters |
| 09/27/2021 | 846359 | Grainger Parts | Wastewater | $ 31.86 | Glasses |
| 09/27/2021 | 846359 | Grainger Parts | Water | $ 31.86 | Glasses |
| 09/27/2021 | 846359 | Grainger Parts | Wastewater | $ 1,585.40 | Safety items |
| 09/27/2021 | 846359 | Grainger Parts | Wastewater | $ 98.79 | Safety items |
| 09/27/2021 | 846359 | Grainger Parts | Wastewater | $ 4.28 | Cleaning lubricant |
| 09/27/2021 | 846359 | Grainger Parts | Water | $ 4.29 | Cleaning lubricant |
| 09/27/2021 | 846359 | Grainger Parts | Water | $ 112.04 | Locks |
| 09/27/2021 | 846359 | Grainger Parts | Wastewater | $ 112.03 | Locks |
| 09/27/2021 | 846359 | Grainger Parts | Wastewater | $ 11.20 | Coupling |
| 09/27/2021 | 846359 | Grainger Parts | Water | $ 197.59 | sump pump |
| 09/27/2021 | 846359 | Grainger Parts | Solid Waste | $ 77.28 | Pleated air filters. Landill. |
| 09/27/2021 | 846359 | Grainger Parts | Water | $ 30.44 | Back support for shop |
| 09/27/2021 | 846359 | Grainger Parts | Wastewater | $ 82.65 | Locks |
| 09/27/2021 | 846359 | Grainger Parts | Wastewater | $ 30.44 | Back support for shop |

| Check Date | Check | Name | Fund Name | Amount | Item Desc |
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| 09/27/2021 | 846359 | Grainger Parts | Wastewater | $ 231.96 | Replacement axial fan |
| 09/27/2021 | 846359 | Grainger Parts | Water | $ 82.65 | Locks |
| 09/27/2021 | 846359 | Grainger Parts | Water | $ 194.55 | First aid kits |
| 09/27/2021 | 846359 | Grainger Parts | Wastewater | $ 194.55 | First aid kits |
| 09/27/2021 | 846359 | Grainger Parts | Wastewater | $ 163.23 | Gloves |
| 09/27/2021 | 846359 | Grainger Parts | Water | $ 163.24 | Gloves |
| 09/27/2021 | 846359 | Grainger Parts | Water | $ 11.74 | Coupling for conduit |
| 09/27/2021 | 846359 | Grainger Parts | Wastewater | $ 13.75 | Batteries |
| 09/27/2021 | 846359 | Grainger Parts | Water | $ 9.17 | Batteries |
| 09/27/2021 | 846359 | Grainger Parts | Wastewater | $ 70.48 | Concrete |
| 09/27/2021 | 846359 | Grainger Parts | Water | $ 203.52 | Filter |
| 09/27/2021 | 846359 | Grainger Parts | Wastewater | $ 140.96 | Concrete |
| 09/27/2021 | 846359 | Grainger Parts | Water | $ 25.09 | screen |
| 09/27/2021 | 846359 | Grainger Parts | Water | $ 354.84 | Seal tight for L structure |
| 09/27/2021 | 846359 | Grainger Parts | Water | $ 108.18 | Conduit fittings |
| 09/27/2021 | 846360 | Granite Peak Pump | Park Dist 1 | $ 1,456.72 | pump repair for lillis and rose |
| 09/27/2021 | 846360 | Granite Peak Pump | Park Dist 1 | $ 1,106.76 | pump repair for pioneer |
| 09/27/2021 | 846360 | Granite Peak Pump | Park Dist 1 | $ 780.98 | pump repair at amend and riverfront |
| 09/27/2021 | 846360 | Granite Peak Pump | Park Dist 1 | $ 904.46 | pump repairs |
| 09/27/2021 | 846361 | Graybar Electric | Water | $ 3,450.36 | Fiber optic cable |
| 09/27/2021 | 846361 | Graybar Electric | Water | $ 776.89 | Fiber junction boxes |
| 09/27/2021 | 846362 | Guardian Security | Library | $ 8,280.96 | 789 August 2021 guard service |
| 09/27/2021 | 846363 | Hach Company | Water | $ 3,286.00 | Bi-Annual Factory Service |
| 09/27/2021 | 846363 | Hach Company | Water | $ 1,676.91 | Winter maint - tubing kit |
| 09/27/2021 | 846363 | Hach Company | Water | $ 2,506.00 | LS Streaming monitor |
| 09/27/2021 | 846365 | Harris Systems | P.W. Admin | $ 3,400.00 | Code change for unused tiers |
| 09/27/2021 | 846366 | Hawkins | Water | $ 4,798.20 | AQUA HAWK 457 COAGULANT PRICE INCREASE |
| 09/27/2021 | 846366 | Hawkins | Water | $ 23,934.80 | AQUA HAWK 457 COAGULANT |
| 09/27/2021 | 846366 | Hawkins | Water | $ 23,712.20 | AQUA HAWK 457 COAGULANT |
| 09/27/2021 | 846367 | HDR, Inc | Water | $ 76,887.28 | WO 19-12 West End Reservoir |
| 09/27/2021 | 846367 | HDR, Inc | Wastewater | $ 8,067.98 | WO 20-44 WRF Nutrient Recovery Improvements Project |
| 09/27/2021 | 846367 | HDR, Inc | Wastewater | $ 1,905.39 | WO 20-11 Lloyd Mangrum & Lake Hills Lift Station Rehab |
| 09/27/2021 | 846367 | HDR, Inc | Solid Waste | $ 12,139.93 | WO 17-12 Landfill Drop-off Facility |
| 09/27/2021 | 846367 | HDR, Inc | Wastewater | $ 20,301.13 | WO 19-21 WRF Influent Lift Station |
| 09/27/2021 | 846370 | Iaff | Payroll Clearing | $ 5,063.88 | Payroll Summary |
| 09/27/2021 | 846372 | Industrial Communication | Solid Waste | $ 5,061.00 | Radios for landfill. |

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| 09/27/2021 | 846375 | InfoSend | P.W. Admin | $ 12,406.50 | Processing |
| 09/27/2021 | 846375 | InfoSend | P.W. Admin | $ 3,805.04 | Processing |
| 09/27/2021 | 846375 | InfoSend | P.W. Admin | $ 244.06 | Processing |
| 09/27/2021 | 846375 | InfoSend | P.W. Admin | $ 37.49 | Processing |
| 09/27/2021 | 846380 | J&S Property | Tax Incrmnt E | $ 62,079.00 | EBURD TIF reimbursement for rehab of Yellowstone Ice & Water |
| 09/27/2021 | 846387 | KLE Construction | Tax Incrmnt S | $ 350,513.60 | Hallowell Lane Improvements |
| 09/27/2021 | 846387 | KLE Construction | Water | $ 70,703.81 | Hallowell Lane Improvements |
| 09/27/2021 | 846388 | Knife River | Street/Traffic | $ 3,021.84 | asphalt |
| 09/27/2021 | 846388 | Knife River | Gas Tax | $ 1,153,967.64 | WO 21-03 Contract No. 1 City Overlay, schedule 1 |
| 09/27/2021 | 846388 | Knife River | Street/Traffic | $ 1,156.00 | concrete at 6th & n18th |
| 09/27/2021 | 846388 | Knife River | Street/Traffic | $ 218.16 | asphalt |
| 09/27/2021 | 846388 | Knife River | Street/Traffic | $ 1,291.14 | asphalt |
| 09/27/2021 | 846388 | Knife River | Street/Traffic | $ 1,499.04 | asphalt |
| 09/27/2021 | 846388 | Knife River | SID Const | $ 280,151.34 | SID 1417 Elysian Road |
| 09/27/2021 | 846388 | Knife River | Street/Traffic | $ 6,044.22 | asphalt |
| 09/27/2021 | 846388 | Knife River | Street/Traffic | $ 1,180.00 | concrete islands at shiloh & monad |
| 09/27/2021 | 846388 | Knife River | Street/Traffic | $ 1,928.88 | asphalt |
| 09/27/2021 | 846389 | Knine All System | Facilities | $ 46,354.22 | Access Control Upgrade |
| 09/27/2021 | 846390 | KTVQ Communication | P.W. Admin | $ 4,790.00 | All-inclusive strategic plan, create, & production-video & digital display |
| 09/27/2021 | 846390 | KTVQ Communication | P.W. Admin | $ 80.00 | All-inclusive strategic plan, create, & production-video & digital display |
| 09/27/2021 | 846390 | KTVQ Communication | P.W. Admin | $ 3,720.58 | All-inclusive strategic plan, create, & production-video & digital display |
| 09/27/2021 | 846391 | L N Curtis & Sons | Public Safety | $ 495.00 | QUOTE 194098 - GLOBE 430A420 - SUPRALITE FIRE BOOTS |
| 09/27/2021 | 846391 | L N Curtis & Sons | Public Safety | $ 3,153.60 | RMDS-6-20 GROVES, QUOTE 194314, FIRE 1 MOBILE PPE RACKS |
| 09/27/2021 | 846391 | L N Curtis & Sons | Public Safety | $ 3,465.00 | QUOTE 194098 - GLOBE 430A420 - SUPRALITE FIRE BOOTS |
| 09/27/2021 | 846391 | L N Curtis & Sons | Public Safety | $ 500.00 | GLOBE 430A420 - SUPRALITE FIRE BOOTS, WIDE CALF |
| 09/27/2021 | 846391 | L N Curtis & Sons | Public Safety | $ 2,416.00 | 1044 RED MSA CAIRNS TRADITIONAL HELMET |
| 09/27/2021 | 846391 | L N Curtis & Sons | Public Safety | $ 606.50 | SHIPPING LISTED ON QUOTE 194314 IS FOR ONE SECTION |
| 09/27/2021 | 846391 | L N Curtis & Sons | Public Safety | $ 932.00 | GROVES, CUSTOM, GGR-MDS-6/20-2", RMDS-6/20, RFDS-60/20 |
| 09/27/2021 | 846391 | L N Curtis & Sons | Public Safety | $ 604.00 | 1044-WHITE MSA CAIRNS TRADITIONAL HELMET |
| 09/27/2021 | 846391 | L N Curtis & Sons | Public Safety | $ 604.00 | 1044 RED MSA CAIRNS TRADITIONAL HELMET |
| 09/27/2021 | 846391 | L N Curtis & Sons | Public Safety | $ 3,020.00 | 1044 BLACK MSA CAIRNS TRADITIONAL HELMET |
| 09/27/2021 | 846392 | Land Design | Park Dist 1 | $ 2,500.00 | phase I of the Poly Vista project |
| 09/27/2021 | 846399 | Marketing Specialties | Transit | $ 258.44 | Invoice #089247. Fuel Leak Repair |
| 09/27/2021 | 846399 | Marketing Specialties | Transit | $ 3,891.29 | Invoice #089247. Fuel Leak Repair |
| 09/27/2021 | 846399 | Marketing Specialties | Public Safety | $ 314.45 | REPL'D NOZZEL, SWIVEL & HOSE - NOZZLE WOULD NOT SHUT OFF |
| 09/27/2021 | 846402 | Midland Implement | Water | $ 1,010.90 | LS pump |

| Check Date | Check | Name | Fund Name | Amount | Item Desc |
|---|---|---|---|---|---|
| 09/27/2021 | 846402 | Midland Implement | Water | $ 38.16 | Mower fuel pump |
| 09/27/2021 | 846402 | Midland Implement | Street/Traffic | $ 9,995.00 | Inv#128438001Toro 24" stand on aerator |
| 09/27/2021 | 846402 | Midland Implement | Water | $ 714.00 | WPA station irrigation system parts |
| 09/27/2021 | 846406 | Montana CSED | Payroll Clearing | $ 3,151.93 | Payroll Summary |
| 09/27/2021 | 846407 | MT Dakota Utilities | Airport | $ 77.74 | 889 373 1000 6. Car Wash. September 2021 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Airport | $ 175.97 | 129 573 1000 1. Mud Wash. September 2021 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Airport | $ 24.95 | 160 723 3573 6. USDA. September 2021 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Airport | $ 27.09 | 529 573 1000 7. Detail Bay 5 Thrifty/Dollar. September 2021 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Airport | $ 31.43 | 629 573 1000 6. Detail Bay 2. September 2021 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Airport | $ 27.84 | 329 573 1000 9. Detail Bay 3 Enterprise. September 2021 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Airport | $ 32.14 | 429 573 1000 8. Detail Bay 4 Avis/Budget. September 2021 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Airport | $ 24.95 | 283 116 0655 3. Alpine/Big Sky Ground. September 2021 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Airport | $ 24.95 | 295 580 1000 4. Aero Interiors. September 2021 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Airport | $ 24.95 | 185 580 1000 7. TSA. September 2021 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Airport | $ 31.43 | 229 573 1000 0. Detail Bay 1 Hertz. September 2021 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Parking | $ 25.58 | 303 725 2591 2 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Facilities | $ 350.01 | 929 780 1000 4 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Transit | $ 454.81 | 962 880 1000 0 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Public Safety | $ 23.39 | 062 907 9494 7 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Wastewater | $ 3,493.21 | 293 780 1000 2 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Library | $ 647.30 | 219 924 4851 0 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Wastewater | $ 1,746.61 | 293 780 1000 2 |
| 09/27/2021 | 846407 | MT Dakota Utilities | General | $ 49.46 | 437 780 1000 9 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Wastewater | $ 65.84 | 735 453 1000 2 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Wastewater | $ 1,746.61 | 293 780 1000 2 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Parking | $ 24.17 | 717 353 1000 6 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Parking | $ 24.72 | 799 152 1209 0 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Water | $ 71.82 | 076 225 9180 3 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Public Safety | $ 95.89 | 533 653 1000 1 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Public Safety | $ 93.50 | 668 670 1000 2 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Public Safety | $ 518.15 | 169 233 1000 3 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Public Safety | $ 22.61 | 514 117 0478 9 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Engineering | $ 117.80 | 595 373 1000 1 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Public Safety | $ 69.65 | 602 589 7178 1 |
| 09/27/2021 | 846407 | MT Dakota Utilities | P.W. Admin | $ 29.45 | 595 373 1000 1 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Public Safety | $ 81.07 | 885 880 1000 4 |

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| 09/27/2021 | 846407 | MT Dakota Utilities | Park Dist 1 | $ 24.95 | 501 473 1000 2 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Water | $ 24.95 | 541 380 1000 1 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Airport | $ 143.47 | 285 580 1000 6 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Airport | $ 3,787.24 | 595 580 1000 1 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Water | $ 13.92 | 373 580 1000 9 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Wastewater | $ 77.01 | 596 733 1000 5 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Water | $ 72.78 | 921 580 1000 6 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Airport | $ 127.92 | 706 580 1000 7 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Wastewater | $ 73.48 | 713 064 3190 0 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Wastewater | $ 74.90 | 843 879 2205 1 |
| 09/27/2021 | 846407 | MT Dakota Utilities | Water | $ 13.92 | 373 580 1000 9 |
| 09/27/2021 | 846407 | MT Dakota Utilities | EOC 911 | $ 68.73 | 082-939-8378-2 STANDBY GENERATOR - 911 CENTER, BILLINGS |
| 09/27/2021 | 846408 | MFPE | Payroll Clearing | $ 2,762.50 | Payroll Summary |
| 09/27/2021 | 846411 | Montana Lines | Gas Tax | $ 84,189.60 | Bike Boulevard-Avenue D |
| 09/27/2021 | 846412 | MT State Firemen | Payroll Clearing | $ 4,275.50 | Payroll Summary |
| 09/27/2021 | 846413 | Moulton Bellingham | General | $ 2,322.00 | Inv.#143474 Abromeit et al v. COB |
| 09/27/2021 | 846413 | Moulton Bellingham | General | $ 292.50 | Inv.#143475 Heights Water Contract Dispute |
| 09/27/2021 | 846413 | Moulton Bellingham | General | $ 4,816.50 | Inv.#143342 Watters et al v. COB |
| 09/27/2021 | 846413 | Moulton Bellingham | General | $ 850.00 | Inv.#143476 McDaniel v. COB |
| 09/27/2021 | 846413 | Moulton Bellingham | General | $ 197.00 | Inv.#143506 Good Stuff Zoning Violations |
| 09/27/2021 | 846413 | Moulton Bellingham | General | $ 7,960.00 | Inv.#143473 Houser WWFF |
| 09/27/2021 | 846413 | Moulton Bellingham | General | $ 9,149.00 | Inv.#143477 Stillwater Building Purchase |
| 09/27/2021 | 846415 | MP Enviro Service | Wastewater | $ 573,733.68 | WO 21-19 WRF Primary Digester Cleaning/Imp |
| 09/27/2021 | 846416 | MPPA | Payroll Clearing | $ 3,835.51 | Payroll Summary |
| 09/27/2021 | 846418 | MT Waterworks | Water | $ 5,931.80 | 3/4" METER LOOPS AKA YOKE |
| 09/27/2021 | 846418 | MT Waterworks | Water | $ 299.80 | 4" GRIP RING ACCY. PAK |
| 09/27/2021 | 846418 | MT Waterworks | Water | $ 626.62 | 10" X 20" SH REPAIR CLAMP - F1-1144 X 20 |
| 09/27/2021 | 846418 | MT Waterworks | Water | $ 43.00 | 3/4" X 100' POLY PIPE |
| 09/27/2021 | 846418 | MT Waterworks | Water | $ 937.92 | 10" X 15" SH CI-FC REPAIR CLAMP - F1-1144 X 15-SH |
| 09/27/2021 | 846418 | MT Waterworks | Water | $ 321.62 | 6" X 3/4" SADDLE DOUBLE BAND - CAST IRON |
| 09/27/2021 | 846418 | MT Waterworks | Water | $ 19.41 | 8" TYTON PUSH-ON GASKET |
| 09/27/2021 | 846418 | MT Waterworks | Water | $ 50.00 | Caps  for water mains |
| 09/27/2021 | 846418 | MT Waterworks | Water | $ 110.00 | Water service deburr tool |
| 09/27/2021 | 846418 | MT Waterworks | Water | $ 181.80 | 1" COUPLING CTS X FLARE 74755Q1 |
| 09/27/2021 | 846418 | MT Waterworks | Water | $ 35.76 | 1" STIFFENERS - CTS PE INSERTS SS |
| 09/27/2021 | 846418 | MT Waterworks | Water | $ 1,879.12 | MAIN VALVE RUBBER 5-1/4" |

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|---|---|---|---|---|---|
| 09/27/2021 | 846418 | MT Waterworks | Water | $ 847.40 | 3/4" METER LOOPS AKA YOKE |
| 09/27/2021 | 846418 | MT Waterworks | Water | $ 188.96 | DRAIN VALVE PIN K81 - K8133 |
| 09/27/2021 | 846418 | MT Waterworks | Water | $ 69.00 | 1" X 100'  POLY PIPE - SDR9 CTS 250 |
| 09/27/2021 | 846422 | National Assoc Clean Water | Water | $ 11,590.00 | FY22 Membership Dues |
| 09/27/2021 | 846424 | Neil Drywall | Library | $ 3,850.00 | Fix expansion joint and repaint the Story Tower Cone |
| 09/27/2021 | 846430 | North Ridge Fire Equipt | Public Safety | $ 3,800.00 | KOHLER COMMAND PRO W/RECOIL START |
| 09/27/2021 | 846430 | North Ridge Fire Equipt | Public Safety | $ 77.05 | ESTIMATED FREIGHT, KOHLER WILDLAND PUMPS |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ (293.64) | CREDIT FOR RETURN ITEMS |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 965.94 | 2" MEASURING CHAMBER COMPLETE - 9600-015 |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 85.25 | 8 INCH INDIANA SEWER CPLG - PVC X PVC |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 1,212.20 | 1" CURB VALVE - COMPRESSION |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 348.54 | 3/4" CC X COMP CORP STOP - (74701BQ34) |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Wastewater | $ 55.81 | Glass cutter |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 10.16 | Back flows |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 44.49 | STRAIGHT COUPLING 3/4"XXS - LEAD X 110 CTS H15512 3/4 |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 14,994.00 | 5/8 X 3/4 E-CODER WALL CU/FT METER L/RECEP |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 4,738.50 | 16" DUCTILE IRON PIPE CLASS 1 - /52 |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Street/Traffic | $ 40.98 | brass nipple, tee and plug for 38th and grand roundabout |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Wastewater | $ 89.16 | Leak detector |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Street/Traffic | $ 132.05 | solder/sandcloth/flux/blades |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 8.46 | BLACK NIPPLE 1-1/4" X 5" |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Street/Traffic | $ 40.00 | tape, reducer, connector for 38th/decathlon pump |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 64.86 | BLACK NIPPLE 1-1/4" X 4-1/2" |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 24.60 | 3/4" X CLOSE BRASS NIPPLE |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Wastewater | $ 110.72 | Thermal Valves |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 5.61 | BLACK NIPPLE 1-1/4" X 2" P/N: 0451256 |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 8.05 | BLACK BUSHING 2" X 1/2" |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 165.28 | High Service Irrigation supplies |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 23,800.00 | R-900 ENHANCED WALL RR - MIU 13341-200 (RF'S)  (2030905) |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Street/Traffic | $ 1,432.76 | pump for 38th /decathlon |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 23,800.00 | R-900 ENHANCED WALL RR - MIU 13341-200 (RF'S)  (2030905) |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Street/Traffic | $ 130.14 | black nipple for unit 1228 |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 46.60 | PVC |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Wastewater | $ 796.74 | Guage |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Street/Traffic | $ 92.95 | irrigation repair parts for midland rd |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Street/Traffic | $ (1,432.76) | return of faulty pump |

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| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 5.89 | PVC |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 69.50 | BRASS NIPPLE 1" X 3-1/2" |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 24.48 | 1-1/4" PVC SCH 80 SXS - COUPLING |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 10.88 | 3/4" X 4" BLACK NIPPLE |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 41.14 | BLACK NIPPLE 1-1/4" X 2" |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 8.05 | BLACK BUSHING 2" X 1/2" |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 146.10 | 1" X 3/4" COMPRESSION COUPLING |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 26.28 | 1" STIFFENERS - CTS PE INSERTS SS |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 9.00 | BLACK NIPPLE 3/4" X CLOSE" |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 287.70 | 1" COUPLING CTS X FLARE 74755Q1 |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 41.50 | BLACK NIPPLE 1-1/4" X CLOSE |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 5.64 | BLACK NIPPLE 1-1/4" X 4-1/2" |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 9.30 | 1 1/2 TD T 10 TOP GASKET - FOR CASE N0-9083-001 |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Wastewater | $ 667.64 | Cement and PVC |
| 09/27/2021 | 846431 | Northwest Pipe Fittings | Water | $ 14,070.00 | Wire |
| 09/27/2021 | 846432 | NorthWestern Energy | Public Safety | $ 3,159.48 | FIRE 1: 0100476-1 - MONTHLY ELECTRIC SERVICES |
| 09/27/2021 | 846432 | NorthWestern Energy | Public Safety | $ 429.59 | FIRE 6: 0100477-9 - MONTHLY ELECTRIC SERVICES |
| 09/27/2021 | 846432 | NorthWestern Energy | Wastewater | $ 226.94 | 389 62nd st lift entrance |
| 09/27/2021 | 846432 | NorthWestern Energy | Airport | $ 162.18 | 2001855-2. Detail Bay 2 National/Alamo. September 2021 |
| 09/27/2021 | 846432 | NorthWestern Energy | Airport | $ 258.79 | 2001846-1. Mud Wash. September 2021 |
| 09/27/2021 | 846432 | NorthWestern Energy | Airport | $ 39.33 | 2001867-7. Detail Bay 5 Thrifty/Dollar. September 2021 |
| 09/27/2021 | 846432 | NorthWestern Energy | Airport | $ 220.66 | 2001848-7. Detail Bay 1 Hertz. September 2021 |
| 09/27/2021 | 846432 | NorthWestern Energy | Airport | $ 125.94 | 2001865-1. Detail Bay 4 Avis/Budget. September 2021 |
| 09/27/2021 | 846432 | NorthWestern Energy | Water | $ 905.07 | 5809 Canyonwoods Dr September usage |
| 09/27/2021 | 846432 | NorthWestern Energy | Airport | $ 209.65 | 3446396-8. USDA. September 2021 |
| 09/27/2021 | 846432 | NorthWestern Energy | Airport | $ 1,118.78 | 1993430-6. Car Wash. September 2021 |
| 09/27/2021 | 846432 | NorthWestern Energy | Airport | $ 590.12 | 1669567-8. TSA. September 2021 |
| 09/27/2021 | 846432 | NorthWestern Energy | Water | $ 15,837.59 | 0722264-9 |
| 09/27/2021 | 846432 | NorthWestern Energy | Public Safety | $ 628.28 | 0871546-8 |
| 09/27/2021 | 846432 | NorthWestern Energy | General | $ 2,191.96 | 0720821-8 |
| 09/27/2021 | 846432 | NorthWestern Energy | Park Dist 1 | $ 16.04 | 1836666-6 |
| 09/27/2021 | 846432 | NorthWestern Energy | Water | $ 10,847.55 | 0723040-2 |
| 09/27/2021 | 846432 | NorthWestern Energy | Street/Traffic | $ 0.47 | 1740357-7 |
| 09/27/2021 | 846432 | NorthWestern Energy | General | $ 68.31 | 0712536-2 |
| 09/27/2021 | 846432 | NorthWestern Energy | Wastewater | $ 297.80 | 822 Shiloh Crossing |
| 09/27/2021 | 846432 | NorthWestern Energy | Park Dist 1 | $ 2,157.84 | 0722287-0 |

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|---|---|---|---|---|---|
| 09/27/2021 | 846432 | NorthWestern Energy | Water | $ 6.00 | 0723059-2 |
| 09/27/2021 | 846432 | NorthWestern Energy | Street/Traffic | $ 0.72 | 1748896-6 |
| 09/27/2021 | 846432 | NorthWestern Energy | General | $ 37.41 | 0712387-0 |
| 09/27/2021 | 846432 | NorthWestern Energy | General | $ 68.06 | 0720818-4 |
| 09/27/2021 | 846432 | NorthWestern Energy | Park Dist 1 | $ 879.80 | 0723045-1 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 96.48 | SILMD 18 Acct# 0712554-5 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 1,710.80 | SILMD 107 Acct# 0712560-2 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 950.45 | SILMD 124 Acct# 0712573-5 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 841.83 | SILMD 131 Acct# 0712580-0 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 215.99 | SILMD 133 Acct# 0712581-8 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 91.59 | SILMD 239 Acct# 0712673-3 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 158.01 | SILMD 254 Acct# 0719763-5 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 1,438.23 | SILMD 259 Acct# 0720810-1 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 3,037.09 | SILMD 262 Acct# 0720937-2 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 2,782.69 | SILMD 272 Acct# 0905005-5 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 201.90 | SILMD 273 Acct# 0926386-4 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 58.22 | SILMD 279 Acct# 1124127-0 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 32.88 | SILMD 176 Acct# 0712615-4 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 251.85 | SILMD 178 Acct# 0712616-2 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 343.44 | SILMD 180 Acct# 0712618-8 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 228.97 | SILMD 187 Acct# 0712625-3 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 1,190.59 | SILMD 190 Acct# 0712628-7 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 74.75 | SILMD 197 Acct# 0712635-2 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 19.94 | SILMD 203 Acct# 0712640-2 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 1,125.31 | SILMD 17 Acct# 0712553-7 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 325.86 | SILMD 123 Acct# 0712572-7 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 733.21 | SILMD 138 Acct# 0712586-7 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 549.50 | SILMD 171 Acct# 0712610-5 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 297.63 | SILMD 192 Acct# 0712630-3 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 502.65 | SILMD 95 Acct# 0712556-0 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 360.78 | SILMD 137 Acct# 0712585-9 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 4,214.83 | SILMD 152 Acct# 0712596-6 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 503.70 | SILMD 135 Acct# 0712583-4 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 942.95 | SILMD 159 Acct# 0712602-2 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 666.62 | SILMD 186 Acct# 0712624-6 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 26.31 | SILMD 205 Acct# 0712642-8 |

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| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 79.01 | SILMD 222 Acct# 0712656-8 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 387.23 | SILMD 225 Acct# 0712659-2 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 570.26 | SILMD 231 Acct# 0712665-9 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 197.67 | SILMD 113 Acct# 0712562-8 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 380.16 | SILMD 125 Acct# 0712574-3 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 892.92 | SILMD 157 Acct# 0712600-6 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 706.05 | SILMD 160 Acct# 0712603-0 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 137.38 | SILMD 185 Acct# 0712623-8 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 732.66 | SILMD 193 Acct# 0712631-1 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 950.46 | SILMD 230 Acct# 0712664-2 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 320.19 | SILMD 285 Acct# 1206985-2 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 79.72 | SILMD 317 Acct# 3253826-6 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 183.17 | SILMD 327 Acct# 3810801-5 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 4,290.60 | SILMD 109 Acct# 0712561-0 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 480.80 | SILMD 128 Acct# 0712577-6 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 503.56 | SILMD 10 Acct# 0712546-1 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 217.25 | SILMD 115 Acct# 0712564-4 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 498.45 | SILMD 134 Acct# 0712582-6 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 732.66 | SILMD 150 Acct# 0712594-1 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 1,030.31 | SILMD 161 Acct# 0712604-8 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 2,211.31 | SILMD 14 Acct# 0721277-2 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 349.33 | SILMD 9 Acct# 0712545-3 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 1,080.86 | SILMD 99 Acct# 0712558-6 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 198.46 | SILMD 118 Acct# 0712567-7 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 325.86 | SILMD 129 Acct# 0712578-4 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 206.07 | SILMD 297 Acct# 1481539-3 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 501.06 | SILMD 276 Acct# 0961926-3 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 469.98 | SILMD 283 Acct# 1172743-5 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 228.97 | SILMD 293 Acct# 1481534-4 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 401.94 | SILMD 300 Acct# 1662840-6 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 624.56 | SILMD 151 Acct# 0712595-8 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 366.33 | SILMD 164 Acct# 0712607-1 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 1,144.79 | SILMD 183 Acct# 0712621-2 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 49.84 | SILMD 211 Acct# 0712648-5 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 368.97 | SILMD 214 Acct# 0712651-9 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 270.15 | SILMD 220 Acct# 0712654-3 |

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| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 606.13 | SILMD 227 Acct# 0712661-8 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 244.41 | SILMD 139 Acct# 0712587-5 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 1,496.95 | SILMD 149 Acct# 0712593-3 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 526.58 | SILMD 153 Acct# 0712597-4 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 868.98 | SILMD 165 Acct# 0712608-9 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 228.97 | SILMD 167 Acct# 0712609-7 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 498.46 | SILMD 172 Acct# 0712611-3 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 1,656.50 | SILMD 181 Acct# 0712619-6 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 503.70 | SILMD 179 Acct# 0712617-0 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 723.28 | SILMD 280 Acct# 1045653-1 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 183.17 | SILMD 298 Acct# 1481540-1 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 5,388.68 | SILMD 301 Acct# 1687005-7 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 290.38 | SILMD 324 Acct# 1246537-3 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 375.76 | SILMD 8 Acct# 0712544-6 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 2,444.01 | SILMD 121 Acct# 0712570-1 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 686.86 | SILMD 127 Acct# 0712576-8 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 961.61 | SILMD 174 Acct# 0712613-9 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 49.84 | SILMD 212 Acct# 0712649-3 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 570.26 | SILMD 116 Acct# 0712565-1 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 183.17 | SILMD 122 Acct# 0712571-9 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 461.64 | SILMD 136 Acct# 0712584-2 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 353.01 | SILMD 146 Acct# 0712591-7 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 228.97 | SILMD 189 Acct# 0712627-9 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 137.38 | SILMD 216 Acct# 0712652-7 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 6.57 | SILMD 221 Acct# 0712655-0 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 175.43 | SILMD 236 Acct# 0712670-9 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 108.63 | SILMD 244 Acct# 0712677-4 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 3,805.79 | SILMD 251 Acct# 0718801-4 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 172.37 | SILMD 264 Acct# 0721427-3 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 356.67 | SILMD 265 Acct# 0721556-9 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 190.09 | SILMD 126 Acct# 0712575-0 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 1,190.59 | SILMD 154 Acct# 0712598-2 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 572.40 | SILMD 182 Acct# 0712620-4 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 274.74 | SILMD 188 Acct# 0712626-1 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 114.48 | SILMD 198 Acct# 0712636-0 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 480.80 | SILMD 201 Acct# 0712638-6 |

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| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 620.89 | SILMD 202 Acct# 0712639-4 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 881.08 | SILMD 233 Acct# 0712667-5 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 570.21 | SILMD 241 Acct# 0712675-8 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 488.80 | SILMD 261 Acct# 0720705-3 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 987.36 | SILMD 263 Acct# 0720716-0 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 222.20 | SILMD 278 Acct# 1087619-1 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 119.62 | SILMD 223 Acct# 0712657-6 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 1,391.88 | SILMD 224 Acct# 0712658-4 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 72.17 | SILMD 245 Acct# 0712678-2 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 2,560.63 | SILMD 258 Acct# 0720606-3 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 225.67 | SILMD 302 Acct# 1607534-3 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 266.92 | SILMD 308 Acct# 2072459-7 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 76.79 | SILMD 322 Acct# 3402033-9 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 9,517.58 | SILMD 97 Acct# 0712557-8 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 2,011.73 | SILMD 100 Acct# 0712559-4 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 120.69 | SILMD 119 Acct# 0712568-5 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 570.26 | SILMD 143 Acct# 0712588-3 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 457.91 | SILMD 145 Acct# 0712590-9 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 428.03 | SILMD 147 Acct# 0712592-5 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 46.03 | SILMD 162 Acct# 0712605-5 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 4,514.10 | SILMD 13 Acct# 0721276-4 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 923.31 | SILMD 114 Acct# 0712563-6 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 3,101.34 | SILMD 117 Acct# 0712566-9 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 116.31 | SILMD 130 Acct# 0712579-2 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 27.12 | SILMD 144 Acct# 0712589-1 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 292.37 | SILMD 194 Acct# 0712632-9 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 74.75 | SILMD 196 Acct# 0712634-5 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 87.96 | SILMD 200 Acct# 0712637-8 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 320.52 | SILMD 206 Acct# 0712643-6 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 379.71 | SILMD 217 Acct# 0712653-5 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 2,471.16 | SILMD 232 Acct# 0712666-7 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 552.10 | SILMD 235 Acct# 0712669-1 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 245.84 | SILMD 208 Acct# 0712645-1 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 407.34 | SILMD 229 Acct# 0712663-4 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 389.23 | SILMD 237 Acct# 0712671-7 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 2,688.41 | SILMD 249 Acct# 0718734-7 |

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| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 210.50 | SILMD 250 Acct# 0719001-0 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 1,783.54 | SILMD 253 Acct# 0719644-7 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 939.20 | SILMD 257 Acct# 0720360-7 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 493.60 | SILMD 234 Acct# 0712668-3 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 421.02 | SILMD 240 Acct# 0712674-1 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 459.86 | SILMD 270 Acct# 0906944-4 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 457.91 | SILMD 294 Acct# 1481535-1 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 378.78 | SILMD 315 Acct# 3305804-1 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 393.57 | SILMD 321 Acct# 3338917-2 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 718.06 | SILMD 163 Acct# 0712606-3 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 1,144.78 | SILMD 173 Acct# 0712612-1 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 399.53 | SILMD 204 Acct# 0712641-0 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 89.71 | SILMD 210 Acct# 0712647-7 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 787.50 | SILMD 228 Acct# 0712662-6 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 838.31 | SILMD 277 Acct# 1058710-3 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 1,825.32 | SILMD 288 Acct# 1303978-9 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 488.80 | SILMD 155 Acct# 0712599-0 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 320.52 | SILMD 175 Acct# 0712614-7 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 366.33 | SILMD 184 Acct# 0712622-0 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 408.63 | SILMD 191 Acct# 0712629-5 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 233.89 | SILMD 195 Acct# 0712633-7 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 366.33 | SILMD 207 Acct# 0712644-4 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 526.58 | SILMD 209 Acct# 0712646-9 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 597.42 | SILMD 292 Acct# 1481532-8 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 1,213.47 | SILMD 296 Acct# 1481537-7 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 780.19 | SILMD 305 Acct# 1695873-8 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 184.71 | SILMD 306 Acct# 1740353-6 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 2,573.45 | SILMD 307 Acct# 2049005-8 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 1,192.68 | SILMD 316 Acct# 3291842-7 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 551.37 | SILMD 328 Acct# 3894879-0 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 246.79 | SILMD 226 Acct# 0712660-0 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 81.47 | SILMD 242 Acct# 0712676-6 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 936.75 | SILMD 271 Acct# 0995095-7 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 800.47 | SILMD 318 Acct# 3372018-6 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 57.52 | SILMD 320 Acct# 0712569-3 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 79.99 | SILMD 326 Acct# 3840455-4 |

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| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 40.96 | SILMD 266 Acct# 0721684-9 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 316.35 | SILMD 309 Acct# 2001311-6 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 204.11 | SILMD 310 Acct# 2060519-2 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 225.42 | SILMD 325 Acct# 3587598-8 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 543.11 | SILMD 252 Acct# 0719162-0 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 240.24 | SILMD 286 Acct# 1296582-8 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 121.70 | SILMD 290 Acct# 1433921-2 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 244.14 | SILMD 311 Acct# 3014475-2 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 209.06 | SILMD 312 Acct# 3146127-0 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 787.50 | SILMD 158 Acct# 0712601-4 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 29.91 | SILMD 213 Acct# 0712650-1 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 13.14 | SILMD 238 Acct# 0712672-5 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 325.86 | SILMD 246 Acct# 0712679-0 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 957.23 | SILMD 247 Acct# 0712680-8 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 160.45 | SILMD 255 Acct# 0720813-5 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 234.67 | SILMD 289 Acct# 1685375-6 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 108.63 | SILMD 295 Acct# 1481536-9 |
| 09/27/2021 | 846433 | NorthWestern Energy | Light Maint | $ 671.28 | SILMD 323 Acct# 3597170-4 |
| 09/27/2021 | 846433 | NorthWestern Energy | Street/Traffic | $ 11,552.10 | Signal Bills - Aug |
| 09/27/2021 | 846438 | PeopleReady | Solid Waste | $ 2,922.92 | Contract for labor at Landfill. |
| 09/27/2021 | 846438 | PeopleReady | Solid Waste | $ 4,185.09 | Contract labor at Landfill. |
| 09/27/2021 | 846438 | PeopleReady | Solid Waste | $ 3,065.27 | Contract labor at the Landfill. |
| 09/27/2021 | 846438 | PeopleReady | Solid Waste | $ 949.00 | Contract labor for landfill. |
| 09/27/2021 | 846441 | Pierce Mfg | Public Safety | $ 46,691.00 | PIERCE 107-FT AERIAL/QUINT, ENFORCER CHASSIS |
| 09/27/2021 | 846441 | Pierce Mfg | Capital Replace | $ 1,088,430.00 | PIERCE 107-FT AERIAL/QUINT, ENFORCER CHASSIS |
| 09/27/2021 | 846445 | Public Utilities | Street/Traffic | $ 7,017.21 | 181505 |
| 09/27/2021 | 846445 | Public Utilities | Street/Traffic | $ 2,327.58 | 259590 |
| 09/27/2021 | 846445 | Public Utilities | Street/Traffic | $ 1,621.83 | 261854 |
| 09/27/2021 | 846445 | Public Utilities | Street/Traffic | $ 341.15 | 243346 |
| 09/27/2021 | 846445 | Public Utilities | Street/Traffic | $ 964.97 | 259589 |
| 09/27/2021 | 846445 | Public Utilities | Street/Traffic | $ 1,509.87 | 180334 |
| 09/27/2021 | 846445 | Public Utilities | Street/Traffic | $ 24.98 | 259591 |
| 09/27/2021 | 846445 | Public Utilities | Street/Traffic | $ 4,918.27 | 271609 |
| 09/27/2021 | 846445 | Public Utilities | Wastewater | $ 2,861.60 | 111176 |
| 09/27/2021 | 846448 | Record Steel & Const | Wastewater | $ 896,704.38 | WO 19-21: WRF Influent Lift Station |
| 09/27/2021 | 846451 | Riverside Contracting | Sidewalk Const | $ 80,289.51 | Wicks Lane Improvements |

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| 09/27/2021 | 846451 | Riverside Contracting | Arterial Streets | $ 64,775.14 | Wicks Lane Improvements |
| 09/27/2021 | 846451 | Riverside Contracting | Gas Tax | $ 181,318.55 | Wicks Lane Improvements |
| 09/27/2021 | 846456 | St V's Occupational Health | Public Safety | $ 287.00 | BUSHFIELD: ANNUAL FIRE PHYSICAL 08/16/2021 |
| 09/27/2021 | 846456 | St V's Occupational Health | Public Safety | $ 4,043.65 | PRE-EMPLOYMENT PHYSICALS FOR FIRE/NEW HIRES |
| 09/27/2021 | 846459 | Sea-Western Inc | Public Safety | $ 11,160.00 | QUOTE 11515, PPV FANS, 20" W/BATTERY |
| 09/27/2021 | 846461 | SHI International Corp | IT Resources | $ 9,550.52 | Upgrade New World core SQL & DDS SQL to 2019 |
| 09/27/2021 | 846462 | Sk Geotechnical | General | $ 5,909.60 | WO 21-40 Slope Stabilization Above Park Place |
| 09/27/2021 | 846465 | Stahly Eng & Assoc | SID Const | $ 19,494.36 | SID 1416 Gleneagles Boulevard Professional Services |
| 09/27/2021 | 846465 | Stahly Eng & Assoc | Storm Sewer | $ 2,960.94 | SID 1416 Gleneagles Boulevard Professional Services |
| 09/27/2021 | 846465 | Stahly Eng & Assoc | Gas Tax | $ 2,744.23 | SID 1416 Gleneagles Boulevard Professional Services |
| 09/27/2021 | 846466 | Stalker Radar | PD Program | $ 5,790.00 | Radar Units. |
| 09/27/2021 | 846473 | TargetSolutions Learning | Public Safety | $ 5,253.00 | Check it & Fire Apparatus license renewal |
| 09/27/2021 | 846475 | Thomas Appraisal Services | Airport | $ 5,000.00 | Appraisal Report for Tract C of COS #3795 |
| 09/27/2021 | 846477 | Tire-Rama | Solid Waste | $ 2,445.00 | Tire Repair. Collections. |
| 09/27/2021 | 846477 | Tire-Rama | Solid Waste | $ 4,575.50 | Tire Repair. Collections. |
| 09/27/2021 | 846477 | Tire-Rama | Solid Waste | $ 525.54 | Tire repair. Collections. |
| 09/27/2021 | 846477 | Tire-Rama | Solid Waste | $ 244.49 | Tire Repair. Collections. |
| 09/27/2021 | 846477 | Tire-Rama | Solid Waste | $ 4,967.50 | Tire labor. Spin/dismount/mount. Collections. |
| 09/27/2021 | 846477 | Tire-Rama | Solid Waste | $ 2,100.00 | Tire Repair. Collections. |
| 09/27/2021 | 846477 | Tire-Rama | Solid Waste | $ 3,007.50 | Tire Repair. Collections. |
| 09/27/2021 | 846477 | Tire-Rama | Solid Waste | $ 1,064.00 | Tire Repair. Landfill. |
| 09/27/2021 | 846477 | Tire-Rama | Solid Waste | $ 3,524.00 | Tire Repair. Collections. |
| 09/27/2021 | 846477 | Tire-Rama | Solid Waste | $ 4,714.50 | Tire Repair. Collections. |
| 09/27/2021 | 846477 | Tire-Rama | Solid Waste | $ 4,748.00 | Tire Repair. Collections. |
| 09/27/2021 | 846482 | Town & Country Supply | Fleet | $ 19,885.10 | 421626 PO NUM 313210 |
| 09/27/2021 | 846482 | Town & Country Supply | Water | $ 19,023.84 | WATER PARTS AND SUPPLIES PO NUM 313145 |
| 09/27/2021 | 846482 | Town & Country Supply | Transit | $ 15,167.27 | 421609 PO NUM 313203. Diesel Fuel |
| 09/27/2021 | 846482 | Town & Country Supply | Water | $ 292.96 | PO Number 313059 |
| 09/27/2021 | 846482 | Town & Country Supply | Water | $ 398.91 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846482 | Town & Country Supply | Water | $ 340.62 | NONSTOCKING ITEMS-P.U.D. |
| 09/27/2021 | 846482 | Town & Country Supply | Fleet | $ 21,415.59 | 421619 PO NUM 313202 |
| 09/27/2021 | 846482 | Town & Country Supply | Airport | $ 24,338.56 | QTA Car Rental Fuel. |
| 09/27/2021 | 846482 | Town & Country Supply | Public Safety | $ 894.85 | 421658 DIESEL |
| 09/27/2021 | 846482 | Town & Country Supply | Public Safety | $ 786.47 | 421658 FIRE 1 UNLEADED |
| 09/27/2021 | 846482 | Town & Country Supply | Public Safety | $ 1,894.85 | Diesel delivered to Fire5, Fire3 and Fire 6 |
| 09/27/2021 | 846483 | Tractor & Equipment | Solid Waste | $ 404.08 | BLCS0764274 |

| Check Date | Check | Name | Fund Name | Amount | Item Desc |
|---|---|---|---|---|---|
| 09/27/2021 | 846483 | Tractor & Equipment | Solid Waste | $ 8.08 | BLWO0210973 |
| 09/27/2021 | 846483 | Tractor & Equipment | Solid Waste | $ 81.00 | BLCS0763907 |
| 09/27/2021 | 846483 | Tractor & Equipment | Solid Waste | $ 2,482.56 | BLCS0763999 |
| 09/27/2021 | 846483 | Tractor & Equipment | Solid Waste | $ 202.00 | BLWO0210973 |
| 09/27/2021 | 846483 | Tractor & Equipment | Solid Waste | $ 1,049.40 | BLCS0762841 |
| 09/27/2021 | 846483 | Tractor & Equipment | Solid Waste | $ 637.08 | BLCS0763832 |
| 09/27/2021 | 846486 | United Rentals | Water | $ 5,042.10 | HS Electrical rental |
| 09/27/2021 | 846486 | United Rentals | Water | $ 9,389.40 | High service electrical room |
| 09/27/2021 | 846490 | Value Line Publishing | Library | $ 4,880.00 | 21JW-178237 Online Research Center |
| 09/27/2021 | 846497 | Wilson Bros Const | Water | $ 453,695.49 | 2021 Water Replacement Project |

City Council Regular

| | |
|---|---|
| **Date:** | 10/25/2021 |
| **Title:** | CBDG Program Public Hearing and Funding Allocation - Housing Authority of Billings: Off The Streets Shelter |
| **Presented by:** | Dina Harmon |
| **Department:** | Planning & Community Services |
| **Presentation:** | Yes |

## RECOMMENDATION

The Community Development Board recommends the City Council hold a public hearing to: Take comments on using Community Development Block Grant (CDBG) funding for future coronavirus impact projects; and approve a 15-year, $450,000 CDBG loan to HAB Development for the Off The Streets project.

## BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

**Application:** On September 16, 2021, an Affordable Housing Development Program application was submitted by HAB Development, an instrumentality of the Housing Authority of Billings (also known as HomeFront), requesting $450,000. Funding would be used to replace a poorly functioning boiler system and rehabilitate four rooms that were damaged when the boiler malfunctioned. HAB has a long-term, positive relationship with former projects with the City, with no HUD compliance issues. HAB also is familiar with HUD funding and the regulatory structure and requirements. The Community Development Board reviewed the application at its regular meeting on October 5, 2021 and toured the facility after the meeting. The Board then met and made its formal recommendation for $450,000 in CDBG funding on October 11, 2021 during a special, advertised meeting. The Board asked the applicant about the operations of the shelter, the occupancy and demand for the facility in the community, and the ability for the contractors to get the work done quickly given the inset of winter weather. The Board also discussed its interest in having a 15-year payback period for the funds. Much of the information provided in this memo and in the attached Community Development Board memo discusses the details of the project and the applicant was agreeable to the 15-year period of payback if the use of the facility changed from providing low income housing services. Staff's detailed project analysis is included in the attached Community Development Board memo and elements of the project and process are outlined here:

- Project Location and Proximity to Amenities
- Project Management, Developer Qualifications, and Portfolio Assessment
- Beneficiary Involvement
- Market Analysis and Alignment with the City's Consolidated Plan and Annual Action Plan
- Financial Analysis including Leveraging, Fiscal Health, Procurement, Project Budget, and Previous City Awards

**Project Site:** Off the Streets is a 40-unit project located at **3311 2nd Avenue North**. HAB Development purchased the Western Inn Motel property for $1.64 million in October 2020. Half of the units are used as a low-barrier shelter for those experiencing homelessness and the other 20 units are prioritized for pandemic response to provide necessary quarantine and isolation. Availability of isolation units is paramount to lessening the burden on healthcare providers and hospitals in the community. Individuals and families using these units must be referred by a healthcare organization.

**Project Utilization and Beneficiaries:** Off The Streets provided quarantine / isolation services to 95 unique individuals from October 2020 through August 2021, and the combined stay for these units totals 605 days. The low-barrier shelter served 358 unique individuals from November 2020 through August 2021, and the combined stay for these guests totaled 11,746. Individuals are screened for physical /mental health by qualified health professionals at the Community Crisis Center and diverted to the most appropriate shelter for the evening. No one is allowed to self-present, they can only be referred by the Community Crisis Center.
Funding investments in this project will benefit low-income individuals and families long-term. When isolation units are no longer needed, the project will continue serving low-income, qualifying populations. Housing types include, but are not limited to overnight shelter, interim, short-term transitional, long-term, permanent supportive housing, transitional / bridge housing, et.

The Board recommendation to City Council includes securing the $450,000 via a 15-year trust indenture that requires full repayment if the units are sold or are no longer used for low-income affordable housing during that time period. After the initial 15 years, the Board recommends forgiving the loan and releasing the lien on the property. The

applicant is willing to secure the City's funding award through a trust indenture.

If the Council approves the loan, City staff will amend the FY2021-2022 Annual Action Plan to include the project.

### Procedural History

- **October 7, 2020:** The Western Inn was purchased by HAB Development to be used as a low-barrier shelter.
- **October 14, 2020:** Neighborhood / stakeholder meeting was held at Tumbleweed.
- **October 28 and 30, 2020:** Neighborhood meetings were facilitated through Zoom and information on the project was hand-delivered to neighboring properties within a three-block radius.
- **Winter 2020:** The boiler began leaking and caused significant damage to four units.
- **June and July 2020:** Two public community meetings were held to gauge the need for continued low-barrier shelter. Many elected officials also attended the meetings. The need for continued low-barrier shelter was evident.
- **September 16, 2021:** HAB Development submitted an Affordable Housing Development Program application to the City's Community Development Division requesting $450,000 for heating source replacement and rehabilitation of four units.
- **September 22, 2021:** Staff sent a memo detailing the project to the Community Development Board.
- **October 5, 2021:** HAB Development staff will review the project with the Community Development Board during their regular monthly meeting. The Board was also invited to take a tour of the project right after the meeting. A recommendation must be made on this project to prepare documents for City Council.
- **October 11, 2021:** The Community Development Board held a special, advertised meeting in order to make a funding allocation recommendation to the City Council.
- **October 25, 2021:** The Billings City Council will review and can take action on a CDBG funding allocation for the Off the Streets project.

## STAKEHOLDERS

### Off the Streets Shelter CDBG Application Stakeholders

- This project serves the most vulnerable populations in Billings: those experiencing homelessness; at-risk of homelessness; low-income individuals and households awaiting COVID-19 test results; and low-income individuals and households needing isolation after a positive coronavirus test result. Most of the individuals and families served by the project have incomes under 30 percent of the area median income.
- Local hospitals and health care providers can make referrals for isolation units. Hospitals are over capacity due to the pandemic and additional isolation options can lessen this burden.
- The Unified Health Command (RiverStone Health, Billings Clinic, St. Vincent Healthcare, and Yellowstone County Disaster and Emergency Services) has also identified the need for shelter and isolation units.
- Several nonprofit organizations are engaged and participating in this project: Community Crisis Center; Family Promise of Yellowstone Valley; Healthcare for the Homeless; The Salvation Army; St. Vincent DePaul; Tumbleweed; RiverStone Health; and United Way of Yellowstone County.

### CDBG Project Public Comments

Due to the recent pandemic surge, the public hearing at this meeting is also a platform to receive comments regarding the use of CDBG funding for coronavirus preparation, prevention and response projects. This would expand the scope of the current CDBG-CV program to better meet community needs. Proposed projects would be reviewed by the Community Development Board and recommendations would be forwarded to the City Council for consideration and action.

## ALTERNATIVES

City Council may:

- Approve a 15-year, $450,000 CDBG loan to HAB Development for the Off The Streets shelter project; or,
- Not Approve a 15-year, $450,000 CDBG loan to HAB Development for the Off The Streets shelter project. If the loan is not approved, the shelter will need to determine options for winter operations given the HVAC mechanical issues with the facility's boiler system.

## FISCAL EFFECTS

The Community Development (CD) Board recommends utilizing Community Development Block Grant (CDBG) funding for this project. The Division has recently received many home buyer and repair loan repayments and has approximately $360,000 in CDBG revenue from last fiscal year to allocate. Since July 1, 2021, the Division has

received an additional $165,000 in loan repayments that can also be allocated, bringing the total available to $525,000. Over $2.2 million has already been invested in the Off the Streets shelter and the funding request is 20 percent of the total leveraged amount. Allocation of $450,000 in CDBG funds for this project will meet a community need, falls within the CDBG program requirements, and also assist the City in meeting a CDBG funding expenditure deadline of April 2022.

**SUMMARY**

An overall review of the application reveals the project is consistent with similar projects the City has funded in the past and is in alignment with the City's Consolidated Plan. There is a demonstrated need for a safe and warm place for our homeless population to spend the night, as evidenced through data from the City's recent Consolidated Plan, including the Housing Needs Assessment, Market Analysis and the Analysis of Impediments to Fair Housing Choice. Individuals who utilize one of the low-barrier shelter units must be referred to Off The Streets by the Community Crisis Center. A referral from a local health organization must be provided to utilize one of the twenty units set aside for those needing isolation for COVID-19. The applicant also has extensive experience, both in developing and managing affordable housing projects in Billings, and they are knowledgeable about federal program requirements and compliance. Projects like this are examples of where the City can partner to help multiple service and healthcare organizations in the community to make a tangible difference in impacting homelessness.

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**Attachments**

CD Board Off The Streets Review Memo
Off The Streets Shelter Photos

COMMUNITY DEVELOPMENT DIVISION
**Affordable Housing Development Program**
2825 3rd Avenue North, Billings, MT 59101 406.657.3045 TTY 711 www.BillingsMT.gov/chdo

DATE: September 23, 2021
TO: Community Development Board
TITLE: HAB Development - Housing Authority of Billings: Off The Streets Project
PRESENTED BY: Dina Harmon, Community Development Program Coordinator

## Recommendation

Community Development staff recommends allocating $450,000 in Community Development Block Grant (CDBG) funding to the HAB Development's Off The Streets property to repair the current boiler, install new heating / air conditioning units, and to make necessary repairs to damaged units. The allocation and expenditure of CDBG funding will also assist the Division in meeting a timeliness deadline next spring.




## Background

**Application:** On September 16, 2021, an Affordable Housing Development Program application was submitted by HAB Development, an instrumentality of the Housing Authority of Billings (also known as HomeFront), requesting $450,000. Funding would be used to replace a nonoperating boiler system and rehabilitate four rooms that were damaged when the boiler malfunctioned.




**Project Site:** Off the Streets is a 40-unit project located at **3311 2nd Avenue North**. HAB Development purchased the Western Inn Motel property for $1.64 million in October 2020. Half of the units are used as a low-barrier shelter for those experiencing homelessness and the other 20 units are prioritized for pandemic response to provide necessary quarantine and isolation.

Availability of isolation units is paramount to lessening the burden on healthcare providers and hospitals in the community. Individuals and families using these units must be referred by a healthcare organization.

**Project Utilization and Beneficiaries:** Off The Streets provided quarantine / isolation services to 95 unique individuals from October 2020 through August 2021, and the combined stay for these units totals 605 days. The low-barrier shelter served 358 unique individuals from November 2020 through August 2021, and the combined stay for these guests totaled 11,746. Individuals are screened for physical /mental health by qualified health professionals at the Community Crisis Center and diverted to the most appropriate shelter for the evening. Noone is allowed to self-present, they can only be referred by the Community Crisis Center.

Funding investments in this project will benefit low-income individuals and families long-term. When isolation units are no longer needed, the project will continue serving low-income, qualifying populations. Housing types include, but are not limited to overnight shelter, interim, short-term transitional, long-term, permanent

supportive housing, transitional / bridge housing, etc. The applicant is willing to secure the City's funding award through deed restrictions and a trust indenture, assuring the City will be repaid the full award if the project no longer serves the intended population or is sold.

## Fiscal Effects

Community Development (CD) staff recommend utilizing Community Development Block Grant (CDBG) funding for this project. The Division has recently received many home buyer and repair loan repayments and has $359,876 in CDBG revenue from last fiscal year to allocate. Since July 1, 2021, the Division has received an additional $140,000 in loan repayments that can also be allocated, bringing the total available to **$499,867**. **As new CDBG revenues are received, they are added to the total amount the City must expend prior to the end of April 2022 to meet the CDBG timeliness deadline.**

## Alternatives

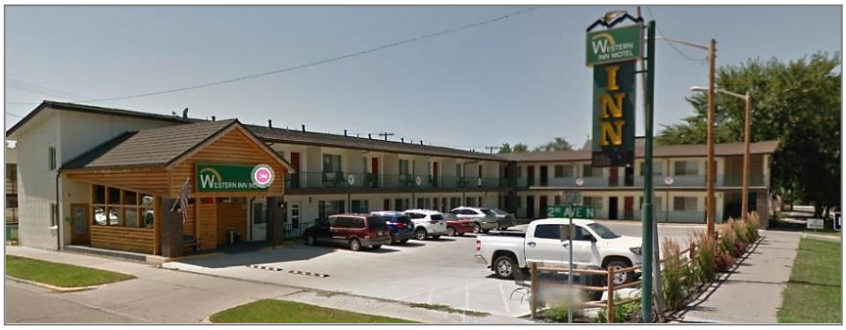
**1)** Approve funding for the proposed project, with or without conditions. A funding allocation to support this new project would assist the City in meeting affordable housing needs while assisting the Division in meeting the April 2022 timeliness deadline.

**2)** Not approve funding for the project. HAB Development would need to secure other conventional financing to complete the project or not move the project forward.

## Procedural History

- **October 7, 2020:** The Western Inn was purchased by HAB Development to be used as a low-barrier shelter.
- **October 14, 2020:** Neighborhood / stakeholder meeting was held at Tumbleweed.
- **October 28 and 30, 2020:** Neighborhood meetings were facilitated through Zoom and information on the project was hand-delivered to neighboring properties within a three-block radius.
- **Winter 2020:** The boiler began leaking and caused significant damage to four units.
- **June and July 2020:** Two public community meetings were held to gauge the need for continued low-barrier shelter. Many elected officials also attended the meetings. The need for continued low-barrier shelter was evident.
- **September 16, 2021:** HAB Development submitted an Affordable Housing Development Program application to the City's Community Development Division requesting $450,000 for heating source replacement and rehabilitation of four units.
- **September 22, 2021:** Staff sent a memo detailing the project to the Community Development Board.
- **October 5, 2021:** HAB Development staff will review the project with the Community Development Board during their regular monthly meeting. The Board was also invited to take a tour of the project right after the meeting. A recommendation must be made on this project to prepare documents for City Council.

## Project Review




**Proximity:** The property is in the downtown area and within the Billings city limits. As part of the environmental review process, Division staff reviews locations for proximity to amenities, transportation, employment opportunities, food sources, education resources, etc.

The property is near greenspace at Founders Park and Community Park. It is also close to the YMCA, downtown employment opportunities, a children's museum, Dress for Success, childcare options, downtown grocery stores, and thrift stores. Public transportation

routes are located along 2nd Avenue North and several additional routes are located within one or two blocks. RiverStone Health is within walking distance (0.8 miles) and the closest hospital is 1.1 miles away from the project.

## Project Management, Developer Qualifications, and Portfolio Assessment

**Management:** HAB Development is the property owner, and the Continuum of Care Executive Committee has taken responsibility for engaging a contractor to manage the shelter on-site. The Executive Committee is comprised of HomeFront (formerly known as the Housing Authority of Billings), Kari Boiter (Continuum of Care Director), District 7 HRDC, Tumbleweed, Besaw Integrity Consulting, United Way of Yellowstone County, and RiverStone Health. Several of the organizations listed have managed funding through direct federal allocations and a long history of federal project management.

**Qualifications:** The applicant's staff has significant experience in affordable housing development, construction, maintenance, and oversight. The City of Billings previously awarded $1,543,101 to the Housing Authority of Billings for affordable housing development, resulting in 75 new affordable housing units, and tenant-based rental assistance. City staff reports excellent compliance in all areas of project and service implementation and strict adherence to federal regulations. Projects include Spring Gardens, Old Town Square, Westchester Square, Sioux Lane infrastructure for Whitetail Run Apartments, and Pheasant Home.

**Beneficiary Involvement:** The organization also seeks beneficiary involvement and utilizes feedback in project and program development. Two commissioner positions are reserved for residents representing elderly, disabled, and family populations. Both resident commissioners voted to purchase the hotel for its current use and future intended use.

## Market Analysis

For this type of shelter and isolation project, the only market analysis required is to determine community need and utilization of the project to date. The project opened in October 2020 and has been continually and actively utilized, illustrating current shelter options for this population are limited. The project has served many more individuals and families than those involved with the project originally planned.

**Alignment with Consolidated / Annual Action Plan:** As noted in the FY21-22 Annual Action Plan, there were over 5,500 households on waiting lists for public housing. Over 2,000 people were waiting for single-person housing. The project addresses all the City's Consolidated Plan goals:

- Create, preserve, and expand affordable housing options
- Neighborhood Revitalization
- Impact Poverty

## Financial Analysis

**Leveraging:** Over $2.2 million has been committed and invested in the project to date. The funding request ($450,000) is 20% of the total leveraged amount and 17% of total project costs, including boiler repair and rehabilitation.

| LEVERAGED FUNDING | |
|---|---|
| **Item** | **Leveraged Resources** |
| Purchase price for 40-unit hotel | $1,640,635 |
| CARES Act - Emergency Shelter Grant through District 7 HRDC | $625,000 |
| Donated Value of Vehicle | $6,500 |
| **TOTAL** | **$2,272,135** |

**Fiscal Health:** Funding has been secured to date for shelter operations and the building is owned by HAB Development. A proforma is not necessary for this project as tenants are unable to pay rent. Post pandemic quarantine and isolation, the City recommends utilizing project-based assistance, multi-use design, and / or

tenant income strategies to maximize longevity and fiscal health. HAB Development has not received any administrative funding or reimbursement for initiating and carrying out this project.

**Procurement:** Several bids have been obtained for the project, however, there is only one all-inclusive bid addressing adequate heating systems:

- NorPac Sheet Metal - the only complete bid received: $376,094
- White Heating & Air Conditioning - incomplete: $87,013
- Air Controls Heating, Air Conditioning, Refrigeration, and Plumbing - incomplete: $66,800

If funded, HAB Development is required to follow procurement regulations to obtain additional, competitive estimates through a free, open, and competitive process.

The overall project budget is reasonable, given the professional expertise available in Billings. There is a workforce and contractor availability shortage, and the cost of materials has greatly increased due to pandemic impacts.

| PROJECT BUDGET | | |
|---|---|---|
| **Item** | **Bids Received** | **Estimated Cost** |
| Immediate repair to current boiler. Midland Mechanical is the only company that is willing to go in, find and repair leaks. | No bids - Shelter Director Estimate | $10,000 |
| Purchase and PTACs: Self-contained heating and air conditioning system commonly found in hotels, motels, etc. | NorPac Sheet Metal | $376,094 |
| Electrical Work not included in NorPac Sheet Metal estimate | No bids - Shelter Director Estimate | $5,097 |
| Repairs for four units | SJS Builders | $58,809 |
| | **TOTAL** | **$450,000** |

**Previous City Awards:** The project is in alignment with previous awards granted by the City. The cost per unit for improvements is $7,500 per unit.

| AFFORDABLE HOUSING PROJECTS | | |
|---|---|---|
| **Project** | **# Units** | **City Award** |
| Pheasant Home | 16 | $554,191 |
| Southern Lights | 20 | $500,000 |
| C & C Community | 60 | $540,000 |
| Off The Streets | 40 | $450,000 |
| Sioux Lane – Infrastructure | 32 | $262,000 |
| Old Town Square | 8 | $242,000 |
| Spring Gardens | 16 | $240,000 |
| Westchester Square | 3 | $200,000 |
| YWCA Gateway House | 10 | $182,400 |
| Sage Towers | 20 | $175,000 |
| Acme Hotel | 19 | $143,400 |

## Stakeholders

- This project serves the most vulnerable populations in Billings: those experiencing homelessness; at-risk of homelessness; low-income individuals and households awaiting COVID-19 test results; and low-income individuals and households needing isolation after a positive coronavirus test result. Most of the individuals and families served by the project have incomes under 30 percent of the area median income.
- Local hospitals and health care providers can make referrals for isolation units. Hospitals are over capacity due to the pandemic and additional isolation options can lessen this burden.
- The Unified Health Command (RiverStone Health, Billings Clinic, St. Vincent Healthcare, and Yellowstone County Disaster and Emergency Services) has also identified the need for shelter and isolation units.

- Several nonprofit organizations are engaged and participating in this project: Community Crisis Center; Family Promise of Yellowstone Valley; Healthcare for the Homeless; The Salvation Army; St. Vincent DePaul; Tumbleweed; RiverStone Health; and United Way of Yellowstone County.

## Summary

An overall review of the application reveals the project is consistent with similar projects the City has funded in the past and is in alignment with the City's Consolidated Plan. There is a demonstrated need for a safe and warm place for our homeless population to spend the night, as evidenced through data from the City's recent Consolidated Plan, including the Housing Needs Assessment, Market Analysis and the Analysis of Impediments to Fair Housing Choice. Individuals who utilize one of the low-barrier shelter units must be referred to Off The Streets by the Community Crisis Center. A referral from a local health organization must be provided to utilize one of the twenty units set aside for those needing isolation. The applicant also has extensive experience, both in developing and managing affordable housing projects, and they are knowledgeable about federal program requirements.

## Community Development Board's Recommendation

- ☐ Approval
- ☐ Denial
- ☐ Conditional Approval (state conditions):



Above: Boiler in need of replacement.



Above: One of the damaged rooms stripped down to the framing. Currently being used to hold storage items.



Above: Second lower-level unit that was damaged and stripped down to the framing. Also being used for storage currently.

Below: Non-functioning boiler that needs to be replaced.



Below: Another low barrier room.






Above: Low barrier shelter room.



Above:  Exterior picture of Off The Streets.

Below: Guests of Off The Streets are given a clean towel to shower and clean pj's to sleep in for the night.



**City Council Regular**

| | |
|---|---|
| **Date:** | 10/25/2021 |
| **Title:** | City Zone Change 999 -733 S 31st St W- CMU1 to CMU2 |
| **Presented by:** | Karen Husman |
| **Department:** | Planning & Community Services |
| **Presentation:** | Yes |

## RECOMMENDATION

The Zoning Commission recommends approval and adoption of the findings of the 10 criteria for Zone Change 999.

## REQUEST

This is a request to change zoning on property located at 733 S 31st St W just north of the Mercedes Benz car dealership on King Avenue West. The existing zoning is CMU1 and the request zoning is CMU2 on Lot 4, Block 16A of Lampman Subdivision, a 62,464 square foot parcel of land. A pre-application neighborhood meeting was held on August 12, 2021, at 733 S. 31st Street.

## APPLICATION DATA

OWNER: Patricia Harvey
AGENT: WWC Engineering, Greg Reid
LEGAL DESCRIPTION: Lot 4, Block 16A, Lampman Sub.
ADDRESS: 733 S 31st St W
CURRENT ZONING: CMU1
EXISTING LAND USE: Vacant
PROPOSED USE: Additional service building and parking
SIZE OF PARCEL: 62,464 sf

## CONCURRENT APPLICATIONS

None

## SURROUNDING LAND USE & ZONING

NORTH: Zoning: N2
Land Use: Residential
SOUTH: Zoning: CMU2
Land Use: Auto sales
EAST: Zoning: CMU1
Land Use: Vacant
WEST: Zoning: CMU1
Land Use: Hotel

## BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

This is a zone change request from Corridor Mixed Use 1 (CMU1) to Corridor Mixed Use 2 (CMU2) to allow expansion of an existing auto dealership located on the property to the south of the subject property. The applicant intends to expand the existing auto sales and service business to provide secure storage for customer vehicles and to allow some minor repair and outfitting work on those vehicles. The development will consist of a service building and parking with security fencing. The proposed zoning would allow an existing thriving automobile sales and service operation to expand their operations and better serve the community. Utilizing a vacant parcel is an excellent infill development for the property directly north of the existing dealership. This expansion will promote the economic stability of the area as well as promote infill development in this commercial are of Billings.

The proposed zoning is compatible with the adjacent zoning and existing urban growth in the vicinity. Property west of the subject parcels is zoned CMU1 and used as a hotel. Property to the south is proposing to expand the existing CMU2 use to the subject property. The proposed zoning will allow the development of the property in a strong commercial corridor, and expanding an existing business is encouraging the most appropriate use of land in the district. Supporting local business expansion is beneficial to the economic growth for the City of Billings.

## STAKEHOLDERS

The applicant conducted a pre-application meeting at the subject property on August 12, 2021. Fifteen surrounding property owners and interested parties attended the pre-application meeting. The synopsis of the meeting and the attendance list are attached to this report. There were questions on traffic through the area, lighting and fencing (buffering) of the proposed development.

The Zoning Commission held a public hearing on October 5, 2021, planning staff gave a brief presentation and the applicant and agent concurred with staffs recommendation. No other testimony was received either in person or by telephone at the meeting. Commission member Trina White moved to recommend approval and adoption of the findings of the ten criteria for Zone Change 999. The motion was seconded by Commission member Dan Brooks and approved on a 3-0 vote.

## ALTERNATIVES

The City Council may:

- Recommend Approval of the Zone Change and adopt the findings of the 10 review criteria; or,
- Recommend Denial of the Zone Change and adopt different findings of the 10 review criteria; or,

- Recommend Denial of the Zone Change and adopt different findings of the 10 review criteria; or,
- Delay action on the zone change request for up to 30 days; or,
- Allow the applicant to withdraw the application.

## FISCAL EFFECTS

Approval or denial of the proposed zone change should not have an effect on the Planning Division budget.

## SUMMARY

Prior to any recommendation to the City Council, the Zoning Commission shall consider the following:

1. Is the new zoning designed in accordance with the Growth Policy?
The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy:
Prosperity (promoting equal opportunity and economic advancement)
· Predictable, reasonable City taxes and assessments are important to Billings' taxpayers
· A diversity of available jobs can ensure a strong Billings' economy
· Successful businesses that provide local jobs benefit the community
· Community investments that attract and retain a strong, skilled and diverse workforce also attracts businesses
· Retaining and supporting existing businesses helps sustain a healthy economy

The proposed zoning would allow an existing thriving automobile sales and service operation to expand its operations and better serve the community. Utilizing a vacant parcel is an excellent infill development for the property directly north of the existing Mercedes dealership south of the subject property. This expansion will promote economic stability as well as promote infill development in this commercial sector.

2. Is the new zoning designed to secure from fire and other dangers?
The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.

3. Whether the new zoning will promote public health, public safety and general welfare?
Public health and public safety will be promoted by the proposed zoning. The proposed zoning (CMU2) would allow the owner to ensure future development is not intrusive to neighboring property, and still allow compatible uses with the adjacent CMU1 zoning.

4. Will the new zoning facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?
Transportation: The proposed zoning will increase post-development traffic volume. A traffic impact study (TIS) or an update to an existing TIS may be necessary at the time of development.
Water and Sewer: The City provides water and sewer to the property.
Schools and Parks: Schools and parks should not be negatively affected by the proposed zoning. The proposed development does not include residential uses.
Fire and Police: The subject property is served by city public safety services. The Police and Fire Departments had no concerns with the zone change.

5. Will the new zoning provide adequate light and air?
The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6. Will the new zoning effect motorized and non-motorized transportation?
Traffic generation for an auto dealership expansion may significantly impact motorized transportation. The new development will have sidewalks and will connect to other sidewalks and pedestrian facilities in the neighborhood. The new zoning designation itself should not have any increase effect on the transportation system.

7. Will the new zoning promote compatible urban growth?
The proposed zoning is compatible with the adjacent zoning and existing urban growth in the vicinity. Property west of the subject parcels is zoned CMU1 and used as a hotel. Property to the south is proposing to expand the existing CMU2 use to the subject property. The proposed zoning is compatible with the adjacent zoning and existing land uses. The zoning to the north (N2) will require screening and buffering on this property in order to mitigate any possible compatibility issues.

8. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?
The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. The proposed zoning will allow expansion of an existing commercial use.

9. Will the new zoning conserve the value of buildings?
The new zoning is not expected to alter the value of any buildings in the area. It is not known if its proximity to residential property in the area will affect the value of residential buildings. Any development of the property will need to meet the site development requirements in the zoning code, including landscaping, screening, building heights and setbacks.

10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?
The proposed zoning will allow the development of the property in a strong commercial area, expanding an existing business is encouraging the most appropriate use of land in the district. Supporting local business expansion is beneficial to the economic growth for the City of Billings.

---

**Attachments**

Zoning Map & Site Photos
Application & Applicant Letter

Pre Application Information
Chart of zoning history

Zoning Map




Site Photos








South



South



East




North



Northeast

# APPLICATION FORM

**CITY ZONE CHANGE** **Billings Zone Change #** 999 **- Project #** PZX-21-00223

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the City of Billings Zoning Regulations.

Present Zoning: Corridor Mixed Use 1 (CMU1)

Proposed Zoning: Corridor Mixed Use 2 (CMU2)

TAX ID# A290320 CITY ELECTION WARD 5

Legal Description of Property: Lot 4, Block 16A of Amended Lot 1, Block 16A, Lampman Subdivision

Address or General Location (If unknown, contact City Engineering): 733 S 31st Street W

Size of Parcel (Area & Dimensions): 294'x213' = 62,464 sqft

Present Land-Use: Vacant

Proposed Land-Use: Additional service building and parking for existing Mercedes dealership

Covenants or Deed Restrictions on Property: Yes_____ No X

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Patricia Harvey

(Recorded Owner) 841 Remington Boulevard, Bolingbrook, IL 60440

(Address) 630-967-4956 pharvey@weathertech.com

(Phone Number) (email)

Agent(s): WWC Engineering - Greg Reid

(Name) 550 S. 24th Street W, Billings, MT 59102

(Address) 406-894-2210 greid@wwcengineering.com

(Phone Number) (email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: Patricia Harvey Date: 8/26/2021

(Recorded Owner)

8/27/21

Applicant Letter

**(1) Whether the new zoning is designed in accordance with the growth policy;**

The 2016 City of Billings Growth Policy, states that growth will be managed by "encouraging development within and adjacent to the existing City limits, but preference will be given to areas where City infrastructure exists or can be extended within a fiscally constrained budget and with consideration given to increased tax revenue from development." The proposed zone change would provide additional tax revenue to the city and provide an expansion of an existing business onto the adjacent infill lot that is already provided city services.

**(2) Whether the new zoning is designed to secure from fire and other dangers;**

The change of CMU1 to CMU2 zoning would not create any dangers within the neighborhood. With the zone change, the developer intends to fence the property to encompass it with the existing Mercedes dealership and service center to the south. The business expansion will eliminate a vacant property with deferred maintenance. There is an existing fire hydrant installed on the southwest corner of the intersection of South 31st Street W and Henesta Drive in addition it is anticipated that the new development will include fire sprinklers within the building due to the expected size of the building, therefore there are no anticipated dangers of fire protection with the development.

**(3) Whether the new zoning will promote public health, public safety and general welfare;**

The proposed zone change from CMU1 to CMU2 would allow for the developer to expand the existing Mercedes dealership and service center to the property. The developer will be required to improve existing infrastructure adjacent to the property and install new infrastructure such as water, sewer, stormwater retention, and landscaping. The required improvements also will include curb/gutter, sidewalk, and widening of South 31st Street W along the subject property. The expansion will improve the property value in the neighborhood and eliminate a vacant lot within the city limits. The vacant lot is also an unlighted lot with vehicles for service stored on it for the dealership. This scenario attracts vandalism at night. The proposed development may include lighting and security fence to remove the allure to this neighborhood at night for vandalism, decreasing police calls to the area.

**(4) Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;**

The proposed zone change from CMU1 to CMU2 will have minimal impact on transportation surrounding the property. Currently, the two roadways providing access to the parcel (South 31st Street W and Henesta Drive) are improved and maintained with connectivity to King Avenue W and Rosebud Drive.

The City of Billings was contacted regarding capacity of the water and sewer mains in the area of the proposed project. It was noted that the proposed project would have adequate capacity by the existing facilities. Each of the two roads that access the property has a water, sewer, and storm main within the roadway. Given that the property will have a commercial development, there will be minimal impact on the water and sewer main. A requirement with commercial development is that the site needs to have the capacity to handle a 50 year storm event. As this is intended as an expansion of the existing business to the south, the storm service for that facility may be utilized to limit additional connections to the City storm mains.

Since the development will be commercial, the neighborhood schools and parks will not be impacted by this zone change.

**(5) Whether the new zoning will provide adequate light and air;**

In comparison of CMU1 development to CMU2 development, it is not anticipated that air pollution will be changed. A CMU1 zoned property has a number of available permitted use types from gas stations to restaurants to boarding kennels similar to CMU2 zoning. With the commercial development and vandalism that has previously occurred on the unlighted property, adequate lighting will be necessary on the property.

**(6) Whether the new zoning will effect motorized and nonmotorized transportation;**

The proposed zoning will not have a negative effect on motorized and nonmotorized transportation. The motorized transportation will be entering the property thru the existing service center or from the existing approach along South 31st Street W. As part of the commercial development requirements, the portion of South 31st Street W along the subject property will need to be widened with installation of new curb/gutter and sidewalk. Those improvements will allow nonmotorized transportation to travel safely outside the property.

**(7) Whether the new zoning will promote compatible urban growth;**

The proposed zoning will allow the developer to expand the Mercedes dealership and service center to meet the needs of local and regional customers. The development will be required to satisfy the City of Billings regulations for commercial development on the street, sidewalks, water, sewer, stormwater, fencing, and lighting. The business expansion will eliminate a vacant lot within a commercial and residential neighborhood. Development of an infill property is encouraged within the city limits. The required property improvements will increase the value of property within that area.

**(8) Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses;**

The character of the district surrounding the subject property, is a mix of residential and commercial businesses. The proposed zone change from CMU1 to CMU2 would allow the property to stay consistent with the adjacent property to the south which is also zoned for CMU2. For expansion of the existing business, the developer will be required to comply with the requirements for commercial development such as (but not limited to) infrastructure improvements and landscaping.

**(9) Whether the new zoning will conserve the value of buildings; and**

Immediately adjacent to the proposed development is an existing CMU2 development. As such, this development would not be changing the type of commercial development that exists within the neighborhood. Further, the vacant property will be developed by changing the zoning to allow the extension of the existing business, which will remove an unmaintained lot from the area and improve it to maintained landscaping and buildings with fully widened roadways and sidewalks in the public right-of-way adjacent to the property.

**(10) Whether the new zoning will encourage the most appropriate use of land throughout the City of Billings.**

Given the growth of commercial development and businesses within Billings, this proposed zone would allow the developer to provide additional resources and services to meet the needs of their clients. The infill development of commercial business would generate a return on investment for the City of Billings. The requirements for commercial development of CMU2, will require street and city service improvements adjacent to the property and landscaping.

This zone change is necessary for the dealership to expand their business within their current footprint. Alternatively, the dealership would be required to purchase vacant land on the outskirts of the City and expand their business there, leaving this property and the existing dealership to sit unused for an indeterminate time into the future.

## Pre-Application Statement of Owner(s) or Agent(s)

The owner(s), contract purchasers (if any) and agents (if any) are required to submit this completed form and any attachments along with a completed zone change application packet, including any required fees, for a zone change to be processed by the Planning Division.

1. **Present Zoning**: Corridor Mixed Use 1 (CMU1)
2. **Written description of the Zone Change Plan** including existing and proposed new zoning:

The existing zoning is Corridor Mixed Use 1 (CMU1) and the proposed zoning for the property is Corridor Mixed Use 2 (CMU2).

3. **Subject Property Map**: See attached
4. **Legal Description of Property**: Lot 4, Block 16A of Amended Lot 1, Block 16A, Lampman Subdivision
5. **Neighborhood Task Force Area**: [Yes] /// No . If Yes, Name of Task Force and mailing address of Chairperson: Tina Volek, 3214 Horton Smith Lane, Billings, MT 59106
6. **Roster of persons who attended the pre-application neighborhood meeting**: See attached
7. **A copy of the meeting notice.** See attached
8. **A brief synopsis of the meeting results including any written minutes or audio recording.** See attached
9. **The undersigned affirm the following:**
   1) The pre-application neighborhood meeting was held on the 12th, day of August, 2021.
   2) The zone change application is based on materials presented at the meeting.

**Owner (s):** Patricia Harvey Telephone: 630-967-4956

Address: 841 Remington Boulevard, Bolingbrook, IL 60440 Email: pharvey@weathertech.com

**Agent (s):** WWC Engineering Telephone: 406-894-2210

Address: 550 S. 24th Street W, Billings, MT 59102 Email: greid@wwcengineering.com

**WeatherTech Zone Change Pre-Application Neighborhood Meeting**

August 12th, 2021 at 6:00pm

Attendance:

Greg Reid – WWC Engineering

Aaron Redland – WWC Engineering

Dave Fricano – Mercedes, General Manger

See attached sign-in sheet

The meeting was opened by WWC Engineering (WWC) giving a description of the current zoning and the proposed zoning. WWC also explained the zone change process along with the Zoning and Council meetings that are required for the zone change to be completed. Dave provided information on owner and portions of the site development plan.

The area residents were then asked to provide comments or concerns regarding the zone change. The following list summarizes the comments received:

- Is the development anticipated to increase of traffic thru South 31st Street West and Henesta Drive or increase timeframes of semi offloading at the site?
- What are the type and height of fence that will be installed on the perimeter of the property?
- Will the type of lighting that will be installed on the developed site throw light on the adjacent neighbors?

**Pre-Application Neighborhood Zone Change Meeting - DMN Real Estate Holdings, LLC**
**August, 12, 2021 at 6:00 pm**

| | Name | Address | Phone no. |
|---|---|---|---|
| 1 | Paul & Beth Crockett | 3105 Heneste Dr | 406-489-1878 |
| 2 | Denise Krall | 3117 Heneste DR. | 406-861-7872 |
| 3 | Ronnie & Janice Wooten | 3115 Heneste Dr | 406-561-8428 |
| 4 | Barb Baxter | 3121 Heneste Dr | 406-656-3367 |
| 5 | Tiffany + Judy Kratz | 3123 Heneste Dr | 406-281-3198 |
| 6 | Anita + Jacob Stahl | 3161 Heneste Dr | 406-534-3045 |
| 7 | Josie Davis | 3175 Heneste Dr. | 406-431-7379 |
| 8 | Judy Kratz | 3157 Heneste Dr | |
| 9 | Glen Hubbard | 5500 Mole Rd | 406-860-1870 |
| 10 | Valley Credit Union | Casey + Scott | 406-655-5019 |
| 11 | Tina Vinek | 3214 Heneste Dr | 406-698-0665 |
| 12 | Richelle Selleck | ~~2972~~ 3163 Heneste | 406-698-7466 |
| 13 | | | |
| 14 | | | |
| 15 | | | |

| SUBJECT PROPERTY | Zone Change # | DATE | FOR | APPROVED (Y/N) | ADDITIONAL DATA |
|---|---|---|---|---|---|
| 733 S 31st Street | **none** | | | | Pre Recode zoning CC |
| | | | | | |
| **SURROUNDING PROPERTY** | **Zone Change #** | **DATE** | **FOR** | **APPROVED (Y/N)** | **ADDITIONAL DATA** |
| Lt 5&6, Blk17 Lampman | **124** | 6/7/77 | R96 to RP | Y | |
| Lt7, Blk 17 Lampman | **261** | 12/31/79 | R96 to RP | Y | |
| Lt. 1-8 Blk 1 Lampman | **340** | 5/8/83 | R96 to HC | WD | |
| Lt. 1-8 Blk 1 Lampman | **343** | 7/20/83 | R-96 to RMF | N | |
| Lt. 5-8 Blk 17 Lampman | **383** | 7/25/85 | RP to R96 | WD | |
| Lt. 5-8 Blk 17 Lampman | **393** | 2/20/86 | RP & R96 to NC | WD | |
| Lt. 5-8 Blk 17 Lampman | **502** | 6/9/86 | RP & R96 to NC | N | |
| Lt. 1-6 Blk 15 Lampman | **512** | 5/4/87 | R-96 to CC | Y | |
| Lt.1-12 Blk 18 | **512** | | R-96 to R60 | Y | |
| Lt. 5-6 Blk 17 | **512** | | RP to CC | Y | |
| 2902 Henesta | **674** | 3/26/01 | R-96 to CC | N | |
| Lt. 2-6 Blk 14 Lampman | **697** | 6/10/02 | R-96 to R-80 | Y | |
| 2902 Henesta | **700** | 8/12/02 | R-96to CC | Y | |
| Lts 4-6 Blk 19 Lampman | **836** | 4/29/08 | R-80 to RP | N | |

City Council Regular

| | |
|---|---|
| **Date:** | 10/25/2021 |
| **Title:** | City Zone Change 1000- 436 Wicks Lane- N2 to NO - First Reading and Public Hearing |
| **Presented by:** | Karen Husman |
| **Department:** | Planning & Community Services |
| **Presentation:** | Yes |

## RECOMMENDATION

The Zoning Commission recommends approval of Zone Change 1000 and adoption of the findings of the 10 criteria.

## REQUEST

City Zone Change 1000- 436 Wicks Lane- From N2 to NO - A zone change request from Mid Century Neighborhoods (N-2) to Neighborhood Office (NO), on Lot 10, Block 1 of Arrowhead Subdivision, a .288 acre parcel of land. A pre-application neighborhood meeting was held on August 25, 2021, via Zoom virtual meeting. Presented by: Karen Husman, Planner I.

## APPLICATION DATA

OWNER: Laighton D. Jones, DMD
AGENT: Scott Aspenlieder, Performance Engineering
LEGAL DESCRIPTION: Lot 10, Block 1 of Arrowhead Subdivision
ADDRESS: 436 Wicks Lane
CURRENT ZONING: N2
EXISTING LAND USE: Residential
PROPOSED USE: Dental Office expansion
SIZE OF PARCEL: .288 acres

## CONCURRENT APPLICATIONS

None

## SURROUNDING LAND USE & ZONING

NORTH: Zoning: N2
Land Use: Residential
SOUTH: Zoning: N2
Land Use: Residential
EAST: Zoning: NO
Land Use: Commercial Dental Office
WEST: Zoning: N2
Land Use: Residential

## BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

The Planning Division has reviewed this application and is recommending approval based on the attached ten (10) criteria for zone changes. The subject property is adjacent to commercial uses to the east. Uses allowed in the NO zoning are compatible with the surrounding zoning and neighborhood character. Any development or re-development of the property requires compliance with the new zoning and the ability to meet site development requirements and traffic safety standards. The Growth Policy and the Billings Heights Neighborhood Plan encourage predictable land use decisions that are consistent with neighborhood character and land use patterns. The proposed redevelopment and proposed zoning are consistent with this neighborhood and land use pattern.

The proposed zone change will allow an existing dental office located east of the subject property to renovate and expand the business. The development plan is to extend the existing NO zoning for the Jones Dental Facility directly adjacent to the east so the older residential building and office structure can be demolished and a new larger facility can be built on the existing lots and the subject property. The proposed change will result in reduction of traffic by eliminating the existing residential house and consolidating the lots for an improved dental facility. This will improve the quality of the neighborhood by removing an aged deteriorating residential house and constructing a new modern facility.

## STAKEHOLDERS

The pre application neighborhood meeting was conducted via virtual Zoom meeting. The meeting was hosted by Scott Aspenlieder. There were no attendees, and no other comments were received.

The Zoning Commission held a public hearing on October 5, 2021. Planning staff gave a brief presentation. The applicant's agent, Scott Aspenlieder concurred with staff's recommendation. No other testimony was received either in person or by telephone at the meeting. Commission member Trina White moved to recommend approval and adoption of the findings of the ten criteria for Zone Change 1000. The motion was seconded by Commission member Dan Brooks and approved by a 3-0 vote.

## ALTERNATIVES
The City Council may:

- Recommend approval of the Zone Change and adopt the findings of the 10 review criteria; or
- Recommend Denial of the Zone Change and adopt the different findings of the 10 review criteria; or
- Delay action on the zone change for up to 30 days; or,
- Allow the applicant to withdraw the application

## FISCAL EFFECTS
Approval or denial of the proposed zone change should have no effect on the Planning Division budget.

## SUMMARY
Prior to any recommendation to the City Council, the Zoning Commission shall consider the following:

*1. Is the new zoning designed in accordance with the Growth Policy and neighborhood plans?*
The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy:
Prosperity (promoting equal opportunity and economic advancement)
· Predictable, reasonable City taxes and assessments are important to Billings' taxpayers
· A diversity of available jobs can ensure a strong Billings' economy
· Successful businesses that provide local jobs benefit the community
· Retaining and supporting existing businesses helps sustain a healthy economy

The proposed zoning would allow an existing dental office to upgrade and modernize the practice. The proposed zone aligns with allowed continued light commercial development along a busy arterial. The NO district allows neighborhood services and the proposed project will bring new construction improving the aesthetic of the neighborhood.

*2.* Is *the new zoning designed to secure from fire and other dangers?*
The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.

*3. Whether the new zoning will promote public health, public safety and general welfare?*
Public health and public safety will be promoted by the proposed zoning. The proposed NO zoning would allow the owner to ensure future development is not intrusive to neighboring property, and still allow compatible uses with the adjacent zoning. Removal of an older deteriorating residential structure and an older office building and replacing with a newer more efficient facility will be beneficial for general health and welfare of the district.

4. *Will the new zoning facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?*
Transportation: The proposed zoning will decrease residential traffic, however may increase post-development traffic volume. A traffic impact study (TIS) or an update to an existing TIS may be necessary at the time of development.
Water and Sewer: The City provides water and sewer to the property. City Utilities Department voiced no concerns.
Schools and Parks: Schools and parks should not be negatively affected by the proposed zoning. The proposed development does not include residential uses.
Fire and Police: The subject property is served by city public safety services. The Police and Fire Departments had no concerns with the zone change.

*5. Will the new zoning provide adequate light and air?*
The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

*6. Will the new zoning effect motorized and non-motorized transportation?*
The dental office expansion will have sidewalks and will connect to other sidewalks and pedestrian facilities in the neighborhood. The new zoning designation itself should not have any increase effect on the transportation system.

*7. Will the new zoning promote compatible urban growth?*
The proposed zoning is compatible with the adjacent zoning and existing urban growth in the vicinity. Property east of the subject parcels is zoned NO and the dental office proposing the expansion that triggered the request for a zone change on the subject property.

*8. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?*
The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. The proposed zoning will allow expansion of an existing commercial dental office use.

*9. Will the new zoning conserve the value of buildings?*
The new zoning is not expected to alter the value of any buildings in the area. It is not known if its proximity to residential property in the area will affect the value of residential buildings. Any development of the property will need to meet the site development requirements in the zoning code, including landscaping, screening, building heights and setbacks.

*10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?*
The proposed zoning will allow the development of the property in a mixed residential area, expanding an existing business is

encouraging the most appropriate use of land in the district. Supporting local business expansion is beneficial to the economic growth for the City of Billings.

---

**Attachments**

Zoning Map & Site photos
Application & Applicant letter
Pre App Information
Chart of Zoning History

Zoning Map




Site Photos




ZONING
REQUEST
ZONE CHANGE
SPECIAL REVIEW
VARIANCE


LEFT
CENTER

Southwest



East



Northeast



West



Northwest

# APPLICATION FORM

**CITY ZONE CHANGE** **Billings Zone Change #** 1000 **- Project #** PZX-21-00231

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the City of Billings Zoning Regulations.

Present Zoning: N2 - Mid-Century Neighborhood

Proposed Zoning: NO

TAX ID# A02533A CITY ELECTION WARD 2

Legal Description of Property: Lots 10, Block 1 of Arrowhead Subdivision

Address or General Location (If unknown, contact City Engineering): 436 Wicks Lane, Billings, MT

Size of Parcel (Area & Dimensions): 0.288 Acres

Present Land-Use: Residential

Proposed Land-Use: Neighborhood Office - Dental

Covenants or Deed Restrictions on Property: Yes_____ No X

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Laighton D. Jones, DMD

(Recorded Owner) 502 Wicks Lane, Billings, MT 59105

(Address) 406-248-7868

(Phone Number) (email)

Agent(s): Scott Aspenlieder - Performance Engineering, LLC

(Name) 608 N 29th St, Billings, MT 59101

(Address) (406) 384-0080 scott@performance-ec.com

(Phone Number) (email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: _____ Date: 9-14-21

(Recorded Owner)

PERFORMANCE ENGINEERING
608 North 29th Street, • Billings, MT 59101 • (406) 384-0080

# Laighton Jones Dental – Zone Change Questions

**A. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?**

The tract of land of interest is currently zoned N2 – Mid-Century Neighborhood. The land surrounding the property generally residential to the west, both behind the lot and across Wicks Lane and then commercial to the east of the lot, both directly adjacent and across Wicks Lane. The Growth Policy has several goals that would be met by changing the zoning of the property from N2 to NO under the new Zone Ordinance. The issues that will be addressed are described below.

The proposed change will continue to provide the local neighborhood with services based on the NO zoning. The development plan is to extend the existing NO zoning for the Jones Dental Facility directly adjacent to the east so the older building and office can be demolished and a new larger facility can be built on the existing lots and lot affected by the zone change. The proposed change will result in a reduction in traffic by eliminating the existing residential house and consolidating lots for an improved dental facility to be rebuilt. This project will also serve to improve the quality of the neighborhood and values by removing an aged and deteriorating house and building and constructing a new, modern facility meeting the current zoning and building codes.

**B. Meets the 10 criteria for a zone change.**

1. Is the new zoning designed in accordance with the Growth Policy?
    a. The proposed change consolidates lots and buildings to allow for redevelopment of the area to help rejuvenate a portion of the Heights. The proposed zone changes aligns with allowing continued light commercial use along a busy arterial road. The NO zoning continues to provide neighborhood services to the area while bringing new construction into compliance with new zoning regulations and construction requirements.
2. Is the new zoning designed to secure from fire and other dangers?
    a. The new zoning requires minimum setbacks and landscaped areas with building separation. These zonings will provide adequate building separation and density limits to provide security from fire and other dangers.
3. Whether the new zoning will promote public health, public safety, and general welfare?
    a. Public health and safety will be promoted through the consolidation of the properties and new construction which in turn adds to the rate payer base for the City and increase property taxes revenue.
4. Will the new zoning facilitate the adequate provision of transportation, water, sewage, schools, parks and other public improvements?
    a. Transportation: The proposed zoning will reduce density and therefore reduce transportation impacts on the area through removal of the residential house and consolidation of the lots.
    b. Water and Sewer: The City currently provides water and sewer to the area through existing infrastructure.
    c. Schools and Parks: Neither should be impacted by the development as it proposes to reduce the density of residential houses in the area.
    d. Fire and Police: The area is served by the City public safety services.

5. Will the new zoning provide adequate light and air?
    a. The proposed new zoning and building regulations require setbacks for vertical construction that will provide for adequate separation between buildings.
6. Will the new zoning effect motorized and non-motorized transportation?
    a. Trip generation for the area will be reduced from the original zoning through elimination of the residential house and consolidation of the lots for a single building/facility. The proposed zoning should not have any negative impacts on the planned trip generation for this area.
7. Will the new zoning promote compatible urban growth?
    a. The proposed zoning will allow for redevelopment of an aged area of the community through consolidation of buildings into a new facility to help rejuvenate this part of the City.
8. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?
    a. The proposed zoning will eliminate an aging residential building and allow for consolidated use of the lots for a new facility following current zoning requirements, meeting the character of the district.
9. Will the new zoning conserve the value of buildings?
    a. The proposed zoning will eliminate an aging residential house and commercial building to allow for construction of a new commercial building and require construction to meet the new zoning standards which will add value to the area.
10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?
    a. The proposed zone changes encourages commercial use along Wicks Lane while still ensuring the new construction aligns with neighborhood style building and construction. This approach will be the most appropriate use of the property.

**C. Explain how the new zoning will fit in with the existing zoning and land uses of the immediate area.**

The proposed development plan is to remove the residential house on the subject property along with the existing Jones Dental facility adjacent to the east and consolidate them into one new office for Laighton Jones Dental. The NO zone will allow the property to be redeveloped into an attractive and appropriately sized facility that fit within the local neighborhood. The land surrounding the property east is stepped down commercial uses which align with the growth policy. The developer is requesting this zone change to align with the timeline of redevelopment of the property in 2022.

## Pre-Application Statement of Owner(s) or Agent(s)

The owner(s), contract purchasers (if any) and agents (if any) are required to submit this completed form and any attachments along with a completed zone change application packet, including any required fees, for a zone change to be processed by the Planning Division.

1. **Present Zoning**: N2 -Mid-Century Neighborhood

2. **Written description of the Zone Change Plan** including existing and proposed new zoning:

   Change from N2 Zoning to NO zoning

3. **Subject Property Map**: please attach to this form

4. **Legal Description of Property**:
   Lot 10, Block 1 of Arrowhead Subdivision
   Section 22, Township 01N, Range 26E

5. **Neighborhood Task Force Area**: Yes / No If Yes, Name of Task Force and mailing address of Chairperson:

6. **Roster of persons who attended the pre-application neighborhood meeting**: please attach to this form

7. **A copy of the meeting notice.** please attach to this form

8. **A brief synopsis of the meeting results including any written minutes or audio recording.** please attach to this form

9. **The undersigned affirm the following:**
   1) The pre-application neighborhood meeting was held on the 25 , day of August, 2021.
   2) The zone change application is based on materials presented at the meeting.

**Owner (s):** Laighton D. Jones, DMD Telephone: (406) 248-7868
Address: 502 Wicks Lane, Billings, MT 59105 Email:

**Agent (s):** Scott Aspenlieder - Performance Engineering Telephone: (406) 384- 0080
Address: 608 N 29th St. Billings, MT 59101 Email: scott@performance-ec.com

PERFORMANCE ENGINEERING
608 North 29th Street, • Billings, MT 59101 • (406) 384-0080

August 16, 2021

Dear Interested Neighbor,

On behalf of Laighton D. Jones, DMD, *Performance Engineering, LLC* is writing to inform you of a special review pre-application neighborhood meeting being held on **Wednesday, August 25th**, at **6:00 p.m.** Due to recent concerns surrounding public health and safety regarding COVID-19, **the special review neighborhood meeting will be held online via Zoom.**

**Please see the following information below for access the Zoom meeting:**

Go to the following Website: **zoom.us/join**
Meeting ID: **820 7938 5292**
Password (Case Sensitive): **6VSp9B**

The owner is requesting that the property shown on the attached exhibit (Exhibit 1) and described below be re-zoned to accommodate future development:

> **Arrowhead Subdivision, Section 22, Township 01 North, Range 26 East, Block 1, Lot 10, located in Billings, Montana. The parcel is a total of 0.288 Acres, more or less, located on the south side of Wicks Lane between Navajo Street and Main Street.**

The intent of the meeting is to make neighboring property owners aware of the proposed zoning change for the subject property, discuss the potential for redevelopment, and to answer questions about the project. The property is currently zoned as N2 – Mid-Century Neighborhood. The zoning proposal to be presented to the City of Billings will be to change the zoning of the land described above to NO – Neighborhood Office under the existing zone ordinance to accommodate future development. A total of 0.288 acres is included in the proposed zone change.

Representatives for *Performance Engineering, LLC* will be on the Zoom meeting to answer questions from those who attend. For those unable to attend the Zoom meeting, written letters can be directed to Performance Engineering at **608 North 29th Street, Billings, MT 59101**, attention Scott Aspenlieder, PE, or emails may be sent to scott@performance-ec.com. We look forward to discussing the proposed zoning change with you and hope to see you on **August 25th.**

Sincerely,

Scott Aspenlieder, PE
Principal

PERFORMANCE ENGINEERING
608 North 29th Street, • Billings, MT 59101 • (406) 384-0080

## Laighton Jones Dental – Zone Change Neighborhood Meeting Notes

The meeting began at 6:00 pm on August 25, 2021 via a virtual Zoom meeting. The meeting was hosted by Scott Aspenlieder (Performance Engineering).

No one attended the meeting therefore there were no comments or questions presented. No further questions or comments were received through email or phone on the project.

| SUBJECT PROPERTY | Zone Change # | DATE | FOR | APPROVED (Y/N) | ADDITIONAL DATA |
|---|---|---|---|---|---|
| 436 Wicks Lane | | | | | Pre Recode zoning |
| | | | | | |
| **SURROUNDING PROPERTY** | **Zone Change #** | **DATE** | **FOR** | **APPROVED (Y/N)** | **ADDITIONAL DATA** |
| Lt. 7, Blk3 Arrowhead Sub | **439** | 8/27/84 | R72 to HC | WD | |
| Lt. 14, Blk 2 Arrowhead | **456** | 1/29/85 | R72 to NC | N | |
| Lt. 14, Blk 2 Arrowhead | **467** | 5/6/85 | R72 to RP | Y | |
| Lt. 9-10, Blk 1 Arrowhead | **560** | 1/25/93 | NC to RP | Y | |
| L 27A, Blk1 | **567** | 7/12/93 | R70-HC | N | |
| 519 Crow Lane | **876** | 7/11/11 | R70-RMF-R | Y | |

City Council Regular

| | |
|---|---|
| **Date:** | 10/25/2021 |
| **Title:** | Zone Change 1001 - Text Amendment for Marijuana Businesses - Public Hearing and First Reading |
| **Presented by:** | Nicole Cromwell |
| **Department:** | Planning & Community Services |
| **Presentation:** | Yes |

## RECOMMENDATION

The Zoning Commission recommends the City Council approve the zoning text amendment for marijuana businesses, based on the proposed findings of the 10 review criteria and with several recommended amendments to the original draft including the following:

1) Reduce the required separation from dispensaries to protected uses from 1,000 feet to 600 feet for religious institutions, primary and secondary educational facilities and public parks that contain a children's playground or playfield. Do not include day care centers or youth centers in the list of protected uses for separation from a dispensary.
2) Reduce the required separation from dispensaries from 1,000 feet to 350 feet from residential neighborhood zoning districts.
3) Add the Corridor Mixed Use 1 (CMU1) and Corridor Mixed Use 2 (CMU2) zoning districts as districts where dispensaries will be allowed with the required separations.
4) Add language to the Use Standard sections 27-1005.R.1 to ensure there is no waiver allowed from the required separations for dispensaries.
5) Add language to the Use Standard section 27-1006.F.1 to ensure there is no waiver allowed from the required separations for cultivations, processing, manufacturing and transporters.

## BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

In November 2020, the ballot issue (I-190) was approved by the voters to allow "adult use" of marijuana on a state-wide basis. During the 2021 legislative session, the state adopted a bill - HB 701 - that amended the existing laws to accommodate this new marijuana use approved by the voters. The law explicitly allowed local jurisdictions to adopt more stringent local controls, including the allowance for counties where the ballot initiative did not pass, to adopt local prohibitions. Yellowstone County and the City of Billings both passed the 2020 ballot initiative.

Prior to November 2020, medical use marijuana was allowed by the state. This was approved by another ballot initiative in November 2004. Billings did not adopt any local land use controls for medical use marijuana businesses after the passage of the 2004 initiative. The number of registered patients and caregivers was low until late 2009 when the U.S. Justice Dept. issued a directive to US Marshals and US Attorneys that marijuana possession and use should not be prosecuted in states that permit the use of medical marijuana and as long as individuals comply with those laws. Soon thereafter, Council members began receiving constituent contacts, expressing concerns about medical marijuana businesses being established across the city. The Medical Marijuana Act did not specify if or how cities could regulate these businesses but the most common approach taken by other Montana cities at the time was to establish zoning rules that limited the impacts these businesses may have had on their surroundings.

In February 2010, the Council created the Medical Marijuana Ad-Hoc Committee to develop proposals for how the City should zone for these businesses. Subsequently, more than 100 new medical use marijuana dispensaries opened within the city limits. Locations included commercial areas as well as temporary buildings in parking lots and home occupations. The city adopted an emergency moratorium in May 2010 to stop the rush by medical use providers to continue opening businesses within the city limits. At the same time, the state legislature was considering regulations and laws to better guide the medical use marijuana industry. The Ad Hoc Committee reviewed and considered several iterations of zoning regulations for medical use marijuana dispensaries. These draft regulations are very similar to the proposed zoning regulations for this text amendment and included required separation distances, limitation on zone districts where the businesses could location and considerations for sign code regulations. Ultimately, the state legislature took up the issue, and passed a new law in 2011 (SB 423) that limited medical marijuana dispensaries and providers in a strict manner. In Billings, this resulted in dropping zoning regulations and adopting two sections on Medical Marijuana for business regulations - Section 7-1700, Medical Marijuana Storefronts and Section 13-432, Business Licensing. These two ordinances are still active in the city codes.

Medical Marijuana providers and dispensary owners sued the state over certain provisions in the 2011 law and

prevailed on most issues in late 2015 and early 2016. These court decisions set in motion additional activity on the local level to ensure the previously adopted business licensing ordinances were in compliance as well as refining and adopting zoning regulations for medical marijuana dispensaries. In 2017, the City Council initiated these amendments to the city code. Prior to first reading by the City Council in September 2017, Montana Advanced Caregivers (M.A.C.) filed suit and was granted a restraining order by the District Court to halt the adoption of those regulations and to stop any enforcement of the existing city regulations against M.A.C. This lawsuit is on-going.

The passage of I-190 and the adoption of HB 701 has prompted the City to again examine and propose regulations that will now apply to both Adult Use and Medical Use marijuana businesses. The zoning regulations proposed are similar to the regulations proposed in 2010 and 2011 but were not adopted. The proposed regulations address concerns with public health, safety and welfare as a primary basis for the regulations. The regulations separate the different types of marijuana businesses and allow them in particular zone districts. These are generally zones that are not close to neighborhoods such as Heavy Commercial (CX), Light Industrial (I1) and Heavy Industrial (I2). In addition, staff drafted a minimum separation distance to residential zones, schools, public parks with playgrounds, religious institutions, day care centers and youth centers of at least 1,000 feet. One thousand feet is thought to be protective of those uses that are closer to the three zone districts. The separation requirement will apply to dispensaries, cultivators, processors and manufacturers but not from testing laboratories or transporters. Currently, the marijuana businesses throughout Montana are "vertically" integrated so most dispensaries are also cultivation, processing and manufacturing marijuana edibles. Currently, transportation of marijuana is generally limited by dispensaries that provide delivery to cardholders for medical use. In the future, transportation may become a viable "stand alone" service business for marijuana businesses.

The proposed draft the Zoning Commission reviewed also required a minimum setback of 150 feet from an arterial street for any new dispensary - Adult Use or Combined Use. This setback would not apply to Medical Use Dispensaries. There was a concern the zone districts and the required separation distance could concentrate these businesses along major transportation corridors that serve as entryways to the city. Requiring a minimum setback from these entryways will diminish the concentration effect of these separation distances.

City legal staff is assisting the Marijuana Regulation Committee (includes the Mayor, City Council Members, and City staff) to draft new business license regulations for marijuana dispensaries and related businesses. Part of this discussion includes research into the experience of similar communities in other states with similar marijuana laws and peer-reviewed journals and professional articles on the effect of marijuana businesses in the community and in law enforcement. This background and basis information is attached to this report. The City Council is considering a lottery system to award business licenses for marijuana dispensaries and a cap on the number of dispensaries within the city limits.

The state of Montana currently lists 29 licensed dispensaries within Yellowstone County and two of those are within the city limits. Only one of those two locations is in "good standing" with the city - M.A.C. The other location on Grand Avenue does not have a city business license and is not considered in good standing with the city at this time. On January 1, 2022, the state will allow any existing medical use dispensaries in good standing with the local government to start selling adult use marijuana to consumers 21 years of age and over.

Planning staff received some comment from city agencies in particular the Fire Department. There is a concern that manufacturing - distilling, and extraction - of oils and other botanical but volatile elements from marijuana is not adequately regulated by the adopted 2012 Fire Code (IFC) in Montana or in the city. The Fire Marshal would like to insert language that ensures any manufacturing that involves distillation of cannabis oil to comply with Chapter 39 of the 2021 IFC (or later edition) as the case may be. The city must wait for the state to adopt a new Fire Code to adopt the entire new IFC for the city. This reference to the 2021 IFC Chapter 39 would pre-date the formal adoption by the state and city, but the Fire Marshal believes it is essential to protection of public health and safety. The extraction process for cannabis oil is hazardous and the newer Fire Codes will help minimize these hazards for this new business type. Inclusion of this language is being considered for the City's marijuana business licensing process and may also be helpful to reference in the new zoning code as we do for other codes that must be followed when developing property in the City.

Planning staff worked with city Geographic Information Systems (GIS) staff to provide maps that depict generally where marijuana dispensaries, cultivators and processing facilities might locate based on the proposed regulations. These maps are only general and cannot with absolute certainty show whether a particular property will or will not meet he proposed regulations for separations or setbacks. Most of the area that will be open for these businesses will be along the I-90 interstate corridor where most of the CX, I1 and I2 zoning is located. The separation distances will be measured in the same way separations for bars and casinos are measured - from the exterior of the building where the marijuana business is located to the property line of the protected use. Since we don't know where new businesses will locate yet, the maps show a property line to zone district buffer. The original maps are attached to this report. Based on the Zoning Commission recommendations to amend the draft ordinance, new maps have been

generated. These are also attached to this report. The maps for processors/cultivators and manufacturers will essential be the same as the original maps. The maps for potential dispensary locations will show the two additional zone districts with adjusted buffer distances from religious facilities, schools, parks with playgrounds and from residential neighborhood zones.

The draft regulations presented to the Zoning Commission also prohibited marijuana businesses of any type as a Home Occupation and required the business to provide documentation a proposed sign meets the state regulations when submitted for city permitting.

## STAKEHOLDERS

The Planning staff sent the draft regulations out to Neil Kiner, owner of the Green Bee, a medical use dispensary outside the city limits. In addition, Planning staff sent the draft regulations to the Montana Cannabis Guild, published the draft on the City Webpage (https://www.billingsmt.gov/2361/Current-Zoning-Applications) and published a legal advertisement as required by Section 27-1628 of the BMCC.

Text amendments are processed in the same manner as zoning map amendments and require legal notification and a review of the 10 criteria for zone changes. Planning staff received comment from Mr. Kiner in writing and from Mr. Kiner in person at the Zoning Commission public hearing. The Billings Industrial Revitalization District (B.I.R.D.) board relayed to the Planning staff they were not interested in opening any of the EBURD districts for marijuana businesses. Several marijuana business owners have been attending the City Council work sessions on this topic, but none have provided comment to the Planning staff on these draft regulations except for Mr. Kiner.

City Administration also hosted a public information/listening session at the Library Community Room on October 13 where about 30 members of the public attended. The session allowed City staff to provide information on the proposed zoning regulations and business license regulations and allow for questions and answers and discussion with the public in a more informal session. City staff and the attendees found the session to be helpful and informative for this regulatory process.

The Zoning Commission conducted a public hearing on October 5, 2021, and received the staff recommendation for approval. In addition, Mr. Neil Kiner provided written and spoken testimony to allow dispensaries in more zoning districts and generally allow more flexibility in the proposed regulations. Mr. Ming Cabrera who is member of the Heights Task Force, a business owner in the Heights and serves on the Billings Heights Water District Board, provided testimony in favor of expanding the number of zone districts where dispensaries might be allowed and reducing the required separations for those dispensaries. He stated the potential impact to the neighborhoods adjoining the business property on Main Street will be much less than they currently experience with bars and casinos. He pointed out bars and casinos can be much closer to neighborhoods and many were there before those required separations were in place. He stated there are many places on Main Street that are struggling to find retail or commercial tenants and these spaces are smaller and are more likely to be the right size for a local business owner who is selling a specialty product like marijuana. Mr. Cabrera stated his most reliable tenant right now is a glassware maker who has been there for four years. He stated his tenant was hoping to add to his entrepreneurship by selling adult use marijuana. He stated the proposed regulation as illustrated on the map would make this impossible. Mr. Cabrera also stated with over 30,000 people living in Billings Heights a few acres way north of the Bull Mountain Grill on Main Street that would allow marijuana businesses, will not adequately serve this population. There was no other public testimony.

Commission member Trina White stated she was concerned the regulations are too strict for dispensaries as compared to the zone districts where these uses would be allowed. She was concerned the retail aspect of the use would not fit in well with the heavy commercial warehousing and manufacturing in the CX, I1 and I2 zone districts. She stated a dispensary use is not a heavy commercial use and would not fit well with contractor yards and warehouses. She stated the zoning map made it really clear the proposed zoning regulations are too strict and will concentrate the dispensaries in just a few relatively inaccessible areas of Billings.

Commission member Dan Brooks was very concerned the concentration of these uses would have on neighborhoods. He believes this would have disparate impact on low income neighborhoods. Mr. Brooks shared a map he created that showed the residential neighborhoods most impacted surrounding the allowed areas on the zoning map in the CX, I1 and I2 districts. He stated these were all low income neighborhoods in southwest, south central and southeast Billings. He understands there is case study information that shows residents in neighborhoods within .8 miles of adult use dispensaries are more likely to use marijuana than other neighborhoods farther away. He also stated isolating the retail dispensaries in industrial areas would create more opportunity for targeted crime at these locations. He stated these businesses are prime targets for robbery since they deal in cash and have marijuana stocked in the business. If the dispensaries are in areas with more "eyes on the street" like our mixed use zones with similar retail activity, it reduces the ability for crime to occur without someone noticing or preventing the crime from occurring.

Commission member Trina White offered a motion to amend the draft regulations to reduce the required separation distances for dispensaries from 1,000 feet to 600 feet and only apply the separation distances to churches, parks with playgrounds and schools, and to reduce the separation distance from 1,000 feet to 350 feet to residential neighborhood zones. The motion was seconded by Commission member Dan Brooks. Assistant City Attorney Karen Tracy provided information to the Zoning Commission on the number of adult use dispensaries in similar communities such as Pueblo Colorado. She stated it is not likely that Billings would need to accommodate a lot of new dispensaries based on its population and on the fact the City Council is considering capping the number of dispensaries allowed within the city limits. Planning staff also pointed out the proximity of medical use dispensaries that are right at the edge of the city limits and these locations will be allowed to start selling adult use marijuana on January 1, 2022, regardless of the rules adopted by the city. Commission member Trina White stated the reduction in separation is meant to recognize the differences between a place to purchase marijuana and a place that grows, processes or manufactures marijuana products. The uses are different and should have different separations. The Commission voted 3-0 to recommend the amendment to the draft regulations.

Planning staff requested the Zoning Commission formally vote to add the "no waiver" language to the draft ordinance. Planning staff explained this was inadvertently left out but was meant to be part of the proposed ordinance. Commission member Trina White made the motion to include the "no waiver" language for the separation distances and this was seconded by Commission member Dan Brooks. The Commission voted 3-0 to approve the amendment to the draft regulations.

Zoning Commission member Dan Brooks made a motion to include the Corridor Mixed Use zones (CMU1 & CMU2) as districts where dispensaries could be allowed with the required separations. The motion was seconded by Commission member Trina White. Mr. Brooks stated his motion is intended to eliminate the discriminatory effect of the proposed regulations will have on low income neighborhoods. He also stated keeping dispensaries isolated to just a few heavy commercial or industrial zones would increase the potential for crime at these locations. He stated the principles of Crime Prevention through Environmental Design (CPTED) have shown there is more natural surveillance of locations that are in walkable commercial areas than in isolated industrial areas. Natural surveillance by people in the area reduces the desirability of a target by increasing the potential for a crime to be detected by people in the area. Commission member Trina White agreed that increasing the number of districts where dispensaries could be located would really help lower the potential for crime but also make it more accessible and safer for customers. Planning staff pointed out to the Commission the arterial street setback requirement combined with the 600-foot and 350-foot separation distances may make many areas of CMU1 and CMU2 zoned properties out of reach for marijuana dispensaries. Planning staff stated they would need to work with City GIS staff to create a new set of maps for dispensaries based on the recommended changes. Vice Chair Greg McCall stated he was torn about this proposed expansion since he is a developer of new neighborhoods that are close to CMU zone districts. He agreed there are potential benefits to expanding the allowed zone districts but did not believe the CMU1 was appropriate to include in the amendment. The Zoning Commission voted 2-1 in favor of the amendment with Vice Chair McCall voting against the motion.

Commission member Trina White moved to forward a recommendation of approval of the draft ordinance, along with the recommended amendments of the Zoning Commission, to the City Council and to adopt the findings of the 10 review criteria. The motion was seconded by Commission member Dan Brooks. The motion was approved on a 3-0 vote.

## ALTERNATIVES

The City Council may:

- Adopt the findings of the 10 review criteria and approve the text amendment as recommended by the City Zoning Commission; or,
- Adopt the findings of the 10 review criteria and approve the text amendment with changes; or
- Adopt different findings of the 10 review criteria and deny the draft text amendment. Not adopting any zoning regulations could result in the City not having any land use regulations for marijuana businesses in place by January1, 2022 when the new state laws allowing adult use marijuana businesses take effect.

## FISCAL EFFECTS

A recommendation of approval or denial will not have any immediate measurable effect on the Planning Division budget. However, there is an expectation that multiple City Departments will be financially impacted by the sale of marijuana in the City in the future. Potential tax mechanisms being voted on in the November 2, 2021 election and local licensing fees proposed in the marijuana licensing regulations are expected to help offset some of these finacial impacts.

## SUMMARY

The City Council shall consider, among other things, the following findings as recommended by the Zoning Commission:

1. Is the new zoning designed in accordance with the Growth Policy?

The proposed amendment is consistent with 2016 Growth Policy.
Essential Investments:

- Infill development and development near existing City infrastructure may be the most cost-effective.
- Neighborhoods that are safe and attractive and provide essential services are much desired.

Strong Neighborhoods:

- Neighborhoods that are safe and attractive and provide essential services are much desired.
- Zoning and subdivision regulations that utilize Crime Prevention Through Environmental Design (CPTED) strategies result in safer neighborhoods.

Community Fabric:

- Attractive street scapes provide a pleasant and calming travel experience in urban and suburban neighborhoods.

Home Base:

- Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe.

Prosperity:

- A diversity of available jobs can ensure a strong Billings' economy.
- Successful businesses that provide local jobs benefit the community.
- Community investments that attract and retain a strong, skilled and diverse workforce also attracts businesses.

The proposed amendment allows a new type of business within the city limits. The Zoning Commission amendments to the proposed draft ordinance are supported by the 2016 Growth Policy by allowing similar business activity (retail) in more zone districts and recognizing retail sales in an industrial area is inherently not as safe as retail activity in a mixed use zone. New businesses can create unpredictable effects within an existing community. The proposed regulations are intended to prevent some predictable consequences of allowing a business that is still considered illegal in many states. It is likely there will be a high demand for this product due to the regional nature of the Billings retail market and due to the fact the states adjacent to eastern Montana have not legalized marijuana. Colorado is the closest state to Montana where both medical use and adult use marijuana is legal. Expansion from medical use to adult use marijuana will increase demand generally. Allowing marijuana cultivation and processing businesses in areas where similar types of business already exist in the CX, I1 and I2 zone districts will make these uses predictable in those areas. Allowing dispensaries - a retail activity - in additional zone districts of CMU1 and CMU2 with separation distances will allow this to be compatible with similar commercial and retail businesses.

Expanding the types of districts for dispensaries to Mixed Use districts as recommended by the Zoning Commission would allow dispensaries to be closer to neighborhoods, schools, public parks and religious facilities where protection from odors and noise is a primary concern and businesses with high security demands may not compatible. Dispensaries, as compared to cultivations, processing and manufacturing, do not create odors, noise, or have security issues that are not also present for other retailers such as convenience stores, gas stations, bars, restaurants, or casinos. The Zoning Commission left in place the required separation distance of 1,000 feet for cultivations, processors and manufacturing businesses and limited these uses to the three zone districts of CX, I1 & I2. The Zoning Commission recommends that dispensaries only be allowed in two additional zone districts where this use will fit in and will be a safer location for retail activity than isolated industrial districts. A dispensary in the CMU1 or CMU2 zone could not also be a cultivation operation or have a processing/manufacturing activity combined with the retail business. Those business models would still be restricted to the CX, I1 and I2 zone district and have the 1,000-foot separation distances. The regulations require an arterial setback for adult use or combined use dispensaries so the separation requirements and the district limitations do not combine to create a cannabis corridor along entryways to the city.

2. Is the new zoning designed to secure from fire and other dangers?
The new zoning may increase the danger from fire for new manufacturing and processing facilities that extract

cannabis oil. The Fire Marshal has suggested insertion of language to require compliance with Chapter 39 of the 2021 IFC that is not yet in effect in Montana. In general, the proposed zone districts for this use is in proximity to similar uses and will not be close to neighborhoods, public parks or schools where danger from fire or explosion is a higher risk.

3. Whether the new zoning will promote public health, public safety and general welfare?
The proposed regulations limit the effect of locating these businesses within the city limits by providing separation distances for cultivation, processing and manufacturing businesses from sensitive uses and limiting the businesses to compatible zone districts such as CX, I1 and I2. Marijuana dispensaries will be allowed within two additional mixed use zones (CMU1 and CMU2) where retail uses are normally allowed although a separation distance of 600 feet from religious facilities, schools and parks with playgrounds will be required and a 350-foot separation from residential neighborhood zones will be in place. These two separation distances for dispensaries are identical to the casino separation distances put in place in February 2021. No waiver or reduction of the separation distances will be allowed.

4. Will the new zoning facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements?
Transportation: It is not known whether the number of businesses within the proposed three and five zone districts will affect the overall transportation system. In some jurisdictions, high security transportation of marijuana was required. If Billings becomes a regional cultivation, processing or manufacturing center for Montana, evaluation of local transportation will be needed on a site by site basis through a Traffic Impact Analysis by the proposed business.

Water and Sewer: This text amendment affects properties within the City of Billings which are served by city water and sewer. Cultivation and processing will increase demand on water and waste water services, but the system is expected to provide those services.

Schools and Parks: Schools should not be significantly affected by the proposed zoning. The draft regulations propose a 1,000-foot separation from cultivation, processing and manufacturing to school facilities (primary and secondary, public or private) and public parks with playgrounds or playing fields. For dispensaries, the separation distance is 600 feet to school facilities (primary and secondary, public or private) and public parks with playgrounds or playing fields. No waiver is allowed from these separation distances. This should help protect these two sensitive land uses.

Fire and Police: The zone districts within the City of Billings will be served by City Fire and Police Departments. The Fire Marshal's concern with cannabis oil production is noted above in criteria 2. It is likely dispensaries will employ complicated security systems for their locations. The Police and Fire Departments will be involved in reviewing licenses and building permits for any new locations.

5. Will the new zoning provide adequate light and air?
Not applicable.

6. Will the new zoning effect motorized and non-motorized transportation?
The proposed zoning may have unknown impacts on the transportation network. Individual business may need to provide traffic impact reports when establishing a new location.

7. Will the new zoning will promote compatible urban growth?
The zoning amendment promotes compatible urban growth in the areas of the City that are zoned CX, I1 and I2 and for dispensaries in the CMU1 and CMU2 zones. The intended uses are not an intrusion to these zone districts and the proposed separation requirements will provide buffering to any sensitive land uses.

8. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?
The zoning amendment considers the character of the CX, I1 and I2 districts and the suitability of the property for the proposed uses for cultivation, processing, manufacturing and transportation. The two additional districts for dispensaries only will allow a similar use to existing retail in those districts. Testing Laboratories will be allowed in additional zone districts - Downtown Support (DX) and Central Business District (CBD) since no sales or production of marijuana would occur at these facilities. DX and CBD allow all other research and testing laboratories.

9. Will the new zoning conserve the value of buildings?
Not applicable

10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?
The proposed zoning may encourage the most appropriate use of some CX, I1 and I2 zoned areas as well as the

CMU1, CMU2 districts for dispensaries and the CBD and DX zones for testing laboratories in Billings.

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**Attachments**

Ordinance as recommended by the Zoning Commission Oct 5 2021
APA Journal Article Winter 2021
American Journal of Public Health Retail Marijuana Access
Cannabis in Medicine - collection of journal articles
Letter of Comment Neil Kiner to City Council
Public Health Article on CO and WA marijuana access
Crash Fatality Rate Study 2017
Journal of Criminal Justice on mairjuana legalization 2021
AHA - Marijuana smoke impact on heart health
NIDA marijuana research report
RMHIDTA Marijuana Report Sept 2021
APA Zoning Practice Marijuana Aug 2016
Neil Kiner Green Bee comment Oct 5 2021
Original Map prior to Zoning Comm hearing
Mike Dayton - owner in EBURD
Map of Potential Locations for Cultivation Processing and Manufacturing
Map of Potential Locations for Dispensaries

**ORDINANCE NO. 21-_____**

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 as designated with a letter "PR" in the Heavy Commercial (CX), **Corridor Mixed Use 1 (CMU1), Corridor Mixed Use 2 (CMU2),** Light Industrial (I1) and Heavy Industrial (I2) zone districts

The amended table shall read as follows:

C. *Table 27-1000.1 Billings Primary Use Table.*

| Table 27-1000.1: Permitted Primary Uses | Residential | | | | | | | Mixed-Use and Commercial | | | | | | | Indust. | | EBURD | | | | | Public | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 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 | IS | P1 | P2 | P3Civ | P3 Ed | P3 Med | Additional Standards |
| Retail Sales | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Agricultural | | | | | | | | | | | | | | P | P | | | | P | P | P | | | | | | |
| Commercial Greenhouse/Nursery | | | | | | | | | SR | P | P | | | P | P | | P | P | P | P | P | | | | | | |
| Liquor Sales | | | | | | | | | P | P | P | P | P | P | P | | P | P | P | P | P | | | | | | |
| Retail, Limited with drive-thru | | | | | | | | | SR | P | P | | | P | | | | P | P | P | P | | | | | | 27-1009 |
| without drive-thru | | | | | | | | | P | P | P | P | P | P | | | P | P | P | P | P | | | P | P | P | |
| Retail, General with drive-thru | | | | | | | | | SR | P | P | | | P | | | | P | P | P | P | | | | | | 27-1009 |
| without drive-thru | | | | | | | | | | PR | P | P | P | P | | | P | P | P | P | | | | | | | |
| Retail, Large-Format | | | | | | | | | | | P | | | P | | | | P | P | P | P | | | | | | |
| Marijuana Dispensary – Medical Use | | | | | | | | | | PR | PR | | | PR | PR | PR | | | | | | | | | | | 27-1005 |
| Marijuana Dispensary – Adult Use | | | | | | | | | | PR | PR | | | PR | PR | PR | | | | | | | | | | | 27-1005 |
| Marijuana Dispensary – Combined Use | | | | | | | | | | PR | PR | | | PR | PR | PR | | | | | | | | | | | 27-1005 |

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

Marijuana Testing Laboratory

Allow this use as designated with a letter "P" in the Downtown Support (DX), Central Business District (CBD), 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 | Residential | | | | | | | Mixed-Use and Commercial | | | | | | | Indust. | | EBURD | | | | | Public | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 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 | IS | P1 | P2 | P3Civ | P3 Ed | P3 Med | Additional Standards |
| Office | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Business or Professional | | | | | | | | P | P | P | P | P | P | P | | | P | P | P | P | P | | | P | P | P | |
| Research and Testing Laboratories | | | | | | | | | | | SR | P | P | P | P | P | | | P | | P | | | P | P | P | |
| Marijuana Testing Laboratory | | | | | | | | | | | | P | P | P | P | P | | | | | | | | | | | 27-1006 |

Add the following uses to the Primary Use Table (Table 27-1000/.1) under the INDUSTRIAL, WHOLESALE 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 | Residential | | | | | | | Mixed-Use and Commercial | | | | | | | Indust. | | EBURD | | | | | Public | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 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 | IS | P1 | P2 | P3Civ | P3 Ed | P3 Med | Additional Standards |
| Manufacturing, Assembly, or Processing | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Artisan/Craft | | | | | | | | | PL | PL | PL | P | P | P | P | P | PR PL | PR PL | PR PL | PR PL | PR PL | | | | | | 27-1006 |
| Limited - Special Order | | | | | | | | | | | | P | P | P | P | P | | | P | P | P | | | | | | |
| General | | | | | | | | | | | | | | P | P | P | | | P | P | P | | | | | | |
| Heavy | | | | | | | | | | | | | | | SR | P | | | | | PR | | | | | | 27-1006 |
| Marijuana Cultivation (Indoor Only) | | | | | | | | | | | | | | PR | PR | PR | | | | | | | | | | | 27-1006 |
| Marijuana Processing/Manufacturing | | | | | | | | | | | | | | PR | PR | PR | | | | | | | | | | | 27-1006 |



@BCL@E820939F

Add the following uses to the Primary Use Table (Table 27-1000/.1) under the INDUSTRIAL, WHOLESALE 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:

| Table 27-1000.1: Permitted Primary Uses | Residential | | | | | | | Mixed-Use and Commercial | | | | | | | Indust. | | EBURD | | | | | Public | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 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 | IS | P1 | P2 | P3Civ | P3 Ed | P3 Med | Additional Standards |
| Warehousing and Storage Services | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Outdoor Storage | | | | | | | | | | | | | | PR | P | P | | P | P | P | P | | | | | | 27-1006 |
| Personal Self-Service Storage | | | | | | | | | | PR PL | PR PL | PR | | P | P | P | | PR | PR | PR | PR | | | | | | 27-1006 |
| Trucking and Transportation Service | | | | | | | | | | | | | | P | P | P | | | P | | P | | | | | | |
| Warehouse | | | | | | | | | | | | | | P | P | P | | PL | PL | PL | PL | | | | | | 27-1006 |
| Marijuana Transportation and Temporary Storage | | | | | | | | | | | | | | P | P | P | | | | | | | | | | | 27-1006 |
| Wholesale and Distribution (general) | | | | | | | | | | | | | | P | P | P | | P | P | P | P | | | | | | |
| Agricultural Products | | | | | | | | | | | | | | P | P | P | | P | P | P | P | | | | | | |
| Chemical Products | | | | | | | | | | | | | | | SR | P | | | | | | | | | | | |
| Petroleum Products | | | | | | | | | | | | | | | | P | | | | | | | | | | | |

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~~ 600 feet from religious institutions, primary and secondary educational facilities, public parks that contain a children's playground or playfield, ~~day care centers, youth centers~~, and 350 feet from 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:
……

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 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):

……

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.M to add the following language:

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 _____, 2021

PASSED, ADOPTED AND APPROVED on second reading _____, 2021.

CITY OF BILLINGS:

BY:_____
William A. Cole, Mayor

ATTEST:

BY: Denise Bohlman, City Clerk

Marijuana Zoning Regulations

# Greenlighting Cannabis — What Every Planning Department Needs to Know

**Momentum for cannabis legalization is growing nationwide. For communities in states that might be next, the best time to start preparing is now.**



In Denver, cannabis production facilities, including the warehouse pictured above, are only allowed in areas zoned for industrial land use. Photo by David Kidd/Governing

*By Daniel C. Vock*

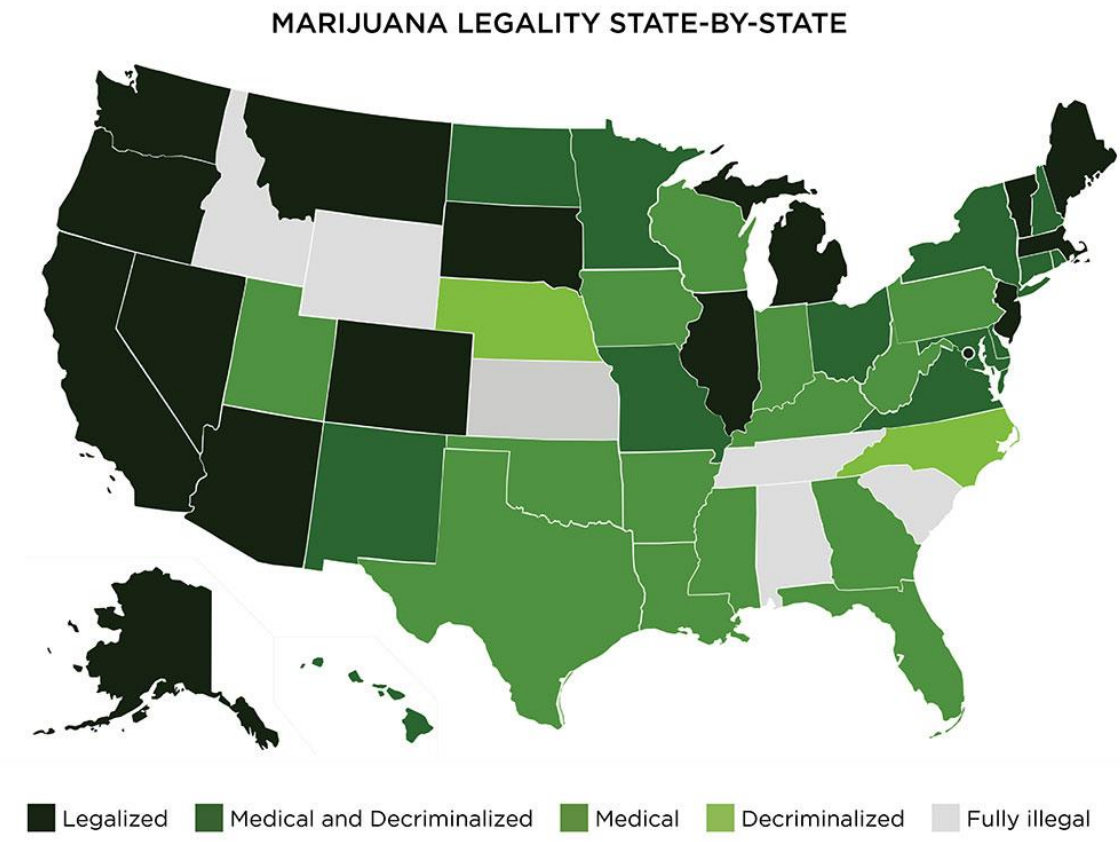
The heart of Denver's legal-cannabis production is in dozens of unmarked warehouses, ringed with barbed wire and security cameras, and located amid factories, railyards, construction rental lots, and other industrial buildings. Sometimes these pot-producing facilities sit quite near, and in some cases across the street from, rows of modest single-family houses in predominantly Black and Hispanic neighborhoods.

The reason? Denver recreational cannabis regulations limit cultivation facilities to areas that are already zoned for industrial use. That essentially pushes all the growing activity into a few areas of town — and neighborhoods. The highest concentration of cannabis growing facilities in Denver, for example, is in the predominantly Hispanic neighborhood of Elyria-Swansea on the

north side of the city. Its streets are choked with semi-trucks making their way to and from a hulking viaduct carrying Interstate 70, a highway the state is now expanding.

"We basically let marijuana come into Denver without really having a good plan of how to regulate it," said Candi CdeBaca, a city council member from Elyria-Swansea who can see four cannabis growing facilities from her house. There were 54 cultivation facilities in that neighborhood and 43 in neighboring Northeast Park Hill, a majority Black neighborhood, according to a 2016 analysis by the *Denver Post*. The city's approach to regulating land use for cannabis operations has led to many hard-to-solve problems for neighborhoods like Elyria-Swansea — and could serve as a cautionary tale for planners in other states that could soon legalize the recreational use of cannabis.

Nationwide momentum for legalization is growing. In 2014, Colorado was one of the first two states to start allowing pot sales, but just last November, five states passed ballot measures to legalize recreational cannabis — including Montana and South Dakota — two largely rural states on a list otherwise dominated by states with large urban centers. All told, 15 states and the District of Columbia have approved legalizing recreational cannabis. As of this writing, Virgina was poised to become the 16th. Both chambers have passed bills to legalize cannabis, but they have to reconcile their differences before it can become law.



Recreational cannabis is currently legal in 15 states. Cannabis is only fully illegal in a total of six states; all others have decriminalized it, allow it for medical use, or have legalized it entirely. Source: Disa Global Solutions, Inc. Data as of January 2021.

Many other states have decriminalized the drug or authorized its use for medical purposes. Democratic governors in states such as Connecticut, Kansas, Pennsylvania, and Wisconsin are pushing for legalization in their states, too. Meanwhile, in December — for the first time ever — the U.S. House of Representatives passed a cannabis legalization bill. Now that Democrats control both chambers of Congress and the White House, the prospects of similar proposals becoming law has increased, but is by no means certain.

With that kind of trajectory, policy experts say communities everywhere should be thinking about and planning for the eventuality of legalized recreational cannabis. Fortunately, they can look to local jurisdictions in states that have gone before them for lessons on what works — and what doesn't.

**Regulatory roulette**

From the land-use side, each state has handled the transition differently, giving municipalities different powers to control the placement of the new facilities. Some, like California, allow cities to ban the facilities outright. Others have curbed the powers of local governments, to make sure the new industry is allowed to thrive.

Alan Weinstein, a law professor at Cleveland State University who specializes in land use, says cannabis facilities raise some of the same land-use questions as drug stores or liquor stores.

But there are unique aspects to the cannabis industry as well. One of the biggest is that nobody worries about the crops — like grains or potatoes — that produce alcoholic beverages, but people do have concerns about how and where cannabis plants are cultivated. The fact that cannabis is still illegal at the federal level also means that retail facilities that sell cannabis products by and large cannot use credit cards or anything tied with traditional banks, so they operate almost entirely in cash. While there is little evidence that pot dispensaries have higher crime rates than other types of retail establishments, many localities have required them to install more security features, such as fences and cameras, to prevent crime in the area.

Overall, though, Weinstein says the owners of cannabis businesses are willing to agree to many conditions about where they can locate and what features their facilities must have. That's because many are trying to get a toehold in places where the industry is not already established. They will compete for the ability to set up a medical dispensary knowing that companies that have licenses for medical cannabis are often first in line when a state expands to allow recreational use.

"They're willing to go along with pretty much anything, as long as it isn't going to sort of drive them totally out of business or make it unreasonably impractical to operate," Weinstein says.

**At the ready**

On the other hand, local planners in places where recreational cannabis is coming need to prepare for a big surge in applications. Planning departments need to be ready to accept, review, and process applications. They need to develop a way to renew and transfer licenses. They need to write their requirements for the building, set up inspection teams, prepare for hearings, and consider what local fees and taxes they can implement.

"The local government has to be prepared to take on a whole new regulatory regime," Weinstein warns. "And yes, you can use the new [tax and fee] dollars to help offset the costs of the administration, but the costs are going to lead the revenue."

Corinne Celko, a land-use attorney for Emerge Law Group in Portland, Oregon, says the spread of the cannabis industry presents a unique challenge for planners and localities.

"If I went on *Shark Tank* today because I had invented a gadget and it was successful, and I wanted to go ahead and sell the gadget and make more of the gadget, it would just fit within local jurisdictions' existing development codes and their use categories," she says. "This is the first time in my career where many local jurisdictions treated cannabis as a completely, totally new use."

Not every jurisdiction has taken that approach, but those that do want to create whole new use categories need to understand how the cannabis industry actually works.



There are 54 cannabis production facilities in the Elyria-Swansea, a primarily Hispanic neighborhood of Denver. Most are unmarked warehouses, ringed with fencing and security cameras, some just across the street from residential homes. Photo by David Kidd/Governing.

For example, if a local government wanted to zone an area for agricultural use to grow cannabis, officials and planners should anticipate warehouses and greenhouses, not fields of row crops. That might make it a better fit for industrial zones in addition to farming areas. One locality where Celko was working wanted to allow the manufacture of cannabis edibles and topicals, but it wanted to prohibit extract processing. Celko had to explain to the planning director that banning extract processing would effectively ban companies from making edibles. "Nobody wants to pick out pieces of grass from their teeth," she says.

But — apart from use designation — planners do have plenty of tools to ensure a smooth rollout, Celko notes. For example, they can work on restrictions on how and when properties are used, such as "dark sky" rules to reduce light pollution in rural areas or odor control regulations that require filtering systems.

Local officials should also be willing to revise policies that aren't working how they intended. One Oregon county, for example, wanted to block cannabis farms from being located near "youth activity centers." But the county did not define what that meant and did not amend the code to provide more clarity. Instead, the Deschutes County Board of Commissioners fought the applicant — one of Celko's clients, a grower — and lost at the Oregon Land Use Board of Appeals and at the Oregon Court of Appeals.

In California, attorney Joanna Hossack says, the rollout of recreational cannabis has been slowed by municipalities that chose not to allow cannabis businesses within their borders. Meanwhile, many business licenses have stalled in cities with long approval processes, especially ones that involve public hearings rather than just administrative decisions, she says. And state environmental reviews have taken longer than expected.

There have been bright spots in the rollout, Hossack notes. San Francisco has done a good job helping stores open quickly, and, across the bay, Oakland has helped businesses get licensed quickly, even as it dedicates half of its licenses for equity applicants who have either lived in certain parts of the city or been convicted of a cannabis-related crime in Oakland.

But across the state, 70 percent of municipalities have opted not to license cannabis businesses, creating large "dry pockets" outside of urban areas like Los Angeles County and the Bay Area, she says. That means even patients who use medical cannabis in those areas now have to drive long stretches to find cannabis products. "That is a shame," Hossack says. "Given that California is a leader, you would think we would have more cities that are online.... Prohibiting it isn't reaching the goals people want, and prohibition doesn't work."

One key for successfully introducing a recreational cannabis facility in Evanston, Illinois, says Johanna Nyden, the city's community development director, was educating the general public about the changes that were afoot. Residents had many worries about the implications of legalizing recreational cannabis, such as whether it would lead to an increase in crime or long lines outside the downtown dispensary that would go from selling medical cannabis to selling recreational cannabis. (Neither of those things happened.) City officials tried to share information before rumors could take hold, Nyden says, and many of the state lawmakers from

the area who authored Illinois's recreational cannabis law appeared at community events to answer questions.

"As planners, we are often focused on the zoning and entitlement process, but we often miss the parts that result in the knee-jerk reactions," says Johanna Nyden, community development director in Evanston, Illinois.

"As planners, we are often focused on the zoning and entitlement process, but we often miss the parts that result in the knee-jerk reactions," Nyden says.

Evanston, a Chicago suburb that is home to the main campus of Northwestern University, has only one dispensary, and it's on city property. The store sits across from an art supply store and a movie theater, and is so "innocuous" that you might not even notice it, she says.

But Evanston did attract national attention for how it plans to use its tax revenues on cannabis sales — by using up to $10 million as reparations for the Black community that had been disproportionately harmed by the war on drugs. City officials have not yet decided how to use the money, but possibilities include grants to help Black residents who lived in Evanston between 1919 and 1969 (or descendants of those residents) buy homes or building a new school in the historically Black area of town.

While the reparations proposal came after the land-use changes, Nyden says it has been a good way to acknowledge some of the "inherent hypocrisy" in allowing cannabis use now after decades of punishing people, especially Black residents, for possessing small amounts of the drug.

**Unintended consequences**

Back in Denver, city council member CdeBaca says many of the current problems with industrial cannabis sites were the result of poor planning early on. The city has put restrictions on where facilities can be located, but many of the sites in Elyria-Swansea don't conform to those rules because the structures predate them. What's more, the licenses of nonconforming sites can be transferred to new owners and continue to operate, so there's no easy way to reduce the number of facilities in the area.

The saturation of sites did eventually lead the city to stop issuing new licenses in 2016. Before it starts giving out new ones, CdeBaca hopes to pass legislation that will encourage more Black and Hispanic people to get those licenses, because the current owners are overwhelmingly white.



City council member Candi CdeBaca can see four industrial cannabis grow operations from her house in the Elyria-Swansea neighborhood of Denver. Photo by David Kidd/Governing.

In fact, Denver's excise and license department is preparing the biggest update to its cannabis licensing regulation since Colorado's first cannabis retailers opened in 2014. The "Marijuana 2.0" revisions are expected to come before the council in March. They include new regulations to allow delivery services and hospitality sales (where customers can use cannabis on their premises), says department spokesperson Eric Escudero. Those regulations will also try to address equity concerns, he says. "People who were most disproportionately negatively impacted by marijuana prohibition should benefit from legalization," he says. "That means creating a market where more people get benefit, whether through ownership or management or employment opportunities."

The rules would also try to prevent further saturation of neighborhoods with cannabis businesses by not allowing any more licenses in the five most saturated areas of the city.

But the issue of concentration of existing facilities is complicated by Denver's approach to treat cannabis as just another industry in terms of zoning. From a land-use perspective, you can currently grow cannabis plants anywhere in the city where you can grow tomato plants. Any special requirements regarding signage or security are part of the city's cannabis licensing process, not its zoning process.

"In terms of control and management, there's a lot of upside to regulating the business, as opposed to the land use," says Tina Axelrad, the zoning administrator for the City and County of Denver. She called the approach "brilliant," because it helps government agencies keep track of who owns the businesses and whether they are fit for that role. It also easier to make sure that businesses comply with regulations the city wants to impose, because business owners tend to react more quickly when their annual license is at stake than when they have been cited for zoning violations.

"Zoning is just a tool to implement policy," Axelrad says, "and if policy changes regarding where marijuana growers should be located or should not be located in the city, the zoning will be adjusted." But she says that the problems with the cannabis facilities are located are just part of a bigger problem of how industrial activities affect some residential neighborhoods much more than others.

"Industrial zones, just like anywhere else in the U.S., tend to be a dumping ground for a lot of things that we don't want in our commercial corridors," she says.

Escudero, from the licensing agency, says Denver's regulatory scheme focused primarily on public safety, whether that was ensuring that youth weren't exposed to cannabis or making sure that the possibility of fires from manufacturing cannabis products was limited to industrial areas. "We're proud of our success in doing that," he says, "because if Denver would have screwed this up, you would not have seen legalization spreading to other communities across the U.S."

In the meantime, CdeBaca says the concentration of industry sites in her neighborhood is causing all sorts of issues. The warehouses themselves "look like jails." With all the security features, residents rarely interact with the people who work in the grow houses, and the owners of the facilities are rarely around.

"It's a little dystopian in some sense, because it's this neighbor that we never meet," she said. "It's like a fortress, but an ugly one."

As unsightly as the warehouses are, they are also driving up the price of the land that they sit on, because there are limited areas within the city where those types of facilities can be located. The more expensive land makes it harder to attract other kinds of businesses to the area and leads to higher property taxes for nearby residents, which fuels displacement, CdeBaca says.

"Our property values are being driven up very high very fast, without the typical, visible gentrification improvements," she says. "It looks exactly the same."

She says it's unfair to burden Black and Brown neighborhoods with the costs of hosting the industry for the whole city or region. "Whiter, wealthier people want to buy their edibles, but they just don't want the grows in their neighborhood," CdeBaca says.

She believes Denver should assess impact fees on the industry to improve the neighborhoods its facilities are located in. "We're carrying this industry on our back, and it's creating such a revenue stream, but we don't [get funds for the neighborhood]. It goes to the whole city to use how they want, when only a small slice of the city is carrying the burden," she says.

That, she stressed, is an important factor for planners to keep that in mind as they decide where facilities ought to be located as the cannabis industry expands.

"Don't layer on to the legacies of redlining," she says.

*Daniel C. Vock is a public policy reporter based in Washington, D.C.*

# Post-Legalization Opening of Retail Cannabis Stores and Adult Cannabis Use in Washington State, 2009–2016

*Erik M. Everson, MPH, Julia A. Dilley, PhD, Julie E. Maher, PhD, and Curtis E. Mack, BA*

*Objectives.* To assess the relationship between adult cannabis use and time-varying local measures of retail cannabis market presence before and after legalization (2012) and market opening (2014) in Washington State.

*Methods.* We used 2009 to 2016 data on 85 135 adults' current (any) and frequent (20 or more days) past-month cannabis use from the Washington Behavioral Risk Factor Surveillance System linked to local retailer proximity and density. Multilevel models predicted use over time, accounting for nesting within communities.

*Results.* Current and frequent cannabis use grew significantly between 2009 and 2016; use did not significantly change immediately after legalization but increased subsequently with greater access to cannabis retailers. Specifically, current use increased among adults living in areas within 18 miles of a retailer and, especially, within 0.8 miles (odds ratio [OR] = 1.45; 95% confidence interval [CI] = 1.24, 1.69). Frequent use increased among adults living within 0.8 miles of a retailer (OR = 1.43; 95% CI = 1.15, 1.77). Results related to geospatial retailer density were consistent.

*Conclusions.* Increasing cannabis retail access was associated with increased current and frequent use.

*Public Health Implications.* Policymakers might consider density limits as a strategy for preventing heavy cannabis use among adults. (*Am J Public Health.* 2019;109:1294–1301. doi:10.2105/AJPH.2019.305191)

**See also Johnson and Doonan, p. 1165.**

Washington and Colorado were the first US states to legalize the production, sale, and adult use of retail ("recreational" or nonmedical) cannabis in 2012. This change followed many states' decriminalization of cannabis, beginning in the 1970s when Oregon and then 11 other states reduced penalties for possession of up to 1 ounce.[1] Starting with California in 1996, numerous states also legalized the possession or distribution of cannabis for specific medical purposes (including Washington in 1998).[2]

Whether potential increased adult use of a now-legal product (cannabis) is a "problem" has been a subject of much debate. Increasing adult cannabis use may lead to a variety of adverse public health effects, including cannabis dependence, traffic crashes, hospitalizations, and potentially some long-term health outcomes. Although cannabis has long been a commonly used substance, recent major systemic reviews have produced inconclusive evidence about whether cannabis use causes some of the posited health outcomes.[3,4] Furthermore, existing research on cannabis may be only partially generalizable to modern levels of product potency, individual differences in usage frequency, and emerging trends in both product types (e.g., extract oils) and usage forms (e.g., vaping vs smoking).[5] Regardless of how cannabis is consumed, frequent use—such as daily or near-daily use—is likely of more concern than occasional use and has recently been identified as a risk.[6]

Studies on other commercialized controlled substances offer some insight on potential for preventing harms following legalization. Increased local access to off-premise-use alcohol outlets has been repeatedly associated with higher rates of problematic use and related adverse health outcomes.[7–9] Hence, the *Community Guide to Preventive Services* recommends limiting alcohol outlet density, days of sale, and hours of sale as effective strategies for reducing excessive alcohol consumption and associated motor vehicle crashes.[10] Similarly, greater local access to tobacco retail outlets has been associated with higher rates of tobacco use initiation[11] and lower success rates for quitting[12–14] among select adult population groups. And although medical cannabis is not available to the general public, local retail medical availability in California was found to be associated with increased adult cannabis use.[15]

To control retail density, the Washington State Liquor and Cannabis Board, the state agency that oversees regulation of the cannabis market, established maximum numbers of retail licenses allowed.[16] Initially following legalization, the state allowed a total of 334 retail licenses statewide, with specific allocations by city and county jurisdictions. The number was increased to 556 in 2016 to accommodate access to medical markets, which were concurrently integrated into the retail system.[16] In light of the uncertainty about health harms, or in response to other community concerns, numerous local

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jurisdictions acted to prohibit or otherwise further regulate retail sales.[17,18] As of June 2016, 2 years after the initial opening of retail markets, about one third of Washington State's population still lived in a city or county where retail cannabis sales were permanently or temporarily banned. Because of local bans, only 377 of the potentially allowed 556 retailers reported sales in mid-2017, and there has been great variation in access to cannabis retailers among different regions of the state as a result.[19]

The objective of this study was to examine the effects of local access to cannabis retailers on adult cannabis use in Washington, where the retail cannabis market opened in July 2014. To our knowledge, our study is the first to examine the complex associations between local access to a new retail market and use of cannabis among adults.

## METHODS

We obtained survey data on individual cannabis use outcomes and then linked them by respondent zip code and month of survey to measures of state legalization and local retail access. Multilevel models predicted use based on access while accounting for legalization, secular trends, demographic factors, and nesting within communities.

### Adult Cannabis Use

We used 2009 to 2016 data from the Washington State Behavioral Risk Factor Surveillance System (BRFSS) to describe local cannabis use.[20] The BRFSS is a nationally conducted, state-administered telephone survey of adults. The Washington BRFSS randomly contacts households from a statewide pool of telephone numbers including landlines and, since 2011, cellular telephones. A total of 121 632 people participated in the BRFSS from 2009 to 2016; 58% were female, 58% were 55 years or older, and 87% primarily identified as non-Hispanic White. In 2016, Washington's BRFSS had a response rate of 39.3%[21] (calculated according to the American Association for Public Opinion Research's response rate 4 formula[22]).

The Washington BRFSS asked questions about cannabis use for a random subset of 90 622 total respondents between 2009 and 2016. Respondents were asked on how many of the past 30 days they used any cannabis products. We created primary outcome variables for current use, indicating any cannabis use in the past 30 days, and frequent use, an indicator[23] of use on at least 20 of the past 30 days. BRFSS data on individual demographic characteristics including age, gender, race/ethnicity, education, marital status, and type of telephone (landline or cellular) were also used. A total of 85 135 respondents had complete data on all of these measures.

We used Rural-Urban Commuting Area codes from the Washington Department of Health to define urban and non-urban areas on the basis of participants' zip codes.[24] We used 5-year county-level estimates of the percentages of individuals living below the federal poverty level from the 2011 to 2016 versions of the American Community Survey.[25]

### State Legalization Measure

Washington Initiative 502 passed in November 2012. Effective December 6, 2012, the measure legalized small-amount possession and private use of cannabis among adults 21 years or older.[26] For our analyses, we created a binary legalization effect term set to 0 for all months up through November 2012 and 1 for all months after. In addition, we created a term for month centered on legalization with values set to −1 for November 2012, 0 for December 2012, 1 for January 2013, and so on.

### Retail Access Metrics

Washington's retail cannabis market opened on July 1, 2014. The number of cannabis retailers with active sales grew each month, from fewer than 20 in July 2014 to more than 300 by mid-2016. We obtained data from the Washington State Liquor and Cannabis Board BioTrackTHC "seed-to-sale" tracking system to determine the months and locations where retail cannabis sales activity had occurred. Using this data set, we computed 3 alternate measures of monthly local access to the retail market: proximity, geospatial density, and per capita density.

*Proximity.* Our first retail access metric measured the average distance to the nearest retail location among residents of each zip code for each month of the study. To compute proximity, we first applied a grid overlay of 5000 foot by 5000 foot cells (0.9 square miles each) to the state of Washington using ArcGIS 10.5 software (Esri, Redlands, CA) and the Washington State Plane South (ftUS) NAD83(HARN) (EPSG:2927) projection. Using PostgreSQL 10.1 with PostGIS extension 2.4.2 (PostgreSQL Global Development Group), we determined the direct (crow-fly) distance between the center of each grid cell and all retailers with active sales for each month. We selected the shortest distance for each cell per month.

Although we did not know the intra–zip code locations of individual BRFSS respondents, we estimated the cell-level population distribution for each zip code. This distribution was based on 2014 census block group population estimates from the Washington Office of Financial Management,[27] which we initially apportioned to individual blocks using ratios from the 2010 US census[28] and then apportioned to grid cells based on area. Using this distribution, we weighted cell-level proximity computations up to the zip code level, resulting in the average distance to the nearest retailer for residents of each zip code.

*Geospatial density.* Our second retail access metric was computed in a manner similar to that for proximity but based on the nearest 5 active retail locations. After determining the nearest 5 retailers to each grid cell, we summed the inverse of each cell-to-retailer distance (such that a higher sum indicated more density) and then aggregated these sums to the zip code level. Whereas proximity represented a measurement of the minimum distance a local resident would need to travel to purchase retail cannabis, geospatial density was intended to assess the local retail environment. We adapted this metric from the spatial accessibility index included in the Centers for Disease Control and Prevention's *Guide for Measuring Alcohol Outlet Density*.[29]

*Per capita density.* Our third access metric was defined at the "community" (contiguous city or unincorporated county) level to reflect the jurisdictional boundaries in which local cannabis-related policies are typically enacted. We computed per capita density for each community by dividing the number of active monthly retailers by the estimated 2014

population. We assigned each BRFSS respondent to his or her most likely community of residence. Using a crosswalk file based on 2010 census block-level population data,[28] we selected the most populous community subsection within each combination of zip code and county. Our resulting sample included 194 distinct communities, with 1 to 6935 participants in each community over the 8 years combined. We assigned a per capita density value to each BRFSS respondent on the basis of his or her community and month and year of survey participation.

*Categorization of retail access metrics.* We first divided proximity values for the entire study period into ventiles (twentieths) and visually examined both current use and frequent use prevalence across the ventile range. We found both relationships to be nonlinear, resembling 3-tier step functions, so we created a single set of cut points to capture the tier changes in the relationships. Specifically, we created a categorical variable with 5 levels of retail access: premarket, top 5% active market (within approximately 0.8 miles of a retailer), next 5% (0.8–1.1 miles), middle 80% (1.2–18.4 miles), and bottom 10% (beyond 18.4 miles). We followed the same categorization procedure for geospatial density and arrived at an identical set of percentile cut points for retail access categories. We categorized per capita density similarly but with a larger bottom access tier given the many communities and months with no retailers: premarket, top 5% active market (9.7 retailers or more per 100 000 population), next 5% (6.7–9.6 retailers), middle 53% (0.1–6.6 retailers), and bottom 37% (zero retailers active market).

## Statistical Analyses

We used descriptive statistics to examine patterns of cannabis use prevalence (current use and frequent use) by participants' demographic characteristics and access to cannabis retailers for the most recent year of survey data (2016). Data for these prevalence estimates were weighted to represent the state population.

We fit generalized mixed models[30] with a random intercept by community effect as well as a random time by community effect. Hence, each community had its own intercept (given that baseline cannabis use might vary by community) and slope for time (given that change in use might vary by community). The key fixed effects in each model included a term for time to describe the average secular trend in statewide cannabis use, a term for state legalization to estimate the average change in cannabis use after legalization, and a term for retail cannabis access. To adjust for other factors, our models also included fixed effect terms for urban classification by zip code, county poverty rate, and individual demographics (i.e., age, gender, race/ethnicity, education, marital status, and landline or cellular phone). Separate models were fit for current use and frequent use as the dependent variable.

We conducted all statistical analyses with Stata version 14.1 (StataCorp LP, College Station, TX). We used the .05 level of significance.

# RESULTS

Figure 1 displays Washington statewide adult cannabis use prevalence over time. Quarterly current use prevalence more than doubled over the course of our study, increasing from 5.8% in quarter 1 of 2009 to 13.2% in quarter 4 of 2016; frequent use increased over that period as well, from 2.0% to 5.5%.

As shown in Table 1, a majority of the members of our 2016 BRFSS sample were White (86.9%), were 35 years or older (85.7%), and had at least some college education (73.1%). The 2016 prevalence of current cannabis use was highest among participants who were 18 to 34 years of age (24.2%), those who identified as male (16.9%), those without a high school degree or equivalent (20.9%), and those who had a partner but were not married (27.9%).

Figure 2 shows the monthly distribution of Washington residents, based on zip code–level density values and small-area population estimates, living in various categories of geospatial density. Access to retailers increased over time. When the market first opened in 2014, only 3.8% of state residents lived in a zip code with a geospatial density value of 1.0 or greater; by December 2016, however, 73.2% of residents lived in such environments.

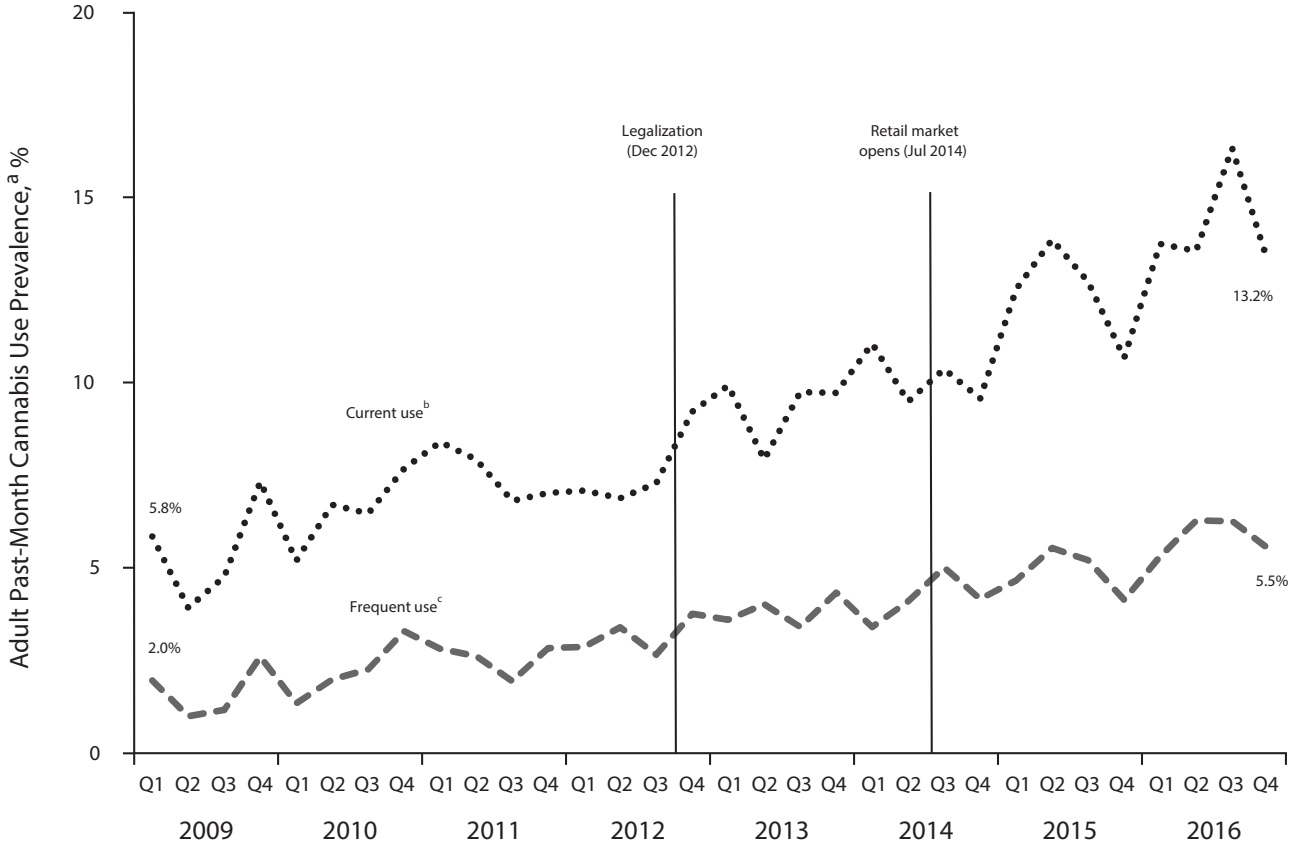
Regardless of the retail access measure used, our adjusted models suggested that current cannabis use and frequent use were significantly increasing between 2009 and 2016 but did not significantly change directly after possession was legalized in 2012 (Table 2). The relationship between retail access and cannabis use varied according to the measures used, as detailed subsequently.

In the proximity model, current use of cannabis significantly increased with closer proximity to retailers; specifically, it increased in zip codes where residents lived an average of less than 0.8 miles from a retailer (odds ratio [OR] = 1.45; 95% confidence interval [CI] = 1.24, 1.69), between 0.8 and 1.1 miles (OR = 1.27; 95% CI = 1.08, 1.49), and between 1.2 and 18.4 miles (OR = 1.18; 95% CI = 1.08, 1.29). Current use did not significantly change in association with the retail market in areas more than 18.4 miles from a retailer (OR = 1.06; 95% CI = 0.89, 1.26).

The proximity model results for frequent use of cannabis varied somewhat from those for any current use. Although the retail market was associated with a significant increase in frequent use among zip codes averaging less than 0.8 miles from a retailer (OR = 1.43; 95% CI = 1.15, 1.77), frequent use did not significantly change in areas located 0.8 to 1.1 miles (OR = 1.02; 95% CI = 0.80, 1.29) or 1.2 to 18.4 miles (OR = 1.04; 95% CI = 0.89, 1.21) from a retailer.

Results for geospatial density were similar to those for proximity; the same terms reached statistical significance in the respective current use and frequent use models. As continuous measures, geospatial density and proximity had a correlation coefficient of –0.45 (data not shown; the value was negative because density was based on inverse distances).

In the per capita density model, results for current use of cannabis were largely similar to those for proximity and geospatial density. Current use increased significantly among communities with at least 9.7 retailers (OR = 1.36; 95% CI = 1.13, 1.64), 6.7 to 9.6 retailers (OR = 1.52; 95% CI = 1.22, 1.89), and 0.1 to 6.6 retailers (OR = 1.17; 95% CI = 1.07, 1.27) per 100 000 population. In contrast with the geospatial models, current use also increased significantly among communities with no retailers (OR = 1.17; 95% CI = 1.03, 1.32), although this lowest-access tier was much larger (37% of the sample) than the bottom tiers for geospatial density and proximity (10%).




[a]Prevalence estimates were weighted to be representative of the state population. A different weighting methodology was used for data prior to 2011, and these data did not include cellular phones in the sample.

[b]Current use: self-reported use of cannabis on any of the past 30 days.

[c]Frequent use: self-reported use of cannabis on 20 or more of the past 30 days.

**FIGURE 1—Adult Cannabis Current Use and Frequent Use Prevalence, by Quarter: Behavioral Risk Factor Surveillance System, Washington State, 2009 Quarter 1 to 2016 Quarter 4**

Our per capita density model proved less predictive of frequent use than did the geospatial models. Whereas frequent cannabis use increased among areas in the top 5% tiers of proximity and geospatial density, it did not change significantly among communities with at least 9.7 retailers per 100 000 population (OR = 1.12; 95% CI = 0.82, 1.52).

## DISCUSSION

This study was the first to our knowledge to explore the association between changing access to retail cannabis and adult cannabis use. We found that adult current use significantly increased in areas located within 18.4 miles of a cannabis retailer, with a larger increase occurring in areas located within 0.8 miles of a retailer. Frequent past-month use, likely the more serious public health concern, increased significantly in areas located within 0.8 miles of a retailer.

Washington already had among the highest US state rates of cannabis use prior to retail sales,[31] suggesting that individuals determined to obtain cannabis may have had little difficulty doing so. The lack of a broad market-related change in frequent cannabis use suggests that most adults prone to such behavior may not have been further compelled to engage in it by the mere existence of the retail market. In the market's highest-access areas, however, elevated levels of convenience or promotion may have had sufficient influence such that additional adults became frequent users. Notably, the number of high-access areas increased over the course our study: by December 2016, approximately 1 in 10 Washington residents (10.1% for proximity, 11.0% for geospatial density) lived in a location where the level of retail access was associated with increased frequent use.

We found local retail access, but not state legalization of possession itself, to be associated with increased cannabis use. Local jurisdictions in legalized states may therefore have some ability to limit increased use through enacting policies such as retail bans, moratoriums, caps on retail license numbers, or density or zoning restrictions. Despite challenges such as bordering communities with less stringent policies, community-level policies may help to prevent especially high levels of local retail access, such as the areas within 0.8 miles of a retailer for which frequent use increased.

**TABLE 1—Sample Characteristics and Cannabis Use Prevalence by Demographic Characteristics: Behavioral Risk Factor Surveillance System, Washington State, 2016**

| Characteristic | Observations, No. (%) | Cannabis Use Prevalence (95% CI) | |
|---|---|---|---|
| | | Current[a] | Frequent[b] |
| State total, 2016 | 11 765 (100.0) | 14.2 (13.4, 15.2) | 5.7 (5.2, 6.4) |
| Age group, y | | | |
| 18–34 | 1 683 (14.3) | 24.2 (21.9, 26.7) | 9.4 (7.9, 11.1) |
| 35–64 | 5 647 (48.0) | 12.6 (11.6, 13.7) | 5.5 (4.8, 6.3) |
| 65–99 | 4 435 (37.7) | 4.7 (4.0, 5.5) | 1.3 (1.0, 1.8) |
| Gender | | | |
| Female | 6 574 (55.9) | 11.8 (10.7, 13.0) | 4.0 (3.4, 4.8) |
| Male | 5 191 (44.1) | 16.9 (15.6, 18.3) | 7.6 (6.6, 8.6) |
| Education | | | |
| < grade 12 | 562 (4.8) | 20.9 (16.7, 25.7) | 11.0 (8.1, 14.8) |
| High school degree or equivalent | 2 599 (22.1) | 17.3 (15.4, 19.3) | 7.8 (6.5, 9.2) |
| Some college | 3 525 (30.0) | 14.1 (12.6, 15.6) | 5.4 (4.5, 6.4) |
| College | 5 079 (43.2) | 9.9 (8.9, 11.0) | 2.8 (2.3, 3.5) |
| Telephone type | | | |
| Landline only | 982 (8.3) | 11.8 (9.0, 15.5) | 6.0 (4.2, 8.7) |
| Landline survey, own both | 5 688 (48.3) | 9.3 (8.2, 10.4) | 3.1 (2.5, 3.8) |
| Cellular survey, own both | 1 806 (15.4) | 11.6 (9.9, 13.5) | 4.3 (3.2, 5.7) |
| Cellular only | 3 289 (28.0) | 18.7 (17.2, 20.3) | 7.9 (6.9, 9.1) |
| Race/ethnicity | | | |
| Non-Hispanic White | 10 220 (86.9) | 14.6 (13.6, 15.6) | 5.8 (5.2, 6.5) |
| Non-Hispanic Black | 234 (2.0) | 25.5 (18.9, 33.5) | 11.6 (7.1, 18.3) |
| Non-Hispanic American Indian/Alaska Native | 144 (1.2) | 26.0 (17.8, 36.4) | 8.0 (4.1, 15.1) |
| Non-Hispanic Asian | 377 (3.2) | 6.7 (3.9, 11.0) | 1.0 (0.4, 2.5) |
| Non-Hispanic Hawaiian/Pacific Islander | 35 (0.3) | 11.9 (3.1, 36.5) | 2.7 (0.4, 16.7) |
| Other non-Hispanic | 113 (1.0) | 9.2 (4.5, 17.9) | 4.2 (1.2, 13.3) |
| Non-Hispanic, no race preference | 38 (0.3) | 37.5 (20.9, 57.6) | 20.2 (7.6, 43.6) |
| Hispanic | 604 (5.1) | 11.8 (9.1, 15.2) | 6.5 (4.5, 9.3) |
| Marital status | | | |
| Married | 6 488 (55.1) | 9.4 (8.5, 10.4) | 3.4 (2.9, 4.1) |
| Divorced | 1 715 (14.6) | 15.0 (12.7, 17.5) | 6.6 (5.2, 8.3) |
| Widowed | 1 339 (11.4) | 5.4 (4.0, 7.2) | 2.3 (1.4, 3.8) |
| Separated | 178 (1.5) | 21.7 (15.2, 30.0) | 11.2 (6.6, 18.5) |
| Never married | 1 608 (13.7) | 25.0 (22.3, 27.8) | 10.4 (8.7, 12.5) |
| Unmarried with partner | 396 (3.4) | 27.9 (22.5, 33.9) | 11.0 (7.5, 15.9) |
| Refused | 41 (0.3) | 16.1 (6.2, 35.5) | 9.7 (3.0, 27.2) |
| Urban status | | | |
| Nonurban | 4 004 (34.0) | 15.2 (13.6, 17.1) | 6.8 (5.6, 8.1) |
| Urban | 7 761 (66.0) | 13.9 (12.9, 15.0) | 5.4 (4.7, 6.1) |
| Community[c] retailer per capita density[d] | | | |
| Highest (≥ 9.7) | 1 120 (9.5) | 15.7 (12.8, 19.1) | 7.0 (5.0, 9.6) |
| High (6.7–9.6) | 983 (8.4) | 16.4 (13.5, 19.7) | 6.0 (4.2, 8.5) |
| Medium (0.1–6.6) | 6 390 (54.3) | 13.9 (12.8, 15.1) | 5.2 (4.5, 6.0) |
| None (0.0) | 3 272 (27.8) | 13.9 (12.1, 16.0) | 6.6 (5.3, 8.1) |

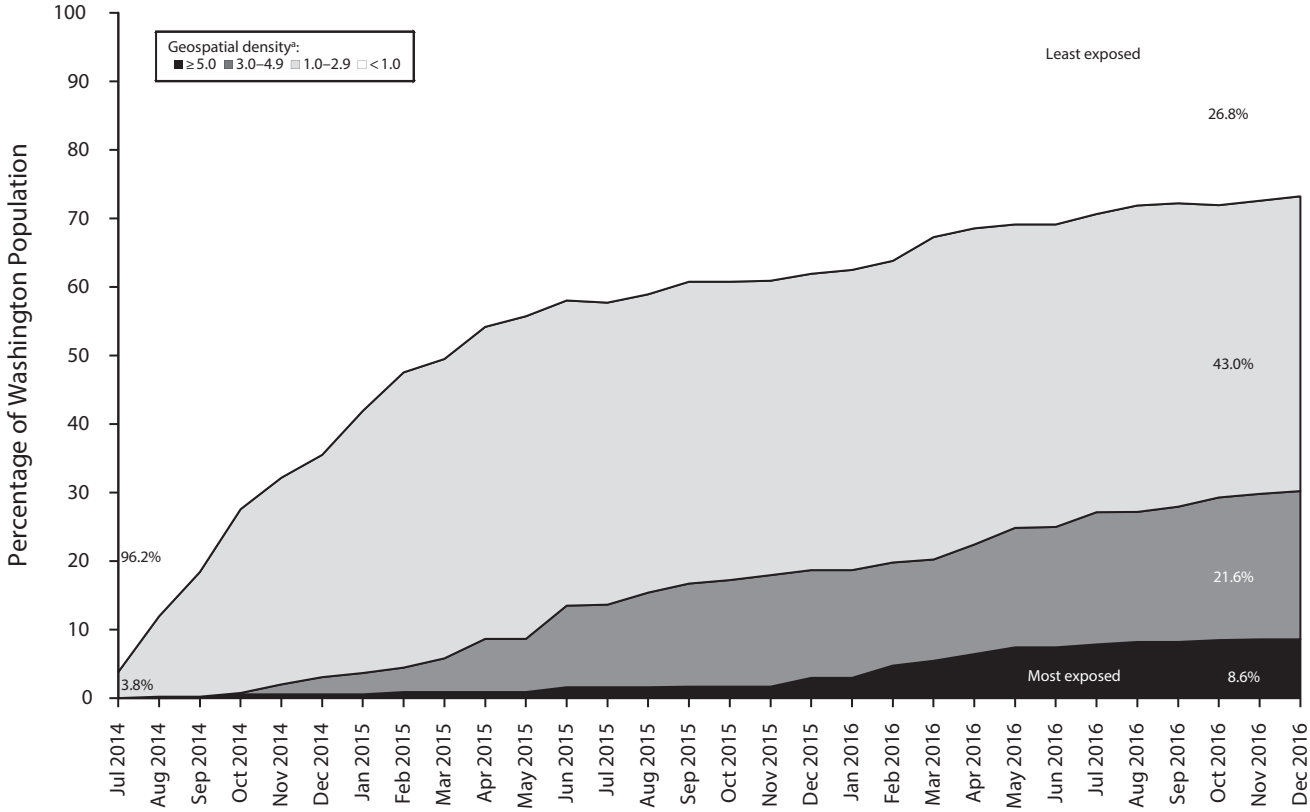
*Note.* CI = confidence interval. Prevalence estimates were weighted to be representative of the state population.

[a]Current use: self-reported use of cannabis on any of the past 30 days.

[b]Frequent use: self-reported use of cannabis on 20 or more of the past 30 days.

[c]Community: city or unincorporated county (n = 190 in 2016), assigned according to respondent zip code and county.

[d]Number of active cannabis retailers per 100 000 estimated population in each community.




*Note.* Data were derived from the Washington Office of Financial Management and the Washington State Liquor and Cannabis Board.
[a]Geospatial density: population-weighted sum of inverse distances from home zip code to the nearest 5 active retail locations. Higher values indicate more retail access.

**FIGURE 2—Percentages of Residents Living in Areas of Various Categories of Geospatial Density of Recreational Cannabis Retailers: Washington State, July 2014 to December 2016**

Also, although occasional adult cannabis use may not prove to be a substantial public health problem, our results suggest that restricting retailer density to fewer than 6.7 locations per 100 000 community population may help mitigate increases in use. Given the variation in cannabis use prevalence among demographic groups, however, the effectiveness of such policies may vary by neighborhood. For example, restricting retail density to a set limit would likely have a different mitigation effect on a college campus than in a suburban community.

Our per capita density model showed that even communities with no active retailers experienced a market-associated increase in current use of cannabis. This suggests that the efficacy of any jurisdictional policy restricting local retail access may be tempered by retail availability in nearby communities. Thus, in nonremote communities, a regional- or state-level policy approach may be necessary to effectively limit retail access. Washington limited retailer density at the city and county levels by establishing caps on the number of issuable retail licenses. It is also noteworthy that per capita density, although commonly used in regulations, did not characterize access as meaningfully as the geospatial-based metrics included in our study.

To regulate alcohol-related problems, Washington has already established community-requested "alcohol impact areas"[32] that include limitations on retail hours and the sale of specific products. This may be another model for limiting retail access to cannabis markets in a different way than restricting numbers of licenses, if communities are experiencing adverse consequences.

Other factors may affect the concept of access to retail cannabis, including price. Average retail prices fell considerably over our study period and will likely continue to decrease,[5] although lower prices may be more likely to affect individual usage volumes than prevalence of occasional or current use. Visibility, including that due to advertising, could also be important. One study showed that more than half of Oregon adults had recently seen cannabis advertising such as retail storefront and billboard promotions, with greater exposure among residents of neighborhoods containing cannabis retailers.[33] Regulatory approaches to address prices (e.g., taxes) and limit retail promotions may be another relevant consideration for policymakers to broadly influence accessibility.

Although our study included 30 months of market data, longer-term cannabis use trends may vary as the retail market stabilizes. Longer-term study is needed to determine whether increases in current use will be sustained.

**TABLE 2—Odds Ratios for Past-Month Cannabis Use: Behavioral Risk Factor Surveillance System, Washington State, 2009–2016**

| | OR[a] (95% CI) | | Adjusted OR[b] (95% CI) | |
|---|---|---|---|---|
| Retail Access Metric | Current Use[c] | Frequent Use[d] | Current Use[c] | Frequent Use[d] |
| Proximity[e] | | | | |
| Time (12 mo) | 1.14 (1.09, 1.18) | 1.19 (1.12, 1.26) | 1.11 (1.07, 1.16) | 1.16 (1.10, 1.23) |
| Legalization | 1.10 (0.96, 1.26) | 1.07 (0.88, 1.30) | 1.12 (0.98, 1.29) | 1.09 (0.89, 1.33) |
| Retail access | | | | |
| Top 5% (<0.8 mi) | 1.46 (1.25, 1.72) | 1.46 (1.15, 1.86) | 1.45 (1.24, 1.69) | 1.43 (1.15, 1.77) |
| Next 5% (0.8–1.1 mi) | 1.24 (1.04, 1.47) | 1.01 (0.81, 1.25) | 1.27 (1.08, 1.49) | 1.02 (0.80, 1.29) |
| Middle 80% (1.2–18.4 mi) | 1.08 (0.99, 1.18) | 0.96 (0.83, 1.11) | 1.18 (1.08, 1.29) | 1.04 (0.89, 1.21) |
| Bottom 10% (>18.4 mi) | 0.93 (0.79, 1.11) | 0.90 (0.69, 1.17) | 1.06 (0.89, 1.26) | 0.97 (0.75, 1.26) |
| Geospatial density[f] | | | | |
| Time (12 mo) | 1.13 (1.09, 1.18) | 1.19 (1.12, 1.26) | 1.11 (1.06, 1.15) | 1.16 (1.10, 1.23) |
| Legalization | 1.11 (0.96, 1.27) | 1.06 (0.87, 1.29) | 1.14 (0.99, 1.31) | 1.09 (0.90, 1.33) |
| Retail access | | | | |
| Top 5% (≥4.70) | 1.28 (1.05, 1.56) | 1.28 (0.96, 1.7) | 1.39 (1.13, 1.71) | 1.40 (1.07, 1.83) |
| Next 5% (3.36–4.69) | 1.36 (1.16, 1.59) | 0.97 (0.73, 1.28) | 1.45 (1.25, 1.69) | 1.01 (0.76, 1.35) |
| Middle 80% (0.18–3.35) | 1.11 (1.02, 1.20) | 0.98 (0.84, 1.13) | 1.20 (1.10, 1.31) | 1.05 (0.90, 1.22) |
| Bottom 10% (<0.18) | 0.87 (0.73, 1.03) | 0.85 (0.65, 1.12) | 0.97 (0.81, 1.16) | 0.93 (0.71, 1.22) |
| Per capita density[g] | | | | |
| Time (12 mo) | 1.14 (1.09, 1.19) | 1.20 (1.14, 1.27) | 1.11 (1.07, 1.16) | 1.17 (1.10, 1.24) |
| Legalization | 1.09 (0.95, 1.24) | 1.03 (0.85, 1.25) | 1.13 (0.98, 1.29) | 1.07 (0.88, 1.30) |
| Retail access | | | | |
| Top 5% (≥9.7 per 100 000) | 1.13 (0.93, 1.36) | 0.93 (0.67, 1.29) | 1.36 (1.13, 1.64) | 1.12 (0.82, 1.52) |
| Next 5% (6.7–9.6 per 100 000) | 1.31 (1.08, 1.59) | 1.01 (0.74, 1.38) | 1.52 (1.22, 1.89) | 1.17 (0.85, 1.62) |
| Middle 53% (0.1–6.6 per 100 000) | 1.08 (1.01, 1.16) | 0.94 (0.8, 1.11) | 1.17 (1.07, 1.27) | 1.00 (0.84, 1.20) |
| Bottom 37% (0.0) | 1.07 (0.95, 1.19) | 0.98 (0.83, 1.15) | 1.17 (1.03, 1.32) | 1.06 (0.90, 1.25) |

*Note.* CI = confidence interval; OR = odds ratio. All models clustered by community (n = 194; city or unincorporated county assigned according to respondent zip code and county). Retail access terms describe the change in cannabis use between premarket and active-market periods for locations of the given access categorization. For example, in the proximity models, the top 5% (<0.8 mi) term describes the change in use prevalence associated with the retail market among locations within 0.8 mi of a retailer, for only the months those locations met the <0.8 mi access criterion.

[a]Odds ratio taken from generalized linear mixed model with time, legalization, and retail access measure as independent variables.

[b]Odds ratio taken from generalized linear mixed model adjusted for age, gender, education, race/ethnicity, marital status, urban status, county poverty rate, and survey telephone type.

[c]Current use: self-reported use of cannabis on any of the past 30 days.

[d]Frequent use: self-reported use of cannabis on 20 or more of the past 30 days.

[e]Proximity: population-weighted average distance from home zip code to nearest active retail location.

[f]Geospatial density: population-weighted sum of inverse distances from home zip code to the nearest 5 active retail locations.

[g]Per capita density: number of active cannabis retailers per 100 000 estimated population in each community.

## Limitations

Our study has several limitations. First, we assumed Washington BRFSS respondents to be representative of the state population in estimating associations between access and cannabis use. Second, because cannabis has been illegal and has carried social stigma, it is possible that some survey respondents opted not to disclose their actual use. If this underreporting decreased over time in conjunction with state legalization, this may have led to an exaggerated increase in actual cannabis use. However, we do not have reason to believe that survey respondents were more or less likely to admit use according to their proximity to a retailer.

Third, our retail access measures involved limitations. We computed geospatial retail access on the basis of survey respondents' residential zip codes. Some of Washington's less populated zip codes span large areas, such that actual retail access may vary considerably according to intra–zip code location. We used small-area population estimates to accurately compute population-average access for each zip code, reducing attenuation of findings that would have resulted from this limitation. For the per capita model, we assigned survey respondents to the most likely community given their zip code and county, but an estimated 21.4% of respondents were incorrectly assigned to a community neighboring their actual residence. These misclassifications may have attenuated our findings and limited the per capita model's predictive ability, although defining retail access on the basis of jurisdictional boundaries is moderately imprecise by nature.

Fourth, our study did not account for average retail cannabis prices, which decreased substantially over time as the market grew.[5] To what extent decreasing prices magnified the effect of access on use is an area for further study.

Fifth, we analyzed access to retail cannabis but did not account for cannabis availability from other sources. In addition to the outright illicit market, Washington had a large number of minimally regulated medical cannabis "collective gardens" in operation between 2009 and June 2016.[34] Because we did not account for alternate sources, we overestimated the net proportional increase in cannabis access attributable to the retail market (although not for the law-abiding general public). Our findings may thus underestimate the potential effect of introducing retail access as compared with locations with smaller or less easily accessible medical and illicit markets.

## Public Health Implications

We found the Washington retail cannabis market to be associated with increased past-month adult use throughout most of the state and increased frequent use among locations with especially high retail access. Although the public health implications of increasing cannabis use are not yet clear, our findings suggest that local jurisdictions can mitigate

increased usage through policies limiting retail access in residential locations. AJPH

## CONTRIBUTORS

E. M. Everson, J. A. Dilley, and J. E. Maher designed the study, interpreted results, and wrote the article. E. M. Everson led the data analysis. C. E. Mack advised on geospatial analysis design and performed geospatial computations.

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**Note.** The content is solely the responsibility of the authors and does not necessarily represent the official views of the National Institutes of Health.

## CONFLICTS OF INTEREST

The authors declare no conflicts of interest.

## HUMAN PARTICIPANT PROTECTION

No protocol approval was needed for this study because no human participants were involved and secondary data were used.

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# Cannabis in Medicine

## An Evidence-Based Approach

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*Equo ne credite, Teucri. Quidquid id est, timeo Danaos et dona ferentes*
*– Publius Vergilius Maro, 19 B.C.*

*Medicus necesse est dicere quod possit ex antecedentibus, quia praesens et futura dicamus - haec medium est, et in intuitu obiecti specialem duo de morbo, scilicet facere bonum non est non nocere*
*– Hippocrates, Of the Epidemics, 400 B.C.*

*Dedicated to those who have been affected or have lost loved ones to any substance of abuse and addiction, including marijuana, and to the memory of Peggy Mann, and other pioneers, not afraid to speak the truth.*

# Foreword

## Losing Ground: The Rise of Cannabis Culture

### *Addressing the Wider Implications of Increasing Marijuana Use*

## Why Our Knowledge of the Risks in Cannabis Exposure Has Increased

As ongoing science enhances our understanding of the health risks of cannabis/marijuana exposure, two dimensions of the problem have been revealed. First, the range of health concerns has grown. Second, our confidence has grown that the risk lies in the impact of cannabis exposure itself, as an independent variable, rather than in a constellation of potential confounders.

To be sure, genetic propensity and co-morbidity issues affect the risk of cannabis exposure, placing some populations at higher risk than others, but the exposure to cannabis has a clear effect on the course of the propensity and/or the expression of the co-morbidity over and above the simple fact of a predisposition.

More broadly, of the known health concerns that were visible in research over the past 20 years (to pick an arbitrary period), it is reasonable to argue that few have been allayed or disconfirmed, while the majority of concerns have been not only confirmed but, in several instances, rendered even more worrisome, fraught, and widespread in terms of populations affected and the severity of the effects.

Results are surely still contested, but in general cautions are increasingly becoming questions more of the persistence and depth of the effects, rather than rejection of the validity of strong correlations between cannabis exposure and increased risk of negative effects.

Studies increasingly support some attributional role to the elements of cannabis themselves as producing risk and, in some instances, even strengthen suspicions of a more direct or even causal role from cannabis exposure, particularly when prolonged. This generalization seems to hold especially regarding susceptibility to psychotic episodes and other emotional or cognitive adverse outcomes.

A major reason for the growing confidence in findings of negative health effects has been a series of changes affecting both the cannabis drug itself as currently marketed, as well as the power and subtlety of the research methods brought to bear on our understanding of the effects.

Simply put, the science has changed, growing more robust, as the drug and exposure to it has changed, the result being a more urgent sense of individual as well as population damage.

Specifically, the science informing our portrait of cannabis consequences has become more refined and more grounded in neurophysiology, as better techniques utilizing brain scans or animal models increasingly show what appear to be profound changes in brain physiology and function under certain circumstances of exposure.

In addition, wider and more careful evaluation of the consequences of *in utero* and perinatal exposure (as well as the potential impact of exposure of infants through maternal use and lactation) are all informing our understanding of the basis for epidemiological and behaviorally based evidence long seen with regards to the consequences of cannabis exposure.

That is, widespread population findings are now being provided with enhanced biologically based cognitive and neurophysiological reinforcement that the impact of cannabis consumption produces elevated behavioral and mental performance risks.

The drug as consumed likewise has changed from as recently as 20 years ago, not only with respect to average potency on the market (rising from roughly 3% THC to a national average of no less than 15% THC for smoked marijuana plant material), but further with respect to the relative market share of high potency product. Potency is not only rising as an average, but the proportions available in the commercial market are also shifting upwards towards higher potency smoked cannabis, such as found with sinsemilla, averaging nearly 20% potency, becoming the market standard.

Today, with respect to the "industrialized" ultra-high potency product accelerated by commercialization (still reportedly replete with heavy metal and fungal contaminates), we find available potencies routinely ranging from 20% THC to upwards of 40% as found in smoked joints filled with plant product, now supplemented by new products presenting concentrates of nearly pure THC (reported at 60–90% potency) capturing high-end commercial market share.

One corollary of these changes in potency is that longitudinal studies of youth, begun several years in the past, are therefore based on THC exposure at relatively low potencies, and as such their findings may not be reliably projected onto the impact that today's initiates may experience over their lifetime, given the far stronger doses that constitute their initiation experience.

That is, the marijuana of the past has been supplanted by a drug with qualitatively different characteristics and potential impact, with changes even found in shifting ratios of the cannabinoids presented (smaller percentages of CBD, for instance, diminished in favor of concentrated THC). Moreover, while there is evidence of some positive or at least ameliorative effect from CBD exposure, there are concerns that greater doses of CBD may produce biphasic responses. This potential

is only now being explored. Nevertheless, much of the modern commercial product has been deliberately selected for THC concentration at the expense of other cannabinoids, such as CBD.

Moreover, early blandishments from cannabis activists that such changes in the product, showing increasing potency of THC, were not "real" but were a function of measurement artifacts, or second if the changes were "real" that they need not signal greater ingestion of THC because users might titrate their dosages, or even arguments that stronger doses at higher potencies would not necessarily present greater risks of intoxication and potential dependency profiles, have all been shown to be illusory reassurances.

Instead, we have learned that users, especially naïve users, do not show a profile of careful titration, but instead seem to be getting dramatically more intoxicated, for longer periods than heretofore, coupled with growing evidence [1] that higher potency exposure is indeed correlated with increased risk of dependency or the onset of Cannabis Use Disorder (CUD).

Further, the modes of consumption of cannabis (principally THC) have changed, largely as a function of commercialization, generating not only new products but also new forms of their being consumed, such as in the form of edibles or drinks, or concentrated forms of the drug consumed no longer as smoked leaves but rather as forms of "shatter" or purified THC extraction products, often "vaporized" rather than smoked, or orally ingested.

One potential effect of such novel products is that our surveys of self-reported usage, especially by youth, are rendered less reliable as a measure of cannabis prevalence, since survey questionnaires built around models of smoked leaf consumption struggle to capture the proportions of consumption represented by the new modes of ingestion.

Increasingly, for instance, we learn that "edibles" [2] may now represent as much as half of new youth consumption, according to sales data from state dispensaries [3], while questions concerning "vaporizing" over and beyond "smoking" are only now being incorporated into standard youth surveys.

That is, the overall reliability of our measures of use is declining, and changes in the relative trajectory of youth use, in particular, are becoming less certain because of survey discontinuities (in particular, changes to the NSDUH survey methodology leading to a discontinuity with years prior to 2001).

The changes to the drug itself, and our means of detecting its effects, are intersecting with yet additional changes in the patterns of consumption, particularly by youth at developmentally susceptible periods. The window of susceptibility for developmental impact ranges from early adolescent exposure (not uncommonly at ages 12–15) up through early adulthood, at ages 18–25, when brain development still presents a vulnerability.

It should trouble us, for instance, that the age group showing the greatest increase in cannabis prevalence rates is the young adult population ages 18–25, as found in national surveys. Though subjects are in early adulthood, in terms of brain development they are still at a vulnerable period for negative cannabis effects to become long-standing adult problems.

Further, many of this age group live in a college or university setting, where nearly half of the student population is still legally underage for legal commercial purchase, comingling there with the young adults who are not only the heaviest users but are "legal" commercial product consumers. Do colleges present a particular domain of underage access to high-potency commercial cannabis acquired from peers?

Not only are more youth now exposed to cannabis markets as a function of state legalization and the rise of commercial markets, but the patterns of use are increasingly intensifying, in the sense that the frequency of use in youth populations is moving towards daily or near-daily exposure.

For instance, data from the largest national survey of drug use (discussed in detail below) show that the percentage of users of marijuana within the past year who used "more than 300 days" during the past year has risen steeply, from 12.2% of the total in 2002 to 19.8% of Past Year users in 2017, the most recent data available.

Hence, not only are more people using cannabis today than before, but they are using the drug more frequently, and at considerably higher potencies than before.

That is, a larger share of youth and young adult users, in particular, is gravitating towards a profile of use that presents the greatest developmental threat: frequent, repeated exposure at a developmentally sensitive period, an exposure that moreover is sustained for multiple years. The risk of developing Cannabis Use Disorder (CUD), for instance, becomes more pronounced with every year of use; according to recent research, for each succeeding year of exposure after initiation, the percentage of users experiencing CUD increases [4] steadily, rising to more than 20% of users at the fourth year of use beyond initiation.

As we have noted, longitudinal studies of the impact of early exposure traced over time into adulthood are worrisome enough, without taking into account that the THC potency routinely encountered at first exposure was likely a fraction of what an early adolescent is presented with today. This fact leads to the realization that the true developmental impact of early exposure, traced into maturity, is likely to understate the current potential impact, as the career of users initiating with high-potency THC products and then progressing to daily use at an early age has not yet been seen in current longitudinal studies.

In 1992, only 9% of Past Month cannabis users reported being heavy users (25 or more days per month). By 2014, that figure had risen to 40%. Recent analyses of dispensary users show that those "daily/near-daily" users consume about three times as much per day of use as less-frequent smokers and are estimated [5] to account for more than 80% of cannabis sales. Under the impact of high-potency THC consumption, tolerance progresses rapidly, and in order to sustain sufficient intoxication, dosages offered at unprecedented levels are now a routine share of all cannabis sales, and are escalating.

Hence, the damage that we observe today is best understood as a retrospective grasp of the consequences of cannabis exposure from a period when, in relative terms, the drug was less dangerous, while the impact of adolescent exposure today has as yet to be manifested, and is likely far worse than we have yet to witness. The

future may yet reveal a greater risk for early, frequent, high-potency use than we have anticipated.

These changing factors taken together will likely produce an enhanced understanding of the "disease burden" of greater cannabis prevalence following from "legal" commercialization, and resultant normalized attitudes towards ingestion in the wider society, and the likely correlative impact of heavy cannabis use on the use of other substances of abuse.

That "burden" may considerably exceed our current estimates, and even require us to rethink our sense of the "ranking" of drug threats, with vastly greater cannabis prevalence elevating substantially whatever impact is found at the individual level.

That is, this current experiment with cannabis, underway nationwide, is leading us towards a future of unanticipated consequences, a future already established in the patterns of use "seeded" in the population but as yet unmanifested.

To be sure, studies of cannabis risk are largely "correlational" or show "associations" with relative risk, and are not clear demonstrations of cannabis "causality," a rarity in any epidemiological undertaking.

Nevertheless, the correlations are compelling, especially when there is found a robust relative risk signal, a demonstration of a dose-response relationship between the exposure and the impact, and plausible biological pathways or mechanisms for the exposure to be linked to the effect, such as found in studies of brain development and in animal models.

Moreover, critics of the notion that cannabis exposure is causally linked to negative effects often fail to recognize that the "correlation" arguments constitute not just single dimensions of damaging effects, limited to one domain of biological consequences, but rather present a striking and wide-ranging "constellation" of studies and effects across a wide horizon of biological domains. What we increasingly see in research reports is a convergence of findings regarding cannabis risk that are mutually reinforcing.

That is, the dangers of exposure are found not only in brain physiology and function, ranging across a variety of functions and performances including cognition, memory, emotion, motivation, and potential psychological pathologies, but are further compounded by multiple behavioral studies and outcomes, involving school performance, lifetime achievement, susceptibility to social pathologies and disorders, and troubling propensities, such as suicide [6] risk.

In general, the literature shows not only multiple negative effects on large proportions of regular cannabis users, but we learn that for some specialized populations, such as those with mental or genetic predispositions or histories of pathologies or co-morbidities, cannabis exposure can be elevated beyond the risky to the level of the catastrophic, involving psychotic breaks and dissociations.

An added perversity is that many advocates, as well as those promoting greater commercial access and use of the drug, encourage exposure for populations already known to be at risk, such as sufferers of Post Traumatic Stress Disorder (PTSD), pregnant or nursing women, those with compromised immune systems, or those already at risk from substance use disorders, such as dependent opioid users.

That is, populations at high risk of developing cannabis abuse disorders and suffering disproportionately the consequences are being, perversely, targeted with messages to use cannabis as a putative protection or relief from their condition, either through so-called "medical marijuana" programs found in multiple states or through commercial, "recreational" market advertising and promotion. There are even direct targeted inducements [7] for pregnant women to consume marijuana to ease their afflictions, or unproven efforts to provide cannabis as an alternative to medications available for opioid use disorder, or even as a pain management regime thought to be superior to opioids.

In summary, each of these factors, when taken together, renders what dangers we thought were likely risks, as seen in the current literature, as being in fact likely understatements of the real risk now presented to the generation now affected, those coming of age in the era of a normalized, widespread, and aggressive market promoting drug exposure.

## Limitations to Our Knowledge: Inadequate Measures, No Real Baseline

Before turning to current data showing the extent of cannabis use, it is important to stress the dismaying limitations on our knowledge. In some measure because drug use has been an illicit activity, our grasp of the true scope of prevalence, as well as accurate trajectories of change, has been deficient, perhaps presenting more uncertainty than found for any other large-scale medical challenge.

There are three major surveys providing information on use at the national level. The National Survey on Drug Use and Health (NSDUH), run under the auspices of the federal Department of Health and Human Services, is performed annually on a sample population of roughly 70,000 persons, with summed state-level data being reported every 2 years. The scope of coverage is taken to represent all Americans aged 12 and older living in households.

In addition, there are two surveys directed specifically at the youth/young adult population. Monitoring the Future (MTF) is conducted, under a grant from the National Institute on Drug Abuse (NIDA) to the University of Michigan, in select high schools (with a separate college age population segment), reporting on 8th, 10th, and 12th grade drug use. MTF routinely samples, on an annual basis, approximately 44,000 youth. The 12th grade data extend back to 1975, while the addition of 8th and 10th grade data begins since 1991.

The third is the Youth Risk Behavioral Survey (YRBS), overseen at the state level by the Centers for Disease Control (CDC). This survey is biennial, and questions a wide array of health-risk behaviors, only some of which behaviors include a substance use component. Prevalence rates are affected by the setting of the survey instrument, with school-based responses commonly exceeding those reported from households. Limitations on the YRBS as a national-level survey, (such as low response rates, incomplete state coverage, and even under-coverage

within states – the Colorado YRBS version has not had participation from the largest school district since 1995) render it less useful for our purposes.

None of the three surveys is an ideal surveillance instrument for a variety of reasons, the most prominent deficiency being that they all rely on self-reports of behavior, with the reports not subject to any objective evidence of actual exposure.

Moreover, the coverage of the sample populations presents an inherent limitation, given that either residence in stable households or current school attendance are necessary preconditions in order to be captured in the survey response. Hence, we may be systematically missing the very population most at risk for heavy substance use, since they may have suffered attrition from the sample population, being found neither in stable households nor enrolled in school.

While it is possible to supplement the findings of these surveys by reference to data such as drug-related arrests, incarcerations, treatment admissions, and hospital emergency department episodes, efforts to capture these data at the national level are inadequate, and poorly funded.

In fact, several sources of supplemental federal data on populations most at risk, such as the nationwide data-collections known as the Drug Abuse Warning Network (DAWN), which was focused on emergency department admissions (and/or mortality data), or the Arrestee Drug Abuse Monitoring (ADAM) program, focused on law enforcement intake populations, are currently unfunded at the national level, their operation suspended under the Obama administration.

Finally, though we can review the most recent survey reports (restricted in this discussion to the most reliable instruments, the NSDUH and the MTF), it remains a surprising fact that analysts at the federal level face considerable uncertainty establishing either the volume of illicit substances produced domestically or globally (Supply), and have even less reliable information on the volume of such substances consumed, or the market value of the products (Demand).

It follows that authorities trying to implement national drug control strategies that integrate “supply reduction programs” with “demand reduction programs” are faced with the reality that measurements of both supply and demand are woefully uncertain.

The challenge is particularly acute when it comes to cannabis production and consumption, since the metrics may rely on metric tons of organic material, while the most consequential variable should be the quantity of intoxicant actually consumed. Obviously, a marijuana plant with average THC potency of 3% available for market consumption is simply not comparable to a concentrated chemical product sold at 70% THC. Hence, the true metrics of actual THC consumption are exceedingly uncertain.

## Current Measurements of Marijuana Use Showing the Comparative Scope of the Problem

Deficiencies aside, we can nevertheless observe relative changes over time in the self-reported data, even acknowledging that important populations with heavy use are likely not being measured at all.

American society has been plagued by various forms of substances of abuse throughout its history. But until the later half of the twentieth Century they did not include widespread consumption of cannabis, particularly by youth.

Before chronicling the most recent findings regarding cannabis use in the USA, as reflected in the 2018 National Survey on Drug Use and Health (NSDUH), it is worth a momentary reflection on the contemporary status of alcohol consumption as reflected by the same measuring instrument.

Surely some of the disease burden of a substance like alcohol is a function of its legal status for adults, producing prevalence rates of routine use that are multiples greater than the rates of use of cannabis, prior to legalization. If the impact of commercial legalization produces for cannabis prevalence rates in emerging generations that approach those of alcohol use, not only will cannabis use itself register as a more grave public health problem than it has been, its use somewhat truncated by legal risk, but the resultant impact of the concomitant use of alcohol and cannabis as dual public health threats could well exceed the damage of either of the substances taken alone.

That is, the future may present us with an intensifying "additive" model of substance misuse, as emerging and increasing cannabis patterns of use intersect with already prevalent alcohol use, there being little support for the hopeful speculation that cannabis use might supplant, rather than complement, concurrent alcohol consumption. Needless to say, measures of their interactive effects are as yet poorly developed.

A second reason to view contemporary alcohol consumption is that it might prefigure the potential scale of future cannabis consumption, after legalization and normalization of cannabis use becomes the context in which future generations acquire their norms of substance misuse.

Alcohol is more widely used, to be sure. But at least some of the disparity in prevalence is a function of the heretofore inhibitory effect on cannabis use deriving from the fact of societal prohibition, backed by legal sanction. Once those legal sanctions are removed, at least for adults 21 and older, we might be seeing in alcohol use the potential scale to which cannabis use might well grow, once promoted, fully commercialized, and normalized for a generation or more.

Accordingly, for the use of alcohol, in 2017, according to the NSDUH survey, there were in the population 12 and older 140.6 million current (Past Month) alcohol users, 66.6 million of which were "binge drinkers," 16.7 million of which were "heavy drinkers" during the Past Month, while 7.4 million drinkers were "under-aged."

While by no means inevitable, we see at least a plausible model for the scale of nationwide cannabis use following full legalization, a figure approaching fully half of the American population 12 and older routinely consuming an additional addictive substance.

Moreover, it would be a substance, cannabis, that has its greatest negative impact relatively early in life, compared to the worst negative health effects of alcohol, most commonly manifested later in life after years of abuse. In this regard one may further note recent research arguing that cannabis exposure is even more damaging [8] to adolescent brain development than is alcohol exposure.

To grasp the scale of illicit drug use, and its steep recent rise, we should look to what NSDUH terms Past Month (or "Current") use for the set substances identified as constituting use of "Any Illicit" drug (which category is inclusive of marijuana use).

Retrospectively, for 2015, shortly after early state-level commercial legalization of marijuana, NSDUH reported that during the course of that year, Past Month use of "Any Illicit" drug in the population 12 and older stood at 27.1 million Americans.

Scarcely a year later, however, the 2016 figures show a rise to 28.6 million users, an increase of 1.5 million additional drug users. This increase of Past Month users was nearly 6% in a single year.

The main reason for the overall "Any Illicit" increase can be found in the increased use of marijuana, which rose between 2015 and 2016 from 22.2 million Past Month marijuana users to 24 million users, an increase of 1.8 million users. The increase was just over 8%.

Since those data came out, NSDUH has advanced one more year to 2017 data (the survey results are released in September of the succeeding year, so the 2018 NSDUH report contains the 2017 data).

First, the new figures for "Any Illicit" drug use: In 2017, 30.5 million Americans 12 and older (that's about 1 in 9 Americans) were Past Month users of "Any Illicit" drug. That rise once again represents a slightly greater than 6% increase in a single year over 2016's 28.6 million users. That is, in two short years we have witnessed an increase in regular illicit drug use of 12%.

More specifically, focused just on marijuana, the 24 million Past Month users from 2016 has now risen to 26 million users in 2017. Again, for marijuana use, for the second consecutive year, the rise is just over 8% in a single year – yielding slightly greater than a 16% rise in what could arguably be seen as the first 2 years of the period post commercialization.

Marijuana use far outstrips the self-reported use of any other "illicit" substance.

The second-ranked "illicit" drug used is found in the misuse of prescription analgesics, with 3.2 million Current or Past Month misusers.

From there, the numbers drop even further, with the third-ranked drug, cocaine, having no more than 2.2 million Past Month users, while both methamphetamine and heroin both report fewer than 1 million Past Month users.

The contrast with marijuana use, the first-ranked illicit drug by far, is striking. While still lower than current use of alcohol, currently, the estimated 26 million Americans 12 and older reporting regular marijuana use in 2017 far exceeds any other substance use problem (leaving aside the issue of tobacco). The 26 million persons corresponds to 9.6% of the population 12 and older, and as we have seen, the figure is increasing by 8% with each passing year.

Where, then, is the population limit? What happens to our calculation of the relative "disease burden" of marijuana compared to alcohol when the number of users moves towards parity? Bear in mind that we are just now discovering the impact of legalization, which is still recent and partial across the states.

Moreover, the NSDUH survey allows the breakdown [9] of the population 12 and older into age groups, those 12–17, those 18–25, and those 26 and older. In addition to Past Month use, they also inquire as to Past Year use and Lifetime use.

Past Year use shows an enormous segment of the American population engaged in regular drug use. For Americans 12 and older, for 2017, there were 51.7 million Past Year users of any illicit drug. Of these, there were 40.9 million Past Year users of marijuana, or 15% of the population 12 and older. (By way of contrast, for the second and third leading illicit drugs, 6.6% misused psychotherapeutic drugs and 2.2% used cocaine.)

The increase since 2008, when there were 25 million Past Year marijuana users, is a stunning 64%. The percentage of users for 2017 exceeds any year, based on data that track back to 2002, before which year the survey was rendered discontinuous because of changes in methodology. The increase is driven most by those aged 18–25 and by those 26 and older. In 2017, among those aged 18–25, Past Year use of marijuana stood at 11.9 million (34.9% of this age group).

Switching categories now to the more regular Past Month users, how are the drug usage patterns distributed? Of adolescents, 12–17 years old (those arguably most at risk for damage), 6.5% were Past Month (Current Users) of marijuana. That figure represents approximately 1.6 million adolescents.

For 18–25 year olds, 22.1% (more than 1 in 5) were Past Month marijuana users. The figure has risen in a statistically significant manner every year since 2012, when it stood at 18.7%. That figure represents about 7.6 million young adults.

For adults 26 and older, the percentage for Past Month marijuana use is 7.9%, nearly double of what it was in 2008 at 4.2%. The current percentage represents about 16.8 million adult Past Month marijuana users.

**Summarized 2017 Findings in Brief Tabular Form for Past Month and Past Year Marijuana Use:**

- NSDUH 2017 [10] (reported in 2018): among approximately 70,000 people 12 and older surveyed:

- Past Year Marijuana Use ages 12–17: 12.4%
- Past Month Marijuana Use ages 12–17: 6.5%

- Past Year Marijuana Use ages 18 and older: 15.3%
- Past Month Marijuana Use ages 18 and older: 9.9%

- Past Year Marijuana Use ages 18–25: 34.9% (the increase from 2007, which showed 27.5% using, is 27%)
- Past Month Marijuana Use ages 18–25: 22.1% (the increase from 2007, which showed 16.5% using, is 34%)

- Past Year Marijuana Use ages 26 and older: 12.2% (the increase from 2007, which showed 6.8%, is 79%)
- Past Month Marijuana Use ages 26 and older: 7.9% (the increase from 2007, which showed 3.9%, is 102%)

In addition to overall increases in prevalence, we also see the "intensification" of use patterns. For all ages 12 and older, among Past Year users, the percentage of "daily/near daily" marijuana use stands at 19.8%, and at 21.9% for those 18–25.

Among Past Month marijuana users 12 and older, the average number of days used during the past month is 14.5 days, while the percentage of Past Month users consuming marijuana "daily/near daily" is a remarkable 41.7%. (NSDUH [11] table 7.21 B).

For those Past Month users who are aged 12–17, 25.1% were "daily/near daily" users.

For the 22.1% of those aged 18–25 who are Past Month users, the "daily/near daily" percentage stood at 44.3%.

Use of marijuana on a "daily/near daily" basis is the pattern of exposure most likely to produce Marijuana Use Disorder (the term for Cannabis Use Disorder or CUD). For 2017, CUD in the Past Year was reported as 5.2% for the category of 18–25 year olds.

Cannabis Use Disorder (CUD) is rising, in general. Data [12] from the National Epidemiology Survey on Alcohol and Related Conditions (NESARC), comparing successive waves of data between the years 2001–2002 and the years 2012–2013, show that the prevalence of marijuana use more than doubled, which prevalence was accompanied by a large increase in CUD experienced within the past year, largely because of the increase in the number of users.

According to NESARC, nearly 3 in 10 marijuana users experienced CUD. (The rate of CUD among marijuana users, however, did not increase, potentially owing to the fact that the "pool" of new users may have dampened the overall rate of disorder; subsequent NESARC waves, especially given the steeply rising potencies now experienced, may disambiguate the factors behind changes in CUD rates.)

Moreover, based on the same survey data set, additional research [13] has shown that the increase in CUD prevalence was greater in states that had passed "medical marijuana" laws than in states that had not.

## Marijuana Use in Sub-populations at High Risk

Even further insight [14] regarding our future threat can be seen in use of marijuana by specialized populations presenting particular risks.

For pregnant women, aged 15–44, 7.1% report using marijuana during the Past Month. This represents an increase since 2015, when it stood at 3.4%, of 108% in two years. On the whole 3.1% of pregnant women report "daily/near daily" marijuana use, up from 1.2% in 2015.

For youth aged 12–17 who are Past Year "daily/near daily" marijuana users, 15.5% report a co-morbidity of past month "heavy alcohol use" while 24.1% report a Major Depressive Episode (MDE).

On the whole 31.8% of Past Year "daily/near daily" marijuana users suffer a co-morbidity of past-year opioid misuse (reported by only 1.6% of non-marijuana users for this co-morbidity).

The corresponding figures for the age group 18–25, by Past Year "daily/near daily" marijuana use, are: 20.7% Heavy Alcohol Use, 17% past year Major Depressive Episode, and 24.1% past year Opioid Use Disorder, respectively, for the co-morbidities reported.

## Monitoring the Future School-Based Data

Some additional insights on the scope of youth exposure can be gained from the Monitoring the Future Survey of high-school youth. MTF 2018 [15] is a school-based survey reporting on 44,482 students from 392 public and private schools, examining self-reported substance use amongst 8th, 10th, and 12th graders (as mentioned earlier, the trajectory for 8th and 10th grades begins since 1991, while reports from 12th graders have been gathered since 1975).

For 12th graders, 22% report Current, or Past Month, marijuana use (a rate that exceeds cigarette use, which has fallen to 7.6%; binge drinking, at 13.8%, has been in steady decline since 1998). Past Year marijuana use stands at 36.9%.

Of current enrolled students, 5.8% of 12th graders report daily marijuana use.

In a troubling recent development, 37% of 12th graders report vaping some substance, primarily nicotine, while the 13.1% report vaping marijuana or hash oil. The rise between 2017 (the first year that inquired about vaping) and 2018 for all grades reporting vaping marijuana is significant (for 8th and 10th graders, it is 63%).

For vaping marijuana (only), the rise for 12th graders is from 4.9% in 2017 to 7.5% in 2018, an increase of 53% in a single year.

It may well be that we are failing to capture the full extent of marijuana use prevalence because of the rise of vaping and consumption of comestible forms of the drug are only now being systematically included in the survey instruments.

Additionally, MTF [16] reports that marijuana use among college age students, seen among a cohort that they track beyond high school, has risen steeply. They report that 30-day use of marijuana has increased significantly by 5.1% across the past 5 years, ending in 2018 at 24.1%, an all-time high for the study. In fact, annual and 30-day marijuana use among young adults aged 19–28 are at the highest levels in the 33 years that MTF has been monitoring their use.

Finally, MTF has for years measured subjective norms regarding the acceptability of smoking marijuana, as well as asked concerning student perceptions [17] of risk in using. These two metrics are often seen as harbingers of future prevalence; for instance, when perceptions of risk rise, prevalence rates tend to fall shortly after. Disturbingly, therefore, we learn from the most recent MTF perceptions by high school seniors of harmfulness in regular use of marijuana have fallen from high of 78.6% in 1991 to only 26.7% in 2018, a fact which may well show the triumph of the misleading “medical marijuana” campaign.

## Widening Societal Impact of Increased Marijuana Prevalence

It is disturbing to realize that no one knows the full societal impact of these kinds of drug use changes spreading into every sector of the nation. Surely we can expect some societal consequences, not least on educational attainment, on workforce performance, on economic attainment, and even military recruitment, over and above the consequences found in strictly public health or criminal justice dimensions.

A recent (and proprietary) publication from Baron Public Affairs, a risk-assessment firm that provides analysis and guidance to public policy and corporate

decision makers, evaluated the possible impact of commercial marijuana in a document entitled "The Unintended Consequences of Marijuana Legalization."

While by no means exhaustive, their research nevertheless identified several areas of societal concern over the emerging levels of marijuana use, which concerns extend beyond just the public health and criminal justice impact.

The Baron report anticipated widespread impact on individual initiative and motivation, affecting the economic prospects not only for the generation of heavy users but for the wider economy. They noted such effects as those who smoked marijuana regularly had lower social class as adults than their parents experienced. They also had greater levels of welfare dependency and higher levels of unemployment.

Given further effects, such as those on family formation and collapsing social capital, Baron anticipated even greater social stratification, income inequality, greater damage to those with fewer economic resources, and greater class conflict.

Baron further anticipated a link to the multi-billion dollar opioid crisis, to which the coming marijuana epidemic will add further addiction and greater need for government services, welfare relief, and public funding, particularly for treatment purposes, to address the consequences of widespread marijuana use.

To these effects they add alarms concerning the available pool of warfighters and the potential erosion of military standards through either drug use waivers or tolerance of on-going use, which could render users compromised as decision-makers and vulnerable as security risks.

Even after the acute effects of intoxication have faded, users may experience reduced [18] cognitive/executive function, long-term, with strongest effect on adolescents.[19]

Finally, with regards to economic impacts, Baron notes that in one rural area, half of all job applicants were reported to have failed their employment drug test, which in a tight labor market is an obstacle to growth. In fact, data [20] from the largest national drug testing business, Quest, show that those who fail an employment drug test stands at its highest level (4.4% in 2018) in 14 years.

We are only at the beginning of the consequences of commercialization. The recent political calculus of both California and Canada to enter commercial marijuana markets has during the last 2 years added a combined population of nearly 77 million persons now living under "legal" marijuana regimes.

No wonder, as Baron concludes, has cannabis investment nearly quadrupled during the year 2018, built on major investments from well-established tobacco, pharmaceutical, and alcohol companies.

## The Societal Impact of Expanded Cannabis Extends to the Use of Other Substances Of Abuse

First, we should recognize that trafficking networks for all drugs penetrate expanding marijuana markets. These criminal networks operate with a business model that is polydrug and polyfinance, operating with violence, coercion, and corruption as standard modes of behavior, capitalizing on addiction.

There are multiple ways in which the spread of marijuana prevalence is tied to the continued strengthening [21] of the illicit criminal market not only for marijuana but also for the trafficking in all illicit drugs, including the opioids.

Criminal organizations are polydrug traffickers, and wherever they establish a presence by capitalizing on the expanding commercial prevalence of marijuana, they begin to exploit their access to traffic other substances, thereby feeding [22] not only the opioid crisis (responsible for 47,000 of the overall 70,000 overdose deaths from all drugs in 2017) but further fueling the overdose crisis in cocaine (deaths rising rapidly to over 13,000 in 2017) and methamphetamine (contributing to over 10,000 deaths nationwide in that same year).

To take but one example, in Colorado [23], between 2015 and 2016, after steady rise since 2002, pharmaceutical opioid overdose deaths declined by 6%. But in that same year, overdoses from heroin increased 23% (subsequent data have shown that even the pharmaceutical overdose deaths have rebounded upward). Numerous communities, such as Pueblo, note that rapid expansion of homeless populations following the proliferation of marijuana dispensaries has been accompanied by increased trafficking and use of methamphetamine, illicit opioids, and cocaine, the effects of which can be observed in local emergency rooms.

Moreover, the financial profits accruing to the criminal cartels from marijuana sales serve to fund the full scope of their trafficking activities, supporting their capacity to insulate themselves not only financially but also politically.

To understand the broader relationship between adolescent drug use, including the initiation of marijuana, and the persistence of our current opioid overdose epidemic, we can turn to the work of Dr. Robert DuPont, a psychiatrist who is President of the Institute on Behavior and Health.

DuPont recently authored [24] *"A New Narrative to Understand the Opioid Epidemic,"* noting that for many opioid-addicted individuals, drug use frequently began in early adolescence, particularly with the use of alcohol and marijuana. "Early poly-drug use often sets the stage for later transition from medical to addictive use of opioids that are prescribed for pain. These patients' brains have been primed for the addictive response to opioids."

As DuPont notes, opioid overdose deaths nearly always involve the use of other addictive drugs, such as marijuana, cocaine, methamphetamine, and alcohol. About 95% of current opioid overdose deaths, according to studies of particular populations, involve other drugs, with an average of 2–4 and a maximum of 11 in addition to the opioids.

The standard overdose narrative, DuPont argues, overstates the degree to which physician prescribing of opioid medications is the primary pathway for overdose risk and ignores the significant role of adolescent initiation to drug use in the opioid overdose epidemic, occurring at older ages. While for many opioid addicted people their first use of an opioid was a prescribed opioid from a physician, it is also true that the majority of these individuals first used other drugs before or with their first use of opioids.

Further, only about 4% of people who use prescription opioids non-medically initiate heroin within 5 years of first prescription opioid use. For example, among 4493 individuals treated for opioid addiction whose first exposure to opioids was through a

prescription from their physician, notably 94.6% reported prior or coincident use of other psychoactive drugs. Alcohol was used by 92.9%, and marijuana by 87.4%, and excluding these top substances, fully 70.1% reported other prior or coincident drug use.

The clear message is that in order to comprehensively address the current drug abuse crisis and accompanying fatalities, we must address early adolescent exposure to marijuana as a contributing factor.

Multiple accounts now found in the literature clearly show that cannabis use, especially persistent use of high-potency cannabis in adolescence, is a risk [25] factor for the development of subsequent opioid use disorder.

To take but one example, a 2017 study [26] using NESARC data found specifically that cannabis use is linked to prescription opioid disorder: "… cannabis use at wave 1 was associated with increased incident nonmedical prescription opioid use (odds ratio = 5.78) and opioid use disorder (odds ratio = 7.76) at wave 2."

As the Centers for Disease Control succinctly summarized [27] the matter, "People addicted to marijuana are three times more likely to be addicted to heroin." In addition, multiple studies, particularly using animal [28] models, show an effect of brain "priming" and "cross-sensitization" between cannabis exposure and opioid exposure. Overall, we are witnessing increasing validation of a marijuana "gateway" [29] effect on subsequent drug use. Indeed, there is increasing evidence [30] that "early marijuana use by itself, even after control for other covariates, increases [31] significantly the use of other illicit drugs."

## Final Thoughts on the Wider Implications of Increased Use

The full scope of the potential negative effects of increased marijuana use, particularly as accelerated by commercial legalization, is now emerging, and the damage affects many domains of national life.

First, we should be concerned over the future impact of a marijuana "gateway" effect, whereby early adolescent exposure increases the risk of subsequent initiation of other addictive substances, and further heightens the risk of multiple drug use disorders in later life.

To the extent that the gateway thesis is validated, we can expect that the surging crisis in the use of drugs such as opioids, cocaine, methamphetamine, and other emerging synthetic drug threats will continue at an epidemic level, as widespread marijuana prevalence serves to feed vulnerable users into polydrug dependency and disorders.

Moreover, it is not just the users of such substances who are placed at risk, we recognize that major criminal enterprises, those that traffic lethal poisons, find in the "legal" marijuana market an open pathway for their operation, thereby enhancing their revenue, and reinforcing their violent and corrupting methods.

But the public health impact is not limited to the effect on users. We should acknowledge that the rise of "medical marijuana" treated as though it were a legitimate medicine approved through clinical trials, scientific rigor, and demonstrations

of safety and therapeutic efficacy, shows the consequence of allowing a political process to supplant strict medical trials as the basis for legal acceptance.

As such, the integrity of the drug approval process itself, and the authority of the criteria upon which it is based, has been compromised by resort to illegitimate mechanisms.

Further, there are lessons to be learnt in how both "medical" and commercial marijuana progressed at the state level, in settings such as Colorado. Promises were made by advocates, seeking a political appeal to sway voter approval. Promises were made of enhanced state revenue sufficient to compensate for possible public health or law enforcement costs. Promises were made of more effective means for protecting youth from access to the drug. Promises were made of forcing out criminal activity, with its attendant violence, coercion, and fear. Promises were made of reducing supposed injustices in legal enforcement of anti-drug laws.

In fact, so appealing were the promises that the Obama administration's Department of Justice (DOJ) agreed to reorder federal prosecutorial priorities to enable state legislation to operate. In repeated memos from the DOJ we were told that there would be established certain "Red Lines," which, if crossed, would trigger an intervention on behalf of federal law. The "Red Lines" pertained to such issues as drug access by youth, or evidence of smuggling activities, or other signs of criminal activity.

Yet we cannot forget that those "Red Lines" were repeatedly, even flagrantly, violated in succeeding years, as multiple reports from the Rocky Mountain High Intensity Drug Trafficking Area (HIDTA) [32] joint law enforcement command readily demonstrated. But no federal intervention was triggered. (Further, we now see evidence at the state level that the promised taxation revenue has not been sufficient to cover the greater costs to society of increased prevalence, nor have certain putative benefits manifested, and that black market marijuana, offered more cheaply, has captured major market share.)

Suffice it to say that the promises have not been kept. Yet we now see them repeated at the national level.

So as we pull back the lens for a wider picture, we see not only a public health crisis affecting users and medical institutions, but an emerging criminal justice crisis, as the black market thrives in states that have approved commercial marijuana, and as violence, smuggling, and corruption have all persisted in support of strengthened criminal activity, which now seeks to insulate itself by gaining political [33] power.

As noted, there are now efforts in Congress to alter at the federal level not only the Schedule I status of marijuana but further enable banking and financial legislation that could threaten the integrity of the US financial system, were transnational criminal organizations could exploit the proposed changes to mask or launder illicit proceeds from their entire international operations.

If we pull the lens back even further, we now see the international impact of our failure to uphold federal drug law at the state level. Simply put, the position of the USA as the moral leader in drug control, and the primary protector of the global drug control enterprise, has been compromised.

Our international commitments, such as found in treaty obligations in partnership with the United Nations, have been countermanded. Our allies, themselves fighting transnational criminal organization, feel abandoned, and many are yielding the fight. Even US development objectives, seeking to strengthen not only international economies but human rights and democratic institutions, have been eroded by the threatened emergence of corrupt narco-states among international partner nations who once depended on us for protection.

That is, we can now count the costs of the spreading acceptance of legalized drug use as serving to damage not only public health and criminal justice, but national security as well.

None of these developments make our own borders more secure, nor our own citizens safer nor healthier. In fact, US interests and well-being may be facing a coming debacle of major dimensions through unprecedented drug use and the attending criminal attack on our institutions, financial as well as political.

It should finally trouble us greatly that all of these developments represent self-inflicted wounds, against which many have warned us. We may well find that we done no other than to enable a virtual Trojan Horse in our midst, a development likely to occasion great regret.

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September 8, 2021

Mayor, Council, and Staff,

Thank you for allowing public comment and input into the writing of new cannabis regulations in the City of Billings. This is a monumental task and one that was forced upon our community by actions of the state legislature. I relish the opportunity to help educate on the subject matter, as CM Ronning said last night, and help provide meaningful feedback to this critical and time sensitive process.

As the Mayor alluded to last night, very few good decisions are made quickly. Access to quality information is one of the factors that can alleviate poor decision making. My goal is to provide you factual data, as well as my insights, into these issues from experience in the industry. I approach this process with a unique perspective of being a licensed landscape architect with a strong understanding of zoning regulation and land use economics. I am also an entrepreneur who owns and manages three totally unrelated businesses, one of which is a vertically integrated cannabis farm.

This letter reflects the five bulleted points (zoning restrictions, comprehensive licensing and screening of marijuana businesses, product testing, cultivation regulations and caps, and dispensary regulation and caps) that were discussed at length in the working session on Tuesday September 7, 2021.

<u>Zoning Restrictions</u>

There is a lot of value in seeing all the buffers presented in one map, as the remaining area of allowable properties will likely be quite small and specific. The few properties that will fall into these zoning islands are likely currently occupied being used by existing businesses. The likelihood of them being available for rent/lease/purchase is low.

This limited zoning approach is not the best path forward for our community. Our city currently contains a plethora of vacant properties that seem to grow every month. Vacant properties are not only detrimental to the aesthetic of our community, but they also affect the business climate, employment, and the all-important tax base. Supporting cannabis businesses and their ancillary businesses can be one of the tools in your toolbox to begin to provide anchor tenants and create jobs throughout our city.

The same rules should not apply for a retail dispensary as for a manufacturing or grow production facility. We should not exclude retail from properties that are designed to provide retail service. Conversely, we do not want to have a manufacturing or grow facility located in a retail area. Testing laboratories are a white coat professional type business – do we really want to discourage those businesses from locating here because the zoning requires them to locate

in a heavy commercial or industrial area where employees have no access to walkable distance services?

I strongly encourage staff and council to consider a much more refined approach, with independent and sensible zoning restrictions for each type of cannabis business. There should be a provision allowing for a special review process for properties located outside the determined zoning boundary that wish to be a cannabis business. The zoning regulations need to reflect the seven types of businesses that have previously been identified: cultivation, manufacturer, adult use dispensary, medical use dispensary, combined use dispensary, testing laboratories, and transportation. One additional field should be recognized for this effort – medical research and development – which is potentially the largest and most lucrative type of cannabis businesses. Medical research and development is a growing field that attracts high paying jobs. Billings would be wise to provide an attractive home for these new and burgeoning businesses, as they complement our existing high quality medical services. A recent Wall Street Journal article that explains a little bit about the cutting-edge research and development that is beginning to occur is attached.

<u>Comprehensive Licensing and Screening of Marijuana Businesses</u>

The state of Montana completes a thorough background investigation into all owners of every licensed cannabis business. Before any license is issue or renewed, every shareholder of the business is required to undergo a full FBI background check that includes fingerprinting of all parties. This application process also includes state checks into the following for each shareholder: custody or supervision of the department of corrections or a youth court; no felony convictions; no convictions for a drug offense; no convictions for fraudulent representation; failure to pay taxes, interest, penalties or judgments due to any government agency; stay out of default on a government student loan; pay child support; remedy an outside delinquency for child support or for taxes judgments owed to any government agency. Verification from applicants include that no portion of the property in use by the applicant shall be shared with, rented, or leased to another provider or registered cardholder. Financial disclosures are also included the application process. I have my most recent application to the state that I would be happy to share with you if you feel it would be helpful.

The DPHHS and now Department of Revenue Cannabis Control Division highly regulate all aspects of the business. Seed to sale tracking allows the department to track all aspects of every process involved from planting a seed or clone, through the growing process, harvest, drying, curing, and eventual sale of flower or manufacturing. This system is complicated and comprehensive. Regional inspectors are assigned to perform announced and unannounced audits of the product inventory, plant counts, worker certification, and overall compliance with state law.

If the city deems this process inadequate, I'd be interested to know what additional measures would allay the fears or misgivings of cannabis business owners. Duplicate regulations and unnecessary expansion of our local government is generally not a value supported in our community.

Product Testing

All testing labs are required to be independent of cannabis businesses, and provide unbiased, science-based, results that can be repeated with accuracy. I have provided you with a login and password for accessing the Green Bee testing records with the laboratory that we utilize.

Website: Client Portal / swlims.io Login: admin@greenbeedispensary.com

P/W: OurData123!@#

I encourage you to look at the testing information provided to us. Look at the types of agents that all products are tested for – eighteen different pesticides, a variety of molds and microbials, foreign matter, heavy metals, mycotoxins, residual solvents. I think you'll find the list comprehensive. If you'd like more information about what types of tests can be performed, I encourage you to look at the website of Stillwater Laboratories, the company we use for testing. Fast, Reliable Cannabis Testing Results In Montana | Stillwater Labs (stwlabs.com)

Testing is already a substantial cost to cannabis businesses. In fact, at the Green Bee, testing accounts for approximately 10% of all our expenses. The state has established extremely stringent guidelines for how frequent, when, and what types of tests are required. I have concerns that if the city ventures into this arena, the staffing and city's expense of requiring additional testing will be more than anticipated. I again encourage diving into the existing state regulations to understand what is already required. If additional areas of testing are identified, let's discuss what those are and how those measures can be included in the required round of state testing.

The state of Montana has very clear and concise requirements for labeling of all products. In fact, the testing lab provides the label to the retail facility, so that there is no confusion on what data should be included. This system also ensures that the label affixed to a product is consistent with the test that was performed on that product. The information that Ms. Tracy presented indicated that product mislabeling was rampant in other areas, outside of Montana. This may be true, but this is not a failure of testing, but rather incorrect or untruthful labeling. To my knowledge, this is not an issue here.

Cultivation & Dispensary Regulations and Caps

I have combined the last two categories, as my thoughts on them are similar. As previously discussed in this letter, I feel that a more in-depth approach for zoning is the best policy. Limiting the number of businesses that may operate within those allowable zones is not in the best interest of property owners or residents. Retail services, no matter what you sell, are best when distributed throughout commercial districts. Industrial operations, like commercial indoor farming, is best suited for heavy commercial and industrial zones.

Free enterprise values run strong in our community. Allow the market to dictate what the number of, and types of businesses, call Billings home. I think you'll find that the vast majority of cannabis businesses are well run, organized, and clean. They are an asset to a community.

Thank you for your consideration in these matters. I look forward to further discussion on these regulations. If anyone would like to have a personal tour of the Green Bee, including an in-depth look at the state's existing regulatory structure, I welcome the opportunity to provide you access to my business. Knowledge is power.

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https://www.wsj.com/articles/cannabis-researchers-seek-to-unlock-the-healing-power-of-pot-11630674984

| HEALTH

# CANNABIS RESEARCHERS SEEK TO UNLOCK THE HEALING POWER OF POT

*Cannabis contains dozens of rare and intriguing compounds, but they haven't been easy or cheap to produce. That is changing.*

**AUTHOR**
AMANDA CHICAGO LEWIS

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*The Future of Everything covers the innovation and technology transforming the way we live, work and play, with monthly issues on education, money, cities and more. This month is Health, online starting Sept. 3 and in the paper on Sept. 10.*

Cannabis, the leafy group of plants including marijuana and hemp, is best known for the THC that gets people high. But cannabis can contain many other chemicals. Products with the nonintoxicating compound CBD, for example, have proliferated over the past five years. Now, pharmaceutical makers, product researchers and investors are wondering, what else do the plants have to offer?

Scientists say there are at least a hundred cannabinoids, a class of organic compounds found primarily in cannabis and often abbreviated to three or four letters. THC and CBD are abundant, and the Food and Drug Administration has already approved them in some forms. But many other compounds may have therapeutic effects, and not every plant produces every cannabinoid. Rare and intriguing compounds like CBM and CBD-V would require years of strategic breeding of plants to create a stable and inexpensive supply chain.



At Lygos, microbial fermentation generates the desired cannabinoid molecules in a broth.

**PHOTO:** HELYNN OSPINA FOR THE WALL STREET JOURNAL

Researchers say a technique known as biological synthesis, a method that involves engineering yeast, algae or bacteria to produce compounds in a fermentation tank, will allow them to quickly generate molecules without the expense and complexity of growing hemp or marijuana plants.

This technology could fundamentally alter the way cannabis products are sourced and consumed—and possibly help unlock the plant's potential as a source of medical therapies, say scientists. Early studies show that cannabigerol, or CBG, for example, holds promise as a treatment for neurological disorders such as Huntington's disease.

SHARE YOUR THOUGHTS

*What potential do you see in cannabis as a source of medical therapies? Join the conversation below.*

Though questions remain about the efficacy of compounds isolated from the rest of the cannabis plant, the rise of biosynthesis will allow for a purified, consistent study drug, hastening scientific understanding of each compound's potential toxicities and benefits, cannabis researchers say. Analysts at the investment bank Raymond James predict the nascent biosynthetic cannabinoid industry will be worth $10 billion globally by 2025. This is despite potential legal complications arising from selling cannabis-related products, even if the compounds were grown in a lab.

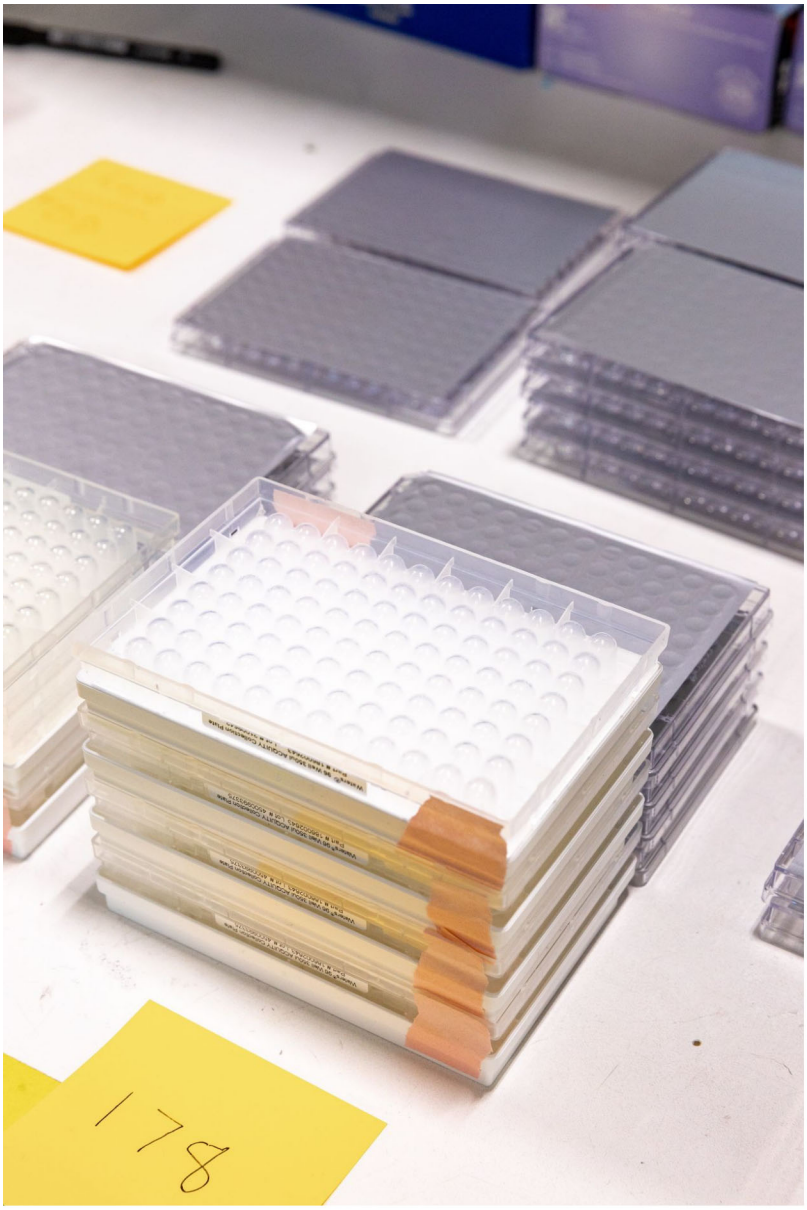
"The marijuana plant has tremendous potential, so the more access we have to the constituents of marijuana, the more we can continue to move the science forward," says Dr. David Shurtleff, the deputy director of the National Center for Complementary and Integrative Health at the National Institutes of Health.

The recent surge of research and development at biotech companies around molecular biosynthesis has implications beyond cannabis. A McKinsey analysis from 2020 predicted that this kind of "biomolecule" will soon have an annual global direct economic impact in the trillions of dollars, for industries ranging from agriculture to health to energy production. Some vitamins are already produced biosynthetically.

In the cannabis industry, the technology has been particularly alluring, researchers and entrepreneurs say, due to the breadth of potentially therapeutic compounds, the dearth of existing research on those compounds, and the difficulty and expense of producing the compounds through either chemical synthesis or conventional plant breeding.

Here's how it works: First, scientists identify the enzymes in a cannabis plant that contain the chemical blueprint to produce the desired compound. Next, they sequence those enzymes to find their DNA, and then insert the genes into a microorganism like yeast, using gene-editing technology such as Crispr or a more traditional technique called homologous recombination. From here, the yeast is fed oxygen, sugar and nutrients, and mixed with water in a fermentation tank, in a process similar to brewing beer. Within a few days, the yeast begins to secrete the cannabinoid. Finally, scientists add an organic solvent like oil to the fermentation tank,

attracting the newly produced compounds and leaving a cannabinoid solution that can be further manipulated.




Thousands of strains are generated and tested for Lygos's desired production characteristics.

**PHOTO:** HELYNN OSPINA FOR THE WALL STREET JOURNAL

The whole process takes about a week, compared with up to six months to grow and harvest a single plant. It is cheaper, more accessible and, without the need for entire fields of cannabis and energy-intensive extraction processes, more sustainable, says UCLA Cannabis Research Initiative founder Dr. Jeff Chen.

"This platform is a game-changer for research," he says. "It enables the study of what the individual cannabinoids are doing, which is very difficult if not impossible to tease apart when you're working with the plant material itself, or plant extracts."

Cannabinoid biosynthesis companies are generally not interested in THC because state marijuana markets are so tightly regulated.

Instead, they are looking at mysterious compounds that few humans have tried, with names like CBE and CBC. Each cannabinoid seems to have a unique effect. Where THC has a propensity to induce hunger, also known as "the munchies," THC-V seems to take away appetite, according to early research. Other cannabinoids seem to influence everything from blood pressure to bone density, according to research done mostly in mice.

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At Lygos, petri dishes containing genetically modified yeast are selected and then screened for the production of cannabinoids.

PHOTO: HELYNN OSPINA FOR THE WALL STREET JOURNAL

Cannabinoids "may have therapeutic potential in almost all diseases affecting humans," wrote NIH researchers Pál Pacher and George Kunos in 2013, citing early evidence of the comprehensive nature of how various compounds from the cannabis plant affect the body.

If that is true, biosynthesis may be the technology that allows researchers to puzzle out which compounds help, which hurt, and how they can be combined to treat various ailments.

Clinical research involving cannabis in the U.S. remains stymied by federal restrictions. It is very difficult to gain permission to do trials in human beings, and it has been even more difficult to access a variety of cannabinoids from the University of Mississippi, home to the country's sole legal source of pot for research. More thorough research on cannabis and cannabinoids tends to come from other countries, such as Israel and the Netherlands. While it isn't yet clear how regulatory agencies would handle the legal status of biosynthetic cannabinoids, researchers are optimistic.









Lygos hopes to mass produce cannabinoids for some of the biggest corporations and research institutions in the world. PHOTOS: HELYNN OSPINA FOR THE WALL STREET JOURNAL(2)

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So far, products containing biosynthetic cannabinoids are few and far between. The skin care brand High Beauty sells an acne treatment that contains biosynthetic CBG, which early research suggests has anti-inflammatory properties, at Macy's. The CBG is made by the Berkeley, Calif.-based biotechnology company Lygos.

Other companies working on biosynthetic cannabinoids include the Vancouver, Canada-based Willow Biosciences, which is partnered with Curia Inc., and the Boston-based Ginkgo Bioworks, a synthetic biology company which is partnered with the Canadian cannabis producer Cronos Group.

Back in 2014, when Lygos bioengineer Jason Poulos started working with biosynthetic cannabinoids, friends joked that he was a stoner; now, he is hoping to mass produce cannabinoids for some of the biggest corporations and research institutions in the world.

"We want to be the supplier of these ingredients to everybody," Dr. Poulos says.



Lygos produces CBG for an acne treatment from skin care brand High Beauty.

PHOTO: HELYNN OSPINA FOR THE WALL STREET JOURNAL

To be sure, some of these compounds may have negative effects at certain doses. “It’s a drug that is metabolized, and if it is overdone it will tax on your liver,” Dr. Poulos says. “We should expect all the cannabinoids to have a similar toxicity window to CBD.”

And for many cannabis researchers, activists and businesspeople, the quest to manufacture, understand and sell single-cannabinoid products is a waste of time. No isolated cannabinoid, they say, will ever be able to replicate the benefit of the entire plant, with its mix of major and minor compounds—a theory known as “the entourage effect.”

“I’m still a believer that the whole plant is more therapeutically beneficial than any one cannabinoid by itself,” says Dr. Malik Burnett, an addiction medicine physician at the University of Maryland Medical Center, who has experience in cannabis business and policy. “The concept of using biosynthesis to increase production of lesser cannabinoids is not a scientific breakthrough, but there is a significant amount of potential to create products that can be marketed, and can convince people that they need to use them.”

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## Corrections & Amplifications

Cannabinoid biosynthesis companies are looking into compounds with names like CBE and CBC. An earlier version of this article incorrectly said that one of the names was CDD, but there is no cannabinoid by that name. (Corrected on Sept. 3)

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*Original Scholarship*

# County-Level Recreational Marijuana Policies and Local Policy Changes in Colorado and Washington State (2012-2019)

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**Policy Points:**

- In 2012, Colorado and Washington were the first states to legalize recreational marijuana through voter-initiated ballots. In these states, counties could restrict or ban local marijuana facilities through a variety of regulatory methods such as ordinances and zoning.
- County-level recreational marijuana policies in Washington and Colorado vary substantially, with 69.2% of Washington counties and 23.4% of Colorado counties allowing all types of recreational marijuana facilities as of April 1, 2019.
- After Colorado and Washington legalized recreational marijuana, many counties modified their marijuana policies over time, with shifts in county policy often preceded by advocacy and information-seeking activities.

**Context:** In 2012, Colorado and Washington were the first states to legalize recreational marijuana. Both allowed local governments to further regulate the availability of marijuana facilities in their jurisdictions. As early adopters, these states are important quasi-natural experiments to examine local marijuana policy and policy change processes, including key stakeholders and arguments.

**Methods:** We conducted a policy scan of county-level recreational marijuana ordinances and regulations in Colorado and Washington. Data collected included policy documents from counties in both states and newspaper articles. We used

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a mixed-methods approach to describe the types of county-level recreational marijuana policies enacted by April 1, 2019; identify key policy stakeholders involved in local policy debates; and explore arguments used in support or opposition of county policies. We also selected four counties that represent three county policy environments (all marijuana facility types allowed, some marijuana facility types allowed, all marijuana facility types prohibited) and described the policy changes within these counties since recreational marijuana was legalized.

**Findings:** By April 1, 2019, Colorado counties were less likely than Washington counties to allow marijuana facilities—48.4% of Colorado counties prohibited recreational marijuana facilities in their jurisdiction compared to 23.1% of Washington counties. Since state legalization, several counties in both states have made substantial marijuana facility policy modifications, often preceded by information-seeking activities. Primary stakeholders involved in policy debates included elected officials, law enforcement, individual growers/farmers, marijuana business license applicants, parents, and residents. Proponents referenced local economic gain, reduced crime, and potential health benefits of marijuana as arguments in favor of permitting local facilities, whereas opponents pointed to economic loss, negative health and public health issues, public safety concerns, and existing federal law. Both sides referenced local public opinion data to support their position.

**Conclusions:** By early 2019, a patchwork of local marijuana policies was in place in Colorado and Washington. We identify key areas of policy and public health research needed to inform future local marijuana policy decisions, including the impact of legalization on public health outcomes (particularly for youth) and public safety.

**Keywords:** marijuana, cannabis, local policy, county, ordinance, regulation.

In the 1990s, states across the United States began to legalize marijuana for medical use, which helped usher in the transition to the legalization of nonmedical (recreational) marijuana use.[1] In 2012, Colorado and Washington were the first states to legalize recreational marijuana for adult use and sales through voter-initiated ballots, with legal sales beginning in 2014.[2] As early adopters of recreational marijuana legalization, these states set precedents for other states to follow suit, even though marijuana remained an illegal substance under federal law. In both Colorado and Washington, local governments (i.e., counties and cities) could enact ordinances or regulations to limit the availability of local marijuana facilities, including prohibiting them altogether.

Colorado and Washington serve as quasi-natural experiments to examine how local jurisdictions have responded to state marijuana legalization. By investigating local marijuana policy decisions, such as ordinances to prohibit marijuana facilities, we can identify key factors and themes that drove those policy choices. Understanding these can provide critical insight about local policy change processes that may be generalizable to localities elsewhere. Further, longitudinal monitoring and examination of local policy decisions around marijuana, including the policy stakeholders and arguments, can help identify patterns in how local jurisdictions are regulating emergent recreational marijuana markets and allow us to analyze whether and how local policy has shifted over time.

Currently, there is a dearth of local marijuana policy surveillance research[3] and a lack of investigation of how these policies have changed since legalization.[4] Examining county-level policies can be of use because counties are administrative arms of state government—they assume key governance and service provision roles for businesses and residents in unincorporated areas, and they have expanded their policymaking responsibilities over time in the area of health care.[5] County governments are also subject to local perspectives and needs, providing an interesting political and policy context for health policy decision making.

Prior research focusing on Washington (through 2016)[3] and California[6] suggests there is large variation in the types of county-level marijuana policies adopted in states that have legalized recreational marijuana. As of July 2014, 10 of 39 Washington counties either adopted a permanent ban of retail recreational cannabis outlets or did not modify a moratorium (i.e., temporary ban) that they had previously enacted.[7] By mid-2016, 10 Washington counties still had a permanent or temporary ban on cannabis retail sales (another 9 did not have a specific policy identified), and approximately 30% of the state population lived in locations with permanent bans or moratoriums on retail sales—indicating considerable variation across cities and counties.[3] In California, a study of marijuana laws in local jurisdictions (534 of the state's 539 cities and counties) enacted by January 31, 2019, reported that 62% of the state's 58 counties allowed any retail sale of marijuana for either medical or adult recreational use.[6]

For several reasons, research is needed on current local recreational marijuana policy environments, stakeholders, and related communication to inform public health research, practice, and policy. First,

although some work examining local policies in Washington and California has been undertaken, to our knowledge, similar policy surveillance research has not been conducted in Colorado. Analysis of both Washington and Colorado provides an opportunity to capture local policy evolution in states that were early adopters of marijuana legalization. This is important because relative to other jurisdictions that only recently legalized marijuana, Washington and Colorado afford several years of data to capture current local policies as well as the dynamics of policy change over time.

Second, analysis of local policy allows greater granularity to identify important arguments about policy change, as well as tensions. The calculus underlying local legalization of marijuana may vary, with possible public concerns about permitting marijuana facilities ranging from public health and safety issues[2,8] (including a blurring of medical and recreational use)[9] to ideological arguments and local public opinion.[3]

Third, previous local marijuana policy surveillance studies did not investigate changes in policy over time or the policy stakeholders and actors involved in local policymaking processes. Examining these components in a policy debate can reveal important dynamics about the policymaking process and involvement of advocacy coalitions.[10] Local stakeholders and audiences in Washington and Colorado have had more time than those in other states to weigh and debate the merits and concerns associated with various marijuana policies[11]; therefore, the stakeholders and arguments at the local level in Washington and Colorado may anticipate policy trends and processes developing elsewhere.

This study uses a mixed-methods research design to describe the types of county-level policies (ordinances and regulations) enacted in Colorado and Washington by 2019 to allow or restrict recreational marijuana facilities; identify key policy stakeholders/actors involved in county-level marijuana policy debates; and explore arguments used to support or oppose these policy positions.

## State Policy Context

In both Washington and Colorado, legalization of marijuana was initiated by voters. In Washington, voters approved the Legalization and Regulation Initiative 502 (Initiative 502) legalizing the production, processing, and sale of marijuana for recreational purposes in November 2012. The initiative included certain restrictions, such as restricting

possession and use by minors (under the age of 21), setting quantity limits, and restricting public use. The Washington State Liquor Control Board (renamed the Washington State Liquor and Cannabis Board) became the primary regulatory body for licensing and oversight of the cannabis market. It was tasked with regulating and issuing licenses for marijuana production, processing, and retail facilities. These licenses could be forfeited if a city, town, or county adopted a ban or moratorium prohibiting retail marijuana businesses or adopted an ordinance or regulation related to zoning, licensing, or land use, or a regulation to prevent receipt of an occupancy permit for the facility.[12] New marijuana retail outlets could only sell marijuana products, and vertical integration with other types of retailers was not allowed.[13,14] The board also limited the number of retail stores to a maximum of 334 statewide and used a formula to issue a maximum number of licenses per county based on population size. No limits were set for producer or processor licenses.[15]

In Colorado, voters approved a ballot referendum in November 2012 to enact a state constitutional amendment (Amendment 64) that legalized possession and consumption of marijuana among adults (21 years or older); created an excise tax on wholesale marijuana with earmarked conditions; provided for licensing of marijuana establishments (including marijuana cultivation facilities, product manufacturing facilities, testing facilities, and retail stores); and required localities (county, municipality, or city and county) to enact an ordinance or regulation by October 1, 2013, to define the entity responsible for processing license applications. Localities could also prohibit any or all marijuana facilities within their boundaries with an ordinance or voter measure.[16] Counties opting for a voter measure would have to do so after the licensing of facilities in 2014.[17]

At the state level, Colorado's Marijuana Enforcement Division was tasked with creating rules, regulations, and licenses for the recreational marijuana marketplace. The state sought a variety of stakeholder perspectives to develop principles for the policy framework. The resulting principles included a focus on the health, safety, and well-being of youth; consumer needs; efficient and effective regulation; funding mechanisms; balanced and nonduplicative regulation between state and local authorities; interactions and transactional relationships; and community safety.[11]

Washington and Colorado shared several marijuana policy and market environment characteristics in addition to their voter-initiated legalization approaches. First, these state policies were enacted while

marijuana was illegal under federal law as a Schedule 1 drug under the US Controlled Substances Act—a source of tension in state legalization.[4,13] Second, both states had already legalized medical marijuana use more than 10 years prior to legalizing recreational marijuana (medical use was legalized in 1998 in Washington and in 2000 in Colorado).[13] Third, both states prohibited public use of marijuana in nearly all smoke-free spaces.[14] Fourth, legalizing recreational marijuana ushered in a new potential source of revenue for state and local governments.[18,19]

However, the revenue models in Colorado and Washington are not the same. Unlike Colorado, local jurisdictions in Washington were not allowed to tax marijuana[3]; instead, the state distributes revenue to local jurisdictions from the state's marijuana tax.

In addition to the taxation policies, there are other policy and implementation differences between Washington and Colorado.[20,21] For example, Washington merged its retail and medical marijuana markets in 2015 (with some exceptions) and subjected most of the medical marijuana market to retail marijuana regulations and taxes to reduce illegal marijuana cultivation and sales.[3,13,14] This merger led to other changes as well. The Washington State Liquor and Cannabis Board increased the statewide maximum number of marijuana retail licenses from 334 to 556 and increased the cap on county licenses (particularly for those with high medical sales levels) to expand access to medical marijuana.[22]

Unlike Washington, Colorado allowed home cultivation of marijuana (up to six plants per adult Colorado resident). This maximum was increased to 12 plants in 2018. Colorado counties and municipalities could set stricter home cultivation limits.[23]

Most notably for the purpose of this study, both states similarly gave local governments the decision-making authority to enact ordinances or regulations to allow or prohibit any or all types of marijuana facilities as businesses within their jurisdictions.[3,13] In Washington, the local authority to ban or pass a moratorium against marijuana sales was confirmed by the passage of House Bill 2136 in July 2015.[4] Local governments in both states could also restrict aspects of retail operations in their jurisdictions through land use regulations (e.g., zoning restrictions) or by setting business regulations, such as limiting hours of sale.[3,19] In Washington, counties and cities could also limit the number of licenses in their jurisdiction beyond the State Liquor and Cannabis Board's adopted maximum.[15]

## Methods

We conducted a policy scan of county-level recreational marijuana policies in Colorado and Washington. Of note, this study focuses on marijuana and not hemp. While hemp and marijuana belong to the same plant species, *Cannabis sativa* L., they are distinguished in the United States by the legal threshold for the delta-9 tetrahydrocannabinol (THC) concentration on a dry-weight basis. The threshold for THC concentration in hemp ($\leq 0.3\%$) is low compared to the threshold in marijuana ($>0.3\%$). Unlike marijuana, hemp has been regulated by the US Department of Agriculture (USDA) since the Agriculture Improvement Act of 2018[24] authorized the production of industrial hemp in the United States and removed hemp and hemp seeds from the federal schedule of controlled substances.

### *Data Collection*

The data we collected include county-level marijuana ordinances or regulations and newspaper articles about county-level marijuana policy. Over a six-month period in 2019, two trained research assistants independently conducted policy scans to identify county-level policies regulating recreational marijuana facilities in Colorado and Washington that were enacted by April 1, 2019.

For Washington, data were collected from policy documents from the Municipal Research and Services Center[25] (using a search approach similar to that used by Dilley and colleagues[3]), and from county ordinances and codes from the Washington State Association of Counties.[26] Colorado county ordinance data were pulled from the Colorado Counties, Inc., website.[27] To supplement these searches, research assistants reviewed all of the available Washington and Colorado county websites to identify county ordinance documents with missing data, verify data, and collect available zoning maps or planning documents. If the research assistants were unsure about the content or eligibility of a policy document, they checked with the lead author, who made final decisions about the database.

Research assistants first completed a policy scan training conducted by the lead author using an existing ten-step guide.[28] Next, they

independently reviewed and abstracted pertinent policy data from these documents and systematically input the information into a policy database template. Column titles included the county name, date enacted, source, policy summary, recreational marijuana policy status (all types allowed, some types allowed, all types prohibited, none identified), and named stakeholders/advocates. We classified recreational marijuana policies using three categories we developed:

- All types of marijuana facilities were allowed in the jurisdiction, even with zoning restrictions (all types allowed). In Colorado, facilities included those for cultivation, manufacturing, testing, and/or retail. In Washington, facilities included those for production, processing, and/or retail.
- At least one type of marijuana facility was allowed in the jurisdiction (some types allowed).
- All types of marijuana facilities were prohibited in the jurisdiction (all types prohibited).

We could not identify or find marijuana policy data for 11 of 64 counties in Colorado and 1 of 39 counties in Washington, and are unsure about these counties' policies. We excluded ordinances that only focused on regulating marijuana intended for medical use, based on the premise that there are different types of marijuana policy categories (decriminalization, legalization of medical marijuana, and legalization of nonmedical marijuana),[4] and we were most interested in examining county-level policies and the availability of nonmedical (recreational) marijuana.

The lead author conducted a quality assurance review, randomly selected 30% of policies in each state for comparison, and provided the research assistants with a finalized codebook. All policies identified were double-coded, and the lead author addressed coding discrepancies in discussion with the coders. During the development of the database, the research assistants took notes about policy changes mentioned in ordinances or regulations (e.g., a prior ordinance was referenced in the content) and saved copies of earlier ordinance and regulation documents identified, if available. The original policy database included all county-level recreational marijuana policies identified for Washington and Colorado (i.e., longitudinal data), including multiple columns for counties with evolving policy environments. Because several counties only

provided their most recent policy document online, we could not ensure the comprehensiveness of the longitudinal policy data set. As a result, the final database used for quantitative analyses included cross-sectional data with only the most up-to-date policy information as of April 1, 2019.

Research assistants also conducted a search of English-language US newspaper articles published from January 1, 2012, through May 1, 2019, on county-level marijuana policies in Colorado and Washington, using "marijuana or cannabis" and "policy, law, ordinance, or regulation" as key search terms. We used three newspaper databases (Newsbank: Major Metro Newspapers; EBSCO: Newspaper source; and Nexis Uni) and targeted newspapers with articles available during the study period.

### *Data Analysis*

The Mann-Whitney *U* test was conducted to compare differences in local county marijuana legalization between Colorado and Washington. The *P* value was derived from a two-tailed test, and results were considered significant at $P < .05$. Descriptive statistics and data analysis were performed using Stata 14.2 (Stata Corp).[29]

Research assistants used a grounded theory approach[30] to identify policy change processes, key stakeholders, and arguments in newspaper articles and policy documents to supplement ordinance data findings. They wrote thematic summaries, which were iteratively discussed and reviewed with the lead author to identify content for inclusion in this article. Using the original policy database (with longitudinal data), we selected four counties to serve as illustrative examples of different policy environments and policy changes, and found all related newspaper articles for these counties during the study period. In each state, we purposefully identified two geographically distinct counties representing different marijuana policy environments.

## Findings

We identified county-level marijuana regulatory policies for 53 of 64 counties in Colorado (83%) and 38 of 39 counties in Washington (97%) (Table ). Overall, 38.8% of counties (n = 40) prohibited all marijuana facility types, and 40.8% of counties (n = 42) allowed all types of

Table 1. County-Level Policies on Recreational Marijuana Facilities[a] in Colorado and Washington Enacted by April 1, 2019

| County-Level Adult Use Marijuana Policy | Colorado Counties, n (%) | Washington Counties, n (%) | Total, n (%) |
|---|---|---|---|
| All marijuana facility types allowed (zoning restrictions may apply) | 15 (23.4%) | 27 (69.2%) | **42 (40.8%)** |
| Some marijuana facility types allowed (i.e., allows ≥1 type of marijuana facility) | 7 (10.9%)[b] | 2 (5.1%) | **9 (8.7%)** |
| All marijuana facility types prohibited (category includes moratoriums or permanent bans permitting existing use, i.e., "grandfathered facilities") | 31 (48.4%) | 9 (23.1%) | **40 (38.8%)** |
| Missing data (no policy identified) | 11 (17.2%) | 1 (2.6%) | **12 (11.7%)** |
| **Total** | **64 (100%)** | **39 (100%)** | **103 (100%)** |

[a] Does not include policies that focused only on regulating retail marijuana for medical use. Policies included may have had language to regulate the medical marijuana market (which we did not examine).
[b] In Colorado, facilities include those for cultivation, manufacturing, testing, and/or retail. In Washington, facilities include those for production, processing, and/or retail.

marijuana facilities in their jurisdictions. Nine counties (8.7%) permitted at least one type of marijuana facility but restricted others and were categorized as allowing some facilities.

Although both states were early adopters, the two states demonstrated considerable variation in county-level recreational marijuana policies (Table 1). Counties in Colorado were significantly less likely than those in Washington to allow marijuana facilities ($z = -3.831$; $P < 0.01$). About 69% of Washington counties enacted policies allowing all types of facilities in their jurisdiction, compared to 23.4% of Colorado counties. Less than a quarter of Washington counties prohibited all marijuana facilities, compared to nearly half of Colorado counties. Only two Washington counties and seven Colorado counties were in the

intermediate category—allowing at least one type of marijuana facility in their jurisdiction by 2019.

Among counties categorized as allowing all types of marijuana facilities, the restrictiveness of zoning conditions varied. For example, some counties mandated a conditional-use permit in limited zone classifications with additional approvals or standards that needed to be met before approval, whereas others limited the overall number of facilities.

Prohibitions took the form of moratoriums (temporary bans) still in effect, permanent bans, and zoning restrictions. In some counties, bans permitted existing use or "grandfathered" existing recreational facilities, allowing them to continue operations within the county's jurisdiction. Moreover, cities located within counties with prohibitions had the authority to enact their own policies, which could be different from the county's policy. In Washington, marijuana facilities could be licensed by the state, but not able to operate in counties with moratoriums or bans in place.[31]

## *Local Policy Changes and Information-Seeking Activities*

Based on our policy change tracking of county-level marijuana ordinances and review of newspaper articles, we found that some counties were early adopters of permanent ordinances or regulations, but many more counties modified their policies several times during the study period. Policy change was often preceded by information-seeking activities (e.g., public comments or planning advisory committee meetings). Key information desired by local policymakers included the effects of marijuana on health, safety, and well-being outcomes; and local public opinion/perspectives on marijuana legalization.

Counties also used moratoriums to pause the expansion of the local marijuana market and allow time to engage in policy learning processes or to address residential concerns. For example, in August 2014, Jefferson County, Washington, enacted a moratorium on marijuana production and processing after two public hearings where citizens expressed concern about marijuana production and processing as an "'attractive nuisance' for criminals, vandals and minors—said 'attractive nuisance' status being contrary to the quiet and pastoral rural nature of much of unincorporated Jefferson County."[32] After further review, involving

the Planning Commission and additional public hearings, the county voted to permit marijuana production and processing establishments if they complied with notice provisions (e.g., informing neighbors of the proposal) and strict zoning restrictions. On the eastern side of Washington state, the Spokane County Commission imposed a moratorium on outdoor marijuana farms in November 2016, because of residential complaints about odors from marijuana agriculture and processing; at the time of the moratorium, over 160 marijuana growers and processors were operating in the county.[33] By the end date of our data collection (April 1, 2019), some counties still had moratoriums (temporary bans) in place and stated in policy documents they were awaiting additional information to make a permanent decision.

A few counties permitted marijuana facilities but integrated policy mechanisms to address residential concerns about matters such as odors, bright lighting, and increased traffic and perceived risk of crime associated with these establishments. For example, Chelan County, Washington, required marijuana producers and processors to register and pay a fee for an enforcement fund to ensure regulatory compliance.[34]

## *Policy Stakeholders and Arguments*

Although policy communication and advocacy strategies varied by county and state, we found patterns during our qualitative review of ordinance and newspaper article data related to (a) primary county-level policy stakeholders, and (b) arguments in support of or opposition to local marijuana policy.

Primary stakeholders and advocates involved in county-level marijuana policy debates were similar in both states and included elected county officials tasked with decision making (e.g., county commissioners or supervisors), law enforcement (usually the county sheriff), individual marijuana growers/farmers, marijuana business license applicants, parents, and other residents. Several ordinances also named county voters as stakeholders who would be impacted by policy decisions. Some ordinances named specific county government departments (e.g., planning, building, and public health), zoning authorities/commissions, or public entities (e.g., schools) as local stakeholders. We did not identify any specific advocacy groups or advocates external to the county involved in county-level policy debates.

Our analysis of arguments in support of or opposition to specific policies revealed that many counties pointed to local public opinion as a basis for decision making, as well as local election results from the statewide 2012 marijuana legalization referendum, as evidence of either support of or opposition to legalizing marijuana facilities. For example, in 2012, *The Wall Street Journal* quoted the chair of the Douglas County, Colorado, Board of Commissioners as saying the local election results (less than half [46%] of county voters favored the referendum) supported a prohibition: "Our county has never passed or supported anything regarding the legalization of marijuana…we tend to be very conservative," he said.[35]

Alternatively, in Jefferson County, Washington, the ordinance included the quote, "Whereas, some 65% of voters in Jefferson County voted yes on Initiative 502,"[32] to support allowing marijuana facilities. Similarly, a local newspaper article about a 2015 proposal to extend a moratorium in Huerfano County, Colorado, quoted a resident as saying, "Legalization of marijuana passed by 60 percent of the vote here in Huerfano, and we need to respect the will of the people."[36]

Table 2 presents the main policy arguments, including public opinion, to support or oppose county-level marijuana policy positions in Colorado and Washington.

Frequent arguments in Colorado and Washington in favor of allowing some or all commercial marijuana facilities focused on economic gain, reduced criminality, and potential health benefits. Economic arguments from proponents of legalized marijuana varied and included mention of local revenue increases for the municipality, increased employment opportunities (i.e., economic development), expanded tourism, and personal financial gain for local residents involved in marijuana cultivation, processing, or retail.

In Whitman County, Colorado, opponents of a moratorium said it "would prohibit people from getting jobs and cause the county to lose out on revenue from the industry."[37] During a community forum in Wahkiakum County, Washington, a resident pointed to local revenue for a nearby county in support of allowing marijuana retail facilities, "I am merely speaking from a financial perspective…The county is in financial difficulty, and this is a legal revenue source available to the county."[38]

Criminality arguments—less commonly mentioned by marijuana legalization proponents than economic arguments—pointed to the potential reduction of illegal marijuana markets and activity as a benefit.

Table 2. County-Level Marijuana Policy Arguments in Colorado and Washington

| Position | Definition | Types of Arguments |
|---|---|---|
| Proponents | Arguments used either in favor of allowing any or all marijuana facilities or against prohibiting these facilities | • Local public opinion<br>• Economic gain<br>• Reduced crime<br>• Health benefits |
| Opponents | Arguments used either in favor of prohibiting any or all marijuana facilities or against allowing these facilities | • Local public opinion<br>• Economic loss<br>• Negative physical/mental health outcomes (particularly for children and youth)<br>• Public health impact (e.g., environmental hazards)<br>• Increased crime and public safety concerns<br>• Existing federal law |

We identified a wider variety of arguments used in support of prohibitions, including economic loss arguments to counter economic gain arguments from proponents of legalized marijuana. Economic loss arguments pointed to the possible loss of tax revenues (including reduced tourism), increased lawsuits, and increased cost of law enforcement to enforce regulations. Concerns about public health, safety, and welfare were among the most frequently mentioned arguments against permitting local marijuana establishments. Residents noted concerns about environmental hazards (e.g., noxious odors, light pollution, and water pollution), increased addiction, increased traffic issues around retailers, and the risk of accidental poisoning or overdose among minors. Additionally, elected local officials and residents pointed to federal law, namely the illegality of the cultivation, possession, sale, and use of marijuana under federal criminal statutes, as a deterrent for allowing marijuana facilities.

Crime issues raised by opponents demonstrated concern for public safety as well as law enforcement's capacity to address perceived crimes associated with marijuana facilities. A 2017 article described the tension between local economic development and legal production in Saguache County, Colorado:

> While many see marijuana as the ultimate "cash crop" and believe it is the solution to the county's financial woes, others paint a darker picture of what the county may become if growers wishing to establish large grows continue to receive approval from the county for their operations.[39]

The article noted residents' concerns about illegal growing of marijuana in Colorado, which was described as a substantial challenge for local and federal law enforcement. Three minor arguments included land use concerns, proximity to states where marijuana was illegal, and possible harm to the county's reputation or local identity. For the latter, proponents of bans/moratoriums pointed to potential harm or loss of neighborhood character/identity, suggesting that allowing a marijuana facility would be detrimental to the status quo.

In the following sections, we provide illustrative examples of four counties to describe in more detail the various county policy environments (all marijuana facility types allowed, some marijuana facility types allowed, and all marijuana facility types prohibited) and highlight policy changes within the counties. These counties are classified using a brief version of the rural-urban categories from the USDA Economic Research Service's Rural-Urban Continuum Codes: metropolitan; nonmetropolitan, urban; and rural.[40]

## *Mason County, Washington: All Marijuana Facility Types Allowed*

On November 12, 2013, Mason County, a nonmetropolitan, urban county located in western Washington (population 60,699 in 2010), initially adopted an ordinance allowing licensed marijuana producers, processors, and retailers.[41] Meeting minutes from a county commissioner meeting on June 24, 2014, highlighted resident concerns about marijuana producers and processors during a public comment period when a majority of marijuana opponents, self-identified as county residents who lived near a licensed marijuana production or manufacturing facility,

expressed NIMBY (not in my backyard) sentiments about these facilities. Noted concerns included possible criminal activity, safety issues, odor problems, environmental risks (e.g., the potential environmental impact of water runoff on shellfish was stated multiple times), decreased property value, and law enforcement implementation issues.[42]

On July 1, 2014, the board of commissioners enacted a six-month moratorium prohibiting building or land use related to the production and processing of marijuana, allowing these activities solely in agricultural and industrial zones (2-1 vote).[42] Public hearings were subsequently held to elicit further public perspectives. On July 22, 2014, opponents of the moratorium said they felt specifically targeted and residents should "be concerned about meth, heroin and other drugs, not legal marijuana," in addition to expressing concerns about financial losses. Proponents reiterated arguments about the potential crime impact, loss of property value, and marijuana being "against federal law." Some residents asked for more time for public input and recommended revising the ordinance to address residential concerns but allow legal cultivation, processing, and sales.[42] On October 21, 2014, the board of commissioners voted to repeal the moratorium and simultaneously issued code amendments to address certain residential concerns (e.g., a 100-foot buffer between production or processing operations and the nearest property line in rural residential districts).[43]

### *Costilla County, Colorado: Some Marijuana Facilities Allowed*

Costilla County is a rural county (population 3,524 in 2010) located along the southern Colorado border with New Mexico. It presents a unique local jurisdiction that enacted policies to allow cultivation and retail facilities.[44] Permitting these facilities contrasted with other rural counties that opted to prohibit all marijuana facilities.

Costilla County spans 1,227 square miles with a large swath of high desert land lacking in building or residential infrastructure. The low cost of land, coupled with state legalization of recreational marijuana, led to an influx of outsiders interested in purchasing property for commercial marijuana cultivation and production.[45] Marijuana facility licensing and license renewal fees were sources of revenue in addition to the distribution of the retail marijuana state sales tax. Local governments could also

implement their own local sales or excise taxes. Concerns included the increased use of educational and social service resources for new families from out of state and lack of local licensing and enforcement personnel. The *Denver Post* quoted a county commissioner as saying there was a shift in the jail population from local residents to a majority "from outside," but also said there was not a spike in crime in these early years.[46]

A local disagreement between a proposed marijuana cultivation facility and a museum in early 2015 highlighted the conflict between marijuana business license owners and other establishments in the county. Supporters of the museum opposed issuing a license for the proposed facility, mentioning the facility's potential impact on minors and other museum visitors.[47] Ultimately, the business owner decided to change the location of the marijuana cultivation facility to "be a good neighbor" and ameliorate possible odor and lighting concerns. The owner, however, continued to pursue a license for a retail facility and medical marijuana dispensary next to the museum.[48]

## *Chaffee County, Colorado: All Marijuana Facility Types Prohibited*

Chaffee County, located in the central part of Colorado, is an example of a nonmetropolitan, urban county (population 17,809 in 2010) with a restrictive marijuana policy environment. In September 2013, the county unanimously approved ordinance 2013-02, which temporarily banned new recreational marijuana establishments in the county through December 31, 2014.[49] However, the county permitted recreational marijuana cultivation licenses in industrial zones, and some facilities that cultivated medical marijuana or manufactured medical marijuana–infused products were exempt from the ban—if such facilities were in good standing in the county and met the state and county licensing standards, they were allowed to convert to recreational facilities.[49] Grandfathered facilities could apply for recreational facility licenses (in the same category).[50] Ordinance 2014-02,[51] unanimously adopted in 2014, amended the prior ban through December 31, 2015, to include all marijuana facilities and limit the number of facilities in the county to six. An exception was again made for cultivation or manufacturing facilities in good standing with the county and state; these facilities were grandfathered and could renew their licenses or expand their operations and

the number of plants within their existing parcel(s) allotted. The moratorium banning any type of recreational marijuana establishment, with the exception of certain grandfathered facilities, was reissued multiple times (2015-01, 2016-01, 2018-01, and 2019-01).[52]

Noted arguments in favor of the moratoriums included health, safety, and welfare concerns as well as federal marijuana policy:

> Marijuana remains an illegal substance under federal law, specifically as a Schedule I drug under the Controlled Substances Act found in Title II of the Comprehensive Drug Abuse and Control Act of 1970 (P.L. 91–513, 84 Stat. 1236) which creates uncertainties regarding certain aspects of allowing marijuana establishments.[50]

County moratoriums also cited environmental concerns (namely, odor issues from existing establishments), and enforcement and monitoring issues related to marijuana cultivation and processing, and said additional time was needed to examine these uncertainties to inform a permanent decision.[50]

### *Benton County, Washington: All Marijuana Facility Types Prohibited*

Benton County, Washington, is a metropolitan county (population 175,177 in 2010) bordering Oregon. This county was a unique case: it transitioned from permitting marijuana businesses to enacting moratoriums, ordinances, and zoning limitations, and eventually banning new recreational marijuana facilities while grandfathering in existing operations in response to local concerns and complaints.

Benton County did not start out with a ban. In 2015, recreational marijuana retail facilities opened in the county.[53] Later that year, multiple residents expressed concern over a marijuana grow site, which led to an emergency moratorium and public hearing process.[54] The controversy continued, and, in late 2017, a local newspaper article featured alternate perspectives from two longtime county residents expressed during the county's public hearing: one had concerns about the odor associated with marijuana facilities and the effect on children, whereas the other, a landowner who rented property to a marijuana producer, opposed a ban.[55] Opponents of a ban mentioned economic empowerment and access to medicinal marijuana, whereas supporters mentioned odor and enforcement issues. The county opted to ban new marijuana retail

facilities and enact a moratorium on new producers and processors. In April 2018, the board of county commissioners voted two to one to permanently ban all new marijuana production and processing operations in all unincorporated zoning districts, although over 50 licensed operators in these areas were allowed to continue operating.[56] The commission also expanded the sheriff's authority to enforce nuisance and odor rules in response to residential complaints.[57]

## Discussion

Our county-level recreational marijuana policy surveillance study reveals a patchwork of local policies in place by 2019 in the two earliest states to legalize recreational marijuana. Our findings add to existing literature that suggests state marijuana legalization policies are nuanced and complex, varying at the local level.[3] Our policy change results highlight the importance of ongoing policy surveillance research to examine changes to local marijuana policy over time. We found 40 counties (38.8%) across both states prohibited all marijuana facilities by early 2019, either through temporary or permanent bans. Prior research in Washington similarly found 10 counties (25.6%) had moratoriums or permanent bans in effect on retail recreational cannabis outlets as of mid-2014[7] and mid-2016,[3] compared to 9 counties (23.1%) at the end of our study period (April 1, 2019).

To our knowledge, this is the first study to report county-level recreational marijuana policies in Colorado. We found that nearly half (48.4%) of Colorado counties had prohibited all types of marijuana facilities by the end of our study period. This is a high percentage compared to Washington. Of note, the lower percentage in Washington may be partially explained by Washington's merger of recreational and medical marijuana markets in 2015.[13] The proportion of counties in Colorado with prohibitions was also greater than that found in a policy surveillance study from California.[6] Our results add to existing reports that numerous counties are opting to prohibit recreational marijuana facilities in states where recreational marijuana can be legally purchased and consumed (range: 23.1%-48.4% of counties in a state).

We found local stakeholders (county representatives and departments, business owners, and residents) were publicly engaged in county policy decisions. We did not identify stakeholders who represented industry

groups or external entities, which appear to play a limited public role in local debates. It is feasible that industry groups or other external advocates were involved in private lobbying efforts as opposed to public-facing advocacy strategies. Our findings about the predominance of local stakeholders in policy debates are similar to research examining a local medical marijuana policy debate in California involving internal actors, and the arguments namely reflected a struggle between identity and social order within the region.[58]

The involvement of local stakeholders also suggests marijuana commercialization is currently a cottage industry. In the absence of targeted regulatory policy to retain small-scale growers and retailers, a large marijuana industry could emerge, prioritizing lobbying and aggressive advertising strategies.[14] Tobacco companies may potentially enter marijuana policy debates given their long-standing interest in entering into legalized marijuana markets based on the sales potential.[59]

Based on our qualitative data, whereas some stakeholders were likely to support allowing marijuana facilities as a way of attracting outside tourism, other stakeholders used concerns about legal liability or additional crime from outsiders as rationale to prohibit these facilities. Future work should further explore how county policymakers balance local-level politics and perspectives (e.g., residential complaints, economic issues, public opinion) with state policy directives and policies over time. Additional research could examine factors influencing enactment of local recreational marijuana policies and closely examine the effect of population density (rural-urban characteristics) and county-state borders on local marijuana policy decisions.

Arguments in favor of permissive marijuana county ordinances included economic benefits (e.g., additional tax revenue for local governments)[60] and increased access to medicinal and therapeutic treatment. Early evidence on cannabis markets in Washington suggests increased cannabis retail access is associated with more frequent use among adults in the state.[61] Sales data from Washington indicate a large and growing marijuana market, yielding a substantial source of state revenue allocated to the general fund, basic health, local municipalities, prevention and education, research, and other issues. In fiscal year 2019, Washington collected $395.5 million in legal marijuana taxes and license fees.[62] During the COVID-19 pandemic, monthly recreational marijuana sales in Colorado were $183 million in July 2020 alone.[63] As state and local governments continue to be impacted by the economic

losses associated with COVID-19, economic gain arguments might become increasingly attractive to offset diminishing revenues from other sources.

A limitation of the study is the categorization of county-level marijuana policy into three groups. The gradient of local marijuana policy is more nuanced than these three categories because some counties allowing all types of marijuana facilities also have restrictive zoning conditions, limit the maximum number of facilities, or limit acreage for cultivation or processing facilities.

Additionally, our study did not closely examine other local marijuana policy elements such as minimum buffer distances, business hour limits, public health messaging, or advertising restrictions.[3,6]

Another study limitation is the exclusion of cities and towns from the sample. It is important to note that counties are limited in their regional authority and can include cities with marijuana policies that differ from the county policy. Prior studies on similar topics and geographies have examined marijuana policy in Washington cities with more than 3,000 residents[3] and all cities in California.[6] Given our additional focus on policy stakeholders, arguments, and advocacy efforts, we elected to solely concentrate on county-level policies.

A key strength of our study is that it is the first to consider local policy variation across two states that legalized recreational marijuana use at the same time. The typology we created and employed can serve as the basis for future legal epidemiology work to examine the effects of policy on public health, health, and social outcomes. Other strengths are the inclusion of qualitative research and newspaper article data for the purpose of providing rich descriptions of the county policy environments and change. Prior cross-sectional policy surveillance studies lacked these elements. Further, our findings convey the value of ongoing local policy surveillance data because four counties identified as having moratoriums/bans in place as of July 2014 allowed recreational marijuana facilities by mid-2019, indicating considerable local policy change processes occurred within these jurisdictions in the span of a few years.

## *Policy and Research Implications*

Since 2012, several other states have legalized recreational marijuana for adults and have permitted local-level jurisdictions to regulate local

markets. States may benefit from the results of our findings as they create their own frameworks to regulate marijuana and take into consideration similar fundamental local government concerns, such as public safety, health, and environmental impact issues.

Opponents of permissive marijuana policies point to perceived public health, safety, and welfare issues related to marijuana facilities and use, including addiction, increased crime, and detrimental health effects for minors. Early results from Colorado suggest legalization has led to increased marijuana-related hospitalizations, an initial surge in poison control center calls mentioning marijuana, and increased DUIs for which marijuana was identified as the primary impairing substance.[2,64,65] In Colorado and Washington, commercial marijuana legalization is significantly associated with increased rates of fatal motor vehicle accidents.[66] There is also evidence on the harms of marijuana secondhand smoke on cardiovascular health.[67,68] Use of high-potency cannabis concentrate products has also been associated with negative consequences like psychosis and emergency department visits.[69] These public health outcomes should be considered and used to inform policy decisions. Research about associations between crime and legal recreational marijuana facilities and local markets can also help address perceived concerns about increased crime. Findings from existing studies are mixed, likely due in part to challenges in interpreting law enforcement data.[8]

We found that advocates of allowing local marijuana facilities claimed legalization could reduce local marijuana black market activities; however, opponents were concerned about additional enforcement or implementation costs, as well as crime. Cost-effectiveness studies comparing the cost of additional enforcement or implementation mechanisms to local revenues are needed.

Potential associations between local marijuana policy and health effects and crime have gone largely unexplored due to restrictions and limitations on federal funding for marijuana research. Studies on the implementation and management of marijuana prevention and control programs have also been constrained by a lack of federal funding. However, interest in the public health and safety impact of local marijuana businesses expressed by local stakeholders in our study indicates a critical demand for policy effectiveness research to inform local decisions. Youth access to and use of marijuana, driving under the influence of marijuana, marijuana dependence and addiction, unwanted contaminants in marijuana products, uncertain potency of marijuana products, and

concurrent use of marijuana and alcohol have previously been identified as important topics for public health research and evaluation to inform policy.[9,20,21,70,71]

Public concern about noxious odors was a frequent argument against permitting marijuana cultivation and processing facilities in local jurisdictions, as well as a reason to overturn permissive marijuana ordinances. This is an issue that policymakers and marijuana producers need to address and mitigate with regulatory policy and practice. As the legal market continues to grow, more research is needed on the impact of operating marijuana cultivation and processing facilities on the environment,[13,72] including studies of the use of pesticides and cannabis cultivation and regulation standards.[73] Concerns have been raised regarding the concentration of cultivation licenses in agricultural areas and environmental health concerns for vulnerable populations,[74] who often disproportionately face environmental injustices.

Research is also needed to explore the role of state and local public health departments in regulating marijuana in states where recreational marijuana is legal, since a public health framework would designate them as the lead regulatory agency.[14] Studying the impact of marijuana legalization on public health departments' scope of work and health education and promotion efforts in marijuana prevention and control programs is also important. States such as Washington that have earmarked revenue for prevention, control, and research may have made further progress than counterparts in this area for developing educational campaigns (assuming funding has been released for these efforts).

## Conclusion

As early adopters, Colorado and Washington serve as quasi-natural experiments for marijuana policy and regulations in the United States. Local-level policy surveillance research on marijuana policies reveals similarities and differences in the trajectory of local marijuana policy evolution and change processes, highlighting how counties are balancing state policy directives and local residential perspectives. The findings from this study provide a foundation for future policy and public health research on marijuana policy and outcomes in states that have legalized marijuana.

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# Crash Fatality Rates After Recreational Marijuana Legalization in Washington and Colorado

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*Objectives.* To evaluate motor vehicle crash fatality rates in the first 2 states with recreational marijuana legalization and compare them with motor vehicle crash fatality rates in similar states without recreational marijuana legalization.

*Methods.* We used the US Fatality Analysis Reporting System to determine the annual numbers of motor vehicle crash fatalities between 2009 and 2015 in Washington, Colorado, and 8 control states. We compared year-over-year changes in motor vehicle crash fatality rates (per billion vehicle miles traveled) before and after recreational marijuana legalization with a difference-in-differences approach that controlled for underlying time trends and state-specific population, economic, and traffic characteristics.

*Results.* Pre–recreational marijuana legalization annual changes in motor vehicle crash fatality rates for Washington and Colorado were similar to those for the control states. Post–recreational marijuana legalization changes in motor vehicle crash fatality rates for Washington and Colorado also did not significantly differ from those for the control states (adjusted difference-in-differences coefficient = +0.2 fatalities/billion vehicle miles traveled; 95% confidence interval = –0.4, +0.9).

*Conclusions.* Three years after recreational marijuana legalization, changes in motor vehicle crash fatality rates for Washington and Colorado were not statistically different from those in similar states without recreational marijuana legalization. Future studies over a longer time remain warranted. (*Am J Public Health*. Published online ahead of print June 22, 2017: e1–e3. doi:10.2105/AJPH.2017.303848)

A recent analysis found that medical marijuana legalization has been associated with overall reductions in motor vehicle crash fatalities, although the state-specific effects vary widely.[1] Other studies of marijuana-related motor vehicle crashes before and after medical marijuana legalization have produced conflicting results.[2–5] What remains unknown is whether recreational marijuana legalization affects motor vehicle crash fatality rates. The purpose of this study was to evaluate pre– and post–recreational marijuana legalization changes in motor vehicle crash fatality rates in the first 2 US states to pass recreational marijuana legalization—Washington (November 2012) and Colorado (December 2012)—and to compare them with motor vehicle crash fatality rates in 8 similar states without medical marijuana legalization or recreational marijuana legalization.

## METHODS

We selected control states a priori based on their similarity to Washington or Colorado, primarily in terms of traffic and roadway characteristics but also in terms of population, drivers, vehicle ownership, and traffic laws (Appendix A, available as a supplement to the online version of this article at http://www.ajph.org). We then used the National Highway Traffic Safety Administration's Fatality Analysis Reporting System (FARS) to determine the annual number of motor vehicle crash fatalities in Washington, Colorado, and each control state for 2009 through 2015. We obtained annual vehicle miles traveled data for each state from Federal Highway Administration reports and calculated annual motor vehicle crash fatalities per billion vehicle miles traveled.

We used a difference-in-differences approach[6] to compare year-over-year changes in motor vehicle crash fatality rates in Washington and Colorado following recreational marijuana legalization with the contemporaneous crash data for the control states. Common for analyzing policy-level interventions, this difference-in-differences approach allowed us to control for underlying time trends and state-specific population and traffic characteristics.[7] Our analysis included (for each state) year-specific population data; male-to-female population ratio; total annual Federal Highway Administration appropriations as a measure of road construction and maintenance activity; annual gross domestic product, per-capita real income, and unemployment rate as measures of economic conditions; per-capita alcohol consumption; and transportation system characteristics such as primary versus secondary seatbelt laws, road density, traffic density, and rurality.

We first used random-effects multivariate regression for panel data, incorporating the small-sample Swamy–Arora estimator individual-level variance component and clustered (by state) robust SEs, to confirm

**ABOUT THE AUTHORS**

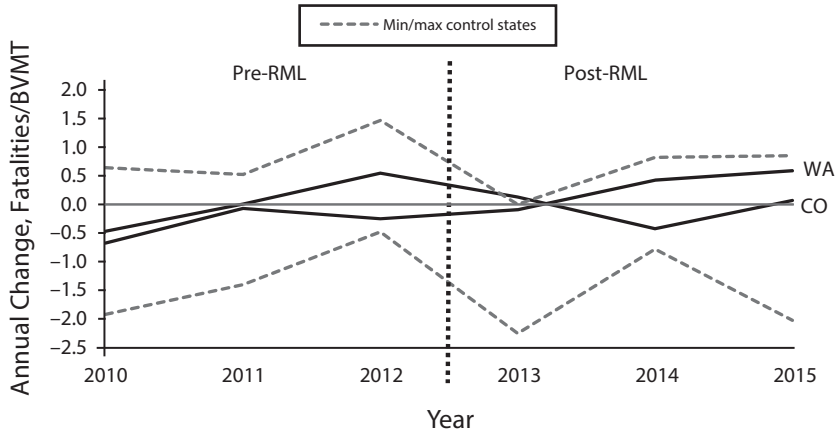
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parallel trends for the pre–recreational marijuana legalization (2009–2012) changes in motor vehicle crash fatality rates for Washington and Colorado and for the control states. We then modeled the interaction effect between recreational marijuana legalization (yes/no) and period (pre–/post–recreational marijuana legalization) on changes in motor vehicle crash fatality rates for the full study period (2009–2015), which produced the difference-in-differences coefficient. Positive difference-in-differences coefficients indicate higher motor vehicle crash fatality rates (smaller decreases or larger increases); negative coefficients indicate lower rates (larger decreases or smaller increases). We used the Hausman test to confirm appropriateness of the model specification. All tests were 2-sided with an $\alpha$ value of .05 used to establish statistical significance.




*Note.* min = minimum; max = maximum.

**FIGURE 1—Annual Year-Over-Year Changes in Motor Vehicle Crash Fatality Rates per Billion Vehicle Miles Traveled (BVMT) Before and After Recreational Marijuana Legalization (RML): Washington (WA), Colorado (CO), and 8 Control States, 2010–2015**

## RESULTS

Alabama, Indiana, Kentucky, Missouri, South Carolina, Tennessee, Texas, and Wisconsin were the 8 states without either medical marijuana legalization or recreational marijuana legalization that most closely matched Washington and Colorado in terms of traffic, roadway, and population characteristics. Between 2009 and 2015, 60 737 motor vehicle crash fatalities occurred in Washington, Colorado, and the 8 control states. Overall, annual motor vehicle crash fatality rates decreased from 12.8 fatalities per billion vehicle miles traveled in 2009 to 11.4 fatalities per billion vehicle miles traveled in 2015.

Figure 1 shows the year-over-year changes in motor vehicle crash fatality rates for Washington and Colorado versus the control states in both the pre– and the post–recreational marijuana legalization periods. In the pre–recreational marijuana legalization period, the mean (±SD) year-over-year changes observed in Washington and Colorado did not differ from those observed in the control states (–0.2 [±0.4] vs –0.1 [±0.9] fatalities/billion vehicle miles traveled; $P = .38$). After legalization, motor vehicle crash fatality rates increased by a mean of +0.1 (±0.4) fatalities per billion vehicle miles traveled in Washington and Colorado and decreased by a mean of –0.5 (±0.9) fatalities per billion vehicle miles traveled in the control states each year. In the adjusted difference-in-differences analysis, however, the postlegalization changes in motor vehicle crash fatality rates observed in Washington and Colorado were not significantly different from those observed in the control states (difference-in-differences: +0.2; 95% confidence interval = –0.4, +0.9). (A summary of the results and the full regression model are shown in Appendix B, available as a supplement to the online version of this article at http://www.ajph.org.) Post hoc analyses that used nonclustered robust SEs, traditional random-effects regression, fixed-effects regression, or population rather than billion vehicle miles traveled as the denominator or that grouped Washington with its most similar control states and Colorado with its most similar control states all produced similar results (data not shown).

## DISCUSSION

We found no significant association between recreational marijuana legalization in Washington and Colorado and subsequent changes in motor vehicle crash fatality rates in the first 3 years after recreational marijuana legalization. The difference-in-differences coefficient we observed, 0.2 fatalities per billion vehicle miles traveled, would equate to approximately 77 excess crash fatalities (of 2890 total) over nearly 38 million person-years of exposure in the 3 years since legalization. We do not view that as a clinically significant effect, but others might disagree. Although our findings seem at odds with the known effects of marijuana impairment[8,9] and with previous studies finding associations between motor vehicle crashes and marijuana use,[2–5] they are consistent with the most recent analysis of medical marijuana legalization and motor vehicle crash fatalities.[1]

This study was limited to the first few years after recreational marijuana legalization in only 2 states. Currently, however, Washington and Colorado are the only US states with multiyear postlegalization FARS data, and 2015 is the last year for which data are available. We used nonadjacent control states matched to Washington and Colorado based on traffic, roadway, and population characteristics, allowing a stronger analysis than if we had used adjacent, randomly selected, or a convenience sample of states as controls. All of the states had graduated drivers' licensing laws and used 0.08 grams per deciliter as their blood alcohol concentration threshold for impaired driving; all but 1 state (Tennessee) allowed administrative license revocation for impaired driving. Still, states are inherently unique and dynamic, and other unmeasured factors (e.g., enforcement activities; other laws and policy initiatives) could affect crash fatality rates. Selecting fewer control states could have provided for greater similarity

between Washington and Colorado and the control states but would have increased the risk of selection bias. We selected control states without medical marijuana legalization to provide the greatest opportunity to detect an effect of recreational marijuana legalization, presuming the difference between marijuana illegality and recreational marijuana legalization is likely greater than the difference between medical marijuana legalization and recreational marijuana legalization. We did not evaluate the effects of recreational marijuana legalization in Washington and Colorado separately, although their recreational marijuana legalization laws differ somewhat. Finally, we were unable to differentiate between the effects of recreational marijuana legalization (2012) and the effects of legalization of commercial marijuana sales (2014)—an issue deserving of future study.

Importantly, the absence of a statistically significant effect on motor vehicle crash fatality rates does not mean that recreational marijuana legalization is harmless. We did not assess other public health or policy implications of recreational marijuana legalization such as increased drug dependency, emergency department or rehabilitation center admission rates, suicides, or decreased economic productivity. A recent study reported increased marijuana-related emergency department visits among out-of-state visitors to Colorado following recreational marijuana legalization.[10]

This analysis was based on annual statewide motor vehicle crash fatality and billion vehicle miles traveled data; we were not able to evaluate possible differential effects in subpopulations such as younger versus older drivers or rural versus urban drivers. We studied total crashes rather than marijuana-impaired crashes because testing for marijuana use is not uniform in FARS-reported crashes, and the limitations of laboratory testing make studies of marijuana-impaired crashes difficult.[11] Also, FARS does not report nonfatal crashes, and no nationwide clearinghouse for nonfatal crash data is available. However, we also found no association between recreational marijuana legalization and total crash rates when analyzing available state-reported nonfatal crash statistics (Appenix C, available as a supplement to the online version of this article at http://www.ajph.org).

## PUBLIC HEALTH IMPLICATIONS

We conclude that 3 years after recreational marijuana legalization in Washington and Colorado, the changes in motor vehicle crash fatality rates observed in those 2 states do not significantly differ from rate changes in similar states without recreational marijuana legalization. However, future studies over a longer time, including data from additional states with recent recreational marijuana legalization, remain warranted. AJPH

### CONTRIBUTORS

J. D. Aydelotte and K. M. Luftman conceptualized the study. J. D. Aydelotte, L. H. Brown, K. M. Luftman, B. Coopwood, and C. V. R. Brown designed the study. L. H. Brown, K. M. Luftman, and A. L. Mardock acquired the data. J. D. Aydelotte, L. H. Brown, K. M. Luftman, P. G. R. Teixeira, and C. V. R. Brown analyzed and interpreted the data. J. D. Aydelotte, L. H. Brown, and K. M. Luftman drafted the article, and A. L. Mardock, P. G. R. Teixeira, B. Coopwood, and C. V. R. Brown provided additional critical revisions and intellectual content. All authors reviewed and approved the final version of the article.

### HUMAN PARTICIPANT PROTECTION

The institutional review board affirmed that this study was not human participant research.

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# Impact of recreational marijuana legalization on crime: Evidence from Oregon

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ABSTRACT

The legalization of recreational marijuana is a pivotal policy change, and its social consequences remain largely unknown. Central to the public concern is its impact on crime, about which competing views exist and empirical studies have yielded mixed results. Based on Uniform (UCR) data from 2007 to 2017, this study used Difference in Differences (DID) analysis to examine the impact of recreational marijuana legalization on the rates of a variety of serious crimes in Oregon, which passed its recreational marijuana law (RML) in late 2014. Results provide some evidence demonstrating a crime-exacerbating effect of recreational marijuana legalization, as reflected by substantial increases in the rates of multiple types of serious crimes as measured by the UCR in Oregon relative to non-legalized states following legalization, including property and violent crime overall, as well as other crimes such as burglary, motor vehicle theft, larceny, and aggravated assault.

## 1. Introduction

The last two decades saw dramatic changes in policies associated with marijuana use: over 30 states in the United States (U.S.) have legalized medical marijuana, and, more remarkably, there is a trend of legalizing recreational marijuana. Colorado and Washington State first legalized marijuana for recreational use in late 2012, and, to date, 11 states and the District of Columbia have also legalized marijuana for recreational purposes, which may include production, possession, and retail sale, although marijuana remains an illegal drug under the federal Controlled Substances Act. Notably, this pivotal policy change appears not to be restricted within the borders of the United States, but has global dimensions, shown by the recent recreational marijuana legalization in Canada and Uruguay.

As a social experiment, marijuana legalization, especially for recreational purposes, has generated concerns about its impact on public safety. Central to this is an ongoing debate on whether legalization increases or decreases crime rates (Lu et al., 2019). Opponents argue that marijuana legalization would increase crime not only because marijuana may be a gateway to more serious drugs such as cocaine and heroin that are closely associated with crime, but also because of the potential criminogenic effects of the increasing presence of marijuana dispensaries (Cleveland & Wiebe, 2008; Kepple & Freisthler, 2012). Proponents assert that legalization would lead to lower crime rates given the decriminalization of this drug and the reduction in the underground marijuana market that tends to generate criminal activities (Trilling, 2016, September 23). Proponents also argue that legalization would have a crime-reducing effect because the police would be able to reallocate resources and efforts to more serious crimes rather than focusing on marijuana possession arrests, which would in turn lead to increased crime clearance rates and deterrence effects (Makin et al., 2019). Despite these competing views about the impact of recreational marijuana legalization on crime and public safety, empirical studies using rigorous methodologies to examine this issue are few, yielding mixed results. While there is some evidence suggesting recreational marijuana dispensaries are associated with substantial increases in crime rates and disorder at the neighborhood level (Hughes, Schaible, & Jimmerson, 2019), other studies have either demonstrated a crime-reducing effect from marijuana legalization or the operation of marijuana dispensaries (Brinkman & Mok-Lamme, 2019; Dragone, Prarolo, Vanin, & Zanella, 2019; Wu, Boateng, & Lang, 2020) or found little to no impact of legalization on crime (Lu et al., 2019). Given the public concern about legalization's impact on crime, more studies based on rigorous research designs are needed to further examine the implications of recreational marijuana legalization for public safety.

The available limited prior studies on this issue have predominantly

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focused on Colorado and/or Washington State—the two states that first legalized recreational marijuana in the U.S. This is reasonable considering that an examination of a relatively longer post-legalization period would be helpful for revealing the prospective effects of legalization on such outcome variables related to public safety as crime rates and crime clearance rates. However, given that more states have legalized following Colorado and Washington State, and some of them have also implemented their recreational marijuana laws for a few years, it is now necessary to expand the examination to other states. For instance, although six years have passed since the passage of the recreational marijuana law (RML) in late 2014 in Oregon, it is difficult to find studies examining how legalization has affected crime in this state.

In effect, the impact of marijuana legalization on crime may vary across legalized states based on differential marijuana-related laws and regulations. For instance, although Colorado (CO), Washington State (WA), and Oregon (OR) have overall legalized marijuana for recreational purposes including production, possession, and sale, these three states differ in certain important aspects associated with the regulation of recreational marijuana. Specifically, for example, while CO and OR allow their residents over 21 to grow several marijuana plants for personal recreational use, it remains illegal in WA to grow recreational marijuana on private property for personal use. Also, these states differ in terms of the amount of marijuana concentrates that people can purchase – the maximum limits for CO, OR, and WA are 8 g, 7 g, and 5 g, respectively. Given these variations in marijuana-related policies across the legalized states, it is worthwhile to extend this line of research and examine how recreational marijuana legalization affects crime in states that have recently legalized marijuana such as Oregon. Moreover, prior relevant research has usually focused on a certain city or specific areas, which may limit generalizability of their findings (Brinkman & Mok-Lamme, 2019; Hao & Cowan, 2020; Hughes et al., 2019). It would be more informative to policy makers and the public to examine large geographical areas within a legalized state, thus examining the impact of recreational marijuana legalization on public safety for an entire state.

This study intends to address these important knowledge gaps. Specifically, it is a large-scale study using county-level Uniform Crime Report data that examines changes in rates of a wide range of serious crimes, including violent crime, property crime, robbery, aggravated assault, larceny, motor-vehicle theft, and burglary, in Oregon, relative to the 19 states[1] that have not legalized marijuana for recreational or medical purposes (until 2017). In addition, as a robustness check of the results, we have also conducted analyses using a control group consisting of five states[2] in which only medical marijuana are legal during the study period. This study not only offers an extended period of observation spanning from 2007 to 2017, but also involves analyses of crime data for all counties in the 25 states examined.

## 2. Perspectives on the relevance of marijuana legalization to crime

Although there seems to be a trend toward marijuana legalization, as manifested by the majority of U.S. states that have legalized medical marijuana and the increasing number of states legalizing recreational marijuana, the issue still generates controversy (Freisthler, Gaidus, Tam, Ponicki, & Gruenewald, 2017). As mentioned above, opposing perspectives exist regarding legalization's implications for public safety, and, central to this discussion, is its impact on crime. This is not surprising given the longstanding perceptions about the connection between drugs, especially illicit drugs, and crime (Allen, 2005). Those against marijuana legalization emphasize its potential adverse repercussions on crime, and make several arguments: First, marijuana is a "gateway" drug, and its increased availability and accessibility as a result of legalization would lead to an increase in not only the use of marijuana, but also the use of more serious drugs such as heroin and cocaine (Secades-Villa, Garcia-Rodríguez, Jin, Wang, & Blanco, 2015; Williams, 2020), although evidence on the gateway sequence is mixed and dynamics underlying the sequence are not well understood.[3] This means there would be more illicit drug users who may need to commit crimes to finance their substance use (Morris, TenEyck, Barnes, & Kovandzic, 2014). Second, marijuana use impairs individuals' cognitive functions. Specifically, marijuana use may increase violent behavior, not only because cannabis intoxication may negatively affect individuals' cognitive abilities and reduce their self-control (Howard & Menkes, 2007), but also because marijuana users tend to have a lifestyle involving more tolerance for deviance and greater willingness to take risks compared to non-users (Goode, 2008). In a similar vein, legalization would increase rates of driving under the influence of marijuana (Bedard, 2019, June 25). Third, there is also a concern about the criminogenic effects of marijuana retail outlets. As marijuana use is still illegal at the federal level, marijuana retailers largely cannot use financial institutions and, thus, primarily rely on cash sales. Given that the business is cash-based, marijuana dispensaries and customers (who need to carry large amounts of cash to buy marijuana) are likely to be the targets of property and violent crimes such as burglary and robbery (Freisthler et al., 2017; Hughes et al., 2019). Community members and police officials have additional concerns that marijuana dispensaries may have deleterious social and cultural effects on neighborhoods where these dispensaries operate and, as a result, may increase crime (Freisthler et al., 2017).

However, from the perspectives of legalization supporters, marijuana legalization would reduce crime rather than the opposite. Specifically, the proponents of marijuana legalization argue that legalization would decrease crime in several ways. First, the legalization of marijuana for recreational purposes itself would decriminalize the activities associated with possession, production, and retail sale of marijuana, which, as a result, would reduce crime (Mccall, 2019, October 8). Second, marijuana legalization would influence police allocation of resources and efforts in a way that may increase police effectiveness in dealing with more serious crimes (Makin et al., 2019). That is, without the need to focus on marijuana possession arrests after legalization, the police could reallocate their resources, both human and material, to more serious violent and property crimes, and this resource reallocation would arguably improve crime clearance rates and strengthen crime deterrent effects. Third, a diminished underground marijuana market likely parallels marijuana legalization (Gettman & Kennedy, 2014). Given the well-established connection between the black drug market and crime, a shrinking black marijuana market as a

[1] These 19 states are: Alabama, Georgia, Idaho, Indianan, Iowa, Kansas, Kentucky, Mississippi, Nebraska, North Carolina, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, and Wyoming.

[2] These five states are: Hawaii, Montana, New Mexico, Rhode Island, and Vermont.

[3] It needs to be noted that the gateway hypothesis has been subjected to criticism. For instance, as Van Gundy and Rebellon (2010) noted, although there existed substantial evidence suggesting a temporal order and an association between the use of so-called "gateway" drugs such as marijuana and the use of "hard" substances such as heroin or cocaine, the causal link between marijuana use and other illicit drug use has not been well-established – research has typically failed to eliminate rival explanations. According to Van Gundy and Rebellon (2010), the observed association between early marijuana use and the subsequent use of other illicit drugs may be "due to common sources such as genetic predisposition, family environment, or social contextual factors" (p. 244). In a more recent marijuana research report by the National Institute on Drug Abuse (NIDA, 2020, it was reported that most people who used marijuana did not go on to use other harder illicit drugs. In addition, scholars have also pointed out that the gateway hypothesis may need to be abandoned because of its oversimplification of the dynamics associated with drug progression (Arnold & Sade, 2020). As Secades-Villa et al. (2015) noted, the dynamics of progression from marijuana to other illicit substances was still largely unknown.

result of legalization means a reduction in crime, especially violent crime.

## 3. Empirical evidence on the impact of marijuana legalization on crime

In the last two decades, there has been growing scholarly attention paid to the impact of marijuana legalization on crime (Brinkman & Mok-Lamme, 2019; Chu & Townsend, 2019; Contreras, 2016; Dragone et al., 2019; Freisthler et al., 2017; Freisthler, Ponicki, Gaidus, & Gruenewald, 2016; Kepple & Freisthler, 2012; Hao & Cowan, 2020; Hughes et al., 2019; Lu et al., 2019; Makin et al., 2019; Morris et al., 2014; Shepard & Blackley, 2016; Wu et al., 2020). Given that the legalization of marijuana for recreational purposes is still a relatively recent phenomenon, previous scholarly efforts have predominantly focused on medical marijuana legalization (Chu & Townsend, 2019; Contreras, 2016; Freisthler et al., 2017; Freisthler et al., 2016; Kepple & Freisthler, 2012; Morris et al., 2014; Shepard & Blackley, 2016). Studies examining the impact of recreational marijuana legalization, although increasing, remain few (Brinkman & Mok-Lamme, 2019; Hao & Cowan, 2020; Hughes et al., 2019; Lu et al., 2019; Stohr et al., 2020). A review of the extant literature suggests that research findings related to the effects of medical marijuana legalization on crime are mixed and inconclusive (Chu & Townsend, 2019; Hughes et al., 2019). This is also true for the results of the limited number of studies examining the effects of recreational marijuana legalization. In other words, the available evidence does not show clear and consistent patterns in changes of different forms of crimes within the context of marijuana legalization.

### 3.1. Effects of medical marijuana legalization on crime

Scholars have examined the impact of medical marijuana legalization on crime at the national (Chu & Townsend, 2019), state (Morris et al., 2014; Shepard & Blackley, 2016), and neighborhood (Contreras, 2017; Freisthler et al., 2016; Freisthler et al., 2017; Kepple & Freisthler, 2012) levels. Some studies found that the legalization of medical marijuana either had no effect on crime rates or reduced rates of certain types of crimes (Chu & Townsend, 2019; Gavrilova, Kamada, & Zoutman, 2017; Morris et al., 2014; Shepard & Blackley, 2016), while other studies, especially those conducted at the neighborhood level, have demonstrated a crime-exacerbating effect of medical marijuana legalization or the placement of medical marijuana dispensaries (Contreras, 2017; Freisthler et al., 2017; Freisthler et al., 2016; Holmes, 2014). For instance, using U.S. state panel data, Morris et al. (2014) found no evidence that medical marijuana laws (MML) increased rates of homicide, rape, robbery, assault, burglary, larceny, and auto theft—the most serious offenses as classified by the FBI. Interestingly, this study showed a possible crime-reducing effect of MML for homicide and assault. A recent study by Gavrilova et al. (2017) focusing on U.S.-Mexico border areas also found that MML decreased violent crime in states that border Mexico. Similarly, using data from 11 states in the Western United States, Shepard and Blackley (2016) found no exacerbating effect of medical marijuana laws on property and violent crimes. Rather, their results suggest a substantial reduction in rates of violent crime in states that have legalized medical marijuana.

Notwithstanding these studies suggesting a null effect or a crime-reducing effect of medical marijuana legalization, there is some evidence showing crime rates do increase following legalization at the state level, or with the increasing density of medical marijuana dispensaries at the neighborhood level. For example, based on the FBI's Uniform Crime Report (UCR) data, Holmes (2014) found that legalizing medical marijuana from 2000 to 2010 led to an increase in rates of both violent and property crime, though no such increase in crime rates was detected for the period of 1995–2010. In examining the relationship between the density of marijuana dispensaries and crime, Freisthler et al. (2016) observed a differential effect of the density of medical marijuana dispensaries on crime between local and adjacent areas. Specifically, they found that, although density of medical marijuana dispensaries did not influence violent and property crime in local areas, it was indeed positively correlated with the rate of violent crime in spatially adjacent areas. In line with the research focusing on the effects of medical marijuana dispensaries, Contreras (2017) found that medical marijuana dispensaries might be criminogenic in that the placement of these dispensaries was associated with an increase in multiple types of crimes, including violent crime, homicide, robbery, aggravated assault, larceny, and motor vehicle theft.

Scholars have also examined the impact of medical marijuana laws on adolescent marijuana use, other drug use, and traffic crashes (Anderson, Hansen, & Rees, 2013; Anderson, Hansen, Rees, & Sabia, 2019; Chu, 2015; Cook, Leung, & Smith, 2020). While it was proposed that MMLs may increase adolescent use due to increased social acceptance, availability and accessibility (Hopfer, 2014), evidence on this issue is mixed. For example, using National Survey on Drug Use and Health data from 2003 to 2011, Schuermeyer et al. (2014) found that medical marijuana legalization in Colorado was associated with a decrease in adolescent perceptions of marijuana risk in the state. By contrast, Chu (2015) found that although MML was associated with an increase in marijuana consumption it did not lead to an increase in cocaine and heroin usage. In addition, Anderson et al. (2019) detected no increases in marijuana use among youth after medical marijuana legalization. In terms of the impact of MML on traffic fatalities, Anderson et al. (2013) observed that legalization reduced traffic fatalities by 8–11%. Similarly, in a more recent study, Cook et al. (2020) found that MML had a negative effect on fatal traffic crashes for both males and females.

### 3.2. Effects of recreational marijuana legalization on crime

Studies examining the impact of recreational marijuana legalization on crime are few, despite a growing scholarly interest in this issue. However, several relevant studies deserve noting (Brinkman & Mok-Lamme, 2019; Dragone et al., 2019; Freisthler et al., 2017; Hao & Cowan, 2020; Hughes et al., 2019; Lu et al., 2019; Makin et al., 2019). Some scholars observed that legalization of marijuana for recreational purposes increased crime rates, especially when considered at the neighborhood level (Freisthler et al., 2017; Hughes et al., 2019). For instance, in examining the impact of the density of marijuana outlets in Denver, Colorado on crime, Freisthler et al. (2017), based on observations of over 16,000 space-time units, found that the density of recreational marijuana dispensaries was positively associated with the rate of property crime in spatially adjacent areas over time, though the effect was not detected for local areas where the dispensaries operated. Similarly, in another study also focusing on cannabis effects at the neighborhood level in Denver, Hughes et al. (2019) found that the placement of recreational marijuana dispensaries was linked to significant increases in rates of crime and disorder at the neighborhood level, and this was also true for the presence of medical marijuana dispensaries. A more recent study by Hao and Cowan (2020) specifically examined the spillover effect of recreational marijuana legalization in Colorado and Washington State on neighboring states, and found that border counties of neighboring states had experienced a substantial increase in marijuana possession arrests relative to non-border counties in these states.

In contrast to these studies showing a positive relationship between recreational marijuana legalization or the density/presence of marijuana outlets and crime, there exists research suggesting a crime-reducing effect of recreational marijuana legalization. For example, emphasizing the impact of marijuana legalization on neighborhood crime, Brinkman and Mok-Lamme (2019) found that the placement of an additional dispensary in a neighborhood was associated with a significant reduction in crime rate in the local area, while such a reduction was not observed for spatially adjacent neighborhoods. Another study

by Dragone et al. (2019) found that the legalization of marijuana for recreational use led to a significant decrease in property crimes and rapes on the Washington side of the border relative to the Oregon side, when comparing the crime rates between pre-legalization (2010−2012) and post-legalization (2013–2014) periods (Washington State legalized in 2012). A more recent study by Wu and his colleagues (2020) with a focus on the spillover effect of legalization has revealed that recreational marijuana legalization in Colorado resulted in significant reduction in property crime and larceny in the border counties of neighboring states (Wu et al., 2020). In addition, scholars also examined the effect of legalization on crime clearance rates and found that marijuana legalization in Colorado and Washington State increased the clearance rates of certain types of crime, and the positive effects were more pronounced for Colorado (Makin et al., 2019).

It is worth noting that recreational marijuana legalization has significant economic implications within communities and legalizing states. For example, a growing cannabis industry post-legalization resulted in job growth and opportunities for businesses throughout the supply chain from grower to retailer (Cheng, Mayer, & Mayer, 2018). Available data suggest that marijuana sales and associated tax revenues continue to increase in Washington State. In 2019, aggregate marijuana tax revenues in Washington were approximately $395.5 million (including about $390.4 million from cannabis sales taxes and $5.2 million from licensing fees). Moreover, these tax revenues were $172 million more than that of from liquor sales (Washington State Liquor and Cannabis Board, 2019). Since 2014 when retail sales of recreational marijuana began in the State of Colorado, total state revenue from the legal marijuana industry surpassed $1 billion by mid-2019 (Rosenbaum, 2019, June 13). As Cheng et al. (2018, p. 1588) has noted, municipal and county governments also significantly benefited from the increased tax revenues from marijuana legalization. Additionally, as discussed earlier, legalization may result in more cost-effective law enforcement if resources are re-allocated to more serious crimes rather than marijuana possession arrests (Makin et al., 2019). However, it has also been argued that the economic costs to society as a result of legalization may far outweigh the potential tax revenues generated (Rocky Mountain HIDTA, 2017), because of legalization's adverse effects on public health and public safety (e.g., potential increases in marijuana-related hospitalizations, emergency room visits, and marijuana-related impaired driving) and possibly overall human development. As mentioned previously, marijuana businesses in local communities may have an exacerbating effect on crimes in these communities as they provide attractive targets (e.g., cash-based businesses) for potential criminals.

Taken together, theoretical perspectives on the impact of recreational marijuana legalization on crime are ambiguous and empirical research has yielded mixed and inconclusive results. Given the very limited scholarly efforts made toward this issue, more research is needed to further examine the extent to which recreational marijuana legalization has affected crime and the nature of the relationship.

## 4. Methods

### 4.1. Data

As the purpose of this study is to explore the potential effects of recreational marijuana legalization on crime in Oregon counties, and this examination involves the comparison of crime trends between Oregon and the 19 states that have not legalized marijuana for recreational or medical purposes, we used county-level crime data for Oregon and these non-legalized states. In addition, as a robustness check of the results, we also used county-level crime data for the five medical marijuana-only states (Hawaii, Montana, New Mexico, Rhode Island, and Vermont) and compared crime trends between Oregon and these five states. Specifically, crime data for this study was based on the FBI's Uniform Crime Report for the period of 2007–2017, which we obtained from the Institute for Social Research at the University of Michigan (ICPSR) website. The UCR data contain crime information on most serious violent and property crimes, classified by FBI as Part I crimes including robbery, aggravated assault, burglary, larceny, and motor vehicle theft, for all counties in the states of interest. In cases where police agencies in certain counties did not report complete crime data, crime numbers for these agencies were imputed based on crime reported in other months by that agency and crimes in comparable jurisdictions in the month(s) of missing data. Accordingly, a coverage indicator (CI, ranging from 0 to 100) was provided for each county showing the extent of the coverage gap, with a high CI meaning a high coverage for that county.[4] For the data, the mean CI is 84.1. Counties with CIs greater than 80 account for 78.7% of all the counties included in the dataset, and counties with CIs greater than 90 account for 73.6%, suggesting a high overall level of completeness in the crime data. The presence of crime information for all counties in the states being examined allows examination of the legalization effect on a larger scale. To ensure the results were based on high-quality data, we used a high value of coverage indicator ($\geq$ 80) for analysis.[5]

County-level characteristics were also considered in this study as covariates, including county population size, percent below federal poverty level, median annual household income in dollars, and annual unemployment rate. Although synthetic control method, as that was used in the current study, was regarded as a useful analysis tool that "helps control for unobserved factors and for the heterogeneity of the effect of the observed and unobserved factors on the outcome of interest (Abadie, Diamond, & Hainmueller, 2015, p. 498)", the inclusion of these covariates was able to address their potential effects more directly. In effect, county poverty level, median household income, and unemployment rates reflect county economic conditions, which have been found to have a significant influence on crime (Hooghe, Vanhoutte, Hardyns, & Bircan, 2010; Patterson, 1991; Sampson & Groves, 1989). According to social disorganization theory, poor economic conditions, as reflected by high income inequality, unemployment rates, and poverty levels, were indicators of social ills that would weaken informal social control and, as a result, increase crime (Shaw & McKay, 1942). Data for these three variables pertaining to county economic conditions come from two sources. Specifically, data on county poverty level and median household income were obtained from the U.S. Census Bureau's Small Area Income and Poverty Estimates from 2007 to 2017. Data on county annual unemployment rates come from the Local Area Unemployment Statistics provided by the U.S. Department of Labor's Bureau of Labor Statistics. Data about county population levels for each year from 2007 to 2017 were available in the main data set containing crime information that we acquired from the ICPSR website.

Table 1 presents the descriptive statistics for the full sample, counties in Oregon, and counties in the 19 non-legalized states, respectively. Given that Oregon passed the recreational marijuana law in November 2014, the entire observation period (2007–2017) was divided into a pre-legalization period of 2007–2014 and a post-legalization period of 2015–2017. As Table 1 shows, the full sample overall displays a downward trend in the rates of property-related crimes, as manifested by the lower averages in the rates of property crime, burglary, larceny, and auto theft in the post-legalization period than those in the pre-legalization period. This downward trend in property-related crimes as observed in the sample is in line with the national trend in that property

[4] A detailed description of the imputation method can be found in the Uniform Crime Reporting Program Resource Guide, National Archive of Criminal Justice Data (NACJD) (https://www.icpsr.umich.edu/web/pages/NACJD/guides/ucr.html).

[5] In order to check the robustness of the results, we have also run separate models using CI greater than 50, and with no restrictions to CI values. Results based on these additional CI values overall align with the primary results associated with CI greater than 80, which were presented in the Appendix Tables A1 and A2.

**Table 1**
Summary Statistics for Full Sample, Counties in Oregon (OR), and Counties in the Non-legalized States.

| | Full Sample | | | Counties in Oregon | | | Counties in Non-leg. States | | |
|---|---|---|---|---|---|---|---|---|---|
| | *N* | *M* | *SD* | *N* | *M* | *SD* | *N* | *M* | *SD* |
| 2007–2017 | | | | | | | | | |
| Violent Crime Rate | 16,416 | 260.25 | 214.35 | 316 | 199.79 | 22.44 | 16,100 | 261.43 | 215.69 |
| Property Crime Rate | 16,416 | 2174.74 | 1307.99 | 316 | 2636.52 | 126.67 | 16,100 | 2165.67 | 1313.07 |
| Robbery Rate | 16,416 | 35.40 | 52.75 | 316 | 29.17 | 3.32 | 16,100 | 35.53 | 53.08 |
| Aggravated Assault Rate | 16,416 | 193.22 | 171.76 | 316 | 139.63 | 19.01 | 16,100 | 194.27 | 172.83 |
| Burglary Rate | 16,416 | 553.72 | 378.50 | 316 | 500.11 | 50.25 | 16,100 | 554.77 | 381.28 |
| Larceny Rate | 16,416 | 1491.40 | 945.40 | 316 | 1951.16 | 82.97 | 16,100 | 1482.38 | 947.51 |
| Auto Theft Rate | 16,416 | 129.60 | 107.99 | 316 | 184.71 | 33.19 | 16,100 | 128.52 | 107.12 |
| 2007–2014 | | | | | | | | | |
| Violent Crime Rate | 12,015 | 260.99 | 218.62 | 239 | 193.23 | 118.31 | 11,776 | 262.36 | 219.97 |
| Property Crime Rate | 12,015 | 2281.03 | 1369.90 | 239 | 2676.54 | 909.67 | 11,776 | 2273.00 | 1376.50 |
| Robbery Rate | 12,015 | 37.06 | 55.45 | 239 | 30.02 | 32.28 | 11,776 | 37.20 | 55.81 |
| Aggravated Assault Rate | 12,015 | 194.01 | 174.34 | 239 | 134.66 | 92.84 | 11,776 | 195.22 | 175.40 |
| Burglary Rate | 12,015 | 592.86 | 400.30 | 239 | 523.27 | 182.88 | 11,776 | 594.27 | 403.38 |
| Larceny Rate | 12,015 | 1557.41 | 986.42 | 239 | 1978.74 | 691.13 | 11,776 | 1548.86 | 989.66 |
| Auto Theft Rate | 12,015 | 130.68 | 111.29 | 239 | 174.03 | 124.54 | 11,776 | 129.80 | 110.84 |
| 2015–2017 | | | | | | | | | |
| Violent Crime Rate | 4401 | 258.23 | 202.21 | 77 | 220.17 | 93.66 | 4324 | 258.91 | 203.56 |
| Property Crime Rate | 4401 | 1884.56 | 1069.34 | 77 | 2512.29 | 881.80 | 4324 | 1873.38 | 1069.13 |
| Robbery Rate | 4401 | 30.88 | 44.23 | 77 | 26.51 | 24.85 | 4324 | 30.96 | 44.49 |
| Aggravated Assault Rate | 4401 | 191.06 | 164.52 | 77 | 155.06 | 75.23 | 4324 | 191.70 | 165.61 |
| Burglary Rate | 4401 | 446.88 | 285.21 | 77 | 428.20 | 157.21 | 4324 | 447.21 | 286.97 |
| Larceny Rate | 4401 | 1311.21 | 795.78 | 77 | 1865.55 | 684.71 | 4324 | 1301.34 | 794.19 |
| Auto Theft Rate | 4401 | 126.64 | 98.39 | 77 | 217.87 | 159.37 | 4324 | 125.02 | 96.21 |

*M*, Mean annual number of crimes per 100,000 population; *SD*, Standard Deviation.

crime offenses in the U.S. have continued to decrease in the last decade (FBI, 2019). Specific to the sample, the average number of property crimes (per 100,000 population) for the entire period for the full sample is 2175, with an average of 2281 before legalization (2007–2014), and 1884 after legalization (2015–2017). This overall downward trend in property-related crimes for the full sample was also reflected by declining rates in property crime, burglary, and larceny in counties in OR and those in non-legalized states. However, it is noteworthy that the rates of these crime types seem to decrease faster in counties of the 19 states that have not legalized than those in OR. For example, the average number of property crime for counties in OR in the pre-legalization period was 2677 (per 100,000 population), and 2512 (per 100,000 population) in the post-legalization period, suggesting a decline of 165 cases on average. In contrast, for counties in the non-legalized states, the cases of property crime on average have decreased by 400 (before legalization: 2273; after legalization: 1873), which was a much bigger decline than that of counties in OR. Similar patterns were also shown for burglary (a decrease of 95 for counties in OR vs. a decrease of 147 for counties in the non-legalized states) and larceny (a decrease of 113 for counties in OR vs. a decrease of 248 for counties in the non-legalized states). Regarding auto theft rates, the differential changes in OR and the non-legalized states were similarly large – although counties in OR experienced an increase of 44 cases of auto theft (per 100,000 population) on average after legalization, those in the non-legalized states have seen a decrease of 5 cases (per 100,000 population) on average after legalization.

For violent crimes, we can also see some differences in changes in the rates of aggravated assault and violent crime in general associated with legalization between counties in OR and those in the non-legalized states. For example, while the average number of overall violent crimes has increased by 27 (per 100,000 population) after legalization (before legalization: 193; after legalization: 220) in counties in OR, it has decreased by 3 (per 100,000 population) in those in the non-legalized states (before legalization: 262; after legalization: 259). For aggravated assault, in contrast to the situation in counties in OR that has seen an average increase of 20 cases (per 100,000 population) after legalization (pre-legalization period: 135; post-legalization period: 155), those in the non-legalized states has experienced a decrease of 4 cases on average after legalization (pre-legalization period: 195; post legalization period: 191).

### 4.2. Estimation strategy

We used Difference in Differences (DID) linear probability regression to examine the impact of recreational marijuana legalization on rates of different types of crime. Essentially, this method relies upon observations collected from two groups (treatment group and control group) differentiated by the exposure factor (i.e., legalization) within two time periods (pre-treatment period and post-treatment period). The treatment group is the one that is subjected to the treatment in the second period (post-treatment period), while the control group is the one that is not exposed to the treatment during both periods. As Li et al. (2012) further explained, "in the case where the same units within a group are observed in each time period, the average gain over time in the non-exposed (control) group is extracted from the gain over time in the exposed (treatment) group. This double differencing, the so-called 'difference in difference' method, removes biases in the second period comparison between the treatment and control groups that could be the result from permanent differences between those groups, as well as biases from comparison over time in the treatment group that could be the result of time trends unrelated to the treatment" (p. 368).

In the last few decades, the DID method has served as an effective tool for researchers to assess policy impacts. As a quasi-experimental research design that considers pre- and post-treatment periods with the addition of a control group, the DID model accounts for changes due to factors other than treatment, and therefore allows researchers to estimate causal relationships (Meyer, 1995). For the current study, DID is an appropriate modelling strategy given the longitudinal nature of the data that can be divided into a pre-treatment period (2007–2014) and a post-treatment period (2015–2017) for the treatment group (counties in OR that legalized recreational marijuana) and the control group (counties in the states that have not legalized either recreational or medical marijuana), and our intention to examine if legalization has led to substantial changes in the rates of a variety of crimes in the legalized state – OR relative to the non-legalized states.

Using the DID approach, the outcome $Y_{ist}$ is modeled by the following

equation:

$$Y_{ist} = \alpha + \beta DT_{it} + \gamma DP_{it} + \delta\,(DT_{it} \times DP_{it}) + X_{ist} + \varepsilon_{ist} \quad (1)$$

where $Y_{ist}$ (the dependent variable) represents the rates of different types of crimes including violent crime, property crime, robbery, aggravated assault, simple assault, burglary, larceny, and motor vehicle theft) in county $i$ of state $s$ in year $t$, $\alpha$ is the constant, $\beta$ is the specific group effect, $\gamma$ is the time trend, and $\delta$ is the difference-in-differences estimator which estimates the policy impact on crime rates. $DT_{it}$ is an indicator variable for the group-specific component, coded as 1 if $Y_{ist}$ is an observation from the treatment group (counties in OR) or 0 otherwise. $DP_{it}$ is the dummy variable for the time-specific component, which is 1 if the observation is from the post-treatment (legalization) period and 0 otherwise. $X_{ist}$ is a vector of observed county-level characteristics including county population, poverty level, median household income, and unemployment rate. $\varepsilon_{ist}$ is an error term.

### 4.3. Measures

The *outcome variables* are rates of a variety of crimes including violent crime, property crime, robbery, aggravated assault, burglary, larceny, and motor vehicle theft. The rate for each crime type is measured per 100,000 people. The *treatment indicator* is defined on an annual basis, and measures exposure to recreational marijuana legalization. It was dichotomously coded as 0 = not exposed and 1 = exposed for that year. As previously mentioned, four county-level characteristics were included in the study as control variables: county population, poverty level, median household income, and unemployment rate. Poverty level is a continuous variable measured by the percentage of the county population of all ages living below the federal poverty line. Unemployment rate only considers county residents who are in the labor force, and is a continuous variable measured by the percentage of the county population in the labor force who were unemployed.

## 5. Findings

Table 2 presents the effects of marijuana legalization on specific crime rates in Oregon using the control group of 19 non-legalized states. As it shows, recreational marijuana legalization in OR has led to significant increases in the rates of not only property crime overall ($p$ = .021), but also subtypes of crimes such as burglary ($p$ = .020) and motor vehicle theft ($p$ = .000) in the state, relative to the non-legalized states following legalization in OR. In addition, an increase, having marginally statistical significance, has been observed for violent crime in general ($p$ = .057) and two subtypes of crimes including aggravated assault ($p$ = .066) and larceny ($p$ = .079).

Specifically, on average, following legalization, Oregon experienced an increase of 365.4 cases of property crime (per 100,000 population) relative to the non-legalized states, and an increase of 103.6 cases of burglary, 56.2 cases of motor vehicle theft, 49.4 cases of violent crime, 39.4 cases of aggravated assault, and 205.3 cases of larceny per 100,000 population relative to the non-legalized states. As Table 2 shows, for the seven crime types considered, we found significant or marginally significant increases for six of them in Oregon following legalization, relative to the non-legalized states. Therefore, the results overall suggest a crime-exacerbating effect of recreational marijuana legalization. These results also find their support from the analyses based on other levels of coverage indicator (see Appendix Tables A1 and A2). In fact, as Appendix Table A2 shows, when all counties in the states of interest were included in the analysis, Oregon has experienced significant or marginally significant (only for robbery rate) increases in the rates for all these seven types of crimes examined.

In addition, we also examined the short-term retail sales effect using the control group consisting of 19 non-legalized states. The retail sales of recreational marijuana in Oregon began on October 1, 2015. The operation of recreational marijuana dispensaries increases availability and accessibility of recreational marijuana, and may have a more direct impact on the underground marijuana market, all of which may affect crime in the legalized state. In the examination of the potential retail sales effect, we used the pre-sales period of 2007–2014 and post-sales period of 2016–2017. We omitted the year of 2015 to isolate the potential legalization effect. The results about the retail sales effect were overall consistent with the legalization effects (see Appendix Table A3), although the effects on the rates of aggravated assault and larceny have reduced to be non-significant (they were "marginally significant" in the primary results associated with legalization effects).

### 5.1. Robustness check

We used a synthetic control design as a robustness check on whether counties in the 19 non-legalized states serve as an appropriate control group for counties in OR in our DID analyses. This check is necessary given that the DID framework relies upon the parallel trend assumption requiring that, in the absence of treatment, the "treatment" group would have experienced similar changes in the outcome of interest as the average of the "control" group. That is, specific to the current study, if counties in OR and those in the non-legalized states had different trends in the crime rates considered in the pre-legalization period, it would call into question whether recreational marijuana legalization is, in fact, responsible for our results. The synthetic control method, developed by Abadie and his colleagues (Abadie, Diamond, & Hainmueller, 2010; Abadie & Gardeazabal, 2003), addresses this concern by constructing a control group as a weighted average of non-treatment units where weights are chosen to best approximate the treated unit in the pre-treatment period. As Powell (2018, p.2.) noted, "while an unweighted average of other units may not be an appropriate control, a subset of units with non-uniform weights may provide a proper counterfactual. A major benefit of this approach is that it allows for estimation of a specification with interactive fixed effects which nests more traditional additive fixed effects models." We applied synthetic control design to the six crime types that were found to be significantly or marginally significantly affected by the legalization of recreational marijuana in OR, namely: property crime, burglary, auto theft, violent crime, aggravated assault, and larceny. The "donor pool" consists of counties in the 19 non-legalized states.

Using the approach provided by Abadie et al. (2010), we created the synthetic control region that best produces the values of predictors for each outcome variable of interest (crime rates for the six crime types) in the pre-treatment/pre-legalization period. Specifically, the predictors for each outcome variable include the corresponding crime rates for the years in the pre-treatment period.[6] We estimated the effects of recreational marijuana legalization on the outcome variables as the difference in each outcome variable between the treated region (counties in OR) and its synthetic versions in the years after recreational marijuana was legalized in OR. Fig. 1 displays the trends in the rates of property crime (Fig. 1A), burglary (Fig. 1B), auto theft (Fig. 1C), violent crime (Fig. 1D), aggravated assault (Fig. 1E), and larceny (Fig. 1F) for counties in OR and the synthetic control region. As these graphs show, the synthetic control region very closely tracks the pre-treatment trajectory of each outcome variable in treated counties (counties in OR). For these six outcomes, the two lines begin to diverge noticeably immediately after treatment/legalization. Specifically, the post-treatment trend lines for counties in OR are higher than those for the synthetic control counterparts,

[6] Given that the outcome variables may also be influenced by other factors related to county characteristics, we have also estimated models with the addition of such predictors as county population, poverty level, medium household income, and unemployment rate. The inclusion of these additional predictors yielded synthetic control groups that were very similar to those used in the paper.

**Table 2**
The Effects of Recreational Marijuana Legalization on Crime in Oregon (control group: 19 non-legalized states; 2007–2017).

| | Violent Crime | Property Crime | Robbery | Aggravated Assault | Burglary | Larceny | Auto Theft |
|---|---|---|---|---|---|---|---|
| *Legalization* | 49.435† | 365.404* | 6.961 | 39.426† | 103.572* | 205.324† | 56.182*** |
| | (25.994) | (158.141) | (5.795) | (21.423) | (44.583) | (116.856) | (12.728) |
| *N* | 16,416 | 16,416 | 16,416 | 16,416 | 16,416 | 16,416 | 16,416 |
| $R^2$ | 0.161 | 0.166 | 0.311 | 0.113 | 0.209 | 0.129 | 0.208 |
| County Dummies | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Year Dummies | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Covariates | Yes | Yes | Yes | Yes | Yes | Yes | Yes |

Legalization effect was examined based on the pre-legalization period of 2007–2014, and post-legalization period of 2015–2017. Oregon's ballot Measure 91 (Legalizing recreational marijuana) was approved in November 2014 and took effect on July 1, 2015.
The covariates included in the models are county population, county poverty level, county employment rate, and county median household income.
† $p \leq .1$.
* $p \leq .05$.
*** $p \leq .001$.

suggesting substantially higher rates of property crime, burglary, auto theft, violent crime, aggravated assault, and larceny in counties in OR following legalization relative to the synthetic controls. The results obtained through the synthetic control method provide further support for those based on the DID analyses.

As an additional effort to check the robustness of the results based on the comparison between Oregon counties and counties in the 19 states that have not legalized either form of marijuana (medical or recreational), we also conducted DID analyses based on a control group consisting of five states in which only medical marijuana was legal during the period of 2007–2017. As mentioned previously, these five states are: Hawaii, Montana, New Mexico, Rhode Island, and Vermont. As Table 3 shows, the results based on this control group comprising medical marijuana-only states were substantively similar to the those that we obtained using the control group of 19 non-legalized states (that have not legalized marijuana for recreational or medical marijuana). Specifically, consistent with the primary results based on the 19 non-legalized states, counties in Oregon were also found to have experienced significant increases in rates for the six crime categories – violent crime ($p = .020$), property crime ($p = .009$), aggravated assault ($p = .111$), burglary ($p = .027$), larceny ($p = .056$), and auto theft ($p = .020$) – following recreational marijuana legalization, relative to the five medical marijuana-only states. In addition, we examined the retail sales effect using the control group of the five medical marijuana-only states, and the results were largely similar to those obtained using the control group of the 19 non-legalized states as well (see Appendix Table A4).

## 6. Discussion

We used a rigorous quasi-experimental research design and county-level crime data to examine the impact of marijuana legalization on serious crimes as measured by the UCR in Oregon. We examined violent and property crime in general, and a set of specific crimes such as burglary, larceny, motor vehicle theft, robbery, and aggravated assault. Overall, the results reveal that legalization in Oregon has likely led to substantial increases in most crime types examined relative to states that have not legalized. Furthermore, our analysis suggests that legalization of retail sales of marijuana similarly resulted in an increase in property crimes. Our study provides evidence suggesting an exacerbating effect of recreational marijuana legalization on crime.

This finding challenges the notion that legalization would reduce crime due to factors such as the increased availability of more affordable recreational marijuana compared to pre-legalization (it has been argued that legalization would decrease the price of marijuana, see Hall & Lynskey, 2016a), demotivating marijuana users to resort to predatory crime to support their drug use, as well as increased crime deterrence as a result of police reallocation of resources away from possession arrests to the control of more serious crimes including property crime (Shepard & Blackley, 2007). In effect, it remains unclear how legalization affects police resource allocation and the related potential deterrent effect, and the impact of marijuana price decreases, if any, may be complex and requires further scrutiny. It is likely that increased availability and affordability of marijuana in the context of legalization may lead to an increase in drug use, which may in turn motivate rather than demotivate drug users to commit predatory crime to support their habits (Cleveland & Wiebe, 2008). It is noteworthy that the findings of our study also contrasts with those from prior research that reported either a crime reducing effect or minimal to no effect of marijuana legalization on major crimes in Colorado and Washington State (for example, see Dragone et al., 2019; Lu et al., 2019). Given that some of these prior studies were also based on rigorous research designs, the inconsistent results concerning the impact of legalization seem to suggest that the impact of recreational marijuana legalization on crime may vary across states, perhaps due to differential state policy and law enforcement environments. As mentioned previously, although states such as CO, WA, and OR, have legalized marijuana for recreational purposes, there remain substantial differences across these states regarding specific policies regulating marijuana retail businesses and individuals' behaviors related to recreational marijuana. These inconsistencies in research findings further demonstrate the need to examine the implications of marijuana legalization to public safety for specific states in order to understand the relevance of differential policy contexts to the impact of marijuana legalization.

Despite competing views regarding the potential impact of marijuana legalization on crime, the results of our study reveal that recreational marijuana legalization increased serious crimes in Oregon relative to non-legalized states. This is not surprising given that scholars have commonly observed a positive link between the placement of marijuana dispensaries and neighborhood crime (Freisthler et al., 2017; Hughes et al., 2019). The findings of our study suggest that the criminogenic effect of marijuana legalization may also be reflected at the county or state level if the data used have a sufficient coverage of the geographical areas within the state of interest. In effect, one important reason that the proponents of legalization have offered about the expected crime-reducing effect of legalization was that a regulated marijuana market would diminish the underground marijuana market, which is associated with crime (Cohen & McGowan, 2012; Gettman & Kennedy, 2014). However, prior research suggests that legal marijuana may increase or maintain the size of illegal markets rather than the opposite – the illegal market for marijuana has persisted in the states that have legalized the drug (Fertig, 2019; Song, 2019; Stohr et al., 2020). Such developments associated with underground marijuana markets provide a context that helps explain why we did not observe a crime-reducing effect of legalization.

This study sheds light on the effects of recreational marijuana legalization on crime. However, it is not without limitations. First, although the most recent available data were used with the intent to have extended coverage of the post-legalization period, the post-

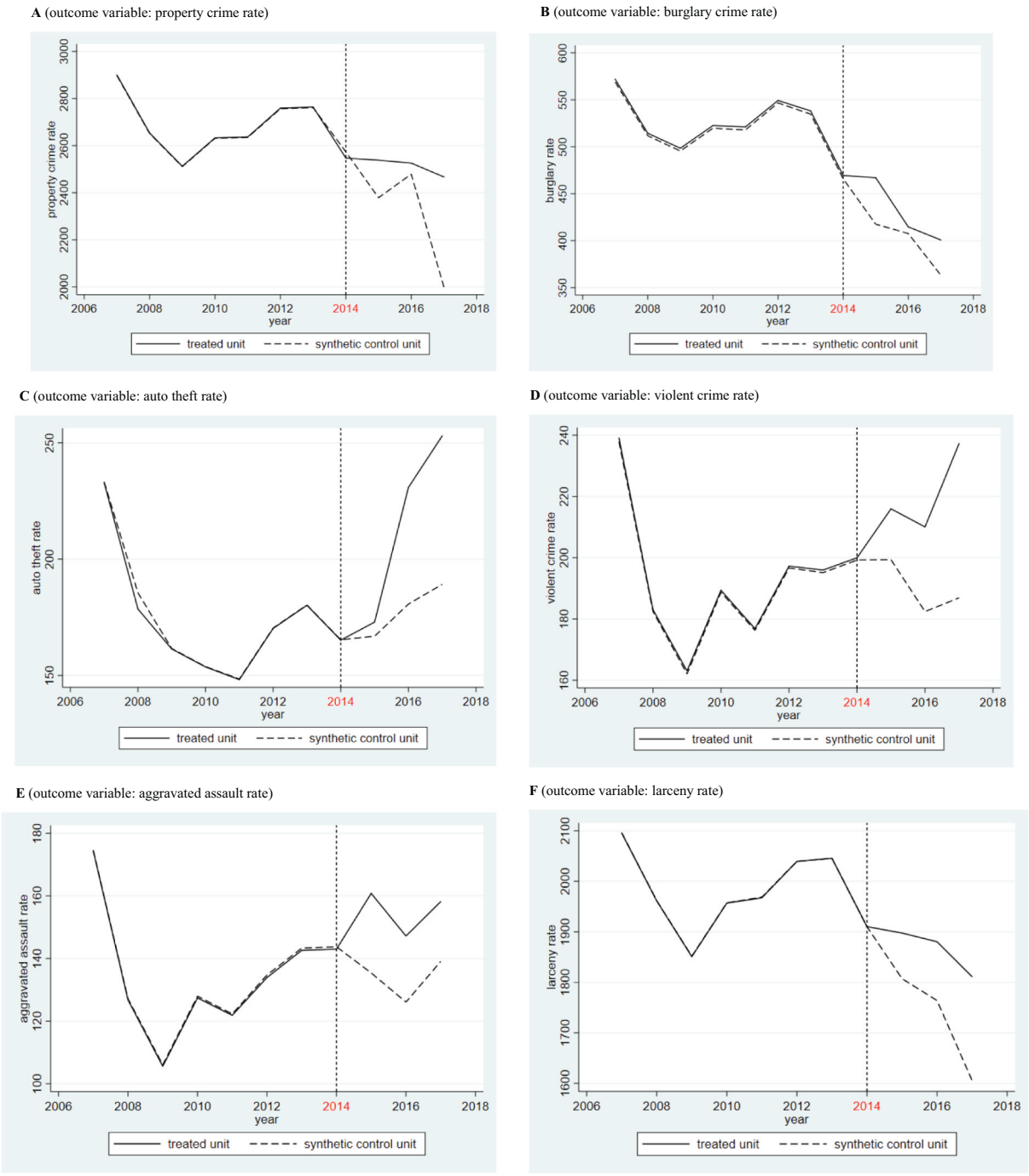



**Fig. 1.** The Effects of Recreational Marijuana Legalization on Crime in OR (Synthetic Control Method).

legalization periods for Oregon (2015–2017) is still relatively short. This issue is caused by the recency of the legalization year—late 2014. We acknowledge that observations based on a 3-year post-legalization period may be insufficient to identify the lagged effect of legalization on crime rates. Given this, the effects of legalization revealed in this study for Oregon are essentially short-term effects. Future research is suggested to continue the examination of the impact of legalization on crime when additional years of data are available. It is possible the magnitude of legalization effects varies across time. Second, notwithstanding the use of a quasi-experimental research design that helps identify the causal effect, this is just one study exploring the implications of legalization on crime. Therefore, we caution against over-interpretation of the results. Given the limited extant literature, more research is needed to study the aggregate and contextual impact of recreational marijuana legalization on crime.

## 7. Conclusion

The results of this study provide evidence suggesting a crime-exacerbating effect of recreational marijuana legalization, manifested by substantial increases in a variety of major crimes as measured by the UCR in Oregon counties relative to non-legalized states following legalization. Given that the findings of this study are inconsistent with those obtained in some prior studies focusing on Colorado and Washington State, this suggests a need to examine legalization impact with consideration of the specific social and policy contexts within legalizing

**Table 3**
The Effects of Recreational Marijuana Legalization on Crime in Oregon (control group: five medical marijuana-only states; 2007–2017).

| | Violent Crime | Property Crime | Robbery | Aggravated Assault | Burglary | Larceny | Auto Theft |
|---|---|---|---|---|---|---|---|
| *Legalization* | 131.536* | 562.559** | −0.493 | 112.114† | 171.531* | 354.708† | 81.075* |
| | (56.445) | (214.294) | (4.414) | (70.236) | (77.373) | (185.320) | (34.727) |
| *N* | 1628 | 1628 | 1628 | 1628 | 1628 | 1628 | 1628 |
| $R^2$ | 0.121 | 0.087 | 0.286 | 0.089 | 0.074 | 0.060 | 0.079 |
| County Dummies | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Year Dummies | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Covariates | Yes | Yes | Yes | Yes | Yes | Yes | Yes |

Legalization effect was examined based on the pre-legalization period of 2007–2014, and post-legalization period of 2015–2017. The control group consists of 5 states in which only medical marijuana were legal during the period of 2007–2017, namely, Hawaii, Montana, New Mexico, Rhode Island, and Vermont.
Oregon's ballot Measure 91 (Legalizing recreational marijuana) was approved in November 2014 and took effect on July 1, 2015.
The covariates included in the models are county population, county poverty level, and county median household income.
† $p \leq .1$.
* $p \leq .05$.
** $p \leq .01$.

states. Recognizing that the full effect of legalization on public safety may take years to manifest (Hall & Lynskey, 2016b), and that the effect may change over time as a function of the changing societal environment (i.e., the development of regulations related to marijuana), further state-specific research is vitally needed on this issue in order to adequately examine how marijuana legalization affects public safety in the long term.

## Appendix A. Appendix

**Table A1**
The Effect of Recreational Marijuana Legalization on Crime in OR (coverage indicator ≥50: control group: 19 non-legalized states)

| | Violent Crime | Property Crime | Robbery | Aggravated Assault | Burglary | Larceny | Auto Theft |
|---|---|---|---|---|---|---|---|
| *Legalization* | 47.148† | 341.749* | 7.473 | 37.959† | 105.032** | 179.897† | 56.903*** |
| | (25.729) | (146.002) | (5.280) | (21.667) | (41.454) | (107.720) | (11.707) |
| *N* | 17,981 | 17,981 | 17,981 | 17,981 | 17,981 | 17,981 | 17,981 |
| $R^2$ | 0.139 | 0.172 | 0.319 | 0.092 | 0.215 | 0.133 | 0.206 |
| County Dummies | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Year Dummies | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Covariates | Yes | Yes | Yes | Yes | Yes | Yes | Yes |

Legalization effect was examined based on the pre-legalization period of 2007–2014, and post-legalization period of 2015–2017. The covariates included in the models are county population, county poverty level, county employment rate, and county median household income.
† $p \leq .1$.
* $p \leq .05$.
** $p \leq .01$.
*** $p \leq .001$.

**Table A2**
The Effect of Recreational Marijuana Legalization on Crime in OR (coverage indicator: no restrictions; control group: 19 non-legalized states)

| | Violent Crime | Property Crime | Robbery | Aggravated Assault | Burglary | Larceny | Auto Theft |
|---|---|---|---|---|---|---|---|
| *Legalization* | 81.079** | 534.827*** | 8.926† | 64.280** | 157.090*** | 286.499** | 91.617*** |
| | (27.062) | (146.919) | (4.811) | (23.224) | (46.781) | (102.946) | (11.390) |
| *N* | 19,712 | 19,712 | 19,712 | 19,712 | 19,712 | 19,712 | 19,712 |
| $R^2$ | 0.134 | 0.165 | 0.318 | 0.093 | 0.198 | 0.130 | 0.191 |
| County Dummies | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Year Dummies | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Covariates | Yes | Yes | Yes | Yes | Yes | Yes | Yes |

Legalization effect was examined based on the pre-legalization period of 2007–2014, and post-legalization period of 2015–2017. The covariates included in the models are county population, county poverty level, county employment rate, and county median household income.
† $p \leq .1$.
** $p \leq .01$.
*** $p \leq .001$.

**Table A3**
The Effects of Retail Sales on Specific Crime Rates in Oregon (control group: 19 non-legalized states; 2007–2017)

| | Violent Crime | Property Crime | Robbery | Aggravated Assault | Burglary | Larceny | Auto Theft |
|---|---|---|---|---|---|---|---|
| *Legalization* | 49.748† | 380.982* | 8.113 | 36.664 | 108.322* | 199.862 | 72.557*** |
| | (30.961) | (188.454) | (6.901) | (25.545) | (53.283) | (139.041) | (15.174) |
| *N* | 14,922 | 14,922 | 14,922 | 14,922 | 14,922 | 14,922 | 14,922 |

(*continued on next page*)

**Table A3** (*continued*)

| | Violent Crime | Property Crime | Robbery | Aggravated Assault | Burglary | Larceny | Auto Theft |
|---|---|---|---|---|---|---|---|
| $R^2$ | 0.162 | 0.167 | 0.312 | 0.114 | 0.210 | 0.129 | 0.209 |
| County Dummies | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Year Dummies | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Covariates | Yes | Yes | Yes | Yes | Yes | Yes | Yes |

The retail sales effect was examined based on the pre-sales period of 2007–2014, and post-sales period of 2016–2017. Retail sales in Oregon began on October 1, 2015. The year of 2015 was omitted to isolate the potential legalization effect.
$^{\dagger}$ $p \leq .1$.
$^{*}$ $p \leq .05$.
$^{***}$ $p \leq .001$.

**Table A4**
The Effects of Retail Sales on Specific Crime Rates in Oregon (control group: five medical marijuana-only states; 2007–2017)

| | Violent Crime | Property Crime | Robbery | Aggravated Assault | Burglary | Larceny | Auto Theft |
|---|---|---|---|---|---|---|---|
| *Legalization* | 142.104* | 648.753** | −0.540 | 112.341 | 168.646† | 382.555† | 100.553** |
| | (67.571) | (253.154) | (5.175) | (83.568) | (92.701) | (221.016) | (40.763) |
| *N* | 1480 | 1480 | 1480 | 1480 | 1480 | 1480 | 1480 |
| $R^2$ | 0.122 | 0.084 | 0.284 | 0.091 | 0.072 | 0.057 | 0.082 |
| County Dummies | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Year Dummies | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Covariates | Yes | Yes | Yes | Yes | Yes | Yes | Yes |

The retail sales effect was examined based on the pre-sales period of 2007–2014, and post-sales period of 2016–2017. Retail sales in Oregon began on October 1, 2015. The year of 2015 was omitted to isolate the potential legalization effect.
$^{\dagger}$ $p \leq .1$.
$^{*}$ $p \leq .05$.
$^{**}$ $p \leq .01$.

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ORIGINAL RESEARCH

# One Minute of Marijuana Secondhand Smoke Exposure Substantially Impairs Vascular Endothelial Function

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***Background*—**Despite public awareness that tobacco secondhand smoke (SHS) is harmful, many people still assume that marijuana SHS is benign. Debates about whether smoke-free laws should include marijuana are becoming increasingly widespread as marijuana is legalized and the cannabis industry grows. Lack of evidence for marijuana SHS causing acute cardiovascular harm is frequently mistaken for evidence that it is harmless, despite chemical and physical similarity between marijuana and tobacco smoke. We investigated whether brief exposure to marijuana SHS causes acute vascular endothelial dysfunction.

***Methods and Results*—**We measured endothelial function as femoral artery flow-mediated dilation (FMD) in rats before and after exposure to marijuana SHS at levels similar to real-world tobacco SHS conditions. One minute of exposure to marijuana SHS impaired FMD to a comparable extent as impairment from equal concentrations of tobacco SHS, but recovery was considerably slower for marijuana. Exposure to marijuana SHS directly caused cannabinoid-independent vasodilation that subsided within 25 minutes, whereas FMD remained impaired for at least 90 minutes. Impairment occurred even when marijuana lacked cannabinoids and rolling paper was omitted. Endothelium-independent vasodilation by nitroglycerin administration was not impaired. FMD was not impaired by exposure to chamber air.

***Conclusions*—**One minute of exposure to marijuana SHS substantially impairs endothelial function in rats for at least 90 minutes, considerably longer than comparable impairment by tobacco SHS. Impairment of FMD does not require cannabinoids, nicotine, or rolling paper smoke. Our findings in rats suggest that SHS can exert similar adverse cardiovascular effects regardless of whether it is from tobacco or marijuana. **(*J Am Heart Assoc*. 2016;5:e003858 doi: 10.1161/JAHA.116.003858)**

**Key Words:** artery • cannabis • endothelium • flow-mediated dilation • marijuana • nitric oxide synthase • secondhand smoke • smoking • vasodilation

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There is widespread belief that, unlike tobacco smoke, marijuana smoke is benign.[1] While the psychoactive substance in marijuana is tetrahydrocannabinol (THC) rather than nicotine, marijuana smoke is still the result of biomass combustion and contains many of the same toxins as tobacco smoke,[2] including fine particles that cause cardiovascular morbidity and mortality.[3–5] Tobacco secondhand smoke (SHS) alone is responsible for ≈50 000 deaths in the United States each year, with ≈46 000 from cardiovascular disease,[6–8] and implementation of laws prohibiting smoking in public places and workplaces is followed by drops in hospital admissions for acute myocardial infarction, other cardiac events, stroke, and pulmonary diseases.[9] However, due to the illegality of marijuana, it has been difficult to prospectively study the effects of marijuana smoke, and the rare secondhand marijuana smoke studies have focused on whether exposed people test positive

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on drug tests.[10–12] The increasing number of states legalizing medicinal and recreational marijuana, and increasing potential for corporate expansion within the cannabis industry,[13] make it important to understand the health consequences of secondhand exposure to marijuana smoke.

Vascular health can be evaluated by measuring arterial flow-mediated dilation (FMD), the extent to which arteries vasodilate in response to increased blood flow.[14–16] FMD ensures sufficient blood flow to peripheral tissues and the heart. Decline in FMD precedes the development of atherosclerosis and is likely important in its pathogenesis.[14,16–19] FMD is quantified in humans by ultrasound as the percent vasodilation of the brachial artery in response to restoration of blood flow after transient occlusion.[14] Brachial artery FMD is a well-established clinical prognostic indicator of endothelial function that correlates with endothelium-dependent vasodilation of the coronary arteries[17] and other measures of cardiovascular health.[14,16,19,20] Decreased brachial FMD correlates with adverse cardiovascular outcomes that are increased by cigarette smoke, including myocardial infarction and atherosclerosis.[21–23] FMD is impaired in tobacco smokers relative to nonsmokers.[24] People who report frequent SHS exposure exhibit poor FMD even when smoke is not present during the testing,[24,25] and a 30-minute exposure to SHS at real-world levels impairs FMD in humans.[26–28] The nicotine in tobacco is not responsible for the entire adverse effect of tobacco smoke on FMD,[29] and vasodilatory function is also impaired by diesel exhaust and by smoke from incense and candles.[30,31] These observations, along with the similar chemical composition of tobacco and marijuana smoke,[2] led us to hypothesize that marijuana smoke would also impair FMD.

We developed an animal model that uses micro-ultrasound and a simple reversible surgical occlusion of blood flow to the leg to measure FMD in the femoral arteries of living rats,[32] analogous to the measurement of brachial artery FMD in humans. We extensively validated this technique physiologically and used it to demonstrate age-related changes in the mechanisms underlying FMD,[32] and the beneficial vascular effects of pharmacological preservation of bioavailable intracellular nitric oxide.[33] Subsequently, we showed that 30 minutes of tobacco SHS exposure at real-world levels impairs FMD in rats, and that even 1 minute of SHS impairs FMD.[34] We observed similar impairment from exposure to tobacco SHS from little cigars.[35] We, therefore, used this rat model to determine whether marijuana SHS also has adverse effects on the vasculature.

# Methods

## Animals

Female Sprague-Dawley rats (Simonsen Laboratory, CA; n=8/group) were used at 9 to 10 weeks of age, with body weights of 200 to 250 g. Rats were anesthetized under ketamine/xylazine with intraperitoneal injection. Starting doses were ketamine (100 mg/kg)/xylazine (5 mg/kg). Repeated injections were required with one third to one half doses at a time (approximately every 30 minutes). Experiments were terminal. All procedures were approved by the University of California, San Francisco Institutional Animal Care and Use Committee.

## FMD Measurement

FMD was measured in living rats as we have described previously in detail[32] by an investigator blinded to the exposure condition when 2 or more groups were compared. As described in the Results section, some groups were added to the experiment afterward for confirmatory purposes and those could not be blinded, but the diameter measurement was performed by an automated system. Briefly, after surgical isolation of the common iliac artery, an arterial loop occluder consisting of a 5–0 Prolene filament was positioned under the artery and passed through 15-cm PE-90 tubing to enable transient occlusion of blood flow. After a 15-minute equilibration, the artery was transiently occluded for 5 minutes, followed by release of the occluder and reperfusion of the artery. A series of diameter images of the femoral artery and accompanying Doppler blood flow images were recorded with a 35-MHz ultrasound transducer (Vevo660, VisualSonics, Toronto, Canada) before transient surgical occlusion (baseline), immediately after blood reflow, and then every 30 s until 5 minutes. Diameter measurement was performed offline from the recorded loops using an automated system (Brachial Analyzer 5; Medical Imaging Applications, Coralville, IA).[32] All diameter readings were taken at diastole. FMD was calculated as % change: $(\text{peak diameter}_{\text{postischemia}} - \text{diameter}_{\text{baseline}})/\text{diameter}_{\text{baseline}} \times 100$. The rats were kept at 37°C on a thermal blanket throughout to avoid inconsistent vasodilation from anesthesia-induced hypothermia.

## Marijuana Cigarettes, Approvals, and Security Considerations

Acquisition and possession of marijuana was approved by the Drug Enforcement Agency, the Food and Drug Administration, the Research Advisory Panel of California, and the University of California, San Francisco Office of Environmental Health and Safety. Marijuana cigarettes (regular marijuana at 4.5% tetrahydrocannabinol [THC] and "placebo" THC-free marijuana at 0.01% THC, each weighing 0.9 g) were supplied by RTI International (Research Triangle Park, NC), contracted through the National Institute on Drug Abuse. Marijuana was from sinsemilla (seedless) plants with stems removed, and consisted of leaf fragments, small leaves, bracts, and buds, and was grown in the absence of pesticides. The cigarettes were machine rolled

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with the same dimensions as standard tobacco cigarettes and fit in our cigarette smoking machine without further modification. Upon arrival, marijuana cigarettes were individually wrapped in plastic wrap and numbered, and were stored in airtight containers at −20°C. In accordance with requirements from the Drug Enforcement Agency, the cigarettes were stored in a padlocked freezer with high-security lock and a code-deactivated open-door alarm that communicated with the University of California Police Department, physically attached to a heavy Steelcase desk, in a controlled-access room outfitted with a solid door with high-security lock, and hinge pins that were nonremovable from the outside. Prior to each experiment, marijuana cigarettes were humidified overnight at room temperature by placing them in an airtight container over 50 mL of saturated sodium chloride solution as per instructions on use from RTI, in a locked desk drawer. Logs documenting removal of cigarettes from the freezer and desk were kept as required by the Drug Enforcement Agency. Cigarettes were used within 5 minutes after humidification.

## Tobacco Cigarettes

Marlboro Red cigarettes were humidified overnight by placement over 16% glycerol in water, as in our previous tobacco studies.[34,35]

## Exposure of Rats to SHS

We used a modified cigarette smoking system described previously for tobacco SHS experiments.[34] Briefly, the system collects sidestream smoke from the burning tip of the cigarette in a 21-L Plexiglas exposure chamber as a ventilator pump simulates human puffing. (Sidestream smoke comprises the majority of SHS and is a well-accepted laboratory model for it, and is referred to as SHS here.) A Sidepak AM510 personal aerosol monitor (TSI, Shoreview, MN), calibrated for cigarette smoke particles and excluding those >2.5 μm, monitors the concentration of respirable suspended particles (RSP) in the exposure chamber and exhausts back into the chamber. Smoke is collected in the chamber and the cigarette is extinguished, and excess smoke is then vented from the chamber to obtain the desired starting concentration. Air in the chamber is mixed with a small fan. The wall of the chamber contains a gasket through which the nose of an anesthetized rat is inserted to breathe the smoky air. Because the system requires the cigarette to be extinguished before exposure of the rat, adsorption of smoke particles to surfaces in the exposure chamber causes a continued progressive decrease in the levels over time; thus, most of the exposure occurs over the first several minutes.

Tobacco cigarettes were smoked according to standard conditions (ISO Standard 3308:2012, one 35-mL puff of 2-s duration once/min). Marijuana cigarettes were smoked using the same protocol, with the exception that the puff duration was 1 s for our initial 30-minute exposure experiment due to an instrument calibration error discovered afterward. The difference between a 1-s puff and a 2-s puff is not expected to have a substantial effect on the sidestream smoke generated.

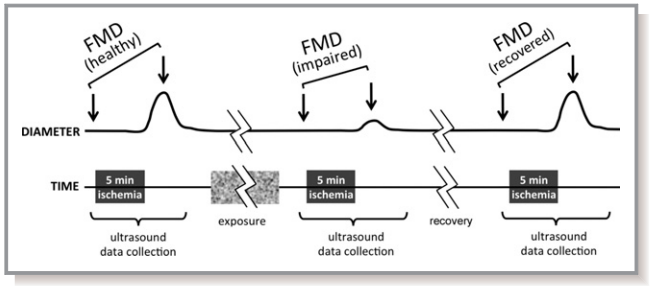



**Figure 1.** Experimental design for FMD measurement and smoke exposures. FMD was measured by micro-ultrasound measurements of femoral artery diameter before and after transient (5 minutes) surgical occlusion of the common iliac artery. Anesthetized rats were exposed to SHS for varying durations and FMD was measured 3 times (before exposure, 10 minutes after end of exposure to evaluate impairment, and 30 minutes later to evaluate recovery). As described in the Results section for specific experiments, the smoke exposure was either for 30 minutes or 1 minute, and initial FMD impairment or baseline diameter changes were measured either within 10 minutes or 25 to 30 minutes after the end of exposure. In some cases, FMD recovery was assessed every 30 minutes over a total duration of 90 minutes. FMD indicates flow-mediated vasodilation; SHS, secondhand smoke.

For each experiment, a single cigarette was lit, smoked for 3 minutes, and extinguished, and particle concentration in the exposure chamber was adjusted until the desired RSP starting concentration was reached (Figure 1). At that time, an individual anesthetized rat, after baseline FMD measurement, was exposed for the specified duration and was then returned to the ultrasound system for postsmoke FMD measurement. Negative controls consisted of the same duration of exposure to nonsmoky air in the exposure chamber. As in our tobacco study,[34] it took roughly 10 minutes after the end of the exposure period to prepare the rat for an initial postexposure FMD measurement. For some experiments, we measured FMD again 30 minutes later to evaluate recovery.

## Generation of Marijuana Smoke in the Absence of Paper Smoke

We wrapped a piece of stainless steel mesh (0.0055-inch wire diameter, 80 × 80 openings/inch, 0.007-inch opening width; McMaster-Carr, Los Angeles, CA) around a marijuana cigarette, then opened the piece of mesh with the cigarette remaining on top of it, sliced the paper longitudinally, and slid the paper out while keeping the rod of marijuana intact,

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preventing the packed marijuana rod from loosening so that the burning of the mesh-rolled cigarette would be as similar as possible to that of a paper-rolled cigarette. The mesh was then rewrapped around the marijuana and the resulting rod was inserted into the cigarette hole in the smoke system. The regular protocol for smoking cigarettes was used from that point.

## Endothelium-Independent Vasodilation Induced by Nitroglycerin

Endothelium-independent vasodilation was induced by intravenous injection of nitroglycerin at $8.8\times10^{-5}$ mol/L as a 0.1-mL/100 g bolus into the tail vein.

## Statistics

Power calculation based on standard deviations from within-group comparisons in several of our previous repeated-measures FMD experiments determined that n=8/group was sufficient to detect FMD change of 3.5 percentage points (absolute values) at a power of 0.8 and significance level of 0.05. For comparisons involving multiple groups and times, we fit a 2-factor (exposure condition and time) repeated-measures analysis of variance to all the data at once using a mixed model estimated with restricted maximum likelihood estimation with an unstructured covariance matrix of residuals, then tested for differences over time and across exposure conditions using contrasts and pairwise comparisons, adjusted for multiple comparisons using the Šidák

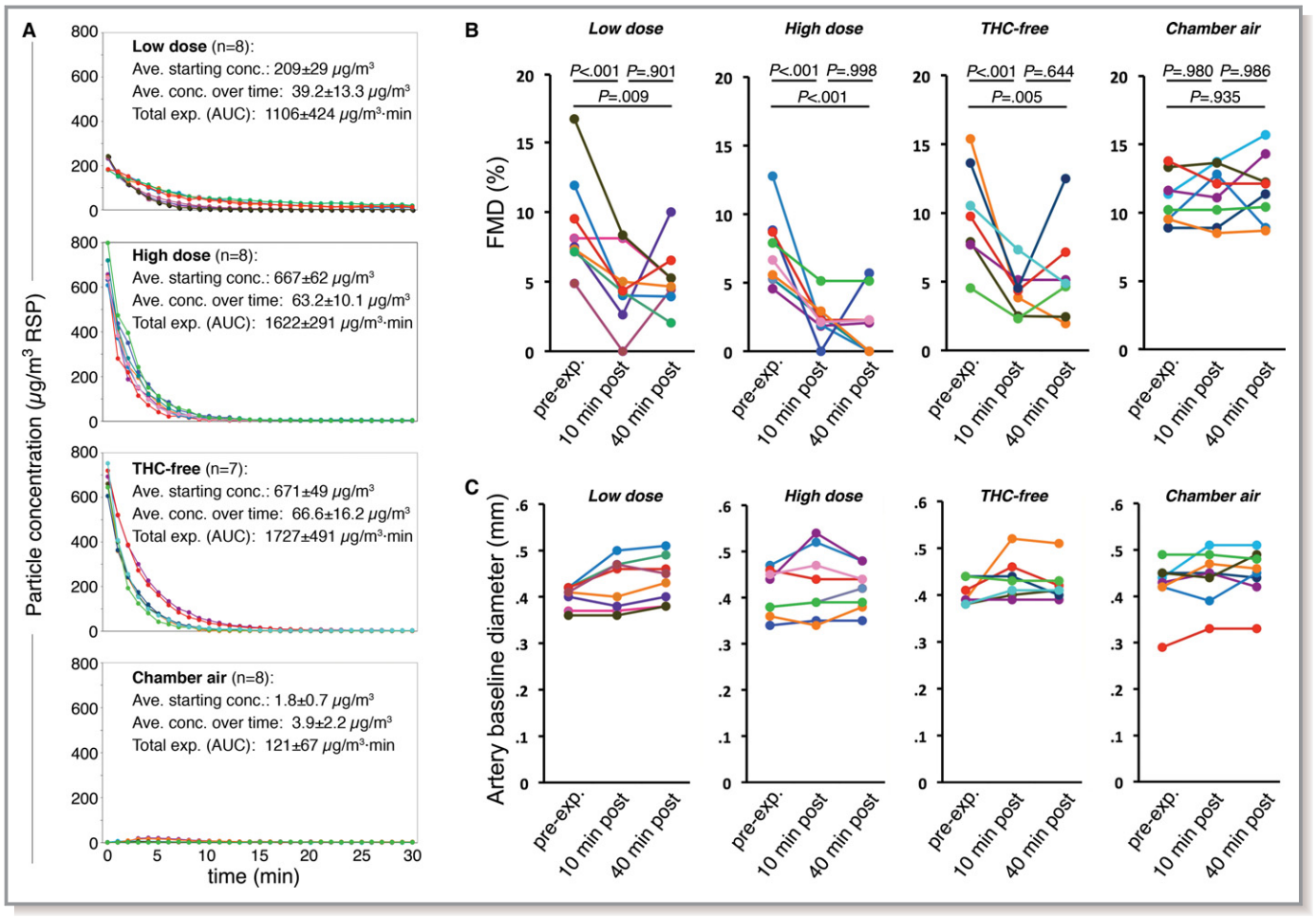



**Figure 2.** Impairment of FMD by exposure to marijuana SHS at declining levels over a 30-minute period. A, RSP levels over 30 minutes for each rat. Mean starting concentration, mean concentration over time, and total exposure derived from the area under the curve (AUC) are listed for each group ±SD. 670 and 210 μg/m$^3$ correspond roughly to high and moderate levels of tobacco SHS in restaurants that allow smoking. B, Impaired FMD and (C) unchanged baseline artery diameter. Each line corresponds to an individual rat; colors track individual animals through panels A, B, and C. See Table for mean FMD values. There were no significant differences between the extents of FMD impairment by high-dose, low-dose, and THC-marijuana smoke exposure, and no significant differences between the baseline diameter levels for the different exposure groups. FMD indicates flow-mediated vasodilation; RSP, respirable suspended particles; SHS, secondhand smoke; THC, tetrahydrocannabinol.

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method. Residuals were tested for normality using normal probability plots. Calculations were done with Stata 13.1. Simple comparisons of pre-exposure to postexposure measurements were analyzed using Student paired *t* test.

## Results

### Marijuana SHS With and Without THC Impaired FMD

As in our tobacco cigarette SHS study,[34] we exposed groups of rats to 30 minutes of marijuana SHS at 2 starting concentrations (≈670 and ≈210 μg/m$^3$ RSP), typical of high and moderate tobacco SHS levels in smoky restaurants,[36] and to smoke-free air in the exposure chamber as a negative control (Figure 2A). Because THC can cause vasodilation directly, which might interfere with a functional assay based on vasodilation, we included an extra control group exposed to SHS from THC-free marijuana (in which cannabinoids were removed) at ≈670 μg/m$^3$ RSP.

Marijuana SHS at both doses, but not control chamber air, significantly and substantially impaired FMD (Figure 2B, Table). FMD had not recovered at 40 minutes postexposure. Exposure to THC-free marijuana SHS impaired FMD as much as exposure to regular marijuana SHS, confirming that the impairment was not caused by THC.

Mindful of the potential vasodilatory effects of THC,[37] we also compared the baseline (pre-occlusion) artery diameter before and after smoke exposure to detect any vasodilation not due to the transient occlusion and restoration of flow. Significant baseline vasodilation was not observed in any group (Figure 2C, Table).

**Table.** Group Means for Graphs in Figures 2 Through 6

| | % Vasodilation (FMD or NTG) | | | Baseline Diameter (mm) | | |
|---|---|---|---|---|---|---|
| Condition | Pre-Exp. | 10 Minutes Post | 40 Minutes Post | Pre-Exp. | 10 Minutes Post | 40 Minutes Post |
| 30-minutes exposure, Figure 2B and 2C | | | | | | |
| Marijuana (low level) | 9.1±1.3 | 4.6±1.0* | 5.3±0.8* | 0.42±0.003 | 0.46±0.02 | 0.47±0.02 |
| Marijuana | 7.5±0.9 | 2.4±0.5* | 2.2±0.8* | 0.41±0.02 | 0.43±0.03 | 0.42±0.02 |
| THC-free | 9.9±1.4 | 4.3±0.6* | 5.5±1.3* | 0.40±0.01 | 0.44±0.02 | 0.42±0.02 |
| Air | 11.0±0.6 | 11.4±0.7 | 11.7±0.9 | 0.42±0.02 | 0.44±0.02 | 0.45±0.02 |
| 30-minutes exposure, Figure 3B | | | | | | |
| THC-free high (paperless) | 13.2±3.3 | 2.5±1.0* | — | 0.37±0.009 | 0.39±0.014 | — |
| 1-minute exposure, Figure 4A | | | | | | |
| Air | 12.9±1.3 | 12.3±1.1 | — | 0.38±0.015 | 0.39±0.017 | — |
| Marijuana | 13.7±1.3 | 8.1±1.6* | — | 0.38±0.015 | 0.41±0.017* | — |
| THC-free | 15.1±1.4 | 7.7±0.9* | — | 0.38±0.017 | 0.41±0.017* | — |
| 1-minute exposure, Figure 4B | | | | | | |
| Marijuana high, delayed | 15.6±1.7 | 6.4±1.3* | — | 0.36±0.011 | 0.38±0.020 | — |

| Condition | Pre-Exp. | 30 Minutes | 60 Minutes | 90 Minutes | | Pre-Exp. | 30 Minutes | 60 Minutes | 90 Minutes |
|---|---|---|---|---|---|---|---|---|---|
| 1-minute exposure, Figure 4C | | | | | | | | | |
| Marijuana | 15.9±1.7 | 8.3±1.7* | 8.7±2.0* | 10.7±1.3* | — | 0.41±0.02 | 0.43±0.02 | 0.42±0.02 | 0.42±0.02 |

| Condition | Pre-Exp. FMD | Post-Exp. FMD | NTG | Post-NTG FMD |
|---|---|---|---|---|
| 1-minute exposure, Figure 5 | | | | |
| Marijuana | 28.1±2.5 | 9.8±3.0* | 23.3±4.2 | 8.9±2.8* |

| Condition | Pre-Exp. | 10 Minutes Post | 30 Minutes Post |
|---|---|---|---|
| 1-minute exposure, Figure 6 | | | |
| Tobacco | 11.7±1.6 | 4.0±1.4* | 8.5±2.5 |
| Marijuana | 12.5±1.3 | 4.9±0.9* | 3.4±1.3* |
| Air | 11.2±1.7 | 10.8±1.5 | 11.1±1.6 |

Errors are SEM. FMD indicates flow-mediated vasodilation; NTG, nitroglycerin; THC, tetrahydrocannabinol.
*$P$<0.05 vs pre-exp.

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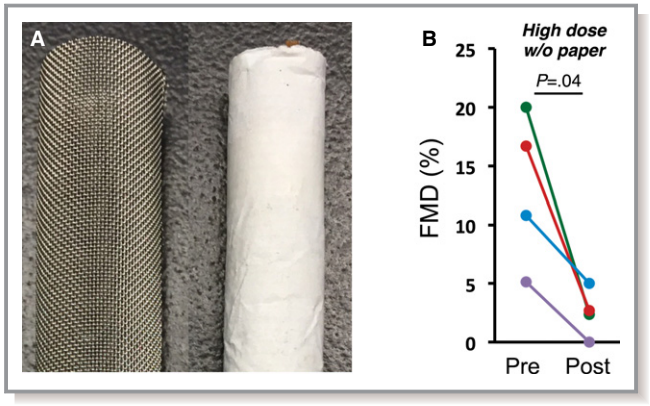



**Figure 3.** Rolling paper is not required for FMD impairment. A, Stainless steel mesh used for paperless cigarettes with a normal cigarette for comparison. B, FMD impairment in rats exposed to paperless THC-free marijuana SHS. FMD indicates flow-mediated vasodilation; SHS, secondhand smoke; THC, tetrahydrocannabinol.

## SHS-Induced Impairment of FMD Did Not Require Rolling Paper

Our hypothesis that FMD is impaired by combustion products common to smoke from burned plant material raises the question of whether FMD is impaired by smoke from burned rolling paper, rather than the tobacco or marijuana. The question is relevant because some people smoke marijuana in pipes. We tested the hypothesis that impairment is dependent on paper smoke by assembling marijuana cigarettes in which the paper was replaced by a fine stainless steel mesh (Figure 3A) to mimic the properties of rolling paper, which is ventilated. In a confirmatory group of 4 rats, FMD was significantly impaired to a similar extent as that by regular marijuana cigarettes (Figure 3B, Table). Since these mesh cigarettes were prepared using the THC-free marijuana, the results confirm that FMD is impaired by SHS from marijuana lacking both THC and rolling paper.

## One Minute of Marijuana SHS Impaired FMD

Because most of the exposure during our 30-minute period occurred during the first 10 minutes, the question remained of whether a very brief exposure impairs FMD. We previously reported that tobacco SHS exposure for 1 minute at the high restaurant level (≈670 μg/m$^3$ RSP) impairs FMD,[34] so we repeated that experiment with marijuana SHS at comparable particle concentration. FMD was substantially decreased by 1 minute of marijuana SHS with and without THC (Figure 4A, Table). Measurement of pre-occlusion baseline diameter revealed that the marijuana SHS directly induced vasodilation, even with the THC-free marijuana. This result was in contrast to our previous experiment (Figure 2) in which rats were exposed to 30 minutes of declining RSP levels that fell to roughly zero before postexposure FMD was measured, with no observed smoke-induced vasodilation. To reconcile this apparent contradiction, we exposed another group to marijuana SHS and waited a total of 25 minutes after the 1-minute exposure before measuring FMD. This allowed the baseline vasodilation to subside, but FMD still decreased (Figure 4B, Table), confirming that 1 minute of marijuana SHS exposure causes endothelial dysfunction that persists beyond any transient vasodilatory effects of the marijuana.

All cannabinoids are missing from the THC-free marijuana, and we did not observe significant baseline vasodilation after 1 minute of tobacco SHS in our previous report[34] ($P$=0.23; data not shown). The identity of the noncannabinoid vasodilator in marijuana is unknown.

## Marijuana SHS-Induced Endothelial Dysfunction Lasted for at Least 90 Minutes

In our previous studies with tobacco SHS, FMD recovered completely by 30 minutes after the initial postexposure measurement.[34] In contrast, when we exposed rats to THC-free marijuana SHS for 1 minute and then measured FMD at 30-minute intervals, FMD remained depressed in most of the rats until at least 90 minutes later (Figure 4C, Table).

## Impairment of FMD by Marijuana SHS Did Not Prevent Endothelium-Independent Vasodilation

To determine whether the substantial impairment of FMD involved functional or physical inhibition of vascular smooth muscle function, we performed a separate experiment in which FMD was impaired by 1 minute of marijuana SHS as before, and then after impaired FMD was confirmed, an intravenous bolus of nitroglycerin was injected to induce endothelium-independent vasodilation. This injection caused vasodilation even while FMD was still impaired, as confirmed by a subsequent FMD measurement after the nitroglycerin effect had subsided (Figure 5, Table). Therefore, the impairment of FMD by marijuana SHS was mediated by an endothelium-dependent mechanism, not a direct effect on the smooth muscle of the vessel wall.

## Recovery of FMD Impaired by Marijuana SHS Was Slower Than Recovery From Tobacco SHS

We previously observed that impaired FMD recovered within 30 minutes after exposure to tobacco SHS.[34,35] In contrast, 1 minute of exposure to marijuana SHS in the experiment shown in Figure 4 caused impairment of FMD that lasted for at least 90 minutes. To follow up on this historical observation with a direct comparison, we exposed 3 groups

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of rats to 1 minute of chamber air, tobacco SHS, or marijuana SHS, with SHS in the latter 2 groups at ≈600 μg/m$^3$ RSP as before. As shown in Figure 6 and the Table, tobacco and marijuana SHS both reduced FMD to comparable levels at 10 minutes after the end of exposure (absolute FMD values of 4.0±1.4% and 4.9±0.92%, respectively; *P*=0.97) and by comparable percent reduction (relative reduction from baseline by 68.3±10.2% and 58.5±8.0%, respectively; *P*=0.46). However, recovery of FMD to pre-exposure values was essentially complete by 30 minutes postexposure to tobacco, consistent with our previous results,[34,35] whereas recovery from marijuana SHS exposure had not yet occurred at 30 minutes, consistent with the results in Figures 4 and 5 that marijuana caused impairment that persisted for as long as 90 minutes. The similar initial impairment of FMD by marijuana and tobacco SHS, coupled with the longer time to recovery from marijuana SHS exposure, together suggest that marijuana SHS exposure may cause more cardiovascular harm than tobacco SHS.

## Discussion

There is growing awareness that marijuana use in general may lead to cardiovascular complications,[38–40] an effect normally ascribed to THC, but little attention has been paid specifically to the effects of the generic biomass combustion components. Our inclusion of control groups exposed to SHS from marijuana lacking cannabinoids confirms that THC was not required for the impairment of FMD. Similarly and notably, the finding that FMD is impaired by exposure to marijuana SHS, which is chemically similar to tobacco SHS but does not contain nicotine, confirms that the decrease in FMD caused by tobacco SHS is not dependent on nicotine. Together, our results demonstrate that in rats, FMD is impaired by 1 or more constituents of smoke not specific to marijuana or

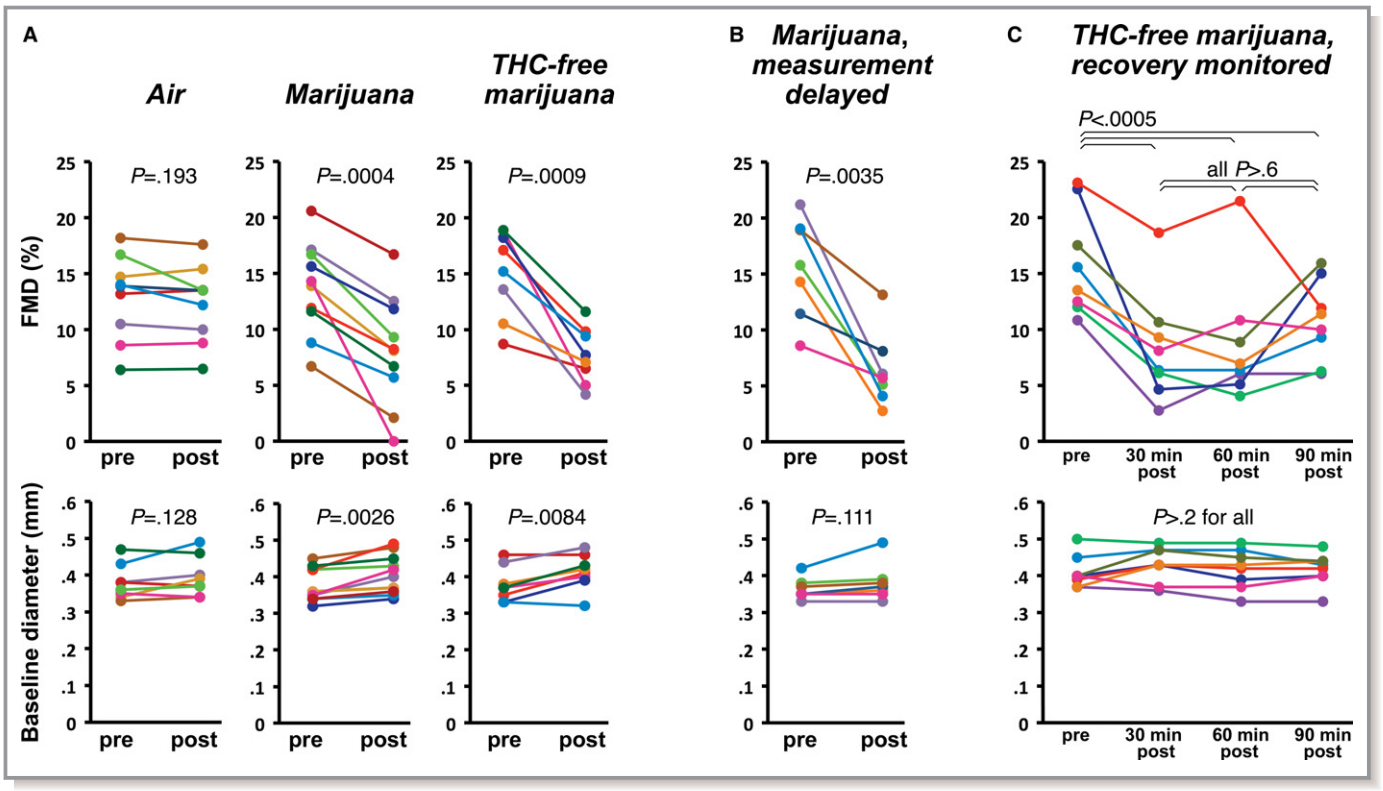



**Figure 4.** Impairment of FMD by 1 minute of exposure to marijuana SHS. See Table for group mean FMD and diameter values. A, FMD and baseline artery diameter in rats exposed to chamber air (0.73±0.055 μg/m$^3$; n=8), high-dose marijuana SHS (584±16 μg/m$^3$; n=10), or high-dose THC-free marijuana SHS (608±13 μg/m$^3$; n=8); errors are SD. Because smoke levels did not decline substantially over 1 minute, the average concentration over time is listed. Colors track individual rats through the FMD graphs and corresponding diameter graphs. FMD in rats exposed to SHS from regular marijuana or THC-free marijuana decreased, whereas baseline diameter increased significantly by 8.2% for regular marijuana and 9.2% for THC-free marijuana. B, Waiting for 25 minutes post-end of exposure before FMD measurement (562±16 μg/m$^3$; n=7) revealed substantial impairment of FMD without concomitant baseline vasodilation. C, FMD impairment for at least 90 minutes (617±10 μg/m$^3$; n=8) with no significant improvement. Removal of 1 potential outlier (red line) would result in a significant partial improvement at 90 minutes postexposure relative to 30 minutes (*P*=0.019), but all postexposure values would still be depressed relative to pre-exposure with *P*<0.0005. FMD indicates flow-mediated vasodilation; SHS, secondhand smoke; THC, tetrahydrocannabinol.

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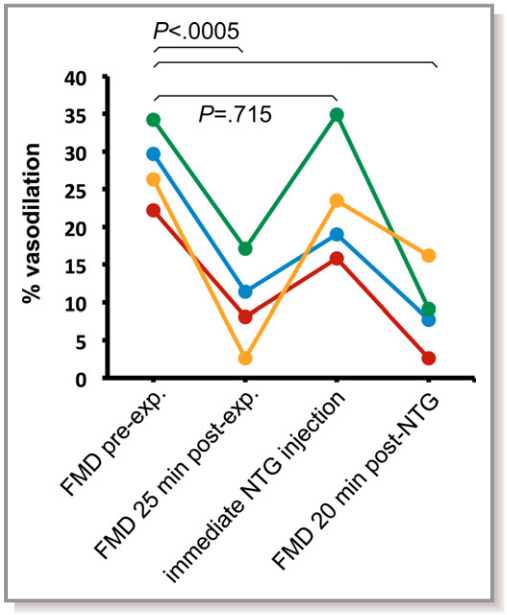



**Figure 5.** Endothelium-independent vasodilation is not impaired by SHS. Percent vasodilation is reported for 4 time points consisting of pre-exposure FMD, postexposure FMD (impaired), nitroglycerin-induced endothelium-independent dilation (NTG, not impaired), and subsequent FMD (still impaired). FMD indicates flow-mediated vasodilation; SHS, secondhand smoke.

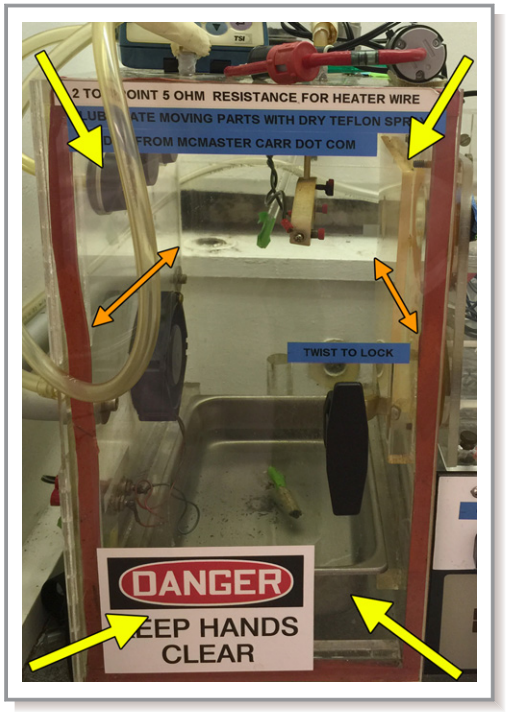



**Figure 7.** Smoke exposure chamber showing lack of visible smoke. Yellow arrows designate the corners of the exposure chamber. Double-headed orange arrows show depth of chamber, ≈30 cm.

tobacco, either the products of combustion or other generic plant chemicals that persist after combustion.

The mechanism by which tobacco smoke impairs endothelial function, and by extension, how marijuana smoke exerts similar effects, is incompletely understood. Chronic exposure to tobacco smoke results in changes in the serum that can directly lower the activity of endothelial nitric oxide synthase in cultured endothelial cells, thereby lowering the production of nitric oxide, in a manner involving increased oxidative stress.[41,42] However, the mechanism by which smoke induces these changes, and the identity of the mediators of the effect, are unclear. Given the chemical similarity between marijuana and tobacco smoke,[2] it is likely that the chemicals or the ultrafine particles leading to these changes in the endothelium are common to both kinds of smoke.

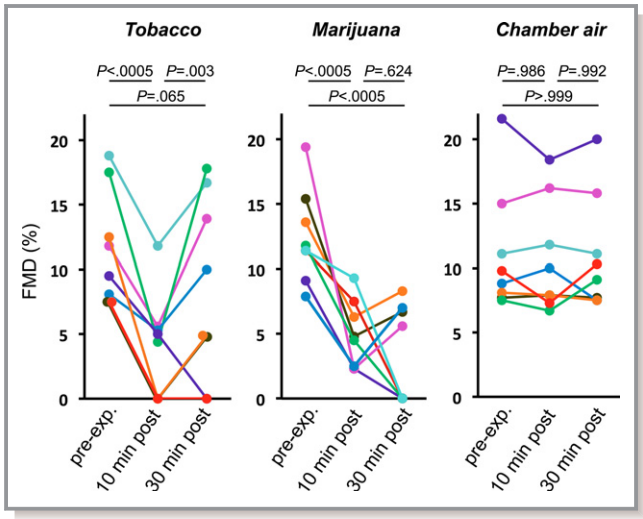



**Figure 6.** Impairment of FMD from 1 minute of marijuana SHS persists longer than impairment from tobacco SHS. Impairment of FMD recovered by 30 minutes after 1 minute of exposure to tobacco SHS (591±28 μg/m$^3$), but not after 1 minute of exposure to marijuana SHS (572±32 μg/m$^3$; n=8/group). FMD indicates flow-mediated vasodilation; SHS, secondhand smoke.

The gaps in our knowledge about how tobacco smoke exerts its adverse cardiovascular effects have not prevented the findings that tobacco SHS is harmful from having a considerable impact on public health policy, smoke-free laws, physician advice to their patients, and individual behavior. As legal marijuana use increases, public exposure to marijuana SHS may also increase. This demonstration that marijuana SHS exerts adverse effects on endothelial function in rats that are similar to effects of tobacco SHS on both rats and humans should help to inform similar policy and behavioral discussions. Recent policy debates in municipalities such as Ontario, which initially proposed to allow people with prescriptions to smoke marijuana in enclosed locations including theaters[43] and then reversed the policy,[44] exemplify the risks of assuming that marijuana SHS is harmless,

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and illustrate the importance of evidence that marijuana SHS shares at least some adverse health physiological effects with tobacco SHS.

While the public health community has strongly advised people to avoid tobacco SHS for many years, it has not made comparable pronouncements about marijuana SHS, primarily because the evidence has not been available that it could elicit similar adverse effects. The public's perception of risk from marijuana SHS has thus been limited to a few publicized studies. Marijuana SHS exposure was recently reported to lead to minor increases in heart rate and mild impairment of cognitive function in humans, but only under unventilated conditions with high smoke levels,[45] presumably due to the THC. Mittleman et al[38] reported that active marijuana use increased the risk of experiencing a heart attack roughly 5-fold within the next hour. Because THC has direct effects on heart rate and blood pressure, the authors focused on the potential link between the elevated heart attack risk and the THC. It is also possible that the increased heart attack risk was caused by the adverse effects of smoke on endothelial function.

A limitation of the study is that the typical ambient levels of marijuana SHS have not been systematically measured in real-world situations, in contrast to what is known about tobacco SHS. The exposure levels of tobacco SHS on which our conditions were based can reasonably be expected to exist for marijuana SHS at parties, rock concerts, and other situations in which multiple people are smoking marijuana at any given time, but this remains unconfirmed. Our understanding of the relative risks of exposure in different social situations would benefit greatly from a comprehensive study of particle levels under these circumstances. Nonetheless, the smoke concentrations in our study were low enough that the smoke was not visible during the exposures in the clear exposure chamber (Figure 7).

Since this was a rodent model, specific parameters such as the exposure times and exact durations of impairment may not completely match the corresponding properties of exposure in humans. However, the process of FMD in rats as we measured it shows great similarity to FMD in humans, as shown by extensive physiological and pharmacological validation as we have described previously.[32] Moreover, rats and humans show comparable responses to similar tobacco smoke exposure conditions.[26–28,34,35] Because our understanding of human cardiovascular consequences of marijuana use has been limited to retrospective association studies,[38–40] our ability to perform prospective, controlled rodent experiments fills a crucial gap in our understanding of the rapid consequences of marijuana SHS exposure that can be extrapolated to humans.

Increasing legalization of marijuana makes it more important than ever to understand the consequences of exposure to secondhand marijuana smoke. The similarity of the chemical composition of SHS from tobacco and marijuana, along with our observation that both kinds of smoke can impair endothelial function, indicate that marijuana SHS has adverse cardiovascular effects in rats and suggest that it may have similar adverse effects in humans. It is important that the public, medical personnel, and policymakers understand that exposure to secondhand marijuana smoke is not necessarily harmless. Our findings suggest that SHS should be avoided whether the source is tobacco or marijuana.

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## Disclosures

None.

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National Institute on Drug Abuse
Advancing Addiction Science

**Research Report**
Revised Julio 2020

# Marijuana Research Report

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# Marijuana Research Report

Explores the latest research on marijuana, including the scope of marijuana use in the U.S., health consequences, its effects on everyday activities, and available treatments.

# Letter From the Director



Photo by NIDA

Changes in marijuana policies across states legalizing marijuana for medical and/or recreational use suggest that marijuana is gaining greater acceptance in our society. Thus, it is particularly important for people to understand what is known about both the adverse health effects and the potential therapeutic benefits linked to marijuana.

Because marijuana impairs short-term memory and judgment and distorts perception, it can impair performance in school or at work and make it dangerous to drive. It also affects brain systems that are still maturing through young adulthood, so regular use by teens may have negative and long-lasting effects on their cognitive development, putting them at a competitive disadvantage and possibly interfering with their well-being in other ways. Also, contrary to popular belief, marijuana can be addictive, and its use during adolescence may make other forms of problem use or addiction more likely.

Whether smoking or otherwise consuming marijuana has therapeutic benefits that outweigh its health risks is still an open question that science has not resolved. Although many states now permit dispensing marijuana for medicinal purposes and there is mounting anecdotal evidence for the efficacy of marijuana-derived compounds, the U.S. Food and Drug Administration has not approved "medical marijuana." However, safe medicines based on cannabinoid chemicals derived from the marijuana plant have been available for decades and more are being developed.

This Research Report is intended as a useful summary of what the most up-to-date science has to

say about marijuana and its effects on those who use it at any age.

**Nora D. Volkow, M.D.**
*Director*
National Institute on Drug Abuse

## See Also:

- Message from the NIDA Director - Marijuana's Lasting Effects on the Brain, (Archives) (March 2013)

# What is marijuana?



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Marijuana—also called *weed, herb, pot, grass, bud, ganja, Mary Jane*, and a vast number of other slang terms—is a greenish-gray mixture of the dried flowers of *Cannabis sativa*. Some people smoke marijuana in hand-rolled cigarettes called *joints*; in pipes, water pipes (sometimes called *bongs*), or in *blunts* (marijuana rolled in cigar wraps).[1] Marijuana can also be used to brew tea and, particularly when it is sold or consumed for medicinal purposes, is frequently mixed into foods ( *edibles*) such as brownies, cookies, or candies. Vaporizers are also increasingly used to consume marijuana. Stronger forms of marijuana include sinsemilla (from specially tended female plants) and concentrated resins containing high doses of marijuana's active ingredients, including honeylike *hash oil*, waxy *budder*, and hard amberlike *shatter*. These resins are increasingly popular among those who use them both recreationally and medically.

The main *psychoactive*(mind-altering) chemical in marijuana, responsible for most of the intoxicating effects that people seek, is *delta-9-tetrahydrocannabinol* (THC). The chemical is found in resin

produced by the leaves and buds primarily of the female cannabis plant. The plant also contains more than 500 other chemicals, including more than 100 compounds that are chemically related to THC, called *cannabinoids*.[2]

# What is the scope of marijuana use in the United States?

Marijuana is the most commonly used addictive drug after tobacco and alcohol. In 2018, more than 11.8 million young adults reported marijuana use in the past year.[3] Its use is more prevalent among men than women.[4]

Marijuana use is widespread among adolescents and young adults. According to the Monitoring the Future survey—an annual survey of drug use and attitudes among the Nation's middle and high school students—most measures of marijuana use by 8th, 10th, and 12th graders peaked in the mid-to-late 1990s and then began a period of gradual decline through the mid-2000s before leveling off. However, in 2019, there was a significant increase in daily use in the younger grades. In addition, teens' perceptions of the risks of marijuana use have steadily declined over the past decade. In 2019, 11.8% of 8th graders reported marijuana use in the past year and 6.6% in the past month (current use). Among 10th graders, 28.8% had used marijuana in the past year and 18.4% in the past month. Rates of use among 12th graders were higher still: 35.7% had used marijuana during the year prior to the survey and 22.3% used in the past month; 6.4% said they used marijuana daily or near-daily.[5] With the growing popularity of vaping devices, teens have started vaping THC (the ingredient in marijuana that produces the high), with nearly 4% of 12th graders saying they vape THC daily.[5]

Medical emergencies possibly related to marijuana use have also increased. The Drug Abuse Warning Network (DAWN), a system for monitoring the health impact of drugs, estimated that in 2011, there were nearly 456,000 drug-related emergency department visits in the United States in which marijuana use was mentioned in the medical record (a 21% increase over 2009). About two-thirds of patients were male and 13% were between the ages of 12 and 17.[6] It is unknown whether this increase is due to increased use, increased *potency* of marijuana (amount of THC it contains), or other factors. It should be noted, however, that mentions of marijuana in medical records do not necessarily indicate that these emergencies were directly related to marijuana intoxication.

# What are marijuana's effects?

When marijuana is smoked, THC and other chemicals in the plant pass from the lungs into the bloodstream, which rapidly carries them throughout the body to the brain. The person begins to experience effects almost immediately (see "How does marijuana produce its effects?"). Many people experience a pleasant euphoria and sense of relaxation. Other common effects, which may vary dramatically among different people, include heightened sensory perception (e.g., brighter colors), laughter, altered perception of time, and increased appetite.

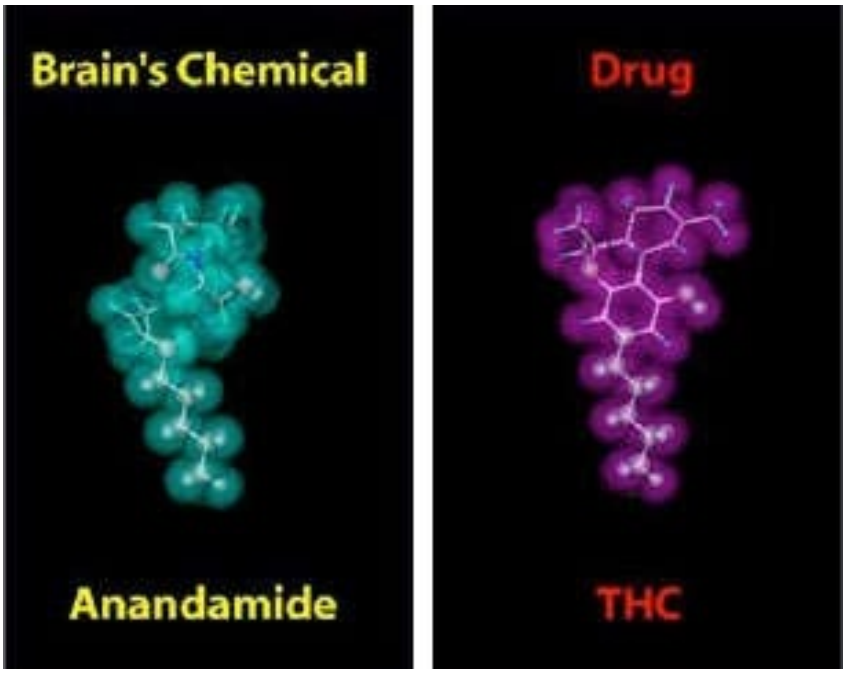
If marijuana is consumed in foods or beverages, these effects are somewhat delayed—usually appearing after 30 minutes to 1 hour—because the drug must first pass through the digestive system. Eating or drinking marijuana delivers significantly less THC into the bloodstream than smoking an equivalent amount of the plant. Because of the delayed effects, people may inadvertently consume more THC than they intend to.

Pleasant experiences with marijuana are by no means universal. Instead of relaxation and euphoria, some people experience anxiety, fear, distrust, or panic. These effects are more common when a person takes too much, the marijuana has an unexpectedly high potency, or the person is inexperienced. People who have taken large doses of marijuana may experience an acute psychosis, which includes hallucinations, delusions, and a loss of the sense of personal identity. These unpleasant but temporary reactions are distinct from longer-lasting psychotic disorders, such as schizophrenia, that may be associated with the use of marijuana in vulnerable individuals. (See "Is there a link between marijuana use and psychiatric disorders?")

Although detectable amounts of THC may remain in the body for days or even weeks after use, the noticeable effects of smoked marijuana generally last from 1 to 3 hours, and those of marijuana consumed in food or drink may last for many hours.

# How does marijuana produce its effects?

THC’s chemical structure is similar to the brain chemical *anandamide*. Similarity in structure allows the body to recognize THC and to alter normal brain communication.




Courtesy of NIDA

THC’s chemical structure is similar to the brain chemical anandamide. Similarity in structure allows drugs to be recognized by the body and to alter normal brain communication.

*Endogenous cannabinoids* such as anandamide (see figure) function as *neurotransmitters* because they send chemical messages between nerve cells ( *neurons*) throughout the nervous system. They affect brain areas that influence pleasure, memory, thinking, concentration, movement, coordination, and sensory and time perception. Because of this similarity, THC is able to attach to molecules called *cannabinoid receptors* on neurons in these brain areas and activate them, disrupting various mental and physical functions and causing the effects described earlier. The neural communication network that uses these cannabinoid neurotransmitters, known as the *endocannabinoid system*, plays a critical role in the nervous system’s normal functioning, so interfering with it can have profound effects.

For example, THC is able to alter the functioning of the hippocampus (see "Marijuana, Memory, and the Hippocampus") and orbitofrontal cortex, brain areas that enable a person to form new memories and shift his or her attentional focus. As a result, using marijuana causes impaired thinking and interferes with a person's ability to learn and perform complicated tasks. THC also disrupts functioning of the cerebellum and basal ganglia, brain areas that regulate balance, posture, coordination, and reaction time. This is the reason people who have used marijuana may not be able to drive safely (see "Does marijuana use affect driving?") and may have problems playing sports or engaging in other physical activities.

> People who have taken large doses of the drug may experience an acute psychosis, which includes hallucinations, delusions, and a loss of the sense of personal identity.

THC, acting through cannabinoid receptors, also activates the brain's reward system, which includes regions that govern the response to healthy pleasurable behaviors such as sex and eating. Like most other drugs that people misuse, THC stimulates neurons in the reward system to release the signaling chemical *dopamine* at levels higher than typically observed in response to natural rewarding stimuli. The surge of dopamine "teaches" the brain to repeat the rewarding behavior, helping account for marijuana's addictive properties.

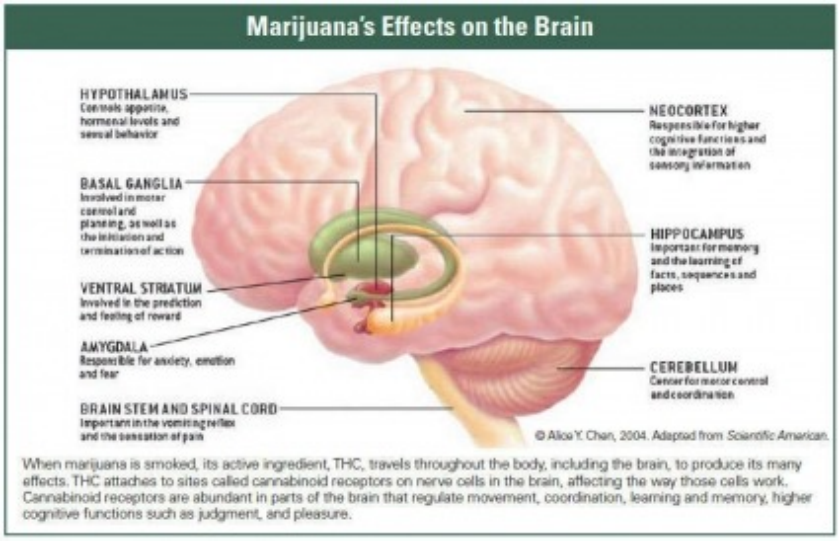



Diagram showing different parts of the brain and describing marijuana's effects on the brain

# Does marijuana use affect driving?

Marijuana significantly impairs judgment, motor coordination, and reaction time, and studies have found a direct relationship between blood THC concentration and impaired driving ability.[7–9]



Photo by ©iStock.com/MadCircles

Marijuana is the illicit drug most frequently found in the blood of drivers who have been involved in vehicle crashes, including fatal ones.[10] Two large European studies found that drivers with THC in their blood were roughly twice as likely to be culpable for a fatal crash than drivers who had not used drugs or alcohol.[11'12] However, the role played by marijuana in crashes is often unclear because it can be detected in body fluids for days or even weeks after intoxication and because people frequently combine it with alcohol. Those involved in vehicle crashes with THC in their blood, particularly higher levels, are three to seven times more likely to be responsible for the incident than drivers who had not used drugs or alcohol. The risk associated with marijuana in combination with alcohol appears to be greater than that for either drug by itself.[8]

Several meta-analyses of multiple studies found that the risk of being involved in a crash significantly increased after marijuana use[13]—in a few cases, the risk doubled or more than doubled.[14–16] However, a large case-control study conducted by the National Highway Traffic Safety Administration found no significant increased crash risk attributable to cannabis after controlling for drivers' age, gender, race, and presence of alcohol.[17]

# Is marijuana addictive?

Marijuana use can lead to the development of problem use, known as a marijuana use disorder, which takes the form of addiction in severe cases. Recent data suggest that 30% of those who use marijuana may have some degree of marijuana use disorder.[18] People who begin using marijuana before the age of 18 are four to seven times more likely to develop a marijuana use disorder than adults.[19]

Marijuana use disorders are often associated with *dependence*—in which a person feels withdrawal

symptoms when not taking the drug. People who use marijuana frequently often report irritability, mood and sleep difficulties, decreased appetite, cravings, restlessness, and/or various forms of physical discomfort that peak within the first week after quitting and last up to 2 weeks.[20,21] Marijuana dependence occurs when the brain adapts to large amounts of the drug by reducing production of and sensitivity to its own endocannabinoid neurotransmitters.[22,23]

Marijuana use disorder becomes addiction when the person cannot stop using the drug even though it interferes with many aspects of his or her life. Estimates of the number of people addicted to marijuana are controversial, in part because epidemiological studies of substance use often use dependence as a proxy for addiction even though it is possible to be dependent without being addicted. Those studies suggest that 9% of people who use marijuana will become dependent on it,[24,25] rising to about 17% in those who start using in their teens.[26,27]

In 2015, about 4.0 million people in the United States met the diagnostic criteria for a marijuana use disorder;[3] 138,000 voluntarily sought treatment for their marijuana use.[28]

## Rising Potency

Marijuana potency, as detected in confiscated samples, has steadily increased over the past few decades. In the early 1990s, the average THC content in confiscated marijuana samples was less than 4%.[2] In 2018, it was more than 15%.[29] Marijuana concentrates can have much higher levels of THC (see Marijuana Concentrates DrugFacts). The increasing potency of marijuana, combined with the use of high-THC concentrates, raises concerns that the consequences of marijuana use today could be worse than in the past, particularly among those who are new to marijuana use and in young people, whose brains are still developing (see "What are marijuana's long-term effects on the brain?").

Researchers do not yet know the full extent of the consequences when the body and brain (especially the developing brain) are exposed to high concentrations of THC or whether the recent increases in emergency department visits by people testing positive for marijuana are related to rising potency. The extent to which people adjust for increased potency by using less or by smoking it differently is also unknown. Recent studies suggest that experienced people may adjust the amount they smoke and how much they inhale based on the believed strength of

> the marijuana they are using, but they are not able to fully compensate for variations in potency.[30,31]

# What are marijuana's long-term effects on the brain?

Substantial evidence from animal research and a growing number of studies in humans indicate that marijuana exposure during development can cause long-term or possibly permanent adverse changes in the brain. Rats exposed to THC before birth, soon after birth, or during adolescence show notable problems with specific learning and memory tasks later in life.[32–34] Cognitive impairments in adult rats exposed to THC during adolescence are associated with structural and functional changes in the hippocampus.[35–37] Studies in rats also show that adolescent exposure to THC is associated with an altered reward system, increasing the likelihood that an animal will self-administer other drugs (e.g., heroin) when given an opportunity (see "Is marijuana a gateway drug?").

Imaging studies of marijuana's impact on brain structure in humans have shown conflicting results. Some studies suggest regular marijuana use in adolescence is associated with altered connectivity and reduced volume of specific brain regions involved in a broad range of executive functions such as memory, learning, and impulse control compared to people who do not use.[38,39] Other studies have not found significant structural differences between the brains of people who do and do not use the drug.[40]

Several studies, including two large longitudinal studies, suggest that marijuana use can cause functional impairment in cognitive abilities but that the degree and/or duration of the impairment depends on the age when a person began using and how much and how long he or she used.[41]

Among nearly 4,000 young adults in the Coronary Artery Risk Development in Young Adults study tracked over a 25-year period until mid-adulthood, cumulative lifetime exposure to marijuana was associated with lower scores on a test of verbal memory but did not affect other cognitive abilities such as processing speed or executive function. The effect was sizable and significant even after eliminating those involved with current use and after adjusting for confounding factors such as demographic factors, other drug and alcohol use, and other psychiatric conditions such as depression.[42]

Some studies have also linked marijuana use to declines in IQ, especially when use starts in adolescence and leads to persistent cannabis use disorder into adulthood. However, not all of the studies on the link between marijuana and IQ have reached the same conclusion, and it is difficult to prove that marijuana causes a decline in IQ when there are multiple factors that can influence the results of such studies, such as genetics, family environment, age of first use, frequency of use, having a cannabis use disorder, duration of use, and duration of the study. Key research in this area to date is described below.

A large longitudinal study in New Zealand found that persistent marijuana use disorder with frequent use starting in adolescence was associated with a loss of an average of 6 or up to 8 IQ points measured in mid-adulthood.[43] Those who used marijuana heavily as teenagers and quit using as adults did not recover the lost IQ points. People who only began using marijuana heavily in adulthood did not lose IQ points. Two shorter-duration prospective longitudinal twin studies found that youth who used marijuana showed significant declines in verbal ability (equivalent to 4 IQ points) and general knowledge between the preteen years (ages 9 to 12, before use) and late adolescence/early adulthood (ages 17 to 20); however those who went on to use marijuana at older ages already had lower scores on these measures at the start of the study, before they started using the drug. Also, no predictable difference was found between twins when one used marijuana and one did not.[44]

More research will be needed to answer definitively whether marijuana use causes long-term IQ losses and whether factors that weren't measured in the prior research, such as the increasing amounts of THC in cannabis and the emergence of new cannabis products, are relevant.

Also, the ability to draw definitive conclusions about marijuana's long-term impact on the human brain from past studies is often limited by the fact that study participants use multiple substances, and there is often limited data about the participants' health or mental functioning prior to the study. Over the

next decade, the National Institutes of Health is funding the Adolescent Brain Cognitive Development (ABCD) study—a major longitudinal study that will track a large sample of young Americans from late childhood (before first use of drugs) to early adulthood. The study will use neuroimaging and other advanced tools to clarify precisely how and to what extent marijuana and other substances, alone and in combination, affect adolescent brain development.

## Marijuana, Memory, and the Hippocampus

Distribution of cannabinoid receptors in the rat brain. Brain image reveals high levels (shown in orange and yellow) of cannabinoid receptors in many areas, including the cortex, hippocampus, cerebellum, and nucleus accumbens (ventral striatum).




Image by NIDA

Memory impairment from marijuana use occurs because THC alters how the hippocampus, a brain area responsible for memory formation, processes information. Most of the evidence supporting this assertion comes from animal studies. For example, rats exposed to THC *in utero*, soon after birth, or during adolescence, show notable problems with specific learning/memory tasks later in life. Moreover, cognitive impairment in adult rats is associated with structural and functional changes in the hippocampus from THC exposure during adolescence.

As people age, they lose neurons in the hippocampus, which decreases their ability to learn new information. Chronic THC exposure may hasten age-related loss of hippocampal neurons. In one study, rats exposed to THC every day for 8 months (approximately 30% of their lifespan) showed a level of nerve cell loss at 11 to 12 months of age that equaled that of unexposed animals twice their age.

# Is marijuana a gateway drug?

Some research suggests that marijuana use is likely to precede use of other licit and illicit substances[45] and the development of addiction to other substances. For instance, a study using longitudinal data from the National Epidemiological Study of Alcohol Use and Related Disorders found that adults who reported marijuana use during the first wave of the survey were more likely than adults who did not use marijuana to develop an alcohol use disorder within 3 years; people who used marijuana and already had an alcohol use disorder at the outset were at greater risk of their alcohol use disorder worsening.[46] Marijuana use is also linked to other substance use disorders including nicotine addiction.

Early exposure to cannabinoids in adolescent rodents decreases the reactivity of brain dopamine reward centers later in adulthood.[47] To the extent that these findings generalize to humans, this could help explain the increased vulnerability for addiction to other substances of misuse later in life that most epidemiological studies have reported for people who begin marijuana use early in life.[48] It is also consistent with animal experiments showing THC's ability to "prime" the brain for enhanced responses to other drugs.[49] For example, rats previously administered THC show heightened behavioral response not only when further exposed to THC but also when exposed to other drugs such as morphine—a phenomenon called *cross-sensitization*.[50]

These findings are consistent with the idea of marijuana as a "gateway drug." However, the majority of people who use marijuana do not go on to use other, "harder" substances. Also, cross-sensitization is not unique to marijuana. Alcohol and nicotine also prime the brain for a heightened response to other drugs[51] and are, like marijuana, also typically used before a person progresses to other, more harmful substances.

It is important to note that other factors besides biological mechanisms, such as a person's social environment, are also critical in a person's risk for drug use. An alternative to the gateway-drug hypothesis is that people who are more vulnerable to drug-taking are simply more likely to start with readily available substances such as marijuana, tobacco, or alcohol, and their subsequent social interactions with others who use drugs increases their chances of trying other drugs. Further research is needed to explore this question.

# How does marijuana use affect school, work, and social life?



Image by ©iStock.com/AntonioGuillem

Research has shown that marijuana's negative effects on attention, memory, and learning can last for days or weeks after the acute effects of the drug wear off, depending on the person's history with the drug.[52] Consequently, someone who smokes marijuana daily may be functioning at a reduced intellectual level most or all of the time. Considerable evidence suggests that students who smoke marijuana have poorer educational outcomes than their nonsmoking peers. For example, a review of 48 relevant studies found marijuana use to be associated with reduced educational attainment (i.e., reduced chances of graduating).[53] A recent analysis using data from three large studies in Australia and New Zealand found that adolescents who used marijuana regularly were significantly less likely than their non-using peers to finish high school or obtain a degree. They also had a much higher chance of developing dependence, using other drugs, and attempting suicide.[54] Several studies have also linked heavy marijuana use to lower income, greater welfare dependence, unemployment, criminal behavior, and lower life satisfaction.[55,56]

To what degree marijuana use is directly causal in these associations remains an open question requiring further research. It is possible that other factors independently predispose people to both marijuana use and various negative life outcomes such as school dropout.[57] That said, people report a perceived influence of their marijuana use on poor outcomes on a variety of life satisfaction and

achievement measures. One study, for example, compared people involved with current and former long-term, heavy use of marijuana with a control group who reported smoking marijuana at least once in their lives but not more than 50 times.[58] All participants had similar education and income backgrounds, but significant differences were found in their educational attainment: Fewer of those who engaged in heavy cannabis use completed college, and more had yearly household incomes of less than $30,000. When asked how marijuana affected their cognitive abilities, career achievements, social lives, and physical and mental health, the majority of those who used heavily reported that marijuana had negative effects in all these areas of their lives.

Studies have also suggested specific links between marijuana use and adverse consequences in the workplace, such as increased risk for injury or accidents.[59] One study among postal workers found that employees who tested positive for marijuana on a pre-employment urine drug test had 55% more industrial accidents, 85% more injuries, and 75% greater absenteeism compared with those who tested negative for marijuana use.[60]

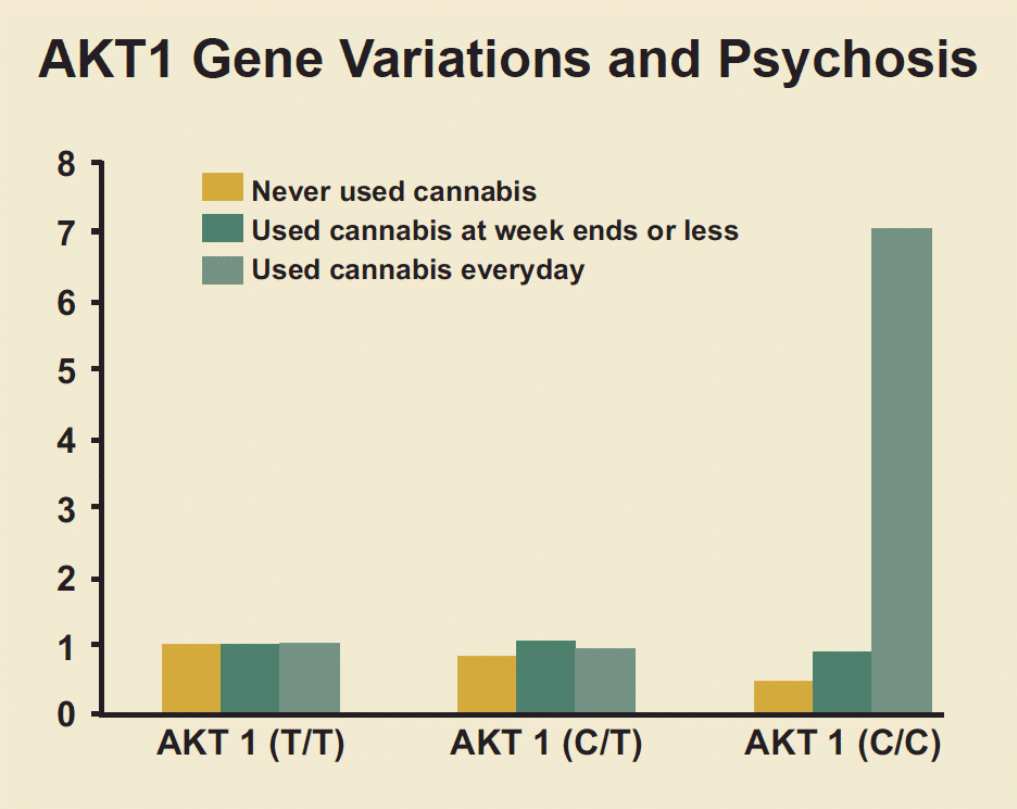
## Is there a link between marijuana use and psychiatric disorders?

Several studies have linked marijuana use to increased risk for psychiatric disorders, including psychosis (schizophrenia), depression, anxiety, and substance use disorders, but whether and to what extent it actually causes these conditions is not always easy to determine.[32] Recent research suggests that smoking high-potency marijuana every day could increase the chances of developing psychosis by nearly five times compared to people who have never used marijuana.[113] The amount of drug used, the age at first use, and genetic vulnerability have all been shown to influence this relationship. The strongest evidence to date concerns links between marijuana use and psychiatric disorders in those with a preexisting genetic or other vulnerability.[61]

Research using longitudinal data from the National Epidemiological Survey on Alcohol and Related Conditions examined associations between marijuana use, mood and anxiety disorders, and substance use disorders. After adjusting for various confounding factors, no association between marijuana use and mood and anxiety disorders was found. The only significant associations were increased risk of alcohol use disorders, nicotine dependence, marijuana use disorder, and other drug

use disorders.[62]

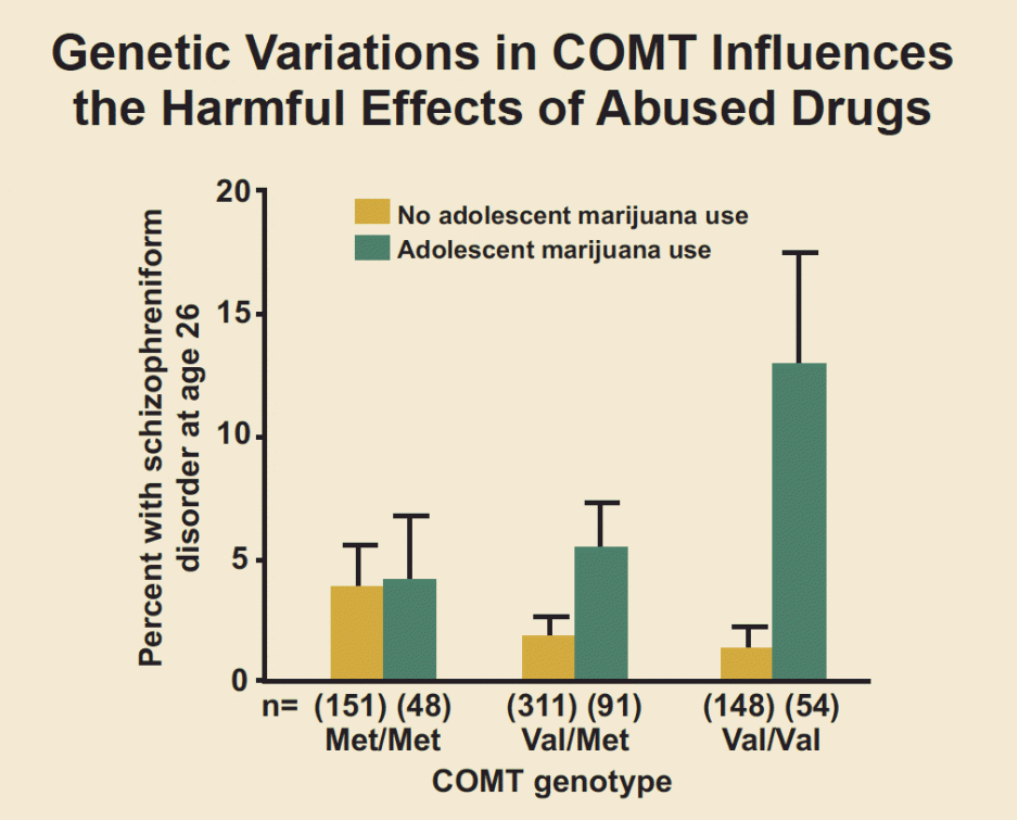
Recent research (see "AKT1 Gene Variations and Psychosis") has found that people who use marijuana and carry a specific variant of the *AKT1* gene, which codes for an enzyme that affects dopamine signaling in the *striatum*, are at increased risk of developing psychosis. The striatum is an area of the brain that becomes activated and flooded with dopamine when certain stimuli are present. One study found that the risk of psychosis among those with this variant was seven times higher for those who used marijuana daily compared with those who used it infrequently or used none at all.[63]



Source: Di Forti et al. Biol Psychiatry. 2012.

Whether adolescent marijuana use can contribute to developing psychosis later in adulthood appears to depend on whether a person already has a genetically based vulnerability to the disorder. The AKT1 gene governs an enzyme that affects brain signaling involving the neurotransmitter dopamine. Altered dopamine signaling is known to be involved in schizophrenia. AKT1 can take one of three forms in a specific region of the gene implicated in susceptibility to schizophrenia: T/T, C/T, and C/C. Those who use marijuana daily (green bars) with the C/C variant have a seven times higher risk of developing psychosis than those who use it infrequently or use none at all. The risk for psychosis among those with the T/T variant was unaffected by whether they used marijuana.

Another study found an increased risk of psychosis among adults who had used marijuana in adolescence and also carried a specific variant of the gene for *catechol-O-methyltransferase* (COMT), an enzyme that degrades neurotransmitters such as dopamine and norepinephrine[64] (see "Genetic Variations in COMT Influences the Harmful Effects of Abused Drugs"). Marijuana use has also been shown to worsen the course of illness in patients who already have schizophrenia. As mentioned previously, marijuana can produce an acute psychotic reaction in non-schizophrenic people who use marijuana, especially at high doses, although this fades as the drug wears off.




Source: Di Forti et al. Biol Psychiatry. 2012.

The influence of adolescent marijuana use on adult psychosis is affected by genetic variables. This figure shows that variations in a gene can affect the likelihood of developing psychosis in adulthood following exposure to cannabis in adolescence. The COMT gene governs an enzyme that breaks down dopamine, a brain chemical involved in schizophrenia. It comes in two forms: "Met" and "Val." Individuals with one or two copies of the Val variant have a higher risk of developing schizophrenic-type disorders if they used cannabis during adolescence (dark bars). Those with only the Met variant were unaffected by cannabis use.

Inconsistent and modest associations have been reported between marijuana use and suicidal thoughts and attempted suicide among teens.[65,66] Marijuana has also been associated with an *amotivational syndrome*, defined as a diminished or absent drive to engage in typically rewarding activities. Because of the role of the endocannabinoid system in regulating mood and reward, it has been hypothesized that brain changes resulting from early use of marijuana may underlie these

associations, but more research is needed to verify that such links exist and better understand them.

## Adverse Consequences of Marijuana Use

### Acute (present during intoxication)

- Impaired short-term memory
- Impaired attention, judgment, and other cognitive functions
- Impaired coordination and balance
- Increased heart rate
- Anxiety, paranoia
- Psychosis (uncommon)



Photo by ©getttyimages.com/Fuse

### Persistent (lasting longer than intoxication, but may not be permanent)

- Impaired learning and coordination
- Sleep problems

### Long-term (cumulative effects of repeated use)

- Potential for marijuana addiction
- Impairments in learning and memory with potential loss of IQ*
- Increased risk of chronic cough, bronchitis
- Increased risk of other drug and alcohol use disorders
- Increased risk of schizophrenia in people with genetic vulnerability**

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**Loss of IQ among individuals with persistent marijuana use disorder who began using heavily during adolescence*

***These are often reported co-occurring symptoms/disorders with chronic marijuana use. However, research has not yet determined whether marijuana is causal or just associated with*

*these mental problems.*

# What are marijuana's effects on lung health?

Like tobacco smoke, marijuana smoke is an irritant to the throat and lungs and can cause a heavy cough during use. It also contains levels of volatile chemicals and tar that are similar to tobacco smoke, raising concerns about risk for cancer and lung disease.[67]

Marijuana smoking is associated with large airway inflammation, increased airway resistance, and lung hyperinflation, and those who smoke marijuana regularly report more symptoms of chronic bronchitis than those who do not smoke.[67,68] One study found that people who frequently smoke marijuana had more outpatient medical visits for respiratory problems than those who do not smoke.[69] Some case studies have suggested that, because of THC's immune-suppressing effects, smoking marijuana might increase susceptibility to lung infections, such as pneumonia, in people with immune deficiencies; however, a large AIDS cohort study did not confirm such an association.[67] Smoking marijuana may also reduce the respiratory system's immune response, increasing the likelihood of the person acquiring respiratory infections, including pneumonia.[68] Animal and human studies have not found that marijuana increases risk for emphysema.[67]

## Reports of Deaths Related to Vaping Marijuana

The Food and Drug Administration has alerted the public to hundreds of reports of serious lung illnesses associated with vaping, including several deaths. They are working with the Centers for Disease Control and Prevention (CDC) to investigate the cause of these illnesses. Many of the suspect products tested by the states or federal health officials have been identified as vaping products containing THC, the main psychotropic ingredient in marijuana. Some of the patients reported a mixture of THC and nicotine; and some reported vaping nicotine alone. No one substance has been identified in all of the samples tested, and it is unclear if the illnesses are related to one single compound. Until more details are known, FDA officials have warned people not to use any vaping products bought on the street, and they warn against modifying any

> products purchased in stores. They are also asking people and health professionals to report any adverse effects. The CDC has posted an information page for consumers.

Whether smoking marijuana causes lung cancer, as cigarette smoking does, remains an open question.[67,70] Marijuana smoke contains carcinogenic combustion products, including about 50% more benzoprene and 75% more benzanthracene (and more phenols, vinyl chlorides, nitrosamines, reactive oxygen species) than cigarette smoke.[67] Because of how it is typically smoked (deeper inhale, held for longer), marijuana smoking leads to four times the deposition of tar compared to cigarette smoking.[71] However, while a few small, uncontrolled studies have suggested that heavy, regular marijuana smoking could increase risk for respiratory cancers, well-designed population studies have failed to find an increased risk of lung cancer associated with marijuana use.[67]

One complexity in comparing the lung-health risks of marijuana and tobacco concerns the very different ways the two substances are used. While people who smoke marijuana often inhale more deeply and hold the smoke in their lungs for a longer duration than is typical with cigarettes, marijuana's effects last longer, so people who use marijuana may smoke less frequently than those who smoke cigarettes.

Additionally, the fact that many people use both marijuana and tobacco makes determining marijuana's precise contribution to lung cancer risk, if any, difficult to establish. Cell culture and animal studies have also suggested THC and CBD may have antitumor effects, and this has been proposed as one reason why stronger expected associations are not seen between marijuana use and lung cancer, but more research is needed on this question.[67]

## What are marijuana's effects on other aspects of physical health?

Within a few minutes after inhaling marijuana smoke, a person's heart rate speeds up, the breathing passages relax and become enlarged, and blood vessels in the eyes expand, making the eyes look bloodshot. The heart rate—normally 70 to 80 beats per minute—may increase by 20 to 50 beats per

minute or may even double in some cases. Taking other drugs with marijuana can amplify this effect.

Limited evidence suggests that a person's risk of heart attack during the first hour after smoking marijuana is nearly five times his or her usual risk.[72] This observation could be partly explained by marijuana raising blood pressure (in some cases) and heart rate and reducing the blood's capacity to carry oxygen.[73] Marijuana may also cause *orthostatic hypotension* (head rush or dizziness on standing up), possibly raising danger from fainting and falls. Tolerance to some cardiovascular effects often develops with repeated exposure.[74] These health effects need to be examined more closely, particularly given the increasing use of "medical marijuana" by people with health issues and older adults who may have increased baseline vulnerability due to age-related cardiovascular risk factors (see "Is marijuana safe and effective as medicine?").

A few studies have shown a clear link between marijuana use in adolescence and increased risk for an aggressive form of testicular cancer (nonseminomatous testicular germ cell tumor) that predominantly strikes young adult males.[75,76] The early onset of testicular cancers compared to lung and most other cancers indicates that, whatever the nature of marijuana's contribution, it may accumulate over just a few years of use.

Studies have shown that in rare cases, chronic use of marijuana can lead to Cannabinoid Hyperemesis Syndrome—a condition marked by recurrent bouts of severe nausea, vomiting, and dehydration. This syndrome has been found to occur in persons under 50 years of age and with a long history of marijuana use. Cannabinoid Hyperemesis Syndrome can lead sufferers to make frequent trips to the emergency room, but may be resolved when a person stops using marijuana.[77]

# Is marijuana safe and effective as medicine?

The potential medicinal properties of marijuana and its components have been the subject of research and heated debate for decades. THC itself has proven medical benefits in particular formulations. The U.S. Food and Drug Administration (FDA) has approved THC-based medications, dronabinol (Marinol®) and nabilone (Cesamet®), prescribed in pill form for the treatment of nausea in patients undergoing cancer chemotherapy and to stimulate appetite in patients with wasting syndrome due to AIDS.

In addition, several other marijuana-based medications have been approved or are undergoing

clinical trials. Nabiximols (Sativex®), a mouth spray that is currently available in the United Kingdom, Canada, and several European countries for treating the spasticity and neuropathic pain that may accompany multiple sclerosis, combines THC with another chemical found in marijuana called cannabidiol (CBD).

The FDA also approved a CBD-based liquid medication called Epidiolex® for the treatment of two forms of severe childhood epilepsy, Dravet syndrome and Lennox-Gastaut syndrome. It's being delivered to patients in a reliable dosage form and through a reproducible route of delivery to ensure that patients derive the anticipated benefits. CBD does not have the rewarding properties of THC.

Researchers generally consider medications like these, which use purified chemicals derived from or based on those in the marijuana plant, to be more promising therapeutically than use of the whole marijuana plant or its crude extracts. Development of drugs from botanicals such as the marijuana plant poses numerous challenges. Botanicals may contain hundreds of unknown, active chemicals, and it can be difficult to develop a product with accurate and consistent doses of these chemicals. Use of marijuana as medicine also poses other problems such as the adverse health effects of smoking and THC-induced cognitive impairment. Nevertheless, a growing number of states have legalized dispensing of marijuana or its extracts to people with a range of medical conditions.

An additional concern with "medical marijuana" is that little is known about the long-term impact of its use by people with health- and/or age-related vulnerabilities—such as older adults or people with cancer, AIDS, cardiovascular disease, multiple sclerosis, or other neurodegenerative diseases. Further research will be needed to determine whether people whose health has been compromised by disease or its treatment (e.g., chemotherapy) are at greater risk for adverse health outcomes from marijuana use.

## Medical Marijuana Laws and Prescription Opioid Use Outcomes

A new study underscores the need for additional research on the effect of medical marijuana laws on opioid overdose deaths and cautions against drawing a causal connection between the two. Early research suggested that there may be a relationship between the availability of medical marijuana and opioid analgesic overdose mortality. In particular, a NIDA-funded study published in 2014 found that from 1999 to 2010, states with medical cannabis laws experienced

slower rates of increase in opioid analgesic overdose death rates compared to states without such laws.[78]

A 2019 analysis, also funded by NIDA, re-examined this relationship using data through 2017. Similar to the findings reported previously, this research team found that opioid overdose mortality rates between 1999-2010 in states allowing medical marijuana use were 21% lower than expected. When the analysis was extended through 2017, however, they found that the trend reversed, such that states with medical cannabis laws experienced an overdose death rate 22.7% higher than expected.[79] The investigators uncovered no evidence that either broader cannabis laws (those allowing recreational use) or more restrictive laws (those only permitting the use of marijuana with low tetrahydrocannabinol concentrations) were associated with changes in opioid overdose mortality rates.

These data, therefore, do not support the interpretation that access to cannabis reduces opioid overdose. Indeed, the authors note that neither study provides evidence of a causal relationship between marijuana access and opioid overdose deaths. Rather, they suggest that the associations are likely due to factors the researchers did not measure, and they caution against drawing conclusions on an individual level from ecological (population-level) data. Research is still needed on the potential medical benefits of cannabis or cannabinoids.

# What are the effects of secondhand exposure to marijuana smoke?

People often ask about the possible psychoactive effect of exposure to secondhand marijuana smoke and whether a person who has inhaled secondhand marijuana smoke could fail a drug test. Researchers measured the amount of THC in the blood of people who do not smoke marijuana and had spent 3 hours in a well-ventilated space with people casually smoking marijuana; THC was present in the blood of the nonsmoking participants, but the amount was well below the level needed to fail a drug test. Another study that varied the levels of ventilation and the potency of the marijuana found that some nonsmoking participants exposed for an hour to high-THC marijuana (11.3% THC

concentration) in an unventilated room showed positive urine assays in the hours directly following exposure[80]; a follow-up study showed that nonsmoking people in a confined space with people smoking high-THC marijuana reported mild subjective effects of the drug—a "contact high"—and displayed mild impairments on performance in motor tasks.[81]

The known health risks of secondhand exposure to cigarette smoke—to the heart or lungs, for instance—raise questions about whether secondhand exposure to marijuana smoke poses similar health risks. At this point, very little research on this question has been conducted. A 2016 study in rats found that secondhand exposure to marijuana smoke affected a measure of blood vessel function as much as secondhand tobacco smoke, and the effects lasted longer.[82] One minute of exposure to secondhand marijuana smoke impaired flow-mediated dilation (the extent to which arteries enlarge in response to increased blood flow) of the femoral artery that lasted for at least 90 minutes; impairment from 1 minute of secondhand tobacco exposure was recovered within 30 minutes. The effects of marijuana smoke were independent of THC concentration; i.e., when THC was removed, the impairment was still present. This research has not yet been conducted with human subjects, but the toxins and tar levels known to be present in marijuana smoke (see "What are marijuana's effects on lung health?") raise concerns about exposure among vulnerable populations, such as children and people with asthma.

# Can marijuana use during and after pregnancy harm the baby?

More research is needed on how marijuana use during pregnancy could impact the health and development of infants, given changing policies about access to marijuana, as well as significant increases over the last decade in the number of pregnant women seeking substance use disorder treatment for marijuana use.[83] One study found that about 20% of pregnant women 24-years-old and younger screened positive for marijuana. However, this study also found that women were about twice as likely to screen positive for marijuana use via a drug test than they state in self-reported measures. This suggests that self-reported rates of marijuana use in pregnant females may not be an accurate measure of marijuana use.[84] Additionally, in one study of dispensaries, nonmedical personnel at marijuana dispensaries were recommending marijuana to pregnant women for nausea, but medical experts warn against it.

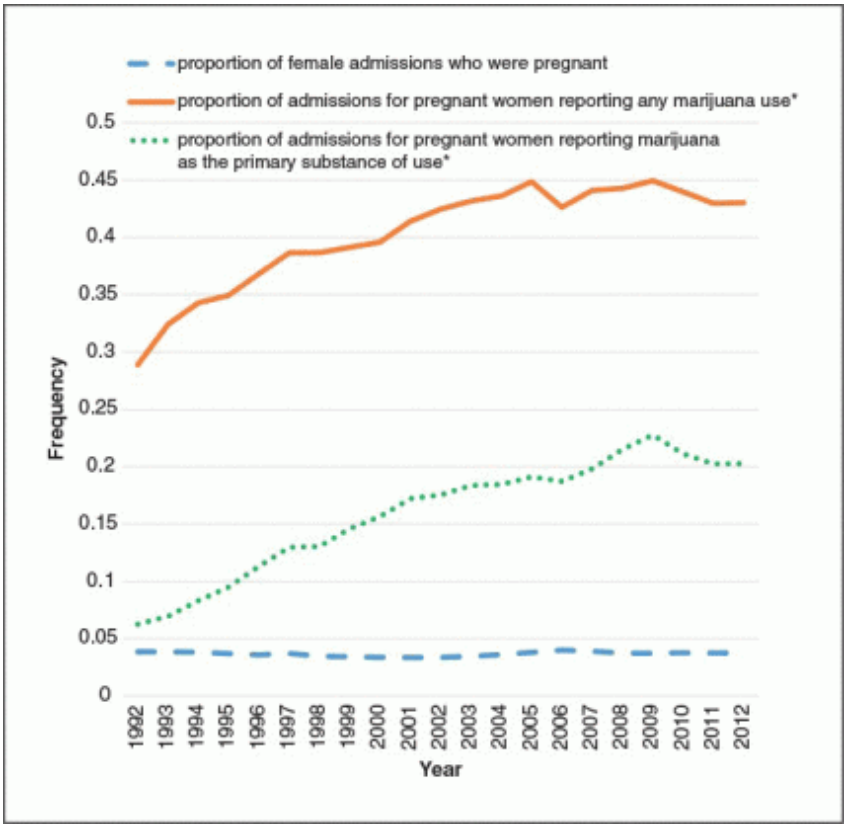


Photo by ©Thinkstock.com/Creatas Images

There is no human research connecting marijuana use to the chance of miscarriage,[85,86] although

animal studies indicate that the risk for miscarriage increases if marijuana is used early in pregnancy.[87]

Some associations have been found between marijuana use during pregnancy and future developmental and hyperactivity disorders in children.[88–91] Evidence is mixed as to whether marijuana use by pregnant women is associated with low birth weight[92–96] or premature birth,[95] although long-term use may elevate these risks.[94] Research has shown that pregnant women who use marijuana have a 2.3 times greater risk of stillbirth.[97] Given the potential of marijuana to negatively impact the developing brain, the American College of Obstetricians and Gynecologists recommends that obstetrician-gynecologists counsel women against using marijuana while trying to get pregnant, during pregnancy, and while they are breastfeeding.[98] It is important to note that despite the growing popularity of using marijuana in vaping devices, the Food and Drug Administration recommends that pregnant women should not use any vaping product, regardless of the substance.




Source: Martin et al., 2015

Recent Trends in Treatment Admissions for Marijuana Use During Pregnancy

Some women report using marijuana to treat severe nausea associated with their pregnancy;[99,100] however, there is no research confirming that this is a safe practice, and it is generally not recommended. Women considering using medical marijuana while pregnant should not do so without checking with their health care providers. Animal studies have shown that moderate concentrations of THC, when administered to mothers while pregnant or nursing, could have long-lasting effects on the child, including increasing stress responsivity and abnormal patterns of social interactions.[101] Animal studies also show learning deficits in prenatally exposed individuals.[33,102]

Human research has shown that some babies born to women who used marijuana during their pregnancies display altered responses to visual stimuli, increased trembling, and a high-pitched cry,[103] which could indicate problems with neurological development.[104] In school, marijuana-exposed children are more likely to show gaps in problem-solving skills, memory,[105] and the ability to remain attentive.[106] More research is needed, however, to disentangle marijuana-specific effects from those of other environmental factors that could be associated with a mother's marijuana use, such as an impoverished home environment or the mother's use of other drugs.[96] Prenatal marijuana exposure is also associated with an increased likelihood of a person using marijuana as a young adult, even when other factors that influence drug use are considered.[107] More information on marijuana use during pregnancy can be found in the NIDA's *Substance Use in Women Research Report*.

Very little is known about marijuana use and breastfeeding. One study suggests that moderate amounts of THC find their way into breast milk when a nursing mother uses marijuana.[108] Some evidence shows that exposure to THC through breast milk in the first month of life could result in decreased motor development at 1 year of age.[109] There have been no studies to determine if exposure to THC during nursing is linked to effects later in the child's life. With regular use, THC can accumulate in human breast milk to high concentrations.[92] Because a baby's brain is still forming, THC consumed in breast milk could affect brain development. Given all these uncertainties, nursing mothers are discouraged from using marijuana.[98,110] New mothers using medical marijuana should be vigilant about coordinating care between the doctor recommending their marijuana use and the pediatrician caring for their baby.

# Available Treatments for Marijuana Use Disorders

Marijuana use disorders appear to be very similar to other substance use disorders, although the long-term clinical outcomes may be less severe. On average, adults seeking treatment for marijuana use disorders have used marijuana nearly every day for more than 10 years and have attempted to quit more than six times.[111] People with marijuana use disorders, especially adolescents, often also suffer from other psychiatric disorders (*comorbidity*).[112] They may also use or be addicted to other substances, such as cocaine or alcohol. Available studies indicate that effectively treating the mental health disorder with standard treatments involving medications and behavioral therapies may help reduce marijuana use, particularly among those involved with heavy use and those with more chronic mental disorders. The following behavioral treatments have shown promise:

- **Cognitive-behavioral therapy**: A form of psychotherapy that teaches people strategies to identify and correct problematic behaviors in order to enhance self-control, stop drug use, and address a range of other problems that often co-occur with them.
- **Contingency management**: A therapeutic management approach based on frequent monitoring of the target behavior and the provision (or removal) of tangible, positive rewards when the target behavior occurs (or does not).
- **Motivational enhancement therapy**: A systematic form of intervention designed to produce rapid, internally motivated change; the therapy does not attempt to treat the person, but rather mobilize his or her own internal resources for change and engagement in treatment.

Currently, the FDA has not approved any medications for the treatment of marijuana use disorder, but research is active in this area. Because sleep problems feature prominently in marijuana withdrawal, some studies are examining the effectiveness of medications that aid in sleep. Medications that have shown promise in early studies or small clinical trials include the sleep aid zolpidem (Ambien®), an anti-anxiety/anti-stress medication called buspirone (BuSpar®), and an anti-epileptic drug called gabapentin (Horizant®, Neurontin®) that may improve sleep and, possibly, executive function. Other agents being studied include the nutritional supplement N-acetylcysteine and chemicals called FAAH inhibitors, which may reduce withdrawal by inhibiting the breakdown of the body's own cannabinoids. Future directions include the study of substances called *allosteric modulators* that interact with cannabinoid receptors to inhibit THC's rewarding effects.

# Where can I get further information about marijuana?

To learn more about marijuana and other drugs, visit the NIDA website at **drugabuse.gov** or contact the DrugPubs Research Dissemination Center at 877-NIDA-NIH (877-643-2644; TTY/TDD: 240-645-0228).

## The NIDA website includes:

- information about drugs and related health consequences
- NIDA publications, news, and events
- resources for health care professionals
- funding information (including program announcements and deadlines)
- international activities
- links to related websites (access to websites of many other organizations in the field)
- information in Spanish (en español)

## NIDA websites and webpages

- drugabuse.gov
- teens.drugabuse.gov
- drugabuse.gov/drugs-abuse/marijuana
- drugabuse.gov/related-topics/hivaids
- researchstudies.drugabuse.gov
- irp.drugabuse.gov

## For physician information

- NIDAMED: drugabuse.gov/nidamed

## Other websites

Information about marijuana is also available through the following websites:

- Substance Abuse and Mental Health Services Administration (SAMHSA)

- Drug Enforcement Administration (DEA)
- Monitoring the Future
- Partnership for Drug-Free Kids

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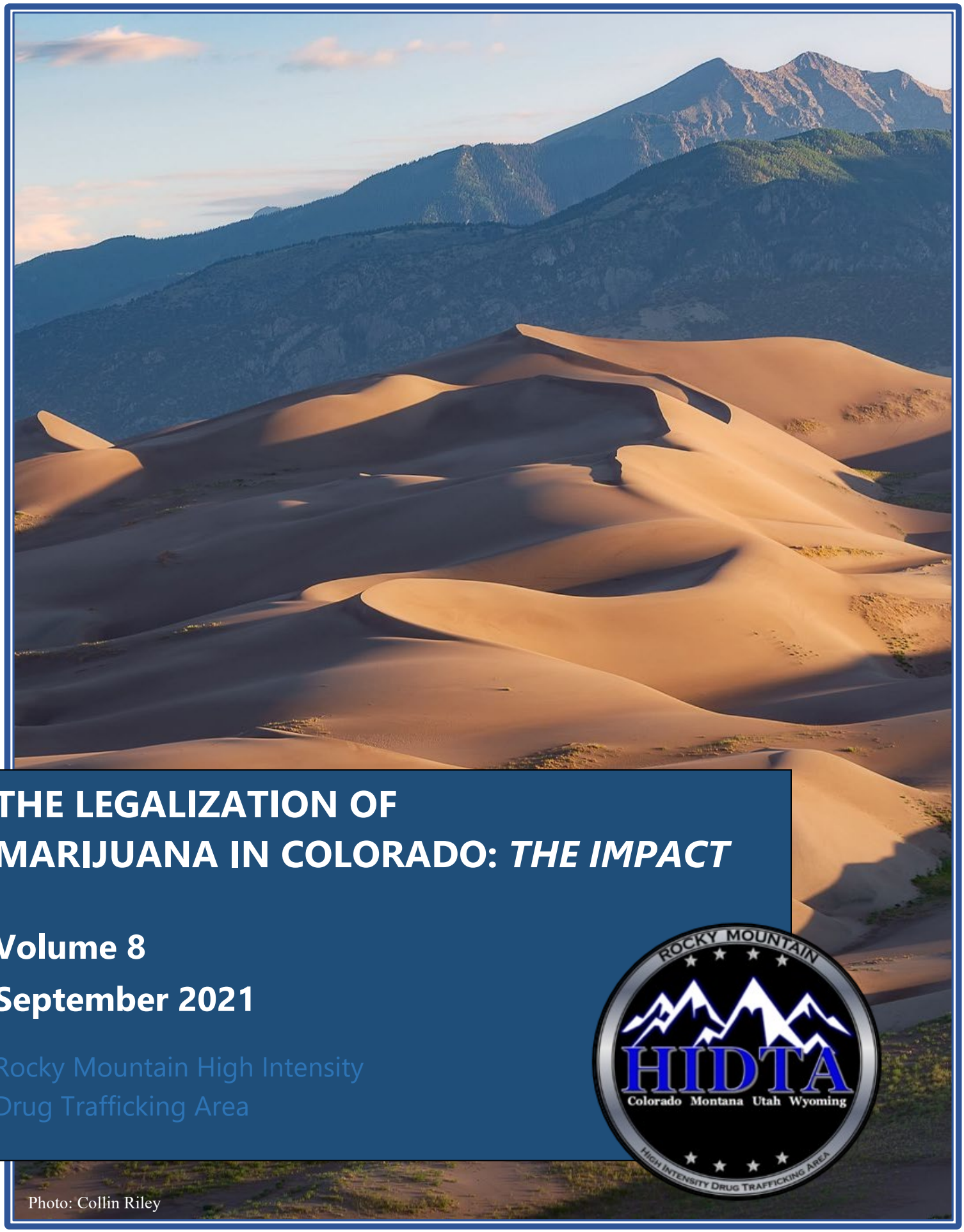
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# THE LEGALIZATION OF MARIJUANA IN COLORADO: *THE IMPACT*

**Volume 8**

**September 2021**

Rocky Mountain High Intensity Drug Trafficking Area

Photo: Collin Riley

REPORT AVAILABLE AT:
www.RMHIDTA.org

**PREPARED BY THE ROCKY MOUNTAIN HIDTA**
**INVESTIGATIVE SUPPORT CENTER**
**SEPTEMBER 2021**

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# Executive Summary

The Rocky Mountain High Intensity Drug Trafficking Area (RMHIDTA) program has published annual reports every year since 2013 tracking the impact of legalizing recreational marijuana in Colorado. The purpose is to provide data and information so that policy makers and citizens can make informed decisions on the issue of marijuana legalization.

## Section I: Traffic Fatalities & Impaired Driving

- Since recreational marijuana was legalized in 2013, traffic deaths where drivers tested positive for marijuana **increased 138%** while all Colorado traffic deaths **increased 29%.**
- Since recreational marijuana was legalized, traffic deaths involving drivers who tested positive for marijuana **more than doubled** from 55 in 2013 to 131 people killed in 2020.
- Since recreational marijuana was legalized, the percentage of all Colorado traffic deaths involving drivers who tested positive for marijuana **increased from 11%** in 2013 **to 20%** in 2020.

## Section II: Marijuana Use

Since recreational marijuana was legalized in 2013:

- Past month marijuana use for ages 12 and older **increased 26%** and is **61%** higher than the national average, currently ranked **3rd** in the nation.
- Past month adult marijuana use (ages 18 and older) **increased 20%** and is **62% higher** than the national average, currently ranked **3rd** in the nation.
- Past month college age marijuana (ages 18-25) use **increased 10%** and is **53% higher** than the national average, currently ranked **3rd** in the nation.
- Past month youth marijuana (ages 12-17) use **decreased 22%** and is **39% higher** than the national average, currently ranked **7th** in the nation.

## Section III: Public Health

- Marijuana *only* exposures **increased 185%** from 2013 when recreational marijuana was legalized compared to 2020.
- Treatment for marijuana use for all ages **decreased 34%** from 2013 to 2020.
- The percent of suicide incidents in which toxicology results were positive for marijuana has **increased** from **14%** in 2013 to **29%** in 2020.

## Section IV: Black Market

- RMHIDTA Colorado Drug Task Forces (10) conducted **294 investigations** of black-market marijuana in Colorado resulting in:
    - **168** felony arrests
    - **5.54** tons of marijuana seized
    - **86,502** marijuana plants seized
    - **21** different states the marijuana was destined
- Seizures of marijuana reported to the El Paso Intelligence Center (EPIC) in Colorado **increased 48%** from an average of 174 parcels (2009-2012) when marijuana was commercialized to an average of 257 parcels (2013-2020) during the time recreational marijuana become legalized.

## Section V: Societal Impact

- Marijuana tax revenue represent approximately **0.98%** of Colorado's FY 2020 budget.
- **66%** of local jurisdictions in Colorado have banned medical and recreational marijuana businesses.

# Introduction

## Purpose

The purpose of this annual report is to document the impact of the legalization of marijuana for medical and recreational use in Colorado. Colorado serves as an experimental lab for the nation to determine the impact of legalizing marijuana. This is an important opportunity to gather and examine meaningful data and identify trends. Citizens and policymakers nationwide may want to delay any decisions on this important issue until there is sufficient and accurate data to make informed decisions. Readers are encouraged to review previous volumes of this report for a comprehensive understanding of the topic. These reports were prepared to identify data and trends related to the legalization of marijuana so that informed decisions can be made regarding this issue.

## Background

It is important to note that, for purposes of the debate on legalizing marijuana in Colorado, there are three distinct timeframes to consider: the early medical marijuana era (2000-2008), the medical marijuana commercialization era (2009–current) and the recreational marijuana era (2013–current).

- **2000 – 2008, Early Medical Marijuana Era:** In November 2000, Colorado voters passed Amendment 20 which permitted a qualifying patient, and/or caregiver of a patient, to possess up to 2 ounces of marijuana and grow 6 marijuana plants for medical purposes. During that time there were between 1,000 and 4,800 medical marijuana cardholders and no known dispensaries operating in the state.
- **2009 – Current, Medical Marijuana Commercialization Era:** Beginning in 2009 due to a number of events, marijuana became de facto legalized through the commercialization of the medical marijuana industry. By the end of 2012, there were over 100,000 medical marijuana cardholders and 500 licensed dispensaries operating in Colorado. There were also licensed cultivation operations and edible manufacturers.
- **2013 – Current, Recreational Marijuana Legalization Era:** In November 2012, Colorado voters passed Constitutional Amendment 64 which legalized marijuana for recreational purposes for anyone over the age of 21. The amendment also allowed for licensed marijuana retail stores, cultivation operations and edible manufacturers. Retail marijuana businesses became operational January 1, 2014.

**NOTE**:

Data, if available, will compare post-2009 when medical marijuana became commercialized and after 2013 when recreational marijuana became legalized.

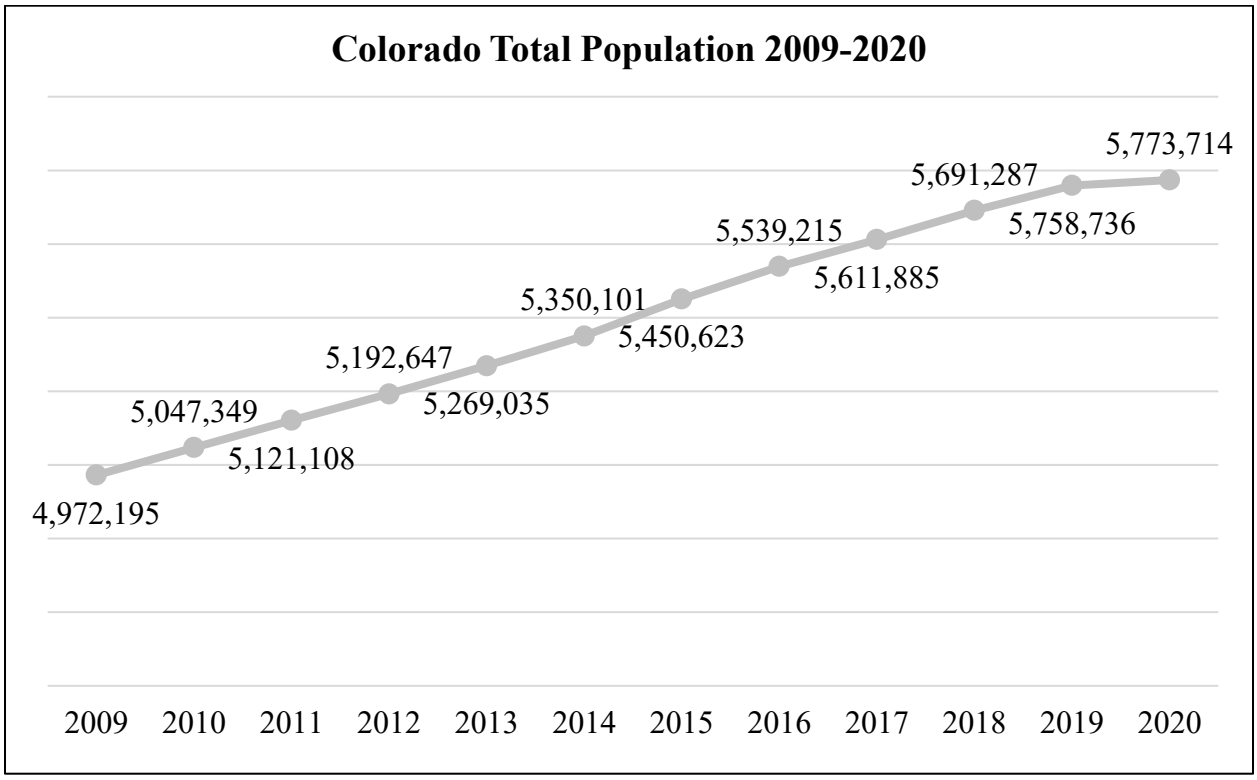
Multi-year comparisons are generally better indicators of trends. One-year fluctuations do not necessarily reflect a new trend.

Percentage comparisons may be rounded to the nearest whole number.

Percent changes found within graphs were calculated and added by RMHIDTA.

This report will cite datasets with terms such as "marijuana-related" or "tested positive for marijuana." That does not necessarily prove that marijuana was the cause of the incident.

Throughout this report, rate per 100,000 is included to proportionately analyze various statistics. Below is Colorado's total population from 2009 to 2020 for reference:



# Section I: Traffic Fatalities & Impaired Driving

## Some Findings

- Since recreational marijuana was legalized in 2013, traffic deaths where drivers tested positive for marijuana **increased 138%** while all Colorado traffic deaths **increased 29%.**
- Since recreational marijuana was legalized, traffic deaths involving drivers who tested positive for marijuana **more than doubled** from 55 in 2013 to 131 people killed in 2020.
- Since recreational marijuana was legalized, the percentage of all Colorado traffic deaths involving drivers who tested positive for marijuana **increased from 11%** in 2013 **to 20%** in 2020.

## Definitions by Rocky Mountain HIDTA

**Driving Under the Influence of Drugs (DUI/D):** This term includes an individual under the influence of alcohol, marijuana, or other drugs along with any This is an important measurement since the driver's ability to operate a vehicle was sufficiently impaired that it brought his or her driving to the attention of law enforcement. The erratic driving and the subsequent evidence that the subject was under the influence of marijuana helps confirm the causation factor.

**Marijuana-Related:** Also called "marijuana mentions," is any time marijuana shows up in the toxicology report. It could be marijuana only or marijuana with other drugs and/or alcohol.

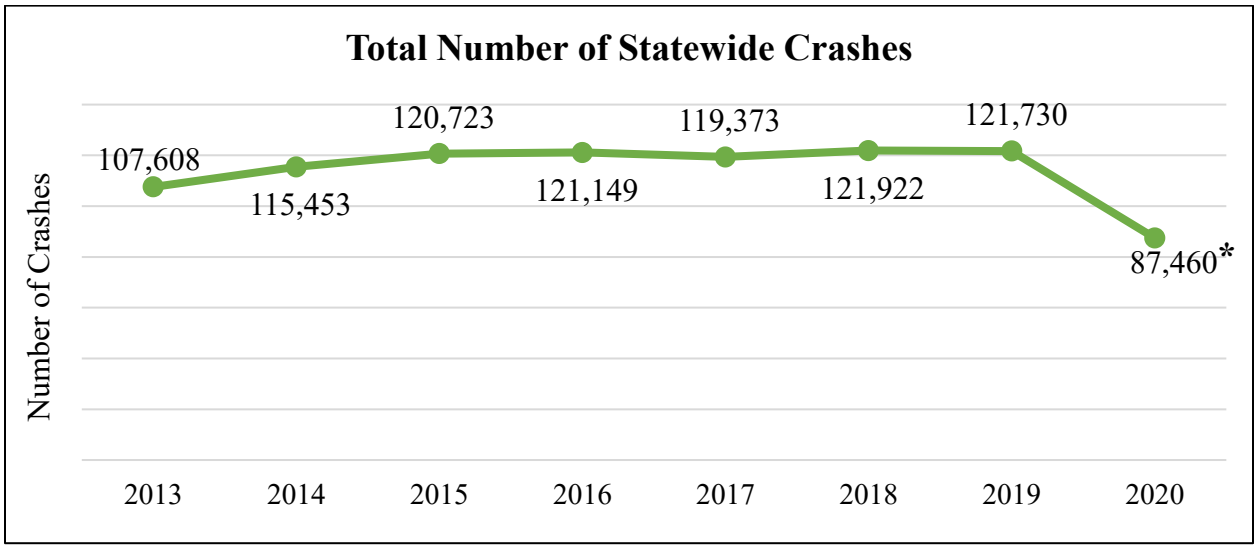
**Marijuana Only:** When toxicology results show marijuana and no other drugs or alcohol.

**Fatalities:** Any death resulting from a traffic crash involving a motor vehicle.

**Drivers:** An occupant who is in physical control of a transport vehicle. For an out-of-control vehicle, an occupant who was in control until control was lost.

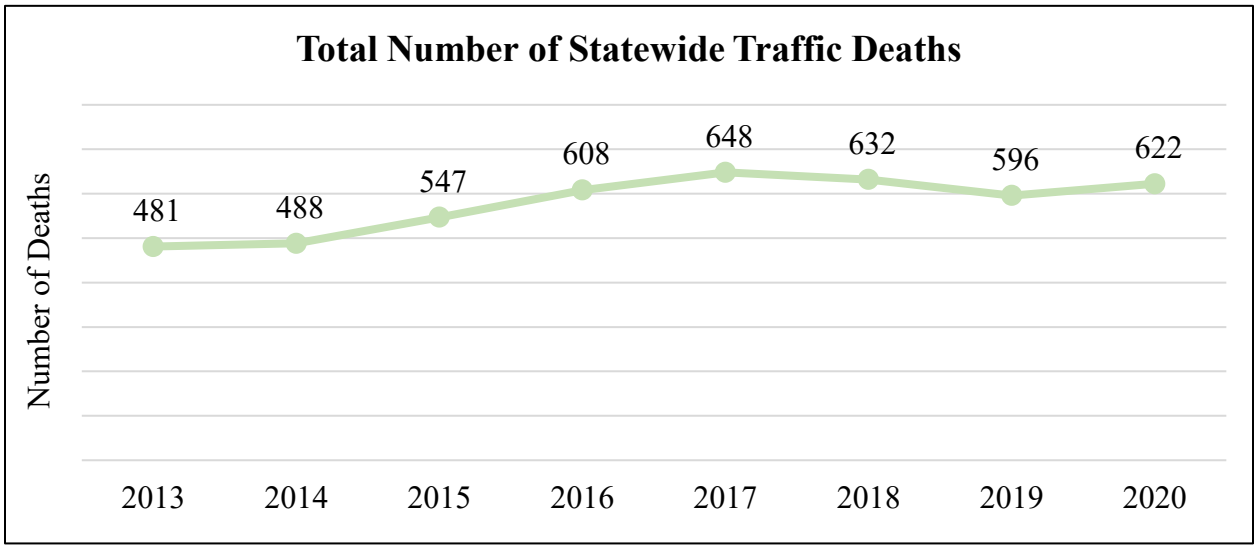
**Operators:** Anyone in control of their own movements such as a driver, pedestrian, or bicyclist.

## Traffic Fatalities




SOURCE: Colorado Department of Transportation (CDOT)

***NOTE:** Colorado Governor Polis reported a 60% reduction in vehicle traffic in March 2020 based on automatic traffic reporters. Reference: Finley, B. (2020, April 5). *Colorado sees "significant declines" in air pollution as coronavirus ramps down driving, industrial activity*. The Denver Post.




SOURCE: CDOT 2013-2020

- In 2020, there were a total of 622 traffic deaths. Of which:
  - 402 were drivers
  - 112 were passengers
  - 93 were pedestrians
  - 15 were bicyclists

SOURCE: National Highway Traffic Safety Administration (NHTSA), Fatality Analysis Reporting System (FARS), 2009-2011 and CDOT 2012-2020

| Traffic Deaths Related to Marijuana When a DRIVER Tested Positive for Marijuana | | | |
|---|---|---|---|
| **Crash Year** | **Total Statewide Fatalities** | **Fatalities with Drivers Testing Positive for Marijuana** | **Percentage Total Fatalities** |
| **2013** | 481 | 55 | 11.4% |
| **2014** | 488 | 75 | 15.4% |
| **2015** | 547 | 98 | 17.9% |
| **2016** | 608 | 125 | 20.6% |
| **2017** | 648 | 138 | 21.3% |
| **2018** | 632 | 115 | 18.2% |
| **2019** | 596 | 127 | 21.3% |
| **2020** | 622 | 131 | 20.1% |

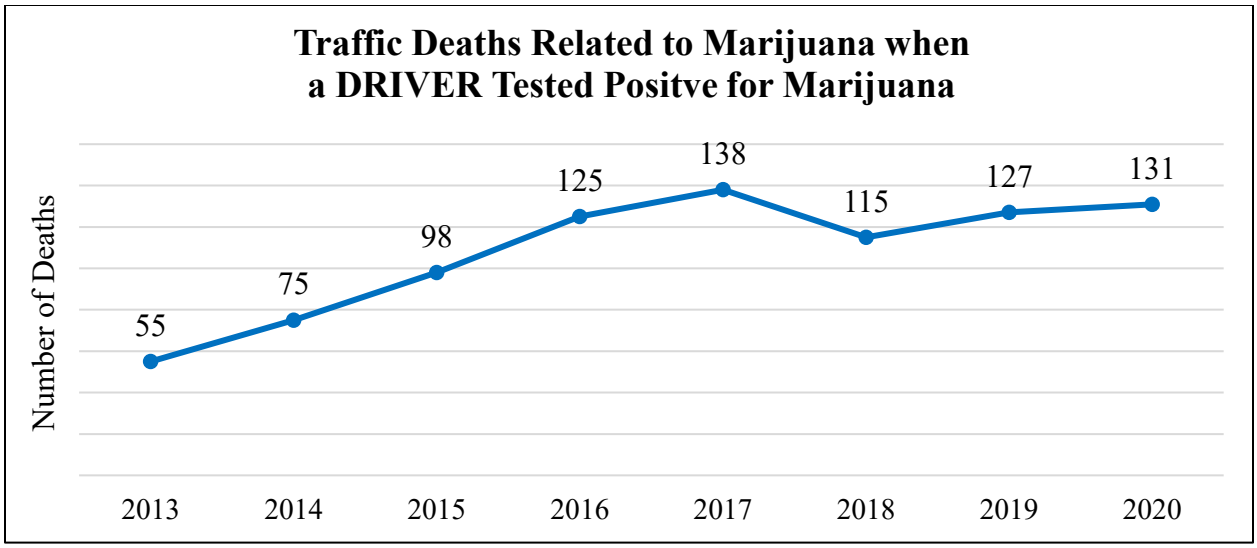
**NOTE:** Due to changes in reporting, data from before 2013 was not included.

- In 2020, 131 marijuana-related traffic deaths:
  - 104 were drivers
  - 21 were passengers
  - 4 were pedestrians
  - 2 was a bicyclist

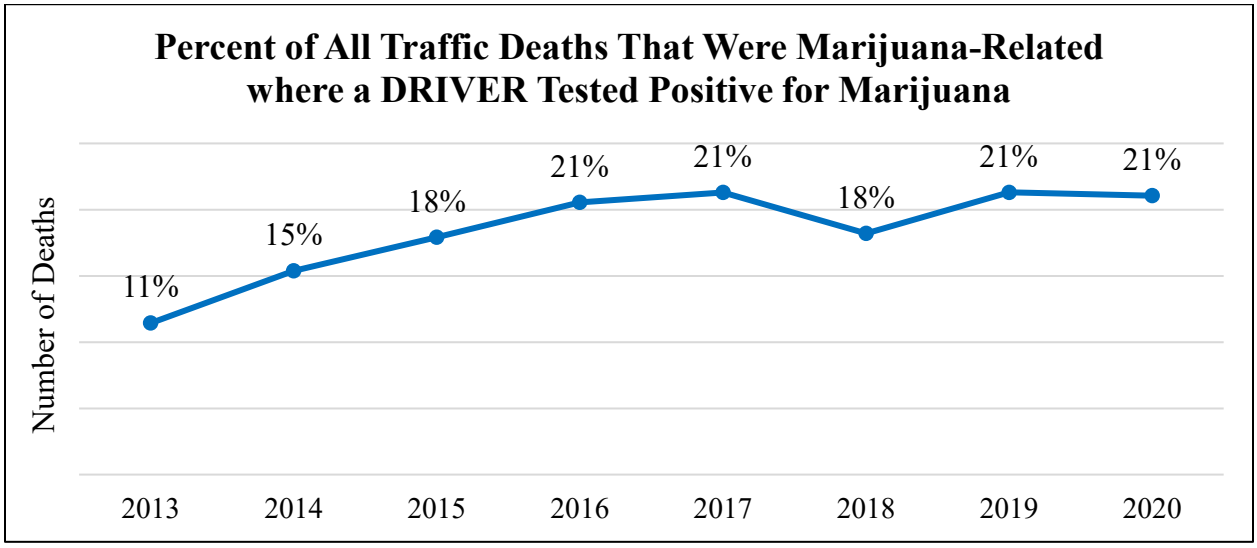
SOURCE: CDOT 2013-2020

**NOTE:** In 2020, 49% of drivers' blood was tested after being involved in a fatal crash.

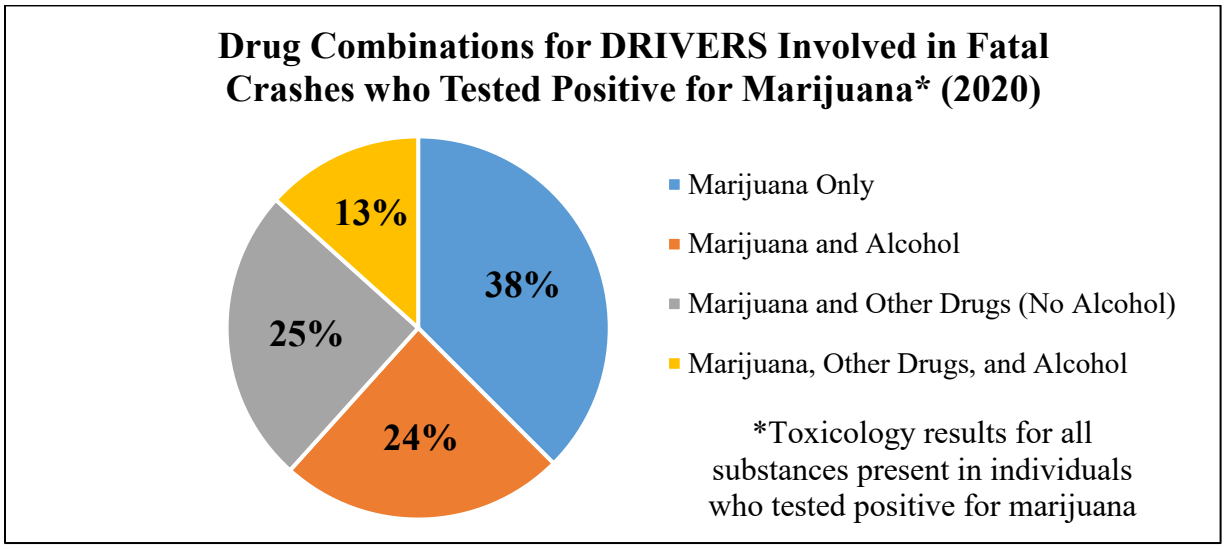
- In 2020, of the 120 drivers in fatal wrecks who tested positive for marijuana use, 117 were found to have Delta 9 tetrahydrocannabinol or THC, the psychoactive ingredient in marijuana, in their blood. This would indicate use within hours according to state data. Of those, 69% were over 5 nanograms per milliliter, the state permissible inference level for driving.
  - Similar to findings from the August 2017 article by David Migoya, "Exclusive: Traffic fatalities linked to marijuana are up sharply in Colorado. Is legalization to blame?" *The Denver Post*.




SOURCE: CDOT 2013-2020




SOURCE: CDOT 2013-2020



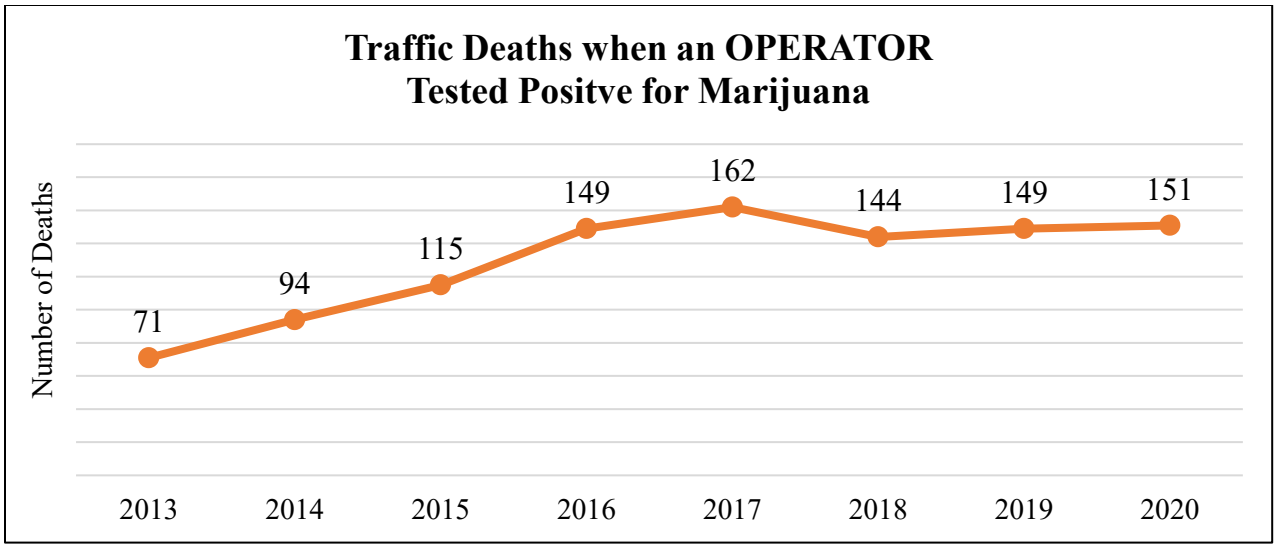

SOURCE: CDOT 2013-2020

| Traffic Deaths Related to Marijuana Where an OPERATOR Tested Positive for Marijuana | | | |
|---|---|---|---|
| **Crash Year** | **Total Statewide Fatalities** | **Fatalities with Operators Testing Positive for Marijuana** | **Percentage Total Fatalities** |
| **2013** | 481 | 71 | 14.8% |
| **2014** | 488 | 94 | 19.3% |
| **2015** | 547 | 115 | 21.0% |
| **2016** | 608 | 149 | 24.5% |
| **2017** | 648 | 162 | 25.0% |
| **2018** | 632 | 144 | 23.0% |
| **2019** | 596 | 149 | 25.0% |
| **2020** | 622 | 151 | 24.3% |

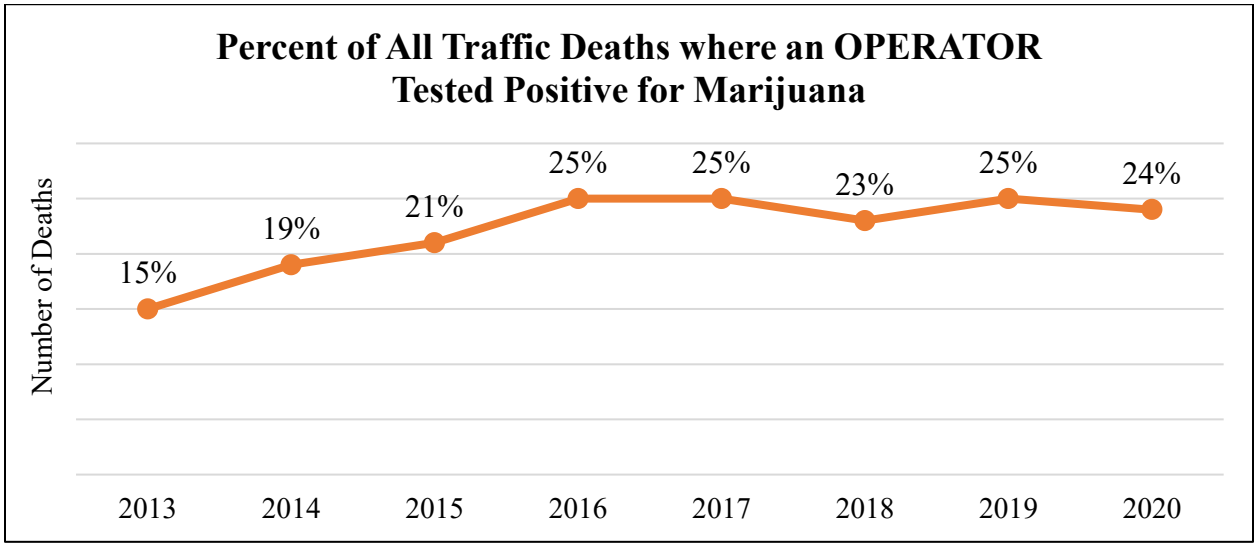
- Of the 151 marijuana-related traffic deaths:
  - 104 were drivers
  - 22 were pedestrians
  - 21 were passengers
  - 4 were bicyclists

SOURCE: CDOT 2013-2020

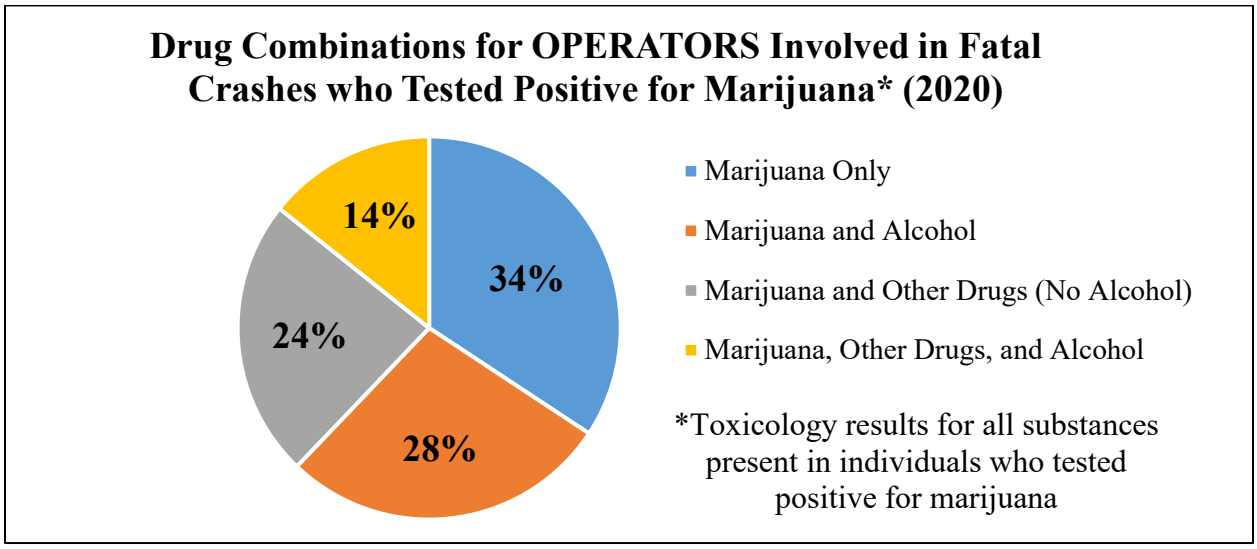
**NOTE:** In 2020, 51% of operators' blood was tested after being involved in a fatal crash.




SOURCE: CDOT 2013-2020



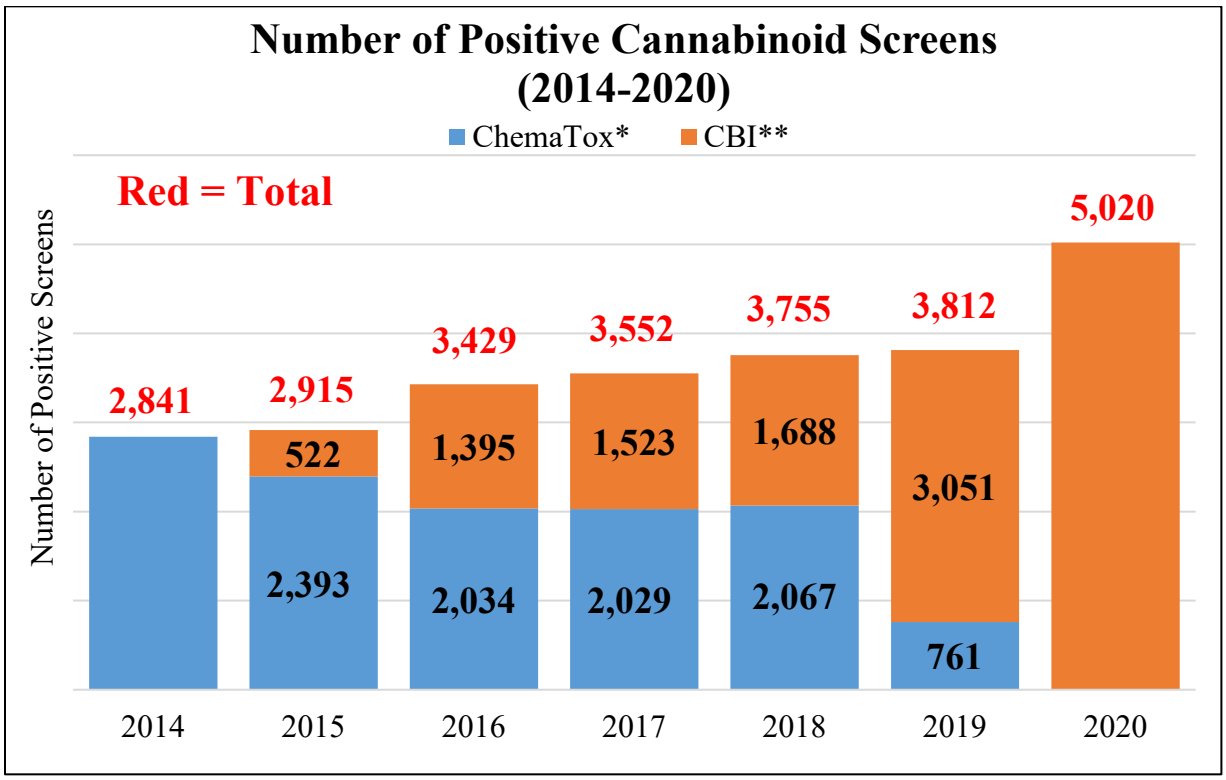

SOURCE: CDOT 2013-2020




SOURCE: CDOT 2013-2020

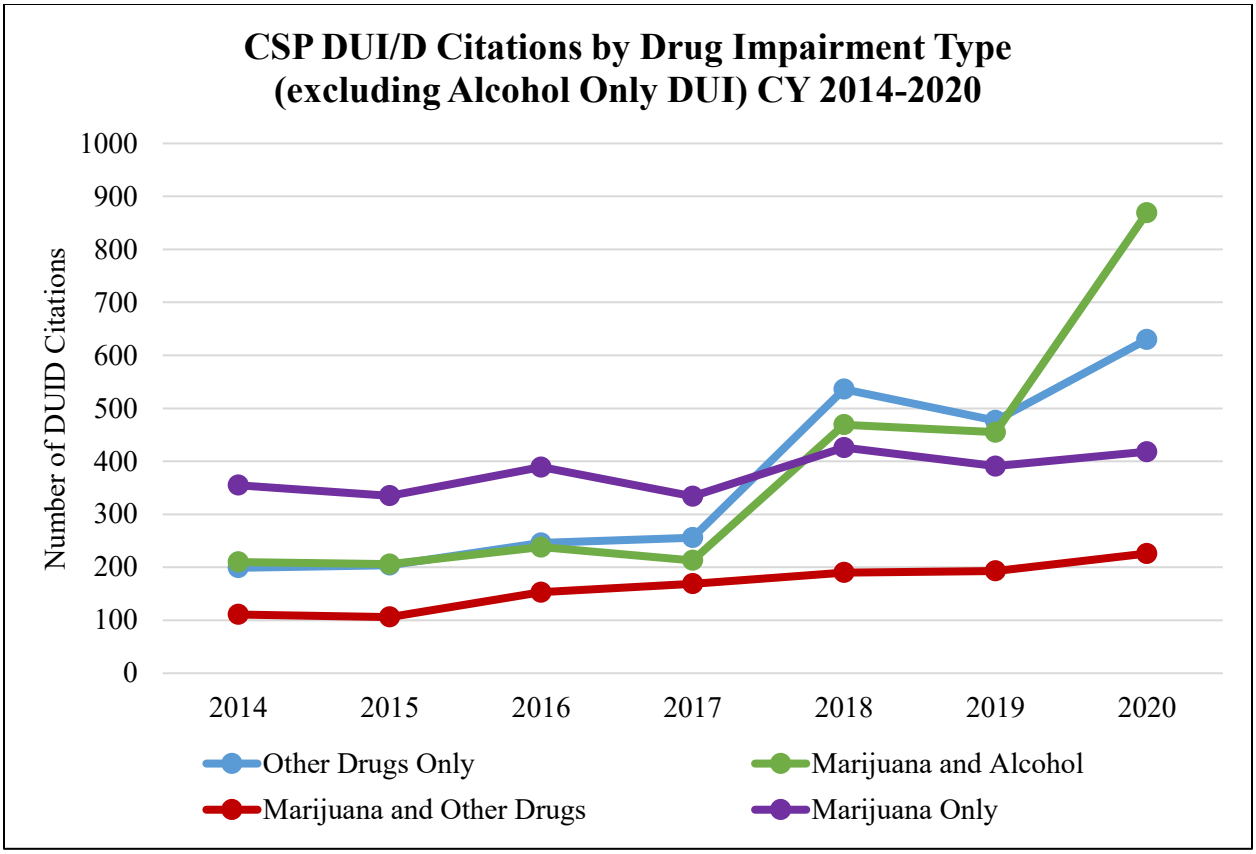
## Impaired Driving

When a driver is arrested for impaired driving related to alcohol (usually 0.08 or higher blood alcohol content), typically tests for other drugs (including marijuana) are not requested since there is no additional punishment if the test comes back positive.




SOURCE: Colorado Bureau of Investigation and ChemaTox

***NOTE:** ChemaTox discontinued testing July 2019.
****NOTE:** The Colorado Bureau of Investigation began toxicology operations July 1, 2015, and became the sole agency in the state to conduct toxicology reports July 1, 2019. The vast majority of the screens are DUID submissions from Colorado law enforcement.

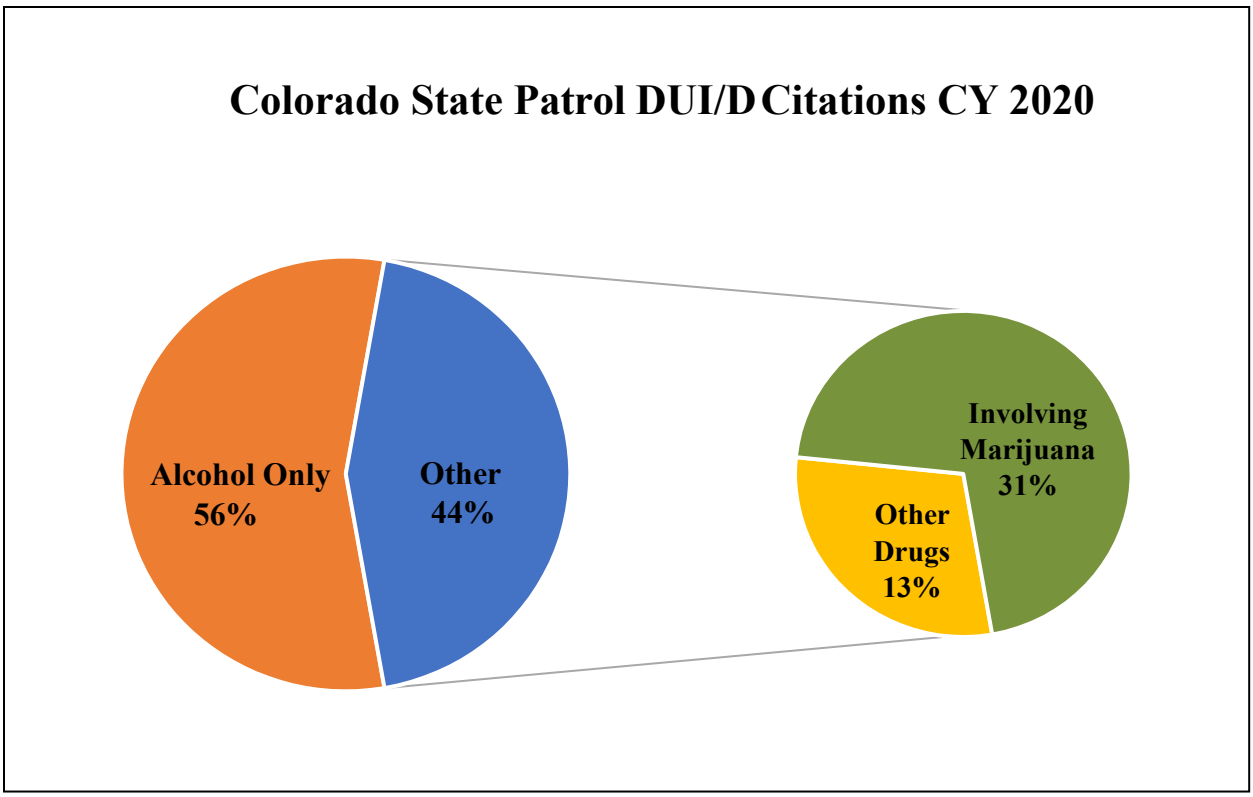



SOURCE: CSP RDW; only displaying data available as of 07/23/2021

| DUI/D Citations by Drug Impairment Type | | | | | | | |
|---|---|---|---|---|---|---|---|
| | **2014** | **2015** | **2016** | **2017** | **2018** | **2019** | **2020** |
| **Other Drugs** | 199 | 204 | 246 | 256 | 536 | 477 | 630 |
| **Marijuana and Alcohol** | 210 | 206 | 238 | 213 | 469 | 455 | 869 |
| **Marijuana and Other Controlled Substances** | 111 | 106 | 153 | 169 | 190 | 193 | 226 |
| **Marijuana Only** | 355 | 335 | 389 | 334 | 426 | 391 | 418 |
| **Alcohol Only** | 4,620 | 3,948 | 3,528 | 3,817 | 3,541 | 3,727 | 2,674 |
| **Total Marijuana Involved Citations** | **676** | **647** | **780** | **716** | **1,085** | **1,039** | **1,513** |
| **Total DUI/D Citations** | **5,495** | **4,799** | **4,554** | **4,789** | **5,162** | **5,245** | **4,817** |

SOURCE: CSP RDW; only displaying data available as of 07/23/2021

**NOTE:** "Citations in the Colorado State Patrol (CSP) Reporting Data Warehouse (RDW) are defined as one per involved person when the involved person has at least one charge as denoted in the RDW (excluding oral and written warnings), that occurred during a traffic stop unique on date, time, location road, mile point round, and driver's license number. Impaired (DUI/D) citations were identified in the CSP RDW by the following common codes: 753, 754, 755, 765, 785, 800, 801, 802, 805, 806, 807, 808, 809, 810, 812, 813, 814, 815, 820, 821, or MPC." -Colorado State Patrol




SOURCE: CSP RDW; only displaying data available as of 07/23/20210

## Impaired Driving Information

### THC Positive Drivers Involved in Fatal Crashes in Washington

In Washington, the AAA Foundation for Traffic Safety studied fatal crashes from 2008 to 2017 to determine the impact of the legalization of recreational marijuana. The percentage of drivers involved in a fatal crash was 88% from 2008 to 2017 compared to only 29% of drivers involved in non-fatal crashes. Of the fatal crashes, an average of 8.8% of drivers were THC-positive from 2008 to 2012. Then after recreational marijuana was legalized, the average increased to 18% of drivers testing positive for THC from 2013 to 2017. The highest level was reached in 2017 with 21% of drivers testing positive for THC that were involved in a fatal crash.

Source: Tefft, B.C. & Arnold, L.S. (2020). *Cannabis Use Among Drivers in Fatal Crashes in Washington State Before and After Legalization* (Research Brief). Washington, D.C.: AAA Foundation for Traffic Safety.

### Analysis of the Impact of Recreational Marijuana Legalization on Traffic Fatalities in Colorado and Washington

In 2019, researchers examined the impact of recreational marijuana legalization on traffic fatalities in Washington and Colorado. Fatality Analysis Reporting System (FARS) from 2000 to 2016 was analyzed to compare fatal crashes where at least the driver tested positive for marijuana with the alcohol related cases. The initial finding were that marijuana-related deaths increased in Washington and Colorado compared to the rest of the country after marijuana was legalized in these two states in 2012. The rate of increase was significantly faster than the other states as well. In their final analysis, the authors were unable to determine whether the legalization of recreational marijuana alone led to the large increase in traffic fatalities in the two states.

Their conclusion states that in Colorado, "the amount of marijuana sold in recreational stores [grew] dramatically, […] from 36,031 pounds in 2014 to 102,871 pounds in 2016. However, it is difficult to discern how much of this growth in legal recreational weed came at the expense of sales in black market or medical marijuana. Indeed, recreational marijuana can be viewed as a close substitute to black market or medical marijuana, with differences in price, quality, and ease of access. The relatively small effects we estimate are consistent with crowding-out, and could explain why we do not observe spillover effects on alcohol-related traffic accidents as other studies have found (Anderson, Hansen, and Rees 2013). Furthermore, Colorado has recently allowed consumption of marijuana in public spaces. This might increase the potential for negative externalities of recreational marijuana relative to medical marijuana. Despite that concern, we find limited overall evidence the fatalities are significantly increasing in Colorado and Washington following the legalization of recreational marijuana" (Hansen et al, 2019).

Source: Hansen, B., Miller, K., and Weber, C. (2019). *Early evidence on recreational marijuana legalization and traffic fatalities.* Economic Inquiry, 58(2), 547-568.

### Relationship between Recreational Marijuana and Alcohol-Related Behaviors in Colorado

Some theorized that legalizing recreational marijuana would decrease the levels of alcohol consumption, while others believed that there was a positive relationship between the two. These conflicting hypotheses have generated further interest on how the legalization of recreational

marijuana impacted alcohol-related behavior in states like Colorado. Analysis of the tax revenue from alcohol sales in Colorado determined an increase in liquor tax revenue related to alcohol and alcohol-related motor vehicle crash fatalities after the legalization of recreational marijuana in Colorado. Alcohol-related crash fatalities increased by nearly two and a half fatalities per month within the state. The tax revenue increase of almost $200,000 per month cannot definitively be linked to any changes of alcohol-related societal problems.

Source: Chamlin, M. (2021). *An examination of the unintended consequences of the legalization of recreational marijuana on alcohol-related behaviors.* Journal of Crime and Justice, 1-11

### DUI Numbers Increase During Pandemic

During the height of the early stages of the pandemic from January to April 2020, DUI related deaths doubled compared to 2019 according to the Colorado State Patrol. In addition, alcohol and marijuana-related crashes increased by 32 percent during the same timeframe. The cause of this increase was unknown especially during the stay-at-home order that closed many bars. Some hypothesized that the drivers under the influence were able to drive at higher speeds with less cars on the road, leading to the increase in crashes.

Source: Grewe, L. (2020, May 26). *Despite pandemic, DUI numbers up significantly in 2020*. KKTV.

### Traffic Deaths Increase Even with Less Miles Travelled

During the first half of 2020, the number of total miles travelled decreased by 17 percent compared to the first half of 2019. Despite this, the traffic deaths increased by one percent from 256 to 259 deaths. Furthermore, this increase was significant as the fatality rate increased by 20 percent due to the large decrease in miles travelled. This trend was confirmed from analysis in 22 other states.

Source: Minor, N. (2020, September 2). *Colorado's roads are emptier, but deadlier so far this year.* CPR News.

# Section II: Marijuana Use

## Some Findings

Since recreational marijuana was legalized in 2013:

- Past month marijuana use for ages 12 and older **increased 26%** and is **61%** higher than the national average, currently ranked **3rd** in the nation.
- Past month adult marijuana use (ages 18 and older) **increased 20%** and is **62% higher** than the national average, currently ranked **3rd** in the nation.
- Past month college age marijuana (ages 18-25) use **increased 10%** and is **53% higher** than the national average, currently ranked **3rd** in the nation.
- Past month youth marijuana (ages 12-17) use **decreased 22%** and is **39% higher** than the national average, currently ranked **7th** in the nation.

## Data Consideration

Healthy Kids Colorado Survey (HKCS) data is collected in the odd years and released in even years. For this reason, HKCS data is not included in this report. Please refer to Volume 7 for the most recent numbers.

Youth Risk Behavior Surveillance System (YRBSS) data is collected in the odd years and released in even years. For this reason, YRBSS data is not included in this report. Please refer to Volume 7 for the most recent numbers.

National Survey on Drug Use and Health (NSDUH) data is averaged between two years for a more accurate representation. The most recent data averaged 2018 and 2019.

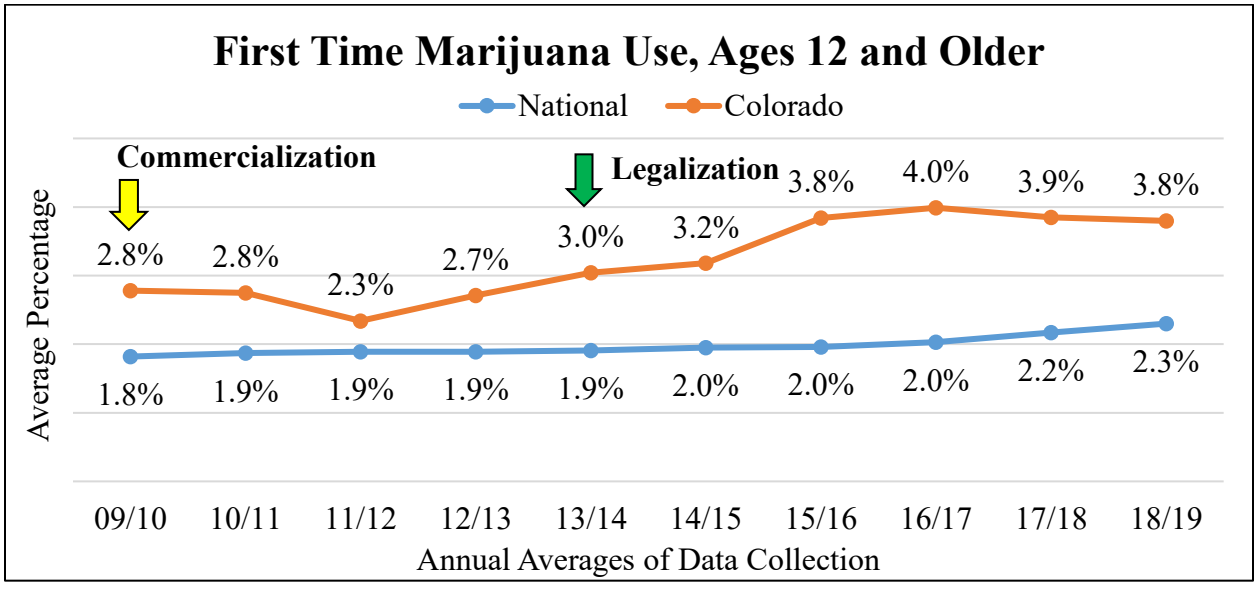
## National Survey on Drug Use and Health (NSDUH) Data

| Colorado Averages Compared to National Averages | | |
|---|---|---|
| **For Ages 12 and Older:** | **Colorado** | **US** |
| **Marijuana Past Month Use** | 17.4% | 10.8% |
| **Perceptions of Risk for Smoking Marijuana** | 17.7% | 24.4% |
| **Illicit Drug Use Other than Marijuana Past Month** | 4.7% | 3.3% |
| **Alcohol Past Month Use** | 60.0% | 50.9% |
| **Cigarette Past Month Use** | 16.3% | 16.9% |
| **Perceptions of Risk for Smoking Cigarettes** | 72.5% | 71.5% |

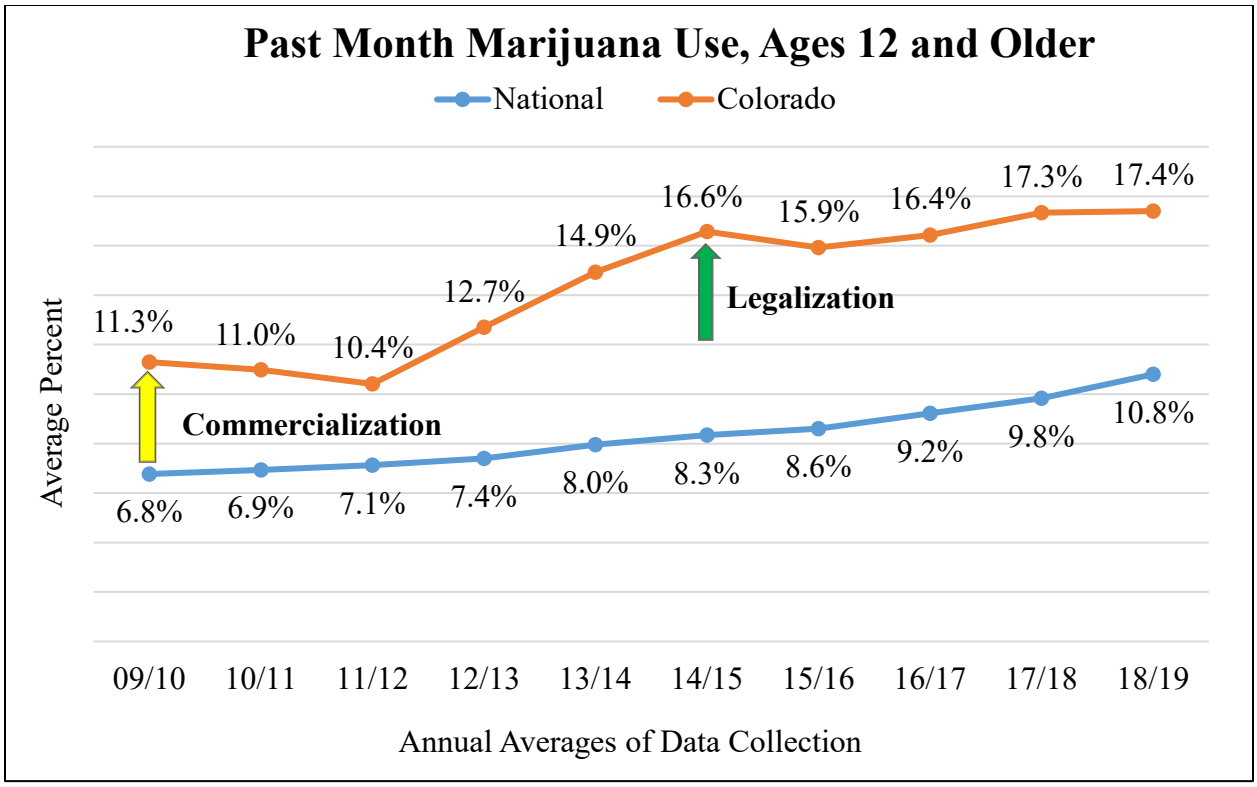
SOURCE: Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Behavioral Health Statistics and Quality, NSDUH, 2018 and 2019

| Marijuana First Time Use | | | |
|---|---|---|---|
| **Age** | **Colorado %** | **Colorado U.S. Ranking** | **National %** |
| **12 years +** | 3.8% | 3rd | 2.3% |
| **12 – 17** | 8.0% | 4th | 5.7% |
| **18 years +** | 2.9% | 5th | 1.7% |
| **18 – 25** | 12.5% | 6th | 8.4% |
| **26+** | 1.2% | 6th | 0.7% |

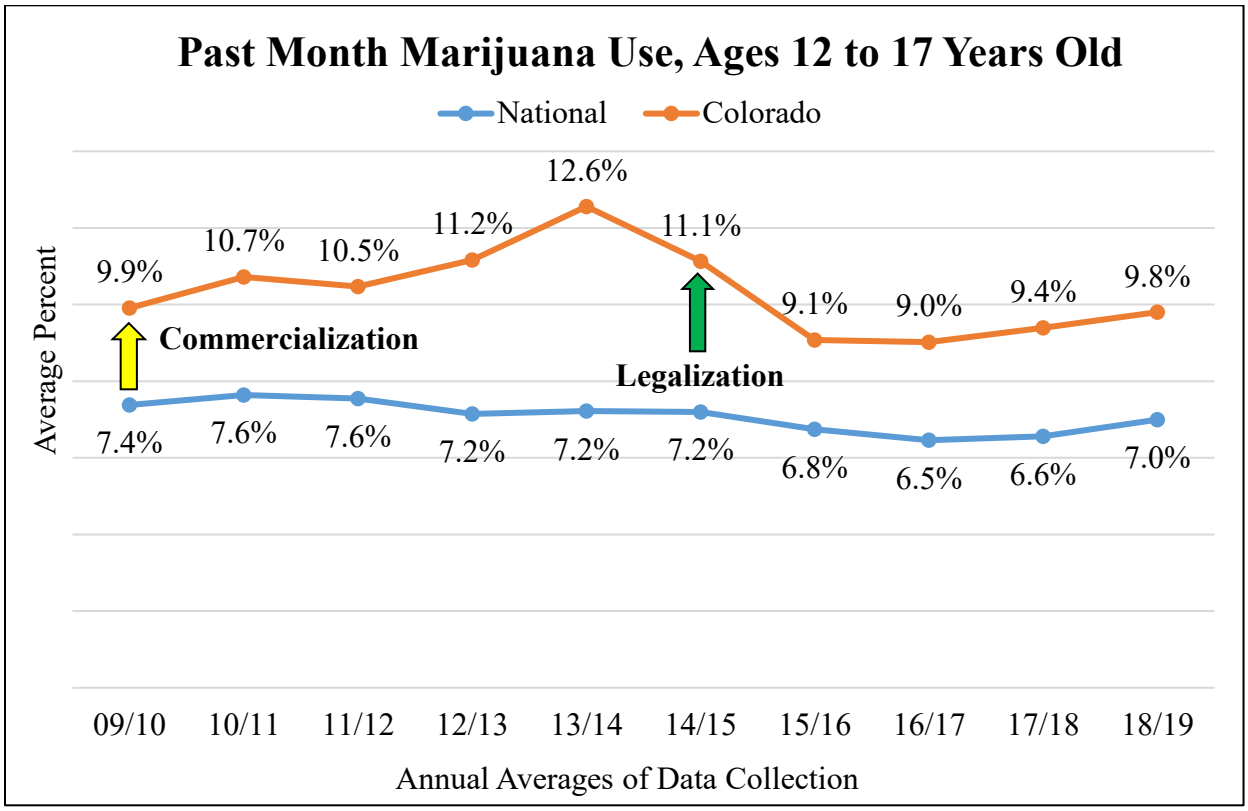
SOURCE: SAMHSA, Center for Behavioral Health Statistics and Quality, NSDUH, 2018 and 2019



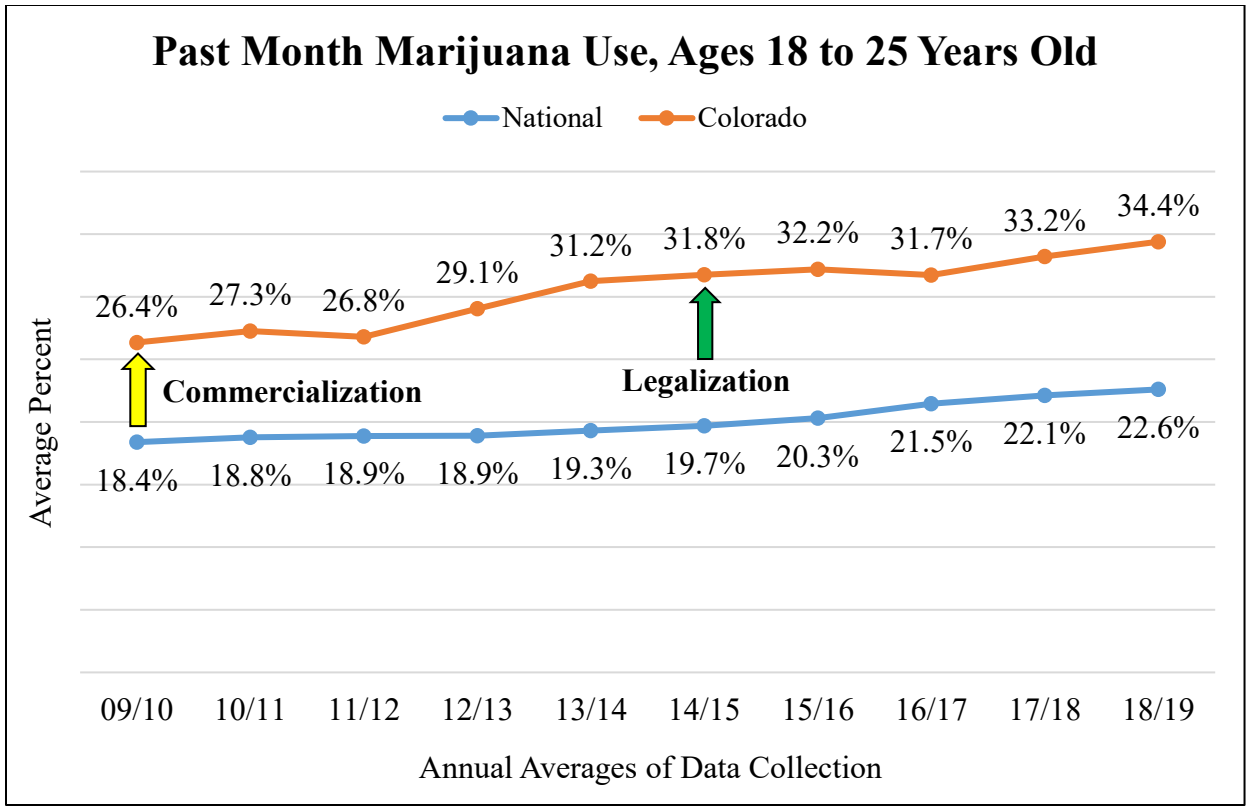

SOURCE: SAMHSA, Center for Behavioral Health Statistics and Quality, NSDUH, 2018 and 2019



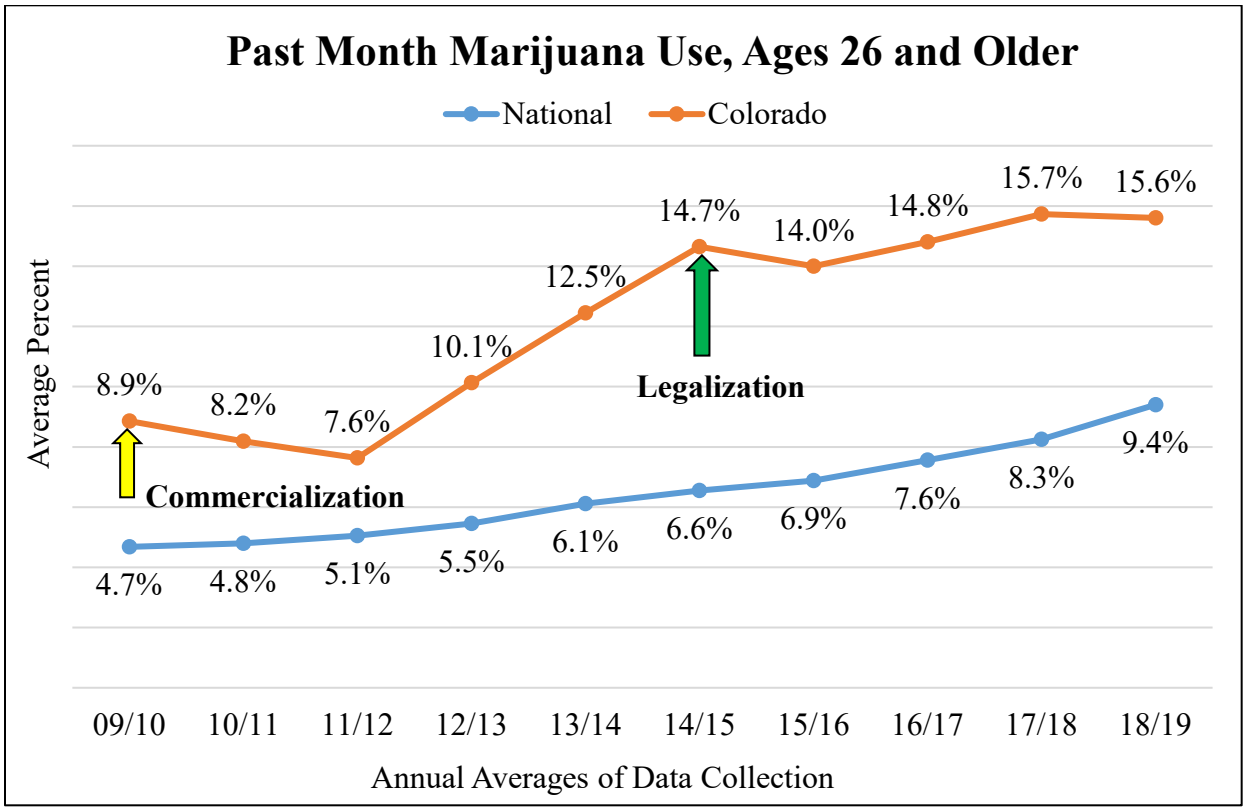

Source: SAMHSA, Center for Behavioral Health Statistics and Quality, NSDUH, 2018 and 2019




Source: SAMHSA, Center for Behavioral Health Statistics and Quality, NSDUH, 2018 and 2019

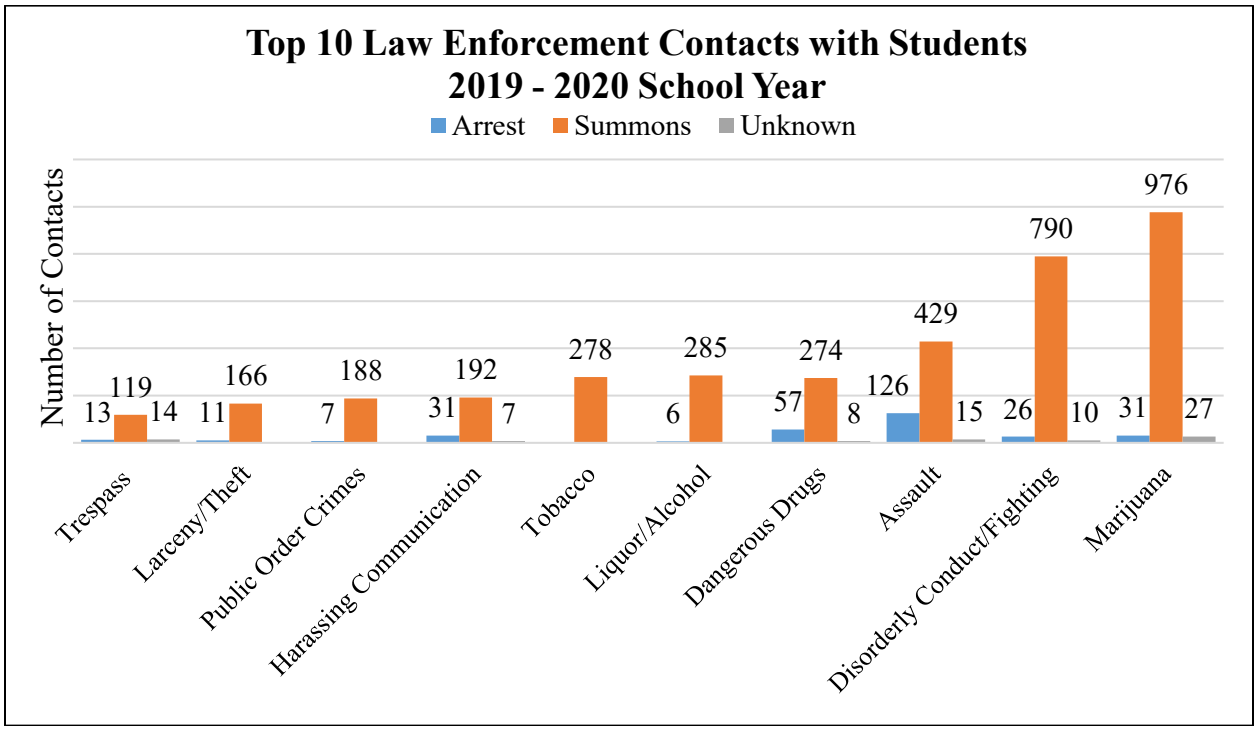



Source: SAMHSA, Center for Behavioral Health Statistics and Quality, NSDUH, 2018 and 2019



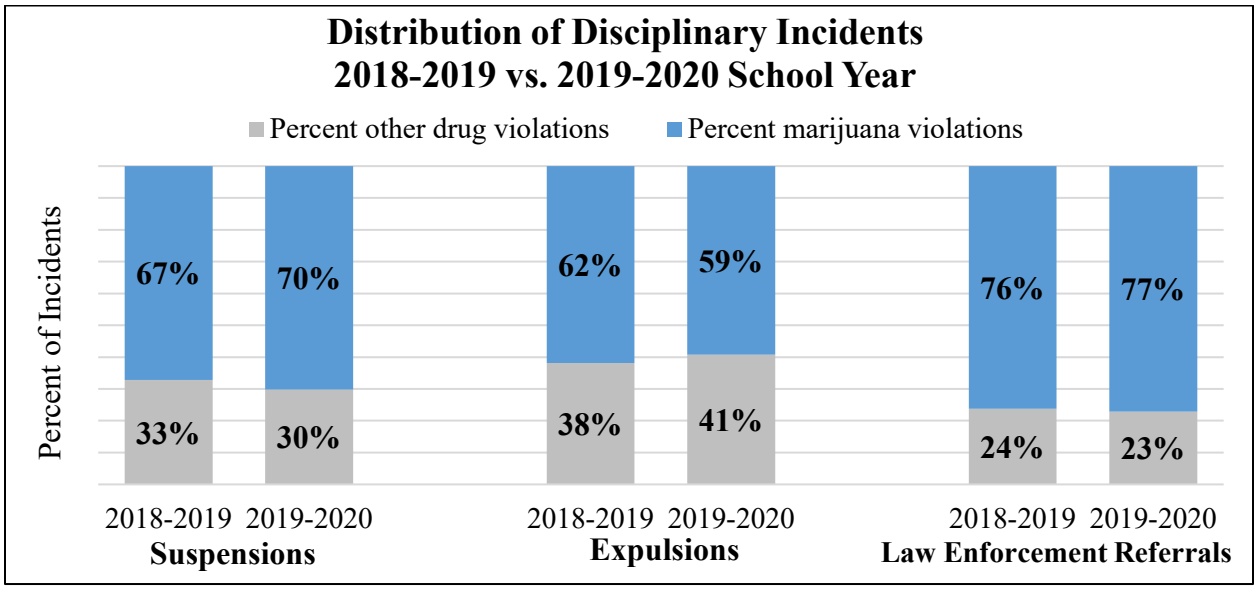

Source: SAMHSA, Center for Behavioral Health Statistics and Quality, NSDUH, 2018 and 2019

## Marijuana in Schools




SOURCE: Colorado Division of Criminal Justice

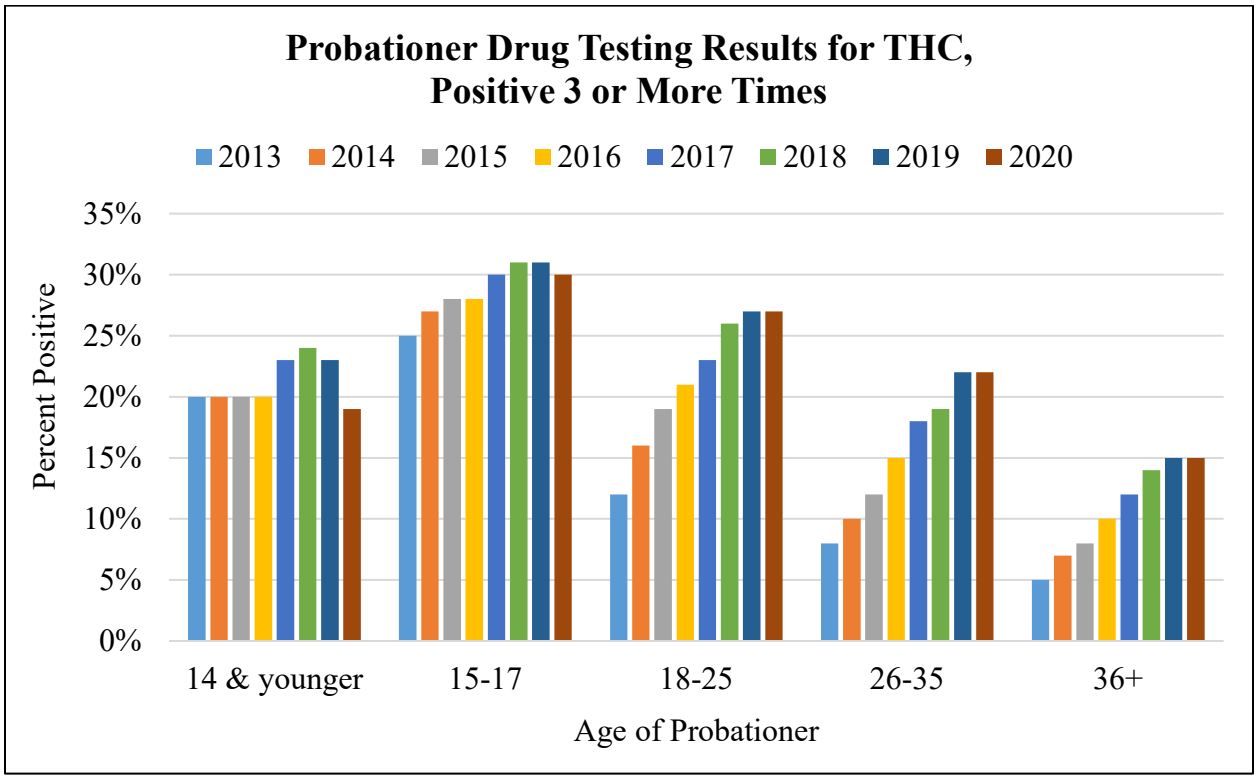
**NOTE:** The number of contacts from the 2019 to 2020 school year may not represent a complete school year due to the beginning of lockdowns associated with COVID-19 in March 2020.




SOURCE: Colorado Department of Education

**NOTE:** Law Enforcement Referrals may or may not have been in addition to another reported action taken (suspension, expulsion, or other).

## Probationer Marijuana Use




SOURCE: Colorado State Judicial Branch, Division of Probation Services

**NOTE:** Data reflects drug test results for probationers required to undergo drug testing. This does not reflect all probationers in Colorado. Probationers who have a medical marijuana card are not prohibited from using marijuana while on probation. It is possible that some positive results may come from probationers using marijuana for medical reasons.

# Marijuana Use Information

## Analysis of Marijuana Use by College Students from 2008 to 2018

One of the largest questions after legalizing recreational marijuana was the impact on young adults across the country. A long-term study was created to compare marijuana use in states that passed recreational marijuana legalization (RML) compared to non-RML states. Researchers chose several post-secondary institutions and students between 18 to 26 years old were surveyed across ten academic years in 48 states. This resulted in seven RML states with nearly 235,000 participants from 135 institutions compared to 41 non-RML states with almost 600,000 students from 454 institutions.

The results indicated that "the 30-day prevalence of marijuana use increased more among college students exposed to RML relative to students attending college in non-RML states and students in RML states prior to legalization. These findings are generally consistent with those from prior studies of Oregon and Washington college students, but are a considerable extension, given that they are based on 135 institutions in seven RML states instead of one to two institutions in a single RML state. The mounting evidence for increases in college students' marijuana use that has coincided with RML is all the more interesting in the context of the more mixed results regarding such changes among adolescents. For many young adults, the transition to college involves sudden declines in parental monitoring, exposure to older peer groups and a culture of heavy drinking and other substance use. Although heavy drinking by college students has declined nation-wide in recent years, the prevalence of marijuana use has increased" (Bae et al, 2021). Additionally, the increases in RML states were more pronounced in women, participants 21 years and older, and students living off-campus.

Source: Bae, H. and Kerr, D. (2021). *Marijuana use trends among college students in states with and without legalization of recreational use: initial and longer-term changes from 2008 to 2018*. Addiction, 115(6), 1115-1124.

## Relationship between Neighborhood Disorder, Marijuana Use, and Life Expectancy for Young Men Involved in the Criminal Justice System

Researchers surveyed over 1,200 young males from the Crossroads study that are involved in the justice system to examine their perception of risk-taking relative to their expectations on life expectancy. In the study, the measurements were neighborhood disorder, life expectancy, substance use, offending, and risky sexual behavior. Specific to marijuana use, the results indicated that the young men living in more disordered neighborhoods used marijuana more frequently, different findings than binge drinking and cigarette use. No causal relationship was determined between life expectancy and marijuana use.

The authors stated in the conclusion, "a possible explanation for this finding is that adolescents do not perceive using marijuana as risky or harmful. Findings from the National Institute on Drug Abuse 2013 Monitoring the Future survey indicate that while cigarette use and alcohol use have steadily declined in recent years, rates of marijuana use have remained consistently high, in large part due to adolescents' attitudes toward marijuana risks. Only 20.6% of 12$^{th}$ graders perceived occasional marijuana use as harmful and only 44.1% considered daily use to be detrimental (Johnston et al., 2014). If youth tend not to view marijuana as being harmful in the long run, then

it is likely that decisions to use marijuana are not informed by youths' expectations for their futures. That is, even among adolescents who expect long lives, they may be just as likely as those with short life expectancies to engage in marijuana use because they may not perceive it as a risky behavior" (Kan et al, 2020).

Source: Kan, E., Peniche, M., Steinberg, L., Knowles, A., Frick, P., and Cauffman, E. (2020). *Neighborhood disorder and risk-taking among justice-involved youth—the mediating role of life expectancy*. Journal of Research on Adolescence, 31(2), 282-298.

### Examining the Validity of the Marijuana Gateway Hypothesis

Proposed during the 1970s, the marijuana gateway hypothesis was created to explain the escalation of risk from the use of tobacco and alcohol to marijuana, then to harder drugs. As a result of this hypothesis, marijuana use was harshly punished throughout the country even to today with many states legalizing recreational and medical marijuana. At this point, there has been a lack of research supporting the causal relationship between marijuana use and other drugs. The researchers in this study focused on further examining the relationship to determine the validity of the marijuana gateway hypothesis. While those who use marijuana before 21 were 157 times more likely to engage in subsequent hard drug use, most marijuana users never escalate to hard drug use. "Some studies have found moderate estimates wherein approximately 29% of marijuana users continue on to harder drug use" (Jorgensen and Wells, 2021). They state there must be a distinction between chronic users with more occasional users when examining the likelihood of escalating to harder drugs.

Data was gathered and analyzed from the National Longitudinal Study of Adolescent to Adult Health. The results showed a meaningful association between heavy marijuana use and light illicit drug use. "Considering the findings from all 18 tests together, it can be concluded that the hypothesis that marijuana is a gateway drug is unsupported. Summarily, if marijuana "really" is a gateway drug we would expect to see stronger and more consistent causal gateway effects" (Jorgensen and Wells, 2021). Additionally, the conclusion stated that if marijuana was to be considered a gateway drug that necessitates harsh punishments, the same would be needed for tobacco and alcohol.

Source: Jorgensen, C. and Wells, J. (2021). *Is marijuana really a gateway drug? A nationally representative test of the marijuana gateway hypothesis using a propensity score matching design*. Journal of Experimental Criminology, 17(3).

### Changes in Marijuana Use from 2005 to 2018 across the United States

The study compares marijuana use by adults from 2005 to 2011 (pre-recreational marijuana legalization) to 2012 to 2018 (post-recreational marijuana legalization). Data was utilized from the US National Health and Nutrition Examination Survey (NHANES) from 2005 to 2018 across the country. While lifetime marijuana use and first use before the age of 18 was fairly consistent over the 14 years, there was a sizable increase in past-year marijuana use. This use was higher and more common for younger people, males, participants below the poverty line, non-Hispanic blacks. Despite this, the increase in past-year use increased across all demographics including education, race, gender, and income.

Source: Mitchell, W., Bhatia, R., and Zebardast, N. (2020). *Retrospective cross-sectional analysis of the changes in marijuana use in the USA, 2005–2018*. BMJ Open, 1-6.

# Section III: Public Health

## Some Findings

- Marijuana *only* exposures **increased 185%** from 2013 when recreational marijuana was legalized compared to 2020.
- Treatment for marijuana use for all ages **decreased 34%** from 2013 to 2020.
- The percent of suicide incidents in which toxicology results were positive for marijuana has **increased** from **14%** in 2013 to **29%** in 2020.

## Definitions by Rocky Mountain HIDTA

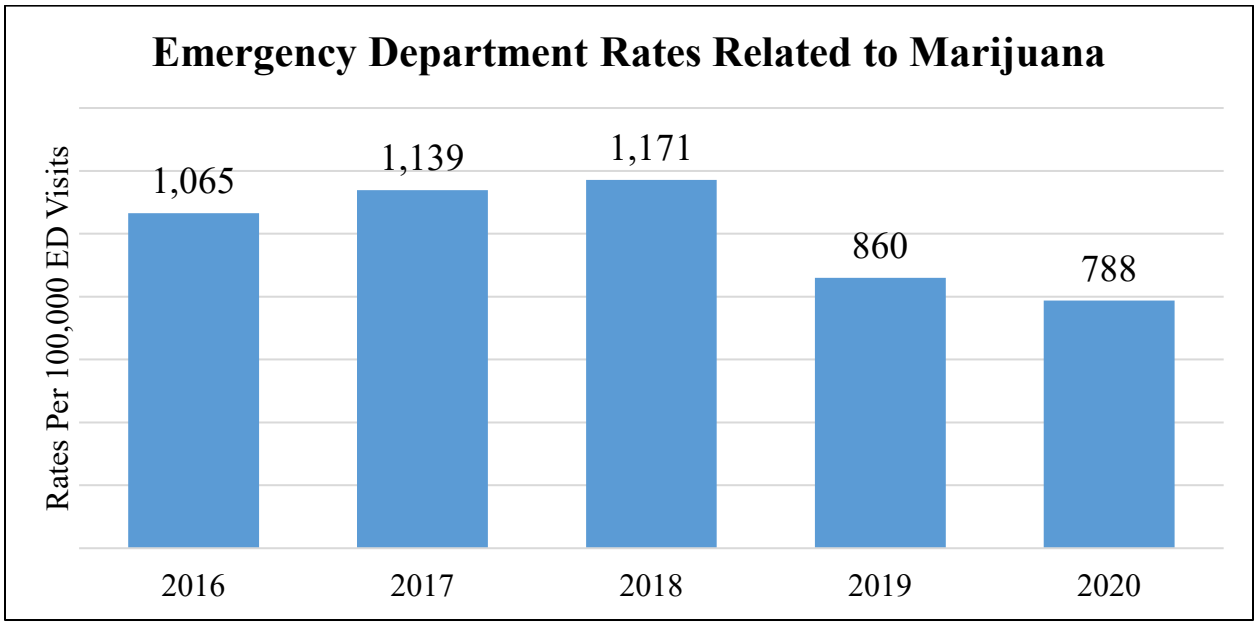
**Marijuana-Related:** Also referred to as "marijuana mentions." Data could be obtained from lab tests, patient self-admission or some other form of validation obtained by the provider. Being marijuana-related does not necessarily prove marijuana was the cause of the emergency department admission or hospitalization.

**International Classification of Disease (ICD):** A medical coding system used to classify diseases and related health problems.

**In 2015, ICD-10 (the tenth modification) was implemented in place of ICD-9. Although ICD-10 will allow for better analysis of disease patterns and treatment outcomes for the advancement of medical care, comparison of trends before and after the conversion can be made difficult and/or impossible. The number of codes increased from approximately 13,600 codes to approximately 69,000 codes. For this reason, emergency department visits and hospitalizations related to marijuana use were restricted to 2016 to 2020 in this report.

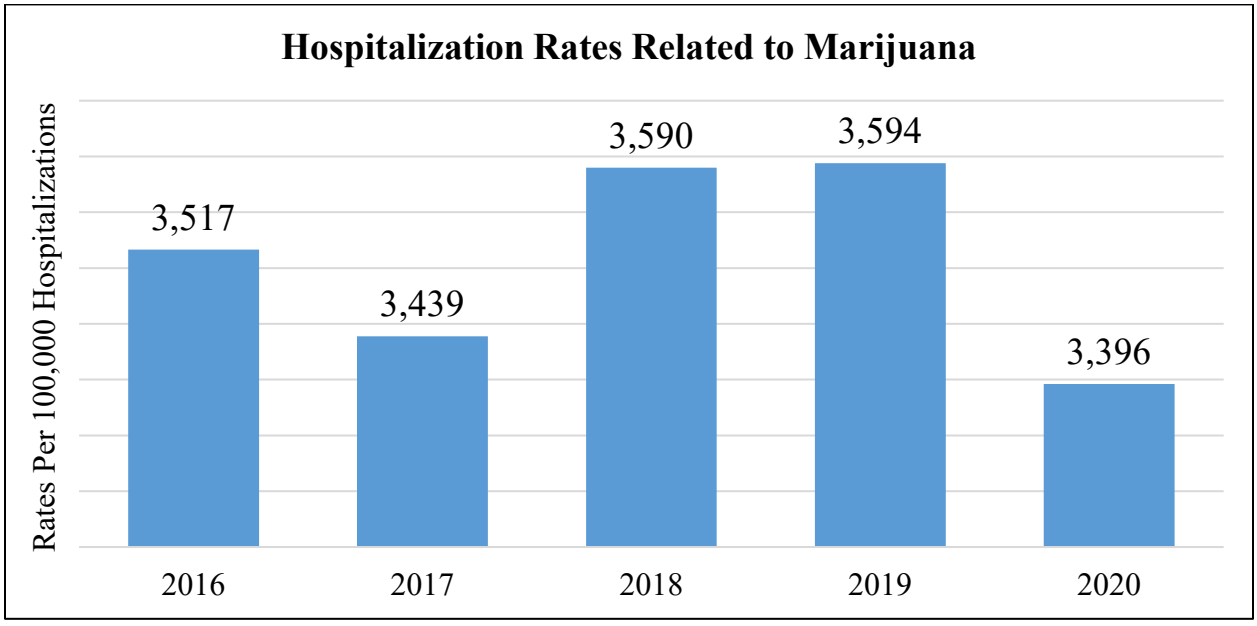
For more information regarding public health research gaps and data quality issues, please visit https://marijuanahealthinfo.colorado.gov/research-gaps.

## Emergency Department Data




SOURCE: Emergency Department Discharge Dataset, as analyzed by the Colorado Department of Public Health and Environment; 2016-2020

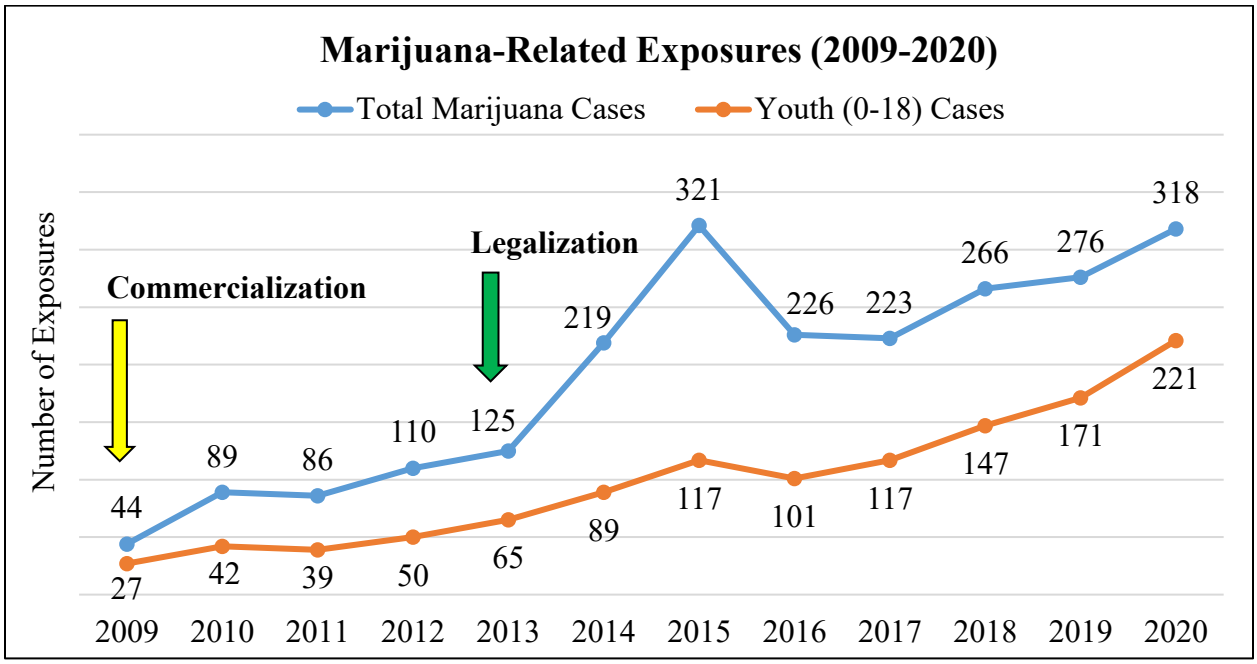
**NOTE:** Due to changes in the way the hospitalizations and emergency department visits data were coded, data before 2015 was not included for trend analysis.




SOURCE: Emergency Department Discharge Dataset, as analyzed by the Colorado Department of Public Health and Environment; 2016-2020

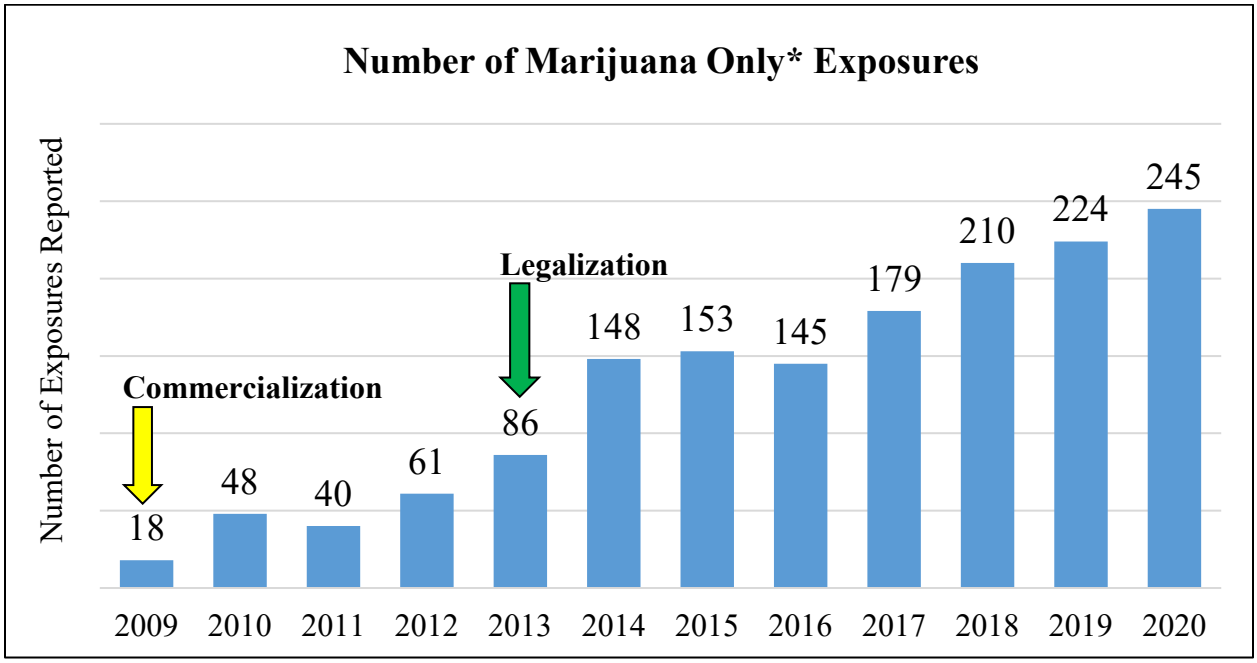
**NOTE:** Due to changes in the way the hospitalizations and emergency department visits data were coded, data before 2015 was not included for trend analysis.

## Poison Control/Marijuana Exposure Data



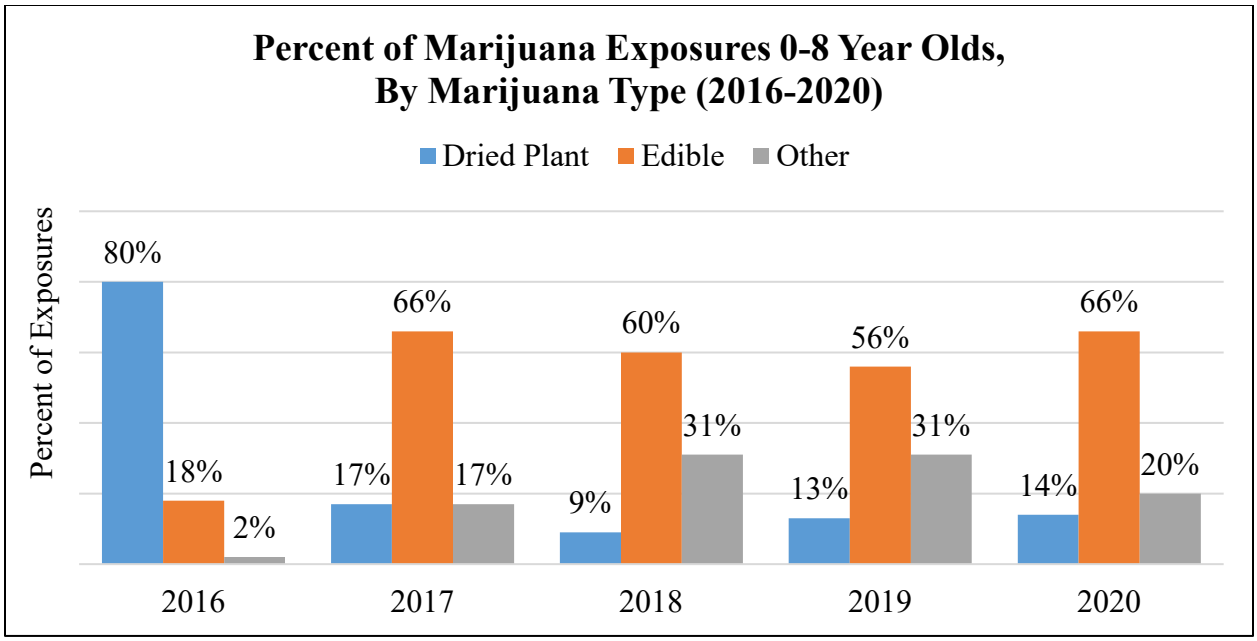

SOURCE: Rocky Mountain Poison and Drug Center

**NOTE:** Total marijuana-related exposure cases include unknown ages.



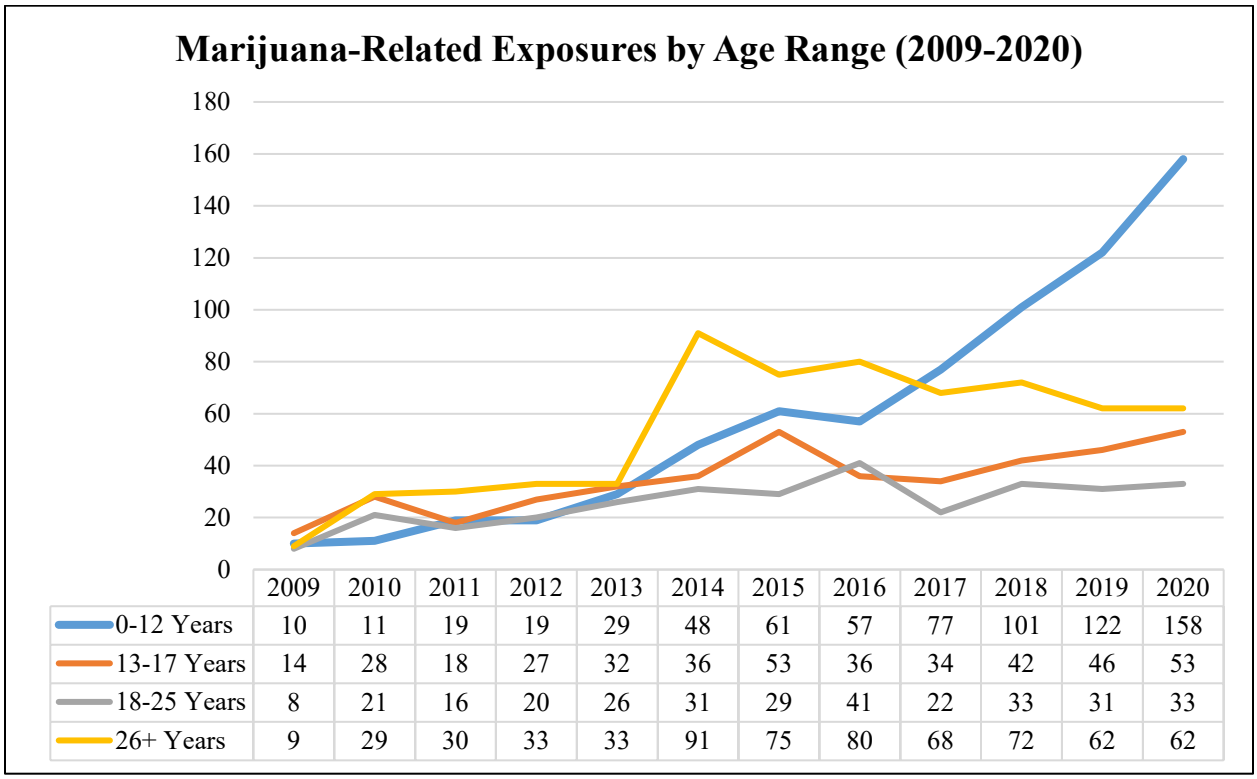

SOURCE: Rocky Mountain Poison and Drug Center

***NOTE:** Marijuana was the only substance referenced in the call to the poison and drug center.




SOURCE: Rocky Mountain Poison and Drug Center

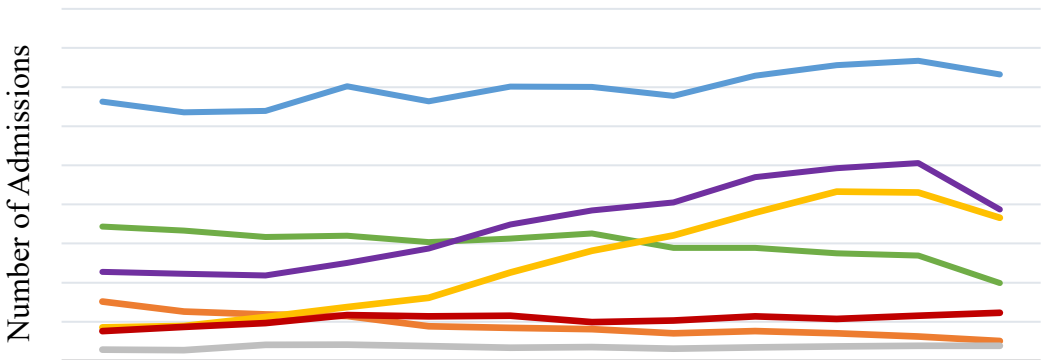
**NOTE:** The code for marijuana edibles did not go into effect until 2016. Therefore, any cases of edible marijuana exposure which occurred prior to 2016 were coded under "dry plant." Other marijuana includes oral pills/capsules, concentrated extracts (to include oils and tinctures), topical preparations, marijuana devices, and unknown/other forms of mariiuana.




| | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 0-12 Years | 10 | 11 | 19 | 19 | 29 | 48 | 61 | 57 | 77 | 101 | 122 | 158 |
| 13-17 Years | 14 | 28 | 18 | 27 | 32 | 36 | 53 | 36 | 34 | 42 | 46 | 53 |
| 18-25 Years | 8 | 21 | 16 | 20 | 26 | 31 | 29 | 41 | 22 | 33 | 31 | 33 |
| 26+ Years | 9 | 29 | 30 | 33 | 33 | 91 | 75 | 80 | 68 | 72 | 62 | 62 |

SOURCE: Rocky Mountain Poison and Drug Center

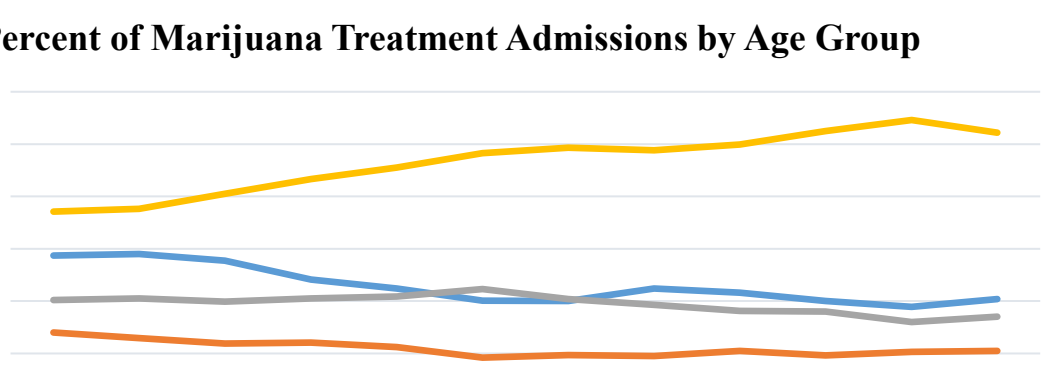
## Treatment Data




| | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Marijuana | 6,868 | 6,665 | 6,342 | 6,408 | 6,065 | 6,257 | 6,520 | 5,783 | 5,785 | 5,498 | 5,394 | 3,980 |
| Cocaine | 3,034 | 2,523 | 2,380 | 2,288 | 1,775 | 1,681 | 1,618 | 1,414 | 1,518 | 1,402 | 1,252 | 1,017* |
| Meth | 4,557 | 4,450 | 4,368 | 5,007 | 5,746 | 6,972 | 7,700 | 8,110 | 9,389 | 9,859 | 10,115 | 7,743 |
| Heroin | 1,713 | 1,790 | 2,237 | 2,746 | 3,225 | 4,520 | 5,634 | 6,420 | 7,581 | 8,655 | 8,610 | 7,323* |
| Rx Opioids | 1,522 | 1,739 | 1,934 | 2,339 | 2,277 | 2,304 | 1,987 | 2,059 | 2,271 | 2,138 | 2,307 | 2,460 |
| Alcohol | 13,263 | 12,710 | 12,788 | 14,035 | 13,277 | 14,023 | 14,013 | 13,544 | 14,587 | 15,124 | 15,345 | 14,653 |
| Other | 572 | 548 | 827 | 830 | 761 | 667 | 710 | 620 | 692 | 734 | 773 | 768 |

SOURCE: Colorado Department of Health Services, Office of Behavioral Health

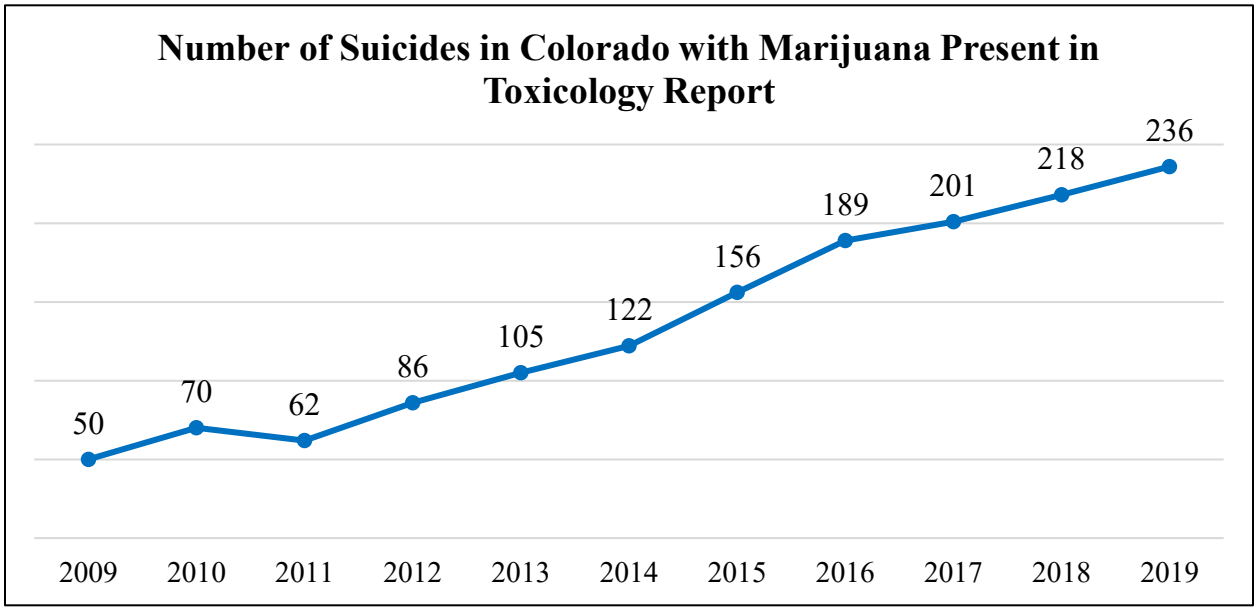
***NOTE:** Treatment admissions for cocaine and heroin in 2020 do not include the 12-17 age group as there were less than 30 admissions and were therefore omitted.



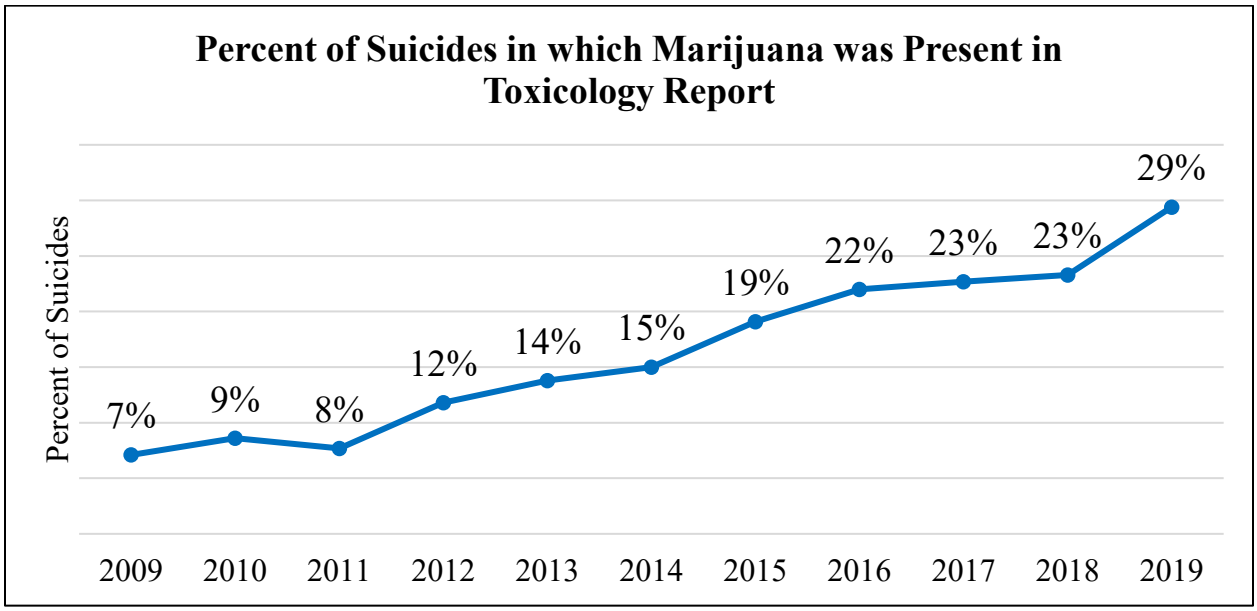

| | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 12-17 | 28.7 | 29.0 | 27.7 | 24.1 | 22.4 | 20.1 | 20.0 | 22.4 | 21.6 | 20.0 | 18.9 | 20.4 |
| 18-20 | 14.0 | 12.9 | 11.9 | 12.1 | 11.2 | 9.2 | 9.7 | 9.5 | 10.5 | 9.6 | 10.3 | 10.5 |
| 21-25 | 20.2 | 20.5 | 19.9 | 20.5 | 20.9 | 22.3 | 20.4 | 19.3 | 18.1 | 18.0 | 16.0 | 17 |
| 26+ | 37.1 | 37.6 | 40.5 | 43.3 | 45.5 | 48.3 | 49.3 | 48.8 | 49.9 | 52.5 | 54.6 | 52.2 |

SOURCE: Center for Behavioral Health Statistics and Quality, SAMHSA, Treatment Episode Data Set (TEDS). Based on administrative data reported by states to TEDS pulled on July 8, 2021.

## Suicide Data



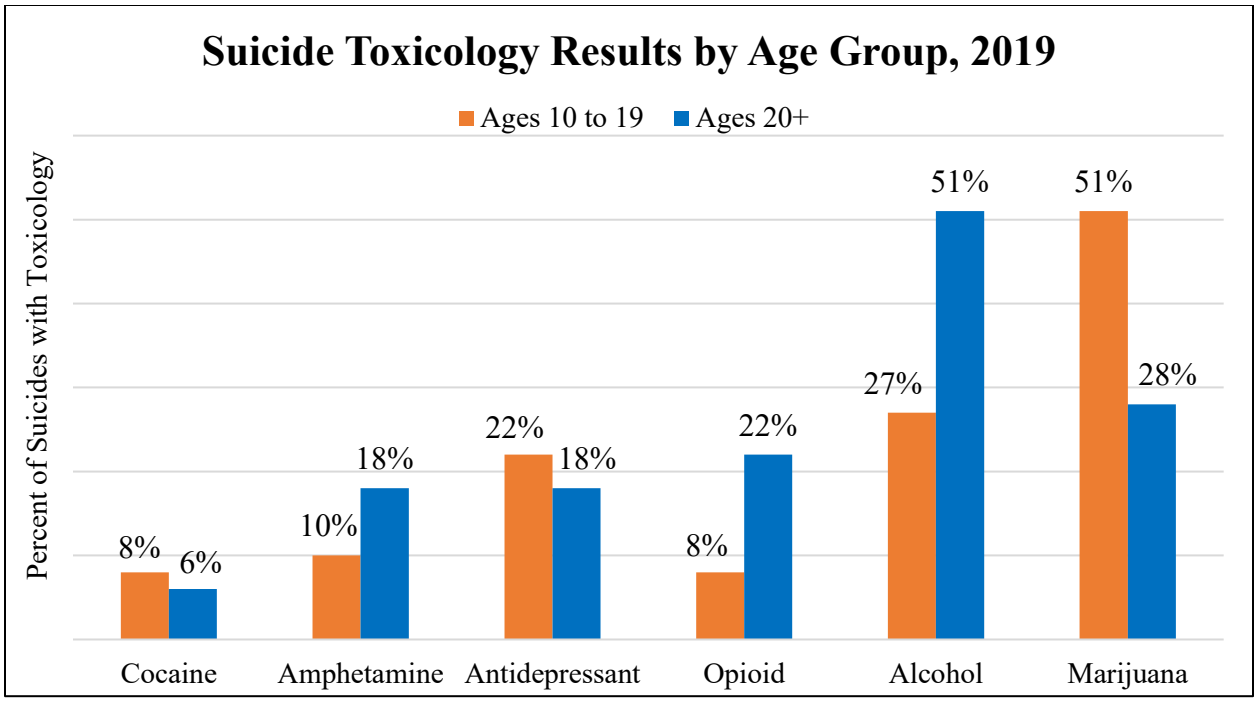

SOURCE: CDPHE, Colorado Violent Death Reporting System




SOURCE: CDPHE, Colorado Violent Death Reporting System

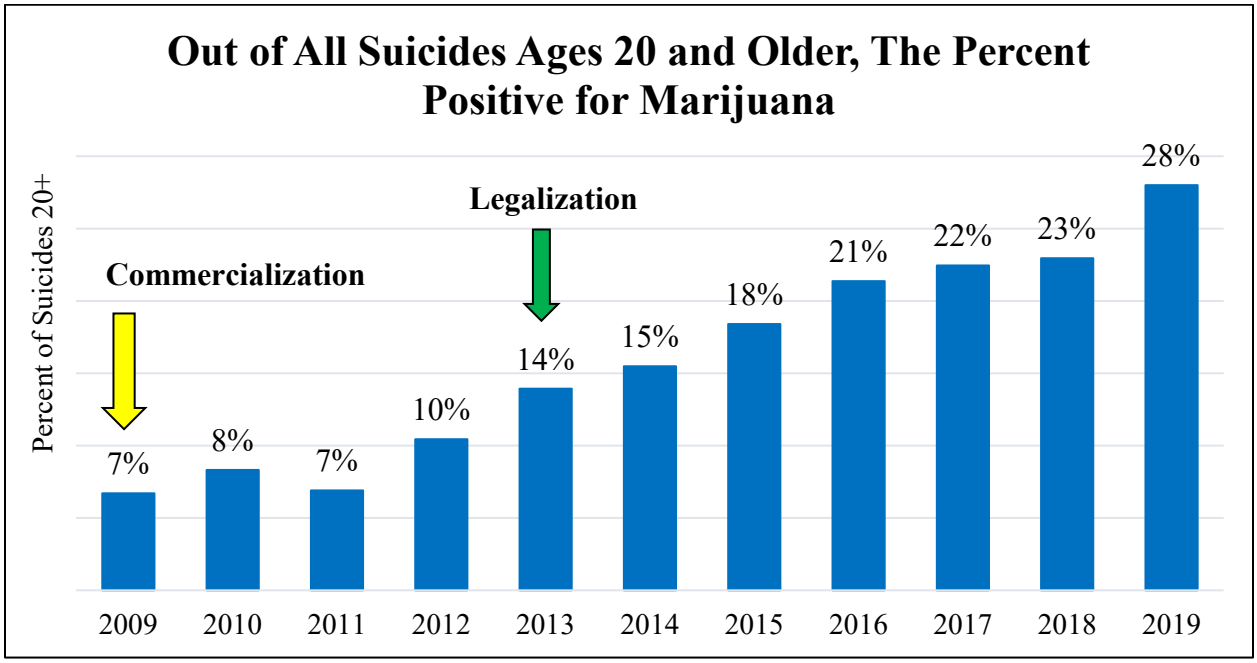
**NOTE:** Toxicology is not available for every suicide. Only those suicides with toxicology available are represented above. Due to an 18-month lap in detailed suicide circumstances and toxicology information from coroner and law enforcement records, 2019 is the most recent year available.

**NOTE:** Toxicology results were available for 62% of suicides from 2019. As a result, there may be underrepresentation in the numbers and percentages presented.




SOURCE: CDPHE, Colorado Violent Death Reporting System

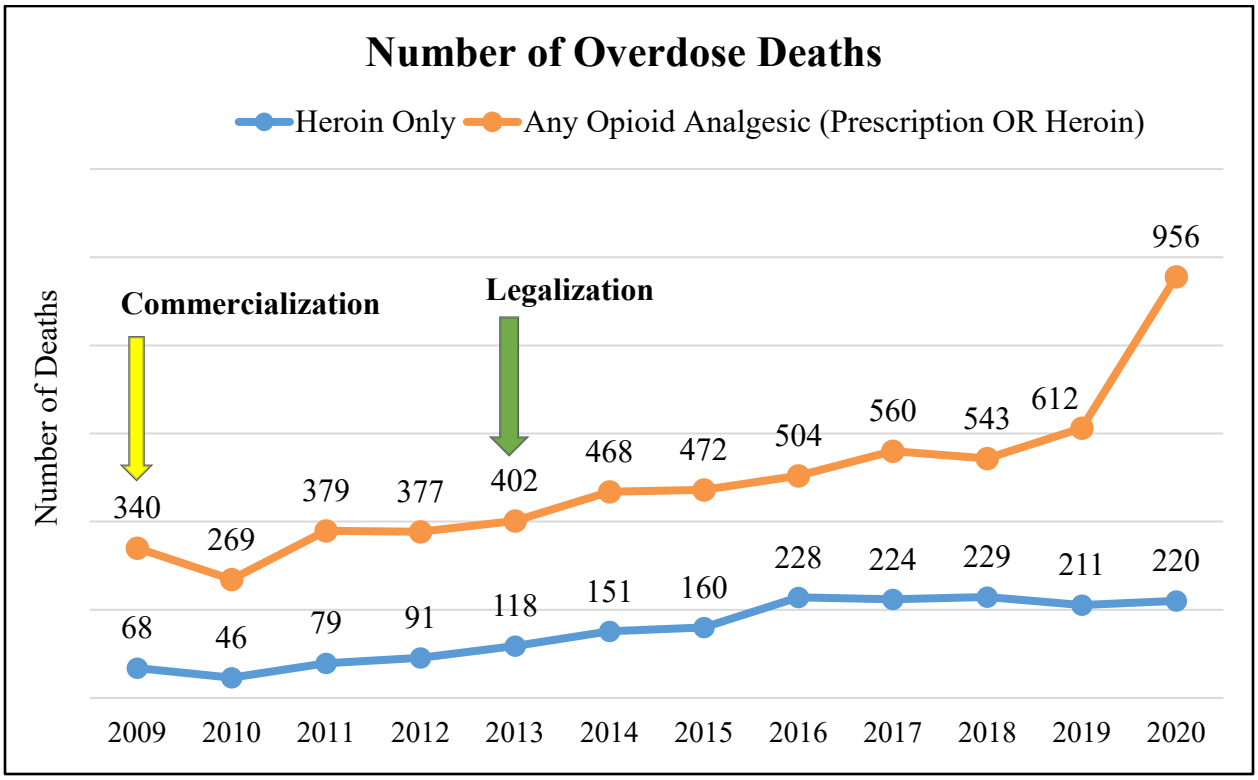
**NOTE:** Toxicology results were available for 62% of suicides from 2019. As a result, there may be underrepresentation in the numbers and percentages presented.




SOURCE: CDPHE, Colorado Violent Death Reporting System

**NOTE:** Toxicology results were available for 62% of suicides from 2019. As a result, there may be underrepresentation in the numbers and percentages presented.

## Colorado Opioid Overdose Deaths




Source: CDPHE, Vital Statistics Program

This data is included in response to reports of declining opioid overdose deaths post-marijuana legalization.

**NOTE:** Heroin cause of death codes include T40.1. Any Opioid Analgesic (prescription or heroin) cause of death codes include T40.1-T40.4

## Public Health Information

### Impact of Licensed and Unlicensed Cannabis Retailers in California

California legalized recreational marijuana in 2016, which resulted in the establishment of unlicensed retailers until the issuance of cannabis retail licenses at the end of 2017. For example, in Los Angeles County, there are 37 licensed retailers compared to 92 unlicensed retailers. This can create problems for regulation as unlicensed locations "have been reported to engage in illegal business practices that can compromise public health and encourage underage use, including selling products that exceed the legal THC limit, selling counterfeit products that contain pesticides, allowing consumption of cannabis in retail stores, not imposing daily limits on purchases, staying open late at night, and selling products that are attractive to youth and lack child-resistant packaging" (Unger et al, 2020).

The results indicated that "neighborhoods with only licensed retailers represented 8% of the California population, neighborhoods with only unlicensed retailers represented 17% of the California population, and neighborhoods with both licensed/unlicensed retailers represented 18% of the California population. Of all neighborhood types, neighborhoods with only unlicensed retailers had the lowest proportion of non-Hispanic whites (25%) and the highest proportion of Hispanics (52%). However, the highest proportions of African Americans (9%), Asian Americans (15%), and individuals living in poverty (19%) were in neighborhoods with both licensed/unlicensed retailers" (Unger et al, 2020). Residents living near unlicensed retailers face greater public health risks due to the lack of regulation of the products and the authors recommend greater enforcement of these dangerous practices.

Source: Unger, J., Vos, R., Wu, J., Hardaway, K., Li Sarain, A., Soto, D., Rogers, C., and Steinberg, J. (2020). *Locations of licensed and unlicensed cannabis retailers in California: A threat to health equity*. Preventive Medicine Reports, 19, 101165-101173.

### Mixed Findings for the Public Health Effects of Medical Marijuana Treatment

Researchers sought to examine the public health effects from the use of medical marijuana on various conditions- amyotrophic lateral sclerosis, autism, cancer, chronic noncancer pain, Crohn's disease, epilepsy, glaucoma, human immunodeficiency virus/AIDS, multiple sclerosis (MS), Parkinson's disease, and posttraumatic stress disorder. Across the 33 states in which medical marijuana is legal, there are over 50 medical conditions that have qualified to be treated through the use of medical marijuana. Nationwide, 6.2% of people use medical marijuana and 3.6% use both medical and recreational marijuana. A systematic review was conducted for studies that took place from May 2016 to October 2019.

The results indicated that "there is conclusive or substantial evidence for cannabis in treating chronic noncancer pain, chemotherapy-induced nausea and vomiting (oral cannabinoids), and MS spasticity symptoms (via oral cannabinoids). In addition, limited evidence was reported for the efficacy of cannabis and cannabinoids for the purposes of increasing appetite and decreasing weight loss in patients with HIV/AIDS, improving clinician measures of MS spasticity symptoms (specifically, via oral cannabinoids), and improving symptoms of PTSD (specifically, with

nabilone)" (Jugl et al, 2021). However, there was insufficient evidence to support evidence of medical marijuana improving glaucoma symptoms. In addition, studies showed neither support or opposition for indications such as "cancer (cannabinoids), cancer-associated anorexia-cachexia syndrome and anorexia nervosa (cannabinoids), symptoms of irritable bowel syndrome (dronabinol), epilepsy (cannabinoids), symptoms associated with ALS, or Parkinson's disease-related symptoms or levodopa-induced dyskinesia (cannabinoids)" (Jugl et al, 2021).

Source: Jugl, S., Okpeku, A., Costales, B., Morris, E., Alipour-Haris, G., Hincapie-Castillo, J., Stetten, N., Sajdeya, R., Keshwani, S., Joseph, V., Zhang, Y., Shen, Y., Adkins, L., Winterstein, A., and Goodin, A. (2021). *A mapping literature review of medical cannabis clinical outcomes and quality of evidence in approved conditions in the USA from 2016 to 2019.* Medical Cannabis and Cannabinoids, 4(1), 21-42.

### Analysis of Pre-Existing Factors and Experiences to Marijuana Use During Pregnancy

Similar to cigarette use during pregnancy, marijuana can have physical effects on the fetus such as anemia, low birth weight, and more time spent in the neonatal intensive care unit after birth. Although women have used marijuana to assist with nausea in the first trimester, some medical professionals have expressed concerns of this practice. A study was conducted and found 29.6% of women used marijuana prior to their first prenatal visit. Additionally, the participants in the study who used marijuana while pregnant were more likely to be unemployed, have low educational attainment, use tobacco and alcohol, and experience depression. The rate of women using marijuana decreased across pregnancy terms.

The authors of this study recruited 101 pregnant participants in Indiana who used the WIC Food and Nutrition Service. The main measures were childhood adversity, interpersonal violence, cigarette use, and marijuana use. Of the participants, 71% experienced childhood adversity like physical abuse, 28% used at least one cigarette a day, and 7% used marijuana during pregnancy. Results indicated a strong association between marijuana use during pregnancy and sexual interpersonal violence.

The researchers concluded "this study suggests that a comprehensive assessment of women's history of exposure to violence provides insight into which women may have the most difficulty with unassisted substance cessation in the prenatal period—above and beyond already known risk factors, including sociodemographic characteristics and pre-pregnancy smoking behaviors. It could be that women who have experienced recent IPV and past childhood adversity may experience a higher general stress burden, making cessation more difficult. Providing better intervention and support around smoking and marijuana cessation for women exposed to violence is therefore a critical need, even among groups that are at a generally high sociodemographic risk" (Miller-Graff et al, 2021).

Source: Miller-Graff, L., Howell, K., Grein, K., and Keough, K. (2021). *Women's cigarette and marijuana use in pregnancy: identifying the role of past versus recent violence exposure*. Journal of Interpersonal Violence, 36(7-8), NP3983-NP3998.

# Section IV: Black-Market

## Some Findings

- RMHIDTA Colorado Drug Task Forces (10) conducted **294 investigations** of black-market marijuana in Colorado resulting in:
    - **168** felony arrests
    - **5.54** tons of marijuana seized
    - **86,502** marijuana plants seized
    - **21** different states the marijuana was destined
- Seizures of marijuana reported to the El Paso Intelligence Center (EPIC) in Colorado **increased 48%** from an average of 174 parcels (2009-2012) when marijuana was commercialized to an average of 257 parcels (2013-2020) during the time recreational marijuana become legalized.

## Definitions by Rocky Mountain HIDTA

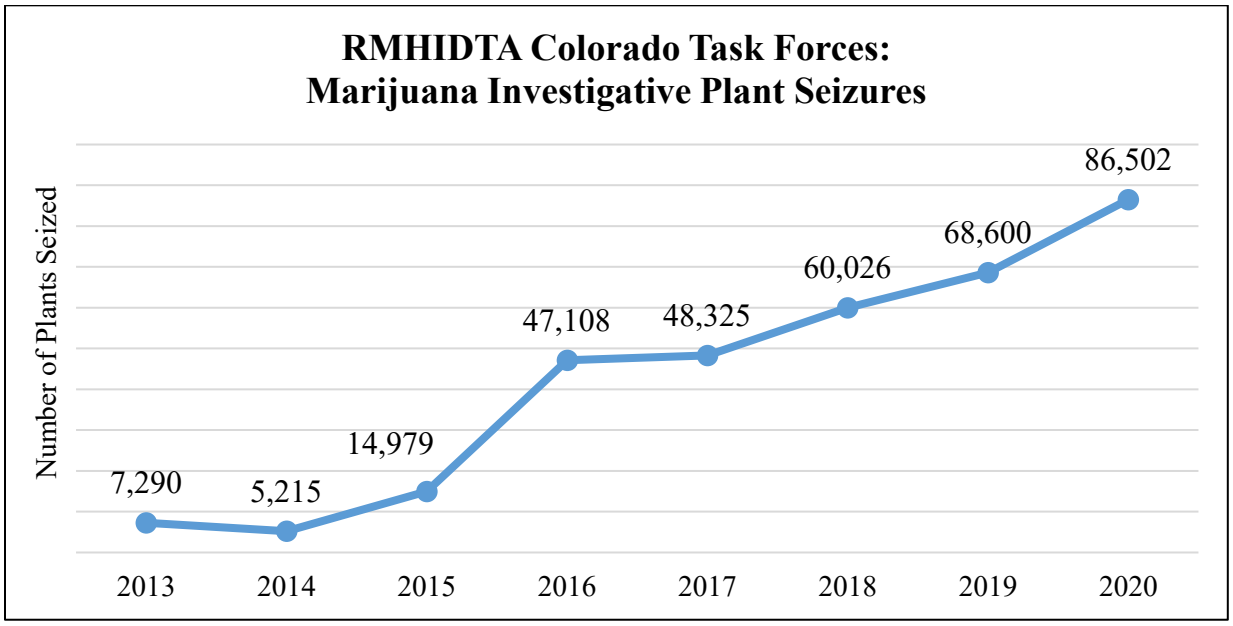
**Colorado Marijuana Investigations:** RMHIDTA Colorado drug task forces investigating individuals or organizations involved in illegally selling Colorado marijuana, both within and outside of the state. These investigations only include those reported by the ten RMHIDTA drug task forces.

**Colorado Marijuana Interdictions:** Interdictions include incidents where drugs are being transported, generally by vehicle or parcel, and the shipment is randomly seized by law enforcement. Interdictions are made by Colorado State Patrol.

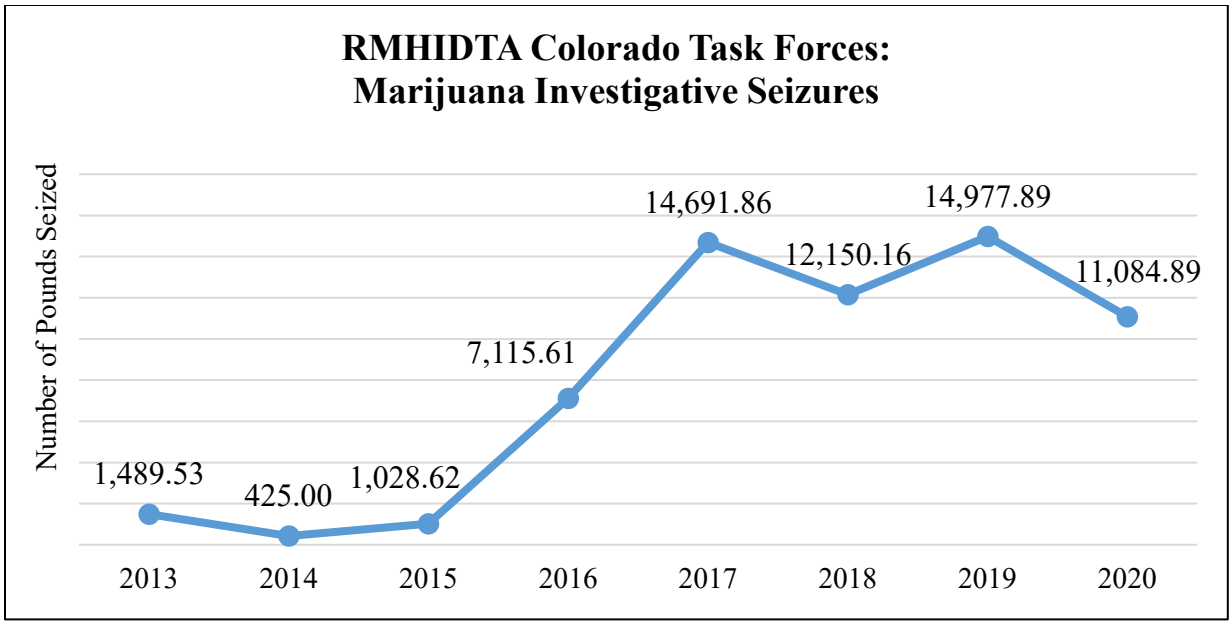
## Task Force Investigations

| Rocky Mountain HIDTA Colorado Task Forces | | | |
|---|---|---|---|
| | **2018** | **2019** | **2020** |
| **Number of Completed Investigations** | 257 | 278 | 294 |
| **Number of Felony Arrests** | 192 | 237 | 168 |
| **Pounds of Bulk Marijuana Seized** | 12,150 (6.1 tons) | 14,978 (7.5 tons) | 11,085 (5.5 tons) |
| **Number of Plants Seized** | 60,026 | 68,600 | 86,502 |
| **Number of Edibles Seized** | 2,894 | 15,025 | 4,202 |
| **Pounds of Hash/THC Concentrate Seized** | 319 | 86 | 626 |
| **Different States to Which Marijuana was Destined** | 25 | 29 | 21 |

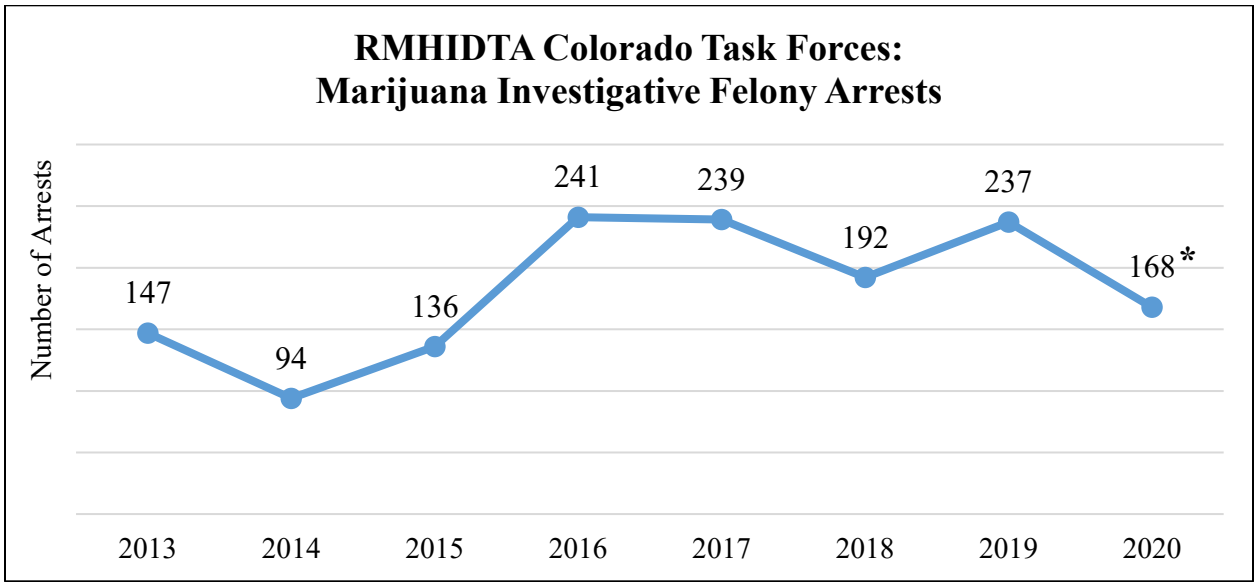
Task force data only includes completed investigations reported by the RMHIDTA Colorado Investigative Drug Task Forces. It is unknown how many of these types of investigations were completed by non-RMHIDTA Colorado drug units or task forces.




SOURCE: Rocky Mountain HIDTA Performance Management Process (PMP) Data



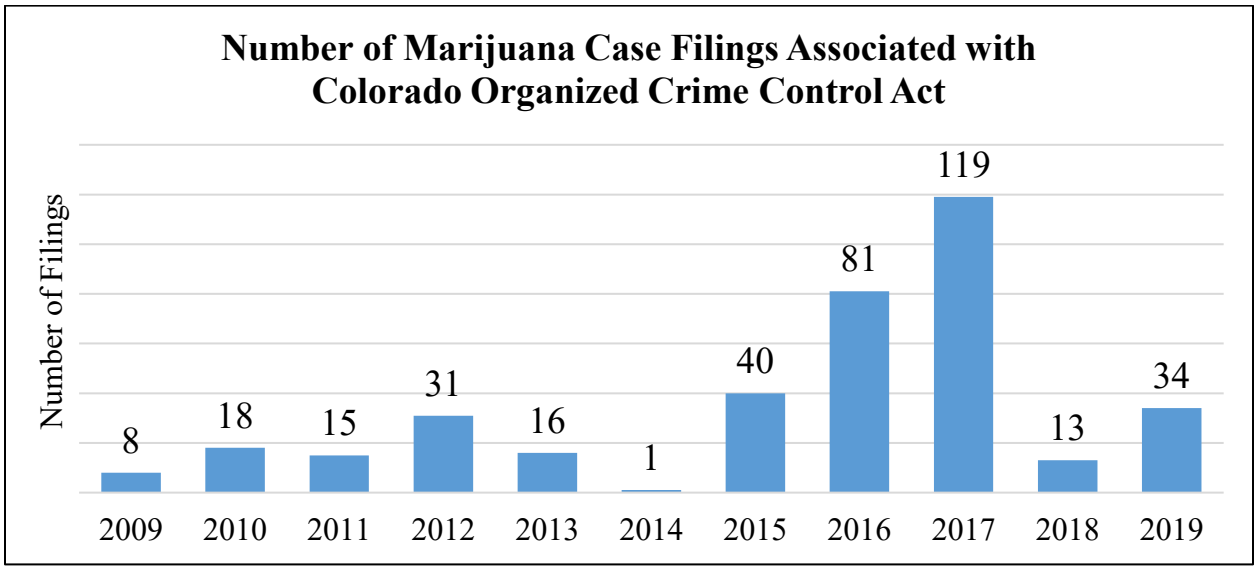

SOURCE: Rocky Mountain HIDTA Performance Management Process (PMP) Data




SOURCE: Rocky Mountain HIDTA Performance Management Process (PMP) Data

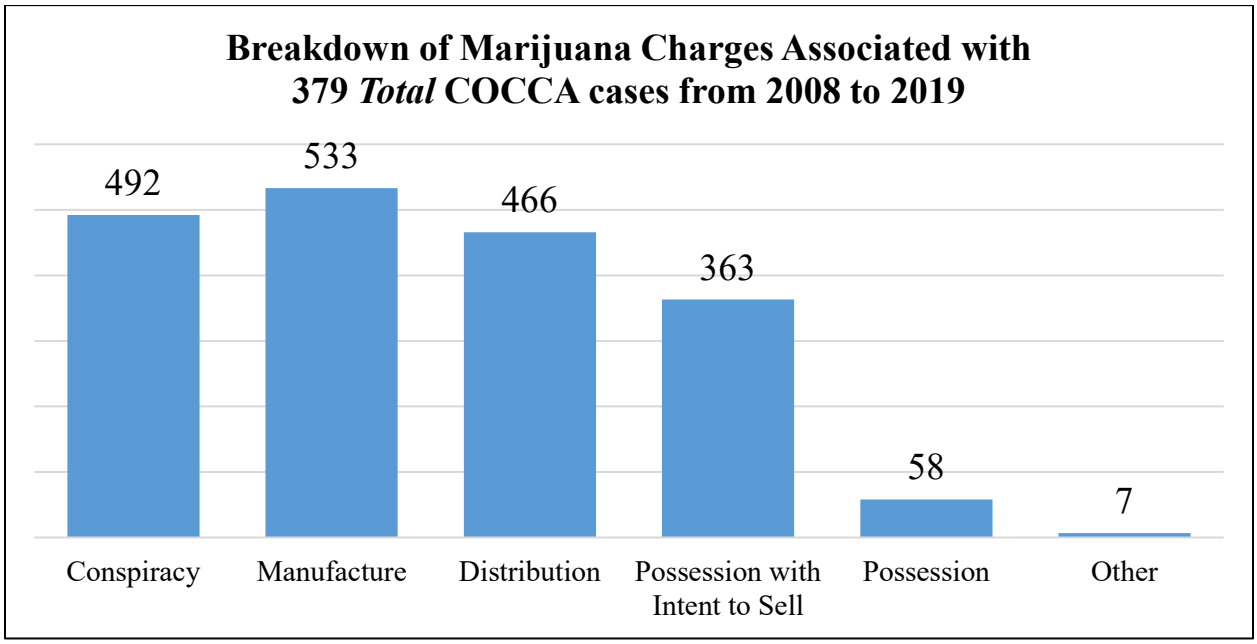
*** NOTE:** In 2020, arrest numbers were impacted by the COVID-19 pandemic's impact of the local, state, and federal judicial systems.

## Colorado Organized Crime Control Act Filings




SOURCE: Colorado Department of Public Safety, Division of Criminal Justice, Office of Research and Statistics

Colorado Organized Crime Control Act (COCCA) filings are conspiracy cases in which there is potential for a larger sentence than other types of drug filings.

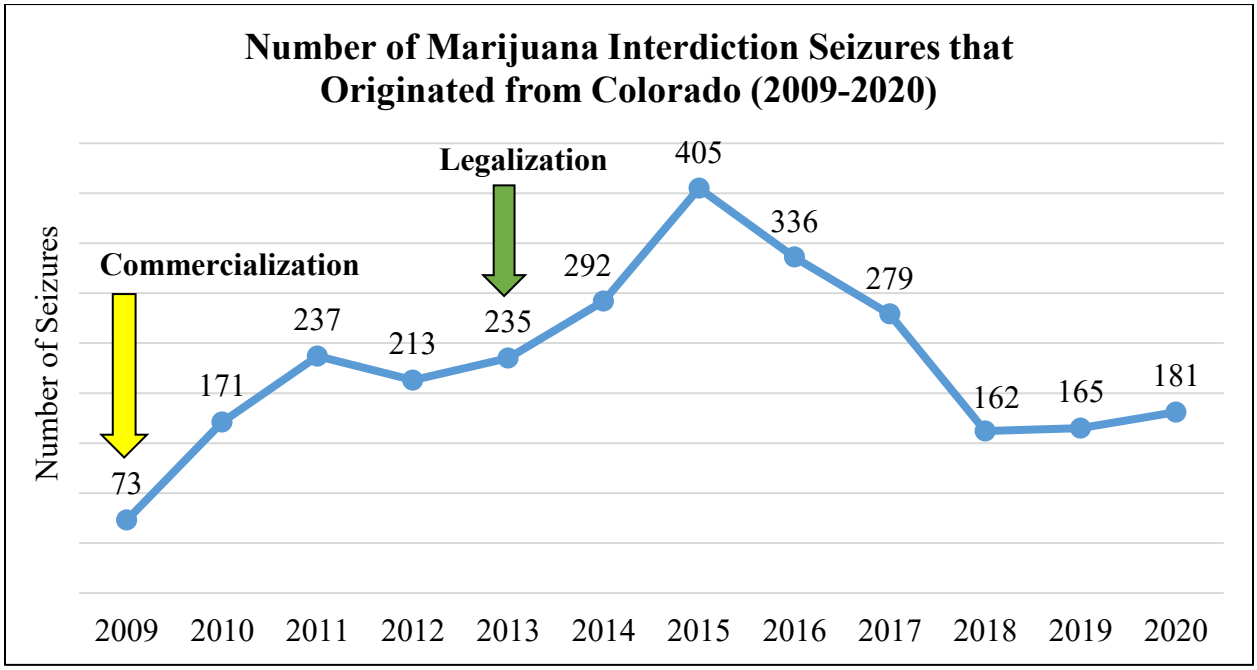



SOURCE: Colorado Department of Public Safety, Division of Criminal Justice, Office of Research and Statistics

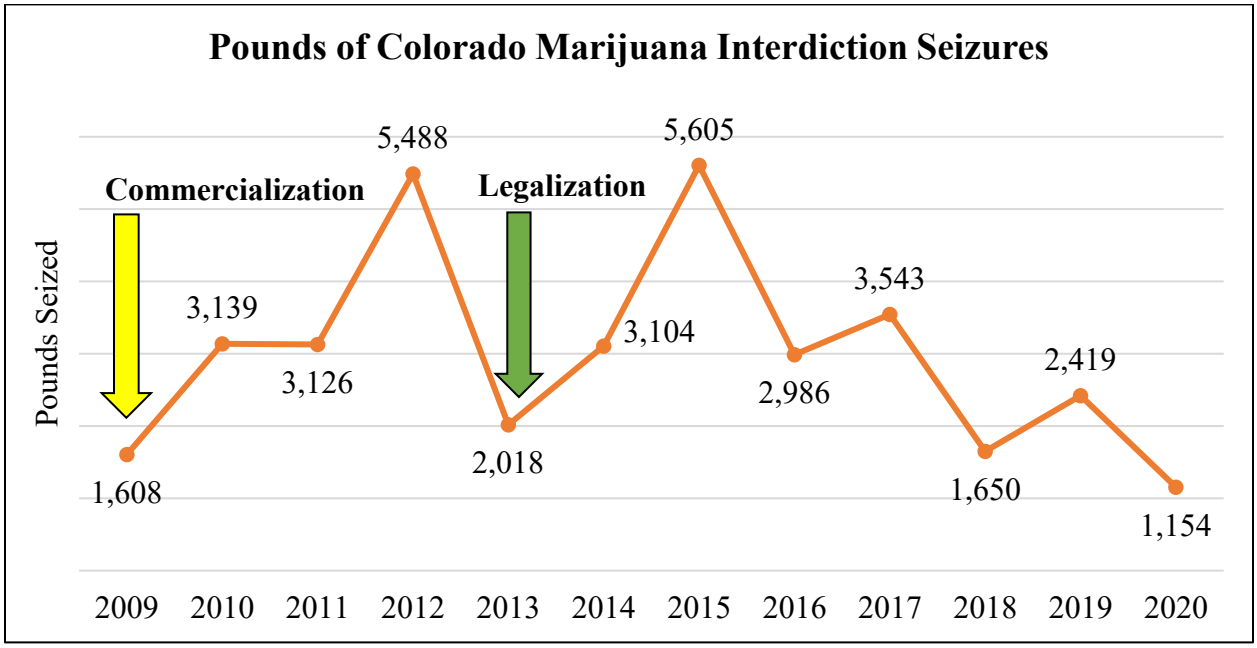
**NOTE:** The breakdown is more than the 379 total COCCA cases as there can be multiple charges associated with each case.

## Highway Interdiction Data

**NOTE:** The charts below only include cases where Colorado marijuana was actually seized and reported. It is unknown how many Colorado marijuana loads were not detected or, if seized, were not reported. These are roadside interdictions voluntarily reported by state highway patrol to EPIC.




SOURCE: EPIC, National Seizure System, as of July 2021




SOURCE: EPIC, National Seizure System, as of July 2021

# Black Market Information

## Black-Market Marijuana Continues After Legalization

Despite the legalization of recreational marijuana in Colorado, the black-market marijuana continues to thrive. In 2019, federal and local law enforcement conducted the largest marijuana bust in the history of Colorado- raids across 250 homes and businesses, dozens of arrests, over 80,000 marijuana plants, and nearly $2.2 million in assets. The base of this operation was buying suburban homes in the Denver Metro area with large, unfinished basements for the cultivation of thousands of plants, operating under the radar in plain sight. Then, the money was laundered through family restaurants by multiple Chinese drug trafficking organizations.

There is difficulty, however, in fully assessing the size of the black market as all the efforts are "underground" and not well known. It has been established by the Drug Enforcement Administration that well-established drug trafficking organizations are able to generate millions of dollars through the sale of up 1,800 pounds of marijuana a year based on 100 plants grown. This problem has resulted in the creation of the Illicit Market Marijuana Team within the Colorado Bureau of Investigations. The solution to combating the black market is split between those who believe law enforcement needs more resources with those who feel greater legalization and lower prices in the legal market could have the most impact.

Source: Tabachnik, S. (2021, June 20). *Black market marijuana grows are popping up faster than law enforcement can take them down. But is legalization the cause?* Denver Post. Retrieved from https://www.denverpost.com/2021/06/20/black-market-marijuana-colorado-chinese-crime-rings/

## Perceptions from Marijuana Users of "Legal" and "Illegal" Markets

While legalization of recreational marijuana is expected to decrease the black market in these states, this is not always the case. After legalization, the retail price of marijuana decreased by 62% in Colorado from 2014 to 2017. While the prices also dropped in Washington and Oregon, it was a lower decline than Colorado. Some studies have indicated that buyers may be willing to pay a higher price for a legal purchase as well as high quality products. For some buyers though, the pre-existing relationship with their supplier may continue to connect them to the illegal market.

The results of the online survey demonstrated a positive perception of the legal marijuana market in these states by participants. Additionally, researchers found "respondents, including frequent cannabis consumers, perceived legal cannabis to be of equal or greater quality and convenience, and as safer to buy and use than cannabis from illegal sources. The one notable exception was price: legal cannabis products were perceived as more expensive than illegal products, particularly among frequent cannabis users. The prevalence of this belief suggests that price may in fact be a barrier to transitioning to the legal market; however, it is also possible that higher prices may be tolerated given that legal cannabis products may be perceived as higher quality, safer and more convenient to access. However, frequent users may be able to obtain what they perceive as high-quality products at lower prices through established relationships with unauthorized dealers. Price perceptions were generally more favorable in states with a longer time with retail sales: Colorado, Washington, and Oregon" (Fataar et al, 2021).

Source: Fataar, F., Goodman, S., Wadsworth, E., and Hammond, D. (2021). *Consumer perceptions of "legal" and "illegal" cannabis in US states with legal cannabis sales.* Addictive Behaviors, 112, 106563-106569

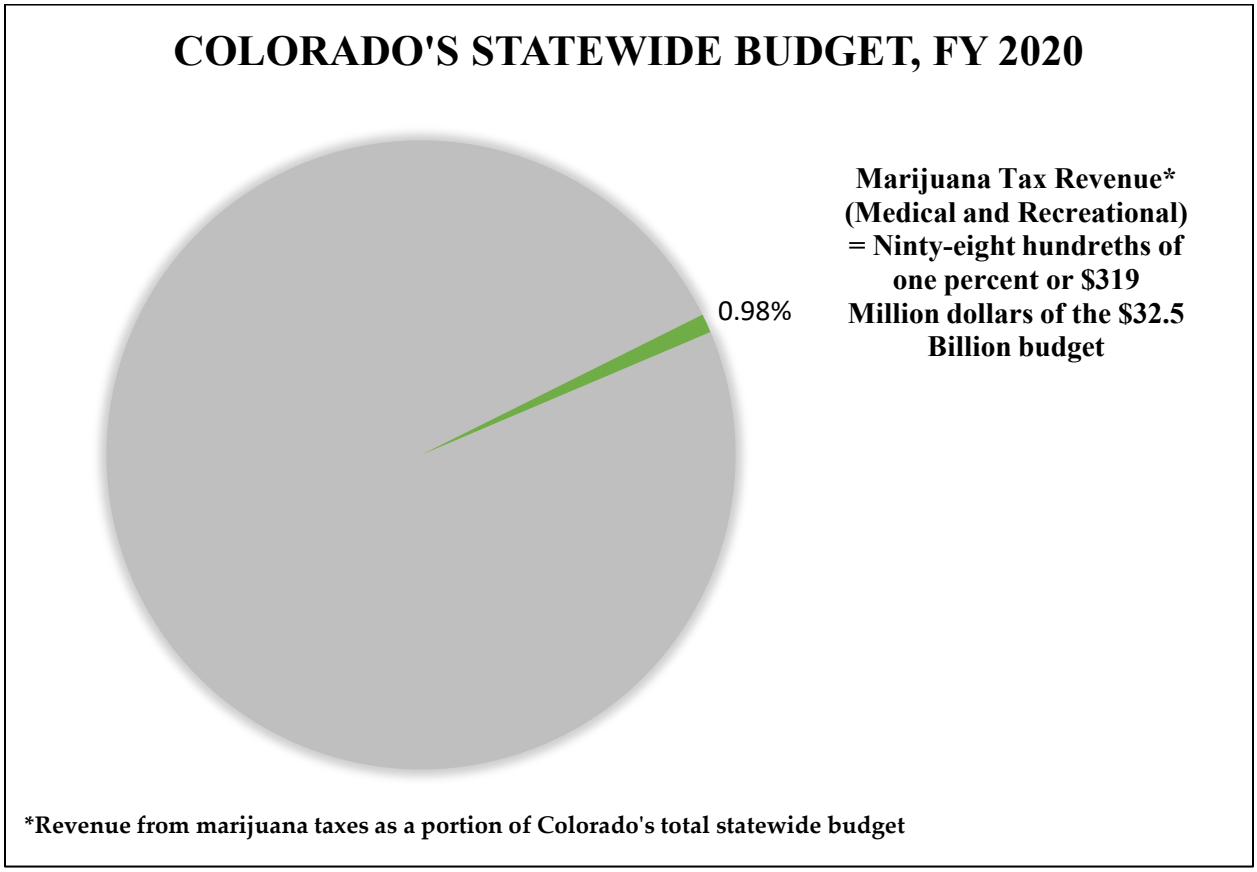
# Section V: Societal Impact

## Some Findings

- Marijuana tax revenue represent approximately **0.98%** of Colorado's FY 2020 budget.
- **66%** of local jurisdictions in Colorado have banned medical and recreational marijuana businesses.

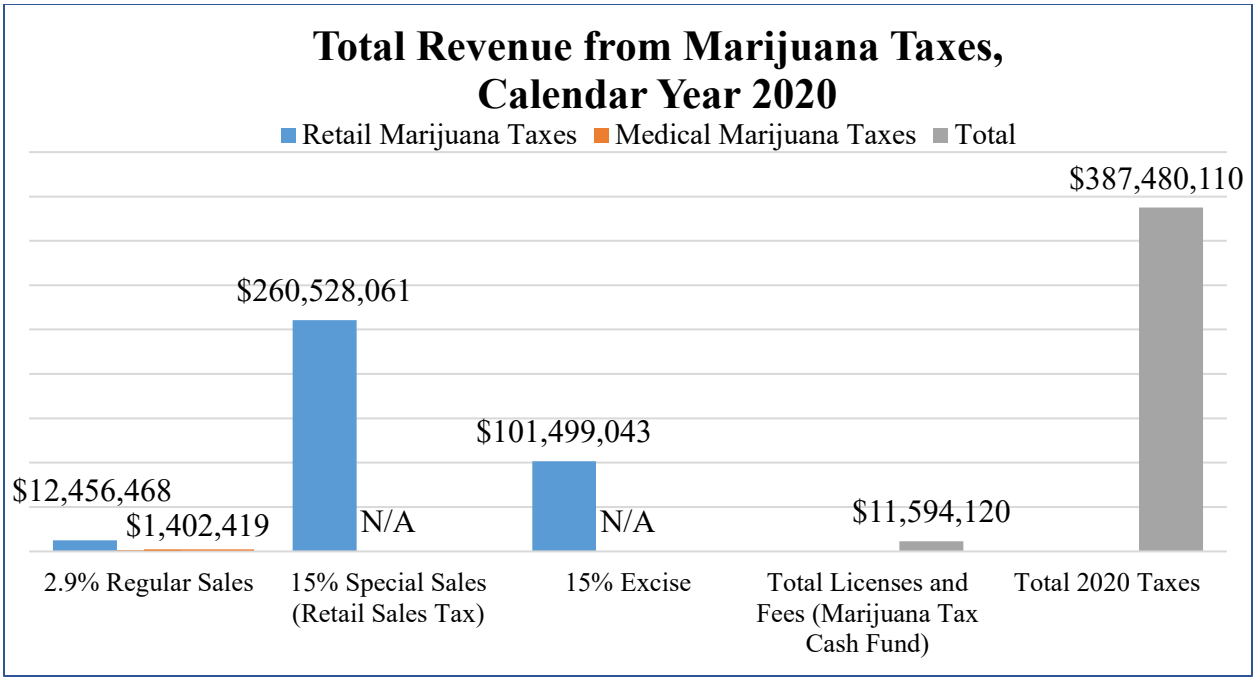
For more detailed marijuana-related crime information, please visit https://cdpsdocs.state.co.us/ors/docs/reports/2021-SB13-283_Rpt.pdf.

## Tax Revenue



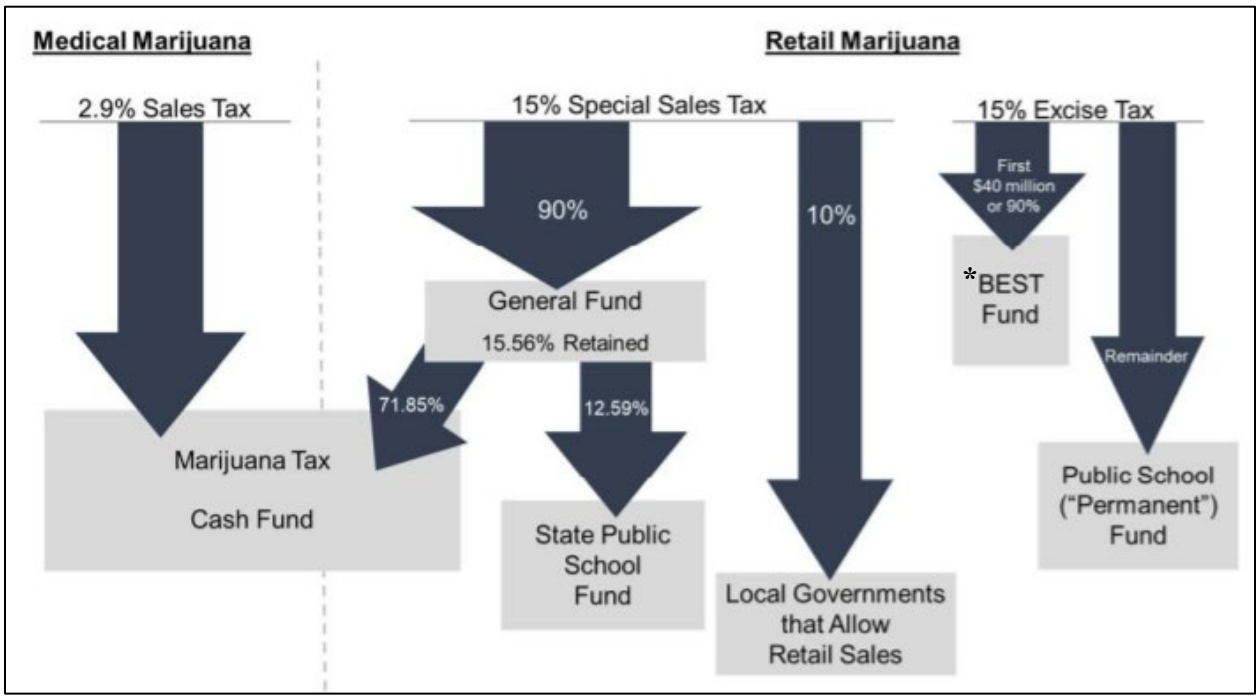

SOURCE: Governor's Office of State Planning and Budgeting

***NOTE:** Revenue from marijuana taxes as a portion of Colorado's total statewide budget.




SOURCE: Colorado Department of Revenue

**NOTE:** Figures do not include any city taxes; the state does not assess or collect those taxes.
Per §39-26-729, C.R.S., retail marijuana, retail marijuana products, and retail marijuana concentrates are exempt from the 2.9% regular sales tax; however, products that do not contain marijuana (i.e., accessories) are still subject to the 2.9% regular sales tax. Licenses and fees include the following categories: retail marijuana, individual, others, and collections not yet allocated.




SOURCE: Joint Budget Committee Appropriations Report Fiscal Year 2019-2020

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## Crime

| Marijuana-Related Arrests in Colorado | | | |
|---|---|---|---|
| | **Crimes Against Person** | **Crimes Against Property** | **Crimes Against Society** |
| **2009** | 187 | 426 | 10,388 |
| **2010** | 172 | 416 | 10,026 |
| **2011** | 167 | 450 | 10,576 |
| **2012** | 192 | 441 | 11,365 |
| **2013** | 45 | 216 | 5,358 |
| **2014** | 60 | 273 | 5,689 |
| **2015** | 55 | 253 | 5,560 |
| **2016** | 69 | 327 | 5,126 |
| **2017** | 83 | 297 | 4,983 |
| **2018** | 74 | 310 | 4,641 |
| **2019** | 70 | 268 | 3,704 |
| **2020** | 65 | 188 | 2,140 |

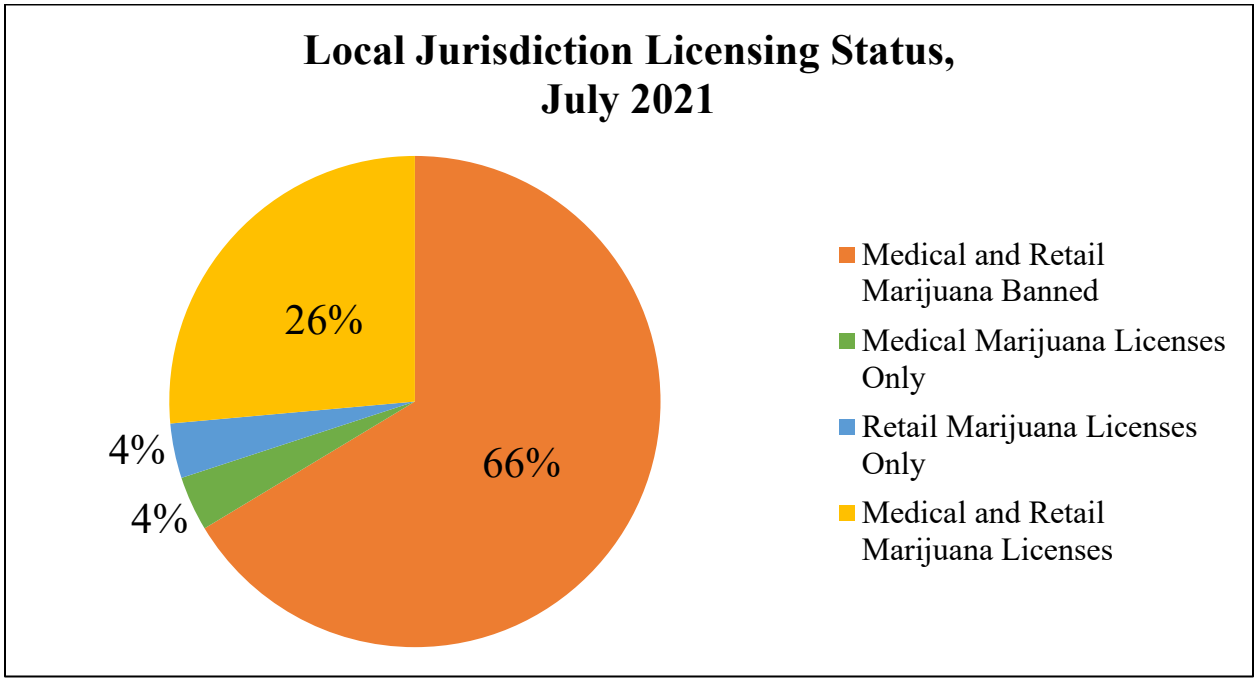
SOURCE: Colorado Bureau of Investigations Crime Statistics

**NOTE:** In 2020, arrest numbers were impacted by the COVID-19 pandemic's impact of the local, state, and federal judicial systems.

## Local Response

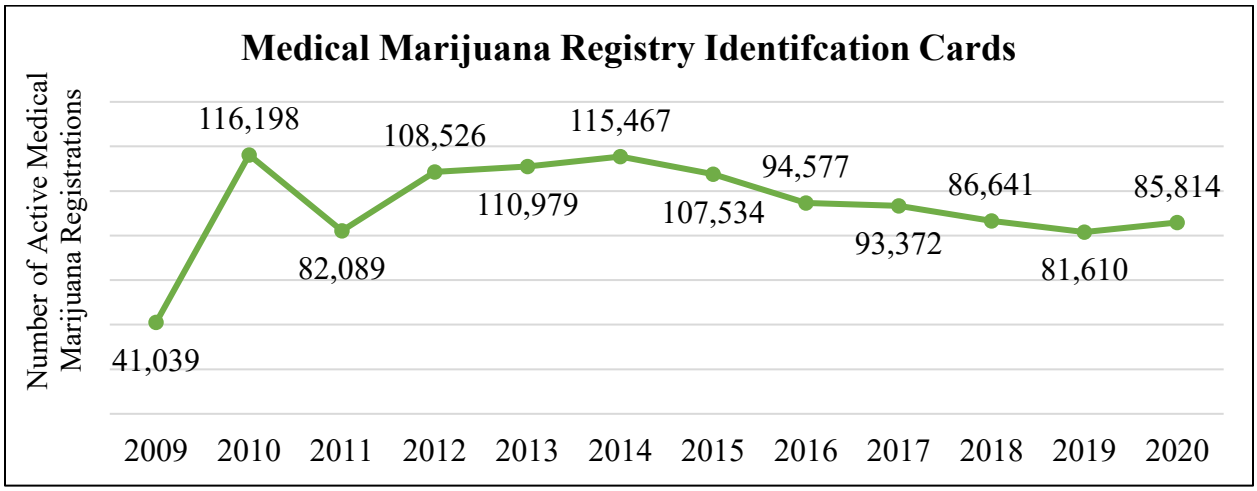
| Status of Local Jurisdictions Reporting Marijuana Licensing as of July 12, 2021 | |
|---|---|
| | **Number of Jurisdictions** |
| **Medical and Retail Marijuana Banned** | 221 |
| **Medical Marijuana Licenses Only** | 12 |
| **Retail Marijuana Licenses Only** | 12 |
| **Medical and Retail Marijuana Licenses** | 88 |
| **Total** | 333 |

SOURCE: Colorado Marijuana Enforcement Division




SOURCE: Colorado Marijuana Enforcement Division

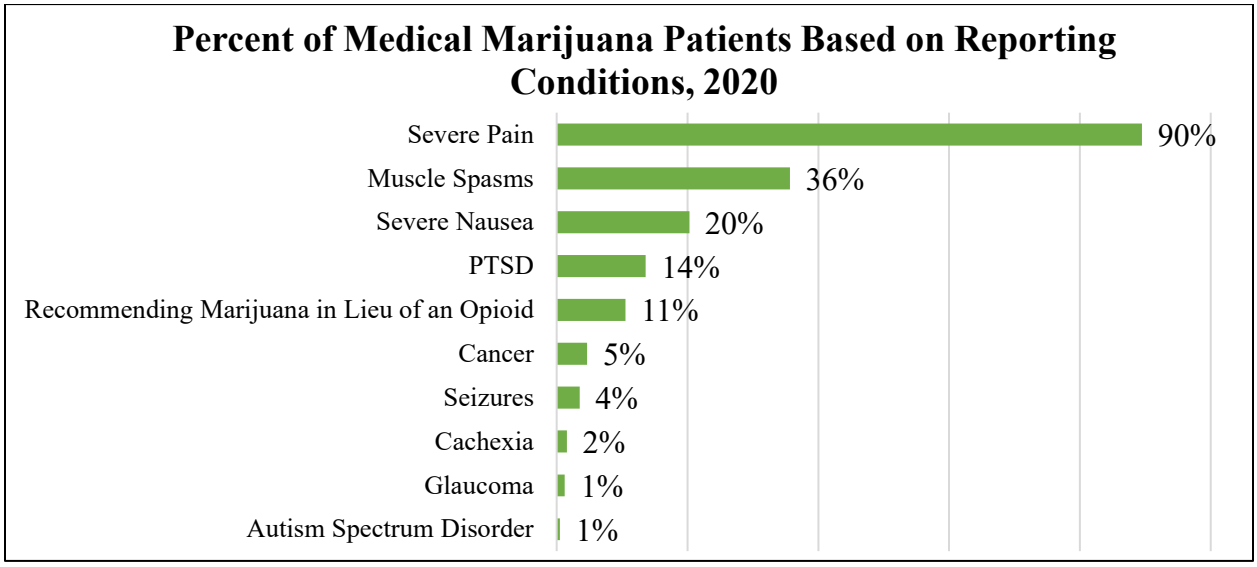
## Medical Marijuana Statistics




SOURCE: Colorado Department of Public Health and Environment (CDPHE)

**Profile of Colorado Medical Marijuana Cardholders:**

- Demographics of cardholder:
  - 61% male with an average age of 41 years
  - 39% female with an average age of 44 years
  - 0.32% between the ages of 0 and 17
  - 4.57% between the ages of 18 and 40 and 22.81% between the ages of 21 and 30
- Top five counties in Colorado- 63.1% of total patients:
  - El Paso County- 28.6%
  - Denver County 13.0%
  - Jefferson County- 9.5%
  - Arapahoe County-7.7%
  - Adams County- 6.3%

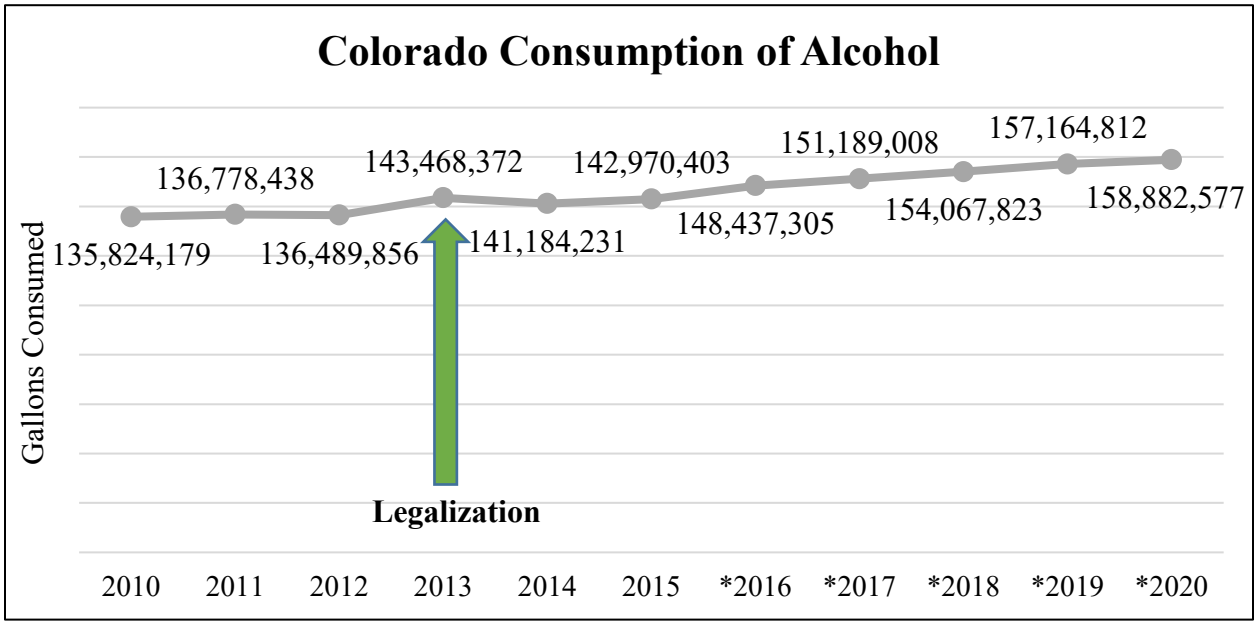



SOURCE: Colorado Department of Public Health and Environment (CDPHE)

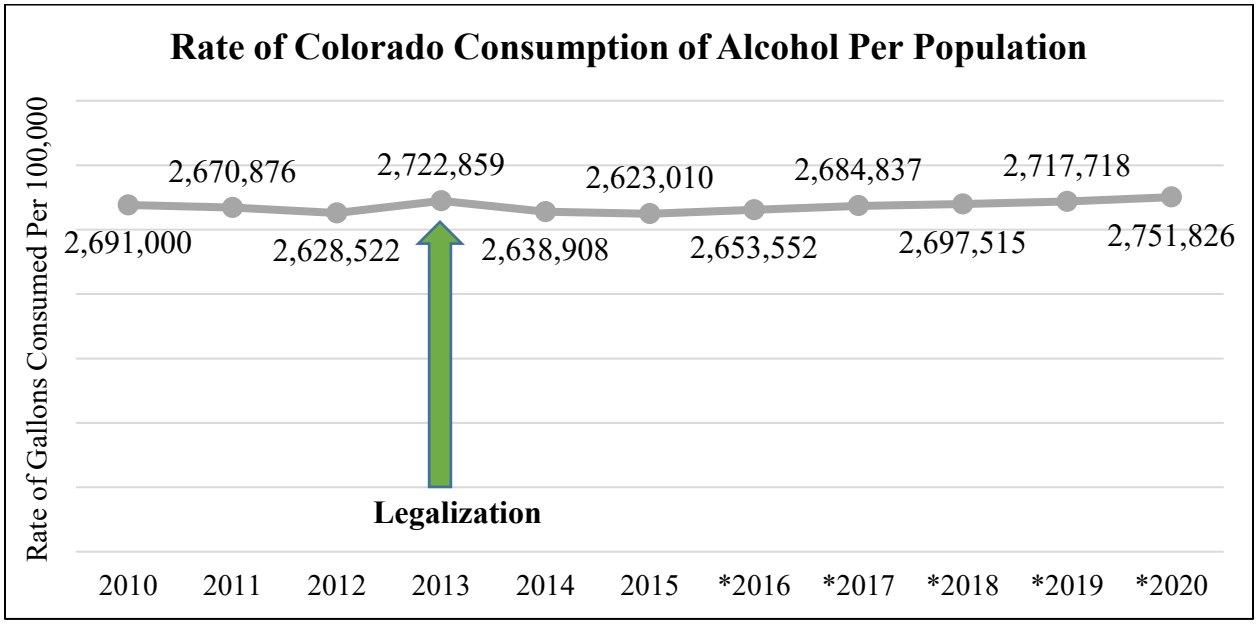
**NOTE:** Percentages do not add to 100% as some patients report more than one debilitating or disabling medical condition.

## Alcohol Consumption

- It has been suggested that legalizing marijuana would reduce alcohol consumption. Thus far that theory is not supported by the data.




SOURCE: Colorado Department of Revenue, Colorado Liquor Excise Tax




SOURCE: Colorado Department of Revenue, Colorado Liquor Excise Tax

***NOTE:** Data from 2009 was not available at this time**.** Calculations of total gallons consumed and the rate of consumption slightly differed from 2010-2015 compared to 2016-2020.

# Societal Impact Information

## Recreational Marijuana Dispensaries Impact on Property Values in Washington

A study in Washington was completed to assess the impact of marijuana legalization on property values throughout the state. The authors sought to better understand the local level impacts of the expansion of marijuana businesses in neighborhoods throughout Washington. This study utilized data from property sales and retailers statewide to compare the prices in neighborhoods before and after the opening of a recreational marijuana business. One factor that the authors hypothesize may be the source of the decrease in prices is the perception that dispensaries result in more crime in the area. However, existing evidence is unclear of this relationship.

The study resulted in an estimation that while there was not a statistically significant impact on overall crime reports, nuisance crimes around dispensaries increased but drug-related crimes decreased. "Increased nuisance related crime, therefore, may be one contributing factor to depressed home prices in areas near dispensaries" (Thomas and Tian, 2021). When examining the final results, "a marijuana dispensary decreases property values by 3%–4% for homes within 0.36 miles of the retailer, a decline of about $10,000-$15,000 based on the average home values in Washington. These results imply a high willingness to pay to avoid the local negative externalities. […] While we find limited evidence of a general decrease in overall crime and statistically significant evidence of a decrease in drug-related reports, we estimate that nuisance-related crime reports increase by about 4.2 per 10,000 census tract residents. Moreover, we find evidence that violent crime slightly increases in census tracts adjoining those where dispensaries locate. Our findings suggest that crime risk could be a contributing factor to the negative price impacts of dispensaries, but that is likely only a partial explanation" (Thomas and Tian, 2021).

Source: Thomas, D. and Tian, L. (2021). *Hits from the bong: The impact of recreational marijuana dispensaries on property values.* Regional Science and Urban Economics, 87, 103655-103675.

## Crime in Colorado and Washington State Post-Legalization

While some believed that crimes, particularly marijuana-related crimes, would decrease after the legalization of recreational marijuana, the preliminary data suggested a significant increase in crime rates. The authors created a study examining the UCR data from 1999 to 2016 in Colorado and Washington at a monthly crime rate compared to control states in which recreational marijuana was not legal. In the results, there was little effect on overall crime rates in Colorado and Washington post-legalization, particularly on violent crimes. However, there was a statistically significant increase in larceny in Colorado immediately after legalization as well as an increase in aggravated assaults, burglary, and overall property crime in Washington. This trend dissipated in recent years and appeared to have been short-lived. Overall, the authors concluded there was "virtually no statistically significant long-term effects of recreational marijuana legalization or retail sales on violent or property crime rates, except for a significant decline of burglary rates in Washington. There were some immediate increases in crime at the point of legalization, but these did not result in long-term effects" (Lu et al, 2021).

Source: Lu, R., Willits, D., Stohr, M., Makin, D., Snyder, J., Lovrich, N., Meize, M., Stanton, D., Wu, G., and Hemmens, C. (2021) *The cannabis effect on crime: time-series analysis of crime in Colorado and Washington state.* Justice Quarterly, 38(4), 565-595.

## Impact of Marijuana Legalization on Colorado Clearance Rates

One of the arguments in favor of the legalization of marijuana was police resources would be freed up with less marijuana-related crimes. On the other side of the argument, some believed areas around dispensaries would become a hub for crime, both violent and property, due to the large amount of cash associated with these locations. This study examined violent and property crimes from 2000 to 2017 in Colorado and Washington and compared the crime rates to states where marijuana was not legalized. The results indicated that violent crime clearance rates were not affected by the legalization of marijuana in Colorado. Property crime clearance rates were also not impacted in the long-term in Colorado but instead only for one year after legalization. Similar results were found in Washington when these crimes examined in these two categories compared year-to-year. The authors speculate if the legalization of marijuana has shifted the focus from law enforcement to investigating marijuana-related DUI cases for example rather than clearing crimes.

Source: Jorgensen, C. and Harper, A. (2020). *Examining the effects of legalizing marijuana in Colorado and Washington on clearance rates: a quasi-experimental design.* Journal of Experimental Criminology, 1-22.

ZONING PRACTICE AUGUST 2016

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# PRACTICE MARIJUANA LAND USE



# Regulating Medical and Recreational Marijuana Land Use

*By Lynne A. Williams*

Twenty-five states and the District of Columbia allow the cultivation, sale, and use of medical marijuana.

In addition, four states—Colorado, Washington, Oregon, and Alaska—have legalized the cultivation, possession, use, and sale of recreational marijuana, and the District of Columbia has legalized cultivation, possession, and use. In 2016, there will likely be at least five, if not more, states that will vote on the legalization of recreational marijuana, including Arizona, California, Massachusetts, Nevada, and Maine. (For information about individual states and the status of marijuana laws, see norml.org/states.)

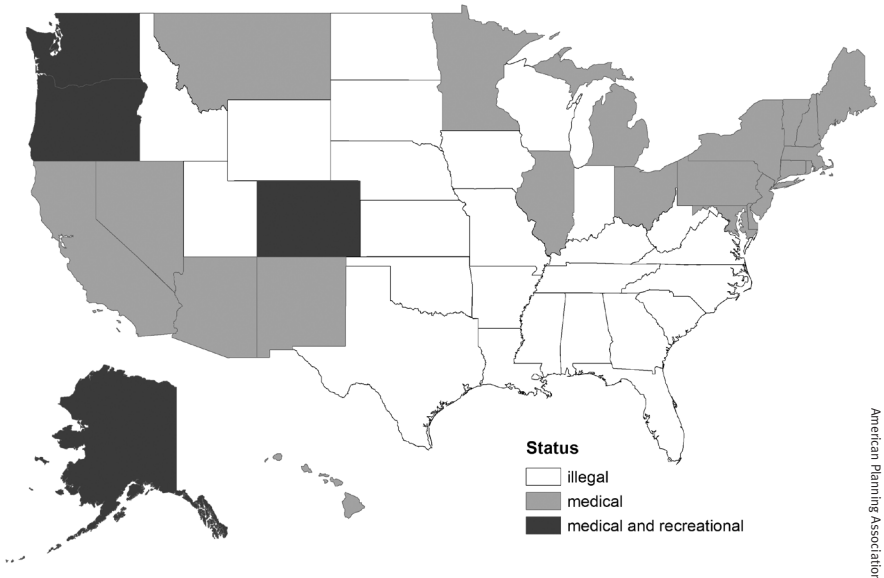
While the legalization of medical marijuana created some land-use issues, for the most part they are simpler and less urgent compared with issues related to the legalization of recreational uses. California failed to even enact a regulatory scheme until late 2015, 19 years after legalizing medical marijuana. During that time, so-called dispensaries proliferated but towns and cities were slow to address potential land-use issues, given the lack of guidance by the state. Maine, which legalized medical marijuana in 1999, did not even allow dispensaries until 2009. So for 10 years Maine's patients got their medicine from a system of individual caregivers, most of whom operated out of their homes or farms and were limited to serving five or fewer patients. However, the legalization of recreational marijuana in a number of states, with more to follow—combined with the possibility of new dispensaries in some states—has spurred towns and cities to begin to discuss land-use issues for marijuana businesses.

Currently, towns, cities, and counties use a wide variety of regulatory tactics to control marijuana businesses and activities, and those tactics break down into two broad groups—business licensing standards and zoning. With respect to medical marijuana uses, most of the focus has been on regulating the siting of dispensaries and cultivation operations through zoning. The types of regulatory schemes established in the newly legalized recreational marijuana states range from localities "opting out" to making a marijuana business a "use by right" in certain districts, with a required permit. Most tactics use both zoning and business licensing regulations, often in combination. For example, a business licensing requirement can be overlaid on a zoning ordinance, so that if a marijuana business use is an allowed use, the business must still obtain a license, and that process would address specific aspects of the business, such as safety issues, noise, odors, parking, traffic, and other impacts.

This article reviews local approaches to regulating medicinal and recreational marijuana. While both medical and recreational marijuana businesses are part of a new economic sector that involves land uses and businesses, heretofore unseen in many communities, there are multiple options that can be implemented. The following sections discuss how these options are being implemented both in jurisdictions that have legalized recreational marijuana as well as in those that have only legalized medical marijuana.

## FEDERAL PREEMPTION

Marijuana, whether medical or recreational, continues to be listed on Schedule I of the U.S. Controlled Substances Act (CSA) and is therefore still illegal under federal law. However, the U. S. Department of Justice (DOJ), most recently in 2013, has advised federal prosecutors to refrain from using scarce federal drug enforcement resources to prosecute individuals who are in compliance with state law (Cole 2013).




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As of July 2016, 25 states and the District of Columbia have legalized medical marijuana. Four of those states have also legalized recreational marijuana sale and usage.

This advisory from the DOJ reduced the potential conflict between the federal government and those states that have legalized recreational or medical marijuana. And reducing conflict between the states and the federal government will consequently constrain the ability of a local jurisdiction to successfully ban marijuana businesses based on an argument that such businesses are in violation of the CSA.

Division One of the Arizona Court of Appeals is currently considering a case in which Maricopa County attempted to prevent White Mountain Health Center, a dispensary, from opening (*White Mountain Health Center, Inc. v. Maricopa County et al.,* 1 CA-CV 12-0831). The county argued that denying a dispensary a permit to open is legally permissible since such a business violates the CSA. However, while states can regulate marijuana, they are not required to enforce federal law. In this case, Arizona has legalized medical marijuana and regulates dispensaries, and White Mountain argues that the county's denial of a permit was impermissible in that it conflicted with state law. The *White Mountain* decision will likely be issued soon.

In February 2014, the Michigan Supreme Court declared a city zoning ordinance in Wyoming, Michigan, void because it prohibited uses that were permitted under state law (*Ter Beek v. City of Wyoming,* 846 N.W.2d 531, 495 Mich. 1 (2014)). The plaintiff was a qualifying patient who wished to grow and use marijuana for medical purposes in his home. The town of Wyoming had passed an ordinance prohibiting the activity. The court held that a municipality is precluded from enacting an ordinance if the ordinance directly conflicts with the state's statutory scheme of regulation, in that the ordinance permits what the statute prohibits, or prohibits what the statute permits. In this case, the Michigan Medical Marihuana Act permitted qualified patients to grow their own medicine; therefore, the city could not prohibit such a practice.

## MEDICAL MARIJUANA REGULATORY MODELS

The first medical marijuana statute was passed 20 years ago, but in many ways it is only within the last few years that those early statutes have been refined on the local jurisdictional level. Some jurisdictions were required by newly passed state regulations to create local ordinances, such as Humboldt County, California, and the municipalities within the county, while other local jurisdictions, including Detroit, took the initiative following a period of confusion over the definition and regulation of dispensaries.

### Humboldt County, California

Earlier this year, California's Humboldt County passed one of the most comprehensive land-use ordinances to date regulating medical marijuana production. The Commercial Medical Marijuana Land Use Ordinance (CMMLUO) passed the Board of Commissioners unanimously, a testament to the many disparate groups coming together to draft the ordinance (Ordinance No. 2544). Much of Humboldt County is unincorporated land, and although there are municipalities in the county, much of the cultivation is done on unincorporated land.

The CMMLUO includes two parts: one regulating the coastal zone and the other regulating inland cultivation. Both zones are regulated according to a list of factors, including whether the applicant is a new or existing grower, the parcel size, the cultivation area size, and whether the proposed grow operation will be outdoors, indoors, or mixed-light, meaning that both natural light and artificial light will be used.

The goal of the CMMLUO is very clear: "to limit and control such cultivation in coordination with the State of California." Although the Compassionate Care Act was passed in 1996—the first medical marijuana law in the country—the state failed to enact medical marijuana regulations until late 2015. Humboldt County was proactive in enacting a countywide ordinance to immediately comply with state law. The ordinance specifically defines exactly what it is regulating. "This section applies to all facilities and activities involved in the Commercial Cultivation, Processing, Manufacture or Distribution of cannabis for medical use, in the County of Humboldt" (CMMLUO §55.4.9). The type of approval necessary for licensing is dependent on the size and current zoning classification of the parcel, as well as the type of state license that the applicant is required to obtain.

The Humboldt municipalities of Arcata and Eureka have also passed ordinances related to cultivation. Arcata essentially permits only small-scale and home cultivation, although those with special needs may request more grow space (Land Use Code §9.42.105). It also enacted a 45 percent tax increase on residences that use more than 600 percent of the energy baseline, with the aim of discouraging indoor growing (Municipal Code §2628.5). Eureka passed a much more restrictive and detailed ordinance, only allowing licensed patients to grow and process medical cannabis within a 50-square-foot area in their residence (§158.010(A)). The ordinance also states that such cultivation will constitute neither a home occupation nor an ancillary use (§158.010(C)). Patient marijuana processing is likewise narrowly regulated (§158.011).

### Detroit

Detroit recently passed a medical marijuana ordinance requiring dispensaries, now called

**Medical Marijuana Terminology**

It is far easier to define recreational marijuana uses by the vocabulary of traditional businesses, such as agricultural, retail, food processing, and the like, than it is to define medical marijuana uses. There is no national consensus on terminology in the medical marijuana arena. In fact, the word "dispensary" has multiple meanings depending on location. In most, but not all, of the medical marijuana states, the term "dispensary" means the entity that distributes medicinal marijuana to qualified patients. This may be a large facility that also cultivates the marijuana (e.g., Maine and Michigan) or a small shop that purchases from independent growers (e.g., California and Arizona). The entity can be a collective, nonprofit, for-profit business, or any other form of entity legal under state law.

In certain states the caregiver system, another form of cultivation and distribution, exists side by side with the dispensary system. Caregivers are state-licensed individuals who grow, process, and distribute medicinal marijuana to a limited number of qualified patients. Caregivers are regulated under state law, but have only recently been subject to land-use regulation. (For a chart detailing the distribution laws under each state that has legalized medicinal marijuana, see tinyurl.com/y2tyn7g.)

Caregiver Centers, to apply to the city for a license (Ordinance 30-15). A subsequent zoning amendment added Caregiver Centers as permissible uses in specific zones and explicitly prohibits them in the Traditional Main Street Overlay and the Gateway Radial Thoroughfare Districts (Ordinance 31-15). Detroit seeks to distribute the Caregiver Centers rather than cluster them in a few areas, since they cannot be less than 1,000 feet from each other nor closer than 1,000 feet from a park, religious institution, or business identified as a controlled use, such as topless clubs and liquor stores. If a business is within 1,000 feet of any of these land uses, the board of zoning appeals allows for a variance process that could still allow the facility to establish or continue to operate. The city's Buildings, Safety, Engineering, and Environmental Department can also approve variances.

If, however, the parcel in question is less than 1,000 feet from the city-defined Drug Free Zones, that option is not available. No variance is allowed for parcels falling into these buffer zones, and there are many such buffers zones. The federal Drug Free School Zone applies just to libraries and K–12 schools. However, the Detroit version includes arcades, child care centers, youth activity centers, public housing, outdoor recreation areas, and all educational institutions, including all of their properties. In the industrial districts, the centers can be less than 1,000 feet from each other to allow for some clustering, and the buffer zone from residential areas is waived.

An individual who cultivates marijuana in a residence in Detroit is required to register as a home-based occupation. The city's licensing standards state: "Except for home occupations . . . no person shall dispense, cultivate or provide medical marijuana under the Act except at a medical marihuana caregiver center" (§24-13-4). That registration process involves inspection and approval by numerous city agencies.

### Maine

Maine passed its medical marijuana law in 1999, but it was not until 2009 that dispensaries were allowed there. Up until that time, patients received their medicine from a caregiver, individuals licensed to grow and distribute medicinal marijuana to no more than five patients. That system remains operational, with over 2,000 caregivers, and is greatly favored by many patients in the state. There has been little impact of land-use regulation on caregivers, for a number of reasons. The fact that an individual is a caregiver is kept confidential by the state, so a town doesn't really know who the caregivers are. Until a year or two ago, caregivers mainly grew their plants and serviced their patients out of their homes, and many towns essentially allow home occupations with few, if any, restrictions.

In the last two years, however, there has been an increase in the number of caregivers leasing commercial space, primarily in light industrial zones. Thus the towns where this is occurring will need to decide whether they wish to develop special regulations for buildings housing multiple caregivers in industrial zones. There is no state law prohibiting this practice, even though under state law each caregiver must have his or her own locked space within the building, and that space must be inaccessible to anyone else except their one employee. Some towns maintain that any growing of plants by a caregiver, whether indoors or outdoors, is an agricultural use, thereby preventing multiple caregivers from leasing grow spaces in an industrial space. Conversely, those towns that classify caregiving as a light industrial use will have to contend with outdoor cultivation and grow operations in homes and on farms in residential districts.

Maine towns that have chosen to refine their land-use ordinances to address medical marijuana caregiving share some common goals: updating existing site plan review requirements, if needed; defining the caregiver land-use category; considering a "safe zone" as an overlay zone, thereby requiring greater setback distances than other uses in the zone; instituting fencing and setback requirements on outdoor cultivation; and considering standards for multiple caregiver facilities.

In 2009, the Maine Medical Use of Marijuana Act was amended to allow eight dispensaries in the state, one in each of eight regions. Even though the cap on dispensaries has been reached, some towns with land-use ordinances are struggling to find ways to regulate dispensary locations if the cap is lifted. State law is clear that a town cannot ban dispensaries but can limit the number to one. In general, what a number of towns are attempting to do is bring dispensary siting under site plan review and define what zone or zones are appropriate for a dispensary. Often the dispensaries are relegated to one, or a few, locations, a form of cluster zoning rather than keeping dispensaries and other marijuana businesses a distance away from each other. A few towns are looking at an




Joshuasandoval, Wikimedia (CCby-SA3.0)

A former fast food restaurant in California was converted into a medical marijuana dispensary.

overlay district, which would impose additional controls and an additional form of review, over dispensary siting.

## RECREATIONAL MARIJUANA REGULATORY MODELS

Towns, cities, and counties within states that have legalized recreational marijuana have taken very different regulatory tacks. For example, the state of Washington has practically subsumed the Washington medical marijuana program into the recreational legalization scheme, in a bill passed in April 2015 that will be implemented in 2016. And Oregon, while keeping the medical program separate from the regulation of recreational marijuana businesses, has imposed strict new rules on the medical growers and patients.

A key issue for states that have legalized recreational marijuana is where marijuana may be smoked or vaped. None of the legalization statutes permit smoking marijuana in public, so, particularly in communities with a large number of tourists, the issue of consumption location is a critical one. Although a tourist can purchase marijuana, smoking might not be allowed in a hotel or motel room. To address this issue, some jurisdictions are looking at permitting so-called "social clubs," similar to cigar bars, where visitors could smoke or consume marijuana. None of the four states that have legalized recreational marijuana included social clubs in their statutes. However, a pending rule change in Alaska would allow existing marijuana retail stores to purchase a separate license for a "consumption area." And in November, Denver voters will consider a measure that would allow the consumption of marijuana—but not sales—at private social clubs and during private events if the organizers obtain a permit.

Below is a discussion of local prohibition in Pueblo, Colorado, and use by right in Pueblo County; traditional zoning and business permitting in Seattle; a focus on farmland preservation and opt-in/opt-out in Oregon; and a focus on business licensing, as opposed to zoning-based controls, in Denver.

### Pueblo County, Colorado

In 2012, Colorado Amendment 64 gave local governments the power to decide whether and how to permit recreational marijuana within their community. A 2014 annual report stated that as of that time 228 Colorado local jurisdictions had voted to ban medical and retail marijuana operations. The city of Pueblo banned recreational marijuana retail stores within city limits and had formerly placed a moratorium on medical marijuana dispensaries.

However, Pueblo County, which governs all unincorporated land in the county, acted differently, making marijuana businesses a by-right use in commercial and industrial districts, thereby allowing such businesses to avoid lengthy governmental reviews (§§17.120.190–240). In addition, the county also made marijuana cultivation a by-right use, apparently the first Colorado county to do so. The county also passed rules mandating a five-mile distance between hemp growing areas and existing marijuana growing areas so as to avoid cross-contamination (§17.120.280). In addition to land-use regulation, the Pueblo Board of Water Works passed its own resolution to address the fact that the Federal Bureau of Reclamation prohibits the use of federal water for marijuana cultivation (Resolution No. 2014-04). The water board subsequently concluded that they could lease up to 800 acre-feet of water to marijuana cultivators each year (Resolution No. 2014-05).

### Seattle

Washington voters approved Initiative 502, legalizing recreational marijuana, in 2012. The year before, Seattle had passed Ordinance 123661, clarifying that all marijuana businesses, including manufacture, processing, possession, transportation, dispensing and the like, must be in compliance with all city laws, as well as applicable state laws. In 2013, the city amended its zoning ordinance to specify where larger-scale marijuana business activities could locate (§23.42.058). The specific activities include processing, selling, delivery, and the creation of marijuana-infused products and usable marijuana. While these activities are prohibited in residential, neighborhood commercial, certain downtown, and several historic preservation and other special-purpose districts, the zoning ordinance does not require a land-use permit to specifically conduct marijuana-related activities in industrial, most commercial, and a few downtown districts.

For example, an applicant who wishes to open a marijuana retail store or an agricultural application is required to get the applicable permit, but is not required to disclose that the use is marijuana related. The ordinance does, however, impose a size limit on indoor agricultural operations in industrial areas, but this applies to all agricultural uses in industrial areas, not just marijuana production (§23.50.012, Table A, Note 14).

Meanwhile, state law further restricts permissible locations for marijuana businesses. The state will not grant a license to any marijuana business within 1,000 feet of an elementary or secondary school, playground, recreation center, child care center, park, public transportation center, library, or game arcade that allows minors to enter.

### Oregon

The voters of Oregon passed Measure 91 in 2014, legalizing recreational marijuana and related businesses, and the legislature enacted HB 340 in July 2015, thereby establishing a regulatory framework for such businesses.

Farmland preservation is one of the major objectives of land-use regulation in Oregon. Following the passage of Measure 91, a "local option" was created, whereby a local government in a county where at least 55 percent of the voters opposed Measure 91 could opt out of permitting marijuana businesses. The local government had 180 days from the passage of HB 340 to choose to opt out. Local governments in counties where more than 45 percent of the voters supported Measure 91 could refer an opt-out measure to the local electorate for a vote.

Many local governments have chosen to opt out, including a number of rural towns and larger municipalities such as Grant's Pass and Klamath Falls (Oregon Liquor Control Commission 2016). Medford has banned retail marijuana businesses but permits producers and processors. However, some of the towns and cities still need to hold a general referendum on the issue in November 2016.

Portland has chosen to take a two-pronged approach to the regulation of marijuana businesses. The city's zoning authority has not adopted rules governing the zoning of marijuana businesses, but is applying the city's general development rules to them. Those rules include such standards as setbacks, conditional uses, parking height limitations, lot coverage, and the like that are specific to each zone. Therefore, if a marijuana retail business wishes to locate in a retail district, it would be allowed to do so provided the proposed business complies with the relevant general development rules in that district. However, the city does require that such businesses get a special license, and the licensing provisions stipulate a 1,000-foot buffer between retail marijuana

businesses (Chapter 14B.130). As another example, Bend's development code allows retail marijuana businesses in commercial zones and production and processing in industrial zones with certain restrictions, including visual screening, security, and lighting requirements (Development Code §3.6.300.P).

Oregon state law requires non-opt-out rural counties to treat cultivation businesses as a permitted farm use in the farm use zone, but these counties have discretion about how they treat production in other zones. Clackamas County, for example, treats marijuana cultivation as a farm use in other natural resource zones, including forest zones and mixed farm-forest zones (§12.841).

### Denver

Denver licenses four types of retail recreational marijuana-related businesses: retail stores, optional premises cultivation, infused products manufacturing, and marijuana testing facilities (§§6-200–220). The city made a conscious decision not to regulate marijuana businesses as distinct land-use categories, but its licensing standards do cross-reference the zoning code. Denver also grandfathered business locations that existed before the licensing regulations were implemented. This mainly benefitted medical marijuana dispensaries that had been in place before Denver adopted a new zoning code in 2010.

The city regulates medical marijuana establishments under a separate set of provisions in the Health and Sanitation section of its code (§§24-501–515).

Denver currently prohibits medical and recreational retail stores in any residential zone, any "embedded retail" district (small retail district embedded in a residential district), any location prohibiting retail sales, and within 1,000 feet of any school or child care center, any alcohol or drug treatment facility, and any other medical marijuana center or dispensary or retail marijuana store. However, the distance requirements are computed differently for medical marijuana centers versus retail stores. The medical marijuana center regulations use a measurement called a "route of direct pedestrian access," and the retail stores regulations use a computation "by direct measurement in a straight line."

Denver's retail and medical marijuana regulations allow cultivation in any location where plant husbandry is a permitted use, and grandfathering is allowed in these zones. The regulations also allow licensing for marijuana-infused products on a lot in any zone where food preparation and sales or manufacturing, fabrication, and assembly are permitted.

## PLANNING TO PLAN

Over my years as an attorney in the land-use arena, I have seen numerous towns and cities start down the path of amending their land-use ordinance without answering certain basic questions. Often this is based on a failure to identify what sorts of as yet unheard-of businesses or other operations might, one day, file for site plan review—or, more troubling, *not* file for site plan review because the use is not covered by the land-use ordinance. However, it is at just this time that the local government must act thoughtfully and not overreact. Rather, the locality should answer certain questions.

First, should marijuana businesses be subject to special regulatory controls? If not, what category of use does a specific marijuana business fall into? Without special regulatory controls it will be governed just as any similar use is governed.

For example, California passed the first medical marijuana law in 1996, but since then there has been a problem defining a medical marijuana business. Is a dispensary retail or light industrial? Is a caregiver agricultural, home occupation, or light industrial? Is an outdoor cultivation operation agricultural and an indoor cultivation operation a home occupation or light industrial? Additionally, will the regulation of marijuana businesses include only land-use controls, only licensing requirements, or a combination of both? There are no clear answers to these questions, but in order to regulate successfully, each town must find its own answers.




Jeffrey Beall, Wikimedia (CC-by-3.0)

A combination gas station and recreational marijuana store in Colorado.

Additionally, since all operative medical and recreational marijuana laws are based on statewide statutes, a locality must also address whether a proposed ordinance is in compliance with state law. In most, if not all, statewide marijuana laws, there is either a statement, or an unstated inference that the state has occupied the field of marijuana regulation, and that local ordinances cannot conflict with, or frustrate the intent of, state laws.

Many courts throughout the country have expressed the following sentiment: "A municipality may prescribe the business uses which are permitted in particular districts but to prohibit the sale of all intoxicating beverages or other activities where such sale has been licensed by the state is to infringe upon the power of the state" (*Town of Onondaga v. Hubbell,* 8 N.Y.2d 1039 (1960)). Even home rule, in home-rule states, has its limitations.

Even using zoning in combination with business licensing can create problems. A case currently making its way through the Maine court system is a challenge to a local ordinance that requires medical marijuana caregivers to come to a public meeting in order to request a business permit.

The plaintiffs argue that the ordinance is a violation of state law, which clearly states that the identity of all caregivers must remain confidential, and makes disclosure of such information a civil violation with a fine imposed (*John Does 1–10 v. Town of York*, ALFSC-CV-2015-87). However, as caregivers begin to move away from home cultivation into leased industrial space, a town could conceivably require a non-caregiver landlord, who rents to caregivers, to obtain a business permit.

Conversely, under adult recreational statues in those states that have legalized recreational marijuana—as well as under the initiatives to be voted on in November 2016—the identity of the businesses seeking state licensure is not confidential. Municipalities and counties will therefore be able to determine the proposed business use, its suitability in a zone or district, and whether or not a business license is required, thereby moving marijuana land-use away from the often vague regulatory system of medical marijuana to the well-known structure of land-use regulation and business licensure.

Medical marijuana regulatory systems will still exist in most states that have legalized it, but it is likely that the majority of businesses in the marijuana sector will be recreational, rather than medical, and therefore more easily regulated by municipalities and counties.

## CONCLUSION

The public is overwhelmingly in support of legalization of recreational marijuana. A recent Associated Press/University of Chicago poll indicated that 63 percent of those polled support legalization, although when broken down into medical and recreational, a smaller number, yet still a majority, supported recreational. That said, however, 89 percent of millennials, now the country's largest generation, support complete legalization (Bentley 2016). As with medical marijuana legalization, as more states legalize, even more states will likely follow suit.

It is, therefore, incumbent on towns, cities, and counties to become educated on their state's statutes and the local regulations that have been passed or will likely be passed in the future, and to draft land-use ordinances that address, in the ways most appropriate to the locality, the proliferation of medical marijuana and recreational marijuana uses.

Since most states have not yet legalized recreational marijuana, now is definitely the time to study and address the land-use issues that legalization may raise.


## ABOUT THE AUTHOR

Lynne A. Williams is an attorney based in Bar Harbor, Maine, and she practices throughout the state. Her practice consists of land use, administrative litigation, and cannabis law. She was formerly the chair of the Bar Harbor Planning Board and is currently a member of the Harbor Committee of Bar Harbor.


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ZONING **PRACTICE**
AMERICAN PLANNING ASSOCIATION

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# HOW DOES YOUR COMMUNITY REGULATE MARIJUANA LAND USES?

**8**

October 5, 2021

Dear Zoning Commissioners,

Thank you for the commitment you've made to our community by serving on this board. It's not lost on me how much of a time and energy commitment it takes to serve the public on a commission like this. I have served on various boards for the city in the past and am a current member of the Energy and Conservation Commission. Additionally, I was a member of one of the subcommittees that helped craft the new zoning regulations, project Re-Code.

I'm writing to you all to encourage you to provide more flexibility in the zoning regulations that are before you regarding cannabis businesses. I have been an interested member of the public in this process and have offered consultation to the city staff and council throughout this process. The mayor, several council members, and the city administrator, have been provided a behind the scenes tour of a dispensary and cannabis farm that I own, The Green Bee. I have been as transparent and forthcoming as possible in an effort to educate and provide knowledge of the industry.

The state has categorized the industry into seven 'types' of business, depending on what the business performs. In a letter I wrote to council, I suggested that zoning regulations reflect these business types, as they are different and require different space, access, etc… I am encouraged to see that planning staff has taken that direction and has begun to implement different zoning regulations based on these business types. However, I would like to see more flexibility built into the regulations. Retail services, as currently written, would be required to be located in hard to find industrial areas. That approach does not encourage retail services, and in fact discourages businesses from locating in our community. Maybe that's the point, I don't know. I do know there are many empty retail spaces available throughout Billings. I encourage you to consider the addition of zoning districts to the retail business types.

I encourage regulate all retail cannabis businesses with the same setback requirements as bars/casinos. The current draft regulation is much more stringent with setbacks from arterial streets and existing land uses. Again, this effectively bans businesses from locating in Billings.

I will attend this meeting and will be available to answer any questions. I look forward to hearing discussion on this issue.

Sincerely,

**Neil R. Kiner**
*Landscape Architect*

SECONDNATURE
CONSULTING

Second Nature Consulting, PLLC
1432 Teton Ave.
Billings, MT 59102
P: (406) 850-0461

# City-Wide

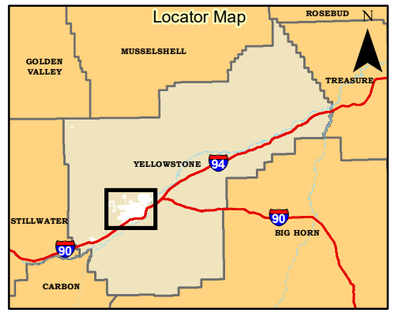
## Marijuana Regulation Initiative

# City of Billings

*Available Marijuana Dispensary Locations*

(Inside Billings City Limits)

Billings PLANNING & COMMUNITY SERVICES




The parcel data mapped hereon does not constitute a legal survey. Inaccuracies exist with both the mapped data and the Montana Department of Revenue CAMA data; when seeking the definitive description of real property, consult the deed recorded at the Yellowstone County court house.

## Legend

- Marijuana Dispensary
- Billings City Limits
- Available Dispensary
- Arterial Street 150 FT Buffer
- Billings International
- Yellowstone County
- Water Body

N W E S

Scale = 1:60,000

Miles

0 0.25 0.5 1 1.5 2

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**From:** Mike Dayton <mldayton@gmail.com>
**Sent:** Tuesday, September 28, 2021 12:51 PM
**To:** Cromwell, Nicole <CromwellN@billingsmt.gov>
**Subject:** [EXTERNAL] Draft zoning marijuana regulations

Hi Nicole, I got your contact info from Zack Terakedis with the BIRD.
I've read up on recently proposed regulations for MMJ businesses within the city limits, and have looked at the current zoning map to see where these businesses may be able to locate.
I would like to see changes made before these proposed regulations are passed. Just over five years ago I formed a partnership and bought a large vacant warehouse located at 2102 2nd Ave Nth here in Billings. My partner and I also own the neighboring lot on 1st Ave Nth, which is now rented out by a UHaul business. Since purchasing this property the neighborhood has not improved. Although there has been some new construction and minor improvements in the area, and some dilapidated properties torn down, vagrancy, graffiti, and crime has increased.
Our building is 60k sqft. At most we've only had one third of this rented out at a time. Without occupying tenants, which we've endured a number of times since the purchase of this building, crime to our property swiftly escalates.
Both my partner and I would love to be able to rent this space out to an MMJ business such as a growing facility. Over the years we have been contacted by a number of such entities unaware of the city's current moratorium. We have not been able to find others willing to pay the price these MMJ businesses are willing to pay, or wanting as much space. We've also visited some of these businesses on our own and are confident they would be a huge improvement not only for the current state of our property, but also the neighborhood. Nothing is going to help this part of town more than occupancy. I'm invested in the BIRD, my partner is invested in the BIRD and owns along with his extended family a number of properties both occupied and unoccupied in the neighborhood, and I now have many acquaintances also invested in the BIRD, and all of us are in agreement simple occupancy is critical if the BIRD is ever going to become a place worthwhile to keep investing our money and our time.

Sincerely,

Mike Dayton
3107 E MacDonald Dr.
Billings, MT 59102
Cell 406-794-1774
mldayton@gmail.com

# City-Wide

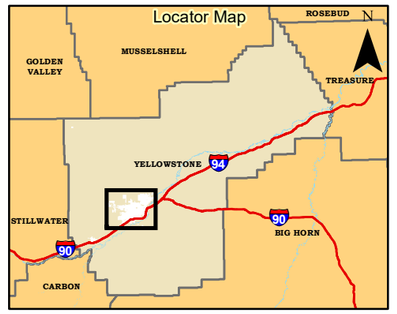
***Applicable only to "Cultivation, Processing/Manufacturing" of Marijuana.**

# City of Billings

*Available Marijuana Dispensary Locations*

(Inside Billings City Limits)

Billings PLANNING & COMMUNITY SERVICES




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## Legend

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- Billings International
- Yellowstone County
- Water Body

N W E S

Scale = 1:60,000

Miles

0 0.25 0.5 1 1.5 2

**Notes:**

1. Available dispensary locations derived from a 350 foot buffer around residential and PD zones along with a 1000 foot buffer around churches, public parks, schools, day cares, and youth centers.
2. PD zones were included that allow residential uses.
3. Allowed districts include CX, I1, and I2.

Elevated LLC
iDeal Naturals
Uncle Buds
Bloom
Hatfield Holdings / Billings Green Cross
Stink Blossom
Comfort Care Cannabliss (C4)
Yellowstone Buds
ROSEBUD
Golden Valley Honey
Sensicare
MAC / Montana Advanced Caregivers
Lionheart Caregiving
Elevated LLC
Magic City ReLeaf
Medicine Creek Caregivers
Seeds of Life Labs
The Green Bee
Home Tree
MariMint LLC
Sunnyside Medical
ALEXANDER
DOVER
ALKALI CREEK
SKYWAY
SIERRA GRANDA
ANNANDALE
RIVEROAKS
ROLLING HILLS
Lake Elmo
EMBERTON
MARY
BARRETT
BITTERROOT
LAKE ELMO
SAINT ANDREWS
LAKEHILLS
GLENEAGLES
HIGH SIERRA
WICKS
BENCH
MAIN
HAWTHORNE
CONSTITUTION
KOOTENAI
SENATORS
GOVERNORS
BABCOCK
NUTTER
HILLTOP
YELLOWSTONE RIVER
ARONSON
AIRPORT
IRONWOOD
SAM SNEAD
MOLT
APACHE
IRON HORSE
ROD AND GUN CLUB
RIMROCK
POLY
COLTON
PARKHILL
GRANDVIEW
ENGLIN
CEDAR CANYON
HACKAMORE
COBURN
GRAND
LEWIS
BROADWATER
CENTRAL
MONAD
KING
HESPER
GABEL
MIDLAND
ELYSIAN
MULLOWNEY
BILLINGS
VIRGINIA
REHBERG
ZIMMERMAN
SHILOH
DAVEBEAK
DOVETAIL
REGAL
MOORE
CALHOUN
ORCHARD
JACKSON
VAUGHN
RIVERSIDE
SUGAR
GARDEN
DANIEL
LAUREL
PARKWAY
OVERLAND
FRONTAGE
ZOO
EAST
GOODMAN
WISE
JELLISON
HILLCREST
BLUE CREEK
COLLIER
COLLEEN
MCMASTERS
BRIARWOOD
Yellowstone river
I90
87
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3
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DIVISION
STATE
MONTANA

# City-Wide

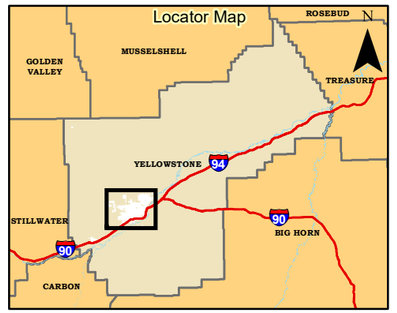
***Applicable only to Marijuana Dispensaries.**

# City of Billings

*Available Marijuana Dispensary Locations*

(Inside Billings City Limits)

Billings PLANNING & COMMUNITY SERVICES




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0 0.25 0.5 1 1.5 2

**Notes:**

1. Available dispensary locations derived from a 350 foot buffer around residential and PD zones along with a 600 foot buffer around churches, public parks, and schools.
2. PD zones were included that allow residential uses.
3. Allowed districts now include CX, I1, I2, CMU1, and CMU2.

Document Path: \\pwu-w12k07\GIS_Files\Mapping_Projects\Projects\Planning\2021\RFI_0679_ZoneCodes_MarijuanaRegulation\RFI_0679_MarijuanaDispensaries_AvailLoc_City_v3.mxd Date: 10/14/2021

City Council Regular

| | |
|---|---|
| Date: | 10/25/2021 |
| Title: | Public Hearing - 1st reading Ordinance regulating marijuana and marijuana businesses |
| Presented by: | Karen Tracy |
| Department: | Legal |
| Presentation: | Yes |

## RECOMMENDATION

Staff recommends Council conduct a public hearing and approval of first reading of an ordinance to license permitted marijuana businesses and to delineate the personal rights of individuals to cultivate and use marijuana and marijuana products as provided by state law which are exceptions to the commercial regulation of marijuana if cultivated and used in compliance with state law.

Staff recommends that council implement a cap on the retail marijuana dispensaries in city limits and allocate those licenses by a lottery system for qualified applicants.

Staff recommends that council implement a cap on the medical marijuana dispensaries and allocate those licenses by a lottery system for qualified applicants.

Staff recommends that council implement a cap on the cultivation of marijuana in city limits not to exceed the state-defined Tier 7.

## BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On August 9, 2021, City Council passed Resolution 21-10981 to place the question regarding whether to permit recreational, adult-use dispensaries within City limits to the voters. Contemporaneously with this matter being presented to the voters, a committee consisting of staff and council members work to develop regulations for marijuana businesses that will be allowed by state law, effective January 1, 2022.

**STAFF DIRECTION FROM OCTOBER 4, 2021 WORK SESSION**

At the October 4, 2021 work session, City Council provided the following staff direction:
Provide information regarding the regulation of marijuana potency at the local level.

**STAFF DIRECTION FROM SEPTEMBER 20, 2021 WORKSESSION**

At the September 20, 2021 worksession, City Council provided the following staff direction:
Prepare an updated zoning map congregating the various contemplated zoning
Include a residential setback from marijuana dispensaries
Prepare a staff recommendation regarding caps of dispensaries, medical and retail.

**STAFF DIRECTION FROM SEPTEMBER 7, 2021 WORK SESSION**

At the September 7, 2021 work session, City Council provided the following staff direction in developing necessary regulations:
Zoning: review provisions providing for separation of marijuana businesses from residential use.
Provide consolidated map reflecting all areas subject to the 1,000 foot buffer zone for purposes of viewing the cumulative effect of such a zoning ordinance.
Dispensary caps: Work on regulations in this area.
Furnish council with data regarding dispensary concentrations in other jurisdictions for purposes of contemplating a potential number of dispensaries to be permitted.
Method of allocating limited number of caps: some members of City Council expressed concern over a merit-based allocation of dispensary licenses, expressing favor for a lottery system.
Licensing structure: work on developing a licensing structure that would permit the City to timely respond to violations that may occur in marijuana businesses.
Cultivation caps: staff acknowledged that additional work was needed in this area in order to provide information to the City Council sufficient for the City Council to make a policy decision regarding whether a cap was necessary or desirable.
Additional education: Some City Council members expressed a desire for additional education to determine if, and to what extent, the introduction of marijuana businesses in the City may be detrimental to the health, safety, and welfare of City residents so that the City Council could properly balance the policy considerations of protecting the health, safety, and welfare of City residents with prompting businesses, particularly local businesses, in the newly created marijuana business industry.

That information has been provided to council and the committee by email in the interim and in this staff memorandum as well.
Testing: The need for testing was discussed in terms of necessity and scope.

**STATUS OF DISPENSARIES OPERATING WITHIN THE CITY AND WITHIN YELLOWSTONE COUNTY**
The Montana Department of Revenue Cannabis Control Division indicates that there are 39 medical marijuana licensed businesses in "Billings." Internet available information and a few of the city-county map confirms that 2 are within the city limits, 27 are outside of the city limits but within the county, and addresses could not be located for the remaining licensed businesses, but the regional inspector for the state confirmed that these are not within City limits. Many state regulatory functions are being transitioned from DPHHS to the Department of Revenue in anticipation of the January 1, 2022 effective dates.

Local governments throughout states with legalized marijuana employ a variety of regulatory structures, including
- Caps on the number of dispensaries;
- Use of zoning to restrict marijuana business to certain areas;
- Regulating spacing between marijuana businesses;
- Regulating spacing between marijuana business and sensitive areas such as schools;
- Prohibiting marijuana businesses from being operated as home businesses;
- Limiting size of growing operations
- Developing comprehensive licensing requirement**s and screening.**

**POLICY DIRECTION OF OTHER MONTANA JURISDICTIONS**
Staff has conferred with attorneys in Kalispell, Bozeman, and Great Falls regarding their approaches towards new marijuana businesses authorized by state law:
Great Falls: Great Falls will continue to prohibit marijuana businesses based upon their illegality under federal law.
Bozeman:
**Kalispell:** Kalispell will regulate through zoning with marijuana businesses being limited to a relatively small geographic area. The contemplated zoning includes a residential buffer, a buffer from sensitive areas, and a buffer between businesses. Just outside of Kalispell city limits is what can be characterized as a medical marijuana corridor. Kalispell is anticipating that medical marijuana licensees throughout the state will seek to open retail dispensaries in Flathead County beginning 1/1/2022.
**POLICY DIRECTION OF OUT-OF-STATE JURISDICTIONS**
Staff has surveyed other out-of-state jurisdictions to determine how the above regulatory options have been utilized. It is common to see marked differences among cities within the same state. For example, Anchorage, Alaska does not cap dispensaries, while Fairbanks Alaska does have a cap. In Colorado, Fort Collins does not have a cap, while Pueblo caps recreational marijuana dispensaries at 8 and has developed a comprehensive scheme for the award, renewal, and revocation of those licenses. Microsoft Word - Retail Marijuana Stores Rules and Regs - TDG Amended (pueblo.us) .
The following publications were located which may assist the Billings City Council in formulating marijuana business policy:
Everson, EM, Dilley JA, Maher JE, Mack CE., Post-Legalization Opening of Cannabis Stores and Adult Cannabis Use in Washington State, 2009-2016. *Am. J. Public Health.* 2019;109(9):1294-1301.

The above peer reviewed publication published results of a study that found that increasing cannabis retail access was associated with increased current and frequent use and noted "regardless of how cannabis is consumed, frequent use--such as daily or near-daily use--is likely of more concern than occasional use and has recently been identified as a risk. The study found that local retail access, but not state legalization of possession itself, was associated with increased cannabis use and that local jurisdictions may be able to limit increased use through enacting policies such as retail bans, moratoriums, caps on retail license numbers, or density or zoning restrictions. This was the case even for jurisdictions that bordered communities with less stringent policies given that use significantly increased in areas located within 0.8 miles of a retailer.

This publication is copyrighted, but is available for purchase through the following link: Post-Legalization Opening of Retail Cannabis Stores and Adult Cannabis Use in Washington State, 2009--2016 | AJPH | Vol. 109 Issue 9 (aphapublications.org)
**TESTING OF PRODUCTS SOLD THROUGH DISPENSARIES**
Although the State of Montana has provided for testing at the state level, because there is no federal regulation of marijuana, additional testing could be implemented by the City of Billings, either in this initial set of ordinances or in the future if the state's testing protocol is inadequate to address public health and safety concerns. One study found that at edible products tested in three major cities were significantly mislabeled: 23% were underlabeled (stronger than indicated), 60% were overlabled with respect to THC content (less potent than indicated), and 17% were accurately labeled. Vandrey R, Raber JC, Raber ME, Douglass B, Miller C, Bonn-Miller MO. Cannabinoid dose and label accuracy in edible medical cannabis products. Research Letter. JAMA. 2015;313:2491-3. The article may be accessed through the following link. Labeling Accuracy of Cannabidiol Extracts Sold Online | Addiction Medicine | JAMA | JAMA Network
**PUBLIC SAFETY IMPACT OF LEGALIZATION OF MARIJUANA**
The research in this area is a mixed bag. One study found no increase in *fatal* motor vehicle accidents but noted that data was unavailable to determine any change in the number of *non-fatal* motor vehicle accidents. Jayson D. Aydelotte et al. "Crash Fatality Rates After Recreational Marijuana Legalization in Washington and Colorado" *American Journal of Public Health* 107, no. 8 (August 1, 2017): pp. 1329-1331. Crash Fatality Rates After Recreational Marijuana Legalization in Washington and

Colorado | AJPH | Vol. 107 Issue 8 (aphapublications.org)
However, more recently, the Rocky Mountain High Intensity Drug Trafficking Area released its study entitled "The Legalization of Marijuana in Colorado: The Impact," Vol. 8, September 8. The full study is available at www.RMHIDTA.org. The executive summary of the study is attached to this staff memo.
Other studies have attempted to reach of definitive conclusion, but have been unsuccessful. See Wu Guangzhen et al. "Impact of recreational marijuana legalization on crime: Evidence from Oregon" *Journal of Criminal Justice* 72 (2020) 101742 https://doi.org/10.1016/j.jcrimjus.2020.101742

**PUBLIC HEALTH IMPACT OF MARIJUANA USE**

In addition to the information provided to City Council through the publication "Cannabis in Medicine: An Evidence-Based Approach," Finn, Kenneth ed. 2020, attached is a report from the State of Oregon's Retail Marijuana Scientific Advisory Committee which sought to summarize recently published scientific evidence on the health effects of marijuana.

**LIMITS ON DISPENSARY CAPS**

If the Billings City Council elects to limit the number of dispensaries, several issues need to be considered:
How many dispensaries
How will the licensees be selected
How will renewals and revocations be handled
With House Bill 701, the State of Montana effectively merged its regulatory structure for medical marijuana with recreational marijuana. The State of Washington took a similar approach and eventually merged its categories of licenses and capped its licenses at 556 (roughly one dispensary per 24,000 residents). By contrast, the City of Pueblo caps only the number of adult dispensaries and has capped that at 8 for a population of approximately 165,982 (roughly one dispensary per every 21,000 residents)

## STAKEHOLDERS

On October 13, 2021, representatives of the City and individuals from the community met to discuss business owners' concerns with contemplated marijuana regulations. Those medical marijuana business owners present expressed a general agreement with a cap and lottery system to allocate available licenses within the initial 18-month period for the sale of recreational marijuana. Potential retail dispensary owners expressed concern with the adequacy of the zoning areas contemplated and recommended by the zoning commission.

The zoning commission issued its recommendations regarding the zoning of marijuana businesses and those recommendations are before council for consideration.

## ALTERNATIVES

City Council may:

- Approve; or,
- Not Approve; or
- Approve with amendments approved by council vote.

## FISCAL EFFECTS

The fiscal effects are uncertain at this time based upon the following:

On November 2, 2021, Yellowstone County voters will vote on whether to approve a county-wide excise tax of 3% on medical and/or recreational marijuana. If voters so approve one or both categories of excise tax, staff estimates that the City of Billings will receive 92 cents for each $100 or marijuana and marijuana products sold county-wide.

On November 2, 2021, City of Billings voters will vote on whether to permit recreational marijuana dispensaries within City limits. Should City voters ban recreational marijuana dispensaries, cost to the City to regulate dispensaries will dramatically decrease. However, other marijuana businesses would still require City regulation.

Staff recommends that council, by future resolution, set fees for the issuance and renewal of marijuana business licenses at such a level as to offset direct and documented expenses of implementing and maintaining the licensing provisions set out in the proposed ordinance.

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**Attachments**

Ordinance

**ORDINANCE 21-_____**

**AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE (BMCC) BE AMENDED BY ADDING ARTICLE 7-2000 ESTABLISHING REGULATIONS FOR THE OPERATION OF MARIJUANA BUSINESSES AND ESTABLISHING REQUIREMENTS FOR MARIJUANA BUSINESSES TO OBTAIN BUSINESS LICENSES AND REPEALING ARTICLE 7-1700. – MEDICAL MARIJUANA**

**WHEREAS** the Initiative Measure 190 (I-190) passed by popular vote on November 2, 2020, statewide, in Yellowstone County, Montana, and in the City of Billings, Montana, legalizing adult-use marijuana and providing for approval of certain marijuana businesses within the State of Montana; and

**WHEREAS**, the 2021 Montana Legislature passed House Bill (HB) 701, with most sections effective January 1, 2022, extensively changes and regulates the use, possession, and sale for profit of medical and adult-use (recreational) marijuana and modifies I-190 and the Montana Medical Marijuana Act; and

**WHEREAS**, HB 701 provides that local governments may regulate marijuana businesses to protect the public health, safety, or welfare of the local jurisdiction; and

**WHEREAS**, the City of Billings is a municipality with self-governing powers as provided by the Montana Constitution, Article XI, Section 6 and MCA sections 7-1-101, -102; and

**WHEREAS,** the powers and authority of a local government unit with self-governing powers shall be liberally construed and every reasonable doubt as to the existence of a local government power or authority shall be resolved in favor of the existence of that power or authority. MCA 7-1-106; see also Montana Constitution, Article XI, Section 4(2); and

**WHEREAS,** the City of Billings is specifically empowered through MCA 7-21-4101 to license all industries, pursuits, professions, and occupations and to impose penalties for failure to comply with such license requirements; and to fix the amount, terms, and manner of issuing and revoking licenses. Further, the City Council may refuse to issue licenses when it may deem it best for the public interests; and

**WHEREAS**, in a legitimate exercise of its legislative power to preserve the public peace, health, safety, and welfare of the City, the City Council wishes to require marijuana businesses obtain a business license prior to operating in the City of Billings; and

**WHEREAS,** in a legitimate exercise of its legislative power to preserve the public peace, health, safety, and welfare, the City Council of the City of Billings wishes to regulate the operation of marijuana businesses in the City of Billings;

**WHEREAS,** in a legitimate exercise of its legislative power to preserve the public peace, health, safety, and welfare, the City Council of the City of Billings wishes to define the rights of personal use and cultivation for individuals to clarify the limits of the regulations defined herein; and

**WHEREAS**, the City Council further recognizes that, unless properly regulated, the cultivation, manufacture, distribution, testing, possession, sale and use of marijuana may be harmful to public health, safety and welfare.

**NOW, WHEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:**

***Section 1.*** Article 7-2000 of the Billings, Montana City Code (BMCC) be created and added to read as follows:

**ARTICLE 7-2000 – MARIJUANA REGULATIONS**

**DIVISION 1. GENERALLY**

**Sec. 7-2001. Marijuana, prohibited acts.**

(a) As used in this Article, marijuana means all plant material from the genus Cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination. The term does not include hemp, including any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta–9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis, or commodities or products manufactured with hemp, or any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products. The term does not include a drug approved by the United States food and drug administration pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301, et seq.

(b) It shall be unlawful and a misdemeanor offense for any person to smoke, consume or use marijuana or marijuana products openly and publicly or in a manner that endangers others.

(1) The term "openly" means occurring or existing in a manner that is unconcealed, undisguised, or obvious.

(2) The term "publicly" means:

a. Occurring or existing in a public place;

b. Occurring or existing in any place that is commonly or usually open or accessible by the general public; or

c. Occurring or existing in any outdoor location where the consumption of marijuana is clearly observable from a public place.

(3) The term "public place" means a place to which the public or a substantial number of the public have access, and includes, but is not limited to, parks, playgrounds, open space areas, trails, paths, sidewalks, streets, highways, and public rights-of-way, public buildings, transportation facilities, schools, places of amusement, mercantile establishments, shopping centers, places of business usually open to the general public, the common areas of any public or private buildings or facilities, parking lots, and vehicles in or upon such places.

(c) It shall not be an offense under Subsection (b) of this Article if the consumption of marijuana is occurring on private residential property and the person consuming the marijuana is:

(1) An owner of the property; or

(2) A person who has a leasehold interest in the property; or

(3) Any other person who has been granted express or implied permission to consume marijuana on the property by the owner or the lessee of the property.

(4) Anyone who is consuming marijuana pursuant to this Subsection (c) on property zoned for single-family detached homes, duplexes and townhomes must be at least twenty-five (25) feet away from the front property line, and ten (10) feet away from any side or rear property line that is adjacent to a public place. In the event that the front of the single-family detached home, duplex or townhome is closer than twenty-five (25) feet to the front property line, the person consuming marijuana pursuant to this Subsection (c) must be at least the distance of the permitted front yard setback back from the front property line but in no event, may the person be closer than five (5) feet to the front property line.

(d) It shall be unlawful and a municipal offense for any person to produce, manufacture, or process marijuana or marijuana products with the use of chemicals for the purposes of enhancing, concentrating, or extracting tetrahydrocannabinol (THC) or any alkaloid, salt, derivative, preparation, compound, or mixture, whether natural or synthesized, of tetrahydrocannabinol, including but not limited to hash oil, except as provided in Article 7 and Article 27 of the Billings, Montana City Code.

(e) It shall be unlawful and a municipal offense for any person under twenty-one (21) years of age to possess, smoke, consume or use marijuana or marijuana products; provided, however, this subsection (e) shall not apply to any person licensed or authorized to possess or use marijuana or marijuana products pursuant to the laws of Montana or the United States while possessing or using same in accordance with the requirements and limitations of such license or authorization.

(f) It shall be unlawful and a municipal offense for any person twenty-one (21) years of age or older to possess more than one (1) ounce of marijuana; provided, however, this subsection (f) shall not apply to any person licensed or authorized to possess

marijuana pursuant to the laws of Montana or the United States while possessing same in accordance with the requirements and limitations of such license or authorization.

(g) Marijuana and marijuana products sold at a dispensary are regulated and sold on the basis of the concentration of THC in the products and not by weight and are subject to the restrictions in subsection (f).

(h) Except as provided in subsection (i), for purposes of this Article, a single package of marijuana or marijuana products are limited to:

(1) for marijuana sold as flower, 1 ounce of usable marijuana. The total potential psychoactive THC of marijuana flower may not exceed 35%;

(2) for a marijuana product sold as a capsule, no more than 100 milligrams of THC per capsule and no more than 800 milligrams of THC per package;

(3) for a marijuana product sold as a tincture, no more than 800 milligrams of THC;

(4) for a marijuana product sold as an edible or a food product, no more than 100 milligrams of THC. A single serving of an edible marijuana product may not exceed 10 milligrams of THC;

(5) for a marijuana product sold as a topical product, a concentration of no more than 6% THC and no more than 800 milligrams of THC per package;

(6) for a marijuana product sold as a suppository or transdermal patch, no more than 100 milligrams of THC per suppository or transdermal patch and no more than 800 milligrams of THC per package; and

(7) for any other marijuana product, no more than 800 milligrams of THC.

(i) A dispensary may sell marijuana or marijuana products having higher THC potency levels than described in subsection (f) to registered cardholders.

**Sec. 7-2002. Findings and purpose.**

City Council finds that the cultivation, manufacture, distribution, testing, possession, sale and use of marijuana may be harmful to public health, safety and welfare if not carefully regulated. This Article is designed to protect public health, safety and welfare from the potential adverse effects of the cultivation, manufacture, distribution, testing, possession, sale and use of marijuana, while permitting marijuana to be cultivated, manufactured, distributed, tested, possessed, sold and used in accordance with state and local law. City Council further finds and declares that the subject matter of this Article is a matter of local and municipal interest.

**Sec. 7-2003. Incorporation of general licensing provisions.**

The provisions of Article 7, Article 13, and Article 27, Billings, Montana City Code, shall apply to this Article except where they may be inconsistent with the provisions of

this Article. No individual nor entity may operate a marijuana business within City limits without obtaining the appropriate licenses from the State and the City.

**Sec. 7-2004. Other licenses, taxes, and laws generally.**

The licenses and fees required by this Article for marijuana businesses replace the regular business, occupation and profession tax normally assessed under Billings, Montana City Code, but are in addition to any other applicable licenses, permits, or fees required by the city, county or state. A marijuana business licensed under this Article shall comply with all other applicable ordinances and laws, including city zoning code.

**Sec. 7-2005. Definitions.**

The following definitions shall apply throughout this Article:

(a) The definitions contained in Titles 15, 16, and 50, Montana Code Annotated, shall apply to this Article except where this Article provides a different definition, or the context of this Article makes it clear that the statutory definition does not apply.

(b) Adjacent grounds: means all areas that the licensee has a right to possess by virtue of his or her ownership or lease, which are outside the enclosed licensed premises, but adjacent and contiguous to the licensed premises, including but not limited to porches, patios, decks, entryways, lawns, parking lots and similar areas and all fixed and portable things in those areas, including but not limited to lights, signs, speakers and security devices.

(c) Adult use dispensary: means a licensed premises from which a person licensed by the Montana Department of Revenue and the City may:

(1) obtain marijuana or marijuana products from a licensed cultivator, manufacturer, dispensary, or other licensee approved under this Article; and

(2) sell marijuana or marijuana products to registered cardholders, adults that are 21 years of age or older, or both.

(d) Adult-use marijuana or recreational marijuana: except where the context clearly indicates otherwise, means growing marijuana plants, harvested marijuana in any condition and marijuana products of all kinds which are legally available for purchase and consumption by individuals age 21 or older whether or not the individual is a registered cardholder.

(e) Affiliate: means a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, another person.

(f) Approve a license: means to find that the requirements for a license have been met, but does not give the applicant the right to operate a marijuana business until the license is issued.

(g) Beneficial owner of or beneficiary ownership of or beneficially owns an: is determined in accordance with section 13(d) of the federal Securities and Exchange Act of 1934, as amended.

(h) Canopy: means the total amount of square footage dedicated to live plant production at a licensed premises consisting of the area of the floor, platform, or means of support or suspension of the plant.

(i) Character and record: includes all aspects of a person's character and record, including but not limited to moral character, criminal record, serious traffic offenses, education, training, experience, civil judgments, truthfulness, honesty, financial responsibility, and records of previous sanctions against liquor licenses, gambling licenses or marijuana licenses, which the person owned, in whole or in part, or in which the person served as a principal, manager or employee. The conviction of any person for any offense shall not, in itself, be grounds for a finding of bad character and record if such person demonstrates that he or she has been rehabilitated, but rehabilitation shall not be considered if a provision in this Article declares that the offense is a per se disqualification.

(j) City administrator: means the Billings City Administrator or his/her designee.

(k) City attorney: means the Billings City Attorney or any attorney on his/her staff.

(l) City council: means the Billings City Council.

(m) Complaint: means a document filed with the City, any of its Departments, or documents originating within the City by its employees or agents, seeking sanctions against a marijuana business.

(n) Contiguous: means located within the same building as the marijuana business, located in a separate building on the same parcel of land as the marijuana business, or located in a separate building on a separate parcel of land that is adjacent to and shares at least fifty percent (50%) of a common lot line with the lot on which the marijuana business is located.

(o) Control, controls, controlled, controlling, controlled by, and under common control: means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting owner's interests, by contract, or otherwise.

(p) Controlling beneficiary owner: means a person that satisfies one or more of the following:

(1) is a natural person, an entity that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia, a publicly traded corporation, and:

a. acting alone or acting in concert, owns or acquires beneficial ownership of 5% or more of the owner's interest of a marijuana business;

b. is an affiliate that controls a marijuana business and includes, without limitation, any manager; or

c. is otherwise in a position to control the marijuana business; or

(2) is a qualified institutional investor acting alone or acting in concert that owns or acquires beneficial ownership of more than 15% of the owner's interest of a marijuana business.

(q) Creditor: means any person lending, paying or providing funds, directly or indirectly, to pay any part of the costs of operating the marijuana business including, but not limited to, the costs of rent, mortgage payments, utilities, debt payments, supplies, product, equipment, advertising, vehicles, salary and wages.

(r) Cultivator: means a person licensed by the State of Montana and the City to:

(1) plant, cultivate, grow, harvest, and dry marijuana; and

(2) package and relabel marijuana produced at the location in a natural or naturally dried form that has not been converted, concentrated, or compounded for sale through a licensed dispensary.

(s) Employee: means the licensee's or proposed licensee's employees.

(t) Harm or harmful to public health, safety or welfare: means any matter that adversely affects the health, safety or welfare of any person or group of persons within the City of Billings or any adjacent community, including but not limited to matters related to crime, lighting, security, traffic, graffiti, loitering, litter, parking and noise. A showing of actual harm shall not be required and a showing of potential or threatened harm shall be sufficient. Any violation of any criminal statute or ordinance is per se substantially harmful to public health, safety and welfare, without any showing of actual or threatened harm. The mere possession, sale, cultivation, processing, smoking or ingestion of marijuana and marijuana products, when performed lawfully, shall not in itself be considered harmful to public health, safety and welfare.

(u) Indoor cultivation facility: means an enclosed area used to grow live plants that is within a permanent structure using artificial sunlight exclusively or to supplement natural sunlight. The term may include:

(1) a greenhouse;

(2) a hoop house; or

(3) a similar structure that protects the plants from variable temperature, precipitation, and wind.

(v) In public: means any area that the public may generally enter, including any business open to the public. The term includes the licensed premises and the adjacent grounds. The term includes persons in motor vehicles located in a public place.

(w) Issue a license: means to finalize the license after a previous approval of the license, and may or may not occur after approval of the license, depending on any completions, inspections, approvals or conditions that the City may require to be satisfied before issuance. Issuance gives the licensee the right to operate a marijuana business, provided that the licensee also obtains a State license and files a copy of the State license with the City.

(x) License Administrator: is the City Administrator or his/her designee.

(y) Licensed premises: means the area inside a building in which the cultivation, manufacture, processing, possession, weighing, display, packaging, sale and exchange of marijuana or marijuana products is licensed under this Article.

(z) Licensee: means the person or entity holding a marijuana business license under this Article.

(aa) Marijuana: means all plant material from the genus Cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination. The term does not include hemp, including any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta–9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis, or commodities or products manufactured with hemp, or any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products. The term does not include a drug approved by the United States food and drug administration pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301, et seq.

(ab) Marijuana business license: means any of the licenses described in Article 7-2000 of the Billings, Montana City Code.

(ac) Marijuana manufacturer: means a person licensed by the Department of Revenue and the City of Billings to convert or compound marijuana into marijuana products, marijuana concentrates, or marijuana extracts and package, repackage, label, or relabel marijuana products as allowed under state law and this Article.

(ad) Marijuana transporter: means a person that is licensed to transport marijuana and marijuana products from one marijuana business to another marijuana business, or to and from a testing laboratory, and to temporarily store the transported marijuana and marijuana products at its licensed premises, but is not authorized to sell marijuana or marijuana products to consumers.

(ae) Mature marijuana plant: means a harvestable marijuana plant.

(af) Medical marijuana: means marijuana or marijuana products that are for sale solely to a registered cardholder.

(ag) Medical marijuana dispensary: means a medical marijuana store operated for the limited purpose of selling medical marijuana and marijuana products to registered cardholders.

(ah) Outdoor cultivation: means live plants growing in an area exposed to natural sunlight and environmental conditions including variable temperature, precipitation, and wind.

(ai) Permit: when used as a verb means to:

(1) Participate in or contribute to an act, conduct or omission;

(2) Consent to or condone an act, conduct or omission;

(3) Know or have reason to know that an act, conduct or omission is or may be occurring, or probably will occur unless steps are taken to prevent the same, and failing to take reasonable steps to halt, thwart or prevent the same; or

(4) Ignore, avoid knowledge or notice of, or turn a blind eye to an act, conduct or omission that may be occurring.

(aj) Person: means an individual, partnership, association, company, corporation, limited liability company, or organization.

(ak) Principal: means a controlling beneficial owner or a passive beneficial owner as defined by Montana Code Annotated § 16-12-102, including, but not limited to, a natural person, business entity, publicly traded corporation, or qualified private fund that acting alone or in concert owns or acquires beneficial ownership of five percent (5%) or more of an ownership interest in the licensed business, is an affiliate that controls the business, including any manager, or that is in a position to control the marijuana business.

(al) Publicly traded corporation: means any person other than an individual that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Colombia or another Country that authorizes the sale of marijuana and that meets the definition and qualifications of a publicly traded corporation as promulgated by the State of Montana.

(am) Registered Cardholder: means a person with a debilitating medical condition who has received and maintains a valid registry identification card from the State of Montana.

(an) Registry identification card: means a document issued by the Department of Revenue, State of Montana that identifies an individual as a registered card holder.

(ao) Retail marijuana dispensary has the same meaning as an adult use dispensary.

(ap) Seedling: means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

(aq) Serious traffic offense: means any driving offense carrying eight (8) points or more under Section 61-5-206, Montana Code Annotated, and applicable state administrative rules, or the substantial equivalent of such offense in any other State.

(ar) Testing laboratory: means a qualified person, licensed by the Montana Department of Revenue that:

(1) provides testing of representative samples of marijuana and marijuana products; and

(2) provides information regarding the chemical composition and potency of a sample, as well as the presence of molds, pesticides, or other contaminants in a sample.

(as) Usable marijuana: means the dried leaves and flowers of the marijuana plant that are appropriate for the use of marijuana by an individual. The term does not include the seeds, stalks, and roots of the plant.

**Sec. 7-2006. Time.**

In calculating any period of time prescribed or allowed under this Article, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, even if it is a Saturday, Sunday, or legal holiday, unless the prescribed time period is ten (10) days or less.

**Sec. 7-2007. No private duties, cause of action or remedies.**

Nothing contained in this Article shall be construed as creating, directly or indirectly, any duty between private persons, a private cause of action or any private legal remedy.

**Sec. 7-2008. Construction and severability.**

Any court of competent jurisdiction construing or applying this Article shall seek a saving construction and application that makes the provisions of this Article constitutional. In the event that any court of competent jurisdiction determines that any provision in this Article violates any constitutional right, despite the court's saving construction and application, the Court shall strike the offending provision only and sever the same from the remainder of this Article, which shall remain valid and effective.

**Sec. 7-2009. Nature of license.**

(a) Every license issued under this Article confers only a limited and conditional privilege subject to the requirements, conditions, limitations and qualifications of this both Article and State law. The license does not confer a property right of any kind. The license and the privilege created by the license may be further regulated, limited or completely extinguished at the discretion of City Council or the electorate of the City, as provided in this Article, without any compensation to the licensee.

(b) Every license approved or issued under this Article shall be subject to the future exercise of the reserved rights of referendum and initiative, the exercise of the Local Option described in Section 16-12-301, Montana Code Annotated, and any other future ordinances adopted by a vote of the Electors of the City of Billings or City Council. Nothing contained in this Article grants to any licensee any vested right to continue

operating under the provisions of this Article as they existed at the time the license was approved or issued, and every license shall be subject to any ordinance or prohibition adopted after the license was approved or issued.

(c) In the event that the Electors of the City of Billings, by a majority of the registered electors of the City, at a regular or special election, or a majority of City Council, vote to prohibit by ordinance the licensing and operation of any type of marijuana business within the City of Billings pursuant to Section 16-12-301, Montana Code Annotated, then every license issued or approved under this Article, which is prohibited under such ordinance, shall be deemed void and the operation of any such marijuana business prohibited under the ordinance shall become illegal on the effective day of the ordinance.

(d) Every license is separate and distinct and is tied to a specific location with specific conditions. The license cannot be assigned, delegated, sold, bequeathed, or otherwise transferred between persons or transferred to a different location, except as provided in this Article. No licensee shall exercise the privileges of any other licensee or delegate the privileges of its own license.

(e) The licenses issued under this Article consist of a limited and conditional privilege to operate the designated marijuana business, provided that the licensee also obtains any necessary State license. The license certificate issued by the City is merely evidence that a license was issued and is not the license itself. Assignment or conveyance of the license certificate alone does not transfer any right to the license.

**Sec. 7-2010. License and other fees.**

(a) Upon initial application for issuance of a license or renewal of an existing license, or request for a change to an existing license, the city shall collect a nonrefundable application or renewal fee as prescribed by council resolution, to be paid into the general fund. At the time of issuance of the license, an annual fee as prescribed by council resolution shall be collected. An approved application for issuance or renewal of a license is void one hundred and eighty (180) days after the date of approval if the licensee does not obtain the license.

(b) City Council may establish a separate fee schedule for all costs, licenses, and renewals provided for in this Article by resolution.

(c) In addition to the foregoing fees, applicants and licensees shall pay the reasonable fees of any governmental agency conducting any investigation, inspection, testing, other licensing, registration, fingerprinting, approval or permitting required under the Billings, Montana City Code, State law or State regulations.

(d) The primary purpose of the fees provided in this Section is to defray the costs of the particular municipal services provided and not to defray the costs of the general services of municipal government or to raise general revenues. The fees provided in this Section and established by City Council shall be reasonably related and proportional to the costs of the services provided and do not generate additional City revenue.

(e) If any license or application is denied, approved but not issued, lapsed, abandoned, withdrawn, surrendered, suspended, fined, revoked or otherwise sanctioned, no part of the fees paid therefor shall be refunded to the applicant or licensee.

(f) The City of Billings shall not be required to cultivate or care for any marijuana or marijuana products belonging to or seized from any licensee. The City of Billings is not authorized to sell marijuana, medical or otherwise. Any marijuana seized by the City for whatever reason shall be disposed of in accordance with law.

**Sec. 7-2011. Term of license.**

Unless otherwise specifically provided for in this Article, every license shall be valid for one (1) year from the date it is issued, unless the license is earlier revoked.

**Sec. 7-2012. Coordination with Montana Department of Revenue and State requirements.**

(a) The License Administrator shall inform the Montana Department of Revenue of its investigations, inspections and all decisions approving new licenses, issuing new licenses, imposing conditions on licenses, renewing licenses, approving major changes in licenses, information regarding minor changes, and sanctions imposed on licenses.

(b) To the extent that such coordination is reasonably feasible and efficient, the City of Billings shall coordinate its investigations and actions with the Montana Department of Revenue, but the City of Billings reserves the right to act independently and to reach its own findings of fact, findings of law and conclusions regarding approvals, issuance, denials, conditions, renewals, major changes, sanctions of licenses and any other matter related to licenses, without regard to the findings of fact, findings of law and conclusions that the State may reach regarding the same licenses based on the same incident or conduct.

(c) The approval or issuance of a license under this Article shall not constitute a representation by the City of Billings that the licensee is qualified for or will receive a State license. In the event of any conflict between the provisions of this Article and the provisions of the Montana Marijuana Regulation and Taxation Act or any other applicable state or local law, the more restrictive provision shall control.

**Sec. 7-2013. Personal use and cultivation of marijuana.**

(a) The following acts are lawful within the City of Billings for a person who is 21 years of age or older:

(1) Possessing, purchasing, obtaining, using, ingesting, inhaling, or transporting 1 ounce or less of usable marijuana, except that not more then 8 grams may be in concentrated form and not more than 800 milligrams of THC may be in edible marijuana products meant to be eaten or swallowed in solid form;

(2) Transferring, delivering, or distributing, without consideration, to a person who is 21 years of age or older, 1 ounce or less of usable marijuana, except that not

more than 8 grams may be in concentrated form and not more than 800 milligrams of THC may be in edible marijuana products meant to be eaten or swallowed in solid form;

(3) In or on the grounds of a private residence, possession, planting, or cultivating up to two mature marijuana plants and two seedlings, or four mature marijuana plants and four seedlings for a registered cardholder, and possession, harvesting, drying, processing, or manufacturing the marijuana, provided that:

a. Marijuana plants and any marijuana produced by the plants in excess of 1 ounce must be kept in a locked space in or on the grounds of one private residence and may not be visible by normal, unaided vision from a public place;

b. Not more than twice the number of marijuana plants permitted under this subsection (a)(3) may be cultivated in or on the grounds of single private residence simultaneously;

c. A person growing or storing marijuana plants under this subsection (a)(3) must own the private residence where the plants are cultivated and stored or obtain written permission to cultivate and store marijuana from the owner of the private residence; and

d. No portion of a private residence used for cultivation of marijuana and manufacture of marijuana products for personal use may be shared with, rented, or leased to a marijuana business.

e. A sustained violation of any of the conditions of this subsection is a nuisance subject to the remedies in this Article.

(4) Assisting another person who is at least 21 years of age in any of the acts permitted by this section, including allowing another person to use one's residence for any of the acts described in this section; and

(5) Possession, purchasing, using, delivering, distributing, manufacturing, transferring, or selling to persons 18 years of age or older paraphernalia related to marijuana.

(b) The following acts are prohibited and subject to the following penalties:

(1) A person who cultivates marijuana plants that are visible by normal, unaided vision from a public place in violation of subsection (a)(3) is subject to a civil fine not exceeding $250 and forfeiture of the marijuana.

(2) A person who cultivates marijuana plants or stores marijuana outside of a locked space is subject to a civil fine not exceeding $250 and forfeiture of the marijuana.

(3) A person who smokes marijuana in a public place is subject to a civil fine not exceeding $50.

**Sec. 7-2014. Marijuana as a nuisance.**

(a) Receipt by the City of a sustained complaint that a property on which a home cultivation exists has violated this Section 7-2013(a)(3) shall be considered a nuisance.

(b) Each continuance of a nuisance for twenty-four (24) hours shall be considered a separate and distinct violation of Section 7-2013(a)(3).

(c) Upon the first failure, neglect, or refusal to maintain the property free from marijuana cultivation in violation of Section 7-2013(a)(3), the city shall give notice to the non-complying owner, agent or occupant thereof. Such notice shall provide at a minimum:

(1) That the non-complying owner, or agent thereof, shall be allowed ten (10) days from the date of notice of noncompliance to cut or remove marijuana;

(2) That upon failure to comply, the city may, by its own work forces or by contract, cause the marijuana to be removed and the cost thereof shall be assessed again the non-complying real property together with an additional administrative fee as set forth in this Section.

(d) Failure to remove the marijuana may cause the city to remove the marijuana and charge the cost thereof against the real property, together with an administrative cost equal to twenty-five (25) percent of the removal cost and a penalty of $25.00 for the first time the city provides the removal, $50.00 for the second removal, and $75.00 for the third and any subsequent times the city provides removal per calendar year.

(e) Notice of a violation under this Section shall be made by either:

(1) Posting a copy of the notice on the parcel;

(2) Mailing a copy of the notice by first class U.S. mail to the owner of the property at the last known address shown on the tax rolls of Yellowstone County; or

(3) Personal service upon the owner.

(f) Notice shall be deemed given and complete the day the notice is posted, mailed, or personally served.

(g) Annually, the city shall prepare a list of all lots, tracts and parcels of real property within the city from which and adjacent to which marijuana was removed by the city and for which charges and penalties have not been paid, the list shall include as a minimum the following:

(1) Name as shown by the tax rolls, common address if known;

(2) Tax code of the property;

(3) Legal description of the lot, tract or parcel;

(4) Cost of the marijuana removal for that property;

(5) Administrative costs;

(6) Penalty assessed.

(h) The assessment list shall be incorporated into a special assessment resolution in proper form which resolution shall be presented to the city council. From and after passage of the resolution, the assessments stated therein, together with administrative costs and penalty shall constitute a special tax, as provided in Montana Code Annotated 7-22-4101 and a lien on the real property shown on the assessment list. A copy of the resolution after passage shall be certified to the official collecting the city taxes and assessments.

(i) In the event an owner disagrees with a notice of violation, or due to extreme hardship is incapable of complying with the provisions of this article, the owner may appeal a violation notice to the director of planning within seven (7) days of receiving the violation notice. Such appeal must be in writing and must set forth the specific reasons why the violation notice is not well taken, or why the owner is unable to comply with the provisions of this chapter. The director of planning shall review the appeal and make a determination as to the validity of the owner's basis for objecting to the action demanded, and shall promptly notify the owner of the decision reached. For good cause shown, or in cases of extreme hardship, the director of planning may make a determination that the provisions of this article are inapplicable to a certain parcel. Decisions of the director of planning are final, and subject only to judicial review.

(j) An owner may file a written appeal of any costs, fees and penalties imposed under this article to the director of planning within seven (7) days of being billed. Such appeal must be in writing and must set forth the specific reasons as to the owner's objections to the costs, fees, and penalties imposed. The director of planning shall review the appeal and make a determination as to the validity of the owner's basis for objecting the costs, fees, and penalties imposed, and shall promptly notify the owner of the decision reached. For good cause shown, or in cases of extreme hardship, the director of planning may modify or waive costs, fees and penalties imposed under this article. Decisions of the director of planning are final, and subject only to judicial review

(k) All time periods referenced in this Section shall be calculated as actual calendar days, including weekends and holidays.

**Sec. 7-2015-Sec. 7-2020. Reserved**

**Division 2. Medical Marijuana Dispensary Licenses**

**Sec. 7-2021. Licenses and permit required.**

(a) No person shall operate a medical marijuana dispensary unless he or she has first obtained the following and maintains the same in full force and effect:

(1) All permits from the City for the location of the proposed licensed premises;

(2) A City license to operate a medical marijuana dispensary;

(3) A City license for any other business that will be conducted on the licensed premises;

(4) Ownership of, or a lease in effect on, the proposed licensed premises;

(5) A State license to operate a medical marijuana dispensary; and

(6) A State license for any other marijuana business that will be conducted on the licensed premises.

**Sec. 7-2022. Medical marijuana dispensary licenses.**

(a) The License Administrator may issue a medical marijuana dispensary license granting the privileges described in Title 16 and Title 50, Montana Code Annotated, subject to the requirements, conditions, qualifications, and limitations set forth in this Article and state law. A medical marijuana dispensary wishing to engage in marijuana cultivation, marijuana and marijuana product manufacturing, and marijuana and marijuana product transportation must obtain the appropriate licenses from the City of Billings and State of Montana as provided by city code and the laws of the State of Montana.

(b) No more than twelve (12) medical marijuana dispensary licenses shall be authorized at any single time.

(c) The holder of a license for a medical marijuana dispensary issued under this section may not hold or have an interest in an adult use dispensary license without obtaining the appropriate licenses from the City of Billings and the State of Montana as provided by city code and the laws of the State of Montana.

**Sec. 7-2023. Application for medical marijuana dispensary license.**

(a) All initial applications and annual renewal applications for medical marijuana dispensary licenses shall be made to the License Administrator upon forms supplied by the City Administrator. Upon receipt of such application and the appropriate nonrefundable application fee, the License Administrator will make or cause to be made a thorough investigation as to the qualifications of the applicant and the suitability of the premises for operating a medical marijuana dispensary. If, upon such investigation, it appears that the applicant is qualified under the law and that the premises are suitable for conducting a medical marijuana dispensary under the laws of the state and the rules and regulations of the city, the License Administrator approves such application for entry into a lottery process for the allotment of available dispensary licenses, if all other requirements of the laws are fulfilled.

(b) All of the following must be completed and presented by the applicant upon initial application:

(1) Application form under oath for each individual or business entity, along with the appropriate application fee in an amount as prescribed by council resolution. Said application fee is nonrefundable and shall be charged and collected from each individual applicant.

(2) All documents required by the City Administrator to be submitted with the initial application and any annual renewal application.

(3) When renewing a medical marijuana dispensary license, the applicant must submit a completed renewal form under oath, along with a nonrefundable renewal fee in an amount as prescribed by council resolution. If any changes in the information provided in the initial application have occurred, the renewal applicant must provide complete updated information regarding each change before his renewal application will be processed.

(4) Each initial and renewal applicant shall promptly furnish the License Administrator with all additional information pertaining to the application or to the applicant which the City Administrator may require through Administrative Order. Failure to supply the information requested within five (5) days after the request has been received by the applicant shall constitute grounds for delaying consideration of the initial or renewal application.

(5) At any time that a cap on the number of medical marijuana dispensaries is in place, only one lottery entry shall be given to a qualified applicant and only one medical marijuana dispensary license shall be awarded to an applicant selected by a lottery. A qualified applicant who is unsuccessful in the lottery process may initiate a new application to participate in a future lottery.

(6) The City Administrator may set standards for license applications through an Administrative Order, including designated time periods for acceptance of new applications, deadlines for final consideration of the applications submitted, and the date, manner, and means by which the lottery process shall be conducted.

(c) The determination by the License Administrator that the application appears to be complete shall not constitute any representation or determination that the application meets the requirements of this Article for approval or issuance of a license. Notwithstanding any determination that the application appears to be complete, the License Administrator may note concerns or deficiencies in the application and its contents after conducting its review of the application.

(d) After an application is accepted as complete, it may be amended or supplemented in writing before the License Administrator's final consideration, but each amendment shall be verified under oath by each principal, and the registered manager and employees shall verify under oath the portions of any amendment that pertain to each of them.

(e) After the application is set for final consideration by the License Administrator, the application shall not be further amended.

(f) Confidential information, as defined by Montana Code Annotated 2-6-1002, provided in the application that is specifically requested to be kept confidential by the applicant shall not be made publicly available except to the extent required by applicable law.

**Sec. 7-2024. Requirements to obtain and retain a medical marijuana dispensary license.**

In order to obtain and retain a license, the applicant shall demonstrate by a preponderance of the evidence to the License Administrator that the following requirements are satisfied:

(1) General requirements.

(a) The applicant has obtained all permits from the City for the location of the proposed licensed premises;

(b) The applicant has obtained a medical marijuana dispensary license from the State of Montana;

(c) The applicant has obtained a State and City licenses for any other business activity that will be conducted on the licensed premises;

(d) The applicant has submitted an application for a license that the License Administrator has determined is complete; and

(e) The applicant has paid all fees required under this Article.

(2) Personal requirements for the licensee, principals, registered manager and employees:

(a) The applicant, principals, registered manager and employees meet all requirements for issuance of a State license.

(b) The applicant, principals, registered manager and employees are all over the age of twenty-one (21).

(c) The applicant, principals, registered manager and employees have not been determined by any marijuana business licensing commission, any other licensing board within the State, or the Montana Department of Revenue to not be persons of good character and record within the preceding three (3) years.

(d) The applicant, principals, registered manager and employees have not discharged a sentence for any felony in the five (5) years immediately preceding the application, nor are they currently subject to a deferred judgment or sentence for a felony.

(e) The applicant, principals and registered manager have not held an interest in any liquor license, medical marijuana license or other license issued by any city, county or state that has been revoked, suspended, or fined within the preceding two (2) years.

(f) The applicant, principals, registered agent, creditors and employees have not had their authority, if any, to act as a primary caregiver revoked by the State within the preceding two (2) years.

(g) The applicant, principals, creditors and are not in default on any city, county, state or federal taxes, fees, fines or charges, do not have any outstanding warrants for their arrest, and do not have any outstanding liens or judgments payable to the City.

(h) The applicant and principals are not in default on any student loan.

(i) The applicant, principals and employees are trained or experienced in, and able to comply with, the requirements of this Article and state law pertaining to medical marijuana dispensaries and other marijuana businesses for which application is made. In determining whether an applicant, principal or employee has shown sufficient training or experience, the City Administrator shall consider, among other things, the following factors:

1. The role that the individual will play in operating the dispensary;

2. Previous experience operating medical marijuana dispensaries or marijuana businesses;

3. Completion of state or industry-approved courses on how to comply with Montana laws and regulations regarding medical marijuana dispensaries and marijuana businesses; and

4. The individual's understanding of state law and city code regulating medical marijuana.

(j) The applicant, principals, registered manager and employees all hold valid occupational licenses and registrations for medical marijuana issued by the State of Montana.

(k) The applicant and principals do not have any orders or judgments against them for child support in default or arrears.

(l) The applicant and principals are not peace officers or prosecuting attorneys.

(m) The applicant and principals are not licensed physicians who recommend medical marijuana.

(3) Location and other licensing of premises.

(a) The proposed licensed premises and adjacent grounds meet all requirements for issuance of a state license.

(b) The proposed licensed premises meet all zoning requirements.

(c) The premises are not licensed or operated as an establishment for the sale or service of alcohol beverages as defined in Title 16, Article 3, Montana Code Annotated, a business subject to the regulations of Article 7-1900 et. seq. of the Billings City Code, a dance hall or an amusement establishment as defined in Article 7, Billings, Montana City Code.

(d) The premises are not licensed or operated as a retail food establishment or wholesale food registrant.

(e) Retail and medical marijuana licenses may be co-located on a licensed premises under a common owner, but only in accordance with state and local law.

(4) Control, security and code compliance of premises.

(a) The applicant has sole legal control of the proposed licensed premises at the time the application is submitted, under a lease that is presently in effect or through present ownership of the proposed licensed premises.

(b) The proposed licensed premises have a suitable limited access area where the cultivation, display, storage, processing, weighing, handling and packaging of medical marijuana and marijuana products occurs, which is posted "employees only," and is separated from the areas accessible to the public by a wall, counter or some other substantial barrier designed to keep the public from entering the area.

(c) The applicant has submitted a security plan for the proposed licensed premises, which has been inspected and approved by the City, showing at least the following security measures:

1. All doors, windows and other points of entry have secure and functioning locks;

2. A locking safe or enclosed metallic storage vault located inside the proposed licensed premises in which any harvested medical marijuana and medical marijuana products will be secured when the licensed premises are not open to the public;

3. If the licensed premises are connected by any passage or entryway to any other premises, there is a door between the two (2) premises that can be locked from the licensee’s side and cannot be opened from the other side;

4. A professionally monitored burglar alarm system that detects unauthorized entry of all doors, windows and other points of entry to the licensed premises; and

5. Windows facing the adjacent grounds and lighting of the adjacent grounds sufficient to ensure that customers entering and leaving the licensed premises, entering and exiting parked cars on the adjacent grounds, and walking across the adjacent grounds can be observed by employees from inside the licensed premises.

(d) The proposed licensed premises and adjacent grounds comply with all zoning, health, building, plumbing, mechanical, fire and other codes, statutes and

city code, as shown by completed inspections and approvals from the applicable city departments.

(e) There is sufficient parking available on the adjacent grounds given the size of the licensed premises and the number of employees and customers that can reasonably be expected to be present at any given time.

(f) The proposed licensed premises and adjacent grounds of the licensed premises will be operated in a manner that does not cause harm to public health, safety, and welfare.

(5) Requirements specific to a proposed licensed premises of a medical marijuana dispensary also intended to be used for marijuana cultivation or marijuana product manufacturing.

(a) The area of the proposed licensed premises utilized for cultivation is equipped with a ventilation system with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior discernible by a reasonable person. The ventilation system must be inspected and approved by the appropriate city department(s).

(b) The proposed licensed premises are located in a separate building that does not share any doors, windows, air passages, vents, ducts or any heating, ventilation, air conditioning or air handling equipment or structures with any other building or premises, except for a medical marijuana dispensary or marijuana manufacturer operation limited to the manufacturing of marijuana and marijuana products to be sold exclusively in the medical marijuana dispensary to registered cardholders.

(c) Walls, barriers, locks, signs and other means are in place to prevent the public from entering the area of the proposed licensed premises utilized for cultivation or manufacturing.

(d) No portion of the building in which the proposed licensed premises are located is utilized as a residence.

(e) A medical marijuana dispensary may obtain a City marijuana transporter license, authorizing temporary storage on the licensed premises of medical marijuana concentrate and products received from a marijuana products manufacturer for the sole purpose of transfer to the license holder's commonly owned medical marijuana dispensaries, by providing a copy of the State application for a transporter license to the License Administrator, along with documents showing any changes to be made to the premises, operational plan, or security plan to accommodate the temporary storage.

(6) Requirements for premises that are not completed.

(a) If the proposed licensed premises have not been completed, inspected and approved as required in this Article at the time that the initial application or

renewal license application is submitted, the applicant shall submit as part of the application:

1. A copy of a recorded deed in the name of the licensee showing ownership of the proposed licensed premises or a lease showing a right to occupy the proposed licensed premises; and

2. Plans, specifications, drawings and other documents showing that the proposed licensed premises and adjacent grounds will comply with the requirements of this Article when completed and inspected.

(b) The License Administrator may provide tentative approval of the license before the proposed licensed premises are completed, inspected and approved, but the City shall not issue the license until the licensed premises have been completed and all inspections and approvals required under this Article have been obtained.

(c) In the event that the license receives tentative approval, but the premises are not completed, inspected and approved as required in this Article within one hundred twenty (120) days of the tentative approval, the tentative approval shall lapse and the license shall not be issued.

(7) Requirements of this Section also apply to licensees; continuing duty.

(a) The requirements of this Section imposed on the applicant shall also apply to the licensee. The requirements of this Section imposed on the proposed licensed premises, adjacent grounds or location shall also apply to the licensed premises, adjacent grounds and actual locations, respectively.

(b) The licensee and its principals, registered manager and employees have a continuing duty to ensure that the requirements of this Section continue to be met after the license is issued and at all times that the license remains in effect.

**Sec. 7-2025. License certificate; posting of license certificate and notices on licensed premises.**

(a) After the License Administrator issues a license, the City Clerk's Office shall issue to the licensee a certificate evidencing issuance of the license. The license certificate shall state the date issued, the term of the license, the name of the licensee, the address of the premises, conditions on the license and the following:

THIS LICENSE CONFERS ONLY A LIMITED AND CONDITIONAL PRIVILEGE SUBJECT TO THE REQUIREMENTS, CONDITIONS, LIMITATIONS AND QUALIFICATIONS OF THE BILLINGS, MONTANA CITY CODE, AS AMENDED, AND STATE LAW. THIS LICENSE DOES NOT CONFER A PROPERTY RIGHT OF ANY KIND. THE LICENSE AND THE PRIVILEGE CREATED BY THE LICENSE MAY BE FURTHER REGULATED, LIMITED OR COMPLETELY EXTINGUISHED BY THE CITY WITHOUT ANY COMPENSATION TO THE LICENSEE. THIS LICENSE IS SUBJECT TO THE FUTURE EXERCISE OF THE LOCAL OPTION DESCRIBED IN Montana Code Annotated §16-12-301, AND OTHER FUTURE ORDINANCES PASSED BY THE

PEOPLE OF THE CITY OF BILLINGS OR CITY COUNCIL. THE HOLDER OF THIS LICENSE SHALL BE SUBJECT TO ANY ORDINANCE OR PROHIBITION PASSED AFTER THE LICENSE WAS APPROVED OR ISSUED. IN THE EVENT THAT THE PEOPLE OF THE CITY OF BILLINGS, BY A MAJORITY VOTE OF THE REGISTERED ELECTORS OF THE CITY, AT A REGULAR OR SPECIAL ELECTION, OR A MAJORITY OF CITY COUNCIL, VOTE TO PROHIBIT BY ORDINANCE THIS TYPE OF LICENSE AND THE OPERATION OF THIS TYPE OF MEDICAL MARIJUANA DISPENSARY WITHIN THE CITY OF BILLINGS, PURSUANT TO Montana Code Annotated §16-12-301, THEN THIS LICENSE SHALL BE VOID AND THE OPERATION OF THIS MEDICAL MARIJUANA DISPENSARY SHALL BE ILLEGAL ON THE EFFECTIVE DAY OF SUCH ORDINANCE.

(b) The licensee shall post the following on the licensed premises in a prominent place where the public, patients, and primary caregivers can easily view and read while standing in a location accessible to the public:

(1) The license certificate issued by the State, along with any conditions on the same.

(2) The license certificate issued by the City, along with any conditions on the same.

(3) A notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

THIS MEDICAL MARIJUANA LICENSED PREMISES IS MANAGED BY: (STATE NAME, ADDRESS AND PHONE NUMBER FOR REGISTERED MANAGER). THE PRINCIPALS IN THIS BUSINESS ARE AS FOLLOWS: (NAMES)

(4) A notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

IF YOU HAVE CONCERNS ABOUT THE WAY THIS MEDICAL MARIJUANA LICENSED PREMISES IS OPERATED, OR OTHER ACTIVITY ON THESE PREMISES, PLEASE CONTACT THE CITY OF BILLINGS AT: (406) 657-8200.

(5) If the Licensee has received any sanction from the City during the preceding five (5) years, a notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

THIS MEDICAL MARIJUANA LICENSE HAS BEEN SANCTIONED BY THE CITY OF BILLINGS DURING THE PRECEDING FIVE (5) YEARS FOR THE FOLLOWING MISCONDUCT: (STATE DATE, VIOLATION AND SANCTION RECEIVED, LISTING ALL VIOLATIONS AND SANCTIONS IMPOSED IN THE PRECEDING FIVE (5) YEARS).

(6) A notice at least thirty (30) inches by thirty (30) inches in letters at least one (1) inch in height, stating:

THE MEDICAL MARIJUANA, MARIJUANA PLANTS AND MEDICAL MARIJUANA PRODUCTS SOLD ON THESE PREMISES ARE CULTIVATED, MANUFACTURED AND PROCESSED WITHOUT ANY GOVERNMENTAL OVERSIGHT AS TO HEALTH, SAFETY OR EFFICACY.

THERE MAY BE HEALTH RISKS ASSOCIATED WITH THE CONSUMPTION OF MEDICAL MARIJUANA AND MEDICAL MARIJUANA PRODUCTS.

(7) A notice at least thirty (30) inches by thirty (30) inches in letters at least one (1) inch in height, stating:

THE DIVERSION OF MEDICAL MARIJUANA FOR NON-MEDICAL PURPOSES IS A VIOLATION OF STATE AND LOCAL LAW.

THE USE OF MEDICAL MARIJUANA MAY IMPAIR A PERSON'S ABILITY TO DRIVE A MOTOR VEHICLE OR OPERATE MACHINERY. IT IS ILLEGAL UNDER STATE LAW TO DRIVE A MOTOR VEHICLE OR OPERATE MACHINERY WHILE UNDER THE INFLUENCE OF OR IMPAIRED BY MARIJUANA.

POSSESSION AND DISTRIBUTION OF MEDICAL MARIJUANA IS A VIOLATION OF FEDERAL LAW.

SMOKING OR CONSUMING MEDICAL MARIJUANA WITHIN THESE PREMISES, WITHIN FIFTEEN (15) FEET OF THESE PREMISES OR ANYWHERE IN PUBLIC IS UNLAWFUL.

(c) The licensee shall post the following on the licensed premises in a prominent place near other notices to employees, where the licensee, principals, registered manager and employees can easily view the same, a notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

NOTICE TO LICENSEE, PRINCIPALS, REGISTERED MANAGER AND EMPLOYEES:

THESE PREMISES, THE ADJACENT GROUNDS AND EVERY ROOM, AREA, LOCKER, SAFE AND CONTAINER ON THE LICENSED PREMISES AND ADJACENT GROUNDS EXCEPT YOUR PERSON, THE PERSONAL EFFECTS IN YOUR IMMEDIATE POSSESSION, AND YOUR PRIVATE VEHICLE, ARE SUBJECT TO INSPECTION BY CITY EMPLOYEES AND POLICE OFFICERS AT ANY TIME THAT ANY PERSON IS PRESENT ON THE LICENSED PREMISES, WITHOUT A WARRANT, AND WITHOUT REASONABLE SUSPICION TO BELIEVE THAT ANY OFFENSE HAS OCCURRED. YOU HAVE NO REASONABLE EXPECTATION OF PRIVACY ON THESE PREMISES AND THE ADJACENT GROUNDS EXCEPT IN YOUR PERSON, THE PERSONAL EFFECTS IN YOUR IMMEDIATE POSSESSION, AND YOUR PRIVATE VEHICLE.

## DIVISION 3. RETAIL MARIJUANA DISPENSARY LICENSES

### Sec. 7-2031. Licenses and permit required.

No person shall operate a retail marijuana dispensary unless he or she has first obtained the following and maintains the same in full force and effect.

(1) All permits from the City for the location of the proposed licensed premises;

(2) A City license to operate a retail marijuana dispensary;

(3) A City license for any other business that will be conducted on the licensed premises;

(4) Ownership of, or a lease in effect on, the proposed licensed premises;

(5) A State license to operate a retail marijuana dispensary; and

(6) A State license for any other marijuana business that will be conducted on the licensed premises.

**Sec. 7-2032. Retail marijuana dispensary licenses.**

(a) The License Administer may issue a retail marijuana dispensary license granting the privileges described in Title 15, Title 16, and Title 50, Montana Code Annotated, subject to the requirements, conditions, qualifications, and limitations set forth in this Article. A retail marijuana dispensary wishing to engage in marijuana cultivation, marijuana and marijuana product manufacturing, and marijuana and marijuana product transportation must obtain the appropriate licenses from the City of Billings and State of Montana as provided by city code and the laws of the State of Montana. Likewise, a retail marijuana dispensary wishing to sell medical marijuana and medical marijuana products to registered cardholders as provided under Title 15, Title 16, and Title 50, Montana Code Annotated must obtain the appropriate licenses from the City of Billings and State of Montana as provided by city code and the laws of the State of Montana.

(b) No more than twelve (12) retail marijuana dispensary licenses shall be authorized by the City at any time.

(c) The holder of a license for a retail marijuana dispensary issued under this section may not hold or have an interest in a medical marijuana dispensary license without obtaining the appropriate licenses from the City of Billings and the State of Montana as provided by city code and the laws of the State of Montana.

**Sec. 7-2033. Application for retail marijuana dispensary license.**

(a) All initial applications and annual renewal applications for retail marijuana dispensary licenses shall be made to the License Administrator upon forms supplied by the City Administrator. Upon receipt of such application and the appropriate nonrefundable application fee, the License Administrator will make or cause to be made a thorough investigation as to the qualifications of the applicant and the suitability of the premises for operating a retail marijuana dispensary. If, upon such investigation, it appears that the applicant is qualified under the law and that the premises are suitable for conducting a retail marijuana dispensary under the laws of the state and the rules and regulations of the city, the License Administrator shall approve such application for

entry into a lottery process for the allotment of available dispensary licenses if all other requirements of the laws are fulfilled.

(b) All of the following must be completed and presented by the applicant upon initial application:

(1) Application form under oath for each individual or business entity, along with the appropriate application fee in an amount as prescribed by council resolution. Said application fee is nonrefundable and shall be charged and collected from each individual applicant;

(2) All documents required by the City Administrator to be submitted with the initial application and any annual renewal application;

(3) When renewing a retail marijuana dispensary license, the applicant must submit a completed renewal form under oath, along with a nonrefundable renewal fee in an amount as prescribed by council resolution. If any changes in the information provided in the initial application have occurred, the renewal applicant must provide complete updated information regarding each change before his renewal application will be processed.

(4) Each initial and renewal applicant shall promptly furnish the License Administrator with all additional information pertaining to the application or to the applicant which the City Administrator may require through Administrative Order. Failure to supply the information requested within five (5) days after the request has been received by the applicant shall constitute grounds for delaying consideration of the initial or renewal application.

(5) At any time that a cap on the number of retail marijuana dispensaries is in place, only one lottery entry shall be given to a qualified applicant and only one retail marijuana dispensary license shall be awarded to an applicant selected by a lottery. A qualified applicant who is unsuccessful in the lottery process may initiate a new application to participate in a future lottery.

(6) The City Administrator may set standards for license applications through an Administrative Order, including designated time periods for acceptance of new applications, deadlines for final consideration of the applications submitted, and the date, manner, and means by which the lottery process shall be conducted.

(7) No more than twelve (12) retail marijuana dispensary licenses may be outstanding at any one time.

(c) The determination by the License Administrator that the application appears to be complete shall not constitute any representation or determination that the application meets the requirements of this Article for approval or issuance of a license. Notwithstanding any determination that the application appears to be complete, the License Administrator may note concerns or deficiencies in the application and its contents after conducting its review.

(d) After an application is accepted as complete, it may be amended or supplemented in writing before License Administrator's final consideration, but each amendment shall be verified under oath by each principal, and the registered manager and employees shall verify under oath the portions of any amendment that pertain to each of them.

(e) After the application is set for final consideration by the License Administrator, the application shall not be amended.

**Sec. 7-2034. Requirements to obtain and retain a retail marijuana dispensary license.**

In order to obtain and retain a license, the applicant shall demonstrate by a preponderance of the evidence to the License Administrator that the following requirements are satisfied:

(1) General requirements.

(a) The applicant has all permits from the City for the location of the proposed licensed premises;

(b) The applicant has obtained a retail marijuana dispensary license from the State of Montana;

(c) The applicant has obtained a City license for any other business activity that will be conducted on the licensed premises;

(d) The applicant has submitted an application for a license that the License Administrator has determined is complete; and

(e) The applicant has paid all fees required under this Article.

(2) Personal requirements for the licensee, principals, registered manager and employees.

(a) The applicant, principals, registered manager and employees meet all requirements for issuance of a State license.

(b) The applicant, principals, registered manager and employees are all over the age of twenty-one (21).

(c) The applicant, principals, registered manager and employees have not been determined by any marijuana business licensing commission, any other licensing board within the State, or the Montana Department of Revenue to not be persons of good character and record within the preceding three (3) years.

(d) The applicant, principals, registered manager and employees have not discharged a sentence for any felony in the five (5) years immediately preceding the application, nor are they currently subject to a deferred judgment or sentence for a felony.

(e) The applicant, principals and registered manager have not held an interest in any liquor license, medical marijuana license or other license issued by any city, county or state that has been revoked, suspended, or fined within the preceding two (2) years.

(f) The applicant, principals, registered agent, creditors and employees have not had their authority, if any, to act as a primary caregiver revoked by the State within the preceding two (2) years.

(g) The applicant, principals, creditors and are not in default on any city, county, state or federal taxes, fees, fines or charges, do not have any outstanding warrants for their arrest, and do not have any outstanding liens or judgments payable to the City.

(h) The applicant and principals are not in default on any student loan.

(i) The applicant, principals and employees are trained or experienced in, and able to comply with, the requirements of this Article and state law pertaining to retail marijuana dispensaries and other marijuana business for which application is made. In determining whether an applicant, principal or employee has shown sufficient training or experience, the License Administrator shall consider, among other things, the following factors:

1. The role that the individual will play in operating the dispensary;

2. Previous experience operating marijuana businesses;

3. Completion of state or industry-approved courses on how to comply with Montana laws and regulations regarding retail marijuana dispensaries and marijuana businesses; and

4. The individual's understanding of state law and City code regulating retail marijuana.

(j) The applicant, principals, registered manager and employees all hold valid occupational licenses and registrations for retail marijuana issued by the State of Montana.

(k) The applicant and principals do not have any orders or judgments against them for child support in default or arrears.

(l) The applicant and principals are not peace officers or prosecuting attorneys.

(m) The applicant and principals are not licensed physicians who recommend medical marijuana.

(3) Location and other licensing of premises.

(a) The proposed licensed premises and adjacent grounds meet all requirements for issuance of a state license.

(b) The proposed licensed premises meet all zoning requirements.

(c) The premises are not licensed or operated as an establishment for the sale or service of alcohol beverages as defined in Title 16, Article 3, Montana Code Annotated, a business subject to the regulations of Article 7-1900 et. seq. of the Billings City Code, a dance hall or an amusement establishment as defined in Article 7, Billings, Montana City Code.

(d) The premises are not licensed or operated as a retail food establishment or wholesale food registrant.

(e) Retail and medical marijuana licenses may be co-located on a licensed premises under a common owner, but only in accordance with state and local law.

(4) Control, security and code compliance of premises.

(a) The applicant has sole legal control of the proposed licensed premises at the time the application is submitted, under a lease that is presently in effect or through present ownership of the proposed licensed premises.

(b) The proposed licensed premises have a suitable limited access area where the cultivation, display, storage, processing, weighing, handling and packaging of marijuana and marijuana products occurs, which is posted "employees only," and is separated from the areas accessible to the public by a wall, counter or some other substantial barrier designed to keep the public from entering the area.

(c) The applicant has submitted a security plan for the proposed licensed premises, which has been inspected and approved by the City, showing at least the following security measures:

1. All doors, windows and other points of entry have secure and functioning locks;

2. A locking safe or enclosed metallic storage vault located inside the proposed licensed premises in which any harvested marijuana and marijuana products will be secured when the licensed premises are not open to the public;

3. If the licensed premises are connected by any passage or entryway to any other premises, there is a door between the two (2) premises that can be locked from the licensee's side and cannot be opened from the other side;

4. A professionally monitored burglar alarm system that detects unauthorized entry of all doors, windows and other points of entry to the licensed premises; and

5. Windows facing the adjacent grounds and lighting of the adjacent grounds sufficient to ensure that customers entering and leaving the

licensed premises, entering and exiting parked cars on the adjacent grounds, and walking across the adjacent grounds can be observed by employees from inside the licensed premises.

(d) The proposed licensed premises and adjacent grounds comply with all zoning, health, building, plumbing, mechanical, fire and other codes, statutes and ordinances, as shown by completed inspections and approvals from the City.

(e) There is sufficient parking available on the adjacent grounds given the size of the licensed premises and the number of employees and customers that can reasonably be expected to be present at any given time.

(f) The proposed licensed premises and adjacent grounds of the licensed premises will be operated in a manner that does not cause harm to public health, safety and welfare.

(5) Requirements specific to a marijuana cultivator license on a proposed licensed premises of a retail marijuana dispensary.

(a) The area of the proposed licensed premises utilized for cultivation is equipped with a ventilation system with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior discernible by a reasonable person. The ventilation system must be inspected and approved by the City.

(b) The proposed licensed premises are located in a separate building that does not share any doors, windows, air passages, vents, ducts or any heating, ventilation, air conditioning or air handling equipment or structures with any other building or premises, except for a marijuana dispensary or marijuana manufacturer operation limited to the manufacturing of marijuana and marijuana products to be sold exclusively in the marijuana dispensary.

(c) Walls, barriers, locks, signs and other means are in place to prevent the public from entering the area of the proposed licensed premises utilized for cultivation.

(d) No portion of the building in which the proposed licensed premises are located is utilized as a residence.

(e) A retail marijuana dispensary may obtain a City marijuana transporter license, authorizing temporary storage on the licensed premises of marijuana concentrate and products received from a marijuana products manufacturer for the sole purpose of transfer to the permit holder's commonly owned marijuana dispensaries, by providing a copy of the State application for a transporter license to the License Administrator, along with documents showing any changes to be made to the premises, operational plan, or security plan to accommodate the temporary storage.

(6) Requirements for premises that are not completed.

(a) If the proposed licensed premises have not been completed, inspected and approved as required in this Article at the time that the initial application or renewal license application is submitted, the applicant shall submit as part of the application:

1. A copy of a recorded deed in the name of the licensee showing ownership of the proposed licensed premises or a lease showing a right to occupy the proposed licensed premises; and

2. Plans, specifications, drawings and other documents showing that the proposed licensed premises and adjacent grounds will comply with the requirements of this Article when completed and inspected.

(b) The License Administrator may provide tentative approval of the license before the proposed licensed premises are completed, inspected and approved, but the City shall not issue the license until the licensed premises have been completed and all inspections and approvals required under this Article have been obtained.

(c) In the event that the license receives tentative approval, but the premises are not completed, inspected and approved as required in this Article within one hundred twenty (120) days of the tentative approval, the tentative approval shall lapse and the license shall not be issued.

(7) Requirements of this Section also apply to licensees; continuing duty.

(a) The requirements of this Section imposed on the applicant shall also apply to the licensee. The requirements of this Section imposed on the proposed licensed premises, adjacent grounds or location shall also apply to the licensed premises, adjacent grounds and actual locations, respectively.

(b) The licensee and its principals, registered manager and employees have a continuing duty to ensure that the requirements of this Section continue to be met after the license is issued and at all times that the license remains in effect.

**Sec. 7-2035. License certificate; posting of license certificate and notices on licensed premises.**

(a) After the City Administrator issues a license, the City Clerk's Office shall issue to the licensee a certificate evidencing issuance of the license. The license certificate shall state the date issued, the term of the license, the name of the licensee, the address of the premises, conditions on the license and the following:

THIS LICENSE CONFERS ONLY A LIMITED AND CONDITIONAL PRIVILEGE SUBJECT TO THE REQUIREMENTS, CONDITIONS, LIMITATIONS AND QUALIFICATIONS OF THE BILLINGS, MONTANA CITY CODE, AS AMENDED, AND STATE LAW. THIS LICENSE DOES NOT CONFER A PROPERTY RIGHT OF ANY KIND. THE LICENSE AND THE PRIVILEGE CREATED BY THE LICENSE MAY BE FURTHER REGULATED, LIMITED OR COMPLETELY EXTINGUISHED BY THE CITY WITHOUT ANY COMPENSATION TO THE LICENSEE. THIS LICENSE IS SUBJECT

TO THE FUTURE EXERCISE OF THE LOCAL OPTION DESCRIBED IN Montana Code Annotated §16-12-301, AND OTHER FUTURE ORDINANCES PASSED BY THE PEOPLE OF THE CITY OF BILLINGS OR CITY COUNCIL. THE HOLDER OF THIS LICENSE SHALL BE SUBJECT TO ANY ORDINANCE OR PROHIBITION PASSED AFTER THE LICENSE WAS APPROVED OR ISSUED. IN THE EVENT THAT THE PEOPLE OF THE CITY OF BILLINGS, BY A MAJORITY VOTE OF THE REGISTERED ELECTORS OF THE CITY, AT A REGULAR OR SPECIAL ELECTION, OR A MAJORITY OF CITY COUNCIL, VOTE TO PROHIBIT BY ORDINANCE THIS TYPE OF LICENSE AND THE OPERATION OF THIS TYPE OF RETAIL MARIJUANA DISPENSARY WITHIN THE CITY OF BILLINGS, PURSUANT TO Montana Code Annotated §16-12-301, THEN THIS LICENSE SHALL BE VOID AND THE OPERATION OF THIS RETAIL MARIJUANA DISPENSARY SHALL BE ILLEGAL ON THE EFFECTIVE DAY OF SUCH ORDINANCE.

(b) The licensee shall post the following on the licensed premises in a prominent place where persons can easily view and read while standing in a location accessible to the public:

(1) The license certificate issued by the State, along with any conditions on the same.

(2) The license certificate issued by the City, along with any conditions on the same.

(3) A notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

THIS RETAIL MARIJUANA LICENSED PREMISES IS MANAGED BY: (STATE NAME, ADDRESS AND PHONE NUMBER FOR REGISTERED MANAGER). THE PRINCIPALS IN THIS BUSINESS ARE AS FOLLOWS: (NAMES)

(4) A notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

IF YOU HAVE CONCERNS ABOUT THE WAY THIS RETAIL MARIJUANA LICENSED PREMISES IS OPERATED, OR OTHER ACTIVITY ON THESE PREMISES, PLEASE CONTACT THE BILLINGS POLICE DEPARTMENT AT: 406-657-8460.

(c) The licensee shall post the following on the licensed premises in a prominent place near other notices to employees, where the licensee, principals, registered manager and employees can easily view the same: a notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

NOTICE TO LICENSEE, PRINCIPALS, REGISTERED MANAGER AND EMPLOYEES:

THESE PREMISES, THE ADJACENT GROUNDS AND EVERY ROOM, AREA, LOCKER, SAFE AND CONTAINER ON THE LICENSED PREMISES AND ADJACENT GROUNDS EXCEPT YOUR PERSON, THE PERSONAL EFFECTS IN YOUR IMMEDIATE POSSESSION, AND YOUR PRIVATE VEHICLE, ARE SUBJECT TO INSPECTION BY CITY EMPLOYEES AND POLICE OFFICERS AT ANY TIME THAT

ANY PERSON IS PRESENT ON THE LICENSED PREMISES, WITHOUT A WARRANT, AND WITHOUT REASONABLE SUSPICION TO BELIEVE THAT ANY OFFENSE HAS OCCURRED. YOU HAVE NO REASONABLE EXPECTATION OF PRIVACY ON THESE PREMISES AND THE ADJACENT GROUNDS EXCEPT IN YOUR PERSON, THE PERSONAL EFFECTS IN YOUR IMMEDIATE POSSESSION AND YOUR PRIVATE VEHICLE.

## DIVISION 4. MARIJUANA CULTIVATOR LICENSE

### Sec. 7-2041. Licensing of marijuana cultivators required.

(a) A marijuana cultivator license allows a marijuana cultivator to plant, cultivate, grow, dry, package, and label marijuana and sell marijuana to licensed marijuana manufacturers, licensed dispensaries, and to other licensed marijuana cultivators, and to sell marijuana products to licensed dispensaries.

(b) All cultivation that is licensed under this Article may only occur at an indoor cultivation facility.

(c) The use of hoop houses other than for personal use marijuana plants is prohibited.

(d) Cultivation licenses shall be issued according to the state's tiered canopy system up to and including a tier 7 canopy license according to the following license types:

(1) A micro tier canopy license allows for a canopy of up to 250 square feet at one indoor cultivation facility.

(2) A tier 1 canopy license allows for a canopy of up to 1,000 square feet at one indoor cultivation facility.

(3) A tier 2 canopy license allows for a canopy of up to 2,500 square feet at up to two indoor cultivation facilities.

(4) A tier 3 canopy license allows for a canopy of up to 5,000 square feet at up to three indoor cultivation facilities.

(5) A tier 4 canopy license allows for a canopy of up to 7,500 square feet at up to four indoor cultivation facilities.

(6) A tier 5 canopy license allows for a canopy of up to 10,000 square feet at up to five indoor cultivation facilities.

(7) A tier 6 canopy license allows for a canopy of up to 13,000 square feet at up to five indoor cultivation facilities.

(8) A tier 7 canopy license allows for a canopy of up to 15,000 square feet at up to five indoor cultivation facilities.

(e) A canopy is measured horizontally starting from the outermost point of a plant on the perimeter of a dedicated growing space and continue around the outside of all plants located within the dedicated growing space.

(f) A marijuana cultivator licensee may designate multiple canopy areas at a cultivation facility, but each canopy area must be separated by a physical boundary such as an interior wall or by at least eight feet of open space.

(g) Initial application and renewal fees for each cultivation tier shall be set by City Council by resolution.

**Sec. 7-2042. Application for marijuana cultivator license.**

(a) All initial applications and renewal applications for marijuana cultivation licenses shall be made to the License Administrator upon forms supplied by the City Administrator. Upon receipt of such application and the appropriate nonrefundable application fee, the License Administrator will make or cause to be made a thorough investigation as to the qualifications of the applicant and the suitability of the premises for operating a marijuana cultivation business. If, upon such investigation, it appears that the applicant is qualified under the law and that the premises are suitable for the cultivation of marijuana under the laws of the state and the rules and regulations of the city, the License Administrator shall approve such application if all other requirements of the laws are fulfilled.

(b) All of the following must be completed and presented by the applicant upon initial application:

(1) Application form under oath for each individual or business entity, along with the appropriate application fee in an amount as prescribed by council resolution. Said application fee is nonrefundable and shall be charged and collected from each individual applicant.

(2) All documents required by the City Administrator to be submitted with the initial application and any renewal application.

(3) When renewing a marijuana cultivation license, the applicant must submit a completed renewal form under oath, along with a nonrefundable renewal fee in an amount as prescribed by council resolution. If any changes in the information provided in the initial application have occurred, the renewal applicant must provide complete updated information regarding each change before the renewal application will be processed.

(4) Each initial and renewal applicant shall promptly furnish the License Administrator with all additional information pertaining to the application or to the applicant which the City Administrator may require through Administrative Order. Failure to supply the information requested within five (5) days after the request has been received by the applicant shall constitute grounds for delaying consideration of the initial or renewal application.

(5) The City Administrator may set standards for license applications through an Administrative Order, including designated time periods for acceptance of new applications, deadlines for final consideration of the applications submitted, and the date, manner, and means by which the lottery process shall be conducted, if applicable.

(c) The determination by the License Administrator that the application appears to be complete shall not constitute any representation or determination that the application meets the requirements of this Article for approval or issuance of a license. Notwithstanding any determination that the application appears to be complete, the License Administrator may note concerns or deficiencies in the application and its contents after conducting its review of the application.

(d) After an application is accepted as complete, it may be amended or supplemented in writing before the License Administrator's final consideration, but each amendment shall be verified under oath by each principal, and the registered manager and employees shall verify under oath the portions of any amendment that pertain to each of them.

(e) After the application is set for final consideration by the License Administrator, the application shall not be amended.

(f) Confidential information, as defined by Montana Code Annotated 2-6-1002, provided in the application that is specifically requested to be kept confidential by the applicant shall not be made publicly available except to the extent required by applicable law.

**Sec. 7-2043. Requirements to obtain and retain a marijuana cultivator license.**

In order to obtain and retain a license, the applicant shall demonstrate by a preponderance of the evidence to the License Administrator that the following requirements are satisfied:

(1) General requirements.

(a) The applicant has obtained a permit from the City for the location(s) of the proposed licensed premises;

(b) The applicant has obtained a cultivator license from the State of Montana;

(c) The applicant has obtained a City license for any other business activity that will be conducted on the licensed premises;

(d) The applicant has submitted an application for a license that the License Administrator has determined is complete; and

(e) The applicant has paid all fees required under this Article.

(2) Personal requirements for the licensee, principals, registered manager and employees.

(a) The applicant, principals, registered manager and employees meet all requirements for issuance of a State license.

(b) The applicant, principals, registered manager and employees are all over the age of twenty-one (21).

(c) The applicant, principals, registered manager and employees have not been determined by any marijuana business licensing commission, any other licensing board within the State, or the Montana Department of Revenue to not be persons of good character and record within the preceding three (3) years.

(d) The applicant, principals, registered manager and employees have not discharged a sentence for any felony in the five (5) years immediately preceding the application, nor are they currently subject to a deferred judgment or sentence for a felony.

(e) The applicant, principals and registered manager have not held an interest in any liquor license, medical marijuana license or other license issued by any city, county or state that has been revoked, suspended, or fined within the preceding two (2) years.

(f) The applicant, principals, registered agent, creditors and employees have not had their authority, if any, to act as a primary caregiver revoked by the State within the preceding two (2) years.

(g) The applicant, principals, creditors and are not in default on any city, county, state or federal taxes, fees, fines or charges, do not have any outstanding warrants for their arrest, and do not have any outstanding liens or judgments payable to the City.

(h) The applicant and principals are not in default on any student loan.

(i) The applicant, principals and employees are trained or experienced in, and able to comply with, the requirements of this Article and state law pertaining to the cultivation, transportation, storage and distribution of marijuana and marijuana products for which application is made. In determining whether an applicant, principal or employee has shown sufficient training or experience, the License Administrator shall consider, among other things, the following factors:

1. The role that the individual will play in operating the cultivation business;

2. Previous experience operating marijuana businesses;

3. Completion of state or industry-approved courses on how to comply with Montana laws and regulations regarding marijuana businesses; and
4. The individual's understanding of state law and City code regulating marijuana businesses.

(j) The applicant, principals, registered manager and employees all hold valid occupational licenses and registrations required by the State of Montana.

(k) The applicant and principals do not have any orders or judgments against them for child support in default or arrears.

(l) The applicant and principals are not peace officers or prosecuting attorneys.

(m) The applicant and principals are not licensed physicians who recommend medical marijuana.

(n) The applicant and principals have no beneficial ownership interest in any testing facility in the state of Montana or any other state.

(3) Location and other licensing of premises.

(a) The proposed licensed premises and adjacent grounds meet all requirements for issuance of a state license.

(b) The proposed licensed premises meet all zoning requirements.

(c) The premises are not licensed or operated as an establishment for the sale or service of alcohol beverages as defined in Title 16, Article 3, Montana Code Annotated, a business subject to the regulations of Article 7-1900 et. seq. of the Billings City Code, a dance hall or an amusement establishment as defined in Article 7, Billings, Montana City Code.

(d) The premises are not licensed or operated as a retail food establishment or wholesale food registrant.

(e) The premises are used solely for the purposes of the cultivation of marijuana.

(4) Control, security and code compliance of premises.

(a) The applicant has sole legal control of the proposed licensed premises at the time the application is submitted, under a lease that is presently in effect or through present ownership of the proposed licensed premises.

(b) The proposed licensed premises have a suitable limited access area where the cultivation, storage, processing, weighing, handling and packaging of marijuana and marijuana products occurs, which is posted "employees only," and is separated from the areas accessible to the public by a wall, counter or some other substantial barrier designed to keep the public from entering the area.

(c) The applicant has submitted a security plan for the proposed licensed premises, which has been inspected and approved by the City, showing at least the following security measures:

1. All doors, windows and other points of entry have secure and functioning locks;

2. If the licensed premises are connected by any passage or entryway to any other premises, there is a door between the two (2) premises that can be locked from the licensee's side and cannot be opened from the other side;

3. A professionally monitored burglar alarm system that detects unauthorized entry of all doors, windows and other points of entry to the licensed premises; and

4. Windows facing the adjacent grounds and lighting of the adjacent grounds sufficient to ensure that customers entering and leaving the licensed premises, entering and exiting parked cars on the adjacent grounds, and walking across the adjacent grounds can be observed by employees from inside the licensed premises.

(d) The proposed licensed premises and adjacent grounds comply with all zoning, health, building, plumbing, mechanical, fire and other codes, statutes and ordinances, as shown by completed inspections and approvals from the applicable city departments.

(e) There is sufficient parking available on the adjacent grounds given the size of the licensed premises and the number of employees and customers that can reasonably be expected to be present at any given time.

(f) The proposed licensed premises and adjacent grounds of the licensed premises will be operated in a manner that does not cause harm to public health, safety and welfare.

(5) Requirements for premises that are not completed.

(a) If the proposed licensed premises have not been completed, inspected and approved as required in this Article at the time that the initial application or renewal license application is submitted, the applicant shall submit as part of the application:

1. A copy of a recorded deed in the name of the licensee showing ownership of the proposed licensed premises or a lease showing a right to occupy the proposed licensed premises; and

2. Plans, specifications, drawings and other documents showing that the proposed licensed premises and adjacent grounds will comply with the requirements of this Article when completed and inspected.

(b) The License Administrator may provide tentative approval of the license before the proposed licensed premises are completed, inspected and approved, but the City shall not issue the license until the licensed premises have been completed and all inspections and approvals required under this Article have been obtained.

(c) In the event that the license receives tentative approval, but the premises are not completed, inspected and approved as required in this Article within one hundred twenty (120) days of the tentative approval, the tentative approval shall lapse and the license shall not be issued.

(6) Requirements of this Section also apply to licensees; continuing duty.

(a) The requirements of this Division imposed on the applicant shall also apply to the licensee. The requirements of this Division imposed on the proposed licensed premises, adjacent grounds or location shall also apply to the licensed premises, adjacent grounds and actual locations, respectively.

(b) The licensee and its principals, registered manager and employees have a continuing duty to ensure that the requirements of this Division continue to be met after the license is issued and at all times that the license remains in effect.

(7) A marijuana cultivator shall use the seed-to-sale tracking system developed pursuant to 16-12-105 to create shipping manifests documenting the transport of marijuana and marijuana products throughout the state.

(8) A marijuana transporter may deliver marijuana or marijuana products to licensed premises or registered cardholders only and may not make deliveries of marijuana or marijuana products to individual consumers.

(9) A person delivering marijuana or marijuana products for a marijuana cultivator must possess a valid marijuana worker permit issued by the state and be a current employee of the marijuana transporter business.

(10) A marijuana cultivator licensee must create and maintain a manual of written standard operating procedures to produce marijuana. The marijuana cultivator licensee must keep the manual at the licensed premises and make it available for City inspection at all times. The manual must include, at a minimum:

(a) when and how all pesticides or other chemicals are to be applied during the production process;

(b) water usage and wastewater disposal protocols; and

(c) a waste disposal plan.

(11) If a marijuana cultivator makes a material change to the standard operating procedures, it must document the change and revise the written standard operating procedures manual accordingly.

(12) A marijuana cultivator licensee must maintain on the licensed premises:

(a) the material safety data sheet for all pesticides, fertilizers, or other agricultural chemicals used in the production of marijuana at the licensed premises; and

(b) the original label, or a copy, for all pesticides, fertilizers, or other agricultural chemicals used in the production of marijuana at the licensed premises.

(13) A marijuana cultivator licensee must maintain a log of all pesticides, fertilizers, or other agricultural chemicals used in the production of marijuana in the seed-to-sale tracking system.

(14) A marijuana cultivator licensee may not cultivate hemp at a licensed premises.

## DIVISION 5. MARIJUANA TRANSPORTER LICENSE

### Sec. 7-2050. Licensing of marijuana transporters.

(a) A marijuana transporter license may be issued to a person to provide logistics, distribution, delivery, and storage of marijuana and marijuana products. A licensed marijuana transporter is responsible for the marijuana and marijuana products once it takes control of the marijuana or marijuana product.

(b) A marijuana transporter may contract with multiple licensed marijuana businesses.

(c) All persons who transport marijuana or marijuana products shall hold a valid marijuana transporter license except as specifically provided in this Article or under state law.

### Sec. 7-2051. Application for marijuana transporter license.

(a) All initial applications and renewal applications for marijuana transporter licenses shall be made to the License Administrator upon forms supplied by the City Administrator. Upon receipt of such application and the appropriate nonrefundable application fee, the License Administrator will make or cause to be made a thorough investigation as to the qualifications of the applicant and the suitability of the premises for operating a marijuana transporter business. If, upon such investigation, it appears that the applicant is qualified under the law and that the premises are suitable for storage of marijuana and marijuana products under the laws of the state and the rules and regulations of the city, the License Administrator shall approve such application if all other requirements of the laws are fulfilled.

(b) All of the following must be completed and presented by the applicant upon initial application:

(1) Application form under oath for each individual or business entity, along with the appropriate application fee in an amount as prescribed by council resolution. Said application fee is nonrefundable and shall be charged and collected from each individual applicant;

(2) All documents required by the City Administrator to be submitted with the initial application and any renewal application;

(3) When renewing a marijuana transporter license, the applicant must submit a completed renewal form under oath, along with a nonrefundable renewal fee in an amount as prescribed by council resolution. If any changes in the information provided in the initial application have occurred, the renewal applicant must

provide complete updated information regarding each change before the renewal application will be processed.

(4) Each initial and renewal applicant shall promptly furnish the License Administrator with all additional information pertaining to the application or to the applicant which the City Administrator may require through Administrative Order. Failure to supply the information requested within five (5) days after the request has been received by the applicant shall constitute grounds for delaying consideration of the initial or renewal application.

(c) The determination by the License Administrator that the application appears to be complete shall not constitute any representation or determination that the application meets the requirements of this Article for approval or issuance of a license. Notwithstanding any determination that the application appears to be complete, the License Administrator may note concerns or deficiencies in the application and its contents after conducting a review of the application.

(d) After an application is accepted as complete, it may be amended or supplemented in writing before the License Administrator's final consideration, but each amendment shall be verified under oath by each principal, and the registered manager and employees shall verify under oath the portions of any amendment that pertain to each of them.

(e) After the application is set for final consideration by the License Administrator, the application shall not be amended.

(f) Confidential information, as defined by Montana Code Annotated 2-6-1002, provided in the application that is specifically requested to be kept confidential by the applicant shall not be made publicly available except to the extent required by applicable law.

**Sec. 7-2052. Requirements to obtain and retain a marijuana transporter license.**

In order to obtain and retain a license, the applicant shall demonstrate by a preponderance of the evidence to the License Administrator that the following requirements are satisfied:

(1) General requirements.

(a) The applicant has obtained all permits from the City for the location of the proposed licensed premises;

(b) The applicant has obtained a medical transporter dispensary license from the State of Montana;

(c) The applicant has obtained a City license for any other business activity that will be conducted on the licensed premises;

(d) The applicant has submitted an application for a license that the License Administrator has determined is complete; and

(e) The applicant has paid all fees required under this Article.

(2) Personal requirements for the licensee, principals, registered manager and employees.

(a) The applicant, principals, registered manager and employees meet all requirements for issuance of a State license.

(b) The applicant, principals, registered manager and employees are all over the age of twenty-one (21).

(c) The applicant, principals, registered manager and employees have not been determined by any marijuana business licensing commission, any other licensing board within the State, or the Montana Department of Revenue to not be persons of good character and record within the preceding three (3) years.

(d) The applicant, principals, registered manager and employees have not discharged a sentence for any felony in the five (5) years immediately preceding the application, nor are they currently subject to a deferred judgment or sentence for a felony.

(e) The applicant, principals and registered manager have not held an interest in any liquor license, medical marijuana license or other license issued by any city, county or state that has been revoked, suspended, or fined within the preceding two (2) years.

(f) The applicant, principals, registered agent, creditors and employees have not had their authority, if any, to act as a primary caregiver revoked by the State within the preceding two (2) years.

(g) The applicant, principals, creditors and are not in default on any city, county, state or federal taxes, fees, fines or charges, do not have any outstanding warrants for their arrest, and do not have any outstanding liens or judgments payable to the City.

(h) The applicant and principals are not in default on any student loan.

(i) The applicant, principals and employees are trained or experienced in, and able to comply with, the requirements of this Article and state law pertaining to the transportation, storage and distribution of marijuana and marijuana products for which application is made. In determining whether an applicant, principal or employee has shown sufficient training or experience, the License Administrator shall consider, among other things, the following factors:

1. The role that the individual will play in operating the transport business;

2. Previous experience operating marijuana businesses;

3. Completion of state or industry-approved courses on how to comply with Montana laws and regulations regarding marijuana businesses; and

4. The individual's understanding of state law and City code regulating marijuana businesses.

(j) The applicant, principals, registered manager and employees all hold valid occupational licenses and registrations required by the State of Montana.

(k) The applicant and principals do not have any orders or judgments against them for child support in default or arrears.

(l) The applicant and principals are not peace officers or prosecuting attorneys.

(m) The applicant and principals are not licensed physicians who recommend medical marijuana.

(n) The applicant and principals have no beneficial ownership interest in any testing facility in the state of Montana or any other state.

(3) Location and other licensing of premises.

(a) The proposed licensed premises and adjacent grounds meet all requirements for issuance of a state license.

(b) The proposed licensed premises meet all zoning requirements.

(c) The premises are not licensed or operated as an establishment for the sale or service of alcohol beverages as defined in Title 16, Article 3, Montana Code Annotated, a business subject to the regulations of Article 7-1900 et. seq. of the Billings City Code, a dance hall or an amusement establishment as defined in Article 7, Billings, Montana City Code.

(d) The premises are not licensed or operated as a retail food establishment or wholesale food registrant.

(e) The premises are used solely for the purposes of the transport and temporary storage of marijuana and marijuana products in compliance with all state and local regulations.

(4) Control, security and code compliance of premises.

(a) The applicant has sole legal control of the proposed licensed premises at the time the application is submitted, under a lease that is presently in effect or through present ownership of the proposed licensed premises.

(b) The proposed licensed premises have a suitable limited access area where the storage, processing, weighing, handling and packaging of marijuana and marijuana products occurs, which is posted "employees only," and is separated from the areas accessible to the public by a wall, counter or some other substantial barrier designed to keep the public from entering the area.

(c) The applicant has submitted a security plan for the proposed licensed premises, which has been inspected and approved by the City, showing at least the following security measures:

1. All doors, windows and other points of entry have secure and functioning locks;

2. If the licensed premises are connected by any passage or entryway to any other premises, there is a door between the two (2) premises that can be locked from the licensee's side and cannot be opened from the other side;

3. A professionally monitored burglar alarm system that detects unauthorized entry of all doors, windows and other points of entry to the licensed premises; and

4. Windows facing the adjacent grounds and lighting of the adjacent grounds sufficient to ensure that customers entering and leaving the licensed premises, entering and exiting parked cars on the adjacent grounds, and walking across the adjacent grounds can be observed by employees from inside the licensed premises.

(d) The proposed licensed premises and adjacent grounds comply with all zoning, health, building, plumbing, mechanical, fire and other codes, statutes and ordinances, as shown by completed inspections and approvals from the applicable city departments.

(e) There is sufficient parking available on the adjacent grounds given the size of the licensed premises and the number of employees and customers that can reasonably be expected to be present at any given time.

(f) The proposed licensed premises and adjacent grounds of the licensed premises will be operated in a manner that does not cause harm to public health, safety and welfare.

(5) Requirements for premises that are not completed.

(a) If the proposed licensed premises have not been completed, inspected and approved as required in this Article at the time that the initial application or renewal license application is submitted, the applicant shall submit as part of the application:

1. A copy of a recorded deed in the name of the licensee showing ownership of the proposed licensed premises or a lease showing a right to occupy the proposed licensed premises; and

2. Plans, specifications, drawings and other documents showing that the proposed licensed premises and adjacent grounds will comply with the requirements of this Article when completed and inspected.

(b) The License Administrator may provide tentative approval of the license before the proposed licensed premises are completed, inspected and approved, but the City shall not issue the license until the licensed premises have been completed and all inspections and approvals required under this Article have been obtained.

(c) In the event that the license receives tentative approval, but the premises are not completed, inspected and approved as required in this Article within one hundred twenty (120) days of the tentative approval, the tentative approval shall lapse and the license shall not be issued.

(6) Distribution and delivery of marijuana and marijuana products.

(a) All distribution and delivery of marijuana and marijuana products must:

1. occur in a motor vehicle as defined by state law;

2. depart from a licensed premises and be delivered to a licensed premises or to a registered cardholder's address;

3. be accompanied by a printed manifest derived from the seed-to-sale tracking system that contains the following information:

a. the physical address and license number of the departure location;

b. the physical address and license number or registered cardholder number of the arrival location;

c. date and time of departure;

d. date and time or arrival;

e. transport vehicle year, make, model, and license plate number;

f. carrier, policy number, and expiration date of state minimum liability insurance policy for transport vehicle;

g. name and signature of each licensee or its employee accompanying the transport; and

h. a complete description of the marijuana or marijuana product being transported. The description must include:

1) the name and type of product being transported;

2) amount of product being transported;

3) RFID tracking tag numbers of the product being transported; and

4) all delivery and transport of products must be accomplished within 48 hours from the date and time of departure.

(b) The printed manifest may not be voided or changed after leaving the departure location.

(c) A copy of the transport manifest must be given to each licensed premises receiving the inventory described in the transport manifest.

(d) A receiving licensed premises is responsible for ensuring that the marijuana or marijuana products match the description in the transport manifest. It is the responsibility of the receiving licensed premises to immediately record receipt of the transported inventory.

(e) It is the responsibility of the receiving licensed premise to immediately document and report discrepancies between product received and items described for transport on the manifest. respectively.

(f) All vehicles used to transport marijuana or marijuana products:

1. Shall be considered a licensed premises for purposes of inspection by the City. Transport vehicles may be stopped and inspected by the City at any licensed premises or during transport.

2. Shall be lockable and equipped with a security alarm system.

3. Shall not leave the state of Montana while any amount of marijuana or marijuana product is in the motor vehicle.

4. Shall not have any external marks, words, or symbols that indicate the vehicle is used for transport of marijuana or marijuana products or that it is owned or leased by a marijuana business.

(g) A marijuana transporter licensee or employee of a marijuana transporter licensee must not sell marijuana or marijuana products; or transport marijuana or marijuana product directly to consumers.

(h) A marijuana transport licensee must contact the City within 24 hours if a vehicle transporting marijuana items is involved in an accident that involves product loss.

(i) Copies of transport manifest and delivery receipts must be presented to law enforcement officers or authorized City employees, if requested.

(j) If a marijuana transporter licensee maintains a licensed premises to temporarily store marijuana or marijuana products, the licensee must have a state marijuana storage facility endorsement for each storage facility.

(7) Requirements of this Section also apply to licensees; continuing duty.

(a) The requirements of this Division imposed on the applicant shall also apply to the licensee. The requirements of this Division imposed on the proposed licensed premises, adjacent grounds or location shall also apply to the licensed premises, adjacent grounds and actual locations, respectively.

(b) The licensee and its principals, registered manager and employees have a continuing duty to ensure that the requirements of this Division continue to be met after the license is issued and at all times that the license remains in effect.

(8) A marijuana transporter shall use the seed-to-sale tracking system developed pursuant to 16-12-105 to create shipping manifests documenting the transport of marijuana and marijuana products throughout the state.

(9) A marijuana transporter may deliver marijuana or marijuana products to licensed premises or registered cardholders only and may not make deliveries of marijuana or marijuana products to individual consumers.

(10) A person delivering marijuana or marijuana products for a marijuana transporter must possess a valid marijuana worker permit issued by the state and be a current employee of the marijuana transporter business.

**Sec. 7-2053. Exceptions to requirements to obtain and retain a marijuana transporter license.**

The following acts do not require a City marijuana transporter license but may, depending upon the circumstances, require another state or city marijuana business license:

(a) A registered cardholder or consumer is not required to possess a marijuana transporter license when purchasing marijuana or marijuana products at a dispensary for their personal use.

(b) A person employed by a licensed marijuana business or a testing laboratory who holds a state-issued marijuana worker license, or a person who holds a marijuana business license, may transport marijuana or marijuana products between other licensed premises without a transporter license so long as such transportation:

(1) Complies with rules implementing the seed-to-sale tracking system set forth in Montana Code Annotated 16-12-105; and

(2) Includes a printed manifest containing information as required by the department.

(c) A person employed by a licensed marijuana business and who holds a state-issued marijuana worker license, or a person who holds a marijuana business license may deliver marijuana from a dispensary to a registered cardholder provided that the person delivering the marijuana or marijuana products:

(1) complies with rules adopted by the Montana Department of Revenue; and

(2) includes a printed delivery manifest from a dispensary to a registered cardholder containing the registered cardholder's address and cardholder number and the dispensary's address and license number.

## DIVISION 6. MARIJUANA MANUFACTURER LICENSE

### Sec. 7-2056. Licensing of marijuana manufacturers.

(a) A marijuana manufacturer license allows a marijuana manufacturer to convert or to compound marijuana into marijuana products. A marijuana manufacturer licensee may buy marijuana and marijuana products from licensed marijuana cultivators and licensed marijuana manufacturers and may sell marijuana products to licensed marijuana dispensaries.

(b) A person licensed as a manufacturer shall:

(1) prepare marijuana products at a licensed premises exclusively; and

(2) use equipment that is used exclusively for the manufacture and preparation of marijuana products.

(c) All licensed premises on which marijuana products are manufactured must meet any applicable standards set by a local board of health for a retail food establishment as defined in 50–50–102.

(d) Manufacturer licenses shall be issued according to the state's tiered system according to the following license types:

(1) Tier 1 is a manufacturing facility that produces, on a monthly basis, less than 1 pound of concentrate and up to 10 pounds of concentrate;

(2) Tier 2 is a manufacturing facility that produces, on a monthly basis, between 10 pounds of concentrate and 15 pounds of concentrate; and

(3) Tier 3 is a manufacturing facility that produces, on a monthly basis, 15 pounds or more of concentrate.

(e) A manufacturer may apply to advance to the next licensing level in conjunction with a regular renewal application.

(f) Fees for the initial application and renewal licenses based upon tier level will be set by City Council resolution.

### Sec. 7-2057. Application for marijuana manufacturer license.

(a) All initial applications and renewal applications for marijuana manufacturer licenses shall be made to the License Administrator upon forms supplied by the City Administrator. Upon receipt of such application and the appropriate nonrefundable application fee, the License Administrator will make or cause to be made a thorough investigation as to the qualifications of the applicant and the suitability of the premises for operating a marijuana manufacturing business. If, upon such investigation, it

appears that the applicant is qualified under the law and that the premises are suitable for the manufacture of marijuana products under the laws of the state and the rules and regulations of the city, the License Administrator shall approve such application if all other requirements of the laws are fulfilled.

(b) All of the following must be completed and presented by the applicant upon initial application:

(1) Application form under oath for each individual or business entity, along with the appropriate application fee in an amount as prescribed by council resolution. Said application fee is nonrefundable and shall be charged and collected from each individual applicant.

(2) All documents required by the City Administrator to be submitted with the initial application and any renewal application.

(3) When renewing a marijuana manufacturer license, the applicant must submit a completed renewal form under oath, along with a nonrefundable renewal fee in an amount as prescribed by council resolution. If any changes in the information provided in the initial application have occurred, the renewal applicant must provide complete updated information regarding each change before the renewal application will be processed.

(4) Each initial and renewal applicant shall promptly furnish the License Administrator with all additional information pertaining to the application or to the applicant which the City Administrator may require through Administrative Order. Failure to supply the information requested within five (5) days after the request has been received by the applicant shall constitute grounds for delaying consideration of the initial or renewal application.

(5) The City Administrator may set standards for license applications through an Administrative Order, including designated time periods for acceptance of new applications and deadlines for final consideration of the applications submitted.

(c) The determination by the License Administrator that the application appears to be complete shall not constitute any representation or determination that the application meets the requirements of this Article for approval or issuance of a license. Notwithstanding any determination that the application appears to be complete, the License Administrator may note concerns or deficiencies in the application and its contents after conducting its review of the application.

(d) After an application is accepted as complete, it may be amended or supplemented in writing before the License Administrator's final consideration, but each amendment shall be verified under oath by each principal, and the registered manager and employees shall verify under oath the portions of any amendment that pertain to each of them.

(e) After the application is set for final consideration by the License Administrator, the application shall not be amended.

(f) Confidential information, as defined by Montana Code Annotated 2-6-1002, provided in the application that is specifically requested to be kept confidential by the applicant shall not be made publicly available except to the extent required by applicable law.

**Sec. 7-2058. Requirements to obtain and retain a marijuana manufacturer license.**

In order to obtain and retain a license, the applicant shall demonstrate by a preponderance of the evidence to the License Administrator that the following requirements are satisfied:

(1) General requirements.

(a) The applicant has obtained a permit from the City for the location(s) of the proposed licensed premises;

(b) The applicant has obtained a manufacturer license from the Montana Department of Revenue;

(c) The applicant has obtained a City license for any other business activity that will be conducted on the licensed premises;

(d) The applicant has submitted an application for a license that the License Administrator has determined is complete; and

(e) The applicant has paid all fees required under this Article.

(2) Personal requirements for the licensee, principals, registered manager and employees.

(a) The applicant, principals, registered manager and employees meet all requirements for issuance of a State license.

(b) The applicant, principals, registered manager and employees are all over the age of twenty-one (21).

(c) The applicant, principals, registered manager and employees have not been determined by any marijuana business licensing commission, any other licensing board within the State, or the Montana Department of Revenue to not be persons of good character and record within the preceding three (3) years.

(d) The applicant, principals, registered manager and employees have not discharged a sentence for any felony in the five (5) years immediately preceding the application, nor are they currently subject to a deferred judgment or sentence for a felony.

(e) The applicant, principals and registered manager have not held an interest in any liquor license, medical marijuana license or other license issued by any city, county or state that has been revoked, suspended, or fined within the preceding two (2) years.

(f) The applicant, principals, registered agent, creditors and employees have not had their authority, if any, to act as a primary caregiver revoked by the State within the preceding two (2) years.

(g) The applicant, principals, creditors and are not in default on any city, county, state or federal taxes, fees, fines or charges, do not have any outstanding warrants for their arrest, and do not have any outstanding liens or judgments payable to the City.

(h) The applicant and principals are not in default on any student loan.

(i) The applicant, principals and employees are trained or experienced in, and able to comply with, the requirements of this Article and state law pertaining to the manufacture, transportation, storage and distribution of marijuana and marijuana products for which application is made. In determining whether an applicant, principal or employee has shown sufficient training or experience, the City Administrator shall consider, among other things, the following factors:

1. The role that the individual will play in operating the manufacturing business;

2. Previous experience operating marijuana businesses;

3. Completion of state or industry-approved courses on how to comply with Montana laws and regulations regarding marijuana businesses; and

4. The individual's understanding of state law and City code regulating marijuana businesses.

(j) The applicant, principals, registered manager and employees all hold valid occupational licenses and registrations required by the Montana Department of Revenue.

(k) The applicant and principals do not have any orders or judgments against them for child support in default or arrears.

(l) The applicant and principals are not peace officers or prosecuting attorneys.

(m) The applicant and principals are not licensed physicians who recommend medical marijuana.

(n) The applicant and principals have no beneficial ownership interest in any testing facility in the state of Montana or any other state.

(3) Location and other licensing of premises.

(a) The proposed licensed premises and adjacent grounds meet all requirements for issuance of a state license.

(b) The proposed licensed premises meet all zoning requirements.

(c) The premises are not licensed or operated as an establishment for the sale or service of alcohol beverages as defined in Title 16, Article 3, Montana Code Annotated, a business subject to the regulations of Article 7-1900 et. seq. of the Billings City Code, a dance hall or an amusement establishment as defined in Article 7, Billings, Montana City Code.

(d) The premises are not licensed or operated as a retail food establishment or wholesale food registrant.

(e) The premises are used solely for the purposes of the manufacturing of marijuana and marijuana products.

(4) Control, security and code compliance of premises.

(a) The applicant has sole legal control of the proposed licensed premises at the time the application is submitted, under a lease that is presently in effect or through present ownership of the proposed licensed premises.

(b) The proposed licensed premises have a suitable limited access area where manufacture of marijuana products will occur designed to keep the public from entering the area.

(c) The applicant has submitted a security plan for the proposed licensed premises, which has been inspected and approved by the City, showing at least the following security measures:

1. All doors, windows and other points of entry have secure and functioning locks;

2. If the licensed premises are connected by any passage or entryway to any other premises, there is a door between the two (2) premises that can be locked from the licensee's side and cannot be opened from the other side;

3. A professionally monitored burglar alarm system that detects unauthorized entry of all doors, windows and other points of entry to the licensed premises.

(d) The proposed licensed premises and adjacent grounds comply with all zoning, health, building, plumbing, mechanical, fire and other codes, statutes and ordinances, as shown by completed inspections and approvals from the applicable city departments.

(e) There is sufficient parking available on the adjacent grounds given the size of the licensed premises and the number of employees and customers that can reasonably be expected to be present at any given time.

(f) The proposed licensed premises and adjacent grounds of the licensed premises will be operated in a manner that does not cause harm to public health, safety and welfare.

(5) Requirements for premises that are not completed.

(a) If the proposed licensed premises have not been completed, inspected and approved as required in this Article at the time that the initial application or renewal license application is submitted, the applicant shall submit as part of the application:

1. A copy of a recorded deed in the name of the licensee showing ownership of the proposed licensed premises or a lease showing a right to occupy the proposed licensed premises; and

2. Plans, specifications, drawings and other documents showing that the proposed licensed premises and adjacent grounds will comply with the requirements of this Article when completed and inspected.

(b) The License Administrator may provide tentative approval of the license before the proposed licensed premises are completed, inspected and approved, but the City shall not issue the license until the licensed premises have been completed and all inspections and approvals required under this Article have been obtained.

(c) In the event that the license receives tentative approval, but the premises are not completed, inspected and approved as required in this Article within one hundred twenty (120) days of the tentative approval, the tentative approval shall lapse and the license shall not be issued.

(6) Requirements of this Section also apply to licensees; continuing duty.

(a) The requirements of this Division imposed on the applicant shall also apply to the licensee. The requirements of this Division imposed on the proposed licensed premises, adjacent grounds or location shall also apply to the licensed premises, adjacent grounds and actual locations, respectively.

(b) The licensee and its principals, registered manager and employees have a continuing duty to ensure that the requirements of this Division continue to be met after the license is issued and at all times that the license remains in effect.

(7) A marijuana manufacturer licensee must take all reasonable measures and precautions to ensure the following:

(a) that there is sufficient space for placement of equipment and storage of materials for the maintenance of sanitary operations for the manufacture of marijuana products;

(b) that all surfaces, including utensils and equipment used for the preparation of marijuana products, shall be cleaned and sanitized as frequently as is necessary to protect against contamination;

(c) that the water supply is safe and potable; and

(d) that the storage and transport of finished marijuana products shall be under conditions that will protect products against physical, chemical, and microbial contamination.

(8) A marijuana manufacturer licensee must:

(a) use equipment, counters, and surfaces for manufacturing that are food grade, do not react adversely with any solvent being used, reduce the potential for development of microbials, molds, and fungi, and can be easily cleaned;

(b) maintain detailed instructions for making each marijuana product, concentrate, or extract; and

(c) conduct necessary safety checks prior to commencing processing.

(9) A marijuana manufacturer licensee that engages in chemical manufacturing must:

(a) use only hydrocarbon-based solvents that are at least 99 percent pure, except when using solvents outlined in (10)(b);

(b) only use nonhydrocarbon-based solvents that are food grade;

(c) use only potable water and ice made from potable water;

(d) use a professional grade closed loop extraction system designed to recover the solvents;

(e) have equipment used in processing approved for use by the designated City departments;

(f) have an emergency eye-wash station in any room in which chemical manufacturing is occurring; and

(g) have all applicable material safety data sheets readily available.

(10) A marijuana manufacturer licensee that engages in chemical manufacturing may use:

(a) a mechanical and/or physical extraction process;

(b) a chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropy alcohol, or ethanol; or

(c) a chemical extraction process using the solvent carbon dioxide, provided that the process:

1. does not involve the use of heat over 180 degrees Fahrenheit; and

2. uses a professional grade closed-loop carbon dioxide gas extraction system where every vessel is rated to a minimum of six hundred PSI.

(11) A marijuana manufacturer licensee that engages in chemical manufacturing may not use:

(a) class 1 solvents;

(b) pressurized, canned fuel intended for use in camp stoves, handheld torch devices, refillable cigarette lighters, and similar products; or

(c) denatured alcohol.

(12) A marijuana manufacturer licensee shall not utilize a branded, commercially-manufactured food product (e.g. Chex Mix, Nerds, Ropes) as an edible marijuana product except when commercially-manufactured food products are used as ingredients in an edible marijuana product in a way that renders them unrecognizable as the commercial food product in the final edible marijuana product and the licensee does not state or advertise to the consumer that the final edible marijuana product contains the commercially manufactured food product.

(13) A marijuana manufacturer licensee may not infuse any food with marijuana that requires heated, time-temperature control or a hot holding unit to keep is safe for human consumption and may not serve hot or heated foods that promote onsite consumption.

(14) Any foods that require refrigeration or freezing to keep them safe for human consumption must be stored in a refrigerator or freezer until the time of sale and must be affixed with a label that indicates the product must be kept refrigerated or frozen, as appropriate

(15) A marijuana manufacturer licensee may not treat or otherwise alter a marijuana product with any noncannabinoid additive that would increase potency, toxicity, or addictive potential, or that is added for purposes of making the product more appealing to children.

(16) A marijuana manufacturer licensee must have current, written standard operating procedures at the licensed premises and available for inspection for the following:

(a) each category and type of marijuana product that it produces;

(b) cleaning all equipment, counters, and surfaces thoroughly;

(c) proper handling and storage of any solvent, gas, or other chemical used in processing or on the licensed premises;

(d) proper disposal of any waste produced during processing; and

(e) training employees on how to use the closed-loop system and handle and store the solvents and gasses safely.

(17) A marijuana manufacturer licensee and an employee of a marijuana manufacturer licensee may transport their marijuana and marijuana products, but may

not transport the marijuana or marijuana products of other licensees without a marijuana transporter license.

(18) A person delivering marijuana or marijuana products for a marijuana manufacturer must possess a valid marijuana worker permit issued by the state and be a current employee of the marijuana transporter business.

## DIVISION 7. MARIJUANA TESTING LABORATORY

### Sec. 7-2061. Licensing of marijuana testing laboratory and permit required

(a) A marijuana testing laboratory license allows a marijuana testing laboratory to provide testing of representative samples of marijuana and marijuana products and to provide information about the chemical composition and potency of a sample, as well as the presence of molds, pesticides, or other contaminants.

(b) No person shall operate a marijuana testing laboratory unless he or she has first obtained the following and maintains the same in full force and effect:

(1) All permits from the City for the location of the proposed licensed premises;

(2) A City license to operate a marijuana testing laboratory;

(3) Ownership of, or a lease in effect on, the proposed licensed premises;

(4) A State license to operate a marijuana testing laboratory; and

(5) A state laboratory endorsement from the Montana Department of Public Health and Human Services or, in lieu thereof, the state laboratory's standard form of approval or endorsement for the applicant of a marijuana testing laboratory license.

### Sec. 7-2062. Application for marijuana testing laboratory license.

(a) All initial applications and renewal applications for marijuana testing laboratory licenses shall be made to the License Administrator upon forms supplied by the City Administrator. Upon receipt of such application and the appropriate nonrefundable application fee, the License Administrator will make or cause to be made a thorough investigation as to the qualifications of the applicant and the suitability of the premises for operating a marijuana testing laboratory. If, upon such investigation, it appears that the applicant is qualified under the law and that the premises are suitable for the testing of marijuana and marijuana products under the laws of the state and the rules and regulations of the city, the License Administrator shall approve such application if all other requirements of the laws are fulfilled.

(b) All of the following must be completed and presented by the applicant upon initial application:

(1) Application form under oath for each individual or business entity, along with the appropriate application fee in an amount as prescribed by council resolution.

Said application fee is nonrefundable and shall be charged and collected from each individual applicant.

(2) All documents required by the City Administrator to be submitted with the initial application and any renewal application.

(3) When renewing a marijuana testing laboratory license, the applicant must submit a completed renewal form under oath, along with a nonrefundable renewal fee in an amount as prescribed by council resolution. If any changes in the information provided in the initial application have occurred, the renewal applicant must provide complete updated information regarding each change before the renewal application will be processed.

(4) Each initial and renewal applicant shall promptly furnish the License Administrator with all additional information pertaining to the application or to the applicant which the City Administrator may require through Administrative Order. Failure to supply the information requested within five (5) days after the request has been received by the applicant shall constitute grounds for delaying consideration of the initial or renewal application.

(5) The City Administrator may set standards for license applications through an Administrative Order, including designated time periods for acceptance of new applications and deadlines for final consideration of the applications submitted.

(c) The determination by the License Administrator that the application appears to be complete shall not constitute any representation or determination that the application meets the requirements of this Article for approval or issuance of a license. Notwithstanding any determination that the application appears to be complete, the License Administrator may note concerns or deficiencies in the application and its contents after conducting its review of the application.

(d) After an application is accepted as complete, it may be amended or supplemented in writing before the License Administrator's final consideration, but each amendment shall be verified under oath by each principal, and the registered manager and employees shall verify under oath the portions of any amendment that pertain to each of them.

(e) After the application is set for final consideration by the License Administrator, the application shall not be amended.

(f) Confidential information, as defined by Montana Code Annotated 2-6-1002, provided in the application that is specifically requested to be kept confidential by the applicant shall not be made publicly available except to the extent required by applicable law.

**Sec. 7-2063. Requirements to obtain and retain a marijuana testing laboratory license.**

In order to obtain and retain a license, the applicant shall demonstrate by a preponderance of the evidence to the License Administrator that the following requirements are satisfied:

(1) General requirements.

(a) The applicant has obtained all permits from the City for the location(s) of the proposed licensed premises;

(b) The applicant has obtained a marijuana testing laboratory license from the Montana Department of Revenue;

(c) A state laboratory endorsement from the Montana Department of Public Health and Human Services or, in lieu thereof, the state laboratory's standard form of approval or endorsement for the applicant of a marijuana testing laboratory license.

(d) The applicant has submitted an application for a license that the License Administrator has determined is complete;

(e) The applicant has paid all fees required by city council resolution; and

(f) An inspection conducted for licensure or renewal of a license must include a review of an applicant's or testing laboratory's:

1. physical premises where testing will be conducted;

2. instrumentation;

3. protocols for sampling, handling, testing, reporting, security and storage, and waste disposal;

4. raw data on tests conducted by the laboratory, if the inspection is for renewal of a license; and

5. vehicles used for transporting marijuana or marijuana product samples for testing purposes.

(2) Personal requirements for the licensee, principals, registered manager and employees.

(a) The applicant, principals, registered manager and employees meet all requirements for issuance of a State license.

(b) The applicant, principals, registered manager and employees are all over the age of twenty-one (21).

(c) The applicant, principals, registered manager and employees have not been determined by any marijuana business licensing commission, any other licensing board within the State, or the Montana Department of Revenue to not be persons of good character and record within the preceding three (3) years.

(d) The applicant, principals, registered manager and employees have not discharged a sentence for any felony in the five (5) years immediately preceding the application, nor are they currently subject to a deferred judgment or sentence for a felony.

(e) The applicant, principals and registered manager have not held an interest in any liquor license, medical marijuana license or other license issued by any city, county or state that has been revoked, suspended, or fined within the preceding two (2) years.

(f) The applicant, principals, registered agent, creditors and employees have not had their authority, if any, to act as a primary caregiver revoked by the State within the preceding two (2) years.

(g) The applicant, principals, creditors and are not in default on any city, county, state or federal taxes, fees, fines or charges, do not have any outstanding warrants for their arrest, and do not have any outstanding liens or judgments payable to the City.

(h) The applicant and principals are not in default on any student loan.

(i) The applicant, principals and employees are trained or experienced in, and able to comply with, the requirements of this Article and state law pertaining to the testing of samples of marijuana and marijuana products for which application is made. In determining whether an applicant, principal or employee has shown sufficient training or experience, the License Administrator shall consider, among other things, the following factors:

1. The role that the individual will play in operating the marijuana testing laboratory;

2. Previous experience operating marijuana businesses;

3. Completion of state or industry-approved courses on how to comply with Montana laws and regulations regarding marijuana businesses; and

4. The individual's understanding of state law and City code regulating marijuana businesses.

(j) The applicant, principals, registered manager and employees all hold valid occupational licenses and registrations required by the Montana Department of Revenue.

(k) The applicant and principals do not have any orders or judgments against them for child support in default or arrears.

(l) The applicant and principals are not peace officers or prosecuting attorneys.

(m) The applicant and principals are not licensed physicians who recommend medical marijuana.

(n) A person who is a controlling beneficial owner of a testing laboratory or holds a financial interest in a licensed testing laboratory may not be a controlling beneficial owner or have a financial interest in any entity involved in the cultivation, manufacture, or sale of marijuana or marijuana products for whom testing services are performed in the state of Montana or any other state.

(3) Location and other licensing of premises.

(a) The proposed licensed premises and adjacent grounds meet all requirements for issuance of a state license.

(b) The proposed licensed premises meet all zoning requirements.

(c) The premises are not licensed or operated as an establishment for the sale or service of alcohol beverages as defined in Title 16, Article 3, Montana Code Annotated, a business subject to the regulations of Article 7-1900 et. seq. of the Billings City Code, a dance hall or an amusement establishment as defined in Article 7, Billings, Montana City Code.

(d) The premises are not licensed or operated as a retail food establishment or wholesale food registrant.

(e) The premises are used solely for the purposes of the testing of marijuana and marijuana products.

(4) Control, security and code compliance of premises.

(a) The applicant has sole legal control of the proposed licensed premises at the time the application is submitted, under a lease that is presently in effect or through present ownership of the proposed licensed premises.

(b) The proposed licensed premises have a suitable limited access area where testing of marijuana and marijuana products will occur designed to keep the public from entering the area.

(c) The applicant has submitted a security plan for the proposed licensed premises, which has been inspected and approved by the City, showing at least the following security measures:

1. All doors, windows and other points of entry have secure and functioning locks;

2. If the licensed premises are connected by any passage or entryway to any other premises, there is a door between the two (2) premises that can be locked from the licensee's side and cannot be opened from the other side;

3. A professionally monitored burglar alarm system that detects unauthorized entry of all doors, windows and other points of entry to the licensed premises.

(d) The proposed licensed premises and adjacent grounds comply with all zoning, health, building, plumbing, mechanical, fire and other codes, statutes and ordinances, as shown by completed inspections and approvals from the applicable city departments.

(e) There is sufficient parking available on the adjacent grounds given the size of the licensed premises and the number of employees and customers that can reasonably be expected to be present at any given time.

(f) The proposed licensed premises and adjacent grounds of the licensed premises will be operated in a manner that does not cause harm to public health, safety and welfare.

(5) Requirements for premises that are not completed.

(a) If the proposed licensed premises have not been completed, inspected and approved as required in this Article at the time that the initial application or renewal license application is submitted, the applicant shall submit as part of the application:

1. A copy of a recorded deed in the name of the licensee showing ownership of the proposed licensed premises or a lease showing a right to occupy the proposed licensed premises; and

2. Plans, specifications, drawings and other documents showing that the proposed licensed premises and adjacent grounds will comply with the requirements of this Article when completed and inspected.

(b) The License Administrator may provide tentative approval of the license before the proposed licensed premises are completed, inspected and approved, but the City shall not issue the license until the licensed premises have been completed and all inspections and approvals required under this Article have been obtained.

(c) In the event that the license receives tentative approval, but the premises are not completed, inspected and approved as required in this Article within one hundred twenty (120) days of the tentative approval, the tentative approval shall lapse and the license shall not be issued.

(6) Requirements of this Section also apply to licensees; continuing duty.

(a) The requirements of this Division imposed on the applicant shall also apply to the licensee. The requirements of this Division imposed on the proposed licensed premises, adjacent grounds or location shall also apply to the licensed premises, adjacent grounds and actual locations, respectively.

(b) The licensee and its principals, registered manager and employees have a continuing duty to ensure that the requirements of this Division continue to be met after the license is issued and at all times that the license remains in effect.

(7) A marijuana testing laboratory licensee must take all reasonable measures and precautions to ensure the following:

(a) that there is sufficient space for placement of equipment and storage of materials for the testing of marijuana and marijuana products;

(b) that all state laws and regulations are followed;

(8) A marijuana testing laboratory must have current, written standard operating procedures at the licensed premises and available for inspection for the following:

(a) each category and type of marijuana product that it tests;

(b) provisions for maintaining a clean and hygienic testing area;

(c) proper handling and storage of any solvent, gas, or other chemical used in processing or on the licensed premises;

(d) proper handling of marijuana and marijuana products before, during, and after the testing process; and

(e) proper disposal of any waste produced during processing.

(9) A marijuana testing laboratory may transport their marijuana and marijuana products to be tested from the originating marijuana businesses to the marijuana testing laboratory without a marijuana transporter.

(10) A person delivering marijuana or marijuana products to a marijuana testing laboratory must possess a valid marijuana worker permit issued by the state and be a current employee of the marijuana transporter business.

(11) A marijuana testing laboratory licensee must maintain of all test results in the seed-to-sale tracking system or in some other manner sufficient for City inspectors to review marijuana testing laboratory results.

(12) A person who obtains a testing laboratory license or is an employee of a licensed testing laboratory is authorized to possess and test marijuana as allowed by this Article.

(13) If an analysis of raw testing data indicates that licensees are providing test results that vary among testing laboratories by an amount determined by the state laboratory by rule, the City shall investigate the inconsistent results and determine within 60 days the steps the testing laboratories must take to ensure that each testing laboratory provides accurate and consistent results.

(14) If the analysis of raw testing data indicates a testing laboratory may be providing inconsistent results, the City may suspend the testing laboratory's license. A suspension must be based on rules adopted by the state laboratory.

(15) The City shall revoke a testing laboratory's license upon a determination that the laboratory is:

(a) providing test results that are fraudulent or misleading; or

(b) providing test results without having:

1. the equipment needed to test marijuana, marijuana concentrates, or marijuana products; or

2. the equipment required under this Article to conduct the tests for which the laboratory is providing results.

## DIVISION 8. DENIAL OF MARIJUANA BUSINESS LICENSE, LOTTERY ENTRY, OR LICENSE RENEWAL AND APPEAL OF SANCTIONS

### Sec. 7-2064. Good cause for denial of new license, denial of lottery entry or denial of license renewal or for sanctions.

The License Administrator may deny a new application for a marijuana business license, deny an applicant participation in a lottery system, deny the renewal of a license, suspend, revoke, or impose sanctions on a marijuana business license previously approved or issued if the License Administrator finds that any of the following have occurred:

(1) The licensee, principals, manager, employees, the licensed premises or the adjacent grounds do not meet or no longer meet one (1) or more of the requirements of this Article, any other provision of Billings, Montana City Code, State law or State regulations;

(2) The licensee has failed to obtain any State license, certification, registration or approval, or meet any other requirement imposed by State law or regulations;

(3) The licensee, principals, manager or employees have committed or attempted to commit any violation of any City ordinance, State statute or State regulation or have permitted others to violate the same on the licensed premises or adjacent grounds or on other licensed premises or adjacent grounds;

(4) The licensed premises have been operated in a way that substantially deviates from the operational plan submitted to the City;

(5) The licensed premises or adjacent grounds have been operated in a way that substantially harms the public health, safety or welfare;

(6) A check, credit card, debit card or other payment for any tax, fee, fine, fine in lieu or other sum due to the City from the licensee has been stopped or rejected for insufficient funds, closed account or similar reasons;

(7) Any tax, fee, fine, fine in lieu of suspension or other sum due to the City from the licensee is unpaid and more than thirty (30) days in default; or

(8) The licensed premises have not been operated for more than one (1) year.

**Sec. 7-2065. Appeal of denial of marijuana business license, lottery entry license renewal, or sanctions.**

(a) Any person aggrieved by any decision of the License Administrator concerning the denial of a marijuana business license, denial of a lottery entry, denial of license renewal, suspension, revocation, or sanctions imposed on an existing marijuana business license may appeal that action as provided by this Division.

(b) The person aggrieved shall file a written notice of appeal with the city clerk within twenty (20) days of personal service or mailing of the written notice of the License Administrator's decision.

(c) All appeals will be informally heard by an administrative hearing officer appointed by the city. Upon receipt of an appeal, the License Administrator will schedule a time and place for hearing such appeal no more than thirty (30) days from receipt of the notice of appeal.

(d) The city clerk will give written notice to the appellant of the time and place of hearing by causing the notice to be personally served or deposited in the United States mail at Billings, Montana, postage prepaid, addressed to the appellant at the address provided on the written notice of appeal. The hearing officer will have authority to make an initial determination of all questions raised on appeal.

(e) The appeal shall clearly state the applicable basis for the appeal. The scope of the appeal hearing pursuant to this section shall be limited to those issues raised by the appellant in the written appeal, as submitted. The rules of evidence and civil procedure shall not apply to such a hearing. The original decision of the License Administrator shall remain in effect during the period of appeal.

(f) The hearing officer shall submit a written decision and provide it to the parties within twenty (20) days of the hearing. After a decision by the hearing officer, an aggrieved person or licensee may appeal to the City Administrator who shall review the written decision of the hearing officer. No additional hearing shall be permitted. The City Administrator may affirm, reverse, or modify the hearing officer's decision and determine the appropriate remedy. The decision of the City Administrator is final.

(g) When any marijuana business license has been revoked for violation of this article, no marijuana business license of any type shall be granted to the following persons for a period of one year from the decision of the City Administrator or hearing officer, as applicable: the person who held the revoked license; the licensee's spouse; any person who held or holds more than a five percent ownership interest in any corporation, partnership, limited liability company or other organization that holds or held the revoked license; and any corporation, partnership, limited liability company or other organization in which any person who holds or formerly held the revoked license has more than a five percent ownership interest. Any additional marijuana business license may be revoked or suspended in the discretion of the City Administrator for up to one year if held by the person whose license was revoked for violation of this Article or by a corporation, partnership, limited liability company, or other organization in which that person holds a controlling interest.

**Sec. 7-2066. Conditions on licenses.**

(a) At the time that a new license is first approved, when an existing license is renewed, at any time that a sanction other than revocation is imposed, or at any time that a licensee applies for a major change to a license, licensed premises or adjacent grounds, the License Administrator may recommend that any condition related to the license, licensed premises or adjacent grounds be required, that is reasonably necessary to protect public health, safety, or welfare, including but not limited to the following:

(1) Additional security requirements, including but not limited to security guards, steel doors, steel window coverings and surveillance cameras;

(2) Additional record keeping requirements;

(3) Limits and requirements on parking and traffic flow;

(4) Requirements for walls, doors, windows, locks and fences on the licensed premises and adjacent premises;

(5) Limits on the number of registered medical marijuana patients who may be served by a retail marijuana dispensary that also seeks to sell medical marijuana to registered cardholders;

(6) Limits on the quantity of marijuana that may be sold to a marijuana product manufacturer;

(7) Limits on medical marijuana products;

(8) Requirements and limits on ventilation and lighting;

(9) Limits or requirements on areas on the licensed premises that are closed, locked or not open to public view;

(10) Limits on the products other than marijuana and marijuana products that can be sold on the premises;

(11) Limits on noise inside the licensed premises or on the adjacent grounds;

(12) Prohibitions on certain conduct on the premises;

(13) Sanitary requirements;

(14) Limits on hours of operation;

(15) Requirements for screening new and existing employees;

(16) Requirements for identifying medical marijuana patients and primary caregivers;

(17) A requirement that the licensee temporarily close the licensed premises to the public until certain changes, inspections or approvals are made; and

(18) A limit on the square footage of the licensed premises.

(b) The License Administrator may impose the foregoing conditions in lieu of or in addition to any sanctions that it may impose, except where the sanction is revocation.

**Sec. 7-2067. Burden of proof.**

(a) In any proceeding under this Article to obtain approval or issuance of a license, renewal of a license, concerning denial of a new license, or to obtain approval for any new principal, manager, employee or any major change, the applicant or licensee shall have the burden to prove by a preponderance of the evidence: (1) his or her right to such license; and (2) that there is no good cause for denial of the license or approval.

(b) In any proceeding under this Article in which any person seeks to impose a condition on a license, the person seeking to impose the condition shall have the burden to prove by a preponderance of the evidence that the condition is necessary to protect public health, safety or welfare.

(c) In any proceeding under this Article to impose any sanction against a license, the City shall have the burden to prove every allegation necessary to impose a sanction by a preponderance of the evidence.

**Sec. 7-2068. Evidence.**

(a) The Montana Rules of Evidence and the common law rules of evidence shall not apply. The The hearing officer may accept into evidence any testimony or exhibit and give such evidence the weight that they believe it deserves.

(b) The hearing officer may accept hearsay and multiple-hearsay testimony and may base its decision solely on such hearsay if such hearsay is reasonably reliable and trustworthy and has probative value accepted by reasonable and prudent persons in the conduct of their affairs. The hearing officer shall not be required to make a finding that the hearsay meets this standard. If the hearing officer admits the hearsay, it shall be conclusively presumed that the hearsay met this standard unless the hearing officer makes findings to the contrary.

(c) The hearing officer shall have the right to exclude testimony and other evidence as irrelevant, cumulative or on the ground that the witness does not have standing and was not called as a witness by a party who does have standing.

(d) The hearing officer may take administrative notice of any matter contained in its file.

**Sec. 7-2069. Standing.**

(a) At any hearing for issuance of a new license, for denial of a new license, for renewal or for any major change in the premises, only the following parties shall have standing to be heard:

(1) The applicant or licensee;

(2) Any person who resides within a one-half (½) mile radius of the adjacent grounds of the proposed or licensed premises;

(3) Any person who owns any real property within a one-half (½) mile radius of the adjacent grounds of the proposed licensed premises;

(4) Any person who owns or is employed by any business within a one-half (½) mile radius of the adjacent grounds of the proposed licensed premises; and

(5) The City of Billings.

(b) At all other hearings, only the applicant or licensee and the City of Billings shall have standing.

## DIVISION 9. FORFEITURE, SUSPENSION, AND REVOCATION OF LICENSE

### Sec. 7-2072. General.

(a) Administrative actions to impose sanctions against a licensee may be initiated only by complaint filed by the City or by the License Administrator by his/her own motion.

(b) The License Administrator shall review any complaint filed with the City ex parte and determine whether the complaint and any documents or exhibits submitted therewith show probable cause to believe that grounds for sanctions exist. If the License Administrator finds that the complaint along with any documents or exhibits submitted therewith do not show probable cause to believe that a violation of this Article, State law or State regulations has occurred, the License Administrator shall dismiss the complaint without prejudice to refile the complaint with additional information showing probable cause. If the License Administrator finds that the complaint along with the documents or exhibits submitted therewith show probable cause to believe that a violation of this Article, State law or State regulations has occurred, the License Administrator shall set a hearing and notify the licensee to appear before the License Administrator on a specific date and at a specific time to answer the complaint.

(c) Following the hearing, the License Administrator may impose sanctions, deny an application for renewal, or revoke the license. The licensee shall be provided a copy of the License Administrator's decision within fourteen (14) days.

(d) A person aggrieved by the License Administrator's decision under this Section may appeal the License Administrator's decision under the same appeal process provided in Division 8.

(e) In the event that a license expires while proceedings for sanctions are pending, the license may be temporarily extended by the License Administrator until the adjudicator's final decision. The licensee shall pay a license extension fee for each thirty (30) day period or portion thereof that the license is temporarily extended. If the fee is not paid, the license shall expire. After the adjudicator makes their final decision, the licensee shall submit an application for renewal within fifteen (15) days of the final decision unless otherwise prohibited under this Article.

(f) A licensee shall have no right to surrender its license while an investigation, complaint or proceeding for sanctions is pending, but the License Administrator or other adjudicator officer may consent to the surrender.

(g) No complaint or action for the sanctions provided in this Article shall be instituted or based upon any conduct or omission by a licensee, principal, registered manager or employee that occurred more than two years before the complaint for sanctions was filed, but such conduct or omissions may be admitted in evidence if relevant to other violations that have occurred within the two-year limitation period.

**Sec. 7-2073. Sanctions.**

(a) The License Administrator, hearing officer, or City Administrator, as applicable, may impose any one (1) or more of the following sanctions against a license, in whatever combination they find appropriate, subject to the right to appeal, or the applicant or licensee, if any:

(1) Additional conditions as described this Division;

(2) A fine in an amount assessed by the City Administrator or hearing officer not to exceed $500.00;

(3) Suspension for up to one hundred eighty (180) days;

(4) Fine in lieu of suspension;

(5) The reasonable costs of investigating, prosecuting, and hearing the violation, including the direct and indirect costs of the City Attorney, police officers, witnesses, subpoenas, City Clerk's Office, hearing officer and other City employees utilized in any proceedings for sanctions; and

(6) Revocation.

(b) The License Administrator, hearing officer, or City Administrator, as applicable, may recommend that any sanction or portion of any sanction be suspended on any reasonable condition that the City Administrator, or hearing officer if applicable, deems appropriate in their discretion.

**7-2074. Factors to consider in determining sanctions.**

(a) In determining the appropriate recommended sanction(s) and whether any sanction or portion of a sanction should be suspended, the following factors shall be considered:

(1) The severity of the violation;

(2) Whether the violation was committed deliberately, willfully, intentionally, knowingly, recklessly, wantonly, negligently or accidentally;

(3) Whether the licensee profited or gained some competitive advantage from the violation or attempted to do so;

(4) Potential and actual harm to patients, primary caregivers, residents, businesses and the reputation of the medical marijuana industry;

(5) Harm to public health, safety and welfare;

(6) Warnings given to the licensee, principals, registered manager or employees by the City Administrator or any State or City employee before the violation occurred;

(7) The deterrent effect of the sanction on the licensee and other licensees;

(8) Whether the violation was committed or permitted by a principal, registered manager or employee;

(9) Previous violations by the licensee, principals, manager, or employees of the same or different nature and at the same or different licensed premises, including contempt;

(10) Previous sanctions imposed on the licensee, including sanctions for contempt;

(11) Steps taken by the licensee before the violation occurred to prevent the violation from occurring;

(12) Whether the violation occurred on the licensee's licensed premises or its adjacent grounds, or the licensed premises or adjacent grounds of another licensee;

(13) Any plans that the licensee may present showing how it intends to remedy the problem and prevent the same and similar violations in the future; and

(14) Any other aggravating or mitigating factors, except those that the City Administrator, or hearing officer if applicable, may not consider.

(b) In determining the appropriate recommended sanction, the following factors shall not be considered:

(1) Gender, race, ethnicity, ancestry, religion or sexual orientation;

(2) The licensee's business income at the licensed premises, except for fines in lieu of suspension;

(3) The probable effect of the sanction on the licensee's finances;

(4) Any criminal sanction imposed on any person as a result of the same or related conduct;

(5) Any administrative penalty imposed by the State as a result of the same or related conduct;

(6) Any civil judgment imposed as a result of the same or related conduct.

(c) The administrative sanctions recommended as provided in this Section are intended to be in addition to any administrative, civil or criminal penalty, or judgment imposed by any court or other licensing commission.

**Sec. 7-2075. Summary suspension.**

(a) The City Administrator may suspend license without notice or hearing if the City Administrator finds, ex parte, that there is probable cause to believe that:

(1) The licensee or its principals, registered manager or employees have committed a willful or deliberate violation of this Article; and

(2) The continued operation of the marijuana business poses an immediate and substantial threat to public health, safety and welfare, such that waiting the time required to hold a regular disciplinary hearing would probably result in substantial harm to public health, safety and welfare.

(b) If the City Administrator suspends the license ex parte, the City it shall notify the licensee in writing as soon as is practical that it has been summarily suspended, that it must close its licensed premises, and the date, time and place of the ten-day hearing to follow.

(c) The City Administrator shall hold a hearing within ten (10) business days, at which the licensee may be present, to determine whether the recommended summary suspension should continue pending a full hearing on the alleged violation.

(d) The City Administrator shall set a full hearing on the recommended sanctions to be imposed for the violation that led to summary suspension to be held within twenty (20) calendar days from the date the licensee was first informed of the summary suspension and required to close the licensed premises, unless the City Administrator finds at the ten-day hearing that there no longer is probable cause to believe that a violation occurred.

(e) The licensee may waive the ten (10) day hearing requirement and request a later hearing, but such waiver shall operate as consent to continue the City Administrator's summary suspension until the later date.

**Sec. 7-2076. Imputing knowledge and violations to the licensee.**

(a) Any fact that a licensee's principal, registered manager or employee knows or once had knowledge of, or in the exercise of reasonable diligence should know, or should have once known, shall be imputed to the licensee for purposes finding whether a violation occurred and imposing sanctions.

(b) Any fact that occurs in the licensed premises or adjacent grounds that a reasonable person observing the area would be aware of shall be imputed to the licensee for purposes of determining whether a violation occurred and imposing sanctions.

(c) Any violation of law committed by a licensee's principal, registered manager or employee, or which any of the same permit on the licensed premises or adjacent grounds, shall be imputed to the licensee for purposes of determining whether a violation occurred and imposing sanctions.

**Sec. 7-2077. Effect of sanctions.**

(a) New conditions. A licensee who has new conditions imposed on the license as a sanction shall bring the licensed premises into compliance with the new condition within such period as the City Administrator may specify. Failure to do may be grounds for further sanctions.

(b) Fine, fine in lieu of suspension and costs. A licensee who has a fine, a fine in lieu of suspension or costs imposed on the license shall:

(1) Pay the fine and costs imposed within the time specified by the City Administrator. In the event that the fine is not paid within the time specified by the City Administrator, the City Administrator may impose any license suspension or impose alternative or additional sanctions for failure to pay the fine or costs in a timely manner.

(2) Post signs at least thirty-six (36) inches by thirty-six (36) inches on every entrance to the licensed premises with letters at least one (1) inch in height for a period of ten (10) continuous days which shall be specified by the City Administrator, stating:

THE MARIJUANA BUSINESS LICENSE FOR THESE PREMISES HAS BEEN FINED AND ADJUDGED COSTS BY THE CITY OF BILLINGS IN THE AMOUNT OF $_____ FOR VIOLATING THE FOLLOWING PROVISIONS OF THE BILLINGS, MONTANA CITY CODE RELATING TO MARIJUANA BUSINESSES: (STATE NATURE OF VIOLATION AND SECTION VIOLATED)

(c) Suspension of license. A licensee whose license has been suspended shall:

(1) Close the licensed premises to all persons except the registered manager and employees during the term of the suspension.

(2) Post signs at least thirty-six (36) inches by thirty-six (36) inches on every entrance to the licensed premises with letters at least one (1) inch in height during the period that the suspension is imposed, stating:

THE MARIJUANA BUSINESS LICENSE FOR THESE PREMISES HAS BEEN SUSPENDED BY ORDER OF THE BILLINGS CITY ADMINISTRATOR FOR DAYS FROM _____ THROUGH _____ FOR VIOLATING THE FOLLOWING PROVISIONS OF THE BILLINGS, MONTANA CITY CODE RELATING TO MARIJUANA BUSINESSES: (STATE NATURE OF VIOLATION AND SECTION VIOLATED)

(d) Revocation of license. A licensee whose license is revoked shall:

(1) Close the licensed premises and dispose of all marijuana on the licensed premises through legal means within such time and by such means as the City Administrator determines.

(2) Not be eligible to apply for a new license for a period of two (2) years.

**Sec. 7-2078. Discovery.**

(a) Any complaint or motion for sanctions shall contain a summary of the legal and factual grounds for the same.

(b) Interested parties may obtain copies of such documents through public records requests.

(c) Any party may provide copies to another party by filing a copy with the License Administrator, which any party may access and copy upon reasonable notice and upon payment of reasonable copying charges.

(d) No party shall be entitled to any additional discovery and the hearing officer shall not order any further discovery.

**Sec. 7-2079. Unlawful acts.**

It shall be misdemeanor municipal offense for any person to make any false statement, written or verbal, to any City employee, in any investigation, inquiry, hearing, testimony, application, report or document related in any way to marijuana businesses or the application or licensing thereof.

**Sec. 7-2080. Unlawful acts - licensees, principals, registered managers and employees.**

It shall be unlawful and a municipal offense for any licensee, principal, registered manager or employee of a licensee to commit any of the following acts:

(1) To violate, fail, neglect or refuse to comply with any requirement of this Article or Titles 15, 16, and 50, Montana Code Annotated, or of any State regulation pertaining to regulation of marijuana.

(2) To permit any violation of this Article or any law or regulation on the licensed premises or the adjacent grounds.

(3) To operate a marijuana business at any time that any of the requirements or conditions contained in Article are not satisfied.

(4) To fail, neglect or refuse to collect taxes on any transaction or to promptly pay any sales and use tax, excise tax, fee or charge required under this Article, under the Montana Code Annotated, or under the Billings, Montana City Code.

(5) To fail, neglect or refuse to promptly provide any books, records, reports, information, documents or answers to requests for information required under this Article.

(6) To refuse to provide signed answers to requests for information, except as provided in this Article, or to refuse to answer any request for information on any grounds prohibited under this Article.

(7) To violate any ordinance, statute or regulation on the licensed premises or on the adjacent grounds.

(8) To violate any condition or to permit the violation of any condition placed on a license issued under this Article or by the State.

(9) To permit anyone under the age of twenty-one (21) to be present on the licensed premises.

(10) To permit anyone who is not an employee to enter the limited access area.

(11) To permit any employee to enter the limited access area without a visible employee badge.

(12) To conduct any cultivation, manufacturing, testing, processing, packaging, display, sale or exchange of marijuana plants, harvested marijuana or marijuana products outside the licensed premises.

(13) To transport any quantity of marijuana or marijuana products without carrying with the marijuana or marijuana products, a written manifest showing the following information, or to refuse to provide to any law enforcement officer upon demand a written manifest showing the following information:

(a) The weight and volume of marijuana or marijuana products carried;

(b) A description of the make, model and VIN number of the vehicle carrying the marijuana or marijuana products;

(c) The name and address of the driver of the vehicle;

(d) The name and address of the licensed retail marijuana establishment from which the retail marijuana originated;

(e) The name and address of the licensed marijuana establishment to which the marijuana or marijuana products is being delivered;

(f) The date and time that the marijuana or marijuana products departed the licensed marijuana establishment where the marijuana originated.

(14) To allow anyone who does not possess a current and valid owner and occupational license to transport marijuana or marijuana products between licensed premises.

(15) To transfer, distribute, sell, give away, or dispose of any marijuana or any marijuana product by any other means than a face-to-face transaction within the licensed premises. Transfer, distribution, sale, gift, or disposing of marijuana via the internet or any on-line service is prohibited and unlawful.

(16) To display, transfer, distribute, serve, sell, give away, or dispose of any marijuana or marijuana product in any public place other than the licensed premises.

(17) For any licensee or any manager, employee, or agent of such licensee to fail to immediately report to the City any disturbance, unlawful or disorderly conduct, or criminal activity occurring at the location, on the premises, or within the licensed premises set forth on the license. A licensee, manager, employee, or agent will be criminally liable for any failure to report in a timely manner.

(18) To abandon a licensed premises or otherwise cease operation without notifying the License Administrator at least ten (10) days in advance, without accounting for and forfeiting to the state for destruction or disposition all marijuana or products containing marijuana, and without paying all due sales and use taxes, excise taxes, fees or charges required by the Billings, Montana City Code or Montana Code Annotated.

(19) To smoke or consume any marijuana, marijuana plant or marijuana product on a licensed premises or the adjacent grounds;

(20) To permit others to smoke or consume any marijuana, marijuana plant or marijuana product on a licensed premises or the adjacent grounds.

## DIVISION 10. MISCELLANEOUS

### Sec. 7-2083. Registered manager.

Every marijuana business licensee shall designate at least one (1) registered manager and delegate to the registered manager authority over the day-to-day operations of the licensee and the responsibility to ensure that the licensed premises and adjacent premises are operated in compliance with this Article.

### Sec. 7-2084. Major changes to license, licensed premises or adjacent grounds requiring submission and approval by the City of Billings.

(a) No marijuana business licensee shall make any of the following changes without first obtaining the written approval of the License Administrator:

(1) Any change in location of the licensed premises;

(2) Any change in the licensee's principals or creditors;

(3) The hiring, substitution, or replacement of the registered manager;

(4) Any change in the structure, walls, doors, windows, ventilation, plumbing, electrical supply, floor plan, footprint, elevation, operation, operational plan, patios, decks, safe or vault, locks, security plan, surveillance system, doors, window coverings or security system at the licensed premises;

(5) Any material change to the adjacent grounds, including but not limited to lighting, parking, traffic flow, surfaces, landscaping, fences, speakers or sounds; and

(6) Any material change in or deviation from the operational plan submitted at the time that the license was approved.

(b) The License Administrator may summarily approve all other proposed major changes or hold a public hearing on the same, in the License Administrator's discretion, depending on how substantial the change appears to be and whether the proposed change is likely to cause substantial harm to public health, safety or welfare.

(c) The License Administrator shall determine whether the proposed change would probably cause substantial harm to public health, safety or welfare or result in a violation of any law or regulation.

(d) No application for renewal of a license, change of location or other major change may be applied for or acted upon while any complaint for sanctions is pending with the City or the State.

(e) Licenses are non-transferable.

**Sec. 7-2085. Reports of minor changes.**

Every licensee shall report the following to the License Administrator, in writing within ten (10) days of such event:

(1) Any change in the licensee's trade name, trademark, logo or service mark used at the licensed premises, adjacent grounds, on any product sold or exchanged at the licensed premises, on any advertising or sign, or in any correspondence or document;

(2) Any change in the labeling or packaging of products sold at the licensed premises;

(3) Any new loans or debts that the licensee or its principals may incur that are related to the licensed premises, adjacent grounds or any ownership interest in the licensee, in a single or cumulative amount greater than ten thousand dollars ($10,000.00);

(4) Any charges filed against or any conviction of any principal, registered manager or employee for any felony, misdemeanor or serious traffic offense, including but not limited to any deferred judgment or entry into any diversion program ordered or supervised by a court of law;

(5) Any change to any sign on the licensed premises or adjacent grounds; and

(6) The hiring, dismissal or resignation of any employee or the dismissal or resignation of a registered manager.

(7) A person that becomes a principal of a publicly traded corporation that is a marijuana business or that becomes a beneficial owner, through direct or indirect ownership of a controlling beneficial owner, of five percent (5%) or more of a marijuana business that is a publicly traded corporation must disclose said change to the City Clerk's Office within thirty (30) days of such change. Such a notification shall be

forwarded to the License Administrator to determine if additional information should be submitted to the License Administrator and if a hearing is needed.

**Sec. 7-2086. Renewal of marijuana business license.**

(a) A licensee may renew its license by submitting an application at least thirty (30) days before and no more than ninety (90) days before the expiration of the license. If a licensee fails to file an application for renewal of his or her license at least thirty (30) days before expiration of the license, the license shall expire.

(b) A licensee may renew a license that has expired if:

(1) The license has expired less than ninety (90) days; and

(2) The licensee pays the regular renewal fee established by City Council resolution.

(c) In the event that an application for renewal has been filed at least thirty (30) days before the expiration of the previous license, but the License Administrator has not yet issued a determination that the renewal application be approved or denied, the previous license shall be deemed extended until the License Administrator rules on the application for renewal, but in no event may the license be extended more than ninety (90) days under this Subsection. The licensee shall pay a license extension fee for any such extension after the first thirty (30) days.

(d) The License Administrator may hold a hearing on any application for renewal or the License Administrator may summarily renew a license if it appears from the application and other information that the licensee is:

(1) In compliance with this Article;

(2) There have not been any significant changes in the licensee, the principals, the licensed premises, the adjacent grounds or the registered manager previously approved; and

(3) There is no reason to believe that there are any grounds for sanctions or denial of the license.

(e) In the event that the License Administrator denies renewal of a marijuana business license, an aggrieved party may appeal the decision of the License Administrator under the same appeal process set forth in Division 8 of this Article.

**Sec. 7-2087. Trade names, trademarks, logos, labels, packaging and advertising.**

(a) With regards to a licensee's building façade, signs, and other outdoor advertising, a licensee must comply with all state laws and regulations as to the content of the building façade, signs, and other outdoor advertising, in addition to Article 27 of the Billings, Montana City Code. This section shall not apply to any advertisement contained within a newspaper, magazine or other periodical of general circulation within the City or on the internet, which may include coupons, or that is purely incidental to sponsorship of a charitable event by a marijuana establishment, except that such

signage and advertising must not be misleading, false, infringe upon any state or federal trademark, nor be designed to appeal to minors.

(b) A licensee shall submit approval of signage subject to this Section by the State of Montana Department of Revenue Cannabis Control Division to the License Administrator to confirm compliance with state law.

(c) Nothing contained in this Section shall be construed as creating a prior restraint on speech or press. The City shall not require an applicant or licensee to obtain any recommendation for approval from the License Administrator before using any logo, trademark, trade name, sign or advertising. Nothing contained in this Section shall prevent the City from taking civil, administrative or criminal action against any person or license after any logo, trademark, trade name, sign or advertising has been used. An applicant or licensee may request the License Administrator make an administrative determination as to whether a logo, trademark, trade name, sign, or advertising would be prohibited under this Section, but the License Administrator shall not be required to make such a determination nor shall such determination be binding on the City.

(d) Any court of competent jurisdiction construing or applying this Section shall seek a saving construction and application that makes the Section constitutional. In the event that any court of competent jurisdiction determines that any provision in this Section violates any right that any person may have to free speech or press, despite the Court's saving construction and application, the Court shall strike this Section only and sever the same from the remainder of this Article, which shall remain valid and effective without this Section.

**Sec. 7-2088. Books and records.**

(a) Every licensee shall maintain on the licensed premises, at any time that any person is present on the licensed premises, accurate and up to date books and records of the business operations of the licensee, or an authentic copy of the same, including but not limited to the following:

(1) Lists, manifests, orders, invoices and receipts for all marijuana, marijuana plants and marijuana products cultivated, harvested, processed, produced, delivered, purchased, stored, sold and exchanged during the preceding two (2) years, by each transaction or event, including the date and time of each transaction, source, strain, type, quantity, weight and purchaser and whether each transaction involved harvested marijuana, live plants, marijuana products or seeds;

(2) An inventory of all marijuana and marijuana products presently on the licensed premises;

(3) Sales and use taxes collected and paid;

(4) The name, address and a copy of the patient's registry identification card for every patient who has registered the medical marijuana store as his or her primary store or who has purchased medical marijuana, marijuana plants or medical marijuana products at the licensed premises;

(5) The written recommendation of any physician who has recommended that a patient registered with the medical marijuana store needs more than two (2) ounces of medical marijuana and six (6) marijuana plants to address the patient's debilitating medical condition;

(6) The name, address and a copy of the medical marijuana license of any other medical marijuana dispensary licensee with whom the licensee has transacted any business, including but not limited to any purchase, sale, or exchange of marijuana plants, harvested marijuana or medical marijuana products; and

(7) Copies of the registry identification card of a homebound patient and the waiver from the State of Montana authorizing the primary caregiver or other lawfully authorized agent to purchase medical marijuana for the homebound medical marijuana patient and transport the same to the homebound medical marijuana patient presented by a primary caregiver who purchases marijuana or marijuana products on behalf of a homebound patient.

(b) The licensee shall separate any record showing the patient's debilitating medical condition from all other records, maintain such records separately from all other records, and mark the cover to such records: "Confidential Patient Medical Information."

**Sec. 7-2089. Inspection of books and records; audits.**

(a) Pursuant to MCA 16-12-210, any law or code enforcement officer may, without a warrant and without reasonable suspicion, inspect the books and records described in Section 7-2088, Billings, Montana City Code, at any time that anyone is present inside the licensed premises, but shall not inspect the records described in Section 7-2088(b), Billings, Montana City Code, unless a warrant or other court order specifically authorizes inspection of such records or there are legal grounds that would excuse the requirement of a warrant.

(b) Upon five (5) days written notice, the licensee shall provide the books and records of the licensee for inspection and auditing by the City, but shall not be required to provide the records described in Section 7-2088(b), Billings, Montana City Code.

(c) In the event that the information described in Section 7-2088(b), Billings, Montana City Code, is interspersed in the same record or contained on the same sheet of paper or electronic record, the licensee shall copy the records, redact the information described in Section 7-2088(b) and provide a redacted copy to the City or code enforcement officers.

**Sec. 7-2090. Inspection of licensed premises and adjacent grounds.**

(a) Every licensed premises and adjacent grounds shall be open to inspection by police officers, building officials, firefighters, zoning officials, code enforcement officials, sales, use and excise tax officials, health department officials, or any other appropriate city designees at any time that anyone is present in the licensed premises, without obtaining a search warrant, and without reasonable suspicion to believe that any violation has occurred. Such right of inspection shall continue until all marijuana is removed from the licensed premises and adjacent grounds and all marijuana related

business has terminated and final inspections are made in accordance with Subsection (f) below.

(b) The licensee, principals, registered managers and employees shall have no reasonable expectation of privacy as to the buildings, rooms, areas, vehicles, furniture, safes, lockers or containers on the licensed premises and adjacent grounds, except as provided in this Section.

(c) Licensees, principals, registered managers and employees on the licensed premises and adjacent grounds shall retain a reasonable expectation of privacy with regard to their persons, the personal effects in their immediate possession, and their own motor vehicles on the licensed premises and adjacent grounds, to the extent provided by other legal authority, but shall have no reasonable expectation of privacy as to other areas, vehicles, safes, lockers, containers or objects on the licensed premises or adjacent grounds.

(d) Patients, primary caregivers and other persons on the licensed premises and adjacent grounds shall retain a reasonable expectation of privacy as to their medical condition, their persons, the personal effects in their immediate possession, and their motor vehicles on the licensed premises and adjacent grounds, to the extent provided by other legal authority, but shall have no reasonable expectation of privacy as to other areas, vehicles, containers or objects on the licensed premises and adjacent grounds.

(e) Police officers and other officials shall not inspect records described in Section 7-2088(b), Billings, Montana City Code, or any person, place or area in which a person retains a reasonable expectation of privacy, unless a search warrant is obtained for the same or there are legal grounds that would excuse the requirement of a warrant.

(f) Within seven (7) days of the revocation, surrender, or other termination of a medical marijuana license, during which time licensee shall maintain possession of the premises, the licensees, principals, registered managers and employees shall make the licensed premises and adjacent grounds open to inspection by police officers, building officials, firefighters, zoning officials, code enforcement officials, sales, use and excise tax officials, and health department officials. Said final inspection shall reveal that marijuana is no longer present on the licensed premises or adjacent grounds and that all marijuana related business has terminated. A failed final inspection for failing to lawfully dispose of marijuana and marijuana products on the premise constitutes a misdemeanor municipal offense.

**Sec. 7-2091. Requests for information.**

(a) Any City employee responsible for enforcing any City ordinance, State law or regulation may submit a written request for information relevant to such enforcement to the licensee by certified mail, return receipt requested, at the address of the licensed premises.

(b) The licensee shall provide complete written answers to such questions, signed by the registered manager, within twenty (20) days of the date that the request was mailed or hand delivered to the licensee or registered manager, but shall not be

required to disclose the information described in Section 7-2088(b), Billings, Montana City Code.

(c) The licensee, principals, registered manager and employees shall have no expectation of privacy in any information or document pertaining to the operation of the licensed business, licensed premises and adjacent grounds as to the State or City. The City shall use reasonable efforts to notify a marijuana business license applicant or a marijuana business licensee of any public records request for records pertaining to the applicant's or licensee's operations to permit objection by the applicant or licensee if desired.

(d) In the event that the licensee refuses to provide answers on the grounds that the answer may tend to incriminate him or her for some criminal offense, or on advice of legal counsel, the City and License Administrator may properly draw the inference and conclusion that the answer to the question would have been adverse to the licensee's position regarding the investigation or other matter then pending, and may institute a complaint and proceedings for sanctions based on such conclusion.

(e) The licensee may not refuse to answer a question submitted to it on the grounds that:

(1) The answer may incriminate its principals, creditors, registered manager or employees;

(2) The answer might place his or her license in jeopardy; or

(3) The question is not relevant.

(f) If the licensee is a natural person, the licensee may seek an injunction against the request for information on the ground that the information is highly personal, does not involve the finances or operation of the licensed premises, self-incrimination, or is protected by the licensee's own constitutional right to privacy, but shall also be required to satisfy all requirements under Montana law for issuance of a temporary restraining order, preliminary injunction or permanent injunction. Failure of the licensee to seek an injunction against the request for information within twenty (20) days from the date the request for information is mailed to the licensee shall constitute a waiver of any right of privacy regarding the requested information.

**Sec. 7-2092. General labeling requirements.**

(a) Labeling requirements apply to marijuana and marijuana products sold from a dispensary to customers. A licensee that sells marijuana or marijuana products to other licensees are not required to comply with labeling requirements.

(b) All information required on the label of marijuana or a marijuana product shall be:

(1) unobstructed and conspicuous. A licensee may affix multiple labels to a package, or use a booklet, accordion, or other type of label, provided that no required information is completely and permanently obstructed.

(2) displayed in a legible font, such as Times New Roman, Arial, or Helvetica. The lowercase letter "o" must be at least one-sixteenth of an inch in height;

(3) displayed in a color that contrasts conspicuously with the background; and

(4) displayed in English, although a licensee may choose to display required information in additional languages.

(c) All marijuana or marijuana products shall be labeled with the following information:

(1) the common or usual name of the marijuana product (e.g., flower, inhaled extract, edible or drinkable, topical, transdermal patch);

(2) the name of the marijuana dispensary that sold the product and the license number or numbers of the cultivator and manufacturer, as applicable;

(3) the unique identification number generated from the seed-to-sale tracking system;

(4) date of harvest for marijuana flower or date of manufacture for marijuana products;

(5) the net quantity of contents of the marijuana product. The statement of quantity shall be:

a. stated in U.S. Customary Units and Metric (SI) Units, with the latter enclosed in parenthesis;

b. If the product is a liquid:

1. expressed in terms of fluid measure; and

2. preceded by the phrase "Net Contents" or "Net"; or

c. If the product is a solid, semi-solid, or viscous:

1. Expressed in terms of weight; and

2. Preceded by the phrase "Net Weight," the abbreviation "Nt. Wt.," or "Net."

d. In addition to weight or fluid measure, a licensee shall include the number of servings in the net quantity of contents statement if the product is a multi-serving marijuana product (e.g., Net Weight: 2 oz. (56.7 g) (10 cookies)).

(6) The following statement: "This product has been tested and meets the requirements of the state of Montana."

(7) A QR code that links to the product's certificate of analysis with a statement informing customers they can scan the code to see additional product information;

(8) The universal symbol, available from the department's website. The universal symbol:

a. shall be at least .33 inches wide and .33 inches high;

b. may be downloaded from the department's website; and

c. shall be in the following form:




d. All marijuana and marijuana products shall be labeled with the following warnings:

1. "Keep out of reach of children and pets";

2. This product may be addictive"; and

3. "This product may have intoxicating effects. Do not drive while under the influence of marijuana."

e. Marijuana or marijuana product labeling shall not contain any statement or information that is false or misleading.

f. The label of manufactured marijuana products must identify the method of manufacturing (e.g., mechanical, chemical) and for chemical manufacturing must identify the solvent used in the manufacturing process.

g. Marijuana or marijuana products that, because of their size, do not have sufficient space for all of the information required for compliance with the Act and department rules may, if approved by the department pursuant to 16-12-208, Montana Code Annotated, display the information required in (c) in a legible font that does not meet the minimum size requirement established in (b)(2).

h. Marijuana or marijuana products in excess of the THC limits in 16-12-224, Montana Code Annotated, may only be sold to registered cardholders and must contain the following additional information:

1. "For medical use only"; and

2. "This product is not approved by the U.S. Food and Drug Administration to treat, cure, or prevent any disease."

i. Marijuana or marijuana products that do not require heat to administer or consume shall not have a total THC or total potential psychoactive THC value listed on the marijuana facts panel.

(d) At any time, the City may require testing of marijuana and marijuana products at the business's expense to confirm the accuracy of the labeling of any product required to be labeled in this Division.

**Sec. 7-2093. Labeling requirements for marijuana flower.**

(a) In addition to the general labeling requirements set forth in Section 7-2092, each package of marijuana flower sold to a customer shall be labeled with a marijuana facts panel.

(b) A marijuana facts panel shall include the percentage of concentration of:

(1) total potential psychoactive THC;

(2) THC;

(3) THCa;

(4) CBD; and

(5) CBDa.

(c) A marijuana facts panel may include the percentage concentration of each additional marketed cannabinoid or terpene, if applicable.

**Sec. 7-2094. Labeling of ingestible marijuana products.**

(a) In addition to the general labeling requirements set forth in Section 7-2092, each package of ingestible marijuana-infused product sold to a customer shall be labeled with the following information:

(1) An ingredients list that shall include all ingredients in the ingestible marijuana products listed by common or usual name in descending order of predominance by weight and the word "marijuana" followed by the part of the plant (e.g., flower, trim) or form of concentrate (e.g., oil, infused butter) used as an ingredient in the manufacturing process. Any substance that is present in an ingestible marijuana product in an insignificant amount and that does not have any technical or functional effect in the finished product may be excluded from the ingredients list.

(2) An allergen statement that shall declare the presence of major food allergens in plain language.

(3) A marijuana facts panel containing the following information:

a. The milligrams per serving size or dose of:

1. THC;

2. THCa;

3. CBD; and

4. CBDa.

b. The number of servings or doses per package; and

c. For multi-serving packages, the total milligrams per package of:

1. THC;

2. THCa;

3. CBD; and

4. CBDa.

(4) In addition to the required warnings in Section 7-2092, each package of ingestible marijuana-infused product sold to a customer shall be labeled with the following information: "The intoxicating effects of this product may be delayed by two or more hours."

(b) A marijuana facts panel for ingestible marijuana-infused products may not contain information on the total potential psychoactive THC, total THC, or otherwise mislead customers into believing the product has higher THC levels than it does.

(c) A marijuana facts panel may include the milligrams of each additional marketed cannabinoid and terpene per serving size, dose, or package.

**Sec. 7-2095. Labeling of non-ingestible marijuana products.**

(a) In addition to the general labeling requirements set forth in Section 7-2092, each packaging of non-ingestible marijuana-infused products shall be labeled with the following information:

(1) An ingredients list that shall include all ingredients in the non-ingestible marijuana product listed by common or usual name in descending order of predominance by weight and the word "marijuana" followed by the part of the plant (e.g., flower, trim) or form of concentrate (e.g., oil, infused butter) used as an ingredient in the manufacturing process. Any substance that is present in a non-ingestible marijuana product in an insignificant amount and that does not have any technical or functional effect in the finished product may be excluded from the ingredients list.

(2) A marijuana facts panel containing the following information:

a. The milligrams per serving size or dose of:

1. THC;

2. THCa;

3. CBD; and

4. CBDa.

b. The number of servings or doses per package; and

c. For multi-serving packages, the total milligrams per package of:

1. THC;

2. THCa;

3. CBD; and

4. CBDa.

(b) A marijuana facts panel for non-ingestible marijuana products may not contain information on the total potential psychoactive THC, total THC, or otherwise mislead customers into believing the product has higher TCH levels than it does.

(c) A marijuana facts panel may include information about each additional marketed cannabinoid and terpene expressed in terms of milligrams per serving size, dose, or package.

**Sec. 7-2096. Labeling requirements for marijuana concentrates and extracts.**

(a) In addition to the general labeling requirements set forth in Section 7-2092, each packing of marijuana concentrate sold to a customer shall be labeled with the following information:

(1) An ingredients list that shall include all ingredients in the marijuana concentrate listed by common or usual name in descending order of predominance by weight and the word "marijuana" followed by the part of the plant (e.g., flower, trim) from which the marijuana concentrate is derived. Any substance that is present in a marijuana concentrate in an insignificant amount and that does not have any technical or functional effect in the finished product may be excluded from the ingredients list.

(2) An allergen statement that shall declare the presence of major food allergens in plain language unless the marijuana concentrate is not intended to be cooked with, eaten, or otherwise swallowed and digested.

(3) A marijuana facts panel containing the following information:

a. For marijuana concentrates that require the application of heat before they are administered or consumed:

1. the percentage concentration of:

a) total potential psychoactive THC;

b) THC;

c) THCa;

d) CBD; and

e) CBDa.

2. The number of servings or doses per package.

b. For marijuana concentrates that do not require the application of heat before they are administered or consumed:

1. the percentage concentration of:

a) THC;

b) THCa;

c) CBD; and

d) CBDa.

(4) In addition to the required warnings in Section 7-2092, each package of activated concentrate that is intended to be cooked with, eaten, or otherwise swallowed and digested shall be labeled with the following: "The intoxicating effects of this product may be delayed by two or more hours."

(b) A marijuana facts panel for marijuana concentrates that do not require the application of heat to be administered or consumed may not contain information on the total potential psychoactive THC, total THC, or otherwise mislead customers into believing the product has higher THC levels than it does.

(c) A marijuana facts panel may include information about each additional marketed cannabinoid and terpene, expressed in percentage of concentration by weight or by volume or in milligrams.

**Sec. 7-2097. Packaging requirements.**

(a) All packaging of marijuana and marijuana products shall:

(1) protect the product from contamination and shall not impart any toxic or deleterious substance to the marijuana or marijuana product;

(2) be capable of being resealed if the package contains more than one serving size;

(3) not primarily appeal to children. Packaging that primarily appeals to children includes but is not limited to packaging that:

a. depicts a child;

b. portrays objects, images, celebrities, or cartoon figures that primarily appeal to children or are commonly used to market products to children; or

c. otherwise has special attractiveness for children beyond the general attractiveness for adults.

(4) not bear any reasonable resemblance to the trademarked or characteristic packaging of any commercially available product including but not limited to candy, snacks, baked goods, or beverages.

(b) All marijuana and marijuana products provided to customers at the point of sale shall be in exit packaging that:

(1) is child resistant as defined in ARM 42.39.102;

(2) is opaque; and

(3) contains the warnings required by 16-12-215, Montana Code Annotated, in the format required by 16-12-208, Montana Code Annotated.

(c) Drinkable marijuana products that contain more than one serving per package must include a device or mechanism for measuring a single serving of the product.

(d) Exit packaging of marijuana and marijuana products provided to customers at the point of sale may not contain any other information or design elements other than what is allowed under 16-12-208(6)(b)(ii), Montana Code Annotated.

**Sec. 7-2098. Penalties and remedies.**

(a) Any person, licensee, principal, registered manager, or employee of a licensee that violates any requirement of this Article shall upon conviction be guilty of a misdemeanor and may be punished by a fine of up to $500.00 and/or incarceration for a term of up to six (6) months. Each such person, licensee, principal, registered manager, or employee of a licensee shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this article is committed, continued or permitted by any such person.

(b) Any person, licensee, principal, registered manager, or employee of a licensee that fails to comply with the requirements of this Article shall be deemed to be creating a public nuisance and shall be subject to penalties as provided in section 18-1304 and shall further be subject to civil action to restrain or abate the nuisance 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.

**Sec. 7-2099. Remedies cumulative**.

The remedies provided in this Article are cumulative and do not preclude any other available remedy at law or in equity.

**Sec. 7-2100. Changes in law.**

When reference is made in this Article to any local law or regulation or to any state or federal statute, regulation or other law, the reference includes any subsequent amendment or superseding provision.

***Section 2.*** **EFFECTIVE DATE**. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

***Section 3.*** **REPEALER**. Article 7-1700. – Medical Marijuana and all resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

***Section 4.*** **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.

PASSED by the City Council on first reading this _____ day of _____, 2021.

PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2021.

CITY OF BILLINGS

BY:_____
William A. Cole, Mayor

Attest:

BY:_____
Denise R. Bohlman, City Clerk